Court File No. CV-17-11697-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE WINDING UP OF
TARN FINANCIAL CORPORATION

APPLICATION UNDER SECTIONS 207 AND 248 OF THE
***BUSINESS CORPORATIONS ACT*, R.S.O. 1990, c. B.16**

SECOND REPORT OF KPMG INC. in its capacity as LIQUIDATOR OF TARN FINANCIAL CORPORATION

APRIL 9, 2018

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I. INTRODUCTION AND SUMMARY OF PROCEEDINGS

1. On February 13, 2017, Volkan Basegmez, Cem Bleda Basegmez, Anil Rukan Basegmez, BA&B Capital Inc., Serdar Kocturk and Kaan Holdings Inc. (collectively, the "**Applicants**") commenced an application (the "**Application**") before the Ontario Superior Court of Justice (Commercial List) (the "**Court**") under sections 207 and 248 of the *Business Corporations Act*, R.S.O. 1990, c. B.16 seeking an Order winding up Tarn Financial Corporation ("**Tarn Financial**") and appointing KPMG Inc. ("**KPMG**") as liquidator for that purpose. The Applicants are shareholders of Tarn Financial and collectively hold 60% of the common shares of Tarn Financial. The remaining 40% of the common shares of Tarn Financial are held by the Respondent, SAMM Capital Holdings Inc. ("**SAMM**"), a company owned by the Respondent, Ali Akman ("**Akman**").

2. The Application was heard by Justice Lederman on August 11, 2017 and on September 15, 2017 His Honour ordered the winding up of Tarn Financial pursuant to the Winding Up Order dated September 15, 2017 (the "**Winding Up Order**"), and the appointment of KPMG as liquidator for that purpose (the "**Liquidator**") effective as of September 25, 2017 (the "**Winding Up Proceedings**"). A copy of the Winding Up Order is attached as **Appendix "A"** to this report, which is the Liquidator's Second Report to the Court (the "**Second Report**").

3. The business and assets of Tarn Financial include the Delta Toronto East Hotel (the "**Hotel**") and adjoining development lands that were being developed by Tarn Financial, through its wholly-owned subsidiary, Tarn Construction Corporation ("**Tarn Construction**"), as a development known as "The Kennedys" (the "**Development Project**") located at 2035 Kennedy Rd., Scarborough Ontario (the "**Real Property**").

4. On October 6, 2017, Akman and SAMM (collectively, the "**Appellants**") filed a Notice of Appeal (the "**Notice of Appeal**") with the Divisional Court of the Ontario Superior Court of Justice (the "**Divisional Court**") appealing the Winding Up Order (the "**Appeal**"). The Appeal was heard on January 30, 2018 by the Divisional Court and on February 6, 2018, the Divisional Court dismissed the Appeal.

5. The Liquidator issued its first report to the Court on November 13, 2017 (the "**First Report**"). On November 16, 2017, the Liquidator issued a first supplemental report to the

Court (the "**First Supplemental Report**") and on November 28, 2017, the Liquidator issued a second supplemental report to the First Report (the "**Second Supplemental Report**"). A copy of the First Report, the First Supplemental Report and the Second Supplemental Report (each without appendices) are attached as **Appendix "B"**, **Appendix "C"**, and **Appendix "D"**, respectively, to this Second Report.

6. As detailed in the First Report, the First Supplemental Report and the Second Supplemental Report, the Liquidator brought a motion (the "**Sale Process Motion**") seeking an order (the "**Sale Process Order**"), among other things: (a) authorizing the Liquidator to enter into and approving a marketing and listing agreement between the Liquidator and CBRE Limited ("**CBRE**") dated November 10, 2017; (b) approving the sale process (the **"Sale Process**"); and (c) authorizing, but not obligating, the Liquidator to file a consent to sever the Real Property (the "**Land Severance**").

7. The Sale Process Motion was scheduled to be heard before the Court on November 17, 2017. The Sale Process Motion was adjourned on an unopposed basis to November 24, 2017 to allow the Applicants, SAMM and Akman time to formalize a settlement that the parties advised the Liquidator had been reached between them in principle.

8. The settlement was not finalized by November 24, 2017 and the Sale Process Motion was heard on that day and was unopposed except for the Order seeking the approval of a marketing and listing agreement between the Liquidator and CBRE. This aspect of the relief sought was opposed by SAMM and Akman as discussed further below. On November 24, 2017, Justice McEwen declined to grant the Order approving the marketing and listing agreement between the Liquidator and CBRE. A copy of Justice McEwen's endorsement dated November 24, 2017 is attached as **Appendix "E"** to this Second Report.

9. Justice McEwen directed the Liquidator to retain another marketing and listing agent and adjourned the Sale Process Motion to allow the Liquidator to do so. Thereafter, on November 29, 2017, Justice McEwen granted the Sale Process Order which, among other things: (a) approved the retention by the Liquidator of Colliers Macaulay Nicolls Inc. ("**Colliers**") to be the marketing and listing agent; and (b) approved the Sale Process including revisions thereto, in order to address the change in the marketing and listing

agent. A copy of the Sale Process Order is attached as **Appendix "F"** to this Second Report.

10. On December 6, 2017, the Liquidator brought a motion seeking an order (the "**OMB Appeals Order**") authorizing, but not obligating, the Liquidator to file two Notice of Appeals with the Ontario Municipal Board ("**OMB**") in respect of the Real Property (the "**OMB Appeals**"). Justice McEwen granted the OMB Appeals Order on the same date.

11. Capitalized terms not defined herein shall have the meanings set out in the Winding Up Order and the Sale Process Order.

II. PURPOSE OF THIS SECOND REPORT

12. The purpose of this Second Report is to update this Honourable Court with respect to:

a. The outcome of the Appeal;

b. The status of the OMB Appeals and the Land Severance;

c. The status of the review of what monies were transferred in or out of Tarn Financial (the "**Financial Review**") being undertaken by the Liquidator;

d. The other activities of the Liquidator since its First Report including, but not limited to:

   (i) activities relating to Tarn Financial and the Hotel operations;

   (ii) activities relating to Tarn Construction and the Development Project; and

   (iii) other activities in relation to the Winding Up Proceedings.

e. The Sale Process;

f. The Liquidator's statement of receipts and disbursements since its appointment to March 30, 2018; and

g. To provide the Court with the necessary information to support the following relief:

   (i) A Claims Procedure Order (the "**Claims Procedure Order**") substantially in the form contained at Tab 3 of the Liquidator's Motion Record dated April 9, 2018 (the "**Motion Record**") approving and establishing a

procedure for the solicitation, resolution and barring of certain claims against Tarn Financial (the "**Claims Process**");

(ii) An Order (the "**Receivership Order**") substantially in the form contained at Tab 4 of the Motion Record authorizing the appointment of KPMG as receiver and manager over the properties, assets and undertakings of Tarn Construction (in such capacities, the "**Receiver**") pursuant to section 101 of the *Courts of Justice Act* R.S.O. 1990, c. C.43 (the "**CJA**");

(iii) An Order (the "**Deposit Confirmation Procedure Order**") substantially in the form contained at Tab 6 of the Motion Record approving and establishing a procedure for confirming the Deposits (as defined in the Deposit Confirmation Procedure Order) that have been paid to Tarn Construction by purchasers of the pre-sold, unbuilt condominium units at the Development Project (the "**Deposit Confirmation Procedure**"); and

(iv) An Order substantially in the form contained at Tab 7 of the Motion Record:

(A) authorizing an increase in the maximum principal amount of the Borrowings Charge (as defined in the Winding Up Order) by $1,000,000 (the "**Increased Borrowing Amount**") from $2,000,000 to $3,000,000 and addressing the priority of the Borrowings Charge in respect of the Increased Borrowing Amount;

(B) approving the fees of the Liquidator and the Liquidator's legal counsel from the date of the Winding Up Order to December 31, 2017; and

(C) approving the First Supplemental Report, the Second Supplemental Report and the Second Report and the activities and conduct of the Liquidator as set out therein.

13. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

14. The information contained in this Second Report has been obtained from the books and records and other information of Tarn Financial or Tarn Construction. The accuracy and completeness of the financial information contained herein has not been audited or otherwise verified by the Liquidator, and the Liquidator does not express an opinion or provide any other form of assurance with respect to the information presented herein or relied upon by the Liquidator in preparing this Second Report.

15. Future oriented financial information reported or relied on in preparing this Second Report is based on Tarn Financial management's assumptions regarding future events; actual results may vary from forecast and such variations may be material.

III. APPEAL OF THE WINDING UP ORDER

16. As set out above, on October 6, 2017, the Appellants filed the Notice of Appeal. In their Notice of Appeal, the Appellants sought the following relief:

    a. The order that Tarn Financial be wound up and KPMG appointed as Liquidator of the effects and estate of Tarn Financial should be set aside;

    b. The fair market value of the Applicants' shares in Tarn Financial should be determined by an independent valuation supervised and approved by the Court;

    c. The Appellants should be ordered to purchase the Applicants' shares in Tarn Financial for their fair market value as at the date of the independent valuation; and

    d. A monitor should be appointed to supervise the management of Tarn Financial until such time as the Appellants purchase the Applicants' shares in Tarn Financial.

17. On October 26, 2017, the Appellants sought and obtained an Order expediting the hearing of the Appeal (the "**Expedite Order**"). Pursuant to the Expedite Order, the Appeal was scheduled to be heard on December 22, 2017.

18. On November 16, 2017, the Liquidator's legal counsel, Miller Thomson LLP ("**Miller Thomson**"), was advised by legal counsel to the Appellants, that the parties to the Appeal had reached a settlement in principle.

19. On or about December 8, 2017, Miller Thomson was advised that the settlement had been reached and that it contemplated a purchase of the shares of Tarn Financial by a third-party

purchaser. On December 11, 2017, Miller Thomson was provided with a copy of an executed Share Purchase Agreement ("**SPA**") between a third-party purchaser and the shareholders of Tarn Financial, which contained a due diligence condition. It is the Liquidator's understanding that as a result, on consent by all of the parties to the Appeal, the Appeal was adjourned to a date to be fixed, if so required.

20. On December 19, 2017, the Liquidator and Miller Thomson were advised by the Appellants' legal counsel that the proposed share transaction would not be moving forward as the purchaser had not waived the due diligence condition contained in the SPA.

21. On January 16, 2018, the Appellants sought and obtained an Order re-expediting the hearing of Appeal (the "**Second Expedite Order**"). Pursuant to the Second Expedite Order, the Appeal was scheduled to be heard on January 30, 2018.

22. On January 30, 2018, the Appeal was heard by the Divisional Court and reserved its decision. On February 6, 2018, the Divisional Court issued its decision dismissing the Appeal. A copy of the Divisional Court decision dated February 6, 2018 is attached as **Appendix "G"** to this Second Report.

IV. OMB APPEALS AND LAND SEVERANCE

Background to the Development Project

23. As set out in the First Report, through Tarn Construction, Tarn Financial was developing "The Kennedys", a three-phased development project on the lands adjacent to the Hotel. The first phase of the Development Project contemplates the construction of a 644-unit condominium development encompassing a 32-storey tower and a 30-storey tower, of which substantially all of the units have been pre-sold ("**Phase 1**"). The second phase of the Development Project contemplates a new 40-storey tower where the 4-storey Hotel tower is located which would include 100 new hotel suites (replacing the current 75 located in the 4-storey tower) as well as 400 residential condominium units above. The third phase contemplates an office building in place of a parking structure which is currently adjacent to the Hotel.

24. The Real Property on which the Development Project is to be built is in the name of Tarn Financial and had not been severed from the land the Hotel is situated on at the time of the

Winding Up Order being granted. Tarn Construction is the vendor under the agreements of purchase and sale ("**APSs**" and each an "**APS**") entered into with purchasers of the pre-sold condominium units in Phase 1 (the "**Purchasers**"). Bennett Jones LLP ("**Bennett Jones**") acted as Tarn Financial's development and real estate counsel prior to the Winding Up Order.

25. The Liquidator has continued the retainer of Bennett Jones to, among other things, continue to maintain the trust accounts with respect to deposits received from the Purchasers for Phase 1 and to assist with respect to certain development issues relating to the Development Project.

Overview of Re-zoning and Site Plan Applications

26. As set out in the First Report, as of the date of the Winding Up Order, construction of Phase 1 of the Development Project had not commenced. Further, the application to amend the former City of Scarborough Employment Districts Zoning By-law No. 24982 (the **"Zoning By-law"**), as amended, submitted by Tarn Financial (the "**Application to Amend the Zoning By-law**") was being held pending the resolution by Tarn Financial and Tarn Construction of outstanding engineering issues and Tarn Financial entering into a Section 37 Agreement, pursuant to the *Planning Act* (Ontario), with the City of Toronto (the "**City**").

27. Upon its appointment, the Liquidator undertook a review of the required information and documentation needed in order to make a well-informed decision with respect to the Development Project. During this review process, the Liquidator was advised by Bennett Jones, that once a zoning by-law is amended, essentially no changes or amendments can be made to the zoning by-law for a period of two years. Accordingly, the Liquidator was of the view that it would be prudent to postpone the application for the Zoning By-law, until a Sale Process had been commenced and the Liquidator had the opportunity to understand the interest in the Development Project as contemplated under the Zoning By-Law.

28. At the time of the Liquidator's appointment, the application for site plan approval submitted to the City (the "**Application for Site Plan Approval**") had also not been approved.

Changes to the OMB and Timing to Launch Appeal

29. In late November 2017, the Liquidator was advised by counsel that the Government of Ontario was debating legislation that once passed would replace the OMB with a proposed Local Planning Appeal Tribunal.

30. Based on the draft legislation posted as Bill 139 on the Legislative Assembly of Ontario's website as of December 1, 2017, the intent of the new legislation, among other things, is to change the nature of appeals for zoning applications and to limit the powers of the new Local Planning Appeal Tribunal as compared to the current rights to appeal to the OMB and the broad powers of the OMB on the hearing of appeals.

31. On November 30, 2017, the Liquidator met with Colliers, Miller Thomson and Bennett Jones to discuss the sales and marketing strategy. The Liquidator and Colliers arrived at the view that the Real Property would be the most marketable if it can be marketed with as many options as possible. These options included the ability to market the Real Property with the opportunity to vary components of the development approvals relating to the Real Property including changes to the current draft Zoning By-law and site plan.

The OMB Appeals

32. The Application to Amend the Zoning By-law was submitted to the City on June 3, 2015 and the Application for Site Plan Approval was submitted to the City on March 29, 2016.

33. The Application to Amend the Zoning By-law is intended to implement an approved Official Plan amendment for the Real Property by re-zoning to allow a mixed use development of the Real Property that will include new residential, retail, and office uses, a hotel and new public spaces.

34. The Application for Site Plan Approval is intended to allow a mixed use development of the Real Property that will include new residential, retail and office uses, as well as a hotel and new public spaces.

35. Tarn Financial is entitled to file a Notice of Appeal with the OMB pursuant to subsection 34(11) of the *Planning Act* (Ontario) with respect to the Application to Amend the Zoning By-law and pursuant to subsection 114(15) of the *City of Toronto Act, 2006* with respect to the Application for Site Plan Approval.

36. Based on the proposed changes to the legislation, the Liquidator's counsel recommended that, if marketing the Real Property with as many options as possible is desirable for the Sale Process, then the OMB Appeals should be filed at the earliest possible opportunity given the imminent adoption of new legislation and also because it would shorten the time within which a purchaser could have their desired development designs finally approved by starting the OMB appeal process for them.

37. As a result, the Liquidator sought and obtained the OMB Appeals Order on December 6, 2018. Immediately thereafter, Bennett Jones filed the OMB Appeals on behalf of the Liquidator. On December 20, 2017 the City's Clerk Office acknowledge receipt of the OMB Appeals.

38. On March 28, 2018, Bennett Jones received notices from the OMB advising of a July 24, 2018 pre-hearing date for the OMB Appeals. Once a Successful Bidder is selected under the Sale Process (as discussed below), the Liquidator will work cooperatively with the Successful Bidder to determine what is required to be prepared for the pre-hearing date.

Authorization for Land Severance

39. As of the date of the Winding Up Order, the Real Property had not been legally severed.

40. In conjunction with obtaining authorization to undertake the Sale Process, the Liquidator sought and received the Court's authorization, but not the obligation, to apply for a consent to sever the Real Property and to take such steps and to execute such documentation as may be needed to finally sever the lands including, but not limited to, the satisfaction of severance conditions and the conveyance of any interests in the lands to public bodies if required, to allow the Liquidator to preserve the option that the lands containing the Hotel and Phase 1 of the Development Project may be sold in two parcels as well as together under the Sale Process.

41. In consultation with its legal counsel, the Liquidator engaged the services of two former consultants of Tarn Construction to assist the Liquidator in preparing the necessary documents for the Land Severance, which contemplates severing the Real Property into two lots based on a proposed severance line.

42. The severance plan that the Liquidator had prepared for filing with the City of Toronto Committee of Adjustment ("**CTCA**") is based upon the current development proposal for the site. The Liquidator has been advised by its advisors that most alternatives to the current development proposal would require an alternative severance line than the one currently being contemplated.

43. During the planning and preparation to submit the Land Severance, Bennett Jones undertook preliminary discussions with a member of the CTCA about the consent. In these discussions, the CTCA advised that in their view any Land Severance for the Real Property to be premature until the Sale Process had progressed further given the current uncertainty regarding the development of the Real Property.

44. As a result, the Liquidator, in consultation with Colliers and its advisors, determined that the Land Severance should not be submitted at this time.

V. FINANCIAL REVIEW

45. Pursuant to paragraph 2(h) of the Winding Up Order, the Liquidator was directed to conduct a review of what monies were transferred in and out of Tarn Financial.

46. The Liquidator has commenced its review of what monies were transferred in or out of Tarn Financial utilizing the services of KPMG Forensic Inc. ("**KPMG Forensic**").

47. The period covered by the Financial Review is July 7, 2014, the date on which Tarn Financial was incorporated, and September 24, 2017.

48. Due to a concern raised by the former counsel to one of the shareholders regarding the potential privilege of certain documents, the Liquidator has undertaken its review in two phases. The first phase of the review has been limited to reviewing the bank statements, accounting records and other financial records of Tarn Financial and Tarn Construction.

49. The Liquidator has attended various meetings and participated in numerous communications between KPMG Forensic, Tarn Financial's financial institutions and management of Tarn Financial, in order to address KPMG Forensic's information requests to date.

50. Based on its work to date, the Liquidator has identified a number of transactions which require further investigation, including the review of additional documentation. While the

Liquidator completes the first phase of the Financial Review, it has had discussions with counsel to the shareholders to discuss the need for a protocol to be put in place to allow the Liquidator to review non-financial documents and set up safeguards regarding any potential solicitor client privilege issues.

51. The Liquidator is optimistic that a protocol can be agreed between the shareholders and the Liquidator. However, in the event that the parties are unable to agree on such a protocol, the Liquidator will seek advice and directions from the Court.

VI. ACTIVITIES OF THE LIQUIDATOR SINCE THE FIRST REPORT

General Activities

52. The Liquidator continues to manage the operations of the Hotel and continues to preserve the assets of Tarn Financial.

53. Since November 13, 2017, the date of the First Report, the Liquidator has continued to:

a. Attend the corporate and administrative offices of Tarn Financial and Tarn Construction located at the Hotel, as required;

b. Review and approve all purchase orders;

c. Review and approve all disbursements before they are made;

d. Prepare and update 13-week cash flow projections, including analysis of actual versus forecast results;

e. Prepare daily bank reconciliations;

f. Have regular discussions with Tarn Financial's secured lenders (the "**Secured Lenders**") regarding the Winding Up Proceedings, including, among other things, the status of the Hotel operations and the Development Project, discussions with other stakeholders, liquidity requirements, and the Sale Process;

g. Have regular discussions with the shareholders' counsel regarding the Winding Up Proceedings and respond to inquiries regarding same;

h. Post materials relating to the Winding Up Proceedings and the Sale Process on its website (www.kpmg.com/ca/tarn);

i. Maintain a telephone hotline at (416) 649-7623 or (1-855) 222-8083 and email address at tarn@kpmg.ca for inquiries regarding the Winding Up Proceedings; and

j. Respond to inquiries from other stakeholders regarding the Winding Up Proceedings

Activities Relating to Tarn Financial and the Hotel Operations

54. In addition to the activities described above, the Liquidator has done the following specifically in respect of the Hotel operations:

a. Had regular update meetings with Hotel management and staff;

b. Filed and paid all source deductions, HST and withholding tax owing to Canada Revenue Agency (the "**CRA**") since the date of the Winding Up Order and made the necessary workplace safety insurance board filings and payments;

c. Had regular discussions with representatives of Marriott (as defined below) regarding the status of the Hotel operations, the Property Improvement Plan (the "**PIP**"), and the Sale Process;

d. Exchanged correspondence with the Unite Here Local 75 union (the "**Union**") regarding the collective agreement in force from February 1, 2014 to January 31, 2018 (the "**CBA**") and pending collective bargaining negotiations;

e. Engaged a third-party accounting firm to provide bookkeeping assistance in order to assist Tarn Financial in inputting financial entries for the 2017 fiscal year and preparing its year-end financial statements as at December 31, 2017 as a result of there being no general ledger for 2017 at the time of the Liquidator's appointment;

f. Undertaken certain critical maintenance items urgently required at the Hotel and implemented items required to comply with Marriott brand standards; and

g. Implemented cost reduction options, where possible, in order to reduce the Hotel operating costs and preserve cash, in a fair and efficient manner.

Marriott

55. As stated in the Liquidator's First Report, the Hotel is branded a Delta. There is a Hotel License Agreement in place between Tarn Financial and Delta Hotels Limited (or any successor or assignee of its interest) ("**Marriott**") dated November 13, 2014 (the "**License**

Agreement"). Pursuant to the License Agreement, Tarn Financial is responsible for royalty, licensing, and marketing fees, which are to be paid on or before the tenth day of the month in respect of the preceding month. In addition to the License Agreement, on May 5, 2016, Tarn Financial entered into a Consent to Development of Premises and Amendment to Hotel License Agreement (the "**Consent**") with Marriott.

56. As set out in the First Report, on October 5, 2017, Marriot issued two default notices to Tarn Financial. The first default notice (the "**First Notice**") advised Tarn Financial that it was in default of the License Agreement for non-payment of fees and other amounts due and owing pursuant to the License Agreement. The First Notice indicated that as at October 4, 2017, at least $481,992.77 was due and owing, all of which the Liquidator understands pre-dates the Winding Up Order. The First Notice indicates that Marriott issued previous notices of breach to Tarn Financial on May 12, 2017 and June 30, 2017. The second default notice (the "**Second Notice**") advised Tarn Financial that it was in default under the License Agreement and Consent for failure to comply with certain PIP deadlines. The Second Notice indicates that Marriott issued previous notices of breach to Tarn on April 5, 2017, May 19, 2017 and June 30, 2017.

57. Since the date of the First Report, the Liquidator has continued to have regular discussions and meetings with representatives of Marriott and its counsel regarding the status of the Hotel operations and the Development Project, the PIP, the outstanding amounts owing to Marriott and the Sale Process.

58. From the date of its appointment, the Liquidator has been working with Marriott to address items identified as critical issues by Marriott. Between November 13, 2017 and January 3, 2018, the Liquidator removed 50 guestrooms from inventory, as they were not in compliance with the System Standards of Marriott (the "**Non-compliant Guestrooms**"). For each Non-Compliant Guestroom, the Hotel management prepared a list of deficiencies and a remediation plan, including the estimated timeline to remedy, which was agreed to by Marriott.

59. The remediation work was completed in stages and the Non-compliant Guestrooms were added back into inventory once the remediation was completed, with the final room added

back to inventory on January 17, 2018. In addition, the Liquidator has continued to remedy additional critical maintenance issues identified by the Liquidator or Marriott and implement necessary brand standard requirements, as cash flow has permitted, in order to ensure that Tarn Financial's obligations under the License Agreement from and after the date of the Liquidator's appointment are being met.

60. In January, 2018, representatives of Marriott met with the Liquidator, in order for Marriott to prepare a Property Improvement Plan with Fire and Life Safety Audit, as applicable, (collectively, the "**Revised PIP**"). On January 24, 2018, the Liquidator received the Revised PIP report from Marriott, which outlined a significant number of items that needed to be improved by the Hotel, in order to meet the Delta Hotels Design Standards. The Liquidator continues to work diligently with Marriott in order to address their concerns.

61. The Revised PIP was also posted to the electronic data room for the Sale Process upon receipt.

62. Within approximately six weeks of KPMG being appointed Liquidator and again on March 13, 2018, Marriott completed a Delta Brand Standard Audit. The results of these two audits as compared to previous audits, indicate that the scores of the Hotel have been increasing during the Liquidation. A copy of the Delta BSA Analysis setting out the scores achieved for the Hotel is attached as **Appendix "H"** to this Second Report.

Union

63. As discussed in the Liquidator's First Report, Tarn Financial has approximately 179 employees that work at the Hotel and are represented by the Union pursuant to the CBA. The current CBA expired on January 31, 2018.

64. On January 4, 2018, the Liquidator received notice that the Union would like to bargain a new collective agreement.

65. Given that the CBA has an automatic one-year extension clause in the event that bargaining does not occur, on January 9, 2018, the Liquidator sent a letter to the Union advising the Union that the Liquidator was attempting to find a purchaser for the Hotel and proposing that the parties agree to delay the bargaining process for some period of time until the

completion of the Sale Process, so that the new owner could participate in the negotiations of a new collective agreement. In the meantime, the terms of the current CBA would continue to be in full force and effect but the one-year extension clause would not be invoked.

66. On January 16, 2018, the Liquidator received a notice that a request for the appointment of a Conciliation Officer was made by the Union pursuant to the CBA. On January 24, 2018, the Liquidator received a further notice from the Ministry of Labour stating that a Conciliation Officer had been appointed.

67. On January 30, 2018, the Liquidator sent another letter to the Union, again advising the Union that the Liquidator was attempting to find a purchaser for the Hotel and proposing that the parties agree to delay the bargaining process for some period of time.

68. The Liquidator has received no further correspondence from the Union other than an acknowledgement of receipt of the Liquidator's letters. The terms of the CBA continue in force in the usual manner.

Activities Relating to Tarn Construction and the Development Project

69. Upon being appointed, the Liquidator worked closely with the contract accountant and the contract administrative officer for Tarn Construction to reconcile the outstanding liabilities of Tarn Construction. At the time of being appointed, Tarn Construction's books and records were not up to date and there were a large number of invoices which had not been entered into the company's accounting system. In addition, there were a number of invoices in the system that appeared to have been paid but in fact had not been paid as cheques had been issued (resulting in those invoices appearing in the system as paid) however the cheques were never released and were sitting in the offices of Tarn Construction.

70. In addition to the activities described above, the Liquidator has done the following specifically in respect of the Development Project:

    a. Responded to inquiries from consultants as to the status of the Winding Up Proceedings, the Development Project and the Sale Process;

b. Responded to inquiries from Purchasers of the Phase 1 condominium units regarding, among other things, the status of their APSs, deposit monies, and the Sale Process;

c. Had regular discussions with Bennett Jones regarding, among other things, the status of deposit monies being held in trust, change of addresses, and inquiries regarding APSs;

d. Updated the books and records of Tarn Construction as further invoices are received;

e. Responded to inquiries from brokers regarding, among other things, the status of the Winding Up Proceedings, their commissions and the status of the Sale Process;

f. Had discussions with The Guarantee Company of North America (the "**Guarantee Company**") in respect of the insurance coverage and premiums owed for the Tarion warranty bond on the Development Project; and

g. Had discussions with Tarion Warranty Corporation ("**Tarion**") and the Guarantee Company regarding confirming the amount of deposit monies held and the proper process to undertake to do same in these circumstances.

Activities Relating to the Sale Process

71. As set out in detail below, pursuant to the Sale Process Order, the Liquidator and Colliers commenced the Sale Process on January 3, 2018. A more detailed update on the status of the Sale Process is set out in the next section of this Second Report. In conjunction with the Sale Process, the Liquidator and its counsel:

a. Reviewed and commented on the Investment Profile prepared by Colliers;

b. Reviewed and commented on the Confidential Information Memorandum prepared by Colliers;

c. Prepared the form of Confidentiality Agreement and reviewed mark ups of the form of Confidentiality Agreement received from Interested Parties;

d. Prepared the due diligence materials and information relating to the Assets for the electronic data room, including reviewing and redacting information where appropriate;

e. Engaged Watters Environmental Group Inc., to prepare a Phase I ESA report and a Property Condition Assessment report with respect to the Hotel and the Real Property;

f. Prepared the template Asset Purchase Agreement;

g. Attended tours of the Hotel with Colliers and Interested Parties;

h. Attended regular meetings and teleconferences with Colliers regarding the status of the Sale Process;

i. Had meetings and discussions with the key stakeholders, including the Secured Lenders, Marriott, Tarion and the Guarantee Company regarding the status of the Sale Process and the bids received; and

j. Reviewed and clarified Phase I Bids and Phase II Bids.

Activities Relating to Tax Matters

72. The Liquidator continues to ensure that all filings and payments are made with respect to source deductions, HST, workplace safety insurance and withholding taxes.

73. On January 25, 2018, the Liquidator was advised that the CRA wanted to complete an audit for the period from January 1, 2017 to January 31, 2018 with respect to the payroll records of Tarn Construction. On March 2, 2018, the CRA attended the offices of Tarn Construction and completed the audit. The Liquidator has not heard any further from the CRA with respect to the outcome of its audit.

74. At the time of the Liquidator's appointment, the Liquidator was advised that the 2016 income tax filings for both Tarn Financial and Tarn Construction had not been completed or filed. On February 26, 2018, the Liquidator met with Tarn Financial's 2016 auditor, Richter LLP ("**Richter**"), to discuss the completion of the 2016 tax returns.

75. On March 7, 2018, the Liquidator engaged Richter to complete an overall tax review of Tarn Financial for its 2014 and 2015 taxation years and Tarn Construction for its 2015 taxation year in order to prepare the corporate income tax returns for Tarn Financial for the 2016 taxation year.

76. In addition, the Liquidator has also engaged Richter to review the potential options available for the structuring of the proposed sale of the Assets of Tarn Financial for the purposes of optimizing the after-tax proceeds for distribution by the Liquidator.

77. On March 16, 2018, the Liquidator wrote to the CRA to request that the CRA attend Tarn Financial's premises and complete: (a) an HST audit; and (b) a payroll audit, for remittances due up to and including December 31, 2017, with the view of obtaining a clearance certificate up to the period noted above. The Liquidator is waiting to hear from the CRA with respect to its request.

Other Activities in Relation to the Winding Up Proceedings

78. In addition to the activities described above, the Liquidator, with the assistance of its counsel, has done the following in relation to the Winding Up Proceedings:

a. Completed the sale of a vehicle pursuant to paragraph 2 of the Court Order of Justice McEwen dated November 24, 2017;

b. Prepared and delivered the:

(i) First Report;

(ii) First Supplemental Report; and

(iii) Second Supplemental Report; and

c. Attended at Court appearances on November 17, 2017, November 24, 2017, November 29, 2017, December 6, 2017, December 13, 2017 and April 4, 2018.

VII. SALE PROCESS

79. As set out above, the Sale Process Motion was initially scheduled to be heard before the Court on November 17, 2017, and was adjourned on an unopposed basis to November 24, 2017, to allow the shareholders of Tarn Financial to formalize a settlement that had been reached between them in principle.

80. On November 24, 2017, the Sale Process Motion was heard and was unopposed except for the Order seeking the approval of a marketing and listing agreement between the Liquidator and CBRE, which was opposed by the Respondents, SAMM and Akman. Their opposition

was based upon the potential for bias or prejudice that could be asserted by CBRE against Akman. The potential for bias or prejudice was the result of ongoing litigation CBRE had with one of Akman's other companies, S and A Hospitality Corporation, for damages for breach of contract regarding alleged unpaid real estate commissions given that the shareholders (including Akman) anticipated participation in the Sale Process. Justice McEwen declined to approve the marketing and listing agreement between the Liquidator and CBRE due to the potential apprehension of bias that could be perceived in the event that the Sale Process was undertaken by CBRE.

81. As a result, the Liquidator negotiated a marketing and listing agreement with Colliers and sought Court approval of Colliers as the marketing and listing agent.

82. On November 29, 2017, the Liquidator sought and received the Court's approval to retain Colliers as the marketing and listing agent and to implement the Sale Process, which established the process pursuant to which the Liquidator, through Colliers, would market the Assets and determine the Successful Bid(s).

83. The Sale Process contemplated a two-phase process with the following initial key milestones:

    (i) Phase I Bid Deadline – January 31, 2018

    (ii) Phase II Bid Deadline – February 23, 2018, and

    (iii) Anticipated Timing for Sale Hearing – March 23, 2018

84. Following the issuance of the Sale Process Order, Colliers, working with the Liquidator, began preparing the marketing materials and buyers list in respect of the Sale Process, with a view to commencing the Sale Process in the second week of December, 2017.

85. As set out above, on or about December 8, 2017, Miller Thomson was advised that a settlement had been reached among the shareholders and that it contemplated a purchase of the shares of Tarn Financial by a third-party purchaser. On December 11, 2017, Miller Thomson was provided with a copy of the SPA between a third-party purchaser and the shareholders of Tarn Financial, which contained a due diligence condition.

86. Upon receipt of the SPA, the Liquidator and its counsel discussed the impact of the SPA on the Sale Process with counsel for the shareholders, the Secured Lenders and Marriott.

The Liquidator determined that it would prudent to delay the commencement of the Sale Process until after the expiry of the due diligence period of the SPA on December 19, 2017 and attended Court on December 13, 2017 to update the Court on the situation.

87. As set out above, on December 19, 2017, the Liquidator was informed that the purchaser under the SPA would not be moving forward with the transaction contemplated under the SPA.

88. Due to the timing of the termination of the SPA and the impending commencement of the holiday season, Colliers and the Liquidator determined that Sale Process should not commence until January. Accordingly, the Sale Process commenced on January 3, 2018.

89. In light of the delay in commencing the Sale Process and pursuant to paragraph 4 of Sale Process, the key milestone dates were extended by the Liquidator and Colliers to the following:

    (i) Phase I Bid Deadline – February 15, 2018

    (ii) Phase II Bid Deadline – March 9, 2018, and

    (iii) Anticipated Timing for Sale Hearing – April 9, 2018

90. Colliers, in consultation with the Liquidator, prepared a list of potential interested parties that were invited to participate in the Sale Process. Colliers also used its worldwide network to ensure that the opportunity was appropriately publicized. Colliers sent out an electronic blast of the Investment Profile, the form of Confidentiality Agreement and the Sale Process Order (collectively the "**Teaser**") to approximately 1,350 parties on January 3, 2018. The Teaser reflected the revised Sale Process milestone dates set out above. The Teaser was sent for a second time on January 10, 2018 and a third time on January 29, 2018. Information pertaining to the Sale Process was also posted on Colliers and the Liquidator's websites.

91. In the first phase, Interested Parties that met the preliminary participant requirements set out in the Sale Process, which included executing a Confidentiality Agreement, were provided with a Confidential Information Memorandum and access to an electronic data room by Colliers in order to prepare and submit a Phase I Bid by the Phase I Bid Deadline.

92. Commencing on January 9, 2018, the electronic data room was made available to those parties who signed Confidentiality Agreements.

93. Colliers was informed by a number of Interested Parties, that due to the uncertainty surrounding the Appeal (discussed above), that Interested Parties would be waiting to decide whether to participate in the Sale Process and complete their Phase I Bids until the outcome of the Appeal was known. Moreover, Colliers was advised by several Interested Parties that the Appellant shareholder had advised them that they would be successful on the Appeal and that there would be no sale.

94. In order to ensure that all Interested Parties participated in the Sale Process and were provided adequate time to complete their Phase I Bids, following the dismissal of the Appeal that occurred on February 6, 2018, and pursuant to paragraph 4 of the Sale Process, the key milestone dates were further extended by Colliers and the Liquidator. On February 8, 2018, Colliers advised all parties participating in the Sale Process that the revised milestone dates were as follows:

    (i) Phase I Bid Deadline – February 28, 2018

    (ii) Phase II Bid Deadline – March 22, 2018, and

    (iii) Anticipated Timing for Sale Hearing – April 23, 2018

    The revised deadlines were also posted to the Liquidator's website.

95. The Sale Process provides that a Phase I Bid, being a Non-Binding APA including a mark-up to the Template APA (which was available to Interested Parties in the data room) identifying the proposed changes to the Template APA, must be submitted by the Phase I Deadline of noon (Eastern time) on February 28, 2018.

96. Following the Phase I Bid Deadline, the Phase I Bids were reviewed by the Liquidator and Colliers, in consultation with the Secured Lenders, to determine the Qualified Phase I Bidders. Bidders deemed to be Qualified Phase I Bidders were notified in early March, 2018, and invited to participate in the second phase of the Sale Process wherein they were given access to an expanded data room by Colliers in order to complete their due diligence prior to submitting a Phase II Bid.

97. The Sale Process provides that a Phase II Bid, may not be conditional on obtaining financing or any internal approval or on the outcome or review of due diligence. A Phase II Bid is to include a Binding APA executed by the Qualified Phase I Bidder with a markup showing changes from the Template APA and, among other things, a Good Faith Deposit equal to ten percent of the total purchase price. The Phase II Bids were to be received by the Phase II Bid Deadline of noon (Eastern time) on March 22, 2018.

98. Since the Phase II Bid Deadline, the Liquidator and Colliers, in consultation with the Secured Lenders, have been reviewing the Phase II Bids that were received and clarifying the Phase II Bids in order to determine the next step in the Sale Process to move towards the selection of a Successful Bid and a Back Up Bid.

99. In the event that more than one Qualified Phase II Bid is received by the Phase II Bid Deadline, the Liquidator and Colliers have the option under the Sale Process to:

a. Conduct an auction amongst the Qualified Phase II Bidders, on terms to be determined by the Liquidator, to determine the Successful Bid and the Back-up Bid;

b. Negotiate with the Qualified Phase II Bidders and determine the Successful Bid and the Back-up Bid; or

c. Determine which of the Qualified Phase II Bids shall be the Successful Bid and which of the Qualified Phase II Bids shall be the Back-up Bid.

100. Given that multiple Qualified Phase II Bids were received, in accordance with the Sale Process, Colliers and the Liquidator invited the Bidders to review their Phase II Bids and provide any final revisions to their submission, including changes to the offer price, terms and supporting documents and to deliver any changes or clarifications to the Phase II Bid in a sealed envelope to Colliers by 3 p.m. on April 9, 2018.

101. Following the determination of the Successful Bid and the Back-up Bid, the Liquidator shall seek Court approval in the form of an Approval and Vesting Order to consummate the transaction provided for in the Successful Bid.

VIII. CLAIMS PROCESS

102. The Liquidator is of the view that it is the proper time to commence the Claims Process to determine the Claims against Tarn Financial given the expected approval of a Successful

Bid under the Sale Process within the next month. Once the Assets are sold, the Liquidator will be in a position to consider distributions to creditors of Tarn Financial and in order to do so has to undertake the Claims Process.

103. Capitalized terms used in this section of the Second Report are as defined in the Claims Procedure Order contained at Tab 3 of the Motion Record, unless otherwise defined herein.

104. The Liquidator seeks the Court's approval to implement the Claims Process, which if approved, establishes the procedure for the solicitation, resolution and barring of Claims against Tarn Financial as at September 25, 2017, being the effective date of the Liquidator's appointment pursuant to the Winding Up Order.

105. The Claims Process provides that within five (5) Business Days after the granting of the Claims Procedure Order, the Liquidator will publish the Claims Process Notice on the Liquidator's website at www.kpmg.com/ca/tarn. The Liquidator will also take all reasonable steps to have the Claims Process Notice published twice in each of the Globe and Mail (National Edition) and the Toronto Star.

106. Within five (5) Business Days after the granting of the Claims Procedure Order, the Liquidator will deliver the Claims Process Notice and Proof of Claim to: (a) each party on the service list in the Winding Up Proceedings; (b) all known creditors of Tarn Financial as of the Effective Date as evidenced by Tarn Financial's books and records; and (c) all Persons who have notified the Liquidator or Tarn Financial of a potential Claim.

107. Given that the books and records of Tarn Financial and Tarn Construction were not fully up to date when the Liquidator was appointed and the fact that certain parties who have claims against Tarn Construction may also have Claims against Tarn Financial, the Liquidator intends to also send the Claims Process Notice and Proof of Claim to all known creditors of Tarn Construction as of the Effective Date as evidenced by the Tarn Construction books and records as well as all Persons who have notified the Liquidator or Tarn Construction of a potential Claim.

108. The Claims Process contemplates a Claims Bar Date of 5:00 PM Eastern Standard Time on June 15, 2018 for all Claimants to submit a Proof of Claim in respect of their Claim against Tarn Financial, failing which such Claims shall be forever extinguished and barred.

109. The Claims Process provides that upon collecting Proofs of Claim by the Claims Bar Date, the Liquidator will review and determine either to allow, partially allow/partially disallow or disallow the Claims. In this regard, the Liquidator will provide each Claimant with a Notice of Determination of Claim setting out its determination of such Claimant's Claim.

110. Claimants that wish to object to the Liquidator's Notice of Determination of Claim are required to deliver a Notice of Objection no later than 5:00 PM on the day which is fourteen (14) days after the date the Notice of Determination of Claim is deemed to be received, in accordance with the Claim Process.

111. If a Claimant does not provide the Liquidator with a Notice of Objection within the timeframe required, it shall be deemed to have agreed with the Notice of Determination of Claim. Any portion of a Claim that is disallowed in respect of which no Notice of Objection is received by the Liquidator, shall be forever extinguished, barred, discharged and release as against Tarn Financial and the Liquidator.

112. The Claims Process allows the Liquidator to attempt to settle any dispute with a Claimant directly, and if unsuccessful, the Liquidator may either direct the dispute to a claims officer (as may be appointed by the Court on application of the Liquidator), or may seek directions from the Court with respect to an appropriate process for the determination of such Claims.

113. The Claims Process contemplates a separate procedure for determining Claims filed by Non Arms-Length Claimants, which is defined to include the shareholders of Tarn Financial as of the Effective Date and all Persons related to such Non Arms-Length Claimants including, but not limited to, all companies or other legal entities that such Persons own or control in whole or in part, directly or indirectly.

114. The Liquidator is not required to determine the Claims of Non Arms-Length Claimants and is not required to issue a Notice of Determination of Claim in respect of any Proof of Claim filed by a Non Arms-Length Claimant. Rather, the Liquidator shall deliver the Proofs of the Claim to the Applicants and the Respondents, and shall coordinate with the Applicants, the Respondents and the Non Arms-Length Claimant regarding establishing a process for determination of such Claims, if disputed.

115. The Liquidator is of the view that the proposed Claims Process provides sufficient notice and time for Claimants to file Proofs of Claim and have their Claims determined.

IX. APPOINTMENT OF A RECEIVER OVER TARN CONSTRUCTION

116. As noted above, Tarn Construction is the wholly-owned subsidiary of Tarn Financial. As such, the Liquidator effectively took possession of Tarn Construction on its appointment. Pursuant to the Order of Justice McEwen dated November 24, 2017, the Winding Up Order was amended, *nunc pro tunc*, to include the following paragraph as 8(a) of the Winding Up Order to, among other things, confirm the stay of proceedings over Tarn Construction:

> **NO EXERCISE OF RIGHTS OR REMEDIES**
>
> 8(a). **THIS COURT ORDERS** that all rights and remedies against Tarn including against its wholly owned subsidiary, Tarn Construction Corporation, the Liquidator, or affecting the Property, existing as at the date of the Winding Up Order are hereby stayed and suspended except with the written consent of the Liquidator or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the *Bankruptcy and Insolvency Act*, and further provided that nothing in this paragraph shall (i) empower the Liquidator in the name of Tarn to carry on any business which Tarn is not lawfully entitled to carry on, (ii) exempt the Liquidator or Tarn from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

117. While there is a stay of proceeding in place over Tarn Construction under the Winding Up Order, KPMG is not the Liquidator of Tarn Construction.

