Court File No. 13-10362-00-CL

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

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SILVER STREAMS HOMES INC., SILVER STREAMS HOMES (PUCCINI) INC., 2148993 ONTARIO INC., 2148990 ONTARIO INC., 2147681 ONTARIO INC. AND 2147650 ONTARIO INC.

Applicants

MOTION RECORD

CHAITONS LLP
Barristers and Solicitors
5000 Yonge Street, 10th Floor
Toronto, Ontario M2N 7E9

Harvey Chaiton (LSUC #21592F)
Tel: (416) 218-1129
Fax: (416) 218-1849

Stephen Schwartz (LSUC #25980A)
Tel: (416) 218-1132
Fax: (416) 218-1832

Maya Poliak (LSUC #54100A)
Tel: 416-218-1161
Fax: 416-218-1844

Lawyers for the Applicant

TO: SERVICE LIST

Court File No. 13-10362-00-CL

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

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SILVER STREAMS HOMES INC., SILVER STREAMS HOMES (PUCCINI) INC., 2148993 ONTARIO INC., 2148990 ONTARIO INC., 2147681 ONTARIO INC. AND 2147650 ONTARIO INC.

SERVICE LIST

CHAITONS LLP 5000 Yonge Street, 10th Floor Toronto, ON M2N 7E9 **Harvey Chaiton** Tel: (416) 218-1129 Fax: (416) 218-1866 Email: Harvey@chaitons.com **Stephen Schwartz** Tel: (416) 218-1132 Fax: (416) 218-1832 Email: Stephen@chaitons.com **Maya Poliak** Tel: (416) 218-1161 Fax: (416) 218-1844 Email: maya@chaitons.com **Lawyers for the Applicants**	**GRANT THORNTON LIMITED** Royal Bank Plaza 200 Bay Street, 19th Floor Toronto, ON M5J 2P9 **Jonathan Krieger** Tel: (416) 360-5055 Fax: (416) 360-4949 Email: jkrieger@grantthornton.ca **Daniel Sobel** Tel: (416) 369-7033 Fax: (416) 360-4949 Email: dsobel@grantthornton.ca **Proposed Monitor**
AIRD & BERLIS LLP Brookfield Place 181 Bay St, Suite 1800 Box 754 Toronto, ON M5J 2T9 **Steven Graff** Tel: (416) 865-7726 Fax: (416) 863-1515 Email: sgraff@airdberlis.com **Ian Aversa** Tel: (416) 865-3082 Fax: (416) 863-1515 Email: iaversa@airdberlis.com	**LAW OFFICES OF JACK GREENBERG** Barristers & Solicitors 181 Eglinton Avenue E., Suite 2014 Toronto, ON M4P 1J4 **Jack Greenberg** Tel: (416) 485-8833 Fax: (416) 485-3246 Email: jackgreenberg@greenberglawyers.ca **Lawyers for Castle Lane Design Group Inc., 53 Puccini Mortgage Corp., Puccini Mortgage Corp., Nastell Investments Limited, Dapaul**

Lawyers for the proposed Monitor	**Management Limited, 388242 Ontario Inc., Sandall Investments Limited, proposed DIP Lender**
BERKOW, COHEN LLP 141 Adelaide Street West Suite 400 Toronto, ON M5H 3L5 **Alexandra Lev-Farrell** Tel: (416) 364-4900 x.205 Fax: (416) 364-3865 Email: alev-farrell@berkowcohen.com **Scott Crocco** Tel: (416) 364-4900 x.209 Fax: (416) 364-3865 Email: scrocco@berkowcohen.com **Lawyers for The Corporation of The Town of Richmond Hill**	**KOSKIE MINSKY LLP** 900-20 Queen St. West Toronto, Ontario, M5H 3R3 **Jeffrey Long** Tel: (416) 595-2125 Fax: (416) 204-2892 Email: jlong@kmlaw.ca **Lawyers for Con-Drain Company (1983) Limited**
KLEIN & ASSOCIATES PROFESSIONAL CORPORATION 390 Bay Street, Suite 1101 Toronto, ON M5H 2Y2 **James Klein** Tel: (416) 366-9494 Fax: (416) 366-9442 Email: jklein@kalaw.ca **Lawyers for Pilbro III Inc., Medi Group Incorporated, Cardell Flooring Ltd., Foremont Drywall Inc., et. al., Canadian Concrete Forming Limited, Pave Plumbing & Heating Inc., E.D. Carpenters Limited, Solo Electric Ltd., 1865721 Ontario Inc., GM Exteriors Inc., Giancola Aluminum Contractors Inc.**	**PALLET VALO LLP** Lawyers & Trade-Mark Agents 77 City Centre Drive, West Tower, Suite 300 Mississauga, ON L5B 1M5 **Anna M. Esposito** Tel: (905) 273-3300 Fax: (905) 273-6920 Email: aesposito@pallettvalo.com **Maria Ruberto** Tel: (905) 273-3022 Fax: (905) 273-6920 Email: (mruberto@pallettvalo.com **Lawyers for Renova Recycling (2000) Inc. and Trudel & Sons Roofing**
CAVALLUZZO SHILTON MCINTYRE CORNISH LLP 474 Bathurst Street, Suite 300 Toronto, ON M5T 2S6 **Carrie Clynick** Tel: (416) 964-5515 Fax: (416) 964-5895 Email: cclynick@cavalluzzo.com	**FOGLER, RUBINOFF LLP** 77 King Street West, Suite 3000, P.O. Box 95 Toronto, ON M5K 1G8 **Lou Natale** Tel: (416) 941-8804 Fax: (416) 941-8852 Email: lnatale@foglers.com **Jeffrey K. Spiegelman**

Lawyers for Trustees of the Labourers' Union of North American Local 183 Members' Benefit Trust Fund	Tel: (416) 941-8877 Fax: (416) 941-8852 Email: jspiegelman@foglers.com **Lawyers for Bank of Montreal**
HARVEY MANDEL 203-55 Queen St. E. Toronto, ON M5C 1R6 Tel: (416) 364-7717 Ext: 302 Fax: (416) 364-4813 Email: harvey@harvey-mandel.com **Lawyer for Foremost Mortgage Holding Corporation**	**BISCEGLIA & ASSOCIATES** 7941 Jane Street, Suite 200 Concord, ON, L4K 4L6 **Emilio Bisceglia** Tel: (905) 695-3100 Fax: (905) 695-5201 Email: ebisceglia@lawtoronto.com **Sonja Turajilich** Tel: (905) 695-3424 Fax: (905) 695-5201 Email: sturajilich@lawtoronto.com **Lawyers for Argo Lumber Inc. and Newmar Window Manufacturing Inc.**
DRUDI ALEXIOU KUCHAR LLP 7050 Weston Road Suite 610 Vaughan, ON L4L 8G7 **Marco Drudi** Tel: (905) 850-6116 ext. 225 Fax: (905) 850-9146 Email: mdrudi@dakllp.com	CANADA REVENUE AGENCY c/o DEPARTMENT OF JUSTICE Ontario Regional Office The Exchange Tower, Box 36 130 King St. W., Suite 3400 Toronto, ON M5X 1K6 **Diane Winters** Tel : (416) 973-3172 Fax : (416) 973-0810 Email: diane.winters@justice.gc.ca
GOODMAN, SOLOMON & GOLD 439 University Avenue, Suite 1500 Toronto, ON, M5G 1Y8 **David M. Goodman** Tel: (416) 595-5555 Fax: (416) 595-7020 Email: dmg@goodmansolomon.com **Lawyers for King-Con Corporation**	GOLDMAN SLOAN NASH & HABER LLP 480 University Avenue, Suite 1600 Toronto, ON M5G 1V2 **Leonard Finegold** Tel: (416) 597-3376 Fax: (416) 597-3370 Email: finegold@gsnh.com **Lawyers for The Sanderson-Harold Company (Paris Kitchens)**

RICHARD J. MAZAR PROFESSIONAL CORPORATION 115 King Avenue West Newcastle, ON L1B 1L3 **Richard J. Mazar** Email: rmazar@mazarlaw.com **Lawyers for 669857 Ontario Inc. o/a Alma Mechanical**	**MINISTRY OF FINANCE (ONTARIO)** Legal Services Branch 33 King Street West, 6th Floor Oshawa, ON LlH 8H5 **Attention: Kevin O'Hara, Senior Counsel** Tel: (905) 433-6934 Fax: (905) 436-4510 E-Mail: Kevin.ohara@ontario.ca
Home Trust Company 121 King Street West, Suite 1200 Toronto, ON, M5H 3T9	**MINDEN GROSS LLP** 145 King Street West, Suite 2200 Toronto, ON M5H 4G2 **Tim Dunn** Tel: (416) 369-4335 Fax: (416) 864-9223 email: tdunn@mindengross.com **Lawyers For Royal Bank of Canada**
National Leasing Group Inc. 1525 Buffalo Place Winnipeg, MB R3T 1L9	

Court File No. 13-10362-00-CL

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

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SILVER STREAMS HOMES INC., SILVER STREAMS HOMES (PUCCINI) INC., 2148993 ONTARIO INC., 2148990 ONTARIO INC., 2147681 ONTARIO INC. AND 2147650 ONTARIO INC.

Applicants

INDEX

TAB 1

Court File No. 13-10362-00-CL

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

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SILVER STREAMS HOMES INC., SILVER STREAMS HOMES (PUCCINI) INC., 2148993 ONTARIO INC., 2148990 ONTARIO INC., 2147681 ONTARIO INC. AND 2147650 ONTARIO INC.

Applicants

NOTICE OF MOTION
(Returnable January 16, 2011)

THE APPLICANTS will make a motion to a Judge of the Commercial List on January 16, 2014 at 10:00 a.m., or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

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

THE MOTION IS FOR: an order:

1. abridging the time for service of this notice of motion so that the motion is properly returnable on January 16, 2014;

2. extending the Stay Period, as defined in paragraph 11 of the Initial Order of Justice Newbould dated December 17, 2013 (the "**Initial Order**") to April 18, 2014;

3. approving the First Report of Grant Thornton Limited ("**GTL**") in its capacity as court-appointed monitor of the Applicants (the "**Monitor**") dated January 13, 2014 (the "**First Report**"), the report of GTL in its capacity as proposed monitor dated December 13, 2013 and the activities as described therein;

4. approving an interim distribution to Bank of Montreal ("**BMO**") subject to BMO entering into a reimbursement agreement with the Monitor; and

5. approving a claims process (the "**Claims Process**") for the review and determination of the validity, quantum and priority of claims against the property of the Applicants described in Exhibit "B" (the "**Property**") to the Affidavit of Imran Jinnah sworn January 10, 2014 (the "**Jinnah Affidavit**");

6. establishing a vetting committee to assist with the Claims Process; and

7. granting such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

Background

8. The Applicants are affiliated Ontario corporations owned by Imran Jinnah.

9. Silver Streams Homes Inc. ("**Silver Streams**") is a residential homebuilder in the Greater Toronto Area. Silver Streams is in the process of completing a project located at Bathurst Street and King Road in Richmond Hill, Ontario (the "**Puccini Project**").

10. Silver Streams Homes ("Puccini") Inc. ("**Puccini**") was incorporated for the purpose of selling the homes in the Puccini Project. Both Silver Streams and Puccini are registered with Tarion Warranty Corporation as a builder and a vendor, respectively.

11. The Puccini Project is being built in four phases. Title to the lands in Phases I, II and III are in the names of the Applicants which are numbered companies. Title to the Phase IV lands is in the name of 2148991 Ontario Inc., a non-debtor in these proceedings.

12. There are currently 10 remaining homes in Phases II and III of the Puccini Project that are in various stages of completion.

Claims Process

13. The Applicants' objective in this CCAA proceeding is to complete the 10 remaining homes in Phases II and III of the Puccini Project and to apply the net sale proceeds, after payment of operating costs and the costs of these proceedings, to payment of their creditors' claims in the priority determined by the Court.

14. The Applicants seek approval of the Claims Process on the terms set out in the proposed Claims Process Order attached as Exhibit G to the Jinnah Affidavit.

15. It is likely that the amount of net sale proceeds of the 10 remaining homes will be less than the total amount of the secured claims against the Property. Accordingly, it is not contemplated that the Applicants' unsecured creditors shall receive any payment of their claims out of the proceeds of the sale of the Property. As a result, the Claims Process will apply only to the holders of the Secured Claims (as defined in the Claims Process Order) against the Property, including the claim of Con-Drain Company (1983) Limited ("**Con-Drain**") against the Property in an action commenced in Newmarket, Ontario by Con-Drain against certain Applicants and others bearing Court File Number CV-13-115757-00.

16. The Applicants seek approval of the Claims Process pursuant to the terms of a claims process order substantially in the form attached as Exhibit G to the Jinnah Affidavit. The claims process contemplates a claims submission deadline of February 14, 2014 (the "**Claims Deadline**"), or such later date as the Monitor may agree or the Court may order prior to the Claims Deadline, failing which, the Secured Claim against the Property shall be extinguished and forever barred.

17. The Claims Process shall be administered by the Monitor. The Claims Process contemplates the establishment of a committee to assist the Monitor with the review and determination of the Secured Claims against the Property.

Interim Distribution

18. BMO made available to the Applicants three credit facilities for the purpose of, among other things, financing the servicing and construction of homes in the Puccini Project. All of the indebtedness owing to BMO under the credit facilities is secured, *inter alia*, by demand first mortgages registered against title to the Phase I, II and III lands and a general security agreement in favour of BMO. Currently, the outstanding indebtedness to BMO is in excess of $700,000.

19. The application materials filed with the Court in support of the Applicants' CCAA application contemplated that $570,000 would be held back by the Monitor from the proceeds from the sale of two lots for the benefit of BMO subject to determination of priorities as between BMO and the construction lien claimants. To minimize the interest payments payable to BMO on the outstanding balance of the loan, the Applicants seek an order of this Court authorizing an interim distribution of this holdback to BMO subject to a reimbursement agreement to be negotiated and entered into between BMO and the Monitor.

Stay Extension

20. The Initial Order included a stay of proceedings as against the Applicants until and including January 16, 2014 or such later date as the Court may order. The Applicants seek an extension of the stay of proceedings to April 18, 2014 to allow them, among other things, to administer the claims process, continue construction of certain homes in Phase III of the Puccini Project and carry out a marketing process for the sale of the remaining homes.

21. The Applicants have acted in good faith and with due diligence since the granting of the Initial Order.

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

23. The Applicants also rely upon the following:

    (a) Section 11.02 and other provisions of the CCAA and the inherent and equitable jurisdiction of this Court;

    (b) Rules 2.03, 3.02 and 37 of the *Rules of Civil Procedure* R.R.O. 1990, Reg. 194, as amended; and

    (c) Such further and other grounds as counsel may advise and this Honourable Court may permit.

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

1. The Jinnah Affidavit;

2. The First Report of the Monitor; and

3. Such other material as counsel may advise and this Honourable Court may permit.

January 10, 2014

CHAITONS LLP
Barristers and Solicitors
5000 Yonge Street, 10th Floor
Toronto, ON M2N 7E9

Harvey Chaiton LSUC# 21592F
Tel: (416) 218-1129
Fax: (416) 218-1849

Maya Poliak LSUC# 54100A
Tel: (416) 218-1161
Fax: (416) 218-1844

Lawyers for Clothing for the Applicants

TO: The Service List

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SILVER STREAMS HOMES INC., SILVER STREAMS HOMES (PUCCINI) INC., 2148993 ONTARIO INC., 2148990 ONTARIO INC., 2147681 ONTARIO INC. AND 2147650 ONTARIO INC.

the Applicants

Court File No. CV-13-10362-00-CL

ONTARIO
SUPERIOR COURT OF ONTARIO
IN BANKRUPTCY

Proceedings commenced at TORONTO

NOTICE OF MOTION

CHAITONS LLP
Barristers and Solicitors
5000 Yonge Street, 10th Floor
Toronto, ON M2N 7E9

Harvey Chaiton (LSUC #21592F)
Tel: (416) 218-1129
Fax: (416) 218-1849

Maya Poliak (LSUC #54100A)
Tel: (416) 218-1161
Fax: (416) 218-1844

Lawyers for the Applicants

TAB 2

Court File No. 13-10362-00-CL

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

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SILVER STREAMS HOMES INC., SILVER STREAMS HOMES (PUCCINI) INC., 2148993 ONTARIO INC., 2148990 ONTARIO INC., 2147681 ONTARIO INC. AND 2147650 ONTARIO INC.

Applicants

AFFIDAVIT OF IMRAN JINNAH

I, Imran Jinnah, of the Town of Richmond Hill, in the Province of Ontario **MAKE OATH AND SAY AS FOLLOWS:**

1. I am the sole officer, director and shareholder of the Applicants, Silver Streams Homes Inc. ("**Silver Streams**"), Silver Streams Homes (Puccini) Inc. ("**Puccini**"), 2148993 Ontario Inc. ("**2148993**"), 2148990 Ontario Inc. ("**2148990**"), 2147681 Ontario Inc. ("**2147681**") and 2147650 Ontario Inc. ("**2147650**"). As such, I have personal knowledge of the matters to which I dispose in this affidavit, save and except for such facts or matters which are stated to be based on information and belief and where so stated, I believe same to be true.

2. I swear this affidavit in support of the Applicants' motion for an order:

(a) extending the Stay Period, as defined in paragraph 11 of the Initial Order of Justice Newbould dated December 17, 2013 (the "**Initial Order**") to April 18, 2014;

(b) approving the First Report of Grant Thornton Limited ("**GTL**") in its capacity as court-appointed monitor of the Applicants (the "**Monitor**"), the report of GTL in its capacity as proposed monitor dated December 13, 2013 and the activities as described therein[1];

[1] For ease of reference a copy of the report of GTL in its capacity as proposed monitor dated December 13, 2013 is attached hereto as **Exhibit "A"**.

(c) approving an interim distribution to Bank of Montreal ("**BMO**") subject to BMO entering into a reimbursement agreement with the Monitor;

(d) approving a claims process for the review and determination of the validity, quantum and priority of claims against the property of the Applicants described in **Exhibit "B"** hereto (the "**Property**") whether as a mortgagee, construction lien claimant or otherwise, and including the determination of the claim of Con-Drain Company (1983) Limited ("**Con-Drain**") against the Property in an action commenced in Newmarket, Ontario by Con-Drain against certain Applicants and others bearing Court File Number CV-13-115757-00 (collectively, the "**Secured Claims**"); and

(e) establishing a committee (the "**Vetting Committee**") to assist with the review of the Secured Claims.

BACKGROUND

3. The Applicants are affiliated companies owned by me. Silver Streams is a residential homebuilder in the Greater Toronto Area and is currently in the process of completing a project in Richmond Hill, Ontario referred to in this proceeding as the "**Puccini Project**". The Puccini Project is being built in four phases. Title to the lands in Phases I, II and II are registered in the names of the Applicants that are numbered companies. Title to the lands in Phase IV is registered in the name of a corporation affiliated with the Applicants which is not a party to this CCAA proceeding.

4. Puccini was incorporated for the purpose of selling the homes in the Puccini Project. Both Silver Streams and Puccini are registered with Tarion Warranty corporation as a builder and a vendor respectively.

5. On December 17, 2013, the Applicants obtained protection from their creditors under the *Companies' Creditors Arrangement Act* ("**CCAA**") pursuant to the Initial Order. A copy of the Initial Order is attached hereto as **Exhibit "C"**.

6. As was described in detail in my affidavit filed in support of the initial application (the "**Initial Affidavit**"), the objective of the Applicants' CCAA proceeding is to complete the 10 remaining homes in Phases II and III of the Puccini Project and to apply the net sale proceeds, after

payment of operating costs and the costs of these proceedings, to payment of their creditors' claims in priority determined by the Court. A copy of the Initial Affidavit without exhibits is attached hereto as **Exhibit "D"**.

7. The Initial Order appointed GTL as Monitor of the Applicants in this proceeding. Pursuant to paragraph 17(k) of the Initial Order, the Monitor was directed and empowered to exercise control over the receipts, disbursements and bank accounts of the Applicants and to receive and collect all monies and accounts of the Applicants in respect of the Applicants' property.

8. On December 17, 2013 (the "**Filing Date**"), this Court also granted two orders vesting title to Lots 22 and 25 in Phase III of the Puccini Project in their respective purchasers free and clear of all liens, charges and encumbrances. Copies of the vesting orders are collectively attached hereto as **Exhibit "E"**.

9. The details with respect to each of the remaining 10 homes as at the Filing Date were set out at paragraph 53 of the Initial Affidavit and are summarized in the chart below:

Phase	**Lot Number**	**Summary**
II	Lot 1	Construction is 85% completed; not pre-sold
II	Lots 23 & 24	Construction has been fully completed but the homes have not yet been sold
III	Lot 18	Construction has not yet commenced, however the home has been pre-sold
III	Lot 19	Construction is almost completed with estimated cost to completion of $11,700. The property was sold to a purchaser who defaulted under its agreement of purchase and sale.
III	Lot 20	Construction is 85% completed; not pre-sold

III	Lot 22	Construction of this house was approximately 85% completed and the home was pre-sold.*
III	Lot 23 and 24	Construction is 50% completed; not pre-sold.
III	Lot 25	Construction is 75% completed and the home was pre-sold.*

* On December 17, 2013, this Court granted vesting orders in respect of Lots 22 and 25.

THE CCAA PROCEEDING

<u>The DIP Loan</u>

10. Pursuant to the Initial Order, this Court also approved a debtor-in-possession loan (the "**DIP Loan**") in an amount of $1 million and issued a priority charge against all property, assets and undertakings of the Applicants securing all advances under the DIP Loan.

11. In connection with these proceedings, the Applicants prepared and filed with the Court a copy of the Applicants' cash flow projection for the 13 week period from December 20, 2013 to March 14, 2014 (the "**Initial Cash Flow**"). A copy of the Initial Cash Flow is attached hereto as **Exhibit "F"**.

12. The Initial Cash Flow contemplated an initial advance under the DIP Loan in an amount of $425,000. On December 20, 2013, the Monitor confirmed the receipt of the initial advance.

Phase III Lots 22 and 25

13. The Initial Cash Flow also contemplated that transactions for the sale of Lots 22 and 25, which formed the subject matter of the Vesting Orders, will close by January 10, 2014 and January 31, 2014, respectively.

14. On December 31, 2013, the sale of Lot 22 was completed by the Applicants. In accordance with the Initial Cash Flow, the net proceeds in the amount of $919,227.86 from the sale of Lot 22 were paid to the Monitor, $300,000 of which represents a holdback in respect of the debt due to the first mortgagee.

