Court File No. CV-12-9617-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF First Leaside Wealth Management Inc., First Leaside Finance Inc., First Leaside Securities Inc., FL Securities Inc., First Leaside Management Inc., First Leaside Accounting and Tax Services Inc., First Leaside Holdings Inc., 2086056 Ontario Inc., First Leaside Realty Inc., First Leaside Capital Inc., First Leaside Realty II Inc., First Leaside Investments Inc., 965010 Ontario Inc., 1045517 Ontario Inc., 1024919 Ontario Inc., 1031628 Ontario Inc., 1056971 Ontario Inc., 1376095 Ontario Inc., 1437290 Ontario Ltd., 1244428 Ontario Ltd., PrestonOne Development (Canada) Inc., PrestonTwo Development (Canada) Inc., PrestonThree Development (Canada) Inc., PrestonFour Development (Canada) Inc., 2088543 Ontario Inc., 2088544 Ontario Inc., 2088545 Ontario Inc., 1331607 Ontario Inc., Queenston Manor General Partner Inc., 1408927 Ontario Ltd., 2107738 Ontario Inc., 1418361 Ontario Ltd., 2128054 Ontario Inc., 2069212 Ontario Inc., 1132413 Ontario Inc., 2067171 Ontario Inc., 2085306 Ontario Inc., 2059035 Ontario Inc., 2086218 Ontario Inc., 2085438 Ontario Inc., First Leaside Visions Management Inc., 1049015 Ontario Inc., 1049016 Ontario Inc., 2007804 Ontario Inc., 2019418 Ontario Inc., FL Research Management Inc., 970877 Ontario Inc., 1031628 Ontario Inc., 1045516 Ontario Inc., 2004516 Ontario Inc., 2192341 Ontario Inc., and First Leaside Fund Management Inc. (collectively, the "Applicant" or "Applicants")

MOTION RECORD OF THE APPLICANTS (SECOND STAY EXTENSION) (returnable June 28, 2012)

June 19, 2012

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF First Leaside Wealth Management Inc., First Leaside Finance Inc., First Leaside Securities Inc., FL Securities Inc., First Leaside Management Inc., First Leaside Accounting and Tax Services Inc., First Leaside Holdings Inc., 2086056 Ontario Inc., First Leaside Realty Inc., First Leaside Capital Inc., First Leaside Realty II Inc., First Leaside Investments Inc., 965010 Ontario Inc., 1045517 Ontario Inc., 1024919 Ontario Inc., 1031628 Ontario Inc., 1056971 Ontario Inc., 1376095 Ontario Inc., 1437290 Ontario Ltd., 1244428 Ontario Ltd., PrestonOne Development (Canada) Inc., PrestonTwo Development (Canada) Inc., PrestonThree Development (Canada) Inc., PrestonFour Development (Canada) Inc., 2088543 Ontario Inc., 2088544 Ontario Inc., 2088545 Ontario Inc., 1331607 Ontario Inc., Queenston Manor General Partner Inc., 1408927 Ontario Ltd., 2107738 Ontario Inc., 1418361 Ontario Ltd., 2128054 Ontario Inc., 2069212 Ontario Inc., 1132413 Ontario Inc., 2067171 Ontario Inc., 2085306 Ontario Inc., 2059035 Ontario Inc., 2086218 Ontario Inc., 2085438 Ontario Inc., First Leaside Visions Management Inc., 1049015 Ontario Inc., 1049016 Ontario Inc., 2007804 Ontario Inc., 2019418 Ontario Inc., FL Research Management Inc., 970877 Ontario Inc., 1031628 Ontario Inc., 1045516 Ontario Inc., 2004516 Ontario Inc., 2192341 Ontario Inc., and First Leaside Fund Management Inc. (the "Applicants")

NOTICE OF MOTION (SECOND STAY EXTENSION)
(returnable June 28, 2012)

The Applicants will make a motion to a judge presiding over the Commercial Court on Thursday, June 28, 2012 at 10:00 a.m., or as soon after that time as the motion can be heard, at the Court House, 330 University Avenue, 8th Floor, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

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THE MOTION IS FOR:

1. An order, if necessary, validating and abridging the time for service of this notice of motion and motion record and directing that any further service of the notice of motion and motion record be dispensed with such that this motion is properly returnable on June 28, 2012;

2. An order extending the Stay Period as defined in the initial order granted by this Court on February 23, 2012, as amended (the "**Initial Order**"), to October 26, 2012;

3. An order amending the Initial Order *nunc pro tunc* to provide for a third-ranking inter-company borrowing charge ("**Inter-Company Charge**"), ranking subordinate to the Administration Charge and the Directors' Charge (as defined in the Initial Order);

4. An order amending Schedule "A" to the Initial Order to correct certain limited partnership names that were incorrectly named;

5. An order approving, *nunc pro tunc,* the "Communications Protocol (Re Potential Asset Transactions)" dated as of May 24, 2012, and made between G.S. MacLeod & Associates Inc., in its capacity as the Chief Restructuring Officer ("**CRO**") of the Applicants and the Included LPs (as defined in the CRO Affidavit, defined below) (collectively, "**First Leaside**"), Grant Thornton Limited, in its capacity as Court-appointed monitor (the "**Monitor**"), Fraser Milner Casgrain LLP in its capacity as court-appointed Representative Counsel ("**Representative Counsel**"), and certain

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investors who are clients of First Leaside Securities Inc. and have agreed to form a transaction subcommittee ("**Transaction Subcommittee**");

6. An order approving, *nunc pro tunc*, the agreement between the CRO of the First Leaside Retirement Residences Limited Partnership ("**FLRR**"), First Leaside Realty II Inc., First Leaside Wealth Management Inc., First Leaside Universal Limited Partnership, First Leaside Progressive Limited Partnership, F.L. and FLWM Holdings Limited Partnership, on the one hand, and Grant Thornton Corporate Finance Inc. ("**GTCFI**"), on the other, pursuant to which GTCFI will act as exclusive financial advisor (the "**GTCFI Engagement**") in connection with the proposed sale, merger, consolidation or other business combination of FLRR's interest in PrimeTime Living LP and the real property assets owned by Cherry Park Retirement Residence LP, Orchard Valley Retirement Residence LP, The Shores Retirement Residence LP and First Leaside Venture LP (collectively, "**Venture Okanagan Properties**");

7. An order authorizing the expansion of the role of Representative Counsel to include assisting investors with the filing of claims with the Canadian Investor Protection Fund ("**CIPF**"), and the coordination of the CIPF claims process with the claims process in the within proceedings;

8. An order amending paragraph 44 of the Initial Order to remove the fixed cap on the Representative Counsel Allowance (as such term is defined in the Initial Order);

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9. An order amending the Initial Order to require Representative Counsel to pass its accounts, from time to time;

10. An order approving the restructuring of the ownership interest of First Leaside Visions II Limited Partnership ("**Visions II**") in its portfolio technology company, eSight Corp. ("**eSight**");

11. An order approving the conduct and activities of the CRO, as they are set out in more detail in the CRO's affidavit dated June 19, 2012 ("**CRO Affidavit**");

12. An order approving the conduct and activities of the Monitor as described in the Monitor's third report to the court, to be filed ("**Third Report**"); and

13. such further and other relief as counsel may advise and this Honourable Court may permit.

THE GROUNDS FOR THE MOTION ARE:

A. Background

1. The Applicants applied for and were granted protection from creditors under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 ("**CCAA**") on February 23, 2012 pursuant to the Initial Order. The Initial Order appointed the Monitor and Representative Counsel;

2. The Initial Order provides for a general stay of all proceedings against First Leaside ("**Stay Period**");

3. The Stay Period was extended by order dated March 23, 2012 and currently expires on June 29, 2012;

B. Extension of Stay

4. Since the most recent stay extension on March 23, 2012, First Leaside has continued to work with the Monitor, Representative Counsel, mortgagees, investors and other stakeholders to develop and implement a plan for the orderly wind-down of First Leaside's operations and portfolio of assets, including

(a) completing the court-approved sale of Queenston Manor, a 77-unit retirement living apartment building in St. Catharines, Ontario

(b) completing the court-approved sale of First Leaside's interest in First Leaside Beverages Limited Partnership;

(c) obtaining appraisals and opinions of value, and, in consultation with the Monitor, entering into listing agreements in respect of an additional seven Canadian properties;

(d) working with the Monitor to prioritize and advance plans for the marketing and sale of other assets owned or controlled by First Leaside, including its interest in PrimeTime Living LP and the Venture Okanagan Properties;

(e) continuing to assess the status of, and consider realization options in respect of, the 12 U.S. properties ultimately owned (through a

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series of subsidiary limited partnerships) by Wimberly Apartments Limited Partnership ("**WALP**")[1] and currently operating in the ordinary course without protection from creditors;

(f) responding to motions brought by Structform International Limited and H&S Equipment which advance claims to funds in the hands of First Leaside Expansion Limited Partnership, and which were scheduled for a hearing on June 13, 2012, and adjourned to June 28, 2012;

(g) working with the Monitor and Representative Counsel to ensure that all stakeholders, including mortgagees, investors, employees (past and current), suppliers, and claimants are receiving information and updates on a timely basis;

(h) participating with the Monitor and Representative Counsel in conference calls and town hall meetings with investors;

(i) negotiating and implementing the terms of the Communications Protocol with the Monitor and Representative Counsel; and

(j) working with the assistance of the Monitor to update cash flow statements for First Leaside.

[1] Two of the US properties have minority ownership interests (less than 10%) held by other parties and another of the properties is controlled by another First Leaside entity, namely First Leaside Opportunities Limited Partnership.

5. First Leaside respectfully requests an extension of the Stay Period to October 26, 2012. During this period First Leaside expects to

(a) finalize terms of sale of certain additional assets, including the sale of First Leaside's interest in 36 Bramtree, PrimeTime Living LP, and investments held by Visions I and Visions II (each as defined in the CRO Affidavit), and seek Court approval of these divestitures on motion to this Court;

(b) pursue the continued marketing and sale of the additional seven Canadian properties that have recently been listed for sale;

(c) continue to explore realization and/or restructuring options in respect of the non-filed U.S. properties that are subsidiaries of WALP; and

(d) schedule additional meetings and/or conference calls with investors.

6. First Leaside is working diligently and in good faith to effect an orderly wind-down of operations so that all stakeholder interests can be dealt with in one forum, in a consolidated manner, and so that recovery can be maximized;

7. The extension of the Stay Period will provide First Leaside with additional time required to take appropriate steps to maximize value for creditors;

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8. First Leaside has and continues to proceed in good faith and with due diligence, and circumstances otherwise exist that make the grant of an extension of the Stay Period appropriate;

C. Inter-Company Charge

9. First Leaside comprises numerous special purpose corporations, trusts and limited partnerships. These individual entities are considered as "silos" which each have their own assets and liabilities and which will, at the end of the day, have to account for all of their activities to their respective investors;

10. However, not all of the First Leaside entities have sufficient cash on hand to fund operations and costs of these CCAA proceedings;

11. In the event that certain First Leaside entities are called on to fund the expenses of other First Leaside entities during these CCAA proceedings, it is important that such inter-company transfers be recorded, accounted for, and secured;

12. To the extent that some First Leaside entities fund others during these CCAA proceedings, there is a danger that the funding entity and its creditors will be prejudiced, for example if such intercompany loan were to be treated as unsecured, or otherwise ranking *pari passu* with pre-filing debts;

13. Accordingly, First Leaside requests that the Initial Order be amended, *nunc pro tunc*, to provide for an inter-company charge (the "**Inter-Company Charge**"), ranking subordinate to the Administration Charge and the

Directors' Charge, which will ensure that when monies are ultimately realized by a First Leaside entity that has borrowed from an affiliate during these CCAA proceedings, such funds will be subject to a charge that will secure their payment back to the lending First Leaside entity;

14. Similar to DIP financing, the Inter-Company Charge recognizes that post-filing inter-company loans allow the borrower to obtain value by continuing operations or completing a sale and therefore inter-company loans should be appropriately secured and prioritized for repayment;

D. Representative Counsel

15. Representative Counsel has duly represented the interests of investors including by responding to enquiries, providing regular updates, organizing investor meetings, and liaising with First Leaside and the Monitor;

16. In addition to the role and responsibilities that were originally anticipated under the Initial Order, Representative Counsel has been receiving numerous requests from investors seeking assistance in asserting claims against the CIPF;

17. The CIPF has indicated that it is prepared to consider a streamlined claims procedure whereby investors can file a single claim for purposes of these court proceedings and the CIPF's claims process, thus justifying the expansion of the role of Representative Counsel;

18. The existing Representative Counsel Allowance of $300,000 is not adequate in light of the complexity of these proceedings and the significant work that Representative Counsel has had, and will continue, to undertake. Representative Counsel has requested that the current cap be removed, and replaced with a requirement that Representative Counsel pass its accounts from time to time;

E. Other Grounds

19. Visions II made a small financial investment in a start-up technology company, eSight, in December 2010. eSight's continued operations are presently endangered by liquidity shortages. An angel investment group has committed to provide up to $2 million in funding to eSight in consideration for a restructuring of the interest of current investors, including Visions II;

20. There is no ability to sell or liquidate Visions II's current interest in eSight at this time, which consists of holdings of warrants and a note. The proposed refinancing will permit eSight to continue operations and presents the prospect of value realization in the future. In the circumstances, the Monitor, Representative Counsel, and First Leaside investors representing the majority of Visions II limited partnership units support the proposed transaction;

21. The Communications Protocol was developed in accordance with the April 30, 2012 endorsement of Justice Campbell. The protocol provides for the disclosure of important information to Representative Counsel and their constituency and addresses issues relating to the confidentiality of that

information. It will assist in ensuring that there are clear and effective lines of communications between First Leaside, the Monitor, and investors;

22. GTCFI has the knowledge and experience necessary to best assist First Leaside with the divestitures of the assets subject to the GTCFI Engagement. It has worked on similar mandates in the real estate and retirement space, and is intimately familiar with the local area. GTCFI's relation to the Monitor is not problematic and does not give rise to a conflict of interest;

23. Through inadvertence, Schedule "A" to the Initial Order contained incorrect names for several of the Included LPs granted the benefit of the Initial Order;

24. There would be no prejudice if the party names were corrected by amending Schedule "A" of the Initial Order;

25. The grounds set out in the Monitor's Third Report to the Court (the "**Third Report**");

26. Sections 11 and 56 of the CCAA;

27. Rules 2.03, 3.02, 5.03 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, reg. 194 as amended; and

28. Such further and other grounds as counsel may advise and this Honourable Court may permit.

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THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The CRO Affidavit;

2. The Third Report; and

3. Such further and other material as counsel may submit and this Honourable Court deem just.

Date: June 19, 2012

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IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF FIRST LEASIDE WEALTH MANAGEMENT INC., et al

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Proceedings commenced at Toronto

NOTICE OF MOTION (SECOND STAY EXTENSION)
Returnable June 28, 2012

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AFFIDAVIT OF GREGORY MACLEOD
(sworn June 19, 2012)

I, **GREGORY MACLEOD**, of the City of Burlington, in the Province of Ontario, **MAKE OATH AND SAY**:

1. I am the president of G.S. MacLeod & Associates Inc., the Court-appointed restructuring officer ("**CRO**") of First Leaside Wealth Management Inc. ("**FLWM**"), and the other applicants (collectively, the "**Applicants**") as well as the limited

partnerships affiliated with the Applicants that are listed in **Exhibit "A"** hereto (the "**Included LPs**"). (Hereafter, the Applicants and the Included LPs shall be referred to collectively as "**First Leaside**" or the "**Company**"). As such, I have knowledge of the facts deposed to in this affidavit. To the extent that this affidavit describes events or facts of which I do not have personal knowledge, I have identified the source of the information and, in all cases, believe it to be true.

2. Capitalized terms not otherwise defined in this affidavit are defined as in my affidavit sworn February 22, 2012 (the "**Initial Affidavit**"). A copy of my Initial Affidavit without exhibits is attached hereto and marked as **Exhibit "B"**.

Background

3. By order of the Honourable Mr. Justice Brown made February 23, 2012 (the "**Initial Order**"), the Applicants applied for and were granted protection from their creditors under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 ("**CCAA**"). The stay of proceedings and other relief in the Initial Order was extended to include the Included LPs. A copy of the Initial Order is attached to this affidavit as **Exhibit "C"**. A copy of Justice Brown's reasons for decision dated February 26, 2012 is attached hereto and marked as **Exhibit "D"**.

4. Pursuant to the Initial Order, Grant Thornton Limited was appointed as monitor ("**Monitor**") of First Leaside, and Fraser Milner Casgrain LLP was appointed as representative counsel ("**Representative Counsel**") to represent the interests of the nearly 1,200 investors (the "**Investors**") of First Leaside Securities Inc. ("**FLSI**") in these proceedings.

5. A Stay Period, as defined in paragraph 19 of the Initial Order, was granted on February 23, 2012, and was extended by an order of this Court on March 23, 2012. Attached hereto and marked as **Exhibit "E"** is a copy of the March 23, 2012 order. The Stay Period currently expires on June 29, 2012.

6. This affidavit is sworn in support of the motion for an extension of the Stay Period to October 26, 2012 and for other relief.

Restructuring Efforts to Date

7. Since the extension of the Stay Period on March 23, 2012, First Leaside has continued to work with the Monitor, Representative Counsel, the Independent Committee of the Board of Directors of FLWM (the "**Independent Committee**"), mortgagees, Investors, and other stakeholders to develop and implement a plan to effect the orderly wind-down of the Company's operations and portfolio of assets over a period of time and in a manner that will maximize recoveries to creditors. These efforts have included working with the assistance of the Monitor to update the Company's cash flow statements.

8. First Leaside also has been participating in a communications program that includes conference calls with the Monitor and Representative Counsel and town hall meetings with Investors. Part of this communications program includes a Communications Protocol, which is further detailed below, that the Company negotiated with the Monitor and Representative Counsel. First Leaside has been adhering to the terms of the Communications Protocol, pending its Court approval.

9. First Leaside has also continued to work with the Monitor and Representative Counsel to ensure that all stakeholders, including mortgagees, Investors, employees (former and current), suppliers, and claimants receive information and updates on a timely basis.

Completion of Sale of Queenston Manor

10. Since the extension of the Stay Period, First Leaside has completed the sale of Queenston Manor, a 77-unit retirement living apartment building in St. Catharines, Ontario which was owned by Queenston Manor Limited Partnership, a limited partnership the units of which are beneficially owned by First Leaside Expansion Limited Partnership ("**FLEX**"). The Court granted First Leaside's motion for approval of the transaction on April 30, 2012. On closing, I delivered a CRO's Certificate (as defined in paragraph 2 of the April 30, 2012 order) to the purchaser of the property, Starlight Investments Ltd. The sale was completed on May 1, 2012. Attached hereto and marked as **Exhibit "F"** is a copy of the CRO's Certificate issued in connection with the sale of Queenston Manor.

11. Queenston Manor had given a mortgage to Midland Loan Services Inc. ("**Midland**"). As detailed in my affidavit sworn March 21, 2012 ("**Second Affidavit**"), Midland had opposed the extension of the CCAA stay to Queenston Manor General Partner Inc., the general partner of Queenston Manor Limited Partnership. Midland also opposed the granting of the Administration Charge and Directors' Charge (collectively, the "**Charges**") over the assets of First Leaside. After the Court decided that such entity should be subject to both the stay and the Charges, Midland sought leave to appeal the

Initial Order to the Court of Appeal for Ontario, which was subsequently withdrawn as part of a negotiated settlement with Midland.

12. In order to satisfy the obligations owed to Midland, pursuant to the Court's orders approving the sale, Queenston Manor General Partner Inc. was authorized and directed to pay $4,397,405.05 to Midland out of the sale proceeds (the "**Midland Payment**") as soon as practically possible after the closing of the transaction.

13. The closing of the sale of Queenston Manor resulted in the receipt of net proceeds of approximately $2,390,764.15 after payment of real estate commissions and the Midland Payment, which net proceeds are being used to fund costs secured by the Administration Charge and otherwise held pending further order of the Court.

Completion of Sale of Interest in Beverages

14. First Leaside has also completed the sale of the Company's interest in First Leaside Beverages Limited Partnership for $760,000. The Court approved the transaction on May 3, 2012.

15. On May 17, 2012, the transaction closed and I delivered the CRO's Certificate (as defined in paragraph 2 of the order dated May 3, 2012) to the purchaser, Provincial Beverages of Canada Inc. Attached hereto and marked as **Exhibit "G"** is the CRO's Certificate that was delivered in connection with the closing of the sale of the Company's interest in First Leaside Beverages Limited Partnership. The Company is in receipt of the net sale proceeds, which proceeds are being used to fund costs secured by the Administration Charge and otherwise held pending further order of the Court.

Other First Leaside Canadian Real Property Assets

16. First Leaside continues to seek ways in which to maximize recoveries for creditors. To this end, the Company has listed for sale an additional seven Canadian properties since the Stay Period was extended. These properties are as follows:

(a) 36 Bramtree Court, Brampton, Ontario ("**36 Bramtree**");

(b) 164 Cemetery Road, Uxbridge, Ontario;

(c) 62 Mill Street, Uxbridge, Ontario;

(d) 168 Brock Street, Uxbridge, Ontario;

(e) 4 Victoria Street, Uxbridge, Ontario;

(f) 65 Fort Street, Tilbury, Ontario; and

(g) 123 Erie Street, Wheatley, Ontario.

17. The Company obtained appraisals from CBRE Limited, a well-known real estate brokerage and advisory firm, for certain of the properties. The Company has also sought opinions of value from Colliers International Canada ("**Colliers**"). These valuations were obtained in order to select an appropriate listing price for each property and to provide a standard against which offers to purchase can be assessed.

18. First Leaside has selected Colliers as the broker to list and market the properties. The listing agreement with Colliers was reached after a competitive request for proposal process was conducted, in consultation with the Monitor. The process for selecting a broker and marketing the properties was consistent with the provisions of paragraph 3

of the Court's March 23, 2012 order, which authorized the sale of properties with the prior consent of the Monitor.

19. Attached hereto and marked as **Exhibit "H"** is a chart listing the properties for sale, the First Leaside entity that owns each of the respective properties, and the listing price for each property.

20. First Leaside has received offers to purchase some of the properties and is in the process of evaluating the offers and, in some cases, making counter-offers.

21. In regard to the Company's other assets, First Leaside continues to work with the Monitor to prioritize and advance plans for the marketing and sale of other real estate and related assets including its equity interest in PrimeTime Living LP ("**PTL**") and the retirement residences in Ottawa, Ontario and the Okanagan Valley, British Columbia, which are held in limited partnerships that are Excluded LP's, as defined in the Initial Order. These assets are discussed below.

US Properties

22. As reported in my Initial Affidavit, Wimberly Apartments Limited Partnership ("**WALP**") is an Included LP in these proceedings. WALP has interests in 11 properties in the United States directly held by 11 Texas-based subsidiary limited partnerships ("**Texas LPs**") which are not Included LP's. In addition, WALP directly holds one property adjacent to the Country Village Apartments. However, the following 3 Texas limited partnerships, which directly or indirectly own units of a number of the Texas LPs,

are Included LPs that are controlled by general partners that are Applicant Ontario corporations:

(a) **<u>FL Master Texas, Ltd.:</u>** the Applicant 2088543 Ontario Inc. is the general partner of FL Master Texas, Ltd., a limited partnership under Texas law which indirectly (i.e., through downstream limited partnerships) holds 99.99% ownership interests in The Bluffs Apartment/Condo, Preston Racquet Club, Wimberly Pointe Apartments, and Wimberly Crossing Apartments;

(b) **<u>F.L.W. Shores Master, Ltd.:</u>** the Applicant 2088545 Ontario Inc. is the general partner of F.L.W. Shores Master, Ltd., a limited partnership under Texas law which indirectly (i.e., through downstream limited partnerships) holds a 99.99% ownership interest in The Shores Apartments; and

(c) **<u>F.L.W. Pond Master, Ltd.:</u>** the Applicant 2088544 Ontario Inc. is the general partner of F.L.W. Pond Master, Ltd., a limited partnership under Texas law which indirectly (i.e., through downstream limited partnerships) holds a 99.99% ownership interest in Old Mill Pond Apartments.

23. First Leaside continues to consider restructuring options in respect of WALP and the Texas LPs, which are presently operating in the ordinary course. As part of this process, First Leaside has retained legal counsel and real estate advisors in Dallas, Texas to assist in the development of an exit strategy for the Texas asset portfolio.

24. As noted in my Second Affidavit, none of the Texas LPs generates sufficient cash flow to support indefinitely their debt service obligations, operating expenses, and capital upgrade requirements. Some of the Texas LPs face more serious cash flow challenges than others. Ten of the Texas LPs continue to service their mortgages. The eleventh, referred to herein as "Sedona", is subject to a mortgage held by a trust fund

composed of First Leaside investors and mortgage payments have not been made since the Company's voluntary cessation of distributions and interest payments on proprietary securities in November 2011. Absent cash flow support, one or more of the properties may face a mortgage payment default as early as August 2012.

25. At a subsequent motion, First Leaside expects to seek direction from the Court concerning the Texas LPs.

Construction Liens

26. As noted in my Initial Affidavit, prior to filing for CCAA protection, construction liens had been filed against the properties owned by several First Leaside entities, including FLEX and First Leaside Realty II Inc. The lien claims total $3,446,276. Two of the lien claimants, 792873 Ontario Limited, carrying on business as H&S Equipment ("**H&S Equipment**"), and Structform International Limited ("**Structform**") have also asserted trust claims under section 7 of the *Construction Lien Act*, R.S.O. 1990, c. C.30, against monies held in bank accounts in the name of FLEX (the "**FLEX Monies**").

27. FLEX intended to develop the adjacent Brock Street and Victoria Street properties in Uxbridge, Ontario as the site for First Leaside's head office. However, FLEX stopped development of the property in November 2011, at the foundation stage, after First Leaside agreed to voluntarily cease trading securities.

28. Notwithstanding the foregoing, the CRO and the Monitor have discussed and sought input from the two largest creditors on the Victoria Drive property, Structform and Kenaidan, as to an appropriate manner of realization of the properties. Both Structform and Kenaidan were not opposed to the listing of the Victoria Drive property with Colliers.

29. As of February 22, 2012, the FLEX Monies consisted of $647,857.32 in a savings account and a further $18,197.34 in a chequing account.

30. H&S Equipment brought a motion seeking a declaration that FLEX is holding a $100,000 "performance security deposit" in trust for H&S Equipment, and an order directing FLEX to immediately pay this amount out of the FLEX Monies.

31. Similarly, Structform brought a motion to amend the Initial Order to segregate funds allegedly held by FLEX in its bank account over which Structform claims an interest.

32. The motions of H&S Equipment and Structform were scheduled to be heard on June 13, 2012, and have been adjourned to June 28, 2012.

33. On June 13, 2012, First Leaside and Structform reached an agreement in principle to resolve the Structform motion. First Leaside will negotiate with Structform towards a consent order to embody the terms agreed to, so that such order can be issued on June 28, 2012.

34. First Leaside has, to date, been unsuccessful in its attempts to settle the motion by H&S Equipment. It is First Leaside's primary position that there is no basis to lift the stay to have creditors such as H&S Equipment assert their claims on a piecemeal basis, especially given that a clams process will have to occur at a later date, which claims process will be subject to Court approval. To the extent that the court is prepared to lift the stay to hear the H&S Equipment motion on the merits, First Leaside has taken the

position, including in my affidavit sworn May 2, 2012, that such claim does not have priority over other trust claimants and the claim may, in fact, be unsecured.

35. In the event that no settlement is reached with H&S Equipment, First Leaside is prepared to deal with its motion on June 28th, should the Court see fit to hear the matter on that date.

Extension of the Stay Period

36. Since the issuance of the Initial Order, as further detailed in this Affidavit, First Leaside has acted and continues to act in good faith and with due diligence.

37. Included in the Monitor's Third Report to Court, which will be filed in connection with this motion, are updated cash flow forecasts. The updated cash flow forecasts indicate that First Leaside will have sufficient funds to fund the proceedings through to and including October 26, 2012.

38. I believe that an extension of the Stay Period (as defined in the Initial Order) to October 26, 2012, is necessary in order to provide stability to First Leaside's business while the Company, with the assistance of its advisors and the Monitor, continues to work diligently on preparing and executing a liquidation strategy that will maximize the recoveries for all stakeholders.

39. During the extension of the Stay Period, First Leaside intends to finalize the terms of sale of certain additional assets, including the Company's interest in PTL, and certain investments held by Visions I and Visions II. First Leaside will seek Court approval of such further sales.

40. Further, as indicated above, the Company intends to pursue the sale of the seven additional properties it has listed for sale, and to continue to consider the most appropriate strategy for addressing the cash flow issues at WALP's Texas properties.

41. I do not believe that any creditor will face significant prejudice if the Stay Period is extended.

Inter-Company Charge

42. As I described in the Initial Affidavit, First Leaside is composed of several main corporations as well as general partners and limited partnerships that hold real estate property and, in some cases, portfolio investments in arm's-length companies and other First Leaside entities. At relevant times, several of the Applicants provided capital raising and management services to the limited partnerships.

43. Each of the First Leaside entities is effectively a separate "silo" that has its own assets and liabilities and investor groups, although many individual investors may own limited partnership units in or hold promissory notes from more than one "silo".

44. However, not all of the First Leaside entities had sufficient cash on hand at the date of the Initial Order, or subsequently, to fully fund the costs of these proceedings and the operations of the companies during the pendency thereof (the "**Borrowing Entities**"). Thus, certain First Leaside entities have been called on to fund those expenses and operating costs (the "**Lending Entities**") for the Borrowing Entities. For example, a large proportion of administration costs to date (including the fees of the CRO, Representative Counsel, the Monitor, the Monitor's counsel, and the Applicants' counsel and all other costs and fees secured by the Administration Charge (collectively,

"**Administration Costs**")) and fees of counsel to the Independent Committee have been paid by FLWM, even though the majority of the expenses were related to other entities within First Leaside. First Leaside has kept detailed records of such Administration Costs which have benefitted other entities.

45. Since the date of the Initial Order, approximately $1,245,078 has been advanced by the Lending Entities in the aggregate to the Borrowing Entities to fund Administration Costs.

46. The Company intends, at some point later in these CCAA proceedings, to seek Court approval for an allocation methodology for all Administration Costs incurred by the First Leaside companies, which will likely result in Administration Costs paid by one First Leaside entity being allocated to the account of other First Leaside entities, based on the logic of the approved methodology (the "**Reallocated Costs**").

47. At the time that the Initial Order was sought, First Leaside considered seeking an inter-company charge. However, as a result of a discussion with stakeholders at that time, First Leaside decided that there was no immediate need for such a charge.

48. As CRO, I now believe that the implementation of an inter-company charge, retroactive to the date of the Initial Order (February 23, 2012), would be appropriate in order to ensure that First Leaside entities that benefit from funds provided by other entities, including Reallocated Costs, repay such advances before making distributions to Investors and other creditors.

49. The need for an inter-company charge stems from the nature of the Company's assets. Certain entities within First Leaside, such as FLWM, WALP, and FLEX, have significant cash balances. Other First Leaside entities may possess material assets other than cash, such as real estate. However, until such time as those other entities are able to realize cash proceeds from their assets, they may have limited ability to fund Administration Costs and operations.

50. Thus, First Leaside proposes that the Court implement an inter-company charge (the "**Inter-Company Charge**"), ranking subordinate only to the Administration Charge and Directors' Charge (as defined in the Initial Order) to secure (i) borrowings by Borrowing Entities for operating expenses and any other liquidity needs and (ii) the reimbursement obligations of First Leaside entitles for Reallocated Costs as they may in the future be determined in accordance with a Court-approved allocation methodology. This will ensure that when monies are ultimately realized from the Borrowing Entities, they will flow to the applicable Lending Entities first, before creditors of or Investors in the Borrowing Entities receive any funds.