118. Prior to the appointment of the Liquidator, Tarn Financial had been undertaking the Development Project through Tarn Construction. As set out above, Phase 1 of the Development Project contemplates the construction of a 644-unit condominium development encompassing a 32-storey tower and a 30-storey tower.

119. Tarn Construction is the vendor under the APSs entered into with the Purchasers of the pre-sold condominium units in Phase 1. Tarn Construction has not commenced construction of Phase 1 of the Development Project.

120. According to the books and records of Tarn Construction, it has significant liabilities relating to the Development Project.

121. Tarn Construction has been paid significant deposits by Purchasers under the APSs. Pursuant to a Deposit Trust Agreement dated June 7, 2016 between Tarn Construction, the Guarantee Company, and Bennett Jones, Bennett Jones is the Escrow Agent in connection with the deposits made by the Purchasers pursuant to their APSs (in such capacity, the "**Deposit Trustee**").

122. As set out in the First Report, on October 11, 2017, the Liquidator issued a letter to the Purchasers advising of the Winding Up Proceedings and confirming that amounts the Liquidator has been advised have been paid in respect of deposit funds under the APSs continue to be held in trust by Bennett Jones, under the oversight of the Liquidator. Additionally, the Liquidator advised that it temporarily ceased processing assignments under the APSs until the Liquidator determined the appropriate sale process to market the Assets.

123. On October 13, 2017, the Liquidator issued a second letter to the Purchasers confirming that their APSs remain in full force and effect, that all payments due in accordance with the terms of their APS should continue to be made and that these payments would be held in trust with the Deposit Trustee, under the oversight of the Liquidator. The letter also advised that the Development Project has been placed on hold and that the Liquidator was determining the appropriate Sale Process to market the Assets.

124. As set out in the First Report, at the time of the Liquidator's appointment there were a number of Purchasers that had not made all of the deposits that were required under their respective APSs prior to the appointment of the Liquidator. Since the date of the Liquidator's appointment most Purchasers have continued to make their deposits, however, there are other Purchasers that have failed to make all of the deposits that were required under their APSs since the appointment of the Liquidator.

125. Given that the Sale Process is nearing its conclusion and it is expected that a Successful Bid will be brought forward by the Liquidator for Court approval within the next month, the Liquidator is seeking to appoint itself as Receiver, without security, of all of the assets, undertakings and properties of Tarn Construction, acquired for, or used in relation to the business carried on by Tarn Construction, pursuant to section 101 of the CJA.

126. The main purpose for the appointment of the Receiver is to allow the Receiver, once appointed to undertake the Deposit Confirmation Procedure discussed below to determine if there are any missing deposits. There are two possible outcomes from the Sale Process. The first is that the APSs will be transferred to a Successful Bidder and the second is that they will not be transferred and will remain with Tarn Construction and will be terminated in accordance with their terms. In either circumstance, the Liquidator has to determine whether there are any issues with the deposits held by the Deposit Trustee.

127. In addition, the appointment of the Receiver will allow an Approval and Vesting Order to be sought to transfer of any property that comprises the Assets that may be considered property of Tarn Construction.

128. In the Liquidator's view, the appointment of the Receiver is the most just and convenient way to deal with the properties, assets and undertakings of Tarn Construction including determining the deposits held by the Deposit Trustee.

X. DEPOSIT CONFIRMATION PROCEDURE

129. The Liquidator seeks the Court's approval to allow the Receiver, upon its appointment, to implement the Deposit Confirmation Procedure, which if approved, establishes the procedure for confirming Deposits remitted by Purchasers to Tarn Construction as indicated by the books and records of Tarn Construction and/or the Deposit Trustee.

130. Capitalized terms used in this section of the Second Report are as defined in Deposit Confirmation Procedure Order contained at Tab 6 of the Motion Record.

131. The Deposit Confirmation Procedure contemplates confirmation and assertion of Deposits in two stages given that Deposits are continuing to be made by Purchasers pursuant to the terms of their APSs. The first stage relates to Known Deposits remitted by Purchasers up to and including March 31, 2018 pursuant to their APSs. The second stage relates to Additional Deposits, if any, made by Purchasers after March 31, 2018 pursuant to their APSs.

132. The Deposit Confirmation Procedure provides that within five (5) Business Days after the granting of the Deposit Confirmation Procedure Order, the Receiver will post a copy of the

Deposit Confirmation Procedure Order on the website maintained in respect of the Winding Up Proceedings at www.kpmg.com/ca/tarn.

Known Deposits

133. The Deposit Confirmation Procedure contemplates that no later than five (5) Business Days after the date of the Deposit Confirmation Procedure Order, the Receiver will deliver a Deposit Statement to each Purchaser. The Deposit Statement shall specify the classification, amount and nature of the Known Deposit remitted by a Purchaser up to and including March 31, 2018.

134. If the Purchaser does not dispute the Known Deposit, then it is not required to take any further action and the Deposit of the Purchaser shall be deemed to be the Known Deposit.

135. Any Purchaser that wishes to dispute the Known Deposit amount contained on the Deposit Statement is required to deliver a Notice of Dispute of Deposit Statement to the Receiver by no later than the Deposit Confirmation Bar Date, being 5:00 PM Eastern Standard Time on May 15, 2018.

Known Additional Deposits

136. The Deposit Confirmation Procedure contemplates that no later than ten (10) Business Days after the Deposit Trustee receives an Additional Deposit from a Purchaser, the Receiver will deliver an Amended and Restated Deposit Statement to such Purchaser. The Amended and Restated Deposit Statement shall restate the Known Deposit, and specify the classification, amount and nature of the Additional Deposit remitted by a Purchaser after March 31, 2018.

137. If the Purchaser does not dispute the Known Additional Deposit, then it is not required to take any further action and the Additional Deposit of the Purchaser shall be deemed to be the Known Additional Deposit.

138. Any Purchaser that wishes to dispute the Known Additional Deposit amount contained on the Notice of Amended and Restated Deposit Statement is required to deliver a Notice of Dispute of Amended and Restated Deposit Statement to the Receiver by no later than the Deposit Confirmation Bar Date, being thirty (30) calendar days after the date set out on the Amended and Restated Deposit Statement it received.

139. The Deposit Confirmation Procedure provides that the applicable procedures for reviewing and determining Deposits after the above procedures have been implemented shall be established by further Order of the Court.

140. The Liquidator intends to seek input from Tarion and the Guarantee Company regarding any further Order of the Court relating to the determination of the Deposits given the Tarion warranty bond and the security held by the Guarantee Company over the Real Property.

141. The Liquidator is of the view that the Deposit Confirmation Procedure Order provides an appropriate procedure to allow Purchasers to confirm their Deposits.

XI. LIQUIDATOR'S STATEMENT OF RECEIPTS AND DISBURSEMENTS

142. The following table provides a summary of total receipts and disbursements from the date of the Winding Up Order to March 30, 2018 (the "**R&D Period**").

Statement of Receipts and Disbursements For the period September 25, 2017 to March 30, 2018 (in CAD)	First Report Total Sep 25, 2017 to Nov 10, 2017	Second Report Total Nov 11, 2017 to Mar 30, 2018	Consolidated Total Sep 25, 2017 to Mar 30, 2018
Receipts			
Receipts	3,421,670	8,040,060	11,461,730
Liquidator's Borrowings	-	1,977,820	1,977,820
Total receipts	3,421,670	10,017,880	13,439,550
Disbursements			
Operating disbursements	775,186	1,745,619	2,520,805
Salaries and wages	967,527	2,972,409	3,939,936
Taxes to be remitted	425,296	845,801	1,271,097
Insurance	16,957	181,857	198,814
Utilities	161,168	538,591	699,760
Marriott fee	153,188	643,749	796,937
Critical Maintenance	-	239,684	239,684
Other, inclusive of cancelled cheques	205	(25,203)	(24,998)
Total operating disbursements	2,499,527	7,142,508	9,642,035
Operating cash flow	922,143	2,875,372	3,797,515
Loan Facilities and Professional Fees			
Secured lenders - Principal and Interest	217,336	831,539	1,048,875
Professional fees	186,809	1,018,535	1,205,344
Non-operating disbursememts	404,145	1,850,074	2,254,220
Opening book balance	(70,185)	447,813	(70,185)
Net cash flow	517,998	1,025,298	1,543,296
Closing book balance	**447,813**	**1,473,111**	**1,473,111**

143. Actual receipts for the R&D Period were $13,439,550 and consist of (a) guest room, food and beverage and parking-related revenues; and (b) funding of $1,977,820 under the Borrowings Charge.

144. Actual disbursements for the R&D Period total approximately $11,896,255 and consist of: (a) payroll in the amount of approximately $3,939,936; (b) operating expenses of $2,520,805; (c) HST payments of $1,271,097; (d) other expenses, namely insurance, utilities and payments to Marriott of $1,910,196; (e) principal and interest payments to the Secured Lenders of $1,048,875; and (f) professional fees of $1,205,344, which consist of the professional fees of the Liquidator, its independent legal counsel, Miller Thomson, and Bennett Jones.

XII. INCREASE IN THE AMOUNT OF THE BORROWINGS CHARGE

145. Pursuant to paragraph 18 of the Winding Up Order, the Liquidator has the ability to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed $2,000,000 at any time. The Property (as defined in the Winding Up Order) of Tarn Financial is charged (the "**Borrowings Charge**") as security for payment of the monies borrowed in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any person but subordinate in priority to (i) any valid and enforceable security interest registered against the Property in favour of persons not related to, or not dealing at arm's length with, Tarn Financial; and (ii) the Liquidator's Charge (as defined in the Winding Up Order).

146. As set out in the First Report, based on the Liquidator's initial projected cash flow forecast, the Liquidator was of the view that the full $2,000,000 was required by the Liquidator under the Borrowings Charge. One of the Applicants, Volkan Basegmez ("**Volkan**"), agreed to provide the funding under the Borrowings Charge on the following terms:

a. Funding would be made personally by Volkan using his personal resources;

b. U.S. dollar denominated lending equal to the Canadian ("**CAD**") dollar equivalent of CAD$2.0 million principal amount. The principal amount would be provided in U.S. dollars in a single tranche: equivalent to CAD$2.0 million on or about November 15,

2017. The principal amount of the loan will be repaid in U.S. dollars advanced (the currency risk on the principal amount rests with the Liquidator, however Volkan is willing to take CAD on the interest portion on the basis of CAD$2.0 million);

c. The advance will be secured by the Borrowings Charge behind the Secured Lenders, which have outstanding indebtedness collectively of approximately $25 million; and

d. Interest on the loan would accrue at 12% per annum, with interest payable monthly in advance, in CAD.

147. Subsequent to the date of the First Report, the Liquidator finalized the terms of the borrowings under the Borrowings Charge with Volkan consistent with terms set out above with the only changes being that the funding would be provided in two equal tranches and the interest of 12% per annum would be 6% to be cash paid monthly and 6% PIK interest. It was agreed that the first tranche of funding would be provided on or around December 15, 2017 and the second tranche on or around January 15, 2018.

148. On December 15, 2017, the Liquidator received the first tranche of funding under the Borrowings Charge of US$784,000, which was converted on the same date to CAD$1,004,774.40. On December 21, 2017, the Liquidator returned to Volkan the overpayment of CAD$4,774.40.

149. On January 24, 2018, the Liquidator received a second tranche under the Borrowings Charge of US$799,983.36, which was converted as of the same date to CAD$977,819.66. In accordance with the Winding Up Order, the Liquidator has borrowed a total principal amount of $1,977,819.66 under the Borrowings Charge as at March 31, 2018.

150. Based on the Liquidator's updated cash flow projections, the Liquidator is of the view that an additional CAD$1 million will be required under the Borrowings Charge. As a result, in order to ensure continued operations of the Hotel without disruption, the completion of the Sale Process and payment of various suppliers and professionals, the Liquidator is seeking to increase the Borrowings Charge by the Increased Borrowing Amount being CAD$1 million.

151. The reasons for the increase are as follows: (a) the period from January through March is a quiet time for the Hotel and as such lower occupancy rates and room revenues have occurred during this period, (b) unforeseen expenditures and maintenance have been required at the Hotel including the renovations of the Non-compliant Guestrooms discussed above, which had not been previously forecast by the Liquidator, and (c) due to the extensions of the key milestones dates in the Sale Process for the reasons set out earlier in this Second Report, the completion of the Sale Process has taken longer than originally anticipated.

152. Subject to the approval of Court, the Liquidator will approach the shareholders to determine whether they would be willing to fund the Increased Borrowing Amount under the Borrowings Charge. If so funded by one of the shareholders, the proposed Order contemplates that the additional amounts borrowed under the Borrowings Charge would rank on a *pari passu* basis with other amounts already advanced under the Borrowings Charge. If the shareholders are unwilling to advance the Increased Borrowing Amount, then the proposed Order elevates the priority of the Borrowings Charge in respect of the Increased Borrowing Amount such that it will rank in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour or any person to allow the Liquidator to seek funding from other sources including the Secured Lenders.

XIII. APPROVAL OF PROFESSIONAL FEES TO DECEMBER 31, 2017

153. The Liquidator and its counsel have maintained detailed records of their professional time and costs since the commencement of the Winding Up Proceedings up to an including December 31, 2017 (the **"Fee Period"**), as detailed in the Fee Affidavit of Anamika Gadia of KPMG to be sworn April 10, 2018, the Fee Affidavit of Gregory Azeff of Miller Thomson sworn April 6, 2018 and the Fee Affidavit of Andrew Jeanrie of Bennett Jones sworn April 6, 2018 (collectively, the "**Fee Affidavits**"). Copies of the Fee Affidavits are attached as **Appendix "I"**, **Appendix "J"** and **Appendix "K"**, respectively.

154. Pursuant to paragraphs 16 and 17 of the Winding Up Order, the Liquidator and its counsel, shall be paid their reasonable fees and disbursements and shall pass their accounts before this Court. In addition, pursuant to paragraph 15 of the Winding Up Order, the Liquidator

and its counsel were granted a charge on the Property (as defined in the Winding Up Order) of Tarn Financial (the **"Liquidator's Charge"**) as security for their fees and disbursements.

155. The total fees and disbursements (including Harmonized Sales Tax) of the Liquidator during the Fee Period amount to $1,014,639.94. The details of the time spent and the services provided by the Liquidator are more particularly described in the Fee Affidavit of Anamika Gadia.

156. The total fees and disbursements (including Harmonized Sales Tax) of Miller Thomson during the Fee Period amount to $284,344.47. The details of the time spent and the services provided by Miller Thomson are more particularly described in the Fee Affidavit of Gregory Azeff.

157. The total fees and disbursements (including Harmonized Sales Tax) of Bennett Jones during the Fee Period amount to $36,269.27. The details of the time spent and the services provided by Bennett Jones are more particularly described in the Fee Affidavit of Andrew Jeanrie.

158. The Liquidator has reviewed the accounts of its counsel and believes that the accounts of the Liquidator, Miller Thomson and Bennett Jones are reasonable in the circumstances and respectfully requests that the Court approve the Liquidator's fees and disbursements and those of its counsel.

XIV. CONCLUSION

159. The Liquidator submits this Second Report to the Court in support of the Liquidator's Motion for the relief as set out in the Motion Record and recommends that the Court grant the following relief:

(i) A Claims Procedure Order substantially in the form contained at Tab 3 of the Motion Record approving and establishing the Claims Process;

(ii) A Receivership Order substantially in the form contained at Tab 4 of the Motion Record appointing KPMG as the Receiver over the properties, assets and undertakings of Tarn Construction;

(iii) A Deposit Confirmation Procedure Order substantially in the form contained at Tab 6 of the Motion Record approving and establishing the Deposit Confirmation Procedure; and

(iv) An Order substantially in the form contained at Tab 7 of the Motion Record:

(A) authorizing the Increased Borrowing Amount and addressing the priority of the Borrowings Charge in respect of the Increased Borrowing Amount;

(B) approving the fees of the Liquidator and the Liquidator's legal counsel from the date of the Winding Up Order to December 31, 2017; and

(C) approving the First Supplemental Report, the Second Supplemental Report and the Second Report and the activities and conduct of the Liquidator as set out therein.

All of which is respectfully submitted at Toronto, Ontario this 9th day of April, 2018.

KPMG Inc., in its capacity as Court Appointed Liquidator of Tarn Financial Corporation and not in its personal capacity

Per: Anamika Gadia

Anamika Gadia
Senior Vice President

APPENDIX "A"

Court File No. CV-17-11697-0000

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

THE HONOURABLE MR	)	**FRIDAY, THE 15th DAY**
	)	
JUSTICE LEDERMAN	)	**OF SEPTEMBER 2017**

BETWEEN:

VOLKAN BASEGMEZ, CEM BLEDA BASEGMEZ, ANIL RUKAN BASEGMEZ, BA&B CAPITAL INC., SERDAR KOCTURK and KAAN HOLDINGS INC.

Applicants

– and –

ALI AKMAN, SAMM CAPITAL HOLDINGS INC. and TARN FINANCIAL CORPORATION

Respondents

APPLICATION UNDER sections 207 and 248 of the *Business Corporations Act*, R.S.O. 1990, c. B.16.

ORDER

(Winding-up Tarn Financial Corporation)

THIS MOTION made by the Applicants for an Order pursuant to section 207 and 248 of the *Business Corporations Act*, R.S.O. 1990, c. B.16 (the "**OBCA**") winding-up Tarn Financial Corporation ("**Tarn**") appointing KPMG Inc. ("**KPMG**") as liquidator of Tarn was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavits of Anil Rukan Basegmez sworn 16 March 2017, Serdar Kocturk sworn 19 April 2017, Oliver Fitzgerald sworn 24 April 2017, Ali Akman sworn 27 July 2017, Julian Emmanuel sworn 18 April 2017 and Ted Evangelidis sworn 19 April 2017, the Reports of MNP LLP dated 6 July 2017 and Kanish & Partners LLP dated 27 July 2017, the Mediator's Report dated 27 June 2017 and the transcripts from the shareholders' meeting held on 9 June 2017 and the cross-examinations of Anil Rukan Basegmez, Serdar Kocturk, Ali Akman Julian Emmanuel and Edward Asare-Quansah, and on hearing the submissions of counsel for the

Applicants and the Respondents Ali Akman and SAMM Capital Holdings Inc., no one appearing for Tarn Financial,

WINDING-UP OF TARN FINANCIAL

1. **THIS COURT ORDERS** that Tarn Financial be wound-up and for that purpose KPMG be and is hereby appointed as liquidator of the effects and estate of Tarn Financial effective from 25 September 2017 with the powers obligations set forth in Part XVI of the OBCA and this Order. Where there is any inconsistency between the powers provided to KPMG under the OBCA and this Order, the terms of this Order shall govern to the extent that they restrict or limit the powers of KPMG.

KPMG'S POWERS

2. **THIS COURT ORDERS** that KPMG is hereby empowered and authorized, but not obligated, to act at once in respect of the assets property and undertaking of Tarn Financial (the "**Property**") and, without in any way limiting the generality of the foregoing, KPMG is hereby expressly empowered and authorized to do any of the following where KPMG considers it necessary or desirable:

   (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;

   (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

   (c) to manage, operate, and carry on the business of Tarn Financial, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of Tarn Financial;

(d) to engage consultants, appraisers, agents, experts, auditors, accountants, forensic experts, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of KPMG's powers and duties, including without limitation those conferred by this Order;

(e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of Tarn Financial or any part or parts thereof;

(f) to receive and collect all monies and accounts now owed or hereafter owing to Tarn Financial and to exercise all remedies of Tarn Financial in collecting such monies, including, without limitation, to enforce any security held by Tarn Financial;

(g) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in KPMG's name or in the name and on behalf of Tarn Financial, for any purpose pursuant to this Order;

(h) conduct a review of what monies were transferred in or out of Tarn Financial;

(i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to Tarn Financial, the Property or KPMG and the authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding and subject to consent of the shareholders of Tarn Financial or an Order of the Court to settle or compromise any such proceeding;

(j) to market the Property for sale and, subject to approval of the Court, negotiate such terms and conditions of sale as KPMG in its discretion may deem appropriate;

(k) to apply to the Court for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;

(l) to report to, meet with and discuss with such affected Persons (as defined below) as KPMG deems appropriate on all matters relating to the Property and to share information, subject to such terms as to confidentiality as KPMG deems advisable;

(m) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and in the name of Tarn Financial;

(n) to exercise any shareholder, partnership, joint venture or other rights which Tarn Financial may have; and

(o) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where KPMG takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including Tarn Financial, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO KPMG

3. **THIS COURT ORDERS** that (i) Tarn Financial, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise KPMG of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to KPMG, and shall deliver all such Property to KPMG upon KPMG's request.

4. **THIS COURT ORDERS** that all Persons shall forthwith advise KPMG of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of Tarn Financial, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to KPMG or permit KPMG to make, retain and take away copies thereof and grant to KPMG unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 4 or in paragraph 5 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to KPMG due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

5. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to KPMG for the purpose of allowing KPMG to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as KPMG in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of KPMG. Further, for the purposes of this paragraph, all Persons shall provide KPMG with all such assistance in gaining immediate access to the information in the Records as KPMGr may in its discretion require including providing KPMG with instructions on the use of any computer or other system and providing KPMG with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST KPMG

6. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against KPMG except with the written consent of KPMG or with leave of this Court.

NO PROCEEDINGS AGAINST TARN FINANCIAL OR THE PROPERTY

7. **THIS COURT ORDERS** that no Proceeding against or in respect of Tarn Financial or the Property shall be commenced or continued except with the written consent of KPMG or with leave of this Court and any and all Proceedings currently under way against or in respect of Tarn Financial or the Property are hereby stayed and suspended pending further Order of this Court.

NO INTERFERENCE WITH KPMG

8. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by Tarn Financial, without written consent of KPMG or leave of this Court.

CONTINUATION OF SERVICES

9. **THIS COURT ORDERS** that all Persons having oral or written agreements with Tarn Financial or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to Tarn Financial are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by KPMG, and that KPMG shall be entitled to the continued use of Tarn Financial's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by KPMG in accordance with normal payment practices of Tarn Financial or such other practices as may be agreed upon by the supplier or service provider and KPMG, or as may be ordered by this Court.

KPMG TO HOLD FUNDS

10. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by KPMG from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by KPMG (the "**Liquidator's Accounts**") as required by section 227 of the OBCA and the monies standing to the credit of the Liquidator's Accounts from time to time, net of any disbursements provided for herein, shall be held by KPMG to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

11. **THIS COURT ORDERS** that all employees of Tarn Financial shall remain the employees of Tarn Financial until such time as KPMG, on Tarn Financial's behalf, may terminate the employment of such employees. KPMG shall not be liable for any employee-related liabilities, including any successor employer liabilities other than such amounts as KPMG may specifically agree in writing to pay. Tarn Financial shall make all employee-relayed remittance from an after the date of this Order.

PIPEDA

12. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, KPMG shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to KPMG, or in the alternative destroy all such information. The purchaser of any

Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by Tarn Financial, and shall return all other personal information to KPMG, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

13. **THIS COURT ORDERS** that nothing herein contained shall require KPMG to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the Ontario *Environmental Protection Act*, the *Ontario Water Resources Act*, or the Ontario *Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt KPMG from any duty to report or make disclosure imposed by applicable Environmental Legislation. KPMG shall not, as a result of this Order or anything done in pursuance of KPMG's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE KPMG'S LIABILITY

14. **THIS COURT ORDERS** that KPMG shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on the part of KPMG.

LIQUIDATOR'S ACCOUNTS

15. **THIS COURT ORDERS** that KPMG and counsel to KPMG shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that KPMG and counsel to KPMG shall be entitled to and are hereby granted a charge (the "**Liquidator's Charge**") on the Property as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Liquidator's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to any valid and enforceable security interests registered against the Property in favour of Persons not related to, or not dealing at arm's length with, Tarn Financial as of the date of this Order.

16. THIS **COURT ORDERS** that KPMG and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of KPMG and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

17. **THIS COURT ORDERS** that prior to the passing of its accounts KPMG shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of KPMG or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF KPMG

18. **THIS COURT ORDERS** that KPMG be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed $2,000,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the

powers and duties conferred upon KPMG by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the " Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to: (i) any valid and enforceable security interests registered against the Property in favour of Persons not related to, or not dealing at arm's length with, Tarn Financial as of the date of this Order; and (ii) the Liquidator's Charge.

19. **THIS COURT ORDERS** that neither the Borrowings Charge nor any other security granted by KPMG in connection with its borrowings under this Order shall be enforced without leave of this Court.

SERVICE AND NOTICE

20. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*. Subject to Rule 3.01(d) of the *Rules of Civil Procedure* and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: www.kpmg.com/ca/tarn.

21. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, KPMG is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to interested parties and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the

next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

22. **THIS COURT ORDERS** that KPMG may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

23. **THIS COURT ORDERS** that the Applicants shall have its costs as either agreed upon by the parties or ordered by the Court.

24. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to KPMG and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.



Court File No.: CV-17-11697-0000

BETWEEN:

BASEGMEZ *et al* **– Applicants –**	**AND**	**AKMAN *et al*** **– Respondents –**

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

(PROCEEDING COMMENCED AT TORONTO)

ORDER

GOWLING WLG (CANADA) LLP
Barristers and Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto, Ontario M5X 1G5

E. Patrick Shea (LSUC No. 39655K)
Christopher Stanek (LSUC No. 45127K)
Telephone: (416) 369-7399 / 862-4369
Facsimile: (416) 862-7661

LAWYERS FOR THE APPLICANTS

APPENDIX "B"

Court File No. CV-17-11697-0000

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE WINDING UP OF
TARN FINANCIAL CORPORATION

APPLICATION UNDER SECTIONS 207 AND 248 OF THE
***BUSINESS CORPORATIONS ACT*, R.S.O. 1990, c. B.16**

FIRST REPORT OF KPMG INC. in its capacity as LIQUIDATOR OF TARN FINANCIAL CORPORATION

NOVEMBER 13, 2017

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Appendix J – Parcel Register Search for the Real Property

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I. INTRODUCTION

1. On February 13, 2017, Volkan Basegmez, Cem Bleda Basegmez, Anil Rukan Basegmez, BA&B Capital Inc., Serdar Kocturk and Kaan Holdings Inc. (collectively, the "**Applicants**") commenced an application (the "**Application**") before the Ontario Superior Court of Justice (Commercial List) (the "**Court**") under sections 207 and 248 of the *Business Corporations Act*, R.S.O. 1990, c. B.16 (the "**OBCA**") seeking an Order winding up Tarn Financial Corporation ("**Tarn**") and appointing KPMG Inc. ("**KPMG**") as liquidator for that purpose. The Applicants are shareholders of Tarn and collectively hold 60% of the common shares of Tarn. The remaining 40% of the common shares of Tarn are held by the Respondent, SAMM Capital Holdings Inc. ("**SAMM**"), a company owned by the Respondent, Ali Akman ("**Akman**").

2. The Application was heard by Justice Lederman on August 11, 2017 and His Honour reserved his decision at the ending of the hearing. Justice Lederman released his Reasons for Judgment on September 15, 2017 (the "**Reasons for Judgment**") and for the reasons set forth therein His Honour ordered the winding up of Tarn and the appointment of KPMG as liquidator for that purpose. The Order of Justice Lederman dated September 15, 2017 (the "**Winding Up Order**"), among other things, orders that Tarn be wound-up (the "**Winding Up Proceedings**") and appoints KPMG as liquidator (the "**Liquidator**") for that purpose over the effects and estate of Tarn effective from September 25, 2017 with the powers and obligations set forth in Part XVI of the OBCA and the Winding Up Order. A copy of the Reasons for Judgment and the Winding Up Order are attached as **Appendix "A"** and **Appendix "B"**, respectively to this report, which is the Liquidator's First Report to the Court (the "**First Report**").

3. On the date of its appointment, the Liquidator took the steps necessary to take over the management of the business operations of Tarn (the "**Business**") and to preserve and protect the assets, property and undertaking of Tarn (the "**Assets**") all as more particularly set out in this First Report. Akman cooperated with the Liquidator in turning over management of the Business and Assets of Tarn to the Liquidator.

4. The Business and Assets of Tarn include the Delta Toronto East Hotel (the "**Hotel**") and adjoining development lands being developed by Tarn, through its wholly-owned

subsidiary, Tarn Construction Corporation ("**Tarn Construction**"), as a development known as "The Kennedys" (the "**Development Project**") as described in detail below located at 2035 Kennedy Rd., Scarborough Ontario (the "**Real Property**").

5. On October 6, 2017, Akman and SAMM (collectively, the "**Appellants**") filed a Notice of Appeal with the Divisional Court of the Ontario Superior Court of Justice (the "**Notice of Appeal**") appealing the Winding-Up Order (the "**Appeal**"). In their Notice of Appeal, the Appellants seek the following relief:

   a. The order that Tarn be wound up and KPMG appointed as Liquidator of the effects and estate of Tarn should be set aside;

   b. The fair market value of the Applicants' shares in Tarn should be determined by an independent valuation supervised and approved by the Court;

   c. The Appellants should be ordered to purchase the Applicants' shares in Tarn for their fair market value as at the date of the independent valuation; and

   d. A monitor should be appointed to supervise the management of Tarn until such time as the Appellants purchase the Applicants' shares in Tarn.

   A copy of the Notice of Appeal is attached as **Appendix "C"** to this First Report.

6. On October 26, 2017, the Appellants sought and obtained an Order expediting the hearing of the Appeal (the "**Expedite Order**"). Pursuant to the Expedite Order, the Appeal is scheduled to be heard on December 22, 2017. A copy of the Expedite Order is attached as **Appendix "D"** to this First Report.

7. The purpose of this First Report is to update this Honourable Court with respect to:

   a. Certain background information on Tarn;

   b. The activities of the Liquidator since its appointment, including, but not limited to:

      (i) possession and preservation of the Assets;

      (ii) notices to and communications with various stakeholders;

      (iii) activities relating to Tarn and the Hotel operations; and

      (iv) activities relating to Tarn Construction and the Development Project.

c. The Liquidator's statement of receipts and disbursements since its appointment to November 10, 2017; and

d. To provide the Court with the necessary information to support the following relief:

(i) A Sale Process Order substantially in the form attached as Schedule "A" to the Liquidator's Notice of Motion dated November 13, 2017 (the "**Notice of Motion**"):

(A) authorizing the Liquidator, *nunc pro tunc*, to execute and to carry out and perform its obligations under the marketing and listing agreement between the Liquidator and CBRE Limited ("**CBRE**") dated November 10, 2017 (the "**Marketing and Listing Agreement**") (including the payment of the amounts due to be paid to CBRE by the Liquidator pursuant to the terms thereof), and approving same;

(B) approving the sale process, substantially in the form attached as Schedule A to the Sale Process Order (the "**Sale Process**"); and

(C) authorizing the Liquidator to apply for a consent to sever the Real Property;

(v) An Order substantially in the form attached as Schedule "B" to the Notice of Motion:

(A) authorizing the Liquidator to sell, convey, transfer, lease or assign the Assets or any part or parts thereof out of the ordinary course of business, without the approval of this Court in respect of any transaction not exceeding $250,000 provided that the aggregate consideration for all such transactions does not exceed $1,000,000;

(B) amending the Winding Up Order to include a paragraph confirming the stay of proceedings as against Tarn, the Property, which included Tarn Construction, and the Liquidator;

(C) approving the First Report and the activities and conduct of the Liquidator from the date of the Winding Up Order to the date of the First Report as set out therein; and

(D) sealing and treating as confidential, Confidential Appendix "1" to this First Report.

8. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars. Capitalized terms not otherwise defined are as defined in the Winding Up Order or the Sale Process Order.

9. The information contained in this First Report has been obtained from the books and records and other information of Tarn or Tarn Construction. The accuracy and completeness of the financial information contained herein has not been audited or otherwise verified by the Liquidator, and the Liquidator does not express an opinion or provide any other form of assurance with respect to the information presented herein or relied upon by the Liquidator in preparing this First Report.

10. Future oriented financial information reported or relied on in preparing this First Report is based on Management's assumptions regarding future events; actual results may vary from forecast and such variations may be material.

II. BACKGROUND

11. On or about September 29, 2014, Tarn purchased the Hotel, which consists of a 15-storey tower and a 4-storey tower and is a full-service hotel with 366 guest rooms.

12. Tarn has approximately 240 employees that work at the Hotel, of which 179 are represented by the Unite Here Local 75 union (the **"Union"**) pursuant to a collective agreement in force from February 1, 2014 to January 31, 2018 (the "**CBA**").

13. Through Tarn Construction, Tarn was developing "The Kennedys", a three-phased development project on the lands adjacent to the Hotel. The first phase of the Development Project contemplates the construction of a 644-unit condominium development encompassing a 32-storey tower and a 30-storey tower, of which substantially all of the units have been pre-sold ("**Phase 1**"). The second phase of the

Development Project contemplates a new 40-storey tower where the 4-storey Hotel tower is located which would include 100 new hotel suites (replacing the current 75 located in the 4-storey tower) as well as 400 residential condominium units above. The third phase contemplates an office building in place of a parking structure which is currently adjacent to the Hotel.

14. The Real Property on which the Development Project is to be built is in the name of Tarn and has not been severed from the land the Hotel is situated on. Tarn Construction is the vendor under the agreements of purchase and sale ("**APSs**" and each an "**APS**") entered into with purchasers of the pre-sold condominium units in Phase 1 (the "**Purchasers**"). Bennett Jones LLP ("**Bennett Jones**") acted as Tarn's development and real estate counsel prior to the Winding Up Order.

15. As set out above, the Applicants obtained the Winding Up Order on September 15, 2017 with the Liquidator's appointment being effective as at September 25, 2017. The Liquidator has retained Miller Thomson LLP ("**Miller Thomson**") as its independent legal counsel and has consulted with and sought the assistance of Miller Thomson in respect of the matters set out in this First Report. The Liquidator has continued the retainer of Bennett Jones to, among other things, continue to maintain the trust accounts with respect to deposits received from the Purchasers for Phase 1.

16. In addition to the activities described in the First Report below, the Liquidator has, pursuant to the Winding Up Order, established a website at www.kpmg.com/ca/tarn (the "**Website**"), where all materials filed with the Court and all orders granted by the Court in connection with the Winding Up Proceedings will be made available in electronic form.

III. ACTIVITIES OF THE LIQUIDATOR SINCE ITS APPOINTMENT

17. The Liquidator has taken over the management of the operations of the Hotel and has ceased all work relating to the Development Project all as set out more particularly below.

18. The Liquidator established a telephone hotline at (416) 649-7623 or (1-855) 222-8083 and email address at tarn@kpmg.ca for inquiries regarding the Winding Up Proceedings.

Initial Possession and Preservation of the Assets

19. Immediately upon its appointment, the Liquidator, among other things:

a. Attended the corporate and administrative offices of Tarn and Tarn Construction located at the Hotel;

b. Met with Akman, his counsel and his other advisors to transition management of the Hotel and the Development Project to the Liquidator;

c. Attended and toured the premises of the Hotel to understand and confirm the state of the operations;

d. Changed the locks to all of the administrative offices located at the Hotel, as well as the offices of Tarn Construction;

e. Changed the locks to the fencing surrounding the Development Project;

f. Took control of all cash located on the premises, including taking possession of all keys and combinations to the safes;

g. Notified Meridian Credit Union Limited ("**Meridian**") and TD Canada Trust, which maintain the bank accounts of Tarn and Tarn Construction of the issuance of the Winding Up Order;

h. Changed signing authorities on all bank accounts to authorized individuals of the Liquidator, restricted access to all bank accounts to the Liquidator's authorized individuals and took possession of all cheque stock for each of the bank accounts;

i. Opened new bank accounts in the name of "KPMG Inc., in its capacity as Liquidator of Tarn Financial Corporation" with the Canadian Imperial Bank of Commerce;

j. Confirmed that adequate insurance coverage is in place over the Hotel and the Development Project as detailed further below;

k. Identified all information technology systems and processes and established control of the systems in a manner that maintained the integrity of the data, systems and processes, including terminating remote access to the systems where applicable and restricting physical access to the on-site servers without the approval of the Liquidator;

l. Completed a full backup (copy) of all servers and individual computers, which copies are in the care and possession of KPMG LLP's forensic technology team to maintain chain of custody; and

m. Secured the books and records of Tarn and Tarn Construction as at the date of the Liquidator's appointment.

Notice of Appointment as Liquidator

20. Pursuant to subsection 210(4) of the OBCA, (a) notice of KPMG's appointment as Liquidator was given to the Ministry of Government and Consumer Services pursuant to Form 16 (Notice Concerning Winding Up) on October 10, 2017 and (b) notice of the Liquidator's appointment was published in the Ontario Gazette on October 14, 2017. A copy of these notices are attached hereto as **Appendix "E"**.

Employee Meetings and Communications

21. On September 25, 2017, the Liquidator met with the Hotel management team ("**Management**") to advise them of KPMG's appointment as Liquidator and to understand Management's roles and responsibilities and the employee structure. Pursuant to paragraph 11 of the Winding Up Order, the Liquidator advised Management that all employees of Tarn would remain employees of Tarn and that employees would be subject to terminations in the ordinary course of business. Management provided the Liquidator with a copy of the CBA. The Liquidator was advised by Management that all salaries and wages, statutory remittances and amounts relating to Union dues and pension and benefit payments owing pursuant to the CBA had been paid in the normal course and all amounts were current when the Liquidator was appointed.

22. On September 26, 2017, the Liquidator attended an informal meeting of the employees of the Hotel, which was coordinated by representatives of the Union and took place during the lunch hour in the employee lunchroom. The Liquidator advised of KPMG's appointment and its mandate and answered a number of questions at that meeting.

23. The Liquidator met with representatives of the Union on September 26, 2017 and September 29, 2017.

24. On September 29, 2017 the Liquidator held a meeting with all employees of Tarn and their Union representatives to formally advise of KPMG's appointment as Liquidator, explain the nature of the Winding Up Proceedings and the Liquidator's role in same and answer any questions. The Liquidator provided each employee with a letter regarding the Winding Up Proceedings, a copy of which is attached hereto as **Appendix "F"**.

25. On October 18, 2017, Management brought to the Liquidator's attention that as at that date approximately $29,000 was outstanding and owing to unionized employees with respect to a transit allowance contained in the CBA as these amounts had not been paid since Tarn purchased the Hotel. The Liquidator has arranged for the outstanding amounts to be remitted to the unionized employees and for this benefit to be paid going forward in accordance with the terms of the CBA.

26. Management of the Hotel continue to deal with personnel issues in the normal course and the Liquidator is working with Management to ensure that the staffing needs of the Hotel are met during the Winding Up Proceedings.

Tarn Construction Contract Employee Communications

27. Upon its appointment, the Liquidator was advised that there were three individuals who work on a contract basis in respect of Tarn Construction (the "**Tarn Construction Contract Employees**") and provide project management, financial and administrative support. These individuals were engaged either by Tarn Construction or SAMM to provide these services. The Liquidator advised the Tarn Construction Contract Employees that their services would only be required on a short term basis, in order to assist the Liquidator in understanding the status of the Development Project. The Liquidator advised the Tarn Construction Contract Employees that it would honour the terms of their contracts with Tarn Construction or SAMM for services rendered from and after the date of the Winding Up Order.

28. The Liquidator was advised that approximately $44,600 was outstanding and owing by Tarn Construction to one of the Tarn Construction Contract Employees as at September 15, 2017. The Liquidator advised the Tarn Construction Contract Employees that any

amounts owing prior to the Winding Up Order would be dealt with in accordance with the terms of the OBCA and the Winding Up Order.

29. On October 25, 2017, the Liquidator advised two of the Tarn Construction Contract Employees that their services were no longer required as all activities with respect to the Development Project had ceased. On November 2, 2017, it was determined that the last Tarn Construction Contract Employee's services were no longer required.

Communications with Secured Lenders

30. The Liquidator provided Tarn's two third-party secured lenders, Meridian and Kingsett Mortgage Corporation ("**Kingsett**" and collectively with Meridian, the "**Secured Lenders**") with copies of the Reasons for Decision and the Winding Up Order upon being appointed.

31. The Liquidator has had a number of meetings and discussions with the Secured Lenders regarding the Winding Up Proceedings including, among other things, the status of the Hotel operations and the Development Project, discussions with other stakeholders, the status of funding under the Borrowing Charge (as defined herein) and the Sale Process being proposed by the Liquidator.

32. The Liquidator was advised by the Secured Lenders and has confirmed based on the books and records of Tarn that Tarn owes Meridian approximately $18 million and owes Kingsett approximately $6 million. The Liquidator has authorized the continued payment of all principal and interest payments pursuant to the terms of the Secured Lenders' credit agreements since its appointment.

Communications with Consultants to the Development Project

33. On September 28, 2017, the Liquidator issued a letter (the "**First Consultants Letter**") to all consultants, engineers, architects, contractors and sale agents listed on the books and records of Tarn Construction (collectively, the "**Consultants**") advising them of the Winding Up Proceedings and also advising that all activities in respect to the Assets and the Development Project were to immediately cease until further notice to allow the Liquidator to assess the options available with respect to the Development Project. The

First Consultants Letter also advised that only the Liquidator was authorized and empowered to provide instructions in respect of the Assets and the Development Project.

34. On October 3, 2017, the Liquidator issued a second letter (the "**Second Consultants Letter**") to the Consultants advising, among other things, that any amounts owing to them from Tarn or Tarn Construction are stayed by the Winding Up Order and would be dealt with in accordance with the terms of the OBCA and the Winding Up Order.

35. Copies of the First Consultants Letter and the Second Consultants Letter are attached as **Appendix "G"** and were posted to the Liquidator's Website when issued. The Liquidator has received and responded to numerous inquiries from Consultants as to the status of the Winding Up Proceedings and the Development Project. As discussed further herein, these have included inquiries regarding registering and perfecting construction liens in some instances.

Communications with Purchasers

36. On October 11, 2017, the Liquidator issued a letter (the "**First Purchasers Letter**") to the Purchasers advising of the Winding Up Proceedings and confirming that amounts the Liquidator has been advised have been paid in respect of deposit funds under the APSs continue to be held in trust by Bennett Jones, under the oversight of the Liquidator. Additionally, the Liquidator advised that it temporarily ceased processing assignments under the APSs until the Liquidator has determined the appropriate sale process to market the Assets.

37. On October 13, 2017, the Liquidator issued a second letter (the "**Second Purchasers Letter**") to the Purchasers confirming that their APSs remain in full force and effect, that all payments due in accordance with the terms of their APS should continue to be made and that these payments would be held in trust with Bennett Jones, under the oversight of the Liquidator. The letter also advised that the Development Project has been placed on hold and that the Liquidator is determining the appropriate sale process to market the Assets.

38. Copies of the First Purchasers Letter and the Second Purchasers Letter are attached hereto as **Appendix "H"** and were posted to the Liquidator's Website when issued. The

Liquidator has received and responded to numerous inquiries from Purchasers regarding, among other things, the status of the Winding Up Proceedings, the status of the APSs and the deposit monies.

Communications with Real Estate Brokers and Agents

39. On October 11, 2017, the Liquidator issued a letter to all of the real estate brokers and agents (the "**Brokers**") involved in the sale of the condominium units of Phase 1 of the Development Project advising them of the Winding Up Proceedings and also advising that any amounts owing from Tarn or Tarn Construction are stayed by the Winding Up Order and would be dealt with in accordance with the terms of the OBCA and the Winding Up Order. The letter also annexed a copy of the First Purchasers Letter. A copy of the letter is attached hereto as **Appendix "I"**.

