

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

VECTOR FINANCIAL SERVICES LIMITED

Applicant

and

VAUGHAN CROSSINGS INC.

Respondent

APPLICATION UNDER Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985,
c.B-3 and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c.C.43.

**SUPPLEMENTARY FIRST REPORT OF THE PUTATIVE RECEIVER
DATED FEBRUARY 13, 2017**

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1.0 INTRODUCTION

1. This Supplementary First report (the “**Supplementary First Report**”) is filed by Ira Smith Trustee & Receiver Inc. (“**ISI**”) in its capacity as putative Court appointed Receiver (the “**Putative Receiver**”), pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O 1990, c. C.43, as

amended (the “**CJA**”), without security, of certain of the assets, properties and undertaking of Vaughan Crossings Inc. (collectively the “**Company**” or the “**Debtor**”).

2. In the Report to Court dated January 19, 2017 (the “**First Report**”) the Putative Receiver recommended to this Honourable Court, *inter alia*, a specific sales process.

1.1 Purpose of this Report

3. The purpose of this Supplementary First Report is for the Putative Receiver to report to this Honourable Court on events which transpired late last week and from a conference call this morning between Mr. I. Smith of the Putative Receiver, the Putative Receiver’s legal counsel, Mr. D. Brooker of Steinberg Title Hope & Israel LLP and with representatives of the Applicant. As a result of these recent events, the appointment and the recommended sales process described in the First Report requires amendment, as described herein.

1.2 Disclaimer

4. In preparing this Supplementary First Report, the Putative Receiver, where stated, has relied upon information obtained from and discussions with representatives of the Applicant and other third parties as stated herein (collectively, the “**Information**”). The Putative Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information and expresses no opinion, or other form of assurance, in respect of the Information. As indicated in the First Report, notwithstanding having served the principal of the Debtor, Mr. A. Guido, with a copy of ISI’s private appointment as receiver, Mr. Guido has failed to meet or

otherwise communicate with the receiver and has failed to supply the books and records of the Company. Such books and records to date have not been found.

5. This Supplementary First Report is prepared solely for the use of the Court and the stakeholders in this proceeding, for the purpose of assisting the Court in making a determination whether to approve the appointment of the Putative Receiver and the recommended sales process, as amended herein. It is based on the Putative Receiver's analysis of information provided to it by third parties as stated herein. The Putative Receiver's procedures did not constitute an audit or financial review engagement of the Debtor's financial reporting. Where stated, the Putative Receiver has relied upon the Information in reaching the conclusions set out in this report.

2.0 BACKGROUND AND OVERVIEW

6. ISI was privately appointed as the receiver under a joint retainer agreement which was fully signed on September 19, 2016 by the first mortgagee and Applicant, Vector Financial Services Limited ("**Vector**") and the second mortgagee Scollard Trustee Corporation ("**Scollard**") and Olympia Trust Company. A copy of the joint retainer agreement is included as Exhibit "A" to the First Report.

7. The Company's known principal assets are the:

- a) freehold interest in the lands with the legal description of PIN:03274-0104; -0103, PLAN RCP 10309 PT LOTS 22, 25, 26, 28 AND LOT 27 RP 65R8928 PART 1 RP 65R14039 PARTS 2 AND 3 RP 65R11525 PART being vacant commercial land for development

comprising 4.976 acres on the West side of Dufferin Street, north of Centre Street, in the City of Vaughan. (the “**freehold lands**”) and;

- b) leasehold interest in the lands comprising 4.976 acres on the West side of Dufferin Street, north of Centre Street, municipally known as 7818 Dufferin Street, Vaughan, Ontario (the “**leasehold lands**”) under a lease made as of and effective from April 11, 2007 between the Estate of Harry Kranc, Sarah Kranc the Estate of Leib Schwartzberg as landlord and the Company as tenant (the “**Lease**”). A copy of the Lease is included in the First Report as Exhibit “B”.

8. The leasehold lands adjoin the freehold lands and are located immediately due south of the freehold lands. Therefore, the two pieces form one larger area of vacant commercial land for development.

9. On October 27, 2016 Grant Thornton Limited (“**GTL**”) was appointed Trustee over the assets, properties and undertakings of Scollard et al by Order of the Honourable Mr. Justice Newbould. A copy of the GTL Appointment Order is contained in the First Report as Exhibit “C”.

10. As privately appointed receiver, we have not been funded to keep the Lease in good standing. Accordingly, the Lease is in default.