51. I suggest that the terms of the Inter-Company Charge be interest-free for simplicity of administration. It is my view that the Inter-Company Charge is significantly more economical than First Leaside entities seeking third party interim financing which often carries high interest rates and administrative costs. It is my view that utilizing the Inter-Company Charge as opposed to interim financing is beneficial to First Leaside's stakeholders overall.

Amendment of Schedule "A" of Initial Order

52. Through inadvertence, the names of certain parties were listed incorrectly in Exhibit "A" to my February 22, 2012 Affidavit, and as Schedule "A" to the Initial Order. In many cases, the corrections involve simply changing a "LP" suffix to read "Limited Partnership".

53. The corrected names of these parties are attached hereto and marked as **Exhibit "I"**.

54. I do not believe that the Applicants' stakeholders will be prejudiced if the party names were corrected by amending Schedule "A" of the Initial Order.

Communications Protocol

55. On this motion, First Leaside is seeking court approval of a communications protocol governing the provision of information to Representative Counsel and a specified subgroup of investor representatives (the "**Communications Protocol**").

56. The Communications Protocol was developed pursuant to a consent endorsement dated April 30, 2012 between First Leaside and Representative Counsel. The protocol was made between G.S. MacLeod & Associates Inc., in its capacity as CRO of the Applicants and the Included LPs, the Monitor, Representative Counsel, and certain First Leaside investors who have agreed to form a subcommittee with whom the Company and Monitor will consult regarding asset dispositions in these proceedings (the "**Transaction Subcommittee**"). A copy of the Communications Protocol is attached hereto and marked as **Exhibit "J"**.

57. The Communications Protocol represents an agreement to provide information related to actual and pending transactions to Representative Counsel and, with some restrictions, to the Transaction Subcommittee, sufficiently in advance of an application for Court approval of such transaction to allow Representative Counsel and the Transaction Subcommittee a reasonable amount of time to review and understand the impact of such transaction on affected Investors.

58. Any information provided under the Communications Protocol to Representative Counsel and the Transaction Subcommittee is to be kept confidential, and not disclosed or distributed to any other individual, unless the information has been made public by me and/or the Monitor, or the Monitor and I agree otherwise in writing.

59. In accordance with the Communications Protocol, the Monitor and I have developed a high-level realization plan for disposing of, or otherwise dealing with First Leaside's various assets (the "**Realization Plan**"). The Realization Plan contains information about the necessary steps and generally projected timelines associated with the realization on First Leaside's properties and all other assets. On May 30, 2012, First Leaside provided a copy of the Realization Plan to Representative Counsel for distribution to all Investors.

60. In my capacity as CRO, I will update the Realization Plan with developments in the course of the CCAA proceedings as they occur.

61. Further, the Monitor and I will meet monthly, or at intervals as reasonably requested by Representative Counsel, with Representative Counsel and the Transaction Subcommittee to discuss progress relating to the Realization Plan. I have

met with the Transaction Subcommittee (by telephone conference call) on two occasions since the Communications Protocol was instituted, the most recent of which was on June 15, 2012.

62. Moreover, under the Communications Protocol, when entering into an agreement for the sale, investment, recapitalization, transfer, mortgage or other transaction in respect of any of First Leaside's assets, or as soon as practical thereafter, the Monitor and I will consult with Representative Counsel and the Transaction Subcommittee with respect to the transaction.

63. Pursuant to the Communication Protocol, I will use my best efforts to give at least 10 business days' notice to Representative Counsel, unless Representative Counsel agrees otherwise, of any sale approval motion brought before this Court in connection with any of the disposition of any of the Company's assets.

Approval of the Retention of GTCFI

64. As part of the Realization Plan, Grant Thornton Corporate Finance Inc. ("**GTCFI**") was engaged by First Leaside Retirement Residences Limited Partnership ("**Residences**"), First Leaside Realty II Inc., FLWM, First Leaside Universal Limited Partnership, First Leaside Progressive Limited Partnership, F.L. Primetime Living Limited Partnership and FLWM Holdings Limited Partnership to act as a financial advisor in connection with the proposed divestiture of

(a) Residences' 50.1% interest in PTL; and

(b) the real properties owned by Cherry Park Retirement Residence LP, Orchard Valley Retirement Residence LP, The Shores Retirement

Residence LP (collectively, "**Venture Okanagan**").

65. A detailed description of these entities is provided in paragraphs 49(c) and 49(l) of my Initial Affidavit.

66. GTCFI is an Exempt Market Dealer and an affiliate of the Monitor. The GTCFI partners and staff that have been engaged in respect of Venture Okanagan and PTL are based out of Vancouver and Kelowna, BC, and have significant experience in respect of assets similar to those of Venture Okanagan and PTL.

67. Residences is owned by FLWM, First Leaside Progressive LP, First Leaside Universal LP, F.L. Primetime Living Limited Partnership and FLWM Holdings LP.

68. Residences' sole asset is a 50.1% ownership interest in the limited partnership units issued by PTL. PTL owns and operates two apartment buildings in St. Catharines, Ontario, and commercial properties in British Columbia that are held for re-development as retirement residences. The PTL properties are currently self-supporting, but capital investment will be needed for future development. A number of parties have indicated an interest in acquiring Residences' interest in PTL.

69. PTL also manages the retirement residence properties owned by First Leaside Venture Limited Partnership ("**Venture**"), namely Venture Okanagan and two retirement residences in Ottawa, Ontario, known as The Redwoods and The Pallisades (together, "**Venture Ottawa**"). Venture is an Applicant in these proceedings, however, Venture Okanagan and Venture Ottawa are not.

70. The Venture Ottawa properties are currently being operated subject to the terms of a forbearance agreement among the mortgagees, Canadian Imperial Bank of

Commerce, KingSett Mortgage Corporation ("**KingSett**"), First Leaside Realty II Inc. (as borrower) and certain First Leaside entities that are guarantors. Under the terms of the forbearance agreement, KingSett is also responsible for managing a sale process for the properties that is now underway. The broker, TD Securities Inc., expects to complete the process over the next three to five months.

71. The Venture Okanagan properties were acquired by Venture from PTL in September 2011. The Venture Okanagan properties are subject to a first mortgage in favour of the Toronto-Dominion Bank ("**TD**"). Venture Okanagan is also liable to PTL on an unsecured "vendor-take-back" promissory note. TD has issued notice of default under its mortgage and has reserved its rights to exercise its remedies. TD is continuing to work cooperatively with Venture and Venture Okanagan to allow for the sale of Venture Okanagan for the best possible value and has raised no objection to the engagement of GTCFI and the joint marketing of Venture Okanagan and Residence's ownership stake in PTL.

72. Prior to engaging GTCFI, the CRO explored the option of listing the Venture Okanagan property with two real estate brokers in the area. It was ultimately determined that the fee structure of a real estate broker would likely be significantly higher than GTCFI's engagement, and as aforementioned, a broker engagement may have resulted in a lack of flexibility to market Venture Okanagan in conjunction with Residences' ownership stake in PTL.

73. As part of GTCFI's engagement, it will conduct an initial financial assessment of Venture Okanagan's retirement assets and PTL's real property.

74. GTCFI will then prepare and execute a marketing plan and sale process for the assets in consultation with the CRO, Venture Okanagan, Residences, and the Monitor. GTCFI will also prepare a presentation for prospective purchasers. At present, GTCFI has prepared a draft Confidential Information Memoranda for the assets, which it has circulated to First Leaside and its counsel for comments.

75. Additionally, GTCFI will work with Venture Okanagan, Residences, and the CRO to prepare a list of potential purchasers, receive offers on behalf of Residences and Venture Okanagan, and report the details and analysis of those offers.

76. GTCFI has the knowledge and experience necessary to best assist First Leaside with the divestitures of these assets. Further, they have worked on similar mandates in the real estate and retirement space, and are intimately familiar with the local area. Liquidating the Venture Okanagan properties and First Leaside's interest in PTL will have unique nuances (including because the interest in PTL is not a disposition of real property, but rather an equity interest), and GTCFI's ability to deal with these interests as an Exempt Market Dealer may enhance and provide flexibility to the marketing process. I do not believe that GTCFI's relation to the Monitor is problematic or gives rise to a conflict of interest.

77. In advance of engaging GTCFI, I participated in a meeting with Representative Counsel and a steering committee of investors, where I discussed the CRO's intention to engage GTCFI, and there was no opposition to this strategy.

Representative Counsel Fees

78. During the CCAA proceedings, Representative Counsel has duly represented the interests of the Investors by, among other things, responding to enquiries, providing regular updates, speaking at Investor town hall meetings, liaising with the Applicants and the Monitor and participating in Court hearings.

79. Currently, the Representative Counsel Allowance (as defined in paragraph 44 of the Initial Order) is $300,000. That amount was established by paragraph 5 of the order of Justice Campbell dated April 30, 2012 (**Exhibit "K"**).

80. First Leaside has determined, in consultation with Representative Counsel, that the $300,000 amount is inadequate in light of the complexity of these proceedings, and the significant work that Representative Counsel has undertaken, and will continue to be required to undertake.

81. In addition to the role and responsibilities that were originally anticipated under the Initial Order, Representative Counsel has been receiving numerous requests from investors seeking counsel's assistance in asserting claims against the Canadian Investor Protection Fund ("**CIPF**").

82. I am advised by Shayne Kukulowicz, a partner at Fraser Milner Casgrain LLP, and believe, that Representative Counsel has had preliminary discussions with counsel for CIPF and CIPF has indicated that it is prepared to consider extending its claims filing deadline as well as developing a streamlined claims procedure whereby Investors can file a single claim for purposes of these Court proceedings and the CIPF's claims process, subject to Court approval of the claims process in these proceedings. In

addition there may be a number of advantages in terms of cost and other efficiencies in having a coordinated advocate for the Investors on the CIPF Issues.

83. As a result of the foregoing, I believe it is in the best interests of the Investors if the role of Representative Counsel is expanded to include assisting investors with asserting their claims against CIPF and coordinating the CIPF claims process with the claims process in the within proceedings.

84. Given the efforts of Representative Counsel to date, and the resulting increased demand on the time and resources of Representative Counsel with an expanded mandate, counsel has requested that a maximum amount for the Representative Counsel Allowance, as defined in paragraph 44 of the Initial Order, be removed and that paragraph 44 of the Initial Order be revised to state as follows:

> 44. THIS COURT ORDERS that Representative Counsel shall be paid its reasonable fees and disbursements by First Leaside. Representative Counsel shall be paid by First Leaside in a timely manner for fulfilling its mandate in accordance with this Order, upon the provision of invoices to First Leaside following approval by the Transaction Sub-committee, subject to such redactions to the invoices as are necessary to maintain solicitor-client privilege between Representative Counsel and the Clients.

85. In conjunction with the elimination of the fee cap, the Company proposes that the Initial Order also be amended to require Representative Counsel to have its fees assessed by the Court, just as the Monitor and its counsel are required to do from time to time. Representative Counsel is supportive of this amendment.

86. I believe it is in the best interests of First Leaside's investors, and the CCAA proceedings generally, that the Initial Order be so amended.

Approval of eSight Refinancing

87. First Leaside Visions I LP and First Leaside Visions II LP ("**Visions II**") have made investments in a number of technology start-up companies.

88. Specifically, in December, 2010 Visions II made an investment in eSight Corp. ("**eSight**") eSight is a privately held company that has developed intelligent video eyewear for people who have degenerative eye diseases. The company focuses on ALVIOS Intelligent Eyewear, which is an assistive technology that helps people with low vision lead more independent lives at home and work.

89. As a result of on-going negotiations with eSight since the time of its investment, Visions II now holds two classes of warrants which, under certain conditions, can be exercised for Class A common shares in the capital of the company (the "**Warrants**"). If exercised (which would involve a further investment of approximately $788,000), the Warrants would entitle Visions II to approximately a 19% stake in the equity of eSight on an undiluted basis. In addition, a promissory note in the principal amount of $311,250 (the "**Note**") was issued to Visions II by an affiliate of eSight.

90. In early 2011, eSight required additional funds to bring a prototype of the product to market and thus decided to seek funds from investors. eSight has had difficulty raising cash from investors and has been facing cash flow challenges from mid-2011 to present. In July 2011, Visions II informed the eSight board of directors that it would consider leading the next round of financing for the company. However, on October 31, 2011, First Leaside agreed to a voluntary cease trade agreement and thus Visions II could not lead a financing.

91. The CRO and the Monitor have discussed eSight's efforts to secure investors. I understand that eSight has been seeking investor financing for over a year and had prepared an Information Memorandum in its efforts to do so.

92. eSight appears to be insolvent with no material cash flow and, based on my review of the financial statements, eSight will not be able to meet its obligations without further significant financing. Furthermore, in a liquidation scenario, my assessment is that Vision II's current interest would yield minimal distribution.

93. Since July 2011, eSight has continued to seek investors but until recently has been unsuccessful in its efforts. The CRO and the Monitor recently met with eSight's president and the lead investor of an angel investment group called Boston Harbour Angels ("**BHA**") to discuss possible resolutions to eSight's liquidity problems. As a result of this meeting and subsequent negotiations, eSight has reached an agreement in principle with BHA to provide up to $2 million in funding and has been presented with a term sheet for this funding (the "**Term Sheet**"). In exchange for such funding, the interests of current investors in eSight, including Visions II, will be substantially restructured. In particular, the transaction set forth in the Term Sheet requires Visions II to exchange the Warrants and the Note for that number of Series A preferred shares (the "**Preferred Shares**") in the capital of the company that will represent a 9% equity interest in the company on a fully-diluted basis upon the completion of this round of investment. The Preferred Shares bear a cumulative 8% annual dividend (the "**Dividends**"). Based on the valuation of eSight established by the round of financing proposed in the Term Sheet, the 9% interest in the company represented by the

Preferred Shares to be held by Visions II have a value of approximately $864,000, albeit in illiquid, private company stock.

94. Given the current cash flow issues facing the eSight, there is no opportunity for Visions II to be paid on its Note and it is a condition of the current proposed investment round that the Note be exchanged as part of this round of financing. I have been informed by eSight and believe that, if the obligation established by the Note is not eliminated, the BHA financing will not be completed and the company will likely not continue as a going concern.

95. Since it is unlikely that eSight will have sufficient free cash flow to pay the Dividends on an ongoing basis, the Dividends will likely be accumulated and only paid several years in the future if and when eSight is able to achieve commercial success. The Preferred Shares also carry a right of redemption at the issue price (supported by standard conversion price anti-dilution protections). The redemption of Preferred Shares may occur at any time after the third anniversary of issuance with the support of those persons holding not less than 65% of the Preferred Shares.

96. In connection with the refinancing, First Leaside contacted the Investors of Visions II via e-mail and provided an overview of the transaction. First Leaside was able to contact all but two of Visions II's Investors, and thus contacted Investors holding 88% of all outstanding limited partnership units. Of the two Investors who were not contacted, one was Mr. Wilson who is subject to a temporary cease trade order. To date, Investors representing 80% of the outstanding Visions II units have expressed

their support for the refinancing of eSight as proposed above, and First Leaside has not received any opposition from any of Visions II's Investors.

97. First Leaside has also provided Representative Counsel with information about the refinancing contemplated by the Term Sheet. I understand that Representative Counsel is supportive of this transaction.

98. Since it appears that the transaction is the best way to preserve potential value for Investors in Visions II, the Company seeks the Court's approval so that the Company may approve the refinancing transaction.

Amounts Owing by First Leaside Employees and Former Employees

99. FLWM historically made a number of loans to its employees and to clients to allow them to purchase limited partnership units and notes without paying cash. Most of these loans were made pursuant to demand promissory notes but, in certain cases, loans were extended without having the relevant employee or investor sign a note (in which case the loan was still shown as a "loan receivable" on First Leaside's accounting system). As at December 31, 2011, investment loans to officers and current and former employees totalled $1,126,878.62 (inclusive of investment loans to David Phillips and his wife) and investment loans to clients totalled $2,398,245.23.

100. Further, First Leaside and the Monitor are reviewing the collection of amounts which the former First Leaside CEO, David Phillips ("**Mr. Phillips**") or companies related to or controlled by him, may owe to the Company. The amounts consist both of

apparent preferences involving Mr. Phillips' companies and advances made to Mr. Phillips in 2011.

101. On or about November 3, 2011, a $500,000 transfer (the "**Transfer**") was made from the bank account of First Leaside Finance Inc. ("**Finance**") to 970877 Ontario Inc. ("**970**"), a corporation controlled by Mr. Phillips. According to First Leaside's accounting records, it appears as though the Transfer was made to repay a $500,000 loan made by 970 to FLWM on September 2, 2011. Mr. Phillips is the sole officer and director of 970.

102. The Transfer was made three days after First Leaside agreed to cease trading in securities, and on the same day that the Independent Committee was appointed to control FLWM.

103. The Monitor has reviewed the Transfer and expressed concern that the repayment appears to constitute a preference. The Monitor, through its counsel, made a payment demand on 907 on June 6, 2012 and again on June 15, 2012. No response has been received, and accordingly the Monitor is considering seeking an authorization and direction from this Court permitting it to take proceedings against 970 to recover the funds. That relief is not being sought at the June 28, 2012 hearing in connection with which this Affidavit is being filed. Attached hereto and marked as **Exhibit "L"** and **"M"**, respectively, are the June 6, 2012 and June 15, 2012, letters sent to 907, care of Mr. Phillips, by the Monitor's counsel.

104. Additionally, it has come to the attention both of the Independent Committee and the CRO that, throughout the course of the 2011 fiscal year, Mr. Phillips received advances and other benefits (the "**Phillips Loans**") totalling approximately $1.14 million

more than what Mr. Phillips was paid as base salary. This $1.14 million appears to consist of amounts that Mr. Phillips either withdrew from the Company's bank account, or personal and household expenses which First Leaside paid on Mr. Phillips' behalf.

105. In contrast, the base salary which was paid to Mr. Phillips in 2011 was only $77,779.23, inclusive of taxable benefits. This amount was paid to Mr. Phillips throughout 2011.

106. It appears that Mr. Phillips, his wife, and 970 received Phillips Loans in 2011 and prior years. My understanding is that, in past years, Mr. Phillips decided at year end that some or all of the Phillips Loans would be included in Mr. Phillips's personal income as salary or dividend.

107. I understand that the Independent Committee was not aware of these advances. The Independent Committee has advised me that, since the board of directors of FLWM did not approve any payment to Mr. Phillips for 2011 other than base salary, I should take steps to seek repayment of the 2011 Phillips Loans from Mr. Phillips, his wife and 970.

OSC Testimony

108. I was summonsed to appear before the Ontario Securities Commission (“**OSC**”) on June 6, 2012, to provide testimony regarding a potential extension of the temporary cease trade order that the OSC issued against Mr. Phillips on May 15, 2012. Attached hereto and marked as **Exhibit “N”** is a copy of the May 15, 2012 OSC cease trade order. The May 15, 2012 temporary cease trade order prevented Mr. Phillips and Mr.

Wilson from trading in any securities until May 30, 2012. The OSC subsequently extended the temporary cease trade order on May 30, 2012 to June 8, 2012.

109. On June 6, 2012, following a hearing before an OSC panel, this temporary order was extended until September 28, 2012. Attached hereto and marked as **Exhibit "O"** is June 6, 2012 Order. During this period, with certain limited exceptions, Mr. Phillips is prohibited from trading in all securities.

Communication from Counsel for Two First Leaside Funds

110. On June 8, 2012, counsel for First Leaside received a letter from Fay Sulley ("**Ms. Sulley**") of Torkin Manes LLP (the "**Sulley Letter**") advising that she had been retained by The First Leaside Fund and Wimberly Fund (collectively, the "**Funds**") and that the Funds have asserted certain concerns about matters involving some of the WALP assets. A copy of the Sulley Letter is attached as **Exhibit "P"**.

111. The Funds do not have any equity interest in any of the First Leaside entities. Instead, they are unsecured creditors, namely noteholders of FL Master Texas, Ltd. ("**Master Texas**"), a Texas limited partnership. Master Texas does not own any of the US real properties itself. Instead, Master Texas only holds limited partnership units in

(a) four Texas LPs which, through their general partners, own four Texas properties; and

(b) two Texas LPs which hold limited partnership units in two other Texas LPs, which own two properties.

112. The general partner of Master Texas is 2088543 Ontario Inc., an Ontario corporation which is an Applicant in these proceedings and which benefits from the Initial Order (including the stay). Master Texas is an Included LP which benefits from the stay.

113. Attached hereto and marked as **Exhibit "Q"** is a copy of an organization chart for First Leaside's US entities.

114. On June 19, 2012, counsel for First Leaside sent Ms. Sulley a letter (attached as **Exhibit "R"**) which responded to the Sulley Letter and which corrected a number of the incorrect assertions in the Sulley Letter.

CRO and Monitor's Activities and Fees

115. As detailed above, the CRO has been working diligently to fulfil its mandate to guide the orderly wind-down of the First Leaside assets, and accordingly seeks the approval of its activities as set out in this Affidavit.

116. The activities of the Monitor for the same period are set out in the Third Report of the Monitor, which I understand will be filed with this Court in conjunction with the Motion returnable on June 28, 2012.

117. I have reviewed the invoices of fees and disbursements of the Monitor and the Monitor's legal counsel, Blake, Cassels & Graydon LLP, in the ordinary course. I believe that the invoices and the amounts of the fees and disbursements are fair and reasonable in the circumstances, taking into account the scope, variety and amount of

work that his been required by the Monitor and its counsel. Accordingly, I believe it is appropriate for the Court to approve such fees and disbursements.

118. I swear this affidavit in support of the motion by the Company for the extension of the Stay of Proceedings to which First Leaside is currently subject, and such other relief as is further set out in the related Notice of Motion of the Company, and for no other or improper purpose.

SWORN before me at the City of Toronto In the Province of Ontario, this 19th day of June, 2012	))))))	
A Commissioner, etc.		Gregory MacLeod

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF First Leaside Wealth Management Inc. et al

Court File No: CV-12-9617-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

Proceeding commenced at Toronto

AFFIDAVIT OF GREGORY MACLEOD
(sworn June 19, 2012)

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Solicitors for the Applicants

This is Exhibit "A" referred to in the Affidavit of Gregory MacLeod sworn June 19, 2012

Commissioner for Taking Affidavits (or as may be)

SCHEDULE "A"—PARTNERSHIPS ENTITLED TO THE BENEFIT OF THIS ORDER

Mill Street Limited Partnership
Development Notes Limited Partnerships Special Notes LP
First Leaside Properties LP
First Leaside Realty LP First Leaside Real Estate LP
First Leaside Global LP First Leaside Income LP First Leaside Investors LP First Leaside Optimal LP First Leaside Preferred LP First Leaside Premier LP First Leaside Progressive LP First Leaside Quality LP First Leaside Real Estate LP First Leaside Realty II LP First Leaside Retirement Residences LP First Leaside Superior LP First Leaside Ultimate LP First Leaside Universal LP Uxbridge Development LP First Leaside Retirement Residences Limited Partnership First Leaside Venture Limited Partnership
Wimberly Apartments LP
The Shores LP
Old Mill Pond LP

The Bluffs of Lakewood LP
First Leaside Spring Valley LP
First Leaside Partners LP First Leaside Opportunities LP
Preston Racquet Club Real Estate Limited Partnership Series 910 PA Preston Racquet Club Real Estate Limited Partnership Series 910 PB Preston Racquet Club Real Estate Limited Partnership Series 910 PC Preston Racquet Club Real Estate Limited Partnership Series 910 PD
FL Master Texas Ltd.
FLW Pond Master Ltd.
FLW Shores Master Ltd.
First Leaside Acquisitions LP
Queenston Manor LP
First Leaside Acquisitions 2000 LP
First Leaside Advantage LP
First Leaside Developments LP
First Leaside Elite LP First Leaside Select LP
First Leaside Enterprises LP
B&W LP First Leaside Entities LP
First Leaside Expansion LP
First Leaside Growth LP
First Leaside Operations LP
First Leaside Unity LP

First Leaside Visions I LP First Leaside Visions II LP First Leaside Visions III LP First Leaside Visions IV LP Metabacus LP Greencore LP Marksman Celliect LP OMISA LP Dossierview LP eSight LP Tyromer LP	Partnership F.L. Retirement Residences Limited Partnership First Leaside Global Limited Partnership First Leaside Ventures Limited Partnership Special U.S. Notes Limited Partnership FLWM Holdings Limited Partnership
Place Concorde East LP	
Place Concorde West LP	
First Leaside Wealth Management LP	
First Leaside Technologies LP	
F.L. Beverages Group Limited	

This is Exhibit "B" referred to in the Affidavit of Gregory MacLeod sworn June 19, 2012

Commissioner for Taking Affidavits (or as may be)

Court File No. CV-12-9617-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF First Leaside Wealth Management Inc., First Leaside Finance Inc., First Leaside Securities Inc., FL Securities Inc., First Leaside Management Inc., First Leaside Accounting and Tax Services Inc., First Leaside Holdings Inc., 2086056 Ontario Inc., First Leaside Realty Inc., First Leaside Capital Inc., First Leaside Realty II Inc., First Leaside Investments Inc., 965010 Ontario Inc., 1045517 Ontario Inc., 1024919 Ontario Inc., 1031628 Ontario Inc., 1056971 Ontario Inc., 1376095 Ontario Inc., 1437290 Ontario Ltd., 1244428 Ontario Ltd., PrestonOne Development (Canada) Inc., PrestonTwo Development (Canada) Inc., PrestonThree Development (Canada) Inc., PrestonFour Development (Canada) Inc., 2088543 Ontario Inc., 2088544 Ontario Inc., 2088545 Ontario Inc., 1331607 Ontario Inc., Queenston Manor General Partner Inc., 1408927 Ontario Ltd., 2107738 Ontario Inc., 1418361 Ontario Ltd., 2128054 Ontario Inc., 2069212 Ontario Inc., 1132413 Ontario Inc., 2067171 Ontario Inc., 2085306 Ontario Inc., 2059035 Ontario Inc., 2086218 Ontario Inc., 2085438 Ontario Inc., First Leaside Visions Management Inc., 1049015 Ontario Inc., 1049016 Ontario Inc., 2007804 Ontario Inc., 2019418 Ontario Inc., FL Research Management Inc., 970877 Ontario Inc., 1031628 Ontario Inc., 1045516 Ontario Inc., 2004516 Ontario Inc., 2192341 Ontario Inc., and First Leaside Fund Management Inc. (collectively, the "Applicant")

AFFIDAVIT OF GREGORY MACLEOD
(sworn February 22, 2012)

I, **GREGORY MACLEOD**, of the City of Burlington, in the Province of Ontario, **MAKE OATH AND SAY**:

1. I am the Chief Restructuring Officer ("**CRO**") of First Leaside Wealth Management Inc. ("**FLWM**"), and the other applicants (collectively, the "**Applicants**") as well as the limited partnerships affiliated with the Applicants which are listed in **Exhibit**

"A" hereto (collectively, "**First Leaside**" or the "**Company**"). I have been in the position of CRO since December 6, 2011. As such, I have knowledge of the facts deposed to in this affidavit. To the extent that this affidavit describes events or facts of which I do not have personal knowledge, I have identified the source of the information and, in all cases, believe it to be true.

2. This affidavit is sworn in support of the application by FLWM and the other Applicants for relief under the *Companies' Creditors Arrangement Act*, RSC 1985, c. C-36, as amended (the "**CCAA**"). The Applicants also seek to have the court extend the benefit of the initial order (including the stay) to various limited partners in respect of which Applicant corporations are the general partners (subject to a "carve out" of certain limited partnerships noted below).

3. Attached hereto as Exhibit "A" is a list of the Applicants, as well as the corresponding non-Applicant limited partnerships to which the Applicants wish to have CCAA protection extended.

I. OVERVIEW

4. First Leaside, through its various affiliated companies, trusts, and limited partnerships ("**LPs**") (including the LPs which are not part of this filing) runs numerous businesses, including commercial and multi-unit residential properties and retirement residences. In general, First Leaside provides investment and wealth management services to more than 1,200 investors who have invested with the Company. First Leaside also provides its investors with estate planning, insurance, accounting, and tax

services. A simplified organizational chart of the main corporations constituting First Leaside (but without details of the LPs) is attached hereto and marked as **Exhibit "B"**.

5. First Leaside's operations are centred on two primary companies: FLWM and its wholly-owned subsidiary, First Leaside Securities Inc. ("**FLSI**").

6. FLSI is an investment dealer under Ontario securities law and is regulated by both the Ontario Securities Commission ("**OSC**") and the Investment Industry Regulatory Organization of Canada ("**IIROC**"). FLSI acts as a "one-stop" investment organization for First Leaside's clients. Clients use FLSI to manage a portfolio of non-proprietary investment products, typically consisting of more conservative investments such as bonds, treasury bills, and marketable securities (the "**Marketable Securities**") as well as proprietary equity (such as LP units) and debt securities issued by First Leaside (proprietary equity and debt securities shall hereafter be collectively referred to as the "**FL Products**").

7. The Marketable Securities and available cash balances are segregated in accounts held with Penson Financial Services Canada Inc. ("**Penson**"). Penson is a member of IIROC and provides back-office brokerage and custody services to a wide range of investment dealers, including FLSI. This proposed CCAA proceeding <u>does not</u> involve any lost or misappropriated client securities. All of the Marketable Securities which are owned by First Leaside clients are indeed held with Penson and, as I will describe in further detail below, First Leaside is prepared to allow clients to immediately transfer their Marketable Securities and cash to another investment dealer despite the

commencement of these proceedings. If clients wish another investment dealer to hold their FL Products in segregation, they are free to do so, as well.

8. The FL Products are intended to provide First Leaside investors with consistent monthly distributions, potential capital appreciation, and, in the case of equity investments, potential tax deductions. With respect to the FL Products, First Leaside generally operates as a real estate syndicate that purchases real estate and rehabilitates it with a view to leasing to tenants at higher rates or reselling the property at a profit. During the early years of real estate developments, clients are able to benefit from tax losses generated by properties and also receive regular tax-free returns of capital.

9. First Leaside's real estate projects are generally set up as LPs for which First Leaside incorporates a special-purpose corporation to act as a general partner ("**GP**"). The GPs of First Leaside's Canadian LPs (i.e., those that own property in Canada) are part of this CCAA filing and the benefits of the initial order are being requested to extend to the corresponding LPs. The LPs which correspond to the relevant GPs are listed in Exhibit "A".

10. The success of the FL Products depends on a robust real estate market. Thus, the recent economic downturn has had a negative impact on the Company's financial situation: First Leaside has realized lower operating income while simultaneously incurring higher operational costs.

11. Due to this turmoil, and other events described below (including action by securities regulators), in early 2011 First Leaside, through its counsel, Cassels Brock &

Blackwell LLP ("**Cassels**"), engaged an independent consultant, Grant Thornton Limited ("**GTL**"), to review its business operations and assess its overall viability. GTL determined that the Company was facing serious cash flow and operational challenges and concluded that First Leaside's future viability depended on a number of key factors and assumptions, including its ability to raise capital.

12. Despite the Company's efforts to implement GTL's recommendations, First Leaside's financial challenges persisted. In particular, during the course of an investigation by the OSC, First Leaside undertook a voluntary, indefinite cease trade of all FL Products (the "**Cease Trade**"), and later suspended all distributions and interest payments on FL Products. Because First Leaside's business model requires ongoing capital raising to fund capital expenditures and operations, the Cease Trade precluded First Leaside from raising equity to de-leverage properties or to fund business operations. FLWM had also previously relied on revenues from agency fees charged in connection with new capital raises, together with other fee revenue relating to new FL Products, to support corporate operations and to provide working capital to support other entities in the group. The Cease Trade effectively stopped these revenues, thereby threatening FLWM's ability to operate as a going concern.