15. As discussed in the Initial Affidavit, there remained some minor work to be completed on Lot 22 subsequent to the closing of the transaction. Although the Applicants originally contemplated that the sale of the home would close subject to an agreed upon holdback, the parties instead reached an agreement, with the approval of the Monitor, whereby a credit of $5,300 was provided to the purchaser and the purchaser elected to complete the remaining work himself. The credit amount was less than the estimated cost to complete the remaining work.

16. The transaction for the sale of Lot 25 is currently scheduled to close on January 17, 2014.

The Remaining 8 Homes

17. As discussed above, Lot 18 in Phase III has been pre-sold but the construction on the home has not yet commenced. There is no immediate work to be done on this home by the Applicants.

18. The remaining 7 homes are not subject to agreements of purchase and sale. The Applicants expect that the real estate market will pick up by mid January in accordance with general real estate trends. The remaining 7 homes will be remarketed for sale using the Applicants' internal marketing department and third party brokers and agents.

19. With the exception of Lots 18, 23 and 24 in Phase III, the construction of the remaining homes has been completed or substantially completed subject to certain finishes to be selected by the ultimate purchaser of the homes. Following the issuance of the Initial Order, the Applicants have commenced work to complete the construction of Lots 23 and 24.

Phase IV of the Puccini Project

20. As I described in greater detail in the Initial Affidavit, construction of Phase IV has not yet commenced. Title to the Phase IV lands is registered in the name of 2148991 Ontario Inc. ("**2148991**"), a company related to the Applicants. Acquisition and servicing of Phase IV lands was financed by Royal Bank of Canada ("**RBC**"). On December 23, 2013, RBC delivered Notice of Sale Under Mortgage to 2148991. 2148991 is in the process of looking for alternative financing to allow it to repay RBC's loan in full and commence construction of Phase IV.

INTERIM DISTRIBUTION TO BMO

21. As I described in greater detail in the Initial Affidavit, BMO made available to the Applicants three credit facilities for the purpose of, among other things, financing the servicing and construction of homes in Phases I, II and III of the Puccini Project. All of the indebtedness owing to BMO under the credit facilities is secured, *inter alia*, by demand first mortgages registered against title to the Phase I, II and III lands and a general security agreement in favour of BMO. Currently, the outstanding indebtedness to BMO is in excess of $700,000.

22. The Initial Affidavit and the Initial Cash Flow contemplated that $570,000 would be held back by the Monitor from the proceeds from the sale of Lots 22 and 25 for the benefit of BMO subject to determination of priorities as between BMO and the construction lien claimants. To minimize the interest payments payable to BMO on the outstanding balance of the loan, the Applicants seek an order of this Court authorizing an interim distribution of this holdback to BMO subject to a reimbursement agreement to be negotiated and entered into between BMO and the Monitor.

THE CLAIMS PROCESS

23. As described in greater detail in the Initial Affidavit, Phases I through III of the Puccini Project were financed through a combination of institutional financing and private secured lender loans. Each of these lenders registered mortgages against title to some or all of the lots in the Puccini Project. As at the Filing Date, the Applicants' collective indebtedness to these institutional and private lenders was approximately $12 million.

24. In addition, a number of trades have registered claims for lien under the *Construction Lien Act* against title to various lots in the Puccini Project. As at the Filing Date, the total amount of the liens was approximately $3.5 million.

25. The Applicants' objective in this CCAA proceeding is to complete the 10 remaining homes and to apply the net sale proceeds, after payment of operating costs and the costs of these proceedings, to payment of their creditors' claims in the priority determined by the Court. Accordingly, the Applicants propose to conduct a claims process for the purpose of determining the validity, quantum and priority of claims against the Property (the "**Claims Process**") pursuant to the terms of a claims process order substantially in the form attached hereto as **Exhibit "G"** (the "**Claims Process Order**"). All capital terms not otherwise defined in this section of the affidavit shall have the meaning ascribed to those terms in the Claims Process order.

26. It is likely that the amount of net sale proceeds of the 10 remaining homes will be less than the total amount of the Secured Claims against the Property. Accordingly, it is not contemplated that the Applicants' unsecured creditors shall receive any payment of their claims out of the proceeds of the sale of the Property. As a result, the Claims Process will apply only to the holders of the Secured Claims as described in the Claims Process Order.

Notice

27. Pursuant to the Claims Process Order, Known Creditors will be notified of the requirement to file their claims on or before February 14, 2014 by the following means:

(a) the Monitor will send notice of the Claims Process Order by regular mail to all Known Creditors no later than January 21, 2014;

(b) the Monitor will place a notice addressed to all potential holders of the Secured Claims in the Toronto Star and in the Daily Commercial News as soon as reasonably practicable after the date the Claims Process Order is issued; and

(c) The Monitor will post a copy of the Claims Process Order on its website established for these proceedings as soon as reasonably practicable.

Claims Deadline

28. Pursuant to the Claims Process, all claimants shall deliver to the Monitor their written submissions together with all supporting documentation respecting the validity, quantum and priority of their claims by February 14, 2014 (the "**Claims Deadline**"), or such later date as the Monitor may agree or the Court may order prior to the Claims Deadline, failing which, the Secured Claim of such claimant against the Property shall be extinguished and forever barred.

The Monitor's Role and Vetting Committee

29. The Claims Process shall be administered by the Monitor pursuant to the terms of the Claims Process Order.

30. The Claims Process contemplates the establishment of a committee to assist the Monitor with the review and determination of the Secured Claims against the Property (the "**Vetting Committee**"). The Applicants propose that the Vetting Committee initially be comprised of the

following persons: (i) James Klein, lawyer for various lien claimants; (ii) Jeffrey Long, lawyer for Con-Drain; (iii) Jeffrey Spiegelman, lawyer for BMO; (iv) Marco Drudi, lawyer for private lenders; (v) Stephen Schwartz, lawyer for the Applicants; and (vi) Steven Graff or Ian Aversa, lawyers for the Monitor.

Filing of Claims

31. The documentation to be provided by a claimant under the Claims Process shall include:

(a) in case of lien claimants, a complete copy of the contract or subcontract, evidence of the date of last supply of work or services, a copy of all invoices, time sheets and a detailed statement of account including all payments received;

(b) in the case of mortgagees, a copy of the commitment letter, offer of finance or similar document, the dates and amounts of all advances, a detailed statement of account, and the amount of any holdback maintained by the mortgagee.

Review and Resolution of Claims

32. The Monitor will review all claims delivered in the Claims Process and may, in its sole discretion, upon consultation with the Vetting Committee, accept or disallow such claims. For those creditors whose claims have been disallowed, the Monitor will send a Notice of Disallowance to the Claimant as soon as reasonably practicable.

33. Claimants who intend to dispute the Notice of Disallowance must deliver a Notice of Dispute to the Monitor within 14 days of the date of the Notice of Disallowance (the "**Dispute Deadline**"), or on such later date as the Monitor may agree or the Court may order prior to the Dispute Deadline.

34. The Monitor, with the assistance of the Vetting Committee, may attempt to consensually resolve any disputed claim.

35. Upon the completion of the Claims Process, the Monitor will serve and file a report on the results of the Claims Process. The Monitor will schedule a 9:30 Chambers appointment returnable within 14 days after the service of the report on the Claims Process, for the purpose of setting a timetable for the resolution of all disputed claims.

Con-Drain

36. As was described in detail in the Initial Affidavit, in August 2013, Con-Drain commenced litigation against the Applicants in Newmarket. In that litigation the Court granted orders requiring that the net proceeds from the sale of homes in the Puccini Project be paid to our lawyers, Chaitons LLP, trust account. Attached hereto and marked collectively as **Exhibit "H"** are true copies of the Orders of Madam Justice Lack dated August 15, 2013 and the endorsement of Madam Justice Gilmore dated November 20, 2013.

37. There is currently the sum of $491,985.33 held in trust by Chaitons LLP (the "**Sale Proceeds**") Madam Justice Gilmore ordered that the Sale Proceeds be paid into court. The parties made cost submissions to Justice Gilmore concerning a motion heard October 15, 2013. The decision concerning costs has not yet been released. As a result, the order of Justice Gilmore has not yet been issued and entered. Accordingly, the Sale Proceeds held by Chaitons LLP have not yet been paid into court.

38. The Applicants propose that the Claims Process include the determination of the entitlement of the parties with Secured Claims to the Sale Proceeds.

STAY EXTENSION

39. The Initial Order included a stay of proceedings as against the Applicants until and including January 16, 2014 or such later date as the Court may order.

40. The Applicants have acted in good faith and with due diligence since the granting of the Initial Order. The Applicants, among other things:

(a) closed the sale of Lot 22;

(b) continued construction of Lots 23 and 24 of Phase III; and

(c) commenced a marketing process for the sale of the remaining 7 homes.

41. The Applicants seek an extension of the stay period to and including April 18, 2014 to allow them to: (i) continue construction of Lots 23 and 24 of Phase III of the Puccini Project; (ii) carry out a marketing process for the sale of the remaining 7 homes; and (iii) administer the Claims Process.

42. In connection with the Applicant's request for the stay extension, the Applicants, with the assistance of the Monitor, prepared cash flow projections for the time period commencing January 11, 2014 and ending May 2, 2014 (the "**Cash Flow**") attached hereto as **Exhibit "I"**. The Cash Flow has been reviewed and approved by the Monitor.

43. The Initial Cash Flow contemplated that approximately $300,000 of the initial advance under the DIP Loan will be repaid to the DIP Lender by January 31, 2014. In order to ensure that sufficient funds are available over the course of the proposed stay extension, the Cash Flow has been revised to reflect a repayment of the DIP Loan in an amount of $200,000 with the payment of the final $100,000 to be made after May 2, 2014.

44. I swear this affidavit in support of the Applicants' motion for the relief set out herein and for no improper purpose.

SWORN before me at the City of Toronto, Province of Ontario, this 10 day of January, 2014	)))))))	
A Commissioner, Etc.		**Imran Jinnah**
STEPHEN SCHWARTZ		

THIS IS **EXHIBIT "A"** REFERRED TO IN THE

AFFIDAVIT OF **IMRAN JINNAH**

SWORN BEFORE ME THIS 10th DAY OF JANUARY, 2014

Court File No. CV-13-10362-00CL

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

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SILVER STREAMS HOMES INC., SILVER STREAMS HOMES (PUCCINI) INC., 2148993 ONTARIO INC., 2148990 ONTARIO INC., 2147681 ONTARIO INC. AND 2147650 ONTARIO INC.

Applicants

REPORT TO COURT OF GRANT THORNTON LIMITED, PROPOSED MONITOR OF THE APPLICANTS UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*

DECEMBER 13, 2013

GrantThornton

Grant Thornton Limited,
Proposed Monitor of the Applicants under the *Companies' Creditors Arrangement Act*

Royal Bank Plaza
200 Bay Street, South Tower, 19th Floor
Toronto, Ontario, M5J 2P9

SERVICE LIST

CHAITONS LLP 5000 Yonge Street, 10th Floor Toronto, ON M2N 7E9 **Harvey Chaiton** Tel: (416) 218-1129 Fax: (416) 218-1866 Email: Harvey@chaitons.com **Stephen Schwartz** Tel: (416) 218-1132 Fax: (416) 218-1832 Email: Stephen@chaitons.com **Maya Poliak** Tel: (416) 218-1161 Fax: (416) 218-1844 Email: maya@chaitons.com **Lawyers for the Applicants**	**GRANT THORNTON LIMITED** Royal Bank Plaza 200 Bay Street, 19th Floor Toronto, ON M5J 2P9 **Jonathan Krieger** Tel: (416) 360-5055 Fax: (416) 360-4949 Email: jkrieger@grantthornton.ca **Daniel Sobel** Tel: (416) 369-7033 Fax: (416) 360-4949 Email: dsobel@grantthornton.ca **Proposed Monitor**
AIRD & BERLIS LLP Brookfield Place 181 Bay Street, Suite 1800 Box 754 Toronto, ON M5J 2T9 **Steven Graff** Tel: (416) 865-7726 Fax: (416) 863-1515 Email: sgraff@airdberlis.com **Ian Aversa** Tel: (416) 865-3082 Fax: (416) 863-1515 Email: iaversa@airdberlis.com **Lawyers for the Proposed Monitor, Grant Thornton Limited**	**LAW OFFICES OF JACK GREENBERG** Barristers & Solicitors 181 Eglinton Avenue E., Suite 2014 Toronto, ON M4P 1J4 **Jack Greenberg** Tel: (416) 485-8833 Fax: (416) 485-3246 Email: jackgreenberg@greenberglawyers.ca **Lawyers for Castle Lane Design Group Inc., 53 Puccini Mortgage Corp., Puccini Mortgage Corp., Nastell Investments Limited, Dapaul Management Limited, 388242 Ontario Inc.**

	LAW OFFICES OF JACK GREENBERG Barristers & Solicitors 181 Eglinton Avenue E., Suite 2014 Toronto, ON M4P 1J4 **Jack Greenberg** Tel: (416) 485-8833 Fax: (416) 485-3246 Email: jackgreenberg@greenberglawyers.ca **Lawyers for Sandall Investments Limited, proposed DIP Lender**
THE CORPORATION OF THE TOWN OF RICHMOND HILL 225 East Beaver Creek Road Richmond Hill, ON L4B 3P4	**KOSKIE MINSKY LLP** 900-20 Queen St. West Toronto, ON M5H 3R3 **Jeffrey Long** Tel: (416) 595-2125 Fax: (416) 204-2892 Email: jlong@kmlaw.ca **Lawyers for Con-Drain Company (1983) Limited**
KLEIN & ASSOCIATES PROFESSIONAL CORPORATION 390 Bay Street, Suite 1101 Toronto, ON M5H 2Y2 **James Klein** Tel: (416) 366-9494 Fax: (416) 366-9442 Email: jklein@stikeman.com **Lawyers for Pilbro III Inc., Medi Group Incorporated, Cardell Flooring Ltd., Foremont Drywall Inc., et. al., Canadian Concrete Forming Limited, Pave Plumbing & Heating Inc., E.D. Carpenters Limited, Solo Electric Ltd., 1865721 Ontario Inc., GM Exteriors Inc., Giancola Aluminum Contractors Inc.**	**PALLET VALO LLP** Lawyers & Trade-Mark Agents 77 City Centre Drive, West Tower, Suite 300 Mississauga, ON L5B 1M5 **Anna M. Esposito** Tel: (905) 273-3300 Fax: (905) 273-6920 Email: aesposito@pallettvalo.com **Lawyers for Renova Recycling (2000) Inc.**

CAVALLUZZO SHILTON MCINTYRE CORNISH LLP 474 Bathurst Street, Suite 300 Toronto, ON M5T 2S6 **Carrie Clynick** Tel: (416) 964-5515 Fax: (416) 964-5895 Email: cclynick@cavalluzzo.com **Lawyers for Trustees of the Labourers' Union of North America Local 183 Members' Benefit Trust Fund**	**FOGLER, RUBINOFF LLP** 77 King Street West, Suite 3000, P.O. Box 95 Toronto, ON M5K 1G8 **Lou Natale** Tel: (416) 941-8804 Fax: (416) 941-8852 Email: lnatale@foglers.com **Lawyers for Bank of Montreal**
Foremost Mortgage Holding Corporation 26 Lesmill Road, Unit 1B Toronto, ON M3B 2T5	**Argo Lumber Inc.** c/o Alpa Lumber Inc. 7630 Airport Road Mississauga, ON L4T 4G6 **Emilio Bisceglia** 7941 Jane Street, Suite 200 Concord, ON L4K 4L6 Tel: (905) 695-3100 Fax: (905) 695-5201 Email: ebisceglia@lawtoronto.com **Lawyers for Argo Lumber Inc.**
Newmar Window Manufacturing Inc. c/o Alpa Lumber Inc. 7630 Airport Road Mississauga, ON L4T 4G6 **Emilio Bisceglia** 7941 Jane Street, Suite 200 Concord, ON L4K 4L6 Tel: (905) 695-3100 Fax: (905) 695-5201 Email: ebisceglia@lawtoronto.com **Lawyers for Newmar Window Manufacturing Inc.**	**CANADA REVENUE AGENCY** c/o DEPARTMENT OF JUSTICE Ontario Regional Office The Exchange Tower, Box 36 130 King St. W., Suite 3400 Toronto, ON M5X 1K6 **Diane Winters** Tel : (416) 973-3172 Fax : (416) 973-0810 Email: diane.winters@justice.gc.ca

GOODMAN, SOLOMON & GOLD 439 University Avenue, Suite 1500 Toronto, ON M5G 1Y8 **David M. Goodman** Tel: (416) 595-5555 Fax: (416) 595-7020 Email: dmg@goodmansolomon.com **Lawyers for King-Con Corporation**	**The Sanderson-Harold Company** 245 West Beaver Creek Road, Unit 2 Richmond Hill, ON L4B 1L1
RICHARD J. MAZAR PROFESSIONAL CORPORATION 115 King Avenue West Newcastle, ON L1B 1L3 **Richard J. Mazar** Email: rmazar@mazarlaw.com **Lawyers for 669857 Ontario Inc. o/a Alma Mechanical**	**MINISTRY OF FINANCE (ONTARIO)** Legal Services Branch 33 King Street West, 6th Floor Oshawa, ON L1H 8H5 **Attn: Kevin O'Hara, Senior Counsel** Tel: (905) 433-6934 Fax: (905) 436-4510 Email: Kevin.ohara@ontario.ca
Home Trust Company 121 King Street West, Suite 1200 Toronto, ON M5H 3T9	**MINDEN GROSS LLP** 145 King Street West, Suite 2200 Toronto, ON M5H 4G2 **Ronald J. Molson** Tel: (416) 369-4114 Fax: (416) 864-9223 Email: rmolson@mindengross.com **Lawyers for Royal Bank of Canada**
National Leasing Group Inc. 1525 Buffalo Place Winnipeg, MB R3T 1L9	**DRUDI ALEXIOU KUCHAR LLP** 7050 Weston Road, Suite 610 Vaughan, ON L4L 8G7 **Marco Drudi** Tel: (905) 850-6116 ext. 225 Fax: (905) 850-9146 Email: mdrudi@dakllp.com

TABLE OF CONTENTS

APPENDICES

1. Cash Flow Projection for the 13 week period to March 14, 2014
2. Term sheet dated December 11, 2013

Court File No. CV-13-10362-00CL

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

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SILVER STREAMS HOMES INC., SILVER STREAMS HOMES (PUCCINI) INC., 2148993 ONTARIO INC., 2148990 ONTARIO INC., 2147681 ONTARIO INC. AND 2147650 ONTARIO INC.

Applicants

REPORT TO COURT OF GRANT THORNTON LIMITED, PROPOSED MONITOR OF THE APPLICANTS UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*

DECEMBER 13, 2013

INTRODUCTION

1. Silver Streams Homes Inc. ("**Silver Streams**") is a residential home builder in the Greater Toronto Area.

2. Silver Streams Homes (Puccini) Inc. ("**Puccini**") was incorporated in October 2008 for the purpose of developing and selling homes in a development located at Bathurst St. and King Rd. in Richmond Hill, Ontario (the "**Puccini Project**"). Puccini is registered with Tarion and is the vendor under agreements of purchase and sale for homes in the Puccini Project.

3. Title to the lands in phases II and III of the Puccini Project is held by one or more of 2148993 Ontario Inc. ("**2148993**"), 2148990 Ontario Inc. ("**2148990**"), 2147681 Ontario Inc. ("**2147681**") and 2147650 Ontario Inc. ("**2147650**" and, collectively, the "**Title Holders**"). Silver Streams, Puccini

and the Title Holders are collectively referred to as the "**Companies**" or the "**Applicants**".

4. The Companies have made application to the Ontario Superior Court of Justice (Commercial List) (the "**Court**") to commence proceedings under the *Companies' Creditors Arrangement Act* (the "**CCAA Proceedings**"). It is proposed that Grant Thornton Limited ("**GTL**" or the "**Proposed Monitor**") act as monitor ("**Monitor**") in the CCAA Proceedings. GTL has consented to act in such capacity.

5. The affidavit of Imran Jinnah, the sole director/shareholder of the Applicants, sworn on December 11, 2013 (the "**Jinnah Affidavit**") and filed in connection with the CCAA Proceedings describes, *inter alia*, the Companies' background, including the reasons for the requested CCAA Proceedings. According to the Jinnah Affidavit, the primary purpose of the CCAA Proceedings is to allow the Companies the opportunity to complete the 10 remaining homes in Phases II and III of the Puccini Project and to apply the net sale proceeds, after payment of operating costs and the costs of the CCAA Proceedings, to payment of their creditors' claims in the priority determined by the Court. It is the Companies' view that the completion of the homes maximizes value for the Applicants' stakeholders and protects the interests of purchasers of homes under agreements of purchase and sale.

6. An affiliate of an existing secured lender has indicated it is prepared to provide the Applicants with interim financing to enable the Applicants to

complete the construction of the homes and fund the costs of the CCAA Proceedings.

7. The requested CCAA Proceedings would provide a stay of proceedings against the Companies, interim financing to support the restructuring, and a single forum for resolving priority disputes among the Applicants' numerous stakeholder groups, with the aim of avoiding the potentially significant cost of separate litigation between the various stakeholder groups and the Applicants.

8. This report (the "**Report**") is submitted by Grant Thornton Limited in conjunction with the application of the Applicants seeking an initial order (the proposed "**Initial Order**") that provides for, among other things, the following relief:

   i) a declaration that the Applicants are companies to which the CCAA applies;

   ii) a stay of all proceedings taken or that might be taken against the Companies, or affecting the property or the business of the Companies, without the further order of the Court, except as otherwise provided for in the Initial Order;

   iii) an order that the Companies shall remain in possession and control of their property and business, and shall continue to carry on business in the manner consistent with the preservation of their business and property except as otherwise provided for in the Initial Order;

iv) an order authorizing the Companies to complete the sale of two Presold Homes, as detailed in the Jinnah Affidavit;

v) an order appointing GTL as the Monitor in the CCAA Proceedings and authorizing the Monitor to, among other things, control the receipts and disbursements of the Applicants and collect funds arising from the realization of the Companies' assets;

vi) an order granting an administrative charge for certain professional fees incurred in connection with these proceedings (the "**Administration Charge**"); and

vii) an order authorizing the Companies to obtain interim financing and granting a charge to secure such interim financing (the "**Interim Financing Charge**").

PURPOSE OF REPORT

9. The purpose of this Report is to provide the Court with further information related to the relief sought by the Applicants. This Report specifically provides:

i) information regarding the financial position of the Applicants and the reasons for the request for the commencement of the proposed CCAA Proceedings;

ii) the Proposed Monitor's comments and report on the Companies' cash flow projection (the "**Cash Flow Projection**"), which was submitted in conjunction with the Jinnah Affidavit;

iii) information concerning the proposed mechanism by which the Companies' operations are to be funded during the CCAA Proceedings and comments on the need for interim financing; and

iv) a discussion of the proposed Administration Charge and Interim Financing Charge and such charges' effect on the various stakeholder groups.

