

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

ED MIRVISH ENTERPRISES LIMITED AND 1 KING WEST INC.

Applicants

- and -

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

Respondents

MOTION RECORD

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.

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Tab 1

**ONTARIO
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Applicants

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

Respondents

**NOTICE OF MOTION
(Returnable October 5, 2007)**

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 and 2076564 Ontario Inc. (collectively, the "Debtors"), will make a motion before this Honourable Court on Friday, the 5th day of October, 2007, 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 approving the First Report of the Receiver dated October 1, 2007 (the "First Report") and the Receiver's activities and actions reported therein;
2. an order approving the interim management agreement with CK Atlantis Inc. (the "Interim Management Agreement") in substantially the form included as Exhibit "E" to the First Report;

3. an order authorizing the Receiver to execute and enter into the Interim Management Agreement and perform its obligations thereunder;
4. an order sealing the consulting report of CK Atlantis Inc. dated September 24, 2007, until further Order of this Honourable Court;
5. an order approving the fees and disbursements of the Receiver from August 16, 2007, to September 15, 2007, and the fees and disbursements of its legal counsel, Goodmans LLP for the period from August 20, 2007 to September 24, 2007; and
6. 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 today operations of the Debtors. In particular and among other things, the Receiver has taken possession of and secured the assets, property and undertaking of the Debtors, taken control of the Debtor's bank accounts, arranged for amendments to the Debtors' insurance coverage, made amendments to the Debtors' purchasing system and has negotiated with suppliers. The Receiver has also made substantial efforts to communicate with all stakeholders of the Debtors.
3. Pursuant to paragraph 4(d) of the Receivership Order, the Receiver is authorized to engage such consultants, experts and managers as it deems necessary to assist with the exercise of its powers and duties conferred by the Receivership Order;
4. The Receiver retained CK Atlantis Inc. ("CK"), a hotel management consulting firm, to assess the current state of the hotel operations at 1 King West (the "Hotel Operations") and to identify areas of improvement as well as to determine a strategic direction for the Hotel Operations. The results of CK's analysis are contained in a report dated September 24, 2007 (the "CK Consulting Report");

5. The Receiver is requesting the sealing of the CK Consulting Report as the Receiver believes that the disclosure of such a report in advance of a formal sales process for the Hotel Operations, which sales process will require the execution by potential purchasers of a confidentiality agreement with the Receiver, could have a negative impact on the offers received by the Receiver by giving an advantage to certain potential purchasers who may have access to such report in advance of other potential bidders.
6. It is the Receiver's view that in order to maximize value for all stakeholders of the Debtors, the business operations of the Debtors must be continued and public confidence in the Hotel Operations originally managed by Stinson Hospitality Inc. ("SHI"), must be maintained;
7. To that end, the Receiver believes that it is necessary to engage the services of CK to assist in the smooth transition of the Hotel Operations from SHI and to maintain and manage the Hotel Operations on an interim basis;
8. The Receiver has negotiated an interim management agreement with CK;
9. Pursuant to paragraph 21 of the Receivership Order, the Receiver and its legal counsel are required to pass their accounts from time to time;
10. The Receiver has prepared a statement of receipts and disbursements for the period from August 24, 2007 to September 28, 2007, which reflects the activities of the Receiver up to September 28, 2007;
11. Details of the hours spent, the hourly rate, the total fees and disbursements of the Receiver for the period from August 16, 2007 to September 15, 2007, are included in the Affidavit of Ira Smith sworn October 1, 2007;
12. The Receiver retained Goodmans LLP ("Goodmans") as its legal counsel with respect to the receivership. Details of the hours spent, the hourly rate, the total fees and disbursements of Goodmans for the period from August 20, 2007 to September 24, 2007 are included in the Affidavit of Joseph Latham sworn October 1, 2007;
13. Rule 3.02(1) of the Rules of Civil Procedure;

14. Section 100 of the *Courts of Justice Act*; and
15. 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 First Report, and the exhibits thereto, including the Lease Agreement;
2. the CK Consulting Report;
3. the Affidavit of Ira Smith sworn October 1, 2007;
4. the Affidavit of Joseph Latham sworn October 1, 2007; and
5. such further and other materials as counsel may advise and this Honourable Court may permit.

Date: October 1, 2007

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.

TO: ATTACHED SERVICE LIST

SERVICE LIST

TO: SHIBLEY RIGHTON LLP

Barristers and Solicitors
250 University Avenue
Suite 700
Toronto, ON M5H 3E5

Arthur Jacques

Peter Raytek

Tel.: 416.214.5213 / 5293

Fax: 416.360.5960 / 5493

Email: arthur.jacques@shibleyrighton.com

Email: peter.raytek@shibleyrighton.com

Counsel for Stinson Hospitality Inc., Dominion Club of Canada Corporation,
Harry Stinson, The Suites at 1 King West Inc. and 2076564 Ontario Inc.