13. In December 2011, through my corporation, G.S. MacLeod & Associates Inc., I was retained by an independent committee of the board of directors of FLWM (the "**Independent Committee**") to review First Leaside's operations and to provide recommendations of how to deal with various financial and regulatory issues that the Company faced. Attached hereto and marked as **Exhibit "C"** is a copy of my retention agreement. After several weeks of careful consideration of the situation, I concluded

that it was unlikely that First Leaside would be in a position to resolve issues with securities regulators and thereby resume the raising of capital in the near future. On that basis, I concluded that the best course of action for First Leaside was to undertake an orderly wind-down of operations. Further, I concluded that—in light of the complex corporate structure of the Company, the complex web of numerous inter-company debts and contractual relationships among the corporations, trusts, and LPs in the First Leaside group, and the fact that many First Leaside clients have debt and/or equity investments in multiple First Leaside entities—the proper way to deal with First Leaside's assets and liabilities was to bring the Company within a court-supervised process so that all stakeholder interests can be dealt with in one forum, in a consolidated manner, and recoveries can be maximized. That forum is this CCAA proceeding.

14. First Leaside and the LPs are the owners of numerous real properties located in Ontario, British Columbia, and Texas. The properties include retirement residences, rental apartments, industrial facilities, development projects and raw land.

15. First Leaside's U.S. properties are not, for the present time, intended to come within court-supervised insolvency proceedings whether under the CCAA or Chapter 11 of the *U.S. Bankruptcy Code* (the "**USBC**"). First Leaside believes that such properties may be able to continue operations over the anticipated wind-up period using the cash flows that they generate and pay their liabilities as they come due, assuming that revenues can be increased and capital costs contained.

II. FIRST LEASIDE'S BUSINESS

General

16. First Leaside was founded in 1989 by David Phillips, an experienced investment advisor and trader who had worked at major brokerage firms. Mr. Phillips wanted to create financial products that were more favourable to investors than those then available in the market.

17. In 1992, Mr. Phillips oversaw the acquisition of First Leaside's first properties, the Wymberly Pointe and Wymberly Crossing apartment complexes in Grand Prairie, Texas (near Dallas), for $10 million, through a real estate syndication.

18. Since that time, First Leaside has acquired and developed numerous other properties in Texas, expanding to properties in Ontario several years ago, and last year to British Columbia. Apart from straightforward investments in rental real estate projects, First Leaside also has a series of other investments, including ownership of several accounting firms in Alberta and an interest in a brewery/cidery in Ontario. First Leaside also has an interest in seven small start-up technology companies.

Corporate Structure – Operating Companies

19. FLWM is the ultimate parent company of First Leaside. Affiliated with FLWM are six wholly-owned subsidiaries that are operating companies, including FLSI, FL Securities Inc. ("**FL Securities**"), First Leaside Finance Inc. ("**FL Finance**"), First Leaside Management Inc. ("**FL Management**"), First Leaside Insurance Inc. ("**FL Insurance**"), and First Leaside Accounting and Tax Services Inc. ("**FL Services**")

(FLWM and its operating subsidiaries shall hereafter be referred to collectively as the "**Operating Companies**").

FLWM

20. Mr. Phillips owns all of FLWM's common shares. FLWM has also issued preferred shares, with 96.7% of such shares being owned by First Leaside investors and the remaining 3.3% by Mr. Phillips. FLWM's preferred shares are in several series and provide dividends at annual rates of 6%, 8%, or 10%, depending on the series.

21. First Leaside generates revenue to cover expenses and pay dividends by charging fees to First Leaside clients, both in connection with the sale of new investment products (such as LP units), and as ongoing asset administration fees (calculated as a percentage of client investment holdings).

22. FLWM also owns a small pool of assets including:

(a) four small accounting firms;

(b) a 33.3% interest in First Leaside Retirement Residences LP;

(c) a 34.9% interest in First Leaside Beverages Limited Partnership, which operates a brewery/cidery;

(d) marketable securities;

(e) note receivables from investors who borrow short term funds to acquire units in various LPs;

(f) an interest in seven start-up technology companies; and

(g) an art collection.

23. Attached hereto and marked as **Exhibit "D"** is a copy of FLWM's internally-prepared financial statements as at December 31, 2010 for the 12 months ending as of such date.

<u>FLSI</u>

24. FLSI is an investment dealer that is regulated by the OSC and IIROC. It is through FLSI that First Leaside clients invest their money in both the Marketable Securities (held in segregation by Penson) and also the FL Products issued by various First Leaside entities. FLSI is also a member of the Canadian Investor Protection Fund ("**CIPF**"), which provides coverage of up to $1 million per client as a result of securities in client accounts that are lost as a result of the insolvency of a CIPF member. (However, the CIPF does not cover investment losses resulting from the changing value of securities or default by the issuer of securities.)

25. FLSI charges agency fees, business development fees, and acquisition analysis fees for its services. Attached hereto and marked as **Exhibit "E"** are FLSI's unaudited financial statements as at December 31, 2011.

26. Since FLSI became an IIROC dealer, and up to June 30, 2011, it has invested approximately $370 million on behalf of First Leaside clients. Approximately $86 million of funds invested were in publicly-traded securities, including Marketable Securities, which are held by for the benefit of First Leaside clients. Attached hereto and marked as **Exhibit "F"** is a table summarizing the third party marketable securities of First Leaside investors held at Penson as at February 14, 2012.

27. Although First Leaside may be insolvent, its client accounts containing Marketable Securities are all intact and held in segregation by Penson. Clients will therefore suffer no loss of Marketable Securities either now or as a result of the CCAA proceeding. First Leaside specifically requests a term in the CCAA initial order permitting First Leaside clients to immediately transfer the Marketable Securities and cash held with Penson to another investment dealer, thereby allowing clients to sell, trade, or maintain their Marketable Securities despite the CCAA proceeding.

28. With respect to the FL Products, those client investments are also intact in the sense that First Leaside clients do hold legitimate preferred shares, common shares, LP units, notes, and debentures in the various First Leaside entities and First Leaside does have up-to-date records of such client holdings. However, the value of individual FL Products is uncertain at this point in time because of the likelihood of losses in the various FL entities. For example, many First Leaside LPs have an equity deficit because there may be limited or no proceeds left to be paid to unitholders after mortgages and notes are paid.

29. FLSI raises debt through a related entity, First Leaside Wealth Management Fund (a trust), at an interest rate of 7% per annum.. FLSI also raises debt through other entities, such as Special Notes Limited Partnership, and Special U.S. Notes Limited Partnership.

FL Finance

30. Traditionally, various First Leaside LPs and corporations have raised more capital than required for their immediate needs. For example, many LPs sold units to

investors before a specific project was identified or land was purchased, and it was not uncommon for months to pass before a property was acquired. However, since First Leaside promised investors substantial regular distributions (often 6% or 7% per annum) on their LP units or notes, and adequate returns could not be obtained by leaving surplus cash in the bank, the LPs with idle capital required some way to generate income to fund those distributions.

31. Thus, First Leaside facilitated the intercompany financial arrangements, using FL Finance as a conduit to borrow surplus funds from some First Leaside entities, and then lend them to other First Leaside entities that required money (such as to rehabilitate properties). The interest rates paid on these loans were typically in the range of 6% to 7% per annum. All of these inter-company loans which FL Finance has facilitated have been duly recorded in First Leaside's records.

32. FL Finance is not registered under Ontario securities laws because it does not distribute or deal in securities.

33. In addition to its capacity as a "central bank" for First Leaside, from time to time FL Finance also acted as a buyer of client positions in FL Products through FLSI. Prior to the fall of 2011, First Leaside had an informal policy of arranging purchases of otherwise illiquid LP units from investors that wished to exit from their investments. Each unit was initially issued at a price of $1 per unit. As of February 12, 2012, FL Finance held approximately $16.66 million in LP units, based on a price of $1 per unit.

34. Attached hereto and marked as **Exhibit "G"** is a copy of FL Finance's internally-prepared financial statements as at December 31, 2010

FL Securities

35. FL Securities, which is a different corporation than FLSI, is an exempt market dealer ("**EMD**") that is registered with the OSC. FL Securities acts as an asset manager and promoter of real estate assets. For its services, FL Securities charges promotional fees, acquisition analysis fees, property management fees, and advisory fees. Despite its registration as a dealer, FL Securities does not engage in securities trading activities. All securities trading activities within First Leaside are conducted exclusively by FLSI.

FL Management

36. FL Management is the property manager of certain Canadian First Leaside properties. It charges all Canadian properties a services fee equal to 2 to 4% of annual net revenues.

37. FL Management employs one individual who is the senior property manager for Canada and who also has partial responsibility for First Leaside's U.S. property management. The day-to-day management of the U.S. properties is, however, conducted by a third party U.S. firm that reports to FL Management on a weekly and monthly basis.

38. In regard to the retirement residences described below, PrimeTime Living LP manages the day-to-day operations of that portfolio of properties. Finally, for the remaining Canadian properties, including Queenston Manor and Harmony (described below), on-site managers are employed by the entities. Attached hereto and marked as

Exhibit "H" are FL Management's unaudited financial statements as at December 31, 2010.

FL Insurance

39. FL Insurance is licensed as a corporate insurance agency with the Financial Services Commission of Ontario. FL Insurance sells, as agent, a variety of third party insurance policies to First Leaside investors. FL Insurance generates a small amount of commission income annually (approximately $55,000) as a result of its sales of insurance policies.

40. Attached hereto and marked as **Exhibit "I"** are the unaudited financial statements for FL Insurance as at December 31, 2011.

FL Services

41. FL Services provides personal income tax preparation services for Canadian and US investors.

42. Attached hereto and marked as **Exhibit "J"** are the unaudited financial statements for FL Services as at December 31, 2010.

Corporate Structure - LPs

43. First Leaside's investors may invest in the Company's various ventures by purchasing LP units. First Leaside has two types of LPs: individual LPs that acquire and operate a single property or development, and "aggregator" LPs that hold units of multiple LPs.

44. All types of LPs that First Leaside has formed were structured to provide tax advantages to investors as well as regular distributions (typically consisting of tax-free returns of capital in the early years).

45. Generally, First Leaside forms LPs to raise capital in order to locate and acquire real estate that has not been fully or effectively developed. The LPs typically acquire real estate from a third party in an arm's-length transaction. The costs to identify, acquire, and rehabilitate a property usually generate a loss for the LP in the first few years. The LP's investors realize this loss and offset it against their other income, thereby creating short-term tax benefits.

46. Each year a certain percentage of money invested in an LP is distributed by the LP to investors as a return of capital (and, hopefully, in later years, as income from the property), thereby providing investors with a regular cash flow regardless of the stage of the LP's project. Typically, LPs promised a regular annual return to investors in the range of 6% or 7% per annum.

47. Later on, if an LP acquires rental property that is leased after its rehabilitation, the rental payments produce operating income and cash flow that could be distributed to investors on a regular basis. If a property is sold after it is rehabilitated, investors can realize cash proceeds (and generate capital gains). The proceeds from a sale can be withdrawn from First Leaside or "rolled" into new LPs that are subsequently created.

48. Given the level of fees charged to LPs by FLWM to sell LP units, and identify, purchase, and manage properties, as well as the significant returns of capital to investors by way of distributions, investors in longstanding LPs have likely had the cost

base of their investments "ground down" to minimal amounts. In other words, some investors have already received back all or a substantial portion of their initial invested capital through a combination of return of capital and the tax benefits associated with the LP's losses. As a consequence, the properties are often highly leveraged.

49. There are numerous LPs within First Leaside. Certain LPs and their related holdings are listed below.

a. First Leaside Expansion Limited Partnership ("**FLEX**")

i. FLEX is one of First Leaside's Canadian real estate LPs. Attached hereto and marked as **Exhibit "K"** is an organizational chart for FLEX. Because FLEX owns more than one property, it is one of First Leaside's aggregator LPs.

ii. FLEX owns the following properties and LPs:

- First Leaside Entities LP ("**Entities**"): Entities owns two properties in Uxbridge that are adjacent to the Victoria St. Building (which is detailed below). One property is 1.57 acres and is currently being used as a parking lot for construction workers, while the other is 0.59 acres of land with a small commercial building, and is currently not producing income;

- First Leaside Growth LP ("**Growth**"): Growth owns a fully occupied 70,000 sq. ft. industrial building in Brampton, Ontario. The property has been profitable since 2008 and was projected to remain profitable through 2013. The property has been sold pursuant to an agreement for purchase and sale and the sale is scheduled to close in March 2012;

- Queenston Manor LP ("**Queenston**): Queenston owns a 77-unit retirement living apartment complex in St. Catharines, Ontario. The complex is presently 92% occupied. Rooftop solar panels are currently being installed at the property and once installed are expected to generate $53,000 a year. Before capital expenditures, the property has been profitable since 2008, and was expected to remain profitable through 2013. Queenston has been listed for sale and management is currently considering an offer that has been made on the property;

- First Leaside Unity LP ("**Unity**"): Unity owns 2.74 acres of land in Wheatley, Ontario, that is zoned for a residential townhome complex. Unity has already completed and sold three townhomes. FLEX had planned to develop and sell an additional 16 townhomes over a period of six years beginning in 2012; and

- FLEX had intended to build a four floor, 58,182 sq. ft. office building ("**Victoria St. Building**") for First Leaside on 1.04 acres at 4 Victoria St. in Uxbridge, Ontario. This building would have been the new head office of First Leaside. However, construction of the Victoria St. Building was halted in the fall of 2011 due to a lack of funds following the Cease Trade. As a result of this stoppage, eleven construction liens have been placed against the Victoria St. Building and the property owned by Entities. The total amount of these liens is $3,446,276.29. Additional details of these liens are attached hereto and marked as **Exhibit "L"**.

iii. FLEX raises equity and, in the past, paid a 6% distribution. FLEX has raised debt through the Development Notes LP ("**Development Notes**"), and paid a 7.75% interest rate. FLEX also raised debt through the FLEX Fund, paying a 6% interest rate.

iv. FLEX has also raised $3.45 million which was used to fund a syndicated mortgage on the Bramtree property.

b. Wimberly Apartments LP ("**WALP**")

i. WALP is an Ontario limited partnership which, through a series of Texas limited partnerships, holds a variety of properties in the United States (specifically, Texas). Attached hereto and marked as **Exhibit "M"** is an organizational chart for WALP. WALP owns the assets listed below and, as such, is one of First Leaside's aggregator LPs.

- F.L. Master Texas Ltd. ("**Master Texas**"): Master Texas owns six LPs that each own one apartment complex in the Dallas/Ft. Worth area;

  (I) Bluffs of Lakewood: The property is a 233-unit rental apartment building located in Dallas, Texas. The building is currently undergoing a rehabilitation program that is scheduled to be completed later this year. The property is expected to reach 95% occupancy by May 2012. The property is expected to be profitable, before capital expenditures, in 2012 and 2013;

(II) Old Mill Ponde Apartments: The property is a 244-unit rental apartment building located in Arlington, Texas. The building is currently undergoing rehabilitation and is not fully occupied. The property has not been profitable for the last several years;

(III) Preston Racquet Club: The property is a 184-unit condominium complex located in Dallas, Texas. Although the property has not been profitable for the past several years, it is nearing the end of a rehabilitation program and is expected to be profitable in 2012 and 2013 before capital expenditures;

(IV) Shores Apartments: The property is a 236-unit rental apartment building located in Arlington, Texas. The building is currently undergoing a rehabilitation program and is not fully occupied. The property has not been profitable for the last several years;

(V) Wymberly Crossing Apartments: a 212-unit rental apartment building in Grand Prairie, Texas. The property is expected to be profitable, before capital expenditures in 2012 and 2013, once the rehabilitation program is completed and rent is increased; and

(VI) Wymberly Pointe Apartments: The property is a 208-unit rental apartment building located in Grand Prairie, Texas. The property is expected to be profitable, before capital expenditures, in 2012 and 2013, once the rehabilitation program is completed.

- F.L. Master Sherman Ltd. ("**Master Sherman**"): Master Sherman owns four LPs that each own an apartment complex in the Sherman, Texas area;

(I) Country Village Apartments: The property is a 148-unit rental apartment building. This property is also currently undergoing a rehabilitation program that is scheduled to be completed later this year. The property has been profitable since 2008, and is projected to remain profitable through 2013;

(II) Creekview Apartments: The property is a 144-unit rental apartment building. The apartments are currently undergoing a rehabilitation program that is scheduled to be completed later this year. The property has been profitable, before capital expenditures, since 2008, and is expected to increase its profitability through to 2013 due to an expected increase in occupancy, completion of the rehabilitation program, and a series of rent increases;

(III) Parkview Apartments: The property is a 200-unit rental apartment building that is currently undergoing a rehabilitation program. The program is scheduled to be completed later this year. The property has been profitable since 2008, and is expected to remain profitable, before capital expenditures, through 2013; and

(IV) Raintree Apartments: The property is a 144-unit rental apartment building that is currently undergoing a rehabilitation program. The rehabilitation program is scheduled to be completed later this year. The property has been profitable since 2008, and is expected to remain profitable, before capital expenditures, through 2013.

- F.L. Sedona Creek Ltd. ("**Sedona**"): Sedona owns an apartment complex in the Dallas area. There is currently no scheduled rehabilitation program planned, and the occupancy rate is projected to increase through September 2012. Sedona is expected to be profitable in 2012 and 2013.

ii. WALP has raised debt and equity in several different ways. WALP has raised equity and paid a 4% distribution as return on capital. First Leaside Fund raised debt at bearing 9% annual interest for WALP. Additionally, Wimberly Fund I raised debt at an interest rate of 8%, and Wimberly Fund II raised debt at interest rates of 7% and 8%. Debt raised for the Master Sherman-owned properties has been through First Leaside Properties Fund at an interest rate of 9%. Finally, WALP raised $5.3 million through a syndicated mortgage for Sedona and a church property located near Sedona;

c. First Leaside Retirement Residences LP ("**Retirement**")

i. Retirement owns 50.1% of PrimeTime Living LP. PrimeTime Living LP owns several retirement residences and development properties that are listed below. Retirement's 50.1% interest in PrimeTime Living LP is shared amongst multiple First Leaside entities in the following proportions: 16.67% by First Leaside Wealth Management Holdings Inc., 20% by Progressive (defined below), 30% by Universal (defined below), and 33.3% by FLWM.

- Abby Lane Retirement Residence/Whiterock Medical: This project consists of a medical facility that occupies 40,000 sq. ft., and an 80-unit retirement home occupying 20,000 sq. ft. in Surrey, British Columbia. The medical centre and the retirement residence are located on 2.3 acres of land. The property is currently being developed and is expected to be completed in February 2013;

- The Birkhall Retirement Residence: This property is an 83-unit, 80,000 sq. ft. retirement home in Vernon, British Columbia. The residence is situated on 3 acres. The property is currently being developed and is expected to be completed later this year;

- The Heatherwood Retirement Residence: This property is an 87-unit, 40,000 sq. ft. retirement residence in St. Catharines, Ontario. The residence is situated on 1.5 acres of land; and

- St. Catharines Place Retirement Residence: This property is an 87-unit, 40,000 sq. ft. retirement home in St. Catharines, Ontario. The residence is situated on 1.5 acres of land.

d. <u>First Leaside Realty LP & First Leaside Realty II LP (collectively, "**Realty I & II**")</u>

i. Realty I & II own 3,996,160 equity LP units of WALP. Realty I & II raise equity and previously paid a 4.75% distribution. Attached hereto and marked, collectively, as **Exhibit "N"** are the unaudited financial statements for Realty I as at December 31, 2010 and Realty II as at September 30, 2011.

e. <u>First Leaside Acquisitions LP ("**Acquisitions**")</u>

i. Acquisitions owns three assets:

- 143,680 equity LP units of WALP;

- 625,800 equity LP units of FLEX; and

- 278,880 equity LP units of F.L. Spring Valley LP.

ii. Acquisitions raises equity and paid a 9.5% return of capital distribution. Attached hereto and marked as **Exhibit "O"** are the unaudited financial statements for Acquisitions as at December 31, 2010.

f. First Leaside Investors LP ("**Investors**")

i. Investors owns two LPs:

- Harmony Townhome LP ("**Harmony**"): Harmony is a 50-unit townhome complex in Tilbury, Ontario; and
- Mill Street LP ("**Mill St.**"): Mill St. is a 3.74 acre plot of land in Uxbridge, Ontario with a small heritage home.

ii. Investors raises equity and paid a 6% return of capital distribution. There is also a 6% syndicated mortgage on Mill Street. Attached hereto and marked as **Exhibit "P"** are the unaudited financial statements for Investors as at December 31, 2010.

g. First Leaside Progressive LP ("**Progressive**")

i. Progressive owns two assets:

- a 20% ownership interest in Retirement;
- Uxbridge Development LP ("**Cemetery Road**"), 23 acres of land, only four acres of which are developable, in Uxbridge, Ontario.

ii. Progressive raises equity and paid a 6% distribution. There is also a syndicated mortgage on Cemetery Road bearing interest at 6% per annum. Attached hereto and marked as **Exhibit "Q"** are the draft unaudited financial statements for Progressive as at December 31, 2010.

h. First Leaside Universal LP ("**Universal**")

i. Universal owns a 30% interest in Retirement. Universal raises equity and paid a 6% distribution. Attached hereto and marked as **Exhibit "R"** are the draft unaudited financial statements for Universal as at December 31, 2010.

i. F.L. Spring Valley LP ("**Spring Valley**")

i. Spring Valley owns

- 689,608 LP units of WALP;

- 640,000 trust units in the Wimberly Fund; and
- a shopping mall in the greater Dallas, Texas area.

ii. Spring Valley raises equity and paid an 8% return of capital distribution. Attached hereto and marked as **Exhibit "S"** are the unaudited financial statements for Spring Valley as at December 31, 2010.

j. <u>FLWM Holdings LP ("**FLWM Holdings**")</u>

i. FLWM Holdings owns a 16.67% ownership interest in Retirement and a 10.91% ownership interest in Beverages (defined below). Although equity has been raised, no distributions are paid.

k. <u>First Leaside Global LP ("**Global**")</u>

i. Global does not have any assets, other than an account receivable from FL Finance. Global raises equity and paid a 7% distribution.

ii. Global had previously entered into an agreement of purchase and sale to purchase property in Florida. However, the sale failed to close as a result of funding issues arising as a result of the Cease Trade. Global is currently pursuing legal action in the U.S. to recover its deposit.

l. <u>First Leaside Venture LP ("**Ventures**")</u>

- Ventures owns a 50% interest in the Birkhall Retirement Residence, in addition to the assets listed below.
- 180 Isabella Street (Ottawa) LP: This LP owns The Palisades Club, a 54-unit retirement condominium in Ottawa, Ontario. The residence is situated on 0.49 acres of land;
- 480 Metcalfe Street (Ottawa) LP: This LP owns The Palisades Retirement Residence, a 100-unit retirement residence in Ottawa, Ontario. The residence is situated on 0.68 acres of land;
- The Redwoods Retirement Residence (Ottawa) ("**Redwoods**"): Ventures purchased this property on August 26, 2011, from KingSett Real Estate Growth LP No. 2, along with the Palisades Retirement Residence, for aggregate consideration of $65 million and, as part of the purchase price, Ventures assumed an $40 million mortgage in favour of CIBC;

- Cherry Park Retirement Residence: This property is a 64-unit 61,288 sq. ft. retirement residence that is located in Okanagan, British Columbia. The residence is situated on 0.68 acres of land;

- Orchard Valley Retirement Residence: This property is a 66-unit, 66,597 sq. ft. retirement residence located in Okanagan, British Columbia. The residence is situated on 0.64 acres of land; and

- Shores Retirement Residence: This property is a 66-unit 66,580 sq ft retirement home in Kamloops, British Columbia. The residence is situated on 1.4 acres of land, and has land that has not yet been developed.

ii. Ventures raises equity and paid a 7% distribution.

iii. Attached hereto and marked as **Exhibit "T"** are the unaudited financial statements for Ventures as of July 31, 2011.

m. First Leaside Visions I and First Leaside Visions II LP ("**Visions I & II**")

i. Visions I & II owns seven start-up technology companies in Ontario. Visions I & II was established to take advantage of Ontario Commercialization Investment Fund grants, which constitute up to 30% of the investment. Visions I & II do not pay any distributions. Attached hereto and marked, collectively, as **Exhibit "U"** are the unaudited financial statements for Visions I & II as at December 31, 2011.

n. First Leaside Mortgage Fund ("**Mortgage Fund**")

i. Mortgage Fund holds a $5.3 million syndicated mortgage on Sedona and the Sherman church property in the WALP portfolio. Attached hereto and marked as **Exhibit "V"** are the unaudited financial statements for Mortgage Fund as at June 30, 2011.

o. First Leaside Beverages LP ("**Beverages**")

i. Beverages owns a majority interest in a brewery and cidery and the land and building upon which the cidery is situated. Since Beverages holds a minority portfolio interest in the brewery and cidery, Beverages is not applying for CCAA protection.

ii. Beverages is owned 10.9% by FLWM Holdings, 8.3% by Progressive, and 34.9% by FLWM. The remaining 45.9% of Beverages is held by third party investors.

iii. First Leaside is presently in discussions to sell is collective 54.1% interest in Beverages. If such sale is completed, FLWM Holdings, Progressive, and FLWM will be able to receive proceeds which can then be used to pay creditors in accordance with their priority.

The Blind Pools

50. Although most of First Leaside's LPs hold interests in identifiable properties, there are a small number of LPs where clients provided investment funds without knowing where funds were likely to be invested. Each of these LPs is known as a "blind pool" (a **"Blind Pool LP"**). Some of the funds that the Blind Pool LPs have raised have been lent to FL Finance and then re-lent to WALP to fund its rehabilitation projects and operating losses. The Blind Pool LPs were largely tax-driven investments designed to provide investors with tax savings.

51. Details of the Blind Pool LPs existing at the time of the Cease Trade are as follows:

a. First Leaside Select LP ("**Select**")

i. Select does not have any assets, other than amounts due from FL Finance. The majority of the funds it has raised have been lent to FL Finance. Select paid a 7% distribution. Attached hereto and marked as **Exhibit "W"** are the unaudited financial statements for Select as at December 31, 2010.

b. First Leaside Elite LP ("**Elite**")

i. Elite is a Blind Pool LP and does not have any assets, other than an account receivable from FL Finance. The majority of the funds that Equity has raised have been lent to FL Finance. Elite paid a 7% distribution. Attached hereto and marked as **Exhibit "X"** are the unaudited financial statements for Elite as of December 31, 2011.

c. First Leaside Premier LP ("**Premier**")

i. Premier is a Blind Pool LP and does not have any assets, other than an account receivable from FL Finance. The majority of the funds that Premier has raised have been lent to FL Finance. Premier paid a 7% distribution. Attached hereto and marked as **Exhibit "Y"** are the unaudited financial statements for Premier as at December 31, 2010.

d. First Leaside Ultimate LP ("**Ultimate**")

i. Ultimate is a Blind Pool LP and does not have any assets, other than an account receivable from FL Finance. The majority of the funds that Ultimate has raised have been lent to FL Finance. Ultimate paid a 7% distribution. Attached hereto and marked as **Exhibit "Z"** are the unaudited financial statements for Ultimate as at December 31, 2010.

Corporate Structure - Funds

52. A number of investors have invested in units of First Leaside trusts (the "**Funds**"). The Funds were created to generate interest income for investors from the properties already owned within First Leaside through an investment that was eligible for tax deferred plans such as RRSPs. The Funds created access to capital for other First Leaside entities that could be used to fund operations and rehabilitation programs and make additional property acquisitions. Capital raised by selling units of the Funds was, in turn, invested by the Funds in unsecured promissory notes issued by other First Leaside entities that already owned property. By lending to other First Leaside entities at specified rates of interest, the Funds aimed to earn steady income that could be distributed to investors. However, as with any First Leaside entity that made inter-company loans, the Funds bear the risk that such loans will never be repaid.

53. Since the Funds are trusts, and not corporations, they do not form part of the proposed CCAA filing. It is intended that the Funds will remain inactive, except to assert their rights as a creditor of other First Leaside entities.

EVENTS LEADING TO THE CCAA FILING

54. The OSC began investigating First Leaside in the fall of 2009 and the investigation continues to date.

55. First Leaside cooperated with the OSC throughout the investigation and endeavoured to respond to each and every one of the OSC's inquiries. In total, First Leaside provided the OSC with hundreds of binders of information including offering memoranda, subscription agreements, client documents, client account statements, and First Leaside financial records. Mr. Phillips was also examined under oath by the OSC.

56. In connection with this OSC investigation, on March 5, 2011, First Leaside, through its counsel, Cassels, retained GTL as a consultant to review, report, and make recommendations about First Leaside's business, assets, affairs, and operations. GTL is a leading Canadian accounting and business advisory firm that provides audit, tax, and advisory services to private and public organizations.

57. Shortly prior to retaining GTL, First Leaside voluntarily arranged for appraisals of its various properties to be obtained in order to assess the value of the assets held in its various entities. GTL later used such appraisals for the purpose of its analysis.

58. From March to August 2011, GTL met with First Leaside personnel to analyze the business and prepare a report. On August 19, 2011, GTL released a detailed report on First Leaside's operations ("**GTL Report**"). A copy of the GTL Report is attached hereto and marked as **Exhibit "AA"**.

59. The GTL Report disclosed that, as at August 19, 2011, the fair market value ("**FMV**") of First Leaside's real property based, in part, on the third party appraisals of the real property holdings obtained by First Leaside was worth more than the third party mortgages on the respective properties.

60. However, the GTL Report identified numerous issues that threatened First Leaside's future viability and which continue to exist today.

61. After the GTL Report was released, First Leaside took steps to implement the GTL Report's recommendations. It hired four additional employees to improve its accounting resources and financial reporting.

62. On November 3, 2011, First Leaside's board of directors also took steps to strengthen its corporate governance by appointing the Independent Committee to assume all decision-making authority in respect of First Leaside and oversee the Company's operations. As such, since that time, Mr. Phillips has no longer been in charge of the management of First Leaside.

63. The Independent Committee is composed of the following individuals, all of whom have significant business skills and experience:

(a) Leo de Bever: Chief Executive Officer and Chief Investment Officer of Alberta Investment Management Corp. (an Alberta Crown corporation that manages pension, endowment, and other government funds);

(b) Douglas Hyatt: Professor of Business Economics, Rotman School of Management, University of Toronto;

(c) John Cook: President of Tormin Resources Limited and Anton Resources

Corporation, Chairman of Premier Gold Mines Limited, and a director of several mining companies; and

(d) Robert Gauld: a chartered accountant and former controller of A. Schulman Canada Ltd.

Regulatory Issues

64. The GTL Report was provided to the OSC and IIROC immediately upon release. In late October 2011, in response to the GTL Report and other information received from First Leaside, the OSC informed First Leaside that, if satisfactory arrangements were not made to deal with First Leaside's situation, they were almost certainly going to take regulatory action including seeking a cease trade. At the same time, IIROC notified FLSI by letter dated October 28, 2011, that it had been designated as being in discretionary early warning level 2 as a result of the pending regulatory action. In this letter, IIROC advised that, pursuant to its Rules, FLSI was prohibited from

(a) reducing that firm's capital;

(b) repaying subordinated indebtedness without IIROC approval;

(c) making bonus, loan, or capital payments to any director, officer, or affiliate of FLSI; and

(d) reducing the "non-allowable assets" of FLSI.

65. Attached hereto and marked as **Exhibit "BB"** is the October 28, 2011 letter from IIROC to David Phillips on behalf of FLSI.

66. First Leaside advised IIROC and the OSC that it was prepared to put in place appropriate interim protective measures, but with the hope that business affairs could

be restructured within several months. For example, First Leaside agreed to a voluntary Cease Trade, which was implemented on October 31, 2011. Approximately a week later, First Leaside agreed with the OSC that as part of the Cease Trade, the Company would send a letter to its investors in a form approved by both the OSC and IIROC along with a copy of the GTL Report, and to post the letter to investors and the GTL Report on First Leaside's website. This letter to investors (attached as **Exhibit "CC"**) was ultimately sent on November 7, 2011, and provided frank disclosure about the GTL Report, the OSC investigation, and the concerns about First Leaside's viability.

67. On November 4, 2011, First Leaside retained GTL as an independent monitor to, in part, satisfy the OSC and IIROC that the Company was implementing a restructuring plan and establishing rigid reporting requirements. GTL has been providing, and continues to provide, the OSC and IIROC with regular ongoing reports about First Leaside's financial affairs.