40. The Liquidator has received and responded to numerous inquiries from Brokers regarding, among other things, the status of the Winding Up Proceedings, their commissions and the status of the Development Project.

Marriott Communications and Notices

41. As set out above, the Hotel is branded a Delta. There is a Hotel Licence Agreement in place between Tarn and Delta Hotels Limited (or any successor or assignee of its interests) ("**Marriott**") dated November 13, 2014 (the "**License Agreement**"). Pursuant to the License Agreement, Tarn is responsible for royalty, licensing, and marketing fees, which are to be paid on or before the tenth day of the month in respect of the preceding month. In addition to the License Agreement, on May 5, 2016, Tarn entered into a Consent to Development of Premises and Amendment to Hotel License Agreement (the "**Consent**") with Marriott.

42. On September 26, 2017, the Liquidator had an initial telephone discussion with a representative of Marriott regarding the Winding Up Proceedings and the Liquidator's appointment and mandate in the Winding Up Proceedings.

43. On October 5, 2017, Marriot issued two default notices to Tarn. The first default notice (the "**First Notice**") advised Tarn that it was in default of the License Agreement for non-payment of fees and other amounts due and owing pursuant to the License

Agreement. The First Notice indicates that as at October 4, 2017, at least $481,992.77 was due and owing, all of which the Liquidator understands pre-dates the Winding Up Order. The First Notice indicates that Marriott issued previous notices of breach to Tarn on May 12, 2017 and June 30, 2017. The second default notice (the "**Second Notice**") advised Tarn that it was in default under the License Agreement and Consent for failure to comply with certain Property Improvement Plan deadlines (the "**PIP**"). The Second Notice indicates that Marriott issued previous notices of breach to Tarn on April 5, 2017, May 19, 2017 and June 30, 2017.

44. Since its appointment, the Liquidator has had a number of discussions with representatives of Marriott and its counsel regarding the status of the Hotel operations and Development Project, the PIP, the outstanding amounts owing to Marriott and the proposed Sale Process. Since being appointed, the Liquidator has ensured that Marriott was paid all amounts owing to it for the month of September 2017 to ensure continuation of Marriott's services without disruption. Due to cash flow constraints, the Liquidator advised Marriott that it is unable to pay the remaining outstanding balance at this time and that these amounts would be dealt with in accordance with the terms of the OBCA and the Winding Up Order. The Liquidator also confirmed that all amounts owing for continuing services from and after the Winding Up Order will be paid in accordance with the terms of the License Agreement.

45. On October 17, 2017, the Liquidator issued a letter to Marriott requesting that all notices under the License Agreement be sent to the Liquidator and to no other party and formally requested that all access to the systems and tools available through Marriott's system be limited to the Liquidator.

46. From the date of its appointment, the Liquidator has been working with Marriott to address items identified as critical issues by Marriott. On October 25, 2017, the Liquidator met with a representative of Marriott to undertake a site visit at the Hotel for this purpose. On November 8, 2017, Marriot issued a notice of default to the Liquidator identifying defaults that were existing at the time of the Liquidator's appointment that are continuing relating to the operations at the Hotel that are considered critical defaults by Marriott and setting up timelines by which the issues have to be remedied. The

Liquidator is acting diligently to remedy these critical defaults within the timelines prescribed by Marriott and has been working closely with Marriott to do so.

Communications with Shareholders

47. As set out above, on September 25, 2017, the Liquidator with its counsel met with Akman, his legal counsel and his other advisors to discuss the transition of custody and control of Tarn to the Liquidator. At that meeting, it was agreed that the Liquidator would treat any Management Agreement between Tarn and Akman Hospitality Inc., a company owned by Akman (the "**Akman Management Agreement**") as being of no force and effect during the Winding Up Proceedings.

48. In preparation for the meeting with the Liquidator and its counsel on September 25, 2017, Akman and his advisors prepared an electronic data room that contained copies of all material contracts for Tarn and Tarn Construction. The Liquidator and Miller Thomson have reviewed these contracts to ensure all required contracts remain in force and that any change in control notifications were completed.

49. On September 25, 2017, the Liquidator also met with a representative of the Applicants to discuss the transition of custody and control of Tarn to the Liquidator.

50. On October 2, 2017, the Liquidator and its counsel had a telephone call with Akman, his legal counsel and his other advisors to discuss a number of matters related to the Winding Up Proceedings including Akman's willingness to provide funding under the Borrowing Charge. As discussed below, Akman's counsel advised thereafter that Akman was not prepared to fund the Borrowing Charge.

51. Upon its appointment, the Liquidator was advised that Tarn's benefit plan for the Hotel employees also included coverage for employees of another company owned by Akman as well as Akman and certain of his family members. Akman was approached by the Liquidator and given the option to either pay for these benefits going forward or to have these parties removed from the benefit plans and it was decided that these parties would be removed. This occurred on October 3, 2017.

52. On October 4, 2017, the Liquidator and its counsel met with representatives of the Applicants and their legal counsel to discuss a number of matters pertaining to the

Winding Up Proceedings including the Applicants' willingness to provide funding under the Borrowing Charge. As discussed below, the Applicants' counsel advised that their clients were not prepared to fund the Borrowing Charge, however, upon reflection the Applicants have decided that they are prepared to fund the Borrowing Charge.

53. On October 13, 2017, Miller Thomson issued a letter to counsel for Akman confirming that the Akman Management Agreement and any other management agreement between Tarn and Akman or any of his corporations are of no force and effect during the Winding Up Proceedings.

54. In addition to the above, the Liquidator and its counsel have had numerous and extensive communications with the Applicants and the Respondents since the commencement of the Winding Up Proceedings. In particular, the Respondents have raised a number of concerns about the Winding Up Proceedings (a number of which are based on misinformation). The Liquidator has responded to these concerns in a transparent and constructive manner.

Communications with Insurers

55. The Liquidator was provided with copies of all insurance policies relating to the Hotel and Tarn Construction. In total, there are three insurance policies, one policy which covers the Hotel and two policies (a builder's risk policy and a wrap-up liability policy) that cover Tarn Construction (collectively the "**Policies**"). The Liquidator confirmed that the Policies are in force and notified each of the insurance providers of its appointment and requested that the Liquidator be added as a named party to each of the Policies. In reviewing the Policies, it was determined that the insurance policy covering the Hotel also provides coverage for a separate hotel owned by Akman. In addition, the two insurance policies covering Tarn Construction also insure multiple related companies of Akman, being SAMM, SAMM Development Inc., and SAMM Holdings Inc.

56. On October 2, 2017, the Liquidator notified counsel for Akman and SAMM, that alternative insurance arrangements were required and that this should be completed as soon as possible, as the unrelated parties to Tarn and Tarn Construction would be removed from the Policies.

57. The insurance policy covering the Hotel expires on November 13, 2017. On October 31, 2017, the Liquidator renewed the policy for a term of one year, maintaining the same loss coverage as prior to the Winding Up Order.

58. On October 25, 2017, the Liquidator was advised by the insurer of the Tarn Construction builder's risk policy, that since there has been no construction activity onsite for more than 30 consecutive days, that their "Cessation of Coverage" clause is in effect and therefore they cannot continue to collect premium on a policy that can no longer recover a claim for events moving forward. Since Tarn Construction has ceased all activities in respect of the Development Project and has not started construction yet, there isn't any true builder's risk exposure. The Liquidator agreed with the insurer that the policy should be canceled and reissued once the Assets are sold and/or the Development Project is recommenced. Tarn Construction's wrap-up liability policy remains unchanged.

Other Activities Relating to Tarn and the Hotel Operations

59. Pursuant to the Winding Up Order, the Liquidator has been operating the Hotel on a "business as usual" basis while it considers how best to take the Assets to market. The Liquidator has been paying for all goods and services in accordance with normal payment practices from and after the date of the Winding Up Order in accordance with paragraph 9 of the Winding Up Order. In addition, in order to ensure the continuation of the supply of goods and services without disruption, certain suppliers were identified as critical to the continued operations of the Hotel (the "**Critical Suppliers**"). In order to preserve the operations of the Hotel, the Liquidator authorized approximately $975,000 to be paid to the Critical Suppliers for amounts that were owing for goods or services that were received in the weeks immediately prior to the Winding Up Order. This amount includes approximately $383,000 that was paid in respect of Harmonized Sales Tax ("**HST**"), which payment is discussed in further detail below.

60. The Liquidator has been reviewing all purchase orders issued and contracts signed since its appointment. Additionally, the Liquidator continues to ensure that regular maintenance is completed at the Hotel and that critical maintenance and repairs are completed as necessary and as set out above is working closing with Marriott in this regard.

(a) Taxes

61. The Liquidator has confirmed that Tarn is up to date on all source deduction payments to Canada Revenue Agency (the "**CRA**") and workplace safety insurance board filings and payments. These payments will continue to be made by the Liquidator on a go-forward basis.

62. At the time the Liquidator was appointed, approximately $383,000 in respect of HST relating to the month of August 2017 and for September 1 through 24, 2017 (the "**Outstanding HST**") had been collected but not yet remitted by Tarn. As indicated above, the Liquidator paid the Outstanding HST given the super priority status that amounts owing for HST have pursuant to the *Excise Tax Act*. The Liquidator has filed and will continue to file all required HST returns and make all required payments on a go-forward basis.

63. The Liquidator has been advised that the royalties due to Marriott pursuant to the License Agreement are subject to a 10% withholding tax under the *Income Tax Act* since the royalties arise in Canada and Marriott is a U.S. resident and is the beneficial owner of the royalties (the "**Withholding Tax**"). The invoices from Marriott specifically note the withholding tax that is to be withheld from the amounts owing to Marriott and remitted to CRA. The Liquidator understands that Tarn has been deducting the Withholding Tax from their monthly royalty payments to Marriott; however, Tarn has not established a non-resident withholding tax remittance account with CRA and has not remitted the amount withheld from the payments due to the Marriott as Withholding Tax to CRA. The Liquidator is of the view that any amounts owing to CRA with respect to Withholding Tax that has been withheld and not remitted will have to be determined under a claims process in due course and paid in accordance with the OBCA and the Winding Up Order.

64. On October 31, 2017, the Liquidator applied to CRA to have a non-resident withholding tax remittance account established in the name of "KPMG Inc., in its capacity as Liquidator of Tarn Financial Corporation". Once established, the Liquidator will commence remitting all required Withholding Taxes owing after the date of the Winding Up Order.

65. The Liquidator understands that prior to its appointment, Tarn had not completed or filed its 2016 corporate tax filings with the CRA, which were due June 30, 2017. Amounts owing by Tarn for corporate taxes, if any, will be dealt with in accordance with the OBCA and the Winding Up Order. The Liquidator is in the process of determining whether Tarn had engaged anyone to complete the 2016 corporate tax filings and the status of any tax returns. From and after the date of the Winding Up Order, the Liquidator will cause Tarn to file all required corporate tax returns on a go-forward basis.

(b) 2016 Audit

66. The Liquidator has been advised that Tarn retained a new auditor, Richter LLP ("**Richter**"), to complete the audit for the fiscal year ended December 31, 2016 (the "**2016 Audit**"). The Liquidator has been advised by Richter that the 2016 Audit had not been finalized prior to the date of the Winding Up Order as the auditor had not been paid for its services. The Liquidator is not taking any steps to complete the 2016 Audit given the Winding Up Proceedings.

(c) Corporate Vehicles

67. As at the date of the appointment of the Liquidator, Tarn owned, leased or previously owned three vehicles that were in the possession of the shareholders.

68. The Liquidator has been working with the shareholders to ensure that it receives payments due to Tarn in respect of vehicles currently owned, leased or previously owned by Tarn that were in the possession of the shareholders as at the date of the Liquidator's appointment. As of November 10, 2017, the Liquidator has resolved all issues relating to the vehicles currently owned, leased or previously owned by Tarn and in the possession of the shareholders.

69. A 2017 Jeep Grand Cherokee (the "**Jeep**") that was financed by Tarn was in the possession of Akman and was returned to Tarn on September 27, 2017. The Liquidator has had discussions with the car dealership where the vehicle was purchased and the car dealership offered to re-purchase the Jeep (subject to certain conditions) for the following: (a) pay off the loan balance (including accrued interest) of approximately $23,600 with the Royal Bank of Canada, and (b) pay $10,000 to Tarn.

70. Currently the Winding Up Order does not permit the Liquidator to sell any Assets without Court Approval. As a result, the Liquidator is seeking authorization to sell Assets out of the ordinary course of business without Court approval within certain thresholds as set out in the proposed draft Order. This relief will allow the Liquidator to sell the Jeep and also to deal with other Assets that it may be prudent to sell outside of the Sale Process.

(d) Fraudulent Cheques drawn on Tarn Account

71. As a result of the Liquidator's daily review of the Tarn bank accounts, on October 26, 2017, it came to the Liquidator's attention that a fraudulent cheque in the amount of $388,016.94, had been issued to and cashed by a law firm in British Columbia, against a Tarn bank account. The Liquidator quickly verified that the cheque was counterfeit and immediately contacted both the law firm and the bank to advise them of the situation.

72. The law firm agreed to return the funds, which were received by the Liquidator on October 30, 2017. The Liquidator confirmed that the proper safeguards and procedures are in place in order to identify such transactions and had discussions with Meridian in this regard.

73. The Liquidator also immediately advised the Royal Canadian Mounted Police of the incident and have cooperated with them in their investigation and provided all information they have requested.

74. As a result of the Liquidator's daily review of the Tarn bank accounts, it came to the Liquidator's attention that another three fraudulent cheques in the amount of $288,016.94, $23,600 and $9,600, respectively, were issued and cashed in Ontario. The Liquidator quickly verified that the cheques were counterfeit and the monies were returned to the Liquidator the next day by Meridian.

75. The Toronto Police department was advised of the incident and all relevant information has been provided by the Liquidator.

76. In order to prevent the passing of any further counterfeit cheques on Tarn's account with Meridian, the Liquidator has frozen the relevant bank account and opened a new bank account with Meridian for the purpose of writing cheques on behalf of Tarn.

(e) Legal Proceedings against Tarn

77. The Liquidator has been advised of two legal proceedings that were commenced against Tarn or the Hotel. The first was issued on June 2, 2017 in the Ontario Superior Court of Justice (Toronto Small Claims Court), Claim number SC-17-5676-00 where it is alleged there was a breach of contract. The damages being sought are $5,000. The second was issued on August 25, 2017 in the Ontario Superior Court of Justice (Toronto Small Claims Court), Claim number SC17-9042-00, where a claim is being made under the *Human Rights Code*. The damages being sought are $25,000.

78. On October 23, 2017, pursuant to paragraph 7 of the Winding Up Order, Miller Thomson advised the plaintiffs and the Toronto Small Claims Court of the Winding Up Proceedings and that the legal proceedings cannot continue without the written consent of the Liquidator or without leave of this Court and any and all proceedings currently under way against or with respect to Tarn are stayed.

Other Activities Relating to the Development Project and Tarn Construction

79. As discussed above, Tarn through its wholly-owned subsidiary, Tarn Construction, was in the process of developing the Real Property into the Development Project. Phase 1 of the Development Project is comprised of a 644-condominium unit housing development in two towers, which units have been substantially pre-sold.

(a) Purchasers

80. Upon its appointment, the Liquidator was provided with a sample APS that was used for each tower of Phase 1. As set out above, the vendor of the condominium units for Phase 1 is Tarn Construction. Miller Thomson has reviewed the sample APSs to confirm that the Winding Up Proceedings do not impact the force and effect of the APSs.

81. Immediately following its appointment, the Liquidator confirmed that pursuant to the APSs, the Purchasers' deposits are being held in trust with Bennett Jones. As set out above, effective on September 25, 2017, the Liquidator retained Bennett Jones to continue to provide services with respect to the Development Project as directed by the Liquidator. As at October 31, 2017, Bennett Jones is holding $28,803,701 in trust with

respect to the pre-sold units in Phase 1 of the Development Project, all under the oversight of the Liquidator.

82. A review of the deposits that should have been made by Purchasers prior to the appointment of the Liquidator identifies that a significant number Purchasers had not made all their deposits that were required under their respective APSs prior to the appointment of the Liquidator. The Liquidator has been advised by the Tarn Construction Contract Employees that there was no follow up to these Purchasers prior to the appointment of the Liquidator for non-payment of deposits due and as a result these remained outstanding and overdue at the time the Liquidator was appointed. Pursuant to the books and records of Tarn Construction, approximately $3.8 million remains outstanding and owing on account of deposits pursuant to the APSs as at October 31, 2017.

83. Pursuant to the terms of the APSs, Purchasers are to continue to pay their deposits as they become due, which will be paid to Bennett Jones, in trust. Upon the Liquidator's appointment, there was some confusion by a number of Purchasers who originally issued stop payments or wrote letters questioning whether they should continue to make payments. However, once the Liquidator issued its Second Purchasers Letter described above, most of the Purchasers who had put stop payments on their cheques reached out to either Bennett Jones or the Liquidator find out how they could send replacement cheques.

84. Since the date of the Winding Up Order, 548 deposits totalling $8,578,915 were due to be paid. Of the above, a total of 43 Purchasers canceled their deposits in the aggregate amount of $663,614 (which amount is included in the $3.8 million referenced in paragraph 82 above). All payments received from Purchasers since the date of the Winding Up Order were deposited into Bennett Jones' trust account.

85. Pursuant to the APS, a Purchaser shall not sell or assign their interest under the APS without prior written consent of Tarn Construction. As set out above, given the pending sale of the Assets, the Liquidator has temporarily ceased processing individual requests for an assignment of an APS.

86. On October 19, 2017 and October 26, 2017, the Liquidator received notices of rescission of the APS from two Purchasers each demanding a return of their deposits under section

74 of the *Condominium Act* on the basis of a material change (each a "**Rescission Notice**"). The Liquidator reviewed the issue with Miller Thomson and Bennett Jones and came to the view that the Liquidator should commence applications under the *Condominium Act* against each of the Purchasers seeking, among other relief:

a. A declaration that the Recession Notice and any claims, actions or other proceedings by the Purchasers are subject to a stay of proceedings pursuant to the Winding Up Order;

b. A declaration that the Rescission Notice was not delivered by the Purchasers within the 10 day statutory period prescribed by the *Condominium Act*, and are therefore time-barred;

c. A declaration that the Purchasers are bound by the terms of the APS;

d. A declaration that the Rescission Notice is void and of no force or effect; and

e. A declaration that the Winding Up Proceedings do not constitute a material change to the Development Project under the *Condominium Act*.

(b) Brokers and Consultants

87. Tarn Construction entered into Agreements to Co-operate ("**ATC**") with Brokers on the sale of the condominium units of Phase 1 of the Development Project. Pursuant to the ATC, 4% of the purchase price (excluding HST, extras and upgrades), plus HST, thereon (the "**Commission**"), would be paid to the Brokers. One percent of the Commission was payable after a fully executed APS was entered into and all deposits, post-dated cheques and mortgage pre-approval were received. The Liquidator has been advised that approximately $1.1 million in Commissions are outstanding and owing to Brokers as at the date of the Winding Up Order. The Liquidator has also been advised that an additional approximately $642,000 could be due in the near term. The Liquidator takes the position that these amounts are stayed since Tarn Construction is one of the Assets of Tarn. As such, the amounts owing will be dealt with in accordance with the terms of the OBCA and the Winding Up Order.

88. In relation to the Development Project, Tarn and Tarn Construction entered into a number of service contracts with Consultants. The Liquidator has been advised that

approximately $4 million is outstanding and owing to the Consultants as at the date of the Liquidator's appointment. The Liquidator has not paid any of these amounts and takes the position that these amounts are stayed since Tarn Construction is one of the Assets of Tarn.

89. The Liquidator has been notified that a number of Consultants have registered a claim for lien against Tarn and Tarn Construction pursuant to the *Construction Lien Act* (**"Lien"**). On October 31, 2017, Miller Thomson obtained a parcel register search for the Real Property a copy of which is attached as **Appendix "J"**. As at October 31, 2017, five Liens had been registered against the Real Property totalling $1,592,526. These Liens were registered notwithstanding paragraph 7 of the Winding Up Order. The Liquidator, through its counsel, has since consented to the registration and perfection of each of these Liens on the basis that no further steps be taken in respect of the Liens.

90. The Liquidator is seeking an amendment to the Winding Up Order to include the following paragraph 8(a) to clarify the stay of proceedings and to confirm that such stay does not prevent the registration of a claim for Lien:

> **NO EXERCISE OF RIGHTS OR REMEDIES**
>
> 8(a). **THIS COURT ORDERS** that all rights and remedies against Tarn including against its wholly owned subsidiary, Tarn Construction Corporation, the Liquidator, or affecting the Property, existing as at the date of the Winding Up Order are hereby stayed and suspended except with the written consent of the Liquidator or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the *Bankruptcy and Insolvency Act*, and further provided that nothing in this paragraph shall (i) empower the Liquidator in the name of Tarn to carry on any business which Tarn is not lawfully entitled to carry on, (ii) exempt the Liquidator or Tarn from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

*(c) **Re-Zoning Application***

91. On September 27, 2017 the Liquidator and Miller Thomson, met with Bennett Jones to discuss the status of the zoning and site plan submissions to the City of Toronto (the "**City**") for the Development Project. Bennett Jones provided the Liquidator and Miller Thomson with an overview of the background surrounding the Development Project as well as a status update on the related plans, applications, permits and reports.

92. As of the date of the Winding Up Order, construction of Phase 1 of the Development Project had not commenced. Tarn had submitted an application to amend the former City of Scarborough Employment Districts Zoning By-law No. 24982 (the **"Zoning By-law"**), as amended, in order to, among other things, permit the residential uses and increase the permitted heights and density otherwise permitted by the Zoning By-law on the site. The initial application was made in June 2015 and two resubmissions have been made since, each following review and comments from the City.

93. The Liquidator understands that a staff recommendation report was approved by the City council in mid-2017 and that the Zoning By-law was being held pending the resolution by Tarn and Tarn Construction of outstanding engineering issues and Tarn entering into a Section 37 Agreement, pursuant to the *Planning Act*, with the City.

94. The Liquidator understands that Tarn had hoped to have the outstanding engineering issues resolved and the Section 37 Agreement finalized in order to be added to the list for the City council meeting on October 2, 2017 (the "**City Meeting**") to address the application for the amendment to the Zoning By-law and in order for Tarn to execute a Section 37 Agreement with the City.

95. As a result of timing of the Liquidator's appointment and in order for the Liquidator to take the time necessary to understand and review the required information and documentation needed in order to make a well-informed decision with respect to the Development Project, the Liquidator requested that Bennett Jones advise the City that Tarn would not be seeking to be added to the list to attend the City Meeting. Bennett Jones also advised the City of the Liquidator's appointment and that the Liquidator was the only party authorized to speak on Tarn and Tarn Construction's behalf.

96. The Liquidator has been advised that once a zoning by-law is amended, essentially no changes or amendments can be made to the zoning by-law for a period of two years. As such and given that the Liquidator has not yet commenced the Sale Process for the Assets, the Liquidator is of the view that it would be prudent to postpone the application for the Zoning By-law, until the Sale Process has progressed further and the Liquidator gages the interest in the Development Assets (as defined in the Sale Process).

(d) HST Returns

97. The Liquidator was advised by a Tarn Construction Contract Employee that Tarn Construction is current in its HST filings and that it has historically always been in a refund position. The filing for July 1 to September 30, 2017 was due on October 31, 2017. The Liquidator requested that the filing be prepared; however, the Liquidator was advised and agreed that a zero return should be filed as very few payments for which input tax credits would be claimed were in fact made during the period. Moreover, any payments that were made, could be claimed on the next filing. As a result, the Liquidator filed a zero return.

IV. OBTAINING FINANCING UNDER THE BORROWING CHARGE

98. Pursuant to paragraph 18 of the Winding Up Order, the Liquidator has the ability to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed $2,000,000 at any time and is subordinate in priority to (i) any valid and enforceable security interest registered against the Property in favour of persons not related to, or not dealing at arm's length with, Tarn; and (ii) the Liquidator's Charge (the **"Borrowing Charge"**).

99. Based on the Liquidator's projected cash flow forecast, the Liquidator is of the view that the full $2,000,000 will be required by the Liquidator under the Borrowing Charge. As set out above, the Liquidator approached the shareholders to determine whether they would be willing to provide the required funding under the Borrowing Charge. Initially both the Applicants and the Appellants declined to provide financing under the Borrowing Charge.

100. The Liquidator also approached the Secured Lenders to determine if they would be willing to provide funding under the Borrowing Charge and neither lender is prepared to provide funding under the Borrowing Charge on a subordinate basis. Both Secured Lenders advised that if the Liquidator could not obtain funding on a subordinate basis that they would consider providing funding if the Borrowing Charge was elevated to a priority position.

101. As set out above, one of the Applicants, Volkan Basegmez ("**Volkan**") has reconsidered providing financing and has advised that he is prepared to provide financing under the Borrowing Charge on the following terms:

a. Funding would be made personally by Volkan using his personal resources;

b. U.S. dollar denominated lending equal to the Canadian ("**CAD**") dollar equivalent of CAD$2.0 million principal amount. The principal amount will be provided in U.S. dollars in a single tranche: equivalent to CAD$2.0 million on or about November 15, 2017. The principal amount of the loan will be repaid in U.S. dollars advanced (the currency risk on the principal amount rests with the Liquidator, however Volkan is willing to take CAD on the interest portion on the basis of CAD$2.0 million);

c. The advance will be secured by the Borrowing Charge behind the Secured Lenders, which have outstanding indebtedness collectively of approximately $25 million;

d. Interest on the loan would accrue at 12% per annum, with interest payable monthly in advance, in CAD; and

e. The advance would be subject to definitive agreements in form and substance acceptable to Volkan.

102. The Liquidator is working with Volkan to reach a final agreement to obtain funding under the Borrowing Charge.

V. LIQUIDATOR'S STATEMENT OF RECEIPTS AND DISBURSEMENTS

The following table represents a high level summary of total receipts and disbursements for the period September 25 to November 10, 2017 (the "**Period**").

Statement of Recipts and Disbursements For the period September 25, 2017 to November 10, 2017 (in CAD)	
Receipts	
Total receipts	3,421,670
Disbursements	
Operating expenses	775,186
Salaries and wages	967,527
HST payable	425,296
Insurance	16,957
Utilities	161,168
Marriott fee	153,188
Other	205
Total operating disbursements	2,499,527
Operating cash flow	922,143
Loan Facilities and Professional Fees	
Secured lenders - Principal and interest	217,336
Professional fees	186,809
Non-operating disbursements	404,145
Opening book balance	(70,185)
Net cash flow	517,998
Closing book balance	**447,813**

103. Actual receipts for the Period are $3,421,670, and consist of guest room, food and beverage and parking-related revenues.

104. Actual disbursements for the Period total approximately $2,903,672 and consist of: (a) payroll totalling approximately $967,527, (b) operating expenses of $775,186 (c) HST payments of $425,296, (d) principal and interest payments to the Secured Creditors of $217,336, (e) other expenses, namely insurance, utilities and payments to Marriott of

$331,518 and (f) professional fees of $186,809, which consist of the professional fees of the Liquidator and its independent legal counsel.

VI. SALES PROCESS ORDER BEING SOUGHT

Sale Process

105. Capitalized terms used in this section of the First Report are as defined in the Sale Process attached as **Appendix "K"** to this First Report, unless otherwise defined.

106. The Liquidator seeks the Court's approval to implement the Sale Process, which if approved, establishes the process pursuant to which the Liquidator will market the Assets and determine the Successful Bid(s).

107. The Sale Process contemplates a two-phase process.

108. In the first phase, Interested Parties that meet preliminary participant requirements set out in the Sale Process, which include executing a Confidentiality Agreement, shall be provided a Confidential Information Memorandum and access to an electronic data room by CBRE in order to prepare and submit a Phase I Bid by the Phase I deadline.

109. Phase I Bidders that are determined by the Liquidator and CBRE to be Qualified Phase I Bidders shall be invited to participate in the second phase wherein they will be given access to an expanded data room by CBRE containing additional confidential information in order to complete their due diligence prior to submitting a Phase II Bid.

110. CBRE, in consultation with the Liquidator, will prepare a list of potential interested parties that will be invited to participate in the Sale Process. CBRE will also use its worldwide network to ensure that the opportunity is appropriately publicized. The Sale Process will also be posted on the Liquidator's Website. Any potential interested party that contacts the Liquidator or CBRE will be invited to participate in the Sale Process.

111. The Sale Process provides that a Phase I Bid, being a Non-Binding APA including a mark-up to the Template APA (which will be available to Interested Parties in the data room) identifying the proposed changes to the Template APA, must be submitted by the Phase I Deadline of noon (Eastern time) on January 17, 2017. This date was chosen, in part, to allow the Appeal to be heard prior to Phase I Bids being delivered.

112. The Sale Process provides that a Phase II Bid, which includes a Binding APA executed by the Qualified Phase I Bidder with a markup showing changes from the Template APA and that includes, among other things, a Good Faith Deposit equal to ten percent of the total purchase price, must be received by the Phase II Bid Deadline of noon (Eastern time) on February 7, 2017.

113. The Phase I Bids and the Phase II Bids will be reviewed by the Liquidator and CBRE, in consultation with the Secured Lenders, to determine Qualified Phase I Bidders and the Qualified Phase II Bidders, respectively.

114. If more than one Qualified Phase II Bids are received by the Phase II Bid Deadline, the Liquidator and CBRE shall have the option to:

a. Conduct an auction amongst the Qualified Phase II Bidders, on terms to be determined by the Liquidator, to determine the Successful Bid and the Back-up Bid;

b. Negotiate with the Qualified Phase II Bidders and determine the Successful Bid and the Back-up Bid; or

c. Determine which of the Qualified Phase II Bids shall be the Successful Bid and which of the Qualified Phase II Bids shall be the Back-up Bid.

115. Following the determination of the Successful Bid, the Liquidator shall seek Court approval in the form of an Approval and Vesting Order to consummate the transactions provided for in the Successful Bid.

116. Given the nature of the Assets and the current status of Real Property, the Liquidator has divided the Assets into the following two categories (a) the Hotel Assets being all the Assets related to the hotel operations currently branded as the Delta Toronto East Hotel and (b) the Development Assets being the development lands known as "The Kennedys Condominium Project", which contemplates the construction of Phase 1 being two condominium towers containing a total of 644 units, of which substantially all of the units have been pre-sold.

Authorization for Land Severance

117. As at the time of commencing the Sale Process, the Real Property containing the Hotel Assets and the Development Assets has not been legally severed. While the Sale Process is being undertaken, the Liquidator is seeking the Court's authority to apply for a consent to sever the Real Property and to take such steps and to execute such documentation as may be needed to finally sever the lands (a "**Land Severance**"), including but not limited to the satisfaction of severance conditions and the conveyance of any interests in the lands to public bodies if required, to allow the Liquidator to preserve the option that the Hotel Assets and the Development Assets may be sold in two parcels as well as together under the Sale Process.

118. Whether obtaining a Land Severance results in value maximization and whether the Liquidator will be able to obtain a Land Severance is uncertain at this time. For the purposes of the Sale Process, the Liquidator recommends that Bidders submit a Phase I Bid for all of the Assets. To the extent that Bidders submitting a Phase I Bid would be interested in also submitting a Portion Bid for the Hotel Assets or the Development Assets, such Phase I Bidder will be required to ascribe a value to these Assets separately and then collectively if their Phase I Bid includes both.

119. CBRE and the Liquidator will consider Phase I Bids that are Portion Bids submitted for either the Hotel Assets or the Development Assets based on among other factors, the interest from Bidders and the expected ability to obtain a Legal Severance and the timing of obtaining same. The Liquidator and CBRE will determine whether to pursue the Land Severance to allow the Hotel Assets and the Development Assets to be sold separately or whether to seek to introduce Bidders submitting Portion Bids to each other for the purposes of submitting a Qualified Phase II Bid for the Assets collectively.

Engagement of CBRE and Sealing of Unredacted Marketing and Listing Agreement

120. Capitalized terms used in this section of the First Report are as defined in the Marketing and Listing Agreement executed by the Liquidator and CBRE dated November 10, 2017. A redacted copy of the Marketing and Listing Agreement is attached as **Appendix "L"** to this First Report.

121. Pursuant to the Marketing and Listing Agreement, subject to Court approval, the Liquidator has engaged CBRE to act as the marketing and listing agent in the Sale Process and to undertake all aspects contemplated in the Sale Process.

122. CBRE is one of the world's largest commercial real estate service firms, with approximately 450 offices in approximately 60 countries. The team assisting the Liquidator is from Toronto and includes expertise with respect to the sale of the Hotel Assets and the Development Assets. The Hotel Assets team is being supervised by Bill Stone, Executive Vice President, CBRE Hotels. The Development Assets team is being supervised by Mike Czestochowski, Executive Vice President, Land Services Group.

123. Prior to retaining CBRE, the Liquidator had discussions with, met and obtained proposals from CBRE and another large commercial real estate service firms in order to consider, which firm it would retain. The Liquidator ultimately chose CBRE based on its overall assessment of which firm would be value accretive to the Sale Process and work collaboratively with the Liquidator. The Liquidator shared its decision to retain CBRE with the Secured Lenders and the Shareholders.

124. The Marketing and Listing Agreement contemplates a term of six months, however, the Liquidator has the ability to terminate the agreement in the event that the Appeal is successful. The fee structure under the Agreement is commission based and CBRE shall be responsible for all travel and marketing costs other than third party reports if needed, unless the Liquidator terminates as a result of the Appeal being successful, in which case CBRE is entitled to its costs plus a nominal break fee.

125. The Liquidator has been advised by CBRE that in their opinion disclosure of the specific fees under the Marketing and Listing Agreement could potentially have an adverse influence on the Sale Process and are commercially sensitive. As a result, CBRE has requested that the Liquidator seek a sealing order in respect of such fees.

126. An unredacted copy of the Marketing and Listing Agreement is included in **Confidential Appendix "1"** to this First Report and the Liquidator is requesting a sealing order in respect of Confidential Appendix "1".

Recommendations and Conclusions

127. The Liquidator is of the view that the scope of the sealing order is limited and reasonable in the circumstances to protect commercially sensitive information.

128. The Liquidator is of the view that the engagement of CBRE to act as marketing and listing agent and to assist the Liquidator in the implementation of the Sale Process is beneficial to the Winding Up Proceedings and will assist in the efforts to maximize realizations from the Assets.

129. In the Liquidator's view, the Sale Process:

a. Is consistent with market practice;

b. Provides a reasonable opportunity for potential interested parties to consider the opportunity and the participate in the Sale Process;

c. Enables the Liquidator to maximize realizations from the Assets; and

d. Is reasonable and appropriate in the circumstances.

VII. CONCLUSION

130. The Liquidator submits this First Report to the Court in support of the Liquidator's Motion for the relief as set out in the Notice of Motion and recommends that the Court grant the following relief:

a. A Sale Process Order substantially in the form attached as Schedule "A" to the Liquidator's Notice of Motion:

(i) authorizing the Liquidator, nunc pro tunc, to execute and to carry out and perform its obligations under the Marketing and Listing Agreement and approving same;

(ii) approving the Sale Process, substantially in the form attached as Schedule A to the Sale Process Order; and

(iii) authorizing the Liquidator to apply for a consent to sever the Real Property;

b. An Order substantially in the form attached as Schedule "B" to the Notice of Motion:

(i) authorizing the Liquidator to sell, convey, transfer, lease or assign the Assets or any part or parts thereof out of the ordinary course of business, without the approval of this Court in respect of any transaction not exceeding $250,000 provided that the aggregate consideration for all such transactions does not exceed $1,000,000;

(ii) amending the Winding Up Order to include a paragraph confirming the stay of proceedings as against Tarn, the Property, which included Tarn Construction, and the Liquidator;

(iii) approving the First Report and the activities and conduct of the Liquidator from the date of the Winding Up Order to the date of the First Report as set out therein; and

(iv) sealing and treating as confidential, Confidential Appendix "1" to this First Report.

All of which is respectfully submitted at Toronto, Ontario this 13th day of November, 2017.

KPMG Inc., in its sole capacity as
Court Appointed Liquidator of
Tarn Financial Corporation

Anamika Gadia

Per: _____
Anamika Gadia
Senior Vice President

Volkan Basegmez et al.
Applicants

and

Ali Akman et al.
Respondents

Court File No.: CV-17-11697-0000

ONTARIO
SUPERIOR COURT OF JUSTICE - COMMERCIAL LIST

Proceeding commenced at Toronto

LIQUIDATOR'S FIRST REPORT DATED NOVEMBER 13, 2017

MILLER THOMSON LLP
Scotia Plaza
40 King Street West, Suite 5800
P.O. Box 1011
Toronto, ON Canada M5H 3S1

Kyla Mahar LSUC#: 44182G
Tel: 416.597.4303 / Fax: 416.595.8695

Stephanie De Caria LSUC#: 68055L
Tel: 416.595.2652 / Fax: 416.595.8695

Lawyers for KPMG Inc., in its capacity as Liquidator of Tarn Financial Corporation.

APPENDIX "C"

Court File No. CV-17-11697-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE WINDING UP OF
TARN FINANCIAL CORPORATION

APPLICATION UNDER SECTIONS 207 AND 248 OF THE
***BUSINESS CORPORATIONS ACT*, R.S.O. 1990, c. B.16**

SUPPLEMENTAL REPORT OF KPMG INC. in its capacity as LIQUIDATOR OF TARN FINANCIAL CORPORATION

NOVEMBER 16, 2017

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Appendix B – Blackline of the Sale Process Order

I. INTRODUCTION

1. This is a supplemental report (the "**Supplemental Report**") to the first report to the Court of KPMG Inc., in its capacity as court appointed liquidator (the "**Liquidator**") pursuant to section 207 of the Ontario *Business Corporations Act* of the effects and estate of Tarn Financial Corporation ("**Tarn**") dated November 13, 2017 (the "**First Report**") and is filed in respect of the motion brought by the Liquidator, returnable on November 17, 2017.

2. As detailed in the Liquidator's First Report, the Liquidator is seeking an order, among other things: (a) authorizing the Liquidator to enter into and approving the marketing and listing agreement between the Liquidator and CBRE Limited ("**CBRE**") dated November 10, 2017 (the "**Marketing and Listing Agreement**"); and (b) approving the sale process (the "**Sale Process**").

3. The purpose of this Supplemental Report is to update this Honourable Court with respect to the process undertaken by the Liquidator in deciding to retain CBRE to be the marketing and listing agent and the proposed revisions to the Sale Process, in order to address the objections raised by the Respondents, SAMM Capital Holdings Inc. ("**SAMM**") and Ali Akman ("**Akman**") in the Affidavit of Ali Akman sworn November 15, 2017 (the "**Akman Affidavit**").

4. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars. Capitalized terms not defined herein shall have the meanings set out in the Winding Up Order, the Sale Process and the First Report.

5. The information contained in this Supplemental Report has been obtained from the books and records and other information of Tarn or Tarn Construction. The accuracy and completeness of the financial information contained herein has not been audited or otherwise verified by the Liquidator, and the Liquidator does not express an opinion or provide any other form of assurance with respect to the information presented herein or relied upon by the Liquidator in preparing this Supplemental Report.

6. Future oriented financial information reported or relied on in preparing this Supplemental Report is based on Management's assumptions regarding future events; actual results may vary from forecast and such variations may be material.

II. ENGAGEMENT OF CBRE

7. Pursuant to the Marketing and Listing Agreement, subject to Court approval, the Liquidator has engaged CBRE to act as the marketing and listing agent in the Sale Process and to undertake all aspects contemplated in the Sale Process.

8. As set out in the First Report in paragraphs 120 to 126, the Liquidator had discussions with, received proposals from and met with two of the largest and most respected commercial real estate service firms in the country in order to consider which firm it would retain to assist in undertaking the Sale Process. The Liquidator ultimately chose CBRE based on its overall assessment of which firm would be value accretive to the Sale Process and work collaboratively with the Liquidator to undertake the Sale Process.

9. When the Liquidator contacted CBRE, it was advised by CBRE that it is currently in litigation with one of Akman's other corporations, S and A Hospitality Corporation ("**S&A**") for damages for breach of contract regarding alleged unpaid real estate commissions (the "**Litigation**").

10. When undertaking its analysis as to which firm to retain, the Liquidator considered whether the Litigation would preclude CBRE from being retained by the Liquidator to undertake the Sale Process, subject to Court approval.

11. In considering this issue, counsel for the Liquidator spoke to counsel for SAMM and Akman on October 24, 2017 to raise the Litigation with them and ask if they would have any concerns regarding the Liquidator engaging CBRE. Counsel for the Liquidator followed up by email to counsel for SAMM and Akman on the same day regarding the retention of CBRE. A copy of Greg Azeff's email to Bobby Sachdeva on October 24, 2017 at 5:57 p.m. is attached as **Appendix "A"** to this Supplemental Report.

12. Counsel for the Liquidator circulated a draft of the Sale Process Order to counsel for the Shareholders (including SAMM and Akman) on November 10, 2017.

13. The Liquidator was not advised of SAMM and Akman's position with respect to CBRE being retained by the Liquidator until after the Liquidator served its motion on November 13, 2017.

14. The Liquidator prepared a memo to Kingsett Mortgage Corporation on November 6, 2017, which set out its analysis as to why it intended to proceed to retain CBRE. The memo was also shared with Meridian Credit Union Limited. A copy of the memo dated November 6, 2017 is being filed separately with the Court as **Confidential Appendix "2"**. The Liquidator intends to seek a sealing order from the Court with respect to Confidential Appendix "2" since it contains commercially sensitive information.

15. After considering all relevant factors including the Litigation, the Liquidator decided to retain CBRE to undertake the Sale Process, subject to Court approval. An executed copy of the redacted Marketing and Listing Agreement is Appendix "L" to the First Report and the unredacted copy will be provided to the Court as Confidential Appendix "1".

16. On or about November 14, 2017, counsel for SAMM and Akman advised that their clients would be opposing the retention of CBRE.

17. In the Akman Affidavit, Akman asserts that another brokerage firm should be chosen as the marketing and listing agent for the purpose of the Sale Process. He further asserts that in the event the Court approves the Marketing and Listing Agreement, the Sale Process should be amended in a number of respects.

18. The Liquidator remains of the view that CBRE will undertake the mandate it has been retained to undertake in a professional manner that is fair to all stakeholders.

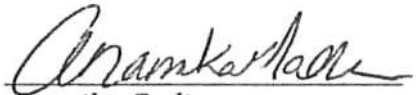
19. In the Liquidator's view, the amendments to the Sale Process Order proposed in the Akman Affidavit at subparagraphs 22 (b), (c) and (d) are either not possible or not reasonable. Bill Stone is the head of the Hotels team at CBRE. Based on a review of the pleadings for the Litigation and discussions with Bill Stone and CBRE's counsel, the Liquidator understands that he was involved in the sale process that led to the Litigation along with other members of the CBRE team. Mr. Stone and his team members possess the expertise and experience that the Liquidator is seeking to retain. The other

amendments, in the Liquidator's view, would potentially limit participation in the Sale Process, may cause significant delay and will increase costs.

20. The Liquidator has considered the reasons for SAMM and Akman's opposition contained in the Akman Affidavit and has amended the Sale Process to attempt to address the concerns raised. Under the amended Sale Process, CBRE will not have any involvement in the consideration of any bid received from any Shareholder (as defined in the Sale Process Order). A blackline of the Sale Process Order identifying the changes proposed by the Liquidator is attached as **Appendix "B"** to this Supplemental Report.

