

**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

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**MOTION RECORD  
(Returnable September 15, 2008)**

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**GOODMANS LLP**

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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.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

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Applicants

**- and -**

**STINSON HOSPITALITY INC., DOMINION CLUB OF CANADA CORPORATION  
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Respondents

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

and

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

Court File No: 07-CL-6913

Applicants

Respondents

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

**MOTION RECORD**  
(Returnable September 15, 2008)

**GOODMANS LLP**  
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Hospitality Inc., Dominion Club of Canada  
Corporation, The Suites at 1 King West Inc. and  
2076564 Ontario Inc.

GOODMANS\5629943.1



# 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 September 15, 2008)

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, The Suites at 1 King West and 2076564 Ontario Inc. (collectively, the **“Debtors”**), will make a motion before this Honourable Court on Monday, the 15th day of September, 2008, 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 **“Seventh Report Approval Order”**):
  - (a) approving the Seventh Report of the Receiver dated September 8, 2008 (the **“Seventh Report”**), the fees and disbursements of the Receiver and its counsel as detailed in the Seventh Report, and the actions and activities of the Receiver detailed in the Seventh Report; and

- (b) sealing Volume II of the Seventh Report until further Order of this Honourable Court; and
2. an order (the “**Sale Approval and Vesting Order**”), *inter alia*:
- (a) approving the asset purchase agreement dated as of August 29, 2008 (the “**Purchase Agreement**”), between the Receiver (solely in its capacity as court-appointed receiver and manager of the Debtors) and Toronto Standard Condominium Corporation No. 1703 (“**TSCC 1703**” or the “**Purchaser**”);
  - (b) authorizing and directing the Receiver to enter into and complete the transactions contemplated in the Purchase Agreement in accordance with terms thereof;
  - (c) vesting all of the Debtors’ and the Receiver’s right, title and interest in and to the Purchased Assets (as defined in the Purchase Agreement) in the Purchaser, free and clear of all interests, liens, charges and other encumbrances, all as set out in the Approval and Vesting Order; and
  - (d) granting all ancillary and necessary relief, all as set out in the Approval and Vesting Order, and such further and other relief as the Court may deem just; and
3. such other relief as this Honourable Court may deem appropriate.

**THE GROUNDS FOR THE MOTION ARE:**

- 1. By Order of Madam Justice Pepall dated August 24, 2007 (the “**Receivership Order**”), the Receiver was appointed receiver and manager of the Debtors.
- 2. Since its appointment, the Receiver has been overseeing the day-to-day operations of the Debtors. The Receiver has also made substantial efforts to communicate with all of the Debtors’ stakeholders in the course of its mandate.
- 3. Pursuant to an Order of this Honourable Court dated January 24, 2008 (the “**Fourth Approval Order**”), the Receiver carried out a sales process in respect of the property, assets and undertaking of the Debtors (the “**Sales Process**”).

4. The Receiver undertook, *inter alia*, the following major activities in connection with the Sales Process:
  - (a) compiled a list of potential purchasers and other parties known to the Receiver as being capable of or interested in a hospitality investment opportunity, and issued an invitation to those parties to review the opportunity in accordance with specified terms and conditions of sale (the “**Terms and Conditions of Sale**”);
  - (b) compiled a summary description of the transaction (“**Teaser**”) and a Confidential Information Memorandum (“**CIM**”) to present the opportunity to pre-screened target potential purchasers;
  - (c) published the business opportunity on the Receiver’s website, and made available for any interested party a copy of the Fourth Approval Order, the Teaser and Terms and Conditions of Sale and a form of confidentiality agreement that, if executed, would allow prospective purchasers to obtain access to certain confidential information about the Debtors (each a “**Confidentiality Agreement**”);
  - (d) prepared a password-protected web-based data room containing the CIM and other confidential information about the Debtors for approved potential buyers to perform due diligence; and
  - (e) held discussions and met with prospective purchasers regarding the prospective sale of the Debtors.
5. Thirty-one (31) parties executed Confidentiality Agreements and were provided with access to the data room.
6. In accordance with the Terms and Conditions of Sale, the deadline for submission of non-binding Letters of Intent (the “**LOI’s**”) to the Receiver was 5:00 p.m. (Toronto time) on March 31, 2008. In total, eleven (11) non-binding LOI’s were submitted to the Receiver. The Receiver, after performing an analysis of these non-binding LOI’s, allowed six (6) parties to proceed to the next phase of due diligence.

7. Each of the six (6) parties was provided with access to detailed financial, operating and legal documents that were provided to assist each party in drafting a final binding LOI. Final binding LOI's, as specified in the CIM, were due to the Receiver on May 20, 2008 at 5:00 p.m. (Toronto time).
8. In total, six (6) final LOI's were submitted to the Receiver, including one from a party who did not execute a Confidentiality Agreement, was not provided access to the CIM or the data room, and whose bid was not competitive with the other final binding LOIs.
9. The Receiver analyzed the LOIs, identified certain leading bidders and engaged in good faith, arms' length negotiations with such leading bidders with a view to finalizing a definitive asset purchase agreement.
10. After lengthy, good faith, arms' length negotiations with the leading bidders, the Receiver ultimately entered into the Purchase Agreement with TSCC 1703 on August 29, 2008.
11. The Purchase Agreement is commercially reasonable and in the best interests of the Debtor's stakeholders.
12. The Purchase Agreement is conditional upon, *inter alia*, this Honourable Court's approval and the approval of the unit owners in TSCC 1703.
13. The Receiver has filed the Seventh Report as part of the within Motion Record. Volume II of the Seventh Report contains certain non-public information concerning the Sales Process, including the details of the final binding LOIs, related business plans and projections and other confidential information.
14. The facts and circumstances of the Seventh Report and the Receiver's Sixth Report dated June 13, 2008 (the "**Sixth Report**"), which contain details of the Receiver's actions and activities.
15. Rule 3.02(1) of the *Rules of Civil Procedure*.
16. Sections 100, 101, 106 and 137(2) of the *Courts of Justice Act*.

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

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

1. the Seventh Report, and the exhibits thereto;
2. the Sixth Report and the exhibits thereto;
3. such further and other materials as counsel may advise and this Honourable Court may permit.

Date: September 8, 2008

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in its capacity as receiver and manager of  
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Canada Corporation, The Suites at 1 King  
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**TO: THE ATTACHED SERVICE LIST**

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Solicitor for certain unitowners



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**Additions to Base Service List in these Proceedings:**

***(a) Parties Registered under the Personal Property Security Act (Ontario)***

**AND TO: GOULD LEASING LTD.**  
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M4T 1W1

**AND TO: DE LAGE LANDEN FINANCIAL SERVICES CANADA INC.**  
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Oakville, ON  
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**AND TO: HER MAJESTY IN RIGHT OF ONTARIO REPRESENTED BY THE  
MINISTER OF REVENUE**  
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Oshawa, ON  
L1H 8H5

**AND TO: MINISTRY OF REVENUE  
REVENUE COLLECTIONS BRANCH**  
1400 Blair Place  
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Ottawa, Ontario K1J 9B8  
Attention: R. McAteer  
Tel: 1-613-842-7065  
1-613-842-7212/7042

***(b) Governmental Authorities***

**AND TO: THE CITY OF TORONTO**  
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Attention: Anna Kinastowski

**AND TO: CITY OF TORONTO**  
The Office of the Treasurer  
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Toronto, Ontario M2N 5V1

Attention: Cam Weldon

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**AND TO: RYAN COOPER**  
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**AND TO: THE ONTARIO CLUB**  
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**ED MIRVISH ENTERPRISES  
LIMITED AND 1 KING WEST INC.**

and

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

Court File No: 07-CL-6913

Applicants

Respondents

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

**NOTICE OF MOTION**

**(Returnable September 15, 2008)**

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# **TAB 2**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

<b>THE HONOURABLE</b>	)	<b>MONDAY, THE 15<sup>TH</sup> DAY</b>
	)	
<b>JUSTICE PEPALL</b>	)	<b>OF SEPTEMBER, 2008</b>

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

**Applicants**

**- and -**

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

**Respondents**

**O R D E R**

**THIS MOTION**, made by Ira Smith Trustee & Receiver Inc. (the “**Receiver**”), in its capacity as court-appointed receiver and manager of all 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. (collectively, the “**Debtors**”), for, *inter alia*, an order approving the Seventh Report of the Receiver dated September 8, 2008 (the “**Seventh Report**”) and the actions and activities of the Receiver detailed therein.

**ON READING** the Seventh Report and the exhibits thereto, and on hearing the submissions of counsel for the Receiver, the Applicants, the Debtors, Toronto Standard Condominium Corporation 1703, Johan Demeester, and such other counsel as were present and wished to be heard:



**SERVICE**

1. **THIS COURT ORDERS** that the service, including the manner of service, of the Receiver's motion materials is hereby approved and validated.

**SEVENTH REPORT**

2. **THIS COURT ORDERS** that the Seventh 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 May 1, 2008 to July 31, 2008, and the fees and disbursements of its legal counsel, Goodmans LLP, from May 15, 2008 to August 15, 2008, all as detailed in the Seventh Report, be and are hereby approved.

4. **THIS COURT ORDERS** that Volume II of the Seventh Report shall be treated as confidential, sealed and shall not form part of the public record until further Order of this Honourable Court.

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ED MIRVISH ENTERPRISES LIMITED  
AND 1 KING WEST INC.

STINSON HOSPITALITY 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**

(Motion Record returnable September 15, 2008)

**GOODMANS LLP**

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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 3**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

<b>THE HONOURABLE</b>	)	<b>MONDAY, THE 15<sup>TH</sup> DAY</b>
	)	
<b>JUSTICE PEPALL</b>	)	<b>OF SEPTEMBER, 2008</b>

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

**Applicants**

**- and -**

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

**Respondents**

**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by Ira Smith Trustee & Receiver Inc. (the “**Receiver**”), in its capacity as court-appointed receiver and manager of all 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. (collectively, the “**Debtors**”), for an Order approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (the “**Purchase Agreement**”) between the Receiver and Toronto Standard Condominium Corporation No. 1703 (the “**Purchaser**”) made as of August 29, 2008 and appended to the Seventh Report of the Receiver dated September 8, 2008 (the “**Seventh Report**”), and vesting in the Purchaser the Debtors’ and the Receiver’s right, title and interest in and to the assets described in the Purchase Agreement (the “**Purchased Assets**”), was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Seventh Report and the exhibits thereto, and on hearing the submissions of counsel for the Receiver, the Applicants, the Debtors, the Purchasers and such other counsel as were present and wish to be heard:

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and that the Purchase Agreement is commercially reasonable and in the best interests of the Debtors and their stakeholders. The execution of the Purchase Agreement by the Receiver is hereby authorized and approved, and the Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser. Any documents shall be in such form as the Receiver and Purchaser shall approve and execution thereof shall be sufficient evidence that such documents are valid and binding in accordance with their terms and that their execution has been authorized by this Order.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "**Receiver's Certificate**"), all of the Debtors' and Receiver's right, title and interest in and to the Purchased Assets described in the Purchase Agreement shall vest absolutely and forever in the Purchaser without further instrument or transfer, free and clear of and from any and all estate, right, title, interests, claim, security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, charges, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, pledges, assignments, options, fines, penalties, taxes, interest, disputes, adverse claims, levies, realty taxes, assessments and rates accrued to date, whether levied or not, encumbrances, actions, causes of action, proceedings, judgements, writs of execution, writs of seizure and sale, contractual claims including contractual rights of seizure, sale or possession or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of this Honourable Court in these proceedings dated August 24, 2007; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule "B" hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and

restrictive covenants listed on Schedule "C" hereto) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of the Receiver's Certificate, any and all right, title, interest and benefit in or to any agreements, Hotel Contracts, leases and the right to exclusive ownership and possession of all chattels and personal property that form part of the Purchased Assets shall be absolutely and irrevocably assigned to the Purchaser as valid, binding and enforceable entitlements.

4. **THIS COURT ORDERS** that, upon the registration in Land Registry Office #66 for the Land Titles Division of Metropolitan Toronto of one or more transfers/deeds in the form prescribed by the *Land Registration Reform Act* duly executed by the Receiver, the Land Registrar is hereby directed to enter the Purchaser as the owner of the real property included in the Purchased Assets and listed on Schedule "D" hereto (the "**Real Property**") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule "B" hereto.

5. **THIS COURT ORDERS** that, for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale, and there shall be no Claims against the Purchaser in connection therewith.

6. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

7. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Debtors' records pertaining to the Debtors' past and current employees, including personal

information of those. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtors.

8. **THIS COURT ORDERS** that as from February 28, 2009, the Ontario Club shall have no right at law or in equity to use or occupy any space or asset in the premises or Real Property included in the Purchased Assets or to exercise any rights, entitlements or benefits with respect thereto or to impose any liability with respect thereto upon the Purchaser.

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

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of any of the Debtors and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in Bankruptcy made in respect of any of the Debtors;

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

10. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

11. **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.

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**Schedule "A" – Form of Receiver's Certificate**

Court File No. 07-CL-6913

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**B E T W E E N:**

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

**Applicants**

**- and -**

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

**Respondents**

**RECEIVER'S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Justice Pepall of the Ontario Superior Court of Justice (the "**Court**") dated August 24, 2007, Ira Smith Trustee & Receiver Inc. (the "**Receiver**") was appointed the receiver and manager of all the assets, undertakings and properties of Stinson Hospitality Inc., Dominion Club of Canada Corporation, The Suites at 1 King Street West Inc. and 2076564 Ontario Inc. (collectively, the "**Debtors**").

B. Pursuant to an Order of the Court dated ●, the Court approved the agreement of purchase and sale made as of August 29, 2008 (the "**Purchase Agreement**") between the Receiver and Toronto Standard Condominium Corporation No. 1703 (the "**Purchaser**") and provided for the vesting in the Purchaser of the Receiver's and Debtors' right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the

Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in the Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Purchase Agreement.

**THE RECEIVER CERTIFIES** the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Purchase Agreement;
2. The conditions to Closing as set out in the Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**IRA SMITH TRUSTEE & RECEIVER  
INC., as court-appointed receiver and  
manager of Stinson Hospitality Inc.,  
Dominion Club of Canada Corporation,  
The Suites at 1 King Street West Inc. and  
2076564 Ontario Inc. , and not in its  
personal capacity**

Per: \_\_\_\_\_  
Name:  
Title:

## Schedule "B" – Claims

### Real Property Encumbrances

LEGAL DESCRIPTION	CLAIMS TO BE DELETED AND EXPUNGED
<p><b>PIN 12703-0001 (LT)</b></p> <p>Unit 1, Level 1, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.</p>	<p>Instrument Number AT1082055 registered March 8<sup>th</sup>, 2006 being a charge/mortgage in favour of Honest Ed's Limited</p> <p>Instrument Number AT1180926 registered June 28<sup>th</sup>, 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited</p>
<p><b>PIN 12703-0002 (LT)</b></p> <p>Unit 2, Level 1, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.</p>	<p>Instrument Number AT1082055 registered March 8<sup>th</sup>, 2006 being a charge/mortgage in favour of Honest Ed's Limited</p> <p>Instrument Number AT1180926 registered June 28<sup>th</sup>, 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited</p>
<p><b>PIN 12703-0003 (LT)</b></p> <p>Unit 3, Level 1, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.</p>	<p>Instrument Number AT1082055 registered March 8<sup>th</sup>, 2006 being a charge/mortgage in favour of Honest Ed's Limited</p> <p>Instrument Number AT1180926 registered June 28<sup>th</sup>, 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited</p>
<p><b>PIN 12703-0004 (LT)</b></p> <p>Unit 1, Level 2, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.</p>	<p>Instrument Number AT1082055 registered March 8<sup>th</sup>, 2006 being a charge/mortgage in favour of Honest Ed's Limited</p> <p>Instrument Number AT1180926 registered June 28<sup>th</sup>, 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited</p>
<p><b>PIN 12703-0005 (LT)</b></p> <p>Unit 2, Level 2, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.</p>	<p>Instrument Number AT1082055 registered March 8<sup>th</sup>, 2006 being a charge/mortgage in favour of Honest Ed's Limited</p> <p>Instrument Number AT1180926 registered June 28<sup>th</sup>, 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited</p>

LEGAL DESCRIPTION	CLAIMS TO BE DELETED AND EXPUNGED
<b>PIN 12703-0204 (LT)</b>  Unit 8, Level 13, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.	Instrument Number AT1082055 registered March 8 <sup>th</sup> , 2006 being a charge/mortgage in favour of Honest Ed's Limited  Instrument Number AT1180926 registered June 28 <sup>th</sup> , 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited
<b>PIN 12703-0205 (LT)</b>  Unit 9, Level 13, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.	Instrument Number AT1082055 registered March 8 <sup>th</sup> , 2006 being a charge/mortgage in favour of Honest Ed's Limited  Instrument Number AT1180926 registered June 28 <sup>th</sup> , 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited
<b>PIN 12703-0596 (LT)</b>  Unit 1, Level 50, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.	Instrument Number AT1082055 registered March 8 <sup>th</sup> , 2006 being a charge/mortgage in favour of Honest Ed's Limited  Instrument Number AT1180926 registered June 28 <sup>th</sup> , 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited
<b>PIN 12703-0597 (LT)</b>  Unit 1, Level 51, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.	Instrument Number AT1082055 registered March 8 <sup>th</sup> , 2006 being a charge/mortgage in favour of Honest Ed's Limited  Instrument Number AT1180926 registered June 28 <sup>th</sup> , 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited
<b>PIN 12726-0001 (LT)</b>  Unit 1, Level 1, Toronto Standard Condominium Plan No. 1726 and its appurtenant interest; City of Toronto.	Instrument Number AT1082055 registered March 8 <sup>th</sup> , 2006 being a charge/mortgage in favour of Honest Ed's Limited  Instrument Number AT1180926 registered June 28 <sup>th</sup> , 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited
<b>PIN 12726-0003 (LT)</b>  Unit 3, Level 1, Toronto Standard Condominium Plan No. 1726 and its appurtenant interest; City of Toronto.	Instrument Number AT1082055 registered March 8 <sup>th</sup> , 2006 being a charge/mortgage in favour of Honest Ed's Limited  Instrument Number AT1180926 registered June

LEGAL DESCRIPTION	CLAIMS TO BE DELETED AND EXPUNGED
	28 <sup>th</sup> , 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited
<b>PIN 12726-0004 (LT)</b>  Unit 4, Level 1, Toronto Standard Condominium Plan No. 1726 and its appurtenant interest; City of Toronto.	Instrument Number AT1082055 registered March 8 <sup>th</sup> , 2006 being a charge/mortgage in favour of Honest Ed's Limited  Instrument Number AT1180926 registered June 28 <sup>th</sup> , 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited
<b>PIN 21407-0051 (LT)</b>  Part of Town Lot 2, South Side of King Street West, Town of York Plan, designated as Parts 7, 8 and 15 on Plan 66R-21873. The boundaries of Yonge Street as confirmed by Boundaries Act Plan BA-1120 as in CT273365; City of Toronto.	Instrument Number AT1082054 registered March 8 <sup>th</sup> , 2006 being a charge/mortgage in favour of Honest Ed's Limited  Instrument Number AT1180925 registered June 28 <sup>th</sup> , 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited
<b>PIN 21407-0053 (LT)</b>  Part of Town Lot 2, South Side of King Street, Town of York Toronto, designated as Parts 14, 16 and 22 on Plan 66R-21873; City of Toronto.	Instrument Number AT1082054 registered March 8 <sup>th</sup> , 2006 being a charge/mortgage in favour of Honest Ed's Limited  Instrument Number AT1180925 registered June 28 <sup>th</sup> , 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited
<b>PIN 21407-0054 (LT)</b>  Part of Town Lot 2, South Side of King Street, Town of York Toronto, designated as Parts 6 and 12 on Plan 66R-21873; City of Toronto.	Instrument Number AT1082054 registered March 8 <sup>th</sup> , 2006 being a charge/mortgage in favour of Honest Ed's Limited  Instrument Number AT1180925 registered June 28 <sup>th</sup> , 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited

### **Schedule "C" – Permitted Encumbrances**

1. Underpinning Agreement entered into among Lormac Limited, Montreal Trust Company (the owners of the property to the west of the Real Property) and the owners of 5 King Street West, Toronto dated March 9, 1964 and registered as Instrument No. 56837ES on March 23, 1964..
2. City of Toronto By-Law 278-90 designating 1 King Street West as being of architectural and historical value or interest registered on May 18, 1990 as Instrument No. CA091334.
3. Development Agreement dated June 14, 1990 between the owner of 5 King Street West and the City of Toronto registered June 27, 1990 as Instrument No. CA097283
4. Settlement agreement between OMERS Realty Management Corporation and 5 King West Inc. regarding the minor variance approval of the construction of the project and relationship with the property to the west of the project dated August 4, 2000 and registered September 22, 2000 as Instrument No. E359118.
5. Heritage Easement Agreement dated July 18, 2001 between 1 King West Inc. and 5 King West Inc. and the City of Toronto registered on July 24, 2001 as Instrument Nos. CA734408 and E436044.
6. Agreement dated March 11, 2002 between 1 King West Inc. and the City of Toronto under section 45(9) of the Planning Act where the owner agreed to make a cash contribution to a public art program and connect the building to the city PATH system registered on May 2, 2002 as Instrument Nos. CA766701 and E531266.
7. Development Agreement dated May 12, 2002 between 1 King West Inc. and the City of Toronto dealing with parking, traffic, garbage and other matters registered May 23, 2002 as Instrument Nos. CA769507 and E539473.
8. Collateral Agreement dated May 12, 2002 between 1 King West and the City of Toronto dealing with environmental matters, heritage restoration, transit facilities and other matters registered on May 23, 2002 as Instrument No. CA769511 and E539477.
9. Tunnel Agreement dated January 9, 2003 between 1 King West Inc. and the City of Toronto dealing with the construction use and maintenance of the tunnel connecting from the building to the PATH.
10. Easement Agreement dated July 26, 2004 between 1 King West Inc. and Rogers Communications Inc. for operation of a distribution system registered September 13, 2004 as Instrument No. AT604402.
11. TSCC 1703's Declaration registered September 9, 2005 as Instrument No. AT916595.
12. TSCC 1726's Declaration registered November 1, 2005 as Instrument No. 982430.

13. Reciprocal Agreement registered on title to the units created by Toronto Standard Condominium Plan No. 1703 as TSCC 1703's By-Law No 4 registered as Instrument No. AT946830.
14. Lease Operating Agreement registered on title to the units created by Toronto Standard Condominium Plan No. 1703 as TSCC 1703's By-Law No. 3 registered as Instrument No. AT946829.
15. Rental Management Agreements
16. Equipment Leases
17. By-laws of TSCC 1703
18. The reservations, limitations, exceptions, provisos and conditions, if any, expressed in any original grants from the Crown including, without limitation, the reservation of any mines and minerals in the Crown or in any other person.
19. Subdivision agreements, site plan control agreements, development agreements, servicing or industrial agreements, utility agreements, airport zoning regulations and other similar agreements with Authorities or private or public utilities affecting the development or use of the Real Property.
20. Rail siding agreements or facility, cost sharing, servicing, reciprocal use or other similar agreements.
21. Restrictive covenants, private deed restrictions and other land use control agreements, provided same do not restrict the use of the Real Property as a hotel.
22. Encumbrances for real property taxes (which term includes charges, rates and assessments) or charges for electricity, power, gas, water and other services and utilities in connection with the Real Property that have accrued but are not yet due and owing.
23. Encumbrances that have not been registered for construction currently in progress or substantially completed within the past 45 days in connection with the Real Property for amounts the payment of which is not yet due and owing. Vendor has not ordered any construction services, labour or materials within the past 45 days.
24. Registered easements, rights-of-way, restrictive covenants and servitudes and other similar rights in land or in immovables granted to, reserved or taken by any Authority or public utility or any adjoining owner that do not materially impair the present use of the Real Property.
25. The provisions of applicable laws, including by-laws, regulations, ordinances and similar instruments relating to development and zoning that do not materially impair the use, or operation of the Property.
26. Any minor title defects, irregularities, easements, servitudes, encroachments, rights-of-way or other discrepancies in title or possession relating to the Real Property as disclosed

by the plan of survey, certificate of location or technical description, if any, for the Real Property.

27. Any possessory title rights, easements, servitudes or interests which may have been obtained by abutting owners which are not disclosed by the registered title and that do not materially impair the use, operation or marketability of the Property.
28. Subject to the Land Titles Act (Ontario) and in particular Section 44(1) thereof and further subject to the overriding statements noted on the Parcel Page.
29. The lease by DCC to 1 King West Inc. of Suite 302 (approximately 1500 square feet) for a term of 999 years for rent of \$1.00 registered against the lands owned by DCC as AT10853.



### **Schedule "D" – Real Property**

1. Commercial Structure (Registered owner is DCC):

(a) PIN 21407-0051 (LT)

Part of Town Lot 2, South Side of King Street West, Town of York Plan, designated as Parts 7, 8 and 15 on Plan 66R-21873. The boundaries of Yonge Street as confirmed by Boundaries Act Plan BA-1120 as in CT273365; City of Toronto.

(b) PIN 21407-0053 (LT)

Part of Town Lot 2, South Side of King Street, Town of York Toronto, designated as Parts 14, 16 and 22 on Plan 66R-21873; City of Toronto.

(c) PIN 21407-0054 (LT)

Part of Town Lot 2, South Side of King Street, Town of York Toronto, designated as Parts 6 and 12 on Plan 66R-21873; City of Toronto.

2. Units in the Commercial Condominium (Registered owner is SHI):

(a) Valet Storage Unit, PIN 12726-0001 (LT)

Unit 1, Level 1, Toronto Standard Condominium Plan No. 1726 and its appurtenant interest; City of Toronto.

(b) Manager's Office Unit, PIN 12726-0003 (LT)

Unit 3, Level 1, Toronto Standard Condominium Plan No. 1726 and its appurtenant interest; City of Toronto.

(c) Retail Unit, PIN 12726-0004 (LT)

Unit 4, Level 1, Toronto Standard Condominium Plan No. 1726 and its appurtenant interest; City of Toronto.

3. Units in the Residential Condominium (SHI is registered owner as to a 4% interest):

(a) Trash Compactor Room, PIN 12703-0001 (LT)

Unit 1, Level 1, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.

(b) Loading Dock, PIN 12703-0002 (LT)

Unit 2, Level 1, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.

(c) CACF Room, PIN 12703-0003 (LT)

Unit 3, Level 1, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.

(d) Mechanical Room, PIN 12703-0004 (LT)

Unit 1, Level 2, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.

(e) Mechanical Room, PIN 12703-0005 (LT)

Unit 2, Level 2, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.

(f) Mechanical Room, PIN 12703-0204 (LT)

Unit 8, Level 13, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.

(g) Mechanical Room, PIN 12703-0205 (LT)

Unit 9, Level 13, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.

(h) Mechanical Room, PIN 12703-0596 (LT)

Unit 1, Level 50, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.

(i) Mechanical Room, PIN 12703-0597 (LT)

Unit 1, Level 51, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.

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

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

and

Applicants

Respondents

Court File No: 07-CL-6913

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

**ORDER**

**(Motion returnable September 15, 2008)**

**GOODMANS LLP**

Barristers & Solicitors

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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 4

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**VOLUME 1 OF THE  
SEVENTH 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 SEPTEMBER 8, 2008**

**1.0 INTRODUCTION**

This report (the “**Seventh 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 herein as the “**Debtors**” or the “**Companies**”), appointed pursuant to an Order of the Court dated August 24, 2007 (the “**Appointment Order**”) issued by the Honourable Justice Pepall. A copy of the Appointment 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 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 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**") a further 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 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 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. ("**Segura**"), 1392964 Ontario Limited ("**1392964**") and Tim Kwan ("**Kwan**") 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 Justice Pepall by Order dated February 19, 2008 (the "**Fifth Approval Order**"). A copy of the Fifth Approval Order is attached as **Exhibit "B"**.

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's motion, respectively. A settlement of the Union's motion was achieved and approved by the Honourable Justice Pepall by Order dated April 9, 2008, a copy of which is attached as **Exhibit "C"**. The Honourable Justice Pepall, by Endorsement dated May 26, 2008, ordered that the Segura application will 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 improving hotel operations as at April 30, 2008. It also included general information concerning the Letters of Intent ("**LOI's**") received from potential purchasers under the Sales Process and an indication as to what further steps the Receiver needed to take in connection with its analysis of the final LOI's received before being in a position to report to this Honourable Court detailing all LOI's and final LOI's received, the selection process and its recommendation(s). The Sixth Report also provided updated information concerning the status of the Segura application, the settlement reached between the Receiver and the Union in connection with the Union's amended motion, issues concerning TSCC 1726 (and

particularly correspondence between the Receiver and TSCC 1703 concerning TSCC 1726) and other general receivership matters.

The portions of the motion seeking approval of the Sixth Report, the fees of the Receiver and its counsel, and for relief concerning TSCC 1726 were adjourned on the initial hearing date, but by order of the Court dated June 19, 2008, a copy of which is attached as **Exhibit "D"**, obtained on the consent of TSCC 1703, the Court directed that, on an interim basis, no actions could be taken concerning TSCC 1726 until further order of the Court. Ultimately, the Sixth Report and the fees and disbursements of the Receiver and its counsel were approved by the Honourable Justice Pepall by Order dated July 11, 2008 (the "**Sixth Approval Order**"). A copy of the Sixth Approval Order is attached as **Exhibit "E"**.

By endorsement dated July 11, 2008, the Honourable Justice Pepall has ordered the Segura Application to proceed by way of a trial of the issues. The parties are discussing the scheduling of examinations for discovery and the trial.

### **1.1 Purpose of this Report**

This Seventh Report is being provided to this Honourable Court in two Volumes. Volume 1 of this Seventh Report ("**Volume 1**") contains information concerning:

1. the actions and activities of the Receiver since the date of its Sixth Report;
2. the financial position of each of the Debtors as at the three month fiscal period ended July 31, 2008 (on an unaudited basis);



3. an update on the activities of the Receiver in connection with and the status of the Sales Process, including:
  - (a) a discussion of the analyses and assessments performed by the Receiver to determine which potential purchaser(s) to attempt to enter into an asset purchase agreement with;
  - (b) the Receiver's activities and actions in connection with the first agreement entered into with the party initially selected by the Receiver, which agreement was terminated by such party; and
  - (c) further details concerning the negotiations between the Receiver and TSCC 1703 leading to the signing of the APA;
4. the Asset Purchase Agreement dated as of August 29, 2008 (the "APA") entered into between the Receiver as Vendor and TSCC 1703 as Purchaser for the assets, properties and undertakings of the Companies;
5. the statement of receipts and disbursements of the Receiver for the Debtors from August 25, 2007 to July 31, 2008; and
6. other miscellaneous receivership matters.

Volume 2 of this Seventh Report ("**Volume 2**") contains additional details concerning all of the initial LOI's and final LOI's received in the Sales Process, as well as details concerning the agreement which the Receiver entered into before the APA but which was terminated. The Receiver is not serving Volume 2 generally, but will be providing it to the Court with a request that Volume 2 be sealed pending further Order of the Court. Since the Sales Process will not be

complete unless the transaction contemplated by the APA closes, the Receiver is of the view that disclosure of the details of the LOIs received would prejudice the Debtors' estates in the event that the APA does not close and the Receiver is required to re-canvass the market.

## **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, their 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 Seventh Report, or any of the attached Appendices or Exhibits forming part of this Seventh 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 Seventh 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 now 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 Volume 1 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 Sixth 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 potential purchaser inquiries.
- Continued dialogue with the appropriate members of the TSCC 1703 Board of Directors, on various issues impacting both TSCC 1703 and Hotel Operations, including the Sales Process, under terms of a confidentiality arrangement.
- Continued dialogue with the Applicants (the "**Mirvish Group**") concerning the Sales Process and hotel operations, under terms of a confidentiality arrangement.
- Maintaining unit owners' distributions in accordance with existing Rental Management Agreements (the "**RMA's**").

- Conducting the Sales Process, as approved by this Honourable Court in the Fourth Approval Order.
- Entering into detailed negotiations with representatives of Le Jardin Conference and Event Centre Inc. and Interstate Hotel & Resorts Inc. ("LJ/IHR"), whose jointly submitted final LOI was first selected by the Receiver.
- Entering into an agreement of purchase and sale with LJ/IHR and proceeding with it to allow for certain further due diligence.
- Facilitating, coordinating and controlling the additional due diligence process.
- Organizing and facilitating meetings held with representatives of LJ/IHR, the Board of Directors of TSCC 1703 and the Receiver and respective legal counsel as part of LJ/IHR's due diligence to attempt to reach agreement on various issues of concern to each party.
- Entering into detailed negotiations with representatives of the Board of Directors of TSCC 1703 after LJ/IHR failed to waive one of its conditions in its agreement of purchase and sale thereby terminating their proposed purchase.
- Meetings and discussions between representatives of the Receiver and the Board of Directors of TSCC 1703 and respective legal counsel leading to the signing of the APA by TSCC 1703 (or its assignees) all subject to approval of this Honourable Court (and other conditions).
- Meeting and/or reporting to various stakeholders who posed questions seeking information, etc., including various condominium unit owners and the Mirvish Group.

- Following up on and dealing with various human resource issues including Unite Here Local 75 and its contact with employees of the Hotel.
- Dealing with various staffing, tax and operational matters.

## **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 consists 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. As reported in the Sixth Report, the 2007 management incentive fee was \$272,823 (exclusive of GST) and was received by the Receiver of SHI on March 14, 2008.

As DCC and Housekeeping are wholly owned subsidiaries of SHI, and both continue to operate on a profitable basis, the Receiver has from time to time, as available, obtained funds from DCC and Housekeeping which are 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 are maintained by the Hotel's accounting staff. The revenues and expenses of SHI are 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 Seventh Report as **Exhibit "M"**). As indicated in **Exhibit "M"**, as at July 31, 2008, SHI funds on hand totalled \$40,962.

## 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, with the assistance and advice of CK, has implemented various changes to the manner in which F&B was operated by prior management, as previously disclosed in the Receiver's Third Report.

The Receiver has prepared a summary of DCC's operating results for the seven month fiscal period January 1 to July 31, 2008. This analysis shows a year to date operating profit of \$179,243 on revenue of \$2,587,824. This operating profit compares to a budgeted operating profit of \$16,646 for this seven month fiscal period. The analysis is attached hereto as **Exhibit "F"**. The operations of DCC, and in particular, F&B operations, remain an opportunity for increased profits for an experienced operator.

## 5.3 Housekeeping

Housekeeping provides all of the housekeeping services for the hotel operations. For the seven month fiscal period ended July 31, 2008, housekeeping revenue was \$1,298,229 and operating profit before tax was \$440,526. A summary is attached hereto as **Exhibit "G"**.

#### 5.4 Suites

Suites is 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 "M"** attached to this Seventh Report indicates the cash receipts and disbursements of Suites, and is summarized as follows:

- Hotel performance, and therefore the rental management program, continues to strengthen. Revenue for the seven month fiscal period ended July 31, 2008 was in excess of the same time period in the prior year, being \$8,519,969 as compared to \$7,486,210 for an increase of \$1,033,759. 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 seven month fiscal period ended July 31, 2008, rooms sold increased from 48,591 for the same seven month 2007 fiscal period to 56,015 in the 2008 fiscal year.
- Operating profit for the three month fiscal period ended July 31, 2008 was \$1,974,298, and for the seven month fiscal period January 1 to July 31, 2008, was \$3,248,322. This represents an increase in operating profit of \$307,617 and \$713,499 compared to the same three and seven month fiscal periods in 2007, respectively. Actual revenue was less than budgeted revenue by \$664,331 for the three month period. The main reason why actual revenue was below budget was a general decrease in occupancy in Toronto during this three month period, leading to increased pricing competition, placing downward pressure on average room rates. Notwithstanding this decrease in budgeted gross

revenue, operations were managed such that expenses were also reduced, thereby mitigating the effect on budgeted profit.

## **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 has not altered the practice of prior management in calculating and paying such distributions.

## **5.6 Summary of April through July, 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 "H"** is the summary of the May through July, 2008 distributions, and attached as **Exhibit "I"** are copies of each of the respective monthly communications to owners regarding the hotel operations and the unit owners' distributions. Payments were issued by the Receiver for each such month's distributions.

## **6.0 RECEIVER'S SALES PROCESS**

In the Sixth Report, the Receiver advised of the major activities it had undertaken, as of that date, in connection with the Sales Process approved by this Honourable Court pursuant to the Fourth Approval Order. Accordingly, not all of that information will be repeated in this Volume.



As noted in the Sixth Report, the Receiver received a total of eleven (11) non-binding initial LOI's. Details thereof are contained in Volume 2.

The Receiver reviewed and analyzed each initial LOI carefully to assess the offers on multiple levels. Each of the initial LOI's was assessed for (i) assets to be purchased/leased; (ii) purchase price/lease payments; (iii) terms and conditions of the offer; (iv) impact on the various stakeholder groups; and (v) likelihood of successfully closing a transaction.

After performing its analysis of the non-binding LOI's, the Receiver allowed six (6) parties to proceed with the next phase of due diligence. Each of these six (6) parties: (i) submitted offers to either purchase or lease all of the assets for sale; (ii) proposed a purchase price or other consideration above a minimum threshold; (iii) submitted standard and reasonable terms and conditions to the offer, including two (2) offers which contained financing conditions; (iv) addressed the needs of the various stakeholder groups; and (v) provided comfort in the Receiver's view, that each of these prospective purchasers were capable of successfully closing a transaction.

A total of five (5) unsuccessful bidders were not permitted to proceed with further due diligence, primarily as a result of submitting offers that contained significant deficiencies in comparison to those noted above. No initial LOI from the five (5) unsuccessful bidders included a purchase price in excess of six million dollars (\$6,000,000). One initial LOI provided for no consideration of any kind but required significant capital expenditures by unit owners to upgrade the suites to brand requirements, and another bidder only wished to lease approximately twenty-one thousand (21,000) square feet of commercial space from DCC for provision of food and beverage services.

On April 2, 2008, the Receiver and its counsel met with representatives of the Mirvish Group and its counsel to present a summary of the initial LOI's and the Receiver's analysis thereof on a "no-names" basis such that each prospective purchaser was identified only by letter (e.g. Company A, B and so on). The Mirvish Group concurred with the Receiver's assessment of the initial LOI's and the Receiver's plan to allow six (6) parties (although they did not know the names of any of these six (6) parties) to proceed to the next round of the Sales Process.

As noted in the Sixth Report, for six (6) potential purchasers who submitted initial LOI's who were permitted to proceed with the Sales Process, the Receiver provided a new unique password to each party to enter a new and separate password-protected web-based data room to obtain additional due diligence documents. These data room materials included detailed financial statements, legal documents, hotel operating information, copies of material contracts, management and employee information and other documentation deemed necessary by the Receiver for prospective purchasers to review to enable them to submit final binding LOI's. As and when prospective purchasers requested specific additional information, in most cases, if available, it was added to the data room for review by all prospective purchasers. As specified in the CIM, final binding LOI's were due to the Receiver on May 20, 2008 at 5:00 PM Toronto time.

On May 12, 2008, the Receiver issued an email communication to all six (6) parties who remained as potential purchasers to remind them of the May 20, 2008 final LOI deadline and to request that they include the following information as part of their final LOI's:

- The names of all companies and principals who would be involved in the prospective purchaser's operations and information on each person's expertise/CV.

- Proof of funding for the transaction contemplated in the final offer. To the extent financing would be one of the conditions, the Receiver requested proof of the proposed financing, such as a current term sheet or some other evidence of availability of funds together with any outstanding conditions for the funding to be proven.
- A listing of any and all corporate governance or statutory matters which would be required to complete a transaction.
- A copy of a *pro forma* budget, cash flow and other *pro forma* financial documentation used in each party's business plan and/or for financing purposes so that the Receiver could better understand the future impact on operations and, particularly, to understand how each party's plan would benefit condominium unit owners in the hotel pool.

After the receipt of the 6 final LOI's on May 20, 2008, the Receiver undertook an analysis and held discussions with prospective purchasers. After doing so, the Receiver selected a preferred purchaser with whom to negotiate a definitive asset purchase agreement. The Receiver undertook the following major activities in connection with the Sales Process since the date of the Sixth Report:

- The Receiver undertook a detailed analysis of the six (6) final LOI's submitted by prospective purchasers. Each of the final LOI's was reviewed and assessed by the Receiver for (i) purchase price; (ii) terms and conditions of the offer, including financing conditions; (iii) experience and expertise of the proposed hotel and food and beverage operators; (iv) business plan and *pro forma* statements to assess future impact on operations; (v) impact on the various stakeholder groups including creditors, unit owners

and employees; and (vi) likelihood of successfully closing a transaction. Each of the final LOI's was prioritized by the Receiver according to these criteria.