68. In mid-November 2011, the Independent Committee engaged a third party financial consultant to conduct a detailed review of the financial state of all material First Leaside entities with a view to creating a restructuring plan pursuant to which First Leaside could emerge from the Cease Trade.

69. First Leaside also recognized at that time that, in order to restructure, it would need to conserve as much cash as possible, especially given its inability to raise further capital (because of the Cease Trade). As such, the Independent Committee decided to cease all distributions to clients indefinitely, including:

(a) distributions to LP unitholders;

(b) interest payments on client notes/debt (including the corresponding distributions made by Funds that hold promissory notes issued by other First Leaside entities); and

(c) dividends on common or preferred shares.

70. On November 28, 2011, First Leaside sent a letter to investors (attached as **Exhibit "DD"**) providing notice of the suspension of distributions. There have been no distributions since that date.

71. In early December 2011, with the input and approval of the OSC, the Independent Committee caused First Leaside to retain my corporation as CRO. The Independent Committee asked me to develop a workout plan for First Leaside. The workout plan was finalized in late January 2012. The goal of the workout plan, which is described below, is to maximize recoveries for First Leaside's stakeholders.

72. Through December 2011 and into January 2012, I considered plans to move forward with the operations of First Leaside as well as plans to wind-up all or parts of the business. I was cognizant of the limited cash reserves available within First Leaside under the Cease Trade and the projected time over which those reserves would be exhausted. In that context, I took careful note of the risks and uncertainties associated with the go-forward proposals given the significant risk of exhausting the cash reserves before completing a successful exit from the Cease Trade. After carefully analyzing the situation, my ultimate conclusion was that it was too risky and uncertain for First Leaside to pursue a resumption of previous operations, including the raising of capital. My recommendation to the Independent Committee was that First Leaside instead undertake an orderly wind-down of operations, involving:

(a) completing any ongoing property development activity which would create value for investors;

(b) realizing upon assets when it is feasible to do so (even where optimal realization might occur over the next 12 to 36 months);

(c) dealing with the significant inter-company debts; and,

(d) distributing proceeds to investors.

73. It is my recommendation to the Independent Committee that an orderly wind-down presents the best opportunity to maximize the recovery by investors.

74. I presented my recommendations to the Independent Committee and it approved my recommendation that First Leaside's affairs be wound down.

75. As I will describe further below, the best way to promote this wind-down is through a filing under the CCAA so that all issues—especially the numerous investor and creditor claims and inter-company claims—can be dealt with in one forum under the supervision of the court.

76. Since last fall, First Leaside has provided other updates to investors. For example, on February 8, 2012, after the decision to wind down operations was made, First Leaside issued an update regarding the outcome of my review of restructuring options (attached as **Exhibit "EE"**). Then, on February 9 and 13, 2012, I held conference calls with investors so that I could answer any questions that the investors had regarding First Leaside's financial position and anticipated CCAA proceeding.

III. FIRST LEASIDE'S FINANCIAL SITUATION

77. First Leaside has over $370 million in assets under management, which includes both Marketable Securities and FL Products. As I have described above, the Marketable Securities are all intact and held by Penson. First Leaside clients will be able to transfer Marketable Securities and cash to another investment dealer during the CCAA process.

78. With respect to the FL Products, it remains to be determined specifically how much value will be realized for investors on the LP units, debt instruments, and shares issued by the various First Leaside entities.

79. First Leaside is currently indebted to its secured creditors in the approximate amount of $176 million, and to its unsecured creditors (including investors holding notes or other debt instruments) in the approximate amount of $131.8 million.

80. However, since GTL reported that the aggregate value of properties in the First Leaside exceeded the value of the properties, there will be net proceeds remaining to provide at least some return to subordinate creditors or equity holders (i.e., LP unit holders and corporation shareholders) in many of the First Leaside entities. The recovery will, of course, vary depending on the entity. At this stage, however, it is fair to conclude that there is a material equity deficit both in individual First Leaside entities and in the overall First Leaside group.

81. Since equity holders are expected to receive some return, that means that, in many First Leaside entities, both third party long term debt (mortgages) and investor debt (notes) will also be paid in full.

82. First Leaside's primary stakeholders include mortgagees, unsecured debt holders, equity investors, and employees, all of which are discussed below.

83. A summary of the title searches for each of the Ontario properties, generally current to February 16, 2012, are attached to my affidavit as **Exhibit "FF"**.

Secured Debt

84. First Leaside has secured debt financing from banks, and unsecured debt from related party entities and investors. Attached hereto and marked as **Exhibit "GG"** is a list of First Leaside's mortgages, including the amount of the mortgage, the property it relates to, and the mortgagee. This document contains information to the extent that it is available. The appraised value contained in the chart is based on appraisals obtained for the purposes of the GTL Report.

85. First Leaside's primary secured creditors are banks and investors in syndicated mortgages (collectively "**Mortgages**") that provided First Leaside with funding to acquire and service the properties.

86. First Leaside currently has approximately a total of approximately $175 million in Mortgages. The Mortgages relate to seven First Leaside LPs: FLEX, WALP, Investors, Ventures, Spring Valley, Progressive, Retirement, and Beverages. However, since First Leaside only has a portfolio investment interest in Beverages, and Beverages is not one of the entities in respect of which CCAA protection is sought, the debts of that entity are not discussed below.

87. FLEX has $7.12 million in secured debt and owns four properties, two of which are subject to Mortgages. Queenston Manor has a $3.67 million mortgage with Midland Loan Services, and Growth has a $3.45 million mortgage with Peoples Trust Company Canada.

88. WALP has $53.73 million in secured debt. Most of WALP's bank mortgages are held by Wells Fargo or Keybank except for:

(a) the mortgage on the Shores property, which is held by Midland Loan Services; and

(b) the mortgage on the Sedona property.

89. The Sedona property was mortgaged using a syndicate of non-accredited investors through Mortgage Fund. As a result of the mortgages, no WALP properties are held free and clear of encumbrances.

90. Ventures has $75.5 million in secured debt. Approximately $17.78 million of that debt is held by the Toronto-Dominion Bank (**"TD"**) on three separate properties. Additionally, there are two mortgages on each of two Ottawa properties held by Ventures: $30.04 million in mortgages held by Canadian Imperial Bank of Commerce (**"CIBC"**) and KingSett Capital on the Redwoods property, and $27.18 million in mortgages held by the same two financial institutions on The Palisades Retirement Residences property. Ventures also has a $515,000 syndicated mortgage on the Vernon property. The mortgages were raised through Mortgage Fund.

91. Retirement also has $33.9 million in Mortgages. Retirement's Whiterock property is subject to a $5.4 million mortgage held by Fisgard Capital Corporation. The

Heatherwood property is also mortgaged: $25.5 million in favour of First Ontario Credit Union, and $3 million in favour of Henry E. Hildebrand and Grace Hildebrand.

92. Investors is subject to $2.13 million in Mortgages on two properties. The Harmony property is subject to a $1.23 million mortgage with TD Bank. The Mill St. property has a $900,000 mortgage with Peoples Trust Company Canada.

93. Progressive has a $1.65 million mortgage with Peoples Trust Company Canada on the Cemetery Road development.

94. Spring Valley has a $910,827 mortgage that is held by Wells Fargo.

95. Finally, FL Services has a $831,664.87 secured loan with TD.

Construction Liens

96. As noted above, there are also eleven construction liens filed against four First Leaside entities including FLEX and First Leaside Realty II Inc., and the Victoria St. Building and the Entities' owned property. The total amount of these construction liens is $3,446,276.29. However, one of the liens, in the amount of $13,034, is filed only against one of the Entities' properties, and not against either the Victoria St. Building or the other Entities' property.

Unsecured Creditors

97. The total amount of unsecured creditor debt is $131.8 million. This unsecured debt is owed by FLWM, FLEX, WALP, Investors, Progressive, and Mortgage Fund.

98. FLWM has $18.3 million in investor debt that has been raised through the FLWM Fund, Special Notes Limited Partnership, and Special U.S. Notes Limited Partnership.

99. FLEX has $16.4 million in investor debt that it raised through Development Notes and FLEX Fund. The debt raised through the Development Notes pays an interest rate of 7.75%, and the FLEX Fund debt pays an interest rate of 6%.

100. FL Finance has borrowed $27.9 million from within First Leaside and lent $10.2 million to other LPs. Further, FL Finance has acquired $16.66 million in LP units through investor redemptions at a rate of $1 per LP unit.

101. WALP has raised $68.2 million in debt from First Leaside investors. WALP raises debt at the Master Texas, Master Sherman, and Sedona levels through the First Leaside Fund, First Leaside Properties Fund, and Wimberly Fund. Master Texas has a total of $53.8 million in investor debt: $43.3 million through First Leaside Fund and $10.5 million through Wimberly Fund. Master Sherman has a total of $14.37 million investor debt raised solely through First Leaside Properties Fund. Master Sherman has also issued a $500,000 promissory note.

Equity Investors

102. First Leaside has raised approximately $199.2 million in equity to date through the sale of LP units and common and preferred shares. Set out below is a breakdown of the investor equity investments (based on the purchase price of the equity, but excluding the effect of losses and distributions of capital in the LPs) per First Leaside entity:

(a) FLWM – $30.6 million;

(b) FLEX – $37.8 million;

(c) WALP – $45.3 million;

(d) Realty I & II – $4.5 million;

(e) Acquisitions – $1.8 million;

(f) Investors – $6.7 million;

(g) Progressive – $14.9 million;

(h) Universal – $5.8 million

(i) Ventures – $14.4 million

(j) FLWM Holdings – $3 million

(k) Spring Valley – $2.2 million

(l) Select – $3.6 million

(m) Elite – $6.7 million

(n) Global – $9.2 million

(o) Premier – $5.6 million

(p) Ultimate – $3 million

(q) Visions I & II – $4.2 million

(r) Mortgages - $11.6 million

103. Equity structures vary from one First Leaside entity to another. FLWM, for example, has three series of preferred shares that pay dividends at differing rates.

FLWM also issues common shares. In contrast, FLEX has only one form of equity ownership.

Employees

104. Up until the fall of 2011, First Leaside had approximately 50 employees. However, due to downsizing over the last several months and the decision to wind down operations, approximately 30 employees have been temporarily laid off or terminated. Currently, First Leaside employs 19 salaried employees. First Leaside expects to reduce its workforce to approximately 11 people by month end.

105. First Leaside's current monthly payroll obligation, including CPP and EI contributions, is approximately $70,650. Payroll is due semi-monthly.

106. First Leaside will take steps to ensure that it has only the bare minimum of employees necessary to provide information and to support a restructuring process. In particular, during the CCAA process, it is likely that staffing levels will be reduced further, especially as properties are sold.

IV. FIRST LEASIDE'S FINANCIAL TROUBLES

107. First Leaside's success in developing and rehabilitating real property is predicated on achieving certain levels of rental revenues and not exceeding certain cost thresholds. Unfortunately, due to the recent recession and its negative impact on the real estate markets in Ontario, British Columbia, and Texas, it has become difficult to achieve First Leaside's estimated rental revenues. Additionally, the capital rehabilitation costs have been higher than forecasted.

108. Moreover, the Cease Trade that First Leaside implemented placed severe financial constraints on the Company. Almost every First Leaside business unit depended on the ability of FLWM and its subsidiaries to raise capital from investors. Additionally, FLWM depended on a primary revenue stream of brokerage and other fees from or in connection with new capital and other services provided by First Leaside entities. In turn, the various LP investments in real estate and commercial enterprises relied on ready access to new capital from investors as well as regular operating cash flow from FLWM. The inability to access the capital market had a significant negative effect on the Company.

109. As noted above, First Leaside's inability to raise capital had detrimental effects on almost all of its business units. For example, First Leaside made a series of investments in R&D technology start-up businesses that are owned by Visions I & II. These businesses depended on FLWM's ability to raise working capital. Since the Cease Trade, although one of the businesses has located a third party financing commitment through the next operating cycle, the others are facing a cessation of operations.

110. There are also immediate cash flow crises at FLWM and virtually every LP. An analysis of the current net asset value in FLWM and almost every LP indicates a substantial loss of investor value.

111. FLWM's financial position has decreased substantially since November 2011 when the Cease Trade was implemented. FLWM's cash reserves have fallen from $2.8 million to $1.6 million at the end of January 2012. Absent new cash from asset

disposals, current reserves will be exhausted in April. There are no recurring revenue streams from asset management at present. However, FLWM maintains its $2.0 regulatory capital in FLSI.

112. On December 31, 2011, Ventures defaulted by failing to make a principal mortgage payment of $4.25 million which was owing to KingSett. KingSett has issued a default notice and such default has also caused a default in respect of indebtedness owing to CIBC in respect of the same properties.

113. Investors' Harmony property does not generate sufficient net operating income to service its mortgage. Absent cash flow from FLWM, a default is imminent.

114. In addition to the problems flowing from the recession and other factors set out above, First Leaside has also faced regulatory actions that have proved costly.

115. The two year OSC investigation of First Leaside cost the Company substantial amounts in terms of out of pocket expenses in addition to the internal resources of First Leaside which were diverted away from normal operations. The result of the investigation was an agreement by First Leaside to implement the Cease Trade. The Cease Trade resulted in lost agency and business development fees for FLWM.

116. The cumulative effect of the events described above have left First Leaside with a number of properties at various stages of development, but without liquidity or refinancing options to rehabilitate the properties and execute its business plan.

117. Despite these defaults (including the failure to pay for construction work and the resulting construction liens), First Leaside has generally been able to make regular

mortgage payments to its creditors. While the majority of the properties have generated sufficient revenue to carry the corresponding mortgage, given the cash constraints on the Company, it will be difficult for First Leaside entities to make mortgage payments in the near future, especially given the need to expend monies on property development and upgrading activities which are necessary to realize proper value when properties are sold. Although First Leaside has generally been making monthly payments of principal and interest on mortgages when due, it will not be able to do so in the future, given its cash constraints.

V. THE PROPOSED PLAN

Introduction

118. As CRO, I have determined that there is no viable plan to continue First Leaside as a going concern in light of the risks related to the go-forward strategies that I have considered and the limited cash reserves for pursuing those strategies. The largest net debtors are FLWM, WALP, Ventures, and FLEX. These entities are unable to repay their inter-company balances from operating cash flows, thereby affecting investor interests in other entities. There is also insufficient net asset value in these entities to settle the intercompany balances through the immediate liquidation of assets.

119. Thus, the intended plan, which has been approved by the Independent Committee, is to effectuate an orderly wind-down of First Leaside's operations over a period of time and in a manner that will create the opportunity to realize improved net asset value.

120. First Leaside will, in an organized fashion, divest itself of assets, including the accounting firms it owns in Alberta and British Columbia and FLWM's artwork portfolio. First Leaside will also negotiate the sale of the majority interest in Beverages and PrimeTime. This sale is expected to provide working capital to FLWM.

121. Second, as I have noted above, First Leaside clients hold substantial Marketable Securities through FLSI which are in segregation at Penson. Since FLSI will wind down operations, there is no need for clients to continue to hold the Marketable Securities or available cash balances at Penson. Accordingly, as part of the CCAA order being sought, FLSI wishes to allow clients to transfer the Marketable Securities and cash to another investment dealer. FLSI will cooperate in this process. First Leaside is also content to have certificates or other documents at Penson which evidence FL Products to be delivered to a new investment dealer.

122. FLSI also holds approximately $2.0 million in regulatory capital consisting of $1,741,000 of risk adjusted capital plus $250,000 in minimum capital. First Leaside has been in discussions with IIROC concerning the uses to which the regulatory capital can be put, especially after the Marketable Securities are transferred to new investment dealers. First Leaside has agreed to address IIROC concerns by restricting the extent of the application of the proposed Directors' and Officers' Charge to FLSI assets.

Other Possible Asset Sales

123. Queenston Manor has been listed for sale, and First Leaside's management is currently considering an offer that has been made on the property. The sale may

generate approximately $2 million in net proceeds. To the extent that a binding offer of purchase and sale is signed, First Leaside will bring a further motion for sale approval.

124. Further, the Company intends to sell FLWM's ownership interest in PrimeTime Living LP, with the approval of Progressive, FLWM Holdings, and Universal; and FLWM's interest in Beverages, with the approval of FLWM, Progressive, FLWM Holdings, and FL Beverages Group LP. The Applicants will seek court approval of such transactions.

Refinancing of Ventures

125. Many of the properties that Ventures owns were acquired in the summer of 2011. For example, on August 26, 2011, First Leaside completed the purchase of Redwoods and Palisades from KingSett Real Estate Growth LP No. 2 for $65 million, part of which purchase price was satisfied through the assumption of an existing CIBC mortgage. KingSett also holds a second mortgage on the properties.

126. On September 8, 2011, First Leaside purchased The Shores, Cherry Park, and Orchard Valley (retirement residences in British Columbia) for the aggregate amount of $25.4 million, $19.4 million of which was financed by a mortgage from TD.

127. At the time of these purchases, First Leaside had always intended to de-leverage the properties through several means. First, First Leaside had intended to sell further LP units to raise approximately $25 million in additional capital. Those funds could be used to complete development work on some of the properties and also reduce the mortgage debt. First Leaside had also planned to sell a number of condominium units

in these developments to generate additional proceeds. The Cease Trade interrupted this process. Because Ventures has not been able to raise more capital, the KingSett mortgage defaulted (regarding payment of principal) and there are issues of unpaid contractors on some of Ventures properties in British Columbia.

128. Given the Cease Trade, Ventures has been attempting to raise new capital from other sources, under the supervision of the OSC. On February 15, 2012, Ventures and Bridge Gap Konsult Inc. (**"Bridge Gap"**), a German firm, signed a non-binding term sheet to sell further LP units and also obtain bridge financing for Ventures. The transactions contemplated by the term sheet are subject to court approval in this CCAA process as well as consent of the OSC under the Cease Trade. Attached hereto and marked as **Exhibit "HH"** is a copy of the Ventures-Bridge Gap term sheet (the **"Ventures Term Sheet"**).

129. The Ventures Term Sheet contemplates that Bridge Gap will:

(a) in the near future provide a short-term bridge loan of $10 million which will be used as follows:

(i) approximately $4,500,000 will be used to pay down the principal amount of the KingSett mortgages over Ventures' property;

(ii) approximately $5,000,000 will be used to fund working capital and contractor costs; and

(iii) $500,000 will be used for financing fees; and

(b) subsequently make a $25,000,000 investment in Ventures (the **"Bridge Gap Equity Investment"**) by way of LP units.

130. Now that the Ventures Term Sheet has been signed, First Leaside intends to negotiate with Bridge Gap so that a definitive bridge loan agreement can be prepared and signed.

131. The Bridge Gap Equity Investment will likely take further time to conclude, because Bridge Gap needs to obtain funding from investment vehicles in Germany and is first required to obtain approval of German financial regulators.

132. The bridge loan (as subordinate debt) and the Bridge Gap Equity Investment (as equity) are intended to be subordinate to the existing mortgages, including those of CIBC, TD, and KingSett.

133. On February 21, 2012, I (along with other First Leaside representatives, including the proposed Monitor) held meetings with representatives of CIBC, TD, KingSett, and Laurentian Bank and their counsel to discuss the proposed CCAA filing. At the meetings, those creditors expressed concerns about the proposed CCAA proceedings, especially the fact that the proposed Administrative Charge and Directors' and Officers' Charge (collectively, the **"Charges"**) would take priority over those lenders' mortgages. Concerns were also expressed about whether the transactions contemplated by the Ventures Term Sheet would be completed.

134. Following the meeting, First Leaside considered the lenders' objections and received input from the Independent Committee. As such, First Leaside made the decision that the following limited partnerships would not, at this initial stage, be brought within the scope of the CCAA initial order (collectively, the **"Excluded LPs"**):

(a) First Leaside Retirement Residences (Ottawa) Limited Partnership

(b) First Leaside Retirement Residences (Okanagan) Limited Partnership

(c) Cherry Park Retirement Residences Limited Partnership

(d) Orchard Valley Retirement Residences Limited Partnership

(e) The Shores Retirement Residences Limited Partnership

(f) The Redwood Retirement Residences Limited Partnership

(g) 100 Isabella St. (Ottawa) Limited Partnership and

(h) 480 Metcalfe St. (Ottawa) Limited Partnership

135. First Leaside has reserved its right to later bring a motion to extend the CCAA initial order and stay to the Excluded LPs and thereby bring them into the CCAA process.

136. For the near term, however, First Leaside intends to introduce Bridge Gap to these lenders so that the lenders can assess the viability of the transactions contemplated by the Ventures Term Sheet. First Leaside also intends to discuss other options for the property of the Excluded LPs in the event that the Bridge Gap equity investment and bridge loan are not put in place.

WALP

137. The WALP properties have, in the past, needed cash for ongoing renovations. However, after considering matters in depth, First Leaside has determined that it does not need to immediately seek bankruptcy protection for the U.S. LPs under the USBC.

138. First Leaside intends to undertake several short term steps, described below, to improve the financial viability of the LPs which WALP owns, so that they can be self-supporting until the completion of a realization strategy. First, I am closely monitoring WALP's aggressive strategy to increase occupancy of the U.S. properties by the second quarter of 2012, so that revenues will increase.

139. Second, a number of the U.S. properties—including Pointe, Crossing, and Sedona—are currently listed for sale. If necessary, the proceeds received from the sale of a handful of U.S. properties can be used to fund completion of the other U.S. properties. Expressions of interest have been received from 48 potential purchasers. First Leaside has also received a number of offers, which we are currently considering.

140. Third, I have taken steps to conserve the amount of cash in the U.S. properties by deferring capital improvements where feasible.

141. Assuming that increased rental revenues and decreased capital spending can be achieved, I have forecast that the U.S. properties will be self-sustaining in 2012, even without selling any properties.

142. The cash-on-hand in the U.S. properties is largely held at the level of the individual properties (i.e., the Texas LPs), not at the level of WALP. Thus, although the general partner of WALP is one of the parties seeking CCAA protection, the U.S. LPs intend to continue to operate (i.e., paying their mortgages and ongoing expenses) in the normal course despite any CCAA order.

143. In the event that the above-noted measures are not sufficient to maintain the U.S. properties in an adequate financial state, First Leaside may need to consider seeking protection from creditors under the USBC. It may also be necessary to seek such relief in the event that mortgagees on the U.S. properties declare defaults or attempt to enforce their security by reason of cross-defaults caused by the CCAA proceedings.

144. As part of the wind-down, the long-term plan is eventually to sell all of the U.S. properties. However, given the need to conduct capital improvements on some of them as well as the currently weak real estate market in Texas, First Leaside may be required to operate a number of the properties for one or more years before an acceptable sale can be achieved.

VI. PROJECTED CASH FLOWS

145. A copy of the Applicants' consolidated projected weekly cash flows will be appended to the Pre-Filing Report of GTL as proposed Monitor, which report is also being filed in support of the CCAA application.

VII. INITIAL CCAA ORDER SOUGHT

Stay of Proceedings

146. As a result of the financial condition of First Leaside, many creditors will likely commence enforcement proceedings against First Leaside, including lenders and LP investors seeking to recover amounts they have lent to and invested in First Leaside. A stay of proceedings is essential for the protection of First Leaside's business and the

properties. Such a stay would create the necessary environment to allow First Leaside to develop, refine, and implement its wind-down plan. It will also allow First Leaside, with the assistance of GTL as the proposed Monitor in the CCAA proceedings, to develop a claims process for First Leaside investors so that that realizations can be distributed amongst the investors in an equitable manner, with Court approval.

Monitor

147. GTL has consented to act as Monitor in First Leaside's CCAA proceedings, if such relief is granted by this Court. An executed consent of GTL to act as Monitor will be filed with the court at the hearing of this application.

Appointment of a CRO

148. Although I have acted as CRO since December 2011, First Leaside is seeking confirmation and approval of my existing appointment during the pendency of the CCAA proceedings.

149. Given the relationship between First Leaside and its investors, and the potentially strained relationship between management and other stakeholders, First Leaside believes that the appointment of a CRO in these proceedings is critical to ensuring independence and objectivity during the restructuring process.

150. I have over 25 years of experience in providing strategic advice and leadership to business organizations. I was a partner in the Financial Advisory Services practice at Deloitte LLP, where I specialized in corporate restructuring and corporate finance. In 2003, I left Deloitte to set up my own business, G.S. MacLeod & Associates Inc. In this

new role I have continued to provide advice and management leadership on corporate reorganizations and transactions to mid-market companies and their stakeholders. I have significant experience working as a CRO, including in relation to Hunjan Automotive, Bob-Lo Island, Brite Manufacturing, Great Lakes Fish Company, and Seaquest Corp./Seaquest Capital Corp. I am a Chartered Accountant, Chartered Insolvency and Restructuring Professional, and licensed bankruptcy trustee.

151. I was retained by First Leaside as CRO on December 6, 2011, and intend to continue in my capacity as CRO with the approval of this Court.

152. First Leaside is seeking the approval of the appointment of a CRO and an indemnity and charge relating to the fees and expenses of the CRO. Such charge is part of the Administrative Charge that First Leaside is seeking, described below.

Cash Management

153. Traditionally, the various entities constituting First Leaside have used TD as their banker and have maintained multiple current accounts (in excess of 50) at such bank. Many of such accounts have limited activity and balances.

154. On February 21, 2012, counsel for TD advised that the bank will require First Leaside to reduce the number of accounts that it maintains. Although First Leaside is prepared to do so, such consolidation will, in effect, create some version of a centralized cash management system whereby balances from multiple entities are combined in a smaller number of accounts. However, the reduction of the number of accounts will make the control and review of First Leaside's financial affairs easier for both the

Company and the proposed Monitor. For purposes of a CCAA order, First Leaside seeks permission to establish a centralized cash management system.

Payment of Professional Fees and the Administrative Charge

155. I believe it is in the interests of First Leaside and all of its stakeholders that First Leaside's legal advisors, the CRO, the Monitor, and the Monitor's proposed counsel (Blake, Cassels & Graydon LLP) (collectively, the "**Estate Professionals**") assist First Leaside throughout this process to proceed with the proposed wind-down. The process will be complicated. The institutional knowledge that the Estate Professionals currently possess is invaluable given the complicated nature of First Leaside's structure and financing.

156. Further, the Estate Professionals will be working with over 1,200 stakeholders to wind-up First Leaside. This will likely be a time-consuming process that will involve both the institutional knowledge and skills of the Estate Professionals.

157. Consequently, it is necessary for First Leaside to pay the reasonable fees and disbursements of the Estate Professionals and it is appropriate that the Estate Professionals be granted a charge in the total amount of $1 million (the "**Administrative Charge**") on the assets of First Leaside as security for amounts owing by First Leaside to them. It is proposed that the fees of all of the Estate Professionals—except counsel to the Independent Committee (who are proposed to come within the D&O Charge)—be secured under the Administrative Charge.

Allocation of Restructuring Costs

158. The Estate Professionals intend to devise a protocol for allocating among the various Applicants, where possible, their fees and disbursements associated with the restructuring. That will likely require the professionals to open multiple files, each of which relates to work performed on specific First Leaside entities or groups of entities.

D&O Charge

159. Although I am, in essence, instructed only by the four members of the Independent Committee, there are 17 independent directors of First Leaside entities. I, along with the First Leaside directors and officers, have knowledge of the properties, have had ongoing discussions with stakeholders, and have been involved in negotiations with third party investors and developers. There is a significant amount of information and experience in the possession of directors that is necessary to support the restructuring and maximize First Leaside's value.

160. Realistically, it is unlikely that the Independent Committee or other directors would continue their service to First Leaside during CCAA proceedings without an indemnity. In fact, members of the Independent Committee have already advised that they wished to resign from their position in order to minimize their personal liability. First Leaside was able to convince them to remain as directors for the time being, although their long term service is in question, especially if they may be exposed to post-filing liability.

161. First Leaside currently *does not*—and historically has never had—directors' and officers' insurance (**"D&O Insurance"**). Although the Independent Committee tried to secure insurance in 2011, it has not been able to do so until now at reasonable rates

and with a reasonable scope of coverage, given that coverage was sought after First Leaside's problems were already apparent and the regulators' investigation was well underway. Efforts to obtain D&O Insurance continue, although any insurance that is obtained is likely to provide minimal coverage.

162. First Leaside is seeking an order under the CCAA that provides for the indemnification of the directors and officers by First Leaside for any post-CCAA filing liabilities, and that grants to the directors and officers (and their counsel, for fees) a charge on all of First Leaside's assets in the total amount of $250,000 (the "**D&O Charge**") as security for such indemnification. Since the D&O Charge relates to post-filing liabilities, such figure has been established by taking into account the above-noted ongoing liabilities to employees for wages and vacation pay.

163. First Leaside is requesting that the D&O Charge rank second in priority, behind the Administrative Charge.

164. On February 22, 2012, the Company, at the direction of the Independent Committee, took steps to establish a trust called the "First Leaside Independent Committee Trust", in favour of the non-management directors of FLWM and their designates (including the CRO) in the amount of $250,000. The purpose of the trust is to pay legal expenses and claims, settlements or judgements from any legal actions commenced against such directors based on claims for actions taken or failed to be taken before the date of this CCAA filing. The proposed trustee is Arden Cornford.

Representative Counsel

165. First Leaside has over 1,200 investors who have invested their money (loans and equity) in various LPs, trusts, and corporations of the First Leaside group.

166. Given the large number of individual investors in First Leaside and the difficulty that investors would individually have in getting their voice heard in this restructuring, First Leaside seeks the appointment of a well-known and experienced law firm to act as representative counsel to such investors.

167. Appointing representative counsel will enable First Leaside to put in place an efficient and effective communication plan, and will assist in the implementation of the wind-up plan. Further, representative counsel will ensure that those investors who do not opt-out of representation will be adequately represented in the CCAA proceedings.

168. First Leaside is seeking an order under the CCAA that both appoints Fraser Milner Casgrain LLP ("**FMC**") as representative counsel, authorizes an initial maximum amount of $150,000 for legal fees and includes the fees of Representative Counsel in the Administrative Charge.

169. FMC has served as representative counsel on at least one prior occasion when it represented the 26,000 investors in Portus Alternative Asset Management Inc. (and related companies) in bankruptcy proceedings.

170. The Applicants are proposing that Shayne Kukulowicz, a partner at FMC, be the lead lawyer at FMC who acts as representative counsel. FMC has conducted a conflict search and confirmed that it is able to act in this matter. I also believe that Mr.

Kukulowicz is eminently qualified to fill the role of representative counsel and to discharge his responsibilities to investors fully and to act independently of First Leaside.

171. I have already spoken with a number of First Leaside clients about representative counsel. One of these people, Steve Rosenberg, is apparently an investor who has been in contact with dozens of other investors and was (within the last week) seeking potential counsel for investors. Around February 17, 2012, I spoke with Mr. Rosenberg and explained the CCAA process and discussed the possibility of representative counsel. I later sent a follow-up e-mail to him to explain the concept of representative counsel. Mr. Rosenberg also informed me, and I believe, that he spoke with Mr. Kukulowicz on February 18, 2012, and that it was a "good conversation".

172. On February 18, 2012, I also exchanged e-mail messages with two other investors, Keith and Lois Warden, to explain the rationale for, and role of, representative counsel.

173. Mr. Kukulowicz has also advised me, and I believe, that he and other members of FMC have also made contact with a number of investors to explain the possibility of appointing representative counsel. He has also advised me that investors have, in general, been very supportive of the potential appointment of representative counsel.

174. It is not the intention of First Leaside to exclude the participation of other counsel on behalf of individual investors. As such, the proposed CCAA order allows investors to provide representative counsel with written notice if they do not wish to be represented by FMC, thereby creating an "opt-out" process. However, since it would not be

economically feasible for First Leaside to fund numerous counsel for individual investors, parties that opt-out would have to bear their own legal fees.

Priority of the Administrative Charge and the D&O Charge (collectively, the "Charges")

175. Since many of First Leaside's real properties have values which exceed the amount of their underlying mortgages, the proposed charges will likely be borne by subordinate creditors (like noteholders) and, in some cases, by equity holders. However, it is these stakeholders who have the most to gain from an orderly liquidation process which maximizes value, thereby creating a potentially greater surplus after mortgages are paid.

