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 "Applicant")

MOTION RECORD OF THE APPLICANTS
(returnable August 23, 2012)

AUGUST 17, 2012

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TAB 1

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 "Applicant")

NOTICE OF MOTION

The Applicant will make a motion to a judge presiding over the Commercial List on Thursday, August 23, 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, M5G 1R7.

PROPOSED METHOD OF HEARING: The motion is to be heard

[ ] in writing under subrule 37.12.1(1);

[ ] in writing as an opposed motion under subrule 37.12.1(4);

[X] orally.

THE MOTION IS FOR

(a) an Order approving the sale by F.L. Securities Inc. in its capacity as general partner of Harmony Town Homes Limited Partnership of the property known municipally as 65 Fort Street, Wheatley, Ontario to Skyline Real Estate Acquisitions (III) Inc. pursuant to an Agreement of Purchase and Sale dated July 23, 2012 and vesting title in the purchaser upon closing;

(b) an Order approving the sale by 2085306 Ontario Inc. in its capacity as general partner of First Leaside Growth Limited Partnership of the property known municipally as 36 Bramtree Court to Outset Media Corporation pursuant to an Agreement of Purchase and Sale dated July 23, 2012 and vesting title in the purchaser upon closing;

(c) an Order approving the sale of the businesses carried on by First Leaside Accounting and Tax Services Inc. ("**FLAT**") substantially in accordance with the terms of

(i) a Term Sheet dated August 10, 2012 among Joanna L. Hampton Holdings Inc., McMillan Thorne & Co. Ltd., D. McCormack & Company Inc., Allan Welsh & Company, FLAT, the Toronto-Dominion Bank, and Jim Brander Professional Corporation and authorizing the completion of the transactions contemplated by such term sheet; and

(ii) a Term Sheet dated August 10, 2012 among Jim Brander, Jim Brander Professional Corporation, Brander Professional Corporation, Smart Books Accounting Services Inc., FLAT, the Toronto-Dominion Bank and Joanna L. Hampton Holdings Inc., and authorizing the completion of the transactions contemplated by such term sheet

(d) an Order authorizing and directing G.S. MacLeod & Associates Inc. ("**CRO**"), by its President, Gregory MacLeod to execute on behalf of First Leaside Realty II Inc. as general partner an Asset Purchase Agreement dated August 3, 2012 (the "**Amica APA**") among 480 Metcalfe Street (Ottawa) Limited Partnership, 100 Isabella Street (Ottawa) Limited Partnership, Redwood Retirement Residences (Ottawa) Limited Partnership (collectively, the "**Vendors**"), Amica Acquisitions Inc., (the "Purchaser") and KingSett Real Estate Growth LP No. 2 and declaring that the *Bulk Sales Act* does not apply to such transaction;

(e) an Order authorizing and directing First Leaside Finance Inc. to discharge its $7,500,000 mortgage in respect of the property known municipally as 480 Metcalfe Street, Ottawa, Ontario and registered on August 29, 2011 as Instrument Number OC1276878;

(f) an Order authorizing First Leaside (as defined in the initial order dated February 23, 2012 granted by Justice D.M. Brown (the "**Initial Order**")) to take no further steps to manage, maintain, administer, market, or realize value from limited partnerships, corporations, trusts, or properties located or subsisting in the United States in which First Leaside has a direct or indirect equity or other interest (collectively, the "**US Entities**") including, properties held directly or indirectly by Wimberly Apartments Limited Partnership, 2088544 Ontario Inc., 2088545 Ontario Inc., 2088543 Ontario Inc., FL Master Sherman GP, Inc., FL Master Texas, Ltd., FL Master Sherman Ltd., or F.L. US Holdings GP, Inc., but excepting the Sherman Church Property and the First Leaside Spring Valley property (collectively, the "**US Entities Wind-Down**");

(g) an Order authorizing, but not obligating, First Leaside to take the following additional steps in furtherance of the US Entities Wind-Down:

(i) delivering records of US Entities

(A) in respect of US Entities which are corporations: to an officer, director, shareholder, or employee thereof;

(B) in respect of US Entities that are limited partnerships: to the general partner or an officer, director, shareholder, or employee of the general partner;

(ii) where an Applicant is a general partner of one or more of the US Entities, to resign as general partner and/or facilitate the appointment of a new general partner; and

(iii) immediately ceasing to prepare or file any financial statements, accounting records, regulatory report, or tax returns on behalf of the US Entities.

(h) an order reserving the right of First Leaside, despite the US Entities Wind-Down, to investigate whether First Leaside Mortgage Fund ("**Mortgage Fund**") or other alleged creditors of US Entities (collectively, "**Alleged Creditors**") have given valid consideration for the relevant debt or security which they assert and authorizing First Leaside to take such steps as are necessary to seek a determination of the rights, if any, of Alleged Creditors;

(i) an order discontinuing these proceedings on behalf of 970877 Ontario Inc. and removing such corporation as one of the Applicants;

(j) an order lifting the stay provided for in paragraph 24 of the Initial Order and permitting First Leaside to commence actions against David C. Phillips ("**Phillips**") and Margaret Davis ("**Davis**"), who are directors of certain of the Applicants;

(k) an Order approving the conduct of the CRO as set out in the Affidavit of Gregory MacLeod, sworn August 17 , 2012;

(l) an Order approving the conduct of the Monitor as described in the Fourth Report of the Monitor;

(m) the costs of this Motion; and,

(n) such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE

A. Background

(a) 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 benefit of the Initial Order, including the stay, was extended to a number of limited partnerships associated with the Applicants;

(b) The Initial Order also appointed the Grant Thornton Limited as Monitor (the "**Monitor**") and Fraser Milner Casgrain LLP as Representative Counsel ("**Representative Counsel**");

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

(d) The Stay Period was most recently extended by order dated June 28, 2012 and currently expires on October 26, 2012;

B. Recent Events

(a) Since the most recent stay extension on June 28, 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

(i) reviewing offers and otherwise pursuing the sale of seven Canadian properties owned by limited partnerships which are subject to the provisions of the CCAA stay;

(ii) marketing the assets and business of the Okanagan Excluded LPs (as defined in the Initial Order) ("**Parcel A**") with the assistance of Grant Thornton Corporate Finance Inc. ("**GTCFI**");

(iii) marketing the 50.1% interest held by First Leaside in Prime Time Living Limited Partnership ("**Parcel B**") with the assistance of GTCFI;

(iv) reviewing offers received for Parcel A and Parcel B;

(v) continuing to assess the status and corporate structure of, and considering options in respect of, the 12 U.S. properties in which multiple First Leaside entities—especially Wimberly Apartments Limited Partnership ("**WALP**")—have an equity interest (the "**US Properties**");

(vi) 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;

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

(viii) liaising with counsel for the trustees of Wimberly Fund, The First Leaside Fund, and First Leaside Mortgages Fund (collectively, the "**Funds**")

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

US Entities Wind-Down

(b) the Applicants have determined that, despite, their significant equity ownership in the US Entities,

(i) there is no realizable equity value in the US Entities which is available for First Leaside, largely as a result of substantial mortgages granted by the US Entities and

(ii) the Applicants lack effective corporate means to assert control of the US Entities, and even if issues of corporate control could be cost-efficiently addressed, substantial investments in the US Entities will be required that cannot be justified based on the equity values.

Partial Discontinuance of CCAA Proceedings

(a) one of the Applicants, 970877 Ontario Inc., was traditionally used as a private holding company by Phillips and thus there is no basis for it to remain as a party to these proceedings;

Partial Lifting of Stay

(a) First Leaside wishes to commence an action to collect certain investment and other loans extended to Phillips and Davis and corporations controlled by them (the "**Collection Action**");

(b) as directors of certain First Leaside entities, Phillips and Davis currently have the benefit of the CCAA stay;

(c) the CCAA stay should be lifted to allow the Collection Action to be commenced since lifting the stay will not undermine or otherwise negatively affect the CCAA proceedings or the wind-down of First Leaside;

Other Grounds

(a) The grounds set out in the Monitor's Fourth Report;

(b) Sections 11, 11.03, 32, and 56 of the CCAA;

(c) Rules 2.03, 3.02, 5.03, 14.05 and 37 of the Rules of Civil Procedure, R.R.O. 1990, reg. 194 as amended; and

(d) sections 11, 97, and 100 of the *Courts of Justice Act*, R.S.O. 1990, c. C-43, as amended;

(e) section 3 of the *Bulk Sales Act*, R.S.O. 1990, c. B.14; and

(f) Such further and other grounds as the lawyers may advise.