10. Detailed background information concerning the Companies and their stakeholders is provided in the Jinnah Affidavit, which has been filed with the Court. Accordingly, the Proposed Monitor has not repeated information to this effect in this Report.

SCOPE AND TERMS OF REFERENCE

11. In preparing this Report, the Proposed Monitor has relied upon unaudited financial information, the Companies' records, financial information and projections and discussions with the Companies' management and employees. While the Proposed Monitor reviewed various documents provided by the Companies and believes that the information therein provides a fair summary of the transactions as reflected in the documents, such work does not constitute an audit or verification of such information for accuracy, completeness or compliance with Generally Accepted

Accounting Principles ("**GAAP**") or International Financial Reporting Standards ("**IFRS**"). Accordingly, the Proposed Monitor expresses no opinion or other form of assurance pursuant to GAAP or IFRS with respect to such information.

12. Some of the information used in preparing this Report consists of financial projections, including the Cash Flow Projection. The Proposed Monitor cautions that these projections are based upon assumptions about future events and conditions that are not ascertainable. The Companies' actual results may vary from the Cash Flow Projection, even if the hypothetical and probable assumptions contained therein materialize, and the variations could be significant. The Proposed Monitor's review of the future oriented information used to prepare this Report did not constitute an audit of such information under GAAP or IFRS.

13. In the course of its mandate, the Proposed Monitor has assumed the integrity and truthfulness of the information and explanations presented to it by the Companies and their management, within the context in which such information was presented. To date, nothing has come to the Proposed Monitor's attention that would cause it to question the reasonableness of these assumptions. The Proposed Monitor has requested that management bring to its attention any significant matters which were not addressed in the course of the Proposed Monitor's specific inquiries. Accordingly, this Report is based solely on the information (financial or otherwise) made available to the Proposed Monitor by the Companies.

14. This Report has been prepared for the use of this Court and the Companies' stakeholders as general information relating to the Companies. Accordingly, the reader is cautioned that this Report may not be appropriate for any other purpose. The Proposed Monitor will not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of this Report contrary to the provisions of this paragraph.

15. All references to dollars are in Canadian currency unless otherwise noted.

16. Capitalized terms not defined in this Report have the meanings ascribed to them in the Jinnah Affidavit.

FINANCIAL POSITION

17. The most recent financial statements for each of the Applicants are attached as Exhibits "P", "Q" and "R" to the Jinnah Affidavit. The Companies advise that these are the most recent annual financial statements and that there are no interim financial statements for 2013.

18. As reflected in the financial statements, for the fiscal years ended November 30, 2012 and 2011, Silver Streams and Puccini reported combined net income totaling approximately $166,000 and $146,000, respectively. However, the financial statements also reflect that at November 30, 2012, the Silver Streams and Puccini had little liquidity with which to satisfy significant liabilities.

19. Paragraphs 25 to 34 of the Jinnah Affidavit provide details of the Companies' financial difficulties related to the Puccini Project, including details of the Companies' significant trade payable arrears as at December, 2013.

20. The Companies' primary stakeholders are three third party mortgagees, six subordinated secured creditors, lien claimants and trade creditors. Each of the stakeholder groups are discussed in detail in the Jinnah Affidavit.

21. As described in the Jinnah Affidavit, the Companies have combined secured debt in excess of $12 million, which is currently in default, and construction liens totalling in excess of $3.5 million, which have been registered against title to various lots in the Puccini Project. The Companies do not currently have any liquidity with which to satisfy these obligations.

22. The Companies' primary assets are their interests in the remaining lots in the Puccini Project. The Companies have no material cash or short term assets with which to satisfy their obligations.

23. Each of the Companies are unable to pay their obligations as they come due and their combined obligations exceed the value of their assets. In the Proposed Monitor's view, the Applicants are insolvent.

CASH FLOW PROJECTION

24. In order to fulfill the requirements of section 10(2)(a) of the CCAA, the Companies have prepared the Cash Flow Projection, on a weekly basis, for the thirteen weeks ending March 14, 2014. The Cash Flow Projection is attached hereto as **Appendix "1"**. The Cash Flow Projection has been prepared by management using probable and hypothetical assumptions set out therein.

25. The Proposed Monitor makes the following comments on the Cash Flow Projection:

    i) Expenses appear to be consistent with the level of operations contemplated by management for the Companies during the restructuring period;

    ii) The Cash Flow Projection does not contemplate making regular payments to the Companies' secured creditors nor servicing interest on such obligations during the CCAA Proceedings;

    iii) The Cash Flow Projection does not contemplate paying property tax arrears, nor does it contemplate paying HST/GST arrears of approximately $630,000; and

    iv) The Cash Flow Projection contemplates paying arrears of management fees (approximately $10,000).

26. The Companies will require an interim financing facility in order to meet their cash flow requirements over the period covered by the Cash Flow Projection.

27. The Proposed Monitor's review of the Cash Flow Projection consisted of inquiries, analytical procedures and discussions related to information supplied to the Proposed Monitor by the management and employees of the Companies. Since hypothetical assumptions need not be supported, the Proposed Monitor's procedures with respect to such assumptions were limited to evaluating whether they were consistent with the purpose of the Cash Flow Projection. The Proposed Monitor has also reviewed the support provided by management for the probable assumptions and the preparation and presentation of the Cash Flow Projection. Based on the Proposed Monitor's review, nothing has come to its attention that causes it to believe that, in all material respects:

    i) the hypothetical assumptions are not consistent with the purpose of the Cash Flow Projection;

    ii) as at the date of this Report, the probable assumptions developed by management are not suitably supported and consistent with the Companies' plans or do not provide a reasonable basis for the Cash Flow Projection, given the hypothetical assumptions; or

    iii) the Cash Flow Projection does not reflect the probable and hypothetical assumptions.

28. The Cash Flow Projection prepared by the Companies projects that the Applicants will, subject to the approval of the interim financing (discussed below), have sufficient funds on hand to maintain their operations throughout the Cash Flow Projection period.

INTERIM FINANCING

29. As discussed above and reflected in the Cash Flow Projection, the Companies anticipate requiring an interim financing facility (the "**Interim Financing**") of at least $425,000 in order to meet their cash flow needs for the first three weeks of the period covered by the Cash Flow Projection. The Companies have requested an authorized interim financing facility of up to the principal amount of $1 million, which, in the Proposed Monitor's view, is not excessive in the circumstances.

30. The Monitor understands that, prior to the Companies' application to this Court, the Companies had been in discussions with the proposed DIP lender, namely, Sandall Investments Limited (the "**DIP Lender**"), whose affiliate is an existing lender to the Companies, regarding interim financing for the CCAA proceedings. The Proposed Monitor did not participate in those discussions and did not assist the Companies in identifying potential sources of interim financing.

31. Identifying a suitable interim financing lender in the Companies' circumstances (i.e. with partially completed construction and no liquidity) presented significant challenges. In the circumstances, the Proposed

Monitor understands that the Companies did not approach other interim financing lenders.

32. The Proposed Monitor understands that the DIP Lender is prepared to provide interim financing conditional on obtaining a first priority charge for the funds advanced and a formal Court process being undertaken by the Companies to restructure their business. This financing is necessary to fund the Companies, with the guidance of a Monitor and supervision of the Court, while they complete remaining construction on the Puccini Project and realize on the remaining assets. A copy of the interim financing term sheet among the Companies and the DIP Lender dated December 11, 2013 (the "**Term Sheet**") is attached hereto as **Appendix "2"**. A summary of the key terms and conditions of the Term Sheet are as follows:

    i) Maximum credit amount: $1 million.

    ii) Interest rate: 12% annually (no other commitment or facility fee).

    iii) Term: earlier of 12 months or the sale of the remaining ten lots in the Puccini Project.

    iv) Material conditions: Issuance of the proposed Initial Order and Court approval of the Interim Financing Charge; legal review and finalization of definitive interim financing documents.

33. The Proposed Monitor is familiar with other interim financing arrangements in the context of recent CCAA proceedings and is of the view that the terms and conditions of the interim financing are consistent with the terms and

conditions of the interim financing arrangements approved by various courts in other CCAA proceedings.

34. The Proposed Monitor has reviewed the Term Sheet and is of the view that, in light of the nature of the assets, operations and financial position of the Applicants, the terms and conditions of same are reasonable in the circumstances.

35. As the Companies have no alternative source of financing at the present time, in the absence of the interim financing, the Companies will likely be forced to cease operating and essentially abandon or liquidate their assets in the current state. Given the numerous stakeholders and overlapping interests in the assets, there is a significant risk that this would result in stakeholders taking actions independently to protect their interests, which would likely result in extensive multiple, competing litigation proceedings, some of which have already been commenced and/or threatened, and would result in a diminution of potential realizable value of the Companies' assets.

36. It is the Proposed Monitor's view that the interim financing is necessary if the Companies are to be allowed the opportunity to continue so that they have the possibility of completing the Puccini Project and establish a single proceeding and forum in which the numerous stakeholders' claims can be made and dealt with.

37. The Term Sheet requires a charge over the assets of the Companies in favour of the DIP Lender as security for payment of all present and future

indebtedness owing to DIP Lender in respect of the interim financing. The priority of the charges is addressed below.

ADMINISTRATION CHARGE

38. The draft initial order contemplates a charge in the amount of $500,000 in favour of the Monitor, counsel to the Monitor and the Companies' counsel, with such parties being entitled to the benefit of an Administration Charge on the Companies' assets as security for professional fees and disbursements incurred at the standard rates and charges of the Monitor and counsel, both before and after the making of an order in respect of these proceedings.

39. The Administration Charge threshold has been established based on the various professionals' previous history and experience with restructurings of similar magnitude and complexity. If the initial order is granted, the Proposed Monitor believes that this charge is required and reasonable in the circumstances.

PRIORITY OF PROPOSED CHARGES

40. The outstanding amounts owing to first mortgagees total approximately $1.8 million. When the proposed priority charges are considered together with the amount owing in respect of the first mortgages, such total amount (approximately $3.3 million), is less than the estimated gross market value of the Companies' assets which, according to the Jinnah Affidavit, is estimated to range from $8 million to $9 million. As the first mortgagees

appear to be well collateralized based on the available information, they should not be materially prejudiced by the granting of the proposed Administration Charge.

41. In the Monitor's view, the Companies' other secured lenders (the "**Private Lenders**") and/or lien holders appear to have the fulcrum security interest in the Companies' assets. Accordingly, such parties appear to be the stakeholders whose recovery may be most affected by the Administration Charge and the Interim Financing Charge, if granted, and the success of the CCAA Proceedings, as they appear to be the stakeholders whose recovery may be most dependent on the outcome of the process. The Proposed Monitor understands that the Private Lenders support the proposed CCAA Proceedings, as set out in the Jinnah Affidavit.

42. Should the interim financing facility and corresponding charge and the Administration Charge not be approved, the Companies would be unable to proceed under the CCAA.

CONCLUSION AND NEED FOR A STAY OF PROCEEDINGS

43. Certain of the Companies' creditors have begun enforcement proceedings and some have commenced other legal action.

44. As a result of the deteriorated financial condition of the Companies, they have no liquidity to continue operations.

45. If the Companies are provided with a reasonable period of protection, the Companies' plan is to complete and sell the 10 homes that are in various

stages of development, maximize value for stakeholders and see the proceeds of realization distributed to stakeholders pursuant to orders of the Court.

46. As the various stakeholder interests are, in many cases, intertwined (i.e. in the case of blanket mortgages and construction liens), the granting of the relief requested would provide a single forum for the numerous stakeholders to be heard and to deal with such parties' claims in an orderly manner, under the supervision of the Court and a Court-appointed Monitor.

47. A stay of proceedings is necessary if it is deemed appropriate by this Court to allow the Companies to maintain their business and to allow the Applicants the opportunity to implement their restructuring plans in a stabilized environment.

All of which is respectfully submitted,

GRANT THORNTON LIMITED,
In its capacity as Proposed Monitor of the Applicants under the *Companies' Creditors Arrangements Act* and not in any other capacity

Per:

Jonathan Krieger, CPA, CA, CIRF
Senior Vice President

THIS IS **EXHIBIT "B"** REFERRED TO IN THE

AFFIDAVIT OF **IMRAN JINNAH**

SWORN BEFORE ME THIS 10th DAY OF JANUARY, 2014

EXHIBIT B
PROPERTY

1. Lot 1, Plan 65M4249, Town of Richmond Hill; Pin: 03206-3418 (LT)

2. Lot 23, Plan 65M4249, Town of Richmond Hill; Pin: 03206-3440 (LT)

3. Lot 24, Plan 65M4249, Town of Richmond Hill; Pin: 03206-3441 (LT)

4. Lot 18, Plan 65M4331, Town of Richmond Hill; Pin: 03206-3501 (LT)

5. Lot 19, Plan 65M4331, Town of Richmond Hill; Pin: 03206-3502 (LT)

6. Lot 20, Plan 65M4331, Town of Richmond Hill; Pin: 03206-3503 (LT)

7. Lot 22, Plan 65M4331, Town of Richmond Hill; Pin: 03206-3505 (LT)

8. Lot 23, Plan 65M4331, Town of Richmond Hill; Pin: 03206-3506 (LT)

9. Lot 24, Plan 65M4331, Town of Richmond Hill; Pin: 03206-3507 (LT)

10. Lot 25, Plan 65M4331, Town of Richmond Hill; Pin: 03206-3508 (LT)

11. Net sale proceeds from the sale of certain homes in the Puccini Project in the amount of $491,985.33 held in trust by Chaitons LLP pursuant to the Orders of Madam Justice Lack dated August 15, 2013 and Madam Justice Gilmore dated November 20, 2013 issued in the action commenced by Con-Drain Company (1983) Limited against certain applicants and other parties bearing Court File Number CV-13-115757-00

THIS IS **EXHIBIT "C"** REFERRED TO IN THE

AFFIDAVIT OF **IMRAN JINNAH**

SWORN BEFORE ME THIS 10th DAY OF JANUARY, 2014

Court File No. 12-10362-00-CL

3 25

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

THE HONOURABLE MR.	)	TUESDAY, THE 17TH
	)	
JUSTICE NEWBOULD	)	DAY OF DECEMBER, 2013

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

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SILVER STREAMS HOMES INC., SILVER STREAMS HOMES (PUCCINI) INC., 2148993 ONTARIO INC., 2148990 ONTARIO INC., 2147681 ONTARIO INC. and 2147650 ONTARIO INC.

the "Applicants"

INITIAL ORDER

THIS APPLICATION, made by Silver Streams Homes Inc., Silver Streams Homes (Puccini) Inc., 2148993 Ontario Inc., 2148990 Ontario Inc., 2147681 Ontario Inc. and 2147650 Ontario Inc. (collectively, the "**Applicants**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Imran Jinnah sworn December 11, 2013 and the Exhibits thereto (the "**Jinnah Affidavit**"), the Proposed Monitor's Report to the Court and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicants, Grant Thornton Limited (as the proposed Monitor), counsel for Bank of Montreal, counsel for Foremost Mortgage Corporation, counsel for the private secured lenders, counsel for certain lien claimants, counsel for the Corporation of the Town of Richmond Hill, and such other counsel as are present, no one else appearing although duly served as appears from the affidavit of service of Lynn Lee sworn December 12, 2013 and on reading the consent Grant Thornton Limited to act as the Monitor,

SERVICE

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

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

3. **THIS COURT ORDERS** that the E-Service List Keeper and the WebHost (as such terms are defined in the Protocol) for the purpose of this proceeding shall be the Monitor.

3A. **THIS COURT ORDERS** that the sum of $491,985.33, plus interest accrued thereon, being held in trust by Chaitons LLP pursuant to the orders of the Honourable Madam Justice Lack dated August 15, 2013 and the Endorsement of the Honourable Madam Justice Gilmore dated November 20, 2013 in the Con-Drain Company (1983) Limited action bearing Newmarket court file no. CV-12-115757-00 (the "Con-Drain Action") shall be maintained in trust by Chaitons LLP until further court order or consent of the parties to the Con-Drain Action, and the determination of whether the above noted funds form Property, as defined in paragraph 5 of the Initial Order, shall be determined at a late date.

APPLICATION

4. **THIS COURT ORDERS AND DECLARES** that the Applicants are affiliated debtor companies to which the CCAA applies.

POSSESSION OF PROPERTY AND OPERATIONS

5. **THIS COURT ORDERS** that, subject to paragraph 17 the Applicants shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the "**Business**") and Property. The Applicants shall be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

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

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

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

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

(a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the completion of Phases II and III of the Puccini Project (as defined in the Jinnah Affidavit) including, without limitation, payments on account of insurance, maintenance and security services; and

(b) payment for goods or services actually supplied to the Applicants following the date of this Order.

8. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

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

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

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

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

RESTRUCTURING

10. **THIS COURT ORDERS** that the Applicants shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined), have the right to:

(a) permanently or temporarily cease, downsize or shut down any of their business or operations,

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

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

(d) complete the construction and sale of the remaining 10 homes in Phases II and III of the Puccini Project with the approval of the Monitor in respect of all sales made in the ordinary course of the Applicants' business and otherwise with prior Court approval,

all of the foregoing to permit the Applicants to proceed with the completion of Phases II and III of the Puccini Project (the "**Restructuring**").

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

11. **THIS COURT ORDERS** that until and including January 16, 2014, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court, including the action commenced in Newmarket, Ontario by Con-Drain Company (1983) Limited against certain Applicants and others bearing Court File Number CV-13-115757-00.

NO EXERCISE OF RIGHTS OR REMEDIES

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

NO INTERFERENCE WITH RIGHTS

13. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

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

agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

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

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

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

DIRECTORS' AND OFFICERS' INDEMNIFICATION

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

APPOINTMENT OF MONITOR

18. **THIS COURT ORDERS** that Grant Thornton Limited is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs

of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

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

(a) monitor the Applicants' receipts and disbursements;

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

(c) assist the Applicants, to the extent required by the Applicants, in their dissemination, to the DIP Lender (as defined below) and its counsel on a periodic basis of financial and other information as agreed to between the Applicants and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;

(d) advise the Applicants in the preparation of the Applicants' cash flow statements and reporting, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis or provided to the Court as required;

(e) to assist the Applicants with the Restructuring;

(f) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;

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

(h) perform the tasks requested to be performed by the Monitor under the DIP Term Sheet;

(i) to advise and assist the Applicants in their negotiations with their stakeholders;

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

(k) in the name and/or for the benefit of the Applicants, to exercise control over the receipts, disbursements and bank accounts of the Applicants and receive and collect all monies and accounts of the Applicants in respect of the Property.

20. **THIS COURT ORDERS** that, subject to paragraph 17(k) of this Order, the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

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

any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

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

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

24. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements, incurred both before and after the making of this Order, in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants on a monthly basis upon receipt of an invoice.

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

26. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and the Applicants' counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of $500,000 as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of

these proceedings. The Administration Charge shall have the priority set out in paragraphs 31 and 33 hereof.

DIP FINANCING

27. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow under a credit facility from Sandall Investments Limited (the "**DIP Lender**") in order to finance the Applicants' working capital requirements, including the cost of completing Phases II and III of the Puccini Project and the costs of these proceedings, provided that borrowings under such credit facility shall not exceed the principal amount of $1,000,000 unless permitted by further Order of this Court.

28. **THIS COURT ORDERS** that such credit facility shall be on the terms and subject to the conditions set forth in the term sheet among the Applicants and the DIP Lender dated as of December 11, 2013 (the "**Term Sheet**"), filed.

29. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, security documents, guarantees and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the Term Sheet or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the Term Sheet and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

30. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lender's Charge**") on the Property, which DIP Lender's Charge shall not secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs 31 and 33 hereof.

31. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

(a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;

(b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender's Charge, the DIP Lender may immediately terminate the facility and, upon seeking an Order of the Court on 5 days notice to the Applicants and the Monitor, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the Term Sheet, Definitive Documents and the DIP Lender's Charge, including without limitation, to apply to this Court for the appointment of a receiver over the Property; and

(c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver, receiver and manager or lien trustee of the Applicants or the Property.

32. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicants under the CCAA with respect to any advances made under the Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

33. **THIS COURT ORDERS** that the priorities of the Administration Charge and the DIP Lender's Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of $500,000); and

Second – DIP Lender's Charge.

34. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge or the DIP Lender's Charge (collectively, the "**Charges**") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

35. **THIS COURT ORDERS** that each of the Administration Charge and the DIP Lender's Charge (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges, construction

liens (whether or not perfected or preserved) and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.

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

37. **THIS COURT ORDERS** that the Administration Charge, the Term Sheet, the Definitive Documents and the DIP Lender's Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") and/or the DIP Lender thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

(a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Term Sheet or the Definitive Documents shall create or be deemed to constitute a breach by the Applicants of any Agreement to which they are a party;

(b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicants entering into the Term Sheet, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and

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

SERVICE AND NOTICE

38. **THIS COURT ORDERS** that the Monitor shall (i) without delay, publish in the Toronto Star or the Globe and Mail a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicants of more than $1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

39. **THIS COURT ORDERS** that the Applicants and the Monitor be at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

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

GENERAL

41. **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of their powers and duties hereunder.

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

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

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

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

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

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

DEC 17 2013

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SILVER STREAMS HOMES INC., SILVER STREAMS HOMES (PUCCINI) INC., 2148993 ONTARIO INC., 2148990 ONTARIO INC., 2147681 ONTARIO INC. AND 2147650 ONTARIO INC.

Court File No. 13-10362-00-CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at TORONTO

INITIAL ORDER

CHAITONS LLP
Barristers and Solicitors
5000 Yonge Street, 10th Floor
Toronto, ON M2N 7E9

Harvey Chaiton (LSUC #21592F)
Tel: (416) 218-1129
Fax: (416) 218-1849

Stephen Schwartz (LSUC #25980A)
Tel: (416) 218-1132
Fax: (416) 218-1832

Maya Poliak (LSUC #54100A)
Tel: 416-218-1161
Fax: 416-218-1844

Lawyers for the Applicants

THIS IS **EXHIBIT "D"** REFERRED TO IN THE

AFFIDAVIT OF **IMRAN JINNAH**

SWORN BEFORE ME THIS 10th DAY OF JANUARY, 2014

Court File No. 13-10362-00-CL

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

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SILVER STREAMS HOMES INC., SILVER STREAMS HOMES (PUCCINI) INC., 2148993 ONTARIO INC., 2148990 ONTARIO INC., 2147681 ONTARIO INC. AND 2147650 ONTARIO INC.