3.0 RECENT EVENTS

11. Mr. Brooker advises that he had a telephone conversation with the landlord’s legal counsel, Mr. S. Thom of Torkin Manes LLP, on February 10, 2017. Mr. Brooker advises that Mr. Thom

advised that he expects that by today, the landlord will serve formal notice of termination of the Lease.

12. This morning in the conference call with Messrs. F. Laurie and M. Baratz of the Applicant, and its legal counsel, Mr. R. Melvin of Rose, Persiko, Rakowsky, Melvin LLP, the Applicant confirmed its unwillingness to fund bring the Lease current and continue its funding. Messrs. Laurie and Baratz also advised that (confirming earlier communications) that the Applicant was satisfied for the Lease to be terminated and therefore the leasehold lands would not form part of the assets, properties and undertaking for the Receiver to take possession of and market the Receiver's interest in the leasehold lands, if any, for sale.

13. Accordingly, the Order appointing the Putative Receiver, should not provide any possession, control, supervision or mandate over the leasehold lands.

14. The First Report describes the meeting held at the offices of Aird & Berlis LLP, legal counsel for GTL as Court appointed Trustee. The First Report also describes GTL's advice that they were determining if on behalf of the Scollard investors in the second mortgage against the freehold lands, GTL solely in its capacity as Court appointed Trustee in trust for a company to be incorporated, would be submitting a written Agreement of Purchase and Sale to stand as a stalking horse bid in a Court approved sales process.

15. The First Report further describes:

- a. as of the date of the First Report, no such binding agreement of purchase and sale was entered into; and

- b. the Putative Receiver's recommendation of a sales process whereby once appointed, the Court appointed Receiver would retain Mr. R. Viele, Broker-Land Services of Royal LePage Commercial Division to market the freehold lands under a specific listing agreement (included in the First Report as Exhibit "D") on the multiple listing service.

16. In this morning's conference call, Messrs. Laurie and Baratz advised of discussions they have had with a representative of the Scollard investor group, whereby they discussed the terms of purchase that the Applicant could support. Messrs. Laurie and Baratz also advised in this morning's call that they told the investor representative that in order to have their support, one of the terms of any agreement of purchase and sale would be that the transaction would have to be completed no later than March 15, 2017.

17. In this morning's call, Messrs. Laurie and Baratz advised that they are expecting the investor group to submit an offer to purchase to the Court appointed Receiver, but they could not provide any assurance as to the timing, or if such an agreement would even be submitted.

18. Accordingly, the Putative Receiver believes that in fairness to all parties, the recommendation of the retainer of Mr. Viele and the sales process should not be changed, other than that if the Putative Receiver is appointed by this Honourable Court, the retainer of Mr. Viele under the listing agreement provided in the First Report should be approved, but that the Court appointed Receiver shall not enter into such retainer before March 1, 2017.

19. In this way, if the investor group submits a satisfactory agreement of purchase and sale in time for it to be reviewed and approved by the Court appointed Receiver and then submitted for approval by this Honourable Court, Mr. Viele would not yet have been retained and incurred costs in marketing the sale of the freehold lands. If no such agreement is submitted by the investor group, then the Court appointed Receiver can begin marketing the property without incurring the costs of an additional Court attendance. In this case, should the Scollard investor group still wish to attempt to purchase the freehold lands, they could still submit an offer into the sales process being run by the Court appointed Receiver through Mr. Viele's retainer.

4.0 CONCLUSION AND RECOMMENDATIONS

20. For the reasons set out in this Supplementary First Report, the Putative Receiver, if appointed, respectfully requests that this Honourable Court approve the recommendations as contained in the First Report amended as follows:

- i. the appointment of ISI as Court appointed Receiver of the freehold lands, including all plans, agreements, permits, improvements and other personal property owned or leased by the Company relating to the development or sale of the freehold lands, but should not include any reference to the leasehold lands; and
- ii. the proposed sales process described herein should be approved, including the Court appointed Receiver entering into a listing agreement with Royal LePage Commercial Division, substantially in the form included in the First Report as

Exhibit "D". However, such retainer shall not be entered into before March 1, 2017.

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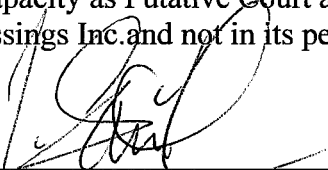
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All of which is respectfully submitted at Toronto, Ontario this 13th day of February, 2017.

IRA SMITH TRUSTEE & RECEIVER INC.

solely in its capacity as Putative Court appointed Receiver of Vaughan Crossings Inc. and not in its personal capacity

Per:



Ira Smith, MBA, CPA CA, CIRP, LIT
President