176. The cumulative amount of the Administrative Charge and the D&O Charge would be $1.25 million. That amount is about 1% of the gross value of First Leaside's real estate assets according to the appraisals referred to in the GTL Report (on page 66).

177. The restructuring will, admittedly, have a cost. However, I believe that the cost of restructuring is likely to be significantly higher if realization of assets occurs in a piecemeal fashion, especially given the large number of creditors and the extensive inter-company loans.

178. First Leaside needs a coordinated process to:

(a) operate the various properties during the wind-down;

(b) market and sell properties;

(c) accept and adjudicate claims from equity-holders, debt holders, trade creditors, construction lien claimants, and mortgages; and

(d) come to a final reckoning of all assets and liabilities as amongst all entities in the First Leaside group (including payment of inter-company debt).

179. I believe that the most efficient and least expensive way of dealing with these matters is through a coordinated CCAA process.

180. Should the Administrative Charge and D&O Charge not be approved, First Leaside would be unable to proceed under the CCAA and First Leaside's other stakeholders would be significantly prejudiced.

VIII. CONCLUSION

181. If First Leaside is provided with a reasonable period of protection, First Leaside's goal is to refine and implement a wind-down plan that would maximize value for its stakeholders. The granting of the relief requested also provides a single forum for the numerous stakeholders of First Leaside.

182. If CCAA protection is not granted, First Leaside would likely be faced with the unpalatable requirement of abandoning multiple properties (i.e., those without immediate access to funds). Given the numerous and diverse nature of the stakeholders of First Leaside, it is foreseeable that numerous parties would take individual remedies and there would be layers of costly litigation and an overall diminution of stakeholder recoveries. I believe that such a meltdown would result in the loss of significant value for all stakeholders.

SWORN before me at the City of Toronto In the Province of Ontario, this 22nd day of February, 2012	))))))	
A Commissioner, etc.		Gregory MacLeod

This is Exhibit "C" referred to in the Affidavit of Gregory MacLeod sworn June 19, 2012

____
Commissioner for Taking Affidavits (or as may be)

Court File No. CV-12-9617-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.	)	THURSDAY, THE 23RD
	)	
JUSTICE DAVID M. BROWN	)	DAY OF FEBRUARY, 2012

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF First Leaside Wealth Management Inc., First Leaside Finance Inc., First Leaside Securities Inc., FL Securities Inc., First Leaside Management Inc., First Leaside Accounting and Tax Services Inc., First Leaside Holdings Inc., 2086056 Ontario Inc., First Leaside Realty Inc., First Leaside Capital Inc., First Leaside Realty II Inc., First Leaside Investments Inc., 965010 Ontario Inc., 1045517 Ontario Inc., 1024919 Ontario Inc., 1031628 Ontario Inc., 1056971 Ontario Inc., 1376095 Ontario Inc., 1437290 Ontario Ltd., 1244428 Ontario Ltd., PrestonOne Development (Canada) Inc., PrestonTwo Development (Canada) Inc., PrestonThree Development (Canada) Inc., PrestonFour Development (Canada) Inc., 2088543 Ontario Inc., 2088544 Ontario Inc., 2088545 Ontario Inc., 1331607 Ontario Inc., Queenston Manor General Partner Inc., 1408927 Ontario Ltd., 2107738 Ontario Inc., 1418361 Ontario Ltd., 2128054 Ontario Inc., 2069212 Ontario Inc., 1132413 Ontario Inc., 2067171 Ontario Inc., 2085306 Ontario Inc., 2059035 Ontario Inc., 2086218 Ontario Inc., 2085438 Ontario Inc., First Leaside Visions Management Inc., 1049015 Ontario Inc., 1049016 Ontario Inc., 2007804 Ontario Inc., 2019418 Ontario Inc., FL Research Management Inc., 970877 Ontario Inc., 1031628 Ontario Inc., 1045516 Ontario Inc., 2004516 Ontario Inc., 2192341 Ontario Inc., and First Leaside Fund Management Inc. (each, an "Applicant" and collectively, the "Applicant")

INITIAL ORDER

THIS APPLICATION, made by the Applicant, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Gregory MacLeod sworn February 22, 2012 (the "MacLeod Affidavit") and the Exhibits thereto, and the Pre-filing Report of Grant Thornton Limited as the Proposed Monitor, and on hearing the submissions of counsel for the Applicant, the proposed Monitor, the proposed Representative Counsel, the Ontario Securities Commission, the Investment Industry Regulatory Organization of Canada, the Toronto-Dominion Bank, the Canadian Imperial Bank of Commerce, and KingSett Capital, no one appearing for the other parties on the service list although duly served as appears from the affidavit of service of Patricia Hoogenband sworn February 22, 2012 and on reading the consent of Grant Thornton Limited to act as the Monitor,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. THIS COURT ORDERS AND DECLARES that the Applicant is a company to which the CCAA applies. Although not an Applicant, the limited partnerships listed in Schedule "A" to this Order (the "LPs") shall enjoy the benefits of and the protections provided to the Applicant by this Order. (The Applicant and the LPs are hereinafter referred to collectively as "First Leaside".)

3. THIS COURT ORDERS that, for greater certainty, the terms of this order shall not apply to the following limited partnerships (collectively, the "Excluded LPs"):

(a) First Leaside Retirement Residences (Ottawa) Limited Partnership

(b) First Leaside Retirement Residences (Okanagan) Limited Partnership

(c) Cherry Park Retirement Residences Limited Partnership

(d) Orchard Valley Retirement Residences Limited Partnership

(e) The Shores Retirement Residences Limited Partnership

(f) Redwood Retirement Residences (Ottawa) Limited Partnership

(g) 100 Isabella Street (Ottawa) Limited Partnership and

(h) 480 Metcalfe Street (Ottawa) Limited Partnership

(hereafter, the Excluded LPs identified in (a), (f), (g), and (h) above shall be referred to as the "Ottawa Excluded LPs" and the Excluded LPs identified in (b), (c), (d), and (e) above shall be referred to as the "Okanagan Excluded LPs").

4. THIS COURT ORDERS that the provisions of this order shall not extend to any general partner of the Excluded LPs to the extent that such general partner exercises powers for or on behalf of the Excluded LPs, holds property on behalf of the Excluded LPs, or owes liabilities in respect of the Excluded LPs

5. THIS COURT ORDERS that, for greater certainty, Canadian Imperial Bank of Commerce ("CIBC"), KingSett Mortgage Corporation ("KingSett") and Toronto-Dominion Bank ("TD") shall be unaffected creditors and not stayed by or otherwise subject to the terms of this Order in respect of the Excluded LPs.

6. THIS COURT ORDERS that that no payments, funds or other transfers of value shall be accepted or received by First Leaside from the Excluded LPs, save and except to the extent approved by agreement in writing by CIBC and KingSett with respect to the Ottawa Excluded LPs and by TD with respect to the Okanagan Excluded LPs.

7. THIS COURT ORDERS that the Applicant is at liberty, at any time, on seven days' notice to CIBC, KingSett, and TD, to seek an order extending the scope of these proceedings and the provisions of this order to include the Excluded LPs.

PLAN OF ARRANGEMENT

8. THIS COURT ORDERS that the Applicant shall have the authority to file and may, subject to further order of this Court, file with this Court a plan or plans of compromise or arrangement (hereinafter referred to as the "Plan").

POSSESSION OF PROPERTY AND OPERATIONS

9. THIS COURT ORDERS that First Leaside shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "Property"). Subject to further Order of this Court, First Leaside shall continue to carry on its business in a manner consistent with the preservation of its business (the "Business") and Property. First Leaside shall be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "Assistants") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

10. THIS COURT ORDERS that First Leaside shall be entitled to implement a central cash management system as described in the MacLeod Affidavit or replace it with another substantially similar central cash management system (the "Cash Management System") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by First Leaside of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than First Leaside, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System. The bank accounts of First Leaside Securities Inc. ("FLSI") shall not form part of the Cash Management System.

11. THIS COURT ORDERS that First Leaside shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

(a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and

(b) the fees and disbursements of any Assistants retained or employed by First Leaside in respect of these proceedings, at their standard rates and charges.

12. THIS COURT ORDERS that, except as otherwise provided to the contrary herein, First Leaside shall be entitled but not required to pay all reasonable expenses incurred by First Leaside in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

(a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services;

(b) payment for goods or services actually supplied to First Leaside following the date of this Order; and

(c) payments of principal and interest in respect of real property mortgages.

13. THIS COURT ORDERS that First Leaside shall remit, in accordance with legal requirements, or pay:

(a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;

(b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by First Leaside in connection with the sale of goods and services by First Leaside, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and

(c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by First Leaside.

14. THIS COURT ORDERS that until a real property lease is disclaimed in accordance with the CCAA, First Leaside shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between First Leaside and the landlord from time to time ("Rent"), for the period commencing from and including the date of this Order, in equal monthly payments on the first day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

15. THIS COURT ORDERS that, except as specifically permitted herein, First Leaside is hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by First Leaside to any of its creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

16. THIS COURT ORDERS that First Leaside shall, subject to such requirements as are imposed by the CCAA, have the right to:

(a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding $50,000 in any one transaction or $250,000 in the aggregate;

(b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate;

(c) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing; and

(d) pursue all avenues for the potential sale of the Business or Property, in whole or part, subject to further approval of such sale by this Court,

all of the foregoing to permit First Leaside to proceed with an orderly restructuring of the Business (the "Restructuring").

17. THIS COURT ORDERS that First Leaside shall provide each of the relevant landlords with notice of First Leaside's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes First Leaside's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and First Leaside, or by further Order of this Court upon application by First Leaside on at least two (2) days notice to such landlord and any such secured creditors. If First Leaside disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to First Leaside's claim to the fixtures in dispute.

18. THIS COURT ORDERS that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective

tenants during normal business hours, on giving First Leaside and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against First Leaside in respect of such lease or leased premises and such landlord shall be entitled to notify First Leaside of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST FIRST LEASIDE OR THE PROPERTY

19. THIS COURT ORDERS that until and including March 23, 2012, or such later date as this Court may order (the "Stay Period"), no proceeding or enforcement process in any court or tribunal (each, a "Proceeding") shall be commenced or continued against or in respect of First Leaside or the Monitor, or affecting the Business or the Property, except with the written consent of First Leaside and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of First Leaside or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

20. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person") against or in respect of First Leaside or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of First Leaside and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower First Leaside to carry on any business which First Leaside is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

21. THIS COURT ORDERS that during the Stay Period, 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 First Leaside, except with the written consent of First Leaside and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

22. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with First Leaside 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 the Business or First Leaside, 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 First Leaside, and that First Leaside shall be entitled to the continued use of its current premises, 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 First Leaside in accordance with normal payment practices of First Leaside or such other practices as may be agreed upon by the supplier or service provider and each of First Leaside and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

23. THIS COURT ORDERS that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to First Leaside. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

24. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of First Leaside with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

CHIEF RESTRUCTURING OFFICER

25. THIS COURT ORDERS that the appointment of G.S. MacLeod & Associates Inc. as chief restructuring officer of First Leaside (the "CRO") is hereby confirmed and approved and the CRO is hereby authorized and empowered to operate and manage the affairs of First Leaside during the pendency of these CCAA proceedings.

26. THIS COURT ORDERS that the CRO shall be paid its fees and disbursements (the "CRO Fees") in accordance with the CRO's engagement letter with First Leaside dated December 21, 2011.

27. THIS COURT ORDERS that the CRO and its officers, directors, employees, and servants shall incur no liability or obligation as a result of the appointment of the CRO or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on their part.

TRANSFER OF CLIENT ACCOUNTS

28. THIS COURT ORDERS that, to the extent that any client of FLSI ("FLSI Client") holds a "security" as defined in section 253 of the *Bankruptcy and Insolvency Act* and/or cash in an account or accounts with Penson Financial Services Canada Inc. (each, a "Client Account"), such FLSI Client shall immediately have the right to transfer any such

security or cash or the entire Client Account with Penson Financial Services Canada Inc. to another licensed securities dealer (an "FLSI Client Account Transfer").

29. THIS COURT ORDERS that FLSI and Penson Financial Services Canada Inc. shall take all reasonable steps to facilitate an FLSI Client Account Transfer.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

30. THIS COURT ORDERS that the Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicant after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

31. THIS COURT ORDERS that the directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "Directors' Charge") on the Property, which charge shall not exceed an aggregate amount of $250,000, as security for the indemnity provided in paragraph 30 of this Order as well as the fees and disbursements of counsel to the Independent Committee of the Board of Directors ("Independent Committee Counsel") to the extent that such fees and disbursements relate to services provided in respect of First Leaside. The Directors' Charge shall have the priority set out in paragraphs 50 and 52 herein. The Applicant is hereby authorized and directed to pay a $50,000 retainer to Independent Committee Counsel.

32. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 30 of this Order.

APPOINTMENT OF MONITOR

33. THIS COURT ORDERS that Grant Thornton Limited is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of First Leaside with the powers and obligations set out in the CCAA or set forth herein and that First Leaside and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by First Leaside pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

34. THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

(a) monitor First Leaside's receipts and disbursements;

(b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;

(c) advise First Leaside in its preparation of First Leaside's cash flow statements;

(d) advise and assist First Leaside concerning the potential sale of the Property and an orderly wind-down of the Business;

(e) advise First Leaside in its development of the Plan and any amendments to the Plan;

(f) assist First Leaside, to the extent required by First Leaside, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;

(g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of First Leaside, to the extent that is necessary to adequately assess First

Leaside's business and financial affairs or to perform its duties arising under this Order;

(h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;

(i) perform such other duties as are required by this Order or by this Court from time to time; and

(j) consult with and assist First Leaside in its negotiations and discussions with investors, creditors, and other stakeholders.

35. THIS COURT ORDERS that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

36. THIS COURT ORDERS that nothing herein contained shall require the Monitor 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 the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor'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.

37. THIS COURT ORDERS that the Monitor shall provide any creditor of First Leaside with information provided by First Leaside in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by First Leaside is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and First Leaside may agree.

38. THIS COURT ORDERS that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

39. THIS COURT ORDERS that the Monitor, counsel to the Monitor, and counsel to First Leaside shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by First Leaside as part of the costs of these proceedings. First Leaside is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for First Leaside on a bi-weekly basis and, in addition, First Leaside is hereby authorized to pay retainers of $150,000 to the Monitor, $100,000 to counsel to the Monitor, and $150,000 to counsel to First Leaside, to be held by each of them as security for payment of their respective fees and disbursements outstanding from time to time.

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

41. THIS COURT ORDERS that the Monitor, counsel to the Monitor, First Leaside's counsel, and Representative Counsel (defined below) shall be entitled to the benefit of and are hereby granted a charge (the "Administration Charge") on the Property, which charge shall not exceed an aggregate amount of $1,000,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 50 and 52 hereof.

APPOINTMENT OF REPRESENTATIVE COUNSEL

42. THIS COURT ORDERS that Fraser Milner Casgrain LLP ("Representative Counsel") is appointed as representative counsel in these proceedings to represent the interests of clients of FLSI (the "Clients"), unless and until written notice is provided by a particular Client to Representative Counsel that such Client does not wish to be represented by Representative Counsel.

43. THIS COURT ORDERS that First Leaside shall provide to Representative Counsel the last known e-mail addresses (to the extent available) or other available contact information for each Client and, within ten days of the date of this Order, Representative Counsel shall provide the Clients with a copy of this Order, which shall constitute sufficient notice to Clients of this Order and the appointment of Representative Counsel and such step shall relieve the Monitor of its duty to provide notice to such Clients under section 23 of the CCAA.

44. THIS COURT ORDERS that Representative Counsel shall be paid its reasonable fees and disbursements by First Leaside, up to an initial maximum amount of $150,000 (the "Representative Counsel Allowance") with any subsequent increases to the Representative Counsel Allowance being determined by further Order of this Court. Representative Counsel shall be paid by First Leaside in a timely manner for fulfilling its mandate in accordance with this Order, upon the provision of invoices to First Leaside, subject to such redactions to the invoices as are necessary to maintain solicitor-client privilege between Representative Counsel and the Clients.

45. THIS COURT ORDERS that First Leaside shall pay to Representative Counsel a retainer of $25,000 to be held by it as security for payment of its fees and disbursements outstanding from time to time.

46. THIS COURT ORDERS that Representative Counsel is hereby authorized to take all steps and do all acts necessary or desirable to carry out the terms of this Order.

47. THIS COURT ORDERS that Representative Counsel shall be at liberty, and is hereby authorized, at any time, to apply to this Court for advice and directions in respect of its appointment or the fulfillment of its duties in carrying out the provisions of this Order or any variation of the powers and duties of Representative Counsel, which shall be brought on notice to First Leaside, the Monitor, and other interested parties, unless the Court orders otherwise.

48. THIS COURT ORDERS that Representative Counsel shall have no personal liability or obligations as a result of the performance of its duties in carrying out the provisions of this Order, save and except for liability arising out of gross negligence or wilful misconduct.

49. THIS COURT ORDERS that no action or other proceeding may be commenced against Representative Counsel in respect of the performance of its duties under this Order without leave of the Court on seven days' notice to Representative Counsel.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

50. THIS COURT ORDERS that the priorities of the Directors' Charge and the Administration Charge, as between them, shall be as follows:

First – Administration Charge (to the maximum amount of $1,000,000);

Second – Directors' Charge (to the maximum amount of $250,000).

51. THIS COURT ORDERS that the filing, registration or perfection of the Directors' Charge or the Administration Charge (collectively, the "Charges") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to

the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

52. THIS COURT ORDERS that each of the Directors' Charge and the Administration Charge (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "Encumbrances") in favour of any Person, provided, however, that

(a) the Directors' Charge shall not attach to any monies or other Property of FLSI ("FLSI Property") including, without limitation, property which constitutes "risk adjusted capital" plus the $250,000 "minimum capital requirement" in accordance with applicable securities laws and regulations; and

(b) the Administration Charge shall not attach to the FLSI Property in an amount exceeding the lesser of (A) $1 million and (B) the portion of costs secured by the Administration Charge which are attributable to, or for the benefit of, FLSI.

53. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, First Leaside shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Directors' Charge, or the Administration Charge, unless First Leaside also obtains the prior written consent of the Monitor and the beneficiaries of the Directors' Charge and the Administration Charge and further Order of this Court.

54. THIS COURT ORDERS that the Directors' Charge and the Administration Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "Chargees") shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e)

any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "Agreement") which binds First Leaside, and notwithstanding any provision to the contrary in any Agreement:

(a) the creation of the Charges shall not create or be deemed to constitute a breach by First Leaside of any Agreement to which it is a party;

(b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by the creation of the Charges; and

(c) the payments made by First Leaside pursuant to this Order, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

55. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in First Leaside's interest in such real property leases.

56. THIS COURT ORDERS that the CRO Fees and the professional fees and expenses of the Monitor, counsel to the Monitor, First Leaside's counsel and Representative Counsel paid or incurred in accordance with the provisions of this Order shall be allocated by First Leaside with the assistance of the Monitor to the various business units pursuant to a protocol to be proposed by First Leaside with the assistance of the Monitor, which protocol shall be approved upon motion to this Court. First Leaside and the Monitor shall endeavour to make recommendations in respect of a protocol on or before March 30, 2012.

SERVICE AND NOTICE

57. THIS COURT ORDERS that the Monitor shall (i) without delay, publish in the national edition of the *Globe and Mail* a notice containing the information prescribed

under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against First Leaside of more than $1000, and (C) prepare a list showing the aggregate amounts owed to equity investors, debt investors, and employees, but not names and addresses of those creditors, and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

58. THIS COURT ORDERS that First Leaside, Representative Counsel, and the Monitor be at liberty to serve 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 electronic transmission to First Leaside's creditors or other interested parties at their respective addresses as last shown on the records of First Leaside and that any such service or notice by courier, personal delivery or electronic 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.

59. THIS COURT ORDERS that First Leaside, Representative Counsel, and the Monitor, and any party who has filed a Notice of Appearance may serve any court materials in these proceedings by e-mailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Monitor may post a copy of any or all such materials on its website at www.grantthornton.ca/firstleaside.

GENERAL

60. THIS COURT ORDERS that First Leaside or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

61. THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of First Leaside, the Business or the Property.

62. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist First Leaside, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to First Leaside and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist First Leaside and the Monitor and their respective agents in carrying out the terms of this Order.

63. THIS COURT ORDERS that each of First Leaside and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

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

65. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard Time on the date of this Order.

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

FEB 24 2012

NB

NBrown

Natasha Brown
Registrar

SCHEDULE "A"—PARTNERSHIPS ENTITLED TO THE BENEFIT OF THIS ORDER

Mill Street Limited Partnership
Development Notes Limited Partnerships Special Notes LP
First Leaside Properties LP
First Leaside Realty LP First Leaside Real Estate LP
First Leaside Global LP First Leaside Income LP First Leaside Investors LP First Leaside Optimal LP First Leaside Preferred LP First Leaside Premier LP First Leaside Progressive LP First Leaside Quality LP First Leaside Real Estate LP First Leaside Realty II LP First Leaside Retirement Residences LP First Leaside Superior LP First Leaside Ultimate LP First Leaside Universal LP Uxbridge Development LP First Leaside Retirement Residences Limited Partnership First Leaside Venture Limited Partnership
Wimberly Apartments LP
The Shores LP
Old Mill Pond LP

The Bluffs of Lakewood LP
First Leaside Spring Valley LP
First Leaside Partners LP First Leaside Opportunities LP
Preston Racquet Club Real Estate Limited Partnership Series 910 PA Preston Racquet Club Real Estate Limited Partnership Series 910 PB Preston Racquet Club Real Estate Limited Partnership Series 910 PC Preston Racquet Club Real Estate Limited Partnership Series 910 PD
FL Master Texas Ltd.
FLW Pond Master Ltd.
FLW Shores Master Ltd.
First Leaside Acquisitions LP
Queenston Manor LP
First Leaside Acquisitions 2000 LP
First Leaside Advantage LP
First Leaside Developments LP
First Leaside Elite LP First Leaside Select LP
First Leaside Enterprises LP
B&W LP First Leaside Entities LP
First Leaside Expansion LP
First Leaside Growth LP
First Leaside Operations LP
First Leaside Unity LP

First Leaside Visions I LP

First Leaside Visions II LP

First Leaside Visions III LP

First Leaside Visions IV LP

Metabacus LP

Greencore LP

Marksman Celljeet LP

OMISA LP

Dossierview LP

eSight LP

Tyromer LP

Place Concorde East LP

Place Concorde West LP

First Leaside Wealth Management LP

First Leaside Technologies LP

F.L. Beverages Group Limited

Partnership

F.L. Retirement Residences Limited Partnership

First Leaside Global Limited Partnership

First Leaside Ventures Limited Partnership

Special U.S. Notes Limited Partnership

FLWM Holdings Limited Partnership

This is Exhibit "D" referred to in the Affidavit of Gregory MacLeod sworn June 19, 2012

Commissioner for Taking Affidavits (or as may be)

CITATION: First Leaside Wealth Management Inc. (Re), 2012 ONSC 1299
COURT FILE NO.: CV-12-9617-00CL
DATE: 20120226

SUPERIOR COURT OF JUSTICE – ONTARIO

COMMERCIAL LIST

RE: IN THE MATTER OF a Plan of Compromise or Arrangement of First Leaside Wealth Management Inc., First Leaside Finance Inc., First Leaside Securities Inc., FL Securities Inc., First Leaside Management Inc., First Leaside Accounting and Tax Services Inc., First Leaside Holdings Inc., 2086056 Ontario Inc., First Leaside Realty Inc., First Leaside Capital Inc., First Leaside Realty II Inc., First Leaside Investments Inc., 965010 Ontario Inc., 1045517 Ontario Inc., 1024919 Ontario Inc., 1031628 Ontario Inc., 1056971 Ontario Inc., 1376095 Ontario Inc., 1437290 Ontario Ltd., 1244428 Ontario Ltd., PrestonOne Development (Canada) Inc., PrestonTwo Development (Canada) Inc., PrestonThree Development (Canada) Inc., PrestonFour Development (Canada) Inc., 2088543 Ontario Inc., 2088544 Ontario Inc., 2088545 Ontario Inc., 1331607 Ontario Inc., Queenston Manor General Partner Inc., 1408927 Ontario Ltd., 2107738 Ontario Inc., 1418361 Ontario Ltd., 2128054 Ontario Inc., 2069212 Ontario Inc., 1132413 Ontario Inc., 2067171 Ontario Inc., 2085306 Ontario Inc., 2059035 Ontario Inc., 2086218 Ontario Inc., 2085438 Ontario Inc., First Leaside Visions Management Inc., 1049015 Ontario Inc., 1049016 Ontario Inc., 2007804 Ontario Inc., 2019418 Ontario Inc., FL Research Management Inc., 970877 Ontario Inc., 1031628 Ontario Inc., 1045516 Ontario Inc., 2004516 Ontario Inc., 2192341 Ontario Inc., and First Leaside Fund Management Inc., Applicants

BEFORE: D. M. Brown J.

COUNSEL: J. Birch and D. Ward, for the Applicants

P. Huff and C. Burr, for the proposed Monitor, Grant Thornton Limited

D. Bish, for the Independent Directors

B. Empey, for Investment Industry Regulatory Organization of Canada

J. Grout, for the Ontario Securities Commission

R. Oliver, for Kenaidan Contracting Limited

J. Dietrich, the proposed Representative Counsel for the investors

E. Garbe, for Structform International Limited

N. Richter, for Gilbert Steel Limited

M. Sanford, for Janick Electrick Limited

M. Konyukhova, for Midland Loan Services Inc.

C. Prophet, for the Canadian Imperial Bank of Commerce

HEARD: February 23, 2012

REASONS FOR DECISION

I. Overview: *CCAA* Initial Order

[1] On Thursday, February 23, 2012, I granted an Initial Order under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, in respect of the Applicants. These are my Reasons for that decision.

II. The applicant corporations

[2] The Applicants are members of the First Leaside group of companies. They are described in detail in the affidavit of Gregory MacLeod, the Chief Restructuring Officer of First Leaside Wealth Management ("FLWM"), so I intend only refer in these Reasons to the key entities in the group. The parent corporation, FLWM, owns several subsidiaries, including the applicant, First Leaside Securities Inc. ("FLSI"). According to Mr. MacLeod, the Group's operations centre on FLWM and FLSI.

[3] FLSI is an Ontario investment dealer that manages clients' investment portfolios which, broadly speaking, consist of non-proprietary Marketable Securities as well as proprietary equity and debt securities issued by First Leaside (the so-called "FL Products"). All segregated Marketable Securities are held in segregated client accounts with Penson Financial Services Canada Inc.

[4] First Leaside designed its FL Products to provide investors with consistent monthly distributions. First Leaside acts as a real estate syndicate, purchasing real estate through limited partnerships with a view to rehabilitating the properties for lease at higher rates or eventual resale. First Leaside incorporated special-purpose corporations to act as general partners in the various LPs it set up. The general partners of First Leaside's Canadian LPs – i.e. those which own property in Canada – are applicants in this proceeding. First Leaside also seeks to extend the benefits of the Initial Order to the corresponding LPs.

[5] First Leaside has two types of LPs: individual LPs that acquire and operate a single property or development, and aggregator LPs that hold units of multiple LPs. Investors have invested in both kinds of LPs. In paragraph 49 of his affidavit Mr. MacLeod detailed the LPs within First Leaside. While most First Leaside LPs hold interests in identifiable properties, for a few, called "Blind Pool LPs", clients invest funds without knowing where the funds likely were to be invested. Those LPs are described in paragraph 51 of Mr. MacLeod's affidavit.

[6] The applicant, First Leaside Finance Inc. ("FL Finance"), acted as a "central bank" for the First Leaside group of entities.

III. The material events leading to this application

[7] In the fall of 2009 the Ontario Securities Commission began investigating First Leaside. In March, 2011, First Leaside retained the proposed Monitor, Grant Thornton Limited, to review and make recommendations about First Leaside's businesses. Around the same time First Leaside arranged for appraisals to be performed of various properties.

[8] Grant Thornton released its report on August 19, 2011. For purposes of this application Grant Thornton made several material findings:

(i) There exist significant interrelationships between the entities in the FL Group which result in a complex corporate structure;

(ii) Certain LPs have been a drain on the resources of the Group as a result of recurring operating losses and property rehabilitation costs; and,

(iii) The future viability of the FL Group was contingent on its ability to raise new capital:

> "If the FL Group was restricted from raising new capital, it would likely be unable to continue its operations in the ordinary course, as it would have insufficient revenue to support its infrastructure, staffing costs, distributions, and to meet their funding requirements for existing projects."

[9] As a result of the report First Leaside hired additional staff to improve accounting resources and financial planning. Last November the Board appointed an Independent Committee to assume all decision-making authority in respect of First Leaside; the Group's founder, David Phillips, was no longer in charge of its management.

[10] FLSI is regulated by both the OSC and the Investment Industry Regulatory Organization of Canada ("IIROC"). In October, 2011, IIROC issued FLSI a discretionary early warning level 2 letter prohibiting the company from reducing capital and placing other restrictions on its activities. At the same time the OSC told First Leaside that unless satisfactory arrangements were made to deal with its situation, the OSC almost certainly would take regulatory action, including seeking a cease trade order.

[11] First Leaside agreed to a voluntary cease trade, retained Grant Thornton to act as an independent monitor, informed investors about those developments, and made available the August Grant Thornton report.

[12] Because the cease trade restricted First Leaside's ability to raise capital, the Independent Committee decided in late November to cease distributions to clients, including distributions to LP unit holders, interest payments on client notes/debts, and dividends on common or preferred shares.

[13] In December the Independent Committee decided to retain Mr. MacLeod as CRO for First Leaside and asked him to develop a workout plan, which he finalized in late January, 2012. Mr. MacLeod deposed that the downturn in the economy has resulted in First Leaside realizing lower operating income while incurring higher operational costs. In his affidavit Mr. MacLeod set out his conclusion about a workout plan:

> After carefully analyzing the situation, my ultimate conclusion was that it was too risky and uncertain for First Leaside to pursue a resumption of previous operations, including the raising of capital. My recommendation to the Independent Committee was that First Leaside instead undertake an orderly wind-down of operations, involving:
>
> (a) Completing any ongoing property development activity which would create value for investors;
>
> (b) Realizing upon assets when it is feasible to do so (even where optimal realization might occur over the next 12 to 36 months);
>
> (c) Dealing with the significant inter-company debts; and,
>
> (d) Distributing proceeds to investors.

Mr. MacLeod further deposed:

> [T]he best way to promote this wind-down is through a filing under the *CCAA* so that all issues – especially the numerous investor and creditor claims and inter-company claims – can be dealt with in one forum under the supervision of the court.

The Independent Committee approved Mr. MacLeod's recommendations. This application resulted.

IV. Availability of *CCAA*

A. The financial condition of the applicants

[14] According to Mr. MacLeod, First Leaside has over $370 million in assets under management. Some of those, however, are Marketable Securities. First Leaside is proposing that clients holding Marketable Securities (which are held in segregated accounts) be free to transfer them to another investment dealer during the *CCAA* process. As to the value of FL Products, Mr. MacLeod deposed that "it remains to be determined specifically how much value will be realized for investors on the LP units, debt instruments, and shares issued by the various First Leaside entities."

[15] First Leaside's debt totals approximately $308 million: $176 million to secured creditors (mostly mortgagees) and $132 million to unsecured creditors, including investors holding notes or other debt instruments.

[16] Mr. MacLeod summarized his assessment of the financial status of the First Leaside Group as follows:

> [S]ince GTL reported that the aggregate value of properties in the First Leaside exceeded the value of the properties, there will be net proceeds remaining to provide at least some return to subordinate creditors or equity holders (i.e., LP unit holders and corporation shareholders) in many of the First Leaside entities. The recovery will, of course, vary depending on the entity. At this stage, however, it is fair to conclude that there is a material equity deficit both in individual First Leaside entities and in the overall First Leaside group.