All of which is respectfully submitted at Toronto, Ontario this 16h day of November, 2017.

KPMG Inc., in its sole capacity as
Court Appointed Liquidator of
Tarn Financial Corporation

Per: 

Anamika Gadia
Senior Vice President

Volkan Basegmez et al. Applicants	-	and	Ali Akman et al. Respondents

Court File No.: CV-17-11697-0000

ONTARIO
SUPERIOR COURT OF JUSTICE - COMMERCIAL LIST

Proceeding commenced at Toronto

LIQUIDATOR'S SUPPLEMENTAL REPORT DATED NOVEMBER 16, 2017

MILLER THOMSON LLP
Scotia Plaza
40 King Street West, Suite 5800
P.O. Box 1011
Toronto, ON Canada M5H 3S1

Kyla Mahar LSUC#: 44182G
Tel: 416.597.4303 / Fax: 416.595.8695

Stephanie De Caria LSUC#: 68055L
Tel: 416.595.2652 / Fax: 416.595.8695

Lawyers for KPMG Inc., in its capacity as Liquidator of Tarn Financial Corporation.

APPENDIX "D"

Court File No. CV-17-11697-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE WINDING UP OF
TARN FINANCIAL CORPORATION

APPLICATION UNDER SECTIONS 207 AND 248 OF THE
BUSINESS CORPORATIONS ACT, R.S.O. 1990, c. B.16

SECOND SUPPLEMENTAL REPORT OF KPMG INC. in its capacity as LIQUIDATOR OF TARN FINANCIAL CORPORATION

NOVEMBER 28, 2017

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Appendix B – Redacted Colliers Marketing and Listing Agreement

Appendix C – Blackline of the Sale Process Order

I. INTRODUCTION

1. On February 13, 2017, Volkan Basegmez, Cem Bleda Basegmez, Anil Rukan Basegmez, BA&B Capital Inc., Serdar Kocturk and Kaan Holdings Inc. (collectively, the "**Applicants**") commenced an application (the "**Application**") before the Ontario Superior Court of Justice (Commercial List) (the "**Court**") under sections 207 and 248 of the *Business Corporations Act*, R.S.O. 1990, c. B.16 seeking an Order winding up Tarn Financial Corporation ("**Tarn**") and appointing KPMG Inc. ("**KPMG**") as liquidator for that purpose. The Applicants are shareholders of Tarn and collectively hold 60% of the common shares of Tarn. The remaining 40% of the common shares of Tarn are held by the Respondent, SAMM Capital Holdings Inc. ("**SAMM**"), a company owned by the Respondent, Ali Akman ("**Akman**").

2. The Application was heard by Justice Lederman on August 11, 2017 and on September 15, 2017 His Honour ordered the winding up of Tarn pursuant to the Winding Up Order dated September 15, 2017 (the "**Winding Up Order**") and the appointment of KPMG as liquidator for that purpose (the "**Liquidator**") effective as of September 25, 2017.

3. The Liquidator issued its first report to the Court on November 13, 2017 (the "**First Report**"). On November 16, 2017, the Liquidator issued a first supplemental report to the Court (the "**First Supplemental Report**").

4. This is a second supplemental report (the "**Second Supplemental Report**") to the First Report. Capitalized terms not defined herein shall have the meanings set out in the Winding Up Order, the Sale Process and the First Report.

5. As detailed in the First Report, the Liquidator brought a motion (the "**Sale Process Motion**") seeking an order (the "**Sale Process Order**"), among other things: (a) authorizing the Liquidator to enter into and approving a marketing and listing agreement between the Liquidator and CBRE Limited ("**CBRE**") dated November 10, 2017; and (b) approving the sale process (the "**Sale Process**").

6. The Sale Process Motion was scheduled to be heard before the Court on November 17, 2017 and was adjourned on an unopposed basis to November 24, 2017 to allow the

Applicants, SAMM and Akman time to formalize a settlement that had been reached between them in principle.

7. The Sale Process Motion was unopposed except for the relief seeking the approval of CBRE as the marketing and listing agent, which was opposed by SAMM and Akman. On November 24, 2017, Justice McEwan declined to approve the retention of CBRE as marketing and listing agent. A copy of Justice McEwan's Endorsement dated November 24, 2017 is attached as **Appendix "A"** to this Second Supplemental Report.

8. Justice McEwan directed the Liquidator to seek to retain another marketing and listing agent with a view to returning to Court to seek approval of the Sale Process Order as reasonably quickly as possible.

9. The purpose of this Second Supplemental Report is to update this Honourable Court with respect to the proposed retention by the Liquidator of Colliers Macaulay Nicolls Inc. ("**Colliers**") to be the marketing and listing agent and the proposed revisions to the Sale Process, in order to address the change in the agent.

10. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

11. The information contained in this Second Supplemental Report has been obtained from the books and records and other information of Tarn or Tarn Construction. The accuracy and completeness of the financial information contained herein has not been audited or otherwise verified by the Liquidator, and the Liquidator does not express an opinion or provide any other form of assurance with respect to the information presented herein or relied upon by the Liquidator in preparing this Second Supplemental Report.

12. Future oriented financial information reported or relied on in preparing this Second Supplemental Report is based on Management's assumptions regarding future events; actual results may vary from forecast and such variations may be material.

II. ENGAGEMENT OF COLLIERS

13. As set out in the First Supplemental Report, the Liquidator had discussions with, received proposals from and met with two of the largest and most respected commercial real estate

service firms in order to consider which firm it would retain to assist in undertaking the Sale Process. Those two firms were CBRE and Colliers.

14. On November 24, 2017 after Justice McEwan rendered his Endorsement, the Liquidator re-approached Colliers regarding its interest in acting as marketing and listing agent under the Sale Process and the terms of such engagement. As set out in the Confidential Appendix "2" previously filed with the Court, Colliers had initially proposed a commission structure which has since been revised based on further discussions with the Liquidator. The Liquidator has negotiated a form of marketing and listing agreement with Colliers (the "**Colliers Marketing and Listing Agreement**") which the Liquidator intends to enter into upon Court approval of same. A redacted copy of the Colliers Marketing and Listing Agreement is attached as **Appendix "B"** to this Second Supplemental Report.

15. An unredacted copy of the Colliers Marketing and Listing Agreement will be delivered to the Court as **Confidential Appendix "1"** to this Second Supplemental Report and the Liquidator is requesting a sealing order in respect of same due to the commercially sensitive terms set out therein.

16. The change in the proposed marketing and listing agent has necessitated a number of changes to the draft Sale Process Order, previously filed with the Court in the Liquidator's Sale Process Motion. A blackline of the Sale Process Order identifying the changes proposed by the Liquidator from the version contained as Schedule "A" to the Liquidator's Notice of Motion dated November 13, 2017 is attached as **Appendix "C"** to this Second Supplemental Report.

All of which is respectfully submitted at Toronto, Ontario this 28th day of November, 2017.

KPMG Inc., in its sole capacity as
Court Appointed Liquidator of
Tarn Financial Corporation

Per: Anamika Gadia

Anamika Gadia
Senior Vice President

Volkan Basegmez et al. Applicants	and	Ali Akman et al. Respondents	Court File No.: CV-17-11697-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

SECOND SUPPLEMENTAL FIRST REPORT OF THE LIQUIDATOR DATED NOVEMBER 28, 2017

MILLER THOMSON LLP
Scotia Plaza
40 King Street West, Suite 5800
P.O. Box 1011
Toronto, ON Canada M5H 3S1

Kyla Mahar LSUC#: 44182G
kmahar@millerthomson.com
Tel: 416.597.4303 / Fax: 416.595.8695

Stephanie De Caria LSUC#: 68055L
sdecaria@millerthomson.com
Tel: 416.595.2652 / Fax: 416.595.8695

Lawyers for KPMG Inc., in its capacity as Liquidator of Tarn Financial Corporation

APPENDIX "E"

Court File Number: CV-17-11697-0000

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Basegmez et al
Plaintiff(s)

AND

Akman et al
Defendant(s)

Case Management ☐ Yes ☐ No by Judge: _____

Counsel	Telephone No:	Facsimile No:
See attached		

☑ Order ☐ Direction for Registrar **(No formal order need be taken out)**
☐ Above action transferred to the Commercial List at Toronto **(No formal order need be taken out)**

☐ Adjourned to: _____
☐ Time Table approved (as follows):

I agree with the submissions of Akman/Samin that CBRE ought to be removed as the monitor and listing agent.[1]

Given the outstanding litigation between CBRE and S+A Hospitality Corp - a company in which Mr Akman is the President/Director - I am satisfied that a reasonable

24 Nov 17
Date

Judge's Signature

☑ Additional Pages____

1. By way of clarity, I should have noted that it is not a "removal issue" but rather I have declined to approve their consent as listing agent.

Court File Number: _____

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Judges Endorsment Continued

apprehension of bias on the part of Mr Akman exists."

When we review the st. of claim in the CBRE action it is clear that allegations are aimed directly at Mr Akman. Mr Bill Stone is the principal ~~actor~~ actor in that litigation on behalf of CBRE and would also be the point person in this proposed sale.

In these circs, without casting any aspersions in the direction of CBRE or KPMG, there is a real perceived bias or conflict of interest.

I am not satisfied that the solution proposed by KPMG resolves the problem. It creates a "two track" process which may frankly lead to more

Judges Initials _____

Court File Number: _____

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Judges Endorsment Continued

difficulties and/or litigation.

Also, the proposal at the unquestionably made in good faith underscores the perceived problem.

I am concerned with the issue of delay but it is has been relatively brief and counsel for Akman/Sam only received KPMG's materials recently. Overall, given my determination, I cannot lay the blame for delay completely at the feet of Akman/Sam.

Further given Marriott's submissions it may be unlikely that any bid from Mr Akman would succeed but it would be improper for me to prejudge the potential of success.

Last, KPMG + others raise the

Judges Initials _____

Court File Number: _____

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Judges Endorsment Continued

fact that Mr Alman has had dealings in other commercial realtors which could lead to conflicts. This may be the case, but there is no evidence of outstanding litigation which is the central feature of this dispute

Overall, it is my view, that removal of CBRE is fair + reasonable and overall better for the process itself so as to potentially reduce further conflict. It is worth the price of some delay to have a process removed from the any reasonable perception of bias.

The sealing order is fair + reasonable in the circs - + shall go as part of the unopposed order I signed today. McEwen

Page 4 of 4

Judges Initials DM

APPENDIX "F"

Court File No. CV-17-11697-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

THE HONOURABLE MR.	)	**WEDNESDAY, THE 29TH DAY**
	)	
JUSTICE MCEWEN	)	**OF NOVEMBER, 2017**

BETWEEN:

VOLKAN BASEGMEZ, CEM BLEDA BASEGMEZ, ANIL RUKAN BASEGMEZ, BA&B CAPITAL INC., SERDAR KOCTURK and KAAN HOLDINGS INC.

Applicants

– and –

ALI AKMAN, SAMM CAPITAL HOLDINGS INC. and TARN FINANCIAL CORPORATION

Respondents

APPLICATION UNDER Sections 207 and 248 of the *Business Corporations Act*, R.S.O. 1990, c. B.16.

SALE PROCESS ORDER

THIS MOTION, made by KPMG Inc., in its capacity as court appointed liquidator (the "**Liquidator**") pursuant to section 207 of the Ontario *Business Corporations Act* of the effects and estate of Tarn Financial Corporation ("**Tarn**"), for an order: (a) authorizing the Liquidator to enter into and approving the marketing and listing agreement between the Liquidator and Colliers Macaulay Nicolls Inc. ("**Colliers**") substantially in the form attached to the Second Supplemental Report of the Liquidator dated November 28, 2017 (the "**Second Supplemental Report**") (the "**Marketing and Listing Agreement**"); (b) approving the sale process, substantially in the form set out in **Schedule "A"** hereto (the "**Sale Process**"), and (c) authorizing the Liquidator to apply for a consent to sever the real property owned by Tarn and municipally known as 2035 Kennedy Road, Toronto, Ontario (the "**Real Property**") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the First Report of the Liquidator dated November 13, 2017 (the "**First Report**"), the Affidavit of Ali Akman sworn on November 16, 2017, the Supplemental Report of the Liquidator dated November 16, 2017 (the "**First Supplemental Report**") and the Second Supplemental Report and on hearing the submissions of counsel for the Liquidator, the Applicants, certain of the Respondents, Meridian Credit Union Limited, Kingsett Mortgage Corporation, Global Hospitality Licensing S.a.r.l. and such other counsel as were present as indicated on the Counsel Slip, no one appearing for any other person on the Service List, although properly served as appears from the Affidavit of Alina Stoica sworn November 14, 2017, filed:

DEFINITIONS

1. **THIS COURT ORDERS** that capitalized terms not defined herein shall have the meanings set out in the Sale Process.

SERVICE

2. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record is abridged and validated such that this Motion is properly returnable today, and further service of the Notice of Motion and the Motion Record is hereby dispensed with.

MARKETING AND LISTING AGREEMENT

3. **THIS COURT ORDERS** that the Liquidator is authorized to execute and to carry out and perform its obligations under the Marketing and Listing Agreement (including the payment of the amounts due to be paid to Colliers by the Liquidator pursuant to the terms thereof), and such Marketing and Listing Agreement, substantially in the form annexed to the Second Supplemental Report be and is hereby approved.

SALE PROCESS

4. **THIS COURT ORDERS** that the Sale Process substantially in the form attached as **Schedule "A"** be and is hereby approved.

5. **THIS COURT ORDERS** that the Liquidator is authorized and directed to carry out the Sale Process utilizing the services of Colliers for the purpose of soliciting interest in and opportunities for a sale of the assets, property and undertaking of Tarn (the "**Assets**") and to take such steps and execute such documentation as may be necessary or incidental to the Sale Process.

6. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Liquidator either directly or through Colliers, may disclose personal information of identifiable individuals to prospective purchasers or bidders for the Assets and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete a sale of the Assets (the "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Liquidator, or in the alternative destroy all such information. The purchaser of the Assets shall be entitled to continue to use the personal information provided to it, and in a manner which is in all material respects identical to the prior use of such information by the Liquidator and/or Tarn, and shall return all other personal information.

7. **THIS COURT ORDERS** that the Liquidator and its respective affiliates, partners, employees and agents shall have no liability with respect to any and all losses, claims, damages or liabilities, of any nature or kind, to any person in connection with or as a result of the Sale Process, except to the extent such losses, claims, damages or liabilities result from gross negligence or wilful misconduct of the Liquidator in performing its obligations under the Sale Process as determined by this Court.

AUTHORIZATION TO COMMENCE APPLICATION FOR SEVERANCE

8. **THIS COURT ORDERS** that the Liquidator is hereby empowered and authorized, but not obligated, to apply for a consent to sever the Real Property and to take such steps and to execute such documentation as may be needed to finally sever the lands, including but not limited to the satisfaction of severance conditions and the conveyance of any interests in the

lands to public bodies if required, to allow the Liquidator to preserve the option that the Hotel Assets and the Development Assets may be sold in two parcels as well as together under the Sale Process.

SEALING ORDER

9. **THIS COURT ORDERS** that, subject to further Order of the Court, Confidential Appendix "1" of the Second Supplemental Report shall be sealed and kept confidential and shall not form part of the public record but rather shall be placed, separate and apart from all other contents of the file, in a sealed envelope that identifies the title of these proceedings and notes that the contents thereof are subject to a sealing order that may only be opened upon further Order of the Court.

GENERAL

10. **THIS COURT ORDERS** that the Liquidator may from time to time apply to this Court for advice and directions on the discharge of its duties and powers hereunder.

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

NOV 29 2017

PER / PAR:

Schedule "A" - Sale Process

On September 15, 2017, the Ontario Superior Court of Justice (the "**Court**") issued an order (the "**Winding Up Order**"), ordering the winding up of Tarn Financial Corporation ("**Tarn**") and appointing KPMG Inc. as the Liquidator (the "**Liquidator**") of the estate and effects of Tarn pursuant to the Ontario *Business Corporations Act*, which appointment is effective as of September 25, 2017. Pursuant to the Winding Up Order, the Liquidator is authorized to market the assets, property and undertaking of Tarn (the "**Assets**") for sale and, subject to approval of the Court, negotiate such terms and conditions of sale as the Liquidator in its discretion may deem appropriate. The Assets include the 366-room Delta Toronto East Hotel (the "**Hotel Assets**") and adjoining development lands known as "The Kennedy's Condominium Project", which contemplates the construction of two condominium towers containing a total of 644 units of which substantially all of the units have been pre-sold (the "**Development Assets**") each located at 2035 Kennedy Road, Toronto, Ontario (the "**Real Property**").

On November 29, 2017, the Court made an order (the "**Sale Process Order**") among other things, (a) approving the marketing and listing agreement between the Liquidator and Colliers Macaulay Nicolls Inc.; (b) approving the Sale Process for the solicitation of offers or proposals (each a "**Bid**") for the acquisition of the Assets; (c) authorizing the Liquidator to apply for consent to sever for the Real Property (the "**Land Severance**"); and (d) granting a sealing order in respect of the Confidential Appendix "1" to the Liquidator's second supplemental report dated November 28, 2017.

Accordingly, the following Sale Process shall govern the proposed sale of all or substantially all of the Assets pursuant to one or more Bids. This Sale Process shall govern the process relating to the solicitation by the Liquidator, utilizing Colliers as set out herein, of one or more Bids for the Assets that, alone or in combination, are determined by the Liquidator, taking into account the market expertise of Colliers, to be the highest or otherwise best offer for the Assets to be brought forward by the Liquidator for Court approval. The Sale Process is intended to solicit interest in an acquisition of the Assets, under a fair and competitive sale process pursuant to which all qualified interested parties will be provided with a fair and equal opportunity to participate in the Sale Process.

Notwithstanding anything contained herein, the Liquidator shall have the right to enter into an exclusive transaction for the sale of the Assets, or any portion thereof, outside of the Sale Process prior to the selection of a Successful Bidder (as defined herein).

1. Definitions

Capitalized terms used in this Sale Process shall have the definitions given to them in the preamble hereto and as follows:

"**Acknowledgement of Sale Process**" means an acknowledgement of the Sale Process in the form attached as **Schedule 1** hereto;

"**Acquisition Entity**" means an entity specially formed for the purpose of effectuating the contemplated transaction;

"**Approval and Vesting Order**" has the meaning given to it in Section 13 hereof;

"**Back-up Bid**" means the next highest and/or best Qualified Phase II Bid after the Successful Bid, as assessed by the Liquidator and Colliers, taking into account financial and contractual terms, the claims likely to be created by such Bid in relation to other Bids and other factors relevant to the Sale Process, including those factors affecting the speed and certainty of consummating the proposed sale, provided that one or more Portion Bids may form part of the Back-up Bid so long as such Portion Bids, if more than one, do not overlap in respect of the Assets sought to be purchased and the Liquidator has determined that it will be able to obtain the Land Severance;

"**Back-up Bidder**" means the Bidder submitting the Back-up Bid;

"**Bidder**" means a Qualified Phase I Bidder or a Qualified Phase II Bidder;

"**Binding APA**" means executed asset purchase agreement reflecting the applicable Qualified Phase I Bidder's proposed changes to the Non-Binding APA that it submitted and reflecting the applicable Qualified Phase I Bidder's proposed changes to the Template APA;

"**Colliers**" means Colliers Macaulay Nicolls Inc., in its capacity as listing and marketing agent engaged by the Liquidator pursuant to a Marketing and Listing Agreement approved by the Court by Order dated November 29, 2017;

"**Confidential Information Memorandum**" means a confidential information memorandum prepared by Colliers providing certain confidential information in respect of or related to the Assets;

"**Confidentiality Agreement**" means an executed confidentiality agreement in form and substance acceptable to the Liquidator and its counsel;

"**Development Assets**" means development lands known as "The Kennedys Condominium Project" (Phase 1), which contemplates the construction of two condominium towers containing a total of 644 units of which substantially all of the units have been pre-sold;

"**Encumbrances**" means, collectively, all charges, pledges, liens, security interests, encumbrances, claims, options, and interests thereon and there against the Assets, other than any permitted encumbrances under the Successful Bidder's Successful Bid;

"**Good Faith Deposit**" means a cash deposit equal to ten (10) percent of the total purchase price contemplated under the applicable Binding APA;

"**Hotel Assets**" means all of the Assets related to the hotel operations currently branded as the Delta Toronto East Hotel[1];

"**Interested Party**" means a party participating in this Sale Process and for greater certainty may include any shareholder of Tarn;

"**Land Severance**" has the meaning given to it in Section 2 hereof;

"**Non-Binding APA**" means an asset purchase agreement submitted by the applicable Qualified Phase I Bidder including a mark-up to the Template APA reflecting the applicable Qualified Phase I Bidder's proposed changes to the Template APA;

"**Notice Parties**" means Colliers to the attention of Alam Pirani (alam.pirani@colliers.com), Robin McLuskie (robin.mcluskie@colliers.com), Stephen Ho (stephen.ho@colliers.com) and Russell Beaudry (russell.beaudry@colliers.com), the Liquidator to the attention of Anamika Gadia (agadia@kpmg.ca) and counsel to the Liquidator, Miller Thomson LLP, to the attention of Kyla Mahar (kmahar@millerthomson.com);

"**Phase I Bid**" means an initial Bid submitted by an Interested Party pursuant to Section 7 hereof;

"**Phase I Bid Deadline**" means noon (Eastern time) on January 31, 2018;

"**Phase I Bidder**" means a bidder submitting a Phase I Bid;

"**Phase I Participant Requirements**" has the meaning given to it in Section 7 hereof;

"**Phase II Bid**" means a Bid submitted by a Qualified Phase I Bidder pursuant to Section 9 hereof;

"**Phase II Bid Deadline**" means noon (Eastern time) on February 23, 2018;

"**Phase II Participant Requirements**" means, collectively, the requirements set out in Section 7(a) through 7(e) hereof;

"**Portion Bid**" means a Bid in respect of either the Hotel Assets or the Development Assets;

"**Portion Bidder**" means a bidder submitting a Portion Bid;

"**Principals**" means, collectively, the equity holder(s) of an Acquisition Entity and any guarantor of any Bid made by such Acquisition Entity;

"**Qualified Phase I Bidder**" means (i) a Phase I Bidder for all of the Assets that delivers the documents described in paragraphs (a) through (d) in Section 7, and that the Liquidator and Colliers, in consultation with the Secured Lenders, determine is reasonably

[1] Continuing the hotel as a Delta branded hotel will require the consent of Global Hospitality Licensing Company, S.a.r.l.

likely to submit a binding *bona fide* offer at fair market value for the Assets that it would be able to consummate if selected as a Successful Bidder or (ii) a Phase I Bidder that is a Portion Bidder and that delivers the documents described in paragraphs (a) through (d) in Section 7, and that the Liquidator and Colliers, in consultation with the Secured Lenders, determine is reasonably likely to submit a binding *bona fide* offer at fair market value for the Assets it is seeking to purchase that would be able to consummate a transaction if selected as a Successful Bidder.

"**Qualified Phase II Bid**" means a Phase II Bid that satisfies the conditions set out in Section 9 hereof. A Portion Bid may be a Qualified Phase II Bid if the Liquidator has determined that it will be able to obtain a Land Severance;

"**Qualified Phase II Bidder**" means a Bidder submitting a Qualified Phase II Bid;

"**Sale Hearing**" means a hearing to approve the sale of Assets to the Successful Bidder;

"**Secured Lenders**" means Meridian Credit Union Limited and Kingsett Mortgage Corporation;

"**Successful Bid**" means the highest and/or best Qualified Phase II Bid as determined by the Liquidator and Colliers, taking into account financial and contractual terms and the factors relevant to the Sale Process, including those factors affecting the cost, speed and certainty of consummating the proposed sale, the claims likely to be created by such Bid in relation to other Bids and, provided that one or more Portion Bids may be able to form part of the Successful Bid as long as such Portion Bids do not overlap in respect of the Assets sought to be purchased and the Liquidator has determined that it will be able to obtain the Land Severance;

"**Successful Bidder**" means the Bidder submitting the Successful Bid;

"**Template APA**" means a template asset purchase agreement prepared by the Liquidator and available to Interested Parties from Colliers;

"**Units**" means the condominium units pre-sold by Tarn and/or Tarn Construction for The Kennedy's Condominium Project and "**Unit**" means any one of them.

2. **Assets for Sale**

At the request of the Liquidator, Colliers is soliciting offers for all or a portion of the Assets.

As at the time of commencing the Sale Process, the Real Property containing the Hotel Assets and the Development Assets has not been legally severed. While the Sale Process is being undertaken, the Liquidator has been given the authority to apply for to apply for a consent to sever the Real Property and to take such steps and to execute such documentation as may be needed to finally sever the lands (a "**Land Severance**"), including but not limited to the satisfaction of severance conditions and the conveyance of any interests in the lands to public bodies if required, to allow the Liquidator to preserve the option that the Hotel Assets

and the Development Assets may be sold in two parcels as well as together under the Sale Process. Whether obtaining a Land Severance results in value maximization and whether the Liquidator will be able to obtain a Land Severance is uncertain at this time.

For the purposes of the Sale Process, it is recommended that Bidders submit a Phase I Bid for all of the Assets. To the extent that Bidders submitting a Phase I Bid would be interested in also submitting a Portion Bid for the Hotel Assets or the Development Assets, such Phase I Bidder will be required to ascribe a value to these Assets separately and then collectively if their Phase I Bid includes both. Colliers and the Liquidator will consider Phase I Bids that are Portion Bids submitted for either the Hotel Assets or the Development Assets based on, among other factors, the interest from Bidders and the expected ability to obtain a Legal Severance and the timing of obtaining same, the Liquidator and Colliers will determine whether to pursue the Land Severance to allow the Hotel Assets and the Development Assets to be sold separately or whether to seek to introduce Bidders submitting Portion Bids to each other for the purposes of submitting a Qualified Phase II Bid for the Assets collectively.

The Liquidator reserves the right to eliminate certain assets available for sale pursuant to the Sale Process prior to the Phase I Bid Deadline.

3. Sale Process Structure and Bidding Deadlines

The Liquidator has engaged Colliers as listing and marketing agent to undertake the marketing and sale aspects of the Sale Process, subject to the oversight of the Liquidator as the statutory representative of Tarn and officer of the Court. Interested Parties wishing to obtain information about the Sale Process, a copy of the Confidentiality Agreement and information in connection with their due diligence, should contact the following representatives of Colliers: Alam Pirani (alam.pirani@colliers.com), Robin McLuskie (robin.mcluskie@colliers.com), Stephen Ho (stephen.ho@colliers.com) and Russell Beaudry (Russell.beaudry@colliers.com).

The Sale Process shall consist of two phases. In the first phase, Interested Parties that meet the Phase I Participant Requirements set out herein, shall be provided the Confidential Information Memorandum and provided with an opportunity to undertake a site visit with Colliers in order to prepare and submit their Phase I Bid by the Phase I Bid Deadline. In addition, Phase I Bidders that meet the Phase I Participant Requirements set out herein be given access to an electronic data room in order to undertake their diligence, which will include the Template APA.

All Phase I Bids must be submitted to the Notice Parties by email in accordance with the terms of this Sale Process so that they are actually received by each of the Notice Parties no later than the Phase I Bid Deadline. All Phase II Bids must be submitted to the Notice Parties by email in accordance with the terms of this Sale Process so that they are actually received no later than the Phase II Bid Deadline. In addition, written copies of the Bids shall be delivered by the applicable deadline to the Liquidator and its counsel at the following addresses: (a) the Liquidator, KPMG Inc., Bay Adelaide Centre, 4600 – 333 Bay Street, Toronto, Ontario M5H 2S5 Attn.: Anamika Gadia, agadia@kpmg.ca; and (b) counsel to the Liquidator, Miller Thomson LLP, Scotia Plaza, 5800- 40 King Street West, Toronto, Ontario M5H 3S1, Attn: Kyla Mahar, kmahar@millerthomson.com. A Bid received after the Phase I Bid Deadline shall

not constitute a Phase I Bid and a Phase II Bid received after the Phase II Bid Deadline may be disqualified. A Bid shall be delivered to all Notice Parties at the same time.

4. **Timeline**

The following table sets out the key milestones under the Sale Process:

Milestone	Date
Phase I Bid Deadline	January 31, 2018
Phase II Bid Deadline	February 23, 2018
Anticipated Timing for Sale Hearing	March 23, 2018

Subject to the terms contained herein and any order of the Court, the dates set out in the Sale Process may be extended by the Liquidator and Colliers, in their sole discretion acting reasonably, all with a view of maximizing the value of the Assets. If the Phase I Bid Deadline or the Phase II Bid Deadline is extended, Colliers will promptly notify all of the Interested Parties that have met the Phase I Participant Requirements or all of the Qualified Phase I Bidders, as applicable.

5. **Access to Due Diligence Materials**

Only Interested Parties that satisfy the Phase I Participant Requirements will be eligible to receive the Confidential Information Memorandum. If the Liquidator and Colliers determine that a Phase I Bidder does not constitute a Qualified Phase I Bidder, then such Phase I Bidder shall not be eligible to receive additional due-diligence access or additional non-public information. Qualified Phase I Bidders will be given access to an expanded electronic data room maintained by Colliers following the Phase I Bid Deadline.

Colliers, in its reasonable business judgment, in consultation with the Liquidator as it deems necessary, and subject to competitive and other business considerations, may give each Qualified Phase I Bidder, such access to due diligence materials and information relating to the Assets as it deems appropriate. Colliers will be responsible for the coordination of all reasonable requests for additional information and due-diligence access from Qualified Phase I Bidders. Colliers may designate a representative to coordinate all reasonable requests for additional information and due diligence access from Qualified Phase I Bidders and the manner in which such requests must be communicated.

Neither the Liquidator or Colliers or any of each of their affiliates (or any of its respective representatives) will be obligated to furnish any information relating to the Assets to any person, in its discretion. The Liquidator and Colliers each make no representation or warranty as to the information to be provided through this due diligence process or otherwise, except as may be set forth in a Binding APA with the Successful Bidder(s). Neither the Liquidator nor Colliers shall be obligated to furnish any due diligence information after the Phase II Bid Deadline. Neither the Liquidator nor Colliers is responsible for, and will bear no

liability with respect to, any information obtained by any party in connection with the sale of the Assets.

6. **Information From Interested Parties**

Each Interested Party shall comply with all reasonable requests for additional information by Colliers and/or the Liquidator regarding such Interested Party and its contemplated transaction. Failure by an Interested Party to comply with requests for additional information will be a basis for the Liquidator and Colliers to determine that the Interested Party is not a Qualified Phase I Bidder or a Qualified Phase II Bidder, as applicable.

7. **Participant Requirements**

Phase I Participant Requirements.

To participate in Phase I of the Sale Process and to otherwise be considered for any purpose hereunder, each Interested Party must provide Colliers with each of the following prior to being provided with the Confidential Information Memorandum: (i) an executed Confidentiality Agreement; and (ii) an executed Acknowledgement of Sale Process (collectively, the "**Phase I Participant Requirements**").

Phase II Participant Requirements.

Only Qualified Phase I Bidders shall be allowed to participate in Phase II of the Sale Process. In order for the Liquidator and Colliers to determine whether an Interested Party is a Qualified Phase I Bidder, the Interested Party must provide, in form and substance satisfactory to the Liquidator and Colliers, in consultation with the Secured Lenders, the following on or before the Phase I Bid Deadline:

(a) Identification of Phase I Bidder. Identification of the Phase I Bidder and any Principals, and the representatives thereof who are authorized to appear and act on their behalf for all purposes regarding the contemplated transaction;

(b) Non-Binding APA. A Non-Binding APA satisfactory to the Liquidator and Colliers that must reasonably identify the contemplated transaction, including whether the Hotel Assets or the Development Assets or all Assets (or such portions thereof) are proposed to be acquired, the proposed purchase price including allocation, if any, and any contingencies, and conditions precedent to closing;

(c) Corporate Authority. Written evidence of the Phase I Bidder's chief executive officer or other appropriate senior executive's approval of the Phase I Bid; provided, however, that, if the Phase I Bidder is an Acquisition Entity, then the Phase I Bidder must furnish written evidence reasonably acceptable to the Liquidator and Colliers of the approval of the Phase I Bid by the Acquisition Entity's Principals; and

(d) Proof of Financial Ability to Perform. Written evidence upon which the Liquidator and Colliers may reasonably conclude that the Phase I Bidder has the necessary financial ability to close the contemplated transaction and provide adequate assurance of future performance of all obligations to be assumed in such contemplated transaction. Such information should include, among other things, the following:

(i) the Phase I Bidder's or, in the case of an Acquisition Entity, the Principals', current financial statements (audited if they exist);

(ii) contact names and numbers for verification of financing sources;

(iii) evidence of the Phase I Bidder's or Principals' internal resources and proof of any debt or equity funding commitments that are needed to close the contemplated transaction; and

(iv) any such other form of financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Liquidator and Colliers demonstrating that such Phase I Bidder has the ability to close the contemplated transaction;

provided, however, that the Liquidator and Colliers shall determine, in their reasonable discretion, whether the written evidence of such financial wherewithal is reasonably acceptable, and shall not unreasonably withhold acceptance of a Phase I Bidder's financial qualifications.

The Liquidator and Colliers may determine whether to entertain bids for the Assets that do not conform to one or more of the requirements specified herein and deem such bids to be a Qualified Phase I Bidder.

If the Liquidator and Colliers are not satisfied with the number or terms of the Non-Binding APAs, the Liquidator and Colliers may extend the Phase I Bid Deadline or amend the Sale Process. Colliers will promptly notify all of the Interested Parties that have met the Phase I Participant Requirements of such extension or amendment.

8. Designation as Qualified Bidder

Following the Phase I Bid Deadline, the Liquidator and Colliers, in consultation with the Secured Lenders, shall determine which Phase I Bidders are Qualified Phase I Bidders. Colliers shall notify each Phase I Bidder of the determination as to whether the Phase I Bidder is a Qualified Phase I Bidder as soon as practicable after the Phase I Bid Deadline.

Following the Phase II Bid Deadline, the Liquidator and Colliers, in consultation with the Secured Lenders, shall determine which Qualified Phase I Bidders are Qualified Phase II Bidders. Colliers shall notify each Qualified Phase I Bidder of its determination as to whether they are a Qualified Phase II Bidder as soon as practicable after the Phase II Bid Deadline.

9. Phase II Bid Requirements

Only Qualified Phase I Bidders shall be entitled to submit a Phase II Bid. Colliers will take all reasonable steps to negotiate and assist the Qualified Phase I Bidders in completing any unperformed due diligence, or any other Bid matters including any discussions or negotiations required to be completed with any stakeholders in the winding up proceedings of Tarn, with a view of submitting a Binding APA on or before the Phase II Bid Deadline. In order to be considered a Qualified Phase II Bid, as determined by the Liquidator and Colliers, in consultation with the Secured Lenders, a Phase II Bid shall satisfy the following conditions:

(a) Written Submission of Binding APA and Commitment to Close. The Phase II Bid must be submitted by the Phase II Bid Deadline in the form of a Binding APA (together with a blackline of the Binding APA against the Template APA outlining all changes from the Template APA and also a blackline from the Non-Binding APA submitted by the Qualified Phase I Bidder), and a written and binding commitment to close on the terms and conditions set forth therein.

(b) Irrevocable. Include a letter stating that the Phase 2 Bid is irrevocable and open for acceptance until the Successful Bid and the Back-up Bid have been selected by the Liquidator and Colliers;

(c) Contingencies. A Phase II Bid may not be conditional on obtaining financing or any internal approval or on the outcome or review of due diligence. Any other contingencies associated will be considered by the Liquidator and Colliers based on the other Phase II Bids received;

(d) Financing Sources. A Phase II Bid must be accompanied by written evidence of a commitment for financing or other evidence of the ability to consummate the transaction satisfactory to the Liquidator and Colliers and appropriate contact information for such financing sources must be provided;

(e) No Fees payable to Qualified Phase II Bidder. A Phase II Bid may not request or entitle the Qualified Phase II Bidder to any break-up fee, expense reimbursement or similar type of payment;

(f) Disclosure: Fully disclose the identity of each entity that will be entering into the transaction and that is participating or benefiting by such Bid; and

(g) Good-Faith Deposit. Each Phase II Bid must be accompanied by a Good Faith Deposit that shall be paid to the Liquidator by wire transfer or banker's draft, to be held by the Liquidator in trust in accordance with this Sale Process and which may be adjusted based on the process set out in Section 10.

The Liquidator and Colliers shall be entitled to seek additional information and clarifications from Qualified Phase I Bidders in respect of their Phase II Bids at any time. The Liquidator and Colliers may determine whether to entertain Bids for the Assets that do not

conform to one or more the requirements specified herein and deem such Bids to be Qualified Phase II Bids.

10. **Determination of Successful Bid**

A Qualified Phase II Bid will be valued based upon several factors including, without limitation, items such as the purchase price and the net value provided by such Bid, the claims likely to be created by such Bid in relation to other Bids, the counterparties to such transactions, the proposed transaction documents, other factors affecting the speed and certainty of the closing of the transaction, the value of the transaction, the Assets included or excluded from the Bid, the transition services required from the Liquidator (if any), any related transaction costs, and the likelihood and timing of consummating such transactions, each as determined by the Liquidator and Colliers, in consultation with the Secured Lenders. For greater certainty, any Qualified Phase II Bid received from a shareholder of Tarn will be evaluated on the same criteria as any Qualified Phase II Bid received from a third party.

If more than one Qualified Phase II Bids are received by the Phase II Bid Deadline, the Liquidator and Colliers shall have the option to:

(a) Conduct an auction amongst the Qualified Phase II Bidders, on terms to be determined by the Liquidator, to determine the Successful Bid and the Back-up Bid;

(b) Negotiate with the Qualified Phase II Bidders and determine the Successful Bid and the Back-up Bid; or

(c) Determine which of the Qualified Phase II Bids shall be the Successful Bid and which of the Qualified Phase II Bids shall be the Back-up Bid.

11. **Acceptance of Successful Bid**

The Liquidator shall complete the sale transaction or transactions with the Successful Bidder following approval of the Successful Bid by the Court. The Liquidator will be deemed to have accepted a Successful Bid only when the Successful Bid has been approved by the Court. The Liquidator will be deemed to have accepted a Back-up Bid only when it has been approved by the Court and has been deemed to be a Successful Bid.

12. **"As Is, Where Is"**

The sale of any of the Assets pursuant to this Sale Process shall be on an "as is, where is" basis and without representations or warranties of any kind, nature, or description by the Liquidator, Colliers or their respective directors, officers, employees or agents except to the extent set forth in the Successful Bid. By submitting a Bid, each Bidder shall be deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Assets prior to making its Bid, that it has relied solely on its own independent review, investigation, and/or inspection of any documents and/or the Assets in making its Bid, and that it did not rely on any written or oral statements, representations, promises, warranties, conditions or guaranties whatsoever, whether express, implied, by operation of law or

otherwise, regarding the Assets, or the completeness of any information provided in connection therewith, except as expressly stated in this Sale Process or as set forth in a Binding APA approved by the Court.

13. Free Of Any And All Encumbrances

Except as otherwise provided in the Successful Bid, all of the rights, title and interests of Tarn in and to the Assets, or any portion thereof, shall be sold free and clear of all Encumbrances, pursuant to an order by the Court approving the sale of the Assets, or a portion thereof, and vesting in the Successful Bidder all of Tarn's rights, title and interests in and to such Assets, or a portion thereof, by way of an approval and vesting order (the "**Approval and Vesting Order**"). For greater certainty, such Encumbrances shall attach to the net proceeds of the sale of such Assets following the granting of the Approval and Vesting Order and closing of the transaction.

14. Sale Hearing

A Sale Hearing shall be conducted by the Court as soon as practicable after the determination by the Liquidator of the Successful Bidder. If the Successful Bid is approved by the Court and the Successful Bidder fails to consummate the transaction in accordance with the terms and conditions of the Successful Bid, the Liquidator shall, provided it is so authorized by the Court, be entitled, but not required, to deem the Back-up Bid the Successful Bid and the Liquidator shall be authorized, but not required, to consummate the transaction with the Back-up Bidder and upon so doing the Back-up Bidder shall be deemed to be the Successful Bidder, subject to approval by the Court, which approval may be sought by the Liquidator on a conditional basis at the Sale Hearing, at the Liquidator's discretion.

15. Return of Good Faith Deposit

Good Faith Deposits of all Qualified Phase II Bidders shall be held in an account of the Liquidator. Good Faith Deposits of all Qualified Phase II Bidders, other than the Successful Bidder and the Back-Up Bidder, shall be returned to such Qualified Phase II Bidders within ten (10) business days of the selection of the Successful Bidder and Back-Up Bidder. Good Faith Deposits of the Successful Bidder shall be applied to the purchase price of such transaction at closing. The Good Faith Deposit of the Back-Up Bidder shall be returned to the Back-Up Bidder within three (3) business days of the closing of the transactions contemplated by the Successful Bid. If a Successful Bidder fails to consummate an approved sale because of a breach or failure to perform on the part of such Successful Bidder, the Liquidator shall be entitled to retain the Good Faith Deposit of the Successful Bidder as part of their damages resulting from the breach or failure to perform by the Successful Bidder. If the Successful Bidder fails to consummate an approved sale for any reason, and a transaction is completed with the Back-Up Bidder, the Good Faith Deposit of the Back-Up Bidder shall be applied to the purchase price of the transactions contemplated by the purchase agreement of the Back-Up Bidder at closing.

16. Reservation of Rights

The Liquidator may, after consultation with Colliers and the stakeholders it determines to be appropriate to consult in the circumstances, reject at any time before entry of an order of the Court approving a Successful Bid, any Bid that is (a) inadequate or insufficient, (b) not in conformity with the requirements of this Sale Process, or (c) contrary to the best interests of the Winding Up.

17. Miscellaneous

This Sale Process is solely for the benefit of the Liquidator and nothing contained in the Sale Process Order or this Sale Process shall create any rights in any other person or Bidder (including without limitation rights as third party beneficiaries or otherwise).

Except as provided in the Sale Process Order and Sale Process, the Court shall retain jurisdiction to hear and determine all matters arising from or relating to the implementation of the Sale Process Order and the Sale Process.

Schedule "1"
Acknowledgement of Sale Process

The undersigned hereby acknowledges receipt of the Sale Process approved by the Order of the Honourable Justice McEwen of the Ontario Superior Court of Justice (Commercial List) dated November 29, 2017 and that compliance with the terms and provisions of the Sale Process is required in order to participate in the Sale Process and for any Phase I Bid or Phase II Bid to be considered by the Liquidator.

This _____ day of _____.

[NAME]
By:

_____
[Signing Officer]

Volkan Basegmez et al Applicants	and	Ali Akman et al. Respondents	Court File No.: CV-17-11697.00CL

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

SALE PROCESS ORDER
(DATED: NOVEMBER 29, 2017)

MILLER THOMSON LLP
Scotia Plaza
40 King Street West, Suite 5800
Toronto Ontario M5H 3S1

Kyla Mahar LSUC#: 44182G
Tel: 416.597.4303 / Fax: 416.595.8695

Stephanie De Caria LSUC#: 68055L
Tel: 416.597.2652 / Fax: 416.595.8695

Lawyers for KPMG Inc., in its capacity as
Liquidator of Tarn Financial Corporation

APPENDIX "G"

CITATION: Basegmez v. Akman, 2018 ONSC 812
DIVISIONAL COURT FILE NO.: DC-594/17
DATE: 20180206

ONTARIO
SUPERIOR COURT OF JUSTICE
DIVISIONAL COURT

WILTON-SIEGEL, MYERS, and CHARNEY JJ.