Applicants

AFFIDAVIT OF IMRAN JINNAH

I, Imran Jinnah, of the Town of Richmond Hill, in the Province of Ontario **MAKE OATH AND SAY AS FOLLOWS:**

1. I am the sole officer, director and shareholder of the Applicants, Silver Streams Homes Inc. ("Silver Streams") and Silver Streams Homes (Puccini) Inc. ("Puccini"). I am also the sole officer, director and shareholder of the Applicants 2148993 Ontario Inc. ("2148993"), 2148990 Ontario Inc. ("2148990"), 2147681 Ontario Inc. ("2147681") and 2147650 Ontario Inc. ("2147650", collectively, the "Title Holders"). As such, I have personal knowledge of the matters to which I dispose in this affidavit, save and except for such facts or matters which are stated to be based on information and belief and where so stated, I believe same to be true.

2. I swear this affidavit in support of an application by the Applicants for relief under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, C. C-36, as amended (the "CCAA").

OVERVIEW

3. Silver Streams is a residential homebuilder in the Greater Toronto Area. To date, it has successfully built approximately 100 homes and is in a position to build and complete a further 48 homes in the Puccini Project (defined below).

4. As described in further detail below, the Applicants have experienced significant financial challenges due to delays involved in the development of the Puccini Project and are insolvent. Secured debt in excess of $12 million is currently in default and numerous construction liens totalling in excess of $3.5 million have been registered against title to various lots in the Puccini Project.

5. There are currently 10 remaining homes in Phases II and III of the Puccini Project that are in various stages of completion. Two (2) of the homes have been presold and with minimal additional work can close shortly.

6. The Applicants' objective is to complete the 10 remaining homes in Phases II and III of the Puccini Project and to apply the net sale proceeds, after payment of operating costs and the costs of these proceedings, to payment of their creditors' claims in the priority determined by the Court.

7. A private lender affiliated with an existing secured lender has indicated it is prepared to provide the Applicants with debtor-in-possession ("DIP") financing to enable the Applicants to complete the construction of the homes and fund the costs of these proceedings.

8. The completion of the homes maximizes value for the Applicants' stakeholders and protects the interests of purchasers under executory agreements of purchase and sale.

THE APPLICANTS

9. Silver Streams was incorporated in 2003. In or about December 2003 it became a registrant with Tarion Warranty Corporation ("Tarion") as a home builder.

10. To date, Silver Streams has successfully completed the following projects:

(a) St. Albans Mews – a 9 townhouse home project, located in Holland Landing, Ontario - completed in 2006;

(b) Ashcott Mews – a 14 detached home project, located in Scarborough, Ontario – completed in 2008; and

(c) D&I Developments – a 4 detached home project, located in Maple, Ontario - completed in 2012.

THE PUCCINI PROJECT

11. In addition to the projects described in paragraph 10 above, the Applicants are in the process of completing a project of 118 units including detached homes, semi-detached homes and townhouses located at Bathurst Street and King Road in Richmond Hill, Ontario (the "Puccini Project"). The Puccini Project is being built in 4 phases. Title to the lands in Phases I, II and III are in the names of 2148990, 2148993, 2147650, and 2147681. Phase I comprises 20 detached homes and was completed in 2010. Phase II comprises 25 detached homes and was completed in late 2012. All but 3 homes in Phase II have been sold. Phase III consists of 25 detached homes. Eighteen (18)

of the homes were completed and sold between June and September 2013. Phase IV is registered in the name of 2148991 Ontario Inc. ("2148991") (a non-debtor in these proceedings) and consists of 40 townhouse units and 8 semi-detached homes. Construction of the homes in Phase IV has not yet commenced, although 33 of the homes have been presold. Attached hereto and marked as **Exhibit "A"** is a colour coded site map of the Puccini Project.

12. Puccini was incorporated in October 2008 for the purpose of selling the homes in the Puccini Project. Puccini is registered with Tarion and is the vendor under the agreements of purchase and sale for homes in the Puccini Project.

PUCCINI PROJECT FINANCING

BMO

13. Pursuant to a Term Sheet dated as of August 25, 2008 among Symphony Series Co-Tenancy Corp. ("Symphony") as Borrower, myself as guarantor, and Bank of Montreal ("BMO") as lender, BMO made available to Symphony, three credit facilities. Facility 1 was in the amount of $7,787,000 and was to repay existing financing in the amount of $4.9 million and to finance the servicing of Phases I, II and III of the Puccini Project. Facility 2 was in the amount of $1.1 million and was to finance Letters of Credit in favour of Tarion and Municipal and Regional Authorities. Facility 3 was in the amount of $3.5 million and was to finance construction of pre-sold homes. A true copy of the term sheet dated August 25, 2008 is attached as **Exhibit "B"**.

14. After its incorporation, we decided to develop the Puccini Project through Puccini and, accordingly, BMO made the above credit facilities available to Puccini as opposed to Symphony.

15. The BMO credit facilities were amended over time. Attached hereto and marked collectively as **Exhibit "C"** are true copies of the subsequent BMO term sheets.

16. All of the indebtedness owing to BMO under the credit facilities are secured, *inter alia*, by:

(a) Demand First Mortgages registered against title to the Phase I, II and III lands(the "**BMO Mortgages**"); and

(b) a General Security Agreement in favour of BMO;

Attached hereto and marked as **Exhibit "D"** and **Exhibit "E"** respectively are true copies of the BMO Mortgages and the General Security Agreement.

17. The loans granted by BMO in connection with the Puccini Project have substantially been repaid. Currently, the outstanding indebtedness to BMO is approximately $700,000.

HOME TRUST

18. In August 2012, Home Trust Company ("Home Trust") made loans to 2148990 and 2147650 each in the original principal amount of $617,500. As security for the loans, 2148990 and 2147650 each granted Home Trust first mortgages registered against title to Lots 23 and 24 in Phase II. The loans were renewed in August 2013. The loans are currently in default. Attached hereto and marked collectively as **Exhibit "F"** are true copies of the August 2012 term sheets, the August 2013 renewal letters and the default letters issued by Home Trust dated November 7, 2013.

FOREMOST

19. Pursuant to a term sheet dated January 15, 2013 Foremost Financial Corporation ("Foremost") granted a loan to 2147681 in the original principal amount of $640,000. The loan was not fully advanced. As set out in the term sheet, the total approximate advance was $467,585. The loan is currently in default. As security for the loan, 2147681 granted Foremost a first mortgage registered against title to Lot 1 in Phase II. Attached hereto and marked as **Exhibit "G"** is a true copy of the Foremost term sheet.

PRIVATE LENDERS

20. A number of private lenders also provided financing to the Puccini Project which loans are secured, *inter alia*, by mortgages registered against title to various lots of the Phase I, II and III lands. These mortgages matured in February 2013. The last time any interest payments were made on any of these loans was August 2013.

21. The total principal amount outstanding under these loans is in excess of $10 million. A chart summarizing the name of the private lender, the original amount of the loan and the approximate amount currently owing is set out below:

Lender	Original Principal Amount	Outstanding Amount
Puccini Mortgage Corporation	$2,600,000	$1,396,639
Dapaul Management Mortgage	$5,500,000	$3,178,055
388242 Ontario Limited	$1,500,000	$833,343

53 Puccini Mortgage Corp.	$2,000,000	$2,092,603
Nastell Investments Limited	$3,200,000	$3,054,860
Castle Lane Design Group Inc.	$3,500,000	$412,000

OTHER SECURED CREDITORS

22. I am advised by our lawyer, Stephen Schwartz, a partner with Chaitons LLP, that he obtained searches from the Ontario Personal Property Security Registration (the "PPSR") in respect of registrations which are outstanding against the Applicants as at December 4, 2013. In addition to registrations in favour of BMO and certain private lenders, the PPSR searches disclose the particulars of the following registrations registered subsequent to BMO and the private lenders against Silver Streams and Puccini:

(a) Royal Bank of Canada ("RBC") in respect of accounts; and

(b) National Leasing Group Inc. in respect of certain equipment.

23. With the exception of the registrations in favour of BMO and certain private lenders, there are no other registrations against the Title Holders. Copies of the PPSR searches are attached hereto and marked collectively as **Exhibit "H"**.

24. RBC provided financing to 2148991 to fund the acquisition of the land and fund servicing costs for Phase IV of the Puccini Project. As security for RBC's loan to 2148991, Silver Streams and Puccini provided corporate guarantees to RBC.

APPLICANTS' FINANCIAL DIFFICULTIES

25. The Puccini Project lands were acquired at different stages. The property was fully acquired by 2008. Acquisition financing for the lands was obtained by loans from Carevest Capital Inc. ("Carevest") and vendor take back financing. All of the vendor take back financing and the loans from Carevest have been refinanced with the proceeds of the BMO loans and private lenders' loans referenced above. The Applicants are borrowers or guarantors of the loans obtained by one or more of the Applicants from BMO and the private lenders to finance the acquisition and construction of the Puccini Project.

26. Our initial plan was to bring the lots to market within 2 years from acquisition of the lands. However, in 2008, the real estate market experienced a significant decline. We were unable to obtain financing for the construction of all of the homes at one time. Our construction lender, BMO, was only initially prepared to provide us with financing for the 20 homes in Phase I.

27. The inability to obtain construction financing for all of the homes at one time had a significant impact on the Applicants and is the primary reason for their financial woes. Further, the Applicants' ability to obtain municipal approval to build the remaining lots was delayed significantly. Rather than obtaining registration of a plan of subdivision for the entire project at one stage, due to financing constraints we were forced to apply on 3 different occasions for registration of a plan of subdivision for each phase. On each occasion it was as if Silver Streams was making an initial application and the conditions for approval that are common in the development process had to be met again. As a result, rather than obtaining approval to build all of the lots at one time, Silver Streams had to obtain approval three separate times with substantial delays between the approvals.

28. There were additional factors that contributed to the delay. Con-Drain took many more months to service the lands than originally anticipated.

29. Silver Streams was sued by an investor. The litigation was successfully defended. However, the litigation further delayed construction.

30. There were strikes by trades which caused delays.

31. As a result of the delays, the Applicants' costs continued to mount and they ran out of money. This required Silver Streams to obtain additional financing to carry the project and pay development costs. The financing for these matters was obtained from the private lenders described above. The private lenders did not provide any construction financing. The funds obtained from these lenders were used to refinance existing debt, establish interest reserves, pay financing costs, development charges and relevant municipal fees such as building permit fees and for working capital.

32. The Applicants do not have sufficient resources to complete construction of the remaining Phase II and III homes; service the loans to the private lenders; fund Tarion warranty work; pay trade suppliers to the Puccini Project and general overhead expenses.

33. Certain of the private lenders have issued Notices of Sale under Mortgage. Attached hereto and marked collectively as **Exhibit "I"** are true copies of the Notices of Sale.

34. A number of trades have registered claims for lien under the *Construction Lien Act* against title to the lots in the Puccini Project due to non-payment. The total amount of the liens are

approximately $3.5 million. As at December 9, 2013 the lien claimants and the amounts of their liens are as follows:

Lien Claimant	Amount of Claim
1865721 Ontario Inc.	$91,518.55
Canadian Concrete Forming Limited	$216,201.68
Cardell Flooring Ltd.	$94,922.10
E.D. Carpenters Limited	$328,674.01
Foremont Drywall Inc., 1382479 Ontario Inc., 1382503 Ontario Inc., 2203579 Ontario Inc. c.o.b. as Foremont Drywall Contracting	$434,577.93
Medi Group Incorporated	$521,675.00
Pave Plumbing & Heating Inc.	$227,302.95
Pilbro III Inc.	$554,353.82
Solo Electric Inc.	$186,364.16
Argo Lumber Inc.	$135,060.00
The King-Com Corporation	$104,574.23
The Sanderson-Harold Company Limited	$203,870.00
669857 Ontario Inc.	$108,287.00
Renova Recycling (2000) Inc.	$29,392.00
Newmar Window Manufacturing Inc.	$67,793.00
Con-Drain Company (1983) Limited	$94,837.00
Trustees of the Labourers' Union of North America Local 183	$22,568.00
669857 Ontario Inc. o/a Alma Mechanical	$108,287.44
Gincola Aluminum Contractors Inc.	$82,579.00
GM Exteriors Inc.	$46,559.20

Subsearches of title to Phases I, II and III of the Puccini Project and a chart showing the registered mortgages and construction lien claims against the remaining lots are attached hereto and marked as **Exhibit "J"**.

OTHER CREDITORS

35. There are a number of trade creditors totalling approximately $300,000. A number of these creditors have made demand for payment or commenced a collection action.

36. Puccini retained a number of consultants in connection with the development of the Puccini Project. These consultants have not been fully paid and are currently owed the total approximate amount of $254,198.

37. Including myself and my wife Asma Jinnah, Silver Streams and Puccini have approximately 10 salaried and hourly employees and contractors that are involved in all aspects of the development and sale of the homes including construction management, marketing and after sales service and repairs. The employees are non-unionized and there are no pension plans. The aggregate cost for these services is approximately $32,000 to $40,000 payable monthly plus an allowance for car, phone and expenses. These payments are currently in arrears.

38. Puccini currently owes HST with respect to the sale of homes in the Puccini Project in the amount of approximately $630,000, which amount is overdue.

CON-DRAIN COMPANY (1983) LIMITED ("CON-DRAIN")

39. In or about 2008 Silver Streams retained Con-Drain to provide earthworks, underground services, roads, curbs, asphalt and related labour and materials to the Puccini Project. Silver Streams was unable to pay Con-Drain the full amount outstanding.

40. In February 2010, Con-Drain registered two construction liens against title to Phases I, II and III of the Puccini Project. In March 2010, Silver Streams and Con-Drain entered into a settlement agreement. Under the terms of the settlement agreement, Silver Streams immediately paid Con-Drain $550,000. Silver Streams agreed to pay Con-Drain a further $50,000 per lot plus interest from future closings in the Puccini Project in accordance with the terms of a written undertaking. Con-Drain subsequently discharged its claims for lien.

41. Litigation has been commenced by Con-Drain against the Applicants arising from an allegation of default under the terms of the settlement agreement. Con-Drain claims payment of $800,000. In August 2013, Con-Drain commenced an action in Newmarket. A copy of the statement of claim is marked as **Exhibit "K"**. Statements of defence have not yet been filed.

42. On August 15, 2013, Con-Drain obtained an order from the Honourable Madam Justice Lack requiring that net proceeds from the sale of homes in the Puccini Project be paid to our lawyers', Chaitons LLP, trust account. Attached hereto and marked as **Exhibit "L"** is a true copy of the August 15, 2013 Order.

43. On October 15, 2013, a motion by Con-Drain to continue the order granted by Justice Lack was heard by the Honourable Madam Justice Gilmore. On November 20, 2013, Justice Gilmore released her endorsement. She ordered, among other things, that the Order of Justice Lack should be continued and that the net proceeds from the sale of homes up to the amount of $800,000 be paid into Court. Attached hereto and marked as **Exhibit "M"** is a true copy of the November 20, 2013 Endorsement.

44. I am advised by Mr. Schwartz, that there is currently the sum of $491,985.33 held in trust by Chaitons LLP which will be paid into Court pursuant to the Order of Justice Gilmore once the Order has been issued and entered.

REMAX REALTRON REALTY INC.

45. In September 2013, Remax commenced an action against Puccini, the Title Holders, myself and my wife seeking payment of $250,000 allegedly due for real estate commissions in connection with the sale of homes in the Puccini Project. Attached hereto and marked as **Exhibit "N"** is a true copy of the Statement of Claim.

46. On September 24, 2013, Remax brought a motion for interim relief, seeking payment of real estate commissions into court from the sale of homes. The Honourable Mr. Justice Newbould ordered that "the vendor/owner is entitled to pay (1) all secured lenders and any lien claimant sufficient amount to permit each sale to close; (2) applicable HST; and (3) legal fees for the closing." The net proceeds were to be held in trust by Chaitons LLP to be paid out only on consent of the parties or further court order. Attached hereto and marked as **Exhibit "O"** is a true copy of the endorsement of Justice Newbould.

47. No further closings have taken place subsequent to September 24, 2013.

FINANCIAL POSITION OF THE APPLICANTS

48. Attached hereto collectively as **Exhibit "P"** are true copies of the financial statements of Silver Streams and Puccini Project Management Inc. ("**Management**") for the fiscal year ended November 30, 2012 and December 31, 2012 respectively. There are no interim financial statements for 2013.

49. Management is a related company to Silver Streams and Puccini. All assets, liabilities, revenues and expenses of Puccini are reflected in these financial statements since 2010. The last financial statements prepared for Puccini were prepared in draft for the fiscal year December 2010, a true copy of which is attached hereto as **Exhibit "Q"**.

50. Attached hereto and marked collectively as **Exhibit "R"** are true copies of the financial statements for the Title Holders as at December 30, 2011. There are no further financial statements for the Title Holders. All proceeds of sale were recorded through Management and are reflected in Management's financial statements.

ANTICIPATED RESTRUCTURING

51. The Applicants' objective is to complete the 10 remaining homes in Phases II and III of the Puccini Project and to apply the net sale proceeds, after payment of operating costs and the costs of these proceedings, to payment of their creditors in the priority determined by the Court.

52. There are 3 homes in Phase II and 7 homes in Phase III that have not yet closed. BMO has a first mortgage registered against title to 7 of the lots. Home Trust has a first mortgage registered

against title to 2 of the lots and Foremost has a first mortgage registered against title to one of the lots. Certain of the private lenders have registered subsequent mortgages against title to the 10 lots. The claims for lien referred to above are also registered against title to some or all of these lots. The estimated net proceeds of the home sales are insufficient to discharge the encumbrances registered against these lots. Accordingly, I am advised by my lawyers that the completion and sale of these homes cannot be finalized by Puccini without the benefit of the Court granting a vesting order.

53. The details with respect to each of the remaining 10 homes are as follows:

(a) Phase II, lots 23 and 24 - these homes have been completed and have not yet been sold. They have been listed for sale periodically over the last year. No further construction is required with respect to these homes;

(b) Phase II, Lot 1 - this house is approximately 85% completed. Hardwood floors, certain plumbing, kitchen and bathroom counter tops, mirrors and painting is required. I estimate that the cost to do this work is approximately $65,000. I expect this house to be sold for approximately $1 million;

(c) Phase III, lot 18 - this house has been presold for the price of $895,000, however construction has not yet commenced. I believe that the cost to build this house is approximately $255,000;

(d) Phase III, lot 19 - this house is virtually constructed. There is some outstanding work with respect to the kitchen. I estimate that the cost to complete this home is $11,700. The property was sold to a purchaser who defaulted under its Agreement of Purchase and Sale. Silver Streams has retained the $40,000 deposit and terminated the agreement and will resell this home;

(e) Phase III, lot 20 - this house is approximately 85% complete. I estimate that the cost to complete the remaining work in the house is $50,000. The house is not presold. In my view, the expected selling price for this home is $935,000;

(f) Phase III, lot 22 - this house has been presold for the price of $980,000. The construction is approximately 85% complete. I estimate that there is $44,000 worth of work to complete the home. The purchaser has sold his existing home and is currently living in a hotel waiting for the house to be completed. Attached hereto as **Exhibit "S"** is a copy of a letter from the purchaser's lawyer. Upon obtaining financing, the work can be completed within 2-3 weeks;

(g) Phase III, lot 23 - this home requires approximately 50% of the construction to be completed. I estimate that $125,000 worth of work is required to complete the home. The house has not been sold. I estimate the sale price to be approximately $1.1 million;

(h) Phase III, lot 24 - construction of this house is approximately 50% complete. I estimate the cost to complete the house to be approximately $125,000. The house has not been sold. I estimate the sale price to be approximately $1.1 million.

(i) Phase III, lot 25 - this house is approximately 75% complete. I estimate that it will cost $60,000 to complete the construction. The house has presold for the price of $1,016,730. Upon obtaining financing, the required work can be completed within 3-4 weeks. To my knowledge, the purchaser is ready, willing and able to close the purchase of this home.

54. I estimate that the gross sale proceeds from the sale of these 10 homes will approximate $8,000,000 - $9,000,000 whereas the expected cost to complete the construction of the homes is approximately $800,000 to $1 million.

55. Silver Streams has continuing Tarion warranty obligations with respect to the sales of homes in Phases I, II and III of the Puccini Project. Tarion is concerned about Silver Streams' financial position. Attached hereto and marked collectively as **Exhibit "T"** are copies of the Tarion letters to Silver Streams dated November 19, 2013 and November 25, 2013.

56. I have personally guaranteed payment and performance of the Tarion obligations.

57. The ongoing servicing and deficiency work must be done. There are a number of home buyers who will be negatively impacted by our inability to provide this service.

58. Silver Streams is the best party to do the warranty work. We have a team in place, we are aware of the work that must be done and can do the work in an efficient, cost effective manner.

59. Silver Streams has provided letters of credit in favour of the Town of Richmond Hill to secure the performance of certain work under the terms of the Subdivision Agreement. The letters of credit are secured by $2.6 million in cash held on deposit at BMO.

60. The work that is necessary to be completed by Silver Streams for the Municipality/Town includes the construction of a park, planting of trees, construction of sidewalks, final asphalt, curbs and final maintenance. The work needs to be done as soon as possible. We have been requested by

the Municipality of York Region and the Town of Richmond Hill to do so. It is for the benefit of the residents currently living in the Puccini Project that this work be completed.

61. I estimate the cost to complete the outstanding work to be $600,000 which will result in a portion of the money currently held as cash collateral by BMO to secure the Letters of Credit to be released to Silver Streams when the work is completed.

STAY OF PROCEEDINGS

62. The Applicants require relief under the CCAA including a stay of proceedings in order to preserve the status quo and to obtain the necessary financing to complete the construction of the remaining 10 homes.

63. Without the benefit of CCAA protection, the Applicants will be unable to complete the homes, convey title to home buyers, complete the required work under the Subdivision Agreement, and comply with their Tarion obligations.

DIP FINANCING

64. Attached hereto as **Exhibit "U"** is a copy of the Applicants' cash flow projection for the 13 week period from December 20, 2013 to March 14, 2014 which the Applicants have prepared in connection with these proceedings and which has been reviewed by Grant Thornton Limited ("Grant Thornton") for reasonableness. The cash flow projects an immediate need for working capital to pay operating expenses, and the costs of these proceedings.

65. Sandall Investments Limited (the "DIP Lender"), an affiliate of one of the private lenders, has offered to make available to the Applicants a debtor-in-possession loan in the maximum amount of $1 million (the "DIP Loan") on the terms and conditions set out in a term sheet dated December 11, 2013 (the "DIP Loan Agreement"), a copy of which is attached hereto as **Exhibit "V"**.

