

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

ED MIRVISH ENTERPRISES LIMITED AND 1 KING WEST INC.

Applicants

- and -

**STINSON HOSPITALITY INC., DOMINION CLUB OF CANADA CORPORATION
AND HARRY STINSON**

Respondents

MOTION RECORD
(Returnable April 1, 2009)

GOODMANS LLP
Barristers & Solicitors
Suite 2400, Box 20
250 Yonge Street
Toronto, Canada M5B 2M6

Fred Myers (LSUC#26301A)
L. Joseph Latham (LSUC#32326A)
Lauren Butti (LSUC#47083W)
Tel: 416-979-2211
Fax: 416-979-1234

Counsel to Ira Smith Trustee & Receiver Inc.,
in its capacity as receiver and manager of
Stinson Hospitality Inc., Dominion Club of
Canada Corporation, The Suites at 1 King
West Inc. and 2076564 Ontario Inc.

INDEX

Tab	Document	Page
1.	Notice of Motion dated March 25, 2009	1
A	Draft Approval Order	12
2.	Eleventh Report of the Receiver dated March 25, 2009	15
A	Exhibit "A" – Order of Justice Pepall dated August 24, 2007 (Receivership Order)	23
B	Exhibit "B" – Ninth Report of the Receiver dated December 5, 2008 (Ninth Report)	40
C	Exhibit "C" – Order of Justice Pepall dated December 11, 2008 (Settlement Approval Order)	58
D	Exhibit "D" – Order of Justice Pepall dated December 11, 2008 (Claims Process Order)	63
E	Exhibit "E" – Tenth Report of the Receiver dated March 3, 2009 (Tenth Report)	95
F	Exhibit "F" – Order of Justice Pepall dated March 11, 2009 (Tenth Approval and Interim Distribution Order)	122
G	Exhibit "G" – Correspondence between the Receiver and Ray and Vivian Punzalan	127
H	Exhibit "H" – Correspondence between the Receiver and Yuk Ming Szeto	133

TAB 1

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

ED MIRVISH ENTERPRISES LIMITED AND 1 KING WEST INC.

Applicants

- and -

**STINSON HOSPITALITY INC., DOMINION CLUB OF CANADA CORPORATION
AND HARRY STINSON**

Respondents

NOTICE OF MOTION

(Returnable April 1, 2009)

Ira Smith Trustee & Receiver Inc., in its capacity as court-appointed receiver and manager (the “**Receiver**”) of Stinson Hospitality Inc. (“**SHI**”), Dominion Club of Canada Corporation (“**DCC**”), The Suites at 1 King West (the “**Suites**”) and 2076564 Ontario Inc. (“**Housekeeping**”) (collectively, the “**Debtors**”), will make a motion before this Honourable Court on Wednesday, the 1st day of April, 2009, at 10:00 a.m. or as soon thereafter as the motion can be heard at 330 University Avenue, Toronto, Ontario.

THE MOTION WILL BE HEARD ORALLY.

THE MOTION IS FOR:

1. An order (the “**Eleventh Report Approval Order**”):
 - (a) approving the Eleventh Report of the Receiver dated March 25, 2009 (the “**Eleventh Report**”);

- (b) An order approving an interim distribution of proceeds to creditors in the amount of \$6,400,000.00; and
2. Such other relief as this Honourable Court may deem appropriate.

THE GROUNDS FOR THE MOTION ARE:

3. By Order of Madam Justice Pepall dated August 24, 2007 (the “**Receivership Order**”), the Receiver was appointed receiver and manager of the Debtors.
4. Pursuant to an Order dated December 11, 2008 (the “**Claims Process Order**”), the Receiver conducted a call for creditor claims in respect of the Debtors and the Receiver Parties (the “**Claims Process**”).
5. Under the Claims Process, approximately \$5.2 million in creditor claims (other than the secured claim advanced by Ed Mirvish Enterprises Limited which had previously been approved by the Court) were submitted to the Receiver advancing alleged secured claims, claims against the Receiver Parties (as defined in the Claims Process Order) or claims that may result in a distribution in priority to the claims of secured creditors. The Receiver disallowed all of these claims.

Interim Distributions

6. By Order dated March 11, 2009 an interim distribution of proceeds, in the amount of \$6,000,000.00, to certain secured creditors of the Debtors was approved.
7. The calculation of the amount of the interim distribution included a reserve of sufficient proceeds to account for the alleged secured, priority or Receiver Parties claims that had been advanced in the Claims process pending the outcome of any appeals from the Receiver’s disallowance of those claims.
8. The time for appeals under the Claims Process Order has expired.
9. No notices of appeal were received by the Receiver in respect of any alleged secured claims or claims that may result in a priority against the Debtors or Receiver Parties.

10. After taking a reserve for future costs of administration, a total of \$6.4 million is available for interim distribution to creditors.
11. Rule 3.02(1) of the *Rules of Civil Procedure*.
12. Sections 101 of the *Courts of Justice Act*.
13. 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:

14. the Eleventh Report, and the appendices thereto; and
15. such further and other materials as counsel may advise and this Honourable Court may permit.

Date: March 25, 2009

GOODMANS LLP
Barristers & Solicitors
Suite 2400, Box 20
250 Yonge Street
Toronto, Canada M5B 2M6

Fred Myers (LSUC#26301A)
L. Joseph Latham (LSUC#32326A)
Lauren Butti (LSUC#47083W)
Tel: 416-979-2211
Fax: 416-979-1234

Counsel to Ira Smith Trustee & Receiver Inc., in its capacity as receiver and manager of Stinson Hospitality Inc., Dominion Club of Canada Corporation, The Suites at 1 King West Inc. and 2076564 Ontario Inc.

TO: SEE ATTACHED SERVICE LIST

SERVICE LIST

TO: SHIBLEY RIGHTON LLP
Barristers and Solicitors
250 University Avenue
Suite 700
Toronto, ON M5H 3E5

Arthur Jacques
Tel.: 416.214.5213
Fax: 416.214.5413
Email: arthur.jacques@shibleyrighton.com

Thomas McRae
Tel.: 416.214.5206
Fax: 416.214.5400
Email: thomas.mcrae@shibleyrighton.com

Counsel for Sapphire Tower Development Corporation

AND TO: HARRY STINSON
Email: harrystinson@mountaincable.net
In his personal capacity

AND TO: GARDINER MILLER ARNOLD LLP
Barristers and Solicitors
390 Bay Street
Suite 1202
Toronto, ON M5H 2Y2

Mark H. Arnold
Tel.: 416.363.2614 Ext. 231
Fax: 416.363.8451
Email: mark.arnold@gmalaw.ca

Christopher Jaglowitz
Tel. (416) 363-2614 x 247
Fax (416) 363-8451
Email: chris.jaglowitz@gmalaw.ca

Counsel for Toronto Standard Condominium Corporation No. 1703

AND TO: MILLER THOMSON LLP
Barristers and Solicitors
Scotia Plaza
40 King Street West, Suite 5800
P.O. Box 1011
Toronto, ON M5H 3S1

Margaret Sims
Tel.: 416.595.8577
Fax: 416.595.8577
Email: msims@millerthomson.com

Jeffrey Carhart
Tel: 416.595.8615
Fax: 416.595.8577
Email: jcarhart@millerthomson.com

Patricia Conway
Tel: 416.595.8507
Fax: 416.595.8577
Email: pconway@millerthomson.com

Solicitors for Ed Mirvish Enterprises Limited and 1 King West Inc.

AND TO: OGILVY RENAULT
Barristers and Solicitors
Suite 3800
Royal Bank Plaza, South Tower
200 Bay Street
P.O. Box 84
Toronto, ON M5J 2Z4

Orestes Pasparakis
Tel.: 416.216.4815
Fax: 416.216.1995
Email: opasparakis@ogilvyrenault.com

Solicitors for Peter Kofman and Projectcore Inc.

AND TO: THOMAS G. RICHARDS
Barrister and Solicitor
900-45 Sheppard Avenue East
Toronto, Ontario M2N 5W1

Thomas Richards
Tel.: 416.227.9990
Fax: 416.227.9950
Email: Thomas@thomasrichards.ca

Solicitor for certain unitowners

AND TO: T.S. REIBER PROFESSIONAL CORPORATION

Barrister & Solicitor
121 Richmond Street West, Suite 1100
Toronto, Ontario M5H 2K1

Terrence S. Reiber

Tel: 416.927.9841
Fax: 416.975.1531
Email: terry@reiber.ca

Co-Solicitor for Segura Investments Ltd.

AND TO STEINBERG MORTON HOPE & ISRAEL LLP

Barristers & Solicitors
5255 Yonge Street, Suite 1100
Toronto, Ontario M2N 6P4

M. Michael Title

Tel: 416.225.2777
Fax: 416.225.7112
Email: mtitle@smhilaw.com

Co-Solicitor for Segura Investments Ltd.

AND TO: ROBERT VERDUN

153-B Wilfred Avenue
Kitchener, Ontario N2A 1X2

Tel: 519.574.0252
Email: bobverdun@rogers.com

Unitowner

AND TO: BLANEY MCMURTRY LLP

Barristers and Solicitors
2 Queen Street East
Toronto, Ontario M5C 3C6

Domenico Magisano

Tel: 416-593-2996
Fax: 416-593-5437
Email: dmagisano@blaney.com

Solicitors for DSM Leasing Ltd.

AND TO: PETER J. CHMIEL

Barrister and Solicitor
295 Matheson Blvd. East
Mississauga, Ontario L4Z 1X8

Tel: 905-502-6984
Fax: 905-502-6982
Email: georgia-pchmiel@on.aibn.com

Counsel for Joanna Ramessar-Chung

AND TO: HSBC BANK CANADA
1 Adelaide Street East
Toronto Ontario M5C 2V9
Miodrag Ostojic
Tel: 416-313-4717
Fax: 416-366-7351
Email: miodrag_ostojic@hsbc.ca

Andrea Sing
Tel: 416-313-4730
Fax: 416-366-7351
Email: andrea_sing@hsbc.ca

AND TO: SACK GOLDBLATT MITCHELL LLP
Barristers and Solicitors
20 Dundas Street West, Suite 1100
Toronto, Ontario M5G 2G8

Charles Sinclair
Tel: 416-979-4234
Fax: 416-591-7333
Email: csinclair@sgmlaw.com

Solicitors for UNITE HERE Ontario Council, Local 75

AND TO: AIRD & BERLIS LLP
Barristers and Solicitors
Brookfield Place
181 Bay Street
Suite 1800, P.O. Box 754
Toronto, Ontario M5J 2T9

Steven L. Graff
Tel: 416-865-7726
Fax: 416-863-1515
Email: sgraff@airdberlis.com

AND TO: THE ONTARIO CLUB
1 King Street West, 12th Floor
Toronto, Ontario M5H 1A1

AND TO: ZWAIG ASSOCIATES INC.
801 - 20 Adelaide Street East, PO Box 53,
Toronto, Ontario M5C2T6

- AND TO: GOULD LEASING LTD.**
1220 Yonge Street, Suite 201
Toronto, ON
M4T 1W1
- AND TO: DE LAGE LANDEN FINANCIAL SERVICES CANADA INC.**
100-1235 North Service Rd. W
Oakville, ON
L6M 2W2
- AND TO: HER MAJESTY IN RIGHT OF ONTARIO REPRESENTED BY THE
MINISTER OF REVENUE**
33 King St. W, 6th Flr
Oshawa, ON
L1H 8H5
- AND TO: MINISTRY OF REVENUE
REVENUE COLLECTIONS BRANCH**
1400 Blair Place
Suite 300, 3rd Floor
Ottawa, Ontario K1J 9B8
- Attention: R. McAteer**
Tel: 1-613-842-7065
1-613-842-7212/7042
- AND TO: THE CITY OF TORONTO**
Office of the City Clerk
2nd Floor, West Tower, City Hall
Toronto, ON, M5H 2N2
- Attention: Ulli S. Watkiss**
- AND TO: CITY OF TORONTO
The Office of the City Solicitor**
26th Floor, Metro Hall
55 John Street
Toronto, Ontario M5V 3C6
- Attention: Anna Kinastowski**
- AND TO: CITY OF TORONTO
The Office of the Treasurer**
P.O. Box 5000
Toronto, Ontario M2N 5V1
- Attention: Julie Waters**

**AND TO: MINISTRY OF REVENUE
REVENUE COLLECTIONS BRANCH
Insolvency Unit
33 King Street West
Oshawa, Ontario L1J 2H8**

Attention: Ms. R. Vinkovic

**AND TO: THE WORKPLACE SAFETY AND INSURANCE BOARD
Head Office
200 Front Street West
Toronto, Ontario M5V 3J1
Tel: (416) 344 -1007/1-800-387-0080
Fax: (416) 344-4684**

**WSIB Collections Branch
P.O. Box 2099 Stn. LCD1
120 King Street West
Hamilton, ON L8N 4C5
Tel: 1-800-268-0929
Fax Number: 905-521-4203**

**AND TO: ONTARIO LABOUR RELATIONS BOARD
505 University Avenue, 2nd Floor
Toronto, Ontario M5G 2P1
Tel: (416) 326-7500
Fax: (416) 326-7531**

**AND TO: CANADA REVENUE AGENCY –TORONTO CENTRE TAX SERVICES
OFFICE
1 Front Street W.
Toronto, Ontario M5J 2X6
Tel: 1-800-959-5525
Fax: (416) 360-8908/ (416) 954-5169**

**AND TO: CANADA REVENUE AGENCY
Department of Justice
The Exchange Tower
130 King Street West
Toronto Regional Branch, First Canadian Place
Toronto, Ontario M5X 1K6**

**Diane Winters
Tel: 416.973.9241**

AND TO: RYAN E ROGERS
15 Glebe Road East
Toronto, Ontario
M4S 1N7

AND TO: RYAN COOPER
46 Sandford Cres
Whitby, Ontario
L1R 2R9

AND TO GOWLING LAFLEUR HENDERSON LLP
1 First Canadian Place
100 King Street West
Suite 1600
Toronto, Ontario M5X 1G5

Scott Kugler
Phone: (416) 369-7107
Fax: (416) 369-7250
email: scott.kugler@gowlings.com

Solicitors for Owner of Suite 303 at 1 King West

AND TO Beverley Golden
94 York Hill Blvd
Thornhill, On L4J 2P6

email: freewill11@rogers.com

**ED MIRVISH ENTERPRISES
LIMITED AND 1 KING WEST INC.**

and

**STINSON HOSPITALITY INC.,
DOMINION CLUB OF CANADA
CORPORATION AND HARRY
STINSON**

Applicants

Respondents

Court File No: 07-CL-6913

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

NOTICE OF MOTION
(Returnable April 1, 2009)

GOODMANS LLP
Barristers & Solicitors
Suite 2400, Box 20
250 Yonge Street
Toronto, Canada M5B 2M6

Fred Myers (LSUC#26301A)
L. Joseph Latham (LSUC#32326A)
Lauren Butti (LSUC#47083W)
Tel: 416-979-2211
Fax: 416-979-1234

Counsel to Ira Smith Trustee & Receiver Inc., in its
capacity as receiver and manager of Stinson
Hospitality Inc., Dominion Club of Canada
Corporation, The Suites at 1 King West Inc. and
2076564 Ontario Inc.

TAB A

Court File No. 07-CL-6913

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

THE HONOURABLE MADAM)	WEDNESDAY, THE 1 ST DAY
)	
JUSTICE PEPALL)	OF APRIL, 2009

ED MIRVISH ENTERPRISES LIMITED AND 1 KING WEST INC.

Applicants

- and -

**STINSON HOSPITALITY INC., DOMINION CLUB OF CANADA CORPORATION
AND HARRY STINSON**

Respondents

ORDER

THIS MOTION, made by Ira Smith Trustee & Receiver Inc. (the “**ISI**”), in its capacity as court-appointed receiver and manager (the “**Receiver**”) of the all of the assets, undertakings and properties of Stinson Hospitality Inc. (“**SHI**”), Dominion Club of Canada Corporation (“**DCC**”), The Suites at 1 King West Inc. (the “**Suites**”) and 2076564 Ontario Inc. (“**Housekeeping**”) (collectively, the “**Debtors**”), for an for an Order substantially in the form attached as Schedule A to the Receiver’s Notice of Motion dated March 25, 2009, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Eleventh Report of the Receiver dated March 25, 2009, filed, (the “Eleventh Report”) and the appendices thereto, and upon hearing the submissions of counsel for the Receiver, the Applicants, Segura Investments Ltd., and Harry Stinson appearing in person, no

one appearing for the other parties served with the Receiver's Motion Record, although duly served as appears from the affidavit of service of Lauren Butti sworn March 26, 2009:

1. **THIS COURT ORDERS** that the Eleventh Report is hereby approved.
 2. **THIS COURT ORDERS** that the Receiver distribute \$6,400,000.00 from the proceeds of the realization of the assets of the Debtors that are in its possession in the following amounts:
 - (a) to Ed Mirvish Enterprises Limited the amount of \$6,254,103.35 on account of its secured claim; and
 - (b) to Segura Investments Ltd. the amount of \$145,896.65 on account of its secured claim.
 3. **THIS COURT ORDERS** that the distributions made pursuant to paragraph 2 above shall be partial payments to the recipients on account of their secured claims against the proceeds realized from the assets of the Debtors.
-

ED MIRVISH ENTERPRISES LIMITED and STINSON HOSPITALITY INC.,
AND 1 KING WEST INC. and DOMINION CLUB OF CANADA
CORPORATION AND HARRY STINSON

Applicants Respondents

Court File No: 07-CL-6913

ONTARIO

SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

ORDER

GOODMANS LLP

Barristers & Solicitors
Suite 2400, Box 20
250 Yonge Street
Toronto, Canada M5B 2M6

Fred Myers (LSUC#26301A)

L. Joseph Latham (LSUC#32326A)

Laruen Butti (LSUC#47083W)

Tel: 416-979-2211

Fax: 416-979-1234

Counsel to Ira Smith Trustee & Receiver Inc., in its capacity as receiver and manager and former monitor of Stinson Hospitality Inc., Dominion Club of Canada Corporation, The Suites at 1 King West Inc.' and 2076564 Ontario Inc.

TAB 2

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

ELEVENTH REPORT OF IRA SMITH TRUSTEE & RECEIVER INC.

**IN ITS CAPACITY AS COURT-APPOINTED RECEIVER OF
STINSON HOSPITALITY INC.,
DOMINION CLUB OF CANADA CORPORATION,
THE SUITES AT 1 KING WEST INC. AND
2076564 ONTARIO INC.**

DATED MARCH 25, 2009

1.0 INTRODUCTION

This report (the “**Eleventh Report**”) is filed by Ira Smith Trustee & Receiver Inc. (“**ISI**”) in its capacity as court-appointed receiver and manager (the “**Receiver**”) of all of the assets, undertakings and properties of Stinson Hospitality Inc. (“**SHI**”), Dominion Club of Canada Corporation (“**DCC**”), The Suites at 1 King West Inc. (“**Suites**”) and 2076564 Ontario Inc. (“**Housekeeping**”) (collectively referred to as the “**Debtors**” or the “**Companies**”), appointed pursuant to an Order dated August 24, 2007 (the “**Receivership Order**”) issued by the Honourable Madam Justice Pepall. A copy of the Receivership Order is attached as **Appendix “A”**.