BETWEEN:	)	
	)	
VOLKAN BASEGMEZ, CEM BLEDA, BASEGMEZ ANIL RUKAN BASEGMEZ, BA&B CAPITAL INC., SERDAR KOCTURK and KAAN HOLDINGS INC.	)	
	)	
Applicants (Respondents in Appeal)	)	*E. Patrick Shea and Christopher Stanek*, lawyers for the Respondents
	)	
– and –	)	
	)	
ALI AKMAN, SAMM CAPITAL HOLDINGS INC. and TARN FINANCIAL CORPORATION	)	
	)	
Respondents (Appellants)	)	*Geoff R. Hall and Adam Goldenberg*, lawyers for the Appellants
	)	
	)	*G. Azeff*, lawyer for KPMG Inc., in its capacity as liquidator of Tarn Financial Corporation
	)	
	)	**HEARD at Toronto:** January 30, 2018

F.L. Myers J.

Background

[1] The appellants appeal from the order of Lederman J. dated September 15, 2017 in which the court ordered the liquidation of Tarn Financial Corporation.

[2] The parties Ali Akman, Serdar Kocturk, and Volkan Basegmez agreed to invest together in an operating hotel and a condominium development project. Tarn is the corporate vehicle for their business. The three investors agreed that Volkan Basegmez would contribute $6 million to Tarn in exchange for a 40% interest in the corporation; Serdar Kocturk would contribute $3 million for a 20% interest; and Ali Akman would contribute $4.3 million for a 40% interest. Akman was contributing proportionately less cash than the others. But he also agreed to contribute sweat equity by managing the investment on a day-to-day basis.

[3] All of the shareholders' funds were advanced to Tarn by way of shareholder loans.

[4] Justice Lederman accepted the claims made by Messrs. Kocturk and Basegmez that Mr. Akman had acted in a manner that was unfairly prejudicial to them or unfairly disregarded their interests by: (a) purporting to issue shares to himself to give him voting control of the corporation without the consent of the other shareholders; (b) causing Tarn to enter into transactions with Akman-controlled entities; and (c) using Tarn's funds for his own purposes. Justice Lederman ordered that Tarn be liquidated pursuant to the winding-up provisions of the *Business Corporations Act*, RSO 1990, c B16.

[5] For the reason that follow, I agree with the findings and remedy ordered by Lederman J. Therefore, I would dismiss the appeal.

Jurisdiction

[6] An appeal lies to this court under s. 255 of the *OBCA*.

Standard of Review

[7] In *Wilson v. Alharayeri*, 2017 SCC 39, the Supreme Court of Canada discussed the standard of appellate review under analogous oppression provisions of the *Canada Business Corporations Act, RSC 1985, c C-44*,

> Three principles govern the applicable standard of review. First, absent palpable and overriding error, an appellate court must defer to the trial court's findings of fact. Second, an appellate court may intervene and substitute its own decision for the trial court's if the judgment is based on "errors of law ... erroneous principles or irrelevant considerations". Third, even if it was not so based, an appellate court may intervene if the trial judgment is manifestly unjust. [Citations omitted.]

[8] The court is granted very broad remedial authority to make such order as it thinks fit to remedy oppression under the *OBCA*. I accept Mr. Hall's legal submission that, in applying a remedy after finding oppression, the court is exercising a statutory discretion that is to be exercised on a principled basis. The goal is to remedy the oppressive acts found. The frequently repeated admonition from the leading case is that the court is to use a scalpel to tailor carefully the relief ordered to do no more than is necessary to remedy the

oppressive conduct. The court is not wielding a battle axe to cleave the parties. See *Wilson,* at paras. 23 to 27 and *Naneff v. Con-Crete Holdings Ltd.*, 1995 CanLII 959 (ON CA) at para 32. I also agree with Mr. Hall that winding-up and liquidation are considered only as a last resort when other less drastic remedies will not suffice. See *Wilson,* at paras. 23 and 57 and *Tilley v. Hails*, 1992 CanLII 7563 (ON SC) at para. 45.

Fresh Evidence

[9] As a preliminary matter, the respondents proffer as fresh evidence two recent reports of the liquidator appointed pursuant to Justice Lederman's order and a short affidavit. The reports discuss operational issues within the corporation and discuss the status of liquidation efforts. Mr. Goldenberg fairly concedes that information reported by the liquidator concerning the status of the liquidation is properly admitted as matters of public record that arose post-liquidation. They are not fresh evidence. However, he argues that information relating to the operations and financial position of Tarn in the pre-liquidation period is fresh evidence that is not properly admitted on this appeal.

[10] Mr. Shea does not ask us to admit the pre-liquidation information for the purpose of the appeal itself. Rather, he says that, if we allow the appeal, the appellants are asking us to exercise afresh the discretion to craft an appropriate remedy. Should the court undertake that exercise, he argues, the extra information is highly relevant, was not reasonably available to the respondents before Lederman J., and may well affect the outcome. As we have decided to dismiss the appeal, there is no basis for admitting this fresh evidence and I have therefore disregarded the proposed fresh evidence in reaching my conclusions.

The Grounds of Appeal

[11] Recognizing the need to identify an error of law or principle in the judge's exercise of his discretion, Mr. Hall argues that Lederman J. erred in principle by,

a. failing to recognize and exercise the full scope of his remedial discretion. The appellants argue that Lederman J. wrongly believed himself to be bound by the all-or-nothing, binary choice of remedies presented to him by counsel. Instead, the appellants submit that Lederman J. was required to explore the entire panoply of options available to the court to remedy the oppression as found and that, had he done so, he would have ordered the appellants to purchase the respondents' investments in Tarn; and

b. ordering a winding-up and liquidation that was not narrowly tailored to remedy the oppression found but was punitive in this case.

[12] The appellants also submit that Lederman J. erred in finding as a fact that Mr. Akman looted Tarn for personal purposes. I turn first to this ground.

Justice Lederman's Findings of Fact

[13] Among the appellants' arguments on this issue is the fact that in paras. 14 to 27 of his reasons, Lederman J. drew liberally from the respondents' factum below without attribution or noting that the facts that he recited were just the respondents' submissions. However, Lederman J. recited those facts under the heading "**ALLEGED FACTS OF OPPRESSION**." In my view, this was sufficient to advise readers that what followed were the respondents' allegations rather than the court's findings. The next section of the reasons was headed "**POSITION OF THE RESPONDENTS**" which contrasted to and reinforced the nature of the contents that preceded.

[14] Mr. Akman takes umbrage at Justice Lederman's specific findings, in para. 42 and 43 of the reasons, that Mr. Akman used Tarn "as a personal bank account" and that he "diverted millions of dollars out of Tarn Financial for his personal benefit." However, Mr. Goldenberg fairly conceded in argument that the accounting evidence before Lederman J. established that, at minimum, Mr. Akman moved money in and out of Tarn to meet the liquidity needs of his other investments and businesses. That was, or was at least analogous to, the use of Tarn's operating, current account for loans to other corporations controlled by him in which the respondents had no interest. Moreover, there is evidence that Mr. Akman caused Tarn to pay his company SAMM over $1 million in alleged development fees when Mr. Akman's efforts to develop the project were supposed to be part of his sweat equity contribution to the business. In addition, there was other evidence of Mr. Akman depositing Tarn's funds in a European bank account and retaining the interest earned.

[15] There was plainly evidence before Lederman J. to support both of the findings of fact to which Mr. Akman objects. It is not the role of this court to re-weigh the evidence on appeal. Absent a palpable and overriding error, this court must defer to the findings of fact made by the application judge. In any event, I agree with both findings.

Remedial Discretion

[16] The appellants argue that Lederman J. should not have ordered a complete liquidation of Tarn. They say that it would have remedied the unfairness found if Mr. Akman had been required to buy the respondents' shares at fair value. This would have required a process to determine a fair valuation of the business pending the mandatory acquisition. The appellants argue further that if the court believed that some greater oversight of management was required pending the valuation and share acquisition, the court should not have given the business over to a liquidator. It ought rather to have maintained the *status quo* by enforcing the parties' agreement that Mr. Akman would manage the corporation. They argue that the appointment of a monitor to oversee Mr. Akman would have provided sufficient protection of the parties' interests pending a neutral valuation and mandatory buyout. Requiring a full liquidation, they argue, was value-

destroying and likely leaves less value available for all of the shareholders at the end of the day.

[17] I do not agree.

Replacement of Management

[18] Lederman J. found as fact that the appellant Akman,

> "...abused his powers by engaging in self-dealing transactions that have diverted millions of dollars out of Tarn Financial for his personal benefit and has indicated a clear intention to continue to operate the company without any regard to the interests of Serdar and the Basegmez Family or his statutory obligations.

[19] In light of Justice Lederman's express finding that Mr. Akman intends to continue to ignore the rights and interests of his co-investors, it was well within the scope of the judge's discretion to remove Mr. Akman from management and control of the business pending the separation of the parties. I see no error in principle in doing so. Whether a court official is styled a receiver, a liquidator, or a monitor, in any case, it was prudent and necessary that Mr. Akman be removed from control of the business to prevent him from implementing his intention to continue his misdeeds as found.

Ordering Liquidation Rather than a Forced Buyout

[20] No one disagrees that the parties need to be separated. Once he found that the fox could not fairly be left in charge of the henhouse, it was proper to see if the parties might agree on a less intrusive alternative than requiring a court appointed officer to sell the assets of Tarn and wind-up the corporation. The parties could not agree.

[21] The appellants did not ask Lederman J. to order Mr. Akman to buy out the respondents' shares at fair market value. Instead, they argued that the court should not interfere with the Akman`s control of Tarn. They did not address any process for separating the parties' respective investments in the corporation. Lederman J. noted that he was faced "only with the choice of continuing the *status quo* or ordering that there be a winding up. No other option was provided by [the appellants]..."

[22] Mr. Hall argues forcefully that Lederman J. erred in principle by failing to consider a different outcome despite his clients' tactical decision to leave a stark all-or-nothing choice to the judge below. It is not an error for the judge to fail to impose an outcome that the appellants never sought.

[23] In any event, I disagree with the submission that Lederman J.: (a) failed to consider alternatives; (b) that he fettered his discretion by inviting the parties to agree on a manner to separate consensually to avoid liquidation; and (c) that Lederman J. inappropriately

considered his findings concerning Mr. Akman's misuse of funds to "penalize" Mr. Akman in his decision to order a winding-up.

[24] Justice Lederman expressly rejected a late offer by Mr. Akman to purchase the respondents' shares. Justice Lederman found that if Tarn remained under Mr. Akman's management, the respondents would have no ability to obtain the information required to set a fair value of the business. I agree with this finding.

[25] A compulsory sale can only ensure that fair market value is realized where there is confidence in the underlying financial statements. This requires that a third party review the current financial statements and conduct an investigation to reconcile the various inter-corporate transfers and loans implemented by Mr. Akman.

[26] Given Mr. Akman's continuing intention to ignore the rights of the respondents and his belief in his entitlement to divert corporate assets to his personal benefit, there is no assurance that he will not take steps to obscure or remove value during a valuation process. There is much reason to fear that he will seek to frustrate the ability of the respondents to require him to pay fair value for their investments.

[27] By contrast, a liquidation sale provides an assurance that the parties will realize fair market value by exposing the business to the test of the market place.

[28] In addition, in light of the fact that the shareholders' funds were contributed by loan, a purchase of the respondents' shares by Mr. Akman would leave the loans outstanding. Mr. Akman would remain in control of the timing, willingness, and ability of Tarn to re-pay the respondents' investments. A purchase might have been constructed to include the shareholders' loans so as to catch the full value of the parties' investments. But that is a much more complex matter that was not fleshed out before Lederman J. or before us. But it is clear that a share purchase alone, which does not deal with the parties' shareholder loans, would not provide fair value to the respondents on their investments.

[29] Lederman J. recognized that liquidation is a drastic remedy. A liquidator has the powers required to investigate the financial affairs of the corporation and to run a sale of the business that will yield fair market value including paying the shareholders' loans and equity as appropriate. Justice Lederman found expressly,

> "Although a court is reluctant to order a winding-up, no other less disruptive order is appropriate in these circumstance."

[30] In finding that there was no appropriate "less disruptive order" it cannot fairly be said that Lederman J. failed to consider alternatives. Nor did he fetter his discretion by limiting his considerations as argued.

[31] The appellants ask the court to choose between two mechanisms to realize fair market value for the business. One gives Mr. Akman the ability to delay and try to avoid

paying fair market value in a process that will see the parties locked into litigation to-and-fro for years. The other is expeditious, independently run, and measures fair market value in the market place. Therefore, I do not agree with Mr. Hall's submission that a valuation and mandatory purchase will remedy the oppression as found or that a liquidation is not tailored to the specific nature of the oppression in this case.

[32] I agree with Lederman J., that on the facts, as he found them, liquidation was the most appropriate order to remedy the oppressive conduct. A forced buyout would not be well-tailored to remedy the oppressive conduct in these circumstances.

[33] In light of the finding that winding-up is well-tailored to the facts of the case, it cannot be considered to be a punitive remedy. In any event, there is no indication in the reasons of Lederman J. that he ascribed inordinate weight to the misbehaviour of Mr. Akman in deciding to order a winding-up. The misbehaviour was relevant to the questions of how the corporation could be managed pending a separation of the parties and in comparing the likely costs, efficiency, and outcomes of separation alternatives.

[34] Mr. Hall's argument, that a valuation and mandatory buyout avoids the risk that a liquidation will destroy value, is always the case. Yet the law recognizes that a closely held corporation can often be analogized to a partnership that requires trust and confidence among the investors. If "one of the partners has been excluded from his entitlement to management participation, the company must be wound up." *Tilley*, at para 45.

[35] Here, Lederman J. was appropriately reluctant and considered alternatives. In all, I see no palpable and overriding error of fact or law and no error of principle in the exercise of discretion by Lederman J.

[36] The appeal is therefore dismissed.

[37] The parties agreed that costs fixed at $30,000, all inclusive, should follow the event. Therefore, the court orders the appellants, jointly and severally, to pay the respondents, jointly and severally, costs, on a partial indemnity basis of $30,000 all-in forthwith.

F.L. Myers J.

I agree

Wilton-Siegel J.

I agree

Charney J.

Date of Release: February 6 , 2018

CITATION: Basegmez v. Akman, 2018 ONSC 812
DIVISIONAL COURT FILE NO.: DC-594/17
DATE: 20180206

ONTARIO

SUPERIOR COURT OF JUSTICE

DIVISIONAL COURT

WILTON-SIEGEL, MYERS, and CHARNEY JJ.

BETWEEN:

VOLKAN BASEGMEZ, CEM BLEDA, BASEGMEZ ANIL RUKAN BASEGMEZ, BA&B CAPITAL INC., SERDAR KOCTURK and KAAN HOLDINGS INC.

Applicants
(Respondents in Appeal)

– and –

ALI AKMAN, SAMM CAPITAL HOLDINGS INC. and TARN FINANCIAL CORPORATION

Respondents
(Appellants)

REASONS FOR JUDGMENT

F.L. MYERS J.

Date of Release: February 6, 2018

APPENDIX "H"

DELTA
HOTELS
MARRIOTT
TORONTO EAST

Delta BSA Analysis

	Fail		Fail	Clear	Pass
	2015	2016	2017	2017	2018
Operations	64.4	No	73.8	87.6	89.6
Brand	74.15	Audit	79.7	80.7	84.5

APPENDIX "I"

Court File No.: CV-17-11697-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN:

VOLKAN BASEGMEZ, CEM BLEDA BASEGMEZ, ANIL RUKAN BASEGMEZ, BA&B CAPITAL INC., SERDAR KOCTURK and KAAN HOLDINGS INC.

Applicants

– and –

ALI AKMAN, SAMM CAPITAL HOLDINGS INC. and TARN FINANCIAL CORPORATION

Respondents

APPLICATION UNDER Sections 207 and 248 of the *Business Corporations Act*, R.S.O. 1990, c. B.16.

AFFIDAVIT OF ANAMIKA GADIA
(SWORN APRIL ● , 2018)

I, **Anamika Gadia**, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a Senior Vice-President of KPMG Inc. ("**KPMG**"), in its capacity as the Court-appointed Liquidator (the "**Liquidator"**) of Tarn Financial Corporation ("**Tarn Financial**") for purposes of the winding-up of Tarn Financial (the "**Winding Up Proceedings**") and, as such, I have knowledge of the matters to which I hereinafter depose.

2. This affidavit (the "**Affidavit**") is made in support of a motion for, *inter alia*, the approval of the fees and disbursements of KPMG for the period from September 25, 2017 to December 31, 2017 (the "**Fee Period**").

3. During the period from September 25, 2017 to December 31, 2017, KPMG docketed 1,903.9 hours in respect of the Winding-Up Proceedings, amounting to professional fees

in the amount of $889,062.50 and disbursements and other charges in the amount of $8,848.96 plus Harmonized Sales Tax ("**HST**") of $116,728.48. Attached and marked collectively as **Exhibit "A"** to this Affidavit are copies of the accounts rendered by KPMG in connection with the Winding-Up Proceedings during the Fee Period, in the total amount of $1,014,639.94, which have been redacted to remove confidential information and KPMG's banking coordinates.

4. Attached as **Exhibit "B"** to this Affidavit is a schedule summarizing each invoice rendered by KPMG and the fees, disbursements, HST and total fees charged for each invoice.

5. Attached as **Exhibit "C"** to this Affidavit is a schedule summarizing the billing rates, hours and total amounts billed by each professional of KPMG that rendered services in respect of the Winding-Up Proceedings during the Fee Period.

6. To the best of my knowledge, the rates charged by KPMG in respect of the Winding-Up Proceedings are comparable to the rates charged by other firms in the Toronto market for the provision of similar restructuring services. The hours spent on this matter involved the managing of the business and financial affairs of Tarn Financial and dealing with a number of other matters related to the Winding Up Proceedings (as more particularly described in the Liquidator's reports issued in the Winding Up Proceedings) and I believe that the total hours and fees incurred during the Fee Period by KPMG were reasonable and appropriate in the circumstances.

7. KPMG requests that the Court approve its accounts for the period from September 25, 2017 to December 31, 2017.

SWORN BEFORE ME at the City of Toronto, in the Province of Ontario, on April [●], 2018.

Commission for Taking Affidavits

ANAMIKA GADIA

This is Exhibit "A" referred to in the Affidavit of Anamika Gadia sworn April , 2018

Commissioner for Taking Affidavits (or as may be)

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

Payment Address:
KPMG LLP, T4348
P.O. Box 4348, Station A
Toronto, ON M5W 7A6

November 10, 2017

Tarn Financial Corporation
2035 Kennedy Road
Toronto, ON M1T 3G2

This invoice includes professional services fees rendered and expenses incurred prior to September 25, 2017, as such, these amounts have been excluded from the figures presented in the fee affidavit.

Invoice	: 8001772432
Reference	: 2000720698
Client	: 1002437530
Contact	: Anamika Gadia
Telephone	: (416) 777-3842
Email	: agadia@kpmg.ca

For professional services rendered for the period to September 30, 2017, in our capacity as Court appointed Liquidator of Tarn Financial Corporation effective September 25, 2017 pursuant to the Ontario *Business Corporations Act*.

Our Fee	$	134,337.50 CAD
Disbursements		1,169.13
	$	**135,506.63** CAD
HST		17,615.86
Amount Due	$	**153,122.49** CAD

Payment is due upon receipt

[redacted]

CAD Cheque Payments: KPMG LLP, T4348, P.O. Box 4348, Station A, Toronto, ON M5W 7A6
Please return remittance advice with cheque.

CAD Wire Payments: Beneficiary: KPMG LLP
[redacted]
Please e-mail related wire payment details including invoice number to kpmg-ar@kpmg.ca

Invoice No: 8001772432 **Reference:** 2000720698 **Client:** 1002437530 **Amount:** $ 153,122.49 CAD

KPMG LLP is a Canadian limited liability partnership and member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. KPMG Canada provides services to KPMG LLP.

Professional Fees Summary - Tarn Liquidation
For the period to September 30, 2017

Name	Position	Rate	Hours	Total Fees ($)
Anamika Gadia	Partner	$ 750	45.8	34,350.00
Joseph Pietrantonio	Partner	$ 650	4.0	2,600.00
Louie Velocci	Partner	$ 650	1.0	650.00
Todd Ambachtsheer	Senior Manager	$ 575	37.5	21,562.50
Janine Bradley	Senior Manager	$ 575	45.1	25,932.50
Danny Garwood	Senior Manager	$ 500	0.5	250.00
Peter Morin	Senior Manager	$ 500	31.0	15,500.00
Marcel Réthoré	Manager	$ 450	50.2	22,567.50
Roberto Toscano	Senior Consultant	$ 300	1.5	450.00
Sara Defina	Senior Consultant	$ 300	0.5	150.00
Manoj Oommen	Senior Consultant	$ 300	11.5	3,450.00
Julian Heisz	Senior Consultant	$ 275	25.0	6,875.00
Total Hours and Fees			**253.6**	**$134,337.50**

Expense Summary
For the period to September 30, 2017

Expense Type	Amount ($)
Local transportation and meals	1,169.13
Total Expense	**$1,169.13**

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

Payment Address:
KPMG LLP, T4348
P.O. Box 4348, Station A
Toronto, ON M5W 7A6

January 30, 2018

Tarn Financial Corporation
2035 Kennedy Road
Toronto, ON M1T 3G2

Invoice	:	8001868592
Reference	:	2000720698
Client	:	1002437530
Contact	:	Anamika Gadia
Telephone	:	(416) 777-3842
Email	:	agadia@kpmg.ca

For professional services rendered for the period during October 1 - 15, 2017, in our capacity as Court appointed Liquidator of Tarn Financial Corporation effective September 25, 2017 pursuant to the Ontario *Business Corporations Act*.

Our Fee	$	174,972.50 CAD
Disbursements		2,890.22
	$	**177,862.72** CAD
HST		23,122.15
Amount Due	$	**200,984.87** CAD

Payment is due upon receipt

[redacted]

CAD Cheque Payments: KPMG LLP, T4348, P.O. Box 4348, Station A, Toronto, ON M5W 7A6
Please return remittance advice with cheque.

CAD Wire Payments: Beneficiary: KPMG LLP
[redacted]
Please e-mail related wire payment details including invoice number to kpmg-ar@kpmg.ca

Invoice No: 8001868592 **Reference:** 2000720698 **Client:** 1002437530 **Amount:** $ 200,984.87 CAD

KPMG LLP is a Canadian limited liability partnership and member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. KPMG Canada provides services to KPMG LLP.

Professional Fees Summary - Tarn Financial Liquidation
For the period October 1 to 15, 2017

Name	Position	Rate	Hours	Fee ($)
Anamika Gadia	Partner	$ 750.00	68.1	$ 51,075.00
Joseph Pietrantonio	Partner	$ 650.00	2.2	$ 1,430.00
Todd Ambachtsheer	Senior Manager	$ 575.00	28.0	$ 16,100.00
Janine Bradley	Senior Manager	$ 575.00	51.7	$ 29,727.50
Peter Morin	Senior Manager	$ 500.00	3.0	$ 1,500.00
Marcel Réthoré	Manager	$ 450.00	54.7	$ 24,592.50
Zack Burstein	Senior Consultant	$ 300.00	0.7	$ 210.00
Nate Fennema	Senior Consultant	$ 300.00	25.7	$ 7,710.00
Nerina Jahja	Senior Consultant	$ 300.00	43.5	$ 13,050.00
Manoj Oommen	Senior Consultant	$ 300.00	79.0	$ 23,700.00
Hayden Sands	Senior Consultant	$ 275.00	19.0	$ 5,225.00
Asya Rzhevsky	Staff Technician	$ 225.00	2.9	$ 652.50
Total			**378.5**	**$ 174,972.50**

Expense Summary
For the period October 1 to 15, 2017

Type	Amount ($)
Transportation and parking	$ 1,509.65
Airfare and hotel	$ 999.38
Meals	$ 340.94
Miscellaneous	$ 40.25
Total	**$ 2,890.22**

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

Payment Address:
KPMG LLP, T4348
P.O. Box 4348, Station A
Toronto, ON M5W 7A6

January 31, 2018

Tarn Financial Corporation
2035 Kennedy Road
Toronto, ON M1T 3G2

Invoice	:	8001869947
Reference	:	2000720698
Client	:	1002437530
Contact	:	Anamika Gadia
Telephone	:	(416) 777-3842
Email	:	agadia@kpmg.ca

For professional services rendered for the period during October 16 - 31, 2017, in our capacity as Court appointed Liquidator of Tarn Financial Corporation effective September 25, 2017 pursuant to the Ontario *Business Corporations Act*.

Our Fee	$	219,862.50 CAD
Disbursements		2,531.84
	$	**222,394.34** CAD
HST		28,911.26
Amount Due	$	**251,305.60** CAD

Payment is due upon receipt

[redacted]

CAD Cheque Payments: KPMG LLP, T4348, P.O. Box 4348, Station A, Toronto, ON M5W 7A6
Please return remittance advice with cheque.

CAD Wire Payments: Beneficiary: KPMG LLP
[redacted]
Please e-mail related wire payment details including invoice number to kpmg-ar@kpmg.ca

Invoice No: 8001869947 **Reference:** 2000720698 **Client:** 1002437530 **Amount:** $ 251,305.60 CAD

KPMG LLP is a Canadian limited liability partnership and member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. KPMG Canada provides services to KPMG LLP.

Professional Fees Summary - Tarn Financial Liquidation
For the period October 16 to 31, 2017

Name	Position	Rate	Hours	Fee ($)
Anamika Gadia	Partner	$ 750.00	77.70	$ 58,275.00
Joseph Pietrantonio	Partner	$ 650.00	7.15	$ 4,647.50
Todd Ambachtsheer	Senior Manager	$ 575.00	1.90	$ 1,092.50
Janine Bradley	Senior Manager	$ 575.00	76.30	$ 43,872.50
Cindy Neale	Senior Manager	$ 550.00	21.00	$ 11,550.00
George Bourikas	Senior Manager	$ 500.00	43.00	$ 21,500.00
Peter Morin	Senior Manager	$ 500.00	3.00	$ 1,500.00
Marcel Réthoré	Manager	$ 450.00	30.65	$ 13,792.50
Zack Burstein	Senior Consultant	$ 300.00	0.60	$ 180.00
Nate Fennema	Senior Consultant	$ 300.00	71.00	$ 21,300.00
Nerina Jahja	Senior Consultant	$ 300.00	14.50	$ 4,350.00
Azam Mohiuddin	Senior Consultant	$ 300.00	6.00	$ 1,800.00
Manoj Oommen	Senior Consultant	$ 300.00	105.00	$ 31,500.00
Paul Brar	Senior Consultant	$ 275.00	1.00	$ 275.00
Hayden Sands	Senior Consultant	$ 275.00	13.00	$ 3,575.00
Asya Rzhevsky	Staff Technician	$ 225.00	2.90	$ 652.50
Total			**474.70**	**$ 219,862.50**

Expense Summary
For the period October 16 to 31, 2017

Type	Amount ($)
Computer software and miscellaneous	$ 1,784.05
Transportation and parking	$ 669.89
Meals	$ 77.90
Total	**$ 2,531.84**

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

Payment Address:
KPMG LLP, T4348
P.O. Box 4348, Station A
Toronto, ON M5W 7A6

March 21, 2018

Tarn Financial Corporation
2035 Kennedy Road
Toronto, ON M1T 3G2

Invoice	: 8001943309
Reference	: 2000720698
Client	: 1002437530
Contact	: Anamika Gadia
Telephone	: (416) 777-3842
Email	: agadia@kpmg.ca

For professional services rendered for the period during November 1 to 15, 2017, in our capacity as Court appointed Liquidator of Tarn Financial Corporation effective September 25, 2017 pursuant to the Ontario *Business Corporations Act*.

Our Fee	$	163,287.50 CAD
Disbursements		1,177.41
	$	**164,464.91** CAD
HST		21,380.44
Amount Due	$	**185,845.35** CAD

Payment is due upon receipt

[redacted]

CAD Cheque Payments: KPMG LLP, T4348, P.O. Box 4348, Station A, Toronto, ON M5W 7A6
Please return remittance advice with cheque.

CAD Wire Payments: Beneficiary: KPMG LLP
[redacted]
Please e-mail related wire payment details including invoice number to kpmg-ar@kpmg.ca

Invoice No: 8001943309 **Reference:** 2000720698 **Client:** 1002437530 **Amount:** $ 185,845.35 CAD

KPMG LLP is a Canadian limited liability partnership and member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. KPMG Canada provides services to KPMG LLP.

Professional Fees Summary - Tarn Financial Liquidation
For the period November 1 to 15, 2017

Name	Position	Rate	Hours	Fee ($)
Anamika Gadia	Partner	$ 750.00	66.3	$ 49,725.00
Joseph Pietrantonio	Partner	$ 650.00	6.4	$ 4,160.00
Janine Bradley	Senior Manager	$ 575.00	59.7	$ 34,327.50
Cindy Neale	Senior Manager	$ 550.00	13.5	$ 7,425.00
Marcel Réthoré	Manager	$ 450.00	22.0	$ 9,900.00
Nate Fennema	Senior Consultant	$ 300.00	33.9	$ 10,170.00
Manoj Oommen	Senior Consultant	$ 300.00	99.5	$ 29,850.00
Zack Burstein	Senior Consultant	$ 300.00	0.6	$ 180.00
Azam Mohiuddin	Senior Consultant	$ 300.00	4.0	$ 1,200.00
Hayden Sands	Senior Consultant	$ 275.00	20.0	$ 5,500.00
Paul Brar	Senior Consultant	$ 275.00	37.0	$ 10,175.00
Asya Rzhevsky	Technician	$ 225.00	3.0	$ 675.00
Total			**365.9**	**$ 163,287.50**

Expense Summary
For the period November 1 to 15, 2017

Type	Amount ($)
Meals	$ 52.09
Transportation	$ 1,026.20
Parking	$ 99.12
Total	**$ 1,177.41**

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

Payment Address:
KPMG LLP, T4348
P.O. Box 4348, Station A
Toronto, ON M5W 7A6

March 21, 2018

Tarn Financial Corporation
2035 Kennedy Road
Toronto, ON M1T 3G2

Invoice	:	8001943311
Reference	:	2000720698
Client	:	1002437530
Contact	:	Anamika Gadia
Telephone	:	(416) 777-3842
Email	:	agadia@kpmg.ca

For professional services rendered for the period during November 16 to 30, 2017, in our capacity as Court appointed Liquidator of Tarn Financial Corporation effective September 25, 2017 pursuant to the Ontario *Business Corporations Act*.

Our Fee	$	89,762.50 CAD
Disbursements		306.48
	$	**90,068.98** CAD
HST		11,708.97
Amount Due	$	**101,777.95** CAD

Payment is due upon receipt

[redacted]

CAD Cheque Payments: KPMG LLP, T4348, P.O. Box 4348, Station A, Toronto, ON M5W 7A6
Please return remittance advice with cheque.

CAD Wire Payments: Beneficiary: KPMG LLP
[redacted]
Please e-mail related wire payment details including invoice number to kpmg-ar@kpmg.ca

Invoice No: 8001943311 **Reference:** 2000720698 **Client:** 1002437530 **Amount:** $ 101,777.95 CAD

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Professional Fees Summary - Tarn Financial Liquidation
For the period November 16 to 30, 2017

Name	Position	Rate	Hours	Fee ($)
Anamika Gadia	Partner	$ 750.00	48.6	$ 36,450.00
Joseph Pietrantonio	Partner	$ 650.00	3.5	$ 2,242.50
Janine Bradley	Senior Manager	$ 575.00	22.9	$ 13,167.50
Cindy Neale	Senior Manager	$ 550.00	4.0	$ 2,200.00
Peter Morin	Senior Manager	$ 500.00	2.0	$ 1,000.00
Marcel Réthoré	Manager	$ 450.00	2.6	$ 1,170.00
Nate Fennema	Senior Consultant	$ 300.00	7.8	$ 2,340.00
Manoj Oommen	Senior Consultant	$ 300.00	101.0	$ 30,300.00
Hayden Sands	Senior Consultant	$ 275.00	1.0	$ 275.00
Paul Brar	Senior Consultant	$ 275.00	2.0	$ 550.00
Asya Rzhevsky	Technician	$ 225.00	0.3	$ 67.50
Total			**195.7**	**$ 89,762.50**

Expense Summary
For the period November 16 to 30, 2017

Type	Amount ($)
Meals and miscellaneous	$ 172.06
Transportation and parking	$ 134.42
Total	**$ 306.48**

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

Payment Address:
KPMG LLP, T4348
P.O. Box 4348, Station A
Toronto, ON M5W 7A6

April 06, 2018

Tarn Financial Corporation
2035 Kennedy Road
Toronto, ON M1T 3G2

Invoice	:	8001970600
Reference	:	2000720698
Client	:	1002437530
Contact	:	Anamika Gadia
Telephone	:	(416) 777-3842
Email	:	agadia@kpmg.ca

For professional services rendered for the period during December 1 to December 15, 2017, in our capacity as Court appointed Liquidator of Tarn Financial Corporation effective September 25, 2017 pursuant to the Ontario *Business Corporations Act*.

Our Fee	$	100,075.00 CAD
Disbursements		857.52
	$	**100,932.52** CAD
HST		13,121.23
Amount Due	$	**114,053.75** CAD

Payment is due upon receipt

[redacted]

CAD Cheque Payments: KPMG LLP, T4348, P.O. Box 4348, Station A, Toronto, ON M5W 7A6
Please return remittance advice with cheque.

CAD Wire Payments: Beneficiary: KPMG LLP
[redacted]
Please e-mail related wire payment details including invoice number to kpmg-ar@kpmg.ca

Invoice No: 8001970600 **Reference:** 2000720698 **Client:** 1002437530 **Amount:** $ 114,053.75 CAD

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Professional Fees Summary - Tarn Financial Liquidation
For the period December 1 to 15, 2017

Name	Position	Rate	Hours	Fee ($)
Anamika Gadia	Partner	$ 750.00	48.6	$ 36,450.00
Joseph Pietrantonio	Partner	$ 650.00	5.0	$ 3,217.50
Janine Bradley	Senior Manager	$ 575.00	33.0	$ 18,975.00
Cindy Neale	Senior Manager	$ 550.00	5.0	$ 2,750.00
Marcel Réthoré	Manager	$ 450.00	25.2	$ 11,340.00
Nate Fennema	Senior Consultant	$ 300.00	18.5	$ 5,550.00
Manoj Oommen	Senior Consultant	$ 300.00	64.5	$ 19,350.00
Paul Brar	Senior Consultant	$ 275.00	5.0	$ 1,375.00
Hayden Sands	Senior Consultant	$ 275.00	2.0	$ 550.00
Asya Rzhevsky	Technician	$ 225.00	2.3	$ 517.50
Total			**209.1**	**$ 100,075.00**

Expense Summary
For the period December 1 to 15, 2017

Type	Amount ($)
Meals and miscellaneous	$ 581.35
Transportation	$ 276.17
Total	**$ 857.52**

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

Payment Address:
KPMG LLP, T4348
P.O. Box 4348, Station A
Toronto, ON M5W 7A6

April 06, 2018

Tarn Financial Corporation
2035 Kennedy Road
Toronto, ON M1T 3G2

Invoice	:	8001970904
Reference	:	2000720698
Client	:	1002437530
Contact	:	Anamika Gadia
Telephone	:	(416) 777-3842
Email	:	agadia@kpmg.ca

For professional services rendered for the period during December 16 to 31, 2017, in our capacity as Court appointed Liquidator of Tarn Financial Corporation effective September 25, 2017 pursuant to the Ontario *Business Corporations Act*.

Our Fee	$	24,865.00 CAD
Disbursements		61.91
	$	**24,926.91** CAD
HST		3,240.50
Amount Due	$	**28,167.41** CAD

Payment is due upon receipt

[redacted]

CAD Cheque Payments: KPMG LLP, T4348, P.O. Box 4348, Station A, Toronto, ON M5W 7A6
Please return remittance advice with cheque.

CAD Wire Payments: Beneficiary: KPMG LLP
[redacted]
Please e-mail related wire payment details including invoice number to kpmg-ar@kpmg.ca

Invoice No: 8001970904 **Reference:** 2000720698 **Client:** 1002437530 **Amount:** $ 28,167.41 CAD

KPMG LLP is a Canadian limited liability partnership and member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. KPMG Canada provides services to KPMG LLP.

Professional Fees Summary - Tarn Financial Liquidation
For the period December 16 to 31, 2017

Name	Position	Rate	Hours	Fee ($)
Anamika Gadia	Partner	$ 750.00	7.1	$ 5,325.00
Joseph Pietrantonio	Partner	$ 650.00	1.2	$ 780.00
Janine Bradley	Senior Manager	$ 575.00	3.7	$ 2,127.50
Cindy Neale	Senior Manager	$ 550.00	1.0	$ 550.00
Marcel Réthoré	Manager	$ 450.00	17.3	$ 7,762.50
Nate Fennema	Senior Consultant	$ 300.00	4.2	$ 1,260.00
Manoj Oommen	Senior Consultant	$ 300.00	19.5	$ 5,850.00
Paul Brar	Senior Consultant	$ 275.00	3.5	$ 962.50
Asya Rzhevsky	Technician	$ 225.00	1.1	$ 247.50
Total			**58.6**	**$ 24,865.00**

Expense Summary
For the period December 16 to 31, 2017

Type	Amount ($)
Transportation	$ 61.91
Total	**$ 61.91**

This is Exhibit "B" referred to in the Affidavit of Anamika Gadia sworn April , 2018

Commissioner for Taking Affidavits (or as may be)

Exhibit B

Professional Fees Summary - Tarn Financial Liquidation
For the period September 25, 2017 to December 31, 2017

Invoice Number	Notes	Period beginning	Period end	Total Fees	Total Expenses	HST due	Total Due
8001772432	***1***	9/15/2017	9/30/2017	116,237.50	1,023.58	15,243.94	132,505.02
8001868592		10/1/2017	10/15/2017	174,972.50	2,890.22	23,122.15	200,984.87
8001869947		10/16/2017	10/31/2017	219,862.50	2,531.84	28,911.26	251,305.60
8001943309		11/1/2017	11/15/2017	163,287.50	1,177.41	21,380.44	185,845.35
8001943311		11/16/2017	11/30/2017	89,762.50	306.48	11,708.97	101,777.95
8001970600		12/1/2017	12/15/2017	100,075.00	857.52	13,121.23	114,053.75
8001970904		12/16/2017	12/31/2017	24,865.00	61.91	3,240.50	28,167.41
Total		**Total**		**889,062.50**	**8,848.96**	**116,728.48**	**1,014,639.94**

Notes

1. The first invoice is for the period September 15, 2017 to September 30, 2017. All professional services rendered prior to September 25, 2017 have been excluded from this report, as such, the time dockets have been redacted for the period prior to September 25, 2017.

This is Exhibit "C" referred to in the Affidavit of Anamika Gadia sworn April , 2018

Commissioner for Taking Affidavits (or as may be)

Exhibit C

Professional Fees Summary - Tarn Financial Liquidation
For the period September 25, 2017 to December 31, 2017

Name	Position	Hourly Rate	Hours	Fee ($)
Anamika Gadia	Partner	750.00	354.7	266,025.00
Joseph Pietrantonio	Partner	650.00	29.4	19,077.50
Louie Velocci	Partner	650.00	1.0	650.00
Todd Ambachtsheer	Senior Manager	575.00	67.4	38,755.00
Janine Bradley	Senior Manager	575.00	280.8	161,460.00
Cindy Neale	Senior Manager	550.00	44.5	24,475.00
Danny Garwood	Senior Manager	500.00	0.5	250.00
Peter Morin	Senior Manager	500.00	39.0	19,500.00
George Bourikas	Senior Manager	500.00	43.0	21,500.00
Marcel Réthoré	Manager	450.00	189.6	85,320.00
Sara Defina	Senior Consultant	300.00	0.5	150.00
Manoj Oommen	Senior Consultant	300.00	480.0	144,000.00
Zack Burstein	Senior Consultant	300.00	1.9	570.00
Nate Fennema	Senior Consultant	300.00	161.1	48,330.00
Nerina Jahja	Senior Consultant	300.00	58.0	17,400.00
Azam Mohiuddin	Senior Consultant	300.00	10.0	3,000.00
Roberto Toscano	Senior Consultant	300.00	1.5	450.00
Julian Heisz	Senior Consultant	275.00	25.0	6,875.00
Hayden Sands	Senior Consultant	275.00	55.0	15,125.00
Paul Brar	Senior Consultant	275.00	48.5	13,337.50
Asya Rzhevsky	Staff Technician	225.00	12.5	2,812.50
Total			**1,903.9**	**889,062.50**

Volkan Basegmez et al. Applicants	and	Ali Akman et al. Respondents	Court File No.: CV-17-11697-0000

ONTARIO
SUPERIOR COURT OF JUSTICE - COMMERCIAL LIST

Proceeding commenced at Toronto

AFFIDAVIT OF ANAMIKA GADIA
(SWORN APRIL ●, 2018)

MILLER THOMSON LLP
Scotia Plaza
40 King Street West, Suite 5800
P.O. Box 1011
Toronto, ON Canada M5H 3S1

Kyla Mahar LSUC#: 44182G
Tel: 416.597.4303 / Fax: 416.595.8695

Stephanie De Caria LSUC#: 68055L
Tel: 416.595.2652 / Fax: 416.595.8695

Lawyers for KPMG Inc., in its capacity as Liquidator of Tarn Financial Corporation.

APPENDIX "J"

Court File No.: CV-17-11697-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN:

VOLKAN BASEGMEZ, CEM BLEDA BASEGMEZ, ANIL RUKAN BASEGMEZ, BA&B CAPITAL INC., SERDAR KOCTURK and KAAN HOLDINGS INC.

Applicants

– and –

ALI AKMAN, SAMM CAPITAL HOLDINGS INC. and TARN FINANCIAL CORPORATION

Respondents

APPLICATION UNDER Sections 207 and 248 of the *Business Corporations Act*, R.S.O. 1990, c. B.16.

AFFIDAVIT OF GREGORY R. AZEFF
(Sworn April 6, 2018)

I, **Gregory R. Azeff**, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a partner at the law firm Miller Thomson LLP ("**MT**") lawyers for KPMG Inc., in its capacity as Court-appointed Liquidator of Tarn Financial Corporation, and as such, have knowledge of the matters hereinafter deposed to.

2. Attached hereto as **Exhibit "A"** is a true copy of the invoices issued to the Liquidator by MT for fees and disbursements incurred by MT in the course of proceedings between August 1, 2017 and December 31, 2017. The total fees charged by MT during that period were $249,907.00 plus disbursements of $1,856.88 plus Harmonized Sales Tax (HST) in the amount of $32,580.59, for a total of $284,344.47.

3. Accordingly, I verily believe that the total fees, disbursements and HST as at December 31, 2017 are $284,344.47.

4. Attached hereto as **Exhibit "B"** is a schedule summarizing each invoice in Exhibit "A", the total billable hours charged per invoice, the total fees charged per invoice and the average hourly rate charged per invoice.

5. Attached hereto as **Exhibit "C"** is a schedule summarizing the respective years of call and billing rates of each of the lawyers at MT who acted for the Liquidator.

6. To the best of my knowledge, the rates charged by MT throughout the course of this proceeding are comparable to those charged by other law firms in Toronto for the provision of similar services.

7. The hourly billing rates outlined in Exhibit "C" to this affidavit are comparable to the hourly rates charged by MT for services rendered in similar proceedings.

8. I make the affidavit in support of a motion by the Liquidator for, among other things, approval of the fees and disbursements of the Liquidator's counsel.

SWORN BEFORE ME at the City of Toronto this 6th day of April, 2018.