- On May 22, 2008, the Receiver and its legal counsel met with representatives of the Mirvish Group and its legal counsel to present a summary of the final LOI's and the Receiver's preliminary analysis of these final LOI's, once again on a "no-names" basis. This meeting was held to inform the Mirvish Group that substantive final LOI's had been submitted to the Receiver at the culmination of the offer period and was not intended to solicit input into how the Receiver would select a successful bidder. The Mirvish Group and its counsel indicated that they thought that several of the final offers could be acceptable and noted that the purchase price in certain of the offers was in excess of the principal amount of the Mirvish Group's secured debt.
- The Receiver held meetings and discussions with selected offerors in order to fully understand and clarify the terms and conditions contained in the final LOI's and to make a final determination as to which of the potential purchasers would be selected to proceed with negotiations to finalize a definitive asset purchase agreement. The Receiver arranged subsequent meetings with representatives from offerors who submitted the top two ranking final LOI's based upon the Receiver's assessment of the offers, considering the above noted criteria, which parties were LJ/IHR and TSCC 1703.
- The Receiver notified the remaining four (4) prospective purchasers by formal written communication that, based on other offers received, the Receiver would not be proceeding further with their respective offers. Copies of those letters are attached as exhibits to Volume 2.

- In connection with its assessment of the various final LOI's, the Receiver requested information from TSCC 1703 with respect to, *inter alia*, its financing arrangements. According to TSCC 1703, the proposed purchase price of thirteen million nine hundred thousand dollars (\$13,900,000), plus additional financing for capital improvements and building repairs, would be secured by levying a special assessment of common expenses against individual condominium unit owners. Assuming expenditures of two million five hundred thousand dollars (\$2,500,000) for capital improvements as estimated by TSCC 1703 in their business plan, this levy, amounting to approximately thirty-one thousand four hundred dollars (\$31,400) per unit would be imposed by TSCC 1703 on each individual unit. This levy would oblige individual unit owners to pay these common expenses, but only in the event of a default on the loan by TSCC 1703. According to TSCC 1703's counsel, this special levy has a super-priority effect and, as such, is ranked ahead of existing first mortgages on individual condominium units. Extensive discussions followed regarding what might happen if individual unit owners did not support hotel operations and whether the imposition of such a special charge might result in oppression claims against TSCC 1703. The Receiver was advised that the likelihood of opposition would be low as the *pro forma* financial statements, which would be presented to unit owners during a required unit holder meeting in the event TSCC 1703 is the successful bidder. TSCC 1703 also indicated that financing costs would be more than adequately covered by cash flow from operations, and because unit owners overwhelmingly were supportive of TSCC 1703 buying the businesses.
- In addition to discussing the financing condition, the Receiver requested additional information pertaining to other terms and conditions contained in TSCC 1703's final

LOI, including the requirement for additional due diligence and governance issues relating to the required approvals for a substantial alteration in TSCC 1703's assets and services and its internal financing bylaw. The Receiver was advised that additional due diligence of the hotel operations would be required, including discussions with employees, assessment of union issues and assignment of licenses. The Receiver was also advised that, from a governance perspective, TSCC 1703 needed to call a formal meeting of all unit owners and obtain approval for its proposals from two-thirds (66.7%) of unit owners for the substantial alteration of assets and services and fifty percent (50%) plus one (1) for the financing bylaw. At that time, counsel for TSCC 1703 estimated that a minimum of three (3) months, and possibly four (4) months, after the due diligence period would be required to seek the required approvals prior to finalizing a transaction.

- From the two (2) best final LOI's, the Receiver selected the LJ/IHR offer, which, in the Receiver's opinion, represented the best outcome for the combined group of stakeholders, including creditors, unit owners and employees. Key criteria used in the selection of this offer included:
  - A significant cash payment as a deposit and payment of the balance of the purchase price in cash, on closing, both in excess of the next best offer.
  - Proven experience managing hotels, and specifically condominium hotels, and a demonstrated expertise in providing catering services.
  - It did not contemplate making any changes or amendments to the existing RMA's or the operational structure of the hotel.

- It contemplated that capital improvements for the commercial property used in the hotel and food and beverage operations would be funded by the prospective purchaser.
- Employees would be provided with certain opportunities, such as the ability to work at international hotels or resorts operated by IHR, as well as training and development programs and employee recognition programs.
- Experience dealing with unions.
- Following significant discussions and negotiations, on or about July 2, 2008 a definitive asset purchase agreement was executed by the Receiver and the selected purchaser, LJ/IHR.
- The Receiver notified TSCC 1703, the offeror under the other competitive final LOI, that the Receiver would not be proceeding to attempt to enter into a definitive agreement with it at that time. The Receiver did not formally reject TSCC 1703's final LOI but took the position that at that time it would not attempt to advance discussions or negotiations with them.

Detailed exhibits, including a summary of the final LOI's and related business plans/projections and the signed agreement with LJ/IHR, are contained in Volume 2 of this Seventh Report, for which the Receiver is seeking a sealing Order. As discussed below, a number of significant events transpired after July 2, 2008 which impacted the Sales Process. As a result of these events, the agreement which was executed by LJ/IHR was terminated on July 17, 2008, at which time the Receiver approached TSCC 1703, who executed the APA which the Receiver seeks the approval of herein.

## 6.1 Communications from and with TSCC 1703

As noted in the Sixth Report, on May 9, 2008, counsel for TSCC 1703 sent a letter to the Receiver's counsel, identifying what were alleged to be a number of concerns regarding TSCC 1726 or alleged breaches by TSCC 1726 of contracts under which the hotel is managed. In total, this letter listed thirty-seven (37) "concerns", some of which TSCC 1703 sought to have the Receiver address immediately; while others were identified as issues for potential purchasers to rectify upon acquisition of the TSCC 1726 units owned by SHI. The letter also requested that the Receiver post the letter in the confidential data room so that all potential purchasers "receive full and fair disclosure" regarding matters which may arise as a consequence of acquiring the units of TSCC 1726. In the Sixth Report, the Receiver described its view of this letter, the conclusions reached by Mr. Gardiner and the fact that the Receiver did not agree with Mr. Gardiner's analysis or conclusions. As a result, the June 19, 2008 Order was sought and made on consent.

Although the Receiver did not place this letter in the data room, the Receiver did provide a copy of the letter to counsel for LJ/IHR to allow them to better understand the position of the Board of Directors of TSCC 1703 and to consider those points in connection with addressing any matters which may require unit holder approval.

On May 15, 2008, counsel for TSCC 1703 sent a letter to the Receiver's counsel concerning certain *Condominium Act, 1998* issues. This letter responded to issues previously raised by counsel for the Mirvish Group, though was not copied to them. Those issues raised by counsel for the Mirvish Group included concerns regarding the authority of TSCC 1703 to participate in the Sales Process. The Mirvish Group has suggested that TSCC 1703 lacks corporate authority to bid in the Sales Process and that such a bid by TSCC 1703 may also result in a claim by unit owners against TSCC 1703 alleging that its conduct was oppressive. In that regard, while



counsel for the Mirvish Group has expressed those issues, counsel for TSCC 1703 has disagreed with them on each point. Counsel for the Mirvish Group requested an “independent” opinion concerning these matters from Mark Freedman of Harris, Sheaffer LLP, a well known authority on condominium law, who rendered such opinion in February of 2008. Counsel for the Mirvish Group provided that opinion to the Receiver’s counsel and TSCC 1703’s counsel on April 14, 2008. In it, Mr. Freedman agreed that the approach that had been expressed by TSCC 1703’s counsel for determining the level of required unit holder approval was appropriate, but indicated that there could be a cause of action for oppression. However, Mr. Freedman rendered his opinion with no information concerning TSCC 1703’s proposal or its terms. In his May 15 letter, counsel for TSCC 1703 *inter alia* disagreed with the suggestion that any conduct was or would be oppressive.

## **6.2 Meeting held with both Representatives the LJ/IHR and the Board of Directors of TSCC 1703 and Subsequent Communications**

In the Receiver’s view, the issues raised regarding TSCC 1726 and the other issues raised by TSCC 1703 could have been resolved by negotiations among LJ/IHR and TSCC 1703. Therefore, the Receiver arranged for a meeting between both of those parties and the Receiver to see if certain terms could be addressed. Because both LJ/IHR and TSCC 1703 were bidders in the Sales Process, the Receiver required that both parties execute confidentiality acknowledgements in favour of the Receiver, to ensure that neither party would disclose the terms of their offers, that their offers could not be revoked, and that no discussions or meetings of any sort between the two parties could be undertaken without the Receiver’s consent. At no time were the terms and conditions of either offer discussed.

The first meeting was held on June 5, 2008 to allow the representatives of LJ/IHR to advise the TSCC 1703 Board of their combined expertise in the operation of condominium hotel properties and special event food and beverage operations, and to allow the parties to discuss among themselves potential resolution of other issues. During this meeting, IHR provided information pertaining to its international hotel management operations, including its experience with condominium hotels. As well, LJ provided lunch and a tour of its North Toronto facility and described its expertise as a full service catering and banquet company.

On June 6, 2008, TSCC 1703 requested additional information about LJ/IHR's *pro forma* financial statements, proposed distributions to owners and any proposed changes to the existing RMA's required by LJ/IHR. The Receiver's counsel responded to this email on June 12, 2008, which elicited a letter from TSCC 1703's legal counsel on June 20, 2008 entitled "TSCC 1703 is a Better Choice than Le Jardin/IHR". This letter criticized the LJ/IHR offer and raised issues concerning the viability of LJ/IHR's proposal, although TSCC 1703 had never seen either the final LOI or the financial projections submitted by LJ/IHR to the Receiver. The Receiver's counsel responded to this letter on July 2, 2008 and requested that TSCC 1703 discontinue such communications. Copies of the June 20 and July 2 letters are contained in Volume 2.

### **6.3 Follow up Discussions with LJ/IHR and TSCC 1703 and Lapse of Definitive Agreement of Purchase and Sale**

Communications continued between counsel for TSCC 1703 and the Receiver's counsel, and between the Receiver, LJ/IHR and their respective counsel. On July 4, 2008, TSCC 1703's counsel sent the Receiver's counsel a twelve (12) page letter highlighting twenty four (24) different issues termed "Rental Management Problems" which a purchaser would be obligated to

resolve. One of the most significant issues raised was entitled "Housekeeping Exorbitant Profits", which suggested that any profits earned by Housekeeping were "artificial and exorbitant" and "a direct drain from the distributions which should be attributable to the Hotel Participants". Notably, the *pro forma* financial statements submitted with TSCC 1703's final offer contemplated using these profits to cover financing costs. While this is still the case, the Receiver understands that TSCC 1703 plans to reduce Housekeeping profits in future years. Other issues raised in this letter included "Rental Manager Offices", "Rental Manager's Office Expenses", "12<sup>th</sup>/13<sup>th</sup> Floor Club/Lounge/Meeting Room Amenities", "Compliance with Lease Operating Agreement", "Heritage Easement Agreement" and "Building Deficiencies", among others.

Interestingly, in the first week of July 2008, the Receiver received at least 16 e-mails or other communiqués from unit owners suggesting there were issues with the Housekeeping arrangements and the profits made by that entity. The Receiver responded to each one.

A copy of the July 4 letter was provided to LJ/IHR's counsel for review and response. Thereafter, the Receiver organized a second meeting between TSCC 1703 Board representatives and LJ/IHR on July 14, 2008 to discuss the issues raised in the letter and to propose some options for addressing some of TSCC 1703's expressed concerns.

Prior to meeting with TSCC 1703, LJ/IHR researched housekeeping rates to determine if those charged by Housekeeping were "artificial and exorbitant" as claimed by various unit owners. The Purchaser advised the Receiver that it had independently verified with multiple sources that the existing housekeeping rates are within a reasonable range of rates for a downtown Toronto hotel, but toward the higher end of the range. This confirmed the view of the Receiver. As well, LJ/IHR prepared various proposals to deal with TSCC 1703's concerns and issues.

Unfortunately, the July 14, 2008 meeting was not fruitful. In the middle of the meeting, counsel for TSCC 1703 produced a copy of LJ/IHR's Request for Financing document (which had been circulated by LJ/IHR confidentially to potential lenders while they had sought financing) which they received from an unnamed source. In this document, a significant amount LJ/IHR's confidential and proprietary information was disclosed, including the purchase price included in their final LOI and the *pro forma* financial statements prepared by LJ/IHR for the purpose of sourcing financing for the transaction. Despite repeated requests by the Receiver's counsel, counsel to TSCC 1703 would not disclose the source of the information. LJ/IHR left the meeting after this exchange.

On July 16, 2008, counsel for LJ/IHR sent to the Receiver a written request for an extension of the due diligence period for four weeks to August 15, 2008 as a result of the issues raised in the July 4, 2008 letter and the outcome of the July 14, 2008 meeting with the TSCC 1703. The Receiver's counsel responded on the same day that no such extension would be possible in the circumstances. By that point, the Receiver was concerned that, while the necessary confidentiality precautions had been taken regarding the details of both the LJ/IHR signed agreement and the discussions held between LJ/IHR and the representatives of the Board of TSCC 1703, various stakeholders, and especially unit owners, were becoming increasingly frustrated with the silence, which they misinterpreted as lack of successful activity or actions on the part of the Receiver. The Receiver also became aware that various condominium unit owners were posting messages on the Google groups which, erroneously, commented on hearsay rumours resulting in disparaging remarks regarding the Receiver and the Sales Process, and only served to cause greater concerns amongst unit owners. The Receiver also believed that more

time would not change the views of the TSCC 1703 Board and its counsel. For all of these reasons, the Receiver felt there was no option but to decline the LJ/IHR extension request.

On July 17, 2008, counsel for LJ/IHR notified the Receiver that one of its conditions would not be waived as required by the July 18, 2008 deadline contained in the agreement. As a result, the LJ/IHR agreement automatically terminated and its deposit was returned by the Receiver.

#### **6.4 The TSCC 1703 APA**

On July 18, 2008, Mr. Ira Smith of the Receiver contacted Mr. Brian Smith, President of TSCC 1703 and informed him that the LJ/IHR agreement was terminated, and that there were three options available to the Receiver, being:

1. TSCC 1703 could enter into a binding agreement with the Receiver to complete a purchase transaction according to the terms of its final LOI;
2. in the event TSCC 1703 were to advise the Receiver that it does not wish to enter into an agreement, the Receiver could contact all other bidders who submitted final LOI's and ask them to resubmit their best and final LOI; or
3. the Receiver could make application to Court to advise of the current status of the Sales Process and seek advice and directions.

Brian Smith indicated to the Receiver that the matter would need to be discussed with the entire Board of Directors and that a response would be provided on or about July 21, 2008. On July 23, 2008, counsel to TSCC 1703 confirmed its intent to proceed to attempt to purchase the assets in accordance with its final LOI dated May 20, 2008, subject to the conditions contained therein

and subject to certain refinements. The Receiver indicated that it would be willing to negotiate refinements to the conditions but subject to such changes being limited to clarification issues and date changes. The Receiver also made it clear that no downward adjustment to the purchase price would be entertained.

After discussions and communications between the Receiver and TSCC 1703 and their respective counsel, the parties entered into the APA, a copy of which is attached hereto as **Exhibit "J"**. A summary of the TSCC 1703 APA is as follows:

**Purchase Price:** \$13.9 million cash

**Closing Date:** December 1, 2008

**Deposit:** \$50,000 on execution and a further \$950,000 upon receipt of approvals for the transaction from requisite majority of condominium unit owners.

**Main Conditions:**

- i. Confirmation period until 5PM on September 9, 2008 in order for Purchaser to perform further due diligence and be satisfied with the results thereof, and to receive a formal commitment from its lender.
- ii. Receipt of an Approval and Vesting Order from this Honourable Court.
- iii. Appropriate by-laws having been passed by the requisite majority of unit owners at a properly convened meeting of unit owners and any reconvened meeting in the event the first meeting is adjourned.

The meeting of unit owners to consider passing the requisite by-laws is currently scheduled to take place on October 6, 2008, if the APA is approved by this Honourable Court.

#### **6.5 Meeting between TSCC 1703 and the Mirvish Group**

On July 25, 2008, upon request by counsel for the Mirvish Group, the Receiver and its counsel participated in a conference call with Mirvish Group. The discussion centred on providing the Mirvish Group with an update on the status of the Sales Process, particularly the reasons for the termination of the LJ/IHR agreement and the Receiver's next steps.

With regard to the LJ/IHR agreement, the Receiver indicated that, while the TSCC 1703 Board representatives had perhaps acted as a competing bidder rather than a neutral representative of unit owners during the July 14, 2008 meeting, this was not the sole reason for the failure of that transaction. In addition to concerns about the availability of the Housekeeping revenue raised in the TSCC 1703 letter dated July 4, 2008 which would require unit owner approval, LJ/IHR expressed concern about maintaining an ongoing relationship with TSCC 1703 should the transaction ultimately close.

The Mirvish Group also expressed concerns about TSCC 1703's ability to acquire the assets, from a technical perspective under the *Condominium Act, 1998*, and its ability to maximize the value of the business such that market values of units would increase sufficiently to cover the investment made in the units. The Receiver explained that the LJ/IHR LOI, which the Receiver believed was the best offer, was dealt with first but had lapsed. As a result, from a Sales Process perspective and given the consideration proposed, it was the Receiver's view that the next best offer must be considered. The Mirvish Group indicated they would assess how to manage their concerns about TSCC 1703's potential acquisition independent of the meeting.

The Receiver also offered to act as an intermediary to attempt to arrange a meeting between representatives of the Mirvish Group and TSCC 1703, so that the Mirvish Group could express its concerns and attempt to find common ground with TSCC 1703 on issues of importance to both the Mirvish Group and TSCC 1703, with the hopes that there would be no opposition to the Receiver's request for approval of the APA. The Mirvish Group and TSCC 1703 agreed to meet, and a meeting was held on September 2, 2008 between representatives of the Mirvish Group, the Board of Directors of TSCC 1703, the Receiver and respective counsel. The meeting lasted almost three hours and information and ideas were exchanged. At the time of this writing, the Receiver is not aware of any agreements having been reached between those parties.

## **6.6 Summary of Sales Process**

The Receiver believes that the Sales Process has been run broadly and in an open fashion, fairly to all participants therein and was run with integrity. The Receiver selected what it believes to be the two best offers for negotiation, finalized an agreement for the sale of the assets with the party whom the Receiver believed was the highest bidder and then, when that transaction was terminated by the purchaser, finalized the APA with the second highest bidder (now the highest). The Receiver believes that the transaction embodied in the APA represents the best available outcome for the estate and its stakeholders. That TSCC 1703 is the successful bidder reflects both the high quality of its bids and the fact that any purchaser of these assets would face the reality that it would have to deal with TSCC 1703 over the long term. As a result, TSCC 1703 has a natural market advantage in the Sales Process. The Receiver takes comfort from the fact that despite TSCC 1703's natural market power, its bid was the second highest and exceeds the face amount of the secured debt of the Mirvish Group.



Based on the information contained in both Volumes of this Seventh Report, the Receiver recommends that this Honourable Court approve the Receiver's Seventh Report (both Volume 1 and Volume 2) and its actions and activities, and approve the APA by issuing the Approval and Vesting Order contained in the Receiver's motion record.

#### **7.0 FEES AND DISBURSEMENTS OF THE RECEIVER**

Attached hereto as **Exhibit "K"** is the Affidavit of Mr. Ira Smith, President of ISI, attesting to the fees and disbursements of the Receiver for the period from May 1 to July 31, 2008.

#### **8.0 FEES AND DISBURSEMENTS OF GOODMAN'S LLP**

Attached hereto as **Exhibit "L"** is the Affidavit of Mr. L. J. Latham, a Partner of Goodman's, attesting to the fees and disbursements of Goodman's for the period from May 1 to August 15, 2008.

#### **9.0 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 July 31, 2008 is attached hereto as **Exhibit "M"**.

## 10.0 CONCLUSIONS AND RECOMMENDATIONS

For the reasons set out in both Volumes of this Seventh Report, the Receiver respectfully requests that this Honourable Court:

1. approve the Seventh Report (volumes 1 and 2), 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 "K" and "L";
3. approve the APA and issue the requested Approval and Vesting Order;
4. seal Volume 2 of this Seventh Report until further Order of this Honourable Court, on notice to the Receiver; 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 8th day of September, 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

# EXHIBIT “A”

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

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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

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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;

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- 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 Mr. Groulx + the companies in receipt of SM*  
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;
- 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

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- (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



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

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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's 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.

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**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.

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**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.

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**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

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*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.

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**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.

✓ ~~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.~~ ✓ MP

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.

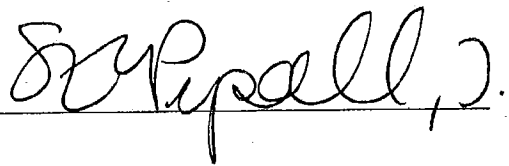
✓ ~~32. THIS COURT ORDERS that the Applicants shall have their costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Applicants' security or, if not so provided by the Applicants' security, then on a substantial indemnity basis to be paid by the Receiver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

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.

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ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

AUG 28 2007

PER/PAR: 



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**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 24<sup>th</sup> 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

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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:

5/20

ED MIRVISH ENTERPRISES LIMITED AND  
1 KING STREET WEST INC.

Applicants

- and -

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

Respondents

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

**ORDER**

**MILLER THOMSON LLP**  
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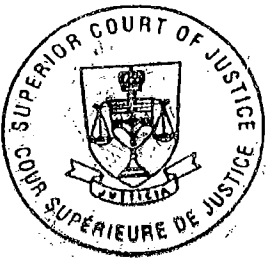
Solicitors for the Applicants

# **EXHIBIT “B”**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**THE HONOURABLE  
MADAM JUSTICE PEPALL**

) **FRIDAY, THE 19TH DAY**  
)  
) **OF FEBRUARY, 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 "Receiver"), in its capacity as court-appointed receiver and manager of all 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. (collectively, the "Debtors"), for an order approving the Fifth Report dated January 31, 2008 (the "Fifth Report") and the actions and activities of the Receiver detailed therein.

**ON READING** the Fifth Report and the exhibits thereto, as filed with this Honourable Court, and on hearing the submissions of counsel for the Debtors, the Applicants, Toronto Standard Condominium Corporation 1703, J. Demeester and the Receiver, no one appearing for the other persons listed in Schedule "A" hereto, although duly served as appears from the Affidavit of Service of Elana Polan, sworn January 31, 2008 filed,


**SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record herein is hereby abridged to the date of actual service, that the service, including the manner of service of the motion materials, is hereby approved and validated, that the motion is properly returnable today, and that all parties entitled to notice of this motion have been properly served and further service thereof is hereby dispensed with.

**FIFTH REPORT**

2. **THIS COURT ORDERS** that the Fifth Report and the actions and activities of the Receiver as reported therein be and are hereby approved.

GOODMANS\5555454.1



**M. KANE**  
DEPUTY REGISTRAR, SUPERIOR COURT OF JUSTICE  
GREFFIER ADJOINT, COUR SUPÉRIEURE DE JUSTICE

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

FEB 19 2008

PER/PAR:



**SCHEDULE "A"**

**SERVICE LIST**

**TO:**

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Counsel for Stinson Hospitality Inc., Dominion Club of Canada Corporation,  
Harry Stinson, Harry Stinson Realty Corporation, Sapphire Tower  
Development Corporation and High Park Lofts Limited, The Suites at 1 King  
West Inc. and 2076564 Ontario Inc.

**AND TO:**

**GARDINER MILLER ARNOLD LLP**

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**AND TO:**

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

**AND TO:**

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Solicitors for Peter Kofman and Projectcore Inc.

**AND TO:**

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Co-Solicitor for Segura Investments Ltd.

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Unitowner

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Solicitors for DSM Leasing Ltd.

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Counsel for Joanna Ramessar-Chung

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Relationship Manager

**AND TO:** **SACK GOLDBLATT MITCHELL LLP**  
Barristers and Solicitors  
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**Charles Sinclair**  
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Email: csinclair@sgmlaw.com  
  
Solicitors for UNITE HERE Ontario Council, Local 75

ED MIRVISH ENTERPRISES LIMITED  
AND 1 KING WEST INC.

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

Court File No: 07-CL-6913

Applicants

Respondents

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

**ORDER**

**GOODMANS LLP**  
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L. Joseph Latham (LSUC#32326A)  
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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.

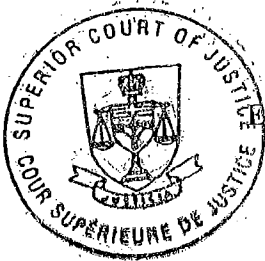
GOODMANS\5553454.1

# **EXHIBIT “C”**

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE MADAM JUSTICE  
PEPALL

) WEDNESDAY, THE 9TH DAY  
)  
) OF APRIL, 2008



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 UNITE HERE Ontario Counsel, Local 75 (the "Union") for an order granting it leave, if required, to apply to the Ontario Labour Relations Board ("OLRB") for certification as the exclusive bargaining agent for certain of the employees of Stinson Hospitality Inc., Dominion Club of Canada Corporation, The Suites at 1 King West Inc. and 2076564 Ontario Inc. (collectively, the "Debtors") and other relief as set out in its Amended Notice of Motion dated January 28, 2008 was heard this day at Toronto.

828

ON READING the Affidavit of Lis Pimentel sworn January 8, 2008 and the Exhibits thereto, the Third Report of Ira Smith Trustee & Receiver Inc. (the "Receiver") dated December 27, 2007 and the Appendices thereto, the Fifth Report of the Receiver dated January 31, 2008 and the Appendices thereto, the Affidavit of Ross Vasil sworn February 26, 2008, the Affidavit of Tony Pulice sworn February 28, 2008, the Second Supplementary Fifth Report of the Receiver dated April 2, 2008 and the Appendices thereto, the transcript of the cross-

examination of Ross Vasil taken April 4, 2008, the transcript of the cross-examination of Tony Pulice taken April 4, 2008 and on hearing the consent of counsel for the Union and the Receiver,

*no one appearing for TSCL No. 1703, Ed Norwich Enterprises Limited, 1 King Street East Inc., Peter Kadman and Protections Inc., Segura*

1. **THIS COURT ORDERS** that the stay contained in the receivership order dated August 24, 2007 in these proceedings is hereby lifted to the extent required in order to allow the Union to apply to Arbitrator Stephen Raymond for a review of evidence under Article 9 of the Ontario Card Check Neutrality Agreement (the "Agreement") between the Union and The Suites at 1 King West, Stinson Hospitality Inc., and 2076564 Ontario Inc. (collectively the "Affected Debtors").

2. **THIS COURT ORDERS** that if the arbitral review under Article 9 (and 14 as necessary) of the Agreement establishes by final award that the Union has membership evidence for a majority of the employees in the proposed bargaining unit in satisfaction of Article 9 of the Agreement, the Affected Debtors will and shall hereby be deemed to recognize the Union as the exclusive bargaining agent of the proposed bargaining unit described in the Agreement (the "Bargaining Unit").

3. **THIS COURT ORDERS** that the Receiver provide to the Union a list of the current employees in the Bargaining Unit upon the written request of the Union provided that the Union may make such requests no more than once in each calendar month.

4. **THIS COURT ORDERS** that the Union shall not bring any proceedings before any Court, administrative tribunal, including, without limitation, the OLRB, or otherwise at any time in future to seek to hold the Receiver, its directors, officers, employees, agents, attorneys and counsel liable as successor employer, common employer, related employer or otherwise liable to any employee or the Union in any personal or other capacity in respect of the employees of the Debtors. The Union shall not deliver a Notice to Bargain to the Receiver nor seek any form of

*Investments Ltd., Robert Ver-Aun, DSM Leasing Ltd., Joanna Ramessa-Chung, HSBC Canada as app. through served with the Receiver's motion to approve its F102 Report dealing, in part, with this matter, ✓*

collective bargaining relationship with Debtors concerning the employees in the Bargaining Unit, it being recognized and agreed by the Union and the Receiver that the intention of this Order is to allow the Receiver to sell the business of the Debtors to a buyer while preserving the Union's ability to engage in collective bargaining with that buyer and not with the Receiver.

5. **THIS COURT ORDERS** that the Union will not seek the reinstatement of the employment of Tony Pulice whether by way of an unfair labour practice complaint or otherwise. This paragraph does not limit Mr. Pulice's remedies at common law if any.


6. **THIS COURT ORDERS** that in all other respects this motion is hereby dismissed without costs.

  
\_\_\_\_\_

GOODMANSW5576537.2

ENTERED AT / ENREGISTRÉ À TORONTO  
OR / BOOK NO:  
LE / DANS LE REGISTRE NO.:

APR 10 2008

PER/PAR: 

ED MIRVISH ENTERPRISES LIMITED  
AND 1 KING WEST INC.

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

Court File No: 07-CL-6913

Applicants

Respondents

**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

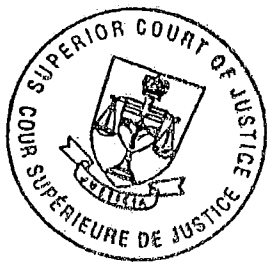
L. Joseph Latham (LSUC#32326A)  
Tel: 416-979-2211  
Fax: 416-979-1234

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.

GOODMANS\5576537.2



# **EXHIBIT “D”**



Court File No. 07-CL-6913

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

THE HONOURABLE

) THURSDAY, THE 19TH

)

MADAM JUSTICE PEPALL

) DAY OF JUNE, 2008

B E T W E E N:

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

Applicants

- and -

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

Respondents

**O R D E R**

**THIS MOTION**, made by 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, The Suites at 1 King West and 2076564 Ontario Inc. (collectively, the "**Debtors**") for an order approving the Sixth Report of the Receiver dated June 13, 2008 (the "**Sixth Report**") and the actions and activities of the Receiver detailed therein, an order imposing a stay of proceedings in favour of Toronto Standard Condominium Corporation No. 1726 ("**TSCC 1726**") pending further order of the Court, an order sealing the exchange of correspondence between Toronto Standard Condominium Corporation No. 1703 ("**TSCC 1703**") and the Receiver, an order approving the fees and disbursements of the Receiver from December 1, 2007 to April 30, 2008, and the fees and disbursements of its legal counsel, Goodmans LLP, from December 15, 2007 to May 15, 2008, an order approving the conduct of the Independent Special Counsel all as detailed in the Report of Services Provided by Aird & Berlis LLP dated

May 27, 2008 (the "A&B Report"), an order approving the fees and disbursements of the Independent Special Counsel from September 25, 2007 to November 9, 2008, all as detailed in the A&B Report, an order approving the conduct of the Independent IP Party all as detailed in the A&B Report, an order approving the fees and disbursements of the Independent IP Party from September 25, 2007 to November 9, 2008, an order discharging of the Independent Special Counsel from any further duties pursuant to the September 20, 2007 Order, an order discharging the Independent IP Party from any further duties pursuant to the September 20, 2007 Order, was heard this day, at 330 University Avenue, 7th Floor, Toronto, Ontario.

**ON READING** the Consent of the Receiver, the Applicants and TSCC 1703,

1. **THIS COURT ORDERS** that the motion is adjourned to a date to be set in consultation among counsel for TSCC 1703, the Receiver and the Applicants;
2. **THIS COURT ORDERS** that, in the interim, if TSCC 1703 has any questions as to the activities, fees or disbursements of the Receiver, its counsel, the Independent IP Party or the Independent Special Counsel, it will pose them in writing, failing which, <sup>*all parties consent to the*</sup> an Order as sought <sup>*requested + which shall then be*</sup> shall <sup>*80P*</sup> ~~issue~~ at a 9:30 appointment during the first week of July for all relief other than the proposed stay of proceedings in respect of TSCC 1726 which will remain to be argued under paragraph 1 above if it cannot be settled;
3. **THIS COURT ORDERS** that, pending the return of this motion under paragraph 1 above, TSCC 1703 and anyone with knowledge of this Order shall take no steps to carry out any of the actions referred to in Mr. Gardiner's letter to the Receiver's counsel dated May 9, 2008.

*80P*  
\_\_\_\_\_  
*Repall, J*

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

JUN 19 2008

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

ED MIRVISH ENTERPRISES  
LIMITED AND 1 KING WEST INC.

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

Court File No: 07-CL-6913

Applicants

Respondents

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

**ORDER**

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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.

ED MIRVISH ENTERPRISES  
LIMITED AND 1 KING WEST INC.

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

June 19'08

Court File No: 07-CL-6913

Applicants

Respondents

ONTARIO  
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

MOTION RECORD  
(Returnable June 19, 2008)

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

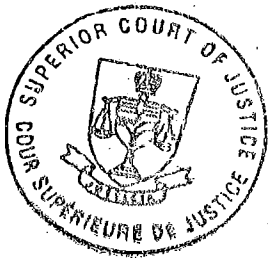
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Counsel to Ira Smith Trustee & Receiver Inc., in its  
capacity as receiver and manager of Stinson  
Hospitality Inc., Dominion Club of Canada  
Corporation, The Suites at 1 King West Inc. and  
2076564 Ontario Inc.

GOODMANS\5600826.1

June 19/08  
on consent of the Receiver,  
the Applicants & TSCC 1703,  
order to waive as amended &  
by me. (Repealed)

# **EXHIBIT “E”**



Court File No. 07-CL-6913

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE  
JUSTICE PEPALL

)  
)  
)

FRIDAY, THE 11<sup>TH</sup> DAY  
OF JULY, 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 "**Receiver**"), in its capacity as court-appointed receiver and manager of all 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. (collectively, the "**Debtors**"), for an order approving the Sixth Report dated June 13, 2008 (the "**Sixth Report**") and the actions and activities of the Receiver detailed therein.

**ON READING** the Sixth Report and the exhibits thereto, the Report of the Independent Special Counsel dated May 27, 2008 (the "**A&B Report**"), and the Order herein dated June 19, 2008, and on hearing the submissions of counsel for the Debtors, the Applicants, Toronto Standard Condominium Corporation 1703 ("**TSCC 1703**"), J. Demeester and the Receiver, no one appearing for the other persons listed in Schedule "A" hereto, although duly served as appears from the Affidavit of Service of Lela Wyner, sworn June 13, 2008 filed,

### **SIXTH REPORT**

1. **THIS COURT ORDERS** that the Sixth Report and the actions and activities of the Receiver as reported therein be and are hereby approved.

2. **THIS COURT ORDERS** that the Receiver's fees and disbursements from December 1, 2007 to April 30, 2008, and the fees and disbursements of its legal counsel, Goodmans LLP, from December 6, 2007 to May 15, 2008, all as detailed in the Sixth Report, be and are hereby approved.

### **A&B REPORT**

3. **THIS COURT ORDERS** that the fees and disbursements of the Independent Special Counsel from September 25, 2007 to April 16, 2008, all as detailed in the A&B Report, be and are hereby approved.

4. **THIS COURT ORDERS** that the Independent Special Counsel's actions and activities, as detailed in the A&B Report be and are hereby approved.

5. **THIS COURT ORDERS** that the Independent Special Counsel is hereby discharged from any further mandate or obligations under the September 20, 2007 order, and that the Independent Special Counsel and all of its directors, officers, partners, employees, agents, attorneys and counsel (collectively, the "Releasees") are hereby released from any and all claims in respect of all acts or omissions of the Releasees, or any of them, in the performance or intended performance of the Independent Special Counsel's mandate in these proceedings or any activity related thereto.

6. **THIS COURT ORDERS** that the fees and disbursements of the Independent IP Party from September 25, 2007 to November 9, 2008 be and are hereby approved.

7. **THIS COURT ORDERS** that the Independent IP Party's actions and activities, as detailed in the A&B Report be and are hereby approved.

8. **THIS COURT ORDERS** that the Independent IP Party is hereby discharged from any further mandate or obligations under the September 20, 2007 order, and that the Independent IP Party and all of its directors, officers, partners, employees, agents, attorneys and counsel (collectively, the "Independent IP Party Releasees") are hereby released from any and all



claims in respect of all acts or omissions of the Independent IP Party Releasees, or any of them, in the performance or intended performance of the Independent IP Party's mandate in these proceedings or any activity related thereto.

Joanne Nicoara

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

JUL 11 2008

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

**SCHEDULE "A"**

**SERVICE LIST**

**TO:**

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**Thomas McRae**

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Counsel for Stinson Hospitality Inc., Dominion Club of Canada Corporation,  
Harry Stinson, Harry Stinson Realty Corporation, Sapphire Tower  
Development Corporation and High Park Lofts Limited, The Suites at 1 King  
West Inc. and 2076564 Ontario Inc.

**AND TO:**

**GARDINER MILLER ARNOLD LLP**

Barristers and Solicitors  
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Toronto, ON M5H 2Y2

**Mark H. Arnold**

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**Christopher Jaglowitz**

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Counsel for Toronto Standard Condominium Corporation No. 1703

**AND TO:**

**MILLER THOMSON LLP**  
Barristers and Solicitors  
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Solicitors for Ed Mirvish Enterprises Limited and 1 King West Inc.

**AND TO:**

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Solicitors for Peter Kofman and Projectcore Inc.

**AND TO:**

**THOMAS G. RICHARDS**  
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Email: Thomas@thomasrichards.ca

**AND TO: T.S. REIBER PROFESSIONAL CORPORATION**  
Barrister & Solicitor  
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Counsel for Joanna Ramessar-Chung

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Solicitors for UNITE HERE Ontario Council, Local 75

ED MIRVISH ENTERPRISES LIMITED  
AND 1 KING WEST INC.

STINSON HOSPITALITY 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**

(Motion Record returnable June 19, 2008)

**GOODMANS LLP**  
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250 Yonge Street  
Toronto, Canada M5B 2M6  
Fred Myers (LSUC#26301A)  
Tel: 416-597-5923  
Fax: 416-979-1234

L. Joseph Latham (LSUC#32326A)  
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.

# **EXHIBIT “F”**

DOMINION CLUB OPERATIONS 7 MONTHS JULY 31, 2008							BUDGET JAN- JULY
	RENT & RECOVERIES	BISTRO ON KING	ROOM SERVICE	BANQUET	GARAGE	12th FLOOR	TOTAL
TOTAL F & B REVENUE	\$ 150,457	\$ 502,206	\$ 231,012	\$ 1,287,086	\$ 325,572	\$ 91,491	\$ 2,587,824
COST OF SALES		135,169	59,130	232,760	-	25,441	452,500
TOTAL WAGES & BENEFITS		291,119	117,821	404,099	151,242	67,298	1,031,579
	-	426,288	176,951	636,859	151,242	92,739	1,484,079
INCOME BEFORE OPERATING EXPENSES	150,457	75,918	54,061	650,227	174,330	(1,248)	1,103,745
OPERATING EXPENSES		18,827	2,796	60,653	105,167	1,079	188,522
DEPARTMENT INCOME (LOSS)	150,457	57,091	51,265	589,574	69,163	(2,327)	915,223
NON ALLOCATED EXPENSES							
Administrative and General							131,736
Sales and Marketing							259,075
Repairs and Maintenance							223,201
Utilities							72,023
Property tax							96,250
Equipment lease							163,163
							945,448
OPERATING PROFIT (LOSS)							\$16,646
Distribution to Receiver							\$179,243
NET							520,000
							(\$340,757)

NOTES:

1) Readers are cautioned that this statement must be read in conjunction with the Receiver's disclaimer contained in the Seventh Report to Court.

2) The financial information is not prepared in accordance with Generally Accepted Accounting Principles and may not include all the revenue or expenses of the Dominion Club food and beverage operation.

3) No provision for depreciation or other non cash items are provided for in the above

4) Wages for the garage are net of \$105,000 paid by the TSCC 1703 to July 31, 2008

5) No provision for use of assets is included

6) The historical books and records cannot be relied upon. Also see the Receiver's Disclaimer contained in the first report

**NOTES:**

- 1) Readers are cautioned that this statement must be read in conjunction with the Receiver's disclaimer contained in the Seventh Report to Court.
- 2) The financial information is not prepared in accordance with Generally Accepted Accounting Principles and may not include all the revenue or expenses of the Dominion Club food and beverage operation.
- 3) No provision for depreciation or other non cash items are provided for in the above
- 4) Wages for the garage are net of \$105,000 paid by the TSCC 1703 to July 31, 2008
- 5) No provision for use of assets is included
- 6) The historical books and records cannot be relied upon. Also see the Receiver's Disclaimer contained in the first report



# **EXHIBIT “G”**

**HOUSEKEEPING OPERATIONS  
7 MONTHS ENDED JULY 31, 2008**

# ROOMS

	JAN	FEB	MARCH	APRIL	MAY	JUNE	JULY	2008 TOTAL	2007 TOTAL
<b>REVENUE</b>									
Guest Room Cleaning Charge	\$ 141,750	\$ 151,844	\$ 146,202	\$ 152,233	\$ 189,543	\$ 199,076	\$ 193,889	\$ 1,174,537	\$ 1,064,184
Special Cleaning Charge	5,947	6,020	6,021	4,950	5,921	5,400	6,363	40,622	19,168
Common Area Cleaning Charge	-	-	-	-	-	-	-	-	22,586
Dominion Club Cleaning Charge	12,090	11,310	12,090	11,700	12,090	11,700	12,090	83,070	85,560
<b>TOTAL REVENUE</b>	<b>159,787</b>	<b>169,174</b>	<b>164,313</b>	<b>168,883</b>	<b>207,554</b>	<b>216,176</b>	<b>212,342</b>	<b>1,298,229</b>	<b>1,191,498</b>
<b>WAGES &amp; BENEFITS</b>									
Management	31,801	0	273	5,771	21,610	(15,502)	4,281	48,234	59,417
Room Attendants	45,945	49,642	55,309	55,529	66,788	76,796	77,698	427,707	462,243
Housekeeping Supervisor	13,317	16,493	14,127	14,874	13,395	8,337	14,321	94,864	113,929
Housepersons	19,993	20,372	21,660	23,472	25,137	26,845	26,999	164,478	141,834
Condo recovery	(11,904)	(11,436)	(11,904)	(11,520)	(11,904)	(11,520)	(11,904)	(82,092)	(88,549)
Benefits	23,530	28,178	21,371	22,575	31,701	24,405	33,144	184,904	170,479
<b>TOTAL WAGES &amp; BENEFITS</b>	<b>122,682</b>	<b>103,249</b>	<b>100,836</b>	<b>110,701</b>	<b>146,727</b>	<b>109,361</b>	<b>144,539</b>	<b>693,556</b>	<b>859,353</b>
<b>OPERATING EXPENSES</b>									
	1,468	967	1,231	2,368	3,435	4,685	5,454	19,608	30,050
<b>OPERATING PROFIT</b>	<b>\$ 35,637</b>	<b>\$ 64,958</b>	<b>\$ 62,246</b>	<b>\$ 55,814</b>	<b>\$ 57,392</b>	<b>\$ 102,130</b>	<b>\$ 62,349</b>	<b>\$ 440,526</b>	<b>\$ 302,095</b>
Distribution to Receiver			180,000			237,954		417,954	
<b>NET</b>	<b>\$ 35,637</b>	<b>\$ 64,958</b>	<b>\$ (117,754)</b>	<b>\$ 55,814</b>	<b>\$ 57,392</b>	<b>\$ (135,824)</b>	<b>\$ 62,349</b>	<b>\$ 22,572</b>	<b>\$ 302,095</b>

**NOTE:**

1) Readers are cautioned that this statement must be read in conjunction with the Receiver's disclaimer contained in the First Report to Court.