On December 5, 2008, the Receiver filed its ninth report (the “**Ninth Report**”) updating the Court on the actions and activities of the Receiver, reporting on the closing of the sale transaction with TSCC 1703 (the “**Sale Transaction**”), seeking Court approval of the settlement among Segura, the Receiver, the Applicants (“**EME**”) and Harry Stinson, and recommending an Order for the implementation of a claims process by the Receiver in preparation for distribution of the proceeds of sale. A copy of the Ninth Report (without exhibits) is attached hereto as **Appendix “B”**.

By Order dated December 11, 2008, a copy of which is attached as **Appendix "C"**, (the "Settlement Approval Order") the Court approved of a settlement among Segura Investments Inc. ("Segura"), the Receiver, EME and Harry Stinson which, among other things, fixed the quantum of the respective secured claims of EME and Segura in these proceedings.

By Order dated December 11, 2008, a copy of which is attached as **Appendix "D"**, (the "**Claims Process Order**") the Court authorized and directed the Receiver to implement a claims process (the "**Claims Process**") in preparation for distribution of the proceeds realized by the Receiver in these proceedings.

On March 6, 2009, the Receiver filed its tenth report (the "**Tenth Report**") updating the Court on the actions and activities of the Receiver, including the conduct of the Claims Process by the Receiver, the correspondence received from various creditors in support of a motion brought by Robert J. Verdun (which was subsequently abandoned), and seeking Court approval of a proposed interim distribution of proceeds to secured creditors. A copy of the Tenth Report (without exhibits) is attached hereto as **Appendix "E"**. By order dated March 11, 2009, the Court approved the Tenth Report and ordered the interim distribution of \$6 million of proceeds to EME and Segura (the "**Tenth Approval and Interim Distribution Order**"). A copy of the Tenth Approval and Interim Distribution Order is attached as **Appendix "F"**.

Purpose of this Report

The purpose of this Eleventh Report is to advise this Honourable Court and to seek approval of a further interim distribution of the proceeds of sale in the amount of \$6.4 million and this Eleventh Report.

2.0 DISCLAIMER

The Receiver has relied upon the financial records and financial statements of the Debtors, as well as other information supplied by management and employees of the Debtors, its accountants, appraisers, valuers, and other advisors. Our procedures did not constitute an audit or review engagement.

Therefore, the Receiver is unable to and does not express an opinion on any financial statements, or elements of accounts referred to in this Eleventh Report, or any of the attached Appendices or Exhibits forming part of this Eleventh Report. Our procedures and enquiries did not include verification work or constitute an audit in accordance with generally accepted auditing standards. In the event any of the information we relied upon was inaccurate or incomplete, the results of our analysis could be materially affected. We reserve the right to review all calculations included or referred to in this Eleventh Report and, if we consider it necessary, to revise our calculations or conclusions in light of new information as such information becomes available.

3.0 BACKGROUND INFORMATION

In its capacity as Monitor and as Receiver, ISI has reported in detail to this Honourable Court on the nature of the Debtors' business operations and on the complexities of the legal structure and relationships between each of the corporations comprising the Debtors. The Receiver refers the readers of this Eleventh Report to the previous receivership Reports and the Monitor's Reports for a complete overview of the business, its background and structure.

4.0 ACTIVITIES OF THE RECEIVER

Since making its Tenth Report, there has not been significant change in the Receiver's activities to warrant a further report of all of the actions and activities of the Receiver at this time and the Receiver refers the reader to its Tenth Report.

5.0 COMPLETION OF THE CLAIMS PROCESS

As reported in the Tenth Report, in accordance with the terms of the Claims Process Order, the Receiver conducted a call for creditor claims in respect of the Debtors and the Receiver (in both its capacity as Court-appointed monitor and Court-appointed receiver), any of its directors, officers, employees, agents, Ira Smith in his personal capacity, or Goodmans, and any partners or employees thereof (the "**Receiver Parties**"). As a result of the Claims Process, over \$32 million in claims were filed against the Debtors and Receiver Parties.

Pursuant to paragraph 9 of the Claims Process Order, the Receiver was required to limit its review of claims at this time to those proofs of claim which advanced secured claims and claims against the Receiver Parties which might be entitled to receive a distribution in priority to the previously recognized claims of secured creditors. The total value of these claims, as reported in the Tenth Report, was approximately \$5.2 million. As also reported in the Tenth Report, with the exception of the Proof of Claim filed by EME (which claim had already been approved by the Court), on February 20, 2009 the Receiver dispatched Notices of Determination disallowing all claims submitted under the Claims Process Order that alleged a security interest, a priority, or which advanced a claim against the Receiver Parties.

5.1 Appeal Period has Expired

The Claims Process Order provides that should a creditor wish to appeal the Receiver's decision to disallow or to partially allow a claim, the creditor shall serve a notice of appeal on the Receiver and filing it with the Court within 20 days of service upon the creditor of the Receiver's Notice of Determination. The appeal period expired on March 17, 2009.

No notices of appeal were received by the Receiver.

On March 11, 2009, the Receiver received a letter from a creditor who had delivered a Proof of Claim in the Claims Process that advanced an unsecured claim against DCC. The creditor advised the Receiver of the creditor's wish to "dispute" the Receiver's Notice of Determination. A copy of this letter appeared to have also been delivered directly to the Ontario Superior Court of Justice – Commercial List office.

By letter dated March 13, 2009, the Receiver responded to the creditor's letter, advising that the Receiver was not required by the terms of the Claims Process Order to have reviewed unsecured claims at this time. As no determination of the creditor's unsecured claim had yet been made, the Receiver advised that there was no decision for the creditor to appeal. The Receiver did, however, advise that should the Court order the Receiver to review unsecured claims the Receiver would notify creditors. The Receiver copied the Ontario Superior Court of Justice, Commercial List on its response to this creditor. Copies of the creditor's and Receiver's correspondence are attached as **Appendix "G"**.

On March 17, 2009, the Receiver received a fax from another creditor who had delivered a Proof of Claim in the Claims Process that advanced an unsecured claim against an entity referred to as 1

King West Inc., which is a Mirvish company that is not in receivership, but advised in her fax that she was giving notice of her intention to appeal the Receiver's determination regarding an unsecured claim against The Suites at 1 King West Inc. (a Debtor).

On March 18, 2009, the Receiver responded to the creditor and advised that, to the extent that her claim was intended to be an unsecured claim against one of the Debtors, no determination had yet been made and, thus, there was no decision for her to appeal at this time. However, the Receiver went on to point out that to the extent the creditor's claim was a claim against 1 King West Inc.,¹ this is not an entity over which the Receiver had been appointed receiver and the Receiver had no further information concerning this claim. Copies of the creditor's and Receiver's correspondence are attached hereto as **Appendix "H"**.

6.0 INTERIM DISTRIBUTIONS

During the hearing before the Court on March 11, 2009, EME's counsel requested the Receiver seek its discharge or approval for a second interim distribution of sale proceeds following the expiration of the appeal period for the Claims Process. In response, the Receiver's counsel advised that Court that the Receiver expected to be in a position to bring a motion for a further distribution of the funds realized on the Debtors' assets on April 1, 2009.

As detailed in the Tenth Report, in recommending an amount for interim distribution, the Receiver advised the Court of its need to reserve sufficient proceeds to address any appeals that could be filed in the Claim Process. Accordingly, and as provided by the terms of the Tenth Approval and Interim

¹ The Statement of Claim attached as Schedule A to the creditor's original Proof of Claim submitted to the Receiver, names 1 King West Inc. as the defendant in a Small Claims Court action, not The Suites at 1 King West. Further, the contact name for the company named in the action is David Mirvish, not the Receiver.

Distribution Order, an initial interim distribution of \$6 million of proceeds was made to the secured creditors, EME and Segura, and the approved fees and disbursements of the Receiver and its counsel were paid.

As a result of the expiry of the appeal period for the Claims Process on March 17, 2009, and no notices of appeal having been received, the \$5.2 million of sale proceeds originally reserved by the Receiver (in respect of potential appeals) is now available for distribution.

The Receiver still requires a reasonable reserve of an amount necessary for the completion of the outstanding post-closing items with TSCC 1703, preparation of financial statements and final tax returns for the Debtors, and the preparation of the Receiver's final report and discharge. In addition, in view of the litigious manner that some creditors have approached this receivership, pending the Receiver's discharge and release, the Receiver believes that it is prudent for it to maintain sufficient funds to secure the Receiver's indemnity set out in paragraphs 19 and 20 of the Receivership Order. The Receiver currently has approximately \$6.9 million in cash on hand. Accordingly, the Receiver proposes to maintain a reserve of approximately \$500,000 (which amount is subject to the various post-closing items and adjustments described above) pending its release and discharge. This leaves approximately \$6,400,000 available for interim distribution at this time.

In accordance with the Settlement Approval Order, secured claims of Segura and EME in the aggregate amount of \$13,460,000.00 have already been recognized; and pursuant to the Tenth Approval and Interim Distribution Order an aggregate payment of \$6 million has already been made to them. Accordingly, recognizing the *pari passu* terms of the settlement, under the Settlement Approval Order, the \$6.4 million is divisible as follows:

- 8 -

- a. \$6,254,103.35 to EME; and
- b. \$145,896.65 to Segura Investments Ltd.

Any residual amount remaining, following the Receiver's completion of the various post-closing and other miscellaneous final administrative items outlined above, will be accounted for in the Receiver's final report to Court. At that time, the Receiver will also provide its final Statement of Receipts and Disbursements.

7.0 CONCLUSIONS AND RECOMMENDATIONS

For the reasons set out in this Tenth Report, the Receiver respectfully requests that this Honourable Court:

1. approve the Eleventh Report; and
2. approve the interim distribution of \$6.4 million of sale proceeds, on the basis contemplated in this Eleventh Report.

All of which is respectfully submitted at Toronto, Ontario this 25th day of March, 2009.

IRA SMITH TRUSTEE & RECEIVER INC.

solely in its capacity as the Court-Appointed Receiver
of Stinson Hospitality Inc., Dominion Club of Canada Corporation,
The Suites at 1 King West Inc., and 2076564 Ontario Inc. and not in its
personal Capacity

Per: _____

President

\5699115

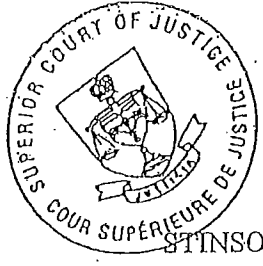
**Ira
Smith**
TRUSTEE & RECEIVER INC.

APPENDIX A

Court File No.07-CL-6913

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MADAM) FRIDAY, THE 24TH DAY
)
)
JUSTICE PEPALL) OF AUGUST, 2007



ED MIRVISH ENTERPRISES LIMITED AND 1 KING WEST INC.
Applicants

- and -

STINSON HOSPITALITY INC., DOMINION CLUB OF CANADA CORPORATION AND
HARRY STINSON
Respondents

ORDER

THIS MOTION, made by the Applicants for an Order, *inter alia*, pursuant to section 101 of the *Courts of Justice Act*, R.S.O 1990 c. C.43, as amended (the "CJA") appointing Ira Smith Trustee & Receiver Inc. as receiver and manager (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of Stinson Hospitality Inc. ("SHI"), Dominion Club of Canada Corporation ("Club Corp."), The Suites at 1 King West Inc. ("The Suites") and 2076564 Ontario Inc. ("2076564") was heard this day at 393 University Avenue, Toronto, Ontario.

ON READING the motion record of the Applicants (the "Applicants' Motion Record"), the Affidavits of David Mirvish, sworn March 26, 2007, August 1, 2007, and August 16, 2007, the Affidavit of Hank Kates sworn August 16, 2007 the Affidavits of Harry Stinson sworn February 27, 2007, April 18, 2007, August 14, 2007, and August 17, 2007, the Affidavit of Camillo Casciato sworn June 5, 2007, the Affidavit of Steve O'Brien sworn August 17, 2007, the Affidavit of Robert Verdun sworn June 6, 2007, the Affidavit of Christopher Jaglowitz sworn

SMP

August 14, 2007, the Affidavit of Johan Demeester sworn August 8, 2007, and the exhibits to the foregoing, the Minutes of Settlement dated April 20, 2007 between the Applicants, SHI and DCC, and the reports of Ira Smith Trustee & Receiver Inc. (the "Monitor"), court-appointed monitor of all of the assets, undertaking and property of SHI, Club Corp. The Suites and 2076564 (collectively, the "Companies") dated June 6, 2007, June 22, 2007, August 3, 2007 and August 16, 2007 and the exhibits thereto, and the Affidavit of David Mirvish sworn March 26, 2007 and the exhibits thereto, and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, counsel for the Companies and Mr. Stinson, and counsel for Toronto Standard Condominium Corporation No. 1703 (the "Residential Condo") and Mr. Demeester, and on reading the consent of Ira Smith Trustee & Receiver Inc. to act as receiver:

SERVICE

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

APPOINTMENT AS RECEIVER

2. THIS COURT ORDERS that, pursuant to section 101 of the CJA, Ira Smith Trustee & Receiver Inc. (the "Receiver") is hereby appointed Receiver, without security, of all of the Companies' current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof, whether or not used in the hotel rental management and food and beverage program carried on at the premises known municipally as One King West, Toronto, Ontario (collectively, the "Property").

DISCHARGE OF MONITOR

3. THIS COURT ORDERS that the appointment of Ira Smith Trustee & Receiver Inc. as monitor of the Companies pursuant to the Order of Mr. Justice Campbell dated April 23, 2007, as amended by the Order of Mr. Justice Campbell dated June 7, 2007 and the Order of Mr. Justice Campbell dated June 26, 2007, in these proceedings be and the same be hereby terminated and that the actions and activities of the Monitor as described in its reports dated August 3, 2007 and August 16, 2007 be and the same be hereby approved, and that the Monitor be and is hereby discharged and any claims of any nature whatsoever against the Monitor, in

EMP
EMP

EMP

relation to its activities as Monitor (save in respect of gross negligence and wilful misconduct), shall be forever barred and extinguished and no proceedings alleging gross negligence or wilful misconduct shall be commenced against the Monitor without leave of the Court on notice to the Monitor.

RECEIVER'S POWERS

4. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- a) to take possession and control of the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- b) to receive, preserve, protect and maintain control of the Property, or any part or parts thereof; including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- c) to manage, operate and carry on the hotel management and food and beverage businesses of the Companies (collectively, the "Business"), including the power and authority to enter into any agreements or incur any obligations in the ordinary course of such Business, to cease to carry on all or any part of such Business, or to perform or cease to perform any contracts of the Companies;
- d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the powers and duties conferred by this Order;
- e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the Business of the Companies or any part or parts thereof;

DMP

- f) to receive and collect all monies and accounts now owed or hereafter owing to the Companies and to exercise all remedies of the Companies in collecting such monies, including, without limitation, to enforce any security held by the Companies in relation to the Business;
- g) to settle, extend or compromise any indebtedness owing to the Companies in relation to the Business;
- h) to execute, assign, issue and endorse documents of whatever nature in respect of any or all of the Property, whether in the Receiver's name or in the name and on behalf of the Companies, for any purpose pursuant to this Order;
- i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Companies in relation to the Business;
- j) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Companies in relation to the Business, the Property or the Receiver, and to settle or compromise any such proceedings. *Notice of such settlement will be provided by the Receiver to Mr. Jacques, Counsel to the Receiver.* The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding; *Franson - + the companies in receivership SVP*
- k) subject to the terms of this Order, to market any or all of the Business or the Property, including advertising and soliciting offers in respect of the Business or the Property, or any part or parts thereof, and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- l) to sell, convey, transfer, lease, assign or refinance the Business or the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$500,000, provided that the aggregate consideration for all such transactions does not exceed \$1 million; and

gof

- (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause,

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply;

- m) subject to the terms of this Order, to apply for any vesting order or other orders necessary to convey the Business or the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- n) to report to, meet with and enter into discussions with such affected Persons (as defined below) as the Receiver deems appropriate concerning all matters relating to the Business, the Property or the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Companies;
- q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Companies, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Companies in relation to the Business;
- r) to exercise any shareholder, partnership, joint venture or other rights which the Companies may have, including, without limitation, any rights of the Companies in connection with or pursuant to (i) the declaration, by-laws or other constating

NMB

documents of the Residential Condo or Toronto Standard Condominium Corporation No. 1726 (the "Commercial Condo"), (ii) the reciprocal agreement made with effect as of September 9, 2005 between the Residential Condo, the Commercial Condo and 1 King West Inc., as assigned and assumed pursuant to an assignment and assumption of reciprocal agreement dated as of March 6, 2006, and (iii) the lease operating agreement dated the 18th day of November, 2005 between the Residential Condo and Commercial Condo; and

s) to take any steps reasonably incidental to the exercise of these powers,

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

5. THIS COURT ORDERS that the Receiver, in operating the Business of The Suites, subject to further of this Court, is hereby authorized and directed to make distributions to residential condominium unit owners who participate in the hotel program, all pursuant to existing arrangements between the Companies and such condominium units owners.

6. THIS COURT ORDERS that the Receiver shall, on or before September 4, 2007, determine which parties should receive notice in the event that the Applicants wish to seek the vesting order contemplated in the Applicants' Motion Record.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

7. THIS COURT ORDERS that (i) the Companies; (ii) all of the Companies' current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf; (iii) Harry Stinson, Stinson Properties Inc. and all companies related to, or affiliated with, any of the Companies; (iv) the Residential Condo and all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf; (v) the Commercial Condo and all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf; (vi) the Applicants and all entities related to, or affiliated with, any of the Applicants; and (vii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice

DM

of this Order (all of the foregoing, collectively being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver' request.

8. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the Business or other affairs of the Companies, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 8 or any other paragraph of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

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

DWA

NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE COMPANIES OR THE PROPERTY

11. THIS COURT ORDERS that no Proceeding against or in respect of any aspect of the Companies, the Business or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Companies (in respect of any aspect of the Business) or the Property are hereby stayed and suspended pending further Order of this Court. For greater certainty, nothing in this Order shall prevent the continuation of the proceeding Court File No. 07-CV-329252PD1.

NO EXERCISE OF RIGHTS OR REMEDIES

12. THIS COURT ORDERS that all rights and remedies against the Companies in relation to the Business, the Receiver, or affecting the Property are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that nothing in this paragraph shall (i) empower the Receiver or the Companies to carry on any business which the Companies are not lawfully entitled to carry on, (ii) exempt the Receiver or the Companies from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

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

DWP

CONTINUATION OF SERVICES

14. THIS COURT ORDERS that all Persons having oral or written agreements with the Companies in relation to the Business 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 Companies in relation to the Business 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 Receiver, and that the Receiver shall be entitled to the continued use of the Companies' current telephone numbers, facsimile numbers, internet addresses and domain names in relation to the Business, 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 Receiver in accordance with normal payment practices of the Companies or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

15. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever in relation to the Business, including without limitation, the sale or refinancing of all or any of the Business or the Property (in accordance with, and subject to the provisions of this Order) and the collection of any accounts receivable in relation to the Business in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court. Nothing herein shall prevent the Receiver from continuing with existing banking arrangements, subject to the Receiver maintaining management and control over existing bank accounts.

DMP

EMPLOYEES

16. THIS COURT ORDERS that all employees of the Companies in relation to the Business shall remain the employees of the Companies until such time as the Receiver, on the Companies' behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including wages, severance pay, termination pay, vacation pay, and pension or benefit amounts, other than such amounts as the Receiver may specifically agree in writing to pay, or such amounts as may be determined in a Proceeding before a court or tribunal of competent jurisdiction.

17. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Business or the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Business or the Property in accordance with, and subject to, the balance of the provisions of this Order (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any part of the Business or the Property shall be entitled to continue to use the personal information provided to it, and related to the Business or the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Companies, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

18. THIS COURT ORDERS that nothing herein contained shall require the Receiver 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

mp

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 Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

19. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the *Bankruptcy and Insolvency Act* or by any other applicable legislation.

RECEIVER'S ACCOUNTS

20. THIS COURT ORDERS that any expenditure or liability which shall properly be made or incurred by the Receiver, including the fees of the Receiver and the fees and disbursements of its legal counsel, incurred at the standard rates and charges of the Receiver and its counsel, shall be allowed to it in passing its accounts and shall form a first charge on the Business and the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person (the "Receiver's Charge").

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

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

DMP

FUNDING OF THE RECEIVERSHIP

23. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$500,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Business and the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge.

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

25. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

26. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a pari passu basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

GENERAL

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

28. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Companies.

svr

✓ ~~29. THIS COURT ORDERS that this Order shall apply notwithstanding the pendency of any other proceedings involving any of the Companies and the provisions of any federal or provincial statute, and any and all steps taken by the Receiver pursuant to this Order shall be valid as against any and all parties including any trustee in bankruptcy that may be appointed in respect of any of the Companies.~~ 611

30. 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 Receiver 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 Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

31. THIS COURT ORDERS that the Receiver 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.

✓ ~~32. THIS COURT ORDERS that the Applicants shall have their costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Applicants' security or, if not so provided by the Applicants' security, then on a substantial indemnity basis to be paid by the Receiver from the Companies' estate with such priority and at such time as this Court may determine.~~ nP

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

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

AUG 28 2007

PER/PAR: *[Signature]*

[Signature: J. Ripall]

[Handwritten mark]

SCHEDULE "A"
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that Ira Smith Trustee & Receiver Inc., the receiver and manager (the "Receiver") of the assets, undertakings and properties of Stinson Hospitality Inc., Dominion Club of Canada Corporation, The Suites at 1 King West Inc. and 2076564 Ontario Inc. appointed by Order of the Ontario Superior Court of Justice (the "Court") dated the 24th day of August, 2007 (the "Order") made in an action having Court file number 07-CL-6913, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property (as defined in the Order), in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver

MP

to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property (as defined in the Order) as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the _____ day of _____, 2007

Ira Smith Trustee & Receiver Inc., solely in its capacity as Receiver of the Property (as defined in the Order), and not in its personal capacity

Per: _____
Name:
Title:

5/17/07

STINSON HOSPITALITY INC., DOMINION
CLUB OF CANADA CORPORATION AND
HARRY STINSON

Respondents

ED MIRVISH ENTERPRISES LIMITED AND
1 KING STREET WEST INC.

Applicants

- and -

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

ORDER

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

Jeffrey C. Carhart LSUC#: 23645M
Tel: (416) 595-8615
Fax: (416) 595-8695
Email: jcarhart@millerthomson.com

Margaret R. Sims LSUC#: 39664I
Tel: (416) 595-8577
Fax: (416) 595-8695
Email: msims@millerthomson.com

Solicitors for the Applicants

APPENDIX B

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

NINTH REPORT OF IRA SMITH TRUSTEE & RECEIVER INC.

**IN ITS CAPACITY AS COURT-APPOINTED RECEIVER OF
STINSON HOSPITALITY INC.,
DOMINION CLUB OF CANADA CORPORATION,
THE SUITES AT 1 KING WEST INC. AND
2076564 ONTARIO INC.**

DATED DECEMBER 5, 2008

1.0 INTRODUCTION

This report (the "Ninth Report") is filed by Ira Smith Trustee & Receiver Inc. ("ISI") in its capacity as court-appointed receiver and manager (the "Receiver") of all of the assets, undertakings and properties of Stinson Hospitality Inc. ("SHI"), Dominion Club of Canada Corporation ("DCC"), The Suites at 1 King West Inc. ("Suites") and 2076564 Ontario Inc. ("Housekeeping") (collectively referred to as the "Debtors" or the "Companies"), appointed pursuant to an Order dated August 24, 2007 (the "Receivership Order") issued by the Honourable Madam Justice Pepall. A copy of the Receivership Order is attached as Exhibit "A".

The Receiver filed its first report (the "First Report") on October 1, 2007. The First Report was approved by the Honourable Madam Justice Pepall by Order dated October 5, 2007 (the "First Approval Order").

The Receiver filed its Second Report to Court on October 22, 2007 (the "Second Report") and its Supplementary Report to the Second Report on October 23, 2007 (the "Supplementary

Second Report"). Certain of the Receiver's recommendations in the Second Report were approved by the Honourable Madam Justice Pepall by Order dated October 24, 2007 (the "Second Approval Order"). However, the approval of the Receiver's accounts, and those of its legal counsel, Goodmans LLP ("Goodmans"), and of the Receiver's actions and activities, all as detailed in the Second Report, was adjourned to permit counsel for Toronto Standard Condominium Corporation No. 1703 ("TSCC 1703" or the "residential condo corporation") an opportunity to review the Second Report. A return date of November 14, 2007 was established for the scheduling of any issues in that regard. The Second Approval Order approved all of the relief requested at that time by the Receiver, other than for the aforesaid actions, activities and accounts.

The Receiver filed its Third Report on December 28, 2007 (the "Third Report"). The Third Report and the balance of the matters not approved by the Second Approval Order were approved by the Honourable Madam Justice Pepall by Order dated January 9, 2008 (the "Third Approval Order").

The Receiver filed its fourth report (the "Fourth Report") on January 18, 2008. The Fourth Report dealt only with the Receiver's motion for approval of the proposed sales process for the assets, properties and undertakings of the Debtors (the "Sales Process"). The Fourth Report, with some minor amendments, was approved by the Honourable Madam Justice Pepall by Order dated January 24, 2008 (the "Fourth Approval Order").

The Receiver filed its fifth report (the "Fifth Report") on January 31, 2008. The Fifth Report provided an update on the status of the improving Hotel operations as at December 31, 2007, advised of the Receiver's position concerning both the amended motion of Unite Here Local 75

(the "Union") and the rectification application of Segura Investments Ltd., 1392964 Ontario Limited and Tim Kwan (collectively "Segura") as of that date (the "Segura Application"), and supported the Receiver's motion for approval of the proposed sales process for the assets, properties and undertakings of the Debtors. The Fifth Report was approved by the Honourable Madam Justice Pepall by Order dated February 19, 2008 (the "Fifth Approval Order").

On April 4, 2008, the Receiver filed its Supplementary Fifth Report and its Second Supplementary Fifth Report in connection with the Segura application and the Union motion, respectively. A settlement of the Union motion was achieved and approved by the Honourable Madam Justice Pepall by Order dated April 9, 2008. The Honourable Madam Justice Pepall, by Endorsement dated May 26, 2008, ordered that the Segura application be heard on June 27, 2008, and she approved a schedule for the delivery of facta by the various interested parties.

The Receiver filed its sixth report (the "Sixth Report") on June 13, 2008. The Sixth Report provided an update on the status of the hotel operations and advised of the ongoing actions and activities of the Receiver including the settlement reached between the Receiver and the Union in connection with the Union's amended motion, the status of the Segura application and the sale process. The Sixth Report was approved by the Honourable Madam Justice Pepall by Order dated July 11, 2008 (the "Sixth Approval Order").

The Receiver filed its seventh report (the "Seventh Report") on September 9, 2008. The Seventh Report detailed the information concerning the Sales Process, including a copy of the Asset Purchase Agreement dated August 29, 2008 between the Receiver as vendor and TSCC 1703 as purchaser ("APA"), as well as other details of the Receiver's ongoing actions and activities. On September 11, 2008, the Receiver filed a supplementary report to the Receiver's

Seventh Report (the "Supplementary Seventh Report") updating the Court with respect to two matters covered in the Receiver's Seventh Report. The Receiver's Seventh Report was approved by the Honourable Madam Justice Pepall by Order dated September 16, 2008 (the "Seventh Approval Order"). A copy of the Seventh Approval Order is attached hereto as Exhibit "B".

On October 28, 2008, the Receiver filed its eighth report (the "Eighth Report") in connection with its motion to strike the Statement of Defence purported to have been delivered and filed on behalf of Stinson Hospitalities Inc. in the Segura Application. By Order dated October 31, 2008, the Honourable Madam Justice Pepall ordered that the Statement of Defence filed by Harry Stinson on behalf of SHI be struck out. A copy of the Eighth Report is attached hereto as Exhibit "C".

Purpose of this Report

The purpose of this Ninth Report is to advise this Honourable Court and to seek approval of:

1. The Eighth Report, this Ninth Report and the actions and activities of the Receiver, since the date of its Seventh Report including the closing of the sale of the hotel business of the Debtors to TSCC 1703;
2. the settlement of the Segura Application among Segura, the Receiver, EME and Harry Stinson;
3. the implementation of a claims process by the Receiver in preparation for distribution of the proceeds of sale; and
4. the statement of receipts and disbursements of the Receiver for the Debtors from August 27, 2007 to November 30, 2008.

The Receiver normally includes in its Reports to Court an update on the financial position of the Debtors operating in receivership for the nearest fiscal period just ended since the date of the Receiver's last Report to Court providing such financial information.

Given the completion of the sale of the hotel business of the Debtors to TSCC 1703 effective December 1, 2008 (further discussed below), and that the books of account of the Debtors have not yet been closed off at the date of this Ninth Report, the Receiver will not report on such operations in this Ninth Report, but will do so for the entire receivership period in the next Report to Court.

2.0 Disclaimer

The Receiver has relied upon the financial records and financial statements of the Debtors, as well as other information supplied by management and employees of the Debtors, its accountants, appraisers, valuers, and other advisors. Our procedures did not constitute an audit or review engagement.

Therefore, the Receiver is unable to and does not express an opinion on any financial statements, or elements of accounts referred to in this Ninth Report, or any of the attached Appendices or Exhibits forming part of this Ninth Report. Our procedures and enquiries did not include verification work or constitute an audit in accordance with generally accepted auditing standards. In the event any of the information we relied upon was inaccurate or incomplete, the results of our analysis could be materially affected. We reserve the right to review all calculations included or referred to in this Ninth Report and, if we consider it necessary, to revise our calculations or conclusions in light of new information as such information becomes available.

3.0 BACKGROUND INFORMATION

In its capacity as Monitor and as Receiver, ISI has reported in detail to this Honourable Court on the nature of the Debtors' business operations and on the complexities of the legal structure and relationships between each of the corporations comprising the Debtors. The Receiver refers the readers of this Ninth Report to the previous receivership Reports and the Monitor's Reports for a complete overview of the business, its background and structure.

4.0 ACTIVITIES OF THE RECEIVER

Since its Seventh Report, the major activities undertaken by the Receiver can be summarized as follows:

- Continued CK's retainer to oversee the day-to-day hotel operations, in accordance with the Interim Management Agreement contained in the First Report as approved by this Honourable Court.
- Continued to provide overall financial controls over the Hotel Operations and to deal with issues arising from the receivership, including creditor, unit owner and other stakeholder inquiries.
- Continued dialogue with the Applicants or its legal counsel concerning the Sales Process and Hotel Operations, under terms of a confidentiality arrangement, and regarding the Segura settlement conference (discussed below).
- Maintaining unit owners' distributions in accordance with existing Rental Management Agreements.

- Meetings and discussions between representatives of the Receiver, the Board of Directors of TSCC 1703 and respective legal counsel in connection with the sale of the assets, properties and undertakings of the Companies to TSCC 1703 (or its assignees), as approved by this Honourable Court in the Seventh Approval Order.
- Involvement in the Segura Application and its ultimate settlement (subject to the Court approval) among Segura, the Receiver, Ed Mirvish Enterprises Ltd. ("EME"), 1 King West Inc. ("IKW") and Harry Stinson, including the attendance at the Settlement Conference (as defined below) on November 19, 2008.
- Dealing with various staffing, tax and operational matters.

5.0 SEGURA, 1392964 AND KWAN

In its capacities as Monitor and as Receiver, ISI obtained and reviewed documentation relating to a purported loan by Segura to SHI in the total amount of \$1.4M (the "Segura Loan"), including obtaining a copy of the Loan Agreement and corresponding security documentation purporting to grant security to Segura by SHI and Stinson in the form of: (a) an assignment by SHI and Stinson of their rights to the per unit fee due to SHI under certain Rental Management Agreements (the "Fixed Fee Assignment"); and (b) a General Security Agreement (the "GSA").

In its Third Report dated December 27, 2007, the Receiver advised that it had received a legal opinion from its counsel that Segura was an unsecured creditor of SHI and that Tim Kwan had been granted a security interest without any underlying indebtedness to support the granting of such security. Moreover, there had been no perfection of the GSA, and the *Personal Property*

Security Act registration in favour of Segura in what appeared to be the Fixed Fee Assignment could not perfect the security in favour of Tim Kwan.

In response to the Receiver's Third Report, Segura sought to commence the Segura Application seeking rectification of the Loan Agreement and the schedules thereto, and an order determining the validity, perfection and priority of the security. By Endorsement dated February 5, 2008, Madam Justice Pepall granted Segura leave to proceed with the Segura Application and joined the Receiver as a party to the Segura Application. A copy of the February 5, 2008 Endorsement of Pepall, J. is attached hereto as Exhibit "D".

The Segura Application was heard on June 27, 2008 before Madam Justice Pepall. By Order dated July 11, 2008, attached hereto as Exhibit "E", Madam Justice Pepall ordered a trial of the rectification issue. Accordingly, and pursuant to a Court-ordered timetable, pleadings were exchanged, affidavits of documents provided and cross examinations conducted on affidavit evidence.

Pursuant to an order of the Court dated November 3, 2008, a copy of which is attached hereto as Exhibit "F", the Receiver participated in a settlement conference before the Honourable Mr. Justice Campbell on November 19, 2008 in respect of the Segura Application (the "Settlement Conference"). Counsel and client representatives of Segura, the Receiver, EME and IKW attended. Mr. Harry Stinson (in his personal capacity) and counsel for Brian Kwan were also in attendance.

At the Settlement Conference the parties were able to reach an agreement to settle the Segura Application which Mr. Justice Campbell found to be "a fair and reasonable compromise" in all of the circumstances. A copy of the endorsement of Campbell J. dated November 19, 2008 is

attached hereto as Exhibit "G". A copy of the parties' minutes of settlement dated November 19, 2008 ("Minutes of Settlement") are attached hereto as Exhibit "H".

By the Minutes of Settlement, the parties agree that the Segura Application will be allowed on the following basis:

- (i) the amount of \$600,000 (of the total \$1.4M, plus interest and costs, originally sought by Segura) will be allowed as a secured claim for Segura in the estate of SHI (the "Segura Secured Amount");
- (ii) a further amount of \$800,000 will be allowed to Segura as an unsecured claim in the estate of SHI (the "Segura Unsecured Amount");
- (iii) the parties will each bear their own costs with respect to the Segura Application;
- (iv) Segura will not pursue any further claim against either of SHI or DCC, or the Receiver in the Segura Application or at all; and
- (v) Segura will deliver a Release in favour of the Receiver, EME and 1KW

(the "Segura Settlement").

Additionally, the parties to the Segura Settlement further agreed that all payments under the Settlement would be subject to the payment of all priority items, such as the Receiver's operating costs, fees and disbursements and borrowings. Therefore, the remaining available proceeds would be distributed in the following manner: (1) the first \$300,000 of the Segura Secured Amount would rank *pari passu* with EME's security (in the amount of \$12,860,000); and (2) the

second \$300,000 of the Segura Secured Amount would rank as second in priority to EME's security. It was also agreed by the parties that the Segura Unsecured Claim, together with the unsatisfied balance of EME's claim, would be dealt with together with all of the other unsecured creditors of SHI, DCC, Suites and Housekeeping.

In reaching the agreed upon allocation, the Receiver and the parties were cognizant that, pursuant to the terms of the APA, TSCC 1703 had agreed to purchase the assets of the Debtors for \$13.9 million in cash (subject to normal adjustments for transactions of this nature) ("Sale Proceeds").

In Section 6.0 of this Ninth Report below, the Receiver outlines additional considerations which it took into account prior to concluding that the Segura Settlement was fair and reasonable in the circumstances, in order for the Receiver to have to agreed at the Settlement Conference to support the Settlement and recommend its approval by this Honourable Court.

6.0 ALLOCATION OF THE SEGURA SETTLEMENT

Accordingly, subject to the payment of priority creditor claims including those disclosed by the claims process detailed below in paragraph 8.0, including the Receiver's fees and disbursements, the parties to the Segura Application agreed to the allocation of the Segura Settlement on the following basis:

Description of Allocation of Funds (in order of distribution priority)	Amount
1. Valid post-filing claims, including the Receiver's fees and disbursements, which rank in priority to secured creditors' claims	[\$Amount to be determined]
2. Ranked <i>pari passu</i> , funds in the amount of \$12,860,000 allocated to EME's security with respect to certain assets of SHI and DCC; and funds in the amount of \$300,000	\$13,160,000.00

	allocated to the first tranche of the Segura Secured Claim.	
3	The second tranche of the Segura Secured Claim	\$300,000.00
4	Remaining Funds to be distributed rateably among all unsecured creditors of SHI, DCC, Suites and Housekeeping, including the unsatisfied balance of EME's claim and the Segura Unsecured Claim.	[\$Amount to be determined]

The Receiver recommends the approval of the Segura Settlement, including the above allocation. In recommending the approval of the Segura Settlement, the Receiver has considered the following factors:

- (i) the Segura Settlement was reached with the agreement of all of the parties, including EME and 1KW, which hold security over substantial assets of the Debtors;
- (ii) the Segura Settlement was negotiated with the parties' knowledge that approximately \$13.9M in Sale Proceeds would be available, subject to valid post-filing claims, including the Receiver's fees and disbursements and possible claims disclosed in a claims process;
- (iii) the Segura Settlement was reviewed and considered by the Honourable Justice Campbell and found to be fair and reasonable in all of the circumstances;
- (iv) the Receiver engaged in extensive due diligence in respect of the Segura Application and the alleged loan transaction, including engaging in documentary and oral discovery;

- (v) At this time, to the Receiver's knowledge and subject to the Claims Process, DCC and SHI are the only Companies with creditors. Housekeeping does not have any known creditors; and the funds received by Suites are used to pay the obligations of other Debtors, Suites itself does not have any independent creditors;
- (vi) Prior to the approval of the Sale Transaction, TSCC 1703 and EME agreed to an allocation of at least \$11.9M to EME's security. Indeed, TSCC 1703 in fact, allocated a value of \$13 million to the real estate alone in connection with the closing of the Sale Transaction;
- (vii) In its allocation of the purchase price, a copy of which is attached as Exhibit "P", TSCC 1703 also allocated a value of \$314,000.00 to various kinds of equipment, such equipment would primarily have belonged to either DCC or SHI, and the further breakdown of value between these two estates is unclear at this time;
- (viii) TSCC 1703 was not a party to the Segura Application or the Segura Settlement and was not aware of the terms of the Segura Settlement, including the proposed allocation, at the time TSCC 1703 determined its allocation of the purchase price;
- (ix) If a reasonable settlement could not be achieved, then the matter was already set for trial for December 1 and 2 before Madam Justice Pepall. The Receiver's involvement would be a cost which would ultimately have been borne by the receivership estate;

(x) Even if successful at the rectification hearing, there was substantial conflicting, questionable or missing information, in the Receiver's view, as to whether Segura could prove advances under its rectified security to SHI. Notwithstanding that Segura was finally able to satisfy the Receiver that it made advances, in the Receiver's view, there were other issues raised as to whether there was a proper advance for which SHI would be liable. Therefore, the Receiver could have been in the position before this Honourable Court of having participated in lengthy and costly proceedings leading to rectification, only to be back before this Honourable Court arguing that Segura is not entitled to any recovery as a secured creditor or even as an unsecured creditor of SHI, given that no advances were proven to have been made to SHI.