66. It is a fundamental term of the DIP Loan that the Court grant an Initial Order on terms acceptable to the DIP Lender which shall require that the Monitor control the Applicants' receipts and disbursements and that the DIP Lender shall be entitled to the benefit of a charge (the "DIP Charge") which shall rank behind the Administration Charge (as defined below) but in priority to all other security interests, trusts, liens, construction liens (whether or not preserved or perfected) charges and encumbrances, statutory or otherwise in favour of any person.

67. As indicated above, the registered lien claims against the 10 homes is approximately $3.5 million. If the lien claims have priority over the private mortgages there will be sufficient funds available from the sale proceeds of the homes to pay their claims. However, if the lien claims do not have priority over any of the mortgages, there will not be sufficient funds to pay their claims irrespective of the DIP financing. In either event, the lien claimants will not be materially prejudiced by the proposed DIP financing.

68. Without DIP financing, the Applicants will be unable to continue their business and complete the construction and sale of the remaining 10 homes, all to the material detriment of their stakeholders including the secured lenders and purchasers under executory agreements of purchase and sale.

VESTING ORDER

69. As indicated above, Puccini has entered into binding agreements to sell the houses on lots 22 and 25 of Phase III of the Puccini Project. Copies of the Agreements of Purchase and Sale for these homes are attached hereto as **Exhibits "W"** and **"X"**, respectively. To my knowledge, the purchasers of these homes are ready, willing and able to close.

70. It is a condition of closing that Puccini transfer title to the homes free and clear of any encumbrances except those contemplated by the applicable agreements of purchase and sale. In the circumstances, Puccini is unable to do so without the benefit of a vesting order issued by this Court.

71. In order to avoid the additional expense of another motion, Puccini is also seeking at this time an order vesting in the respective purchasers all of the Applicants' rights, title and interest in and to the houses on lots 22 and 25 of Phase III of the Puccini Project free and clear of any encumbrances upon the delivery to the respective purchaser by the Monitor of a certificate confirming that the purchase price for the applicable house has been paid and the transaction has been completed (the "Monitor's Certificate").

72. As discussed above, the house located on lot 22 is close to being completed and the purchaser of this home is currently residing in a hotel. Puccini is responsible for the hotel and related costs incurred by the purchaser. It is anticipated that once the Initial Order and the Vesting Order are obtained, the purchaser can move into the house and the sale of the home can close subject to an agreed upon holdbac k for the minor work to be completed.

APPOINTMENT OF MONITOR

73. Grant Thornton has consented to act as the monitor of the Applicants under the CCAA. A copy of Grant Thornton's consent is attached hereto as **Exhibit "Y"**.

ADMINISTRATION CHARGE

74. It is contemplated that the proposed Monitor, counsel to the proposed Monitor and counsel to the Applicants would be granted a first priority Court-ordered charge on the assets, property and undertaking of the Applicants in priority to all claims but for the mortgages currently held in favour of BMO, Home Trust and Foremost (the "Administration Charge"), up to the maximum amount of $500,000 in respect of their fees and disbursements, incurred at standard rates and charges. The Applicants believe that the Administration Charge is fair and reasonable in the circumstances.

CONCLUSION

75. Several of the mortgagees and lien claimants have commenced enforcement proceedings to recover payment of the amounts owing to them.

76. The Applicants are insolvent on both a balance sheet and cash flow basis. They cannot repay their secured indebtedness which is in excess of $12 million or pay their trades who are owed approximately $3.5 million.

77. There are 10 homes that are either completed or under various stages of construction and that when closed, are expected to generate gross revenue of approximately $8 million to $9 million. Two

of the homes have been pre-sold to innocent third party purchaser who are ready, willing and able to close their purchases. One such purchaser is currently living in a hotel pending closing.

78. In the absence of CCAA protection and DIP financing, the completion and sale of the 10 homes will not occur. Moreover, the ongoing Tarion warranty service work and work required under the Subdivision Agreement will not be completed expeditiously nor in a cost effective manner.

79. For the reasons set out above, I believe that it is in the interests of the Applicants and all of their stakeholders that the relief sought by the Applicants is granted.

SWORN before me at the City of Toronto, Province of Ontario, this 11th day of December, 2013	
A Commissioner, Etc.	Imran Jinnah

Michael Robert Kril-Mascarin, a Commissioner, Province of Ontario, while a Student-at-Law. Expires August 12, 2016.

THIS IS **EXHIBIT "E"** REFERRED TO IN THE

AFFIDAVIT OF **IMRAN JINNAH**

SWORN BEFORE ME THIS 10^{th} DAY OF JANUARY, 2014

Court File No. 13-10362-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.	)	TUESDAY, THE 17TH
	)	
JUSTICE NEWBOULD	)	DAY OF DECEMBER, 2013

B E T W E E N:

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

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SILVER STREAMS HOMES INC., SILVER STREAMS HOMES (PUCCINI) INC., 2148993 ONTARIO INC., 2148990 ONTARIO INC., 2147681 ONTARIO INC. and 2147650 ONTARIO INC.

Applicants

VESTING ORDER

(Lot 22)

THIS APPLICATION, made by the Applicants for, *inter alia*, an order vesting in the Purchaser (as defined herein) the Applicants' right, title and interest in and to the assets (the "**Purchased Assets**") described in the Agreement of Purchase and Sale between Jalil Khan Ahmd (the "**Purchaser**") and Silver Streams Homes (Puccini) Inc. (the "**Vendor**") dated February 4, 2012 (the "**Sale Agreement**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Imran Jinnah sworn December 11, 2013 and the Proposed Monitor's Report, and on hearing the submissions of counsel for the Applicants and the Proposed Monitor, counsel for Bank of Montreal, counsel for Foremost Mortgage Corporation, counsel for the private secured lenders counsel for certain lien claimants, and such other counsel as are present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Lynn Lee sworn December 12, 2013 filed:

1. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Monitor's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "**Monitor's Certificate**"), all of the Applicants' right, title and interest in and to the Purchased Assets described in the Sale Agreement and listed on Schedule B hereto shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Newbould dated December 17, 2013; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

2. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of York Region (No. 65) of an Application for Vesting Order in the form prescribed by the *Land Titles Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "**Real Property**") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

3. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Monitor's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the

sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

4. **THIS COURT ORDERS AND DIRECTS** Grant Thornton Limited in its capacity as the "**Monitor**" of the Applicants, to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof.

5. **THIS COURT ORDERS** that the Monitor may rely on written notice from the Vendor and the Purchaser regarding fulfilment of conditions to closing under the Sale Agreement and shall incur no liability with respect to the delivery of the Monitor's Certificate.

6. **THIS COURT ORDERS** that, notwithstanding:

(a) the pendency of these proceedings;

(b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Applicants and any bankruptcy order issued pursuant to any such applications; and

(c) any assignment in bankruptcy made in respect of the Applicants;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Applicants and shall not be void or voidable by creditors of the Applicants, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

7. **THIS COURT ORDERS AND DECLARES** that the transaction contemplated by the Sale Agreement is exempt from the application of the *Bulk Sales Act* (Ontario).

8. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give

effect to this Order and to assist the Applicants and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants as may be necessary or desirable to give effect to this Order or to assist the Applicants and their agents in carrying out the terms of this Order.

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

DEC 17 2013

Schedule A – Form of Monitor's Certificate

Court File No. 13-10362-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

B E T W E E N:

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

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SILVER STREAMS HOMES INC., SILVER STREAMS HOMES (PUCCINI) INC., 2148993 ONTARIO INC., 2148990 ONTARIO INC., 2147681 ONTARIO INC. and 2147650 ONTARIO INC.

Applicants

MONITOR'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Newbould of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated December 17, 2013, the restructuring proceedings of the Applicants were commenced under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended and Grant Thornton Limited was appointed as the Monitor (the "**Monitor**").

B. Pursuant to an Order of the Court dated December 17, 2013 (for Lot 22) (the "**Lot 22 Vesting Order**"), the Court provided for the vesting in Jalil Khan Ahmd (the "**Purchaser**") all of the Applicants' right, title and interest in and to the assets described in the agreement of purchase and sale between the Purchaser and the Silver Streams Puccini (Homes) Inc. (the "**Vendor**") dated February 4, 2012 and described in **Schedule "B"** to the Lot 22 Vesting Order (the "**Purchased Assets**"), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the purchase price for the Purchased Assets; (ii) that the conditions to closing have been satisfied or waived by the Vendor and the Purchaser; and (iii) the transaction has been completed to the satisfaction of the Monitor.

C.

THE MONITOR CERTIFIES the following:

1. the Purchaser has paid and the Vendor has received the purchase price for the Purchased Assets;

2. the conditions to closing have been satisfied or waived by the Vendor and the Purchaser; and

3. the transaction has been completed to the satisfaction of the Monitor.

4. This Certificate was delivered by the Monitor at [TIME] on _____ [DATE].

Grant Thornton Limited, in its capacity as Monitor of the undertaking, property and assets of the Applicants, and not in its personal capacity

Per: ______________________________

Name: Jonathan Krieger
Title: Senior Vice President

Schedule B – Purchased Assets

Lot 22 on Plan 65M4331, Town of Richmond Hill; PIN -3206-3505 (LT)

Schedule C – LOT 22
Claims to be deleted and expunged from title to Real Property

1. Instrument No. YR1084937, registered on November 9, 2007, is a Transfer/Deed of Land, registered in favour of 2148990 Ontario Inc.

2. Instrument No. YR1273792, registered on January 5, 2009 is a Charge/Mortgage of Land in the principal amount of $12,387,000 in favour of Bank of Montreal.

3. Instrument No. YR1273793 registered on January 5, 2009 is a Notice/Assignment of Rents in favour of Bank of Montreal.

4. Instrument No. 1315616 registered on May 12, 2009 is a Notice of Agreement Amending Mortgage relating to Instrument No. YR1273792.

5. Instrument No. YR1388186 registered on October 13, 2009 is a Postponement by Bank of Montreal in favour of The Corporation of the Town of Richmond Hill relating to Instrument Nos. YR1273792 to YR1376244.

6. Instrument No. YR1493832 registered on June 10, 2010 is a Notice of Agreement Amending Mortgage relating to Instrument No. YR1273792.

7. Instrument No. YR1562903 registered on October 18, 2010 is a Charge/Mortgage of Land in the principal amount of $2,000,000 in favour of 53 Puccini Mortgage Corp.

8. Instrument No. YR1578126 registered on November 22, 2010 is a Postponement by 53 Puccini Mortgage Corp. in favour of Bank of Montreal relating to Instrument Nos. YR1562903 to YR1273792.

9. Instrument No. YR1657652 registered on June 2, 2011 is a Notice of Agreement Amending Mortgage relating to Instrument No. YR1273792.

10. Instrument No. YR1657656 registered on June 2, 2011 is a Charge/Mortgage of Land in the principal amount of $3,200,000 in favour of Nastell Investments Limited.

11. Instrument No. YR1783162 registered on February 13, 2012 is a Notice of Agreement Amending Mortgage relating to Instrument No. YR1657656.

12. Instrument No. YR1812191 registered on April 23, 2012 is a Postponement by Bank of Montreal in favour of the Corporation of the Town of Richmond Hill relating to Instrument Nos. YR1273792, YR1273793, YR1315616, YR1493832 to YR1811419.

13. Instrument No. YR1812192 registered on April 23, 2012 is a Postponement by 53 Puccini Mortgage Corp in favour of The Corporation of the Town of Richmond Hill relating to Instrument Nos. YR1562903 and YR1657652 to YR1811419.

14. Instrument No. YR1812193 registered on April 23, 2012 is a Postponement by Nastell Investments Limited in favour of the Corporation of the Town of Richmond Hill relating to Instrument Nos. YR1657656 and YR1783162 to YR1811419.

15. Instrument No. YR2016863, registered on August 9, 2013, is a Construction Lien, in the amount of $94,837 in favour of Con-Drain Company (1983) Limited.

16. Instrument No. YR2016890, registered on August 9, 2013, is a Notice registered by Con-Drain Company (1983) Limited.

17. Instrument No. YR2048904, registered on October 18, 2013, is a Construction Lien, in the amount of $135,060 in favour of Argo Lumber Inc.

18. Instrument No. YR2049079, registered on October 18, 2013, is a Construction Lien, in the amount of $104,574 in favour of The King-Con Corporation.

19. Instrument No. YR2050277, registered on October 22, 2013, is a Construction Lien, in the amount of $67,793 in favour of Newmar Window Manufacturing Inc.

20. Instrument No. YR2050961, registered on October 23, 2013, is a Construction Lien, in the amount of $22,568 in favour of the Trustees of the Labourers Union of North America Local 183 Members' Benefit Trust Fund.

21. Instrument No. YR2056986, registered on November 6, 2013, is a Construction Lien, in the amount of $554,354 in favour of Pilbro III Inc.

22. Instrument No. YR2057173, registered on November 6, 2013, is a Construction Lien, in the amount of $521,675 in favour of Medi Group Incorporated.

23. Instrument No. YR2057568, registered on November 7, 2013, is a Construction Lien, in the amount of $94,922 in favour of Cardell Flooring Ltd.

24. Instrument No. YR2057675, registered on November 7, 2013, is a Construction Lien, in the amount of $434,578 in favour of Foremont Drywall Inc., 1382479 Ontario Inc., 1382503 Ontario Inc., 2203579 Ontario Inc.

25. Instrument No. YR2057676, registered on November 7, 2013, is a Construction Lien, in the amount of $216,202 in favour of Canadian Concrete Forming Limited.

26. Instrument No. YR2057677, registered on November 7, 2013, is a Construction Lien, in the amount of $227,303 in favour of Pave Plumbing & Heating Inc.

27. Instrument No. YR2058240, registered on November 8, 2013, is a Construction Lien, in the amount of $328,674 in favour of E. D. Carpenters Limited.

28. Instrument No. YR2058688, registered on November 12, 2013, is a Construction Lien, in the amount of $186,364 in favour of Solo Electric Ltd.

29. Instrument No. YR2059379, registered on November 13, 2013, is a Construction Lien, in the amount of $91,519 in favour of 1865721 Ontario Inc.

30. Instrument No. YR2060246, registered on November 14, 2013, is a Construction Lien, in the amount of $108,287 in favour of 669857 Ontario Inc.

31. Instrument No. YR2060384, registered on November 14, 2013, is a Construction Lien, in the amount of $29,392 in favour of Renova Recycling (2000) Inc.

32. Instrument No. YR2060546, registered on November 15, 2013, is a Certificate registered by 1865721 Ontario Inc., relating to Construction Lien No. YR2059379.

33. Instrument No. YR2060547, registered on November 15, 2013, is a Certificate registered by Medi Group Incorporated, relating to Construction Lien No. YR2057173.

34. Instrument No. YR2060548, registered on November 15, 2013, is a Certificate registered by Cardell Flooring Ltd., relating to Construction Lien No. YR2057568.

35. Instrument No. YR2060549, registered on November 15, 2013, is a Certificate registered by Canadian Concrete Forming Limited., relating to Construction Lien No. YR2057676.

36. Instrument No. YR2060550, registered on November 15, 2013, is a Certificate registered by Foremont Drywall Inc., 1382479 Ontario Inc., 1382503 Ontario Inc., 2203579 Ontario Inc., and C.O.B Foremont Drywall Contracting, relating to Construction Lien No. YR2057675.

37. Instrument No. YR2060551, registered on November 15, 2013, is a Certificate registered by E. D. Carpenters Limited, relating to Construction Lien No. YR2058240.

38. Instrument No. YR2060571, registered on November 15, 2013, is a Certificate registered by Solo Electric Ltd., relating to Construction Lien No. YR2058688.

39. Instrument No. YR2060572, registered on November 15, 2013, is a Certificate registered by Pilbro III Inc., relating to Construction Lien No. YR2056986.

40. Instrument No. YR2060573, registered on November 15, 2013, is a Certificate registered by Pave Plumbing & Heating Inc., relating to Construction Lien No. YR2057677.

41. Instrument No. YR2061882, registered on November 18, 2013, is a Certificate of Action registered by The King-Con Corporation, relating to Construction Lien No. YR2049079.

42. Instrument No. YR2062198, registered on November 19, 2013, is a Construction Lien, in the amount of $46,559 in favour of GM Exteriors Inc.

43. Instrument No. YR2062199, registered on November 19, 2013, is a Construction Lien, in the amount of $82,579 in favour of Giancola Aluminum Contractors Inc.

44. Instrument No. YR2067687, registered on November 29, 2013, is a Certificate of Action registered by Argo Lumber Inc., relating to Construction Lien No. YR2048904.

45. Instrument No. YR2067695, registered on November 29, 2013, is a Certificate of Action registered by Newmar Window Manufacturing Inc., relating to Construction Lien No. YR2050277.

46. Instrument No. YR2070295, registered on December 5, 2013, is a Certificate of Action registered by GM Exteriors Inc., relating to Construction Lien No. YR2062198.

47. Instrument No. YR2070296, registered on December 5, 2013, is a Certificate of Action registered by Giancola Aluminum Contractors Inc., relating to Construction Lien No. YR2062199.

48. Instrument No. YR2071421, registered on December 9, 2013, is a Certificate of Action registered by the Trustees of the Labourers' International Union of North America Local 183 Members' Benefit Trust Fund, relating to Construction Lien No. YR2050961.

SCHEDULE D: Permitted Encumbrances, Easements and Restrictive Covenants related to the Real Property (unaffected by the Vesting Order)

1. Instrument No. YR1376244, registered on September 18, 2009, is a Notice of Subdivision Agreement in favour of The Corporation of The Town of Richmond Hill.

2. Instrument No. YR1811419, registered on April 20, 2012, is a Notice of Subdivision Agreement in favour of The Corporation of The Town of Richmond Hill.

3. 65M-4331, is a Plan of Subdivision registered on July 20, 2012.

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SILVER STREAMS HOMES INC., SILVER STREAMS HOMES (PUCCINI) INC., 2148993 ONTARIO INC., 2148990 ONTARIO INC., 2147681 ONTARIO INC. AND 2147650 ONTARIO INC.

Court File No. 13-10362-00-CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at TORONTO

VESTING ORDER (LOT 22)

CHAITONS LLP
Barristers and Solicitors
5000 Yonge Street, 10th Floor
Toronto, ON M2N 7E9

Harvey Chaiton (LSUC #21592F)
Tel: (416) 218-1129
Fax: (416) 218-1849

Stephen Schwartz (LSUC #25980A)
Tel: (416) 218-1132
Fax: (416) 218-1832

Maya Poliak (LSUC #54100A)
Tel: 416-218-1161
Fax: 416-218-1844

Lawyers for the Applicants

Court File No. 13-10362-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.	)	TUESDAY, THE 17TH
	)	
JUSTICE NEWBOULD	)	DAY OF DECEMBER, 2013

BETWEEN:

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

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SILVER STREAMS HOMES INC., SILVER STREAMS HOMES (PUCCINI) INC., 2148993 ONTARIO INC., 2148990 ONTARIO INC., 2147681 ONTARIO INC. and 2147650 ONTARIO INC.

Applicants

VESTING ORDER

(Lot 25)

THIS APPLICATION, made by the Applicants for, *inter alia*, an order vesting in the Purchasers (as defined herein) the Applicants' right, title and interest in and to the assets (the "**Purchased Assets**") described in the Agreement of Purchase and Sale between Azizulla Hayatullah and Fatana Rahmatullah (the "**Purchasers**") and Silver Streams Homes (Puccini) Inc. (the "**Vendor**") dated January 31, 2012 (the "**Sale Agreement**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Imran Jinnah sworn December 11, 2013 and the Proposed Monitor's Report, and on hearing the submissions of counsel for the Applicants and the Proposed Monitor, counsel for Bank of Montreal, counsel for Foremost Mortgage Corporation, counsel for the private secured lenders, counsel for certain lien claimants, and such other counsel as are present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Lynn Lee sworn December 12, 2013 filed:

1. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Monitor's certificate to the Purchasers substantially in the form attached as Schedule A hereto (the "**Monitor's Certificate**"), all of the Applicants' right, title and interest in and to the Purchased Assets described in the Sale Agreement and listed on Schedule B hereto shall vest absolutely in the Purchasers, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Newbould dated December 17, 2013; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

2. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of York Region (No. 65) of an Application for Vesting Order in the form prescribed by the *Land Titles Act*, the Land Registrar is hereby directed to enter the Purchasers as the owners of the subject real property identified in Schedule B hereto (the "**Real Property**") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

3. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Monitor's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the

sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

4. **THIS COURT ORDERS AND DIRECTS** Grant Thornton Limited in its capacity as the "**Monitor**" of the Applicants, to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof.

5. **THIS COURT ORDERS** that the Monitor may rely on written notice from the Vendor and the Purchasers regarding fulfilment of conditions to closing under the Sale Agreement and shall incur no liability with respect to the delivery of the Monitor's Certificate.

6. **THIS COURT ORDERS** that, notwithstanding:

(a) the pendency of these proceedings;

(b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Applicants and any bankruptcy order issued pursuant to any such applications; and

(c) any assignment in bankruptcy made in respect of the Applicants;

the vesting of the Purchased Assets in the Purchasers pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Applicants and shall not be void or voidable by creditors of the Applicants, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

7. **THIS COURT ORDERS AND DECLARES** that the transaction contemplated by the Sale Agreement is exempt from the application of the *Bulk Sales Act* (Ontario).

8. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give

effect to this Order and to assist the Applicants and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants as may be necessary or desirable to give effect to this Order or to assist the Applicants and their agents in carrying out the terms of this Order.

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

DEC 17 2013

Schedule A – Form of Monitor's Certificate

Court File No. 13-10362-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

BETWEEN:

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

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SILVER STREAMS HOMES INC., SILVER STREAMS HOMES (PUCCINI) INC., 2148993 ONTARIO INC., 2148990 ONTARIO INC., 2147681 ONTARIO INC. and 2147650 ONTARIO INC.

Applicants

MONITOR'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Newbould of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated December 17, 2013, the restructuring proceedings of the Applicants were commenced under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended and Grant Thornton Limited was appointed as the Monitor (the "**Monitor**").

B. Pursuant to an Order of the Court dated December 17, 2013 (for Lot 25) (the "**Lot 25 Vesting Order**"), the Court provided for the vesting in Axixullah Hayatullah and Fatana Rahmatullah (the "**Purchasers**") all of the Applicants' right, title and interest in and to the assets described in the agreement of purchase and sale between the Purchasers and the Silver Streams Puccini (Homes) Inc. (the "**Vendor**") dated January 31, 2012 and described in **Schedule "B"** to the Lot 25 Vesting Order (the "**Purchased Assets**"), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchasers of a certificate confirming (i) the payment by the Purchasers of the purchase price for the Purchased Assets; (ii) that the conditions to closing have been satisfied or waived by the Vendor and the Purchasers; and (iii) the transaction has been completed to the satisfaction of the Monitor.