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

(a) Fourth Report of the Monitor;

(b) The affidavit of Gregory MacLeod, to be sworn;

(c) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

August 17, 2012

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

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

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF

PROCEEDING COMMENCED AT TORONTO

NOTICE OF MOTION

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TAB 2

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

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AFFIDAVIT OF GREGORY MACLEOD
(sworn August 20, 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 most recently extended by an order of this Court on June 28, 2012. Attached hereto and marked as **Exhibit "E"** is a copy of the June 28, 2012 order (the "**June 28 Order**"). The Stay Period currently expires on October 26, 2012.

6. This affidavit is sworn in support of the motion for, *inter alia,* the approval of certain sales of property by First Leaside and for directions concerning the U.S. properties in which First Leaside has an interest.

Restructuring Efforts to Date

7. Since the extension of the Stay Period on June 28, 2012, First Leaside has continued to work with the Monitor, Representative Counsel, 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 and Investors.

8. First Leaside also has been participating in a communications program that includes conference calls with the Monitor and Representative Counsel. First Leaside has also held meetings with, and provided information to, an investor steering committee organized by Representative Counsel (the "**Steering Committee**"). In accordance with a communications protocol which was approved by the court on June 28, 2012 (the "**Communications Protocol**"), First Leaside has been providing regular updates to Representative Counsel (and, in most cases, to the Steering Committee, as well) concerning the sale of First Leaside's various properties and the status of other matters in the CCAA administration.

9. On some matters, First Leaside has provided confidential information to a Transaction Sub-Committee, which is a subset of the Steering Committee. For example, I have participated in phone calls and meetings with the Transaction Sub-Committee during which I have reported about the current status of real property sales, including offers received and likely counter-offers to be made by First Leaside.

Remaining First Leaside Canadian Real Property Assets

10. At the time of the June 28, 2012 motion (the last time that this matter was before the court), First Leaside had listed for sale seven Canadian properties. These properties that were listed are as follows:

(a) 36 Bramtree Court, Brampton, Ontario ("**Bramtree**"), a 70,000 square foot industrial building which is owned by First Leaside Growth Limited Partnership ("**Growth LP**") which limited partnership is, in turn, owned by First Leaside Expansion Limited Partnership ("**FLEX**");

(b) 164 Cemetery Road, Uxbridge, Ontario ("**Cemetery Road**"), a 23 acre parcel of land (of which only 4 acres are developable) owned by Uxbridge Development Limited Partnership which limited partnership is owned by First Leaside Progressive Limited Partnership ("**Progressive LP**");

(c) 62 Mill Street, Uxbridge, Ontario ("**Mill Street**"), a 3.74 acre plot of land containing a small heritage home, which is owned by Mill Street Limited Partnership which, in turn, is owned by First Leaside Investors Limited Partnership ("**Investors LP**");

(d) 65 Fort Street, Tilbury, Ontario ("**Harmony Townhomes**"), a 50-unit townhome complex which is owned by Harmony Town Homes Limited Partnership ("**Harmony LP**") which, in turn, is owned by Investors LP;

(e) 4 Victoria Street, Uxbridge, Ontario ("**Victoria Street**"), the site of a partially-constructed 58,182 square foot head office for First Leaside, which is ultimately owned by FLEX and in respect of which construction was suspended in November 2011;

(f) 168 Brock Street, Uxbridge, Ontario ("**Brock Street**"), two properties owned by First Leaside Entities Limited Partnership (in turn owned by FLEX) which are adjacent to Victoria Street and comprise a paved parking lot and a small commercial building; and

(g) 123 Erie Street, Wheatley, Ontario ("**Erie Street**"), a development site owned by First Leaside United Limited Partnership ("**Unity LP**"), which is in turn owned by FLEX.

11. 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.

12. All of these properties which have been listed for sale have been marketed through open and public sales process using the brokerage arm of Colliers.

13. Attached hereto and marked as **Exhibit "F"** 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.

14. So far, First Leaside has not received any offers for Brock Street, Victoria Street, or Erie Street. This lack of offers may not be unusual given that some of the properties are development land (or, in the case of Victoria Street, a partially constructed building).

15. In respect of Cemetery Road, First Leaside received one offer on June 8, 2012 that was substantially below appraised value and negotiations did not result in an agreement. The property remains listed for sale.

16. In respect of Mill Street, First Leaside received an offer dated May 16, 2012 at a purchase price which exceeded the appraised value. The offer was conditional upon the purchaser conducting and being satisfied with due diligence. First Leaside accepted the offer. At the end of the conditional period, the purchaser informed First Leaside that it was not prepared to waive the due diligence condition and insisted that the price of the property be reduced by $250,000. This price reduction would have brought the sale price below the appraised value of the property. Accordingly, First Leaside did not agree to the price reduction and the agreement of purchase and sale lapsed. Mill Street remains on the market and no further offers have been received.

Sale of Bramtree

17. Bramtree has been the subject of multiple offers. At the time that First Leaside became the subject of CCAA proceedings, it had entered into a binding agreement (the

"**First Bramtree Agreement**") to sell Bramtree for an amount in excess of the appraised value. However, the First Bramtree Agreement was conditional upon due diligence and the purchaser demanded a $850,000 price reduction in exchange for waiving the due diligence condition. First Leaside refused to provide such price reduction on the basis that it was unwarranted, and thus the sale was not completed.

18. After the First Bramtree Agreement was terminated, First Leaside approached a First Leaside investor who had expressed interest in purchasing Bramtree. However, after a brief inspection of the property and limited preliminary due diligence, the purchaser decided not to proceed with an offer.

19. First Leaside listed the property for sale via Colliers in May 2012. After several weeks on the market, Colliers presented nine offers for consideration by First Leaside. After due consideration, First Leaside entered into a binding agreement on June 20, 2012 (the "**Second Bramtree Agreement**") to sell Bramtree at a price above the appraised value. The Second Bramtree Agreement was conditional upon due diligence and the purchaser demanded a $450,000 price reduction in exchange for waiving conditions. First Leaside again refused to agree to the reduction on the basis that it was unwarranted and the Second Bramtree Agreement was terminated effective July 17, 2012.

20. First Leaside contacted the next best offer from among the nine offers received in June. The offer price was the best available and above appraisal value. The offer is conditional on financing and, after being satisfied as to the purchaser's prospects of obtaining the requisite financing, First Leaside decided to enter into an agreement of

purchase and sale dated July 23, 2012 (the "**Outset APS**") from Outset Media Corporation ("**Outset**"). First Leaside has accepted the Outset APS and is prepared to complete a sale on those terms, subject to court approval.

21. A redacted copy of the Outset APS is attached hereto as **Exhibit "G"**. The unredacted Outset APS—which displays the purchase price—shall be made available to the court at the hearing of this motion.

22. First Leaside has two opinions of value for Bramtree, one from C.B. Richard Ellis Limited dated December 1, 2010 and the other from Colliers dated May 2012. The price provided for in the Outset APS is in excess of the amount provided for in both opinions of value.

23. The Outset APS remains conditional until August 23, 2012 and Outset may therefore terminate the offer up to that date. I understand that, if the transaction is completed, Outset intends to occupy the premises itself, making this an important strategic acquisition for Outset. Despite the fact that the Outset APS is still conditional, First Leaside is seeking court approval at this stage in order to avoid incurring the cost of a separate stand-alone motion later in August or in early September. Although the previous two offerors failed to waive their due diligence conditions, their interest in the property was development or investment related. As Outset intends to own and occupy the property, I do not believe that Outset is faced with the same considerations as the previous offerors when undertaking their due diligence.

Harmony Townhomes

24. One offer was received for the Harmony Townhomes from Skyline Real Estate Acquisitions (II) Inc. ("**Skyline**"), which is a major owner of multi-residential townhome developments in southwestern Ontario.

25. Skyline and First Leaside made a series of counter-offers before ultimately reaching agreement on price and other terms. On July 24, 2012, F.L. Securities Inc. (which is an Applicant in these proceedings and which is the general partner of Harmony LP) entered into an Agreement of Purchase and Sale (the "**Harmony APS**"). A copy of the Harmony APS, in redacted form, is attached as **Exhibit "H"**. An unredacted version will be available for inspection by the court at the return of this motion.

26. I believe that the price being offered by Skyline is fair. Such price is consistent with the upper end of the range of appraisals that First Leaside obtained in May 2012 from CBRE and Colliers. Notwithstanding that Skyline is the sole offeror, I believe that the property was fully exposed to the market and that potential bidders received notice. The property was listed for sale by Colliers on the Multiple-Listing Service and Colliers prepared professional marketing materials for interested parties. There were a limited number of property visits by interested parties. Harmony Townhomes is situated in a very challenging market and the property is particularly well-suited for the Skyline portfolio.