The Receiver was concerned that the costs of these applications could seriously reduce the Net Sale Proceeds for distribution to creditors, including EME and 1KW who were also supportive of the Segura Settlement; and

(xi) With the sale of the hotel business of the Debtors to TSCC 1703 scheduled for completion in only two weeks, the Receiver recognized that, as it would no longer be managing the business of the Companies, it would no longer be receiving the management fees and other revenues that had been used to fund the receivership administration. Therefore, if settlement was not reached, the Receiver would be funding the ongoing litigation from the Sale Proceeds. This would again have the effect of reducing the ultimate distribution at the costs of creditors lawfully entitled to the money.

For the reasons disclosed herein, the Receiver believes that the Segura Settlement is in the best interests of the stakeholders in this receivership administration and, accordingly, recommends that the Segura Settlement be approved by this Honourable Court.

7.0 SALE TO TSCC 1703

Pursuant to the APA, TSCC 1703 agreed to purchase the property, assets and undertakings of the Debtors for a purchase price of \$13.9 million cash (the "Sale Transaction"). On December 1, 2008 the Sale Transaction closed in escrow. The escrow terms were lifted on December 2, 2008 and the Sale Transaction was completed.

As a result of adjustments for items contemplated in the APA, the net closing proceeds received by the Receiver totalled \$13,604,657.79 (the "Net Sale Proceeds"). A copy of the Estimated Statement of Adjustments (as defined in the APA) is attached hereto as **Exhibit "J"**.

Shortly prior to closing, TSCC 1703's counsel shared with the Receiver's counsel realty tax certificates which they had obtained indicating that the approximate amount of \$410,000 was outstanding on account of 2007 and 2008 realty taxes for real property being conveyed by the Receiver to the TSCC 1703. In order to allow for the scheduled closing, it was agreed that Goodmans would provide its undertaking to pay the full amount of this obligation from the Net Sale Proceeds prior to releasing any such funds to the Receiver. In connection therewith, the Receiver obtained a credit for the month of December's taxes.

On December 2, 2008, the Receiver's Certificate was filed with this Honourable Court, all escrow conditions were satisfied, the registrations of the real property were completed, and the transaction closed. On December 3, 2008, Goodmans paid the realty taxes noted above and

transferred to the Receiver the amount of \$13,192,064.67, being the Net Sale Proceeds, net of the realty tax payment. On the same day, the Receiver invested the amount of \$12,800,000.00 in an interest-bearing term deposit, and retained the balance to assist in the funding of the payment of the fees and expenses of both the Receiver and Goodmans, as disclosed below in sections 9.0 and 10.0 of this Ninth Report. Any funds not so required will be invested in an interest-bearing term deposit pending the ultimate distribution of funds.

8.0 THE CLAIMS PROCESS

As a result of the successful completion of the Sale Transaction, the Receiver will soon be in a position to distribute the Net Sale Proceeds to the creditors who are entitled to receive them. In order to ensure that all relevant claims to the proceeds have been made and assessed for validity, quantum and priority, the Receiver intends to conduct a call for creditor claims (the "Claims Process") in respect of the Debtors and the Receiver (in both its capacity as Court-appointed monitor and Court-appointed receiver), any of its directors, officers, employees, agents, Ira Smith in his personal capacity, or Goodmans, and any partners or employees thereof (the "Receiver Parties").

The Receiver intends to call for all claims, whether secured or unsecured. However, until the Receiver is able to determine the sufficiency of the Net Sale Proceeds, it intends to defer any determination of quantum or value of the unsecured claims received. Once all of the claims against Court-ordered charges contained in the Initial Order and other secured creditor claims have been addressed, the Receiver will then consider the unsecured claims.

The details of the Receiver's proposed Claims Process are outlined in the proposed form of Claims Process Order, and include:

- a procedure for advising creditors of the Claims Process by mailing proof of claim documents to known creditors and by advertising on two separate days seeking claims in the National Edition of the Globe and Mail;
- the manner in which creditor proofs of claim are to be delivered to the Receiver;
- a proposed claims bar date of January 31, 2009; and
- a process by which a creditor may appeal to the Court an adverse determination of its claim by the Receiver.

A copy of the proposed form of Claims Process Order is attached hereto as Exhibit "K".

9.0 FEES AND DISBURSEMENTS OF THE RECEIVER

Attached hereto as Exhibit "L" is the Affidavit of Mr. Ira Smith, President of ISI, attesting to the fees and disbursements of the Receiver for the period from August 1, 2008 to December 2, 2008, inclusive.

10.0 FEES AND DISBURSEMENTS OF GOODMAN'S LLP

Attached hereto as Exhibit "M" is the Affidavit of Mr. L. J. Latham, a Partner of Goodmans, attesting to the fees and disbursements of Goodmans for the period from July 18, 2008 to December 2, 2008.

11.0 RECEIVER'S STATEMENT OF RECEIPTS AND DISBURSEMENTS

The consolidated statement of receipts and disbursements of the Receiver for the period from August 25, 2007 to November 30, 2008 is attached hereto as Exhibit "N".

**Ira
Smith**
TRUSTEE & RECEIVER INC.

12.0 CONCLUSIONS AND RECOMMENDATIONS

For the reasons set out in this Ninth Report, the Receiver respectfully requests that this Honourable Court:

1. approve the Eighth Report, the Ninth Report and the actions and activities of the Receiver described therein;
2. approve the fees and disbursements of the Receiver and of Goodmans as detailed in Exhibits "L" and "M";
3. approve the carrying out of the Claims Process as detailed in Exhibit "K";
4. approve the Segura Settlement; and
5. provide such other advice and directions that this Honourable Court deems appropriate in the circumstances.

All of which is respectfully submitted at Toronto, Ontario this 5th day of December, 2008.

IRA SMITH TRUSTEE & RECEIVER INC.
solely in its capacity as the Court-Appointed Receiver
of Stinson Hospitality Inc., Dominion Club of Canada Corporation,
The Suites at 1 King West Inc., and 2076564 Ontario Inc. and not in its
personal Capacity

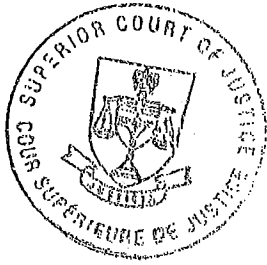
Per: _____

President

15660365

**Ira
Smith**
TRUSTEE & RECEIVER INC.

APPENDIX C



Court File No. 07-CL-6913

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

THE HONOURABLE MADAM)	THURSDAY, THE 11TH DAY
)	
JUSTICE PEPALL)	OF DECEMBER, 2008

ED MIRVISH ENTERPRISES LIMITED AND 1 KING WEST INC.

Applicants

- and -

**STINSON HOSPITALITY INC., DOMINION CLUB OF CANADA CORPORATION
AND HARRY STINSON**

Respondents

ORDER

THIS MOTION, made by Ira Smith Trustee & Receiver Inc. (the “**ISI**”), in its capacity as court-appointed receiver and manager (the “**Receiver**”) of all of the assets, undertakings and properties of Stinson Hospitality Inc. (“**SHI**”), Dominion Club of Canada Corporation (“**DCC**”), The Suites at 1 King West Inc. (the “**Suites**”) and 2076564 Ontario Inc. (“**Housekeeping**”) (collectively, the “**Debtors**”), for an Order substantially in the form attached as Schedule B to the Receiver’s Notice of Motion at Tab 1 of the Receiver’s Motion Record (the “**Receiver’s Motion Record**”) herein was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Ninth Report of the Receiver dated December 5, 2008, filed, and upon hearing the submissions of counsel for the Receiver, the Applicants, Segura Investments Ltd., 1392964 Ontario Limited and Tim Kwan (collectively, “**Segura**”), Harry Stinson in person,

Toronto Standard Condominium Corporation 1703, and no one appearing for the other parties served with the Receiver's Motion Record, although duly served as appears from the affidavit of service of Lauren Butti sworn December 5, 2008:

SERVICE

- 1. THIS COURT ORDERS that the time for service of the Motion Record be and it is hereby abridged, that the Motion is properly returnable today, that the service, including the manner of service, of the Motion Record is hereby approved and that any requirement for service of the Motion Record upon any party, other than those served, is hereby dispensed with.

EIGHTH REPORT

- 2. THIS COURT ORDERS that the Eighth Report and the actions of the Receiver as reported therein be and are hereby approved.

NINTH REPORT

- 3. THIS COURT ORDERS that the Ninth Report and the actions and activities of the Receiver as reported therein be and are hereby approved.
- 4. THIS COURT ORDERS that the Receiver's fees and disbursements from August 1, 2008 to December 2, 2008, and the fees and disbursements of its legal counsel, Goodmans LLP, from July 18, 2008 to December 2, 2008, all as detailed in the Ninth Report, be and are hereby approved.

MINUTES OF SETTLEMENT

5. THIS COURT ORDERS that the settlement of the application commenced by Segura, Court File No. 08-CL-7368, and the Minutes of Settlement executed by the Receiver, Segura, the Applicants and Harry Stinson, effecting the settlement be and are hereby approved.

J. Epall

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

DEC 11 2008

PER / PAR:

Court File No: 07-CL-6913

STINSON HOSPITALITY INC.,
DOMINION CLUB OF CANADA
CORPORATION AND HARRY STINSON

Respondents

ED MIRVISH ENTERPRISES LIMITED
AND 1 KING WEST INC.

Applicants

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

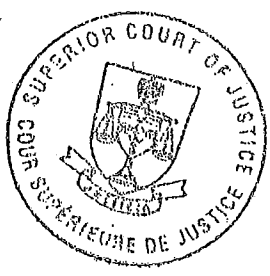
ORDER

GOODMANS LLP
Barristers & Solicitors
Suite 2400, Box 20
250 Yonge Street
Toronto, Canada M5B 2M6

Fred Myers (LSUC#26301A)
L. Joseph Latham (LSUC#32326A)
Laruen Butti (LSUC#47083 W)
Tel: 416-979-2211
Fax: 416-979-1234

Counsel to Ira Smith Trustee & Receiver Inc., in its capacity as receiver and manager and former monitor of Stinson Hospitality Inc., Dominion Club of Canada Corporation, The Suites at 1 King West Inc. and 2076564 Ontario Inc.

APPENDIX D



Court File No. 07-CL-6913

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MADAM) THURSDAY, THE 11TH DAY
JUSTICE PEPALL) OF DECEMBER, 2008

ED MIRVISH ENTERPRISES LIMITED AND 1 KING WEST INC.

Applicants

- and -

STINSON HOSPITALITY INC., DOMINION CLUB OF CANADA CORPORATION
AND HARRY STINSON

Respondents

CLAIMS PROCESS ORDER

THIS MOTION, made by Ira Smith Trustee & Receiver Inc. (the "ISI"), in its capacity as court-appointed receiver and manager (the "Receiver") of all of the assets, undertakings and properties of Stinson Hospitality Inc. ("SHI"), Dominion Club of Canada Corporation ("DCC"), The Suites at 1 King West Inc. (the "Suites") and 2076564 Ontario Inc. ("Housekeeping") (collectively, the "Debtors"), for an Order substantially in the form attached as Schedule "A" to the Receiver's Notice of Motion at Tab 1 of the Receiver's Motion Record (the "Receiver's Motion Record") herein was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Ninth Report of the Receiver dated December 5, 2008, filed, and upon hearing the submissions of counsel for the Receiver, the Applicants, Segura Investments Ltd., 1392964 Ontario Limited and Tim Kwan (collectively, "Segura"), Harry Stinson in person,

Toronto Standard Condominium Corporation 1703 ("TSCC 1703"), and no one appearing for the other parties served with the Receiver's Motion Record, although duly served as appears from the affidavit of service of Lauren Butti sworn December 5, 2008:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Motion Record be and it is hereby abridged, that the Motion is properly returnable today, that the service, including the manner of service, of the Motion Record is hereby approved and that any requirement for service of the Motion Record upon any party, other than those served, is hereby dispensed with.

DEFINITIONS

2. **THIS COURT ORDERS AND DECLARES** that the following terms in this Order shall have the following meanings ascribed thereto:
 - (a) **"Amended Monitor Order"** means the Order of this Honourable Court dated June 7, 2007 amending the Monitor Order to add the Suites and Housekeeping to the named debtors in the Monitor Order;
 - (b) **"Business Day"** means a day, other than a Saturday or a Sunday, on which banks are generally open for business in Toronto, Ontario;
 - (c) **"Claim"** means:

- (i) any right or claim of any Person against any one or more of the Debtors whatsoever in connection with any indebtedness, liability or obligation of any kind of any one or more of the Debtors that existed as at the date of the Receivership Order, whether reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, unknown, by guarantee, by surety or otherwise, including any other claims that would have been claims provable in bankruptcy had the Debtors become bankrupt on the date of the Receivership Order and any other claims arising from or caused by, directly or indirectly, the implementation of, or any action taken pursuant to, the Receivership Order or the Receivership Proceedings, including the repudiation or termination of any lease, contract or agreement and any claims relating thereto, including any anticipatory breach thereof (a "Debtor Claim");
- (ii) any right or claim of any Person against ISI, in its capacity as either Monitor or Receiver, or any of its directors, officers, employees, agents, Ira Smith in his personal capacity, or its counsel, Goodmans LLP, or any partners or employees thereof, (collectively the "Receiver Parties"), in connection with any indebtedness, liability or obligation that arose from and after the date of the Monitor Order and that pertains to the Receiver Parties' conduct, involvement or duties with respect to the Debtors, the Monitor Proceedings or the Receivership Proceedings, whether reduced to judgment, liquidated, unliquidated, in tort (whether intentional or

unintentional), contract, restitution, whether fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, unknown, by guarantee, by surety or otherwise (each a "Receiver Claim"); and

(iii) the definitions of Claim, Debtor Claim and Receiver Claim shall expressly exclude any Excluded Claim;

(d) "Claims Bar Date" means 5:00 p.m. (Eastern Standard Time) on January 31, 2009 or such later date as may be ordered by the Court; ²³ *onp.*

(e) "Court" means the Ontario Superior Court of Justice;

(f) "Creditor" means any Person having a Claim;

(g) "Excluded Claim" means claims secured by the Receiver's Charge and the Receiver's Borrowings Charge, as defined in the Receivership Order;

(h) "Instruction Letter" means the instruction letter to Creditors, in substantially the form attached as Schedule "A" hereto, regarding completion by Creditors of the Proof of Claim;

(i) "Known Creditors" means with respect to each of the Debtors:

(i) those Creditors that the books and records of such Debtor disclose were owed monies by the Debtor as of the date of the Receivership Order, where such monies remain unpaid in full or in part as of the date hereof;

- (ii) any Person who commenced a legal proceeding against such Debtor in respect of a Claim, which legal proceeding was commenced and served upon such Debtor prior to the date of the Receivership Order; and
- (iii) any other Creditor of the Debtors of whom the Receiver had actual knowledge as at the date of this Order and for whom the Receiver has a current address; and

with respect to the Receiver Parties means:

- (i) those Creditors that the books and records of the Receiver disclose were owed monies by the Receiver Parties in relation to the Monitor Proceedings and Receivership Proceedings from and after the date of the Monitor Order, where such monies remain unpaid in full or in part as of the date hereof;
 - (ii) any other Creditor of the Receiver Parties whom the Receiver had actual knowledge as at the date of this Order and for whom the Receiver has a current address;
- (j) "Monitor Order" means the Order of this Honourable Court dated April 23, 2007 pursuant to which the ISI was appointed as monitor (the "Monitor") of the assets, undertaking, property of SHI and DCC, as such Order may be amended or supplemented from time to time;

- (k) "Monitor Proceedings" means the proceedings in respect of the Debtors pursuant to which the Monitor Order and the Amended Monitor Order were granted;
- (l) "Notice to Creditors" means the notice to Creditors for publication in substantially the form attached as Schedule "B" hereto;
- (m) "Person" means any individual, partnership, limited partnership, joint venture, trust, corporation, unincorporated organization, government or agency or instrumentality thereof, or any other judicial entity howsoever designated or constituted;
- (n) "Proof of Claim" means a Proof of Claim form in substantially the form attached hereto as Schedule "C" for a Debtor Claim and Schedule "D" for a Receiver Claim;
- (o) "Proof of Claim Document Package" means a document package that includes a copy of the Instruction Letter, the Proof of Claim and such other materials as the Receiver may consider appropriate or desirable;
- (p) "Receivership Order" means the Order of this Honourable Court dated August 24, 2007 pursuant to which the Receiver was appointed as receiver of the assets, undertaking, property of the Debtors, as such Order may be amended or supplemented from time to time;
- (q) "Receivership Proceedings" means the proceedings in respect of the Debtors pursuant to which the Receivership Order was granted;

- (r) "Secured Claim" means any Claim that is supported by a valid and enforceable security interest, lien, charge, pledge, encumbrance, mortgage, hypothec, title retention agreement or trust agreement of any nature or kind (excluding the Receiver's Charge and the Receiver's Borrowings Charge as defined in the Receivership Order) in, over or in respect of any of the assets owned by the Debtors or to which the Debtors are entitled (together with all security agreements and other documents in connection therewith);
- (s) "Taxes" means taxes, including all income, capital, corporate, gross receipts, goods and services, sales, use, value-added, *ad valorem*, transfer, real or personal property, business, franchise, license, and excise taxes, together with any interest and any penalties or additional amounts imposed by any taxing authority, and any interest, penalties, fines, additional taxes and additions to tax imposed with respect to the foregoing, and any liability for the payment of any amount of the type described above as a result of being a "transferee" (within the meaning of Section 160 of the *Income Tax Act* (Canada) or any other applicable law) of the Debtors;
- (t) "TSCC 1703 Electronic Mailing List" means the electronic addresses of the unit holders of TSCC 1703 currently listed with the property manager retained by TSCC 1703; and
- (u) "TSCC 1703 Unit Holders" means the unit holders listed in the TSCC 1703 Electronic Mailing List.

NOTICE TO CREDITORS

3. THIS COURT ORDERS that:

(a) the Receiver shall not later than five (5) Business Days following the making of this Order, dispatch by ordinary mail on behalf of each of the Debtors and the Receiver Parties to each of the Known Creditors a copy of the Proof of Claim Document Package; and shall dispatch by electronic mail on behalf of each of the Debtors and the Receiver Parties to each of the TSCC 1703 Unit Holders a copy of the Proof of Claim Document Package; and this Court directs TSCC 1703 to ^{cooperate with} ~~provide~~ the Receiver ^{by sending the Proof of Claim Document Package by electronic mail} ~~with access~~ to the TSCC 1703 Electronic Mailing List for the purpose of so dispatching the Proof of Claim Document Package;

(b) the Receiver shall cause to be published on two (2) separate Business Days within 10 Business Days of the making of this Order, the Notice to Creditors in The Globe and Mail (National Edition);

(c) the Receiver shall, provided such request is received prior to the Claims Bar Date, dispatch by ordinary mail as soon as reasonably possible following receipt of a request therefor, a copy of the Proof of Claim Document Package to any Person claiming to be a Creditor and requesting such material in writing; and

(d) the Receiver shall post a copy of the Proof of Claim Document Package on its website at www.irasmithinc.com.