C.

THE MONITOR CERTIFIES the following:

1. the Purchasers have paid and the Vendor has received the purchase price for the Purchased Assets;

2. the conditions to closing have been satisfied or waived by the Vendor and the Purchasers; and

3. the transaction has been completed to the satisfaction of the Monitor.

4. This Certificate was delivered by the Monitor at [TIME] on _____ [DATE].

Grant Thornton Limited, in its capacity as Monitor of the undertaking, property and assets of the Applicants, and not in its personal capacity

Per: ______________________________

Name: Jonathan Krieger
Title: Senior Vice President

Schedule B – Purchased Assets

Lot 25 on Plan 65M4331, Town of Richmond Hill; PIN - 03206-3508 (LT)

Schedule C – LOT 25
Claims to be deleted and expunged from title to Real Property

1. Instrument No. YR1084937, registered on November 9, 2007, is a Transfer/Deed of Land, registered in favour of 2148990 Ontario Inc.

2. Instrument No. YR1273792, registered on January 5, 2009 is a Charge/Mortgage of Land in the principal amount of $12,387,000 in favour of Bank of Montreal.

3. Instrument No. YR1273793 registered on January 5, 2009 is a Notice/Assignment of Rents in favour of Bank of Montreal.

4. Instrument No. 1315616 registered on May 12, 2009 is a Notice of Agreement Amending Mortgage relating to Instrument No. YR1273792.

5. Instrument No. YR1388186 registered on October 13, 2009 is a Postponement by Bank of Montreal in favour of The Corporation of the Town of Richmond Hill relating to Instrument Nos. YR1273792 to YR1376244.

6. Instrument No. YR1493832 registered on June 10, 2010 is a Notice of Agreement Amending Mortgage relating to Instrument No. YR1273792.

7. Instrument No. YR1562903 registered on October 18, 2010 is a Charge/Mortgage of Land in the principal amount of $2,000,000 in favour of 53 Puccini Mortgage Corp.

8. Instrument No. YR1578126 registered on November 22, 2010 is a Postponement by 53 Puccini Mortgage Corp. in favour of Bank of Montreal relating to Instrument Nos. YR1562903 to YR1273792.

9. Instrument No. YR1657652 registered on June 2, 2011 is a Notice of Agreement Amending Mortgage relating to Instrument No. YR1273792.

10. Instrument No. YR1657656 registered on June 2, 2011 is a Charge/Mortgage of Land in the principal amount of $3,200,000 in favour of Nastell Investments Limited.

11. Instrument No. YR1783162 registered on February 13, 2012 is a Notice of Agreement Amending Mortgage relating to Instrument No. YR1657656.

12. Instrument No. YR1812191 registered on April 23, 2012 is a Postponement by Bank of Montreal in favour of the Corporation of the Town of Richmond Hill relating to Instrument Nos. YR1273792, YR1273793, YR1315616, YR1493832 to YR1811419.

13. Instrument No. YR1812192 registered on April 23, 2012 is a Postponement by 53 Puccini Mortgage Corp in favour of The Corporation of the Town of Richmond Hill relating to Instrument Nos. YR1562903 and YR1657652 to YR1811419.

14. Instrument No. YR1812193 registered on April 23, 2012 is a Postponement by Nastell Investments Limited in favour of the Corporation of the Town of Richmond Hill relating to Instrument Nos. YR1657656 and YR1783162 to YR1811419.

15. Instrument No. YR2016863, registered on August 9, 2013, is a Construction Lien, in the amount of $94,837 in favour of Con-Drain Company (1983) Limited.

16. Instrument No. YR2016890, registered on August 9, 2013, is a Notice registered by Con-Drain Company (1983) Limited.

17. Instrument No. YR2043150 registered on October 3, 2013 is a Certificate registered by Con-Drain Company (1983) Ltd. relating to Instrument No. YR2016863.

18. Instrument No. YR2048904, registered on October 18, 2013, is a Construction Lien, in the amount of $135,060 in favour of Argo Lumber Inc.

19. Instrument No. YR2049079, registered on October 18, 2013, is a Construction Lien, in the amount of $104,574 in favour of The King-Con Corporation.

20. Instrument No. YR2050277, registered on October 22, 2013, is a Construction Lien, in the amount of $67,793 in favour of Newmar Window Manufacturing Inc.

21. Instrument No. YR2050961, registered on October 23, 2013, is a Construction Lien, in the amount of $22,568 in favour of the Trustees of the Labourers' Union of North America Local 183 Members' Benefit Trust Fund.

22. Instrument No. YR2056986, registered on November 6, 2013, is a Construction Lien, in the amount of $554,354 in favour of Pilbro III Inc.

23. Instrument No. YR2057173, registered on November 6, 2013, is a Construction Lien, in the amount of $521,675 in favour of Medi Group Incorporated.

24. Instrument No. YR2057568, registered on November 7, 2013, is a Construction Lien, in the amount of $94,922 in favour of Cardell Flooring Ltd.

25. Instrument No. YR2057675, registered on November 7, 2013, is a Construction Lien, in the amount of $434,578 in favour of Foremont Drywall Inc., 1382479 Ontario Inc., 1382503 Ontario Inc., 2203579 Ontario Inc.

26. Instrument No. YR2057676, registered on November 7, 2013, is a Construction Lien, in the amount of $216,202 in favour of Canadian Concrete Forming Limited.

27. Instrument No. YR2057677, registered on November 7, 2013, is a Construction Lien, in the amount of $227,303 in favour of Pave Plumbing & Heating Inc.

28. Instrument No. YR2058240, registered on November 8, 2013, is a Construction Lien, in the amount of $328,674 in favour of E. D. Carpenters Limited.

29. Instrument No. YR2058638, registered on November 12, 2013 is a Construction Lien in the amount of $203,870 in favour of The Sanderson-Harold Company Limited.

30. Instrument No. YR2058688, registered on November 12, 2013, is a Construction Lien, in the amount of $186,364 in favour of Solo Electric Ltd.

31. Instrument No. YR2059379, registered on November 13, 2013, is a Construction Lien, in the amount of $91,519 in favour of 1865721 Ontario Inc.

32. Instrument No. YR2060246, registered on November 14, 2013, is a Construction Lien, in the amount of $108,287 in favour of 669857 Ontario Inc.

33. Instrument No. YR2060384, registered on November 14, 2013, is a Construction Lien, in the amount of $29,392 in favour of Renova Recycling (2000) Inc.

34. Instrument No. YR2060546, registered on November 15, 2013, is a Certificate registered by 1865721 Ontario Inc., relating to Construction Lien No. YR2059379.

35. Instrument No. YR2060547, registered on November 15, 2013, is a Certificate registered by Medi Group Incorporated, relating to Construction Lien No. YR2057173.

36. Instrument No. YR2060548, registered on November 15, 2013, is a Certificate registered by Cardell Flooring Ltd., relating to Construction Lien No. YR2057568.

37. Instrument No. YR2060549, registered on November 15, 2013, is a Certificate registered by Canadian Concrete Forming Limited., relating to Construction Lien No. YR2057676.

38. Instrument No. YR2060550, registered on November 15, 2013, is a Certificate registered by Foremont Drywall Inc., 1382479 Ontario Inc., 1382503 Ontario Inc., 2203579 Ontario Inc., and C.O.B Foremont Drywall Contracting, relating to Construction Lien No. YR2057675.

39. Instrument No. YR2060551, registered on November 15, 2013, is a Certificate registered by E. D. Carpenters Limited, relating to Construction Lien No. YR2058240.

40. Instrument No. YR2060571, registered on November 15, 2013, is a Certificate registered by Solo Electric Ltd., relating to Construction Lien No. YR2058688.

41. Instrument No. YR2060572, registered on November 15, 2013, is a Certificate registered by Pilbro III Inc., relating to Construction Lien No. YR2056986.

42. Instrument No. YR2060573, registered on November 15, 2013, is a Certificate registered by Pave Plumbing & Heating Inc., relating to Construction Lien No. YR2057677.

43. Instrument No. YR2061882, registered on November 18, 2013, is a Certificate registered by The King-Con Corporation, relating to Construction Lien No. YR2049079.

44. Instrument No. YR2062198, registered on November 19, 2013, is a Construction Lien, in the amount of $46,559 in favour of GM Exteriors Inc.

45. Instrument No. YR2062199, registered on November 19, 2013, is a Construction Lien, in the amount of $82,579 in favour of Giancola Aluminum Contractors Inc.

46. Instrument No. YR2067687, registered on November 29, 2013, is a Certificate of Action registered by Argo Lumber Inc., relating to Construction Lien No. YR2048904.

47. Instrument No. YR2067695, registered on November 29, 2013, is a Certificate of Action registered by Newmar Window Manufacturing Inc., relating to Construction Lien No. YR2050277.

48. Instrument No. YR2070295, registered on December 5, 2013, is a Certificate of Action registered by GM Exteriors Inc., relating to Construction Lien No. YR2062198.

49. Instrument No. YR2070296, registered on December 5, 2013, is a Certificate of Action registered by Giancola Aluminum Contractors Inc., relating to Construction Lien No. YR2062199.

50. Instrument No. YR2071421, registered on December 9, 2013, is a Certificate of Action registered by the Trustees of the Labourers' International Union of North America Local 183 Members' Benefit Trust Fund, relating to Construction Lien No. YR2050961.

Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants related to the Real Property

(unaffected by the Vesting Order)

1. Instrument No. YR1376244, registered on September 18, 2009, is a Notice of Subdivision Agreement in favour of The Corporation of The Town of Richmond Hill.

2. Instrument No. YR1811419, registered on April 20, 2012, is a Notice of Subdivision Agreement in favour of The Corporation of The Town of Richmond Hill.

3. 65M-4331, is a Plan of Subdivision registered on July 20, 2012.

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SILVER STREAMS HOMES INC., SILVER STREAMS HOMES (PUCCINI) INC., 2148993 ONTARIO INC., 2148990 ONTARIO INC., 2147681 ONTARIO INC. AND 2147650 ONTARIO INC.

Court File No. 13-10362-00-CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at TORONTO

VESTING ORDER (LOT 25)

CHAITONS LLP
Barristers and Solicitors
5000 Yonge Street, 10th Floor
Toronto, ON M2N 7E9

Harvey Chaiton (LSUC #21592F)
Tel: (416) 218-1129
Fax: (416) 218-1849

Stephen Schwartz (LSUC #25980A)
Tel: (416) 218-1132
Fax: (416) 218-1832

Maya Poliak (LSUC #54100A)
Tel: 416-218-1161
Fax: 416-218-1844

Lawyers for the Applicants

THIS IS **EXHIBIT “F”** REFERRED TO IN THE

AFFIDAVIT OF **IMRAN JINNAH**

SWORN BEFORE ME THIS 10th DAY OF JANUARY, 2014

Silver Streams Homes Puccini Inc. et. al.
Projected Statement of Cash Flow
For the 13-week period ending March 14, 2014
(Unaudited, $C)

		2013		2014											
		20-Dec	27-Dec	03-Jan	10-Jan	17-Jan	24-Jan	31-Jan	07-Feb	14-Feb	21-Feb	28-Feb	07-Mar	14-Mar	Total
Receipts															
Lot #22															
Gross closing proceeds, net of deposit collected	1	-	-	-	827,257	-	-	-	-	-	-	-	-	-	827,257
Commission payable (2.5% of gross purchase price)	1	-	-	-	(24,500)	-	-	-	-	-	-	-	-	-	(24,500)
Lot #25															
Gross closing proceeds, net of deposit collected	1	-	-	-	-	-	-	918,257	-	-	-	-	-	-	918,257
Commission payable (3.5% of gross purchase price)	1	-	-	-	-	-	-	(39,086)	-	-	-	-	-	-	(39,086)
General															
Interim financing facility (i.e. DIP loan)	2	425,000	-	-	-	-	-	-	-	-	-	-	-	-	425,000
HST rebates		-	-	-	-	-	-	-	-	-	-	-	-	48,000	48,000
HST collected	1	-	-	-	112,743	-	-	128,473	-	-	-	-	-	-	241,217
Total receipts		425,000	-	-	915,500	-	-	1,007,644	-	-	-	-	-	48,000	2,396,144
Disbursements															
Lot #22															
Interior finishing cost	3	19,800	12,952	-	-	-	-	-	-	-	-	-	-	-	32,752
Exterior finishing cost	3	5,500	5,700	-	-	-	-	-	-	-	-	-	-	-	11,200
HST (13%)		3,289	2,425	-	-	-	-	-	-	-	-	-	-	-	5,714
Lot #25															
Interior finishing cost	3	13,750	10,807	21,332	1,000	-	-	-	-	-	-	-	-	-	46,889
Exterior finishing cost	3	3,500	5,500	-	5,500	-	-	-	-	-	-	-	-	-	14,500
HST (13%)		2,243	2,120	2,773	845	-	-	-	-	-	-	-	-	-	7,981
Lot #23															
Interior finishing cost	3	-	-	-	-	5,494	24,826	28,020	12,020	9,950	19,764	4,300	1,400	-	105,774
Exterior finishing cost	3	-	-	-	-	10,556	-	-	-	-	-	-	5,500	-	16,056
HST (13%)		-	-	-	-	2,086	3,227	3,643	1,563	1,294	2,569	559	897	-	15,838
Lot #24															
Interior finishing cost	3	-	-	-	-	5,494	24,826	28,020	12,020	9,950	19,764	4,300	1,400	-	105,774
Exterior finishing cost	3	-	-	-	-	10,556	-	-	-	-	-	-	5,500	-	16,056
HST (13%)		-	-	-	-	2,086	3,227	3,643	1,563	1,294	2,569	559	897	-	15,838
Lot #20															
Interior finishing cost	3	-	-	-	-	17,238	6,631	19,509	1,000	-	-	-	-	-	44,377
Exterior finishing cost	3	-	-	-	-	-	-	-	5,500	-	-	-	-	-	5,500
HST (13%)		-	-	-	-	2,241	862	2,536	845	-	-	-	-	-	6,484
Lot #19															
Interior finishing cost	3	-	-	-	-	5,500	700	-	-	-	-	-	-	-	6,200
Exterior finishing cost	3	-	-	-	-	-	5,500	-	-	-	-	-	-	-	5,500
HST (13%)		-	-	-	-	715	806	-	-	-	-	-	-	-	1,521
Lot #1															
Interior finishing cost	3	-	-	-	-	27,038	17,700	2,800	-	-	-	-	-	-	47,538
Exterior finishing cost	3	-	-	-	-	5,450	1,200	3,600	-	-	-	-	-	-	10,250
HST (13%)		-	-	-	-	4,223	2,457	832	-	-	-	-	-	-	7,512
General (exclusive of HST)															
Management fees	4	40,320	-	-	-	32,410	-	-	-	32,410	-	-	-	32,410	137,550
Property taxes		-	-	-	-	-	-	-	-	-	-	-	-	-	-
Insurance		6,000	-	-	-	2,746	-	-	-	2,746	-	-	-	2,746	14,239
Office expenses		4,000	-	-	-	4,000	-	-	-	4,000	-	-	-	4,000	16,000
Automotive expenses		7,000	-	-	-	7,000	-	-	-	7,000	-	-	-	7,000	28,000
Post-closing service costs re: Lot 17		8,475	-	-	-	-	-	-	-	-	-	-	-	-	8,475
Tarion warranty - service and materials	5	24,360	6,090	6,090	6,090	6,090	6,090	6,090	6,090	6,090	6,090	6,090	6,090	6,090	97,440
Interest/loan payments	6	-	-	-	-	-	-	-	-	-	-	-	-	-	-
HST remittance/(refund)		-	-	-	-	-	-	-	-	-	-	-	-	35,373	35,373
Contingency (15% of construction costs)		7,212	5,926	3,616	1,102	14,801	13,794	13,890	5,177	3,373	6,700	1,458	2,339	-	79,388
Repayment of the interim financing facility	2	-	-	-	-	428,912	-	-	-	-	-	-	-	-	428,912
Professional fees	7	175,000	-	-	75,000	-	-	75,000	-	-	75,000	-	-	50,000	450,000
Total disbursements		320,449	51,519	33,811	89,537	594,637	111,847	187,583	45,777	78,107	132,457	17,266	24,023	137,619	1,824,630
Net cash inflow (outflow)		104,551	(51,519)	(33,811)	825,963	(594,637)	(111,847)	820,062	(45,777)	(78,107)	(132,457)	(17,266)	(24,023)	(89,619)	571,514
Bank account - opening balance		-	104,551	53,032	19,221	845,185	250,548	138,701	958,762	912,985	834,879	702,422	685,156	661,133	-
Bank account - closing balance		104,551	53,032	19,221	845,185	250,548	138,701	958,762	912,985	834,879	702,422	685,156	661,133	571,514	571,514

Silver Streams Homes Puccini Inc. et. al.
Projected Statement of Cash Flow
For the 13-week period ending March 14, 2014
(Unaudited, $C)

Hypothetical Assumptions:

1. Lots 22 and 25 are subject to sale agreements with third parties. These homes are projected to be substantially completed by the end of December, 2013 and mid-January, 2014, respectively. The sale closings are anticipated to take place in January 2014. It is assumed that proceeds of realization in these proceedings would be held by the Monitor pending further order of the Court regarding creditor priority; however, the interim financing facility is assumed to be repaid from the proceeds of the closing of the sale of Lots 22 and/or 25, as are the cost of construction for the remaining homes and the outstanding costs of the CCAA proceedings.

2. The interim financing facility is subject to a term sheet that is attached to the Affidavit of Imran Jinnah filed with the Applicants' motion record. The loan attracts interest at 12% per year. The lender is also affiliated with one of the Applicants' private mortgage lenders. The loan is anticipated to be repaid from the proceeds of sale of Lots 22 and/or 25.

3. Represents the estimated costs to complete the homes currently under construction.

4. Represents amounts payable to various parties, including the management team responsible for all construction and sales activities of the Applicants. Parties receiving payments include the Applicants' principals as well as third party vendors/service providers.

5. Represents post-closing servicing costs as required by the Tarion new home warranty program. Includes three weeks of arrears in the week ending December 20, 2013.

6. Interest and loan payments are not projected to be paid during the CCAA proceedings.

7. Represents the fees and costs of the Applicants' counsel, the Monitor and the Monitor's independent counsel.

Probable Assumptions:

1. The sale of homes other than those located on lots 22 and 25 are assumed to close after March 14, 2014.

THIS IS **EXHIBIT "G"** REFERRED TO IN THE

AFFIDAVIT OF **IMRAN JINNAH**

SWORN BEFORE ME THIS 10th DAY OF JANUARY, 2014

____

Court File No. CV-13-10362-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.	)	THURSDAY, THE 16TH DAY
	)	
JUSTICE BROWN	)	OF JANUARY, 2014

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

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SILVER STREAMS HOMES INC., SILVER STREAMS HOMES (PUCCINI) INC., 2148993 ONTARIO INC., 2148990 ONTARIO INC., 2147681 ONTARIO INC. AND 2147650 ONTARIO INC.

Applicants

CLAIMS PROCESS ORDER

THIS MOTION, made by the Applicants for an order establishing a claims procedure was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Imran Jinnah sworn January 10, 2014 and the Monitor's First Report to the Court dated January 13, 2013, and on hearing the submissions of counsel for the Applicants, counsel for the Monitor and such other counsel as were present, and on being advised that the Service List was served with the Notice of Motion and Motion Record of the Applicants:

DEFINITIONS

1. **THIS COURT ORDERS** that, for the purposes of this Order, the following terms shall have the following meanings:

(a) "**9:30 Appointment**" means an appearance before a Justice of this Court in chambers which may be made at 9:30 a.m. on any juridical day;

(b) "**Business Day**" means a day, other than Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario;

(c) "**CCAA**" means the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C - 36, as amended;

(d) "**CCAA Proceeding**" means the CCAA proceeding of the Applicants initiated pursuant to the terms of the Initial Order;

(e) "**Claims Deadline**" means 5:00 p.m. (Eastern Standard Time) on February 14, 2014;

(f) "**Court**" means the Ontario Superior Court of Justice (Commercial List);

(g) "**Claimant**" means any Person having a Secured Claim;

(h) "**Filing Date**" means December 17, 2013;

(i) "**Initial Order**" means the Order of the Honourable Mr. Justice Newbould dated December 17, 2013 issued in the CCAA Proceeding;

(j) "**Known Creditors**" means any Person which the books and records of the Applicants disclose were owed money by one or more of the Applicants as of the Filing Date which obligations remains unpaid in whole or in part;

(k) "**Monitor**" means Grant Thornton Limited in its capacity as Court-appointed Monitor of the Applicants pursuant to the Initial Order;

(l) "**Notice of Disallowance**" means the notice that may be delivered to a Claimant disallowing such Claimant's Secured Claim in whole or in part, which notice shall include the grounds for the disallowance;

(m) "**Notice of Dispute**" means the notice that may be delivered by a Claimant who has received a Notice of Disallowance disputing such Notice of Disallowance, which notice shall include the grounds for the dispute;

(n) "**Notice to Creditors**" means the notice substantially in the form attached hereto as **Schedule "B"**;

(o) "**Person**" means any individual, partnership, firm, joint venture, trust, entity, corporation, unincorporated organization, trade union, employee or other association and any federal, provincial or municipal government or similar entity, howsoever designated or constituted;

(p) "**Property**" means the property of the Applicants described in **Schedule "A"** hereto and the proceeds thereof;

(q) "**Secured Claim**" means all claims against the Property whether as a mortgagee, construction lien claimant or otherwise, including the claim of Con-Drain Company (1983) Limited ("**Con-Drain**") against the Property in an action commenced in Newmarket, Ontario by Con-Drain against certain Applicants and others bearing Court File Number CV-13-115757-00, but excluding the claims of unsecured creditors and the beneficiaries of the Court ordered charges created pursuant to the Initial Order; and

(r) "**Vetting Committee**" means a committee established pursuant to the terms of this Order for the purpose of assisting the Monitor with the review and determination of the validity, quantum and priority of all Secured Claims and which shall have a maximum of six (6) members.

PURPOSE OF CLAIMS PROCESS

2. The claims process contemplated herein applies solely to those persons having Secured Claims against the Property, whether as a mortgagee, a construction lien claimant or otherwise and is not intended as a general claims process for all of the Applicants' creditors.

MONITOR'S ROLE

3. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights, duties, responsibilities and obligations under the CCAA and under the Initial Order, shall implement and oversee the claims process provided for herein, and is hereby authorized and directed to take such steps as may be necessary to implement and carry out this Order.