# **EXHIBIT “H”**

THE SUITES AT 1 KING WEST INC.

JAN - JULY 2008 PROFIT DISTRIBUTION

	JAN	FEB	MARCH	APRIL	MAY	JUNE	JULY	TOTAL
Net Rental Revenue	\$ 278,570	\$ 294,647	\$ 343,320	\$ 357,487	\$ 762,453	\$ 708,378	\$ 503,467	\$ 3,248,322
Income distributed as follows:								
Distribution amount paid	268,451	275,526	326,105	348,458	753,138	695,575	495,378	3,162,631
Non-resident tax deductions	1,729	9,477	10,647	-	290	255	103	22,501
TSCC 1703 condo fees	8,390	9,644	6,568	9,029	9,025	12,548	7,986	63,190
Total	\$ 278,570	\$ 294,647	\$ 343,320	\$ 357,487	\$ 762,453	\$ 708,378	\$ 503,467	\$ 3,248,322

# **EXHIBIT “I”**

## *The Suites at 1 KING WEST*

1 KING STREET WEST • TORONTO, ONTARIO • CANADA M5H 1A1  
T 416.548.8100 • F 416.548.8101 • [www.onekingwest.com](http://www.onekingwest.com)

Dear Owner:

### May Results

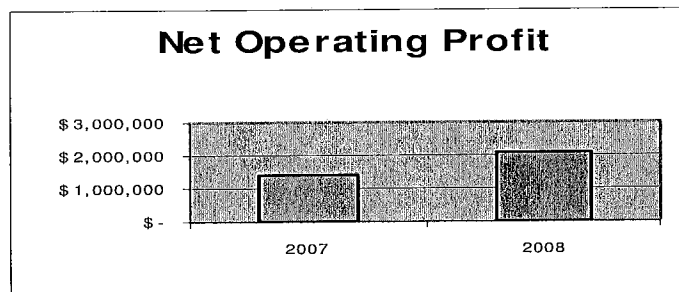
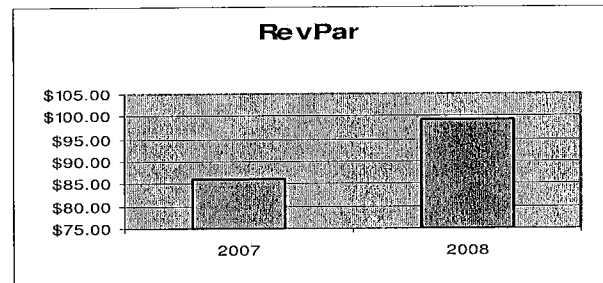
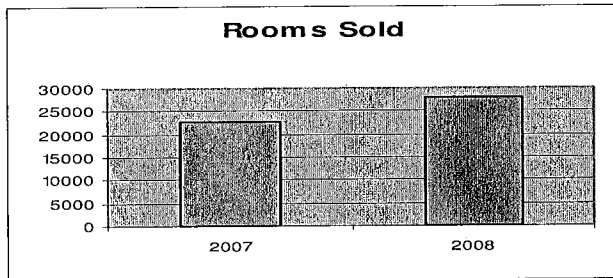
May 2008 was a very strong month, finishing with 9070 rooms sold. This is an increase of 18% or 1389 rooms sold over May last year. Total revenue was \$1,626,004 for the month which resulted in an increase of 21.5% or \$288,684 to May 2007. Revenue per Available Room (Revpar) increased by 19% or \$22.32 over revenue from May 2007.

The May 2008 Net Operating Profit of \$762,453, exceeded the May 2007 Net Operating Profit by almost \$214,000.

### Year to Date Results

A total of 37,052 rooms have been sold in the rental program. This is an increase of 23% or 6843 rooms sold in the same period last year. Total revenue for the period was \$5,666,242. This is an increase of 19.3% or \$918,157 for revenue from the rental program for the same period last year. Revenue per Available Room (Revpar) has increased by 15.2% or \$13.08 year over year.

The Net Operating Profit of \$2,055,598 for distribution to owners of units in the rental program for the first five months this year has exceeded the amount distributed last year by \$640,493.



### 3 Month Outlook

All indications are that June will be equally as strong as May. The rental program is on pace to achieve 9400 rooms sold at an average rate of \$162. June's Net Operating Profit is forecasted to be approximately \$700,000.

Due to the traditional slow down of corporate activity in the summer months, as well as the impact of the high gas prices and the strong Canadian dollar a softer July and August is anticipated.

## **Hotel Operations Update**

### **Cost Savings Initiatives**

The cost savings initiatives continue to have a positive impact on the distributable profit. A number of variable payroll cost increases have been incurred in the past month. An additional security officer has been deployed, the maintenance team has been strengthened and the front office staff contingent has been bolstered at times to be able to deal with the increased work load. In order to be able to maintain excellent service levels and the appropriate operating environment during the busier months, additional variable line staff will be deployed as needed.

The rental program has continued to perform well and will continue doing so from a profit retention perspective. Once activity levels decline later in the year the staffing levels will be flexed downwards. The fixed overhead component of the rental program is being constantly monitored with a view to reducing costs. A number of opportunities have been identified which will result in a reduced overhead once implemented.

Should you have any questions or concerns, please do not hesitate to give Greg Hives at 416-548-8193 or myself a call.

Best Regards,

Steve O'Brien  
General Manager

### ***C. Section Definitions***

The summary financial statement is comprised of six sections. Combined, these sections result in the monthly operating profit or loss of the leasing program. The following is a brief description of each section:

1. ***Total Revenue*** – represents the revenue generated from the daily leasing program, telephone long distance and internet usage, and other income such as pay per view TV, guest laundry and valet.
2. ***Total Department Expenses*** - represents the operating expenses associated with a specific department which include but are not limited to: wages and benefits; housekeeping services; uniforms; travel agent commissions; guest amenities; linen; printing and stationary.
3. ***Total Undistributed Expenses*** – represents the general operating expenses of the leasing program which are not attributable to a specific segment of the leasing program, which include but are not limited to: wages and benefits for management, sales, IT, accounting and maintenance staff; marketing and advertising; credit card commissions; external audit; printing and stationary; minor repairs and maintenance.
4. ***Gross Operating Profit*** – Calculated as Departmental Profit minus Total Undistributed Expenses.
5. ***Total Non-Operating Expenses*** – Includes expenses such as: insurance; furniture, fixtures and equipment reserve (FF&E); management fees.
6. ***Operating Profit/Loss*** – The net revenue distribution to the participants of the daily leasing program, calculated as the difference between Gross Operating Profit and Total Non-Operating Expenses.



## B. Summary Income Statement

The Suites at 1 King West  
Summary Income Statement  
May 2008

	Month		Month		Variance		Month		Year to date		Year to date		Year to date	
	Actual	%	Budget	%	Act vs Bud	%	Prior Year	%	Actual	%	Budget	%	Prior Year	%
Rooms Available	11,713	0.0%	12,400	0.0%	(687)	-5.9%	11,479	0.0%	57,193	0.0%	60,800	0.0%	55,216	0.0%
Rooms Occupied/Occupancy (%)	9,246	78.9%	10,530	85.8%	(1,303)	-15.1%	7,827	68.2%	37,791	66.1%	41,287	67.9%	31,100	56.3%
Rooms Sold/Occupancy (%)	9,070	77.4%	10,530	85.0%	(1,460)	-16.2%	7,681	66.0%	37,052	64.8%	40,787	67.1%	30,209	54.7%
Room Revenue/ADR (\$)	1,626,004	179.27	1,836,835	174.20	4.08	0.0	1,337,320	174.11	5,666,242	152.93	6,184,408	151.63	4,748,085	157.17
Room Revenue/REVPAR	1,626,004	138.82	1,836,835	148.13	(9.31)	0.0%	1,337,320	116.50	5,666,242	99.07	6,184,408	101.72	4,748,085	85.90
Revenue									0		0		0	
Rooms Revenue	1,626,004	97.7%	1,836,835	97.4%	(210,891)	-13.0%	1,337,320	98.1%	5,666,242	96.7%	6,184,408	97.1%	4,748,085	97.4%
Telephone	17,130	1.1%	30,586	1.7%	(13,456)	-78.6%	14,363	1.1%	68,968	1.2%	108,971	1.8%	63,316	1.3%
Other Income	21,245	1.3%	17,845	1.0%	3,400	16.0%	11,594	0.9%	122,351	2.2%	73,373	1.2%	64,076	1.3%
Total Revenue	1,664,379	100.0%	1,885,266	100.0%	(220,887)	-13.27%	1,363,277	100.0%	5,857,561	100.0%	6,366,752	100.0%	4,875,477	100.0%
Department Profit														
Rooms	1,280,456	78.7%	1,388,585	75.6%	(108,129)	-8.4%	1,002,531	75.0%	4,211,774	74.3%	4,372,285	70.7%	3,211,520	67.5%
Telephone	1,424	8.3%	22,718	74.3%	(21,294)	-1495.4%	(578)	-4.0%	13,647	19.8%	70,537	64.7%	(6,414)	-10.1%
Other	13,375	63.0%	6,088	94.1%	7,287	54.48%	2,694	23.2%	83,814	68.5%	27,746	37.8%	16,256	25.4%
Total Department Profit	1,295,255	77.8%	1,417,391	75.2%	(122,136)	-9.43%	1,004,647	73.7%	4,309,235	73.6%	4,470,568	70.2%	3,221,362	66.1%
Undistributed Expenses														
Administrative and General	169,636	9.8%	162,041	8.6%	7,595	1.0%	156,366	11.5%	768,238	13.1%	779,180	12.2%	678,909	13.9%
Sales and Marketing	90,185	6.0%	88,786	4.7%	10,399	10.5%	78,407	5.8%	401,461	6.9%	389,705	6.1%	289,648	5.9%
Repairs and Maintenance	62,081	3.7%	40,657	2.2%	21,424	34.51%	33,794	2.5%	241,743	4.1%	216,175	3.4%	167,128	3.4%
Total Undistributed Expenses	324,902	19.5%	291,484	15.5%	33,418	10.3%	268,567	19.7%	1,411,432	24.1%	1,385,060	21.8%	1,135,685	23.3%
Gross Operating Profit	970,353	58.3%	1,125,906	59.7%	(155,553)	-16.03%	736,081	54.0%	2,897,804	49.5%	3,085,508	48.5%	2,085,677	42.8%
Non-Operating Expenses														
Insurance	18,319	1.1%	9,700	0.5%	8,619	47.0%	(2,208)	-0.2%	63,421	1.1%	48,500	0.8%	20,361	0.4%
Management Fee	62,024	3.8%	66,000	3.5%	(3,076)	-4.9%	62,445	4.6%	314,408	5.4%	330,000	5.2%	311,146	6.4%
Incentive Fee	28,446	1.7%	47,047	2.5%	(18,601)	-65.4%	36,171	2.7%	96,505	1.6%	115,684	1.8%	74,142	1.5%
Office Rent	15,000	0.9%	15,000	0.8%	0	0.0%	37,500	2.8%	75,000	1.3%	75,000	1.2%	75,000	1.5%
FF&E Reserve	83,212	5.0%	94,263	5.0%	(11,051)	-13.28%	53,433	3.9%	292,871	5.0%	318,338	5.0%	189,923	3.9%
Total Non-Operating Expenses	207,901	12.5%	232,010	12.3%	(24,109)	-11.60%	187,401	13.7%	842,205	14.4%	887,522	13.9%	670,572	13.8%
Operating Profit/(Loss)	762,453	45.8%	893,895	47.4%	(131,442)	-17.2%	548,681	40.2%	2,055,598	35.1%	2,197,987	34.5%	1,415,105	29.0%

## A. Profit Distribution Calculation

The Suites at 1 King West  
Profit Distribution Calculation  
Report period: May 2008

NOTE: This example is based on your unit being available in the pool for the full month

A	B	C	D	E
Unit Factor Value	Number of days Unit available for sale	Your Unit Factor Value (BxA)	Your Unit share as percentage	Your Unit Profit
1.0	31	31.0	0.2177%	\$1,659.60
1.1	31	34.1	0.2394%	\$1,825.56
1.2	31	37.2	0.2612%	\$1,991.52
1.3	31	40.3	0.2830%	\$2,157.48
1.4	31	43.4	0.3047%	\$2,323.44

Net Rental Revenue distribution for the period \$762,453.00

Total pool factor value for the period 14,242.00

A = Your unit factor

B = Your unit's availability during the period

C = Your unit pool value (BxA)

D = Your unit factor value divided by total of the pool's factor value x 100% = Your unit share as percentage

E = D x Net Rental Revenue



# *The Suites at 1 KING WEST*

1 KING STREET WEST • TORONTO, ONTARIO • CANADA M5H 1A1  
T 416.548.8100 • F 416.548.8101 • [www.onekingwest.com](http://www.onekingwest.com)



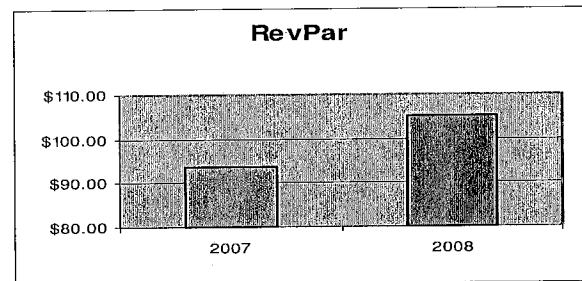
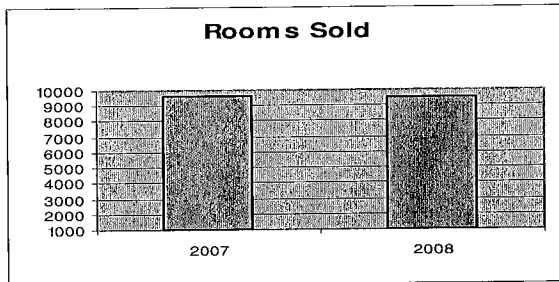
Dear Owner:

## June Results

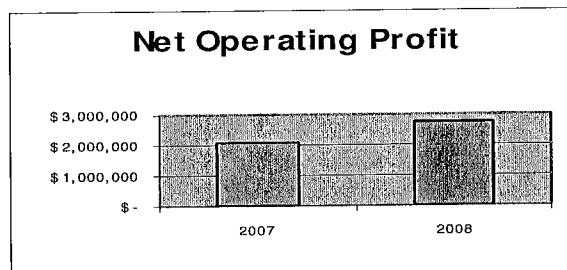
June 2008 realized the second highest single month occupancy (85.5%) since the hotel opened in August of 2005. In comparing year over year performance - rooms sold and average rate remained relatively flat to last year. However Revenue per Available Room (Revpar) increased by 6.3% or \$8.18 over June 2007. The Net Operating Profit for June 2008 was \$708,378.

## Year to Date Results

A total of 46,607 rooms have been sold in the rental program for the year to date 30 June 2008. This is an increase of 16.8% or 6,707 rooms sold over the same period last year. Total revenue for the period is \$7,202,637. This is an increase of 14.3 % or \$ 902,465 for revenue from the rental program for the same period last year. Revenue per Available Room (Revpar) has increased by 12.4% or \$11.63 year over year.



The Net Operating Profit from units in the rental program for the first six months this year is \$2,763,976. This is a more than 30% improvement over the same period last year.



### **3 Month Outlook**

July is on pace to significantly out perform the forecast for the month. The revised forecast is to sell approximately 9400 rooms at an average rate of \$140. July's Net Operating Profit is forecasted to be approximately \$460,000.

August is on pace to achieve results similar to this July and all indicators point to September being a very strong month.

Our focus for the next four months is going to be on increasing rate. The occupancy levels have reached the point where we are well positioned to maximize profit through increasing the average room rate. As has been previously reported and discussed, the sales strategy has been to drive occupancy to gain a solid transient base on which to grow rate. The management team is confident that it is appropriate to now shift the strategy towards increasing the average rate while maintaining occupancy levels.

### **Hotel Operations Update**

#### **Cost Savings Initiatives**

The cost savings initiatives which have been implemented continue to have a positive impact on the distributable profit.

#### **Electronic Funds Transfer**

We would like to remind you of the option of receiving your monthly profit cheque directly into your bank account through our Electronic Funds Transfer option. This will ensure that you receive the monthly payment in a more timely and efficient manner.

Please assist us in serving you better by completing the attached form and returning it to Greg Hives.

Should you have any questions or concerns, please do not hesitate to give Greg Hives at 416-548-8193 or myself a call.

Best Regards,

Steve O'Brien  
General Manager

### ***C. Section Definitions***

The summary financial statement is comprised of six sections. Combined, these sections result in the monthly operating profit or loss of the leasing program. The following is a brief description of each section:

1. ***Total Revenue*** – represents the revenue generated from the daily leasing program, telephone long distance and internet usage, and other income such as pay per view TV, guest laundry and valet.
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3. ***Total Undistributed Expenses*** – represents the general operating expenses of the leasing program which are not attributable to a specific segment of the leasing program, which include but are not limited to: wages and benefits for management, sales, IT, accounting and maintenance staff; marketing and advertising; credit card commissions; external audit; printing and stationary; minor repairs and maintenance.
4. ***Gross Operating Profit*** – Calculated as Departmental Profit minus Total Undistributed Expenses.
5. ***Total Non-Operating Expenses*** – Includes expenses such as: insurance; furniture, fixtures and equipment reserve (FF&E); management fees.
6. ***Operating Profit/Loss*** – The net revenue distribution to the participants of the daily leasing program, calculated as the difference between Gross Operating Profit and Total Non-Operating Expenses.

## B. Summary Income Statement

### The Suites at 1 King West Summary Income Statement June 2008

	Month Actual	%	Month Budget	%	Variance Act vs Bud	%	Month Prior Year	%	Year to date Actual	%	Year to date Budget	%	Year to date Prior Year	%
Rooms Available	11,177	0.0%	12,000	0.0%	(823)	-7.4%	12,006	0.0%	68,370	0.0%	72,800	0.0%	67,222	0.0%
Rooms Occupied/Occupancy (%)	9,711	86.9%	10,639	88.7%	(928)	-9.6%	9,887	82.4%	47,502	69.5%	51,938	71.3%	40,966	61.0%
Rooms Sold/Occupancy (%)	9,555	85.5%	10,639	87.9%	(984)	-10.3%	9,591	80.7%	46,607	68.2%	51,938	70.6%	39,900	59.4%
Room Revenue/ADR (\$)	1,536,395	160.79	1,828,234	173.47	(12,688)	-0.0	1,552,087	160.16	7,202,837	154.54	8,012,642	156.11	6,300,172	157.90
Room Revenue/REVPAR	1,536,395	137.46	1,828,234	162.95	(14,689)	0.0%	1,552,087	129.28	7,202,837	105.35	8,012,642	110.06	6,300,172	93.72
Revenue														
Rooms Revenue	1,536,395	97.8%	1,828,234	97.4%	(281,839)	-19.0%	1,552,087	99.2%	7,202,837	97.0%	8,012,642	97.2%	6,300,172	97.6%
Telephone Revenue	18,938	1.1%	20,584	1.7%	(1,646)	-90.6%	15,326	1.0%	85,906	1.2%	139,555	1.7%	78,663	1.2%
Other Income	17,087	1.1%	17,844	1.0%	(757)	-4.4%	12,619	0.8%	199,428	1.9%	91,217	1.1%	76,666	1.2%
Total Revenue	1,570,420	100.0%	1,876,662	100.0%	(306,242)	-19.50%	1,580,042	100.0%	7,427,981	100.0%	8,243,414	100.0%	6,455,520	100.0%
Department Profit														
Rooms	1,178,952	76.7%	1,390,232	76.0%	(211,280)	-17.9%	1,157,007	74.5%	5,390,725	74.8%	5,762,517	71.8%	4,268,527	69.3%
Telephone	5,432	32.1%	22,722	74.3%	(17,290)	-319.3%	1,523	10.6%	19,079	22.2%	93,269	66.8%	(4,701)	-6.1%
Other	9,051	53.0%	6,088	34.1%	2,963	32.74%	2,454	19.4%	92,666	66.6%	33,823	37.1%	18,710	24.4%
Total Department Profit	1,193,435	76.0%	1,419,042	75.6%	(225,607)	-19.90%	1,161,084	73.6%	5,502,670	74.1%	5,889,509	71.4%	4,282,446	67.9%
Undistributed Expenses														
Administrative and General	154,842	9.9%	161,026	8.6%	(6,182)	-4.0%	144,378	9.1%	929,080	12.4%	940,205	11.4%	823,287	12.8%
Sales and Marketing	76,174	4.9%	101,209	5.4%	(25,035)	-32.9%	84,146	5.3%	477,625	6.4%	430,914	6.0%	373,766	5.9%
Repairs and Maintenance	41,432	2.6%	38,791	2.1%	2,641	6.97%	44,574	2.8%	289,175	3.9%	254,965	3.1%	211,703	3.3%
Total Undistributed Expenses	272,448	17.3%	301,026	16.0%	(28,578)	-10.5%	279,098	17.3%	1,698,880	22.7%	1,686,084	20.5%	1,408,765	21.8%
Gross Operating Profit	920,986	58.6%	1,118,016	59.6%	(197,030)	-21.99%	887,985	56.2%	3,818,790	51.4%	4,203,524	51.0%	2,873,662	46.1%
Non-Operating Expenses														
Insurance	9,715	0.6%	9,700	0.5%	15	0.2%	7,000	0.4%	73,135	1.0%	58,200	0.7%	27,961	0.4%
Management Fee	61,803	3.9%	66,000	3.5%	(4,097)	-6.6%	67,215	4.3%	376,310	5.1%	396,000	4.8%	278,961	5.9%
Incentive Fee	47,470	3.0%	46,874	2.5%	796	1.7%	93,099	2.1%	149,975	1.9%	162,369	2.0%	107,240	1.7%
Office Rent	15,000	1.0%	15,000	0.8%	0	0.0%	15,000	0.9%	90,000	1.2%	90,000	1.1%	90,000	1.4%
FF&E Reserve	78,621	5.0%	83,833	5.0%	(15,212)	-19.50%	61,483	3.9%	371,392	5.0%	412,171	5.0%	251,406	3.9%
Total Non-Operating Expenses	212,609	13.5%	231,207	12.3%	(19,599)	-8.75%	193,796	11.6%	1,054,813	14.2%	1,118,729	13.6%	654,968	13.2%
Operating Profit/(Loss)	708,378	45.1%	886,809	47.3%	(178,431)	-25.2%	704,189	44.6%	2,763,976	37.2%	3,084,793	37.4%	2,118,284	32.9%

### A. Profit Distribution Calculation

The Suites at 1 King West  
Profit Distribution Calculation  
Report period: June 2008

NOTE: This example is based on your unit being available in the pool for the full month

A	B	C	D	E
Unit Factor Value	Number of days Unit available for sale	Your Unit Factor Value (BxA)	Your Unit share as percentage	Your Unit Profit
1.0	30	30.0	0.2201%	\$1,559.49
1.1	30	33.0	0.2422%	\$1,715.44
1.2	30	36.0	0.2642%	\$1,871.39
1.3	30	39.0	0.2862%	\$2,027.34
1.4	30	42.0	0.3082%	\$2,183.29

Net Rental Revenue distribution for the period

**\$708,378.00**

Total pool factor value for the period

**13,627.10**





## *The Suites at 1 KING WEST*

1 KING STREET WEST • TORONTO, ONTARIO • CANADA M5H 1A1  
T 416.548.8100 • F 416.548.8101 • [www.onekingwest.com](http://www.onekingwest.com)

Dear Owner:

### July Results

July 2008 was another strong month, finishing with 9408 rooms sold at an average rate of \$140.02, an increase of 8% or 717 rooms sold over July last year. This is in line with our most recent forecast; however the build in occupancy and rate since the beginning of the summer has significantly exceeded our expectations when all indications were that the summer was going to be soft in the downtown market.

Total revenue was \$1,359,827 for the month. This is an increase of 12.3% or \$149,093 to July 2007.

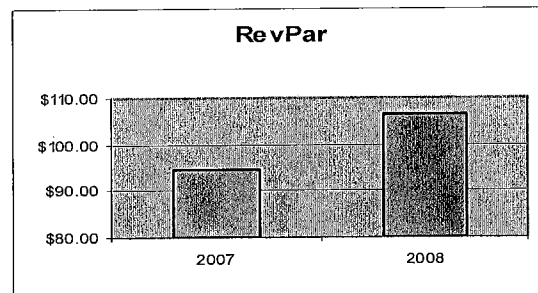
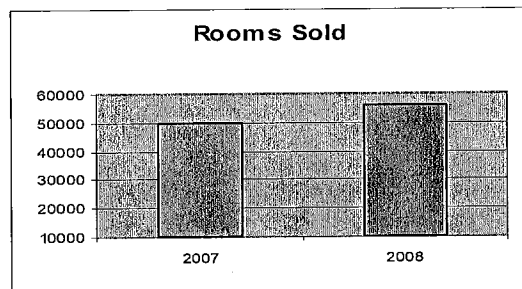
Revenue per Available Room (Revpar) increased by 15.3% or \$15.14 over July 2007.

The July 2008 Net Operating Profit of \$503,467, exceeded the July 2007 Net Operating Profit by \$88,000.

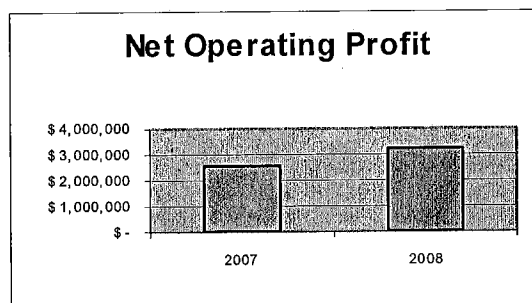
### Year to Date Results

A total of 56,015 rooms have been sold in the rental program for the year to date July 31, 2008. This is an increase of 7424 or 15.2% over the same period last year. Total revenue for the period is \$8,519,969. This is an increase of 1,033,759 or 13.8 % over revenue from the rental program for the same period last year.

This translates to a Revenue per Available Room (Revpar) increase of 12.8% or \$12.09 year over year.



The Net Operating Profit from units in the rental program for the first seven months this year is \$3,265,370. This represents an increase of 29% to the same time last year.



### **3 Month Outlook**

August is on pace to sell approximately 9400 rooms at an average rate of \$150. As mentioned last month, the focus for the immediate future is to grow the average rate. Although in the initial stages of strategy execution the sales effort is successfully increasing rate. The August results are expected to reflect this success. Over the past 4 weeks August's forecasted rate has increased by over \$10.00 and as a result, August's Net Operating Profit is forecasted to be approximately \$575,000.

September and October are, based on current bookings, looking very strong both in terms of occupancy and average room rate

### **Hotel Operations Update**

#### **Cost Savings Initiatives**

The cost savings initiatives which have been implemented continue to have a positive impact on the distributable profit.

#### **Electronic Funds Transfer**

Once again, we would like to remind you of the option of receiving your monthly profit distribution directly into your bank account through an Electronic Funds Transfer deposit.

Currently there are several hundred owners who have still not opted to go the EFT route. I highly encourage those of you who have not opted in to do so. This will ensure that you receive and deposit your monthly payments in a more efficient manner.

Please assist us in serving you better by completing the attached form and returning it to Greg Hives.

Should you have any questions or concerns, please do not hesitate to give Greg Hives at 416-548-8193 or myself a call.

Best Regards,

Steve O'Brien  
General Manager

### ***C. Section Definitions***

The summary financial statement is comprised of six sections. Combined, these sections result in the monthly operating profit or loss of the leasing program. The following is a brief description of each section:

1. ***Total Revenue*** – represents the revenue generated from the daily leasing program, telephone long distance and internet usage, and other income such as pay per view TV, guest laundry and valet.
2. ***Total Department Profit*** - represents the operating profits, after the deduction of operating expenses, associated with a specific department which include but are not limited to: wages and benefits; housekeeping services; uniforms; travel agent commissions; guest amenities; linen; printing and stationary.
3. ***Total Undistributed Expenses*** – represents the general operating expenses of the leasing program which are not attributable to a specific segment of the leasing program, which include but are not limited to: wages and benefits for management, sales, IT, accounting and maintenance staff; marketing and advertising; credit card commissions; external audit; printing and stationary; minor repairs and maintenance.
4. ***Gross Operating Profit*** – Calculated as Departmental Profit minus Total Undistributed Expenses.
5. ***Total Non-Operating Expenses*** – Includes expenses such as: insurance; furniture, fixtures and equipment reserve (FF&E); management fees.
6. ***Operating Profit/Loss*** – The net revenue distribution to the participants of the daily leasing program, calculated as the difference between Gross Operating Profit and Total Non-Operating Expenses.

## B. Summary Income Statement

### The Suites at 1 King West Summary Income Statement July 2008

	Month		Month		Variance		Month		Year		Year		Year	
	Actual	%	Budget	%	Act vs	%	Prior	%	Actual	%	Budget	%	Prior Year	%
Rooms Available	11,499	0.0%	12,400	0.0%	(901)	-7.8%	11,930	0.0%	79,869	0.0%	85,200	0.0%	79,152	0.0%
Rooms Occupied/Occupancy (%)	9,453	82.2%	10,034	80.9%	(581)	-6.1%	8,888	74.5%	56,955	71.3%	61,960	72.7%	49,884	63.0%
Rooms Sold/Occupancy (%)	9,408	81.8%	9,934	80.1%	(526)	-5.6%	8,691	72.8%	56,015	70.1%	61,260	71.9%	48,591	61.4%
Room Revenue/ADR (\$)	1,317,332	140.02	1,461,222	147.09	(7,07)	-0.0	1,186,038	136.47	8,519,969	152.10	9,473,864	154.65	7,486,210	154.07
Room Revenue/REVPAR	1,317,332	114.56	1,461,222	117.84	(3,28)	0.0%	1,186,038	99.42	8,519,969	106.67	9,473,864	111.20	7,486,210	94.58
Revenue														
Rooms Revenue	1,317,332	96.9%	1,461,222	97.0%	(143,890)	-10.9%	1,186,038	98.0%	8,519,969	97.0%	9,473,864	97.2%	7,486,210	97.7%
Telephone Revenue	19,847	1.5%	28,845	2.0%	(8,998)	-45.3%	15,632	1.3%	105,754	1.2%	168,400	1.8%	94,284	1.3%
Other Income	22,648	1.7%	16,963	1.2%	5,685	25.1%	9,064	0.8%	162,087	1.9%	108,180	1.1%	85,759	1.1%
Total Revenue	1,359,827	100.0%	1,507,030	100.0%	(147,203)	-10.83%	1,210,734	100.0%	8,787,810	100.0%	9,750,444	100.0%	7,666,253	100.0%
Department Profit														
Rooms	965,029	73.3%	1,033,647	70.7%	(68,618)	-7.1%	820,635	69.2%	6,353,682	74.6%	6,796,164	71.7%	5,189,161	69.3%
Telephone	6,018	30.3%	21,453	74.4%	(15,435)	-256.5%	2,910	18.6%	25,097	23.7%	114,712	68.1%	(1,880)	-2.0%
Other	15,104	66.7%	5,875	34.6%	9,229	61.10%	(665)	-7.3%	107,969	66.6%	39,708	36.7%	18,045	21.0%
Total Department Profit	986,151	72.5%	1,060,975	70.4%	(74,824)	-7.59%	822,880	68.0%	6,486,748	73.8%	6,950,584	71.3%	5,205,326	67.9%
Undistributed Expenses														
Administrative and General	159,625	11.7%	154,477	10.3%	5,148	3.2%	117,817	9.7%	1,082,706	12.3%	1,094,682	11.2%	941,104	12.3%
Sales and Marketing	95,924	7.1%	123,586	8.2%	(27,662)	-28.8%	71,250	5.9%	573,549	6.5%	614,501	6.3%	445,044	5.8%
Repairs and Maintenance	49,558	3.6%	41,720	2.8%	7,838	15.82%	32,765	2.7%	332,732	3.8%	296,686	3.0%	244,468	3.2%
Total Undistributed Expenses	305,107	22.4%	319,783	21.2%	(14,676)	-4.8%	221,832	18.3%	1,988,987	22.6%	2,005,869	20.6%	1,630,616	21.3%
Gross Operating Profit	681,043	50.1%	741,191	49.2%	(60,148)	-8.83%	601,049	49.6%	4,497,761	51.2%	4,944,715	50.7%	3,574,711	46.6%
Non-Operating Expenses														
Insurance	9,715	0.7%	9,700	0.6%	15	0.2%	33,329	2.8%	82,851	0.9%	67,900	0.7%	60,690	0.8%
Management Fee	61,875	4.6%	66,000	4.4%	(4,125)	-6.7%	65,143	5.4%	438,185	5.0%	462,000	4.7%	443,504	5.8%
Incentive Fee	25,120	1.8%	28,757	1.9%	(3,637)	-14.5%	24,678	2.0%	169,095	1.9%	191,115	2.0%	131,918	1.7%
Office Rent	15,000	1.1%	15,000	1.0%	0	0.0%	15,000	1.2%	105,000	1.2%	105,000	1.1%	105,000	1.4%
FF&E Reserve	65,867	4.8%	75,352	5.0%	(9,485)	-14.40%	47,370	3.9%	437,259	5.0%	487,522	5.0%	298,776	3.9%
Total Non-Operating Expenses	177,577	13.1%	194,809	12.9%	(17,232)	-9.70%	185,520	15.3%	1,232,390	14.0%	1,313,537	13.5%	1,039,888	13.6%
Operating Profit/(Loss)	503,467	37.0%	546,383	36.3%	(42,916)	-8.5%	415,529	34.3%	3,265,370	37.2%	3,631,178	37.2%	2,534,823	33.1%

## A. Profit Distribution Calculation

The Suites at 1 King West  
Profit Distribution Calculation  
Report period: July 2008

NOTE: This example is based on your unit being available in the pool for the full month

A	B	C	D	E
Unit Factor Value	Number of days Unit available for sale	Your Unit Factor Value (BxA)	Your Unit share as percentage	Your Unit Profit
1.0	31	31.0	0.2217%	\$1,116.39
1.1	31	34.1	0.2439%	\$1,228.03
1.2	31	37.2	0.2661%	\$1,339.67
1.3	31	40.3	0.2883%	\$1,451.31
1.4	31	43.4	0.3104%	\$1,562.95

Net Rental Revenue distribution  
for the period

\$503,467.00

Total pool factor value for the  
period

13,980.30

A = Your unit factor

B = Your unit's availability during the period

C = Your unit pool value (BxA)

D = Your unit factor value divided by total of the pool's factor value x 100% = Your unit share as percentage

E = D x Net Rental Revenue

# **EXHIBIT “J”**

**THIS AGREEMENT OF PURCHASE AND SALE** made as of August 29, 2008

**B E T W E E N:**

**IRA SMITH TRUSTEE & RECEIVER INC.**, solely in its capacity as court-appointed receiver and manager of **Stinson Hospitality Inc. ("SHI")**, **Dominion Club of Canada Corporation ("DCC")**, **The Suites at 1 King West Inc. ("Suites")** and **2076564 Ontario Inc. ("Housekeeping")**

(the "**Vendor**")

– and –

**TORONTO STANDARD CONDOMINIUM CORPORATION NO. 1703**, a standard condominium corporation incorporated under the laws of the Province of Ontario

(the "**Purchaser**" or "**TSCC 1703**")

**WHEREAS**, the Vendor was appointed receiver and manager of SHI, DCC, Suites and Housekeeping by Order of Madam Justice Pepall of the Ontario Superior Court of Justice (Commercial List) (the "**Court**"), dated August 24, 2007 (the "**Receivership Order**");

**WHEREAS**, pursuant to an Order of the Court dated January 24, 2008, the Vendor has carried out a sales process in respect of the property, assets and undertaking of SHI, DCC, Suites and Housekeeping's business carried on as a going concern, including the Purchased Assets (as defined herein) (the "**Sales Process**");

**WHEREAS**, the Purchaser participated in the Sales Process;

**WHEREAS**, the Vendor desires to sell or otherwise transfer the Purchased Assets to the Purchaser and the Purchaser wishes to purchase the Purchased Assets from the Vendor and acquire ownership and control over the Business (including the Hotel, both of which are defined below), all on the terms and conditions set forth herein.