PROOFS OF CLAIM

4. **THIS COURT ORDERS** that all Proofs of Claim must be served upon and received by the Receiver on or before the Claims Bar Date in order to be effective and:
- (a) any Creditor that does not deliver a Proof of Claim in respect of a Debtor Claim in the manner required by this Order on or before the Claims Bar Date shall be and is hereby forever barred from making or enforcing any Debtor Claim against the Debtor or any of them and such Debtor Claim shall be and is hereby extinguished; and
 - (b) any Creditor that does not deliver a Proof of Claim in respect of a Receiver Claim in the manner required by this Order on or before the Claims Bar Date shall be and is hereby forever barred from making or enforcing any Receiver Claim against the Receiver Parties and such Receiver Claim shall be and is hereby extinguished.
5. **THIS COURT ORDERS** that any Creditor that does not file a Proof of Claim in the manner required by this Order on or before the Claims Bar Date:
- (a) shall not be entitled to any further notice in the Receivership Proceedings; and
 - (b) shall not be entitled to participate as a creditor in the Receivership Proceedings, bankruptcy or other insolvency proceedings relating to the Debtors or any of them (collectively, the “**Other Insolvency Proceedings**”).

6. THIS COURT ORDERS that the Receiver is hereby authorized and directed to use reasonable discretion as to the manner in which Proofs of Claim are completed and executed and may, where it is satisfied that a Claim has been adequately proven, waive strict compliance with the requirements of this Order as to completion and execution of Proofs of Claim.
7. THIS COURT ORDERS that any Claims denominated in any currency other than Canadian dollars, shall, for the purposes of this Order, be converted to and constitute obligations in Canadian dollars, such calculation to be effected by the Receiver using the Bank of Canada noon spot rate on the date of the Receivership Order.

NOTICE OF TRANSFEREES

8. THIS COURT DECLARES that if, after the date of the Receivership Order, the holder of a Claim on the date of the Receivership Order, or any subsequent holder of the whole of a Claim who has been acknowledged by the Receiver as the Creditor in respect of such Claim, transfers or assigns the whole of such Claim to another Person, neither the affected Debtor nor the Receiver Parties, as applicable, shall be obligated to give notice to or to otherwise deal with a transferee or assignee of a Claim as the Creditor in respect thereof unless and until written notice of transfer or assignment, together with satisfactory evidence of such transfer or assignment, has been received by the Receiver and acknowledged by the Receiver. Any such transferee or assignee of a Claim, and such Claim, shall be bound by any notices given or steps taken in respect of such Claim in accordance with this Order prior to receipt and acknowledgement by the Receiver of satisfactory evidence of such transfer or assignment. After the acknowledgement by the

Receiver of satisfactory evidence of the transfer or assignment of a Claim, the Receiver shall thereafter be required only to deal with the transferee and not the original holder of the Claim.

CLAIMS RESOLUTION PROCESS

9. THIS COURT ORDERS that following delivery of one or more Proofs of Claim to the Receiver on or before the Claims Bar Date, the following provisions shall apply to each Proof of Claim delivered in respect of a Secured Claim or Receiver Claim, unless this Court orders otherwise:
- (a) the Receiver shall review each Proof of Claim and shall either allow, partially allow or disallow a Proof of Claim by sending a Notice of Determination, substantially in the form attached hereto as Schedule "E", by no later than February ^{- 20 -}~~27~~, 2009 to the applicable Creditor (or its counsel);
- (b) a Creditor that wishes to appeal a decision of the Receiver made pursuant to paragraph 9(a) may appeal such decision to this Court by serving a notice of appeal on the Receiver and filing it with this Court within twenty (20) days of of the service upon the Creditor of the Notice of Determination, making the appeal returnable within twenty (20) days of the filing of the notice of appeal. Any such appeal shall be heard by this Court as a hearing *de novo* with such further rights of appeal as may be provided for under the laws of Ontario;
- (c) if no Person appeals the Receiver's Notice of Determination in accordance with paragraph 9(b) of this Order, the Receiver's Notice of Determination shall be final

- 12 -

and binding on all Persons and there shall be no further right to appeal, review or recourse to this Court or any other court or tribunal in respect of the Receiver's Notice of Determination; and

(d) at any time, the Receiver and the applicable Creditor may agree to settle any disputed Claim.

10. **THIS COURT ORDERS** that the Receiver shall seek directions from the Court as to the manner for dealing with any other Proofs of Claim that are delivered to it on or before the Claims Bar Date.

BINDING EFFECT OF CLAIMS PROCESS

11. **THIS COURT ORDERS** that the calling for claims and the claims process contemplated in this Order, as it may be amended or supplemented by this Court from time to time, shall be binding and effective in any Other Insolvency Proceedings.
12. **THIS COURT ORDERS** that nothing in this Order shall be interpreted as substantially consolidating any Claims against any of the Debtors or against any of their respective assets and property.

SERVICE AND NOTICE

13. **THIS COURT ORDERS** that the Receiver be at liberty to deliver this Order, the Proof of Claim Document Package and any other letters, notices or other documents to Creditors and other interested Persons, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to such Persons at the

address as last shown on the records of the Debtors 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.

14. **THIS COURT ORDERS** that, any notice or other communication (including, without limitation, Proofs of Claim) to be given under this Order by a Creditor to the Receiver shall be in writing in substantially the form, if any, provided for in this Order and will be sufficiently given only if given by courier, by personal delivery or facsimile transmission addressed to:

Ira Smith Trustee & Receiver Inc.
Suite 6 - 167 Applewood Crescent
Concord, Ontario L4K 4K7
Attention: Ira Smith

Any such notice or other communication by a Creditor shall be deemed received only upon actual receipt thereof during normal business hours on a Business Day.

MISCELLANEOUS

15. **THIS COURT ORDERS AND REQUESTS** the aid and recognition of any court of any judicial, regulatory or administrative body in any province or territory of Canada and the Federal Court of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province and any court of any judicial, regulatory or administrative body of the United States and the states or other subdivisions of the United States and of any other nation or state to act in aid of and to be complementary to this Court in carrying out the terms of this Order.

- ✓ 16. THIS COURT ORDERS that notwithstanding anything in this Order, Segura Investments Ltd. is not required to prove its secured or unsecured claims and may rely upon the settlement approval this day by a separate order of this Honorable Court (the "Settlement Approval Order") and Ed Mirvish Enterprises Limited is not required to prove its secured claim and may rely upon the Settlement Approval Order. ✓

SRP

Stephane J.

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

DEC 11 2008

PER / PAR: TV

SCHEDULE "A"

INSTRUCTION LETTER FOR THE CLAIMS PROCEDURE OF:

Stinson Hospitality Inc., Dominion Club of Canada Corporation, The Suites at 1 King West Inc. and 2076564 Ontario Inc. (collectively the "Debtors"); and

Ira Smith Trustee & Receiver Inc., in its capacities as Court-appointed monitor and Court-appointed receiver of the Debtors, and its counsel, Goodmans LLP (the "Receiver Parties")

A. CLAIMS PROCEDURE

By Order of the Ontario Superior Court of Justice made December 11, 2008 (the "Claims Procedure Order") the Receiver has been authorized to conduct a claims procedure with respect to certain claims against the Debtors and the Receiver Parties in accordance with the terms of the Claims Procedure Order (the "Claims Procedure").

This letter provides instructions for responding to or completing the Proof of Claim. Reference should be made to the Claims Procedure Order for a complete description of the Claims Procedure. Unless otherwise defined, all capitalized terms used herein shall have the meaning given to those terms in the Claims Procedure Order.

The Claims Procedure is intended for any Person with any Claims of any kind or nature whatsoever against:

- any or all of the Debtors that arose on or prior to August 24, 2007; and/or
- the Receiver Parties that arose from and after April 23, 2007,

whether liquidated, unliquidated, contingent or otherwise. Please review the enclosed material for the complete definition of Claim and Secured Claim to which the Claims Procedure applies.

A separate Proof of Claim form should be completed for the Receiver Parties and each Debtor against which you are asserting a claim.

All notices and enquiries with respect to the Claims Procedure should be addressed to:

Ira Smith Trustee & Receiver Inc.
Suite 6 - 167 Applewood Crescent
Concord, Ontario L4K 4K7

Attention: Ira Smith.

Phone: 905.738.4167
Fax: 905.738.9848
www.irasmithinc.com

B. FOR CREDITORS SUBMITTING A PROOF OF CLAIM

If you believe that you have a Claim against any of the Debtors or the Receiver Parties as set forth above, you must to file a Proof of Claim with the Receiver before 5:00 p.m. (Eastern Standard Time) on January 31, 2009 (the "Claims Bar Date").

218

PROOFS OF CLAIM MUST BE RECEIVED BY THE CLAIMS BAR DATE OR THE APPLICABLE CLAIM WILL BE FOREVER BARRED AND EXTINGUISHED.

Additional Proof of Claim forms can be obtained by contacting the Receiver at the telephone and fax numbers and website address indicated above and providing particulars as to your name, address and facsimile number.

DATED at _____ this _____ day of _____, 200_____.

Ira Smith Trustee & Receiver Inc.

SCHEDULE "B"

 NOTICE TO CREDITORS OF:

Stinson Hospitality Inc., Dominion Club of Canada Corporation, The Suites at 1 King West Inc. and 2076564 Ontario Inc. (collectively the "Debtors"); and

Ira Smith Trustee & Receiver Inc., in its capacities as Court-appointed monitor and Court-appointed receiver of the Debtors, and its counsel, Goodmans LLP (the "Receiver Parties")

RE: NOTICE OF CLAIMS PROCEDURE

PLEASE TAKE NOTICE that this notice is being published pursuant to an Order of the Superior Court of Justice of Ontario made December 11, 2008 (the "Claims Procedure Order"). The Court has ordered that the Receiver send Proof of Claim Document Packages to the Known Creditors of the Debtors and the Receiver Parties. All capitalized terms herein shall have the meaning given to those terms in the Claims Procedure Order.

Any person who believes that they have a Claim against:

- any of the Debtors that arose prior to August 24, 2007; and/or
- the Receiver Parties that arose from and after April 23, 2007,

whether liquidated, unliquidated, contingent or otherwise, must send a Proof of Claim to the Receiver to be received before 5:00 p.m. (Eastern Standard Time) on January 31, 2009 (the "Claims Bar Date").

PROOFS OF CLAIM MUST BE RECEIVED BY THE CLAIMS BAR DATE OR THE APPLICABLE CLAIM WILL BE FOREVER BARRED AND EXTINGUISHED.

Reference should be made to the enclosed material for the complete definition of Claim and Secured Claim to which the claims procedure applies.

Creditors who have not received a Proof of Claim Document Package from the Receiver should contact the Receiver to obtain a Proof of Claim Document Package.

JWP.

- 2 -

To request a Proof of Claim Document Package or to contact the Receiver with any notices or enquiries with respect to the Claims Procedure, the Receiver may be contacted at the following address:

Ira Smith Trustee & Receiver Inc.
Suite 6 - 167 Applewood Crescent
Concord, Ontario L4K 4K7

Attention: Ira Smith.

Phone: 905.738.4167
Fax: 905.738.9848
www.irasmithinc.com

DATED at _____ this _____ day of _____, 200_____.

Ira Smith Trustee & Receiver Inc.

SCHEDULE "C"

**PROOF OF CLAIM
(DEBTOR CLAIM)**

Stinson Hospitality Inc., Dominion Club of Canada Corporation, The Suites at 1 King West
Inc. and/or 2076564 Ontario Inc.
(each a "Debtor" and collectively the "Debtors")

Please read carefully the enclosed Instruction Letter for completing this Proof of Claim.

A. PARTICULARS OF DEBTOR

Full Legal Name of Debtor: _____

(the "Debtor").

(Please note that a separate Proof of Claim must be completed and filed for each Debtor against which a Claim is being made.)

B. PARTICULARS OF CREDITOR:

Full Legal Name of Creditor: _____

(the "Creditor"). (Full legal name should be the name of the original Creditor of the, notwithstanding whether an assignment of a Claim, or a portion thereof, has occurred following August 24, 2007.)

1. Full Mailing Address of the Creditor (the original Creditor not the Assignee):

2. Telephone Number: _____

3. E-Mail Address: _____

4. Facsimile Number: _____

5. Attention (Contact Person): _____

6. Has the Claim been sold or assigned by the Creditor to another party [check (✓) one]?

Yes: No:

C. PARTICULARS OF ASSIGNEE(S) (IF ANY):

Full Legal Name of Assignee(s): _____

(Insert full legal name of assignee(s) of Claim if all or a portion of the Claim has been sold. If there is more than one assignee, please attach a separate sheet with the required information.)

1. Full Mailing Address of Assignee(s):

2. Telephone Number: _____

3. E-Mail Address: _____

4. Facsimile Number: _____

5. Attention (Contact Person): _____

D. PROOF OF CLAIM:

I, _____

(name of Creditor or Representative of the Creditor), of

_____ do hereby certify:

(city and province)

(a) that I [check (✓) one]

am the Creditor of the Debtor; OR

am _____ (state position or title) of

_____;

(name of Creditor)

(b) that I have knowledge of all the circumstances connected with the Claim referred to below;

(c) the Creditor asserts its claim against the Debtor;

(d) the Debtor was and still is indebted to the Creditor as follows:

CLAIM ARISING ON OR PRIOR TO August 24, 2007:

\$ _____ (insert \$ value of claim) CAD.

(Claims in a foreign currency are to be converted to Canadian Dollars at the Bank of Canada noon spot rate as at August 24, 2007. The Canadian Dollar/U.S. Dollar rate of exchange on that date was CDN\$\$1.0525/US\$1.00.)

E. NATURE OF CLAIM

(check (✓) one and complete appropriate category)

A. UNSECURED CLAIM OF \$ _____

- 4 -

That in respect of this debt, I do not hold any security and:

(check (✓) appropriate description)

Regarding the amount of \$ _____, I do not claim a right to a priority.

Regarding the amount of \$ _____, I claim a right to a priority under section 136 of the Bankruptcy and Insolvency Act (Canada) (the "BIA") or would claim such a priority if this Proof of Claim were being filed in accordance with the BIA.

(Set out on an attached sheet details to support any priority claim.)

B. SECURED CLAIM OF \$ _____

That in respect of this debt, I hold security valued at \$ _____, particulars of which are as follows:

(Give full particulars of the security, including the date on which the security was given and the value at which you assess the security, and attach a copy of the security documents.)

F. PARTICULARS OF CLAIM:

Other than as already set out herein the particulars of the undersigned's total Claim are attached.

(Provide all particulars of the Claim and supporting documentation, including amount, description of transaction(s) or agreement(s) giving rise to the Claim, name of any guarantor which has guaranteed the Claim, and amount of invoices, particulars of all credits, discounts, etc. claimed, description of the security, if any, granted by the Debtor to the Creditor and estimated value of such security, and particulars of any interim period claim.)

G. FILING OF CLAIM

This Proof of Claim must be received by the Receiver by no later than 5:00 p.m.
(Eastern Standard/Daylight Time) on January ^{- 23 -} 31, 2009 by prepaid ordinary mail,
courier, personal delivery or electronic or digital transmission at the following address:

STP

Ira Smith Trustee & Receiver Inc.
Suite 6 - 167 Applewood Crescent
Concord, Ontario L4K 4K7

Attention: Ira Smith

- 23 -

STP

(Failure to file your proof of claim as directed by 5:00 p.m., on January 31, 2009
(Toronto time) will result in your claim being barred and in you being prevented
from making or enforcing a Claim against the applicable Debtor. In addition, you
shall not be entitled to further notice in, and shall not be entitled to participate as a
creditor in the Receivership Proceedings in respect of the applicable Debtor.)

Dated at _____ this _____ day of _____, 200__.

Signature of Creditor

SCHEDULE "D"

**PROOF OF CLAIM
(RECEIVER PARTIES)**

Ira Smith Trustee & Receiver Inc., in its capacities as Court-appointed monitor and Court-appointed receiver of Stinson Hospitality Inc., Dominion Club of Canada Corporation, The Suites at 1 King West Inc. and 2076564 Ontario Inc.,
and its counsel, and its counsel, Goodmans LLP (the "Receiver Parties")

Please read carefully the enclosed Instruction Letter for completing this Proof of Claim.

A. PARTICULARS OF DEBTOR

This Proof of Claim is submitted in respect of Claims against the Receiver Parties arising from and after April 23, 2007.

B. PARTICULARS OF CREDITOR:

Full Legal Name of Creditor: _____

(the "Creditor"). (Full legal name should be the name of the original Creditor of the, notwithstanding whether an assignment of a Claim, or a portion thereof, has occurred.)

7. Full Mailing Address of the Creditor (the original Creditor not the Assignee):

8. Telephone Number: _____

9. E-Mail Address: _____

10. Facsimile Number: _____

11. Attention (Contact Person): _____

12. Has the Claim been sold or assigned by the Creditor to another party [check (✓) one]?

Yes: No:

C. PARTICULARS OF ASSIGNEE(S) (IF ANY):

Full Legal Name of Assignee(s): _____

(Insert full legal name of assignee(s) of Claim if all or a portion of the Claim has been sold. If there is more than one assignee, please attach a separate sheet with the required information.)

6. Full Mailing Address of Assignee(s):

7. Telephone Number: _____

8. E-Mail Address: _____

9. Facsimile Number: _____

10. Attention (Contact Person): _____

D. PROOF OF CLAIM:

I, _____

(name of Creditor or Representative of the Creditor), of

_____ do hereby certify:

(city and province)

(e) that I [check (✓) one]

am the Creditor of the Receiver Parties; OR

am _____ (state position or title) of

_____;

(name of Creditor)

(f) that I have knowledge of all the circumstances connected with the Claim referred to below;

(g) the Creditor asserts its claim against the Receiver Parties;

(h) the Receiver Parties was/were and still is/are indebted to the Creditor as follows:

CLAIM ARISING FROM AND AFTER April 23, 2007:

\$ _____ (insert \$ value of claim) CAD.

(Claims in a foreign currency are to be converted to Canadian Dollars at the Bank of Canada noon spot rate as at August 24, 2007. The Canadian Dollar/U.S. Dollar rate of exchange on that date was CDN\$1.0525/US\$1.00.)

E. NATURE OF CLAIM

(check (✓) one and complete appropriate category)

A. UNSECURED CLAIM OF \$ _____

That in respect of this debt, I do not hold any security and:

(check (√) appropriate description)

Regarding the amount of \$ _____, I do not claim a right to a priority.

Regarding the amount of \$ _____, I claim a right to a priority under section 136 of the Bankruptcy and Insolvency Act (Canada) (the "BIA") or would claim such a priority if this Proof of Claim were being filed in accordance with the BIA.

(Set out on an attached sheet details to support any priority claim.)

B. SECURED CLAIM OF \$ _____

That in respect of this debt, I hold security valued at \$ _____, particulars of which are as follows:

(Give full particulars of the security, including the date on which the security was given and the value at which you assess the security, and attach a copy of the security documents.)

F. PARTICULARS OF CLAIM:

Other than as already set out herein the particulars of the undersigned's total Claim are attached.

(Provide all particulars of the Claim and supporting documentation, including amount, description of transaction(s) or agreement(s) giving rise to the Claim, name of any guarantor which has guaranteed the Claim, and amount of invoices, particulars of all credits, discounts, etc. claimed, description of the security, if any, granted by the Receiver to the Creditor and estimated value of such security, and particulars of any interim period claim.)