27. As is the case with the Outset APS, the Harmony APS remains conditional on due diligence. The conditional period expires at 6 p.m. on August 28, 2012. To avoid

the necessity of having to bring a separate motion to approve this sale shortly after August 28, First Leaside is seeking sale approval now as well as a vesting order effective on the closing of the transaction and the filing of a CRO's certificate with the Court.

28. In the event that that the transactions contemplated by the Outset APS or the Harmony APS are not completed, First Leaside will continue the marketing of the development.

Sale of the Assets of Certain Excluded LPs and Interest in Prime Time Living Limited Partnership

29. At the time that First Leaside sought CCAA protection and the Initial Order was granted, a number of Canadian limited partnerships with properties in Ottawa, Ontario and the Okanagan area of British Columbia (respectively, the "**Ottawa Excluded LPs**" and the "**Okanagan Excluded LPs**") were excluded from the scope of proceedings.

30. The Ottawa Excluded LPs are as follows:

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

(b) The Redwood Retirement Residences Limited Partnership;

(c) 100 Isabella St. (Ottawa) Limited Partnership; and

(d) 480 Metcalfe St. (Ottawa) Limited Partnership ("**480 Metcalfe**").

31. The Okanagan Excluded LPs are as follows:

(a) First Leaside Retirement Residences (Okanagan) Limited Partnership;

(b) Cherry Park Retirement Residences Limited Partnership

(c) Orchard Valley Retirement Residences Limited Partnership; and

(d) The Shores Retirement Residences Limited Partnership.

32. The Okanagan Excluded LPs and the Ottawa Excluded LPs (collectively, the "**Excluded LPs**") are ultimately owned by First Leaside Venture Limited Partnership ("**Venture LP**") which is subject to these CCAA proceedings. As of the time of the Initial Order, I understand that Venture LP had hoped to refinance the Excluded LPs. For example, on February 15, 2012, just a week prior to the CCAA application, Venture LP entered into a non-binding term sheet with Bridge Gap Konsult Inc. ("**BGK**") whereby BGK proposed to deliver bridge financing by the end of March 2012 in an amount sufficient to rectify certain mortgage defaults and to support working capital until BGK could complete a significant raising of equity capital for Ventures LP later in 2012. However, BGK was unable to secure a commitment for the bridge financing and, as a result, Ventures LP and the mortgagees had to explore other options.

33. Since the time of the Initial Order, Ventures LP has worked cooperatively with the mortgagees of the Excluded LPs, who hold mortgages on all of the properties held by the Excluded LPs. In general terms,

(a) Canadian Imperial Bank of Commerce ("**CIBC**") holds the first and second mortgages on the properties owned by the Ottawa Excluded LPs;

(b) KingSett Real Estate Growth Limited Partnership No. 2. ("KingSett") holds third mortgages on, and is a guarantor in respect of the properties owned by the Ottawa Excluded LPs; and

(c) the Toronto-Dominion Bank ("**TD**") holds the first mortgages on the properties owned by the Okanagan Excluded LPs.

34. In respect of the Ottawa Excluded LPs, the current mortgage debt owing on all of the properties owned by the Ottawa Excluded LPs (according to pay-out statements effective as of September 1, 2012) is as follows:

(a) $40,038,134.61 owing in respect of the first and second mortgages in favour of CIBC; and

(b) $19,491,480.33 owing in respect of the third mortgage in favour of KingSett.

35. As such the total amount owing in respect of the properties owned by the Ottawa Excluded LPs is $59,529,614.94 (the "**Ottawa LP Debt**"). Attached hereto and marked, respectively, as **Exhibits "I" and "J"** are copies of the pay-out statements received from CIBC and KingSett.

36. In respect of the Okanagan Excluded LPs, the mortgage debt owed to TD and registered against the properties owned by the Okanagan Excluded LPs as of August 8, 2012, was $17,436,585 in aggregate.

37. The above-noted properties owned by the Excluded LPs are retirement residences (the "**Retirement Residences**"). The Retirement Residences are managed by Primetime Living Limited Partnership ("**Primetime**"), in which First Leaside (through First Leaside Retirement Residences Limited Partnership ("**Retirement Residences LP**")) owns a 50.1% interest with the remaining 49.9% being held by Brujjon Real Estate

Holdings Inc. ("**Brujjon**"), which is not related to First Leaside. In addition to its management responsibilities in relation to the Retirement Residences, Primetime owns four properties in Ontario and B.C. (the "**Primetime Properties**"):

(a) the Abby Lane retirement residence and Whiterock Medical Centre in Surrey, B.C.;

(b) a 50% ownership interest in the Birkhall property in Vernon, B.C. (the other 50% is owned by Venture LP);

(c) the Heatherwood retirement residence in St. Catharines, Ontario; and

(d) the St. Catharines Place retirement residence in St. Catharines, Ontario.

38. With the support of TD, CIBC, and KingSett, the assets of the Excluded LPs have been marketed in order to allow creditors (primarily those three mortgagees) to be paid. However, since the operations of Primetime are so closely connected with the Retirement Residences (given Primetime's role as manager), First Leaside concurrently marketed for sale its ownership interest in Primetime.

Marketing Process for Ottawa Excluded LPs

39. Since approximately March 2012, First Leaside has cooperated with KingSett and CIBC, who have overseen a sales process for the Ottawa Excluded LPs. With the consent of KingSett and CIBC, TD Securities Inc. ("**TDSI**") was retained as broker to run a sales process and solicit offers for the assets of the Ottawa Excluded LP's.

40. As a result of the sales process, an offer was received from Amica Acquisitions Inc. ("**Amica**") for the assets held by the Ottawa Excluded LPs. The offer was in an amount to pay CIBC in full, but was not sufficient to pay Kingsett in full. However,

Kingsett advised that it was prepared to permit the sale notwithstanding that it would not be paid in full.

41. As such, on August 3, 2012, Amica, KingSett, and First Leaside Realty II Inc. ("**Realty II**") in its capacity as general partner for the Excluded Ottawa LPs entered into an Asset Purchase Agreement (the "**Amica APA**") whereby the Excluded Ottawa LPs agreed to sell all of their assets and undertaking to Amica for the aggregate purchase price that is less than the Ottawa LP Debt. CIBC and KingSett have consented to the terms of the Amica APA.

42. The Amica APA was prepared by counsel for KingSett. KingSett has agreed to reimburse the relevant First Leaside general partner, Realty II, for its costs of review of the sale agreement.

43. Prior to the time that TDSI was retained as broker for the properties owned by the Excluded Ottawa LPs, two separate brokers (TDSI and Primecorp) provided opinions of value. The aggregate purchase price pursuant to the Amica APA is in excess of the amounts set out in both opinions of value.

44. Although Realty II is an applicant in these proceedings and my company, G.S. MacLeod & Associates Inc., was appointed as CRO over all Applicants and Included LPs (as defined in the Initial Order), including Realty II, paragraph 4 of the Initial Order provides that the provisions of the Initial Order do 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. As such, it is not clear whether the CRO has

the authority to execute the Amica APA on behalf of Realty II, without specific court authorization.

45. Prior to the time that the Amica APA was concluded, I considered ways of having Realty II execute that agreement on behalf of the Ottawa Excluded LPs, including through normal corporate processes, such as the existing directors, or through the calling of a shareholders meeting. For various reasons, these options were not practicable, particularly in light of the desire of KingSett and Amica to conclude an agreement as soon as possible.

46. Although the Ottawa Excluded LPs are not subject to the CCAA proceedings, First Leaside has endeavoured to cooperate with the senior secured lenders in their sales process and realization efforts, in the general interest of trying to maximize recovery to stakeholders. To this end, and at the request of KingSett, First Leaside has agreed to sign the Amica APA and seek the relief sought herein authorizing execution by the CRO, nunc pro tunc, of the agreement on behalf of Realty II.

47. The parties to the Amica APA have delivered signed versions of the agreement in escrow on the understanding that I, as CRO, will seek court authorization to execute the Amica APA on behalf of Realty II.

48. The relief sought in this regards is at the request of, and supported by, KingSett and CIBC which, as a result of the shortfall on the total amounts owing against the property, are the only parties having any economic interest in the Ottawa Excluded LPs.

Need to Discharge Fourth Mortgage

49. As part of this motion, the Applicants seek an order permitting First Leaside Finance Inc. ("**FL Finance**") to discharge a fourth mortgage in the amount of $7,500,000 (the "**FL Finance Mortgage**") which it holds over the property owned by 480 Metcalfe.