**NOW THEREFORE**, in consideration of the mutual covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**ARTICLE 1**  
**DEFINITIONS**

**1.1 Definitions**

In this Agreement and in any amendments hereto and in all schedules hereto, the following terms shall have the following meanings:



**"Accounts Payable"** shall mean all accounts payable, accrued expenses and any other items classified as "current liabilities" incurred or accrued prior to the Cut-off Time in the ordinary course of the Business (including without limitation commissions, salaries, workers' compensation levies, provincial and federal sales and value added taxes, withholding deductions for federal and provincial income taxes, other payroll deductions such as pension payments and all other employee payments and deductions and rents payable);

**"Accounts Receivable"** means all accounts receivable, credit card accounts, book debts and other debts due or accruing due to the Vendor in respect of the Business outstanding at this Cut-off Time;

**"Affiliate"** shall have the meaning provided in the *Business Corporations Act* (Ontario);

**"Agreement"** means this Agreement as the same may be amended from time to time, including all Schedules set out in Section 1.9 of this Agreement. The expressions "hereof" "herein", "hereto", "hereunder", "hereby" and similar expressions refer to this Agreement;

**"Approval and Vesting Order"** means an approval and vesting Order of the Court, substantially in the form attached hereto as Schedule "G" (any amendments thereto shall be in form and substance satisfactory to each of the Vendor and the Purchaser, each acting reasonably and without delay), pursuant to which the Transaction is approved by the Court and pursuant to which all right, title and interest in the Purchased Assets shall be vested in and to the Purchaser on Closing free and clear of the Encumbrances (save and except for the Permitted Encumbrances);

**"Assumed Liabilities"** shall mean all liabilities assumed by the Purchaser pursuant to Section 3.1 of this Agreement;

**"Authority"** means any governmental authority, body, agency, department, commission, bureau or other instrumentality whether federal, provincial or municipal, having or claiming jurisdiction over the Purchased Assets;

**"Bookings"** means contracts or reservations for the use or occupancy of guest rooms and meeting and banquet facilities Related to the Business, including all deposits with respect thereto, whether cash or otherwise and all prospect lists Related to the Business and related files;

**"Business"** means the business located on the Real Property formerly carried on by the Debtors as a going concern and now carried on by the Vendor as a going concern, including all operations of the Debtors and the Hotel carried on at the date hereof; the food and beverage operations and activities resulting in rights to all revenue streams to which the Debtors had rights, and the Vendor currently has rights; the parking services and other services presently provided to the Purchaser; all rental operations; the cleaning service operation offered by Housekeeping; all Space Leases; and all rights enjoyed by the Debtors pursuant to the Lease Operating Agreement and the Rental Management Agreements;

**"Business Day"** means any day except Saturday, Sunday or a day which is a statutory holiday under the laws of Canada or Ontario;

**“Capital Expense Reserve Fund”** means the reserve fund held in a separate account by the Rental Manager for repair and refurbishment of the units in the Rental Management Program (sometimes referred to as the Furniture, Fixtures and Equipment (FF&E) Reserve Fund), particulars of which are set out in Schedule “I”;

**“Cash Payment”** shall have the meaning set out in Subsection 2.2(b) of this Agreement;

**“Closing”** means the completion of the sale and purchase of the Purchased Assets by the transfer, delivery, execution and registration of documents of title thereto, delivery of the documents and other items required under Sections 12.1 and 12.2 and the payment of the Purchase Price;

**“Closing Date”** means December 1<sup>st</sup>, 2008 or such other date as the parties may agree upon in writing;

**“Commercial Condominium”** means TSCC 1726;

**“Computer Equipment”** means computer servers and any related hardware and computer programs and all cable and high speed internet data equipment Related to the Business and which are owned or leased by the Debtors;

**“Condominium Act”** means the *Condominium Act*, 1998 (Ontario), R.S.O. 1998, Chapter 19;

**“Confidentiality Agreement”** shall have the meaning set out in Section 9.1 of this Agreement;

**“Confirmation Period”** means the period ending at 5:00pm on September 9, 2008;

**“Court”** shall have the meaning set out in the first recital of this Agreement;

**“Cut-off Time”** means 12:01 a.m., Toronto time, on the Closing Date;

**“Data Room”** means the virtual data room containing the documents for inspection provided by link from the Vendor’s website located at [www.irasmithinc.com](http://www.irasmithinc.com) as at the execution date of this Agreement, as may be updated from time to time by the Vendor;

**“Debtors”** means collectively, SHI, DCC, Suites and Housekeeping;

**“Encumbrance”** means any and all security interests, mortgages, liens, hypothecs, claims, charges, causes of action, proceedings, liabilities, costs or encumbrances with respect to the Purchased Assets and any and all executions or legal actions against or affecting the Purchased Assets;

**“Equipment and Tangible Personal Property”** means all equipment and operating equipment (whether actually in operation or otherwise), furniture, furnishings, fixtures, trade fixtures, attachments, appliances, chattels and tangible personal property owned, possessed or leased by the Debtors Related to the Business, subject to such depletions, resupplies, substitutions, and replacements as shall occur and be made in the normal course of business but in accordance with present standards excluding, however: (i) property owned by unit owners, guests or employees; (ii) Improvements; and (iii) Inventory;

**"Equipment Leases"** means all leases or agreements to lease the Equipment and Tangible Personal Property used in the Business listed in Schedule "C" hereto, all as terminated, amended or supplemented in accordance with this Agreement and such additional contracts as are entered into in accordance with this Agreement;

**"Estimated Statement"** shall have the meaning set out in Section 2.7 of this Agreement;

**"Excluded Assets"** means the assets listed on Schedule "E" hereto;

**"Final Deposit"** means the sum of Nine Hundred and Fifty Thousand Dollars (\$950,000.00), which shall be paid by the Purchaser to the solicitors of the Vendor in trust in accordance with Section 2.4 hereof;

**"Final Purchase Price"** means the amount of the Purchase Price adjusted by the Final Statement;

**"Final Statement"** shall have the meaning set out in Section 2.8 of this Agreement;

**"Goodwill"** means all goodwill of the Business as a going concern, including all intangibles Related to the Business;

**"Hotel"** means the hotel operated from the building located at 1 King Street West, Toronto, Ontario, including the use of certain condominium units from time to time made available for such purpose pursuant to the Rental Management Agreements;

**"Hotel Contracts"** means those contracts, leases, agreements and warranties listed on Schedule "B" hereto and all contracts, licenses, agreements, commitments and other agreements including operating leases to which the Debtor, Vendor (as manager or otherwise) or TSCC 1726 is a party, including amendments, supplements, modifications or side letters Related to the Business, all as terminated, amended or supplemented in accordance with this Agreement and such additional contracts as are entered into in accordance with this Agreement including the Rental Management Agreements;

**"Improvements"** means all improvements on the Real Property and includes all appurtenances (including fixed machinery and fixed equipment), structures and Systems situated in or forming part of the Real Property, but excludes equipment and trade fixtures owned by unit owners or tenants;

**"Initial Deposit"** means the sum of Fifty Thousand Dollars (\$50,000.00), which has been paid to the Vendor's solicitors in trust on the date hereof, together with all interest earned thereon under Section 2.4 hereof;

**"Initial Purchase Price"** means the amount of the Purchase Price adjusted by the Estimated Statement for purposes of the Closing;

**"Intellectual Property"** means all intellectual property, including rights to names and trademarks, software licenses, copyrights, industrial designs and all other proprietary rights and intangible personal property of the Debtors and the Vendor that are Related to the Business, including (without restriction) the names "Suites at 1 King West" and "Dominion Club of

Canada" and the Internet domain name "www.onekingwest.com" and all rights of the Debtors and the Vendor to the website hosted and maintained in accordance with its Uniform Resource Locator (URL);

**"Inventory"** means all perishable and non-perishable food and beverage items (including alcoholic and non-alcoholic beverages whether opened or unopened), guest supplies, room supplies, cleaning supplies, engineering, maintenance, housekeeping supplies, including soap, toiletries and lotions, paper supplies and all other materials and supplies on hand to be used or consumed in carrying on the Business as a going concern;

**"Lease Operating Agreement"** means the Lease Operating Agreement entered into between TSCC 1726 and the Purchaser and dated November 18, 2005 registered October 12, 2006 as part of the Purchaser's By-law No. 3 as Instrument No. AT946829 that includes, among other terms, TSCC 1726's right to appoint a rental manager for the Hotel to administer the Rental Management Program in accordance with the Rental Management Agreements;

**"Licenses"** means all permits, licenses, approvals and authorizations of Governmental Authorities or third parties and all licenses, permits or other authorities necessary to lawfully carry on the Business, including, without limitation, all licenses necessary to carry on all food and beverage operations at the Hotel such as liquor licenses issued by the Alcohol and Gaming Commission of Ontario under the *Liquor License Act* (Ontario) including those set out in Schedule "H";

**"Operating Systems"** means all systems, if any, in the possession of the Debtors (and utilized by the Vendor) used in the management of the Hotel;

**"Parking Spaces"** means the four non-designated parking spaces located within TSCC 1703 which TSCC 1726 is entitled to utilize, pursuant to the Purchaser's condominium declaration and parking license agreement;

**"Pending Purchase Orders List"** shall have the meaning set out in Section 8.4 of this Agreement;

**"Permitted Encumbrances"** means the encumbrances, easements and reservations listed in Schedule "F" hereto.

**"Plans"** means all building plans and prototypes utilized in the development of the property that are in the possession of the Vendor;

**"Prepaid Expenses"** means advance payments made by the Vendor for services to be rendered or expenses to be incurred after the Closing Date and Related to the Business including, without limitation, insurance premiums relating to policy coverage after the Closing Date to the extent such policies are assumed by the Purchaser pursuant to Section 8.2, security deposits or advance payments relating to Equipment Leases or Hotel Contracts, as well as the cost of promotional and marketing materials including any sums paid with respect to advertising and marketing, provided that such expenses incurred after the date hereof have been approved by the Purchaser and relate to the Business;

**"Purchase Price"** shall have the meaning set out in Section 2.2 of this Agreement;

**“Purchased Assets”** shall mean the Debtors’ right, title and interest, if any, in and to the following:

- (a) the Prepaid Expenses;
- (b) the Bookings;
- (c) the Business;
- (d) the Equipment and Tangible Personal Property;
- (e) the Equipment Leases;
- (f) the Computer Equipment;
- (g) the Goodwill;
- (h) the Hotel;
- (i) the Hotel Contracts;
- (j) the Improvements;
- (k) the Intellectual Property;
- (l) the Inventory;
- (m) the Lease Operating Agreement
- (n) the Licenses;
- (o) the Operating Systems;
- (p) the Parking Spaces;
- (q) the Plans;
- (r) the Real Property;
- (s) the Rental Management Program;
- (t) the Records;
- (u) the Signs;
- (v) the Space Leases;
- (w) the Telephone Numbers;
- (x) the Warranties; and

(y) any benefit, revenue and income arising from the use of any of the foregoing.

**"Purchaser's Ancillary Documents"** shall have the meaning set out in Subsection 5.1(b) of this Agreement;

**"Real Property"** means the ownership interests of the Debtors, as more particularly described in Schedule "A" hereto, in the real property described in Schedule "A" hereto;

**"Rental Management Agreements"** means the agreements executed by unit owners with SHI under which condominium units are placed into the Rental Management Program;

**"Rental Management Program"** means the leasing program entered into by unit owners through Rental Management Agreements to be part of a rental pool operated by the rental manager for TSCC 1726;

**"Receivership Order"** shall have the meaning set out in the first recital of this Agreement;

**"Reciprocal Agreement"** means the Reciprocal Agreement between the Purchaser, TSCC 1726 and 1 King West Inc. dated November 18, 2005 and effective September 9, 2005 registered October 12, 2006 as part of the Purchaser's By-law No. 4 as Instrument No. AT946830, assumed by each of DCC and TSCC 1726;

**"Records"** means all files, books, records, invoices, correspondence, guest ledgers, guest lists, advertising aids, promotional materials, litigation reports, insurance policies, business and other tax records, all rights, minutes, government filings and assessments (excluding income tax records), stationery, brochures, price lists, operating data, computer programs and software, renderings, statements of profits and losses, all financial records and accounting, internal and audit records, room revenue rate information with respect to customers (including corporate and individual group discount information), reports, studies and analyses concerning the Hotel and financial information, including computer-readable records concerning the suite leasing programs, operating statements and operating budgets, prospect lists Related to the Business, Capital Expense Reserve Fund bank accounts, together with any and all files, statements and records with respect thereto, and any and all passwords, personal information number (PINs), access or security codes Related to the Business;

**"Related to the Business"** shall mean used in, arising from, or related to, the Business;

**"Rental Management Agreements"** means the agreements entered into between unit owners in TSCC 1703 with the rental manager for the short term leasing of units by the rental manager;

**"Sales Process"** shall have the meaning set forth in the second recital of this Agreement;

**"Settlement Date"** means the 30th calendar day following the Closing Date;

**"Signs"** means all signage Related to the Business, whether depicting the name of the Business or otherwise, in any format at any location;

**"Space Leases"** means the right, title and interest, in any, and all leases of real property, if any, by any one of the Debtors, as landlord or tenant, including, without restriction, any and all rights

of the Debtors, if any, to any provisions, rents, fees and other income in connection the leases of real property set out in Schedule "A";

**"Systems"** means the mechanical and electrical systems owned by the Debtors and Related to the Business, including any safety, fire prevention, alarm, security, heating, ventilation, air conditioning, lighting, sprinkler, drainage, plumbing, sanitation, swimming pool, door and access systems and elevator and escalator systems;

**"Telephone Numbers"** means the Debtors' rights to (i) any reservation telephone numbers Related to the Business; (ii) the telephone numbers of the Debtors which are Related to the Business; and (iii) telephone numbers currently being used at the principal offices of the Debtors which are Related to the Business; and with respect to each of the above all fax numbers and e-mail addresses;

**"Transaction"** means the transaction(s) contemplated herein;

**"TSCC 1726"** shall mean Toronto Standard Condominium Corporation 1726;

**"Union Contracts"** shall have the meaning set out in Section 7.2 of this Agreement;

**"Vendor's Ancillary Documents"** shall have the meaning set out in Subsection 4.1(a) of this Agreement; and

**"Warranties"** means all existing and subsisting warranties, rights to indemnification or similar rights in favour of the Debtors or the Vendor in connection with the Purchased Assets.

## **1.2 Canadian Dollars**

All dollar amounts referred to in this Agreement are in Canadian funds unless otherwise provided.

## **1.3 Tender**

Any tender of documents, notices or money hereunder may be made upon the Vendor or the Purchaser or counsel acting for either of them and money may be tendered by negotiable cheque or bank draft certified or issued by a Canadian chartered bank.

## **1.4 Extended Meanings**

In this Agreement, words importing the singular number include the plural and vice versa and words importing the masculine gender include the feminine and neutral genders and vice versa.

## **1.5 Entire Agreement**

This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all other prior agreements, either oral or written (including all letters of intent signed by the parties hereto). No amendments, supplements, modifications or waivers of this Agreement shall be binding unless executed in writing by the party to be bound thereby.

## **1.6 Headings**

Article headings are not to be considered part of this Agreement and are included solely for convenience of reference and are not intended to be full or accurate descriptions of the contents thereof.

## **1.7 Successors and Assigns**

All terms and provisions of this Agreement shall be binding upon and shall enure to the benefit of the parties hereto and their respective successors and permitted assigns.

## **1.8 Assignability**

The rights and obligations of Purchaser under this Agreement will be assignable to any Affiliate of the Purchaser without the prior consent of, but on prior written notice to, the Vendor, provided that no such assignment shall relieve the Purchaser of its obligations under this Agreement, nor shall it delay the Closing. Except as provided in this Section, this Agreement may not be assigned by the Vendor or Purchaser without the prior written consent of the other party.

## **1.9 Schedules**

The following are the schedules attached to and incorporated in this Agreement by reference and are deemed to be a part hereof:

Schedule "A"	—	The Real Property
Schedule "B"	—	Hotel Contracts
Schedule "C"	—	Equipment Leases
Schedule "D"	—	Closing Adjustments
Schedule "E"	—	Excluded Assets
Schedule "F"	—	Permitted Encumbrances
Schedule "G"	—	Approval and Vesting Order
Schedule "H"	—	Licenses
Schedule "I"	—	Capital Expense Reserve Fund

## **1.10 Proper Law of Agreement**

This Agreement shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein. Each party hereby irrevocably submits and attorns to the exclusive jurisdiction of the courts of the Province of Ontario.

## **1.11 Invalidity of Provisions**

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision hereof and any such invalid or unenforceable provision shall be deemed to be severable.



### **1.12 Statutes**

Any reference to a statute shall mean the statute in force as at the date hereof, unless otherwise expressly provided.

### **1.13 Calculation of Time**

When calculating the period of time within which or following which any act is to be done or step taken, the date which is the reference day in calculating such period shall be excluded. If the last day of such period is not a Business Day, the period shall end on the next Business Day.

### **1.14 Amendment**

This Agreement may be amended only by written agreement of the parties.

### **1.15 Waiver**

No waiver of any provision of this Agreement shall be binding unless it is in writing. No indulgence or forbearance by a party shall constitute a waiver of such party's right to insist on performance in full and in a timely manner of all covenants in this Agreement. Waiver of any provision shall not be deemed to waive the same provision hereafter, or any other provision of this Agreement at any time.

### **1.16 Time of Essence**

Time shall be of the essence to every provision of Agreement. Extension, waiver or variation of any provision of this Agreement shall not be deemed to affect this provision and there shall be no implied waiver of this provision.

### **1.17 Preparation of Documents**

All documents required to be executed by the parties to give effect to this Agreement and shall be in a form approved by the Vendor and Purchaser, each acting reasonably.

## **ARTICLE 2 PURCHASE AND SALE OF PURCHASED ASSETS**

### **2.1 Purchase and Sale**

Subject to the terms and conditions of this Agreement, on the Closing Date the Vendor shall sell to the Purchaser and the Purchaser shall purchase from the Vendor all of the Debtors' and the Vendor's right, title and interest, if any, in and to the Purchased Assets in consideration of the Purchase Price.

### **2.2 Purchase Price**

Subject to the adjustment process in Sections 2.6 through 2.9 hereof, the purchase price payable as consideration for the Purchased Assets shall be Thirteen Million, Nine Hundred Thousand Dollars (\$13,900,000) (the "**Purchase Price**"), payable as follows:

- (a) by application of the Initial Deposit and the Final Deposit, together with all interest earned thereon, as contemplated in Section 2.4; and
- (b) by payment of an amount equal to the difference between the Initial Purchase Price and the sum of the Initial Deposit and the Final Deposit (inclusive of accrued interest under Section 2.4) to be paid to the Vendor in cash or by certified cheque on Closing (the "**Cash Payment**").

### **2.3 Allocation of Purchase Price**

The Purchase Price shall be allocated among the various Purchased Assets as may be determined by the Vendor and the Purchaser acting reasonably on or prior to Closing. Such allocation shall be binding for the purpose of the Purchaser's filings under the *Income Tax Act* (Canada) or any other taxation statute. Prior to the Closing Date, the Vendor and Purchaser hereby covenant to retain an independent reputable inventory counting firm to count the Inventory and provide an itemized report detailing each Inventory item, its value and the total value of the Inventory. The portion of the Purchase Price allocated to the Inventory shall be so allocated in accordance with that report. The Vendor and Purchaser shall each bear half of the costs of the Inventory count.

### **2.4 Deposits**

The parties acknowledge that the Purchaser has delivered the Initial Deposit to the Vendor's solicitors. Upon the satisfaction of the conditions precedent in subparagraphs (ii) and (iii) of Section 10.3(f) hereof, the Purchaser shall become obligated to deliver the Final Deposit and shall deliver the Final Deposit to the Vendor's solicitors within seven (7) calendar days thereof. The Vendor's solicitors shall hold the Initial Deposit and the Final Deposit (if applicable) in trust in accordance with the terms of this Agreement. The Initial Deposit and the Final Deposit (if applicable) shall be placed in a separate interest-bearing trust account with a Canadian chartered bank and, subject as hereinafter provided, the Initial Deposit and the Final Deposit, together with all interest thereon, shall be credited to the Purchaser on account of the Purchase Price at Closing.

### **2.5 Return or Forfeiture of Deposits**

The Initial Deposit and the Final Deposit, together with all interest thereon, shall be credited to the Purchaser on account of the Purchase Price at Closing, provided that the Initial Deposit and, once it has been paid pursuant to Article 2.4, the Final Deposit shall be forfeited to the Vendor, together with all interest thereon, if the parties fail to complete the purchase of the Purchased Assets in the manner specified in section 11.2 hereof; otherwise, if the parties fail to complete the purchase of the Purchased Assets in accordance with this Agreement for any other reason, the Initial Deposit and Final Deposit, together with interest thereon, shall be returned to the Purchaser. Each of the Vendor and the Purchaser reserve their remedies in equity or at law as may arise with respect to failure to complete the purchase of the Purchased Assets in accordance with this Agreement.

## 2.6 Adjustments

A statement of adjustments shall be prepared to account for all revenue and expense items customarily adjusted between a vendor and a purchaser in the sale of a hotel, including, without limitation, guest invoices (excluding Accounts Receivable), security deposits, property taxes, local improvement rates, insurance premiums (but only with respect to those insurance policies assumed by the Purchaser), insurance proceeds (if any) in respect of the Purchased Assets (but only with respect to those insurance policies assumed by the Purchaser) and employee and operating expenses such as salaries, employee benefits, rents, taxes, utilities, fuel and licenses, as more particularly set out in Schedule "D" hereto.

## 2.7 Estimated Statement

Not less than twenty (20) Business Days before the Closing Date, the Vendor shall deliver to the Purchaser a statement of adjustments prepared in accordance with the criteria set out in Section 2.6 (the "**Estimated Statement**") which shall reflect the Vendor's good faith estimate of the final statement of adjustments as at the Cut-off Time. The Vendor shall also deliver its calculations of the Initial Purchase Price based on the Estimated Statement.

## 2.8 Final Statement

Not less than five (5) Business Days prior to the Settlement Date, the Vendor shall deliver the final statement of adjustments (the "**Final Statement**") to the Purchaser which shall be prepared as at the Cut-off Time by a joint team comprising representatives of the Vendor and the Purchaser. In the event that either the Vendor or the Purchaser engages any external advisors to assist in the preparation of the Final Statement, the costs of so engaging such external advisors shall be paid solely by the Vendor (where the Vendor engaged such external advisors) or solely by the Purchaser (where the Purchaser engaged such external advisors). In order to enable the Vendor to prepare the Final Statement, the Purchaser shall permit the Vendor access to the relevant Records and shall co-operate fully with the Vendor in the preparation of the Final Statement.

## 2.9 Determination of Final Purchase Price

- (a) On the Settlement Date, the parties shall determine the Final Purchase Price based on the adjustments contained in the Final Statement.
- (b) If the Final Purchase Price is greater than the Initial Purchase Price, then on the Settlement Date the Purchaser shall pay to or to the order of the Vendor in cash or by certified cheque the amount by which the Final Purchase Price exceeds the Initial Purchase Price.
- (c) If the Final Purchase Price is less than the Initial Purchase Price, then on the Settlement Date the Vendor shall pay to or to the order of the Purchaser in cash or by certified cheque the amount by which the Initial Purchase Price exceeds the Final Purchase Price.

## **2.10 Transfer Taxes**

In addition to the Purchase Price, the Purchaser shall be liable for and pay directly to the appropriate taxing Authority or other entity, as required, within the prescribed time period, all federal and provincial taxes (including land transfer taxes) and all other similar taxes, duties, registration charges or other like charges (but excluding any taxes based upon the income, revenues or capital receipts of the Vendor) payable by a purchaser in connection with the transfer of the Purchased Assets. Alternatively, the Purchaser shall have the option of furnishing the Vendor with such purchase exemption certificates, elections and other documentation, which are in form and content satisfactory to the Vendor, together with an indemnity satisfactory to the Vendor, which indemnity shall hold the Vendor harmless from any costs, expenses or damages suffered by the Vendor in the event that an exemption is not, in fact, available under the relevant legislation (provided that the Vendor's consent to all such documents shall not unreasonably be withheld).

## **ARTICLE 3 ASSUMPTION AND DISCHARGE OF LIABILITIES**

### **3.1 Assumption and Discharge of Liabilities by the Purchaser**

From and after the Cut-off Time, the Purchaser shall assume, pay, discharge and perform, as the case may be, and indemnify the Vendor and the Debtors from:

- (a) all obligations of the Debtors or the Vendor arising after the Closing Date under the Hotel Contracts, Equipment Leases, Licences and Permitted Encumbrances; and
- (b) all obligations of the Vendor under the purchase orders listed in the Pending Purchase Orders List to be provided to the Purchaser pursuant to the provisions of Section 8.4 of this Agreement,

(collectively, the "**Assumed Liabilities**"). Save and except for the Assumed Liabilities, the Permitted Encumbrances and any obligations of the Purchaser set forth in the Final Statement, the Purchaser will not assume, be responsible or liable for any liabilities (whether present or future, accrued, actual, contingent or otherwise), debts, claims and demands in connection with the Business existing or incurred prior to Closing Date including, and without limitation, for any provincial or federal sales, excise, income, property or other taxes payable with respect to the Business and for any amounts required by law to be withheld from employees for any period up to Closing Date or any income tax or other similar liability of the Vendor.

## **ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF THE VENDOR**

### **4.1 Representations and Warranties of the Vendor**

The Vendor represents and warrants to Purchaser and acknowledges that the Purchaser is relying on such representations and warranties in entering into this Agreement and in purchasing the Purchased Assets:

- (a) The Vendor is the court-appointed receiver and manager of the Debtors and, subject to the approval of the Court, has the power, authority and capacity to enter into this Agreement and all other agreements, documents and certificates contemplated hereby to be executed by Vendor (the "**Vendor's Ancillary Documents**") and to carry out the transaction contemplated hereby and thereby;
- (b) the Vendor has not created any encumbrance on the Purchased Assets, other than the Receiver's Charge or the Receiver's Borrowing Charge as contemplated in the Receivership Order; and
- (c) the Vendor is not a non-resident of Canada for the purposes of the *Income Tax Act* (Canada).

## ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

### 5.1 Representations and Warranties of the Purchaser

The Purchaser represents and warrants to the Vendor and acknowledges that the Vendor is relying on such representations and warranties in entering into this Agreement and in selling the Purchased Assets:

- (a) the Purchaser is a standard condominium corporation duly incorporated, organized and subsisting under the laws of Ontario with the corporate power to own its assets and carry on its business;
- (b) subject to compliance with the conditions in Section 10.3(f) hereof, the Purchaser has the power, authority and capacity to enter into this Agreement and all other agreements, documents and certificates contemplated hereby to be executed by the Purchaser (the "**Purchaser's Ancillary Documents**") and to carry out the transactions contemplated hereby and thereby;
- (c) on the Closing Date, this Agreement and the Purchaser's Ancillary Documents shall each have been duly authorized by all required proceedings and shall each constitute a valid and binding obligation of the Purchaser enforceable against it in accordance with its terms;
- (d) subject to compliance with the conditions in Section 10.3(f) hereof, the execution and delivery of this Agreement and each of the Purchaser's Ancillary Documents by the Purchaser, the consummation of the transactions contemplated hereby and thereby, and the fulfilment by the Purchaser of the terms, conditions and provisions hereof and thereof will not contravene or violate or result in the breach (with or without the giving of notice or lapse of time, or both) or acceleration of any obligations of the Purchaser under:
  - (i) any judgment, order, writ, injunction or decree of any court or of any Authority which is presently applicable to the Purchaser;
  - (ii) the Condominium Act;

- (iii) the constating documents of the Purchaser; or
- (iv) the provisions of any agreement, arrangement or understanding to which the Purchaser is a party or by which it is bound; and
- (e) the Purchaser is not a non-resident of Canada for the purposes of the *Income Tax Act* (Canada).

## ARTICLE 6 ACKNOWLEDGEMENTS OF THE PURCHASER

### 6.1 "As Is, Where Is" Condition

The Purchaser acknowledges that the Purchased Assets shall be purchased on an "as is, where is" basis and without representation or warranty and with all faults and that, prior to the Closing, it will inspect the Purchased Assets and will accept the same in their present state, condition and location. Unless specifically stated herein, no representation, warranty or condition, whether statutory (including under the *Sale of Goods Act* (Ontario)), express or implied, oral or written, legal, equitable, conventional, collateral or otherwise is being given as to title, outstanding liens, description, fitness for purpose, merchantability, quantity, condition, quality, value, suitability, durability or marketability thereof or in respect of any other matter or thing whatsoever including, without limitation, the respective rights, titles and interests of the Vendor and the Debtors, if any, therein and wherever all or part of the Purchased Assets are situate and all of the same are expressly excluded. Without limiting the generality of the foregoing, the Purchaser hereby confirms that it shall have no recourse against the Vendor or the Debtors with respect to the Purchaser's reliance upon any descriptions or information provided by the Vendor to the Purchaser in the Data Room or in any document for the Purchaser's review including the Terms and Conditions of Sale and the Confidential Information Memorandum.

## ARTICLE 7 PERSONNEL

### 7.1 Personnel

From and after the Closing, the Purchaser shall assume all employer obligations of the Debtors or the Vendor with respect to Continued Employees (as hereafter defined). Not later than five (5) Business Days prior to the Closing Date, the Purchaser shall offer employment to all personnel at the Business in the same capacity and on the same terms and conditions of their present employment, including seniority and length of service credits. Personnel that accept such offers of employment are hereinafter called "**Continued Employees**" and personnel that decline such offers of employment are hereinafter called "**Terminated Employees**".

### 7.2 Union Contracts

From and after the Closing, the Purchaser agrees to assume any employer obligations of the Debtors under any union contracts or certifications ("**Union Contracts**").

### **7.3 General**

From and after the Cut-Off Time, the Purchaser shall be responsible for all employment matters to the entire exoneration of the Vendor, but subject to Schedule "D" hereto, relating to the Continued Employees. The Vendor undertakes, subject to the adjustments contemplated in Schedule "D" hereto, to pay any wages, benefit payments and related source deductions payable prior to the Cut-Off Time. The term "**employment matters**" means all liabilities relating to any claims for wages, salaries, commissions, severance pay, notice of termination of employment or pay in lieu of such notice, damages for wrongful dismissal or other employee benefits or claims, including vacation pay, sick leave and benefits.

## **ARTICLE 8 COVENANTS OF THE VENDOR**

### **8.1 Conduct of Business Prior to Closing**

Until the Closing Date, the Vendor will operate the Business in the ordinary course of business and will maintain the Hotel and all aspects of the Business and Purchased Assets in a manner consistent with the Vendor's past practice, and without limiting the generality of the foregoing, the Vendor will maintain inventories and operating supplies at their usual level and continue to accept reservations for guests of the Hotel in the ordinary course of business.

### **8.2 Insurance**

Until Closing, the Vendor shall continue to maintain in full force and effect all policies of insurance now in effect (or renewals thereof) with respect to the Purchased Assets and the Business and shall give all notices and present all claims under all policies of insurance in a due and timely fashion. The Vendor shall, on request of the Purchaser, provide to the Purchaser details of all policies of insurance obtained by the Debtors or the Vendor with respect to the Purchased Assets and the Business. On the Closing, the Vendor will cancel the insurance policies relating to the Purchased Assets or the Business, provided that the Purchaser may elect, on notice to the Vendor not less than thirty (30) Business Days prior to Closing, to retain some or all of the insurance policies relating to the Purchased Assets or the Business, in which case the Vendor shall not cancel the applicable insurance policies and, provided the applicable insurance policies may be assigned, shall assign such insurance policies to the Purchasers.

### **8.3 Hotel Contracts and Equipment Leases**

The Vendor shall, within three (3) Business Days of execution thereof by all parties thereto, provide to the Purchaser a copy of all new Hotel Contracts and Equipment Leases entered into after the date hereof and all amendments or terminations or assignments of existing Hotel Contracts or Equipment Leases made after the date hereof in accordance with Section 8.1 of this Agreement. Any new Hotel Contract or Equipment Lease entered into outside the ordinary course of business after the date hereof or any amendments, terminations or assignments thereof after the date hereof outside the ordinary course of business shall be undertaken only with the prior written consent of the Purchaser, which consent shall not be unreasonably withheld or delayed. The Vendor shall, within three (3) business days of execution of this Agreement, use commercially reasonable efforts to provide to the Purchaser a copy of any and all written

correspondence received by the Receiver since August 24, 2007, that requests termination of any Rental Management Agreement or any Hotel Contract or sets out any dispute with respect thereto by any participant in the Rental Management Program, and shall provide the Purchaser with access to review any and all Rental Management Agreements at the Hotel Premises up to the Closing Date.

#### **8.4 Pending Purchase Order List**

At least ten (10) Business Days prior to Closing, the Vendor shall prepare and deliver to the Purchaser a list (the "**Pending Purchase Orders List**") of all of the outstanding, unfilled or partially filled purchase orders for supplies or materials required for the Business in accordance with the provisions of Section 8.1 of this Agreement. The Pending Purchase Orders List shall be updated on the Closing Date and shall then form part of the Assumed Liabilities.

#### **8.5 Accounts Payable**

Save and except for the purchase orders specified on the Pending Purchase Orders List or as may be contemplated in Section 7.3, the Vendor shall pay all Accounts Payable applicable to the period before the Cut-off Time.

#### **8.6 Employee Matters**

Upon execution of this Agreement, the Vendor shall provide the Purchasers with access to the following records and files related to employment matters, which the Purchasers may review at the Hotel premises: a list of all employee's names, positions, employment particulars and any applicable recorded or known disciplinary matters, disputes, actions or proceedings affecting any such employee at the present time or within the past twelve months; copies of any current employment policies, procedures, pension, union, employee benefit plans; and any other employment records reasonably requested by the Purchasers. Promptly after the issuance of the Approval and Vesting Order, the Purchaser shall be entitled to enter into discussions with hotel employees, union representatives and others involved in or affecting the Purchased Assets and Business; provided that the Purchaser may not make any binding contractual offers or enter into any final agreements with any such parties without the prior written consent of the Vendor, which shall not be unreasonably withheld. From and after the date hereof, the Vendor shall give the Purchaser notice of all hirings, terminations and changes of employment for all full-time employees of the Business provided that any failure to do so shall not constitute a default by the Vendor hereunder. The Vendor shall not enter into or terminate any employment contracts with senior management employees of the Business after the date hereof nor shall the Vendor terminate, alter or enter into contracts with any rental manager or management consultant for the Hotel except with the prior written consent of the Purchaser, which shall not be unreasonably withheld.

The Vendor shall also provide to the Purchaser a copy of all new employment arrangements entered into after the date hereof and all amendments made to existing employment contracts after the date hereof as well as the Union Contracts.



#### **8.7 Vendor's Obligations Regarding Assignment of Hotel Contracts, Equipment Leases, Licenses and Permitted Encumbrances**

The Vendor shall use reasonable efforts, at the Purchaser's sole cost and expense on a full indemnity basis, to assist the Purchaser in obtaining all consents required for the assignment of any Hotel Contracts, Equipment Leases, Licenses and Permitted Encumbrances. For greater certainty, the Vendor shall sign such forms, approvals, transfers or other documents reasonably required in order to transfer any Licences to the Purchaser and obtain any consents reasonably required to complete the transaction contemplated herein. Without limiting the generality of the foregoing, the Vendor shall execute all documentation reasonably required to authorize the transfer of the liquor licence(s) relating to the Business and the Hotel to the Purchaser.

#### **8.8 Accuracy of Representations and Warranties and Fulfilment of Conditions**

The Vendor shall use reasonable efforts to ensure that the representations and warranties set forth in Article 4 of this Agreement are true and correct on and as of the Closing Date as if such representations and warranties were made on and as of such date and that the conditions of Closing for the benefit of the Purchaser set forth in Article 10 of this Agreement have been fulfilled, performed or satisfied on or prior to the Closing Date.

#### **8.9 Confidentiality**

The Vendor and Purchaser shall keep confidential the information contained in the Data Room, the Confidential Information Memorandum, the Purchase Price, the terms of this Agreement, the Purchaser's business plan (including, without restriction, its pro forma budget, cash flow and other financial documentation), the Purchaser's financing proposal and financing commitment letter, letters of intent and the Purchaser's other confidential documents, together with any ancillary documents delivered in connection with Closing of the transaction contemplated herein in accordance with the Vendor's standard form Confidentiality Agreement. This requirement shall continue in full force and effect up to the Closing Date, subject to the right of the Vendor or the Purchaser to disclose such information:

- (a) to their professional advisors, including their solicitors, accountants, tax advisors, appraisers, financiers and rental management consultants;
- (b) to the Superior Court of Justice in connection with any proceeding under Court File No. 07-CL-6913, provided that the Purchaser's business plan and financing arrangements shall remain confidential except as required by the Court;
- (c) to the public in accordance with sub-article 14.1 below; and
- (d) to the Purchaser's unit owners in accordance with the *Condominium Act* to ensure that fulsome disclosure of such matters is made to unit owners in advance of or during the requisite meeting(s) of its unit owners and in communications with respect thereto; otherwise the Vendor's approval shall be required with respect to any interim or other communications with respect to the confidential information, pending Closing.

Subject to any direction or order of a court of competent jurisdiction, the Vendor shall maintain confidentiality from and after the Closing Date of any of the Purchaser's confidential information that has remained undisclosed prior to the Closing Date.

#### **8.10 Ontario Club Condition**

The Purchaser will consider entering into a formal lease and/or service agreement with the Ontario Club failing which, by no later than the conclusion of the Confirmation Period, it shall advise the Vendor in writing of its inability to enter into a satisfactory arrangement with the Ontario Club. Upon such notice, and provided that the Purchaser so requests, the Vendor shall take steps to ensure that the Ontario Club leaves vacant possession of the rooms it occupies prior to the Closing Date. If the Purchaser so requests, the Vendor shall seek to include in the Approval and Vesting Order issued by the Court a provision stating/declaring that, as of and from a date to be specified in the Approval and Vesting Order that is mutually acceptable to the parties hereto, the Ontario Club has no right at law to use any space or asset in the Hotel or on the Real Property.

#### **8.11 Capital Expense Reserve Fund**

Before or within seven (7) calendar days after Closing, the Vendor shall replenish any amounts borrowed by it from the Capital Expense Reserve Fund and shall account for any credits and debits to the Capital Expense Reserve Fund during the fiscal year.

### **ARTICLE 9 COVENANTS OF THE PURCHASER**

#### **9.1 Confidential Information**

The Purchaser acknowledges that: (i) it continues to be bound by the Confidentiality Agreement which it executed with respect to the Sales Process as well as an Acknowledgement and Agreement executed dated June 4, 2008 (collectively the "**Confidentiality Agreement**"); (ii) all information in respect of the Business furnished to the Purchaser in connection with this Agreement is and will be so furnished subject to the terms of the Confidentiality Agreement; and (iii) the provisions of the Confidentiality Agreement will remain in force up to and including the Closing Date, subject to the right of the Purchaser to make such disclosure as may be permitted in accordance with Article 8.9 hereof, subject to Article 14.1 hereof, and to obtain compliance with the conditions in Section 10.3(f) hereof.

#### **9.2 Purchaser's Obligations Regarding Licenses and Hotel Contracts**

From and after the date hereof, the Purchaser shall use its best efforts to obtain as soon as possible all consents or permissions required for the assignment of the Hotel Contracts, Equipment Leases, Permitted Encumbrances and Licences or the issuance of new licences as of the Closing Date. The Purchaser shall pay all application fees, transfer fees and other fees and costs in this regard, including normal application or administrative fees incurred by the Purchaser in connection with obtaining any replacement licenses.

### **9.3 Accuracy of Representations and Warranties and Fulfillment of Conditions**

The Purchaser shall use reasonable efforts to ensure that the representations and warranties set forth in Article 5 of this Agreement are true and correct on and as of the Closing date as if such representations and warranties were made on and as of such date and that the conditions of closing for the benefit of the Vendor set forth in Article 11 of this Agreement have been fulfilled, performed or satisfied on or prior to the Closing Date.

### **9.4 Access to Books and Records**

Following the Closing, upon reasonable prior notice and during mutually convenient business hours on Business Days, the Vendor shall be afforded access to all books and records, including the Records, relating to the Business for 2007 and 2008 (for the period up to Closing) and prior years in order that the Debtors' auditors may prepare the 2007 and 2008 year-end audits and in connection with any provincial or federal government request to review such books and records or in connection with any tax matters, until the date following the expiration of all periods allowed for objecting and appealing the determination of any proceedings relating to any assessment or re-assessment of the Vendor or the Debtors by any taxing Authority in respect of any taxation period ending prior to the Closing or in which the Closing occurs.

## **ARTICLE 10**

### **DUE DILIGENCE; CONDITIONS IN FAVOUR OF THE PURCHASER**

#### **10.1 Due Diligence**

The Purchaser shall have the Confirmation Period to participate in, carry out and complete a subsequent due diligence review as outlined herein, all at its own expense. The Purchaser and its authorized representatives and the authorized representatives of its lender shall have reasonable access to the Records, and access to the Real Property and such of the Purchased Assets as are in the possession or control of the Vendor to continue its review of the Purchased Assets.

The Vendor's counsel shall work with the Purchaser's counsel to prepare a list of parties to be served with the motion materials to be utilized to seek the Approval and Vesting Order.

#### **10.2 Confirmation Period Financing Due Diligence Condition in Favour of the Purchaser**

The Purchaser's obligations under this Agreement are conditional until the expiry of the Confirmation Period upon the Purchaser's lender having completed its due diligence and being satisfied and prepared to advance the amounts required for the Purchaser to make the Cash Payment. Unless the Purchaser or its solicitors notifies the Vendor or its solicitors in writing on or before the end of the Confirmation Period that such condition has been satisfied or waived by the Purchaser then, notwithstanding any intermediate acts or negotiations, this Agreement shall be of no further force or effect, the Initial Deposit shall be returned to the Purchaser and the parties hereto shall have no further obligations or costs hereunder.

### 10.3 Conditions of Closing in Favour of the Purchaser

The obligation of the Purchaser to purchase the Purchased Assets is subject to the performance or satisfaction of each of the conditions set forth below. The Vendor acknowledges that the following conditions are for the exclusive benefit of the Purchaser:

- (a) All representations and warranties of the Vendor made in this Agreement or in any of the Vendor's Ancillary Documents shall be true and correct, in all material respects, on and as of the Closing Date with the same force and effect as if made on and as of such date;
- (b) The Vendor shall have performed or complied with, in all material respects, all of the obligations, covenants and agreements in this Agreement which are to be performed or complied with by the Vendor at or prior to the Closing Date;
- (c) No action or proceeding shall be pending or threatened by any Authority or any other person to restrain, restrict, enjoin or prohibit the completion of the Transaction;
- (d) Prior to the Closing Date, the Vendor shall have completed the deliveries contemplated by Section 12.1 of this Agreement;
- (e) Prior to the meetings of owners contemplated in subsection 10.3(f) below, the Approval and Vesting Order shall have been duly granted. The operation and effect of the Approval and Vesting Order shall not have been stayed, reversed or dismissed at the time of closing, no appeals of such order shall be pending, and such order shall not have been amended in a fashion that would materially adversely impact the Purchaser and its rights to the Purchased Assets;
- (f) The Purchaser shall call and hold an initial meeting of its unit owners on or before October 7<sup>th</sup>, 2008, subject to an adjourned meeting of unit owners to be called and held within 35 days thereafter in accordance with the Purchaser's solicitor's standard motion to adjourn meeting and the applicable adjournment procedures, in order to seek the unit owners' approval of the Transaction and the following shall have been passed on or before November 11, 2008 in accordance with the *Condominium Act*:
  - (i) Directors' resolutions passed at a meeting of the Purchaser's board of directors duly called and held to approve the transactions contemplated in this Agreement and to approve financing and security in respect thereto, all of which shall be subject to the approval of the requisite number of unit owners in TSCC 1703;
  - (ii) A resolution of unit owners in TSCC 1703 at a meeting of such unit owners duly called and held to approve the substantial change in assets and change in services arising from the transactions contemplated in this Agreement, in accordance with s. 97(4)-(6) of the *Condominium Act*;

- (iii) A borrowing by-law enacted by the Purchaser's board of directors and the unit owners in TSCC 1703 at meetings duly called and held to approve the financing, subject to s. 56 of the Condominium Act; and
- (iv) Such other resolutions or by-laws of the Purchaser as may be reasonably deemed necessary by the Purchaser to amend or approve any agreement or by-law, or to give effect to the Transaction.