G. FILING OF CLAIM

This Proof of Claim must be received by the Receiver by no later than 5:00 p.m. (Eastern Standard/Daylight Time) on January ⁻²³⁻31, 2009 by prepaid ordinary mail, courier, personal delivery or electronic or digital transmission at the following address:

SRP

Ira Smith Trustee & Receiver Inc.
Suite 6 - 167 Applewood Crescent
Concord, Ontario L4K 4K7

Attention: Ira Smith

- 23 -

SRP

(Failure to file your proof of claim as directed by 5:00 p.m., on January 31, 2009 (Toronto time) will result in your claim being barred and in you being prevented from making or enforcing a Claim against the Receiver. In addition, you shall not be entitled to further notice in, and shall not be entitled to participate as a creditor in the Receivership Proceedings in respect of a Claim against the Receiver.)

Dated at _____ this _____ day of _____, 200__.

Signature of Creditor

SCHEDULE "E"

NOTICE OF DETERMINATION REGARDING CLAIMS AGAINST:

**Stinson Hospitality Inc., Dominion Club of Canada Corporation, The Suites at 1 King West Inc. and/or 2076564 Ontario Inc.
(each a "Debtor" and collectively the "Debtors")**

and/or

**Ira Smith Trustee & Receiver Inc., in its capacities as Court-appointed monitor and Court-appointed receiver of the Debtors, and its counsel Goodmans LLP
(the "Receiver Parties")**

Please read carefully the Instruction Letter accompanying this Notice. All capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the Order of the Ontario Superior Court of Justice dated December 11, 2008 authorizing the within Claims Process.

TO: [insert name of creditor]

hereby gives you notice that it has reviewed your Claim and has accepted, revised or rejected your Claim as follows:

	The Proof of Claim as Submitted	The Claim as Accepted
A. Claim against: [name of Debtor]		
B. Claim against Receiver Parties		

Reasons for Disallowance or Revision:

[insert explanation]

If you do not agree with this Notice of Determination, please take notice of the following:

If you dispute this Notice of Determination, you may appeal such decision to the Court by sending a written notice of appeal to the Receiver and filing a copy of the notice of appeal with the Court at the addresses listed below within twenty (20) days of receiving the Notice of Determination, in which case such Claim shall be treated as if the Claim had been entirely disallowed by the Receiver. If you do not appeal to the Claims Officer within the aforesaid time period, your Claim shall be deemed to be as set out in this Notice of Determination.

The Receiver:

Ira Smith Trustee & Receiver Inc.
Suite 6 - 167 Applewood Crescent
Concord, Ontario L4K 4K7

Attention: Ira Smith

Ontario Superior of Justice
Commercial List
330 University Avenue
7th Floor
Toronto, Ontario M5G 1E3

IF YOU FAIL TO TAKE ACTION WITHIN THE PRESCRIBED TIME PERIOD, THIS NOTICE OF DETERMINATION WILL BE BINDING UPON YOU.

Dated at _____ this _____ day of _____, 200__.

Ira Smith Trustee & Receiver Inc.

Court File No: 07-CL-6913

STINSON HOSPITALITY INC.,
DOMINION CLUB OF CANADA
CORPORATION AND HARRY STINSON

Respondents

ED MIRVISH ENTERPRISES LIMITED
AND 1 KING WEST INC.

Applicants

ONTARIO

SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

CLAIMS PROCESS ORDER

GOODMANS LLP
Barristers & Solicitors
Suite 2400, Box 20
250 Yonge Street
Toronto, Canada M5B 2M6

Fred Myers (LSUC#26301A)
L. Joseph Latham (LSUC#32326A)
Laruen Butti (LSUC#47083W)
Tel: 416-979-2211
Fax: 416-979-1234

Counsel to Ira Smith Trustee & Receiver Inc., in its
capacity as receiver and manager and former monitor
of Stinson Hospitality Inc., Dominion Club of Canada
Corporation, The Suites at 1 King West Inc. and
2076564 Ontario Inc.

APPENDIX E

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

TENTH REPORT OF IRA SMITH TRUSTEE & RECEIVER INC.

**IN ITS CAPACITY AS COURT-APPOINTED RECEIVER OF
STINSON HOSPITALITY INC.,
DOMINION CLUB OF CANADA CORPORATION,
THE SUITES AT 1 KING WEST INC. AND
2076564 ONTARIO INC.**

DATED MARCH 3, 2009

1.0 INTRODUCTION

This report (the "**Tenth Report**") is filed by Ira Smith Trustee & Receiver Inc. ("**ISI**") in its capacity as court-appointed receiver and manager (the "**Receiver**") of all of the assets, undertakings and properties of Stinson Hospitality Inc. ("**SHI**"), Dominion Club of Canada Corporation ("**DCC**"), The Suites at 1 King West Inc. ("**Suites**") and 2076564 Ontario Inc. ("**Housekeeping**") (collectively referred to as the "**Debtors**" or the "**Companies**"), appointed pursuant to an Order dated August 24, 2007 (the "**Receivership Order**") issued by the Honourable Madam Justice Pepall. A copy of the Receivership Order is attached as **Exhibit "A"**.

The Receiver filed its first report (the "**First Report**") on October 1, 2007. The First Report was approved by the Honourable Madam Justice Pepall by Order dated October 5, 2007 (the "**First Approval Order**").

The Receiver filed its Second Report to Court on October 22, 2007 (the "**Second Report**") and its Supplementary Report to the Second Report on October 23, 2007 (the "**Supplementary Second Report**"). Certain of the Receiver's recommendations in the Second Report were approved by the

Honourable Madam Justice Pepall by Order dated October 24, 2007 (the "**Second Approval Order**"). However, the approval of the Receiver's accounts, and those of its legal counsel, Goodmans LLP ("**Goodmans**"), and of the Receiver's actions and activities, all as detailed in the Second Report, was adjourned to permit counsel for Toronto Standard Condominium Corporation No. 1703 ("**TSCC 1703**" or the "**residential condo corporation**") an opportunity to review the Second Report. A return date of November 14, 2007 was established for the scheduling of any issues in that regard. The Second Approval Order approved all of the relief requested at that time by the Receiver, other than for the aforesaid actions, activities and accounts.

The Receiver filed its Third Report on December 28, 2007 (the "**Third Report**"). The Third Report and the balance of the matters not approved by the Second Approval Order were approved by the Honourable Madam Justice Pepall by Order dated January 9, 2008 (the "**Third Approval Order**").

The Receiver filed its fourth report (the "**Fourth Report**") on January 18, 2008. The Fourth Report dealt only with the Receiver's motion for approval of the proposed sales process for the assets, properties and undertakings of the Debtors (the "**Sales Process**"). The Fourth Report, with some minor amendments, was approved by the Honourable Madam Justice Pepall by Order dated January 24, 2008 (the "**Fourth Approval Order**").

The Receiver filed its fifth report (the "**Fifth Report**") on January 31, 2008. The Fifth Report provided an update on the status of the improving Hotel operations as at December 31, 2007, advised of the Receiver's position concerning both the amended motion of Unite Here Local 75 (the "**Union**") and the rectification application of Segura Investments Ltd., 1392964 Ontario Limited and Tim Kwan (collectively "**Segura**") as of that date (the "**Segura Application**"), and supported

the Receiver's motion for approval of the proposed sales process for the assets, properties and undertakings of the Debtors. The Fifth Report was approved by the Honourable Madam Justice Pepall by Order dated February 19, 2008 (the "**Fifth Approval Order**").

On April 4, 2008, the Receiver filed its First Supplementary Fifth Report (the "**First Supplementary Fifth Report**") and its Second Supplementary Fifth Report in connection with the Segura application and the Union motion, respectively. A settlement of the Union motion was achieved and approved by the Honourable Madam Justice Pepall by Order dated April 9, 2008. The Honourable Madam Justice Pepall, by Endorsement dated May 26, 2008, ordered that the Segura application be heard on June 27, 2008, and she approved a schedule for the delivery of facta by the various interested parties.

The Receiver filed its sixth report (the "**Sixth Report**") on June 13, 2008. The Sixth Report provided an update on the status of the hotel operations and advised of the ongoing actions and activities of the Receiver including the settlement reached between the Receiver and the Union in connection with the Union's amended motion, the status of the Segura application and the sale process. The Sixth Report was approved by the Honourable Madam Justice Pepall by Order dated July 11, 2008 (the "**Sixth Approval Order**").

The Receiver filed its seventh report (the "**Seventh Report**") on September 9, 2008. The Seventh Report detailed the information concerning the Sales Process, including a copy of the Asset Purchase Agreement dated August 29, 2008 between the Receiver as vendor and TSCC 1703 as purchaser ("APA"), as well as other details of the Receiver's ongoing actions and activities. On September 11, 2008, the Receiver filed a supplementary report to the Receiver's Seventh Report (the "**Supplementary Seventh Report**") updating the Court with respect to two matters covered in

the Receiver's Seventh Report. The Receiver's Seventh Report was approved by the Honourable Madam Justice Pepall by Order dated September 16, 2008 (the "**Seventh Approval Order**").

On October 28, 2008, the Receiver filed its eighth report (the "**Eighth Report**") in connection with its motion to strike the Statement of Defence purported to have been delivered and filed on behalf of Stinson Hospitalities Inc. in the Segura Application. By Order dated October 31, 2008, the Honourable Madam Justice Pepall ordered that the Statement of Defence filed by Harry Stinson on behalf of SHI be struck out.

On December 5, 2008, the Receiver filed its ninth report (the "**Ninth Report**") updating the Court on the actions and activities of the Receiver since the date of the Seventh Report, reporting on the closing of the sale transaction with TSCC 1703 (the "**Sale Transaction**"), seeking Court approval of the settlement of the Segura Application among Segura, the Receiver, the Applicants ("**EME**") and Harry Stinson, and an Order for the implementation of a claims process by the Receiver in preparation for distribution of the proceeds of sale. A copy of the Ninth Report is attached hereto as **Exhibit "B"**. The Eighth Report, Ninth Report and the settlement of the Segura Application were approved by The Honourable Madam Justice Pepall by Order dated December 11, 2008 (the "**Settlement Approval Order**") and the proposed order implementing the claims process was granted, with some minor amendments (the "**Claims Process Order**"). Copies of the Settlement Approval Order and the Claims Process Order, each dated December 11, 2008, are attached as **Exhibit "C"** and **Exhibit "D"**, respectively.

Purpose of this Report

The purpose of this Tenth Report is to advise this Honourable Court and to seek approval of:

1. this Tenth Report, the actions and activities of the Receiver, since the date of its Ninth Report, including the conduct of the claims process by the Receiver pursuant to the Claims Process Order, and the fees and disbursements of the Receiver and its legal counsel;
2. an interim distribution of the proceeds of sale in the amount of \$6 million; and
3. the statement of receipts and disbursements of the Receiver for the Debtors from August 25, 2007 to November 30, 2008 with additional information, including that relating to post-closing adjustments, as at January 31, 2009.

2.0 DISCLAIMER

The Receiver has relied upon the financial records and financial statements of the Debtors, as well as other information supplied by management and employees of the Debtors, its accountants, appraisers, valuers, and other advisors. Our procedures did not constitute an audit or review engagement.

Therefore, the Receiver is unable to and does not express an opinion on any financial statements, or elements of accounts referred to in this Ninth Report, or any of the attached Appendices or Exhibits forming part of this Ninth Report. Our procedures and enquiries did not include verification work or constitute an audit in accordance with generally accepted auditing standards. In the event any of the information we relied upon was inaccurate or incomplete, the results of our analysis could be materially affected. We reserve the right to review all calculations included or referred to in this Tenth Report and, if we consider it necessary, to revise our calculations or conclusions in light of new information as such information becomes available.

3.0 BACKGROUND INFORMATION

In its capacity as Monitor and as Receiver, ISI has reported in detail to this Honourable Court on the nature of the Debtors' business operations and on the complexities of the legal structure and relationships between each of the corporations comprising the Debtors. The Receiver refers the readers of this Tenth Report to the previous receivership Reports and the Monitor's Reports for a complete overview of the business, its background and structure.

4.0 ACTIVITIES OF THE RECEIVER

Since its Ninth Report, the major activities undertaken by the Receiver can be summarized as follows:

- Continued working with CK (who following the closing of the Sale Transaction was retained by TSCC 1703 as its hotel and property manager) to resolve the operational, tax, banking and accounting issues resulting from closing.
- Continued to address issues arising from the receivership, including creditor, unit owner and other stakeholder inquiries.
- Conducted a claims process in accordance with the Claims Process Order.
- Facilitated the unit owners' distribution for the month of November, 2008 in accordance with existing Rental Management Agreements.

5.0 OPERATING RESULTS FOR THE DEBTORS

The corporate structure and operations of each of the Debtors are fully set out in the Monitor's Reports and the First Report and the Receiver refers the reader to those Reports.

5.1 SHI

As reported by the Monitor in its First Report, SHI's revenue stream consisted primarily of management fees charged to unit owners in the rental management program (\$165/unit per month), and an annual management incentive fee calculated as 5% of the aggregate annual net rental revenue of the rental management program. The 2008 management incentive fee, pro rated for the 11 months through November 2008, is estimated to be \$280,000 (exclusive of GST) and is to be received by the Receiver of SHI following the release of the Suites audited fiscal 2008 financial statements in mid to late March, 2009. The auditors of the Suites have advised the Receiver that there are no revisions to the financial statements for the fiscal 2008 period that would require any adjustment to the incentive management fee calculation.

There are sufficient funds in the former Suites operating account, controlled by the Receiver, to satisfy this payment.

As DCC and Housekeeping are wholly owned subsidiaries of SHI, and both continued to operate on a profitable basis, the Receiver from time to time, as was available, obtained funds from DCC and Housekeeping which were in excess of their respective needs, to assist in funding the costs of the receivership. The accounting records for the operations of DCC, Suites and Housekeeping in receivership were maintained by the Hotel's accounting staff. The revenues and expenses of SHI were accounted for by the Receiver on a cash basis as disclosed in the Receiver's Reports to Court and in the Statement of Receipts and Disbursements (included in this Tenth Report as **Exhibit "T"**). As indicated in **Exhibit "T"**, as at November 30, 2008, SHI funds on hand from the sources described above, totalled \$84,844.

5.2 DCC

DCC Operations accounts for the revenues and direct costs of its food and beverage ("F&B") operations. DCC Operations' financial results are included in DCC Corporate's income statement. From inception until November of 2007, DCC's F&B program had been operating at a loss.

The Receiver has prepared a summary of DCC's operating results for the eleven month fiscal period January 1 to November 30, 2008. This analysis shows an operating profit of \$458,475 on revenue of \$4,496,910. This operating profit compares to a budgeted operating profit of \$263,181 for this eleven month fiscal period. The analysis is attached hereto as **Exhibit "E"**.

5.3 Housekeeping

Housekeeping provides all of the housekeeping services for the hotel operations. For the eleven month fiscal period ended November 30, 2008, housekeeping revenue was \$2,154,743 and operating profit was \$694,654. A summary is attached hereto as **Exhibit "F"**.

5.4 Suites

Suites was effectively a nominee on behalf of the residential condominium unit owners in the rental management program. In previous Reports, the Receiver advised of the distributions to the unit owners during the receivership as at those dates. **Exhibit "T"** attached to this Tenth Report indicates the cash receipts and disbursements of Suites, and is summarized as follows:

- Revenue for the eleven month period ended November 30, 2008 totalled \$5,971,317. The improved performance of Suites, as described in the Receiver's prior Reports, is due to increases in occupancy on a targeted basis, as established by CK, so that both

occupancy and total revenue is increasing. For the eleven month period ended November 30, 2008, 93,963 rooms were sold.

5.5 Owners' distributions

As per the RMA's, the rental manager is required to pay to the unit owners their share of net rental revenue (as defined in the RMA's) from the hotel operations. The Receiver did not alter the practice of prior management in calculating and paying such distributions, up to and including its final payment for November 2008.

5.6 Summary of January, 2008 through November, 2008 Owners' Distribution

A profit distribution calculation schedule is prepared monthly for Suites and is sent to the unit owners along with their distribution payments. Attached as **Exhibit "G"** is the summary of the January, 2008 through November, 2008 distributions, and attached as **Exhibit "H"** is a copy of the December, 2008 communication to owners regarding the hotel operations and the unit owners' distributions, being the last such communication by the Receiver. Payment was issued by the Receiver for each distribution.

5.7 Post-Closing Arrangements with TSCC 1703

Following the completion of the Sale Transaction, the Receiver worked closely with CK to finalize certain post-closing matters agreed upon between TSCC 1703 and the Receiver. These matters include:

- the completion of the audited financial statements for the Suites fiscal 2008;

- the payment of the net amounts owing by the Receiver to TSCC 1703 relating to closing adjustments prescribed by the APA;
- the collection of accounts receivables of DCC;
- the reconciliation of final amounts owing by Suites to DCC for F&B services rendered;
- the final calculation and payment of amounts due to TSCC 1703 by DCC on account of previous advances by TSCC 1703 to DCC for parking operations;
- the payment of the management incentive fee by Suites to SHI;
- final reconciliation and transfer of miscellaneous funds for disbursements paid by way of cheque for which funds had not yet cleared; and
- remittance by the Receiver of GST to the Canada Revenue Agency pursuant to the APA.

The requisite GST remittance has been made by the Receiver as required by the APA. The Receiver expects the balance of the matters detailed above to be concluded shortly.

6.0 CONDUCT OF THE CLAIMS PROCESS AND COMPLIANCE WITH THE CLAIMS PROCESS ORDER

In order to ensure that all relevant claims to the proceeds of sale are made and assessed for validity, quantum and priority, the Receiver conducted a call for creditor claims (the "Claims Process") in respect of the Debtors and the Receiver (in both its capacity as Court-appointed monitor and Court-

appointed receiver), any of its directors, officers, employees, agents, Ira Smith in his personal capacity, or Goodmans, and any partners or employees thereof (the “**Receiver Parties**”).

The details of the Claims Process are outlined in the Claims Process Order. All capitalized terms not otherwise defined in this Tenth Report, have the meaning ascribed to them in the Claims Process Order.

In accordance with the terms of Claims Process Order the Receiver:

- (i) caused to be dispatched by electronic mail a copy of the Proof of Claim Document Package to each of the TSCC 1703 Unit Owners, pursuant to paragraph 3(a) of the Claims Process Order. Copies of the Affidavit of Ira Smith dated January 28, 2009 and the Affidavit of Tom Lagan dated February 25, 2009, in this regard, are attached as **Exhibit “I”** and **Exhibit “J”** respectively;
- (ii) caused to be dispatched by ordinary mail a copy of the Proof of Claim Document Package to each of the Known Creditors, pursuant to paragraph 3(a) of the Claims Process Order. A copy of the Affidavit of Brandon Smith dated January 28, 2009 is attached hereto as **Exhibit “K”**;
- (iii) caused to be published a Notice to Creditors in the Globe and Mail (National Edition) on each of December 16 and 23, 2008 pursuant to paragraph 3(b) of the Claims Process Order. A copy of Ira Smith’s Affidavit dated January 28, 2009 is attached hereto as **Exhibit “L”**; and
- (iv) caused a copy of the Proof of Claim Document Package to be posted on its website at www.irasmithinc.com.

No requests for packages were received (or sent) by the Receiver as contemplated by paragraph 3(c) of Claims Process Order.

As at the Claims Bar Date, the Receiver had received 288 Proofs of Claim totalling over \$32 million in claims, although the Receiver notes that approximately \$2 million of these claims overlap, having been filed against both the Debtors and the Receiver Parties. Over \$30.6 million¹ in claims were filed against the Debtors and \$3,673,269.50 in claims were filed against the Receiver Parties. A copy of the list of Proofs of claims received is attached as **Exhibit "M"**.