A Commissioner for taking Affidavits *(or as may be)*
Stephanie De Caria

GREGORY R. AZEFF

This is Exhibit "A" referred to in the Affidavit of Gregory R. Azeff sworn April 6, 2018



Commissioner for Taking Affidavits (or as may be)

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MILLER THOMSON LLP
SCOTIA PLAZA
40 KING STREET WEST, SUITE 5800
P.O. BOX 1011
TORONTO, ON M5H 3S1
CANADA

T 416.595.8500
F 416.595.8695

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Account Summary and Remittance Form

September 30, 2017

Invoice Number 3094067

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

Attention: Anamika Gadia

Re: Tarn Financial Corporation
Our File No. 0224731.0001

Fees:	**$36,308.50**
Disbursements:	**$140.00**
Ontario HST 13% (R119440766)	**$4,738.31**
Total Amount Due	**$41,186.81**
Transferred From Trust	$7,500.00
Balance Owing:	**$33,686.81**

Please return the Account Summary and Remittance Form with your payment.
Terms: Accounts due when rendered. Interest at the rate of 12.0% per annum will be charged on accounts overdue 30 days or more. Any disbursements not posted to your account on the date of this account will be billed later.

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September 30, 2017

Invoice Number 3094067

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

Attention: Anamika Gadia

To Professional Services Rendered in connection with the following matter(s) including:

Re: Tarn Financial Corporation
Our File No. 0224731.0001

Date	Initials	Description	Hours
08/09/2017	KEMM	Email exchange with A. Gadia regarding court materials; email from P. Shea enclosing draft form of Order; email to a. Gadia for review; review draft Order and consider amendments; conference call with A. Gadia regarding proposed amendments to the form of draft Order; revise draft Order and circulate to P. Shea for consideration; email from P. Shea providing blackline; email exchange with A. Gadia regarding marketing and sale of property based on discussions to date; review comments from P. Shea; emails regarding budget and expected role of KPMG;	2.10
08/10/2017	KEMM	Email from M. Rethore regarding url for draft court order; conference call with A. Gadia regarding revisions to form of Order based on P. Shea's views; telephone call with P. Shea regarding form of order; revise Order and circulate to P. Shea; email from J. Pietrantonio regarding fee budget;	1.20
08/11/2017	KEMM	Emails with P. Shea and A. Gadia regarding outcome of hearing;	0.20
09/05/2017	KEMM	Email exchange regarding attending before Justice Lederman in respect of reserved decision;	0.10

Date	Initials	Description	Hours
09/17/2017	KEMM	Email exchange with A. Gadia regarding decision being release appointing liquidator; emails from counsel for the Applicant;	0.20
09/18/2017	KEMM	Email exchange with B. Sachdeva; emails from counsel for the Applicant regarding the Court materials; email from P. Shea enclosing draft Order; compare to draft circulated August 10, 2017; email from P. Shea providing a blackline; telephone call with A. Gadia regarding draft Order; commence review of court materials from hearing leading to liquidator appointment; telephone call to P. Shea; email exchange with P. Shea regarding easiest way to provide comments; review decision of Justice Lederman; review and provide comments to Order in draft to client;	2.90
09/19/2017	SDC	Review correspondence; review liquidation and dissolution provisions of OBCA; discuss file with K. Mahar; meeting with K Mahar, J. Bradley, A. Gadia and M. Rethore of KPMG regarding appointment	3.00
09/19/2017	KEMM	Email from A. Gadia regarding additional comments on form of Order; email comments to P. Shea; review MNP report; emails with P. Shea on secured indebtedness to consider proposed position of Charge; telephone call with B. Sachdeva regarding transition; emails coordinating meeting with KPMG regarding first week issues; continue review of relevant materials from court materials; review revised draft Order; review PPSA searches for Tarn Financial and Tarn Construction; emails regarding comments on order; emails coordinating attendance to settle form of order; meeting with KPMG team; email regarding Tarn not being able to fund payroll; emails regarding whether shareholders will fund borrowing charge; email from KPMG enclosing work plan and review same; telephone call from B. Sachdeva; telephone call with A. Gadia; telephone call to and from P. Shea regarding timing of appointment given gap between decision date and date order will be issued;	5.70
09/20/2017	SDC	Review email from M. Rethore regarding corporate address; email to J. Chau regarding corporate profile	0.10

Date	Initials	Description	Hours
		report	
09/20/2017	KEMM	Numerous emails with A. Gadia regarding appointment, information requests coming from Kingsett and issues raised by Meridian; telephone calls with Bennett Jones regarding order not being issued yet and consultants being concerned with situation; emails with shareholders counsel and court regarding appointment to settle the Order; provide KPMG's views on how to determine value of the property; telephone call regarding responding to Kingsett Capital; emails regarding effective time of appointment; emails regarding coordinating on site meeting on Monday morning; email from B. Sachdeva to coordinate call;	2.40
09/21/2017	JC	Obtain corporation profile reports for Tarn Financial Corporation, Tarn Construction Corporation, Kaan Holdings Inc., Samm Capital Holdings Inc., Pivot Hospitality Inc., S And A Hospitality Corporation and Akman Hospitality Management Inc.; conduct preliminary NUANS and internet searches against Akman Foreign Trade Co. Inc.; email search results to Ms. De Caria;	0.90
09/21/2017	SDC	Review corporate profile report; reporting email to M. Rethore regarding corporate registered office address; email exchanges with M. Rethore regarding registered office addresses and corporate profile reports; review reports; email exchanges with J. Chau regarding corporate profile searches; review various corporate profile reports regarding corporate registered offices and email exchanges with M. Rethore regarding same	0.70
09/21/2017	KEMM	Emails with B. Sachdeva regarding timing of call; telephone call with B. Sachdeva regarding KPMG's views on maximizing value and determining fair market value; email to B. Sachdeva providing KPMG's views to value question; emails regarding whether shareholders will fund under the borrowing charge; emails circulating form of draft Order; emails regarding settling form of Order;	1.30
09/22/2017	KEMM	Emails with Court regarding parties settling form of Order; emails coordinating meeting with A. Ackman on	1.50

Date	Initials	Description	Hours
		Monday morning to transition to liquidator; further emails regarding funding borrowing charge; email from B. Sachdeva regarding secured indebtedness; compare to PPSA registrations; telephone call from A. Jeanrie regarding liquidation process; emails with A. Jeanrie regarding Order being obtained; email from and telephone call with B. Sachdeva;	
09/22/2017	KEMM	Emails with A. Gadia regarding holding meeting at hotel notwithstanding Order not having been received and timing of meeting with Bennett Jones regarding zoning and development;	0.20
09/25/2017	SDC	Email exchanges with K. Mahar regarding communication to employees; email exchange with KPMG regarding communication to employees; review communications and draft employee communications	1.90
09/25/2017	DT	Discuss meeting and approach with K. Mahar; emails with A. Gadia and A. Jeanrie; preparation of meeting;	0.30
09/25/2017	KEMM	Travel to and attend meeting at Delta Hotel with A. Ackman, his counsel, advisors and KPMG regarding transitioning all operations to KPMG; telephone call from and to D. Pollack; emails regarding need for Order in order to take steps Liquidator has to undertake; email re: consultant list and preparation of consultants letter; emails with S. De Caria regarding preparing employee communication; emails with Bennett Jones; telephone call (x2) to the Court regarding obtaining the executed Order; emails with A. Gadia regarding outstanding cheques being in excess of funds on hand; review and revise draft employee letter; email from P. Shea enclosing issued Order; email to S. De Caria regarding amending Employee Letter; email to D. Pollack enclosing Order; email to Bennett Jones enclosing Order; emails coordinating meeting with Bennett Jones; discussions with D. Tang regarding development issues in file and his involvement going forward; emails from A. Jeanie enclosing correspondence from city etc. ; Email from A. Jeanrie providing report that was approved by counsel and brief review of same; emails regarding Delta licence agreement and defaults;	5.40

Date	Initials	Description	Hours
09/26/2017	SDC	Email exchange with T. Ambachtsheer and M. Rethore regarding employee letter; internal email to K Mahar regarding employee letter; review revised and final employee letter; research law on liquor licence and report to client; email exchange with client regarding various searches; email to B. Sachdeva regarding minute books	1.30
09/26/2017	DT	Preview materials on zoning;	0.50
09/26/2017	KEMM	Emails with A. Gadia regarding coordinating meeting to address issues; revise and finalize employee letter and send; request to be on service list; receive copies of documents set up in data room by shareholder; review and pull delta licence agreements and commence review of same; emails with client and S. De Caria as to impact on liquor licence; telephone call with A. Gadia regarding not proceeding with zoning at October City meeting; discussions with A. Gadia regarding secured creditor discussions; consultants discussions; employee discussions; imaging of computers and other issues; numerous discussions regarding Tarn Construction and the state of the development project with D. Tang and client; review Tarn Construction documents at high level; coordinate further meeting with A. Gadia;	4.60
09/27/2017	JC	Conduct preliminary NUANS and internet searches against SAMM Development Inc. and variations of the name; email search results to S. De Caria;	0.30
09/27/2017	SDC	Email exchange with KPMG regarding corporate searches and notices; internal email exchange with K Mahar regarding searches and notices; review OBCA and case law; review Appointment Order; prepare Notice of Appointment; meeting with K Mahar regarding appointment; research regarding Notices; research regarding Registrar; prepare letter to Director; prepare and finalize Notice of Appointment; email exchange with K Mahar and client	3.20
09/27/2017	DT	Review planning documents; meet with KPMG and A. Jeanrie to discuss planning approval status of property; follow-up meeting with KPMG and K. Mahar to discuss next steps and options; review of emails	5.30

Date	Initials	Description	Hours
		from A. Jeanrie and suggest discussion with Avis Surveying to determine readiness and feasibility of severance in short term;	
09/27/2017	GRA	Consider liquor licence issue; Meet with K. Mahar regarding licence and transferability; Research regarding OBCA director and notice of liquidation;	0.70
09/27/2017	KEMM	Emails with A. Gadia regarding preparation meeting; meeting with A. Gadia and J. Bradley in preparation for meeting with Bennett Jones; email from A. Gadia forward project budget; attend meeting with KPMG, D. Tang and A. Jeanrie to review current state of development from legal perspective and next steps; meeting with A. Gadia and J. Bradley regarding operational issues and process; meeting with S. De Caria regarding liquor licence; review current issue with Bentley; instructing S. De Caria regarding preparing notice under OBCA and for Ontario Gazette; emails from A. Jeanrie as follow up to items addressed at meeting; emails with D. Tang regarding R-Plan and severance; review draft letter to Ministry and draft Notice; receive commitment letters for Kingsett capital; telephone call with A. Gadia regarding concerns raised by Kingsett; email from J. Bradley enclosing draft letter to Consultants/Contractors; review and revise same; emails regarding making distinction between date of Order and date of Appointment in relevant correspondence and notices; email from Bennet Jones enclosing sample APS;	7.10
09/28/2017	SDC	revise letter to Director; revise Notice of Appointment; finalize appointment documents; email to Director; reporting email to clients; email to Ministry contacts regarding Notice of Appointment;	0.50
09/28/2017	DT	Review materials and update emails from A. Jeanrie; emails to KPMG and K. Mahar on reaching out to surveyor and ensuring consultants cease work;	0.40
09/28/2017	KEMM	Emails with A. Gadia regarding meeting with Kingsett; emails regarding providing required statutory notice; email from J. Bradley enclosing letter to Tarn Consultants; emails regarding R-Plan; emails regarding city engineering correspondents; emails with	0.80

Date	Initials	Description	Hours
		D. Tang regarding issues raised by Bennett Jones; email from A. Gadia enclosing credit agreement from Meridian; email from T. Ambachtsheer enclosing employee Q&A and review same and provide sign off;	
09/29/2017	SDC	Email exchange with K Mahar; research Ontario Gazette procedure; email to Ontario Gazette; phone call with representative from Ontario Gazette; reporting email to K Mahar and clients; follow up email to Director regarding notice; review email from the Ministry; phone call to Ministry; prepare Form 16; email to Ministry regarding Notice of Appointment and Form 16I; reporting to clients	0.90
09/29/2017	JC	Telephone call to Ontario Gazette regarding how to publish a notice; telephone call to Ms. De Caria;	0.20
09/29/2017	KEMM	Emails with A. Gadia regarding coordinating call to discuss ongoing matters; brief review of Meridian commitment; brief review of Kingestt commitment; emails with S. De Caria; call with A. Gadia regarding ongoing matters; emails with B. Sachdeva coordianting call to discuss a number of issues;	2.00
09/30/2017	KEMM	Review of assignment provisions of APS and consider same;	0.80
	Total Hours		**58.70**

Our Fee: **$36,308.50**

TK ID	Initials	Name	Title	Rate	Hours	Amount
00977	DT	D. Tang	Partner	$750.00	6.50	$4,875.00
00991	GRA	G. Azeff	Partner	$675.00	0.70	$472.50
01510	JC	J. Chau	Paraprofessional	$255.00	1.40	$357.00
00990	KEMM	K. Mahar	Partner	$700.00	38.50	$26,950.00
00994	SDC	S. De Caria	Associate	$315.00	11.60	$3,654.00

Taxable Disbursements		
Corporate or Securities file Searches	140.00	
Total Taxable Disbursements	140.00	$140.00
Total Fees and Disbursements		**$36,448.50**
Ontario HST 13% (R119440766)		
On Fees		$4,720.11
On Disbursements		$18.20
Total Amount Due		**$41,186.81**
Transferred From Trust		$7,500.00
Balance Owing:		**$33,686.81**

E.&O.E.

MILLER THOMSON
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SCOTIA PLAZA
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P.O. BOX 1011
TORONTO, ON M5H 3S1
CANADA

T 416.595.8500
F 416.595.8695

MILLERTHOMSON.COM

Account Summary and Remittance Form

December 31, 2017

Invoice Number 3126931

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

Re: Tarn Financial Corporation
Our File No. 0224731.0001

Fees:	**$44,647.50**
Disbursements:	**$195.10**
Ontario HST 13% (R119440766)	**$5,826.29**
Total Amount Due	**$50,668.89**

Please return the Account Summary and Remittance Form with your payment.
Terms: Accounts due when rendered. Interest at the rate of 12.0% per annum will be charged on accounts overdue 30 days or more. Any disbursements not posted to your account on the date of this account will be billed later.

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December 31, 2017

Invoice Number 3126931

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

To Professional Services Rendered in connection with the following matter(s) including:

Re: Tarn Financial Corporation
Our File No. 0224731.0001

Date	Initials	Description	Hours
10/01/2017	KEMM	Emails with B. Sachdeva regarding issues including borrowing charge, and Mercedes; email exchange with a. Gadia coordinating meeting in advance of call with B. Sachdeva; emails with B. Sachdeva coordinating call in advance of client call; email exchange with B. Sachdeva regarding agenda for call October 2, 2017; email to T. Ambachtsheer regarding Bentley; telephone call with B. Sachdeva regarding current financial situation at Tarn, need for funding and numerous issues; email exchange with A. Gadia regarding same; email from A. Gadia setting out list of items to be addressed with B. Sachdeva and review and consider same; email with A. Gadia regarding benefits issue;	1.50
10/02/2017	SDC	review email correspondence from clients; internal exchange with K Mahar	0.20
10/02/2017	DT	Emails with K. Mahar and meet to discuss;	0.80
10/02/2017	RF	Meeting with Kyla Mahar re this matter and potential issues	0.30
10/02/2017	KEMM	Emails with a. Gadia regarding meeting; attend meeting with A. Gadia regrding numerous issues on	7.10

Date	Initials	Description	Hours
		file; conference call with A. Gadia and B. Sachdeva regarding agenda for call with A. Akman; conference call with client, B. Sachvea and A. Akman; email from client enclosing notice of lien of MCW Consultants; email to Applicants' counsel to coordinate call to discuss issues; emails coordinating same; email exchange with A. Jeanerie regarding being retained by KPMG and coordinating call to discuss same; email to S. De Caria regarding need to review Broker agreements; email from client enclosing all Marriott notices of breach; email fro L. Finegold to be added to service list; telephone call with A. Gadia regarding meeting with Kingsett; meeting with D. Tang regarding development project status in preparation for Kingsett meeting; meeting with R. Fairbloom regarding condominium APAs; meeting with KPMG and Kingsett; telephone call with a. Jeanrie; follow up call with D. Pollack; draft second letter to consultants and contractors; circulate to A. Gadia for review; email from A. Gadia with proposed changes;	
10/03/2017	SDC	meeting with K Mahar regarding broker agreement; review email exchanges between K Mahar and client regarding broker agreement; review Broker Agreement and draft summary regarding broker fee arrangements; follow up email regarding minute books; reporting email to client regarding minute books	2.00
10/03/2017	RF	Call and email with Kyla Mahar, re the agreements of purchase and sale and certain issues/concerns.	0.30
10/03/2017	DT	Discussion with K. Mahar; various emails;	0.30
10/03/2017	DT	Review Agreements of Purchase and Sale for both Towers to determine termination, default, breach and obligations for continuing development and registration process and implications to liquidator;	1.50
10/03/2017	KEMM	Emails with A. Gadia on Notice; revise and finalize notice to consultants; telephone call with A. Gadia regarding follow up call with Kingsett; numerous emails regarding broker contracts and commissions; meeting with S. De Caria regarding reviewing Broker agreements and commission structure; email	5.90

Date	Initials	Description	Hours
		regarding benefits issue being resolved; emails regarding APA assignment requests; discussion and email with R. Flairbloom regarding APAs and assignments; emails regarding transfer of Bentley immediately prior to appointment; draft email to B. Sachdeva and circulate to client for signoff; emails from T. Ambachtsheer regarding the status of vehicles; email to B. Sachdeva regarding Bentley; prepare list of information we need from APA review; email to A. Gadia regarding APA review; telephone call with A. Gadia regarding staying pre-appointment amounts; email to A. Gadia regarding specific provisions of Order to support conclusion; email from a. Gadia signing off on information to be considered as part of review; email to D. Tang and R. Fairbloom regarding review of APA and Tarion forms; emails regarding review; email regarding amounts owing to Brokers; telephone call with A. Jeanrie; email enclosing request for payment from McMillan (Centurion's counsel); numerous emails on Broker contract review; further correspondence regarding construction lien; email with a. Gadia regarding Liquidator's position; telephone call with L. Finegold regarding same; email exchange with B. Sachdeva regarding rumours about conduct of staff at Tarn; email exchange with B. Sachdeva responding to certain issues raised on October 2, 2017 call; emails with resepct to broker agreement analsysis; provide instructions to create service list; emails regarding meeting with Applicants and their counsel;	
10/04/2017	SDC	email exchange with client regarding Gazette notice; phone call to AGCO regarding temporary transfer; reporting email to K Mahar; phone call with Wendy Grant of Ministry regarding Form 16; prepare Form 16; prepare letter to Wendy Grant; internal emails regarding certified appointment order; email exchange with K Mahar;	1.30
10/04/2017	DT	Discussion with K. Mahar; instructions to S. Fazel on preparation of memorandum;	0.50
10/04/2017	KEMM	Emails with A. Gadia regarding meeting with Applicants; attend meeting with Applicants and their	2.50

Date	Initials	Description	Hours
		counsel regarding current status or proceeding, issue raised by Respondents, borrowing charge financing et al; emails regarding shareholders visits to property; discussion with S. De Caria regarding numerous issues; emails regarding outstanding assignments; email from B. Sachdeva advising A. Akman and SAMM Holding are not prepared to finance the borrowing charge; email exchange with B. Sachdeva regarding Meridian; emails on broker and purchaser analysis for Tarn Construction; emails and discussions with D. Tang regarding information APA review and preparation of memo; emails coordinating call with A. Gadia regarding discussions with Marriott;	
10/05/2017	SDC	review email from client regarding licence agreement; email exchange with K Mahar; email to Patrick Shea regarding order	0.40
10/05/2017	SF	Instructions from D. Tang; Review file; Legal research re "reasonableness"; Draft email to D. Tang re reasonable assignment clause;	1.30
10/05/2017	RF	Received and reviewed emails from Kyla Mahar and David Tang re the standard form of agreement and purchase and sale. Started to review the purchase agreement. Discussions with Kyla Mahar. Meeting with Kyla Mahar and David Tang re this matter and the purchase and sale agreement, including the Tarion Addendum.	1.20
10/05/2017	DT	Review emails on review of agreements; emails with S. Fazel and K. Mahar; meeting with R. Fairbloom and K. Mahar to discuss agreement provisions and assignment options; email S. Fazel with further instructions;	0.90
10/05/2017	KEMM	Emails with R. Fairbloom and D. Tang regarding advising client on condo issues; numerous discussions and emails with D. Tang and R. Fairbloom regarding review and analysis; telephone call with A. Gadia regarding Marriott discussions; email enclosing amend Liquor Licence; discussion with S. De Caria regarding Liquor Licence; telephone call with M. Nowina, counsel for Marriott; emails regarding compiling information for data room; email from A. Jeanrie enclosing retainer;	3.00

Date	Initials	Description	Hours
		telephone call with A. Gadia regarding further meeting with Kingsett; review correspondence from counsel to a condo purchaser; email from a. Gadia enclosing October 5th default notices from Marriott; review and consider same; telephone call with A. Gadia regarding Marriott and addressing critical concerns at Hotel and need for financing;	
10/06/2017	SF	Research regarding the reasonableness of declining an assignment request; Discussions with J. Forman re research; Conversation with D. Tang;	1.30
10/06/2017	DT	Review S. Fazel emails and meet to discuss further research required;	0.50
10/06/2017	KEMM	Telephone message from A. Gadia regarding need to address funding and other issues; email from G. Hall enclosing Notice of Appeal and review same; email echange with A. Gadia regarding same and coordinating meeting; meeting with A. Gadia; email to B. Sachdeva to coordinate call to follow up on outstanding issues; telephone call with B. Sachdeva; email from S. Fazel regarding assignment clause; email regarding state of various issues relating to the construction and notifying parties of proceedings; email from J. Bradley regarding Tarn not funding commissions as due; email from J. Bradley regarding contracts for ball room rentals; telephone call with A. Gadia regarding sale process and Kingsett's views on engaging a broker; emails from Kingsett regarding same; emails with M. Nowing coordinating call with Marriott;	2.90
10/09/2017	KEMM	Email exchange with A. Gadia regarding posting notice of appeal; email regarding storage of personal items of shareholder; receive and review summary of items to seek to obtain zoning by-law; emails as to whether broker commissions are triggered post filing; email from The Gupta Group regarding sale process and whether shareholder have right of first refusal;	0.70
10/10/2017	SF	Download information from R. Fairbloom; Draft Memorandum	4.20
10/10/2017	SDC	review entered Order; internal email to CMP	2.80

Date	Initials	Description	Hours
		regarding certified Order; review email correspondence regarding Master License Agreement; review Master Lisence Agreement and reporting email to K Mahar; email to J Bradley regarding License Agreement; email exchange with K Mahar regarding Agreement; finalize Form 16 Package; reporting email to clients regarding Form 16 Package	
10/10/2017	RF	Reviewed the purchase and sale agreements. Reviewed Kyla Mahler's email asking a number of questions. Meeting with Kyla to discuss. Meeting with Sakina Fazel of our office to discuss the issues at hand.	1.00
10/10/2017	RF	Email exchange with Kyla Mahar. Call with Kyla Mahar. Call with Sakina Fazel of office re her memo, answering the questions posed by KPMG.	0.60
10/10/2017	CM	Attendance at Commercial List office to obtain court certified copy of Order of Justice Lederman;	0.50
10/10/2017	DT	Review emails on memorandum and respond;	0.20
10/10/2017	KEMM	Email from a. Akman; emails regarding review of Starbucks contract review; emails with S. De Cario regarding various issues; telephone call with A. Gadia regarding status of number of issues; email from S. De Caria obtaining issued order; email exchange with R. Fairbloom and call regarding analysis; email enclosing PIN searches and liens registered; review same; consider amendments to Order; email exchange with S. De Caria regarding analysis of Starbucks agreement; email from S. De Caria regarding Form 16 being sent to Ministry; telephone call with A. Gadia; email exchange with G. Hall regarding notice of appeal; email with J. Bradley regarding notice of contractors and relevant dates; telephone call with A. Gadia regarding funding, coordinating with potential brokers and cash flow forecast; email from A. Gadia enclosing executed retainer for Bennett Jones; email to A. Gadia enclosing issued and entered order; draft Letter to Buyers; email exchange with A. Gadia regarding same; email from S. Fazel enclosing draft memo; email to D. Tang and R. Fairbloom regarding	3.90

Date	Initials	Description	Hours
		reviewing memo before it is sent to client; revise buyers letter and circulate to A. Gadia; review draft memo and email to R. Fairbloom and D. Tang regarding same;	
10/11/2017	SF	Correspondence with R. Fairbloom, D. Tang Kyla re Memorandum; Revise Memorandum;	1.40
10/11/2017	SDC	review email from Wendy Grant regarding Form 16; email response to Wendy Grant; review agreements and email to clients regarding advice on notice provisions; email exchange with K Mahar regarding broker agreements; email exchange with clients regarding corporate searches; discuss status with K Mahar; follow up email to Bobby Sachadeva regarding Minute Books	1.30
10/11/2017	IR	Research into the effect of liquidation/liquidator on an agreement which includes a termination clause that includes bankruptcy, insolvency and liquidation as an event of default; draft memo for S. De Caria;	5.50
10/11/2017	JC	Conduct Ontario corporate search against Akman Financial Corporation; arrange for British Columbia corporate searches against Kennedy Road Hospitality Operations Ltd. and Kennedy Road Hotel Holdings Ltd.; email search results to Ms. De Caria;	0.20
10/11/2017	AF	Receiving instructions from J. Chau; conducting corporate searches for Kennedy Road Hospitality Operations Ltd. and Kennedy Road Hotel Holdings Ltd.; providing search results to J. Chau;	0.60
10/11/2017	DT	Review emails and memorandum; meet with S. Fazel to discuss potential revisions;	0.50
10/11/2017	KEMM	Emails and discussion with R. Fairbloom; email from J. Bradley regarding comments on Buyers letter; sign off on same; emails regarding whether Applicants will fund Borrowing Charge; telephone call with A. Gadia regarding Meridian, Kingestt, Bridging Finance and others potential funding and consider priority of charge in that circumstance; emails regarding preparing correspondence to Brokers; email to S. De Caria to review ballroom contracts; extensive telephone call with J. Bradley regarding brokers and other issues;	4.00

Date	Initials	Description	Hours
		emails with S. De Caria regarding review of number of issues; email from G. Hall enclosing Appellant's certificate; update from Bennett Jones on compiling information to be part of data room; draft letter to Brokers; circulate same to client; telephone call with S. Fazel and email from S. Fazel enclosing revised memo; review same; commence letter to B. Sachdeva;	
10/12/2017	KEMM	Meeting with A. Gadia in preparation for call with Marriott; conference call with Marriott and its counsel; consider issues raised;	1.90
10/12/2017	SDC	review correspondence from KPMG regarding broker agreements and broker communication; review email from KPMG regarding Starbucks License Agreement; reporting email to KPMG regarding minute books; meeting with Irina Rosca regarding research; review Starbucks License Agreement and draft reporting and advice letter; discuss with K Mahar; conduct research on termination provisions	3.70
10/12/2017	RF	Discussions with Kyla Mahar about dealing with purchaser questions including the obligation to pay additional deposits or terminate the agreement of purchase and sale. Reviewed the letter to all purchasers dated October 11, 2017. Drafted a proposed standard response to come from KPMG. Discussed same with Kyla. Reviewed Kyla's draft letter. Met with Kyla Mahar to discuss same and provided my comments thereon.	1.00
10/12/2017	KEMM	Email regarding Broker communication and correspondence from Public Choice Realty; emails regarding preparing follow up letter to Brokers and Buyers to address common concerns raised on hotline; telephone call with A. Gadia; emails regarding continuing to accept deposits; discussion with R. Fairbloom regarding purchaser's request and proposed response language; email regarding Mercedes' payments; draft Buyer's second letter and circulate same; meeting with S. De Caria; draft letter to B. Sachdeva re: Bentley and circulate to client; request information to draft letter to Gowlings re: Mercedes and receive same; email to J. Bradley	4.30

Date	Initials	Description	Hours
		requesting old management agreement and receive same; draft letter to B. Sachdeva confirming Management Agreement of no force of effect during Liquidation; emails regarding revisions to buyers letter; revise and circulate; email exchange with S. De Caria regarding review of Starbucks contracts; telephone call with A. Gadia; email from A. Gadia commenting on letter to B. Sachdeva, revise same; email from A. Gadia commenting on Buyers letter; revise and circulate; email from A. Gadia regarding SAMM companies being named insured under contract;	
10/13/2017	SDC	review email correspondence from client; review License Agreement and Notice Provisions; call with Anamika Gadia and K Mahar; meeting with K Mahar regarding notices and Starbucks Agreement; email to KPMG regarding Starbucks License Agreement; draft letter to Marriott regarding Delta Hotel Agreement; email to KPMG;	2.80
10/13/2017	KEMM	Email from A. Gadia regarding responding to shareholder; email from A. Gadia regarding Marriott's outstanding amounts; email with A. Gadia and J. Bradley regarding meeting to coordiante content of Liquidator's Report; receive and review cash flow forecast; email from A. Gadia regarding updating Marriott notice provisions and other issues raised by Marriott; discussion with S. De Caria regarding same; email fro A Gadia regarding Colliers proposal; meeting with S. De Caria regarding Starbucks contract advise; email from M. Rethore enclosing letter from counsel for Milborne; email from G. Hall regarding seeking to expedite appeal; emails coordinating meeting with KPMG team; email enclosing letter from Access Law; email from J. Bradley regarding broker letter; finalize letter to B. Sachdeva and issue same; email to A. Gadia enclosing draft letter to Gowlings; obtain sign off and issue same; telephone call with A. Gadia regarding comments on cash flow need for detailed notes for cash flow forecast ;	3.60
10/14/2017	SDC	review Ontario Gazette notice; email to K Mahar regarding notice; reporting email to clients regarding notice	0.10

Date	Initials	Description	Hours
10/14/2017	KEMM	Email from S. De Caria circulating notice in Gazette;	0.10
10/15/2017	KEMM	Email from O. Li re purchased unit; forward to A. Gadia; email with A. Gadia regarding list for meeting on Monday October 15th and confidentiality language for cash flow forecast given nature of proceeding; review Kingsett's loan agreement regarding confidentiality provisions; email with A. Gadia regarding running numbers in cash flow forecast by Marriott;	0.80
	Total Hours		**81.40**

Our Fee: **44,647.50**

TK ID	Initials	Name	Title	Rate	Hours	Amount
06516	AF	A. Falcon	Paraprofessional	$155.00	0.60	$93.00
00233	CM	C. Martino Pera	Paraprofessional	$200.00	0.50	$100.00
00977	DT	D. Tang	Partner	$750.00	5.20	$3,900.00
02595	IR	I. Rosca	Articling Student	$195.00	5.50	$1,072.50
01510	JC	J. Chau	Paraprofessional	$255.00	0.20	$51.00
00990	KEMM	K. Mahar	Partner	$700.00	42.20	$29,540.00
00976	RF	R. Fairbloom	Partner	$625.00	4.40	$2,750.00
00994	SDC	S. De Caria	Associate	$315.00	14.60	$4,599.00
01102	SF	S. Fazel	Associate	$310.00	8.20	$2,542.00

Taxable Disbursements

Certified Copies	38.50	
Land Registry Office Searches	72.35	
Delivery	2.25	
Corporate or Securities file Searches	40.00	
BC Online/ Registry Searches / Corp Rec	17.00	
Total Taxable Disbursements	170.10	$170.10

Non-Taxable Disbursements		
Filing Fee	25.00	
Total Non-Taxable Disbursements	25.00	$25.00
Total Fees and Disbursements		**$44,842.60**
Ontario HST 13% (R119440766)		
On Fees		$5,804.18
On Disbursements		$22.11
Total Amount Due		**$50,668.89**

E.&O.E.

MILLER THOMSON
AVOCATS | LAWYERS

MILLER THOMSON LLP
SCOTIA PLAZA
40 KING STREET WEST, SUITE 5800
P.O. BOX 1011
TORONTO, ON M5H 3S1
CANADA

T 416.595.8500
F 416.595.8695

MILLERTHOMSON.COM

Account Summary and Remittance Form

December 31, 2017

Invoice Number 3132656

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

Re: Tarn Financial Corporation
Our File No. 0224731.0001

Fees:	**$168,951.00**
Disbursements:	**$1,521.78**
Ontario HST 13% (R119440766)	**$22,015.99**
Total Amount Due	**$192,488.77**

Please return the Account Summary and Remittance Form with your payment.
Terms: Accounts due when rendered. Interest at the rate of 12.0% per annum will be charged on accounts overdue 30 days or more. Any disbursements not posted to your account on the date of this account will be billed later.

MILLER THOMSON
AVOCATS | LAWYERS

MILLER THOMSON LLP
SCOTIA PLAZA
40 KING STREET WEST, SUITE 5800
P.O. BOX 1011
TORONTO, ON M5H 3S1
CANADA

T 416.595.8500
F 416.595.8695

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December 31, 2017

Invoice Number 3132656

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

To Professional Services Rendered in connection with the following matter(s) including:

Re: Tarn Financial Corporation
Our File No. 0224731.0001

Date	Initials	Description	Hours
10/16/2017	SDC	Preparation for meeting with KPMG; meeting with KPMG regarding motion; review email correspondence; review changes to draft Marriott Letter; revise and finalize letter; email to A. Gadia;	2.50
10/16/2017	KEMM	Emails regarding compiling listing of information for data room; review Kingsett loan agreement re: confidentiality; draft proposed language to go to lenders with cash flow forecasts; meeting with A. Gadia, J. Bradley and S. De Caria regarding motion preparation and issues to be addressed; emails with Meridian counsel; emails regarding proposed changes to letter; emails regarding obtaining updated trust ledger for deposits; telephone call with B. Sachdeva; drafting letter to shareholders' counsel regarding interference; email same to client for review; issue letter to shareholders counsel; emails with S. De Caria;	3.80
10/17/2017	GRA	Discussion with K. Mahar regarding various issues;	0.20
10/17/2017	KEMM	Emails regarding email to Kingsett and cash flow forecast assumptions; review and revise same; telephone call with A. Gadia regarding same; emails with J. Bradley regarding purchaser letter and	2.70

Date	Initials	Description	Hours
		confirming deposits held; discussion with D. Pollack; emails regarding Colliers proposal; email re: contracts with SAMM re: construction; email to Mariott enclosing letter re: notice provisions; coordinate updating service list; email to B. Sachdeva regarding SAMM contracts; without prejudice emails with B. Sahdeva; telephone call with B. Sachdeva; numerous emails regarding vehicles;	
10/18/2017	SDC	Email exchange with client regarding corporation profile reports; review report results;	0.30
10/18/2017	JC	Conduct preliminary NUANS and internet searches against Tarn Finance Inc. and varaitions of the name; conduct internet searches against Akman Holdings and Bleda Group; email search results to S. De Caria;	0.40
10/18/2017	DT	Various emails on Tridel cost-sharing for road improvements; call A. Jeanrie and set up discussion to allow for strategy in Tridel discussions;	0.50
10/18/2017	KEMM	Emails with B. Sachdeva; discussions with A. Gadia regarding cash flow and need for borrowings; extensive telephone call with R. Baldeo regarding material change; argument raised by him in respect of condo sale; email enclosing Kingsett questions on cash flow; discussion with A. Gadia regarding same; receive notice from SAMM to stakeholders and business partners regarding Tarn liquidations; email with B. Sachdeva regarding his client's view that locks should not be changed and email back reiterating views of Marriott that locks must be changed; emails with S. De Caria regarding responding to further correspondence; email from KPMG with construction summary; emails regarding insurance issues; emails regarding review of disclosure statement for response to purchaser's assertion of material change; emails regarding same; emails regarding appraisal of vehicle; emails regarding outstanding issues with A. Akman; consider condo act provisions re: material change;	4.30
10/19/2017	SDC	Research regarding Income Tax Act; reporting email to K. Mahar regarding withholding issues; review Tarion documents;	1.90

Date	Initials	Description	Hours
10/19/2017	VR	Telephone call with S. De Caria;	0.30
10/19/2017	DT	Conference call with P. Levine and J. Bradley for details of Tridel request; discuss with J. Bradley; call M. Mestyan and report to J. Bradley; review email on purchaser's attempt to terminate;	1.50
10/19/2017	KEMM	Review and respond to emails re various issues; telephone call from and to Nurhan; emails and telephone call with A. Gadia regarding shareholder changing mind and being prepared to fund borrowing charge; consider terms; emails with R. Baldeo regarding recission claim; email from Bennett Jones enclosing disclosure statement; emails from Bennett Jones regarding views; email from S. De Caria regarding withholding tax issue; letter re: rescission; emails enclosing letter from purchasers; telephone call with A. Gadia regarding various issues;	1.10
10/20/2017	SDC	Review Tarion documents and discuss with K Mahar; discuss income tax research with K Mahar; email to V. Rodrigues regarding income tax research; email to KPMG regarding Tarion package; email to A. Jeanrie regarding Tarion package; review small claims court documents; review letters and email exchanges regarding small claims court claims; email exchange with KPMG regarding same; draft letters to plaintiffs, counsels and Toronto Small Claims Court and emails to clients regarding same; revie wemail from A. Jeanrie regarding Tarion documents; email exchanges regarding minute books;	3.60
10/20/2017	KEMM	Drafting Sale Process Order and Sale Process; consider terms of Sale Process; telephone call with A. Gadia regarding numerous issues; meeting with S. De Caria regarding withholding tax issue; emails regarding financing terms for borrowing charge; email from McCarthys enclosing motion to expedite appeal; emails with McCarthys and client; telephone call with A. Gadia regarding false statements in motion materials; telephone call with McCarthys regarding concerns about inaccuracies in Affidavit and need for call;	5.20

Date	Initials	Description	Hours
10/21/2017	VR	Research regarding withholding tax requirements; email correspondence with S. De Caria and K. Mahar regarding same;	3.40
10/21/2017	KEMM	Emails with McCarthys and client coordinating call to discuss inaccuracies in motion record seeking to expedite the appeal of the liquidation order; review motion record and identify inaccuaracies; emails with A. Gadia and J. Bradley regarding views on misinformation and coordinating call to discuss same; emails regarding tax issue; emails with B. Sachdeva regarding whether Gowlings has requested information from Liquidator;	2.60
10/21/2017	SDC	Email exchanges with K. Mahar and V. Rodrigues regarding Income Tax Act; review research;	0.30
10/22/2017	KEMM	Review position in preparation for call with A. Gadia and J. Bradley regarding facts set out in motion to expedite appeal; conference call with A. Gadia and J. Bradley regarding facts obtained and potential resolutions to issue; conference call with G. Hall, A. Goldenberg and A. Gadia regarding inaccurate facts in motion materials for motion to expedite; emails with S. De Caria and V. Rodrigues regarding withholding tax issue; draft email to G. Hall regarding inaccuracies; telephone call with A. Gadia regarding proposed resolution; email from S. De Caria enclosing memo and review same; circulate draft email to A. Gadia and receive comments and recirculate same; email from A. Gadia; without prejudice email to G. Hall;	5.70
10/22/2017	SDC	Email exchange with K. Mahar and V. Rodrigues regarding research memo; review research on Income Tax Act; prepare memo to client;	1.50
10/22/2017	VR	Research regarding director liability; email correspondence with K. Mahar and S. De Caria;	1.50
10/23/2017	VR	Review and revise memorandum; meeting with K. Balkwill;	1.50
10/23/2017	SDC	Prepare and finalize small claims letters; email exchanges with KPMG regarding small claims actions; internal instructions regarding packages to counsel and small claims court; review emails from KPMG	4.30

Date	Initials	Description	Hours
		regarding The Fence People Limited; review contract documents, email exchanges and invoices; review Order; draft letter to The Fence People and email exchanges with client regarding same; review draft letter to Appellant regarding appeal; email exchange with V. Rodrigues regarding research; meeting with K Mahar regarding letter; review letter to Ministry regarding Ontario Gazette invoice payment; review correspondence from Bennet Jones regarding Tarion documents; review Tarion documents and agreements; discuss deposits with G. Azeff and K. Mahar;	
10/23/2017	RF	Call with K. Mahar;	0.10
10/23/2017	GRA	Meet with K. Mahar regarding various tasks and letter regarding appeal; Telephone call with K. Mahar and A. Gadia; Review forwarded email correspondence; Review draft factum; Draft language for letter regarding inaccuracies; Review rescission letter and applicable Condominium Act provisions;	1.50
10/23/2017	KB	Consultation and correspondence with V. Rodrigues regarding income tax matters concerning royalty payments made to non-resident; commence reviewing memorandum drafted by V. Rodrigues regarding same;	1.20
10/23/2017	KEMM	Emails with A. Gadia regarding format of letter responding to motion to expedite inaccuracies; telephone call regarding same; emails regarding the fence supplier and discussion with S. De Caria regarding same; prepare letter responding to expedite motion; emails regarding vehicles; emails regarding interim finding; emails regarding tax memo; emails regarding timing of motion to expedite; discussion with G. Hall regarding response; email from G. Hall enclosing factum; emails regarding small claim court actions; discussion with S. De Caria regarding application under Condo Act; telephone calls with A. Gadia regarding various issues and transition to G. Azeff;	2.10
10/24/2017	SDC	Phone call with J. Bradley regarding Tarion bond; review Tarion bond; meeting with G Azeff re recission	2.70

Date	Initials	Description	Hours
		letter and Tarion; email exchanges with A. Hung; reporting email to J. Bradley regarding Tarion; emails on The Fence People; review Income Tax Memo; email exchanges with K. Mahar'; draft NDA and email to KPMG;	
10/24/2017	RF	Meeting with G. Azzeff to discuss the Guarantee Company Tarion Bond and the security associated therewith;	0.40
10/24/2017	KB	Complete review of memorandum drafted by V. Rodrigues; revise same and send to V. Rodrigues; consultation with V. Rodrigues regarding same;	0.90
10/24/2017	GRA	Review and revise draft letter; Telephone call with A. Gadia regarding letter; Discussion with S. De Caria regarding various items; Meet with R. Fairbloom and S. De Caria regarding rescission issue; Telephone call with K. Mahar regarding various items to deal with; Finalize letter; Further telephone calls with A. Gadia; Telephone discussion with B. Sachdeva; Draft email to B. Sachdeva regarding various outstanding issues; Discussion with S. De Caria; Review and revise draft Non Disclosure Agreement; Further discussions with S. De Caria;	4.30
10/24/2017	VR	Meeting with K. Blakwill; email correspondence with S. DeCaria;	0.20
10/24/2017	KEMM	Review factum; continuing revisions to letter to G. Hall re: motion inaccuracies; emails regarding Tarion; emails with G. Azeff regarding letter to be finalized; review tax memo; emails with S. De Caria regarding responses to various stakeholder letters; discussion with G. Azeff regarding issues to be addressed; emails regarding same; emails with client;	1.20
10/25/2017	SDC	Review demand letter from Ikoor; email exchanges with K. Mahar and client regarding letter; review invoices; prepare draft letter; revise draft letter and emails re revisions; review emails regarding NDA; revise NDA and email to client regarding revisions; review emails regarding Tarion rescission and discuss with G. Azeff and R. Fairbloom; internal email exchanges with K. Mahar and G. Azeff regarding tasks	2.50