The Purchaser hereby undertakes and agrees to pursue such approvals diligently and in good faith on or before the dates set out above.

- (g) On or before the Closing Date, the Purchaser shall have received all consents, approvals, waivers required for the assignment of the Purchased Assets, including consents required from any Authority.
- (h) On or before Closing, the Purchaser shall have received a liquor license issued by the Alcohol and Gaming Commission of Ontario under the *Liquor License Act* (Ontario).
- (i) Prior to the end of the Confirmation Period, the Purchaser shall have the opportunity to complete its due diligence investigations of the Purchased Assets (including with respect to the existing employment arrangements), the Purchaser shall have received a binding financing commitment letter from its financiers to its complete satisfaction, and the Purchaser shall be reasonably satisfied with the state, quality and condition of the Purchased Assets.

#### **10.4 Waiver**

If any of the conditions set forth in this Article have not been fulfilled, performed or satisfied as of the dates set forth in this Article, or where no such dates are set forth, on or immediately prior to the Closing, the Purchaser may, by written notice to the Vendor, terminate this Agreement, and the Initial Deposit and the Final Deposit, together with all interest thereon, shall be returned to the Purchaser without deduction and the Purchaser and Vendor shall be released from their obligations under this Agreement. Any of the conditions set forth in this Article may be waived, in whole or in part, by the Purchaser by instrument in writing, without prejudice to any of its rights of termination in the event of non-performance by the Vendor of any other condition, obligation or covenant, in whole or in part, and without prejudice to its right to complete the transaction of purchase and sale contemplated by this Agreement and claim damages for breach of a representation, warranty or covenant, other than with respect to the ones waived.

### **ARTICLE 11 CONDITIONS OF CLOSING IN FAVOUR OF THE VENDOR**

#### **11.1 Conditions of Closing in Favour of the Vendor**

The obligation of the Vendor to sell the Purchased Assets is subject to the fulfillment, performance or satisfaction of each of the conditions set forth below. The Purchaser acknowledges that the following conditions are for the exclusive benefit of the Vendor:

- (a) All representations and warranties of the Purchaser made in this Agreement at or in any of the Purchaser's Ancillary Documents shall be true and correct, in all material respects, on and as of the Closing Date with the same force and effect as if made on and as of such date;
- (b) The Purchaser shall have performed or complied with, in all material respects, all the obligations, covenants and agreements in this Agreement to be performed or complied with by the Purchaser on or prior to the Closing Date. The Purchaser shall not be in breach of any covenant on its part contained in this Agreement;
- (c) No action or proceeding shall be pending or threatened by any Authority or any other person (including, a party hereto) to restrain or prohibit the completion of the transactions contemplated by the Agreement;
- (d) Prior to the Closing Date, the Purchaser shall have completed the deliveries contemplated by Section 12.2 of this Agreement; and
- (e) On or prior to the Closing Date, the Approval and Vesting Order shall have been duly granted, and the operation and effect of the Approval and Vesting Order shall not have been stayed, reversed or dismissed at the time of Closing and no appeals of such orders shall be pending.

## **11.2 Waiver**

If any of the conditions set forth in this Article (other than that in Subsections 11.1(c) and 11.1(e)) have not been fulfilled, performed or satisfied on or immediately prior to the Closing, the Vendor may, by written notice to the Purchaser, terminate this Agreement, and the Vendor shall be entitled to retain the Initial Deposit and the Final Deposit, together with all interest thereon, and the Vendor and Purchaser shall be released from their obligations under this Agreement. In the event that the conditions in Subsections 11.1(c) and 11.1(e) are not satisfied or waived and the Vendor terminates this Agreement, then the Initial Deposit and the Final Deposit, together with all interest thereon, shall be returned to the Purchaser and the Vendor and the Purchaser shall be released from their obligations under this Agreement. Any of the conditions set forth in this Article may be waived, in whole or in part, by the Vendor by instrument in writing, without prejudice to any of its rights of termination in the event of non-performance by the Purchaser of any other condition, obligation or covenant, in whole or in part, and without prejudice to its right to complete the transaction of purchase and sale contemplated by this Agreement and claim damages for breach of a representation, warranty or covenant.

## **ARTICLE 12 COMPLETION OF PURCHASE**

### **12.1 Delivery of Documents – Vendor**

On Closing, the Vendor shall deliver or cause to be delivered to the Purchaser the following:

- (a) executed transfer/deed of conveyance of the Real Estate in registerable form whether electronic or otherwise (the "**Deed**") in favour of the Purchaser or as the Purchaser may direct;

- (b) executed bills of sale or general conveyances in respect of the Purchased Assets in favour of the Purchaser or as the Purchaser may direct (the "**Bills**");
- (c) an executed assignment by the Vendor and assumption by the Purchaser of the Assumed Liabilities, on terms satisfactory to the Vendor, acting reasonably, and to include assignments and assumptions of the Equipment Leases, Licenses (to the extent possible), Permitted Encumbrances, Bookings and Hotel Contracts in favour of the Purchaser or as the Purchaser may direct;
- (d) an executed assignment by the Vendor of its interest in the Intellectual Property in favour of the Purchaser or as it may direct;
- (e) certified copy of the Approval and Vesting Order that has been issued and entered;
- (f) a Receiver's Certificate as filed with the Court;
- (g) the Pending Purchase Order List contemplated by Section 8.4 of this Agreement;
- (h) the Records in the possession or control of the Vendor;
- (i) all access cards, security passes, duplicate keys and master keys to the locks in the facilities in/on the Real Property;
- (j) an election to exempt the transaction from Goods and Service Tax under s. 167 of the *Excise Tax Act* (Canada), and a mutual undertaking of both parties to file this election with their next periodic tax returns; and
- (k) any other documents necessary or desirable to complete the transactions contemplated hereby as mutually agreed by the Vendor's counsel and the Purchaser's counsel, acting reasonably.

## **12.2 Delivery of Documents - Purchaser**

On Closing, the Purchaser shall deliver:

- (a) the Cash Payment;
- (b) evidence that the Purchaser is not a non-resident of Canada;
- (c) evidence that all necessary action and authorization has been taken or obtained by the Purchaser in connection with this Agreement and the transactions contemplated hereby, including confirmation that the transactions contemplated in this Agreement and any financing transactions or other transactions ancillary to this Agreement have been approved by the requisite number of unit owners in TSCC 1703; and

- (d) any other documents necessary or desirable to complete the transactions contemplated hereby as mutually agreed by the Vendor's counsel and the Purchaser's counsel, acting reasonably.

### **12.3 Closing**

The Closing shall commence at 2:00 p.m. Toronto time on the Closing Date at the offices of the Vendor's solicitors in Toronto or as the parties may otherwise agree.

## **ARTICLE 13 RISK OF LOSS**

### **13.1 Risk of Loss**

The Purchased Assets shall be at the risk of the Vendor until the Closing. Until the Closing, the Vendor shall maintain in force all of the policies of property damage insurance under which any of the Purchased Assets are insured. If before the Closing, Purchased Assets are lost, damaged or destroyed such that the loss, damage or destruction of such Purchased Assets (individually or in the aggregate) would materially impair the Purchaser's ability to carry on a material part of the Business after Closing then:

- (a) the Purchaser may terminate this Agreement forthwith upon written notice to the Vendor to such effect; or
- (b) the Purchaser may require the Vendor to assign to the Purchaser the proceeds of any insurance payable as a result of the occurrence of such loss, damage or destruction and the Purchaser shall complete the purchase of the Purchased Assets hereunder.

If before the Closing Purchased Assets are lost, damaged or destroyed and such loss, damage or destruction (individually or in the aggregate) does not materially impair the Purchaser's ability to carry on a material part of the Business after Closing, the Purchaser shall complete the purchase of the Purchased Assets hereunder and shall be entitled to the proceeds of any and all insurance payable as a result of such loss or damage.

## **ARTICLE 14 GENERAL**

### **14.1 Public Announcements**

The Vendor and the Purchaser shall jointly issue a press release publicly announcing the transaction contemplated herein upon the mutual execution of this Agreement and having obtained the Approval and Vesting Order. Except in compliance with Article 8.9 hereof, it is understood and agreed that all press releases or other public announcements relating to the transaction contemplated herein (other than any of the foregoing required by law in which event this obligation shall be limited to prior consultation to the extent circumstances permit) will be subject to the prior joint approval of the Vendor, and Purchaser.



#### **14.2 Baggage and Guest Property**

All baggage or other property of guests of the Hotel which has been checked with or left in the care of the personnel of the Business and remains in the Hotel at the Cut-off Time shall (except for safety deposit boxes) be inventoried and tagged jointly by the Purchaser and the Vendor. The Purchaser hereby agrees to defend, indemnify and hold harmless the Vendor against any claims, losses or liabilities in connection with such baggage and property arising out of the acts or omissions of the Purchaser after the Cut-off Time. The Vendor hereby agrees to defend, indemnify and hold harmless the Purchaser against any claim, losses or liabilities with respect to such baggage and property arising, out of the acts or omissions of the Vendor prior to the Cut-off Time.

#### **14.3 Expenses**

Unless otherwise specifically provided in this Agreement, each party shall be responsible for its own legal fees and other charges incurred in connection with the purchase and sale of the Purchased Assets, all negotiations between the parties and the consummation of the transactions contemplated hereby. The Purchaser shall pay all fees in connection with the registration of the Vesting Order/Deeds and all other documents requiring registration.

#### **14.4 Notice**

Any notice, document or other communication required or permitted to be given hereunder shall be in writing and shall be sufficiently given if delivered by hand or sent by fax or telecopier as follows:

To the Purchaser:

T.S.C.C. No. 1703  
1 King Street West  
Toronto, ON M5H 1A1

Attention: Brian J. Smith

Tel: (416) 548-8219  
Fax: (416) 548-8229  
E-Mail: smithb@tscc1703.com

with a copy to:

Gardiner Miller Arnold LLP  
1202 – 390 Bay Street  
Toronto, ON M5H 2Y2

Attention: J. Robert Gardiner

Tel: (416) 363-2614  
Fax: (416) 363-8451  
E-Mail: Bob.Gardiner@gmLaw.ca

and in the case of the Vendor to:

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

Attention: Ira Smith

Tel: (905) 738-4167 x111  
Fax: (905) 738-9848  
E-Mail: ira@irasmithinc.com

with a copy to:

Goodmans LLP  
250 Yonge Street, Suite 2400  
Toronto, ON M5B 2M6

Attention: L. Joseph Latham

Tel: (416) 597-4211  
Fax: (416) 979-1234  
E-Mail: jlatham@goodmans.ca

Each of the foregoing shall be entitled to specify a different address by giving written notice as aforesaid to the other. Any such notice, if delivered by hand or sent by fax or telecopier, shall be deemed to have been given on the date of delivery or fax as the case may be, if delivered or faxed during business hours on a Business Day in the receiving jurisdiction, or on the Business Day next following the day of delivery or fax if delivered or faxed during business hours on a Business Day in the receiving jurisdiction.

#### **14.5 Further Assurances**

Following the date hereof each of the parties shall execute and deliver, at the request of the other party, all such further documents, deeds and instruments, and shall do and perform all such

further acts as may be reasonably necessary to give full effect to the intent and meaning of this Agreement.

#### **14.6 Counterparts**

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument.

#### **14.7 Brokerage**

The Purchaser represents and warrants to the Vendor that it has had no dealings with a broker, agent or finder in connection with the transaction contemplated by this Agreement, and acknowledge that the claim of any such broker, agent or finder shall be the responsibility of the Purchaser and the Purchaser shall indemnify the Vendor in respect thereof.

#### **14.8 Non-Registration**

The parties agree not to register this Agreement or any notice thereof against title to the Real Property.

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement on the 29th day of August, 2008.

**TORONTO STANDARD CONDOMINIUM  
CORPORATION NO. 1703**

Per: \_\_\_\_\_

Name: Brian J. Smith

Title: President

\_\_\_\_\_  
Name: KENNETH A. GRANT  
Title: SECRETARY

We have authority to bind the Corporation.

**IRA SMITH TRUSTEE & RECEIVER INC.,**  
solely 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.,** and not in  
its personal or corporate capacity

Per: \_\_\_\_\_

Name: Ira Smith

Title: President

I have authority to bind the Corporation.

**SCHEDULE "A"**  
**REAL PROPERTY**

1. Commercial Structure (Registered owner is DCC):

(a) **PIN 21407-0051 (LT)**

Part of Town Lot 2, South Side of King Street West, Town of York Plan, designated as Parts 7, 8 and 15 on Plan 66R-21873. The boundaries of Yonge Street as confirmed by Boundaries Act Plan BA-1120 as in CT273365; City of Toronto.

(b) **PIN 21407-0053 (LT)**

Part of Town Lot 2, South Side of King Street, Town of York Toronto, designated as Parts 14, 16 and 22 on Plan 66R-21873; City of Toronto.

(c) **PIN 21407-0054 (LT)**

Part of Town Lot 2, South Side of King Street, Town of York Toronto, designated as Parts 6 and 12 on Plan 66R-21873; City of Toronto.

2. Units in the Commercial Condominium (Registered owner is SHI):

(a) **Valet Storage Unit, PIN 12726-0001 (LT)**

Unit 1, Level 1, Toronto Standard Condominium Plan No. 1726 and its appurtenant interest; City of Toronto.

(b) **Manager's Office Unit, PIN 12726-0003 (LT)**

Unit 3, Level 1, Toronto Standard Condominium Plan No. 1726 and its appurtenant interest; City of Toronto.

(c) **Retail Unit, PIN 12726-0004 (LT)**

Unit 4, Level 1, Toronto Standard Condominium Plan No. 1726 and its appurtenant interest; City of Toronto.

3. Units in the Residential Condominium (SHI is registered owner as to a 4% interest):

(a) **Trash Compactor Room, PIN 12703-0001 (LT)**

Unit 1, Level 1, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.

(b) **Loading Dock, PIN 12703-0002 (LT)**

Unit 2, Level 1, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.

(c) **CACF Room, PIN 12703-0003 (LT)**

Unit 3, Level 1, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.

(d) **Mechanical Room, PIN 12703-0004 (LT)**

Unit 1, Level 2, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.

(e) **Mechanical Room, PIN 12703-0005 (LT)**

Unit 2, Level 2, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.

(f) **Mechanical Room, PIN 12703-0204 (LT)**

Unit 8, Level 13, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.

(g) **Mechanical Room, PIN 12703-0205 (LT)**

Unit 9, Level 13, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.

(h) **Mechanical Room, PIN 12703-0596 (LT)**

Unit 1, Level 50, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.

(i) **Mechanical Room, PIN 12703-0597 (LT)**

Unit 1, Level 51, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.

4. Any and all leasehold interests granted among SHI, DCC, Housekeeping and Suites for occupation and exclusive use of any real property owned by one or more of the Debtors including (and without limiting the generality of the foregoing) the lease of portion of the 3<sup>rd</sup> and 4<sup>th</sup> floor of 1 King Street West to Suites at a rent of \$180,000/annum.

5. The Space Leases are as follows:

- (a) A leasehold interest to operate a newsstand granted to Dakin North Inc. pursuant to a written lease dated July 4<sup>th</sup>, 2006. The leased area is approximately 300 square feet on the ground floor located on the part identified in the description

plans known as the "Historical Interpretive Display" (Part 7 in Plan 66R-21873). The lease is for a term of 5 years and rent payable is \$500.00/month for years 1 and 2, \$1000.00/month for years 3 and 4 and \$1,200.00/month for year 5; and

- (b) a leasehold interest, if any, to any one or more persons granted over the ground floor area formerly known as Michie's Restaurant (Part 6 in Plan 66R-21873) to be used as a sales office.

**SCHEDULE "B"**  
**HOTEL CONTRACTS**

1. Rental Management Agreements and the written or unwritten contract appointing SHI as the rental manager;
2. The written or unwritten contract in favour of DCC to manage the valet parking operation;
3. Any and all contracts and agreements for installation, repair, maintenance and other services in connection with any Computer Equipment or Internet services;
4. Written or unwritten contracts with Housekeeping, if any, including any contracts to providing housekeeping and cleaning services to any of the Purchaser's owners;
5. Any contracts among Suites and the other Debtors to provide administrative or other services;
6. All contracts, Licenses, agreements, commitments and other agreements including amendments, supplements, modifications or side letters Related to the Business and all rights of action and contractual choses-in-action in connection therewith; and
7. The Lease Operating Agreement.



**SCHEDULE "C"**  
**EQUIPMENT LEASES**

1. Lease #14564: lease of equipment from DSM Leasing Limited by DCC dated September 1, 2006.
  2. Lease #14575: lease of equipment from DSM Leasing Limited by DCC dated September 1, 2006.
  3. Lease of photocopying and facsimile equipment from CBSC Capital Inc. dated September 1, 2006.
- \* The leases noted in items 1 and 2 above expire and give rise to an option to purchase the subject equipment on August 31, 2008. The Vendor is in discussions with DSM Leasing Limited regarding the possible purchase or refinancing of the subject equipment under the terms of those leases. In the event the Vendor purchases the subject equipment, such equipment shall become Purchased Assets pursuant to this Agreement.

## SCHEDULE "D" CLOSING ADJUSTMENTS

With respect to Subsection 2.6 of the Agreement, in addition to any other items or matters requiring adjustment pursuant to the terms of this Agreement the following items shall be pro-rated and adjusted between the parties as of the Cut-off Time (except as otherwise specifically provided in this Agreement) and this Schedule with respect to the Purchase Price:

1. **Room Rentals and Other Revenues.** The Vendor shall receive a credit for 100% of guest room rentals from guests up to Cut-Off Time who are in-house at the Cut-off Time and the Purchaser shall be entitled to such rentals thereafter. The Vendor shall be entitled to the full amount of all other revenues generated in connection with the Business to the Cut-off Time and the Purchaser shall be entitled to such revenues thereafter. Such rentals and revenues shall be subject to appropriate remittances accruing due and payable to participants in the Rental Management Program.
2. **Vending Machines.** It is understood that all monies in the vending machines at the Hotel will be cleared by the Vendor as of the Cut-off Time.
3. **Telephone Company Commissions.** Revenue from the telephone company relating to all public telephones in the Hotel shall accrue to Vendor to the Cut-off Time.
4. **Space Leases.** Rents and other amounts collected under any space leases, including percentage rents as and when collected shall be adjusted. If at the Closing Date it is not feasible to determine the amount of percentage rent due under any space lease for the percentage rent accounting period during which the Cut-off Time occurs, the apportionment with respect to such percentage rent shall be made on a per diem basis promptly after the final percentage rent is known, subject to collections.
5. **Gift Certificates.** Gift certificates issued by the Vendor prior to the Cut-off Time shall be valued and credited to the Purchaser. The Purchaser shall honour all such certificates.
6. **Salaries and Wages.** In respect of such personnel employed at the Hotel, the following adjustments will be made:
  - (a) the accrual for vacation and sick pay, including retroactive pay, if any, shall be based upon individual calculations for each employee in conformity with past practices as to vacations and sick days allowed employees up to Cut-off Time; the Purchaser and Vendor shall adjust for vacation pay on the basis of the Vendor being responsible until the Cut-off Time for all such vacation pay, with such adjustment to be credited to the Purchaser on the Closing Date. The Purchaser shall be responsible to ensure that the employees gratuities are paid after the Cut off Time with respect to accounts incurred after such Cut-off Time;
  - (b) the Vendor shall be responsible for all salaries, wages, and sick pay, including retroactive pay, fringe employee benefit premiums, employer's share of payroll

taxes, Canada Pension, unemployment insurance and contributions and worker's compensation and payroll deductions to the Cut off Time;

- (c) the payroll shall be cut off at the Cut-off Time for personnel whose shift straddles the Cut-off Time and the salaries and wages of such personnel shall be the responsibility of the Vendor up to the Cut-off Time. The Purchaser shall be responsible for the salaries and wages of all employees after the Cut-off Time; and
  - (d) The Vendor will be responsible for all obligations and liabilities accrued up to the Cut-off Time for employment matters. The Purchaser will be responsible for all obligations and liabilities for employment matters after the Cut-off Time.
7. **Utilities.** Charges for water and sewer, electricity, steam, gas and telephone. The Vendor shall notify the utility companies furnishing such services that the billing thereof to Vendor or the Lessee shall be discontinued at the Closing Date, and the Purchaser shall make arrangements to have such billing charged to Purchaser commencing with the Closing Date. The Vendor shall be responsible for all charges billed with respect to such utilities for the period prior to the Closing Date. The Vendor shall have all utilities meters at the premises read as of the Closing Date and shall be responsible for all charges billed in accordance with such readings promptly after receipt of such bills. If the utility meters cannot be read as of the Closing Date, then the charges in the first billing received after the Closing Date shall be pro rated on a time basis up to the Closing Date. On the Closing Date, the Purchaser may arrange for a further reading of all utility meters for the purposes of determining any final Purchase Price adjustments.
8. **Cash Floats.** All cash floats at the Cut-off Time shall be credited to the Vendor. All amounts in the Hotel bank accounts shall be credited to the Vendor and shall remain the property of the Vendor on the Closing Date, with the exception of the Capital Expense Reserve Fund.
9. **Commissions.** Commissions due to credit and referral organizations, travel agents and others shall follow the room rental to which they relate. (See Item 1 hereof.)
10. **Sales Tax.** There shall be an apportionment with respect to provincial and federal sales and excise taxes (including goods and services tax) charged to guests occupying rooms at the Hotel or to others incurring other expenditures at the Hotel subject to such taxes. If required by law, the Vendor shall file final sales and excise tax returns with respect to the Hotel with the appropriate tax authority and be responsible for sales and excise taxes charged to guests and others during the period of time up to the Cut-off Time. The Purchaser shall be responsible for sales and excise taxes applicable to taxable events occurring any time from and after the Cut-off Time.
11. **Room Deposits.** Any deposits, paid to the Vendor prior to the Closing Date relating to room rentals (guest room, banquets, or public rooms) up to the Cut off Time and thereafter shall be credited to the Purchaser.

12. **Employee Key Deposits.** Any employee key deposits held by the Vendor at the Closing Date shall be listed and handed over and credited to the Purchaser.
13. **Utility Deposits.** The Purchaser agrees to pay to the Vendor at the Closing Date the amount of all transferable utility deposits, if any, and upon such payment, the Vendor will assign all its rights, title and interest in and to such deposits to the Purchaser, if any.
14. **Prepayments.** The Vendor shall receive credit for payments made before the Cut-off Time relating to goods, services, real estate taxes, licence fees or any other similar item relating to the period after the Cut-off Time. Such prepayments and accruals shall include, without limitation:
  - (a) real estate taxes;
  - (b) municipal permit fees;
  - (c) permit fees;
  - (d) telephone charges and rentals;
  - (e) Hotel Contracts;
  - (f) dues and subscriptions;
  - (g) miscellaneous prepayments and accruals;
  - (h) utilities (if required, under item 7 hereof);
  - (i) purchase order deposits;
  - (j) Equipment Lease payments or deposits; and
  - (k) insurance premiums, save and except for those insurance policies cancelled pursuant to Section 8.2.
15. **Inventory.** Pursuant to the Inventory count contemplated in Section 2.3, the Vendor shall receive credit for unopened alcoholic beverages and for cleaning supplies and toiletries at the Cut-off Time. The Vendor shall not receive credit for any other item of Inventory.
16. **Fees.** The Vendor shall receive credit for any fees earned by the Debtors on or before Closing, including, without limitation, a pro-rated portion of the incentive management fee payable for 2008.

**SCHEDULE "E"**  
**EXCLUDED ASSETS**

**[To be completed by the Confirmation Date]**

**SCHEDULE "F"**  
**PERMITTED ENCUMBRANCES**

1. Underpinning Agreement entered into among Lormac Limited, Montreal Trust Company (the owners of the property to the west of the Real Property) and the owners of 5 King Street West, Toronto dated March 9, 1964 and registered as Instrument No. 56837ES on March 23, 1964.
2. City of Toronto By-Law 278-90 designating 1 King Street West as being of architectural and historical value or interest registered on May 18, 1990 as Instrument No. CA091334.
3. Development Agreement dated June 14, 1990 between the owner of 5 King Street West and the City of Toronto registered June 27, 1990 as Instrument No. CA097283
4. Settlement agreement between OMERS Realty Management Corporation and 5 King West Inc. regarding the minor variance approval of the construction of the project and relationship with the property to the west of the project dated August 4, 2000 and registered September 22, 2000 as Instrument No. E359118.
5. Heritage Easement Agreement dated July 18, 2001 between 1 King West Inc. and 5 King West Inc. and the City of Toronto registered on July 24, 2001 as Instrument Nos. CA734408 and E436044.
6. Agreement dated March 11, 2002 between 1 King West Inc. and the City of Toronto under section 45(9) of the Planning Act where the owner agreed to make a cash contribution to a public art program and connect the building to the city PATH system registered on May 2, 2002 as Instrument Nos. CA766701 and E531266.
7. Development Agreement dated May 12, 2002 between 1 King West Inc. and the City of Toronto dealing with parking, traffic, garbage and other matters registered May 23, 2002 as Instrument Nos. CA769507 and E539473.
8. Collateral Agreement dated May 12, 2002 between 1 King West and the City of Toronto dealing with environmental matters, heritage restoration, transit facilities and other matters registered on May 23, 2002 as Instrument No. CA769511 and E539477.
9. Tunnel Agreement dated January 9, 2003 between 1 King West Inc. and the City of Toronto dealing with the construction use and maintenance of the tunnel connecting from the building to the PATH.
10. Easement Agreement dated July 26, 2004 between 1 King West Inc. and Rogers Communications Inc. for operation of a distribution system registered September 13, 2004 as Instrument No. AT604402.
11. TSCC 1703's Declaration registered September 9, 2005 as Instrument No. AT916595.
12. TSCC 1726's Declaration registered November 1, 2005 as Instrument No. 982430.

13. Reciprocal Agreement registered on title to the units created by Toronto Standard Condominium Plan No. 1703 as TSCC 1703's By-Law No 4 registered as Instrument No. AT946830.
14. Lease Operating Agreement registered on title to the units created by Toronto Standard Condominium Plan No. 1703 as TSCC 1703's By-Law No. 3 registered as Instrument No. AT946829.
15. Rental Management Agreements
16. Equipment Leases
17. By-laws of TSCC 1703
18. The reservations, limitations, exceptions, provisos and conditions, if any, expressed in any original grants from the Crown including, without limitation, the reservation of any mines and minerals in the Crown or in any other person.
19. Subdivision agreements, site plan control agreements, development agreements, servicing or industrial agreements, utility agreements, airport zoning regulations and other similar agreements with Authorities or private or public utilities affecting the development or use of the Real Property.
20. Rail siding agreements or facility, cost sharing, servicing, reciprocal use or other similar agreements.
21. Restrictive covenants, private deed restrictions and other land use control agreements, provided same do not restrict the use of the Real Property as a hotel.
22. Encumbrances for real property taxes (which term includes charges, rates and assessments) or charges for electricity, power, gas, water and other services and utilities in connection with the Real Property that have accrued but are not yet due and owing.
23. Encumbrances that have not been registered for construction currently in progress or substantially completed within the past 45 days in connection with the Real Property for amounts the payment of which is not yet due and owing. Vendor has not ordered any construction services, labour or materials within the past 45 days.
24. Registered easements, rights-of-way, restrictive covenants and servitudes and other similar rights in land or in immovables granted to, reserved or taken by any Authority or public utility or any adjoining owner that do not materially impair the present use of the Real Property.
25. The provisions of applicable laws, including by-laws, regulations, ordinances and similar instruments relating to development and zoning that do not materially impair the use, or operation of the Property.
26. Any minor title defects; irregularities, easements, servitudes, encroachments, rights-of-way or other discrepancies in title or possession relating to the Real Property as disclosed

by the plan of survey, certificate of location or technical description, if any, for the Real Property.

27. Any possessory title rights, easements, servitudes or interests which may have been obtained by abutting owners which are not disclosed by the registered title and that do not materially impair the use, operation or marketability of the Property.
28. Subject to the Land Titles Act (Ontario) and in particular Section 44(1) thereof and further subject to the overriding statements noted on the Parcel Page.
29. The lease by DCC to 1 King West Inc. of Suite 302 (approximately 1500 square feet) for a term of 999 years for rent of \$1.00 registered against the lands owned by DCC as AT10853.



**SCHEDULE "G"**  
**FORM OF APPROVAL ORDER AND VESTING ORDER**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**THE HONOURABLE**

**JUSTICE PEPALL**

)  
)  
)

**MONDAY, THE 15<sup>TH</sup> DAY**

**OF SEPTEMBER, 2008**

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

**Applicants**

**- and -**

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

**Respondents**

**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by Ira Smith Trustee & Receiver Inc. (the “**Receiver**”), in its capacity as court-appointed receiver and manager of all 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. (collectively, the “**Debtors**”), for an Order approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (the “**Purchase Agreement**”) between the Receiver and Toronto Standard Condominium Corporation No. 1703 (the “**Purchaser**”) made as of August 29, 2008 and appended to the Seventh Report of the Receiver dated September 8, 2008 (the “**Seventh Report**”), and vesting in the Purchaser the Debtors’ and the Receiver’s right, title and interest in and to the assets described in the Purchase Agreement (the “**Purchased Assets**”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Seventh Report and the exhibits thereto, and on hearing the submissions of counsel for the Receiver, the Applicants, the Debtors, the Purchasers and such other counsel as were present and wish to be heard:

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and that the Purchase Agreement is commercially reasonable and in the best interests of the Debtors and their stakeholders. The execution of the Purchase Agreement by the Receiver is hereby authorized and approved, and the Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser. Any documents shall be in such form as the Receiver and Purchaser shall approve and execution thereof shall be sufficient evidence that such documents are valid and binding in accordance with their terms and that their execution has been authorized by this Order.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "**Receiver's Certificate**"), all of the Debtors' and Receiver's right, title and interest in and to the Purchased Assets described in the Purchase Agreement shall vest absolutely and forever in the Purchaser without further instrument or transfer, free and clear of and from any and all estate, right, title, interests, claim, security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, charges, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, pledges, assignments, options, fines, penalties, taxes, interest, disputes, adverse claims, levies, realty taxes, assessments and rates accrued to date, whether levied or not, encumbrances, actions, causes of action, proceedings, judgements, writs of execution, writs of seizure and sale, contractual claims including contractual rights of seizure, sale or possession or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of this Honourable Court in these proceedings dated August 24, 2007; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule "B" hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and

restrictive covenants listed on Schedule "C" hereto) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of the Receiver's Certificate, any and all right, title, interest and benefit in or to any agreements, Hotel Contracts, leases and the right to exclusive ownership and possession of all chattels and personal property that form part of the Purchased Assets shall be absolutely and irrevocably assigned to the Purchaser as valid, binding and enforceable entitlements.

4. **THIS COURT ORDERS** that, upon the registration in Land Registry Office #66 for the Land Titles Division of Metropolitan Toronto of one or more transfers/deeds in the form prescribed by the *Land Registration Reform Act* duly executed by the Receiver, the Land Registrar is hereby directed to enter the Purchaser as the owner of the real property included in the Purchased Assets and listed on Schedule "D" hereto (the "**Real Property**") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule "B" hereto.

5. **THIS COURT ORDERS** that, for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale, and there shall be no Claims against the Purchaser in connection therewith.

6. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

7. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Debtors' records pertaining to the Debtors' past and current employees, including personal

information of those. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtors.

8. **THIS COURT ORDERS** that as from February 28, 2009, the Ontario Club shall have no right at law or in equity to use or occupy any space or asset in the premises or Real Property included in the Purchased Assets or to exercise any rights, entitlements or benefits with respect thereto or to impose any liability with respect thereto upon the Purchaser.

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

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of any of the Debtors and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in Bankruptcy made in respect of any of the Debtors;

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

10. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

11. **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.

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**Schedule "A" – Form of Receiver's Certificate**

Court File No. 07-CL-6913

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**B E T W E E N:**

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

**Applicants**

**- and -**

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

**Respondents**

**RECEIVER'S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Justice Pepall of the Ontario Superior Court of Justice (the "**Court**") dated August 24, 2007, Ira Smith Trustee & Receiver Inc. (the "**Receiver**") was appointed the receiver and manager of all the assets, undertakings and properties of Stinson Hospitality Inc., Dominion Club of Canada Corporation, The Suites at 1 King Street West Inc. and 2076564 Ontario Inc. (collectively, the "**Debtors**").

B. Pursuant to an Order of the Court dated ●, the Court approved the agreement of purchase and sale made as of August 29, 2008 (the "**Purchase Agreement**") between the Receiver and Toronto Standard Condominium Corporation No. 1703 (the "**Purchaser**") and provided for the vesting in the Purchaser of the Receiver's and Debtors' right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the

Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in the Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Purchase Agreement.

**THE RECEIVER CERTIFIES** the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Purchase Agreement;
2. The conditions to Closing as set out in the Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**IRA SMITH TRUSTEE & RECEIVER  
INC., as court-appointed receiver and  
manager of Stinson Hospitality Inc.,  
Dominion Club of Canada Corporation,  
The Suites at 1 King Street West Inc. and  
2076564 Ontario Inc. , and not in its  
personal capacity**

Per: \_\_\_\_\_  
Name:  
Title:



## Schedule "B" – Claims

### Real Property Encumbrances

LEGAL DESCRIPTION	CLAIMS TO BE DELETED AND EXPUNGED
<b>PIN 12703-0001 (LT)</b>  Unit 1, Level 1, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.	Instrument Number AT1082055 registered March 8 <sup>th</sup> , 2006 being a charge/mortgage in favour of Honest Ed's Limited  Instrument Number AT1180926 registered June 28 <sup>th</sup> , 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited
<b>PIN 12703-0002 (LT)</b>  Unit 2, Level 1, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.	Instrument Number AT1082055 registered March 8 <sup>th</sup> , 2006 being a charge/mortgage in favour of Honest Ed's Limited  Instrument Number AT1180926 registered June 28 <sup>th</sup> , 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited
<b>PIN 12703-0003 (LT)</b>  Unit 3, Level 1, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.	Instrument Number AT1082055 registered March 8 <sup>th</sup> , 2006 being a charge/mortgage in favour of Honest Ed's Limited  Instrument Number AT1180926 registered June 28 <sup>th</sup> , 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited
<b>PIN 12703-0004 (LT)</b>  Unit 1, Level 2, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.	Instrument Number AT1082055 registered March 8 <sup>th</sup> , 2006 being a charge/mortgage in favour of Honest Ed's Limited  Instrument Number AT1180926 registered June 28 <sup>th</sup> , 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited
<b>PIN 12703-0005 (LT)</b>  Unit 2, Level 2, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.	Instrument Number AT1082055 registered March 8 <sup>th</sup> , 2006 being a charge/mortgage in favour of Honest Ed's Limited  Instrument Number AT1180926 registered June 28 <sup>th</sup> , 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited

LEGAL DESCRIPTION	CLAIMS TO BE DELETED AND EXPUNGED
<b>PIN 12703-0204 (LT)</b>  Unit 8, Level 13, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.	Instrument Number AT1082055 registered March 8 <sup>th</sup> , 2006 being a charge/mortgage in favour of Honest Ed's Limited  Instrument Number AT1180926 registered June 28 <sup>th</sup> , 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited
<b>PIN 12703-0205 (LT)</b>  Unit 9, Level 13, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.	Instrument Number AT1082055 registered March 8 <sup>th</sup> , 2006 being a charge/mortgage in favour of Honest Ed's Limited  Instrument Number AT1180926 registered June 28 <sup>th</sup> , 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited
<b>PIN 12703-0596 (LT)</b>  Unit 1, Level 50, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.	Instrument Number AT1082055 registered March 8 <sup>th</sup> , 2006 being a charge/mortgage in favour of Honest Ed's Limited  Instrument Number AT1180926 registered June 28 <sup>th</sup> , 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited
<b>PIN 12703-0597 (LT)</b>  Unit 1, Level 51, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.	Instrument Number AT1082055 registered March 8 <sup>th</sup> , 2006 being a charge/mortgage in favour of Honest Ed's Limited  Instrument Number AT1180926 registered June 28 <sup>th</sup> , 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited
<b>PIN 12726-0001 (LT)</b>  Unit 1, Level 1, Toronto Standard Condominium Plan No. 1726 and its appurtenant interest; City of Toronto.	Instrument Number AT1082055 registered March 8 <sup>th</sup> , 2006 being a charge/mortgage in favour of Honest Ed's Limited  Instrument Number AT1180926 registered June 28 <sup>th</sup> , 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited
<b>PIN 12726-0003 (LT)</b>  Unit 3, Level 1, Toronto Standard Condominium Plan No. 1726 and its appurtenant interest; City of Toronto.	Instrument Number AT1082055 registered March 8 <sup>th</sup> , 2006 being a charge/mortgage in favour of Honest Ed's Limited  Instrument Number AT1180926 registered June

LEGAL DESCRIPTION	CLAIMS TO BE DELETED AND EXPUNGED
	28 <sup>th</sup> , 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited
<b>PIN 12726-0004 (LT)</b>  Unit 4, Level 1, Toronto Standard Condominium Plan No. 1726 and its appurtenant interest; City of Toronto.	Instrument Number AT1082055 registered March 8 <sup>th</sup> , 2006 being a charge/mortgage in favour of Honest Ed's Limited  Instrument Number AT1180926 registered June 28 <sup>th</sup> , 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited
<b>PIN 21407-0051 (LT)</b>  Part of Town Lot 2, South Side of King Street West, Town of York Plan, designated as Parts 7, 8 and 15 on Plan 66R-21873. The boundaries of Yonge Street as confirmed by Boundaries Act Plan BA-1120 as in CT273365; City of Toronto.	Instrument Number AT1082054 registered March 8 <sup>th</sup> , 2006 being a charge/mortgage in favour of Honest Ed's Limited  Instrument Number AT1180925 registered June 28 <sup>th</sup> , 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited
<b>PIN 21407-0053 (LT)</b>  Part of Town Lot 2, South Side of King Street, Town of York Toronto, designated as Parts 14, 16 and 22 on Plan 66R-21873; City of Toronto.	Instrument Number AT1082054 registered March 8 <sup>th</sup> , 2006 being a charge/mortgage in favour of Honest Ed's Limited  Instrument Number AT1180925 registered June 28 <sup>th</sup> , 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited
<b>PIN 21407-0054 (LT)</b>  Part of Town Lot 2, South Side of King Street, Town of York Toronto, designated as Parts 6 and 12 on Plan 66R-21873; City of Toronto.	Instrument Number AT1082054 registered March 8 <sup>th</sup> , 2006 being a charge/mortgage in favour of Honest Ed's Limited  Instrument Number AT1180925 registered June 28 <sup>th</sup> , 2006 being a transfer of charge/mortgage to Ed Mirvish Enterprises Limited

### **Schedule "C" – Permitted Encumbrances**

1. Underpinning Agreement entered into among Lormac Limited, Montreal Trust Company (the owners of the property to the west of the Real Property) and the owners of 5 King Street West, Toronto dated March 9, 1964 and registered as Instrument No. 56837ES on March 23, 1964..
2. City of Toronto By-Law 278-90 designating 1 King Street West as being of architectural and historical value or interest registered on May 18, 1990 as Instrument No. CA091334.
3. Development Agreement dated June 14, 1990 between the owner of 5 King Street West and the City of Toronto registered June 27, 1990 as Instrument No. CA097283
4. Settlement agreement between OMERS Realty Management Corporation and 5 King West Inc. regarding the minor variance approval of the construction of the project and relationship with the property to the west of the project dated August 4, 2000 and registered September 22, 2000 as Instrument No. E359118.
5. Heritage Easement Agreement dated July 18, 2001 between 1 King West Inc. and 5 King West Inc. and the City of Toronto registered on July 24, 2001 as Instrument Nos. CA734408 and E436044.
6. Agreement dated March 11, 2002 between 1 King West Inc. and the City of Toronto under section 45(9) of the Planning Act where the owner agreed to make a cash contribution to a public art program and connect the building to the city PATH system registered on May 2, 2002 as Instrument Nos. CA766701 and E531266.
7. Development Agreement dated May 12, 2002 between 1 King West Inc. and the City of Toronto dealing with parking, traffic, garbage and other matters registered may 23, 2002 as Instrument Nos. CA769507 and E539473.
8. Collateral Agreement dated May 12, 2002 between 1 King West and the City of Toronto dealing with environmental matters, heritage restoration, transit facilities and other matters registered on May 23, 2002 as Instrument No. CA769511 and E539477.
9. Tunnel Agreement dated January 9, 2003 between 1 King West Inc. and the City of Toronto dealing with the construction use and maintenance of the tunnel connecting from the building to the PATH.
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11. TSCC 1703's Declaration registered September 9, 2005 as Instrument No. AT916595.
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13. Reciprocal Agreement registered on title to the units created by Toronto Standard Condominium Plan No. 1703 as TSCC 1703's By-Law No 4 registered as Instrument No. AT946830.
14. Lease Operating Agreement registered on title to the units created by Toronto Standard Condominium Plan No. 1703 as TSCC 1703's By-Law No. 3 registered as Instrument No. AT946829.
15. Rental Management Agreements
16. Equipment Leases
17. By-laws of TSCC 1703
18. The reservations, limitations, exceptions, provisos and conditions, if any, expressed in any original grants from the Crown including, without limitation, the reservation of any mines and minerals in the Crown or in any other person.
19. Subdivision agreements, site plan control agreements, development agreements, servicing or industrial agreements, utility agreements, airport zoning regulations and other similar agreements with Authorities or private or public utilities affecting the development or use of the Real Property.
20. Rail siding agreements or facility, cost sharing, servicing, reciprocal use or other similar agreements.
21. Restrictive covenants, private deed restrictions and other land use control agreements, provided same do not restrict the use of the Real Property as a hotel.
22. Encumbrances for real property taxes (which term includes charges, rates and assessments) or charges for electricity, power, gas, water and other services and utilities in connection with the Real Property that have accrued but are not yet due and owing.
23. Encumbrances that have not been registered for construction currently in progress or substantially completed within the past 45 days in connection with the Real Property for amounts the payment of which is not yet due and owing. Vendor has not ordered any construction services, labour or materials within the past 45 days.
24. Registered easements, rights-of-way, restrictive covenants and servitudes and other similar rights in land or in immovables granted to, reserved or taken by any Authority or public utility or any adjoining owner that do not materially impair the present use of the Real Property.
25. The provisions of applicable laws, including by-laws, regulations, ordinances and similar instruments relating to development and zoning that do not materially impair the use, or operation of the Property.
26. Any minor title defects, irregularities, easements, servitudes, encroachments, rights-of-way or other discrepancies in title or possession relating to the Real Property as disclosed

by the plan of survey, certificate of location or technical description, if any, for the Real Property.