50. The FL Finance Mortgage was registered on August 29, 2011 as part of the transaction through which First Leaside acquired the properties now owned by the Ottawa Excluded LPs.

51. The FL Finance Mortgage is deeply subordinated in that it ranks behind the following mortgages on title in favour of CIBC and KingSett.

(a) a $40 million mortgage in favour of Canadian Imperial Bank of Commerce;

(b) a $32.5 million mortgage in favour of KingSett Real Estate Growth GP No. 2 Inc.; and

(c) a $21.875 million mortgage in favour of KingSett Mortgage Corporation.

52. Given that the Ottawa Excluded LPs, including 480 Metcalfe, have cross-guaranteed the overall indebtedness to CIBC and KingSett, and since the aggregate purchase price for the properties owned by those limited partnerships is not sufficient to repay all prior-ranking debt, it is apparent that there is no hope that any funds will flow to FL Finance, no matter how the funds may be marshalled or allocated among the properties. Attached hereto and marked as **Exhibit "K"** is a copy of the parcel register for a sample unit at the property owned by 480 Metcalfe showing the FL Finance

Mortgage. (Since that property is set up as a condominium, the mortgage is registered against each individual unit.)

53. In connection with the closing of the Amica APA, the CRO has been asked to agree to discharge the FL Finance Mortgage. Although the FL Finance Mortgage is clearly "out of the money", the prior ranking mortgagees do not have an automatic right to have such mortgage discharged on closing because the sale of the 480 Metcalfe property—as well as the other properties included in the Amica APA—is being undertaken by the property owners, the Ottawa Excluded LPs (by their general partner, Realty II), not by the mortgagees under power of sale. I have concluded that it is appropriate and in the interest of the First Leaside estate to agree to discharge the FL Finance Mortgage in order to facilitate the completion of the Amica APA, in circumstances where the FL Finance Mortgage has no value to stakeholders. However, since the mortgage is an asset of FL Finance (which is an Applicant), First Leaside seeks court approval for the discharge of such mortgage.

Sale of BC Properties and Interest in Primetime Living

54. Retirement Residences LP, Realty II, FLWM, First Leaside Universal Limited Partnership, Progressive LP, F.L. Primetime Living Limited Partnership and FLWM Holdings Limited Partnership engaged Grant Thornton Corporate Finance Inc. ("**GTCFI**") to act as a financial advisor in connection with the proposed divestiture of two parcels of assets:

(a) The Retirement Residences owned by the Okanagan Excluded LPS (being "**Parcel A**"); and

(b) Retirement Residences LP's 50.1% interest in PTL (being "**Parcel B**").

55. Pursuant to the June 28 Order, the court approved the retention of GTCFI as financial advisor.

56. GTCFI prepared confidential information memoranda (the "**CIMs**") for each of Parcel A and Parcel B and circulated them to potential purchasers that executed confidentiality agreements.

57. Parcel A and Parcel B were marketed separately because they represent different sets of assets in respect of which there are different stakeholder interests. In addition, Parcel A is owned by an Excluded LP, whereas Parcel B is under the auspices of the CCAA court. As such, different governance considerations apply to their sale. As I have noted above, TD is the major secured creditor of the Okanagan Excluded LPs and thus the sale of Parcel A is intended to benefit TD at first instance.

58. Attached hereto and marked as **Exhibit "L"** is a copy of an organization chart outlining the organizational structure of the Okanagan Excluded LPs and the scope of assets being sold in Parcel A.

59. In contrast to the assets in Parcel A, those in Parcel B are not subject to the same third party encumbrances. However, as I have noted above, Retirement Residences LP is only a 50.1% owner of Primetime, with the remaining 49.9% being owned by Brujjon.

60. Attached hereto and marked as **Exhibit "M"** is a copy of a diagram outlining the ownership structure of Primetime.

61. The sales process run by GTCFI has so far been successful. By July 19, 2012, GTCFI had received a total of four letters of interest ("**LOIs**") for the purchase of both Parcel A and Parcel B. First Leaside then began negotiations with the bidder which provided the most promising LOI (the "**Preferred Bidder**"). As a result of such negotiations, First Leaside was able to obtain an increase in the proposed purchase price. On August 1, 2012, First Leaside entered into a revised, confidential LOI with the Preferred Bidder. This LOI, which is non-binding, is subject to a number of conditions, including due diligence and court approval. Counsel for the parties are currently in the process of conducting due diligence and negotiating the terms of a definitive asset purchase agreement.

62. First Leaside is also working with Brujjon to provide it with information about the sale of Parcel B.

63. It does not appear that First Leaside will be able to complete a definitive agreement for the sale of Parcel A or Parcel B prior to the hearing of this motion. As such, the agreement will be the subject of a future motion to the court.

64. If a deal with the Preferred Bidder is ultimately concluded on the terms which are currently contained in the LOI, there will be material proceeds realized for First Leaside investors, after re-paying indebtedness to TD.

Sale of Assets of First Leaside Accounting and Tax Services Inc.

65. On this motion, First Leaside also seeks court approval of the terms of a proposed settlement of the interest of First Leaside Accounting and Tax Services Inc.

("**FLAT**") in certain accounting practices in western Canada, pursuant to two term sheets dated August 10, 2012.

66. FLAT is an Applicant in these proceedings, which was incorporated to make investments in accounting firms in western Canada in order to access a pre-existing list of clients which might be interested in becoming First Leaside investors. Since First Leaside wanted to expand its investor base in western Canada, that is the area where it sought out potential accounting firms to acquire.

67. Ultimately, FLAT advanced funds to two holding companies that would be solely owned by two First Leaside employees. The funds advanced were to be used by the employees' personal holding companies to acquire the shares of four professional corporations engaged in the practice of public accounting in Alberta and B.C. The holding companies and their investees are described further below.

Investment in Joanna L. Hampton Holdings Inc. ("Hampton Inc.")

68. Between June 2008 and December 2010, FLAT provided funding to Hampton Inc. for the acquisition of three certified general accounting firms, for an aggregate total of approximately $1.8 million:

(a) McMillan Thorn & Co. Ltd. ("**MTC**"), a B.C. accounting firm;

(b) D. McCormack & Company Inc. ("**DMC**"), a B.C. accounting firm; and

(c) Allan Welsh & Company ("**AWC**"), an Alberta accounting firm.

69. Under applicable rules of the Certified General Accountants Associations of Alberta and B.C., these accounting firms can only be owned by corporations that are

controlled by a duly licenced Certified General Accountant ("**CGA**"). As such, since FLAT was not controlled by a CGA, it could not own the shares of MTC, DMC, and AWC (collectively, the "**JH Firms**"). To comply with the applicable rules, First Leaside arranged for Hampton Inc., a corporation owned by FLWM's then-director of finance, Joanna Hampton, CGA ("**Hampton**"), to purchase the shares of the JH Firms. This purchase was funded by advances totalling $1,799,699 from FLAT to Hampton Inc.

70. Although, on its books, FLAT recorded the advances as an investment in Hampton Inc., FLAT did not otherwise require Hampton Inc. to enter into any written agreement to reflect that FLAT was intended to be the beneficial owner of the JH Firms. Hampton Inc. did, however, execute a "Pledge" dated July 6, 2010 which pledged her interest in Hampton Inc. in favour of FLAT as security for the amounts advanced by FLAT.

Investment in Matthew E. Bakker Professional Corporation ("MEB")

71. Between June 2010 and January 2011 FLAT advanced funds totalling $650,000 to MEB for the acquisition of the business of Ronald M. Coppock Professional Corporation ("**Coppock**"), a Calgary accounting firm.

72. As with MTC, DMC, and AWU, under applicable rules of the Institute of Chartered Accountants of Alberta, Coppock can only be owned by a corporation that is controlled by a duly licenced Chartered Accountant ("**CA**"). Since FLAT was not controlled by a CA, it could not own the shares of Coppock. To comply with this professional regulation, First Leaside arranged for MEB, a corporation owned by FLWM employee, Matthew Bakker, CA ("**Bakker**"), to purchase the shares of Coppock. This

purchase was funded by advances totalling $650,000 from FLAT to MEB and its successor corporation identified below.

73. Although FLAT recorded the advances as an investment in MEB, FLAT did not appear to initially require MEB to enter into any other written agreement to reflect that FLAT was intended to be the beneficial owner of the JH Firms. There is a "Pledge" dated July 6, 2010 and executed by MEB in favour of FLAT, which appears to pledge the shares of MEB in favour of FLAT as security for the amount which FLAT advanced to MEB.