Additionally, 1 Proof of Claim was submitted to the Receiver well after the Claims Bar Date. The Receiver is in the process of responding to this creditor and will advise that pursuant to paragraph 4 of the Claims Process Order, the Claim is barred. However, given that claim appears to be an unsecured claim against the Debtors, the Receiver will also be advised that, in any event, it reserves all rights to review and comment on the claim further should the Court authorize such further review.

In accordance with paragraph 9 of the Claims Process Order, the Receiver reviewed all of the Proofs of Claim received on or before the Claim Bar Date. Generally, the Proofs of Claim submitted can be grouped into the following six categories:

- (i) Claims purportedly brought against the Receiver Parties for unsecured, pre-receivership debts of the Debtors (many of which relate to claims in respect of DCC memberships and credits and/or SHI Notes and interest, as accrued thereon);

¹ Pursuant to paragraph 16 of the Claims Process Order, neither Segura nor EME were required to file Proofs of Claims. However, despite paragraph 16, EME filed a Proof of Claim against the Debtors in the amount of \$15,114,304.45, of which \$12,860,000 is secured. Accordingly, the \$30.6 million figure includes the amounts claimed by EME, but does not include the \$1.4 million claim by Segura of which \$600,000 is secured in accordance with the Settlement Approval Order.

- (ii) Claims against the Receiver Parties for unsecured losses alleged by condominium unit owners, including alleged loss of rents, taxes and mortgage expenses;
- (iii) Claims against Receiver Parties for which no evidence or schedule was attached to the Proof of Claim sufficient to allow the Receiver to assess the claim;
- (iv) Claims against the Debtors and/or the Receiver Parties for which a priority was alleged;
- (v) Claims against the Debtors and/or the Receiver Parties in respect of which a security interest was claimed; and
- (vi) Claims against the Debtors and Receiver Parties on behalf of TSCC 1703 for which a priority or trust interest was claimed in respect to alleged overpayments relating to the Rental Pool.

On February 20, 2009, the Receiver caused to be dispatched Notices of Determination to all creditors who submitted a Proof of Claim allowing, partially allowing or disallowing the Proof(s) of Claim as submitted. The Affidavit of Service of Cheryl Meads dated March 2, 2009, confirming the mailing of the Notices of Determination, is included at Tab 3 of the Receiver's Motion Record as filed herein.

6.1 Determination of Unsecured Claims Against the Debtors

While the Claims Process Order called for all claims, whether secured or unsecured, it required the Receiver to defer any determination of quantum or value of the unsecured claims against the Debtors until such time as the Receiver is able to determine the sufficiency of the proceeds of sale.

This requirement was intended to avoid having the costs associated with such a claims review incurred unless there was a possibility of a distribution to the unsecured creditors.

With respect to the claims against the Receiver Parties, the Receiver disallowed all claims submitted for unsecured, pre-receivership debts of the Debtors. However, in responding to the creditors, the Receiver advised each creditor that, as their claims appeared to be an unsecured claim against the Debtor(s) (despite having been claimed against the Receiver Parties), the Receiver would reserve the right to review and comment on the claim as against the Debtors should the Court authorize a further review.

Similarly, the Receiver disallowed all claims against either the Debtors or Receiver Parties for which no evidence was provided. However, to the extent the alleged claim *appeared* to make an unsecured claim against the Debtors, the Receiver advised these creditors that it reserved any further comment on claims until the appropriate time.

Further, the Receiver disallowed all of the claims submitted against the Receiver Parties by condominium unit owners for the loss of rents and expenses on the clear basis that the alleged losses under unit owner contracts were unsecured claims against the Debtors for which the Receiver Parties are not liable. The Receiver further advised these creditors that pursuant to paragraph 19 of the Receivership Order and section 142 of the *Courts of Justice Act*, the Receiver Parties are not liable for losses occasioned by operation of a stay of proceedings as ordered by the Court.

6.2 Determination of Secured and/or Priority Claims Against the Debtors and/or Receiver Parties

Approximately \$13,493,958.38² of the claims filed alleged a security interest in their claim. Further, an additional \$883,482.62 of creditor claims, seek to claim a priority. In two instances, creditors claimed both a security interest and a priority in respect of the same claim. The Receiver reviewed each claim, together with any accompanying evidence, and determined that, with the exception of EME and Segura noted above:

- none of the security interests claimed were supported by evidence of a valid or perfected security interest; and
- none of the priority claims appeared valid in law.

With respect to certain claims which appear to allege a trust interest in certain funds of the Debtors (whether by operation of holdbacks or otherwise), the Receiver advised that prior to the Receiver's appointment all funds held by the Debtors were intermingled and no funds had ever been segregated and held in trust by the Debtors. The Receiver further advised that it was not aware of any documentation that purported to settle a trust or otherwise create a trust interest with respect to the Debtors.

Further, with respect to the claims submitted on behalf of TSCC 1703 relating to alleged overpayments, the Receiver made distributions to Suites based on revenues which recognized amounts owing to Suites by DCC. In connection with the preparation of the Suites' year end financial statements, the corporation's auditors required that the revenues related to the DCC debts

² The secured claim filed by EME is included in this amount as previously noted above.

referred to in the Proofs of Claim be written off as bad debts on account of the fact DCC was insolvent and subject to receivership proceedings. The effect of the write-off was to create an over-payment of prior distributions. Therefore, later distributions were adjusted accordingly.

In addition, as noted above no funds were ever held in trust by The Suites for the Rental Pool participants and the Receiver is unaware of any documentation that purports to settle a trust. In any event, all of the funds held by The Suites were intermingled prior to the Receiver's appointment. If ultimately, DCC makes any payments relating to the inter-company creditor claim of Suites, the amounts of such claims and the identities of the proper recipients of any distributions on account of those claims will be determined by the Receiver.

6.3 Appeal Process

The Claims Process Order provides that should a creditor wish to appeal the Receiver's decision to disallow or only partially allow a claim, the creditor may do so by serving a notice of appeal on the Receiver and filing it with the Court within 20 days of service upon the creditor of the Receiver's Notice of Determination.

To date, the Receiver has not received any notices of appeal.

However, pursuant to paragraph 13 of the Claims Process Order, ordinary mail is deemed to have been received on the third Business Day after mailing. As the Notices of Determination were dispatched by ordinary mail on February 20, 2009, the appeal period will not expire until March 17, 2009.

7.0 THE VERDUN CLAIM

On January 22, 2009, the Receiver was advised that J. Robert (Bob) Verdun ("Verdun") intended to move before the Court to seek to lift the stay of proceedings and for leave to file a statement of claim challenging the quantum of EME's security (the "Verdun Claim").

Pursuant to an Endorsement of Madam Justice Pepall dated February 9, 2009, a timetable was set in respect of the motion regarding the Verdun Claim. Accordingly, the return date for the motion was set for March 11, 2009 and the deadline for the filing of materials is March 3, 2009. Additionally, the parties were ordered to attend a settlement conference before Campbell, J. on February 27, 2009. The Endorsement of Madam Justice Pepall dated February 9, 2009 is attached as Exhibit "N".

8.0 COMMUNICATIONS WITH VERDUN AND UNIT HOLDERS

Shortly after learning of the Verdun Claim, beginning on or about February 5, 2009, the Receiver received a sudden influx of e-mail correspondence from unit holders and creditors of the Debtors proffering support for the Verdun Claim and advising the Receiver of their concerns that the receivership had not been run in an appropriate manner. In particular, the correspondents complained that no formal meeting of creditors had been held and that the Receiver had not had proper regard for their interests. All of the e-mail correspondence was copied to Mr. Verdun.

Goodmans, as counsel to the Receiver, responded to each of the complaints received, advising that the Court supervised receivership had proceeded on a proper basis throughout and that the Receiver had fully considered the interests of *all* creditors and not just those of EME as alleged. The Receiver's counsel also explained that, unlike a bankruptcy, receivership proceedings do not

include or require a formal meeting of creditors, but advised that if these creditors wished to participate in the receivership proceedings, they were fully within their rights to do so. Finally, the Receiver's counsel directed the individuals to the court materials posted on its website and indicated that if they wished to be added to the formal service list in the proceedings, they should ask to be added.³ A copy of the exchange of correspondence between the Receiver and the unit holders and creditors is attached hereto as **Exhibit "O"**.

Some of the correspondence received by the Receiver was particularly aggressive (in one instance defamatory) and included more pointed questions and attacks upon the Receiver, including those questioning why the Receiver did not challenge EME's security in the same manner it challenged Segura's; questioning the propriety of the Monitor's negotiations with EME prior to being appointed Receiver (including the payment by EME of the Monitor's fees⁴); and requesting disclosure of the Receiver's First Supplementary Fifth Report.⁵

The Receiver, through its counsel, responded in detail to each of these individuals, advising that:

- The Receiver's First Supplementary Fifth Report had been posted on the Receiver's website which could be accessed at: <http://www.irasmithinc.com/1kw/index.html>;⁶

³ The Receiver did, in fact, receive such a request and, accordingly, the individual unit holder has been added to the service list.

⁴ This was part of the April 23, 2007 settlement among EME, DCC, SHI and Harry Stinson, giving rise to the appointment of the Monitor.

⁵ See correspondence between Goodmans and each of Avril Betts, Mike Comrie, Norman Dobney, and R. Ellison and Linda Lyuck at pages 195-212, 235-251, 252-261 and 262-298, respectively, of the Receiver's Motion Record.

⁶ The Receiver's First Supplementary Fifth Report was posted on the Receiver's website shortly after the first of these emails was received. Thereafter, several emails continued to assert that the report had not been made available on the website, despite it having been uploaded prior to the delivery of the complaint.

- The Receiver's approach to secured creditors had been consistently applied as between Segura and EME; explaining that, as is typical and appropriate, the Receiver reviewed the security documents delivered to it by creditors claiming to be secured creditors and sought legal opinions from its independent counsel on the validity of the security under Ontario law. In the case of Segura, the Receiver reported to the Court that the Receiver's counsel had opined that, subject to the usual assumptions and reservations, the Segura security was not duly perfected in accordance with the provisions of the *Personal Property Security Act* (Ontario). Segura's counsel admitted that this was the case and brought an application to seek to rectify the problems with Segura's security. Without taking a position on the outcome as between creditors, the Receiver brought certain facts to the attention of the Court. The Court then enlarged the Receiver's mandate and required it to participate in the Segura application for specific purposes, as set out in the Fifth Report and the First Supplementary Fifth Report. With respect to the Mirvish security, the Receiver explained that its counsel had opined that, subject to the usual assumptions and reservations, the security appeared to be valid in accordance with Ontario law and no one disagreed. The Court approved the Receiver's report. The Receiver acknowledged that Mr. Verdun was now seeking to challenge the quantum of the debt due to the Mirvish group, but noted that the legal validity of the security is not what is being challenged. The Receiver reiterated that, while the situation is not at all akin to the Segura case, the Receiver is maintaining a careful watch on the proposed proceedings and remains willing to review any evidence that any interested party may provide and to fulfill its role as directed by the Court;
- As to complaints that communication between EME and the Receiver prior to the receivership suggested an inappropriate relationship between EME and Receiver, counsel to

the Receiver explained that Receivership proceedings are always brought by a creditor seeking the assistance of the Court by way of the appointment of a receiver under the provisions of Ontario's *Courts of Justice Act* and that their concerns regarding EME derive from an unfamiliarity with receivership process. Once appointed, a receiver is an Officer of the Court and does not function as an agent of the plaintiff creditor. However, prior communication between the creditor who seeks the appointment and the proposed receiver is required and is not an indication of any basis for concern. Similarly, the fact that the Receiver had previously been appointed as a "Monitor" pursuant to the *Courts of Justice Act* is irrelevant. The Receiver advised that its prior role as Monitor was a matter of public record and is referred to in several of the its reports, which the Receiver advised were all available to the public from the Court files or upon request of the Receiver;

- With respect to their concerns regarding the Receiver's allocation to the Receivership of portions of the Receiver's accounts and those of its counsel referable to the few days prior to the Receivership Order, the responses advised that a receivership requires some preparation including, for example, the negotiation of the terms of the receivership order, so that both the creditor seeking the appointment and the proposed receiver are content with the proposed terms of the receivership. In this case, the preparatory efforts occurred at the same time that the Monitorship proceedings were occurring. Therefore, the Receiver and its counsel properly segregated and allocated their time as between the Monitorship proceedings and the proposed receivership based upon the purpose of the time spent. The Receiver's accounts and those of its counsel, as duly allocated between the two proceedings, were properly disclosed and have been approved by the Court which is the normal and

responsible practice to ensure that proper costs have been allocated to the proper proceedings; and

- Finally, the Receiver advised that a number of individuals were labouring under the same misinformation which continues to be brought forward by different creditors. Because the Receiver's fees and those of its counsel are paid before remaining money is distributed to creditors, the Receiver explained that it is desirable to attempt to avoid wasted costs wherever possible in order to maximize the amount of money available for distribution. Accordingly, costs incurred to deal with misinformation – especially when the same misinformed views are put forward by several different people – are neither efficient nor constructive to the process. The Receiver, therefore, requested that it be advised of the identity of the person who provided the information so that it would be able to communicate with him or her directly in order to resolve these points. However, no responses have yet been received by the Receiver or its counsel. Copies of this correspondence are contained in Exhibit “O”, as previously referenced.

8.1 Receiver Correspondence with Segura

On February 12, 2009, counsel to the Receiver received e-mail correspondence from Mr. Michael Title, counsel to Segura, asking for the Receiver's position with respect to the proposed claim by Mr. Verdun and, more specifically, the allegation that Unit 1510 ought to have been conveyed to DCC and SHI by 1 King West Inc.

By return e-mail, dated February 18, 2009, the Receiver advised that the facts and documents that had been made available to it, including the endorsement of Justice Campbell dated April 23, 2007 approving the settlement among EME and, *inter alia*, DCC, SHI and Harry Stinson, did not support

a claim for ownership of Unit 1510 by any of the Debtors. Rather, the documents provide that title to Unit 1510 was to remain with 1 King West Inc. and that any causes of action in SHI or DCC had been released prior to the Receiver's appointment.

The Receiver, however, did invite Segura to advise of any facts or documents that it may have to support the assertion that DCC or SHI may have an ownership interest in Unit 1510. At this time, the Receiver has not been provided with or apprised of any materials or facts that would support such an assertion. Copies of the correspondence between counsel for the Receiver and Segura is attached hereto as **Exhibit "P"**.

8.2 Correspondence with Verdun

By e-mail dated February 18, 2009, the Receiver and its counsel received correspondence directly from Mr. Verdun advising the Receiver that he sought compensation from the Receiver for unit owners whom, he said, had been "forced" by the Receiver to remain a participant in the Suites' Rental Management Pool and had suffered losses by doing so.⁷

By return e-mail, the Receiver, through its counsel, urged Mr. Verdun to seek legal advice to better understand the receivership process. The response explained the nature of the stay provision contained in the Receivership Order, and noted that the Receiver's authority, under paragraph 13 of the Receivership Order, was not to "force" people to remain in the pool. To the contrary, paragraph 13 of the Receivership Order allows the Receiver to authorize people to terminate their agreements despite the stay and without having to seek Court approval. In fact the Receiver did agree to

⁷ Mr. Verdun also filed a Proof of Claim in the Claims Process asserting this same claim, which the Receiver has reviewed and delivered a Notice of Determination in respect thereof.

requests from some unit owners who wished to terminate their agreements. All others, however, and all parties affected by the stay in the Receivership Order retained their rights to bring a motion to seek to lift the stay.

In any event, the Receiver cannot be liable for the effect of the stay contained in the Receivership Order. The stay is a lawful and subsisting Order of the Court. A Receiver overseeing a receivership does not incur liability for the consequences of a lawful Order of the Court.

Again the Receiver urged Mr. Verdun to seek legal counsel to help explain the process to him and advised that his continued attacks against the Receiver are not helpful or constructive to the process; and, in fact, result in needless costs to creditors who stand in line to receive distributions in the process. The Receiver's response was copied to Mr. Verdun's counsel in respect of the Verdun Claim, Mr. Anthony Frost. To date, there has been no response from either Mr. Verdun or Mr. Frost. A copy of the correspondence with Verdun and the Receiver is attached hereto as **Exhibit "Q"**.

9.0 VERDUN SETTLEMENT CONFERENCE

On Friday, February 27, 2009, the Receiver's counsel attended at the settlement conference before Justice Campbell. While the Receiver took no position at the settlement conference, it attended as directed. In accordance with its mandate, the Receiver is committed to monitor the proceedings regarding the Verdun Claim and consider what, if any, evidence is presented to support it.

10.0 MOTION REGARDING VERDUN CLAIM IS ABANDONED

On March 3, 2009, the Receiver was advised in writing by Mr. Verdun's counsel that Mr. Verdun's motion relating to the Verdun Claim was abandoned with costs to be addressed on March 11, 2009.

In view of the amount of time and effort expended by the Receiver in responding to Mr. Verdun's draft claim and then motion, the email correspondence delivered in support of the Verdun Claim, attending the scheduling hearing and in attending the settlement conference (as detailed above in sections 8.0 and 9.0 of this Tenth Report), the Receiver will prepare and deliver a bill of costs before the hearing on March 11, 2009.

11.0 INTERIM DISTRIBUTIONS

On February 9, 2009, the Receiver's counsel advised that Court that the Receiver expected to be in a position to bring a motion for the distribution of the funds realized on the Debtors' assets on March 11, 2009. As the Claims Process has proceeded however, the appeal period for creditors whose claims have been partially or totally disallowed by the Receiver does not expire until March 17, 2009. Approximately \$5.2 million in Receiver Parties Claims and secured or priority claims were filed by creditors for which a right to appeal the Receiver's Notice of Determination exists. Further, as at February 27, 2009, the total proceeds available for distribution are \$13,867,502, subject to the resolution of the above noted post closing matters with TSCC 1703 – although the Receiver does not believe these will affect this amount in a material way.

EME has requested that the Receiver seek approval for an interim distribution of sale proceeds to be made on the return of the motion on March 11, 2009. In accordance with the Settlement Approval Order, secured claims of Segura and EME in the aggregate amount of \$13,460,000.00 have already been recognized. The Settlement Approval Order is a subsisting order of this Honourable Court which has not been appealed.

Assuming the need to fully reserve for the potential Receiver Parties Claims and secured or priority claims, there could be approximately \$8 million available for an interim distribution. Having regard

to the above noted outstanding appeal period and additional valid post-filing claims, including the Receiver's fees and disbursements, the Receiver considers it to be appropriate to recommend an interim distribution of \$6 million at this time. Accordingly, and recognizing the *pari passu* terms of the settlement, under the Settlement Approval Order, this \$6 million amount would be divisible as follows:

- a. \$5,863,221.88 to EME; and
- b. \$136,778.12 to Segura Investments Ltd

12.0 FEES AND DISBURSEMENTS OF THE RECEIVER

Attached hereto as **Exhibit "R"** is the Affidavit of Mr. Ira Smith, President of ISI, attesting to the fees and disbursements of the Receiver for the period from December 2, 2008, inclusive to February 27, 2009.

13.0 FEES AND DISBURSEMENTS OF GOODMAN'S LLP

Attached hereto as **Exhibit "S"** is the Affidavit of Mr. L. J. Latham, a Partner of Goodmans, attesting to the fees and disbursements of Goodmans for the period from December 2, 2008 to February 28, 2009.