[17] In his affidavit Mr. MacLeod also deposed, with respect to the financial situation of First Leaside, that:

(i) The cease trade placed severe financial constraints on First Leaside as almost every business unit depended on the ability of FLWM and its subsidiaries to raise capital from investors;

(ii) There are immediate cash flow crises at FLWM and most LPs;

(iii) FLWM's cash reserves had fallen from $2.8 million in November, 2011 to $1.6 million at the end of this January;

(iv) Absent new cash from asset disposals, current cash reserves would be exhausted in April;

(v) At the end of December, 2011 Ventures defaulted by failing to make a principal mortgage payment of $4.25 million owing to KingSett;

(vi) Absent cash flow from FLWM a default is imminent for Investor's Harmony property;

(vii) First Leaside lacks the liquidity or refinancing options to rehabilitate a number of the properties and execute on its business plan; and,

(viii) First Leaside generally has been able to make mortgage payments to its creditors, but in the future it will be difficult to do so given the need to expend monies on property development and upgrading activities

[18] In his description of the status of the employees of the Applicants, Mr. MacLeod did not identify any issue concerning a pension funding deficiency.[1] The internally-prepared 2010 FLWM financial statements did not record any such liability. Grant Thornton did not identify any such issue in its Pre-filing Report.

[19] First Leaside is not proposing to place all of its operations under court-supervised insolvency proceedings. It does not plan to seek Chapter 11 protection for its Texas properties

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[1] MacLeod Affidavit, paras. 104 to 106.

since it believes they may be able to continue operations over the anticipated wind-up period using cash flows they generate and pay their liabilities as they become due. Nor does First Leaside seek to include in this *CCAA* proceeding the First Leaside Venture LP ("Ventures") which owns and operates several properties in Ontario and British Columbia. On February 15, 2012 Ventures and Bridge Gap Konsult Inc. signed a non-binding term sheet to provide some bridge financing for Ventures. First Leaside decided not to include certain Ventures-related limited partnerships in the *CCAA* application at this stage,[2] while reserving the right to later bring a motion to extend the Initial Order and stay to these Excluded LPs. The Initial Order which I signed reflected that reservation.

[20] As noted above, over the better part of the past year the proposed Monitor, Grant Thornton, has become familiar with the affairs of the First Leaside Group as a result of the review it conducted for its August, 2011 report. Last November First Leaside retained Grant Thornton as an independent monitor of its business.

[21] In its Pre-filing Report Grant Thornton noted that the last available financial statements for FLWM were internally prepared ones for the year ended December 31, 2010. They showed a net loss of about $2.863 million. The Pre-filing Report contained a 10-week cash flow projection (ending April 27, 2012) prepared by the First Leaside Group. The Cash Flow Projection does not contemplate servicing interest and principal payments during the projection period. On that basis the Cash Flow Projection showed the Group's combined closing bank balance declining from $6.97 million to $4.144 million by the end of the projection period. Grant Thornton reviewed the Cash Flow Projection and stated that it reflected the probable and hypothetical assumptions on which it was prepared and that the assumptions were suitably supported and consistent with the plans of the First Leaside Group and provided a reasonable basis for the Cash Flow Projection.

[22] Grant Thornton reported that certain creditors, specifically construction lien claimants, had commenced enforcement proceedings and it concluded:

> Given creditors' actions to date and due to the complicated nature of the FL Group's business, the complex corporate structure and the number of competing stakeholders, it is unlikely that the FL Group will be able to conduct an orderly wind-up or continue to rehabilitate properties without the stability provided by a formal Court supervised restructuring process.
>
> ...
>
> As the various stakeholder interests are in many cases intertwined, including intercompany claims, the granting of the relief requested would provide a single forum for the numerous stakeholders of the FL Group to be heard and to deal with such parties' claims in an orderly manner, under the supervision of the Court, a CRO and a Court-appointed Monitor. In particular, a simple or forced divestiture of the properties of the

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[2] The Excluded LPs were identified in paragraph 134 of Mr. MacLeod's affidavit.

FL Group would not only erode potential investor value, but would not provide the structure necessary to reconcile investor interests on an equitable and ratable basis.

A stay of proceedings for both the Applicants and the LPs is necessary if it is deemed appropriate by this Honourable Court to allow the FL Group to maintain its business and to allow the FL Group the opportunity to develop, refine and implement their restructuring/wind-up plan(s) in a stabilized environment.

B. Findings

[23] I am satisfied that the Applicants are "companies" within the meaning of the *CCAA* and that the total claims against the Applicants, as an affiliated group of companies, is greater than $5 million.

[24] Are the Applicant companies "debtor companies" in the sense that they are insolvent? For the purposes of the *CCAA* a company may be insolvent if it falls within the definition of an insolvent person in section 2 of the *Bankruptcy and Insolvency Act* or if its financial circumstances fall within the meaning of insolvent as described in *Re Stelco Inc.* which include a financially troubled corporation that is "reasonably expected to run out of liquidity within reasonable proximity of time as compared with the time reasonably required to implement a restructuring".[3]

[25] When looked at as a group the Applicants fall within the extended meaning of "insolvent": as a result of the cease trade their ability to raise capital has been severely restricted; cash reserves fell significantly from November until the time of filing, and the Cash Flow Projection indicates that cash reserves will continue to decline even with the cessation of payments on mortgages and other debt; Mr. MacLeod estimated that cash reserves would run out in April; distributions to unit holders were suspended last November; and, some formal mortgage defaults have occurred.

[26] However, a secured creditor mortgagee, Midland Loan Services Inc., submitted that to qualify for *CCAA* protection each individual applicant must be a "debtor company" and that in the case of one applicant, Queenston Manor General Partner Inc., that company was not insolvent. In his affidavit Mr. MacLeod deposed that the Queenston Manor LP is owned by the First Leaside Expansion Limited Partnership ("FLEX"). Queenston owns and operates a 77-unit retirement complex in St. Catherines, has been profitable since 2008 and is expected to remain profitable through 2013. Queenston has been listed for sale, and management currently is considering an offer to purchase the property. Midland Loan submitted that in light of that financial situation, no finding could be made that the applicant, Queenston Manor General Partner Inc., was a "debtor company".

[27] Following that submission I asked Applicants' counsel where in the record one could find evidence about the insolvency of each individual Applicant. That prompted a break in the

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[3] (2004), 48 C.B.R. (4^{th}) 299 (Ont. S.C.J.).

hearing, at the end of which the Applicants filed a supplementary affidavit from Mr. MacLeod. Indicating that one of the biggest problems facing the Applicants was the lack of complete and up-to-date records, in consultation with the Applicants' CFO Mr. MacLeod submitted a chart providing, to the extent possible, further information about the financial status of each Applicant. That chart broke down the financial status of each of the 52 Applicants as follows:

Insolvent	28
Dormant	15
Little or no realizable assets	5
More information to be made available to the court	3
Other: management revenue stopped in 2010; $70,000 cash; $270,000 in related-company receivables	1

Queenston Manor General Partner Inc. was one of the applicants for which "more information would be made available to the court".

[28] As I have found, when looked at as a group, the Applicants fall within the extended meaning of "insolvent". When one descends a few levels and looks at the financial situation of some of the aggregator LPs, such as FLEX, Mr. MacLeod deposed that FLEX is one of the largest net debtors – i.e. it is unable to repay inter-company balances from operating cash flows and lacks sufficient net asset value to settle the intercompany balances through the immediate liquidation of assets. The evidence therefore supports a finding that the corporate general partner of FLEX is insolvent. Queenston Manor is one of several assets owned by FLEX, albeit an asset which uses the form of a limited partnership.

[29] If an insolvent company owns a healthy asset in the form of a limited partnership does the health of that asset preclude it from being joined as an applicant in a *CCAA* proceeding? In the circumstances of this case it does not. The jurisprudence under the *CCAA* provides that the protection of the Act may be extended not only to a "debtor company", but also to entities who, in a very practical sense, are "necessary parties" to ensure that that stay order works. Morawetz J. put the matter the following way in *Priszm Income Fund (Re)*:

> The *CCAA* definition of an eligible company does not expressly include partnerships. However, *CCAA* courts have exercised jurisdiction to stay proceedings with respect to partnerships and limited partnerships where it is just and convenient to do so. See *Lehndorff, supra*, and *Re Canwest Global Communications Corp.*, 2009 CarswellOnt 6184 (S.C.J.).

> The courts have held that this relief is appropriate where the operations of the debtor companies are so intertwined with those of the partnerships or limited partnerships in question, that not extending the stay would significantly impair the effectiveness of a stay in respect of the debtor companies.[4]

[30] Although section 3(1) of the *CCAA* requires a court on an initial application to inquire into the solvency of any applicant, the jurisprudence also requires a court to take into account the relationship between any particular company and the larger group of which it is a member, as well as the need to place that company within the protection of the Initial Order so that the order will work effectively. On the evidence filed I had no hesitation in concluding that given the insolvency of the overall First Leaside Group and the high degree of inter-connectedness amongst the members of that group, the protection of the *CCAA* needed to extend both to the Applicants and the limited partnerships listed in Schedule "A" to the Initial Order. The presence of all those entities within the ambit of the Initial Order is necessary to effect an orderly winding-up of the insolvent group as a whole. Consequently, whether Queenston Manor General Partner Inc. falls under the Initial Order by virtue of being a "debtor company", or by virtue of being a necessary party as part of an intertwined whole, is, in the circumstances of this case, a distinction without a practical difference.

[31] In sum, I am satisfied that those Applicants identified as "insolvent" on the chart attached to Mr. MacLeod's supplementary affidavit are "debtor companies" within the meaning of the *CCAA* and that the other Applicants, as well as the limited partnerships listed on Schedule "A" of the Initial Order, are entities to which it is necessary and appropriate to extend *CCAA* protection.

C. "Liquidation" *CCAA*

[32] While in most circumstances resort is made to the *CCAA* to "permit the debtor to continue to carry on business and, where possible, avoid the social and economic costs of liquidating its assets" and to create "conditions for preserving the *status quo* while attempts are made to find common ground amongst stakeholders for a reorganization that is fair to all", the reality is that "reorganizations of differing complexity require different legal mechanisms." [5] That reality has led courts to recognize that the *CCAA* may be used to sell substantially all of the assets of a debtor company to preserve it as a going concern under new ownership,[6] or to wind-up or liquidate it. In *Lehndorff General Partner Ltd. (Re)*[7] Farley J. observed:

> It appears to me that the purpose of the *CCAA* is also to protect the interests of creditors and to enable an orderly distribution of the debtor company's affairs. This may involve a winding-up or liquidation of a company or simply a substantial downsizing of its

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[4] 2011 ONSC 2061, paras. 26-27.

[5] *Century Services Inc. v. Canada (Attorney General)*, 2010 SCC 60, paras. 15, 77 and 78.

[6] *Nortel Networks Corp. (Re)*, 2009 ONCA 833, para. 46; see Kevin P. McElcheran, *Commercial Insolvency in Canada, Second Edition* (Toronto: LexisNexis, 2011), pp. 284 et seq.

[7] [1993] O.J. No. 14 (Gen. Div.). In *Brake Pro, Ltd. (Re)*, [2008] O.J. No. 2180 (S.C.J.), Wilton-Siegel J. stated, at paragraph 10: "While reservations are expressed from time to time regarding the appropriateness of a "liquidating" *CCAA* proceeding, such proceedings are permissible under the *CCAA*."

business operations, provided the same is proposed in the best interests of the creditors generally. See *Assoc. Investors, supra*, at p. 318; *Re Amirault Co.* (1951), 32 C.B.R. 1986, (1951) 5 D.L.R. 203 (N.S.S.C.) at pp. 187-8 (C.B.R.).

[33] In the decision of *Associated Investors of Canada Ltd. (Re)* referred to by Farley J., the Alberta Court of Queen's Bench stated:

> The realities of the modern marketplace dictate that courts of law respond to commercial problems in innovative ways without sacrificing legal principle. In my opinion, the Companies' Creditors Arrangement Act is not restricted in its application to companies which are to be kept in business. Moreover, the Court is not without the ability to address within its jurisdiction the concerns expressed in the Ontario cases. The Act may be invoked as a means of liquidating a company and winding-up its affairs but only if certain conditions precedent are met:
>
> > 1. It must be demonstrated that benefits would likely flow to Creditors that would not otherwise be available if liquidation were effected pursuant to the Bankruptcy Act or the Winding-Up Act.
> >
> > 2. The Court must concurrently provide directions pursuant to compatible legislation that ensures judicial control over the liquidation process and an effective means whereby the affairs of the company may be investigated and the results of that investigation made available to the Court.
> >
> > 3. A Plan of Arrangement should not receive judicial sanction until the Court has in its possession, all of the evidence necessary to allow the Court to properly exercise its discretion according to standards of fairness and reasonableness, absent any findings of illegality.[8]

The editors of *The 2012 Annotated Bankruptcy and Insolvency Act* take some issue with the extent of those conditions:

> With respect, these conditions may be too rigorous. If the court finds that the plan is fair and reasonable and in the best interests of creditors, and there are cogent reasons for using the statute rather than the *BIA* or. *WURA*, there seems no reason why an orderly liquidation could not be carried out under the *CCAA*.[9]

[34] Mr. MacLeod, the CRO, deposed that no viable plan exists to continue First Leaside as a going concern and that the most appropriate course of action is to effect an orderly wind-down of First Leaside's operations over a period of time and in a manner which will create the opportunity to realize improved net asset value. In his professional judgment the *CCAA* offered the most appropriate mechanism by which to conduct such an orderly liquidation:

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[8] *First Investors Corp. (Re)* (1987), 46 D.L.R. (4th) 669 (Alta Q.B.), para. 36.
[9] Houlden, Morawetz & Sarra, *The 2012 Annotated Bankruptcy and Insolvency Act*, N§1, p. 1099.

> [T]he best way to promote this wind-down is through a filing under the *CCAA* so that all issues – especially the numerous investor and creditor claims and the inter-company claims – can be dealt with in one forum under the supervision of the court.

In its Pre-filing Report the Monitor also supported using the *CCAA* to implement the "restructuring/wind-up plan(s) in a stabilized environment".

[35] Both the CRO and the proposed Monitor possess extensive knowledge about the workings of the Applicants. Both support a process conducted under the *CCAA* as the most practical and effective way in which to deal with the affairs of this insolvent group of companies. No party contested the availability of the *CCAA* to conduct an orderly winding-up of the affairs of the Applicants (although, as noted, some parties questioned whether certain entities should be included within the scope of the Initial Order). Given that state of affairs, I saw no reason not to accept the professional judgment of the CRO and the proposed Monitor that a liquidation under the *CCAA* was the most appropriate route to take.

[36] Moreover, I saw no prejudice to claimant creditors by permitting the winding-up of the First Leaside Group to proceed under the *CCAA* instead of under the *BIA* in view of the convergence which exists between the *CCAA* and *BIA* on the issue of priorities. As the Supreme Court of Canada pointed out in *Century Services*:

> Because the *CCAA* is silent about what happens if reorganization fails, the *BIA* scheme of liquidation and distribution necessarily supplies the backdrop for what will happen if a *CCAA* reorganization is ultimately unsuccessful.[10]

As the British Columbia Court of Appeal observed in *Caterpillar Financial Services Ltd. v. 360networks corp.* interested parties also use that priorities backdrop to negotiate successful *CCAA* reorganizations:

> While it might be suggested that *CCAA* proceedings may require those with a financial stake in the company, including shareholders and creditors, to compromise some of their rights in order to sustain the business, it cannot be said that the priorities between those with a financial stake are meaningless. The right of creditors to realize on any security may be suspended pending the final approval of the court, but this does not render their potential priority nugatory. Priorities are always in the background and influence the decisions of those who vote on the plan.[11]

[37] I therefore concluded that the *CCAA* was available to the Applicants in the circumstances, and I so ordered.

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[10] *Century Services, supra.*, para. 23.

[11] (2007), 279 D.L.R. (4th) 701 (B.C.C.A.), para. 42.

V. Representative Counsel, CRO and Monitor

[38] The Applicants sought the appointment of Fraser Milner Casgrain ("FMC") as Representative Counsel to represent the interests of the some 1,200 clients of FLSI in this proceeding, subject to the right of any client to opt-out of such representation. The proposed Monitor expressed the view that it would be in the best interests of the FL Group and its investors to appoint Representative Counsel. No party objected to such an appointment. I reviewed the qualifications and experience of proposed Representative Counsel and its proposed fees, and I was satisfied that it would be appropriate to appoint FMC as Representative Counsel on the terms set out in the Initial Order.

[39] The Applicants sought the appointment of G.S. MacLeod & Associates Inc. as CRO of First Leaside. No party objected to that appointment. The Applicants included a copy of the CRO's December 21, 2011 Retention Agreement in their materials. The proposed Monitor stated that the appointment of a CRO was important to ensure an adequate level of senior corporate governance leadership. I agree, especially in light of the withdrawal of Mr. Phillips last November from the management of the Group. The proposed Monitor reported that the terms and conditions of the Retention Agreement were consistent with similar arrangements approved by other courts in *CCAA* proceedings and the remuneration payable was reasonable in the circumstances. As a result, I confirmed the appointment of G.S. MacLeod & Associates Inc. as CRO of First Leaside.

[40] Finally, I appointed Grant Thornton as Monitor. No party objected, and Grant Thornton has extensive knowledge of the affairs of the First Leaside Group.

VI. Administration and D&O Charges and their priorities

A. Charges sought

[41] The Applicants sought approval, pursuant to section 11.52 of the *CCAA*, of an Administration Charge in the amount of $1 million to secure amounts owed to the Estate Professionals – First Leaside's legal advisors, the CRO, the Monitor, and the Monitor's counsel.

[42] They also sought an order indemnifying the Applicants' directors and officers against any post-filing liabilities, together with approval, pursuant to section 11.51 of the *CCAA*, of a Director and Officer's Charge in the amount of $250,000 as security for such an indemnity. Historically the First Leaside Group did not maintain D&O insurance, and the Independent Committee was not able to secure such insurance at reasonable rates and terms when it tried to do so in 2011.

[43] The Monitor stated that the amount of the Administration Charge was established based on the Estate Professionals' previous history and experience with restructurings of similar magnitude and complexity. The Monitor regarded the amount of the D&O Charge as reasonable under the circumstances. The Monitor commented that the combined amount of both charges ($1.25 million) was reasonable in comparison with the amount owing to mortgagees ($176 million).

[44] In its Pre-filing Report the Monitor did note that shortly before commencing this application the Applicants paid $250,000 to counsel for the Independent Committee of the Board. The Monitor stated that the payment might "be subject to review by the Monitor, if/when it is appointed, in accordance with s. 36.1(1) of the *CCAA*". No party requested an adjudication of this issue, so I refer to the matter simply to record the Monitor's expression of concern.

[45] Based on the evidence filed, I concluded that it was necessary to grant the charges sought in order to secure the services of the Estate Professionals and to ensure the continuation of the directors in their offices and that the amounts of the charges were reasonable in the circumstances.

B. Priority of charges

[46] The Applicants sought super-priority for the Administration and D&O Charges, with the Administration Charge enjoying first priority and the D&O Charge second, with some modification with respect to the property of FLSI which the Applicants had negotiated with IIROC.

[47] In its Pre-filing Report the proposed Monitor stated that the mortgages appeared to be well collateralized, and the mortgagees would not be materially prejudiced by the granting of the proposed priority charges. The proposed Monitor reported that it planned to work with the Applicants to develop a methodology which would allocate the priority charges fairly amongst the Applicants and the included LPs, and the allocation methodology developed would be submitted to the Court for review and approval.

[48] In *Indalex Limited (Re)*[12] the Court of Appeal reversed the super-priority initially given to a DIP Charge by the motions judge in an initial order and, instead, following the sale of the debtor company's assets, granted priority to deemed trusts for pension deficiencies. In reaching that decision Court of Appeal observed that affected persons – the pensioners – had not been provided at the beginning of the *CCAA* proceeding with an appropriate opportunity to participate in the issue of the priority of the DIP Charge.[13] Specifically, the Court of Appeal held:

> In this case, there is nothing in the record to suggest that the issue of paramountcy was invoked on April 8, 2009, when Morawetz J. amended the Initial Order to include the super-priority charge. The documents before the court at that time did not alert the court to the issue or suggest that the *PBA* deemed trust would have to be overridden in order for Indalex to proceed with its DIP financing efforts while under *CCAA* protection. To the contrary, the affidavit of Timothy Stubbs, the then CEO of Indalex, sworn April 3, 2009, was the primary source of information before the court. In para. 74 of his affidavit, Mr. Stubbs deposes that Indalex intended to comply with all applicable laws including "regulatory deemed trust requirements".

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[12] 2011 ONCA 265.
[13] *Ibid.*, para. 155.

> While the super-priority charge provides that it ranks in priority over trusts, "statutory or otherwise", I do not read it as taking priority over the deemed trust in this case because the deemed trust was not identified by the court at the time the charge was granted and the affidavit evidence suggested such a priority was unnecessary. As no finding of paramountcy was made, valid provincial laws continue to operate: the super-priority charge does not override the *PBA* deemed trust. The two operate sequentially, with the deemed trust being satisfied first from the Reserve Fund.[14]

[49] In his recent decision in *Timminco Limited (Re)*[15] ("Timminco I") Morawetz J. described the commercial reality underpinning requests for Administration and D&O Charges in *CCAA* proceedings:

> In my view, in the absence of the court granting the requested super priority and protection, the objectives of the CCAA would be frustrated. It is not reasonable to expect that professionals will take the risk of not being paid for their services, and that directors and officers will remain if placed in a compromised position should the Timminco Entities continue *CCAA* proceedings without the requested protection. The outcome of the failure to provide these respective groups with the requested protection would, in my view, result in the overwhelming likelihood that the *CCAA* proceedings would come to an abrupt halt, followed, in all likelihood, by bankruptcy proceedings.[16]

[50] In its Pre-filing Report the proposed Monitor expressed the view that if the priority charges were not granted, the First Leaside Group likely would not be able to proceed under the *CCAA*.

[51] In my view, absent an express order to the contrary by the initial order applications judge, the issue of the priorities enjoyed by administration, D&O and DIP lending charges should be finalized at the commencement of a *CCAA* proceeding. Professional services are provided, and DIP funding is advanced, in reliance on super-priorities contained in initial orders. To ensure the integrity, predictability and fairness of the *CCAA* process, certainty must accompany the granting of such super-priority charges. When those important objectives of the *CCAA* process are coupled with the Court of Appeal's holding that parties affected by such priority orders be given an opportunity to raise any paramountcy issue, it strikes me that a judge hearing an initial order application should directly raise with the parties the issue of the priority of the charges sought, including any possible issue of paramountcy in respect of competing claims on the debtor's property based on provincial legislation.

[52] Accordingly I raised that issue at the commencement of the hearing last Thursday and requested submissions on the issues of priority and paramountcy from any interested party. Several parties made submissions on those points: (i) the Applicants, proposed Monitor and proposed Representative Counsel submitted that the Court should address any priority or

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[14] *Ibid.*, paras. 178 and 179.
[15] 2012 ONSC 506.
[16] *Ibid.*, para. 66.

paramountcy issues raised; (ii) IIROC advised that it did not see any paramountcy issue in respect of its interests; (iii) counsel for Midland Loan submitted that a paramountcy issue existed with respect to its client, a secured mortgagee, because it enjoyed certain property rights under provincial mortgage law; she also argued that the less than full day's notice of the hearing given by the Applicants was inadequate to permit the mortgagee to consider its position, and her client should be given seven days to do so; and, (iv) counsel for a construction lien claimant, Structform International, who spoke on behalf of a number of such lien claimants, made a similar submission, contending that the construction lien claimants required 10 days to determine whether they should make submissions on the relationship between their lien claims and any super-priority charge granted under the *CCAA*.

[53] I did not grant the adjournment requested by the mortgagee and construction lien claimants for the following reasons. First, the facts in *Indalex* were quite different from those in the present case, involving as they did considerations of what fiduciary duty a debtor company owed to pensioners in respect of underfunded pension liabilities. I think caution must be exercised before extending the holding of *Indalex* concerning *CCAA*-authorized priority charges to other situations, such as the one before me, which do not involve claims involving pension deficiencies, but claims by more "ordinary" secured creditors, such as mortgagees and construction lien claimants.

[54] Second, I have some difficulty seeing how constitutional issues of paramountcy arise in in a *CCAA* proceeding as between claims to the debtor's property by secured creditors, such as mortgagees and construction lien claimants, and persons granted a super-priority charge by court order under sections 11.51 and 11.52 of the *CCAA*. At the risk of gross over-simplification, Canadian constitutional law places the issue of priorities of secured creditors in different legislative balliwicks depending on the health of the debtor company. When a company is healthy, secured creditor priorities usually are determined under provincial laws, such as personal property security legislation and related statutes, which result from provincial legislatures exercising their powers with respect to "property and civil rights in the province".[17] However, when a company gets sick - becomes insolvent - our *Constitution* vests in Parliament the power to craft the legislative regimes which will govern in those circumstances. Exercising its power in respect of "bankruptcy and insolvency",[18] Parliament has established legal frameworks under the *BIA* and *CCAA* to administer sick companies. Priority determinations under the *CCAA* draw on those set out in the *BIA*, as well as the provisions of the *CCAA* dealing with specific claims such as Crown trusts and other claims.

[55] As it has evolved over the years the constitutional doctrine of paramountcy polices the overlapping effects of valid federal and provincial legislation: "The doctrine applies not only to cases in which the provincial legislature has legislated pursuant to its ancillary power to trench on an area of federal jurisdiction, but also to situations in which the provincial legislature acts within its primary powers, and Parliament pursuant to its ancillary powers."[19] Since 1960 the

[17] *Constitution Act, 1867*, s. 92 ¶13.
[18] *Ibid.*, s. 91 ¶21.
[19] *Canadian Western Bank v. Alberta*, [2007] 2 S.C.R. 3, para. 69.

Supreme Court of Canada has travelled a "path of judicial restraint in questions of paramountcy".[20] That Court has not been prepared to presume that, by legislating in respect of a matter, Parliament intended to rule out any possible provincial action in respect of that subject,[21] unless (and it is a big "unless"), Parliament used very clear statutory language to that effect.[22]

[56] I have found that the Applicants have entered the world of the sick, or the insolvent, and are eligible for the protection of the federal *CCAA*. The federal legislation *expressly* brings mortgagees and construction lien claimants within its regime – the definition of "secured creditor" contained in section 2 of the *CCAA* specifically includes "a holder of a mortgage" and "a holder of a ...lien...on or against...all or any of the property of a debtor company as security for indebtedness of the debtor company". The federal legislation also *expressly* authorizes a court to grant priority to administration and D&O charges over the claims of such secured creditors of the debtor.[23] In light of those express provisions in sections 2, 11.51 and 11.52 of the *CCAA*, and my finding that the Applicants are eligible for the protection offered by the *CCAA*, I had great difficulty understanding what argument could be advanced by the mortgagees and construction lien claimants about the concurrent operation of provincial and federal law which would relieve them from the priority charge provisions of the *CCAA*. I therefore did not see any practical need for an adjournment.

[57] Finally, sections 11.51(1) and 11.52(1) of the *CCAA* both require that notice be given to secured creditors who are likely to be affected by an administration or D&O charge before a court grants such charges. In the present case I was satisfied that such notice had been given. Was the notice adequate in the circumstances? I concluded that it was. To repeat, making due allowance for the unlimited creativity of lawyers, I have difficulty seeing what concurrent operation argument could be advanced by mortgagee and construction lien claims against court-ordered super-priority charges under sections 11.51 and 11.52 of the *CCAA*. Second, as reported by the proposed Monitor, the quantum of the priority charges ($1.25 million) is reasonable in comparison with the amount owing to mortgagees ($176 million) and the mortgages appeared to be well collateralized based on available information. Third, the Applicant and Monitor will develop an allocation methodology for the priority charges for later consideration by this Court. The proposed Monitor reported:

> It is the Proposed Monitor's view that the allocation of the proposed Priority Charges should be carried out on an equitable and proportionate basis which recognizes the separate interests of the stakeholders of each of the entities.

The secured creditors will be able to make submissions on any proposed allocation of the priority charges. Finally, while I understand why the secured creditors are focusing on their specific interests, it must be recalled that the work secured by the priority charges will be performed for

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[20] *Rothmans, Benson & Hedges Inc. v. Saskatchewan*, [2005] 1 S.C.R. 188, para. 21
[21] *Canadian Western Bank, supra.*, para. 74.
[22] *Rothmans, supra.*, para. 21.
[23] *CCAA* ss. 11.51(2) and 11.52(2).

the benefit of all creditors of the Applicants, including the mortgagees and construction lien claimants. All creditors will benefit from an orderly winding-up of the affairs of the Applicants.

[58] In the event that I am incorrect that no paramountcy issue arises in this case in respect of the priority charges, I echo the statements made by Morawetz J. in *Timminco I* which I reproduced in paragraph 49 above. In *Indalex* the Court of Appeal accepted that "the CCAA judge can make an order granting a super-priority charge that has the effect of overriding provincial legislation".[24] I find that it is both necessary and appropriate to grant super priority to both the Administration and D&O Charges in order to ensure that the objectives of the *CCAA* are not frustrated.

[59] For those reasons I did not grant the adjournment requested by Midland Loan and the construction lien claimants, concluding that they had been given adequate notice in the circumstances, and I granted the requested Administration and D&O Charges.

VII. Other matters

[60] At the hearing counsel for one of the construction lien claimants sought confirmation that by granting the Initial Order a construction lien claimant who had issued, but not served, a statement of claim prior to the granting of the order would not be prevented from serving the statement of claim on the Applicants. Counsel for the Applicants confirmed that such statements of claim could be served on it.

[61] At the hearing the Applicants submitted a modified form of the model Initial Order. Certain amendments were proposed during the hearing; the parties had an opportunity to make submissions on the proposed amendments.

VIII. Summary

[62] For the foregoing reasons I was satisfied that it was appropriate to grant the *CCAA* Initial Order in the form requested. I signed the Initial Order at 4:08 p.m. EST on Thursday, February 23, 2012.

D. M. Brown J.

Date: February 26, 2012

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[24] *Indalex, supra.*, para. 176.

This is Exhibit "E" referred to in the Affidavit of Gregory MacLeod sworn June 19, 2012

Commissioner for Taking Affidavits (or as may be)

Court File No. CV-12-9617-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.	)	FRIDAY, THE 23rd
	)	
JUSTICE MORAWETZ	)	DAY OF MARCH, 2012

SUPERIOR COURT OF JUSTICE COUR SUPÉRIEURE DE JUSTICE

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF First Leaside Wealth Management Inc., First Leaside Finance Inc., First Leaside Securities Inc., FL Securities Inc., First Leaside Management Inc., First Leaside Accounting and Tax Services Inc., First Leaside Holdings Inc., 2086056 Ontario Inc., First Leaside Realty Inc., First Leaside Capital Inc., First Leaside Realty II Inc., First Leaside Investments Inc., 965010 Ontario Inc., 1045517 Ontario Inc., 1024919 Ontario Inc., 1031628 Ontario Inc., 1056971 Ontario Inc., 1376095 Ontario Inc., 1437290 Ontario Ltd., 1244428 Ontario Ltd., PrestonOne Development (Canada) Inc., PrestonTwo Development (Canada) Inc., PrestonThree Development (Canada) Inc., PrestonFour Development (Canada) Inc., 2088543 Ontario Inc., 2088544 Ontario Inc., 2088545 Ontario Inc., 1331607 Ontario Inc., Queenston Manor General Partner Inc., 1408927 Ontario Ltd., 2107738 Ontario Inc., 1418361 Ontario Ltd., 2128054 Ontario Inc., 2069212 Ontario Inc., 1132413 Ontario Inc., 2067171 Ontario Inc., 2085306 Ontario Inc., 2059035 Ontario Inc., 2086218 Ontario Inc., 2085438 Ontario Inc., First Leaside Visions Management Inc., 1049015 Ontario Inc., 1049016 Ontario Inc., 2007804 Ontario Inc., 2019418 Ontario Inc., FL Research Management Inc., 970877 Ontario Inc., 1031628 Ontario Inc., 1045516 Ontario Inc., 2004516 Ontario Inc., 2192341 Ontario Inc., and First Leaside Fund Management Inc. (the "Applicants")

ORDER
(First Extension of Stay Period)

THIS MOTION, made by the Applicants for an order, among other things, extending the Stay Period to June 29, 2012, was heard this day at the Court House, 330 University Avenue, Toronto, Ontario.