Date	Initials	Description	Hours
		and next steps	
10/25/2017	RF	Received a voicemail from G. Azeff. Received numerous emails between G. Azeff and K. Mahar. Call with S. De Caria;	0.60
10/25/2017	GRA	Review and respond to correspondence; Review correspondence to determine action items; Review Condominium Act re section 74; Draft letter regarding notice of rescission; Telephone call with R. Fairbloom; Review changes to draft NDA; Email to K. Mahar and R. Fairbloom re rescission; Telephone calls (2x) with A. Gadia; Review factum; Telephone call with A. Gadia regarding rescission and other issues; Discussion with S. De Caria regarding research; Email to P. Shea regarding appeal;	3.60
10/25/2017	KEMM	Emails regarding stakeholder correspondence; emails with G. Hall regarding sealing order; emails with M. Gottlieb and extensive call with M. Gottlieb regarding proposed sale process and retainer of broker by Liquidator; emails regarding terms for interim financing; emails regarding application against rescision notice;	1.70
10/26/2017	AC	Conduct corporate name search for Tarn Finance Inc. and provide search results to S. De Caria;	0.10
10/26/2017	SDC	Review Condominium Act; phone call with R. Fairbloom; meeting with G. Azeff regarding Rescission Letter; research case law; review Deposit Trust Agreement, Rescission Letter and Notice Letters; draft Notice of Application and email to G Azeff;	2.50
10/26/2017	RF	Call with G. Azeff and others re Section 74 of the Condominium Act and dealing with a claim for material change;	0.70
10/26/2017	GRA	Prepare for and attend motion regarding appeal; Multiple telephone calls with A. Gadia; Telephone call with A. Gadia and J. Bradley regarding various issues including counterfeit cheque; Review and consider correspondence from J. Bradley regarding cheque; Discussion with B. Sachdeva regarding various items; Draft letter to Mackenzie Peak Law Group; Discussion with S. De Caria regarding rescission issue; Meet with	6.80

Date	Initials	Description	Hours
		J. Revait and S. De Caria regarding rescission issue and response to notice; Conference call with R. Fairbloom regarding response to notice of rescission; Telephone call to A. Schalles regarding cheque; Review revisions to NDA; Review Condominium Act; Research regarding "material change" under Condominium Act;	
10/26/2017	KEMM	Review emails;	0.20
10/27/2017	SDC	Review APS; review G. Azeff comments; revise Notice of Application; email exchanges with clients; review correspondence from counsel and liens; reporting emails to G. Azeff and K. Mahar;	1.20
10/27/2017	GRA	Conference call with B. Sachdeva; Review and revise draft letter; Correspondence with BC counsel regarding counterfeit cheque; Review and revise draft Notice of Application regarding rescission claim; Multiple discussions with S. De Caria;	3.50
10/27/2017	KEMM	Monitor emails;	0.20
10/30/2017	SDC	Review rescission notice from purchaser; review Condo Act; email to KPMG regarding rescission notice; review email from KPMG regarding Notice of Application; revise and finalize Notice of Application; internal email exchange with G. Azeff and K. Mahar regarding rescission and Notice of Application; telephone call with student regarding application hearing dates; discuss Notice of Application with court clerk; draft response letter to rescission notice; email to G Azeff and K. Mahar regarding response letter; email exchanges with J. Bradley regarding APS; revise response letter to M. Santos;	2.00
10/30/2017	BP	Deliver Notice of Application to Court and issue same at 330 University Avenue;	1.40
10/30/2017	GRA	Meeting with J. Bradley and A. Gadia;	2.30
10/30/2017	KEMM	Review Notice of Application; correspondence from B. Sachdeva; circulate to client and coordinate call to discuss same; email from A. Gadia enclosing further recission notice; emails regarding same; telephone call with. M. Santos regarding same; telephone call to	3.40

Date	Initials	Description	Hours
		R. Balea; coordinate meeting with KPMG; meeting with KPMG regarding various issues and preparation of motion; emails regarding coordinating motion date with counsel for interested parties; email to Gowlings regarding currency risk in interim financing; correspondence to access law re: purchasers; telephone call to commercial list office regarding availability for motion week of November 13th;	
10/31/2017	SDC	Email exchange with K. Mahar and G. Azeff; meeting with K Mahar regarding outstanding items and next steps; review correspondence from clients; email exchange J. Bradley; review APS; email to A. Gadia regarding rescission letters; draft response letter to M. Santos; draft response letter to The Fence People Limited regarding Lien;	2.20
10/31/2017	DS	Receipt of instructions; updating PINs and obtaining copy of new construction liens;	0.60
10/31/2017	KEMM	Email from B. Sachdeva regarding Tarion meeting; email enclosing list of outstanding letters; meeting with S. De Caria regarding same; email to update PINs; discussion with A. Gadia regarding response to Tarion; email to Tarion; email from J. Bradley with point form response to Sachdeva letter; review draft letters;	1.00
11/01/2017	SDC	Email exchanges with K. Mahar and clients; review and revise letter re rescission; meeting with E. Elias regarding research assignment; emails to clients regarding draft letters; review email from counsel, draft letter to GFL, reporting email to K. Mahar; email exchanges with K. Mahar re Lien letters;	1.40
11/01/2017	EE	Conference with S. De Caria re: interpretation of material change in the Condominium Act; review legislation;	0.30
11/01/2017	GRA	Telephone call to RCMP Commercial Crimes division;	0.10
11/01/2017	KEMM	Emails considering impact of currency risk on financing; telephone call regarding analysis; telephone call and email to commercial list office regarding booking motions; numerous calls with A. Gadia on various issues; emails regarding court availability;	4.10

Date	Initials	Description	Hours
		revise letter to Santos; email to S. De Caria regarding same; emails regarding preparing service list; email from A. Gadia enclosing broker analysis; review and revise same; telephone call with A. Gadia regarding broker analysis; review and provide comments on The Fence People letter; email and telephone call with B. Sachdeva regarding letter dated October 30th; emails with M. Gottlieb regarding motion and request to see draft Order before serving; review draft letter to Torkin Manes; commence drafting Sale Process Order;	
11/02/2017	SDC	Finalize letter; email exchange with K. Mahar re lien letters; review emails from the client regarding liens; email to A. Gadia re lien letter; finalize letter to M. Santos; review correspondence from R Hauk regarding lien; revise and finalize lien letter to Handler regarding the Fence People revise and finalize lien letters to R. Hauk regarding Skygrid, GFL and Roni Excavating; review PIN and Construction Lien; email to K Mahar regarding additional liens; email to counsel to Handler; email to R. Hauk;	1.50
11/02/2017	EE	Review case law re material change under the Condominium Act for S. De Caria;	1.10
11/02/2017	KEMM	Telephone call from and to G. Hall; email to G. Hall regarding allowing G. Hall's client to deal with vehicle purchase; correspondence from G. Hall; provide comments on various letters; consider sale process orders in other real estate and hotel processes; discussions with M. Gottleib regarding motion and broker issue; review analysis for brokers and information provided by brokers;	1.90
11/03/2017	EE	Consider the interpretation of section 74 of the condominium act for S. De Caria;	1.10
11/03/2017	SDC	Review research memo and law; conduct research and verify law; review Condo Act; email exchange with E. Elias regarding research; reporting email to K Mahar; review correspondence and lien re MCW; discuss with K. Mahar; draft letter to MCW re lien; email to counsel;	1.10
11/03/2017	GRA	Multiple telephone calls with RCMP in Revelstoke;	0.80

Date	Initials	Description	Hours
		Telephone calls with client regarding counterfeit cheque; Review and respond to email;	
11/03/2017	KEMM	Emails coordinating call with. A. Gadia; extensive call with A. Gadia regarding various issues; email with P. Shea to coordinate call; emails with M. Gottlieb and D. Pollack including providing information on motion to expedite on confidential basis; telephone call with D. Pollack; emails with G. Hall regarding payment; emails with P. Shea on broker analysis; review memo on material change under condo act; emails with S. De Caria regarding preparing responses to letters from stakeholders; review of same; telephone call from M. Santos;	2.30
11/05/2017	KEMM	Drafting Sale Process Order; emails with A. Gadia regarding stakeholder letters; email to A. Gadia enclosing draft Sale Process Order for review; revising and drafting broker analysis memo; circulate to A. Gadia;	6.40
11/06/2017	SDC	Review client correspondence; review letter from counsel to The Fence People; draft response letter to counsel and reporting email to K. Mahar;	0.40
11/06/2017	GRA	Collect and compile documents for RCMP; Email to Cst. Williams; Telephone call to Cst. Williams; Review and respond to correspondence; Review draft Sales Process;	1.10
11/06/2017	KEMM	Emails regarding construction lien correspondence; emails with A. Gadia to coordinate call; telephone call with M. Santos regarding rescision claim being out of time; conference call with A. Gadia regarding draft Sale Process Order and broker analysis and vehicles; email with S. De Caria regarding various responses; revising broker analysis and circulate to client; emails and discussions regarding fraudulent cheques; emails regarding units sold vs unsold; email from A. Gadia regarding notice to be received from Marriott regarding critical maintenance; revising sale process order and circulate revised draft to client; email exchange with M. Gottlieb regarding receiving broker analysis and draft Order; emails with G. Hall re: wire transfer; telephone call with A. Gadia regarding finalizing draft sale	5.10

Date	Initials	Description	Hours
		process order and finalizing broker analysis; email to M. Gottlieb circulating broker analysis and draft Sale process Order; email exchange with P. Shea regarding break clause to account for appeal; email exchange with A. Gadia regarding discussions with Marriott and expected default notice;	
11/07/2017	SDC	Research law on Condo Act; email exchange regarding corporate searches; review letter from counsel regarding rescission; email exchanges with client and K. Mahar regarding rescission; draft Notice of Application; email to K. Mahar regarding Notice of Application; meeting with K Mahar re response letters; review letter and Trust Ledger; draft response letter to I. Wolkowicz re deposit; email to clients re letter;	2.10
11/07/2017	JC	Conduct corporate search against 2583897 Ontario Inc.; email corporation profile report to S. De Caria;	0.10
11/07/2017	GRA	Discussion with K. Mahar regarding counterfeit cheque; Telephone call with J. Bradley regarding cheque; Review and compare counterfeit cheques; Telephone call to Cst. Williams; Telephone call with Morgan Williston of McKenzie Lake; Review searches; Review and respond to correspondence;	0.80
11/07/2017	KEMM	Emails with P. Shea regarding call; telephone call with P. Shea regarding financing of borrowing charge and proposed terms and Mercedes financing payments; email from CBRE enclosing draft listing agreement; review and consider same; emails regarding call regarding sale process; email from A. Gadia regarding discussions with Marriott; telephone call with A. Gadia regarding same; consider proposed amendments to default notice in preparation for call with Marriott; telephone call with A. Gadia regarding fraudulent activity in Tarn account; emails regarding opening new account and making current account deposit only; email exchange with S. De Caria regarding Santo claim and timing for preparation of Application; letter from counsel to Santos; further email to S. De Caria regarding preparing response and Notice of Application; review and provide comments on Notice of Application; meeting with A. Gadia regarding	4.90

Date	Initials	Description	Hours
		various issues; email exchange with G. Hall regarding responding to October 30th wire and waiting on wire transfer; meeting with S. De Caria regarding further letters to be prepared; email from counsel for Tarion coordinating call; extensive call with Marriott and its U.S. counsel to address concerns; provide language to Marriott US counsel regarding default; further call with U.S. counsel to Marriott;	
11/08/2017	SDC	Email exchanges with K. Mahar; review correspondence and cheques; draft response to counsel regarding NSF cheque; follow up email regarding Notice of Application; phone calls and email exchanges with J. Bradley; review Trust Ledger; review APS; reporting to K. Mahar; email to clients regarding letter;	2.00
11/08/2017	JC	Conduct preliminary NUANS search against K.K. Property Management; obtain business name report; email to G. Azeff;	0.10
11/08/2017	SDC	Review email from clients; finalize letters to counsel regarding deposits and bounced cheques; email to counsel regarding letters;	0.20
11/08/2017	GRA	Review correspondence and cheque; Telephone call to RCMP in Ontario; Review and respond to correspondence; Telephone call with Detective Wilson of Toronto Police; Lengthy email to Toronto Police; Research on various parties involved in counterfeit cheque issue;	1.90
11/08/2017	DT	Meet with K. Mahar to discuss draft Court Order;	0.20
11/08/2017	KEMM	Email from Marriott enclosing Notice of Default; telephone call with A. Gadia regarding timelines to meet expectations of Marriott and need for response; email with A. Gadia regarding wire transfer from A. Akman; email from Commercial List confirming motion date of November 17th; emails from S. De Caria; conference call with A. Slavens; email from A. Slavens enclosing Notice of Appearance; emails regarding shareholder making payments for Mercedes; telephone call with A. Gadia regarding various items and timing of first draft of Report; telephone call with	2.40

Date	Initials	Description	Hours
		M. Gottlieb regarding broker analysis and sale process and to identify any concerns so KPMG can move forward with CBRE;	
11/09/2017	SDC	Email exchange with K. Mahar re Notice of Application; review correspondence from counsel; review purchaser's acknowledgment; draft response letter to counsel re rescission; revise and update Notice of Application; email to counsel; reporting emails to client;	2.00
11/09/2017	CM	Attendance at Commercial List office to issue Notice of Application;	0.50
11/09/2017	KEMM	Emails and telephone call with M. Gottlieb and A. Winton regarding sale process and broker; drafting response to B. Sachdeva letter of October 30; review reviews of hotel; emails regarding fall bookings; emails with S. De Cario; review and provide comments on Notice of Application; email CBRE agreement to M. Gottlieb; telephone call with A. Gadia regarding creditors position; emails with KPMG regarding information for response to B. Sachdeva; circulate draft letter to client; emails regarding authorization to wire funds; finalize and issuing letter; email from B. Sachdeva regarding timing on service of motion material;	1.70
11/10/2017	SDC	Review response letter from counsel re Glasgow Small Claims Matter; review APS package and Deposit Trust Ledger; reporting email to J. Bradley regarding APS issues; draft response letter to counsel; email to clients;	1.60
11/10/2017	DT	Review draft court order; provide revisions to K. Mahar;	0.40
11/10/2017	KEMM	Emails regarding call with CBRE; telephone call with A. Gadia regarding discussions with CBRE and sale process; email from M. Valente regarding signing off on sale process order; emails to CBRE's counsel; email exchange with D. Tang regarding review and revising severance language in draft sale process order; review email service list; revising order to include CBRE comments; revise sale process order to	5.90

Date	Initials	Description	Hours
		include consultation rights; circulate revised sale process order to client and counsel for Kingsett; telephone call with A. Winton; telephone call from and to B. Sachdeva; revise and circulate revised sale process order to counsel for Kingsett and client; email circulating draft sale process order to shareholders' counsel; numerous emails with S. De Caria regarding various response to stakeholders; emails with B. Sachdeva regarding vehicles; email to M. Valente enclosing current draft of Sale Process Order; telephone call with A. Gadia regarding listing agreement; review and revise CBRE agreement and circulate same to A. Gadia; drafting order for ancillary relief;	
11/11/2017	SDC	Review response letter from counsel regarding perfection of lien by MCW;	0.10
11/11/2017	KEMM	Meeting with A. Gadia regarding CBRE agreement and potential further amendments; emails with A. Gadia regarding dual agency concerns; revise CBRE agreement and circulate to A. Gadia to be sent to CBRE; further call with A. Gadia regarding draft; revising and circulating further draft CBRE Agreement; emails with CBRE regarding coordinating a call to discuss revisions to form of listing and marketing agreement; drafting order and circulate same to client;	4.10
11/12/2017	SDC	Revise and update letter to counsel regarding deposit; review outstanding letters list; review letter from counsel to Milborne and discuss with K. Mahar; meeting with K Mahar regarding Sale Process; review Ancillary Order, Marketing and Listing Agreement, Sale Process Order; draft Notice of Motion for Sales Process and Ancillary Order; review draft First Report and reporting email to K. Mahar re revisions; revise and update Notice of Motion; discuss Notice of Motion and First Report with K. Mahar;	4.60
11/12/2017	KEMM	Drafting and revising Liquidator's First Report and motion materials discussions with S. De Caria;	11.70
11/13/2017	SDC	Review deposit trust ledger and list of purchasers; review correspondence; review Marketing and Sales Agreement; draft response letter to counsel regarding	3.00

Date	Initials	Description	Hours
		stay, deposit and advances; reporting email to G. Azeff and K. Mahar; review revised First Report and blackline; email revisions and comments to K. Mahar regarding First Report; review revised Notice of Motion and email exchange re: motion record;	
11/13/2017	DT	Telephone call and email with G. Anamika;	0.10
11/13/2017	KEMM	Conference call with CBRE regarding form of listing and marketing agreement; drafting Liquidators Report; multiple calls and emails with client regarding comments; revising and finalizing same; comments from S. De Caria regarding same; revise and circulate CBRE agreement for execution; email exchange with B. Sachdeva regarding summary of analysis regarding broker; circulate appendices to report; circulate draft notice of motion; email exchange with M. Nowina; email from A. Gadia regarding Marriott response review motion record and coordinate service; review Confidential Appendix 1; emails regarding coordinating meeting with development lawyers and CBRE;	5.50
11/14/2017	SDC	Review email correspondence from counsel to Sukul regarding deposits; review correspondence and statement of claim from lien claimants; phone call to R Hauk; draft letters to R. Hauk regarding Statement of Claim and service; email to R. Hauk; email to K. Mahar;	0.90
11/14/2017	GRA	Review correspondence from Detective Wilson; Multiple discussions with K. Mahar;	0.20
11/14/2017	KEMM	Emails regarding Tarion; meeting with A. Gadia regarding outstanding issues; emails to S. De Caria regarding responding to letters received from construction lien claimants; emails with counsel for Marriott enclosing motion; review updated letter to Marriott and revise same and circulate to client; emails with G. Hall; telephone call with G. Hall regarding position of A. Akman that CBRE is biased; email from B. Sachdeva enclosing pleadings relating to Action and review same; telephone call with client regarding same; telephone call to CBRE counsel regarding opposition; email to M. Gottlieb to coordinate call; emails with P. Shea regarding position of A. Akman;	2.00

Date	Initials	Description	Hours
11/15/2017	CM	Attendance at Commercial List office to file Motion Record;	0.50
11/15/2017	KEMM	Email exchange with P. Shea enclosing CBRE action against A. Akman's company; emails with A. Gadia regarding having shareholder bids dealt with directly by liquidator; telephone call to G. Hall regarding same; emails regarding fraudulent cheques; telephone call with counsel from CBRE: email regarding termination of employee; email from A. Goldenberg serving affidavit and review same; telephone call with M. Gottlieb; email affidavit to M. Gottlieb; P. Shea and Client; discussion with A. Gadia regarding proposed safeguards; emails regarding proposed safeguards; further emails with P. Shea; email from M. Valente regarding Meridian position; further call from M. Gottlieb;	1.80
11/16/2017	SDC	Review supplemental report; revise supplemental report; review correspondence from counsel to Kashyap; draft response letter;	1.20
11/16/2017	GRA	Review and respond to correspondence; Discussion with K. Mahar regarding motion;	0.30
11/16/2017	DT	Various emails with attendees for Sales Kick-Off meeting; reschedule after opposition;	0.30
11/16/2017	KEMM	Email from G. Hall advising client did not accept proposal to settle opposition to motion; email and voice mail from M. Nowina; revise Sale Process Order to address Marriott's concern; email G. Hall's response to client, M. Gottlieb and P. Shea; meeting with A. Gadia and drafting Supplementary Report; receive and review Akman motion record; email motion record to CBRE counsel; revise sale process order and serve revise sale process order on service list; discussion with G. Hall regarding discussions with B. Sachdeva; email enclosing Notice of Appearance for Marriott; email from M. Gottlieb regarding amendment to sale process order; finalize and coordinate service of Supplementary Report; circulate to commercial list office to be delivered to Justice McEwen; email from M. Valente regarding Meridan position on motion; email exchange with B. Sachdeva; Prepare	5.30

Date	Initials	Description	Hours
		submissions for motion;	
11/17/2017	GRA	Review correspondence; Discussion with K. Mahar regarding motion and counterfeit cheques;	0.20
11/17/2017	DT	Email on adjournment of court date;	0.10
11/17/2017	KEMM	Prepare for motion; email exchange with G. Hall regarding motion; emails regarding settlement in principle and adjournment of motion; email to P. Shea enclosing response to B. Sachdeva; meeting A.Gadia and attend Court; discuss and agree to adjournment for 1 week; attend before Justice McEwen; email from G. Hall enclosing endorsement; emails regarding delaying sale process kick off meeting given adjournment; email from Marriott regarding KPMG's actions; email exchange with M. Valente;	3.70
11/20/2017	GRA	Review and respond to correspondence; Review counterfeit cheques; Email to Detective Wilson; Research regarding corporation named on cheque; Discussion with K. Mahar;	0.50
11/20/2017	KEMM	Emails with M. Valente; emails with A. Gadia regarding employment issue; emails regarding fraudulent cheques; email to M. Nowina regarding being apprised of any discussions with potential purchaser; discussion with A. Gadia regarding outstanding issues;	0.50
11/21/2017	KEMM	Emails with A. Gadia and telephone call; email enclosing Marriott letter review and revise;	0.40
11/22/2017	KEMM	Email and telephone call with A. Winton regarding Meridian's position on motion; email and meeting with M. Maduri regarding research with respect to bias of a court officer and its agent; emails with Marriott; discussion with L. Goodfellow and email to client regarding employment advice; email from G. Hall advising settlement not reached; email and telephone call with A. Gadia;	0.80
11/23/2017	MM	Researching conflict/bias issues; delivering materials to court;	6.20
11/23/2017	LG	Telephone call from and to K. Mahar; emails regarding R. Northam and A. Abbasov;	0.50

Date	Initials	Description	Hours
11/23/2017	KEMM	Consider legal argument of A. Akman; review relevant law on bias and apprehension of bias of officers; telephone call with Neville at Court; telephone call from and to M. Nowina; revise sale process order and email to service list; emails with P. Shea regarding position of shareholders; provide instructions regarding delivering confidential appendices to Judge; email enclosing confidential appendices to parties interested in motion;	1.30
11/24/2017	LG	Emails and telephone call to J. Bradley to discuss A. Abbasor and R. Nathan claims; draft letter to R. Nathan's counsel;	1.20
11/24/2017	DT	Review various emails on court refusal to appoint CBRE; cancel meeting;	0.20
11/24/2017	KEMM	Prepare for and attend motion before Justice McEwen; emails regarding CBRE not being approved by Court; circulate Order and Endorsement to service list; consider terms for Colliers telephone call to and from G. Hall regarding terms for Colliers in light of potential settlement; email to L Goodfellow regarding introductions for Liquidator; conference call with Colliers;	6.60
11/27/2017	LG	Emails from and to J. Bradley regarding letter on Mr. Nathan;	0.20
11/27/2017	KEMM	Emails and call with A. Gadia regarding timing of going back to Court; email from Colliers enclosing markup of listing agreement; emails regarding dates for sale; emails regarding preparation of Second Supplementary Report; revising listing agreement; email from A. Gadia enclosing draft Second Supplementary Report and review same; emails finalizing terms of listing agreement with Colliers; email to interested parties enclosing unredacted settled Colliers Agreement; emails regarding same; revise Second Supplementary Report and circulate draft same to client; revise sale process order and circulate same to client; email from client regarding same;	3.50
11/28/2017	LG	Emails to and from J. Bradley; revise letter to Mr.	0.50

Date	Initials	Description	Hours
		Nathan's lawyer and send same; email from same;	
11/28/2017	DT	Various emails; discussion with K. Mahar on court date and Colliers;	0.30
11/28/2017	KEMM	Email from client providing comments on Sale Process Order and Second Supplementary Report; emails regarding sale kick off meeting; emails with B. Sachdeva regarding timing of current sale process; email to Commercial List Office and service List regarding motion on November 29; circulate revised Sale Process Order; finalize and serve Second Supplemental Report; further email to service list enclosing Order; coordinate preparation of commercial list form email to commercial list office enclosing Second Supplementary Report and Commercial List form; drafting borrowing certificate; email to client; telephone call with A. Gadia; telephone call with B. Sachdeva; circulate borrowing certificate to Gowlings; emails coordinating sale process meeting; emails regarding borrowings to be taken under borrowing certificate;	2.90
11/29/2017	DT	Emails on court approval and meeting with Colliers;	0.20
11/29/2017	LG	Email from J. Goldstein; review Nathan contract; email to J. Bradley with suggested response;	0.30
11/29/2017	KEMM	Emails with A. Goldenberg regarding attending motion; telephone call with A. Gadia; preparation and attend motion before Justice McEwen; coordinate email to service list; emails regarding information for meeting with Colliers and development counsel;	2.80
11/30/2017	KEMM	Email from A. Gadia enclosing agenda for Sale Process meeting with Colliers; discussions with D. Tang regarding Sale Process meeting and application for severance and potential appeal to OMB; numerous emails regarding information required for meeting; attend Sale Process meeting; telephone call to G. Hall regarding motion to seek approval of Court to file an appeal with the OMB; emails regarding Borrowing Charge Certificate and comments from proposed lender; emails regarding preparing Liquidator's Report for motion; emails regarding amounts owed to parties	2.80

Date	Initials	Description	Hours
		necessary to file application for severance;	
11/30/2017	DT	Prepare for meeting with Colliers; various emails with A. Jeanrie, K. Mahar and J. Bradley; emails with A. Gadia; consider issues to raise at meeting and prepare materials; attend Colliers meeting with KPMG, A. Jeanrie and K. Mahar;	2.30
12/01/2017	SDC	Meeting with K. Mahar; review correspondence, draft supplemental report and email exchanges; review Appeal Forms and Notice of Appeal; draft Notice of Motion; emails with Bennett Jones regarding Appeal;	2.00
12/01/2017	DT	Various emails with A. Jeanrie and K. Mahar; review draft Liquidator's Report and amend; review draft appeal letters and Form A1; numerous emails on preparation for Court approval; call D. Miret; report on surveyor's position;	2.80
12/01/2017	KEMM	Email regarding IBI being prepared to work with KPMG; emails regarding revisions to borrowing certificate; email from A. Jeanrie enclosing form of OMB Appeal and draft paragraphs for potential Liquidator's Report to explain benefit of seeking OMB appeals; emails to Commercial List Office to obtain time before Justice McEwen; review revised paragraphs explaining OMB appeals; telephone call with A. Gadia regarding concern about putting too much information into public domain and whether sealing order is sought or Liquidator's Report is not filed; discussion with S. De Caria regarding preparation of draft Order and expanded Notice of Motion; email to S. De Caria regarding same; email from Commercial List Office; telephone call with A. Gadia regarding date for motion balancing service with risk that OMB process is eliminated by legislation; emails with development counsel regarding same; telephone call to S. De Caria regarding additional appeal to OMB and revised form of Appeal; email exchange with M. Nowina; coordinate preparation of Commercial List Form and serve on Service List; email to G. Hall enclosing commercial list from confirming motion to seek authorization to file OMB appeals; email from A. Jeanrie regarding preparation of second	2.40

Date	Initials	Description	Hours
		appeal; email regarding keeping city planner apprised of situation; email and telephone call with M. Gottlieb regarding motion; email exchange with A. Gadia regarding stakeholders' interest in motion; email confirming court time reserved; email to G. Hall regarding same;	
12/02/2017	SDC	Email to Bennett Jones regarding Site Plan Appeal; draft Order;	0.60
12/02/2017	KEMM	Emails with S. De Caria and Bennett Jones regarding timing of second OMB appeal and draft notice of motion and draft Order for review; emails with A. Gadia regarding timing and content of motion; email from A. Kovlev enclosing OMB appeal; brief review of same;	0.50
12/03/2017	KEMM	Emails with S. De Caria regarding timing of draft motion materials; receive and revising draft Notice of Motion and Order; review First Report regarding by-law and incorporate relevant grounds; circulate same to A. Gadia; email from A. Gadia regarding minor comments on motion materials; revise and finalize same; email to Service List serving motion record;	3.10
12/03/2017	SDC	Review Site Plan Appeal and letter; revise Notice of Motion; revise Draft Order; prepare Index; review emails from counsel and clients; update Motion Record; email to K. Mahar;	1.00
12/04/2017	KEMM	Email exchange with A. Jeanrie and D. Tang regarding impact of OMB Appeal and consider same for motion; emails regarding timing between filing of appeal and delivery to OMB; coordinate filing of motion; telephone call with. A. Gadia regarding motion and position of parties; email from A. Woonton confirming Kingsett's support for motion; emails regarding Colliers preparation for Sale Process; meeting with D. Tang regarding OMB process and other development support; telephone call with A. Gadia regarding same; emails with A. Jeanrie regarding call with Shareholders;	1.90
12/04/2017	DT	Various emails and review of motion record; email on seeking hearing date now for immediate "approval"	2.30

Date	Initials	Description	Hours
		option; comment on setting date for hearing vs. pre-hearing; meet with K. Mahar; prepare sketches for D. Miret and forward;	
12/04/2017	CM	Attendance at Commercial List office to file motion record;	0.50
12/05/2017	SDC	Discuss letters with K. Mahar; review letter and statement of claim regarding The Fence People; draft response letter to The Fence People; reporting email to K. Mahar regarding response letter; email to clients regarding response letter; review email from J. Bradley regarding claim and response letter;	1.20
12/05/2017	LG	Emails from and to J. Bradley and J. Goldstein regarding R. Nathan; emails from and to K. Mahar;	1.00
12/05/2017	KEMM	Email from J. Bradley enclosing demand from IPS and backup documentation; discussion with S. De Caria regarding preparing response; email from M. Valente regarding support of Meridian to relief sought; email from S. De Caria enclosing draft response to counsel for the Fence people review and provide comments on same; telephone call with A. Gadia regarding motion and updating Marriott on current status of critical maintenance; email from A. Gadia to Marriott regarding same;	0.60
12/06/2017	SDC	Review letter and email from MCW Consultants; email exchange with K. Mahar and call with K. Mahar; draft response letter; review email correspondence from counsel regarding service; review statement of claim; email exchange with K. Mahar regarding service and pleadings;	0.80
12/06/2017	LG	Emails from J. Goldstein and to and from J. Bradley; draft response to J. Goldstein; email to J. Bradley and K. Mahar for approval;	0.70
12/06/2017	KEMM	Prepare for and attend motion seeking authorization to file OMB appeals; emails with A. Jeanrie regarding holding off filing appeals until Order is issued and served; emails regarding obtaining environmental reports; coordinate email to service list enclosing Order and Endorsement; confirm OMB Appeals may be filed; letter from Mr. Finegold; email with S. De	2.60

Date	Initials	Description	Hours
		Caria regarding preparing response; email with Mr. Finegold's office regarding service and about KPMG being inappropriate party to lien action; email from A. Jeanrie confirming appeals file.; email enclosing draft teaser and CA; telephone call with A. Gadia regarding CA not being sufficient; telephone call and email from and two D. Pollack; telephone call and email from B. Sachdeva regarding Jeep registration; email from D. Tang regarding comments on teaser; telephone call with A. Gadia regarding preparation and timing of commencing sale process and lien claim commenced against KPMG and response sent; email regarding status of development for purposes of CIM;	
12/06/2017	DT	Email materials to D. Miret; various emails with A. Gadia, A. Jeanrie and K. Mahar on court appearance, order to appeal applications to OMB; review and update status of Bill 139; review and revise Colliers draft teaser from J. Bradley; discussions with K. Mahar;	0.80
12/07/2017	SDC	Review email from Tarn regarding response to purchaser; update and finalize letter to The Fence People; email to M Handler regarding service of Statement of Claim; reporting email to K. Mahar;	0.30
12/07/2017	KEMM	Emails from Marriott; email exchange from A. Gadia regarding interest in property expressed to Marriott; telephone call with A. Gadia with respect to status of sale process, discussions with Marriott and expected timing of advance under Borrowing Charge; email exchange with S. De Caria regarding response to letters; email from S. De Caria regarding respond to Mr. Handler;	0.80
12/08/2017	SDC	Review correspondence from counsel to purchasers regarding closing and APS; review Deposit Ledger; draft response letter to counsel regarding sale process and APS; review correspondence from counsel to IPS; review client summary, invoices, Notice of Assignment, and email correspondence regarding services; prepare response letter to counsel regarding stay and sale process; reporting emails to K. Mahar;	2.00
12/08/2017	KEMM	Email from S. De Caria enclosing draft letter to	0.70

Date	Initials	Description	Hours
		counsel for condo purchaser; review and provide comments on teaser; email from S. De Caria enclosing draft IPS letter; emails with A. Gadia regarding requested update from Kingsett; telephone call with A. Gadia regarding Kingsett's input being valuable in sale process;	
12/09/2017	KEMM	Email exchange with A. Gadia regarding potential transaction among shareholders; Review draft letter to counsel for IPS and provide comments to S. De Caria; review draft letter to counsel for condo purchaser and provide comments to S. De Caria; instruct S. De Caria to prepare third Buyers communication;	0.60
12/10/2017	KEMM	Drafting Confidentiality Agreement and circulate same to client for review;	1.80
12/11/2017	SDC	Meeting with K. Mahar; review email correspondence from clients; finalize letter and email to purchaser's counsel; finalize letter and email to IPS; discuss Milborne response with K. Mahar; draft response letter to purchaser's counsel regarding deposit and reporting email to K. Mahar;	1.00
12/11/2017	DT	Review Collier's teaser and email to A. Gadia;	0.20
12/11/2017	KEMM	Emails with A. Gadia regarding providing blackline to form of confidentiality agreement; telephone call with A. Gadia regarding form of confidentiality agreement; email from S. De Caria regarding responding letters; telephone call with B. Schdeva regarding share purchase agreement; email from B. Sachdeva enclosing share purchase agreement and forward same to KPMG; email from [redacted] regarding meeting; emails with A. Gadia regarding reviewing share purchase and sale process; email from B. Sachdeva re: information to be compiled for [redacted]; email exchange with B. Sachdeva regarding reporting to shareholders; email from A. Gadia regarding teaser; review sale process order; review share purchase agreement; email to counsel for shareholders regarding availability for chambers attendance; further telephone call with A. Gadia regarding discussions with [redacted] and other parties discussions with [redacted]; email to commercial list office regarding availability of	2.90

Date	Initials	Description	Hours
		Justice McEwen; emails coordinating meeting with [redacted]; email with shareholders counsel regarding seeking advice and directions relating to share purchase agreement; telephone call with B. Sachdeva regarding court attendance; discussion with A. Gadia regarding information readily available to be provided to shareholders; telephone call with P. Shea; email to B. Sachdeva regarding same; email from B. Sachdeva clarifying earlier email; email from S. De Caria regarding response to Irving; prepare NDA for [redacted] and circulate same;	
12/12/2017	SDC	Review Milborne letter and attachments; review Appointment Order; review Deposit Trust Ledgers; reporting email to K. Mahar regarding Milborne response;	0.50
12/12/2017	LG	Emails to and from J. Goldstein and J. Bradley regarding R. Nathan;	0.40
12/12/2017	KEMM	Prepare for and attend meeting with [redacted]; email exchange with S. De Caria re: Milborne letter; email exchange with Bennett Jones re: discussions with [redacted]; emails with P. Shea regarding court attendance; email regarding funds to be advanced under borrowing charge; telephone call to P. Shea; telephone call with B. Sachdeva regarding proposed next steps in court given share purchase agreement; email to interested parties regarding settlement and share purchase agreement; email to commercial list office reserving time before Justice McEwen; emails from parties requesting copy of SPA; emails regarding obtaining consents to disclose same; telephone call with A. Gadia to discuss Court attendance and sale process; email from B. Sachdeva regarding deposit increasing to $2 million upon waiver of due diligence period; review SPA for court attendance;	3.00
12/13/2017	SDC	Finalize letter to purchasers; review letter to purchasers; email exchanges with clients regarding letter to purchasers; email exchange with K. Mahar; revise letter to purchasers; review Milborne letter; email to clients regarding invoices and APS; email	1.00

Date	Initials	Description	Hours
		exchange with clients;	
12/13/2017	LG	Prepare minutes of settlement;	0.40
12/13/2017	KEMM	Prepare for court attendance; meeting with A. Gadia; attend chambers attendance; emails regarding providing APS for condos to [redacted] and potential differences in forms of APAs from each phase; emails with P. Thomson regarding information to be provided to P. Thomson and [redacted]; provide comments to S. De Caria on draft letter; emails regarding financing; email with P. Thomson regarding logging information provided to [redacted]; email from A. Gadia;	3.20
12/14/2017	SDC	Review comments from K. Mahar; revise letter to counsel to purchasers; email to clients regarding Sukul APS; review email from J. Bradley regarding deposit return; review November Deposit Trust Ledger; email exchanges with client regarding letter to purchaser and deposit; discuss deposit with K. Mahar; telephone conference with J. Bradley, A. Gadia, K. Mahar regarding deposit and APS;	1.30
12/14/2017	LG	Drafting Minutes of Settlement for R. Nathan; emails to and from J. Bradley regarding same; email to J. Goldstein regarding same;	0.60
12/14/2017	DT	Emails and call with D. Miret; email KPMG and D. Miret to arrange for new contract and next steps;	0.40
12/14/2017	KEMM	Emails regarding following up with [redacted] regarding whether any further information is required by them; review SPA as requested by B. Sachdeva; coordinate call to discuss high level concerns with A. Gadia; letter from L. Finegold; OMB acknowledgement re: re-zoning appeal; reserve time on December 21, 2017 before Justice McEwen; emails with S. De Caria regarding position for letter to purchaser's counsel; receive correspondence from CRA; conference call with A. Gadia re: SPA and CRA letter and sale process documents; emails with Meridian's counsel; emails with L. Finegold regarding discontinuing action against KPMG; telephone call with KPMG regarding position to purchaser on deposits; email from commercial list confirming time;	2.30

Date	Initials	Description	Hours
12/15/2017	SDC	Revise and finalize letter to purchaser; email to clients regarding construction lien claims; email to counsel to purchaser; receive voicemail and prepare signed backpage regarding service; email to L Finegold regarding service of SOC; phone call with J Bradley regarding Milborne documents and APAs;	0.60
12/15/2017	KEMM	Telephone call with A. Gadia regarding site visit, call with Bennett Jones and request by [redacted] to speak with Skygrid; email to S. De Caria regarding providing lien claims for disclosure to [redacted]; received and review correspondence;	0.60
12/18/2017	SDC	Review email from J. Bradley regarding APS, Milborne Real Estate Inc. and Invoices; email responses to J. Bradley regarding APS; draft response letter; review Deposit Trust Ledger; email to A. Jeanie regarding unit and deposit confirmation; review email response from A. Jeanie regarding APS and deposits; email to J. Bradley; discuss with K. Mahar;	0.80
12/18/2017	LG	Receipt and review of executed settlement documents from J. Goldstein; email to J. Bradley;	0.70
12/18/2017	KEMM	Email exchange with A. Gadia regarding litigation commenced during proceeding to provide to [redacted] and provide information to KPMG regarding same; emails regarding confirming whether [redacted] has any outstanding requests for Liquidator with respect to due diligence; emails regarding receipt of borrowing charge funds; telephone call regarding potential threat by disgruntled purchaser; email from KPMG summarizing same; email exchange with counsel to A. Akman regarding same; email exchange with Bennett Jones regarding same;	0.80
12/19/2017	KEMM	Emails with A. Gadia regarding borrowing certificate; revise and circulate same; emails regarding [redacted] not proceeding with share purchase agreement; telephone call with A. Gadia regarding discussions with Colliers and need to cancel court attendance given [redacted] not proceeding; email to commercial list office and service list cancelling December 21 attendance; emails with Bennett Jones regarding	0.80

Date	Initials	Description	Hours
		potential threat; email from Commercial List Office;	
12/20/2017	SDC	Review letter from counsel to purchasers regarding deposits; reporting email to clients;	0.10
12/20/2017	KEMM	Email from A. Gadia regarding discussions with Kingsett and email from Marriott regarding [redacted] not proceeding with share purchase; telephone call with A. Gadia regarding Colliers preparing for sale process, discussions with stakeholders and various issues;	0.40
12/21/2017	KEMM	Telephone call with A. Gadia regarding appeal and sale process; email exchange with BDC regarding status of appeal;	0.30
12/22/2017	SDC	Review APS and deposit trust ledgers for East and West Towers; email to A. Jeanrie regarding APS and trust ledger regarding Milborne purchaser;	0.30
12/22/2017	KEMM	Emails from A. Gadia regarding circulating cash flow forecast to Kingsett, payment owing on Mecedes and Tarion requests for updates; review cash flow forecast and assumptions;	0.30
12/23/2017	DT	Emails with D. Miret to follow up;	0.10
12/29/2017	KEMM	Email from Colliers enclosing further draft of CIM;	0.10
12/30/2017	KEMM	Email from D. Tang and email to A. Gadia;	0.10
12/30/2017	DT	Review draft teaser and promotional package from Colliers and provide comments to K. Mahar.	0.40
	Total Hours		**289.90**

Our Fee: **168,951.00**

TK ID	Initials	Name	Title	Rate	Hours	Amount
00990	KEMM	K. Mahar	Partner	$700.00	155.40	$108,780.00
01101	KB	K. Balkwill	Partner	$600.00	2.10	$1,260.00
00884	LG	L. Goodfellow	Partner	$650.00	6.50	$4,225.00
00991	GRA	G. Azeff	Partner	$675.00	28.10	$18,967.50
00977	DT	D. Tang	Partner	$750.00	13.10	$9,825.00
00976	RF	R. Fairbloom	Partner	$625.00	1.80	$1,125.00
00994	SDC	S. De Caria	Associate	$315.00	63.10	$19,876.50
02408	VR	V. Rodrigues	Associate	$335.00	6.90	$2,311.50
02596	BP	B. Peel	Articling Student	$195.00	1.40	$273.00
02597	MM	M. Maduri	Articling Student	$195.00	6.20	$1,209.00
02600	EE	E. Elias	U. Law Student	$195.00	2.50	$487.50
05948	AC	A. Chornaby	Paraprofessional	$170.00	0.10	$17.00
00233	CM	C. Martino Pera	Paraprofessional	$200.00	1.50	$300.00
02043	DS	D. Sparrow	Paraprofessional	$235.00	0.60	$141.00
01510	JC	J. Chau	Paraprofessional	$255.00	0.60	$153.00

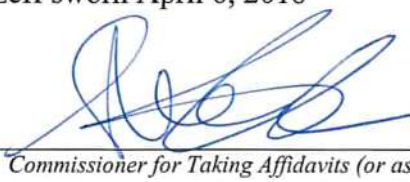
Taxable Disbursements		
Agent's Fees	50.00	
Other	75.00	
Land Registry Office Searches	74.70	
Process Server Fees	139.00	
Delivery	24.08	
Corporate or Securities file Searches	40.00	
Total Taxable Disbursements	402.78	$402.78
Non-Taxable Disbursements		
Filing Fee	1,097.00	
Bank Charges	22.00	
Total Non-Taxable Disbursements	1,119.00	$1,119.00
Total Fees and Disbursements		**$170,472.78**

Please return the Account Summary and Remittance Form with your payment.
Terms: Accounts due when rendered. Interest at the rate of 12.0% per annum will be charged on accounts overdue 30 days or more. Any disbursements not posted to your account on the date of this account will be billed later.

Ontario HST 13% (R119440766)	
On Fees	$21,963.63
On Disbursements	$52.36
Total Amount Due	**$192,488.77**

E.&O.E.