14.0 RECEIVER'S STATEMENT OF RECEIPTS AND DISBURSEMENTS

The consolidated statement of receipts and disbursements of the Receiver for the period from August 25, 2007 to November 30, 2008 is attached hereto as **Exhibit "T"**. The Receiver will provide its final accounting once all post closing matters have been resolved.

15.0 CONCLUSIONS AND RECOMMENDATIONS

For the reasons set out in this Tenth Report, the Receiver respectfully requests that this Honourable Court:

1. approve the Tenth Report and the actions and activities of the Receiver described therein;
2. approve the fees and disbursements of the Receiver and of Goodmans as detailed in Exhibits "R" and "S";
3. approve the interim distribution of \$6 million of sale proceeds, on the basis contemplated in this Tenth Report; and
4. provide such other advice and directions that this Honourable Court deems appropriate in the circumstances.

All of which is respectfully submitted at Toronto, Ontario this 3rd day of March, 2009.

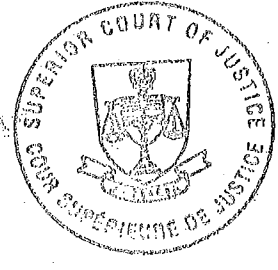
IRA SMITH TRUSTEE & RECEIVER INC.
solely in its capacity as the Court-Appointed Receiver
of Stinson Hospitality Inc., Dominion Club of Canada Corporation,
The Suites at 1 King West Inc., and 2076564 Ontario Inc. and not in its
personal Capacity

Per:



President

APPENDIX F



Court File No. 07-CL-6913

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

THE HONOURABLE MADAM) WEDNESDAY, THE 11TH DAY
)
JUSTICE PEPALL) OF MARCH, 2009

ED MIRVISH ENTERPRISES LIMITED AND 1 KING WEST INC.

Applicants

- and -

**STINSON HOSPITALITY INC., DOMINION CLUB OF CANADA CORPORATION
AND HARRY STINSON**

Respondents

ORDER

THIS MOTION, made by Ira Smith Trustee & Receiver Inc. (the "ISI"), in its capacity as court-appointed receiver and manager (the "Receiver") of all of the assets, undertakings and properties of Stinson Hospitality Inc. ("SHI"), Dominion Club of Canada Corporation ("DCC"), The Suites at 1 King West Inc. (the "Suites") and 2076564 Ontario Inc. ("Housekeeping") (collectively, the "Debtors"), for an Order substantially in the form attached as Schedule A to the Receiver's Notice of Motion at Tab 1 of the Receiver's Motion Record (the "Receiver's Motion Record") herein was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Tenth Report of the Receiver dated March 3, 2008, filed, and upon hearing the submissions of counsel for the Receiver, counsel for the Applicants, counsel for Segura Investments, counsel for J. Robert Verdun, and no one appearing for the other parties

✓ Harry Stinson ✓

870

- 2 -

served with the Receiver's Motion Record, although duly served as appears from the affidavit of service of Lauren Butti sworn March 3, 2009:

SERVICE

8270 ✓ 1. ~~THIS COURT ORDERS that the time for service of the Motion Record be and it is~~
hereby abridged, that the Motion is properly returnable today, that the service, including
the manner of service, of the Motion Record is hereby approved and that any requirement
for service of the Motion Record upon any party, other than those served, is hereby
dispensed with. ✓

TENTH REPORT

2. **THIS COURT ORDERS** that the Tenth Report and the actions and activities of the Receiver as reported therein be and are hereby approved.
3. **THIS COURT ORDERS** that the Receiver's fees and disbursements from December 2, 2008 to February 27, 2009, and the fees and disbursements of its legal counsel, Goodmans LLP, from December 2, 2008 to February 28, 2009, all as detailed in the Tenth Report, be and are hereby approved.

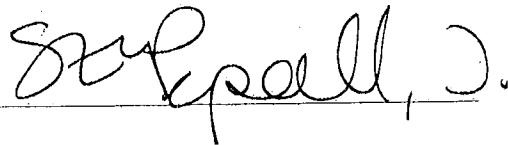
INTERIM DISTRIBUTION

4. **THIS COURT ORDERS** that the Receiver distribute \$6,000,000.00 from the proceeds of realization of the assets of the Debtors that are in its possession the following amounts:
 - a. to Ed Mirvish Enterprises Limited the amount of \$5,863,221.88 on account of its secured claim; and

- 3 -


b. to Segura Investments Ltd. the amount of \$136,778.12 on account of its secured claim.

5. **THE COURT ORDERS** that the distributions made pursuant to paragraph 4 above shall be partial payments to the recipients on account of their secured claims against the proceeds realized from the assets of the Debtors.



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

MAR 11 2009

PER / PAR:  Joanne Nicoara
Registrar, Superior Court of Justice

STINSON HOSPITALITY INC.,
DOMINION CLUB OF CANADA
CORPORATION AND HARRY STINSON

Respondents

ED MIRVISH ENTERPRISES LIMITED
AND 1 KING WEST INC.

Applicants

ONTARIO

SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

ORDER

GOODMANS LLP
Barristers & Solicitors
Suite 2400, Box 20
250 Yonge Street
Toronto, Canada M5B 2M6

Fred Myers (LSUC#26301A)
L. Joseph Latham (LSUC#32326A)
Laruen Butfi (LSUC#47083W)
Tel: 416-979-2211
Fax: 416-979-1234

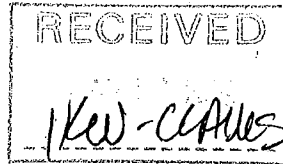
Counsel to Ira Smith Trustee & Receiver Inc., in its capacity as receiver and manager and former monitor of Stinson Hospitality Inc., Dominion Club of Canada Corporation, The Suites at 1 King West Inc. and 2076564 Ontario Inc.

APPENDIX G

March 9, 2009

THE RECEIVER:

Ira Smith Trustee & Receiver Inc.
Suite 6-167 Applewood Crescent
Concord, ON
L4K 4K7



Attention: Ira Smith


RE: Notice of DETERMINATION REGARDING "Dominion Club of Canada Corporation"

Dear Mr. Smith,

We received the Notice of Determination regarding our claim of \$8,560 in which we are entitled to a Full Refund. This letter serves as a dispute and an appeal to the Notice of Determination's decision. Considering we made full payment for the membership and in which other members of the general public have done so as well, it is unlawful for a corporation not to offer a full refund, should the facility not commence operation.

Attached is proof of payment in full for this membership and have not received any compensation whatsoever from this organization (Stinson Hospitality Inc., Dominion Club of Canada Corporation).

Sincerely,



Ray & Vivian Punzalan
17 Wellspring Avenue
Richmond Hill, ON L4E 4Z6
cell# 416-998-1367

.cc Ontario Superior of Justice
Commercial List
330 University Avenue
7th Floor
Toronto, ON
M5G 1E3

NOTICE OF DETERMINATION REGARDING CLAIMS AGAINST:

**Stinson Hospitality Inc., Dominion Club of Canada Corporation, The Suites at 1 King West Inc. and/or 2076564 Ontario Inc.
(each a "Debtor" and collectively the "Debtors")**

and/or

**Ira Smith Trustee & Receiver Inc., in its capacities as Court-appointed monitor and Court-appointed receiver of the Debtors, and its counsel Goodmans LLP
(the "Receiver Parties")**

Please read carefully the Instruction Letter accompanying this Notice. All capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the Order of the Ontario Superior Court of Justice dated December 11, 2008 authorizing the within Claims Process.

TO: Punzalan, Ray & Vivian

The Receiver hereby gives you notice that it has reviewed your Claim and has accepted, revised or rejected your Claim as follows:

	The Proof of Claim as Submitted	The Claim as Accepted
A. Claim against: DOMINION CLUB OF CANADA CORPORATION	\$8,560.00	[* See Note Below]
B. Claim against Receiver Parties		Nil.

Reasons for Disallowance or Revision:

*At this time the Court has required the Receiver to review only secured claims and claims against the Receiver Parties. As your claim appears to be an unsecured claim **against the Debtor(s)**, it will be reviewed later if it appears that there will be sufficient funds to make a distribution to unsecured creditors and the Court authorizes such further review. The Receiver reserves all further comment on your claim.

If you do not agree with this Notice of Determination, please take notice of the following:

If you dispute this Notice of Determination, you may appeal such decision to the Court by sending a written notice of appeal to the Receiver and filing a copy of the notice of appeal with the Court at the addresses listed below within twenty (20) days of receiving the Notice of Determination, in which case such Claim shall be treated as if the Claim had been entirely disallowed by the Receiver. If you do not appeal to the Claims Officer within the aforesaid time period, your Claim shall be deemed to be as set out in this Notice of Determination.

The Receiver:

Ira Smith Trustee & Receiver Inc.
Suite 6 - 167 Applewood Crescent
Concord, Ontario L4K 4K7

Attention: Ira Smith

Ontario Superior of Justice
Commercial List
330 University Avenue
7th Floor
Toronto, Ontario M5G 1E3

IF YOU FAIL TO TAKE ACTION WITHIN THE PRESCRIBED TIME PERIOD, THIS NOTICE OF DETERMINATION WILL BE BINDING UPON YOU.

Dated at Concord this 20th day of February, 2009.

Ira Smith Trustee & Receiver Inc.



Dominion Club

73 Richmond St. West
Toronto, Ontario
M5H 4E8

Phone: (416) 369-9993
Fax: (416) 365-9624
E-mail: info@dominionclub.ca

Statement

Customer Name:
Date:

Mr. & Mrs. Ray & Vivian Punzalan
January 5, 2005

Bill To: Mr. & Mrs. Ray & Vivian Punzalan
-916 Stonebridge Ave. 17 WILSON
Mississauga, ON AVE
L5V 2L5 Richmond Hill,
L4E 4Z6

Date	Description	Amount	Payment	Balance
December 29, 2004	Deposit	\$ 200.00	\$ 200.00	\$ -
January 21, 2005	PAID IN FULL	8,360.00	8,360.00	-
Total				\$ -

GST# 84821 4946 RT0001

Description	Amount
Membership	Spousal \$ 8,000.00
GST	GST# 84821 4946 RT0001 560.00
Total	PAID IN FULL 8,560.00

Goodmans^{LLP}

Barristers & Solicitors

250 Yonge Street, Suite 2400
Toronto, Ontario Canada M5B 2M6

Telephone: 416.979.2211
Facsimile: 416.979.1234
goodmans.ca

Direct Line: 416.597.6259
lbutt@goodmans.ca

Our File No. 070060

March 13, 2009

Via Courier

Ray and Vivian Punzalan
17 Wellspring Avenue
Richmond Hill, Ontario
L4E 4Z6

Dear Sirs/Madams:

Re: Ed Mirvish Enterprises Limited and 1 King West Inc. et al. v. Stinson Hospitality Inc. et al.; Court File No. 07-CL-6913

We are the solicitors for Ira Smith Trustee & Receiver Inc., the court-appointed Receiver and Manager of the business at 1 King Street West. We have your letter of March 9, 2009 seeking to dispute the Notice of Determination delivered to you by the Receiver, a copy of which was attached to your letter.

At this time, as indicated in the Notice you received from the Receiver, the Court has only required the Receiver to review secured claims against the Debtors and claims against the Receiver Parties. As the Receiver indicated in its response to you of February 20, 2009, given that your claim appears to be an *unsecured* claim against the Debtor, DCC, it has not yet been reviewed by the Receiver. The Receiver has not made a determination and therefore there is nothing for you to dispute at this time. Should the Court subsequently require the Receiver to review unsecured claims, the Receiver will advise you of its Determination at that time.

We have copied the Ontario Superior Court of Justice (Commercial List) on this correspondence, as we understand that a copy of your letter was also delivered to the Court.

Yours very truly,

GOODMANS LLP

Per:



Lauren Butti
LRB/lb

✓ cc: Ira Smith Trustee & Receiver Inc. (via email)
Ontario Superior Court of Justice (Commercial List) (via email)

APPENDIX H

Fax - 905-738-9848

Re: claim SE-06-37616

Szeto vs 1 King West Ave

Notice of Intention to appeal

attention: Ira Smith

The plaintiff Gals Ming Szeto intends to
appeal ^{from} the determination regarding claim
against the suite at 1 King West Ave.

Dated:

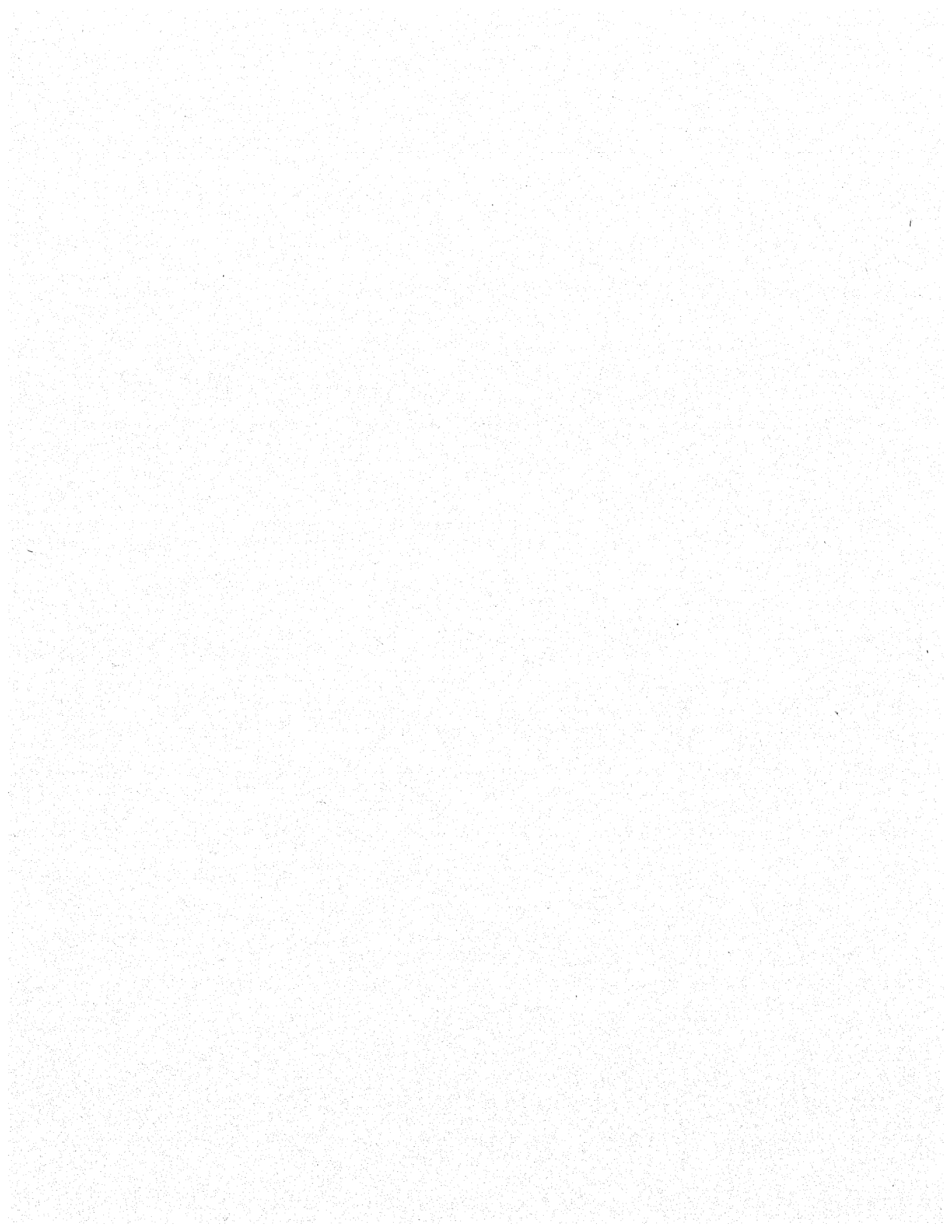
17 March 09

at Toronto, On

RECEIVED

MAR 18 2009

IRA SMITH TRUSTEE &
RECEIVER INC.



Goodmans^{LLP}

Barristers & Solicitors

250 Yonge Street, Suite 2400
Toronto, Ontario Canada M5B 2M6Telephone: 416.979.2211
Facsimile: 416.979.1234
goodmans.caDirect Line: 416.597.6259
lbutt@goodmans.ca

Our File No. 070060

March 18, 2009

*Via Mail*Yuk Ming Szeto
157 Adelaide Street West
Box 731
Toronto, Ontario
M5H 4E7

Dear Madams:

Re: Ed Mirvish Enterprises Limited and 1 King West Inc. et al. v. Stinson Hospitality Inc. et al.; Court File No. 07-CL-6913

We are the solicitors for Ira Smith Trustee & Receiver Inc., the court-appointed Receiver and Manager of the business at 1 King Street West. We have your fax of March 17, 2009 seeking to dispute the Notice of Determination delivered to you by the Receiver.

At this time, as indicated in the Notice you received from the Receiver, the Court has only required the Receiver to review secured claims against the Debtors and claims against the Receiver Parties. As the Receiver indicated in its response to you of February 20, 2009, given that your claim appears to be an *unsecured* Debtor claim, it has not yet been reviewed by the Receiver. The Receiver has not made a determination and therefore there is nothing for you to dispute at this time. Should the Court subsequently require the Receiver to review unsecured claims, the Receiver will advise you of its Determination at that time.

We do note, however, that your Debtor Claim appears to have been filed against 1 King West Inc. The Receiver is the court appointed receiver for Stinson Hospitality Inc., Dominion Club of Canada Corporation, The Suites at 1 King West Inc. and 2076564 Ontario Inc. To the extent your Debtor claim as filed is against any of these Debtors, as noted above, should the Receiver be required to review unsecured claims, the Receiver will advise you of its Determination of your claim at that time. However, to the extent your claim is against the corporate entity, 1 King West Inc., the Receiver has not been appointed a receiver of this corporation and has no knowledge of your claim against this entity.

Under the Claims Process, any dispute of the Receiver's determination must be made as an appeal to the Court. If the Receiver makes a determination of your unsecured claim or if you wish to dispute anything set out in this letter you should seek legal advice as to how to bring an appeal to the Court. An appeal is a formal Court proceeding and cannot be made by a simple letter. As of this date, the Receiver has not received a formal appeal from you and will report this to the Court.

Goodmans^{LLP}

Yours very truly,

GOODMANS LLP
ORIGINAL SIGNED BY

Lauren Butti
LRB/lb

✓ cc: Ira Smith Trustee & Receiver Inc. (*via email*)

\5697749

**ED MIRVISH ENTERPRISES
LIMITED AND 1 KING WEST INC.**

and

**STINSON HOSPITALITY INC.,
DOMINION CLUB OF CANADA
CORPORATION AND HARRY
STINSON**

Applicants

Respondents

Court File No: 07-CL-6913

ONTARIO

SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

MOTION RECORD

(Returnable April 1, 2009)

GOODMANS LLP

Barristers & Solicitors

Suite 2400, Box 20

250 Yonge Street

Toronto, Canada M5B 2M6

Fred Myers (LSUC#26301A)

L. Joseph Latham (LSUC#32326A)

Lauren Butti (LSUC#47083W)

Tel: 416-979-2211

Fax: 416-979-1234

Counsel to Ira Smith Trustee & Receiver Inc., in its capacity as receiver and manager of Stinson Hospitality Inc., Dominion Club of Canada Corporation, The Suites at 1 King West Inc. and 2076564 Ontario Inc.