74. Despite the legal structure of the transaction, the intention was that FLAT would benefit from MEB's acquisition of Coppock.

Derivative Agreement with Jim Brander

75. In January 2011, Bakker transferred his shares of MEB to Jim Brander Professional Corporation ("**JBPC**"), a corporation controlled by Jim Brander, CA ("**Brander**").

76. In January 2011, following the acquisition of MEB by JBPC, FLAT and several Brander-controlled corporations entered into a Derivative Agreement dated January 25, 2011 (the "**Derivative Agreement**"). Under the Derivative Agreement, JBPC and a related corporation (Smart Books Accounting Services Inc. ("**SBAS**")) agreed to pay FLAT a set percentage of their annual after-tax profits less agreed-upon cash reserves. FLAT also obtained the right to transfer ownership of the outstanding shares of SBAS,

JBPC, and MEB to a transferee of its choosing upon the termination of the Derivative Agreement.

The TD Loan

77. In order to partially finance the advances to Hampton Inc. and MEB for purposes of acquiring the accounting practices, on June 15, 2010, FLAT borrowed $1,173,500 from TD (the "**TD Loan**"). The TD Loan was an unsecured reducing term loan. FLAT was the borrower but MEB, Hampton Inc., MTC, DMC and AWC provided joint and several guarantees, supported by general security over the assets of the accounting practices.

Problems with the Accounting Firms

78. In the months preceding the First Leaside filing under the CCAA, the JH Firms experienced operating problems, including the departure of managing partners and senior staff, thereby leaving the practices without direction or proper client support. In December 2011 First Leaside decided that, commencing in January 2012, Hampton would be required to frequently fly out to Alberta to manage the JH Firms while, at the same time, attempting to fulfil her full-time role as Director of Finance at First Leaside. Hampton concluded that she did not wish to continue such a dual role and shortly after First Leaside first sought protection under the CCAA, Hampton resigned from First Leaside and moved permanently to Edmonton to manage the JH Firms.

79. At the time that First Leaside commenced these CCAA proceedings, the outstanding balance on the TD Loan was $808,170. Since that time, both the JH Firms

and the Brander Firms have continued to service the loan. In light of the use of the proceeds of the TD Loan, the loan balance is notionally allocated 72.31% to the JH Firms and 27.69% to the Brander Firms.

Recovery of FLAT's Advances

80. The accounting firms were marginally profitable in 2011 and there was some erosion of revenues. The loss of partner continuity added risk to the sustainability of future revenue streams. There were other issues impacting their profitability. Applying industry standard valuation methodologies for professional practices of this size, nature and risk profile, First Leaside determined, in consultation with the Monitor, that the aggregate fair market value of the firms is substantially less than the amounts advanced by FLAT (totalling in aggregate approximately $2.3 million, including the amounts advanced by FLAT by TD) to acquire them.

81. Sale to a third party or wind up of the practices would be impractical for several reasons. First, the value of the firms would be destroyed in a wind up situation. Second, given the ownership structure, a sale to a third party would require the cooperation of Hampton and Brander, and they both indicated that they wanted to retain ownership. Third, the assets of each firm are fully pledged as security for the TD Loan, making it difficult to sell the firms separately.

82. In order to test the level of market interest, First Leaside entered into a non-disclosure agreement with Hampton and a Vancouver-based regional accounting firm with practices in B.C. and Alberta. The firm is one of the largest in the region and ranks in the top 20 in Canada. After preliminary meetings, the firm informed me that they

might have some interest in the JH Firms in Alberta but they had little interest in the B.C. practices. However, it seemed unlikely that they could come to terms with Hampton in the near term. That accounting firm ultimately did not pursue any potential acquisition.

83. FLAT has no reasonable prospect of obtaining repayment in full of its advances to Hampton Inc. and JBPC through a sale of the businesses, and as noted above, the value of the JH Firms and the Brander Firms is less than the amount of FLAT's investment. However, Hampton expressed that she was prepared to "buy out" FLAT's interests in Hampton Inc. for an amount equivalent to the current fair market value of the JH Firms. Likewise, Brander indicated that he wished to obtain a release from FLAT of its interests in the Derivative Agreement. TD indicated that it would be prepared to release FLAT from its obligations under the TD Loan provided Hampton and Brander were able to make satisfactory arrangement to assume the debt.

84. As a result of negotiations in respect of the foregoing, on August 10, 2010, FLAT, Hampton, TD and Brander entered into a term sheet (the "**Hampton Term Sheet**") by which Hampton Inc. will acquire FLAT's interest in the JH Firms for $734,000 on the following general terms:

(a) the purchase price will be $734,000, which represents an aggregate fair market value of the JH Firms, and will be paid by

    (i) a cash payment to FLAT of $150,000; and

    (ii) an assumption of approximately $584,000 of the amount owing by FLAT under the TD Loan;

(b) TD has agreed that FLAT will be released from liability under the TD Loan;

(c) FLAT will surrender any interest that it has in the JH Firms;

(d) FLAT will also revoke its designation as beneficiary under a policy of term insurance on the life of Hampton, such policy being owned and paid for by Hampton;

(e) the transaction is subject to court approval.

85. Attached hereto and marked as **Exhibit "N"** is a copy of the Hampton Term Sheet. As the terms of the agreement are straightforward, it is not intended that any additional purchase agreement be executed. Appropriate releases and closing documentation will be prepared.

86. The sale of FLAT's interest in the Brander Firms was somewhat more problematic because the value of the Brander Firms is largely tied up with Brander himself. Although, as noted above, under the terms of the Derivative Agreement FLAT was entitled to receive a percentage of net annual profits of the Brander Firms, the Brander Firms appear to have suffered a loss in the first fiscal year following execution of the Derivative Agreement.

87. Further, the Derivative Agreement can be terminated by either party on 90 days' notice. Although such termination would allow FLAT to designate the next owner of the shares of JBPC, SBAS, and MEB, Brander would not be prevented from leaving those corporations and carrying on business elsewhere. As such, I determined that the best way to obtain value for FLAT from the Brander firms was to reach an agreement to sell them to Brander as a going concern.

88. As a result, after discussions and negotiations with Brander and TD, FLAT has also entered into a Term Sheet dated August 10, 2012 with Brander, JBPC, MEB, SBAS, TD, and Hampton Inc. (the "**Brander Term Sheet**"). Attached hereto and marked as **Exhibit "O"** is a copy of the Brander Term Sheet, along with the Derivative Agreement.

89. Under the terms of the Brander Term Sheet,

(a) the purchase price will be $374,000, which represents fair market value of the Brander Firms, and will be paid by

(i) a cash payment to FLAT of $150,000; and

(ii) an assumption of approximately $224,000 of the amount owing by FLAT under the TD Loan;

(b) TD has agreed that FLAT will be released from liability under the TD Loan;

(c) FLAT will surrender any interest that it has in the Brander Firms; and

(d) the transaction is subject to court approval.

90. I believe that the terms of the Hampton Term Sheet and the Brander Term Sheet are fair and represent the best recovery that can be obtained for FLAT in the circumstances. Further, the largest stakeholder is TD, which is owed approximately $808,000. By having Brander and Hampton assume their respective proportions of the TD Loan, they can continue to service that loan out of revenues generated. At the same time, FLAT will be released of liability as borrower.

91. I have also received the Monitor's input regarding the purchase price for these assets of FLAT. The Monitor reviewed the financial statements of the JH Firms and the

Brander Firms. The Monitor assessed the reasonableness of the financial terms as set out in the Hampton Term Sheet and Brander Term Sheet using general industry guidelines. Although it did not provide a valuation or opinion of value of the enterprises, the Monitor concluded that based on general guidelines to assess valuation of accounting firms the prices provided in the Hampton Term Sheet and Brander Term Sheet are reasonable in the circumstances.

U.S. Properties

92. At this motion, First Leaside also seeks authorization from the court to take no further steps to realize upon its interest in certain limited partnerships located in the United States.

93. As reported in my Initial Affidavit, Wimberly Apartments Limited Partnership ("**WALP**") is an Included LP in these proceedings. WALP holds indirect equity interests in 11 properties in the United States which are held by 11 Texas-based limited partnerships ("**Texas LPs**").

94. The structure of the Texas LPs can best be summarized through a simplified organizational chart, a copy of which is attached hereto and marked as **Exhibit "P".**

95. The Texas LPs are not Included LPs and thus they are not parties to, or beneficiaries of, these CCAA proceedings. The Texas LPs have remained under the day-to-day management of Leaders Corporation ("**Leaders**"), the Dallas, Texas-based property manager, which has continued to collect rents, manage rental operations, and

maintain the bank account for each property from which they have continued to pay mortgages (in most cases), municipal taxes and operating expenses.