27. Any possessory title rights, easements, servitudes or interests which may have been obtained by abutting owners which are not disclosed by the registered title and that do not materially impair the use, operation or marketability of the Property.
28. Subject to the Land Titles Act (Ontario) and in particular Section 44(1) thereof and further subject to the overriding statements noted on the Parcel Page.
29. The lease by DCC to 1 King West Inc. of Suite 302 (approximately 1500 square feet) for a term of 999 years for rent of \$1.00 registered against the lands owned by DCC as AT10853.

### **Schedule "D" – Real Property**

1. Commercial Structure (Registered owner is DCC):

(a) PIN 21407-0051 (LT)

Part of Town Lot 2, South Side of King Street West, Town of York Plan, designated as Parts 7, 8 and 15 on Plan 66R-21873. The boundaries of Yonge Street as confirmed by Boundaries Act Plan BA-1120 as in CT273365; City of Toronto.

(b) PIN 21407-0053 (LT)

Part of Town Lot 2, South Side of King Street, Town of York Toronto, designated as Parts 14, 16 and 22 on Plan 66R-21873; City of Toronto.

(c) PIN 21407-0054 (LT)

Part of Town Lot 2, South Side of King Street, Town of York Toronto, designated as Parts 6 and 12 on Plan 66R-21873; City of Toronto.

2. Units in the Commercial Condominium (Registered owner is SHI):

(a) Valet Storage Unit, PIN 12726-0001 (LT)

Unit 1, Level 1, Toronto Standard Condominium Plan No. 1726 and its appurtenant interest; City of Toronto.

(b) Manager's Office Unit, PIN 12726-0003 (LT)

Unit 3, Level 1, Toronto Standard Condominium Plan No. 1726 and its appurtenant interest; City of Toronto.

(c) Retail Unit, PIN 12726-0004 (LT)

Unit 4, Level 1, Toronto Standard Condominium Plan No. 1726 and its appurtenant interest; City of Toronto.

3. Units in the Residential Condominium (SHI is registered owner as to a 4% interest):

(a) Trash Compactor Room, PIN 12703-0001 (LT)

Unit 1, Level 1, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.

(b) Loading Dock, PIN 12703-0002 (LT)

Unit 2, Level 1, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.

(c) CACF Room, PIN 12703-0003 (LT)

Unit 3, Level 1, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.

(d) Mechanical Room, PIN 12703-0004 (LT)

Unit 1, Level 2, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.

(e) Mechanical Room, PIN 12703-0005 (LT)

Unit 2, Level 2, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.

(f) Mechanical Room, PIN 12703-0204 (LT)

Unit 8, Level 13, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.

(g) Mechanical Room, PIN 12703-0205 (LT)

Unit 9, Level 13, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.

(h) Mechanical Room, PIN 12703-0596 (LT)

Unit 1, Level 50, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.

(i) Mechanical Room, PIN 12703-0597 (LT)

Unit 1, Level 51, Toronto Standard Condominium Plan No. 1703 and its appurtenant interest; City of Toronto.



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

**STINSON HOSPITALITY 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**

**(Motion returnable September 15, 2008)**

**GOODMANS LLP**  
Barristers & Solicitors  
Suite 2400, Box 20  
250 Yonge Street  
Toronto, Canada M5B 2M6  
Fred Myers (LSUC#26301A)  
Tel: 416-597-5923  
Fax: 416-979-1234

L. Joseph Latham (LSUC#32326A)  
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.

## **SCHEDULE "H"**

### **LICENSES**

1. Technical Standards and Safety Authority: Ontario Elevating Device Licences numbers 012552, 012553, 012554, 081427, 081428, 081429, 081430, 081431, and 081432.
2. Alcohol and Gaming Commission of Ontario: Liquor Sales License number 811279.
3. Radiocommunication and Broadcasting Regulatory Branch, Industry Canada: Mobile Radio Licences numbers 5024884, 5014945 and 5014947.
4. All software licenses provided by Newmarket International Inc., Springer Miller Sys Inc., Talbot and Associates Inc., Microsoft Corporation, Citrix Systems, Inc., Data Plus, Inc. and Teletec Systems Inc.

**SCHEDULE "I"**  
**CAPITAL EXPENSE RESERVE FUND**

**Name of account:** THE SUITES AT KING 1 KING WEST INC. FF&E

**Bank:** HSBC BANK CANADA  
1 ADELAIDE STREET EAST  
TORONTO, ON M5C 2V9

**Account type:** CURRENT

**Account number:** 532-029542-004

# **EXHIBIT “K”**

**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

**AFFIDAVIT OF IRA SMITH  
(Sworn September 8, 2008)**

I, Ira Smith, of the City of Vaughan, in the Province of Ontario, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am the President of Ira Smith Trustee & Receiver Inc. ("ISI"), the court-appointed receiver and manager (the "Receiver") of Stinson Hospitality Inc., Dominion Club of Canada Corporation, The Suites at 1 King West Inc. and 2076564 Ontario Inc. (collectively, the "Debtors"). As such, I have knowledge of the matters hereinafter deposed to, except where stated to be on information and belief and whereso stated I verily believe it to be true.

2. ISI was appointed Receiver of all of the property, assets and undertaking of the Debtors pursuant to an Order of the Ontario Superior Court of Justice dated August 24, 2007 (the "Receivership Order").

3. Pursuant to paragraph 21 of the Receivership Order, the Receiver and its legal counsel are required to pass their accounts from time to time.

4. Attached hereto and marked as Exhibit "1" to this my Affidavit is a summary of the fees charged and accounts rendered by the Receiver in respect of the proceedings (the "Accounts Summary") for the period from May 1, 2008 to July 31, 2008 (the "Receiver Application Period"). Copies of the invoices rendered by the Receiver and referenced in the Accounts Summary are attached to this my Affidavit as Exhibit "2". The Receiver's detailed time dockets, attached to Exhibit "2", have been redacted solely in the section of time accounting for the Receiver's Sales Process. The redaction is only so that the names of potential purchasers or their representatives, who are not otherwise identified in Volume 1 of the Receiver's Seventh Report to Court, will not be identified through the Receiver's detailed time dockets.

5. The Receiver has filed its Seventh Report with this Honourable Court, which outlines, among other things, the Receiver's overall actions and activities since April 30, 2008, and the date of its Sixth Report, June 13, 2008.

6. A total of 712.4 hours were expended by the Receiver in connection with this matter during the Receiver Application Period, giving rise to fees totaling \$238,558.50 (excluding GST) for an average hourly rate of \$334.87 and allocated approximately as outlined in the Accounts Summary.

7. To the best of my knowledge, the rates charged by the Receiver throughout the course of these proceedings are comparable to the rates charged by other accounting firms in the Greater Toronto Area for the provision of similar services.

8. The average hourly billing rates outlined on the Accounts Summary are the normal average hourly rates charged by the Receiver for services rendered in relation to similar proceedings.

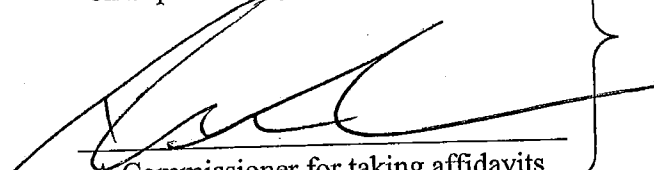
9. I verily believe that the Receiver's accounts are fair and reasonable in the circumstances.


10. Attached as Exhibit "1" to the Affidavit of Joseph Latham sworn September 5, 2008, and filed in support of the within motion are copies of the accounts rendered by Goodmans LLP ("Goodmans"), counsel to the Receiver, for the period from May 15, 2008 to August 15, 2008.

11. Goodmans has rendered services throughout these proceedings consistent with instructions from the Receiver, the Receiver has approved all such accounts and I verily believe that the fees and disbursements of Goodmans are fair and reasonable in the circumstances.

12. The said Affidavit is sworn in connection with the Receiver's motion to have, among other things, its fees and disbursements approved by this Honourable Court and for no improper purpose.

✓ VAUGHAN  
86  
SWORN BEFORE ME at the City of  
Toronto, in the Province of Ontario,  
on September 8, 2008.

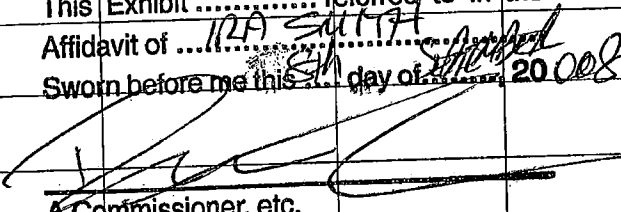
  
A Commissioner for taking affidavits

  
Ira Smith

Brandon Smith, a Commissioner, etc.,  
Province of Ontario, for Ira Smith Trustee  
& Receiver Inc. Trustee in Bankruptcy.  
Expires May 2, 2011.

**IRA SMITH TRUSTEE & RECEIVER INC.  
RECEIVER AND MANAGER OF  
STINSON HOSPITALITY INC., DOMINION CLUB OF CANADA CORPORATION,  
THE SUITES AT 1 KING WEST INC. AND 2076564 ONTARIO INC.**

**MAY 1, 2008 – JULY 31, 2008**

Staff Member	Title	Total Hours	Hourly Rate (\$CDN)	Amount Billed (\$CDN)
Ira Smith MBA, CA•CIRP, Trustee	President	170.2	425.00	72,335.00
Cindy Wilson, CA, CFA	Senior Manager	143.0	350.00	50,050.00
Martin Wolfe, CA	Senior Manager	376.0	300.00	112,800.00
Mina Rastan, CGA, CIRP, Trustee	Senior Manager	1.2	300.00	360.00
Brandon Smith, BA	Estate Administrator	2.9	150.00	435.00
Cheryl Meads	Estate Technician	19.1	135.00	2,578.50
<b>Total</b>		<b><u>712.4</u></b>	<b>Average hourly rate of \$334.87</b>	<b>238,558.50</b>
<b>Disbursements</b>				<b><u>2,194.04</u></b>
This Exhibit <u>"1"</u> referred to in the Affidavit of <u>IRA SMITH</u> Sworn before me this <u>12th</u> day of <u>April</u> <u>2008</u>				<b><u>240,752.54</u></b>
 A Commissioner, etc.				

Brandon Smith, a Commissioner, etc.,  
Province of Ontario, for Ira Smith Trustee  
& Receiver Inc. Trustee in Bankruptcy.  
Expires May 2, 2011.



# Ira Smith

TRUSTEE & RECEIVER INC.  
Suite 6 - 167 Applewood Crescent, Concord, Ontario L4K 4K7

Tel. (905) 738-4167  
Fax (905) 738-9848  
Email: ira@irasmithinc.com  
Website: [www.irasmithinc.com](http://www.irasmithinc.com)

R-1KW

GST # 86236 5699

September 8, 2008

**IN THE MATTER OF THE RECEIVERSHIPS OF  
STINSON HOSPITALITY INC., DOMINION CLUB OF CANADA  
CORPORATION, 2076564 ONTARIO INC. AND  
THE SUITES AT 1 KING WEST INC.**

For professional services rendered for the period May 1, 2008 to July 31, 2008 inclusive, in acting as Receiver and Manager of Stinson Hospitality Inc., Dominion Club of Canada Corporation, 2076564 Ontario Inc. and The Suites at 1 King West Inc. in accordance with the Order dated August 24, 2007 as follows (detail attached):

<u>Staff</u>	<u>Hourly rate</u>	<u>Hours</u>
I. Smith, MBA CA-CIRP, President and Trustee	\$425.00	170.2
Cindy Wilson, CA, CFA	\$350.00	143.0
Martin Wolfe, CA	\$300.00	376.0
Mina Rastan, CGA, CIRP, Trustee	\$300.00	1.2
Brandon Smith, BA	\$150.00	2.9
Cheryl Meads	\$135.00	19.1
		<u>712.4</u>
		\$ 238,558.50

**Disbursements (May 1, 2008 to July 31, 2008):**

Long Distance/Faxes	\$ 3.00	
Postage/Courier	313.11	
Travel - mileage, parking	894.51	
Cell Phone	818.44	
Office	164.98	
		<u>2,194.04</u>
		\$ 240,752.54
		<u>12,037.63</u>
		<u>\$ 252,790.17</u>

GST

A Commissioner, etc.

Brandon Smith, a Commissioner, etc.,  
Province of Ontario, for Ira Smith Trustee  
& Receiver Inc. Trustee in Bankruptcy.  
Expires May 2, 2011.

Account Due When Rendered

This Affidavit of Office is referred to in the  
Affidavit of IRA SMITH  
Sworn before me this 21 day of September, 2008

IRA SMITH TRUSTEE & RECEIVER INC.  
 RECEIVER AND MANAGER OF  
 STINSON HOSPITALITY INC., DOMINION CLUB OF CANADA CORPORATION,  
 2076564 ONTARIO INC. AND THE SUITES AT 1 KING WEST INC.

BILLING SUMMARY FOR THE PERIOD FROM MAY 1 TO JULY 31, 2008

Employee name	Average Hourly Rate	COURT AND GENERAL		DCC		SUITES		SHI		HOUSEKEEPING		SALES PROCESS		TOTAL	
		HRS	\$	HRS	\$	HRS	\$	HRS	\$	HRS	\$	HRS	\$	HRS	\$
IRA SMITH	425.00	26.1	11,092.50	1.6	680.00	6.0	2,550.00	2.3	977.50	6.3	2,577.50	127.9	54,357.50	170.2	72,335.00
CINDY WILSON	350.00	14.0	4,900.00	-	-	-	-	-	-	-	-	129.0	45,150.00	143.0	50,050.00
MARTIN WOLFE	300.00	28.6	8,580.00	42.2	12,660.00	199.1	59,730.00	56.2	16,860.00	5.4	1,620.00	44.5	13,350.00	376.0	112,800.00
MINA RASTAN	300.00	-	-	-	-	-	-	-	-	-	-	1.2	360.00	1.2	360.00
BRANDON SMITH	150.00	2.9	435.00	-	-	-	-	-	-	-	-	-	-	2.9	435.00
CHERYL MEADS	135.00	15.8	2,133.00	-	-	-	-	0.2	27.00	-	-	3.1	418.50	19.1	2,578.50
Total:	334.87	87.4	27,140.50	43.8	13,340.00	205.1	62,280.00	58.7	17,864.50	11.7	4,297.50	305.7	113,636.00	712.4	238,558.50

**Ira Smith Trustee & Receiver Inc.**  
**Detail Time Sheet**  
 Period from: May 1, 2008 to July 31, 2008

Key name	Full Estate Name			
R-1KW	GENERAL MATTERS INCLUDING COURT REPORTS AND ATTENDANCES			
Date	Name	Duration	Activity	\$
15-May-08	BRANDON	0.4	Financial matters	60.00
20-May-08	MARTIN	2.6	update sixth court report	780.00
21-May-08	MARTIN	3.2	update sixth court report	960.00
23-May-08	MARTIN	5.8	update sixth court report	1,740.00
26-May-08	IRA	1.4	Sixth Report to Court	595.00
26-May-08	IRA	2.6	Meeting with M. Wolfe r: Sixth Report - May 24, 2008	1,105.00
27-May-08	MARTIN	2.2	update sixth court report	660.00
28-May-08	IRA	3.8	Sixth Report to Court	1,615.00
29-May-08	IRA	2.3	Sixth Report to Creditors	977.50
29-May-08	IRA	0.2	E-mails re: SCC Denying leave for Stinson Appeal	85.00
4-Jun-08	IRA	3.1	Review and changes to Volume 2 of Report to Court	1,317.50
5-Jun-08	IRA	1.4	Review and changes to Cindy's Volume 2 Sixth Report	595.00
12-Jun-08	CHERYL	6.5	Billing for appendix for the 6th report to the court	877.50
12-Jun-08	IRA	1.8	Sixth Report Court Matters	765.00
				297.50
12-Jun-08	IRA	0.7	Review of notice of motion and draft order for court next week re 6th report to court	75.00
13-Jun-08	BRANDON	0.5	Assist in prep exhibits for sixth court report, commission affidavit	1,215.00
13-Jun-08	CHERYL	9.0	6th Court Report Appendices	3,485.00
		8.2	Finalization an issuance of 6th report to court including emails and telcons with Fred Myers and Logan Willis	
13-Jun-08	IRA	0.1	Sixth Report finalization	15.00
16-Jun-08	BRANDON	0.3	Organizing working papers for 6th court report, discussions re: posting of disbursements in ISS and posting same	40.50
16-Jun-08	CHERYL	0.5	Financial matters in receivership	75.00
17-Jun-08	BRANDON	0.3	Financial matters arising from Sixth Report	45.00
25-Jun-08	BRANDON	0.5	Financial matters arising from Sixth Report	75.00
26-Jun-08	BRANDON	0.4	Purchaser deposit handling	60.00
27-Jun-08	BRANDON	0.2	File GST Rtn	30.00
1-Jul-08	BRANDON	0.5	Receive and coordinate for Sixth Report to be posted on website	175.00
28-Jul-08	CINDY	1.3	Begin Seventh Report, Volume 2	437.50
29-Jul-08	CINDY	0.3	Review and compile Sixth Report for posting on website	87.50
29-Jul-08	CINDY	1.3	Continue drafting Seventh Report, Volume 2	437.50
29-Jul-08	IRA	0.6	Emails with Cindy Wilson re Seventh Report to Court	255.00
29-Jul-08	MARTIN	6.4	Seventh court report	1,920.00
30-Jul-08	CINDY	4.3	Continue drafting Seventh Report, Volume 2	1,487.50
31-Jul-08	CINDY	0.3	Combine and transfer Sixth Report for posting on website	87.50
31-Jul-08	CINDY	6.3	Continue drafting Seventh Report, Volume 2	2,187.50
31-Jul-08	MARTIN	8.4	Seventh court report	2,520.00
				27,140.50

Ira Smith Trustee & Receiver Inc.  
 Detail Time Sheet  
 Period from: May 1, 2008 to July 31, 2008

Key name Full Estate Name  
 R-1KW GENERAL MATTERS INCLUDING COURT REPORTS AND ATTENDANCES

<u>Date</u>	<u>Name</u>	<u>Duration</u>	<u>Activity</u>	<u>\$</u>	<u>Amount</u>
<u>Employee name</u>			<u>Hourly Rate</u>		
	IRA SMITH	26.1		425.00	11,092.50
	CINDY WILSON	14.0		350.00	4,900.00
	MARTIN WOLFE	28.6		300.00	8,580.00
	BRANDON SMITH	2.9		150.00	435.00
	CHERYL MEADS	15.8		135.00	2,133.00
<b>Total:</b>		<b>87.4</b>			<b>27,140.50</b>
<b>Average Hourly Rate:</b>		<b>310.53</b>			

**Ira Smith Trustee & Receiver Inc.**  
**Detail Time Sheet**  
 Period from: May 1, 2008 to July 31, 2008

Key name Full Estate Name  
 R-1KW DOMINION CLUB OF CANADA CORPORATION

Date	Name	Duration	Activity	\$
2-May-08	MARTIN	0.8 new valet parking agreement		240.00
2-May-08	MARTIN	1.2 F&B meeting		360.00
7-May-08	MARTIN	0.8 parking meeting		240.00
9-May-08	MARTIN	2.0 on site managing		600.00
14-May-08	MARTIN	1.4 F & B meeting		420.00
20-May-08	MARTIN	0.7 meeting with Ontario Club		210.00
21-May-08	MARTIN	0.8 meeting with Toronto Tours		240.00
22-May-08	MARTIN	0.8 F&B meeting		240.00
2-Jun-08	IRA	0.4 Review of file information regarding certain issues re: Segura Factum		170.00
2-Jun-08	MARTIN	1.4 parking meeting and correspondence		420.00
3-Jun-08	MARTIN	1.3 F&B meeting		390.00
3-Jun-08	MARTIN	0.8 correspondence with creditors		240.00
16-Jun-08	MARTIN	0.8 meeting with Toronto Tours		240.00
17-Jun-08	MARTIN	1.3 F&B meeting		390.00
24-Jun-08	MARTIN	1.2 credit meeting		360.00
26-Jun-08	MARTIN	1.8 parking meeting		540.00
8-Jul-08	MARTIN	1.6 revenue meeting		480.00
8-Jul-08	MARTIN	3.8 on site managing		1,140.00
9-Jul-08	MARTIN	1.5 F&B meeting		450.00
11-Jul-08	MARTIN	3.2 on site managing		960.00
				255.00
17-Jul-08	IRA	0.6 Lauren Butti telcon re reply to Title et al, review letter to parties from Goodmans re Segura trial		360.00
17-Jul-08	MARTIN	1.2 valet meeting		1,560.00
18-Jul-08	MARTIN	5.2 on site managing		170.00
21-Jul-08	IRA	0.4 Emails and phone call with Marty Wolfe re information needs for Goodmans		85.00
21-Jul-08	IRA	0.2 Emails to and from Lauren Butti re Segura Information needs		1,140.00
23-Jul-08	MARTIN	3.8 on site managing		420.00
24-Jul-08	MARTIN	1.4 on site managing		420.00
29-Jul-08	MARTIN	1.4 credit meeting		420.00
31-Jul-08	MARTIN	2.0 on site managing		600.00
				13,340.00
				43.8

Employee name	Hourly Rate	Amount
IRA SMITH	1.6	425.00
MARTIN WOLFE	42.2	300.00
Total:	43.8	13,340.00

Average Hourly Rate: \$ 304.57

Ira Smith Trustee & Receiver Inc.  
Detail Time Sheet

Period from: May 1, 2008 to July 31, 2008

Key name Full Estate Name  
R-1KW THE SUTES AT 1 KING WEST INC.

<u>Date</u>	<u>Name</u>	<u>Duration</u>	<u>Activity</u>	<u>\$</u>
1-May-08	MARTIN		0.8 director of operations follow up	900.00
1-May-08	MARTIN		3.0 on site managing	840.00
2-May-08	MARTIN		2.8 on site managing	720.00
5-May-08	MARTIN		2.4 NRT issue	240.00
5-May-08	MARTIN		0.8 meeting with security	930.00
5-May-08	MARTIN		3.1 on site managing	540.00
6-May-08	MARTIN		1.8 NRT issue	1,140.00
6-May-08	MARTIN		3.8 sales process info gathering	210.00
7-May-08	MARTIN		0.7 correspondence	600.00
7-May-08	MARTIN		2.0 on site managing	480.00
8-May-08	MARTIN		1.6 security meeting	360.00
8-May-08	MARTIN		1.2 meeting with CK	600.00
9-May-08	MARTIN		2.0 on site managing	240.00
9-May-08	MARTIN		0.8 meeting with HSBC	240.00
9-May-08	MARTIN		1.0 meeting with ESUBNET	300.00
12-May-08	MARTIN		0.8 review equip lease proposals	240.00
12-May-08	MARTIN		0.8 meet with R Link (leases)	480.00
12-May-08	MARTIN		1.6 sales process tour	270.00
12-May-08	MARTIN		0.9 building walk around	180.00
12-May-08	MARTIN		0.6 Greg Hives re owners issues	900.00
12-May-08	MARTIN		3.0 on site managing	300.00
13-May-08	MARTIN		1.0 meeting with B Smith et al	240.00
13-May-08	MARTIN		0.8 meeting with CK	960.00
13-May-08	MARTIN		3.2 sales process info gathering	450.00
13-May-08	MARTIN		1.5 on site managing	600.00
14-May-08	MARTIN		2.0 on site managing	240.00
15-May-08	MARTIN		0.8 meeting with Esubnet	750.00
15-May-08	MARTIN		2.5 on site managing	690.00
16-May-08	MARTIN		2.3 correspondence	360.00
20-May-08	MARTIN		1.2 on site managing	210.00
21-May-08	MARTIN		0.7 meeting with CK	720.00
21-May-08	MARTIN		2.4 on site managing	

**Ira Smith Trustee & Receiver Inc.**  
**Detail Time Sheet**

Period from: May 1, 2008 to July 31, 2008

Key name      Full Estate Name  
R-1KW      THE SUITES AT 1 KING WEST INC.

<u>Date</u>	<u>Name</u>	<u>Duration</u>	<u>Activity</u>	<u>\$</u>
22-May-08	MARTIN	0.6	owners issues	180.00
22-May-08	MARTIN	3.2	on site managing	960.00
23-May-08	MARTIN	2.0	on site managing	600.00
26-May-08	MARTIN	4.3	process monthly distribution	1,290.00
26-May-08	MARTIN	1.6	on site managing	480.00
27-May-08	MARTIN	1.0	receivables meeting	300.00
27-May-08	MARTIN	2.0	on site managing	600.00
28-May-08	MARTIN	2.5	on site managing	750.00
29-May-08	MARTIN	0.7	meeting with Greg Hives	210.00
29-May-08	MARTIN	1.8	on site managing	540.00
30-May-08	MARTIN	1.0	security meeting	300.00
30-May-08	MARTIN	2.6	on site managing	780.00
				340.00
2-Jun-08	IRA	0.8	Telephone conversation with Kosta Tomazos re: OPNS and his discussion earlier with Marty Wolfe, e-mails from and to Cindy Wilson re: certain purchasers	
2-Jun-08	MARTIN	1.0	meeting with CK	300.00
2-Jun-08	MARTIN	3.2	on site managing	960.00
3-Jun-08	MARTIN	0.9	meeting with ESubnet	270.00
3-Jun-08	MARTIN	3.6	on site managing	1,080.00
4-Jun-08	MARTIN	1.2	meeting with HSBC	360.00
4-Jun-08	MARTIN	4.2	on site managing	1,260.00
5-Jun-08	MARTIN	2.8	on site managing	840.00
6-Jun-08	MARTIN	0.9	meeting with Y Hendler	270.00
6-Jun-08	MARTIN	3.7	on site managing	1,110.00
9-Jun-08	MARTIN	1.8	correspondence	540.00
10-Jun-08	MARTIN	1.4	operations meeting	420.00
10-Jun-08	MARTIN	1.2	on site managing	360.00
11-Jun-08	MARTIN	0.8	meeting with Esubnet	240.00
11-Jun-08	MARTIN	2.6	on site managing	780.00
12-Jun-08	MARTIN	1.3	info for TSCC1703	390.00
12-Jun-08	MARTIN	1.4	revenue meeting	420.00
13-Jun-08	MARTIN	2.3	on site managing	690.00
13-Jun-08	MARTIN	1.1	security meeting	330.00
13-Jun-08	MARTIN	3.2	on site management	960.00
16-Jun-08	MARTIN	2.7	on site managing	810.00

Ira Smith Trustee & Receiver Inc.  
Detail Time Sheet

Period from: May 1, 2008 to July 31, 2008

Key name Full Estate Name  
R-1KW THE SUITES AT 1 KING WEST INC.

<u>Date</u>	<u>Name</u>	<u>Duration</u>	<u>Activity</u>	<u>\$</u>
17-Jun-08	MARTIN	1.0	meeting with CK	300.00
17-Jun-08	MARTIN	0.8	meeting with HR	240.00
17-Jun-08	MARTIN	3.1	on site managing	930.00
18-Jun-08	MARTIN	0.8	meeting with Esubnet	240.00
18-Jun-08	MARTIN	2.1	on site managing	630.00
18-Jun-08	MARTIN	3.6	on site managing	1,080.00
23-Jun-08	MARTIN	1.9	on site managing	570.00
24-Jun-08	MARTIN	1.4	on site management	420.00
25-Jun-08	IRA	0.6	Emails with Marty Wolfe re operational issues	255.00
25-Jun-08	MARTIN	1.4	HSBC meeting	420.00
25-Jun-08	MARTIN	1.2	on site management	360.00
26-Jun-08	MARTIN	0.7	meeting with Y Hendler	210.00
26-Jun-08	MARTIN	2.3	on site management	690.00
27-Jun-08	MARTIN	1.7	on site management	510.00
		2.4	Travel to and from and attend meeting with Kosta Tomazos regarding operations at 1 King West	1,020.00
1-Jul-08	IRA	2.8	on site managing	840.00
2-Jul-08	MARTIN	2.6	on site managing	780.00
3-Jul-08	MARTIN	1.3	meeting with CK	390.00
4-Jul-08	MARTIN	2.8	on site managing	840.00
7-Jul-08	MARTIN	3.9	on site managing	1,170.00
9-Jul-08	MARTIN	2.7	on site managing	810.00
10-Jul-08	MARTIN	4.2	on site managing	1,260.00
14-Jul-08	MARTIN	5.3	on site managing	1,590.00
15-Jul-08	MARTIN	3.6	on site managing	1,080.00
16-Jul-08	MARTIN	3.1	on site managing	930.00
17-Jul-08	IRA	0.7	Review of email from Kathy Ken of Aon Reed Stenhouse re insurer questions and draft letter reply	297.50
17-Jul-08	MARTIN	3.7	on site managing	1,110.00
21-Jul-08	MARTIN	4.4	on site managing	1,320.00
22-Jul-08	MARTIN	1.0	meeting with Esubnet	300.00
22-Jul-08	MARTIN	3.8	on site managing	1,140.00
		0.8	Emails and telcons w. Marty Wolfe and Goodmans re hiring and promotion issue for controller, complaint by Monte Carlo hotel re employee solicitation	340.00
23-Jul-08	IRA	3.5	on site managing	1,050.00
25-Jul-08	MARTIN	3.5	on site managing	1,050.00
28-Jul-08	MARTIN	3.5	on site managing	1,050.00



Ira Smith Trustee & Receiver Inc.  
 Detail Time Sheet  
 Period from: May 1, 2008 to July 31, 2008

Key name Full Estate Name  
 R-1KW THE SUTES AT 1 KING WEST INC.

<u>Date</u>	<u>Name</u>	<u>Duration</u>	<u>Activity</u>	<u>\$.</u>
29-Jul-08	IRA	0.7	Email from owner Doody, emails to and from Owners Relations re RMA issues, review of Doody RMA	297.50
29-Jul-08	MARTIN	3.2	on site managing	960.00
30-Jul-08	MARTIN	3.2	on site managing	960.00
				-
		205.1		62,280.00

<u>Employee name</u>		<u>Hourly Rate</u>	<u>Amount</u>
IRA SMITH	6.0	425.00	2,550.00
MARTIN WOLFE	199.1	300.00	59,730.00
Total:	205.1		62,280.00
Average Hourly Rate:		\$ 303.66	

# Ira Smith Trustee & Receiver Inc. Detail Time Sheet

Period from: May 1, 2008 to July 31, 2008

Key name Full Estate Name  
R-1KW STINSON HOSPITALITY INC.

<u>Date</u>	<u>Name</u>	<u>Duration</u>	<u>Activity</u>	<u>\$</u>
1-May-08	MARTIN	1.6	Executive meeting	480.00
9-May-08	MARTIN	1.5	executive meeting	450.00
15-May-08	MARTIN	1.6	executive meeting	480.00
20-May-08	MARTIN	1.2	Meeting re April P&L	360.00
22-May-08	MARTIN	1.3	executive meeting	390.00
22-May-08	MARTIN	0.7	creditor calls	210.00
29-May-08	MARTIN	1.3	executive meeting	390.00
4-Jun-08	MARTIN	0.8	meeting with Projectcore	240.00
5-Jun-08	MARTIN	4.5	Year end preparation	1,350.00
6-Jun-08	MARTIN	1.3	executive meeting	390.00
11-Jun-08	MARTIN	3.7	year end preparation	1,110.00
12-Jun-08	IRA	0.6	Information regarding unit owners, telcon and email with unit owner	255.00
13-Jun-08	MARTIN	1.8	executive meeting	540.00
13-Jun-08	MARTIN	0.7	meeting with auditors	210.00
16-Jun-08	MARTIN	4.8	Year end preparation	1,440.00
20-Jun-08	MARTIN	1.4	meeting with Katherine Kan	420.00
20-Jun-08	MARTIN	4.0	year end preparation	1,200.00
20-Jun-08	MARTIN	1.3	executive meeting	390.00
24-Jun-08	MARTIN	2.5	year end preparation	750.00
25-Jun-08	IRA	1.7	Financial matters arising from Sixth Report	722.50
25-Jun-08	MARTIN	3.6	year end preparation	1,080.00
26-Jun-08	MARTIN	1.4	executive meeting	420.00
3-Jul-08	MARTIN	1.3	executive meeting	390.00
10-Jul-08	MARTIN	1.3	executive meeting	390.00
15-Jul-08	CHERYL	0.2	Bank Reconciliation	27.00
16-Jul-08	MARTIN	5.5	year end preparation	1,650.00

**Ira Smith Trustee & Receiver Inc.**  
**Detail Time Sheet**

Period from: May 1, 2008 to July 31, 2008

**Key name**      **Full Estate Name**  
R-1KW      STINSON HOSPITALITY INC.

<u>Date</u>	<u>Name</u>	<u>Duration</u>	<u>Activity</u>	<u>\$</u>
17-Jul-08	MARTIN	1.4	executive meeting	420.00
24-Jul-08	MARTIN	3.6	year end preparation	1,080.00
24-Jul-08	MARTIN	0.9	management meeting	270.00
28-Jul-08	MARTIN	1.2	insurance renewal	360.00
		<b>58.7</b>		<b>17,864.50</b>

<u>Employee name</u>		<u>Hourly Rate</u>	<u>Amount</u>
IRA SMITH	2.3		425.00
MARTIN WOLFE	56.2		977.50
CHERYL MEADS	0.2		300.00
			16,860.00
			135.00
			27.00
<b>Total:</b>	<b>58.7</b>		<b>17,864.50</b>

**Average Hourly Rate:**      \$      **304.34**

**Ira Smith Trustee & Receiver Inc.**  
**Detail Time Sheet**  
 Period from: May 1, 2008 to July 31, 2008

Key name Full Estate Name  
 R-1KW 2076564 ONTARIO INC.