This is Exhibit "B" referred to in the Affidavit of Gregory R. Azeff sworn April 6, 2018

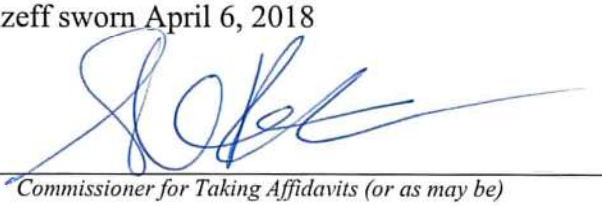


Commissioner for Taking Affidavits (or as may be)

SUMMARY OF FEES
FOR THE PERIOD AUGUST 1, 2017 AND DECEMBER 31, 2017

Invoice No.	Fees	Disbursements	HST	Hours	Average Hourly Rate	Total
3094067	$36,308.50	$140.00	$4,738.31	58.70	$539.00	$41,186.81
3126931	$44,647.50	$195.10	$5,826.29	81.40	$389.44	$50,668.89
3132656	$168,951.00	$1,521.78	$22,015.99	289.90	$406.30	$192,488.77
	$249,907.00	**$1,856.88**	**$32,580.59**	**430.00**	**$444.91**	**$284,344.47**

This is Exhibit "C" referred to in the Affidavit of Gregory R. Azeff sworn April 6, 2018



Commissioner for Taking Affidavits (or as may be)

BILLING RATES OF MILLER THOMPSON LLP
FOR THE PERIOD AUGUST 1, 2017 AND DECEMBER 31, 2017

TIMEKEEPER	HOURLY RATE	YEAR OF CALL
David Tang	$750.00	1990
Kyla Mahar	$700.00	2001
Gregory Azeff	$675.00	2002
Lisa Goodfellow	$650.00	1993
Ron Fairbloom	$625.00	2001
Kristy Balkwill	$600.00	2007
Victoria Rodrigues	$335.00	2015
Stephanie De Caria	$315.00	2015
Sakina Fazel	$310.00	2014
Ben Peel	$195.00	Articling Student
Erin Elias	$195.00	Articling Student
Marco Maduri	$195.00	Articling Student
Irina Rosca	$195.00	Articling Student
Jessie Chau	$255.00	Paraprofessional
Deborah Sparrow	$235.00	Paraprofessional
Ashley Chornaby	$170.00	Paraprofessional
Chiara Martino-Pera	$160.00	Paraprofessional
Alison Falcon	$155.00	Paraprofessional

VOLKAN BASEGMEZ ET AL
Applicants

and

ALI AKMAN ET AL.
Respondents

Court File No: CV-17-11697-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE - COMMERCIAL LIST

Proceeding commenced at Toronto

AFFIDAVIT OF GREGORY R. AZEFF
(Sworn April 6, 2018)

MILLER THOMSON LLP
Scotia Plaza
40 King Street West, Suite 5800
P.O. Box 1011
Toronto, ON Canada M5H 3S1

Kyla Mahar LSO#: 44182G
Tel: 416.597.4303 / Fax: 416.595.8695

Stephanie De Caria LSO#: 68055L
Tel: 416.595.2652 / Fax: 416.595.8695

Lawyers for KPMG Inc., in its capacity as court-appointed Liquidator of Tarn Financial Corporation

APPENDIX "K"

Court File No.: CV-17-11697.00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN:

VOLKAN BASEGMEZ, CEM BLEDA BASEGMEZ, ANIL RUKAN BASEGMEZ, BA&B CAPITAL INC., SERDAR KOCTURK and KAAN HOLDINGS INC.

Applicants

– and –

ALI AKMAN, SAMM CAPITAL HOLDINGS INC. and TARN FINANCIAL CORPORATION

Respondents

APPLICATION UNDER Sections 207 and 248 of the *Business Corporations Act*, R.S.O. 1990, c. B.16.

AFFIDAVIT OF ANDREW L. JEANRIE
(Sworn April 6, 2018)

I, **Andre L. Jeanrie**, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a Partner in the law firm Bennett Jones LLP **("Bennett Jones")**, counsel for KPMG Inc. ("KPMG"), in its capacity as Court-appointed Liquidator of Tarn Financial Corporation, and as such, have knowledge of the matters hereinafter deposed to.

2. Attached hereto as **Exhibit "A"** is a true copy of the invoices issued to the Liquidator by Bennett Jones for fees and disbursements incurred by Bennett Jones in the course of proceedings between September 25, 2017 and December 31, 2018. The total fees charged by Bennett Jones during that period were $28,902.41 plus disbursements of $3,259.85 plus Harmonized Sales Tax (HST) in the amount of $4,107.01 for a total of $36,269.27.

3. Accordingly, I verily believe that the total fees, disbursements and HST as at December 31, 2017 are $36,269.27.

4. Attached hereto as **Exhibit "B"** is a schedule summarizing each invoice in Exhibit "A", and the total of fees, disbursements and HST charged for each invoice.

5. Attached hereto as **Exhibit "C"** is a schedule summarizing the billing rates and total amounts billed with respect to each member of Bennett Jones that rendered services in the Winding-Up Proceedings from September 25, 2017 to December 31, 2017.

6. To the best of my knowledge, the rates charged by Bennett Jones throughout the course of this proceeding are comparable to those charged by other law firms in Toronto for the provision of similar services.

7. The hourly billing rates outlined in **Exhibit "C"** to this affidavit are comparable to the hourly rates charged by Bennett Jones for services rendered in similar proceedings.

8. I make the affidavit in support of a motion by the Liquidator for, among other things, approval of the fees and disbursements of the Liquidator's counsel.

SWORN BEFORE ME at the City of Toronto this day of April 2018.

Michael David O'Grady, a Commissioner, etc., Province of Ontario, while a Student-at-Law. Expires April 14, 2018.

A Commissioner for taking Affidavits *(or as may be)*

ANDRE L. JEANRIE

This is Exhibit "A" referred to in the
Affidavit of Andre Jeanrie
Sworn before me, this 6th day of April, 2018.

Michael David O'Grady, a Commissioner, etc.,
Province of Ontario, while a Student-at-Law.
Expires April 14, 2018.

A COMMISSIONER FOR TAKING AFFIDAVITS

Bennett Jones

Bennett Jones LLP
Suite 3400, 1 First Canadian Place
P.O. Box 130
Toronto, Ontario M5X 1A4

TARN CONSTRUCTION CORPORATION
C/O KPMG INC.
BAY ADELAIDE CENTRE
333 BAY STREET, SUITE 4600
TORONTO, ON M5H 2S5

Attention: **ANAMIKA GADIA**
SENIOR VICE-PRESIDENT

Re: THE KENNEDYS PLANNING APPROVAL
Our File Number: 075532.00001

Date: November 8, 2017
Invoice: 1195682

PROFESSIONAL SERVICES RENDERED in conjunction with the above noted matter:

Professional Services	$	5,124.00
Less 10% Discount		(142.80)
Total Professional Services	$	4,981.20
Total Due before GST/HST	$	4,981.20
GST/HST	$	647.56
TOTAL Due in CAD	$	5,628.76

Due upon receipt. Bennett Jones LLP reserves the right to charge interest at a rate not greater than 12% per annum on outstanding invoices after 30 days.
We collect, use and disclose information pursuant to our Privacy Policies. For further information visit our website at www.bennettjones.com or contact our Privacy Officer by writing our offices in Calgary, Edmonton, Toronto or Ottawa.

GST/HST Number: 119346757

Date	Lawyer	Description	Hours		Amount
03/10/17	A. L. Jeanrie	Telephone call with K. Mahar;	0.20	$	136.00
04/10/17	A. L. Jeanrie	Telephone call with A. Gadia;	0.20		136.00
05/10/17	A. L. Jeanrie	Correspondence to/from J. Bradley; instructions to articling student; correspondence to/from A. Gadia;	0.30		204.00
10/10/17	R. W. H. Kivlichan	Searching through Tarn file to find and label City Planning Reports for A. Jeanrie	5.20		1,144.00
11/10/17	A. L. Jeanrie	Correspondence to/from J. Bradley; correspondence to/from R. Kivilichan regarding report summary;	0.20		136.00
11/10/17	R. W. H. Kivlichan	Researching client files for A. Jeanrie on City Planning Reports for proposed development	8.10		1,782.00
12/10/17	R. W. H. Kivlichan	Completing document index for A. Jeanrie and compiling all City of Toronto Planning Reports as they relate to the proposed development at 2035 Kennedy Road	3.50		770.00
16/10/17	A. L. Jeanrie	Review report summary for KPMG and amend the same; correspondence to KPMG;	0.30		204.00
18/10/17	A. L. Jeanrie	Correspondence to/from K. Mahar regarding cost sharing with Tridel; correspondence to/from K. Mahar regarding material change; meeting with L. Gangbar regarding material changes; telephone call with D. Tang regarding cost sharing;	0.70		476.00
27/10/17	A. L. Jeanrie	Correspondence to KPMG regarding by-law approval deadline for November;	0.10		68.00
30/10/17	A. L. Jeanrie	Correspondence to/from A. Gadia;	0.10		68.00
		Total Hours and Professional Services	18.90	$	5,124.00
		Less 10% Discount			(142.80)
		Total Professional Services		$	4,981.20
		GST/HST		$	647.56
		TOTAL DUE		$	5,628.76

Bennett Jones

TARN CONSTRUCTION CORPORATION
C/O KPMG INC.
BAY ADELAIDE CENTRE
333 BAY STREET, SUITE 4600
TORONTO, ON M5H 2S5

Attention: **ANAMIKA GADIA**
SENIOR VICE-PRESIDENT

Re: THE KENNEDYS PLANNING APPROVAL
Our File Number: 075532.00001

Date: November 8, 2017
Invoice: 1195682

Remittance Statement

Professional Services	$	5,124.00
Less 10% Discount		(142.80)
Total Professional Services		$4,981.20
Total Due before GST/HST	$	4,981.20
GST/HST	$	647.56
TOTAL Due in CAD	$	5,628.76

Remit by Wire Transfer to:

Beneficiary Account Name: Bennett Jones LLP
Beneficiary Address: 4500, 855 - 2nd Street SW Calgary, AB T2P 4K7 Canada
Beneficiary Bank: Royal Bank of Canada
Bank Address: 339 – 8th Avenue SW Calgary, AB T2P 1C4 Canada
Account Details: Bank 003, Transit 00009, CAD Acct 172-581-1 or USD Acct 400-553-4
SWIFT Code: ROYCCAT2

Intermediary bank: JP Morgan Chase Bank, New York
ABA: 021000021, SWIFT Code: CHASUS33

Please include the invoice number on the wire.
Email notification may be sent to: bennettjoneseft@bennettjones.com

Remit by Credit Card (Visa or MasterCard): Call an Accounts Receivable Specialist at (403) 298-3137 or (403) 298-3164 with your credit card number, expiry date, and email address.

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GST/HST Number: 119346757

Bennett Jones

Bennett Jones LLP
Suite 3400, 1 First Canadian Place
P.O. Box 130
Toronto, Ontario M5X 1A4

TARN CONSTRUCTION CORPORATION
C/O KPMG INC.
BAY ADELAIDE CENTRE
333 BAY STREET, SUITE 4600
TORONTO, ON M5H 2S5

Attention: **ANAMIKA GADIA**
SENIOR VICE-PRESIDENT

Re: THE KENNEDYS PLANNING APPROVAL
Our File Number: 075532.00001

Date: December 11, 2017
Invoice: 1199847

PROFESSIONAL SERVICES RENDERED in conjunction with the above noted matter:

Professional Services	$	3,128.00
Less 10% Discount		(312.80)
Total Professional Services	$	2,815.20
Other Charges		44.25
Total Due before GST/HST	$	2,859.45
GST/HST	$	371.73
TOTAL Due in CAD	$	3,231.18

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GST/HST Number: 119346757

Date	Lawyer	Description	Hours		Amount
13/11/17	A. L. Jeanrie	Telephone call with A. Gadia, regarding sales process; discussion with S. Shen regarding liens and mortgage on title; correspondence to A. Gadia;	0.40	$	272.00
15/11/17	A. L. Jeanrie	Correspondence to/from A. Gadia regarding sales process;	0.10		68.00
16/11/17	A. L. Jeanrie	Correspondence to/from A. Gadia;	0.20		136.00
17/11/17	A. L. Jeanrie	Correspondence to/from project team;	0.10		68.00
22/11/17	A. L. Jeanrie	Telephone call with City of Toronto regarding approval process;	0.10		68.00
24/11/17	A. L. Jeanrie	Various correspondence to/from project team regarding sales process;	0.20		136.00
28/11/17	A. L. Jeanrie	Correspondence to/from A. Gadia; correspondence to/from D. Tang;	0.20		136.00
29/11/17	A. L. Jeanrie	Correspondence to/from A. Gadia; correspondence to/from D. Tang;	0.20		136.00
30/11/17	A. L. Jeanrie	Review agenda and preparation for meeting with Colliers; telephone call with D. Tang; correspondence to C. Li, IBI; preparation of OMB Appeal;	3.10		2,108.00
		Total Hours and Professional Services	4.60	$	3,128.00
		Less 10% Discount			(312.80)
		Total Professional Services		$	2,815.20

Other Charges		
Printing Charges		$ 44.25
	Total Other Charges	$ 44.25
	GST/HST	$ 371.73
	TOTAL DUE	$ 3,231.18

Bennett Jones

TARN CONSTRUCTION CORPORATION
C/O KPMG INC.
BAY ADELAIDE CENTRE
333 BAY STREET, SUITE 4600
TORONTO, ON M5H 2S5

Attention: **ANAMIKA GADIA**
SENIOR VICE-PRESIDENT

Re: THE KENNEDYS PLANNING APPROVAL
Our File Number: 075532.00001

Date: December 11, 2017
Invoice: 1199847

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Less 10% Discount		(312.80)
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Beneficiary Bank: Royal Bank of Canada
Bank Address: 339 – 8th Avenue SW Calgary, AB T2P 1C4 Canada
Account Details: Bank 003, Transit 00009, CAD Acct 172-581-1 or USD Acct 400-553-4
SWIFT Code: ROYCCAT2

Intermediary bank: JP Morgan Chase Bank, New York
ABA: 021000021, SWIFT Code: CHASUS33

Please include the invoice number on the wire.
Email notification may be sent to: bennettjoneseft@bennettjones.com

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GST/HST Number: 119346757

Bennett Jones

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TARN CONSTRUCTION CORPORATION
C/O KPMG INC.
BAY ADELAIDE CENTRE
333 BAY STREET, SUITE 4600
TORONTO, ON M5H 2S5

Attention: **ANAMIKA GADIA**
SENIOR VICE-PRESIDENT

Re: THE KENNEDYS PLANNING APPROVAL
Our File Number: 075532.00001

Date: December 31, 2017
Invoice: 1204282

PROFESSIONAL SERVICES RENDERED in conjunction with the above noted matter:

Professional Services	$	9,192.00
Less Discount		(618.80)
Total Professional Services	$	8,573.20
Other Charges		148.25
Disbursements		300.00
Disbursements Incurred As Your Agent (Non-taxable)		300.00
Total Due before GST/HST	$	9,321.45
GST/HST	$	1,172.79
TOTAL Due in CAD	$	10,494.24

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GST/HST Number: 119346757

Date	Lawyer	Description	Hours		Amount
01/12/17	A. L. Jeanrie	Correspondence to/from KPMG; telephone call with C. Li, IBI; preparation of OMB appeal; preparation of liquidator report; telephone call with Councillor Kelly's office; instructions to A. Kovalev regarding site plan appeal;	2.40	$	1,632.00
02/12/17	A. L. Jeanrie	Correspondence to/from project team regarding site plan appeal; Correspondence to/from A. Kovalev regarding site plan appeal;	0.40		272.00
02/12/17	A. V. Kovalev	Communicating with A. Jeanrie and Miller Thomson regarding appeal to the Ontario Municipal Board; Reviewing file materials; Drafting notice of appeal and completing appeal form; Forwarding same to various parties for review	2.80		952.00
04/12/17	A. L. Jeanrie	Correspondence to C. Li regarding site plan appeal; correspondence in form K. Mahar regarding motion; correspondence to/from S. Ho regarding appeals; correspondence to/from K. Mahar and D. Tang regarding motion material;	0.80		544.00
05/12/17	A. L. Jeanrie	Various correspondence to/from C. Li; instructions to A. Kovalev; telephone call with C. Li, IBI; correspondence to/from J. Bradley;	0.60		408.00
05/12/17	A. V. Kovalev	Drafting various documents, reviewing supporting materials, ordering filing fee cheques and compiling site plan control appeal package	2.20		748.00
06/12/17	A. V. Kovalev	Finalizing and compiling Ontario Municipal Board appeal material; Meetings with A. Jeanrie regarding same; Arranging for filing of appeals and providing confirmations in respect of same	2.50		850.00
06/12/17	A. L. Jeanrie	Correspondence to/from KPMG regarding environmental matters; review status of Bill 139; correspondence to K. Mahar regarding Bill 139; meeting with A. Kovalev regarding OMB appeal; file OMB Appeal; preparation of summary for Colliers;	1.60		1,088.00
06/12/17	D. A. St. Bernard	Delivering appeals to City Clerk's Office; Delivering Appeal to Ontario Municipal Board office	1.60		352.00
07/12/17	A. L. Jeanrie	Telephone call with D. Muirhead, City Planning; correspondence to/from J. Bradley; correspondence to/from S. Ho;	0.50		340.00
07/12/17	A. V. Kovalev	Conducting database searches with respect to Phase II environmental report for A. Jeanrie	0.30		102.00

Date	Lawyer	Description	Hours	Amount
12/12/17	A. L. Jeanrie	Correspondence to/from C. Li regarding IBI material needed; telephone call with G. Gupta, Sunray group; correspondence to KPMG regarding Sunray Group; telephone call in from D. Muirhead; telephone call with A. Gadia regarding Sunray;	1.10	748.00
13/12/17	A. L. Jeanrie	Correspondence to/from A. Gadia regarding potential purchaser;	0.20	136.00
14/12/17	A. L. Jeanrie	Conference call with KPMG and Sunray; review correspondence in from OMB; correspondence to/from C. Li, IBI regarding severance; correspondence to KPMG regarding OMB hearing date;	1.30	884.00
15/12/17	A. L. Jeanrie	Telephone call to OMB; review correspondence in from D. Tang;	0.20	136.00
		Total Hours and Professional Services	18.50	$ 9,192.00
			Less Discount	(618.80)
			Total Professional Services	$ 8,573.20

Other Charges		
Printing Charges		$ 13.50
Photocopy Charges		134.75
	Total Other Charges	$ 148.25

Date	Disbursements		
06/12/2017	Due Diligence - MINISTER OF FINANCE; Ontario Municipal Board filing fee re Appeal	$	300.00
	Total Disbursements	$	300.00

Date	Disbursements Incurred As Your Agent (Non-Taxable)		
06/12/2017	Government Filing Fee - MINISTER OF FINANCE; Ontario Municipal Board filing fee re Appeal	$	300.00
	Total Disbursements Incurred As Your Agent	$	300.00

GST/HST	$	1,172.79
TOTAL DUE	$	10,494.24

Bennett Jones

TARN CONSTRUCTION CORPORATION
C/O KPMG INC.
BAY ADELAIDE CENTRE
333 BAY STREET, SUITE 4600
TORONTO, ON M5H 2S5

Attention: **ANAMIKA GADIA**
SENIOR VICE-PRESIDENT

Re: THE KENNEDYS PLANNING APPROVAL
Our File Number: 075532.00001

Date: December 31, 2017
Invoice: 1204282

Remittance Statement

Professional Services	$	9,192.00
Less Discount		(618.80)
Total Professional Services		$8,573.20
Other Charges		148.25
Disbursements		300.00
Disbursements Incurred As Your Agent (Non-taxable)		300.00
Total Due before GST/HST	$	9,321.45
GST/HST	$	1,172.79
TOTAL Due in CAD	$	10,494.24

Remit by Wire Transfer to:

Beneficiary Account Name: Bennett Jones LLP
Beneficiary Address: 4500, 855 - 2nd Street SW Calgary, AB T2P 4K7 Canada
Beneficiary Bank: Royal Bank of Canada
Bank Address: 339 – 8th Avenue SW Calgary, AB T2P 1C4 Canada
Account Details: Bank 003, Transit 00009, CAD Acct 172-581-1 or USD Acct 400-553-4
SWIFT Code: ROYCCAT2

Intermediary bank: JP Morgan Chase Bank, New York
ABA: 021000021, SWIFT Code: CHASUS33

Please include the invoice number on the wire.
Email notification may be sent to: bennettjoneseft@bennettjones.com

Remit by Credit Card (Visa or MasterCard):
Call an Accounts Receivable Specialist at (403) 298-3137 or (403) 298-3164 with your credit card number, expiry date, and email address.

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GST/HST Number: 119346767

Bennett Jones

Bennett Jones LLP
Suite 3400, 1 First Canadian Place
P.O. Box 130
Toronto, Ontario M5X 1A4

TARN CONSTRUCTION CORPORATION
C/O KPMG INC.
BAY ADELAIDE CENTRE
333 BAY STREET, SUITE 4600
TORONTO, ON M5H 2S5

Attention: ANAMIKA GADIA
SENIOR VICE-PRESIDENT

Re: THE KENNEDYS PLANNING APPROVAL
Our File Number: 075532.00001

Date: March 6, 2018
Invoice: 1213088
Replaced 1192378

PROFESSIONAL SERVICES RENDERED in conjunction with the above noted matter:

Professional Services	$	3,448.00
Less 10% Discount		(344.80)
Total Professional Services	$	3,103.20
Total Due before GST/HST	$	3,103.20
GST/HST	$	403.42
TOTAL Due in CAD	$	3,506.62

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GST/HST Number: 119346757

Date	Lawyer	Description	Hours		Amount
25/09/17	A. L. Jeanrie	Telephone call with P. Levine; review correspondence in from P. Levine regarding final conditions; correspondence to/from K. Mahar; instructions to project team relating to KPMG; correspondence in from D. Muirhead; prepare key documentation for KPMG; correspondence to/from D. Tang;	0.80	$	544.00
27/09/17	A. L. Jeanrie	Correspondence to/from N. Grewal regarding city comments; meeting with KPMG and Miller Thompson; telephone call with D. Muirhead; correspondence to D. Muirhead, City of Toronto; follow up correspondence to KPMG;	2.80		1,904.00
27/09/17	J. D. van Gent	Meeting with Miller Thomson and KPMG to discuss background on existing and proposed financings	0.80		592.00
28/09/17	A. L. Jeanrie	Correspondence to/from G. Lo, R. Avis, regarding draft R-Plan; telephone call with D. Mario, R. Avis; correspondence in from City Engineering; various correspondence to KPMG regarding planning issues; review notice in from KPMG;	0.60		408.00
		Total Hours and Professional Services	5.00	$	3,448.00
		Less 10% Discount			(344.80)
		Total Professional Services		$	3,103.20
		GST/HST		$	403.42
		TOTAL DUE		$	3,506.62

Bennett Jones

TARN CONSTRUCTION CORPORATION
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TORONTO, ON M5H 2S5

Attention: **ANAMIKA GADIA**
SENIOR VICE-PRESIDENT

Re: THE KENNEDYS PLANNING APPROVAL
Our File Number: 075532.00001

Date: March 6, 2018
Invoice: 1213088

Remittance Statement

Professional Services	$	3,448.00
Less 10% Discount		(344.80)
Total Professional Services		$3,103.20
Total Due before GST/HST	$	3,103.20
GST/HST	$	403.42
TOTAL Due in CAD	$	3,506.62

Remit by Wire Transfer to:

Beneficiary Account Name: Bennett Jones LLP
Beneficiary Address: 4500, 855 - 2nd Street SW Calgary, AB T2P 4K7 Canada
Beneficiary Bank: Royal Bank of Canada
Bank Address: 339 – 8th Avenue SW Calgary, AB T2P 1C4 Canada
Account Details: Bank 003, Transit 00009, CAD Acct 172-581-1 or USD Acct 400-553-4
SWIFT Code: ROYCCAT2

Intermediary bank: JP Morgan Chase Bank, New York
ABA: 021000021, SWIFT Code: CHASUS33

Please include the invoice number on the wire.
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GST/HST Number: 119346757

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TARN CONSTRUCTION CORPORATION
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BAY ADELAIDE CENTRE
333 BAY STREET, SUITE 4600
TORONTO, ON M5H 2S5

Attention: ANAMIKA GADIA
SENIOR VICE-PRESIDENT

Re: GENERAL MATTERS
Our File Number: 075532.00012

Date: March 6, 2018
Invoice: 1213089

PROFESSIONAL SERVICES RENDERED in conjunction with the above noted matter:

Professional Services	$	310.00
Other Charges		1.50
Total Due before GST/HST	$	311.50
GST/HST	$	40.50
TOTAL Due in CAD	$	352.00

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GST/HST Number: 119346757

Bennett Jones

March 6, 2018
Page 2

Client: 075532.00012
Invoice No.: 1213089

Date	Lawyer	Description	Hours		Amount
18/10/17	L. Gangbar	Review of Miller Thomson's email on Purchaser claim of material change because of winding up; Discussion with Andrew Jeanrie and response to Miller Thomson;	0.40	$	310.00
		Total Hours and Professional Services	0.40	$	310.00

Date	Other Charges		
05/10/2017	Printing Charges	$	1.50
	Total Other Charges	$	1.50

GST/HST	$	40.50
TOTAL DUE	$	352.00

Bennett Jones

TARN CONSTRUCTION CORPORATION
C/O KPMG INC.
BAY ADELAIDE CENTRE
333 BAY STREET, SUITE 4600
TORONTO, ON M5H 2S5

Attention: **ANAMIKA GADIA**
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Re: GENERAL MATTERS
Our File Number: 075532.00012

Date: March 6, 2018
Invoice: 1213089

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Beneficiary Bank: Royal Bank of Canada
Bank Address: 339 – 8th Avenue SW Calgary, AB T2P 1C4 Canada
Account Details: Bank 003, Transit 00009, CAD Acct 172-581-1 or USD Acct 400-553-4
SWIFT Code: ROYCCAT2

Intermediary bank: JP Morgan Chase Bank, New York
ABA: 021000021, SWIFT Code: CHASUS33

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333 BAY STREET, SUITE 4600
TORONTO, ON M5H 2S5

Attention: **ANAMIKA GADIA**
SENIOR VICE-PRESIDENT

Re: THE GUARANTEE COMPANY - BONDING AND DTA FACILITY
Our File Number: 075532.00004 Phase 1A

Date: January 15, 2018
Invoice: 1209014

PROFESSIONAL SERVICES RENDERED in conjunction with the above noted matter:

Professional Services	$	4,875.00
Other Charges		859.25
Disbursements		602.72
Disbursements Incurred As Your Agent (Non-taxable)		165.00
Total Due before GST/HST	$	6,501.97
GST/HST	$	823.81
TOTAL Due in CAD	$	7,325.78

Due upon receipt. Bennett Jones LLP reserves the right to charge interest at a rate not greater than 12% per annum on outstanding invoices after 30 days.
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GST/HST Number: 119346757

Description

To escrow agency arrangement for the above matter during the period from March 1, 2017 to December 31, 2017; specifically, to maintenance of the escrow account during the said period, and to reporting to The Guarantee Company of North America and you; To verifying amounts held with respect to the trust deposits and interest; To correspondence to The Guarantee Company of North America and you in connection therewith;

TO OUR FEE $150.00 per month x 10 months - $1,500.00

45 NSF Cheques @ $75.00 each(Suite 301 – October 15, 2017Suite 302 – April 30, 2017Suite 306 – June 27, 2017Suite 311 – October 15, 2017Suite 407 – October 15, 2017Suite 409 – October 15, 2017Suite 411 – October 15, 2017Suite 521 – October 15, 2017Suite 912 – August 15, 2017Suite 1001 – April 29, 2017Suite 1108 – October 15, 2017Suite 1115 – October 15, 2017Suite 1201 – October 15, 2017Suite 1208 – October 15, 2017Suite 1209 – August 4, 2017Suite 1702 – July 13, 2017 & October 15, 2017Suite 1709 – October 15, 2017Suite 2007 – October 6, 2017Suite 2107 – October 15, 2017Suite 2112 – October 15, 2017Suite 2302 – October 15, 2017Suite 2306 – July 15, 2017 & July 15, 2017Suite 2307 – August 1, 2017Suite 2311 – October 15, 2017Suite 2315 – March 13, 2017Suite 2506 – August 1, 2017Suite 2509 – October 15, 2017Suite 2607 – October 15, 2017Suite 2610 – October 15, 2017Suite 2710 – November 1, 2017Suite 2803 – October 15, 2017Suite 3005 – October 15, 2017Suite 3011 – October 15, 2017Suite 3015 – October 15, 2017Suite 3103 – October 11, 2017Suite 3201 – April 14, 2017Suite 3215 – October 15, 2017Suite 3306 – March 24, 2017Suite 3308 – October 15, 2017 & October 15, 2017Suite 3502 – October 15, 2017Suite 3510 – October 15, 2017Suite 3511 – October 15, 2017)

OUR FEE: $3,375.00

Total Professional Services	$	4,875.00

Other Charges

Printing Charges	$	480.00
Colour Printing Charges		2.00
Photocopy Charges		377.25
Total Other Charges	$	859.25

Disbursements

Courier Charges	$	138.99
Postage / Registered Mail		463.73
Total Disbursements		602.72

Disbursements Incurred As Your Agent (Non-Taxable)

Bank Service Charges	$	165.00
Total Disbursements Incurred As Your Agent	$	165.00

GST/HST	$	823.81
TOTAL DUE	$	7,325.78

Bennett Jones

TARN CONSTRUCTION CORPORATION
C/O KPMG INC.
BAY ADELAIDE CENTRE
333 BAY STREET, SUITE 4600
TORONTO, ON M5H 2S5

Attention: **ANAMIKA GADIA**
SENIOR VICE-PRESIDENT

Re: THE GUARANTEE COMPANY - BONDING AND DTA FACILITY
Our File Number: 075532.00004

Date: January 15, 2018
Invoice: 1209014

Remittance Statement

Professional Services	$	4,875.00
Other Charges		859.25
Disbursements		602.72
Disbursements Incurred As Your Agent (Non-taxable)		165.00
Total Due before GST/HST	$	6,501.97
GST/HST	$	823.81
TOTAL Due in CAD	$	7,325.78

Remit by Wire Transfer to:

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Beneficiary Address: 4500, 855 - 2nd Street SW Calgary, AB T2P 4K7 Canada
Beneficiary Bank: Royal Bank of Canada
Bank Address: 339 – 8th Avenue SW Calgary, AB T2P 1C4 Canada
Account Details: Bank 003, Transit 00009, CAD Acct 172-581-1 or USD Acct 400-553-4
SWIFT Code: ROYCCAT2

Intermediary bank: JP Morgan Chase Bank, New York
ABA: 021000021, SWIFT Code: CHASUS33

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GST/HST Number: 119346757

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TARN CONSTRUCTION CORPORATION
C/O KPMG INC.
BAY ADELAIDE CENTRE
333 BAY STREET, SUITE 4600
TORONTO, ON M5H 2S5

Attention: **ANAMIKA GADIA**
SENIOR VICE-PRESIDENT

Re: GUARANTEE COMPANY OF NA - BONDING FACILITY PHASE 1B
Our File Number: 075532.00007 Phase 1B

Date: January 15, 2018
Invoice: 1209015

PROFESSIONAL SERVICES RENDERED in conjunction with the above noted matter:

Professional Services	$	4,200.00
Other Charges		271.50
Disbursements		462.38
Disbursements Incurred As Your Agent (Non-taxable)		105.00
Total Due before GST/HST	$	5,038.88
GST/HST	$	641.40
TOTAL Due in CAD	$	5,680.28

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GST/HST Number: 119346757

Bennett Jones

Client: 075532.00007
Invoice No.: 1209015

Description

To escrow agency arrangement for the above matter during the period from March 1, 2017 to December 31, 2017; specifically, to maintenance of the escrow account during the said period, and to reporting to The Guarantee Company of North America and you; To verifying amounts held with respect to the trust deposits and interest; To correspondence to The Guarantee Company of North America and you in connection therewith;

TO OUR FEE: $150.00 per month x 10 months - $1,500.00

36 NSF Cheques @ $75.00 each(Suite 811E – October 15, 2017Suite 903E – October 15, 2017Suite 1008E – November 19, 2017Suite 1207E – October 15, 2017Suite 1502E – October 15, 2017Suite 1507E – October 15, 2017Suite 1708E – November 27, 2017Suite 1709E – October 15, 2017Suite 1811E – October 15, 2017Suite 1908E – October 15, 2017Suite 2008E – March 10, 2017, April 1, 2017 & July 10, 2017Suite 2010E – January 15, 2017 & October 15, 2017Suite 2011E – October 15, 2017Suite 2102E – October 15, 2017Suite 2108E – November 20, 2017Suite 2508E – October 15, 2017Suite 2606E – October 15, 2017Suite 2701E – October 30, 2017Suite 2705E – May 7, 2017Suite 3007E – October 15, 2017Suite 3015E – May 31, 2017Suite 3108E – October 15, 2017Suite 3205E – March 11, 2017Suite 3302E – October 15, 2017Suite 3307E – October 15, 2017Suite 3311E – October 15, 2017Suite 3502E – October 15, 2017Suite 3509E – April 29, 2017 & October 15, 2017Suite 3609E – July 6, 2017Suite 3611E – April 29, 2017Suite 3710E – June 4, 2017Suite 3802E – October 15, 2017)

OUR FEE: $2,700.00

Total Professional Services	$	4,200.00

Other Charges

Printing Charges	$	240.50
Photocopy Charges		31.00
Total Other Charges	$	271.50

Disbursements

Courier Charges	$	50.76
Postage / Registered Mail		339.62
Land Titles		72.00
Total Disbursements		462.38

Disbursements Incurred As Your Agent (Non-Taxable)

Bank Service Charges	$	105.00
Total Disbursements Incurred As Your Agent	$	105.00

GST/HST	$	641.40
TOTAL DUE	$	5,680.28

Bennett Jones

TARN CONSTRUCTION CORPORATION
C/O KPMG INC.
BAY ADELAIDE CENTRE
333 BAY STREET, SUITE 4600
TORONTO, ON M5H 2S5

Attention: **ANAMIKA GADIA**
SENIOR VICE-PRESIDENT

Re: GUARANTEE COMPANY OF NA - BONDING FACILITY PHASE 1B
Our File Number: 075532.00007

Date: January 15, 2018
Invoice: 1209015

Remittance Statement

Professional Services	$	4,200.00
Other Charges		271.50
Disbursements		462.38
Disbursements Incurred As Your Agent (Non-taxable)		105.00
Total Due before GST/HST	$	5,038.88
GST/HST	$	641.40
TOTAL Due in CAD	$	5,680.28

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Beneficiary Bank: Royal Bank of Canada
Bank Address: 339 – 8th Avenue SW Calgary, AB T2P 1C4 Canada
Account Details: Bank 003, Transit 00009, CAD Acct 172-581-1 or USD Acct 400-553-4
SWIFT Code: ROYCCAT2

Intermediary bank: JP Morgan Chase Bank, New York
ABA: 021000021, SWIFT Code: CHASUS33

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GST/HST Number: 119346757

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TORONTO, ON M5H 2S5

Attention: ANAMIKA GADIA
SENIOR VICE-PRESIDENT

Re: THE KENNEDYS PLANNING APPROVAL
Our File Number: 075532.00001

Date: March 7, 2018
Invoice: 1213387

PROFESSIONAL SERVICES RENDERED in conjunction with the above noted matter:

Professional Services	$	5,522.50
Less Discount		(493.45)
Total Professional Services	$	5,029.05
Other Charges		1.50
Total Due before GST/HST	$	5,030.55
GST/HST	$	653.98
TOTAL Due in CAD	$	5,684.53

49.00
+HST 6.37
= 55.37

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GST/HST Number: 119346757

Date	Lawyer	Description	Hours	Amount
23/10/17	S. Mohamad	Receiving email from D. Varela regarding status of transaction and title policy	0.10	$ 24.50
06/11/17	S. Mohamad	Sending follow up email to S. Varela regarding title policy	0.10	24.50
05/01/18	S. Mohamad	Corresponding via telephone with D. Varela regarding title policy ordered but not finalized; Emailing direction to D. Varela to cancel policy until such time when the transaction is ready to proceed	0.20	50.00
01/02/18	A. L. Jeanrie	Correspondence to/from D. Tang; telephone call to/from Linda in Councillor's office;	0.30	208.50
02/02/18	A. L. Jeanrie	Telephone call with Councillor's office; meeting with project team at Miller Thomson regarding consent;	2.20	1,529.00
05/02/18	A. L. Jeanrie	Review proposed plan in from C. Li; correspondence to/from D. Tang;	0.30	208.50
06/02/18	A. L. Jeanrie	Correspondence to/from D. Tang regarding consent application; correspondence to KPMG regarding consent application;	0.20	139.00
07/02/18	A. L. Jeanrie	Correspondence to/from S. Ho regarding Development Charges;	0.20	139.00
08/02/18	A. L. Jeanrie	Correspondence to/from C. Li; review and comment on revised consent plan; correspondence in from D. Tang; review correspondence in from J. Bradley relating to consent; review and comment on further revised consent plan; finalize material to satisfy financing consent; finalize consent strategy for severance of property;	1.10	764.50
13/02/18	A. L. Jeanrie	Correspondence to/from S. Ho regarding affordable housing; telephone call with D. Muirhead, City Planning; telephone call with S. Chan, OMB scheduling; correspondence to project team;	1.10	764.50
14/02/18	A. L. Jeanrie	Various correspondence to/from project team regarding consent;	0.20	139.00
15/02/18	A. L. Jeanrie	Correspondence to/from G. Anamika regarding consent; correspondence to/from S. Ho regarding consent;	0.30	208.50

Date	Lawyer	Description	Hours	Amount
16/02/18	A. L. Jeanrie	Correspondence to/from D. Miret regarding consent; conference call with project team regarding consent; instructions to L. Stacey regarding Certificate of Official; correspondence to/from S. Mohammad regarding certificate of official;	0.80	556.00
16/02/18	L. Stacey	Meeting with S. Mohamad to review approved severance plans and create legal description of severed portion for certificate of offical; Emails to and from A. Jeanrie	0.40	164.00
16/02/18	S. Mohamad	Meeting with L. Stacey to review plan and legal description for certificate of official; Preparing certificate of official and meeting with A. Jeanrie to confirm description	1.30	325.00
20/02/18	A. L. Jeanrie	Preparation of submission for Certificate of Official;	0.10	69.50
23/02/18	A. L. Jeanrie	Correspondence to/from J. Bradley regarding consent status and court summary;	0.30	208.50
		Total Hours and Professional Services	9.20	$ 5,522.50
		Less Discount		(493.45)
		Total Professional Services		$ 5,029.05

Other Charges

Printing Charges		$ 1.50
	Total Other Charges	$ 1.50
	GST/HST	$ 653.98
	TOTAL DUE	$ 5,684.53

Bennett Jones

TARN CONSTRUCTION CORPORATION
C/O KPMG INC.
BAY ADELAIDE CENTRE
333 BAY STREET, SUITE 4600
TORONTO, ON M5H 2S5

Attention: **ANAMIKA GADIA**
SENIOR VICE-PRESIDENT

Re: THE KENNEDYS PLANNING APPROVAL
Our File Number: 075532.00001

Date: March 7, 2018
Invoice: 1213387

Remittance Statement

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Total Professional Services		$5,029.05
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TOTAL Due in CAD	$	5,684.53

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GST/HST Number: 119346767

This is Exhibit "B" referred to in the
Affidavit of Andre Jeanrie
Sworn before me, this 6th day of April, 2018.

Michael David O'Grady, a Commissioner, etc.,
Province of Ontario, while a Student-at-Law.
Expires April 14, 2018.

A COMMISSIONER FOR TAKING AFFIDAVITS

Bennett Jones affidavit details

Invoice details September 25, 2017 to December 31, 2017

06/04/2018

Invoice No.	Invoice date	Start date	End date	Docketed hours	Legal fees	Other fees	HST	Amount
1195682	08/11/2017	03/10/2017	30/10/2017	18.90	4,981.20	-	647.56	$5,628.76
1199847	11/12/2017	13/11/2017	30/11/2017	4.60	2,815.20	44.25	371.73	$3,231.18
1204282	31/12/2017	01/12/2017	15/12/2017	18.50	8,573.20	748.25	1,172.79	$10,494.24
1209804	05/02/2018	02/01/2018	31/01/2018	4.00	2,425.35	-	315.30	$2,740.65
1213387	07/03/2018	23/10/2017	23/02/2018	9.20	5,029.05	1.50	653.98	$5,684.53
1192378	06/03/2018	25/09/2017	28/09/2017	5.00	3,103.20	-	403.42	$3,506.62
1213089	06/03/2018	18/10/2017	18/10/2017	0.40	310.00	1.50	40.50	$352.00
1209014	15/01/2018	01/03/2017	31/12/2017	-	4,875.00	1,626.97	823.81	$7,325.78
1209015	15/01/2018	01/03/2017	31/12/2017	-	4,200.00	838.88	641.40	$5,680.28
			Total	60.60	36,312.20	3,261.35	5,070.49	44,644.04
Total Sep. 25, 2017 to Dec. 31, 2017:			31/12/2017	47.60	28,902.41	3,259.85	4,107.01	36,269.27
Total 2018:				13.00	7,409.79	1.50	963.48	8,374.77
			Check	-	-	-	-	-

	Docketed hours	Legal fees	Other fees	HST	Amount
Balance of work done in 2017:	0.20	44.61	-	5.80	$ 50.41
Balance of work done in 2018:	9.00	4,984.44	1.50	648.18	5,634.12
Check	-	-	-	-	-

This is Exhibit "C" referred to in the
Affidavit of Andre Jeanrie
Sworn before me, this 6th day of April, 2018.

Michael David O'Grady, a Commissioner, etc.,
Province of Ontario, while a Student-at-Law.
Expires April 14, 2018.

A COMMISSIONER FOR TAKING AFFIDAVITS

SUMMARY OF BILLING RATES AND TOTALS BILLED
BETWEEN SEPTEMBER 25th, 2017 and DECEMBER 31, 2018

Timekeepers:

Leonard Gangbar (LAG) – Partner Rate: = $775.00
Andrew Jeanrie (ALJ) – Partner Rate: = $695.00
John Van Gent (JVG) – Partner Rate: = $755.00
Alexei Kovalev (AK) – Associate Rate: = $370.00
Shakeera Mohamad (SM) – Clerk Rate: = $250.00
Law Students – (LAWS) Rage: = $240.00

MATTER	DOCKETED HRS	BILLING RATES (See Above)	TOTAL FEES	TOTAL COSTS	HST	TOTAL
The Kennedys Planning Approval (75532.1)	Total = 47.5 20.30-ALJ .80 – JVG 7.8 - AK .20 – SM 18.40 - LAWS	*ALJ's rate is reduced by 10% on this Matter	$19,521.80	$792.50	$2,601.87	$22,916.17
The Guarantee Company – Binding and DTA Facility Phase IA (75532.4)	Set Fee	n/a	4,875.00	1,626.97	823.81	$7,325.78
General Matters (75532.12	.4 (LAG)	$775.00	310.00	1.50	40.50	$352.00
Guarantee Company of NA – Bonding Facility Phase 1B (75532.7)	Set Fee	n/a	4,200.00	838.88	541.40	$5,680.28
TOTAL:				$3,261.35	$5,079.49	$36,274.23

E.&O.E.

Volkan Basegmez et al.
Applicants

and

Ali Akman et al.
Respondents

Court File No.: CV-17-11697-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

AFFIDAVIT OF ANDREW C. JEANRIE
(SWORN APRIL 6, 2018)

BENNETT JONES LLP
First Canadian Place
100 King St W Suite 3400
P.O. Box 130
Toronto, ON M5X 1A4

Andrew Jeanrie
jeanriea@bennettjones.com
Tel: 416.777.4814
Fax: 416.863.1716

Lawyers for KPMG Inc., in its capacity as Liquidator of Tarn Financial Corporation.