96. Prior to the time that the Applicants brought this CCAA application, and particularly during the time prior to November 2011 when Phillips was the directing mind of First Leaside, the affairs of the Texas LPs were run from First Leaside's offices in Uxbridge, Ontario. The First Leaside head office received and consolidated financial information from Leaders, prepared and submitted U.S. corporate tax and regulatory filings, and maintained the corporate affairs of the U.S. corporations and LPs.

97. After the Initial Order was granted, First Leaside began to investigate whether it would be necessary to commence formal restructuring proceedings involving the Texas LPs. As part of that process, First Leaside retained Haynes and Boone LLP ("**H&B**"), a respected general practice law firm with offices in Dallas to conduct due diligence on the Texas LPs and provide legal advice in respect of restructuring options.

98. In general terms, the Texas LPs are beneficially owned by upstream limited partnerships (the "**Aggregator LPs**"), even though the Texas LPs and general partners (the "**Texas GPs**") at the property level itself are special-purpose Texas entities.

99. The two major Aggregator LPs and one minor Aggregator LP are

(a) FL Master Texas, Ltd., which owns the units of the Texas LPs that own the following properties:

(i) Old Mill Pond Apartments;

(ii) The Shores Apartments;

(iii) The Bluffs Apartments/Condominiums;

(iv) Preston Racquet Club;

(v) Wimberly Pointe Apartments; and

(vi) Wimberly Crossing Apartments;

(b) FL Master Sherman Ltd. which owns the units of the Texas LPs that own the following Texas properties:

(i) Creekview Apartments;

(ii) Country Village Apartments;

(iii) Raintree Apartments; and

(iv) Parkview Apartments; and

(c) F.L. U.S. Holdings, Ltd. which owns the Family Tree Apartments (also known as Sedona Creek) ("**Sedona**").

100. As part of its due diligence, H&B reviewed the limited partnership agreements ("**LPAs**") and other constating documents of the Texas LPs. As a result of this analysis, it was confirmed to me that control of the Texas LPs did not reside with "upstream" First Leaside entities such as the Aggregator LP's or WALP. Instead, H&B confirmed that the GPs of the Texas LPs are owned and controlled by Phillips. Although those GPs have minimal economic interest in the Texas LPs (since the GPs typically own only 0.01% the LP units), the GPs (and thus Phillips) are still in control of the Texas LPs. It also appears that, in most cases, the LPAs governing the Texas LPs prevent the GPs from being replaced or else require lengthy notice of termination. As such, although

WALP indirectly owns all (or least 99.99%) of the equity interests in the Texas LPs, it is powerless to control such LPs.

101. First Leaside's lack of *de jure* management control over the Texas LPs is one factor in my decision to take no steps regarding the Texas LPs. In order to sell or restructure those properties, First Leaside would need to control them. First Leaside did explore a number of legal options under Texas law to attempt to gain control of the Texas LPs. However, the ultimate conclusion was that legal proceedings in the Texas courts to seek control (such as by way of receivership) would be expensive and time consuming and there is no certainty that it would lead to a favourable outcome.

102. If First Leaside was not able to gain control of the Texas LPs, it would not have the authority to commence insolvency proceedings against such entities or otherwise effect an in-court restructuring.

103. At the same time that First Leaside was attempting to determine whether it could obtain control of the Texas LPs, it also performed a cost-benefit assessment of whether there was an economic benefit in attempting to obtain recoveries from those properties. As I will describe in the next section below, even if cooperation in respect of the Texas LPs were to be forthcoming, or a litigation strategy to obtain control could be reasonably devised, there is little potential of recovery for WALP from the U.S. properties to justify incurring the further expenses that would be necessary to gain control and realize upon the assets. In addition, it will shortly be necessary for the Texas properties to receive additional funding in order to support their debt obligations and carry on operating. Given the current value of the properties and the long term window for any prospect of

an increase in value, I have determined that it is not practical or appropriate to invest remaining estate assets in the Texas LPs.

No Material Equity in the Texas LPs

104. Although First Leaside clients provided a substantial amount of money to WALP by way of investor loans and equity, there is no material equity value remaining in WALP.

105. In addition to the investor contributions, substantial funds for the Texas LPs were sourced from third party mortgage lenders. Those mortgages, of course, have priority over the equity investors.

106. Over the last several years, WALP has suffered substantial net losses resulting from, among other things,

(a) excessive leverage, resulting from substantial conventional mortgage financing and unsecured debt raised through several investor funds;

(b) substantial maintenance and rehabilitation costs on the Texas properties;

(c) payment of management and other fees;

(d) high vacancy rates in several properties and an inability to achieve full occupancy overall; and

(e) depressed rental rates and property values as a consequence of the economic downturn in 2008/2009.

107. These net annual losses, which are reflected on WALP's consolidated income statements, totalled $13.9 million in the year ended December 31, 2011, $17.6 million in

the year ended December 31, 2010, and $18.5 million for the year ended December 31, 2009. These losses, which have been funded primarily by raising new capital from First Leaside investors directly into WALP or borrowing from other entities in the First Leaside Group, have accelerated the erosion of the equity interests of WALP unit holders. As of December 31, 2011, WALP's accumulated deficit reached $93.5 million.

108. Prior to preparation of the report to investors dated May 1, 2012, and a town hall meeting which the Monitor, Representative Counsel, and I had with investors on May 10, 2012, the Monitor worked with me to prepare an analysis of the financial position of WALP. First Leaside had obtained updated valuation information on all of the WALP properties by either commissioning appraisals or by relying on arm's-length offers that had been made for the properties. As part of this analysis, the Monitor also obtained outstanding mortgage loan balances and calculated the amount of penalties that would be incurred on syndicated mortgages if they were prepaid prior to maturity. The Monitor also estimated realization costs such as closing costs and broker commissions.

109. As a result of this analysis, it became clear that, in aggregate, even without taking into account realization costs, the total net equity value of the Texas properties is less than $100,000 based on an aggregate valuation of $59.6 million and outstanding mortgages of $59.509 million. When estimated realization costs of $2.98 million are taken into account, the Texas LPs, in aggregate, have negative equity of $2.889 million. More background in respect of this analysis will be contained in the Monitor's report.

110. On a property-by-property basis, the picture is not much better. Of the eleven properties, seven clearly have negative equity. The other four appear to have potential

positive equity of approximately $4.39 million. However, this does not take into account the professional costs which First Leaside would have to incur in order to try to take control of those properties (if there even is a way to do so) and effect a restructuring—whether in or out of the U.S. courts.

111. Furthermore, as will be discussed more fully in the Monitor's report, as a result of the manner in which the funds that flowed from WALP to the Texas LPs were recorded on the books and records of First Leaside, it does not appear that there is a clear right of recovery by WALP against the Texas LPs for any amounts that flowed from WALP into the entities.

112. As CRO of First Leaside, my job has been to lead an orderly wind-down of the operations of First Leaside and to maximize recoveries for creditors and investors. Given that control of the Texas LPs rests with Phillips and that there is minimal equity in them, I have reluctantly come to the conclusion that no further steps should be taken by WALP to deal with, or realize value from, the Texas LPs or their various properties.

113. In coming to this unfortunate conclusion, I have consulted with the Monitor and Representative Counsel, both of which have expressed their support. I have also met with the Steering Committee to explain the issues associated with the Texas LPs and to warn them that no steps may be taken. The Steering Committee has expressed its support.

114. In addition to seeking permission of the court to take no further steps relating to the U.S. properties, the Applicants are also seeking authorization to deal with a number of other administrative issues. For example, since the First Leaside head office has

traditionally received and maintained copies of agreements and other documents relating to the Texas LPs, I propose to turn over such documents to the GPs for the Texas LPs. In the case of certain Texas LPs (especially the Aggregator LPs), where the corresponding GP is an Ontario corporation which is one of the Applicants in this proceeding, I propose to have the court permit those GPs to resign as general partner and, where possible, to allow another general partner to assume the role as successor.

Foreclosure on Sedona Property and Concerns About Mortgage

115. F.L. Sedona Creek, Ltd ("**Sedona LP**")., a Texas LP which owns the Sedona property, is unique in that it does not have any commercial third party mortgage but, instead, has given a mortgage ("**Sedona Mortgage**") in the amount of $5 million to First Leaside Mortgage Fund ("**Mortgage Fund**").