CLAIMS PROCESS

4. **THIS COURT ORDERS** that the Monitor shall cause a Notice to Creditors to be sent to each Known Creditor by facsimile transmission, electronic communication or regular prepaid mail on or before January 21, 2014.

5. **THIS COURT ORDERS** that the Monitor shall cause the Notice to Creditors to be placed once in each of the Toronto Star and the Daily Commercial News as soon as reasonably practicable after the date of this Order.

6. **THIS COURT ORDERS** that the Monitor shall cause the Notice to Creditors and a copy of this Order to be posted and maintained on the Monitor's website at

www.grantthornton.ca/silverstreams as soon as reasonably practicable after the date of this Order.

7. **THIS COURT ORDERS** that the Monitor shall cause a copy of this Order and the Notice to Creditors to be sent to any Person requesting such material as soon as practicable.

FILING OF SECURED CLAIMS

8. **THIS COURT ORDERS** that all Claimants shall deliver to the Monitor their written submissions together with all supporting documentation respecting the validity, quantum and priority of their Secured Claims by the Claims Deadline or such later date as the Monitor may agree or the Court may order prior to the Claim Deadline failing which, the Secured Claim of such Claimant against the Property shall be extinguished and forever barred.

9. **THIS COURT ORDERS** that the information and documentation to be provided by a Claimant to the Monitor pursuant to paragraph 8 above, shall include, without limitation:

(a) in the case of lien claimants, a complete copy of the contract or subcontract, evidence of the date of last supply of work or services, a copy of all invoices, time sheets and a detailed statement of account including all payments received;

(b) in the case of mortgagees, a copy of the commitment letter, offer of finance or similar document, the dates and amounts of all advances, a detailed statement of account, and the amount of any holdback maintained by the mortgagee.

VETTING COMMITTEE

10. **THIS COURT ORDERS AND AUTHORIZES** the establishment of the Vetting Committee. The Vetting Committee shall initially have the following 6 members:

(a) James Klein - lawyer for various lien claimants

(b) Jeffrey Long – lawyer for Con Drain

(c) Jeffrey Spiegleman – lawyer for Bank of Montreal

(d) Marco Drudi – lawyer for private lenders

(e) Stephen Schwartz – lawyer for the Applicants

(f) Steven Graff or Ian Aversa – lawyers for the Monitor

A member of the Vetting Committee may only be replaced with the unanimous consent of the remaining members or an order of this Court.

CLAIMS REVIEW

11. **THIS COURT ORDERS** that the Monitor shall review each Secured Claim received by the Claims Deadline.

12. **THIS COURT ORDERS** that in response to a written request made by the Monitor, a Claimant shall forthwith, and in any event within seven (7) days of the date of the request, provide such further documentation and information as the Monitor may reasonably require with respect to the Claimant's Secured Claim.

13. **THIS COURT ORDERS** that the Monitor, in its sole discretion, upon consultation with the Vetting Committee, may accept or disallow a Secured Claim in part or in whole.

14. **THIS COURT ORDERS** that if the Monitor determines to disallow a Secured Claim, in part or in whole, the Monitor shall deliver to the Claimant a Notice of Disallowance as soon as reasonably practicable.

15. **THIS COURT ORDERS** that any Claimant who disputes the disallowance of its Secured Claim as set forth in a Notice of Disallowance shall deliver a Notice of Dispute to the Monitor on or before 5:00 p.m. (Eastern Standard Time) on the day which is fourteen (14) days after the date of the Notice of Disallowance (the "**Dispute Deadline**"), or such later date as the Monitor may agree or the Court may order prior to the expiration of the Dispute Deadline.

16. **THIS COURT ORDERS** that any Claimant who fails to deliver a Notice of Dispute by the Dispute Deadline shall be deemed to accept the Monitor's determination as set out in the Notice of Disallowance.

RESOLUTION OF CLAIMS

17. **THIS COURT ORDERS** that the Monitor, with the assistance of the Vetting Committee, may attempt to consensually resolve any disputed Secured Claim.

18. **THIS COURT ORDERS** that upon the expiration of all of the Dispute Deadlines, the Monitor shall prepare, serve and file a report on the results of the claims process.

19. **THIS COURT ORDERS** that the Monitor shall schedule a 9:30 Appointment with the Court returnable within fourteen (14) days after service of its report pursuant to paragraph 18 herein for the purpose of setting a timetable for resolution of the disputed claims, if any.

20. **THIS COURT ORDERS** that the Monitor may apply to this Court, at any time, for advice and directions regarding the claims process provided for herein.

GENERAL PROVISIONS

21. **THIS COURT ORDERS** that any notice or other communication to be given under this Order by a Claimant to the Monitor shall be in writing in substantially the form, if any, provided for in this Order and will be sufficiently given only if delivered by facsimile transmission, personal delivery, electronic communication or prepaid mail addressed to:

The Monitor
c/o Grant Thornton Limited
Royal Bank Plaza, South Tower, 19th Floor,
Toronto, ON, M5J 2P9

Attention: Daniel Sobel
Telephone: (416) 369-7033
Fax: (416) 360-4949
Email: daniel.sobel@ca.gt.com

with a copy to

Aird & Berlis LLP
Brookfield Place. 181 Bay Street, Suite 1800
Toronto, ON, M5J 2T9

Attention: Ian Aversa
Telephone: (416) 865-3082
Fax: (416) 863-1515
Email: iaversa@airdberlis.com

Any such notice or other communication delivered by a Claimant shall be deemed to be received upon actual receipt by the Monitor thereof during normal business hours on a Business Day or, if delivered outside of normal business hours, on the next Business Day.

22. **THIS COURT ORDERS** that any notice or other communication to be given under this Order to a Claimant shall be addressed to the last recorded address appearing in the books and records of the Applicants, the address indicated on any security registration or in the submissions filed by the Claimant with the Monitor.

SCHEDULE "A"

PROPERTY

SCHEDULE "B"

NOTICE TO CREDITORS

NOTICE TO CREDITORS OF SILVER STREAMS HOMES INC., SILVER STREAMS HOMES (PUCCINI) INC., 2148993 ONTARIO INC., 2148990 ONTARIO INC., 2147681 ONTARIO INC. and 2147650 ONTARIO INC. (COLLECTIVELY, "SILVER STREAMS")

RE: NOTICE OF CLAIMS PROCEDURE FOR SILVER STREAMS PURSUANT TO THE COMPANIES' CREDITORS ARRANGEMENT ACT (THE "CCAA")

TAKE NOTICE that this notice is being published pursuant to an order of the Honourable Mr. Justice Brown of the *Ontario* Superior Court of Justice (Commercial List) dated January 16, 2014 (the "**Claims Process Order**"). Any person who believes that it has a claim against the Property (as defined in the Claims Process Order) whether as a mortgagee, construction lien claimant or otherwise, shall send the documents and information prescribed by the Claims Process Order to Grant Thornton Limited in its capacity as Court-appointed Monitor of Silver Streams (the "**Monitor**") to be received **by 5:00 p.m. (Eastern Standard Time) on February 14, 2014 (the "Claims Deadline")** or such later date as the Monitor may agree or the Court may order prior to the Claim Deadline, **failing which, the claim of such Claimant against the Property shall be extinguished and forever barred.**

A copy of the Claims Process Order is available on the Monitor's website at www.grantthornton.ca/silverstreams.

Dated at ________________ this ____ day of _____________________, 2014

THIS IS **EXHIBIT "H"** REFERRED TO IN THE

AFFIDAVIT OF **IMRAN JINNAH**

SWORN BEFORE ME THIS 10^{th} DAY OF JANUARY, 2014

____

Court File No.
CV-13-115757-00

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE	)	**THURSDAY, THE 15TH**
	)	
JUSTICE M. L. LACK	)	**DAY OF AUGUST, 2013**

BETWEEN:

CON-DRAIN COMPANY (1983) LIMITED

Plaintiff

- and -

SILVER STREAMS HOMES INC., SILVER STREAMS HOMES (PUCCINI) INC., JACK GREENBERG, 2148990 ONTARIO INC., 2148993 ONTARIO INC., 2147650 ONTARIO INC. 2147681 ONTARIO INC., PUCCINI MORTGAGE CORP., 53 PUCCINI MORTGAGE CORP., 388242 ONTARIO LIMITED, DAPAUL MANAGEMENT LIMITED, NASTELL INVESTMENTS LIMITED and CASTLE LANE DESIGN GROUP INC.

Defendants

ORDER

THIS MOTION, made by the Plaintiff for a Mandatory Order and/or a Certificate of Pending Litigation, was heard this day at 50 Eagle Street, W., Newmarket, Ontario.

ON READING the Affidavit of Nunzio Bitondo, sworn August 13, 2013 and exhibits thereto, and the Affidavit of Cristina Neves, sworn August 24, 2013 and exhibits thereto, and upon reading the Consent of counsel for the Plaintiff and for Silver Streams Homes Inc., Silver Streams Homes (Puccini) Inc., 2148990 Ontario Inc., 2148993 Ontario Inc., 2147650 Ontario Inc. and 2147681 Ontario Inc., filed and upon hearing submissions from counsel for the Plaintiff,

1. **THIS COURT ORDERS** that the Plaintiff's Motion is adjourned pursuant to the Timetable attached hereto as Schedule "A", which Timetable may be varied on consent of all parties without further Order of the Court.

2. **THIS COURT ORDERS** that no closing of the nineteen (19) lots (more particularly described in Schedule "B" hereto and hereinafter defined as the "Lots") shall proceed other than in accordance with the terms as set out herein.

3. **THIS COURT ORDERS** that within seven (7) days from the date of this Order, Silver Streams shall provide the Plaintiff with a list of the scheduled closing dates for the Lots.

4. **THIS COURT ORDERS** that on any closing of the Lots the net proceeds received on closing shall be paid into Court, or into Trust if agreed to by all parties in writing, up to a maximum of $800,000.00. Such net proceeds shall be calculated as the balance of the purchase price after payment of necessary closing legal fees, real estate commissions, mortgage discharge payments to the Bank of Montreal, payment to the necessary trades in an amount to be agreed to by the Plaintiff acting reasonably, and applicable HST, which funds shall remain in Court or in Trust until further Order of this Honourable Court or Consent of the parties herein.

5. **THIS COURT ORDERS** that in conjunction with the terms set out in paragraph 4 above, the parties herein shall execute the necessary documents to allow any and/or all closings of the Lots to take place, including but not limited to, the partial Discharges of the Plaintiff's Notice and Claim for Lien registered on August 9, 2013, at the Plaintiff's own expense, to be provided immediately prior to any closing as contemplated herein.

6. **THIS COURT ORDERS** that once the sum of $800,000.00 has been paid into Court or into Trust, Con-Drain shall forthwith consent to the withdrawal of paragraphs 4 and 5 herein as it relates to payment of any further net proceeds into Court.

7. **THIS COURT ORDERS** that costs of all parties are reserved to the Judge hearing the Plaintiff's Motion on the merits.

ML 8. THIS COURT ORDERS THAT THIS MOTION IS OTHERWISE ADJOURNED TO SEPT. 26, 2013 AT 9:30 A.M.

SCHEDULE "A"

TIMETABLE FOR PLAINTIFF'S MOTION

1. The Defendants shall provide their Responding materials on or before August 30, 2013;
2. The Plaintiff shall provide its Reply materials, if any, on or before September 5, 2013;
3. Cross-examination of the Affiants shall take place during the week of September 9, 2013;
4. The Plaintiff's Motion shall be returnable on Thursday, September 26, 2013.

SCHEDULE "B"

PIN 03206 - 3484 LT
LOT 1, PLAN 65M4331; SUBJECT TO AN EASEMENT IN GROSS OVER PTS 1 & 2
65R33105 AS IN LB43081;
TOWN OF RICHMOND HILL
RICHMOND HILL

PIN 03206 - 3485 LT
LOT 2, PLAN 65M4331; TOWN OF RICHMOND HILL
RICHMOND HILL

PIN 03206 - 3486 LT
LOT 3, PLAN 65M4331; TOWN OF RICHMOND HILL
RICHMOND HILL

PIN 03206 - 3487 LT
LOT 4, PLAN 65M4331; TOWN OF RICHMOND HILL
RICHMOND HILL

PIN 03206 - 3488 LT
LOT 5, PLAN 65M4331; TOWN OF RICHMOND HILL
RICHMOND HILL

PIN 03206 - 3495 LT
LOT 12, PLAN 65M4331; SUBJECT TO AN EASEMENT IN GROSS OVER PT 8
65R33105 AS IN YR1611262; TOWN OF RICHMOND HILL
RICHMOND HILL

PIN 03206 - 3497 LT
LOT 14, PLAN 65M4331; TOWN OF RICHMOND HILL
RICHMOND HILL

PIN 03206 - 3499 LT
LOT 16, PLAN 65M4331; TOWN OF RICHMOND HILL
RICHMOND HILL

PIN 03206 - 3501 LT
LOT 18, PLAN 65M4331; TOWN OF RICHMOND HILL
RICHMOND HILL

PIN 03206 - 3502 LT
LOT 19, PLAN 65M4331; TOWN OF RICHMOND HILL
RICHMOND HILL

PIN 03206 - 3503 LT
LOT 20, PLAN 65M4331; TOWN OF RICHMOND HILL
RICHMOND HILL

PIN 03206 - 3504 LT
LOT 21, PLAN 65M4331; TOWN OF RICHMOND HILL
RICHMOND HILL

PIN 03206 - 3505 LT
LOT 22, PLAN 65M4331; TOWN OF RICHMOND HILL
RICHMOND HILL

PIN 03206 - 3506 LT
LOT 23, PLAN 65M4331; TOWN OF RICHMOND HILL
RICHMOND HILL

PIN 03206 - 3507 LT
LOT 24, PLAN 65M4331; TOWN OF RICHMOND HILL
RICHMOND HILL

PIN 03206 - 3508 LT
LOT 25, PLAN 65M4331; TOWN OF RICHMOND HILL
RICHMOND HILL

PIN 03206 - 3418 LT
LOT 1, PLAN 65M4249; TOWN OF RICHMOND HILL
RICHMOND HILL

PIN 03206 - 3440 LT
LOT 23, PLAN 65M4249; SUBJECT TO AN EASEMENT IN GROSS OVER PT 2,
65R32917 AS IN YR1620823; TOWN OF RICHMOND HILL

PIN 03206 – 3441LT
LOT 24, PLAN 65M-4249, SUBJECT TO AN EASEMENT IN GROSS PT 3,
65R-32917 AS IN YR1620823, TOWN OF RICHMOND HILL
RICHMOND HILL

CON-DRAIN COMPANY (1983) LIMITED
Plaintiff

and

SILVER STREAMS HOMES INC. et al.
Defendants

Court File No: CV-13-115757-00

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at NEWMARKET

ORDER

Koskie Minsky LLP
20 Queen Street West, Suite 900, Box 52
Toronto, ON M5H 3R3

Jeffrey Long LSUC #: 32602V
Tel: 416-595-2125
Fax: 416-204-2892

Lawyers for the Plaintiff

CITATION: Con-Drain Company v. Silver Streams Homes, 2013 ONSC 7176
NEWMARKET COURT FILE NO.: CV-13-115757-00
DATE: 20131120

SUPERIOR COURT OF JUSTICE – ONTARIO

RE: Con-Drain Company (1983) Limited, Plaintiff /Moving Party

and

Silver Streams Homes Inc., Silver Streams Homes (Puccini) Inc., Jack Greenberg, 2148990 Ontario Inc., 2148993 Ontario Inc., 2147650 Ontario Inc., 2147681 Ontario Inc., Puccini Mortgage Corp., 53 Puccini Mortgage Corp., 388242 Ontario Limited, Dapaul Management Limited and Nastell Investments Limited and Castle Lane Design Group Inc., Defendants/Responding Parties

BEFORE: The Honourable Madam Justice C.A. Gilmore

COUNSEL: Jeffrey J. Long, for the Plaintiff

Stephen Schwartz, for the Defendants, Silver Streams Homes Inc., Silver Streams Homes (Puccini) Inc., 2148990 Ontario Inc., 2148993 Ontario Inc., 2147650 Ontario Inc., and 2147681 Ontario Inc.
Marco Drudi, for the Defendants, Puccini Mortgage Corp., 53 Puccini Mortgage Corp., 388242 Ontario Limited, Dapaul Management Limited, Nastell Investments Limited and Castle Lane Design Group Inc.

HEARD: October 15, 2013

ENDORSEMENT

Overview

[1] The plaintiff/moving party seeks an order continuing the August 15, 2013 injunction order of Lack J., and requests the $800,000 paid into trust with Chaitons LLP be paid into court until trial, further order of the court or consent of the parties.

[2] In the alternative, the plaintiff requests an order that a certificate of pending litigation ("CPL") be granted in respect of any remaining lots/homes on the residential project in question, located in Richmond Hill ("the project"), which remaining properties are lots 18, 23, 24 and 25. In the further alternative, the plaintiff seeks an order pursuant to rule 45.02 of the *Rules of Civil Procedure* to preserve the $800,000 by way of funds paid into court or otherwise secured.

[3] The issue to ultimately be determined (although not in the context of this motion) is whether the plaintiff is entitled to immediate payment of the $800,000 in priority to the defendants' mortgages. The $800,000 represents the net proceeds received on recent closings of certain lots/homes, located in phase three of the project.

Background Facts

[4] On February 9, 2010, the plaintiff registered two construction liens against title to the lands owned, at that time, by the co-defendants, 2148990 Ontario Inc., 2148993 Ontario Inc., 2147650 Ontario Inc. and 2147681 Ontario Inc. (hereinafter "the owners"). The builder/developer of the lands is Silver Streams Homes Inc. and Silver Streams Home (Puccini) Inc. ("Silver Streams"). The sole officer, director/shareholder and operating mind of Silver Streams and the owners is Mr. Imran Jinnah. One of the liens was registered by the plaintiff against phase one of the subject lands in the principal amount of $998,098.46 ("the phase one lien"). The other lien was registered by the plaintiff as against phase two in the principal amount of $930,120.27 ("the phase two lien").

[5] The services and materials provided by the plaintiff that formed the basis of the liens were provided to the co-defendant Silver Streams. The plaintiff provided earthworks, underground services, roads, curbs, asphalt and related labour and materials to the project, and by the end of 2009 they were owed almost $2,000,000 for work performed but for which Silver Streams was unable to make payment.

[6] The co-defendants, Puccini Mortgage Corp., 53 Puccini Mortgage Corp., 388242 Ontario Limited, DaPaul Management Limited, Nastell Investments and Castle Lane Design Group Inc. ("the secondary lenders") were mortgagees under various mortgages registered against title to the subject lands (hereinafter the "secondary mortgages").

[7] The co-defendant, Mr. Jack Greenberg, is a solicitor who at all material times acted on behalf of Silver Streams during his dealings with the plaintiff and its solicitor, Mr. Jeffrey Long. Mr. Greenberg is also an officer/director and solicitor of the secondary lenders.

[8] After the registration of the liens, a settlement agreement was entered into between Silver Streams and the plaintiff on March 31, 2010. The secondary lenders were not parties to the settlement agreement, although they were aware of it.

[9] The settlement agreement entitled the plaintiff to an immediate payment of $550,000. As well, Silver Streams signed an irrevocable direction authorizing and directing its solicitor to "deduct from the closing proceeds, otherwise payable to the undersigned (Silver Streams)...the sum of $50,000...and to pay same to Con-Drain." An irrevocable direction was provided from Silver Streams and an irrevocable direction was signed by Mr. Greenberg, directing the $50,000 payments, plus interest, from each of the future closings on phase one and phase two of the project. In exchange, the plaintiff was required to discharge its two claims for lien. The plaintiff's claims in the within action arise from the terms of the settlement agreement as between the plaintiff and Silver Streams.

[10] The secondary lenders take the position that in the course of discussions between the plaintiff and Silver Streams, through Mr. Greenberg and Mr. Long, the plaintiff fully understood that the phase one and phase two liens were subject to mortgages including the mortgages of the secondary lenders. They rely on email correspondence from Mr. Greenberg to Mr. Long

advising that the plaintiff's liens were subject to $9,600,000 of prior financing. When the plaintiff requested registration of a first mortgage against ten lots in the subject lands to secure their payment, Mr. Greenberg, on behalf of Silver Streams, advised that Silver Streams could not comply, and as such, the secondary lenders take the position that the plaintiff was fully aware that its settlement agreement would not be given priority over the secondary mortgages of the secondary lenders.

[11] The plaintiff takes the position that Mr. Greenberg made a clear representation as to the plaintiff's priority over any secondary lenders and Silver Streams for the balance owing to the plaintiff, based on the terms of settlement of March 31, 2010 and an email from Mr. Greenberg, in which he acknowledged that the plaintiff would stand in second position and makes no mention that the plaintiff would not be paid the required $50,000 plus interest from future closings because of monies to be paid to secondary lenders or other trades, as now suggested by Mr. Greenberg in his affidavit.

[12] The secondary lenders take the position that the parties to the settlement agreement were the plaintiff and Silver Streams, and that the agreement was signed on behalf of Silver Streams by Mr. Greenberg, and on behalf of the plaintiff by Mr. Long. Therefore, the secondary lenders are not bound by the terms of the settlement agreement. Further, the settlement agreement directs the solicitor for Silver Stream to "deduct from the closing proceeds **otherwise payable** to the undersigned [Silver Streams] the sum of $50,000...and to pay same to Con-Drain."

[13] Further, as part of the settlement agreement, and in the event of a default of payment, the plaintiff obtained consents to judgments from the owners and Mr. Jinnah personally. The secondary lenders submit that there is nothing which precludes the plaintiff from taking out the judgments and enforcing them.

[14] At no time did the plaintiff attempt to make the secondary lenders a party to the settlement agreement or insist on seeking priority over them. The secondary lenders rely on email correspondence, dated January 17, 2011, to counsel for the plaintiff sent by Mr. Greenberg confirming that the plaintiff's phase two lien was subject to the secondary mortgages in favour of the secondary lenders. The plaintiff did not object to the confirmation of priority of the secondary mortgages as against title to the subject lands at the time. The phase two lien was subsequently discharged without security.

[15] Subsequently, the plaintiff received the initial $550,000 payment required by the settlement agreement and began to receive the $50,000 payments plus interest from the various closings as they took place. The plaintiff submits it would obviously never have discharged its lien if it was not going to receive the $50,000 plus interest from closings going forward.

[16] In early 2012, Silver Streams experienced financial difficulty and Mr. Jinnah and Mr. Greenberg contacted the plaintiffs to discuss a revision of the settlement terms. The plaintiff agreed to revise the settlement terms such that they would be paid $50,000 plus interest from each of the first ten closings on phase three of the subdivision instead of being paid from

closings on phase two. While this revision delayed payment to the plaintiff, they accepted that the revision was necessary due to financing issues.