Legal*7308744.5

ON READING the notice of motion dated March 21, 2012, the affidavit of Gregory MacLeod sworn March 21, 2012 ("**MacLeod Affidavit**"), and the first report to the court (the "**First Report**") of Grant Thornton Limited, in its capacity as court appointed monitor ("**Monitor**") of the Applicants and the limited partnerships listed on Schedule "A" hereto (collectively, "**First Leaside**"), and upon hearing the submissions of counsel for the First Leaside, the Monitor, and representative counsel for the clients of Applicant First Leaside Securities Inc.,

1. **THIS COURT ORDERS** that the time for the service of the notice of motion and motion record herein be validated and abridged and any further service of this motion record be dispensed with.

2. **THIS COURT ORDERS** that the "Stay Period" as defined at paragraph 19 of the Initial Order of the Honourable Mr. Justice Brown dated February 23, 2012 be and is hereby extended to June 29, 2012.

3. **THIS COURT ORDERS** that, subject to obtaining the Monitor's prior written consent, G.S. MacLeod & Associates Inc., in its capacity as Chief Restructuring Officer of First Leaside ("**CRO**"), be and is hereby authorized to enter into sales, marketing and/or listing agreements with agents, realtors and/or brokers in furtherance of the marketing and sale of First Leaside's real property.

Legal*7308744.5

4. **THIS COURT ORDERS** ~~that the conduct and activities of the CRO, as described in the MacLeod Affidavit, be and are hereby approved.~~

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

MAR 2 3 2012

Legal*7308744.5

Schedule A

Mill Street Limited Partnership
Development Notes Limited Partnerships Special Notes LP
First Leaside Properties LP
First Leaside Realty LP First Leaside Real Estate LP
First Leaside Global LP First Leaside Income LP First Leaside Investors LP First Leaside Optimal LP First Leaside Preferred LP First Leaside Premier LP First Leaside Progressive LP First Leaside Quality LP First Leaside Real Estate LP First Leaside Realty II LP First Leaside Retirement Residences LP First Leaside Superior LP First Leaside Ultimate LP First Leaside Universal LP Uxbridge Development LP First Leaside Retirement Residences Limited Partnership First Leaside Venture Limited Partnership
Wimberly Apartments LP
The Shores LP
Old Mill Pond LP

The Bluffs of Lakewood LP
First Leaside Spring Valley LP
First Leaside Partners LP First Leaside Opportunities LP
Preston Racquet Club Real Estate Limited Partnership Series 910 PA Preston Racquet Club Real Estate Limited Partnership Series 910 PB Preston Racquet Club Real Estate Limited Partnership Series 910 PC Preston Racquet Club Real Estate Limited Partnership Series 910 PD
FL Master Texas Ltd.
FLW Pond Master Ltd.
FLW Shores Master Ltd.
First Leaside Acquisitions LP
Queenston Manor LP
First Leaside Acquisitions 2000 LP
First Leaside Advantage LP
First Leaside Developments LP
First Leaside Elite LP First Leaside Select LP
First Leaside Enterprises LP
B&W LP First Leaside Entities LP
First Leaside Expansion LP
First Leaside Growth LP
First Leaside Operations LP
First Leaside Unity LP

Legal*7308744.5

First Leaside Visions I LP First Leaside Visions II LP First Leaside Visions III LP First Leaside Visions IV LP Metabacus LP Greencore LP Marksman Cellject LP OMISA LP Dossierview LP eSight LP Tyromer LP
Place Concorde East LP
Place Concorde West LP
First Leaside Wealth Management LP
First Leaside Technologies LP
F.L. Beverages Group Limited Partnership F.L. Retirement Residences Limited Partnership First Leaside Global Limited Partnership First Leaside Ventures Limited Partnership Special U.S. Notes Limited Partnership FLWM Holdings Limited Partnership

Legal*7308744.5

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF FIRST LEASIDE WEALTH MANAGEMENT INC., et al

Court File No. CV-12-9617-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

Proceedings commenced at Toronto

ORDER

(First Extension of Stay Period)

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2100 Scotia Plaza
40 King Street West
Toronto, Ontario M5H 3C2

John Birch LSUC#38698U
Tel: 416-860-5225
Fax: 416-640-3057

David S. Ward LSUC#: 33541W
Tel: 416.869.5960
Fax: 416.360.3154

Lawyers for the Applicants

This is Exhibit "F" referred to in the Affidavit of Gregory MacLeod sworn June 19, 2012

Commissioner for Taking Affidavits (or as may be)

THIS IS TO CERTIFY THAT THIS DOCUMENT, EACH PAGE OF WHICH IS STAMPED WITH THE SEAL OF THE SUPERIOR COURT OF JUSTICE AT TORONTO, IS A TRUE COPY OF THE DOCUMENT ON FILE IN THIS OFFICE

LA PRÉSENT ATTEST QUE CE DOCUMENT, DONT CHACUNE DES PAGES EST REVÊTUE DU SCEAU DE LA COUR SUPÉRIEURE DE JUSTICE A TORONTO, EST UNE COPIE CONFORME DU DOCUMENT CONSERVÉ DANS CE BUREAU

DATED AT TORONTO THIS 2 DAY OF May 2012
FAIT À TORONTO LE JOUR DE

REGISTRAR GREFFIER

Court File No. CV-12-9617-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF First Leaside Wealth Management Inc., First Leaside Finance Inc., First Leaside Securities Inc., FL Securities Inc., First Leaside Management Inc., First Leaside Accounting and Tax Services Inc., First Leaside Holdings Inc., 2086056 Ontario Inc., First Leaside Realty Inc., First Leaside Capital Inc., First Leaside Realty II Inc., First Leaside Investments Inc., 965010 Ontario Inc., 1045517 Ontario Inc., 1024919 Ontario Inc., 1031628 Ontario Inc., 1056971 Ontario Inc., 1376095 Ontario Inc., 1437290 Ontario Ltd., 1244428 Ontario Ltd., PrestonOne Development (Canada) Inc., PrestonTwo Development (Canada) Inc., PrestonThree Development (Canada) Inc., PrestonFour Development (Canada) Inc., 2088543 Ontario Inc., 2088544 Ontario Inc., 2088545 Ontario Inc., 1331607 Ontario Inc., Queenston Manor General Partner Inc., 1408927 Ontario Ltd., 2107738 Ontario Inc., 1418361 Ontario Ltd., 2128054 Ontario Inc., 2069212 Ontario Inc., 1132413 Ontario Inc., 2067171 Ontario Inc., 2085306 Ontario Inc., 2059035 Ontario Inc., 2086218 Ontario Inc., 2085438 Ontario Inc., First Leaside Visions Management Inc., 1049015 Ontario Inc., 1049016 Ontario Inc., 2007804 Ontario Inc., 2019418 Ontario Inc., FL Research Management Inc., 970877 Ontario Inc., 1031628 Ontario Inc., 1045516 Ontario Inc., 2004516 Ontario Inc., 2192341 Ontario Inc., and First Leaside Fund Management Inc. (collectively, the "Applicant" or "Applicants")

CRO's CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Brown of the Ontario Superior Court of Justice (the "**Court**") dated February 23, 2012, G.S. MacLeod & Associates Inc. was appointed as the chief restructuring officer (the "**CRO**") of the undertaking, property and assets of the Applicants.

B. Pursuant to an Order of the Court dated April 30, 2012, the Court approved the agreement of purchase and sale made as of March 16, 2012 (the "**Sale Agreement**") between Queenston Manor General Partner Inc. (the "**Vendor**") and Starlight Investments Ltd. on behalf of D.D. 382 Queenston Ltd. (the "**Purchaser**") and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the CRO to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the CRO and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the CRO.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE CRO CERTIFIES the following:

1. The Purchaser has paid and the Vendor has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;

2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the CRO and the Purchaser; and

3. The Transaction has been completed to the satisfaction of the CRO.

4. This Certificate was delivered by the CRO at TORONTO on May 1, 2012. AT 4:29 P.M.

G.S. MacLeod & Associates Inc., in its capacity as court appointed chief restricting officer of the Applicants, and not in its personal capacity

Per: [signature]

Name: Gregory MacLeod

Title: President

In the Matter of First Leaside

CV-12-9617-00CL
Court file no.

SUPERIOR COURT OF JUSTICE
Proceeding commenced at Toronto

SUPERIOR COURT OF JUSTICE / COUR SUPÉRIEURE DE JUSTICE
FILED / DÉPOSÉ
MAY 7 2012
AT / À
LOCAL REGISTRAR - GREFFIER LOCAL
TORONTO

CRO
Certificate

John Birch
Cassels Brock
Lawyers For
First Leaside.
and the CRO
G.S MacLeod + Associates inc.

416 860 5225
40 King st west.
ste 2100

This is Exhibit "G" referred to in the Affidavit of Gregory MacLeod sworn June 19, 2012

____

Commissioner for Taking Affidavits (or as may be)

Court File No. CV-12-9617-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF First Leaside Wealth Management Inc., First Leaside Finance Inc., First Leaside Securities Inc., FL Securities Inc., First Leaside Management Inc., First Leaside Accounting and Tax Services Inc., First Leaside Holdings Inc., 2086056 Ontario Inc., First Leaside Realty Inc., First Leaside Capital Inc., First Leaside Realty II Inc., First Leaside Investments Inc., 965010 Ontario Inc., 1045517 Ontario Inc., 1024919 Ontario Inc., 1031628 Ontario Inc., 1056971 Ontario Inc., 1376095 Ontario Inc., 1437290 Ontario Ltd., 1244428 Ontario Ltd., PrestonOne Development (Canada) Inc., PrestonTwo Development (Canada) Inc., PrestonThree Development (Canada) Inc., PrestonFour Development (Canada) Inc., 2088543 Ontario Inc., 2088544 Ontario Inc., 2088545 Ontario Inc., 1331607 Ontario Inc., Queenston Manor General Partner Inc., 1408927 Ontario Ltd., 2107738 Ontario Inc., 1418361 Ontario Ltd., 2128054 Ontario Inc., 2069212 Ontario Inc., 1132413 Ontario Inc., 2067171 Ontario Inc., 2085306 Ontario Inc., 2059035 Ontario Inc., 2086218 Ontario Inc., 2085438 Ontario Inc., First Leaside Visions Management Inc., 1049015 Ontario Inc., 1049016 Ontario Inc., 2007804 Ontario Inc., 2019418 Ontario Inc., FL Research Management Inc., 970877 Ontario Inc., 1031628 Ontario Inc., 1045516 Ontario Inc., 2004516 Ontario Inc., 2192341 Ontario Inc., and First Leaside Fund Management Inc. (the "Applicants")

CRO's CERTIFICATE

RECITALS

A. Pursuant to an Order of the Court dated May 3, 2012 (the "**Approval Order**"), the Court approved the agreement of purchase and sale made as of April 11, 2012 (the "**Sale Agreement**") between the Vendor and Purchaser (as defined in the Approval Order) and provided for the vesting in the Purchaser of the Vendor's right, title and interest in and to the Purchased Assets (as defined in the Approval Order), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the CRO (as defined in the Approval Order) to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the purchase price for the Purchased Assets; (ii) that the conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Vendor and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the parties.

THE MONITOR CERTIFIES the following:

1. The Purchaser has paid and the Vendor has received Purchase Price 1 (as defined in the Sale Agreement) for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;

2. The conditions to Closing as set out in sections 3.4.1 and 3.4.2 of the Sale Agreement have been satisfied or waived by the Vendor and the Purchaser; and

3. The Transaction has been completed to the satisfaction of the parties.

4. This Certificate was delivered by the Monitor at 4:50 ~~a.m.~~/p.m. on May 17, 2012.

G.S. MacLeod & Accociate Inc., in its capacity as court appointed CRO in respect of the *Companies' Creditors Arrangement Act* proceedings brought by the Applicants and not in its personal capacity

Per: ______________________

Name: Greg MacLeod
Title: President

SUPERIOR COURT OF JUSTICE
COUR SUPÉRIEURE DE JUSTICE

THIS IS TO CERTIFY THAT THIS DOCUMENT, EACH PAGE OF WHICH IS STAMPED WITH THE SEAL OF THE SUPERIOR COURT OF JUSTICE AT TORONTO, IS A TRUE COPY OF THE DOCUMENT ON FILE IN THIS OFFICE

LA PRÉSENT ATTEST QUE CE DOCUMENT, DONT CHACUNE DES PAGES EST REVÊTUE DU SCEAU DE LA COUR SUPÉRIEURE DE JUSTICE A TORONTO, EST UNE COPIE CONFORME DU DOCUMENT CONSERVÉ DANS CE BUREAU

DATED AT TORONTO THIS 18th DAY OF May 2018
FAIT À TORONTO LE JOUR DE

REGISTRAR GREFFIER

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF First Leaside Wealth Management Inc. et al

Court File No: CV-12-9617-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

Proceeding commenced at Toronto

CRO'S CERTIFICATE

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Solicitors for the Applicants

This is Exhibit "H" referred to in the Affidavit of Gregory MacLeod sworn June 19, 2012

Commissioner for Taking Affidavits (or as may be)

ADDITIONAL FIRST LEASIDE CANADIAN PROPERTIES LISTED FOR SALE

PROPERTY	FIRST LEASIDE LP THAT OWNS THE PROPERTY	LIST PRICE
36 Bramtree Court, Brampton	First Leaside Growth LP	$ 5,000,000
164 Cemetery Road, Uxbridge	First Leaside Progressive LP	$2,700,000
62 Mill Street, Uxbridge	First Leaside Investors LP	$1,600,000
168 Brock Street, Uxbridge	First Leaside Expansion LP	$1,500,000
4 Victoria Street, Uxbridge	First Leaside Expansion LP	$1,500,000
65 Fort Street, Tilbury	First Leaside Investors LP	$ 3,250,000
123 Erie Street, Wheatly	First Leaside Unity LP	$ 450,000

This is Exhibit "I" referred to in the Affidavit of Gregory MacLeod sworn June 19, 2012

Commissioner for Taking Affidavits (or as may be)

EXHIBIT "I"

NAME ON INITIAL COURT ORDER	REVISED LEGAL NAME
B&W LP	B&W Limited Partnership
Development Notes Limited Partnerships	Development Notes Limited Partnership
Dossierview LP	Dossierview Limited Partnership
eSight LP	eSight Limited Partnership
F.L. Beverages Group Limited Partnership	n/a
First Leaside Acquisitions 2000 LP	First Leaside Acquisitions 2000 Limited Partnership
First Leaside Acquisitions LP	First Leaside Acquisitions Limited Partnership
First Leaside Advantage LP	First Leaside Advantage Limited Partnership
First Leaside Developments LP	First Leaside Developments Limited Partnership
First Leaside Elite LP	First Leaside Elite Limited Partnership
First Leaside Enterprises LP	First Leaside Enterprises Limited Partnership
First Leaside Entities LP	First Leaside Entities Limited Partnership
First Leaside Expansion LP	First Leaside Expansion Limited Partnership
• First Leaside Global Limited Partnership • First Leaside Global LP	First Leaside Global Limited Partnership
First Leaside Growth LP	First Leaside Growth Limited Partnership
First Leaside Income LP	First Leaside Income Limited Partnership
First Leaside Investors LP	First Leaside Investors Limited Partnership
First Leaside Operations LP	First Leaside Operations Limited Partnership
First Leaside Opportunities LP	First Leaside Opportunities Limited Partnership
First Leaside Optimal LP	First Leaside Optimal Limited Partnership
First Leaside Partners LP	First Leaside Partners Limited Partnership
First Leaside Preferred LP	First Leaside Preferred Limited Partnership
First Leaside Premier LP	First Leaside Premier Limited Partnership
First Leaside Progressive LP	First Leaside Progressive Limited Partnership
First Leaside Properties LP	First Leaside Properties Limited Partnership
First Leaside Quality LP	First Leaside Quality Limited Partnership
First Leaside Real Estate LP	First Leaside Real Estate Limited Partnership
First Leaside Realty II LP	First Leaside Realty II Limited Partnership
First Leaside Realty LP	First Leaside Realty Limited Partnership
• First Leaside Retirement Residences Limited Partnership • First Leaside Retirement Residences LP • F.L. Retirement Residences Limited Partnership	First Leaside Retirement Residences Limited Partnership
First Leaside Select LP	First Leaside Select Limited Partnership
First Leaside Spring Valley LP	F.L. Spring Valley Limited Partnership
First Leaside Superior LP	First Leaside Superior Limited Partnership
First Leaside Technologies LP	First Leaside Technologies Limited Partnership
First Leaside Ultimate LP	First Leaside Ultimate Limited Partnership
First Leaside Unity LP	First Leaside Unity Limited Partnership
First Leaside Universal LP	First Leaside Universal Limited Partnership
• First Leaside Venture Limited Partnership • First Leaside Ventures Limited Partnership	First Leaside Venture Limited Partnership

First Leaside Visions I LP	First Leaside Visions I Limited Partnership
First Leaside Visions II LP	First Leaside Visions II Limited Partnership
First Leaside Visions III LP	First Leaside Visions III Limited Partnership
First Leaside Visions IV LP	First Leaside Visions IV Limited Partnership
First Leaside Wealth Management LP	First Leaside Wealth Management Limited Partnership
FL Master Texas Ltd.	F.L. Master Texas, Ltd.
FLW Pond Master Ltd.	F.L.W. Pond Master, Ltd.
FLW Shores Master Ltd.	F.L.W. Shores Master, Ltd.
FLWM Holdings Limited Partnership	n/a
Greencore LP	Greencore Limited Partnership
Marksman Celiject LP	Marksman Celiject Limited Partnership
Metabacus LP	Metabacus Limited Partnership
Mill Street Limited Partnership	n/a
Old Mill Pond LP	Old Mill Pond Apartments Limited Partnership
OMISA LP	OMISA Limited Partnership
Place Concorde East LP	Place Concorde East Limited Partnership
Place Concorde West LP	Place Concorde West Limited Partnership
Preston Racquet Club Real Estate Limited Partnership Series 910 PA	Preston Racquet Club Real Estate Limited Partnership Series 910 PA
Preston Racquet Club Real Estate Limited Partnership Series 910 PB	Preston Racquet Club Real Estate Limited Partnership Series 910 PB
Preston Racquet Club Real Estate Limited Partnership Series 910 PC	Preston Racquet Club Real Estate Limited Partnership Series 910 PC
Preston Racquet Club Real Estate Limited Partnership Series 910 PD	Preston Racquet Club Real Estate Limited Partnership Series 910 PD
Queenston Manor LP	Queenston Manor Limited Partnership
Special Notes LP	Special Notes Limited Partnership
Special U.S. Notes Limited Partnership	Special U.S. Notes Limited Partnership
The Bluffs of Lakewood LP	The Bluffs of Lakewood Limited Partnership
The Shores LP	The Shores Limited Partnership
Tyromer LP	Tyromer Limited Partnership
Uxbridge Development LP	Uxbridge Development Limited Partnership
Wimberly Apartments LP	Wimberly Apartments Limited Partnership

Note: n/a indicates that the correct legal name was previously provided and no change is required.

This is Exhibit "J" referred to in the Affidavit of Gregory MacLeod sworn June 19, 2012

Commissioner for Taking Affidavits (or as may be)

Court File No. CV-12-9617-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF First Leaside Wealth Management Inc., First Leaside Finance Inc., First Leaside Securities Inc., FL Securities Inc., First Leaside Management Inc., First Leaside Accounting and Tax Services Inc., First Leaside Holdings Inc., 2086056 Ontario Inc., First Leaside Realty Inc., First Leaside Capital Inc., First Leaside Realty II Inc., First Leaside Investments Inc., 965010 Ontario Inc., 1045517 Ontario Inc., 1024919 Ontario Inc., 1031628 Ontario Inc., 1056971 Ontario Inc., 1376095 Ontario Inc., 1437290 Ontario Ltd., 1244428 Ontario Ltd., PrestonOne Development (Canada) Inc., PrestonTwo Development (Canada) Inc., PrestonThree Development (Canada) Inc., PrestonFour Development (Canada) Inc., 2088543 Ontario Inc., 2088544 Ontario Inc., 2088545 Ontario Inc., 1331607 Ontario Inc., Queenston Manor General Partner Inc., 1408927 Ontario Ltd., 2107738 Ontario Inc., 1418361 Ontario Ltd., 2128054 Ontario Inc., 2069212 Ontario Inc., 1132413 Ontario Inc., 2067171 Ontario Inc., 2085306 Ontario Inc., 2059035 Ontario Inc., 2086218 Ontario Inc., 2085438 Ontario Inc., First Leaside Visions Management Inc., 1049015 Ontario Inc., 1049016 Ontario Inc., 2007804 Ontario Inc., 2019418 Ontario Inc., FL Research Management Inc., 970877 Ontario Inc., 1031628 Ontario Inc., 1045516 Ontario Inc., 2004516 Ontario Inc., 2192341 Ontario Inc., and First Leaside Fund Management Inc. (collectively, the "Applicant" or "Applicants")

COMMUNICATIONS PROTOCOL
(RE POTENTIAL ASSET TRANSACTIONS)

WHEREAS the Applicants as well as the limited partnerships affiliated with the Applicants which are listed on Exhibit "A" hereto (the "**Included LPs**" and together with the Applicants ("**First Leaside**")) were granted protection pursuant to the *Companies' Creditors Arrangement Act* (the "**CCAA**") by the Order of Justice D. Brown made on February 23, 2012 (the "**Initial Order**");

AND WHEREAS pursuant to the Initial Order, G.S. MacLeod & Associates Inc. was appointed as the chief restructuring officer (the "**CRO**") of First Leaside;

AND WHEREAS pursuant to the Initial Order, Grant Thornton Limited was appointed by the Court as monitor (the "**Monitor**") of First Leaside;

AND WHEREAS pursuant to the Initial Order, Fraser Milner Casgrain LLP was appointed by the Court as representative counsel ("**Rep Counsel**") in the First Leaside CCAA proceedings to represent the interests of clients of First Leaside Securities Inc. (the "**Investors**");

AND WHEREAS certain Investors have volunteered to participate on a steering committee (the "**Steering Committee**") with Rep Counsel;

AND WHEREAS the following Steering Committee members have agreed to be members of a subcommittee (the "**Transaction Subcommittee**"): Ross Cochrane, Libby Parente, Simon Parry and Patrick Radice;

AND WHEREAS on April 30, 2012, Justice Campbell made the following endorsement (the "**April 30 Endorsement**") in the First Leaside CCAA proceedings:

> ... I was advised by Representative Counsel for the investors that a number of investors raised concerns regarding the Queenston Manor and Beverages transaction, in part due to the limited time the investors had to review and assess same. First Leaside, the CRO and the Monitor will work with Representative Counsel for the investors (the "Parties") to develop and implement a communication protocol regarding future proposed transactions in order to ensure that the investors have a reasonable opportunity to assess and respond to such transactions. The protocol shall include provisions to

address confidentiality concerns which are acceptable to the Parties noted above...

PURSUANT TO the April 30 Endorsement, the Parties (as defined therein) have agreed to the following communications protocol (the "**Communications Protocol**"):

Realization Plan

1. The CRO will develop, with the assistance of the Monitor an overall realization plan (the "**Realization Plan**"), including status of the real properties and projected timelines, if available, for disposing of, or otherwise dealing with, the various assets of First Leaside (collectively, the "**Assets**" and individually an "**Asset**").

2. The CRO will provide the Realization Plan to Rep Counsel, for distribution to the Steering Committee and/or Investors, by May 30, 2012.

3. The CRO will provide any amendments or updates to the Realization Plan to Rep Counsel, for distribution to the Steering Committee and/or Investors, as they occur.

Asset Transactions

4. The CRO and the Monitor will meet monthly with Rep Counsel and the Transaction Subcommittee, or such other interval as may be requested by Rep Counsel, acting reasonably, to discuss progress relating to the Realization Plan; the status of any marketing, investment or sales processes; and any written offers or proposals received by First Leaside in respect of any of the Assets.

5. Concurrently with entering into an agreement relating to a sale, investment, recapitalization, transfer, mortgage or other transaction (a "**Transaction**") in

respect of any Asset (including an agreement subject to Court approval) or as soon as practical thereafter, the CRO, with the Monitor, will consult with Rep Counsel and the Transaction Subcommittee with respect to such Transaction.

6. After entering in to any Transaction, the CRO agrees to use its best efforts to bring a motion for Court approval of such Transaction on at least 10 business days notice to Rep Counsel unless Rep Counsel agrees otherwise.

Confidentiality

7. The parties hereto understand and acknowledge that disclosure of information related to Transactions (including without limitation appraised values and proposed sale prices) could impair efforts to maximize realizations. The parties acknowledge that certain information may be provided to Rep Counsel only on a confidential basis.

8. Rep Counsel and the members of the Transaction Subcommittee agree to keep all information provided to them by the CRO and the Monitor pursuant to this protocol confidential and to not disclose or distribute same to any other party unless and until (i) made public by the CRO and/or the Monitor; or (ii) the Monitor and the CRO, acting reasonably, agree otherwise in writing. Provided however, that Rep Counsel may refer to such information in Court material provided that Rep Counsel requests a sealing order in respect of any such materials to be filed by Rep Counsel.

Dated as of the 24th date of May, 2012.

G.S. MacLeod & Associates Inc. solely in its capacity as court-appointed Chief Restructuring Officer of the Applicants and the limited partnerships listed on Exhibit "A" hereto:

per: Greg MacLeod, President

Grant Thornton Limited solely in its capacity as court-appointed Monitor of the Applicants and the limited partnerships listed on Exhibit "A" hereto:

per:

Fraser Milner Casgrain LLP solely in its capacity as court-appointed Representative Counsel to the clients of First Leaside Securities Inc.:

per:

Ross Cochrane:

Witness:

Name:

Libby Parente:

Witness:

Name:

Simon Parry:

Witness:

Name:

Patrick Radice:

Witness:

Name:

Dated as of the 24th date of May, 2012.

G.S. MacLeod & Associates Inc. solely in its capacity as court-appointed Chief Restructuring Officer of the Applicants and the limited partnerships listed on Exhibit "A" hereto:

per: Greg MacLeod, President

Grant Thornton Limited solely in its capacity as court-appointed Monitor of the Applicants and the limited partnerships listed on Exhibit "A" hereto:

per: J. Kreger
Sr. Vice President

Fraser Milner Casgrain LLP solely in its capacity as court-appointed Representative Counsel to the clients of First Leaside Securities Inc.:

per: SHAYNE KUKULOWICZ

Ross Cochrane:

Witness:

Name:

Libby Parente:

Witness:

Name:

Simon Parry:

Witness:

Name:

Patrick Radice:

Witness:

Name:

Dated as of the 24th date of May, 2012.

G.S. MacLeod & Associates Inc. solely in its capacity as court-appointed Chief Restructuring Officer of the Applicants and the limited partnerships listed on Exhibit "A" hereto:

per: Greg MacLeod, President

Grant Thornton Limited solely in its capacity as court-appointed Monitor of the Applicants and the limited partnerships listed on Exhibit "A" hereto:

per:

Fraser Milner Casgrain LLP solely in its capacity as court-appointed Representative Counsel to the clients of First Leaside Securities Inc.:

per:

Ross Cochrane:

Witness: K Cochrane

Name: KAREN COCHRANE

Libby Parente:

Witness:

Name:

Simon Parry:

Witness:

Name:

Patrick Radice:

Witness:

Name:

Dated as of the 24th date of May, 2012.

G.S. MacLeod & Associates Inc. solely in its capacity as court-appointed Chief Restructuring Officer of the Applicants and the limited partnerships listed on Exhibit "A" hereto:

per: Greg MacLeod, President

Grant Thornton Limited solely in its capacity as court-appointed Monitor of the Applicants and the limited partnerships listed on Exhibit "A" hereto:

per:

Fraser Milner Casgrain LLP solely in its capacity as court-appointed Representative Counsel to the clients of First Leaside Securities Inc.:

per:

Ross Cochrane:

Witness:

Name:

Libby Parente:

L. Parente

Witness:

A. Zelnuth

Name:

Simon Parry:

Witness:

Name:

Patrick Radice:

Witness:

Name:

Dated as of the 24th date of May, 2012.

G.S. MacLeod & Associates Inc. solely in its capacity as court-appointed Chief Restructuring Officer of the Applicants and the limited partnerships listed on Exhibit "A" hereto:

per: Greg MacLeod, President

Grant Thornton Limited solely in its capacity as court-appointed Monitor of the Applicants and the limited partnerships listed on Exhibit "A" hereto:

per:

Fraser Milner Casgrain LLP solely in its capacity as court-appointed Representative Counsel to the clients of First Leaside Securities Inc.:

per:

Ross Cochrane:

Witness:

Name:

Libby Parente:

Witness:

Name:

Simon Parry:

Witness:

Name: MEENAZ ALI

Patrick Radice:

Witness:

Name:

Dated as of the 24th date of May, 2012.

G.S. MacLeod & Associates Inc. solely in its capacity as court-appointed Chief Restructuring Officer of the Applicants and the limited partnerships listed on Exhibit "A" hereto:

per: Greg MacLeod, President

Grant Thornton Limited solely in its capacity as court-appointed Monitor of the Applicants and the limited partnerships listed on Exhibit "A" hereto:

per:

Fraser Milner Casgrain LLP solely in its capacity as court-appointed Representative Counsel to the clients of First Leaside Securities Inc.:

per:

Ross Cochrane:

Witness:

Name:

Libby Parente:

Witness:

Name:

Simon Parry:

Witness:

Name:

Patrick Radice:

Witness: CHRISTINA RADICE

Name:

This is Exhibit "K" referred to in the Affidavit of Gregory MacLeod sworn June 19, 2012

Commissioner for Taking Affidavits (or as may be)

Court File No. CV-12-9617-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

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

THE HONOURABLE	)	MONDAY, THE 30th
	)	
JUSTICE COLIN L. CAMPBELL	)	DAY OF APRIL, 2012

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF First Leaside Wealth Management Inc., First Leaside Finance Inc., First Leaside Securities Inc., FL Securities Inc., First Leaside Management Inc., First Leaside Accounting and Tax Services Inc., First Leaside Holdings Inc., 2086056 Ontario Inc., First Leaside Realty Inc., First Leaside Capital Inc., First Leaside Realty II Inc., First Leaside Investments Inc., 965010 Ontario Inc., 1045517 Ontario Inc., 1024919 Ontario Inc., 1031628 Ontario Inc., 1056971 Ontario Inc., 1376095 Ontario Inc., 1437290 Ontario Ltd., 1244428 Ontario Ltd., PrestonOne Development (Canada) Inc., PrestonTwo Development (Canada) Inc., PrestonThree Development (Canada) Inc., PrestonFour Development (Canada) Inc., 2088543 Ontario Inc., 2088544 Ontario Inc., 2088545 Ontario Inc., 1331607 Ontario Inc., Queenston Manor General Partner Inc., 1408927 Ontario Ltd., 2107738 Ontario Inc., 1418361 Ontario Ltd., 2128054 Ontario Inc., 2069212 Ontario Inc., 1132413 Ontario Inc., 2067171 Ontario Inc., 2085306 Ontario Inc., 2059035 Ontario Inc., 2086218 Ontario Inc., 2085438 Ontario Inc., First Leaside Visions Management Inc., 1049015 Ontario Inc., 1049016 Ontario Inc., 2007804 Ontario Inc., 2019418 Ontario Inc., FL Research Management Inc., 970877 Ontario Inc., 1031628 Ontario Inc., 1045516 Ontario Inc., 2004516 Ontario Inc., 2192341 Ontario Inc., and First Leaside Fund Management Inc. (the "Applicants")

ORDER

(APPROVAL OF CONDUCT AND DISTRIBUTION OF QUEENSTON MANOR PROCEEDS)

THIS MOTION, made by the Applicants for an order approving (a) the abridgment of time for filing the Applicants' notice of motion and motion record; (b) certain conduct and activities of G.S. MacLeod & Associates Inc. (the "**CRO**"); (c) certain conduct and activities of Grant Thornton Limited, in its capacity as court appointed monitor (the "**Monitor**"); and (d) the full and final payout to Midland Loan Services Inc. ("**Midland**");

ON READING the Affidavits of Greg MacLeod sworn March 21 and April 23, 2012, the First Report (defined below), the second report of the Monitor, dated April 25, 2012, (the "**Second Report**") and on hearing the submissions of counsel for the Applicants and the CRO, the Monitor, Fraser Milner Casgrain LLP in its capacity as court appointed Representative Counsel, no one appearing for any other person on the service list, although properly served as appears from the affidavits of Mary Carreiro sworn April 24 and 26, 2012, filed:

1. **THIS COURT ORDERS** that the time for service and filing of the notice of motion and the motion record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS AND DECLARES** that the conduct and activities of the CRO as disclosed in the CRO's affidavits dated March 21, 2012 and April 23, 2012, be and are hereby approved.