116. Mortgage Fund is one of six different funds (the "**Funds**") into which First Leaside investors have made investments and received units in return. In turn, the Funds have advanced funds from time to time as unsecured loans to First Leaside entities.

117. The Funds are set up as trusts. As such, in legal terms, each Fund is administered by several trustees. However, prior to the commencement of CCAA proceedings, *de facto* management of the Funds took place from First Leaside's offices in Uxbridge. That is because WALP had entered into an Asset Management Agreement dated January 1, 2006 with F.L. Securities Inc. ("**FL Securities**"), one of the Applicants, whereby FL Securities agreed to manage the properties owned by the Texas LPs, including Sedona.

118. Mortgage Fund was established in July 2010 and proceeded to raise $11.6 million from investors. I assisted the Monitor in analyzing the use of proceeds. Based on the records of the Mortgage Fund, WALP, Sedona and other First Leaside entities, it appears that no portion of the proceeds of Mortgage Fund were advanced to the Sedona bank account or otherwise expended for the direct benefit of Sedona. The monies raised by Mortgage Fund, after payment to First Leaside Securities Inc. of the 5% agency fee, were virtually entirely transferred to WALP and co-mingled with other WALP monies. WALP transferred monies back to the Mortgage Fund to pay monthly interest on the Sedona mortgage and made regular distributions directly to Mortgage Fund unit holders. The Mortgage Fund bank account presently holds a balance of approximately $333,000, which I will continue to hold pending the further direction of the Court.

119. Payments by WALP to Mortgage Fund on account of Sedona mortgage interest were suspended on or about November 30, 2011 as a result of First Leaside's decision to suspend all interest payments and distributions to investors. On June 26, 2012, Mortgage Fund, through its U.S. counsel, notified First Leaside that the Sedona Mortgage was in default and that Mortgage Fund would conduct a foreclosure sale of Sedona outside the courthouse in Dallas, Texas, on August 7, 2012.

120. Attached hereto and marked as **Exhibit "Q"** is a copy of the June 26, 2012 letter from C. John Scheef III ("**Scheef**") of Scheef & Stone LLP, U.S. counsel for the Mortgage Fund, together with a copy of the Notice of Foreclosure Sale (collectively, the "**Sedona Foreclosure Notice**").

121. Following receipt of this notice, I consulted with First Leaside's Texas counsel, H&B, to learn more about the legal process in Texas for mortgage realization. I now understand that, under Texas law, it is common for foreclosure sales to take place "on the courthouse steps" and there is no specific requirement that properties be openly marketed through real estate agents or exposed to the market for a reasonable period of time. The auction is an accepted method of realization. Further, under Texas law, mortgagees are entitled to credit bid any amount up to the total of their debt and, to the extent that a credit bid is successful, the mortgagee is still entitled to claim the amount of any deficiency (i.e., between the mortgage debt and the amount that was credit-bid).

122. Since the beginning of these CCAA proceedings, First Leaside, in cooperation with the Monitor, has been attempting to fully understand the flows of funds among various First Leaside entities. As I described in my affidavit, it was very common for certain First Leaside trusts and LPs to lend surplus funds to other entities which required cash. This practice led to extremely complex series of inter-company loans.

123. When I received the Sedona Foreclosure Notice, I asked my staff at First Leaside, with the assistance of the Monitor to review the flows of funds among First Leaside entities to determine how Mortgage Fund obtained its mortgage over Sedona. Based on a review of the records of First Leaside it is apparent that until September 30, 2009 a commercial mortgage was in place over the Sedona property. When that mortgage matured, the lender was not prepared to continue providing credit and thus required full payment. WALP was able to source payment of the needed $2.9 million from FL Securities. Our research also revealed that Mortgage Fund placed its mortgage on the Sedona property on August 1, 2010, which was 11 months after the prior

mortgage had been fully repaid. As such, the Sedona Mortgage does not appear to have been supported by any discernable advance of money by Mortgage Fund to Sedona LP.

124. Given the concern that the Sedona Mortgage might not have been supported by any consideration, I instructed H&B to write to counsel for Mortgage Fund to seek production of proof of consideration for the mortgage. Attached here and marked as **Exhibit "R"** is a copy of an August 3, 2012 letter to Scheef which sets out this request.

125. By letter dated August 6, 2012, Scheef sent a letter to H&B (**Exhibit "S"**) which took the position that the Applicants did not have authority over Sedona LP and therefore he declined to provide information about the Sedona Mortgage.

126. On August 10, 2012, H&B wrote another letter to Scheef (**Exhibit "T"**) to reiterate the basis for the information request. To date, I am not aware of any response to this letter.

127. Shortly after August 7, 2012, I learned that Sedona had indeed been sold. I have been informed that the buyer was Mortgage Fund, which reportedly made a credit bid of approximately $3 million, leaving a deficiency of approximately $2 million, given the $5 million outstanding principal balance.

128. I have no doubt that individual investors advanced funds to Mortgage Fund for investment in mortgage security and that it was their expectation that advances made by Mortgage Fund would be secured by mortgages. However, I am concerned that the repayment of Sedona's earlier commercial mortgage in September 2009 came from

First Leaside entities other than Mortgage Fund, and I wish to understand further the flow of funds and the interests at stake. As such, in its correspondence with Scheef, First Leaside's counsel (H&B) has reserved its rights.

129. First Leaside wishes to further investigate the interests of the Mortgage Fund in the Sedona Mortgage, and what consideration may have flowed from the investors in Mortgage Fund in return for the Sedona Mortgage and whether, in actual fact, Sedona LP owed the $5 million to another First Leaside entity such as WALP, and not to Mortgage Fund.

Various First Leaside Funds

130. As previously advised, there are six Funds that were established to loan monies to First Leaside entities. Wimberley Fund, The First Leaside Fund ("**FL Fund**"), and The First Leaside Properties Fund ("**Properties Fund**") made unsecured loans to the Aggregator LP's. Mortgage Fund holds a mortgage on Sedona (as described above) and two other properties. FLWM Fund and FLEX Fund raised money from investors that was invested on an unsecured basis in other First Leaside entities.

131. As I previously stated in my June 19, 2012 affidavit, which was sworn in support of, *inter alia*, an extension of the CCAA stay, a number of the Funds have become active in these CCAA proceedings and are taking steps to assert certain alleged rights.

132. In particular, on June 27, 2012, Fay Sulley ("**Sulley**") of Torkin Manes LLP delivered Notices of Appearance on behalf of Wimberly Fund, Mortgage Fund, and FL Fund. Since that time, on a number of occasions, the Monitor and I have met and

spoken with Sulley and several of the trustees of the Funds that she represents. In order to protect and potentially pursue their interests in the amounts loaned to various entities, particularly Master Sherman and Master Texas, which received loans from Wimberley Fund, First Leaside Fund, and First Leaside Properties Fund, requests have been made by Sulley on behalf of Wimberly Fund and FL Fund and by Ken Rice ("**Rice**") on behalf of FL Properties Fund for information regarding the properties held by these LPs. The Monitor has coordinated the disclosure of information in the possession of First Leaside as requested, upon settling with Sulley and Rice a form of confidentiality agreement relating to such disclosure.

133. Prior to the commencement of the CCAA proceedings, the trustees of Mortgage Fund, FLWM Fund and FLEX Fund were Phillips, Hampton and John Wilson ("**Wilson**"), a former officer of First Leaside.

134. Hampton was also a trustee of FL Fund together with other investors. Although the trustees of Wimberly Fund and Properties Fund were all independent investors, I am informed and I believe based on conversations that I have had with other trustees, that the appointed trustees tended to act with deference to Phillips and he exerted a measure of *de facto* control over these Funds as well. As such, control of all Funds was not, in general, separate from control of First Leaside.

135. Each of the Funds is governed by a declaration of trust which sets out governance matters including the appointment of trustees. The declarations of trust sometimes require meetings of unit holders to be held annually and for trustees to be elected at such meeting to serve until the next annual meeting. Other declarations of

trust specifically provide that no annual meetings of unit holders are to take place and, in those cases, the only way for unit holders to replace the trustees is by requisitioning a meeting of unit holders.

136. After these CCAA proceedings commenced, Hampton resigned her position as trustee of Mortgage Fund, FLWM Fund, FLEX Fund and FL Fund. I am aware that another trustee, Doug Laws, who is an investor in First Leaside, also resigned from FL Fund. I am not aware of other resignations. However, to the best of my knowledge, Phillips and Wilson remain trustees of Mortgage Fund, FLEX Fund and FLWM Fund.