<u>Date</u>	<u>Name</u>	<u>Duration</u>	<u>Activity</u>	<u>\$</u>
5-May-08	MARTIN	1.6	review of salary discrepancies	480.00
6-May-08	MARTIN	1.0	on site managing	300.00
14-May-08	MARTIN	1.2	meeting with HR	360.00
20-May-08	MARTIN	0.8	housekeeping meeting	240.00
12-Jun-08	MARTIN	0.8	meeting re housekeeping	240.00
25-Jun-08	IRA	0.9	Review of Demeester letter re housekeeping and drafting reply for Joe Latham to review; email to Joe Latham with draft	382.50
26-Jun-08	IRA	0.4	Review of Joe Latham suggested changes; issuance of final letter to Mr. Demeester	170.00
1-Jul-08	IRA	2.1	Various emails from and replies to unit owners regarding information on Google Groups	892.50
2-Jul-08	IRA	1.8	Draft letter to Kevin O'Gorman, email of draft to Joe Latham for review and comments	765.00
11-Jul-08	IRA	1.1	Review of Wagner July 11 email and drafting a reply to him; email to Joe Latham for review	467.50
		11.7		4,297.50

<u>Employee name</u>	<u>Hourly Rate</u>	<u>Amount</u>
IRA SMITH	6.3	425.00
MARTIN WOLFE	5.4	300.00
<b>Total:</b>	<b>11.7</b>	<b>4,297.50</b>
<b>Average Hourly Rate:</b>	<b>\$ 367.31</b>	

**Ira Smith Trustee & Receiver Inc.**  
**Detail Time Sheet**  
 Period from: May 1, 2008 to July 31, 2008

Key name	Full Estate Name				
R-1KW	SALES PROCESS				
Date	Name	Duration	Activity		\$
1-May-08 CINDY		1.0	Respond to two requests for process info, update ira, respond to inquiries		360.00
2-May-08 CINDY		1.0	Receive review CA, set up new user access, review new offer, update ira		360.00
2-May-08 CINDY		0.5	Notify Oscar : re: receipt of offer, update ira re: offer and intention to decline data room access		175.00
2-May-08 CHERYL		0.6	E-mail from C. Wilson, preparation of fax cover sheet, taxing and e-mail return same		81.00
5-May-08 CINDY		0.5	Draft and send notification letter to		175.00
6-May-08 CINDY		0.5	Reply re: CA, email, speak to re		175.00
7-May-08 CINDY		0.5	Calls v email to flip or 3 questions, calls to Marty		175.00
7-May-08 CINDY		0.3	Call V/M w/it		87.50
7-May-08 MARTIN		2.6	sales process info gathering		780.00
8-May-08 CINDY		0.3	Call w/ 1 re: ic, flu w/Marty re: 3 questions		87.50
8-May-08 CINDY		0.8	Receive/respond to, re:stions		262.50
8-May-08 CINDY		1.0	and LOI requirements		350.00
8-May-08 MARTIN		1.6	sales process info gathering		480.00
9-May-08 CINDY		0.8	Review first draft of P&S Agreement and note changes		262.50
12-May-08 CINDY		1.5	Respond to inquiry from TSCC 1703 re: form of final LOI, post to data room, respond to inquiries from Joe & Ira		525.00
12-May-08 CINDY		0.3	Prepare final draft and email reminder notice to all remaining purchasers		87.50
12-May-08 CINDY		0.3	Respond to TSCC 1703 concerns through email correspondence with Joe & Ira		87.50
12-May-08 CINDY		0.3	Respond to request for site visit, organize Marty to conduct "mini tour", confirm		
12-May-08 CINDY		0.3	timing and details		87.50
12-May-08 CINDY		0.3	Email draft reminder notices to all prospective purchasers		87.50
12-May-08 CINDY		0.3	Follow up with Marty re: site access		87.50
13-May-08 CINDY		1.0	Receive calls from two bidders, follow up on their questions with Marty, reply to bidders		350.00
13-May-08 CINDY		0.3	Speak to Aldo, respond to bidder questions		87.50
13-May-08 CINDY		0.5	Review and respond to TSCC 1703 letter to Joe re: outstanding information		175.00
14-May-08 CINDY		1.0	Review and follow up re request for additional information		350.00
14-May-08 CINDY		0.3	Follow up w/ n re information requests		87.50
14-May-08 CINDY		0.8	1 KW - Met Marty to discuss outstanding information requests		262.50
14-May-08 CINDY		3.0	Compile additional information requests and post to Data Room, review TSCC request for info		1,050.00
14-May-08 IRA		2.0	Sales process, review of emails, review of B. Gardner letters, Telephone conversation w/ J.		850.00
14-May-08 MARTIN		1.0	meeting with C Wilson		300.00
14-May-08 MARTIN		1.8	sales process info gathering		540.00
15-May-08 CINDY		2.8	Respond to information requests (Hartley), add docs to data room, meet with Marty (call to Ira) to		962.50
15-May-08 CINDY			discuss additional TSCC info requests		
15-May-08 CINDY		2.8	up lease docs at hotel		962.50
15-May-08 CINDY		1.3	Combining data room pdf documents		437.50
15-May-08 IRA		0.7	Telephone conversation with if re: Various sale issues and certain advise he will be		297.50

**Ira Smith Trustee & Receiver Inc.**  
**Detail Time Sheet**  
 Period from: May 1, 2008 to July 31, 2008

Key name R-IRW	Full Estate Name SALES PROCESS		
Date	Name	Duration	Activity
15-May-08	IRA	0.3	E-mails with Cindy Wilson and Marty Wolfe re: Sale Mandate
15-May-08	IRA	0.4	Telephone conversation with Marty Wolfe re: information for Cindy Wilson and certain operating issues
15-May-08	IRA	1.2	Telephone call with Joe Latham re: response to Gardiner's May 13 letter, conference call with
15-May-08	IRA	0.4	Sales Process issues with Marty and Cindy
15-May-08	IRA	0.7	Receipt and review of offer from Inc., e-mail to Joe Latham et al regarding
15-May-08	IRA	0.6	Operational matters with Marty Wolfe Telcon - DCC
15-May-08	IRA	0.8	Conference call with Cindy Wilson and Marty Wolfe going through answers to Gardiner's Firm's request letter of May 13
15-May-08	MARTIN	4.2	Sales process including various emails and telcons re pot purch's
16-May-08	CINDY	2.3	Sales process info gathering
16-May-08	CINDY	0.5	Review and analyze first offer received
16-May-08	CINDY	2.5	Follow up regarding additional questions posed by buyers
16-May-08	IRA	0.5	Respond to phone calls from buyers looking for additional information in advance of final offers
16-May-08	IRA	0.6	Begin review of agreement of Purchase and Sale
16-May-08	IRA	0.4	Review of draft letter to Warren R at Gardiner Arnold and changes and email to Joe Latham
16-May-08	IRA	0.4	Telephone call with Joe Latham re: Letter and AGR of P&S
16-May-08	IRA	0.3	E-mails with Cindy and Marty Wolfe re: Sales Process Document requests
16-May-08	IRA	5.2	Sales Process - agreement of Purchase and sale, e-mails with Cindy Wilson and Marty Wolfe,
20-May-08	CINDY	1.5	Receive and review final offers, calls with bidders
20-May-08	IRA	3.2	Sales Offers Review, communications with Joe and Cindy
20-May-08	IRA	1.1	Sales Issues - review of Offers and Banking
20-May-08	MARTIN	0.9	Sales process info gathering
21-May-08	CINDY	1.5	Review and summarize final offers
21-May-08	IRA	0.4	Telephone call with Joe Latham re: Binding LOI's Received
21-May-08	IRA	0.4	Telephone call with Joe Latham re: certain binding LOI's and May 9 Gardiner Letter
21-May-08	IRA	0.8	Review of May 9 Gardiner Letter at Request of Joe Latham, telephone conversation with Joe
21-May-08	IRA	1.2	Further review of certain binding LOI's for meeting tomorrow and in anticipation of receiving Cindy's schedule
22-May-08	CINDY	2.5	Review and summarize final offers
22-May-08	CINDY	1.5	Analyze and assess final offers with Ira and Joe
22-May-08	CINDY	0.5	Update final offer summary
22-May-08	CINDY	1.8	Present final offers to advisors and legal counsel to David Mitrish
22-May-08	IRA	0.4	E-mails with Cindy Wilson and Nikki Wilson relating to Sales Process
22-May-08	IRA	2.6	Review of final binding LOI's and conference call with Joe and Cindy
22-May-08	IRA	1.5	Travel to and attend meeting at MT to Present summary of binding LOI's
22-May-08	IRA	0.4	Telephone call with garding VTB
23-May-08	CINDY	1.0	Prepare and sent final offer notices to all bidders
23-May-08	CINDY		Follow up with bidders re: final offer terms (correspondence w/Ira & Joe, call/email to
23-May-08	CINDY	3.0	to Brian Smith, etc)
25-May-08	CINDY	1.3	Draft response to TSCC 1703 request for detailed questions pertaining to their offer
25-May-08	CINDY	1.8	Amend first draft of Sales Process section of the Sixth Report to the Court

\$

127.50  
 170.00  
 510.00  
 170.00  
 297.50  
 255.00  
 340.00  
 1,785.00  
 690.00  
 175.00  
 875.00  
 175.00  
 256.00  
 170.00  
 170.00  
 127.50  
 2,210.00  
 525.00  
 1,360.00  
 467.50  
 270.00  
 525.00  
 170.00  
 170.00  
 340.00  
 510.00  
 875.00  
 525.00  
 175.00  
 612.50  
 170.00  
 1,105.00  
 637.50  
 170.00  
 350.00  
 1,050.00  
 437.50  
 612.50

# Ira Smith Trustee & Receiver Inc. Detail Time Sheet

Period from: May 1, 2008 to July 31, 2008

Key name Full Estate Name  
R-1KW SALES PROCESS

Date	Name	Duration	Activity	\$
26-May-08	CINDY	1.5	Follow up w/Ira & Joe and bidders re: final offer clarifications and meetings	525.00
26-May-08	IRA	2.7	Sales Process E-mails with Cindy and Joe Latham and telcon with Cindy re: meeting tomorrow, telcon with LW re: Meeting Tomorrow, Review of E-mail from Joe Latham re: same	1,147.50
27-May-08	CINDY	2.5	Meeting w/ LSCC 1703 to understand/clarify terms of their offer, plan for next day's	875.00
27-May-08	CHERYL	0.2	Telephone call from L. Smith re: preparation for meeting and setting up same	27.00
27-May-08	IRA	1.0	Joe Latham and Cindy Wilson Prep. For Meeting with Pot Purchaser	425.00
27-May-08	IRA	2.0	Meeting with Pot. Purchaser	850.00
27-May-08	IRA	0.6	Debrief with Joe and Cindy after meeting with Pot. Purchaser	255.00
28-May-08	CINDY	1.0	Review of final LOI to Prep. For meeting tomorrow with Pot. Purchaser	425.00
28-May-08	CINDY	1.0	Perform NPV of VTB, send email to Ira/Joe re: valuation	350.00
28-May-08	CINDY	3.5	Meeting w/TSCC 1703 re: terms of final offer	1,225.00
28-May-08	IRA	0.8	Communications with Lawyer representing Pot. Purchaser from Yesterday	340.00
28-May-08	IRA	5.4	Travel to and from and attend Pot. Purch. Meeting at Goodmans with Joe, L. Latham and Cindy	2,295.00
29-May-08	CINDY	0.5	Speak with Marty re: change in pool members, organize meeting with	175.00
29-May-08	IRA	0.4	Telcon with Lawyer for Pot. Purchaser from Tuesday	170.00
29-May-08	IRA	0.2	E-mails re: Meeting tomorrow with Pot. Purchaser	85.00
29-May-08	IRA	0.4	Final prep for meeting tomorrow	170.00
30-May-08	CINDY	5.8	Meeting w/ Joe to finalize terms of offer	2,012.50
30-May-08	IRA	3.6	Sales process issues with Cindy and Joe	1,530.00
30-May-08	IRA	5.1	Travel to and attending meeting with Prospective Purchaser and smaller meetings afterwards	2,167.50
1-Jun-08	CINDY	4.8	Draft Sales Process section of Volume 2 of the 6th Report to the Court, revise LOI summary charts as exhibits	1,682.50
2-Jun-08	CINDY	5.5	Complete first draft of Sales Process section of Volume 2 of the 6th Report to the Court	1,925.00
2-Jun-08	CINDY	1.8	Draft and send notifications to unsuccessful bidders	612.50
2-Jun-08	IRA	1.7	Potential purchaser matters with Cindy, Marty Wolfe and Joe Latham	722.50
2-Jun-08	IRA	0.4	Telephone call with Marty Wolfe and E-mail to Pot Purch and Legal Counsel	170.00
2-Jun-08	IRA	0.4	Telephone call with Joe Latham re: His discussion with RM	170.00
2-Jun-08	IRA	0.4	Telephone call with Joe re: Meeting Last Friday and Upcoming Meetings	170.00
2-Jun-08	MARTIN	0.9	Sales process info gathering	270.00
3-Jun-08	CINDY	0.3	Review/amend TSCC 1703 acknowledgment and provide details f	87.50
3-Jun-08	CINDY	0.3	acknowledgement	87.50
3-Jun-08	CINDY	1.5	Research and summary of Asia response to yesterday's notification letter	525.00
3-Jun-08	IRA	3.6	Sales Process E-mails and telephone discussions with Joe and Cindy	1,530.00
3-Jun-08	IRA	0.4	E-mails to and from Joe re: Meeting Later this Week re: Sales Process	170.00
4-Jun-08	CINDY	0.5	Review/amend/reply to letter from	175.00

# Ira Smith Trustee & Receiver Inc. Detail Time Sheet

Period from: May 1, 2008 to July 31, 2008

Key name	Full Estate Name	
R-1KW	SALES PROCESS	
Date	Name	Duration
4-Jun-08 CINDY		0.8 Respond to n... ar calls, speak to Ira re: follow up call by purchaser, meeting prep, etc
4-Jun-08 CINDY		0.5 Revie... purchase agreement as amended b
4-Jun-08 IRA		0.4 Receipt and Review of E-mails re: Sales Process
4-Jun-08 IRA		1.1 Receipt and Review of Letter from Pot Purchaser and draft reply for Cindy
4-Jun-08 IRA		0.6 Receipt and Review of... olcemail and memos re: sales process and potential purchasers
4-Jun-08 IRA		1.6 Various e-mails and telephone calls re: setting up meeting tomorrow with TSCC 1703 and Pot Purchasers
5-Jun-08 CINDY		1.0 Review and assess... chase agreement
5-Jun-08 CINDY		7.0 Meeting at... 3 (includes 1.5 hours travel time)
5-Jun-08 IRA		5.0 Cindy Wilson, Pot Purch, Bob Gardiner
6-Jun-08 CINDY		2.0 Make notes... purchase agreement, pdf & send to Goodman's for review/amendment
6-Jun-08 IRA		2.9 Review and amend... APA
6-Jun-08 IRA		1.8 Telephone call and e-mails with Joe Latham re: Agreement and our Disc's respectively with legal
6-Jun-08 IRA		counsel for POT Purchaser
6-Jun-08 IRA		0.4 Telephone call with Jeff Carhart
6-Jun-08 MARTIN		1.2 sales process
8-Jun-08 CINDY		1.0 Revise and update first draft of Sales Process section of Volume 2 of the 6th Report to the Court
8-Jun-08 CINDY		7.5 Revise and update first draft of Sales Process section of Volume 2 of the 6th Report to the Court
9-Jun-08 CINDY		0.3 Follow up with Ira & Goodman's re: status of APS and discussions w...
9-Jun-08 CINDY		Review of correspondence from Lang Mitchener re: JHRLJ and insertion or some into Volume 2, 0.3 draft 2 of the CR
9-Jun-08 CINDY		4.5 Finalize second draft of Sales Process section of Volume 2 of the 6th Report to the Court
11-Jun-08 CINDY		0.3 Correspond with Joe & Ira re: meeting with Carlo, Aldo & Stefano
11-Jun-08 CINDY		0.3 Telephone update with Ira re: outcome of meeting with &
11-Jun-08 CHERYL		1.9 Review e-mail and discussion with I. Smith re: preparation of exhibit for 6th report, and preparing same
11-Jun-08 IRA		1.4 Sales process telephone calls and emails with Joe Latham and Cindy Wilson re: Strategy and APA
11-Jun-08 IRA		2.1 Review of Joe Latham's Redraft of APA
11-Jun-08 IRA		0.2 Telephone call with... re: Meeting Today
11-Jun-08 IRA		1.0 Meeting with Potential Purchaser and Realtor Advisors
11-Jun-08 IRA		0.8 Emails and Telephone calls with Joe Latham and Cindy Wilson re: Meeting today and Strategy
11-Jun-08 IRA		0.6 Emails from and reply to Mirvish Group re: Status of Sales Process
11-Jun-08 MINA		1.0 Meeting with prospective purchasers;
12-Jun-08 CINDY		0.3 Review Joe's revision of the Agreement of Purchase & Sale
12-Jun-08 CINDY		0.3 Follow up w/Marty re: o/s questions in APS
12-Jun-08 MARTIN		0.9 sales process info gathering
16-Jun-08 CINDY		0.3 Draft email for circulation to purchasers after 5 PM (if needed), circulate to Ira/Joe for review
16-Jun-08 CINDY		0.3 Review various communications regarding new... and TSCC 1703 offers
16-Jun-08 CINDY		0.3 Conference call w/Ira and Joe to discuss latest... er
17-Jun-08 CINDY		0.5 Research... review revised
18-Jun-08 MARTIN		3.4 sales process info
23-Jun-08 CINDY		0.5 Call w/Mary & conference call w/Ira & Marty to discuss... ue diligence process
23-Jun-08 CINDY		0.3 Various correspondence w/purchasers & Receivership team re: due diligence processes
23-Jun-08 CINDY		0.8 Call w/Marty re: sources/timing of due diligence materials
23-Jun-08 CINDY		0.3 Draft and send message to Ira re: status of additional due diligence

\$

262.50  
175.00  
170.00  
467.50  
255.00  
680.00  
350.00  
2,450.00  
2,125.00  
700.00  
1,232.50  
765.00  
170.00  
360.00  
350.00  
2,625.00  
87.50  
87.50  
1,575.00  
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87.50  
256.50  
595.00  
892.50  
85.00  
425.00  
340.00  
255.00  
300.00  
87.50  
87.50  
270.00  
175.00  
87.50  
87.50  
175.00  
1,020.00  
175.00  
87.50  
262.50  
87.50



**Ira Smith Trustee & Receiver Inc.**  
**Detail Time Sheet**  
 Period from: May 1, 2008 to July 31, 2008

Key name	Full Estate Name		
R-1KW	SALES PROCESS		
Date	Name	Duration	Activity
23-Jun-08	MARTIN	1.8 sales process info gathering	
24-Jun-08	CINDY	0.3 Call w/Marty re: gathering of additional due diligence materials	540.00
24-Jun-08	CINDY	0.3 Call w/Marty re: gathering of additional due diligence materials & timing for opening of data room at 1KW	87.50
24-Jun-08	CINDY	Draft and circulate email regarding additional due diligence process, timing, etc, emails to Marty	87.50
24-Jun-08	CINDY	2.5 re: dd process re: Hartley's email, etc	875.00
24-Jun-08	MARTIN	1.6 sales process info gathering	480.00
25-Jun-08	CINDY	1.3 Meeting w/Marty at 1KW re: additional due diligence materials (review of materials, compilation of index, etc)	437.50
25-Jun-08	CINDY	2.8 Email to DD procedures/timing, call w. emails to & Marty	962.50
25-Jun-08	CINDY	0.9 Review of current draft of APA from and telcon with Joe Latham re occurrence and identify issues	382.50
25-Jun-08	IRA	2.4 Conference call with Joe Latham and I for purchaser on issues identified in draft APA and changes necessary	1,020.00
25-Jun-08	IRA	0.7 Emails with Cindy Wilson and Marty Wolfe re sales issues	297.50
26-Jun-08	IRA	1.5 Review of latest draft of APA, draft and remit questions re: outstanding items to Marty	525.00
26-Jun-08	CINDY	0.3 Review Marty's responses, telephone call w/Marty re: parking, equipment leases	87.50
26-Jun-08	CINDY	Summary of information gathered re: APA drafted and emailed to Ira, Joe & Logan, respond to	
26-Jun-08	IRA	1.0 Logan's email	350.00
26-Jun-08	IRA	3.6 Review of APA, telcon w. Joe Latham and Logan Willis, numerous telcons w. & for changes back, agreement on final wording other than one bullet	1,530.00
26-Jun-08	IRA	2.1 APA for final turn this afternoon/evening	892.50
27-Jun-08	CINDY	0.5 Various correspondence/emails	175.00
27-Jun-08	CINDY	0.3 Discussion w/Marty re: status and plans for due diligence process to be conducted at hotel	87.50
27-Jun-08	IRA	3.1 CP re signing of APA and payment of deposit monies, signing of APA and dealing with deposit	1,317.50
27-Jun-08	MARTIN	3.4 due diligence meeting	1,020.00
30-Jun-08	MARTIN	4.0 due diligence meeting	1,200.00
1-Jul-08	IRA	1.7 Various emails and telcons w. Marty Wolfe regarding due diligence issues and sales process, emails with potential purchaser regarding due diligence conduct	722.50
1-Jul-08	IRA	1.6 consideration, drafting of letter to 1703 re Final LOI and email to Joe for his consideration; emails	680.00
1-Jul-08	MARTIN	4.0 due diligence meeting	1,200.00
2-Jul-08	IRA	0.6 Telephone call with Joe Latham re outstanding issues to move forward w.r.t. sales process	255.00
2-Jul-08	IRA	0.3 Receive Joe Latham's comments re Final LOI letter to TSCC 1703, make amendment, issue letter, voicemail to Brian Smith	127.50
2-Jul-08	IRA	0.5 Emails with Marty Wolfe and I re due diligence and other sales process issues	212.50
2-Jul-08	MARTIN	2.5 due diligence info gathering	750.00
3-Jul-08	CINDY	0.5 Review emails/correspondence from 27 June through 3 July	175.00
3-Jul-08	CINDY	0.3 Discussion w/Marty re: status of due diligence process	87.50
3-Jul-08	CINDY	0.8 Executive meeting at 1KW to provide information on status of sale process	262.50

**Ira Smith Trustee & Receiver Inc.**  
**Detail Time Sheet**  
 Period from: May 1, 2008 to July 31, 2008

Key name		Full Estate Name		
R-1KW		SALES PROCESS		
Date	Name	Duration	Activity	\$
3-Jul-08	CINDY	1.5	Meeting w/David Mirvish to provide information on successful bidder's offer, terms & conditions	525.00
3-Jul-08	IRA	0.5	Attendance at Executive Committee meeting today to explain to senior management the	212.50
3-Jul-08	IRA	5.4	Preparation of materials for Mirvish meeting this afternoon	2,295.00
3-Jul-08	IRA	4.2	Travel to and from and attend meeting at Mirvish's offices with Joe Latham and Cindy Wilson to explain APA and to attempt to obtain secured creditor support for the proposed sale	1,785.00
3-Jul-08	MARTIN	1.7	due diligence meeting	610.00
4-Jul-08	MARTIN	2.4	due diligence info gathering	720.00
7-Jul-08	CINDY	0.5	Review due diligence correspondence/questions, assist Marty with responses	175.00
7-Jul-08	CINDY	0.8	Review blog postings and emails from 1KW unit owners regarding Receiver's sale process, HKP profits, etc	262.50
7-Jul-08	MARTIN	1.8	due diligence info gathering	540.00
8-Jul-08	CINDY	0.3	Review additional postings/emails from 1KW unit owners	87.50
8-Jul-08	CINDY	0.3	Review purchaser/Receiver correspondence re: due diligence requirements	87.50
9-Jul-08	CINDY	0.5	V/M, call from lawyer wishing to understand status of sale process as wanting to book function	175.00
9-Jul-08	CINDY	0.5	space and not lose deposit. Called Marty to discuss and refer.	175.00
9-Jul-08	MARTIN	1.8	due diligence matters	540.00
10-Jul-08	MARTIN	1.6	due diligence tour	480.00
11-Jul-08	CINDY	0.5	Emails, agenda setting, meeting planning etc.	175.00
11-Jul-08	CINDY	1.3	Conference call w/Ira, Joe, LM & LJ	437.50
11-Jul-08	CINDY	0.5	Review TSCC 1703's letter and email to condo owners, both dated July 4	175.00
11-Jul-08	IRA	2.1	Monday's meeting and need for conference call today	892.50
11-Jul-08	IRA	1.4	conference call with pot purchaser, LM, Joe Latham, Cindy Wilson	595.00
11-Jul-08	MARTIN	1.3	due diligence matters	390.00
14-Jul-08	CINDY	1.0	Review & print Joe Latham's response to TSCC 1703's June 20 letter, review July 2 letter, review July 4 letter	350.00
14-Jul-08	CINDY	2.0	Meet with TSCC 1703 and LJ/HR to discuss LJ/HR proposal in light of TSCC 1703's correspondence	700.00
14-Jul-08	CINDY	0.8	Continuation of meeting w/TSCC 1703 subsequent to departure of LJ/HR	262.50
14-Jul-08	CINDY	0.8	Wrap up discussion with Ira, Goodmans & follow up call to	262.50
14-Jul-08	CINDY	0.5	Draft and circulate email regarding mortgage broker process	175.00
14-Jul-08	CINDY	1.3	Investigate re: mortgage broker issue, draft clarification email to Rob & Lyle	437.50
15-Jul-08	CINDY	0.3	Investigation re: mortgage broker process and how Request for Financing document might have been circulated	87.50
15-Jul-08	CINDY	0.3	Draft and circulate email to Ira & Joe re: Lyle & Rob's comments	87.50
16-Jul-08	CINDY	0.3	Follow up w/Ira re: outcome of Monday's meeting, review correspondence	87.50
16-Jul-08	CINDY	0.3	Call w/Ira to discuss how to proceed once choose not to waive their financing condition	87.50
16-Jul-08	CINDY	2.1	Review of draft reply to Gardiner, review of letter to Goodmans, review of Goodmans draft reply, comments to Goodmans, telcon w. Latham, review of Latham emails, telcon with Cindy Wilson re current sales issues status	892.50
16-Jul-08	IRA	0.3	Review letter from correspond w/Ira re: outcome of offer	87.50
17-Jul-08	IRA	0.4	Review of letter from emails to Cindy Wilson and Joe Latham, voicemail to voicemail from CP	170.00
18-Jul-08	CINDY	0.3	Follow up w/Ira, review summary of discussion with TSCC 1703	87.50

## Period from: May 1, 2008 to July 31, 2008

Period from: May 1, 2008 to July 31, 2008

Full Estate Name  
SALES PROCESS

Date	Name	Duration	Activity	\$
18-Jul-08	IRA	0.2	Telcon w. Joe Latham re alter and purchaser's decision not to proceed and next steps	85.00
18-Jul-08	IRA	0.2	Voicemail and email to Brian Smith	85.00
18-Jul-08	IRA	0.4	Telcon w. O 1 re pot purchaser	170.00
18-Jul-08	IRA	0.2	Trading voicemails with B. Smith of 1703	85.00
18-Jul-08	IRA	0.4	Telcon from Mirvish group re sales process status	170.00
18-Jul-08	IRA	0.2	Telcon w. Joe Latham re current status and discussion to be had with TSSC 1703	85.00
21-Jul-08	CINDY	0.3	Review, respond to email from	87.50
21-Jul-08	IRA	1.3	Travel to and meet with Tom McDoraid, Joe Latham and Fred Myers re next steps in sales process	552.50
21-Jul-08	IRA	0.2	Exchange voicemails with Brian Smith, TSSC No. 1703	85.00
21-Jul-08	IRA	0.2	Review emails from Joe Latham re communications with Bob Gardiner	85.00
22-Jul-08	CINDY	0.3	Speak to Marty re: status of purchaser/sale process	87.50
22-Jul-08	IRA	0.2	Emails to and from Goodmans re 1703	85.00
22-Jul-08	IRA	0.6	Telephone conversation with Brian Smith re moving forward to 1703 APA	255.00
			Telephone conversations and emails with Joe Latham and Fred Myers re moving forward with TSSC 1703, APA and Court approval requirements, Mirvish concerns and Mirvish request for meeting on Friday	892.50
23-Jul-08	IRA	3.4	Review of new draft APA w. 1703	1,445.00
24-Jul-08	IRA	0.7	Return of deposit to	297.50
24-Jul-08	IRA	0.2	Issuing cheque for the return of deposit.	60.00
25-Jul-08	MINA	1.0	Conference call w/ra, Joe and Mirvish group to discuss current status of sales process	350.00
25-Jul-08	CINDY	0.4	Disc. With : and TD re: deposit return cheque, e-mails with 1. Smith same	54.00
25-Jul-08	CHERYL	0.8	Review of draft 1703 APA	340.00
25-Jul-08	IRA	1.2	Cort call w. Joe Latham, David Mirvish, Hank Kates, Camillo Casciato, Jeffrey Carhart re sales issues	510.00
25-Jul-08	IRA	0.4	Telcon w. Joe Latham re suggested changes to draft 1703 APA	170.00
25-Jul-08	IRA	0.2	Telcon w. Joe Latham to approve his draft letter wording to Bob Gardiner in reply to G-rafting, July 4 letter	85.00
28-Jul-08	IRA	0.6	Telcon w. calling based on call made	255.00
28-Jul-08	IRA	0.4	Telcon w. re possibility of resubmitting	170.00
29-Jul-08	IRA	0.2	Email to and from Brian Smith re APA and meeting	85.00

**Ira Smith Trustee & Receiver Inc.**  
**Detail Time Sheet**  
 Period from: May 1, 2008 to July 31, 2008

Key name	Full Estate Name				
R-1KW	SALES PROCESS				
Date	Name	Duration	Activity	\$	
	Employee name		Hourly Rate	Amount	
	IRA SMITH	127.9		425.00	54,357.50
	CINDY WILSON	129.0		350.00	45,150.00
	MARTIN WOLFE	44.5		300.00	13,350.00
	MINA RASTAN	1.2		300.00	360.00
	CHERYL MEADS	3.1		135.00	418.50
Total:		305.7			113,636.00
Average Hourly Rate:		\$	371.72		

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  
- COMMERCIAL LIST -**

Proceeding commenced at Toronto

**AFFIDAVIT OF IRA SMITH  
(Sworn September 8, 2008)**

**Goodmans LLP**  
Barristers & Solicitors  
250 Yonge Street, Suite 2400  
Toronto, Canada M5B 2M6

Joseph Latham (LSUC#32326A)  
Tel: 416-979-2211  
Fax: 416-979-1234

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

# **EXHIBIT “L”**

**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

**AFFIDAVIT OF L. JOSEPH LATHAM  
(Sworn September 5, 2008)**

I, L. Joseph Latham, of the City of Toronto, in the Province of Ontario, **MAKE OATH  
AND SAY:**

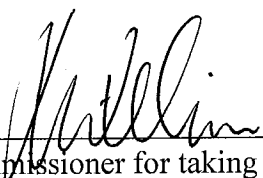
1. I am a partner with the law firm of Goodmans LLP ("Goodmans"), counsel for Ira Smith Trustee & Receiver Inc., in its capacity as Court-appointed receiver and manager (the "Receiver") of Stinson Hospitality Inc., Dominion Club of Canada Corporation, The Suites at 1 King West Inc. and 2076564 Ontario Inc. (collectively, the "Debtors"). As such, I have knowledge of the matters hereinafter deposed to, except where stated to be on information and belief and whereso stated I verily believe it to be true.
2. ISI was appointed Receiver of all of the property, assets and undertaking of the Debtors pursuant to an Order of the Ontario Superior Court of Justice dated August 24, 2007 (the "Receivership Order").
3. Pursuant to paragraph 21 of the Receivership Order, the Receiver and its legal counsel are required to pass their accounts from time to time.

4. Attached hereto and marked as Exhibit "1" to this my Affidavit is a summary of the invoices dated June 19, 2008, July 17, 2008 and August 22, 2008 rendered by Goodmans to the Receiver (collectively, the "Goodmans Accounts") in respect of these proceedings which include dockets ranging from May 15, 2008 to August 15, 2008 (the "Goodmans Application Period"), as well as copies of the Goodmans Accounts.

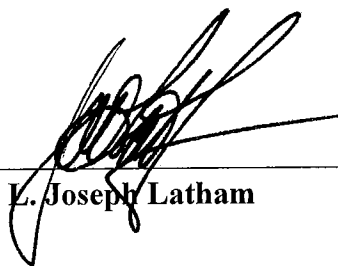
5. Goodmans expended a total of approximately 504.30 hours in connection with this matter during the Goodmans Application Period, giving rise to fees and disbursements totalling \$259,598.36, excluding GST, and allocated approximately as outlined in the summary of fees attached hereto and marked as Exhibit "2".

6. Goodmans has had its rates and disbursements, including the rates of various of the lawyers who provided services in these proceedings, approved by this Honourable Court in these proceedings and in respect of similar services provided in various other insolvency and restructuring files.

SWORN BEFORE ME at the City of  
Toronto, in the Province of Ontario,  
this 5<sup>th</sup> day of September, 2008.

  
A Commissioner for taking affidavits

"LOGAN WILLIS"

  
L. Joseph Latham




**EXHIBIT "1"**

**IRA SMITH TRUSTEE & RECEIVER INC. AS RECEIVER AND MANAGER OF STINSON HOSPITALITY INC.,  
DOMINION CLUB OF CANADA CORPORATION, THE SUITES AT 1 KING WEST INC. AND 2076564 ONTARIO INC.**

**MAY 15, 2008 – AUGUST 15, 2008**

Invoice Number	Invoice Date	Invoice Period / Description	Total Hours	Fees	GST on Fees	Disbursements	GST on Disbursements	Invoice Total
499228	June 19, 2008	May 15, 2008 to June 13, 2008	245.60	\$117,620.50	\$5,881.03	\$1,703.14	\$85.16	\$125,289.83
500923	July 17, 2008	June 10, 2008 to July 15, 2008	155.80	\$85,537.50	\$4,276.88	\$2,473.79	\$117.34	\$92,405.51
503008	August 22, 2008	June 19, 2008 to August 15, 2008	102.90	\$51,449.00	\$2,572.45	\$814.43	\$33.62	\$54,869.50

This is Exhibit "1" referred to in the  
affidavit of L. Joseph Latham  
sworn before me, this 5<sup>th</sup>  
day of September 2008  
  
A COMMISSIONER FOR TAKING AFFIDAVITS  
LOGAN WILLIS



June 19, 2008

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

ATTENTION: Ira Smith

OUR FILE NO.      ISTR      070060

OUR INVOICE NO.      499228

Re: Stinson Hospitality Inc. and Dominion Club of Canada Corporation

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TO OUR PROFESSIONAL SERVICES RENDERED IN CONNECTION WITH THE ABOVE NOTED  
MATTER INCLUDING THE FOLLOWING:

Date	TKID	Hours	Description
05/15/08	TMM	0.60	Telephone call with J. Latham; review letter Gardiner;
05/15/08	LNW	1.10	Draft and edit letter to R. Gardiner re: condominium compliance issues; meet with J. Latham re: same; teleconference with I. Smith re: same;
05/16/08	LJL	1.50	Telephone calls with I. Smith and reviewing and commenting on draft asset purchase agreement; revising, finalizing and issuing letter to W. Ragoonanan in response to questions concerning due diligence;
05/16/08	LNW	2.90	Update Asset Purchase Agreement; correspond with I. Smith re: same; review Reciprocal Agreement re: certificates of compliance; draft e-mail memo to J. Latham re: same;
05/19/08	LJL	0.30	Telephone call with I. Smith to discuss e-mail from B. Gardiner concerning posting of asset purchase agreement to data room;
05/20/08	LUB	3.90	Research Bills of Exchange Act and Promissory Notes; interoffice conference with F. Myers; telephone conference with F. Myers; telephone conference with counsel; draft letter to counsel re: schedule; telephone conference with M. Creery;
05/20/08	MAC	0.20	Discussion with L. Butti re factum required; brief review of file;
05/20/08	LJL	4.40	Receipt and review of materials from S. Kilgour and B. Gardiner on various points of condominium law and responses to prior correspondence; office conference with F. Myers and telephone calls with I. Smith re: manner of

Date	TKID	Hours	Description
			dealing with condominium issues; office conferences with T. Macdonald and L. Willis re: same; reviewing and commenting on draft Sixth Report; brief review of offers as received, including financial projections;
05/20/08	FMS	1.50	Review Segura status; review legal research re: debt issues; telephone conversation with M. Sims to determine Mirvish approach on Segura and to discuss scheduling; conference call with all counsel on Segura re: scheduling;
05/20/08	LNW	0.60	Edit asset purchase agreement; correspond with J. Latham and I. Smith re: same;
05/21/08	LUB	4.30	Letter to counsel; prepare telephone conference with court; 9:30 request form; telephone conference with M. Sims; e-mail counsel; research; interoffice conference with M. Creery;
05/21/08	MAC	0.40	Advising L. Butti re facts needed for rectification application;
05/21/08	LJL	4.80	Review of offers received and financial projections; discussion with I. Smith re: initial reactions; telephone calls with B. Gardiner in response to correspondence concerning TSCC 1726 and related issues;
05/21/08	TMM	0.50	Telephone call with J. Latham; meeting with J. Shore; review correspondence;
05/22/08	LUB	1.70	Correspondence and telephone conferences with commercial list and counsel; preparation of compendium of documents for application;
05/22/08	LJL	6.20	Review of terms of various offers, including review of financial projections accompanying each; review of summary prepared by C. Wilson; conference call with I. Smith and C. Wilson to discuss offers; telephone calls with counsel for various participants to enquire as to clarifications concerning their client's offer; preparing for and attending meeting at Miller Thomson to discuss with Mirvish entities and counsel, on a no names basis, offers received by the Receiver and the Receiver's course for proceeding; follow-up discussions with I. Smith and C. Wilson;
05/22/08	FMS	1.40	Review draft response from J. Latham; meet J. Latham re: status; meet L. Butti re: Segura Record; consider injunction re: 1726;
05/22/08	JHS	1.00	Review correspondence among S. Kilgour (Miller Thomson) and J. Latham, I. Smith, B. Gardiner (Gardiner Miller & Arnold LLP) re: TSCC 1703 grievances;
05/22/08	LNW	2.10	Review and edit Receiver's Sixth Report; review offers to purchase and

Date	TKID	Hours	Description
			teleconference with J. Latham re: same;
05/23/08	LUB	1.10	Research fraudulent preferences; interoffice conference with M. Creery; sketch outline for factum;
05/23/08	MAC	0.70	Advising L. Butti re fraudulent preferences law;
05/23/08	DDC	3.20	Research re: receivership of condominium corporations; meet with J. Latham, L. Willis re: further research; research re: stay of proceedings as to third parties;
05/23/08	LJL	4.80	Reviewing, revising and issuing letter to B. Gardiner re defaults under Lease Operating Agreement; office conferences with F. Myers and telephone call with I. Smith re: same; issues involving commercial condominium concerns; telephone call with J. Carhart in response to questions posed concerning bid process; reviewing and commenting on draft questions to be posed of Bidders A and B and exchange of messages with C. Wilson and I. Smith; reviewing bids from Bidders A and B, including review of financial projections;
05/23/08	TMM	1.00	Review letter; meeting with J. Shore;
05/23/08	FMS	0.60	Meet J. Latham re: sales process and need for injunction against TSCC 1703; review response to Gardiner re: alleged breaches by TSCC 1726;
05/23/08	LNW	3.50	Research re: stay extension to third parties; research re: receivership of TSCC 1726; meet with D. Dedic and J. Latham re: same;
05/25/08	LJL	0.40	Exchange of messages with I. Smith re: strategy for planned meetings with Bidders A and B;
05/26/08	LUB	3.70	Attend at 9:30; draft factum; interoffice conference with M. Creery; e-mail counsel and client; prepare compendium; telephone conference with F. Myers;
05/26/08	MAC	0.50	E-mail to L. Butti and brief discussion with her re remedy of rectification and fraudulent preferences;
05/26/08	DDC	1.40	Research and write memo re: stay of proceedings for third parties in receivership; meeting with L. Willis, email to J. Latham re: same;
05/26/08	DDC	1.50	Research, memo, correspondence re: termination of condominium corporations;
05/26/08	LJL	2.30	Reviewing materials related to Bidders A and B and responses to follow-up questions; discussions with I. Smith and C. Wilson; receipt and review of

Date	TKID	Hours	Description
			materials from Bidder B and response;
05/26/08	TMM	2.20	Review condo letters; meetings with J. Shore, J. Latham;
05/26/08	JHS	0.30	Meeting between J. Shore and T. Macdonald to discuss correspondence from B. Gardiner (GMA) and S. Kilgour (Miller Thomson);
05/26/08	LNW	0.60	Review memos re: third party stays and receivership of the TSCC 1726;
05/27/08	LUB	0.50	Continue drafting factum;
05/27/08	LJL	3.30	Discussions with I. Smith, C. Wilson and preparing for and attending meeting with Bidder A in Sales Process; follow-up discussions with I. Smith and C. Wilson and preparing for meeting with Bidder B on May 28, 2008;
05/27/08	TMM	0.20	Follow up;
05/28/08	LJL	3.80	Telephone calls with I. Smith and C. Wilson; reviewing materials and preparing for and attending meeting with prospective bidder and follow-up discussions with I. Smith and C. Wilson re: same;
05/28/08	LNW	4.00	Research re: condominium law issues; meet with D. Dedic and J. Latham re: same; attend meeting with representatives of TSCC 1703; follow-up meetings with C. Wilson, I. Smith and J. Latham;
05/29/08	LUB	3.50	Finalize compendium; draft factum;
05/29/08	LD	1.40	Inter-office conference with P. Kolla; review Tariffs; draft and revise Bill of Costs and Notice of Taxation;
05/29/08	PRK	0.20	E-mail to F. Myers and J. Latham; decision on leave to appeal and ask L. Dagg to prepare costs materials;
05/29/08	LJL	3.60	Multiple discussions with I. Smith and exchange of emails with I. Smith and C. Wilson to discuss issues concerning both Bidder A and Bidder B; communications with counsel for both Bidder A and Bidder B; review of draft Sixth Report and materials received from Aird & Berlis in connection with their retainer for the estate;
05/29/08	FMS	0.80	Meet J. Latham re: current status of sales process and possibility of combining two top offers;
05/30/08	LUB	3.50	Draft factum; e-mail correspondence with counsel; review Segura factum;
05/30/08	LJL	6.00	Reviewing materials from Bidders A and B and preparing for and attending at meeting with Bidder A to discuss issues and concerns that must be addressed in order to advance offer; telephone call and emails with counsel

Date	TKID	Hours	Description
			for Bidder B; telephone calls and office conferences with I. Smith and C. Wilson; brief review of draft Sixth Report;
05/30/08	LNW	1.50	Teleconference with J. Latham re: acknowledgement and agreement and real estate searches; draft acknowledgment;
05/31/08	LJL	0.80	Exchange of messages with I. Smith re: approach to TSCC 1703; review of materials from Bidder A offer;
05/31/08	LNW	2.00	Draft Acknowledgements, e-mail correspondence re: real estate searches;
06/01/08	LJL	1.20	Reviewing and commenting on draft Sixth Report; review and exchange of emails with I. Smith, Bidder A and R. Meagher re: logistics for meeting; e-mail to B. Gardiner re: TSCC 1703 and status of sales process;
06/01/08	LNW	0.40	E-mails with J. Latham re: Acknowledgement agreement; revise acknowledgement;
06/02/08	LUB	2.20	Revise factum; telephone conference with M. Sims; interoffice conference with M. Creery; research;
06/02/08	BLC	1.50	E-mails from Dan Dedic and Susan Crisp re request for subsearch of Toronto Condominium properties; conducting random subsearch of four condominium units, retrieving parcel registers and copies of mortgage documents; e-mail to Dan Dedic attaching subsearch results; telephone conversation with Dan Dedic re mortgage title documents and provisions of mortgage, discussion re standard charge terms; telephone discussion with Susan Crisp re standard charge terms; e-mail to Dan Dedic attaching standard charge terms; telephone conversation with conveyancer re request for standard charge terms; fax to conveyancer with request.
06/02/08	MAC	0.50	Meeting with L. Butti re upcoming rectification application;
06/02/08	SNC	0.60	Correspondence with D. Dedic; discussion with B. Cooper re: standard charge terms; search for standard charge terms;
06/02/08	DDC	1.20	Search for title/mortgages of 1 King West; search events of default for relevant provisions; correspondence/meeting re: same;
06/02/08	LJL	4.80	Multiple discussions with I. Smith and R. Meagher re: TSCC 1726 issues and correspondence from TSCC 1703; responding to enquiries re: draft Asset Purchase Agreement; multiple discussions with I. Smith re: same; reviewing materials re: Segura Application; drafting and revising acknowledgements for execution in anticipation of meeting; telephone calls and emails to counsel for Bidder B concerning points for clarification;

Date	TKID	Hours	Description
06/02/08	LNW	0.80	Meet with D. Dedic re: real estate searches; revise acknowledgement agreement; correspond with J. Latham and I. Smith re: same;
06/03/08	DNB	1.00	Pulled relevant case law and textbooks and identified parts cited in factum.
06/03/08	LUB	2.50	Revise factum;
06/03/08	LJL	1.60	Multiple discussions with I. Smith re: status of draft Asset Purchase Agreement and discussions with Bidder A; discussions with R. Meagher re: correspondence from counsel for TSCC 1703 with respect to TSCC 1726;
06/03/08	JHS	0.10	Assist J. Latham;
06/03/08	LNW	8.80	Coordinate research re: condominium mortgage terms; correspond with D. Dedic and S. Crisp re: same; edit Acknowledgement Agreements;
06/04/08	LUB	0.80	Telephone conference with M. Sims; e-mail correspondence with counsel; interoffice conference with M. Creery; draft factum;
06/04/08	BLC	0.20	Receipt and review of package from conveyancer; telephone conversation with conveyancer re standard charge terms; e-mail to Dan Dedic attaching requested standard charge terms.
06/04/08	MAC	1.50	Beginning preparation of law section of factum for rectification application;
06/04/08	DDC	0.50	Review unit owners' mortgages for 1 King W; meet with J. Latham;
06/04/08	LJL	5.50	Issues involving obtaining Acknowledgements from each of TSCC 1703 and Bidder A for meeting to be held on June 5; discussions with B. Gardiner re: same; discussions with R. Meagher re: same; review of draft Asset Purchase Agreement and office conferences with T. Macdonald and L. Willis re: same; multiple discussions with C. Wilson and I. Smith re: same; reviewing materials re: draft factum for Segura matter; reviewing Segura's materials;
06/04/08	TMM	1.20	Telephone call with J. Latham; review re: condo issues; meeting with J. Shore;
06/04/08	FMS	0.80	Meet J. Latham re: status of sales process and strategy; review draft Sixth Report;
06/04/08	JHS	0.80	Review correspondence between J. Latham and B. Gardiner (Gardiner Miller Arnold) re: financing of purchase by TSCC 1703; review Condo Act provisions re: assessments and lien rights; meetings between J. Shore and T. Macdonald re: same;
06/04/08	LNW	0.30	Correspond with I. Smith re: message of S. Kilgour re: TSCC 1703 matters;