3. **THIS COURT ORDERS AND DECLARES** that the conduct and activities of the Monitor as set out in the Proposed Monitor's Report dated February 22, 2012, the Monitor's first report dated March 21, 2012 ("**First Report**") and the Monitor's Second Report, be and are hereby approved. MC

4. **THIS COURT ORDERS AND DIRECTS** Queenston Manor General Partner Inc. ("**Queenston Manor**") to pay the sum of $4,397,405.05 (subject to adjustments) (the "**Midland Amount**") to Midland, ~~upon~~ as soon as practicably possible after the closing of the transaction whereby D.D. 382 MC

Queenston Ltd. will purchase the interest of Queenston Manor in the property known municipally as 382 Queenston Street, St. Catharines, Ontario, which transaction is being approved concurrently with this order. Upon the payment to Midland of the Midland Amount, all claims by Midland to the assets and property of Queenston Manor be and the same are hereby extinguished, and Midland is ordered to discharge registrations numbers NR 103713 and NR 103715 from title as soon as practically possible. [initials]

5. THIS COURT ORDERS that the Representative Counsel Allowance contained in the Initial Order be and is hereby increased to a maximum of $300,000. [initials]

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

APR 30 2012

[signature]

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF First Leaside Wealth Management Inc. et al

Court File No: CV-12-9617-00Cl

ONTARIO
SUPERIOR COURT OF JUSTICI
(Commercial List)

Proceeding commenced at Toront

ORDER
(APPROVAL OF CONDUCT AND DISTRII OF QUEENSTON MANOR PROCEEI

Cassels Brock & Blackwell LLP
2100 Scotia Plaza
40 King Street West
Toronto, Ontario M5H 3C2

John N. Birch LSUC #: 38968U
Tel: 416.860.5225
Fax: 416.640.3057
jbirch@casselsbrock.com

David S. Ward LSUC#: 33541W
Tel: 416.869.5960
Fax: 416.360.3154
dward@casselsbrock.com

Lawyers for the Applicant

This is Exhibit "L" referred to in the Affidavit of Gregory MacLeod sworn June 19, 2012

Commissioner for Taking Affidavits (or as may be)

Blakes

Blake, Cassels & Graydon LLP
Barristers & Solicitors
Patent & Trade-mark Agents
199 Bay Street
Suite 4000, Commerce Court West
Toronto ON M5L 1A9 Canada
Tel: 416-863-2400 Fax: 416-863-2653

Chris Burr
Dir: 416-863-3301
chris.burr@blakes.com

June 6, 2012

Reference: 88944/4

VIA E-MAIL & COURIER

David Phillips
President
970877 Ontario Inc.
430 Durham Road
Uxbridge, Ontario
L9P 1R1

Re: November 3, 2011 Transfer of $500,000

Mr. Phillips:

We are counsel to Grant Thornton Limited, in its capacity as Court-appointed monitor of First Leaside Wealth Management Inc. and certain affiliated companies and limited partnerships (the "**Monitor**"), in connection with the *Companies' Creditors Arrangement Act* proceedings involving those entities.

The Monitor is aware that on or about November 3, 2011, a transfer in the amount of $500,000 (the "**Transfer**") was made from the account of First Leaside Finance Inc. to the account of 970877 Ontario Inc. ("**970**"). It appears from the banking records of the First Leaside group of companies that this transfer was made to repay a $500,000 loan made by 970 to First Leaside Wealth Management Inc. on September 2, 2011. As it appears from corporate records, you are the sole officer and director of 970.

The Monitor notes that the Transfer was made 3 days after the First Leaside companies agreed to cease trading in securities, and on the same day that an independent committee was appointed over the First Leaside companies to assume all decision making authority with respect to the operations of those companies.

The Transfer appears to the Monitor to be either a preference, a transfer at undervalue or a fraudulent conveyance, as those terms are used in the *Bankruptcy and Insolvency Act* (Canada), *Fraudulent Conveyances Act* (Ontario) and *Assignments and Preferences Act* (Ontario). Accordingly, in the Monitor's view, the Transfer is void and the $500,000 should be returned by 970 to First Leaside Finance Inc. immediately.

The Monitor hereby requires repayment of $500,000 to First Leaside Finance Inc. immediately, failing which the Monitor will have no choice but to consider its options to compel repayment by Court order.

If you have not consulted independent legal counsel on this matter, I encourage you to do so at your earliest convenience. If you have retained counsel, please provide his or her contact information to me.

Sincerely,

Chris Burr

cc: Greg MacLeod, Chief Restructuring Officer of the First Leaside group of companies
Jon Krieger, Grant Thornton Limited
John Birch, Cassels Brock & Blackwell LLP
Shayne Kukulowicz, Fraser Milner Casgrain LLP

12568854.1

This is Exhibit "M" referred to in the Affidavit of Gregory MacLeod sworn June 19, 2012

Commissioner for Taking Affidavits (or as may be)

Blake, Cassels & Graydon LLP
Barristers & Solicitors
Patent & Trade-mark Agents
199 Bay Street
Suite 4000, Commerce Court West
Toronto ON M5L 1A9 Canada
Tel: 416-863-2400 Fax: 416-863-2653

June 15, 2012

Chris Burr
Dir: 416-863-3301
chris.burr@blakes.com

VIA E-MAIL & COURIER

Reference: 88944/4

David Phillips
President
970877 Ontario Inc.
430 Durham Road
Uxbridge, ON
L9P 1R1

Re: November 3, 2011 Transfer of $500,000

Mr. Phillips:

As you are aware, we are counsel to Grant Thornton Limited, in its capacity as Court-appointed monitor of First Leaside Wealth Management Inc. and certain affiliated companies and limited partnerships (the "**Monitor**"), in connection with the *Companies' Creditors Arrangement Act* proceedings involving those entities.

This letter is further to my letter of June 6, 2012, in which you were advised that the Monitor is aware that on or about November 3, 2011, a transfer in the amount of $500,000 (the "**Transfer**") was made from the account of First Leaside Finance Inc. to the account of 970877 Ontario Inc. ("**970**"). It appears from the banking records of the First Leaside group of companies that this transfer was made to repay a $500,000 loan made by 970 to First Leaside Wealth Management Inc. on September 2, 2011.

The Transfer appears to the Monitor to be either a preference, a transfer at undervalue or a fraudulent conveyance, as those terms are used in the *Bankruptcy and Insolvency Act* (Canada), *Fraudulent Conveyances Act* (Ontario) and *Assignments and Preferences Act* (Ontario). Accordingly, in the Monitor's view, the Transfer is void and the Monitor requires repayment of $500,000 to First Leaside Finance Inc. immediately.

I have not received a response to my June 6, 2012 letter. Please be advised that the Monitor will be including this matter in its next report to the Court, and may, in connection with such report, seek authorization and direction from the Court to formally bring a preference claim against 970 under the aforementioned legislation. The Monitor therefore requests a response from you no later than close of business on Tuesday, June 19, 2012.

12572247.1

Blakes

I believe Mr. Crawley may be your counsel on this matter, and have copied him on this letter. Please confirm whether this understanding is correct, and I will ensure that future correspondence is addressed accordingly.

Sincerely,

Chris Burr

cc: Greg MacLeod, Chief Restructuring Officer of the First Leaside group of companies
Jon Krieger, Grant Thornton Limited
John Birch, Cassels Brock & Blackwell LLP
Shayne Kukulowicz, Fraser Milner Casgrain LLP
Alistair Crawley, Crawley, Meredith, Brush LLP

12572247.1

This is Exhibit "N" referred to in the Affidavit of Gregory MacLeod sworn June 19, 2012

Commissioner for Taking Affidavits (or as may be)

Ontario

Ontario Securities Commission | Commission des valeurs mobilières de l'Ontario | P.O. Box 55, 19th Floor 20 Queen Street West Toronto ON M5H 3S8 | CP 55, 19e étage 20, rue queen ouest Toronto ON M5H 3S8

IN THE MATTER OF THE SECURITIES ACT
R.S.O. 1990, c. S.5, AS AMENDED

- AND -

IN THE MATTER OF
DAVID CHARLES PHILLIPS

TEMPORARY ORDER
Subsections 127(1) and 127(5)

WHEREAS it appears to the Ontario Securities Commission (the "Commission") that:

1. First Leaside Securities Inc. ("FLSI") was registered with the Commission as an investment dealer until February 24, 2012, when its registration was suspended;

2. F.L. Securities Inc. ("F.L. Securities") was registered with the Commission as an exempt market dealer until February 28, 2012, when its registration was suspended;

3. FLSI and F.L. Securities are part of a collection of at least 161 First Leaside entities (the "First Leaside Group");

4. David Charles Phillips ("Phillips") is or was the controlling and directing mind of the First Leaside Group;

5. On November 7, 2011, the First Leaside Group agreed that FLSI and F.L. Securities would cease trading in securities of any limited partnerships and funds formed or established by FLSI, F.L. Securities or any other member of the First Leaside Group;

6. FLSI, F.L. Securities and other entities in the First Leaside Group applied to the Ontario Superior Court of Justice for an order that the *Companies' Creditors*

Arrangement Act, R.S.C. 1985, c. C-36 applies to them. The Court granted the initial order on February 23, 2012, and subsequently extended the order to June 29, 2012;

7. Phillips was registered as a trading officer and approved as a director and shareholder with FLSI from March 1, 2004 to February 24, 2012. Phillips was registered as the ultimate designated person of FLSI from January 11, 2010 to February 24, 2012;

8. Phillips was registered as a trading officer and approved as a director with F.L. Securities from April 14, 2000 to February 27, 2004. Phillips was approved as a shareholder of F.L. Securities from March 17, 2004 to February 28, 2012;

9. Phillips' registration was suspended in accordance with subsection 29(2) of the Act when the corresponding registration of FLSI and F.L. Securities was suspended;

10. Phillips is acting as a consultant to at least two groups of investors to raise capital in respect of First Leaside Group entities and has been or expects to be compensated for that activity;

11. in so doing, Phillips engaged in or held himself out as engaging in the business of trading after his registration was suspended contrary to subsection 25(1) of the Act; and

12. Phillips has acted contrary to the public interest.

AND WHEREAS the Commission is of the opinion that the time required to conclude a hearing could be prejudicial to the public interest as set out in section 127(5) of the Act;

AND WHEREAS the Commission is of the opinion that it is in the public interest to make this order;

AND WHEREAS by Authorization Order made July 14, 2011, pursuant to subsection 3.5(3) of the Act, the Commission authorized each of Howard I. Wetston, James E. A. Turner, Kevin J. Kelly, James D. Carnwath, Mary G. Condon, Paulette Kennedy, Vern Krishna, Christopher Portner and Edward P. Kerwin, acting alone, to exercise the powers of the Commission to make Orders under section 127 of the Act;

IT IS ORDERED that Phillips shall cease trading in all securities;

IT IS FURTHER ORDERED that any exemptions contained in Ontario securities law do not apply to Phillips;

IT IS FURTHER ORDERED that this order shall take effect immediately and shall expire on the fifteenth day after its making unless extended by order of the Commission.

DATED at Toronto this 15th day of May, 2012.

"Mary G. Condon"

This is Exhibit "O" referred to in the Affidavit of Gregory MacLeod sworn June 19, 2012

Commissioner for Taking Affidavits (or as may be)

Ontario Securities Commission | Commission des valeurs mobilières de l'Ontario | P.O. Box 55, 19th Floor
20 Queen Street West
Toronto ON M5H 3S8 | CP 55, 19e étage
20, rue queen ouest
Toronto ON M5H 3S8

IN THE MATTER OF THE SECURITIES ACT
R.S.O. 1990, c. S.5, AS AMENDED

- AND -

IN THE MATTER OF
DAVID CHARLES PHILLIPS

ORDER
(Subsection 127(1))

WHEREAS on May 15, 2012 the Ontario Securities Commission (the "Commission") issued an order (the "Temporary Order") pursuant to subsections 127(1) and 127(5) of the *Securities Act*, R.S.O. 1990 c. S.5, as amended (the "Act") containing allegations against David Charles Phillips ("Phillips"), and ordering that:

1. Phillips shall cease trading in all securities;

2. any exemptions contained in Ontario securities law do not apply Phillips; and

3. the Temporary Order shall take effect immediately and shall expire on the fifteenth day after its making unless extended by order of the Commission;

AND WHEREAS on May 16, 2012, the Commission issued a Notice of Hearing to consider, among other things, the extension of the Temporary Order, to be held on May 30, 2012;

AND WHEREAS counsel to Phillips advised Staff of the Commission ("Staff") that Phillips intended to challenge any extension of the Temporary Order;

AND WHEREAS on May 29, 2012, Staff of the Commission ("Staff") filed its Factum and Brief of Authorities and certain evidence in support of an extension of the Temporary Order;

AND WHEREAS on May 30, 2012, Staff and counsel to Phillips appeared before the Commission to ask that the hearing be adjourned to June 6, 2012 and the Temporary Order extended;

AND WHEREAS on May 30, 2012, the Commission adjourned the hearing to June 6, 2012, and ordered the Temporary Order be extended to June 8, 2012, or until further Order of the Commission;

AND WHEREAS on June 6, 2012, the Commission heard evidence and submissions from Staff and counsel for Phillips on the issue of whether the Temporary Order should be extended for a further period of time;

AND WHEREAS the Commission was satisfied that Staff has provided sufficient evidence of conduct that may be harmful to the public interest and, accordingly, in the public interest, justifies an extension of the restrictions set out in the Temporary Order;

AND WHEREAS at the conclusion of the hearing, the panel gave an oral decision to the following effect;

IT IS ORDERED THAT:

(a) The Temporary Order dated May 15, 2012, as varied by (b) below, is extended for a period ending Friday, September 28, 2012;

(b) During this extended period, Phillips shall cease trading in all securities, except for trades made through a registrant for his own account or for the account of his "registered retirement savings plans", "registered retirement income fund" or "tax free savings account" (as those terms are defined in the *Income Tax Act* (Canada)) in respect of (i) government debt securities within the scope of clause 1 of subsection 35(1) of the Act, and (ii) those securities that are listed and posted for trading on the Toronto Stock Exchange or the New York Stock Exchange (or their successor exchanges); and

(c) During this extended period, any exemptions contained in Ontario securities law do not apply to Phillips.

DATED at Toronto this 6th day of June 2012.

"Edward P. Kerwin"

Edward P. Kerwin

This is Exhibit "P" referred to in the Affidavit of Gregory MacLeod sworn June 19, 2012

Commissioner for Taking Affidavits (or as may be)

Torkin Manes LLP
Barristers & Solicitors
151 Yonge Street, Suite 1500
Toronto, Ontario M5C 2W7

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Associated worldwide with
INTERNATIONAL ALLIANCE OF LAW FIRMS

Torkin Manes
Barristers & Solicitors

June 8, 2012

Personal and Confidential
Delivered Via Courier

Cassels Brock LLP
2100 Scotia Plaza
40 King Street West
Toronto, Ontario, Canada
M5H 3C2

Attention: Mr. John Birch/Mr. Peter Dunne

Dear Sirs/Mesdames:

Re: First Leaside Fund and Wimberly Apartments Limited Partnership Fund

We have been retained to act for the trustees of the First Leaside Fund and the Wimberly Apartments Limited Partnership Fund (the "**Funds**") in connection with the *Companies Creditors Arrangement Act* ("CCAA") proceedings (the "**Proceedings**") commenced by First Leaside Wealth Management LP, First Leaside Management Inc., First Leaside Fund Management Inc. and Wimberly Apartments Limited Partnership, et al. (collectively, the "**First Leaside Goup**").

At our first meeting with certain of the trustees of the Funds held on April 30, 2012, the trustees discussed the issues relating to their interests in Master Texas Limited Partnership, a United States limited partnership that is not part of the Proceedings. We were advised at that meeting that your firm was external counsel for the Funds and had also acted for a lengthy period of time for various entities that form part of the First Leaside Group. We were further advised that Peter Dunne of your office had contacted Mr. Murray Eades, at that time Chairman of the trustees of the Funds, and had advised Mr. Eades that he was of the opinion that your firm could continue to act for Greg MacLeod, the Chief Restructuring Officer (the "**CRO**"), the First Leaside Group and the Funds.

At that meeting, the trustees were concerned that the CRO was taking or may be taking positions and making decisions that the trustees fundamentally disagree with and which the trustees do not believe are in the best interests of the Funds. These issues include, among other things, the management of the Funds, the management of the real property owned (directly or indirectly) by

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Master Texas Limited Partnership which are known as Bluffs Apartments, Wimberly Pointe Apartments, Wymberly Crossing Apartments, Old Mill Pond Apartments, Shores Apartments and Preston Racquet Club (collectively, the "**Texas Properties**), the sale of the Texas Properties and the distribution of any sales proceeds from the sale of the Texas Properties, if and when they are sold.

We have now had an opportunity to fully review this matter with our clients. As the CRO may be taking actions or proceedings that may affect the rights and remedies of the Funds and the note holders of the Funds, on behalf of our clients, please be advised that our clients object to your firm acting on behalf of the CRO with respect to any matters that may have any impact whatsoever on the Funds. In the current Proceedings, it appears that the CRO may well be considering taking proceedings to which our clients may be adverse. In addition, the Canadian creditors of the First Leaside Group and the creditors with claims against entities in the United States that are related to, owned by or affiliated with the First Leaside Group, may have adverse interests and accordingly, our clients request that you do not act on behalf of the CRO with respect to any actions, proceedings or matters in Canada that will or may affect our clients' rights in the United States.

Our clients acknowledge that the Funds signed management agreements with First Leaside Group entities. It is our understanding that these management agreements require the manager to carry out its functions with a view to the best interests of the Funds. Notwithstanding the management agreements that have been entered into with the First Leaside Group, the trustees of the Funds continue to have ongoing obligations under the applicable declarations of trust with respect to the Funds, which is why the trustees are involved in this matter. In addition, the managers appointed by the trustees have ongoing duties to assist the trustees in discharging their obligations under the applicable declarations of trust.

Prior to making any decisions relating to any proceedings it may take with respect to this matter, the trustees require significant financial and documentation disclosure from your firm and the CRO, including, without limitation, the following:

1. Copies of all relevant mortgages against the Texas Properties;

2. Copies of any offers to purchase received with respect to the Texas Properties;

3. Copies of any discussion papers, letters of intent or other documents relating to any proposed refinancing of the Texas Properties;

4. A breakdown of the revenue earned from the Texas Properties since March 1, 2012;

5. A breakdown of the expenses associated with the Texas Properties since March 1, 2012;

6. Copies of any appraisals;

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7. An accounting of all income earned from the Texas Properties that was deposited into bank accounts in Canada;

8. An accounting of all funds advanced by the First Leaside Group to Master Texas Limited Partnership or advanced for the benefit of the Texas Properties;

9. Cost estimates or other reports relating to any work that must be completed on the Texas Properties; and

10. Copies of any voluntary agreement (s) made by the First Leaside Group or many member thereof with any securities regulator which may have an impact on the Funds.

The request for this information is also being made to you as current counsel for the CRO as it has a continuing duty and obligation to the trustees under the terms of the various agreements that are in place. The request is being made of your firm as you have been external counsel for the Funds for a lengthy period of time.

Our clients have signed the enclosed authorization and direction which requires you to deliver to our firm (we will arrange to pick them up) all files (hard and electronic) in your possession relating to the Funds.

Please confirm that you will not be acting on behalf of the CRO or any other parties with respect to any matters that may be adverse in interest to the Funds or that may have any impact whatsoever on the Funds.

On behalf of our clients, we reserve any rights the Funds may have with respect to any damages they may have suffered or incurred as a result of your firm's conflict of interest in the Proceedings and with respect to any other matters relating to the Funds. We trust that you will maintain in strictest confidence all information concerning the business and affairs of the Funds and that you will not divulge any such information to any person, regulatory agency or governmental authority without the prior written consent of our clients or if you are required by law to do so.

Torkin Manes
Barristers & Solicitors

Yours truly,

TORKIN MANES LLP
Per:

Fay Sulley

Fay Sulley
FS/

cc. Henry Wemekamp
Ken Rice
Simon Parry
Michael Hanley

31796.0001/4915768_.2

AUTHORIZATION AND DIRECTION

To: Cassels Brock LLP

And to: Peter Dunne and John Birch

Re: First Leaside Fund and Wimberly Fund

You are hereby authorized and directed to forward all of your legal files, correspondence, documents, whether in paper form, electronic form or digital form, to Torkin Manes LLP. Attention S. Fay Sulley, 151 Yonge Street, Suite 1500, Toronto, Ontario M5C 2W7, and for so doing, this shall be your sole and sufficient authority.

Dated this 4th day of June, 2012.

First Leaside Fund, by its trustees, Henry Wemekamp, Simon Parry and Ken Rice

Per: ______________________
Henry Wemekamp

Per: ______________________
Simon Parry

Per: ______________________
Ken Rice

Wimberly Fund, by its trustees, Henry Wemekamp, Simon Parry and Ken Rice

Per: ______________________
Henry Wemekamp

Per: ______________________
Simon Parry

Per: ______________________
Ken Rice

AUTHORIZATION AND DIRECTION

To: Cassels Brock LLP

And to: Peter Dunne and John Birch

Re: First Leaside Fund and Wimberly Fund

You are hereby authorized and directed to forward all of your legal files, correspondence, documents, whether in paper form, electronic form or digital form, to Torkin Manes LLP, Attention S. Fay Sulley, 151 Yonge Street, Suite 1500, Toronto, Ontario M5C 2W7, and for so doing, this shall be your sole and sufficient authority.

Dated this 4th day of June, 2012.

First Leaside Fund, by its trustees, Henry Wemekamp, Simon Parry and Ken Rice

Per: ______________________
Henry Wemekamp

Per: ______________________
Simon Parry

Per: K Rice
Ken Rice

Wimberly Fund, by its trustees, Henry Wemekamp, Simon Parry and Ken Rice

Per: ______________________
Henry Wemekamp

Per: ______________________
Simon Parry

Per: K Rice
Ken Rice

31797.0001/4907189_.1

AUTHORIZATION AND DIRECTION

To: Cassels Brock LLP

And to: Peter Dunne and John Birch

Re: First Leaside Fund and Wimberly Fund

You are hereby authorized and directed to forward all of your legal files, correspondence, documents, whether in paper form, electronic form or digital form, to Torkin Manes LLP, Attention S. Fay Sulley, 151 Yonge Street, Suite 1500, Toronto, Ontario M5C 2W7, and for so doing, this shall be your sole and sufficient authority.

Dated this 4th day of June, 2012.

First Leaside Fund, by its trustees, Henry Wemekamp, Simon Parry and Ken Rice

Per: ____________________
Henry Wemekamp

Per: ____________________
Simon Parry

Per: ____________________
Ken Rice

Wimberly Fund, by its trustees, Henry Wemekamp, Simon Parry and Ken Rice

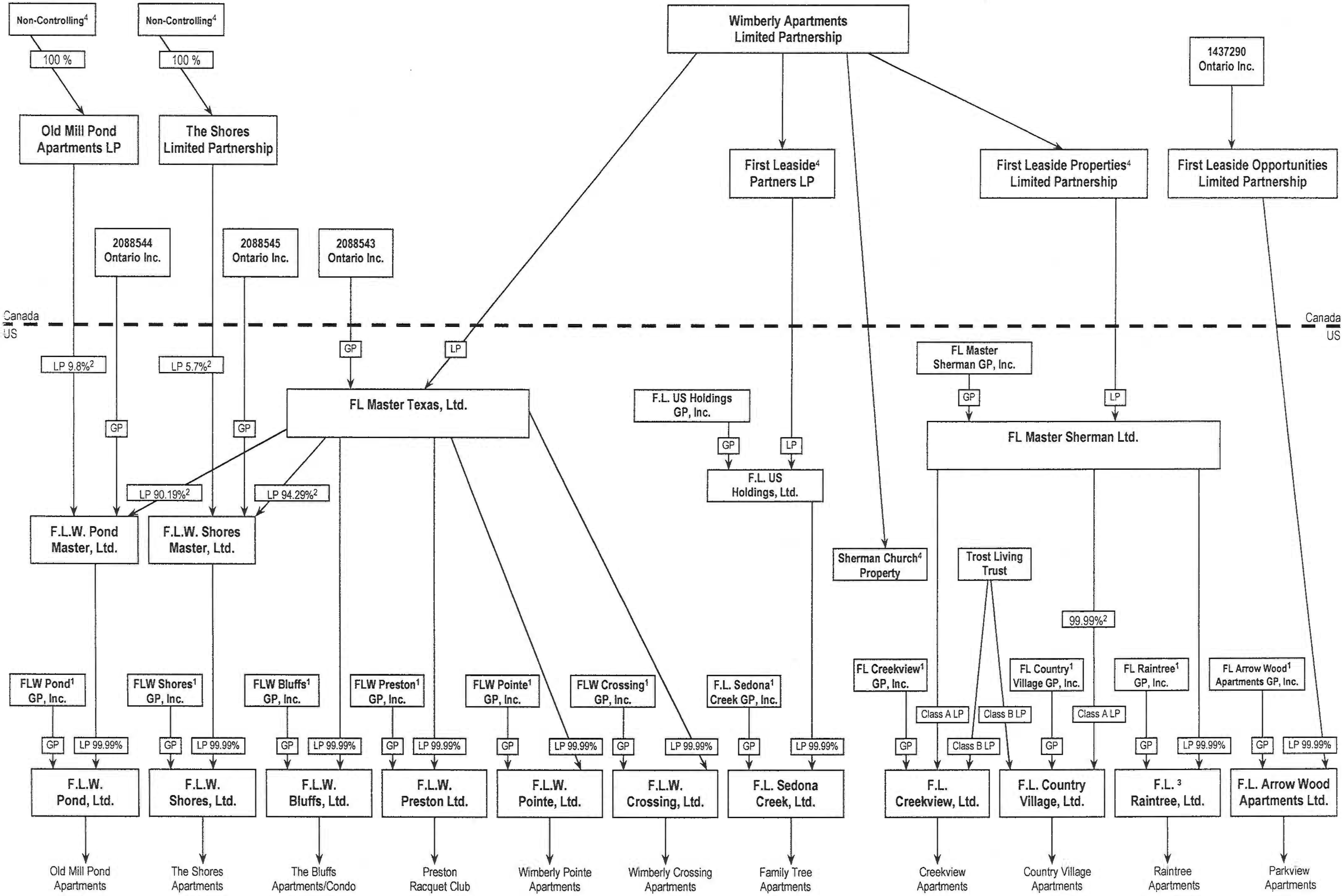
Per: ____________________
Henry Wemekamp

Per: ____________________
Simon Parry

Per: ____________________
Ken Rice

This is Exhibit "Q" referred to in the Affidavit of Gregory MacLeod sworn June 19, 2012

Commissioner for Taking Affidavits (or as may be)



1 We have been told by John Wise that these entities are owned and controlled by David Phillips. We have not received the documents to confirm ownership.
2 These percentages match the organizational documents that we have received, are different than those contained in the original chart.
3 The LP Agreement lists the Limited Partner as FL Master Sherman GP, Ltd.
4 This is information from original chart.

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This is Exhibit "R" referred to in the Affidavit of Gregory MacLeod sworn June 19, 2012

Commissioner for Taking Affidavits (or as may be)

CASSELS BROCK

June 19, 2012

By E-Mail (PDF)

jbirch@casselsbrock.com
tel: 416.860-5225
fax: 416.640-3057
file # 33695-28

Fay Sulley
Torkin Manes LLP
Suite 1500
151 Yonge Street
Toronto ON M5C 2W7

Dear Ms. Sulley:

Re: First Leaside

I am responding to your letter dated June 8, 2012 which relates to The First Leaside Fund and Wimberly Fund (collectively, the "**Funds**"). In your letter, you incorrectly refer to Wimberly Fund as "Wimberly Apartments Limited Partnership Fund".

Regrettably, many of the assertions and allegations made in your letter are simply not accurate. For example, Cassels Brock & Blackwell LLP ("**CBB**") has never acted as counsel for the Funds. Accordingly, CBB does not intend to produce any of its files to you.

It is not clear how the Funds could be taking a position separate from the investors in the Funds ("**Fund Investors**"). Under the terms of the Initial Order, representative counsel was appointed to represent the interests of all clients of First Leaside Securities Inc. That class includes everyone who holds any First Leaside debt or equity instrument, including in respect of the Funds. Although the Initial Order does contain opt-out provisions which permit individual investors to hire their own counsel, to the best of our knowledge no one has exercised that right.

As such, Fraser Milner Casgrain LLP in its capacity as representative counsel ("**Rep Counsel**") already represents all holders of units in the Funds. To the extent that investors in the Funds wish to take any position, it is the responsibility of Rep Counsel to consult investors and communicate with First Leaside and the Monitor.

We also cannot see how there is any conflict of interest relating to the Chief Restructuring Officer ("**CRO**"). The CRO's responsibility is to effect an orderly wind down of the affairs of First Leaside and to maximize recoveries for creditors of the Applicants and the other entities listed in Schedule "A" to the Initial Order (the "**Included LPs**").

The Funds have no rights over the real property in Texas. The Funds are simply unsecured creditors of FL Master Texas, Ltd. ("**Master Texas**"), a Texas limited

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partnership. Master Texas does not itself hold any real property but merely holds units in other limited partnerships. As such, the Funds have no ability to take control of, or exercise any rights in relation to, the real property in Texas.

Further, the Funds' remedies against Master Texas are stayed because the general partner of Master Texas (2088543 Ontario Inc.), which is an Ontario corporation, is an Applicant in the CCAA proceedings.

Because the interests of investors are being represented by Rep Counsel, First Leaside has been in active communication with Rep Counsel as well as a Transaction Subcommittee of investors. First Leaside has provided those parties with ongoing information about all progress being made in the CCAA proceedings, including the results of the review of the US properties and possible options for the future.

To date, no decision has been made concerning how to deal with the US properties or the corporations and limited partnerships which are not yet part of the CCAA proceedings.

In closing, let me emphasize that the fact that First Leaside has asked me to respond to your letter does not mean that it accepts the legitimacy of the appointment of the trustees of the Funds or, by extension, the appointment of your firm as counsel to the Funds. The trust agreements governing the Funds allow trustee vacancies to be filled between annual meetings of unit holders without recourse to the general body of unit holders. This creates the significant risk that trustees will not act in the best interests of unit holders generally. For example, one of the Funds' trustees is a proponent of, and a participant in, a specific proposal for the refinancing of certain US properties and stands to personally benefit if such proposal is adopted. That is clearly of concern to First Leaside and is one reason why it will not be providing you with confidential information (such as appraisals) concerning the US properties.

Yours truly,

John N. Birch

JNB/ph
Legal*7678700.1

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF FIRST LEASIDE WEALTH MANAGEMENT INC., et al

Court File No. CV-12-9617-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

Proceedings commenced at Toronto

MOTION RECORD OF THE APPLICANTS
(SECOND STAY EXTENSION)
(returnable June 28, 2012)

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2100 Scotia Plaza
40 King Street West
Toronto, Ontario M5H 3C2

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