137. As I have deposed above, Mortgage Fund has been taking active steps to purportedly exercise rights for the benefit of unit holders of that Fund. To date, I have received no documentation to prove that the relevant Fund trustees were validly appointed. The Declaration of Trust for Mortgage Fund (**Exhibit "U"**) provides that the trustees of such fund are Phillips, Wilson, and Hampton. (I have been advised by Hampton that she has recently resigned her position.) The declaration does not require Mortgage Fund to hold annual meetings or provide any regular process for unit holders to re-elect the trustees. Instead, the trustees have permanent appointments, unless a specified percentage of unit holders are able to requisition a unit holder meeting and win a vote to replace the trustees. At the same time, existing trustees are permitted to elect further trustees, including to fill vacancies.

138. I have been informed by certain investors in Mortgage Fund that the current trustees of Mortgage Fund are Phillips and Wilson as well as several other individuals, including Simon Perry, Steve Dietrich, Reinhold Dressler, Greg Wolfe, Gerry Jansen,

and Paul Robbins, who I believe have been recently named as new trustees, although I do not know the process by which these new trustees have been apparently appointed, nor do I have any formal confirmation of their appointments and that they have been validly made pursuant to the provisions of the Declaration of Trust governing such appointments. I am also informed that certain unit holders, including certain of the new trustees, wish to requisition a meeting of unit holders to affirm or replace the trustees, but the trustees have not reached consensus on calling such meeting.

139. The Funds are creditors of various First Leaside entities. As CRO my role is to oversee the orderly wind-down of First Leaside's operations including, in particular, the selling of First Leaside's assets for the benefit of creditors and investors. Although as CRO I do not have any direct power over the Funds, I am concerned that the continued participation of Phillips and Wilson as trustees of Mortgage Fund and the other Funds may not be in the best interests of unit holders of those Funds. In order to ensure that all unit holder interests are fairly represented, the Funds require truly independent trustees who have no personal interests that could compromise or frustrate the efficient operation of the Funds.

140. Further, on June 4, 2012 the Ontario Securities Commission ("**OSC**") commenced proceedings against Phillips and Wilson. The OSC asserts in its Statement of Allegations that Phillips and Wilson engaged or participated in an act, practice or course of conduct relating to securities which they knew, or reasonably ought to have known, would perpetrate a fraud on investors, contrary to subsection 126.1(b) of the *Securities Act*. The OSC also alleges that they made statements a reasonable investor would consider relevant in deciding whether to enter into or

maintain a trading or advising relationship, which statements were untrue or omitted information necessary to prevent the statements from being false or misleading in the circumstances in which they were made, contrary to subsection 44(2) of the *Securities Act*.

141. Phillips is also subject to a temporary order which prevents him from trading in securities, which order could prevent him from taking certain steps on behalf of the Funds, including the raising of additional capital.

Deletion of 970877 Ontario Inc. as Applicant

142. At the time that the Initial Order was granted, it was First Leaside's intention to seek protection under the CCAA for all Canadian corporations within the First Leaside group. First Leaside also sought to extend the protection of the Initial Order to all Canadian LPs.

143. Since the time of the Initial Order, First Leaside has determined that not all of the Applicants are required to be part of these proceedings. In particular, I have recently discovered that 970877 Ontario Inc. was used by Phillips as a personal holding company and not for the business of First Leaside.

144. Given the role of this company, there is no need for it to remain as Applicant in this proceeding. As such, First Leaside seeks an order discontinuing these proceedings in relation to 970877 Ontario Inc. and directing that the title of proceedings be amended accordingly to remove reference to such corporation.

Amounts Owing by First Leaside Employees and Former Employees

145. 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 ("**Investment Loans**"). 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, agents, and current and former employees totalled $1,120,078.63 (inclusive of investment loans to David Phillips and his wife) and investment loans to clients totalled $2,405,045.23.

146. Further, First Leaside and the Monitor have investigated amounts which Phillips or companies related to or controlled by him, may owe to the Company. The amounts consist both of apparent preferences involving Phillips' companies and advances made to Phillips in 2011.

147. 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 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. Phillips is the sole officer and director of 970.

148. 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.

149. Additionally, it has come to my attention that, throughout the course of the 2011 fiscal year, 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 Phillips' behalf.

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

151. The receivables represented by the Investment Loans and the Phillips Loans are assets of First Leaside. I have met with the Monitor and Representative Counsel and they have concur with First Leaside's decision to take steps to commence legal proceedings (the "**Collection Action**") against Phillips and his wife, Davis, as well as any corporations connected with them, in order to obtain recovery of the Investment Loans and the Phillips Loans which are owing by Phillips, Davis, and/or 970.

152. However, under the current provisions of the Initial Order, there is a general stay which prevents any party from taking proceedings against any officer or director of the Applicants. Since Phillips and Davis are directors of a number of the Applicants, this stay will have to be lifted in order to permit the Collection Action to be commenced and pursued. I do not believe that the lifting of the stay in this regard would frustrate the objects of the CCAA or these proceedings, nor should it have an affect on the intended wind-down of First Leaside. The Collection Action would simply be part of the

realization upon First Leaside's assets for the benefit of creditors, investors, and other stakeholders.

SWORN before me at the City of Toronto In the Province of Ontario, this 20th day of August, 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 August 20TH, 2012)

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Solicitors for the Applicants

This is Exhibit "A" referred to in the Affidavit of Greg MacLeod
sworn August ...., 2012

Commissioner for Taking Affidavits (or as may be)

EXHIBIT "A": LIMITED PARTNERSHIPS BENEFITING FROM INITIAL ORDER

B&W Limited Partnership
Development Notes Limited Partnership
Dossierview Limited Partnership
eSight Limited Partnership
F.L. Beverages Group Limited Partnership*
First Leaside Acquisitions 2000 Limited Partnership
First Leaside Acquisitions Limited Partnership
First Leaside Advantage Limited Partnership
First Leaside Developments Limited Partnership
First Leaside Elite Limited Partnership
First Leaside Enterprises Limited Partnership
First Leaside Entities Limited Partnership
First Leaside Expansion Limited Partnership
First Leaside Global Limited Partnership
First Leaside Growth Limited Partnership
First Leaside Income Limited Partnership
First Leaside Investors Limited Partnership
First Leaside Operations Limited Partnership
First Leaside Opportunities Limited Partnership
First Leaside Optimal Limited Partnership
First Leaside Partners Limited Partnership
First Leaside Preferred Limited Partnership
First Leaside Premier Limited Partnership
First Leaside Progressive Limited Partnership
First Leaside Properties Limited Partnership
First Leaside Quality Limited Partnership
First Leaside Real Estate Limited Partnership
First Leaside Realty II Limited Partnership
First Leaside Realty Limited Partnership
First Leaside Retirement Residences Limited Partnership
First Leaside Select Limited Partnership
F.L. Spring Valley Limited Partnership
First Leaside Superior Limited Partnership
First Leaside Technologies Limited Partnership
First Leaside Ultimate Limited Partnership
First Leaside Unity Limited Partnership

First Leaside Universal Limited Partnership
First Leaside Venture Limited Partnership
First Leaside Visions I Limited Partnership
First Leaside Visions II Limited Partnership
First Leaside Visions III Limited Partnership
First Leaside Visions IV Limited Partnership
First Leaside Wealth Management Limited Partnership
F.L. Master Texas, Ltd.
F.L.W. Pond Master, Ltd.
F.L.W. Shores Master, Ltd.
FLWM Holdings Limited Partnership*
Greencore Limited Partnership
Marksman Celiject Limited Partnership
Metabacus Limited Partnership
Mill Street Limited Partnership*
Old Mill Pond Apartments Limited Partnership
OMISA Limited Partnership
Place Concorde East Limited Partnership
Place Concorde West Limited Partnership
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
Queenston Manor Limited Partnership
Special Notes Limited Partnership
Special U.S. Notes Limited Partnership
The Bluffs of Lakewood Limited Partnership
The Shores Limited Partnership
Tyromer Limited Partnership
Uxbridge Development Limited Partnership
Wimberly Apartments Limited Partnership

This is Exhibit “B” referred to in the Affidavit of Greg MacLeod sworn August ...., 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.

FLSI

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.

<u>FL Finance</u>

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. <u>Wimberly Apartments LP ("**WALP**")</u>

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. <u>First Leaside Retirement Residences LP ("**Retirement**")</u>

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. First Leaside Realty LP & First Leaside Realty II LP (collectively, "**Realty I & II**")

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. First Leaside Acquisitions LP ("**Acquisitions**")

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. FLWM Holdings LP ("**FLWM Holdings**")

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. First Leaside Global LP ("**Global**")

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. First Leaside Venture LP ("**Ventures**")

- 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