Date	TKID	Hours	Description
			review student research;
06/05/08	LUB	3.10	Revise factum; prepare compendium; review application record of Segura;
06/05/08	MAC	9.10	Drafting factum for rectification application;
06/05/08	LJL	7.30	Preparing for and attending meeting at Bidder A's premises with TSCC 1703 and discussing various issues involving bids, including issues with respect to various documents that are involved in the Rental Management Program; follow-up discussions with I. Smith and C. Wilson; telephone messages to R. Meagher, L. Whittlin and B. Gardiner;
06/05/08	TMM	0.60	Review material; meeting with J. Shore;
06/06/08	LUB	3.00	Revise factum; finalize compendium; telephone conference with M. Sims;
06/06/08	MAC	8.20	Completing and revising draft factum;
06/06/08	LJL	4.60	Multiple discussions with I. Smith and C. Wilson re: draft Asset Purchase Agreement and telephone calls and exchange of messages with T. Macdonald re: same; exchanges of messages with R. Meagher and B. Gardiner re: various issues; discussion re: follow-up issues from meeting between TSCC 1703 and Bidder A; reviewing draft factum re Segura;
06/06/08	TMM	2.30	Review agreement of purchase and sale; correspondence with J. Latham;
06/06/08	LNW	0.60	Review and comment on Receiver's Sixth Report and court materials;
06/08/08	LUB	1.80	Complete Compendium; e-mail correspondence with M. Sims; telephone conference with M. Creery; e-mail correspondence with F. Myers; revise factum;
06/08/08	MAC	4.50	Revising factum and adding to it;
06/09/08	LUB	0.30	E-mail correspondence with counsel; serve factum;
06/09/08	MAC	0.80	Revising and finalizing factum and overseeing service of it;
06/09/08	LJL	4.60	Detailed review of draft Asset Purchase Agreement from Bidder A and making comments thereon; telephone calls with I. Smith and office conference with T. Macdonald re: same; telephone calls to R. Meagher and B. McKenna; receipt and review of emails;
06/09/08	FMS	1.30	Review and final revisions to Factum; review Mirvish Factum;
06/09/08	LNW	0.30	Review draft Receiver's Report;

Date	TKID	Hours	Description
06/10/08	LUB	0.10	Serve factum, compendium and brief;
06/10/08	PRK	0.20	Speak with H. Ross (Osler) re: filing notice and taxation and bill of costs in SCC; send materials;
06/10/08	LJL	2.80	Revising and issuing draft Asset Purchase Agreement to counsel for Bidder A; multiple calls with I. Smith; calls with L. Wittlin and R. Meagher; emails with B. McKenna; office conference with T. Macdonald;
06/10/08	TMM	0.50	Meeting with J. Latham re: draft agreement of purchase and sale;
06/11/08	LJL	4.70	Reviewing draft Asset Purchase Agreement; multiple calls with I. Smith and C. Wilson and office conference with T. Macdonald; telephone calls with R. Meagher and L. Wittlin; review and revise draft Sixth Report and supporting documents;
06/11/08	TMM	1.30	Telephone call with J. Latham; telephone call with McKenna; review re: offer;
06/12/08	DDC	5.50	Meet with F. Myers and L. Willis; research re: third party stay in receivership;
06/12/08	LJL	2.30	Exchange of e-mail and telephone calls with I. Smith re: status of sales process; exchange of messages with L. Wittlin re: status; exchanges of messages with B. Gardiner re: status;
06/12/08	TMM	0.30	Review; telephone calls with J. Latham, McKenna;
06/12/08	JMN	0.30	Numerous e-mails re: union card count issues;
06/12/08	FMS	2.30	Review and revise draft Report, Notice of Motion and Order; follow-up with J. Latham re: Report;
06/12/08	LNW	5.50	E-mails with F. Myers re: Receiver's Sixth Report; review and revise Receiver's Sixth Report and corresponding court materials; organize schedules to Receivers Report; create motion record; e-mails with J. Latham re: same;
06/13/08	DDC	1.10	Research re: third party stay in receivership; pull/read caselaw; meet with F. Myers;
06/13/08	LJL	1.80	Multiple discussions with I. Smith and F. Myers; reviewing emails; exchange of messages with B. Gardiner; emails with L. Willis and F. Myers re: service of Sixth Report;
06/13/08	TMM	0.10	Correspondence;

Date	TKID	Hours	Description
06/13/08	LNW	5.50	Edit and revise court material re: motion to approve Sixth Report; organize schedules to Sixth Report; serve motion coordinate with I. Smith;

## OUR FEE

**\$117,620.50**

## TIMEKEEPER SUMMARY

TKID	NAME	HOURS	RATE
FMS	Myers, Frederick	8.70	\$720.00
JHS	Shore, Jeffrey	2.20	\$545.00
LJL	Latham, L. Joseph	83.40	\$650.00
TMM	Macdonald, Thomas M.	10.80	\$675.00
JMN	Morrison, Joe	0.30	\$500.00
LNW	Willis, Logan	40.50	\$325.00
LUB	Butti, Lauren	36.00	\$430.00
MAC	Creery, Monica	26.40	\$550.00
PRK	Kolla, Peter	0.40	\$295.00
BLC	Cooper, Brandy L.	1.70	\$280.00
LD	Dagg, Linda	1.40	\$300.00
SNC	Crisp, Susan	0.60	\$345.00
DDC	Dedic, Dan	14.40	\$210.00
DNB	Backhouse, Diana	1.00	\$210.00
WP	Word Processing	17.80	\$50.00

## DISBURSEMENTS

Telephone - Long Distance	2.58
Agent Fees	76.00
Copies	861.00
Computer Searches - QL System	432.30
Telephone - Cellular Phone Charges	69.69
Meals	49.41
Conference Calls	8.75
Delivery - Courier	31.41

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Computer Searches - Westlaw Carswell  
Telecopier Charges

126.00

46.00

**TOTAL DISBURSEMENTS****\$1,703.14**

TOTAL FEES ON THIS INVOICE

\$117,620.50

GST ON FEES

5,881.03

NON TAXABLE DISBURSEMENTS

0.00

TAXABLE DISBURSEMENTS

1,703.14

TOTAL DISBURSEMENTS ON THIS INVOICE

\$1,703.14

GST ON TAXABLE DISBURSEMENTS

85.16

**TOTAL THIS INVOICE****\$125,289.83**

TOTAL AMOUNT DUE IN CANADIAN DOLLARS

**\$125,289.83**THIS IS OUR ACCOUNT HEREIN  
GOODMANS LLP

PER:

E. & O. E.  
LJI /

This invoice is payable upon receipt in accordance with Section 33 of the Solicitors Act (Ontario), interest will be charged at the rate of 4.30% per annum on unpaid fees, charges or disbursements calculated one month from the date this invoice is delivered.



July 17, 2008

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

ATTENTION: Ira Smith

OUR FILE NO. ISTR 070060  
OUR INVOICE NO. 500923

Re: Stinson Hospitality Inc. and Dominion Club of Canada Corporation

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TO OUR PROFESSIONAL SERVICES RENDERED IN CONNECTION WITH THE ABOVE NOTED  
MATTER INCLUDING THE FOLLOWING:

Date	TKID	Hours	Description
06/10/08	MAC	0.50	Overseeing compilation of Book of Authorities and service of materials;
06/16/08	LUB	0.20	Voicemail message and e-mail correspondence with F. Myers and M. Sims;
06/16/08	LJL	3.20	Multiple calls with I. Smith, C. Wilson and R. Meagher re: offer status; office conference with F. Myers re: Sixth Report and discussions with M. Arnold;
06/16/08	TMM	0.20	Review correspondence;
06/16/08	LNW	1.00	Correspond with M. Arnold, F. Myers and J. Latham re: service issues; re-serve Motion Record;
06/17/08	LUB	1.50	Telephone conference with F. Myers and J. Latham; attend to 9:30 (cancelled); e-mail correspondence with counsel re: adjournment; telephone conference with F. Myers; draft order and consent; e-mail correspondence with I. Smith;
06/17/08	DA	1.10	File motion;
06/17/08	LJL	5.20	Reviewing and revising draft Letter of Intent and Asset Purchase Agreement; telephone calls with I. Smith, F. Myers and R. Meagher; issues re: adjournment of June 19 motion; reviewing TSCC 1703 issues; review correspondence from B. Gardiner; issues re: Union request for acknowledgement and agreement from Union; emails with I. Smith and J. Morrison re: same; office conference with T. Macdonald;
06/17/08	TMM	1.80	Telephone calls with J. Latham; review correspondence with McKenna;

Date	TKID	Hours	Description
			revise authorization;
06/17/08	JMN	1.00	E-mail re: proposed agreement; review of court order; e-mail to I. Smith with respect to same;
06/17/08	FMS	1.00	Negotiations with M. Arnold re: terms of adjournment; report to client; instruct L. Butti; telephone conversation with J. Carhart re: adjournment;
06/17/08	LNW	0.30	Review e-mails re: 9:30 appointment; correspond with L. Butti re: adjournment of Motion and notice to service list;
06/18/08	LUB	1.90	E-mail correspondence with counsel re: consent; prepare draft order and consent; telephone conference with C. Jaglowitz; interoffice conference with F. Myers; telephone conference with L. Willis; review motion record and May correspondence;
06/18/08	LJL	3.80	Telephone calls with I. Smith, T. Macdonald, F. Myers and R. Meagher re: revised Letter of Intent and Asset Purchase Agreement; exchange of messages with F. Myers and L. Butti re: adjournment of motion with stay for TSCC 1726; exchange of messages with I. Smith, J. Morrison and F. Myers re: Union request for recognition documentation;
06/18/08	TMM	1.20	Review documents; telephone call with McKenna, Latham;
06/18/08	JMN	1.00	Review of e-mail from union; e-mail to I. Smith; draft response to union e-mail; consultation with F. Myers; e-mail from J. Latham;
06/19/08	LUB	1.50	Prepare for and attend at court; arrange to have order issued and entered; e-mail correspondence with counsel; e-mail correspondence with F. Myers;
06/19/08	DA	1.50	Issuing Order;
06/19/08	LJL	1.80	Telephone call with R. Meagher, B. McKenna and T. Macdonald; reviewing emails re; due diligence issues; reviewing and revising letter to LSUC re: Verdun complaints;
06/19/08	TMM	1.80	Telephone call with McKenna; correspondence with J. Latham, Ira Smith Trustee; telephone call with McKenna;
06/20/08	LUB	0.50	Review factum (reply); e-mail correspondence with client and counsel;
06/20/08	LJL	5.00	Telephone calls with I. Smith and R. Meagher re: draft Asset Purchase Agreement; issues re: TSCC 1703 correspondence and review letter from B. Gardiner; reviewing and revising letter to LSUC; office conference with Fred Myers re: Segura issues and their reply factum; reply to further enquiries from Bidder A; telephone call from J. Carhart re: status;

Date	TKID	Hours	Description
06/20/08	TMM	1.30	Conference call with Smith, Latham; telephone call with McKenna;
06/22/08	LJL	1.00	Reviewing letter from B. Gardiner; review of email from R. Meagher;
06/23/08	LUB	0.10	E-mail correspondence with client;
06/23/08	LJL	4.20	Meeting with I. Smith and reviewing draft Asset Purchase Agreement; telephone calls with T. Macdonald; telephone calls with R. Meagher, B. McKenna and L. Willis; drafting response to B. Gardiner;
06/23/08	TMM	1.80	Correspondence with J. Latham; review agreement of purchase and sale; letter from Gardiner; review re: condo meeting;
06/23/08	JHS	0.30	Assist T. Macdonald and J. Latham re: Condo Act question (calling owners' meeting); research re: same;
06/23/08	LNW	0.50	Meet with J. Latham re: review of Reciprocal Agreement and Lease Operating Agreement;
06/24/08	LUB	1.50	Review facta and briefs of authorities; interoffice conference with F. Myers re: application;
06/24/08	LJL	5.20	Multiple emails and telephone calls with I. Smith and R. Meagher re: Asset Purchase Agreement and issues; office conference with T. Macdonald re: real estate issues; issues raised by TSCC 1703; revising Asset Purchase Agreement;
06/24/08	TMM	2.20	Review material; meeting with J. Latham; review registered documents; meeting with J. Shore;
06/24/08	LNW	1.60	Review edits of APA; review Reciprocal Agreement and Lease Operating Agreement; meet with J. Latham re: same;
06/25/08	LJL	4.60	Reviewing and revising draft Asset Purchase Agreement; multiple calls with I. Smith, T. Macdonald and R. Meagher; reviewing Reciprocal Act and Lease Operating Agreement;
06/25/08	TMM	2.20	Review reciprocal agreements, leasing agreements; meeting with J. Latham; review re: agreement of purchase and sale; correspondence;
06/25/08	LNW	6.00	Teleconference re: asset purchase agreement; meet with J. Latham and I. Smith re: same; review and revise asset purchase agreement;
06/26/08	LUB	4.50	Review facta and case law; prepare for motion; telephone conversation with M. Sims; interoffice conference with J. Latham; voicemail for P. Conway; interoffice conference with M. Creery; telephone conference with P. Conway;



Date	TKID	Hours	Description
06/26/08	MAC	0.80	Advising L. Butti re preparation for motion;
06/26/08	LJL	6.20	Reviewing and revising draft Asset Purchase Agreement; office conference with L. Willis and T. Macdonald; telephone call with I. Smith, R. Meagher and B. McKenna; reviewing correspondence from J. Demeester & commenting on draft response; revising draft letter to B. Gardiner;
06/26/08	PM	1.20	Search PINs for T. Macdonald - 1 King Street;
06/26/08	TMM	1.60	Meeting with J. Latham re: agreement of purchase and sale; review title issues;
06/26/08	JHS	0.10	Assist T. Macdonald re: title matters;
06/26/08	LNW	7.70	Review and revise Purchase Agreement; meetings with J. Latham and T. MacDonald re: same; teleconferences with I. Smith and counsel to purchasers; revise Purchase Agreement;
06/27/08	LUB	6.00	Prepare for and attend at court; interoffice conference with F. Myers; telephone conference with J. Latham; e-mail correspondence to client;
06/27/08	DDC	0.70	Deliver documents to Lang Michener;
06/27/08	LJL	1.80	Telephone call with I. Smith, T. Macdonald and L. Willis and with R. Meagher and B. McKenna to finalize Asset Purchase Agreement;
06/27/08	TMM	0.40	Correspondence and telephone calls with J. Latham re: agreement of purchase and sale;
06/27/08	JMN	1.50	Review of union's Certification Application; telephone call from Lidia; telephone call to OLRB; draft letter to OLRB; telephone call to union's counsel; numerous e-mails;
06/27/08	LNW	1.50	Finalize asset purchase agreement; correspond with J. Latham, T. MacDonald and Lang Michner re: same;
06/30/08	LJL	1.00	Emails with B. McKenna and L. Willis re: due diligence issues and J. Morrison re: SEIU issues;
06/30/08	TMM	0.30	Correspondence with McKenna, Smith, Latham;
07/01/08	LJL	1.20	Emails and telephone calls with I. Smith re: numerous questions arising from owners on housekeeping;
07/01/08	TMM	0.50	Correspondence with Smith, McKenna, Latham;
07/02/08	LJL	3.80	Reviewing, finalizing and issuing letter to B. Gardiner; telephone call to B. Gardiner; telephone call with I. Smith re: steps forward and dealing with

Date	TKID	Hours	Description
			owner concerns; reviewing draft e-mail re: Housekeeping issues; telephone call with T. Macdonald and B. McKenna re: due diligence questions; telephone call to J. Carhart;
07/02/08	TMM	1.30	Review correspondence; conference call with McKenna, Latham;
07/02/08	JMN	1.00	Review correspondence from union's counsel to OLRB; prepare response to same;
07/03/08	LJL	3.20	Exchanges of emails with I. Smith re: unit owner issues with housekeeping and other matters; reviewing draft presentation to Mirvish Group; meeting with Mirvish Group and Miller Thomson to advise status of sales process;
07/03/08	PM	0.50	Telephone conversation with TSSA re: Licensee charges; Email to T. Macdonald re: 1 King;
07/03/08	TMM	0.20	Correspondence with McKenna, Latham;
07/03/08	JMN	0.30	Review correspondence from union's counsel; e-mail to I. Smith with respect to same;
07/04/08	LJL	2.30	Telephone calls with B. Gardiner and I. Smith; conference call with B. McKenna and T. Macdonald; issues re: due diligence and issues re: TSCC 1703 correspondence;
07/07/08	LJL	3.40	Issues and emails with B. McKenna; exchanges of e-mail with I. Smith re: concerns and different positions put forward by owners; review letter from B. Gardiner;
07/07/08	TMM	0.40	Correspondence with McKenna; telephone call with Latham;
07/08/08	LUB	0.20	E-mail correspondence with counsel re: TC1703;
07/08/08	LJL	1.80	Exchange of emails and telephone calls with I. Smith re: due diligence and re: owner issues; telephone calls with M. Arnold and B. Gardiner re: Sixth Report and re: mortgage with TSCC 1703 and Le Jardin/HR;
07/08/08	TMM	1.50	Correspondence with McKenna, Latham, Smith; telephone call with Smith; telephone call with Latham;
07/09/08	LJL	1.00	Issues re: due diligence; issues re: correspondence from B. Gardiner;
07/09/08	TMM	0.50	Correspondence with McKenna, Latham, Smith;
07/10/08	LJL	3.20	Dealing with B. McKenna and R. Meagher requests; drafting letter to B. Gardiner; emails with R. Meagher and arranging meeting with TSCC1703/buyer; telephone call with M. Arnold re: approval of Sixth Report;

Date	TKID	Hours	Description
07/10/08	TMM	1.00	Correspondence;
07/11/08	LUB	0.40	Review fax from court; e-mail I. Smith; telephone conference with J. Latham;
07/11/08	DA	1.00	Issue and enter order;
07/11/08	LJL	5.20	Attending 9:30 hearing re: approval of Sixth Report; telephone calls and emails with I. Smith; conference call with Le Jardin/IHR re: issues; drafting response to B. Gardiner's July 4 letter;
07/11/08	TMM	1.00	Correspondence with Lang, Smith, Latham, Gardner;
07/12/08	TMM	0.40	Review correspondence;
07/14/08	LUB	0.20	Brief interoffice conference with F. Myers re: trial; fax from court;
07/14/08	LJL	6.80	Reviewing and revising letter to B. Gardiner; emails and telephone calls with R. Meagher re: meeting with TSCC 1703; preparing for and attending meeting between Le Jardin/IHR and TSCC 1703; follow-up discussions with R. Meagher and I. Smith; telephone call to J. Carhart;
07/14/08	TMM	3.00	Meeting with Buyer, 1703 Board, Smith, Latham;
07/15/08	LJL	2.00	Telephone calls with R. Meagher and I. Smith re: status of Le Jardin/IHR progress and issues raised by TSCC 1703; office conference with F. Myers and L. Willis to debrief; issues re: Segura; telephone call from P. Conway;

## OUR FEE

**\$85,537.50**

## TIMEKEEPER SUMMARY

TKID	NAME	HOURS	RATE
FMS	Myers, Frederick	1.00	\$720.00
JHS	Shore, Jeffrey	0.40	\$545.00
LJL	Latham, L. Joseph	76.90	\$650.00
TMM	Macdonald, Thomas M.	24.60	\$675.00
JMN	Morrison, Joe	4.80	\$500.00
LNW	Willis, Logan	18.60	\$325.00
LUB	Butti, Lauren	18.50	\$430.00
MAC	Creery, Monica	1.30	\$550.00
PM	MacDonald, Paula	1.70	\$225.00

TKID	NAME	HOURS	RATE
DA	Clerk, Litigation	3.60	\$50.00
WP	Word Processing	3.70	\$50.00
DDC	Dedic, Dan	0.70	\$210.00

## DISBURSEMENTS

Telephone - Long Distance	2.28
Parking/ Cab / Mileage	36.80
Copies	1,094.25
Computer Searches - QL System	507.24
Computer Searches - Lexis	29.43
Meals	32.59
Issue Statement of Claim	127.00
Delivery - Courier	70.20
Computer Searches - Westlaw Carswell	15.00
Search - Sub	542.00
Telecopier Charges	17.00

## TOTAL DISBURSEMENTS

**\$2,473.79**

TOTAL FEES ON THIS INVOICE

**\$85,537.50**

GST ON FEES

**4,276.88**

NON TAXABLE DISBURSEMENTS

127.00

TAXABLE DISBURSEMENTS

2,346.79

TOTAL DISBURSEMENTS ON THIS INVOICE

**\$2,473.79**

GST ON TAXABLE DISBURSEMENTS

117.34

TOTAL THIS INVOICE

**\$92,405.51**

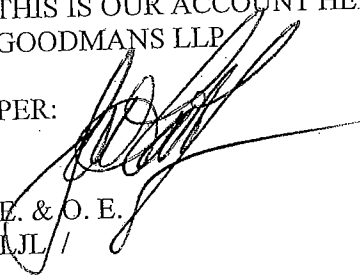
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TOTAL AMOUNT DUE IN CANADIAN DOLLARS

\$92,405.51

THIS IS OUR ACCOUNT HEREIN  
GOODMANS LLP

PER:

  
E. & O. E.  
I.J.L. /

This invoice is payable upon receipt in accordance with Section 33 of the Solicitors Act (Ontario), interest will be charged at the rate of 3.30% per annum on unpaid fees, charges or disbursements calculated one month from the date this invoice is delivered.



August 22, 2008

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

ATTENTION: Ira Smith

OUR FILE NO.        ISTR        070060

OUR INVOICE NO.        503008

Re: Stinson Hospitality Inc. and Dominion Club of Canada Corporation

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TO OUR PROFESSIONAL SERVICES RENDERED IN CONNECTION WITH THE ABOVE NOTED  
MATTER INCLUDING THE FOLLOWING:

Date	TKID	Hours	Description
06/19/08	JMN	0.20	E-mail to I. Smith with respect to arbitration decision;
07/10/08	JMN	1.50	E-mail from R. Rogers' lawyer; telephone call to L. Mastrolacasa with respect same; telephone with R. Rogers' counsel;
07/16/08	MUB	0.80	Discussions with N. Wilson and review email message from same; conduct corporate, PPSA and execution searches;
07/16/08	LUB	2.20	Review correspondence from M. Title and the decision of Pepall, J.; interoffice conference with F. Myers and J. Latham re: next steps; draft response to counsel;
07/16/08	LJL	1.60	Reviewing letter from R. Meagher; drafting, revising and issuing response; office conference with F. Myers re: Segura issues; telephone call with I. Smith; revising draft letter to B. Gardiner; office conference with L. Butti re: Segura letter;
07/16/08	TMM	0.20	Review correspondence with J. Latham;
07/16/08	FMS	2.20	Meet L. Butti and J. Latham re: Segura; review decision of Pepall J. and email from M. Title re: trial; devise pre-trial strategy; telephone conversation with I. Smith re: Segura strategy; review and revise draft letter to M. Title re: trial process; review draft letter to R. Meagher and telephone conversation with J. Latham re: injunction issues;
07/16/08	LNW	3.40	Draft/revise purchase agreement re: alternative transaction; review alternative

Date	TKID	Hours	Description
			LOI re: same;
07/17/08	MUB	0.30	Retrieve execution search results and review PPSA search results;
07/17/08	LUB	0.30	Telephone conference with I. Smith; e-mail J. Latham and J. Myers; letter to M. Title et al.;
07/17/08	LJL	1.50	Emails and telephone calls with I. Smith and R. Meagher re: Le Jardin/IHR not proceeding; reviewing unit owners emails;
07/18/08	MUB	0.70	Review search results;
07/18/08	LJL	1.80	Telephone calls with I. Smith and R. Gardiner re: status of sales process; telephone call to R. Meagher; telephone calls with F. Myers and T. Macdonald;
07/18/08	TMM	0.20	Correspondence;
07/18/08	LNW	0.40	Review voice message from Lang Michener re: purchase agreement; review letter and e-mail correspondence re: termination of purchase agreement;
07/21/08	LUB	0.10	E-mail correspondence with I. Smith;
07/21/08	LJL	3.00	Emails and telephone calls with I. Smith re: status of offers and discussions with TSCC 1703; reviewing letter of intent and draft Asset Purchase Agreement;
07/21/08	TMM	1.20	Meeting with J. Latham, F. Myers, I. Smith; correspondence;
07/21/08	FMS	0.30	Brief meeting with J. Latham and I. Smith re: meeting with unit holders;
07/22/08	LJL	2.40	Issues re: status of TSCC 1703 offer and discussions with I. Smith and R. Gardiner; issues re: Segura; issues re: unit owners correspondence;
07/22/08	TMM	1.00	Correspondence with J. Latham, I. Smith, S. Kilgour;
07/22/08	LNW	0.30	Review e-mails and messages re: meeting and status of TSCC 1703 bid;
07/23/08	LUB	0.30	E-mail correspondence with I. Smith; e-mail correspondence with M. Title; e-mail correspondence with F. Myers and J. Latham;
07/23/08	PRK	0.30	Research on costs and phone call to SCC Registrar on taxation of bill of costs;
07/23/08	LJL	5.30	Reviewing and revising draft Asset Purchase Agreement; multiple telephone calls and emails with I. Smith, B. Gardiner and T. Macdonald; issues re: Segura; office conference with F. Myers re: Segura and sales process; further discussions with I. Smith and F. Myers;
07/23/08	TMM	0.40	Correspondence; telephone calls;



Date	TKID	Hours	Description
07/23/08	JMN	1.30	E-mail from I. Smith with respect to breach of covenants; review of correspondence from Monte Carlo; telephone call with Lidia et al with respect to same; e-mail to I. Smith with respect to same;
07/23/08	FMS	0.90	Meet J. Latham re: court strategy to deal with offer from TSCC 1703 and communication strategy with Mirvish and Unit Owners;
07/23/08	LNW	0.30	Correspond re: TSCC 1703 deal and next steps;
07/24/08	LJL	3.20	Reviewing and revising draft Asset Purchase Agreement; office conference with T. Macdonald re: same; telephone calls with R. Gardiner and I. Smith;
07/24/08	TMM	2.00	Review and revise Agreement of Purchase and Sale; telephone call with J. Latham;
07/24/08	LNW	1.40	Review messages from J. Latham; email correspondence re: TSCC 1703 bid; review T. MacDonald's comments re: asset purchase agreement;
07/25/08	LJL	3.50	Revising and issuing to B. Gardiner draft Asset Purchase Agreement; conference call with I. Smith and Mirvish; office conference with L. Willis; emails to R. Gardiner;
07/25/08	TMM	0.30	Re: Agreement of Purchase and Sale; correspondence with J. Latham;
07/25/08	MEW	0.40	Speak to J. Latham re: overview matters;
07/25/08	LNW	2.00	Meet with J. Latham, M. Wagner re: TSCC 1703 bid overview and asset purchase agreement; review mark-up of asset purchase agreement; meet with J. Latham re: same;
07/28/08	TMM	0.30	Correspondence with I. Smith and J. Latham re: TSCC 1703;
07/29/08	TMM	0.20	Correspondence with I. Smith;
07/30/08	TMM	0.20	Correspondence with I. Smith;
07/31/08	LUB	0.20	Telephone conference with P. Conway re: Segura;
07/31/08	TMM	0.10	Correspondence;
07/31/08	LNW	3.80	Draft motion materials re: sale approval and vesting motion; email correspondence re: Mirvish/TSCC 1703 meetings;
08/01/08	LJL	0.30	Emails with I. Smith re: status of TSCC 1703 offer and draft Asset Purchase Agreement;
08/05/08	LJL	2.60	Telephone calls with I. Smith and B. Gardiner re: status of draft Asset Purchase Agreement; telephone call with J. Carhart re: concerns expressed by

Date	TKID	Hours	Description
			Mirvish Group; office conference with T. Macdonald and L. Willis re: status; office conference with F. Myers;
08/05/08	LNW	0.60	Meet with J. Latham re: file update; revise Approval and Vesting Order; emails to J. Latham re: same;
08/06/08	LUB	0.70	E-mail correspondence with F. Myers and J. Latham; interoffice conference with F. Myers; e-mail correspondence with R. Verdun;
08/06/08	LJL	1.80	Telephone calls with I. Smith re: unit owner issues; review of emails re: Mirvish Group concerns; drafting, revising and issuing response to questions posted by TSCC 1703 re: Sixth Report;
08/06/08	FMS	0.70	Review Segura process issues; review and revise draft emails from J. Latham;
08/07/08	LJL	5.40	Telephone calls and emails with B. Gardiner and I. Smith re: status of draft Asset Purchase Agreement; receipt and review of draft Asset Purchase Agreement and letter from B. Gardiner; office conference with T. Macdonald and L. Willis;
08/07/08	TMM	0.20	Telephone call with J. Latham, correspondence;
08/07/08	JMN	0.40	Telephone call for L. Mastrolacasa with respect to employment matters;
08/07/08	LNW	2.50	Review correspondence re: TSCC 1703 asset purchase agreement and TSCC 1703 Board of Directors' communications to unit owners; review and edit TSCC 1703 draft of asset purchase agreement;
08/08/08	DDC	0.70	Research re: contingent claims against receivers; meet with L. Willis re: same;
08/08/08	LJL	3.30	Reviewing draft Asset Purchase Agreement and telephone call with I. Smith and L. Willis; letter to Commercial List re: August 21, 2008 date; telephone call to B. Gardiner;
08/08/08	TMM	1.00	Conference call with L. Willis, J. Latham and I. Smith;
08/08/08	JMN	0.40	E-mail from L. Mastrolacasa with respect to disciplinary matter; e-mail to F. Myers and J. Latham with respect to same;
08/08/08	LNW	8.10	Review and edit TSCC 1703 version of Purchase Agreement; teleconference with I. Smith, J. Latham and T. MacDonald re: purchase agreement; teleconferences with J. Latham re: same;
08/09/08	LNW	1.50	Revise purchase agreement; e-mails with J. Latham and T. MacDonald re: same;

Date	TKID	Hours	Description
08/11/08	LJL	1.40	Reviewing draft Asset Purchase Agreement; telephone call with L. Willis; telephone call to B. Gardiner;
08/11/08	TMM	2.60	Review revised Agreement Purchase and Sale; meeting with Willis;
08/11/08	JMN	0.80	Review e-mail from L. Mactralacasa with respect to disciplinary issues; respond to same; telephone call to L. Mactralacasa with respect to same;
08/11/08	LNW	4.30	Review GolfNorth case re: Receiver's protections for Approval and Vesting Order; correspond with J. Latham, F. Myers re: same; draft language for Order re: same; telephone calls to/from B. Gardiner re: purchase agreement; meet with T. MacDonald re: purchase agreement; revise purchase agreement;
08/12/08	LUB	0.10	Interoffice conference with F. Myers; voicemail from J. Latham;
08/12/08	LJL	1.60	Conference call with B. Gardiner and L. Willis re: comments on draft Asset Purchase Agreement; telephone call with J. Carhart re: status concerns and concerns from Mirvish with TSCC 1703 ability to bid;
08/12/08	TMM	0.20	Review correspondence;
08/12/08	LNW	2.40	Meet with T. MacDonald re: edits to Purchase Agreement; revise purchase agreement; correspondence re: protections clauses in Approval and Vesting Order; draft clause re: same; telephone messages to Bob Gardiner;
08/13/08	LUB	0.20	E-mail correspondence from M. Title; e-mail correspondence between counsel;
08/13/08	TMM	0.20	Correspondence with I. Smith, J. Latham and B. Gardiner;
08/13/08	JMN	0.50	E-mail from L. Mastrolacasa with respect to disciplinary issues and warning letter; review of same and providing comments;
08/14/08	LUB	0.70	Review e-mail from M. Title; brief interoffice conference with F. Myers; e-mail J. Latham; draft and send response to M. Title; e-mail correspondence from P. Conway;
08/14/08	LJL	0.40	Exchange of emails with I. Smith and B. Gardiner re: communication to owners;
08/14/08	LNW	0.10	Review TSCC 1703's draft communication to owners;
08/15/08	TMM	0.10	Correspondence with I. Smith;
08/15/08	LNW	0.20	Correspond re: communications to owners; coordinate court appearances with M. Arnold; book court date;

**OUR FEE****\$51,449.00****TIMEKEEPER SUMMARY**

TKID	NAME	HOURS	RATE
FMS	Myers, Frederick	4.10	\$720.00
LJL	Latham, L. Joseph	39.10	\$650.00
MEW	Wagner, Melaney	0.40	\$525.00
TMM	Macdonald, Thomas M.	10.40	\$675.00
JMN	Morrison, Joe	5.10	\$500.00
LNW	Willis, Logan	31.30	\$325.00
LUB	Butti, Lauren	4.80	\$430.00
PRK	Kolla, Peter	0.30	\$295.00
MUB	Buckley, Maureen	1.80	\$325.00
WPBM	Blake-Daye, Milicent	1.80	\$50.00
WPJB	Bennett, Jayne	0.80	\$50.00
WPJM	Mundy, Julie	0.30	\$50.00
WPMF	Franco-Javier, Madeleine	2.00	\$50.00
DDC	Dedic, Dan	0.70	\$210.00

**DISBURSEMENTS**

Telephone - Long Distance	5.95
Agent Fees	185.95
Copies	76.50
Telephone - Cellular Phone Charges	136.18
Search - EDD	70.00
Meals	26.22
Delivery - Courier	78.28
Search - Corporate	82.00
Search - Fee	86.10
Search - PPSA	54.00
Telecopier Charges	13.25

**TOTAL DISBURSEMENTS****\$814.43****TOTAL FEES ON THIS INVOICE****\$51,449.00**

GST ON FEES	2,572.45
NON TAXABLE DISBURSEMENTS	142.10
TAXABLE DISBURSEMENTS	672.33
TOTAL DISBURSEMENTS ON THIS INVOICE	\$814.43
GST ON TAXABLE DISBURSEMENTS	33.62
<b>TOTAL THIS INVOICE</b>	<b>\$54,869.50</b>

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**ACCOUNTS RECEIVABLE**

DATE	NUMBER	INVOICE AMT	TOTAL PAID/CR	BALANCE DUE
07/17/08	500923	\$92,405.51	\$0.00	\$92,405.51
<b>TOTAL OUTSTANDING INVOICES (IN CDN)</b>				<b>\$92,405.51</b>

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TOTAL AMOUNT DUE IN CANADIAN DOLLARS **\$147,275.01**

THIS IS OUR ACCOUNT HEREIN  
GOODMANS LLP

PER:

E. & O. E.  
LJL //

This invoice is payable upon receipt in accordance with Section 33 of the Solicitors Act (Ontario), interest will be charged at the rate of 3.30% per annum on unpaid fees, charges or disbursements calculated one month from the date this invoice is delivered.

This is Exhibit....."2".....referred to in the  
 affidavit of.....L.....JOSEPH LATHAM.....  
 sworn before me, this.....5<sup>th</sup>.....  
 day of.....September.....20.08...

**EXHIBIT "2"**

**IRA SMITH TRUSTEE & RECEIVER INC. AS RECEIVER AND MANAGER OF STINSON  
 HOSPITALITY INC., DOMINION CLUB OF CANADA CORPORATION, THE SUITES AT 1  
 KING WEST INC. AND 2076564 ONTARIO INC.**

**MAY 15, 2008 – AUGUST 15, 2008**

Staff Member	Title	Total Hours	Rate (\$CDN)	Amount Billed
L. Joseph Latham	Partner	199.40	\$650.00	\$129,610.00
Frederick Myers	Partner	13.80	\$720.00	\$9,936.00
Thomas Macdonald	Partner	45.80	\$675.00	\$30,915.00
Jeffrey Shore	Partner	2.60	\$545.00	\$1,417.00
Melaney Wagner	Partner	0.40	\$525.00	\$210.00
Monica Creery	Associate	27.70	\$550.00	\$15,235.00
Joe Morrison	Associate	10.20	\$500.00	\$5,100.00
Logan Willis	Associate	90.40	\$325.00	\$29,380.00
Lauren Butti	Associate	59.30	\$430.00	\$25,499.00
Peter Kolla	Associate	0.70	\$295.00	\$206.50
Diana Backhouse	Student	1.00	\$210.00	\$210.00
Dan Dedic	Student	15.80	\$210.00	\$3,318.00
Linda Dagg	Clerk	1.4	\$300.00	\$420.00
Susan Crisp	Clerk	0.60	\$345.00	\$207.00
Brandy Cooper	Clerk	1.70	\$280.00	\$476.00
Paula MacDonald	Clerk	1.70	\$225.00	\$382.50
Maureen Buckley	Clerk	1.8	\$325.00	\$585.00
Litigation Clerk	Clerk	3.60	\$50.00	\$180.00
Word Processing	N/A	26.40	\$50.00	\$1,320.00
<b>Total Fees (excludes expenses and GST)</b>			<b>Average hourly rate \$379.47</b>	<b>\$254,607.00</b>

**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  
- COMMERCIAL LIST -**

Proceeding commenced at Toronto

**AFFIDAVIT OF L. JOSEPH LATHAM  
(Sworn September 5th, 2008)**

**Goodmans LLP**  
Barristers & Solicitors  
250 Yonge Street, Suite 2400  
Toronto, Canada M5B 2M6  
  
Joseph Latham (LSUC#32326A)  
Tel: 416-979-2211  
Fax: 416-979-1234

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

# EXHIBIT “M”



IRA SMITH TRUSTEE & RECEIVER INC. AS RECEIVER AND MANAGER OF THE DEBTORS FOR THE PERIOD FROM AUGUST 25, 2007 TO JULY 31, 2008						
SUITE KING	SUITES AT 1 KING WEST Operating A/C	SUITES AT 1 KING WEST Owners A/C	SUITES AT 1 KING WEST FF&E	207684 HOUSEKEEPING	STINSON HOSPITALITY	TOTAL
Opening Bank Balance August 25, 2007	\$ 1,323,926	\$ 340,321	\$ 67,720	\$ 44,253		\$ 1,815,334
REVENUE & A/R COLLECTIONS- including GST	17,575,501			2,509,404	2,295,625	\$ 27,659,503
Receiver borrowing from Suites FF&E					255,000	255,000
Repayment from Receiver		257,039				257,039
Transfer		1,253,794		22,000		6,516,025
TOTAL RECEIPTS	17,575,501	5,233,017	1,510,833	2,531,404	2,550,625	\$ 34,887,567
EXPENSES UNDER \$5000	738,335			25,262	10,224	1,165,447
CK ATLANTIS - fees and disbursements					460,411	460,411
LEGAL FEES AND DISBURSEMENTS					705,039	705,039
RECEIVER'S FEES AND DISBURSEMENTS					1,025,681	1,025,681
RECEIVER BORROWING FROM 1 KING FF&E			255,000			255,000
RECEIVER LOAN REPAYMENT					255,000	255,000
MANAGEMENT FEES -SHI	961,174			116,600		1,077,774
PROFIT DISTRIBUTION				518,352		1,085,552
RENT - SHI	158,100					158,100
DOMINION CLUB	1,603,204			62,215		1,665,419
FOOD & BEVERAGE						822,418
LEASE PAYMENTS	9,331					239,221
LINEN, LAUNDRY & SUPPLIES	342,369					352,612
GENERAL EXPENSE	368,016					401,912
HOUSEKEEPING	2,110,985					2,365,334
PAYROLL & SOURCE DEDUCTIONS	2,885,878			1,550,551		6,595,845
WSIB	50,795			26,791		96,543
PARKING						18,500
RECEIVER GENERAL - GST	485,978			89,658	53,309	789,209
RECEIVER GENERAL - NRT	53,406					53,406
INSURANCE	298,606			71,511		470,618
TRANSFER TO FF&E	1,253,793					1,253,793
MINISTRY OF FINANCE - PST	650,927					960,055
OWNER DISTRIBUTION ACCOUNT	5,233,017	5,215,974				10,448,991
CREDIT CARD COMMISSION	28,292					31,294
MAINTENANCE	194,371					277,731
GREATER T.O. HOTEL ASSOCIATION	350,242					350,242
AUDIT	42,000					42,000
SOFTWARE & WEBSITE PURCHASE	40,672					40,672
OVERHEAD PAYMENT TO SUITES						62,552
TELEPHONE, COMPUTER, ETC						108,555
TOTAL DISBURSEMENTS	17,966,045	5,215,974	261,148	2,460,938	2,509,664	33,634,925
Ending Bank Balance JULY 31, 2008	\$ 933,382	\$ 357,364	\$ 1,317,405	\$ 114,718	\$ 40,962	\$ 2,867,976

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

and

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

Court File No: 07-CL-6913

Applicants

Respondents

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

**MOTION RECORD  
(Returnable September 15, 2008)**

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

L. Joseph Latham (LSUC#32326A)  
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.

GOODMANS\5629943.1