[17] The terms of the revised settlement were confirmed in the April 16, 2012 email from Mr. Greenberg to Mr. Long. Specifically, that email sets out a proposal as follows,

> My client would like the option to be able to move your client's lien from 15 lots in phase 2 under the second plan to the aforesaid 15 lots on the BMO lands, which we suggest would be better security for your client, which liens would be subject only to a first mortgage for no more than $3,000,000 (whether BMO or a private mortgage). Currently your client's lien is subject to at least $9,600,000 of prior financing... On each closing, until your client is paid out, your client would receive $50,000 from the closing proceeds from each sale in return for a lifting of the lien from such lot. Pro-rated and proportionate interest would be added to the discharge amount. My client would provide an irrevocable direction to my firm to make the aforesaid payment from the closing proceeds, and my firm will undertake to make the payment as well, as long as my firm is acting on the closing and there are sufficient funds. If my client changes law firms for closing purposes, he will advise you and he will provide the same irrevocable direction to that law firm... My client will agree to replace the existing lien on phase two lands with a mortgage in the amount of the balance owed to your client to cover the shortfall between my client's indebtedness to your client and the amount of your client's liens.

[18] The secondary lenders take the position that the plaintiff cannot rely on the contents of the April 16, 2012 email as they were not a party to it and none of the representations made in it were made on their behalf. The mortgages registered by the secondary lenders went into default in February 2013. The plaintiff received its last $50,000 payment and applicable interest on March 11, 2013, which was after the default on the secondary mortgages. Up until March 11, 2013, thirty-four lots/homes closed and the plaintiff received the required $50,000 payments, along with applicable interest. These payments were made from Mr. Greenberg's trust account and flowed from the sale proceeds, as required by the settlement agreement.

[19] At the time the settlement agreement was entered into, the plaintiff was owed $3,334,002.07 by Silver Streams. Of the plaintiff's current claim of $800,000, the amount of $291,552.89 is interest, which it is claiming from Silver Streams.

[20] Subsequent to default on the secondary mortgages and the payment to the plaintiff on March 11, 2013, there were nine closings which took place on Phase 3 for which the plaintiff did not receive payment. The plaintiff only became aware of this because one of the homes which closed was sold to a family member of someone known to the plaintiff. Thereafter, Mr. Jinnah

confirmed that the closings had taken place in June and July of 2013 and that a decision had been made that no payment would be made to the plaintiff.

[21] At a meeting held at the plaintiff's offices on August 6, 2013, Mr. Greenberg admitted that the sum of approximately $1,200,000 was paid to Mr. Greenberg's secondary lender companies on account of their mortgages and that no amount was paid to the plaintiff from the nine closings. Mr. Greenberg is the president and sole shareholder of all of the secondary lender companies, save and except for Castle Lane. Mr. Greenberg's wife is the other officer and director of that company.

[22] Given the alleged "secret" closings, the plaintiff's position is that Mr. Greenberg and the other defendants breached the settlement agreement and their obligation to pay the plaintiff on the closings by unilaterally deciding to pay the secondary lenders in direct contravention of both Mr. Greenberg's personal undertaking and his client's irrevocable direction. A document provided by Mr. Greenberg confirms that $1,239,000 was paid by Mr. Greenberg to the secondary lenders from the June and July 2013 closings. The amount owing to the plaintiff as of July 31, 2013 and admitted by Mr. Jinnah on his cross-examination, was principal of $679,179.88 and interest of $116,704.80, for a total of $794,881.68. The additional $94,836.71 relates to work recently performed by the plaintiff and for which they have registered a claim for lien against the eighteen remaining lots.

[23] According to the secondary lenders, Mr. Greenberg honoured his personal undertaking by deducting from closing proceeds otherwise payable to Silver Streams, the sum of $50,000 and paying the same to the plaintiff. He was **not** obligated to pay the sum of $50,000 irrespective of the financial constraints faced by Silver Streams or before the first mortgagee or the secondary lenders. To interpret the undertakings as suggested by the plaintiff is to ignore the term "otherwise payable" and to provide the plaintiff priority when such priority was not agreed to by Mr. Greenberg. The secondary lenders, although not parties to this settlement agreement, were aware of this and took no issue with the contents of the agreement. In summary, the secondary lenders take the position that there is no factual basis for any of the plaintiff's claims against them, as they negotiated a settlement agreement, which entitled them to effectively an unsecured judgment against Silver Streams and Mr. Jinnah personally, but did not negotiate an agreement which entitled them to priority over the secondary lenders.

The Current Motion

[24] On August 15, 2013, an order was obtained from Lack J., which protects the $800,000 presently owing to the plaintiff and directed that the plaintiff's motion be returnable on September 26, 2013. The motion date was adjourned to October 15, 2013 on consent.

[25] The August 15, 2013 order of Lack J. required the $800,000 to be paid into trust with Chaitons LLP, solicitors for Silver Streams. The current motion is to determine whether or not the plaintiff is entitled to a continuation of Lack J.'s existing injunction and an order that the $800,000 be paid into court pending the determination of the action at trial. While Silver Streams does not claim entitlement to the $800,000 and admits owing money to the plaintiff and

the secondary lenders, they object to the order sought because interest continues to accrue under the mortgages and monies owed to the plaintiff, for which the Silver Streams may be responsible. The interest is significant.

[26] It should be noted that Mr. Shawn Tock attended this motion, but did not participate. Mr. Tock represents Re/Max Realtron Realty Inc. Brokerage (hereinafter "Re/Max"), who has commenced an action in Toronto against the owners. On September 24, 2013, the plaintiff in that case, Re/Max, moved to have funds paid into court based on its reasonable expectation that they would be paid commissions on closing. Re/Max argued that the owner had chosen to use funds from the closing of sales to pay unsecured creditors rather than Re/Max. Newbould J. ordered that "the vendor/owner is entitled to pay (1) all secured lenders and any lien claimant sufficient amount to permit each sale to close; (2) applicable HST; and (3) legal fees for the closing." All other proceeds of each sale were to be held in trust by Chaitons LLP to be paid out only on the consent of the parties or further court order.

The Positions of the Parties

The Plaintiff

[27] The plaintiff takes the position that it is entitled to a continuation of Lack J.'s order, until the priority issue between it and the secondary lenders is adjudicated at trial. With respect to the test for a Mareva injunction, the plaintiff argues that the threshold to establish a serious issue to be tried is low and so long as the court is satisfied that the claim is neither vexatious nor frivolous, a detailed review of the merits is not required.

[28] With respect to irreparable harm, this may be measured other than in monetary terms and an examination into the nature of the harm suffered, rather than its magnitude is required.

[29] Regarding the balance of convenience, the court must consider which party will suffer the greater harm from granting or refusing the injunction pending final determination at trial. The plaintiff submits that it has satisfied all three prongs of the test.

[30] The plaintiff alleges fraudulent misrepresentation. It submits that Mr. Greenberg's representation as counsel, president and sole agent for the secondary lenders that the plaintiff would have priority over the secondary lenders and owner, and the subsequent breach of that representation by allowing payouts from the phase three closings to be paid to parties other than the plaintiff is a violation of Mr. Greenberg's representation to maintain the plaintiff's priority of payment.

[31] Alternatively, the plaintiff seeks a CPL on the grounds that they have a claim in fraud allowing them the right to trace funds, or alternatively, to claim property on constructive trust principles.

[32] As a further alternative, the plaintiff seeks to have the $800,000 paid into court pursuant to rule 45.02 of the *Rules of Civil Procedure* on the basis that they have the right to a specific fund, that there is a serious issue to be tried regarding the plaintiff's claim to that fund, and that

the balance of convenience favours granting the relief sought in relation to that fund. The Court of Appeal in *Sadie Moranis Realty Corporation v. 1667038 Ontario Inc.*[1] said as follows, "Where the plaintiff has a serious prospect of ultimate success and there is something compelling the plaintiff's side of the scales, such as a real concern that the defendant will dissipate the specific fund, that is sufficient to outweigh the defendant's freedom to deal with his or her property."

The Secondary Lenders

[33] The secondary lenders take the view that the order of Lack J. is not a consent order as they did not participate. However, they also concede that they have not brought a motion to set aside that order. They support the endorsement of Newbould J., from September 24, 2013 in the Re/Max matter, and feel that is the appropriate way with which to deal with future closings. The secondary lenders strenuously object to the $800,000 being paid into court or for the plaintiffs to have any specific priority in future sales, as this is akin to giving an unsecured creditor priority over secured lenders.

[34] Further, the settlement agreement was negotiated by sophisticated parties with the assistance of their counsel. The agreement stipulated that the $50,000 plus interest to be paid to the plaintiff was to be paid from funds "otherwise payable." The secondary lenders interpret that to mean that secured creditors would receive those funds otherwise payable. Further, the plaintiff received security by way of a consent to judgment against the builders and Mr. Jinnah and there is no evidence that such a judgment cannot be enforced.

[35] There is no evidence that the secondary lenders are bound by the settlement agreement undertaking or direction. At the time of negotiating the agreements, the plaintiff could have sought more security, but it did not. The plaintiff has already received a substantial amount of what is owed to them. This is a monetary claim and not the type of claim that would be considered irreparable harm under the test for an injunction.

[36] The secondary lenders deny that a specific fund was created by the order of Lack J. If that were the case, then every interim order which ordered funds to be paid into court would be characterized in that manner.

[37] With respect to the balance of convenience, the affected parties are purchasers, subcontractors, preferred creditors, and Re/Max. Interest continues to accumulate on funds kept from the secured lenders. The secondary lenders' priority must be recognized.

Silver Streams

[38] Silver Streams does not claim entitlement to the money as it is not a stakeholder. However, as interest continues to accrue on the lenders and the plaintiff's money, Silver Streams agrees that the matter must be heard on an expedited basis. The project must continue and the

[1] 2012 ONCA 475 at para 18.

endorsement of Newbould J. provides a reasonable mechanism for that to happen. The secondary lenders were not present with respect to Lack J.'s order, and a new order going forward is necessary in which allows the project to continue and recognizes the priority of secured lenders.

Analysis and Ruling

[39] It is this court's view that the threshold has been met to continue the injunctive relief ordered by Lack, J. In terms of the required test I find that there are serious issues to be tried. Clearly a trial is required to determine some of the many issues that have arisen as a result of Mr. Greenberg's actions in relation to the settlement agreement, the interpretation of the term "otherwise payable" in the settlement agreement and the alleged "breaches" of the irrevocable direction and personal undertaking. Transparency was intended by the settlement agreement and there is therefore some concern as to why payouts would be made without the plaintiff being advised.

[40] As for the issue of irreparable harm it is difficult at this stage to measure the magnitude of the harm. However, it is clear, that if the $800,000 were released, it would be immediately disbursed to the secondary lenders. This may cause irreparable harm if it is found to be in contravention of the settlement agreement and Mr. Greenberg's undertaking. While there is interest accruing, that is always going to be an issue where there is default and insufficient money to go around.

[41] As the $800,000 fund potentially contains amounts which could also be found to be owed to the secondary lenders, the plaintiff, Re/Max and other unsecured creditors, I do not see that the balance of convenience would be offended by paying it into court.

[42] Given all of the above and the serious allegation of fraudulent misrepresentation, this court takes a cautious view and I order that the $800,000 be paid into court pending trial.

[43] As the funds will be paid into court, there is no need for a CPL or an order under Rule 45.02 of the *Ruled of Civil Procedure.*

[44] Future closings to be dealt with in the method set out in Newbould J.'s endorsement of September 24, 2013, in which the vendor (Silver Streams) is to pay (1) all secured lenders and any lien claimant to date a sufficient amount to permit each sale to close, (2) applicable HST, and (3) legal fees for the closing. All other proceeds of each sale are to be held in trust by Chaitons LLP, to be paid out only on the consent of the parties or further court order.

[45] A pre-trial date to be arranged through the trial co-ordinator as soon as possible.

[46] If the parties cannot agree on costs, I will receive written submissions on a seven day turnaround, commencing with the plaintiff, followed by responding submissions from the defendants, then reply submissions, if any, commencing fourteen days from the date of release of this endorsement. Cost submissions shall be no more than two pages in length, exclusive of any costs outline or offers to settle. All costs submissions shall be delivered via email through my

assistant at jennifer.beattie@ontario.ca. If no costs submissions are received within 35 days of the date of release of this endorsement the costs issue shall be deemed to have been settled between the parties.

C. Gilmore J.

Justice C.A. Gilmore

Released: November 20, 2013

THIS IS **EXHIBIT "I"** REFERRED TO IN THE

AFFIDAVIT OF **IMRAN JINNAH**

SWORN BEFORE ME THIS 10th DAY OF JANUARY, 2014

Silver Streams Homes Puccini Inc. et. al.
Projected Statement of Cash Flow
For the period ending May 2, 2014
(Unaudited, $C)

DRAFT - SUBJECT TO MATERIAL CHANGE - FOR DISCUSSION PURPOSES

		17-Jan	24-Jan	31-Jan	7-Feb	14-Feb	21-Feb	28-Feb	7-Mar	14-Mar	21-Mar	28-Mar	4-Apr	11-Apr	18-Apr	25-Apr	2-May	Total
Receipts																		
Lot #25																		
Gross closing proceeds, net of deposit collected	1	-	-	918,257	-	-	-	-	-	-	-	-	-	-	-	-	-	918,257
Commission payable (3.5% of gross purchase price)	1	-	-	(39,086)	-	-	-	-	-	-	-	-	-	-	-	-	-	(39,086)
General																		
Interim financing facility (i.e. DIP loan)	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
HST rebates		-	-	-	-	-	-	-	-	48,000	-	-	-	-	-	-	-	48,000
HST collected	1	-	-	128,473	-	-	-	-	-	-	-	-	-	-	-	-	-	128,473
Total receipts		-	-	1,007,644	-	-	-	-	-	48,000	-	-	-	-	-	-	-	1,055,644
Disbursements																		
Lot #23																		
Interior finishing cost	3	5,494	24,826	28,020	12,020	9,950	19,764	4,300	1,400	-	-	-	-	-	-	-	-	105,774
Exterior finishing cost	3	10,556	-	-	-	-	-	-	5,500	-	-	-	-	-	-	-	-	16,056
HST (13%)		2,086	3,227	3,643	1,563	1,294	2,569	559	897	-	-	-	-	-	-	-	-	15,838
Lot #24																		
Interior finishing cost	3	5,494	24,826	28,020	12,020	9,950	19,764	4,300	1,400	-	-	-	-	-	-	-	-	105,774
Exterior finishing cost	3	10,556	-	-	-	-	-	-	5,500	-	-	-	-	-	-	-	-	16,056
HST (13%)		2,086	3,227	3,643	1,563	1,294	2,569	559	897	-	-	-	-	-	-	-	-	15,838
Lot #20																		
Interior finishing cost	3	17,238	6,631	19,509	1,000	-	-	-	-	-	-	-	-	-	-	-	-	44,377
Exterior finishing cost	3	-	-	-	5,500	-	-	-	-	-	-	-	-	-	-	-	-	5,500
HST (13%)		2,241	862	2,536	845	-	-	-	-	-	-	-	-	-	-	-	-	6,484
Lot #19																		
Interior finishing cost	3	5,500	700	-	-	-	-	-	-	-	-	-	-	-	-	-	-	6,200
Exterior finishing cost	3	-	5,500	-	-	-	-	-	-	-	-	-	-	-	-	-	-	5,500
HST (13%)		715	806	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1,521
Lot #1																		
Interior finishing cost	3	27,038	17,700	2,800	-	-	-	-	-	-	-	-	-	-	-	-	-	47,538
Exterior finishing cost	3	5,450	1,200	3,600	-	-	-	-	-	-	-	-	-	-	-	-	-	10,250
HST (13%)		4,223	2,457	832	-	-	-	-	-	-	-	-	-	-	-	-	-	7,512
General (inclusive of HST)																		
Management fees	4	32,410	-	-	-	32,410	-	-	-	32,410	-	-	-	32,410	-	-	-	129,640
Marketing salaries for sales office		-	1,320	-	1,320	-	1,320	-	1,320	-	1,320	-	1,320	-	1,320	-	1,320	10,560
Other marketing expenses		3,904	791		-	1,582	-	904	-	1,582	-	904	-	-	1,582	-	904	12,153
Property taxes		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Insurance		4,296	-	-	-	2,746	-	-	-	2,746	-	-	-	2,746	-	-	-	12,536
Office expenses		4,000	-	-	-	4,000	-	-	-	4,000	-	-	-	4,000	-	-	-	16,000
Automotive expenses		7,000	-	-	-	7,000	-	-	-	7,000	-	-	-	7,000	-	-	-	28,000
Post-closing service costs re: Lot 17		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Tarion warranty - service and materials	5	6,090	6,090	6,090	6,090	6,090	6,090	6,090	6,090	6,090	6,090	6,090	6,090	6,090	6,090	6,090	6,090	97,440
Interest/loan payments	6	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
HST remittance/(refund)		-	-	-	-	-	-	-	-	-	-	-	-	85,000	-	-	-	85,000
Contingency (15% of construction costs)		14,801	13,794	13,890	5,177	3,373	6,700	1,458	2,339	-	-	-	-	-	-	-	-	61,533
Repayment of the interim financing facility	2	200,000	-	5,367	-	-	-	2,071	-	-	-	-	2,293	-	-	-	2,219	211,951
Professional fees	7	-	-	75,000	-	-	75,000	-	-	75,000	-	-	-	75,000	-	-	50,000	350,000
Total disbursements		371,178	113,958	192,950	47,097	79,689	133,777	20,241	25,343	128,828	7,410	6,994	9,703	212,246	8,992	6,090	60,533	1,425,030
Net cash inflow (outflow)		(371,178)	(113,958)	814,694	(47,097)	(79,689)	(133,777)	(20,241)	(25,343)	(80,828)	(7,410)	(6,994)	(9,703)	(212,246)	(8,992)	(6,090)	(60,533)	(369,386)
Bank account - opening balance		1,001,967	630,788	516,830	1,331,524	1,284,428	1,204,739	1,070,963	1,050,722	1,025,378	944,550	937,140	930,146	920,443	708,196	699,204	693,114	1,001,967
Bank account - closing balance		630,788	516,830	1,331,524	1,284,428	1,204,739	1,070,963	1,050,722	1,025,378	944,550	937,140	930,146	920,443	708,196	699,204	693,114	632,581	632,581
Holdback for first mortgage	1	300,000	300,000	570,000	570,000	570,000	570,000	570,000	570,000	570,000	570,000	570,000	570,000	570,000	570,000	570,000	570,000	570,000
Net Cash Available for Use		330,788	216,830	761,524	714,428	634,739	500,963	480,722	455,378	374,550	367,140	360,146	350,443	138,196	129,204	123,114	62,581	62,581

Hypothetical Assumptions:

1. Lots 25 is subject to a sale agreement with a third party. This home is projected to be substantially completed by mid-January, 2014. The sale closing is anticipated to take place in January 2014. It is assumed that proceeds of realization in these proceedings would be held by the Monitor pending further order of the Court regarding creditor priority; however, a part of the interim financing facility is assumed to be repaid from the proceeds of the closing of the sale of Lot 22, as are the cost of construction for the remaining homes and the outstanding costs of the CCAA proceedings. The amount due to the first mortgagee is assumed to be held by the Monitor until further order of the Court.

2. The interim financing facility is subject to a term sheet that is attached to the Affidavit of Imran Jinnah filed with the Applicants' motion record. The loan attracts interest at 12% per year. The lender is also affiliated with one of the Applicants' private mortgage lenders. The loan is anticipated to be partially repaid from the proceeds of sale of Lot 25.

3. Represents the estimated costs to complete the homes currently under construction.

4. Represents amounts payable to various parties, including the management team responsible for all construction and sales activities of the Applicants. Parties receiving payments include the Applicants' principals as well as third party vendors/service providers.

5. Represents post-closing servicing costs as required by the Tarion new home warranty program.

6. Interest and loan payments are not projected to be paid during the CCAA proceedings.

7. Represents the fees and costs of the Applicants' counsel, the Monitor and the Monitor's independent counsel.

Probable Assumptions:

1. The sale of homes other than the one located on lot 25 are assumed to close after May 2, 2014.

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 SILVER STREAMS HOMES INC., SILVER STREAMS HOMES (PUCCINI) INC., 2148993 ONTARIO INC., 2148990 ONTARIO INC., 2147681 ONTARIO INC. AND 2147650 ONTARIO INC.

Applicants

REPORT ON CASH FLOW STATEMENT

Silver Stream Homes (Puccini) Inc. and the other Applicants listed above (collectively, **"Silver Streams"**) have prepared the attached statement of projected cash flow of Silver Streams as of January 10, 2014 (the **"Cash Flow Statement"**) consisting of a cash flow for the period January 11, 2014 to May 2, 2014. Silver Streams developed the assumptions contained in the Notes to the Cash Flow Statement (the "**Notes**"). The purpose of the Cash Flow Statement is to determine the liquidity requirements for Silver Streams during the CCAA proceedings.

The hypothetical assumptions are reasonable and consistent with the purpose of the projections described herein, and the probable assumptions are suitably supported and consistent with the plans of Silver Streams and provide a reasonable basis for the projections. All such assumptions are disclosed in the Notes.

Since the projections are based on assumptions regarding future events, actual results will vary from the information presented, and the variations may be material.

The projections have been prepared solely for the purpose described herein, using the probable and hypothetical assumptions set out in the Notes. Consequently, readers are cautioned that the Cash Flow Statement may not be appropriate for other purposes.

Dated: January 10, 2014

SILVER STREAMS HOMES INC., SILVER STREAMS HOMES (PUCCINI) INC., 2148993 ONTARIO INC., 2148990 ONTARIO INC., 2147681 ONTARIO INC. AND 2147650 ONTARIO INC.

Per: Imran Jinnah
____

Mr. Imran Jinnah
Title:
I have the authority to bind the corporations

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SILVER STREAMS HOMES INC., SILVER STREAMS HOMES (PUCCINI) INC., 2148993 ONTARIO INC., 2148990 ONTARIO INC., 2147681 ONTARIO INC. AND 2147650 ONTARIO INC.

Court File No. 13-10362-00-CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at TORONTO

MOTION RECORD

CHAITONS LLP
Barristers and Solicitors
5000 Yonge Street, 10th Floor
Toronto, ON M2N 7E9

Harvey Chaiton (LSUC #21592F)
Tel: (416) 218-1129
Fax: (416) 218-1849

Stephen Schwartz (LSUC #25980A)
Tel: (416) 218-1132
Fax: (416) 218-1832

Maya Poliak (LSUC #54100A)
Tel: 416-218-1161
Fax: 416-218-1844

Lawyers for the Applicants