AND TO: GARDINER MILLER ARNOLD LLP

Barristers and Solicitors
390 Bay Street
Suite 1202
Toronto, ON M5H 2Y2

Mark H. Arnold

Tel.: 416.363.2614 Ext. 231

Fax: 416.363.8451

Email: mark.arnold@gmalaw.ca

Counsel for Toronto Standard Condominium Corporation No. 1703

AND TO: T.S. REIBER PROFESSIONAL CORPORATION

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

Terrence S. Reiber

Tel: 416.927.9841

Fax: 416.975.1531

Email: terry@reiber.ca

Solicitor for Segura Investments Ltd.

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

Jeffrey Carhart
Tel: 416.595.8615
Fax: 416.595.8577
Email: carhart@millერთhompson.com

Patricia Conway
Tel: 416.595.8507
Fax: 416.595-8695
Email: pconway@millერთhompson.com

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

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

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

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

Solicitors for Peter Kofman and Projectcore Inc.

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

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

**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 October 5, 2007)**

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
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Tab 2

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

FIRST REPORT OF IRA SMITH TRUSTEE & RECEIVER INC.

VOLUME 1

**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 OCTOBER 1, 2007

1.0 INTRODUCTION

This report (the “**First Report**”) is filed by Ira Smith Trustee & Receiver Inc. (“**ISI**”) in its capacity as court-appointed receiver and manager (the “**Receiver**”), pursuant to section 101 of the *Courts of Justice Act*, R.S.O 1990, c. C.43, as amended (the “**CJA**”), of all of the assets, undertakings and properties of Stinson Hospitality Inc. (“**SHI**”), Dominion Club of Canada Corporation (“**DCC**”), The Suites at 1 King West Inc. (“**Suites**”) and 2076564 Ontario Inc. (“**Housekeeping**”) (collectively referred to as the “**Debtors**”).

The Honourable Madam Justice Pepall made an order dated August 24, 2007 (the “**Receivership Order**”) appointing the Receiver. A copy of the Receivership Order is attached hereto as **Exhibit “A”**.

ISI was originally the monitor (the “**Monitor**”) of SHI and DCC, appointed by order of the Honourable Mr. Justice Campbell dated April 23, 2007, and subsequently also became the Monitor of Suites and Housekeeping by Order of the Honourable Mr. Justice Campbell dated June 7, 2007. By Order of the Honourable Mr. Justice Campbell dated June 26, 2007, the actions and activities of the Monitor as described in the Monitor’s First Report dated June 6, 2007 and the Monitor’s First Supplementary Report dated June 21, 2007, were approved on an unopposed basis. Paragraph 3 of the Receivership Order approved the Monitor’s actions and activities as described in the Monitor’s Second Report to Court dated August 3, 2007 (again on an unopposed basis). The Monitor was also discharged of its duties pursuant to the Receivership Order.

The Monitor’s Second Supplementary Report dated August 16, 2007 (the “**Second Supplementary Report**”), and the actions and activities of the Monitor contained therein, were not approved due to the objection of the Respondents in this litigation. Legal counsel for the Monitor and the Receiver, Goodmans LLP, has served a Notice of Motion returnable October 5, 2007 on the parties seeking, *inter alia*, the approval of the Second Supplementary Report.

1.1 Purpose of this Report

The purpose of this First Report is to advise this Honourable Court of:

1. the actions and activities of the Receiver since August 24, 2007;
2. the Receiver’s retainer of CK Atlantis Inc. (“**CK**”), an independent hospitality consulting firm assisting the Receiver;

3. CK's Report to the Receiver dated September 24, 2007 (the "**CK Report**") on the operations of the rental management program, food and beverage services (the "**F&B**") and other related activities forming the operations of The Suites at 1 King West (the "**Operations**");
4. the need for the Receiver to continue its retainer of CK to assist the Receiver in the interim management of the Operations;
5. the Operations and the financial position of each of the Debtors;
6. the Receiver's projected statements of cash flow (consolidated) for the interim period September 1, 2007 to March 31, 2008, inclusive; and
7. the accounting for the receipts and disbursements of the Receiver for the Debtors from August 24, 2007 to September 29, 2007.

1.2 Disclaimer

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

Therefore, the Receiver is unable to and does not express an opinion on any financial statements, or elements of accounts referred to in this First Report, or any of the attached Appendices or Exhibits forming part of this First 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 First Report and, if we consider it necessary, to revise our calculations or conclusions in light of new information as such information becomes available.

1.3 Confidential Volume 2

This First Report contains a Confidential Volume 2, which contains the CK Report. The purpose of the CK Report is to assess the current state of the Operations, and to identify areas of improvement as well as to determine a strategic direction for the Operations with a view to the Receiver eventually recommending to this Honourable Court a sales process to be followed for the advertising and sale of the Debtors' assets, properties and undertakings comprising the Operations.

The Receiver will be seeking an Order sealing Volume 2 of this First Report until further Order of this Honourable Court. The Receiver makes this request to avoid any prejudice that might be caused by publicly disclosing the CK Report prior to marketing the Debtors' assets for sale. The main findings and recommendations of CK are disclosed below in this Volume 1 of the First Report, so that all stakeholders will have knowledge of such findings and recommendations, and to assist them in better understanding of the context in which the Receiver makes certain of its recommendations herein.

The Receiver believes that the CK Report must be sealed at this time, so that no potential purchasers will obtain any special insight into, or advantage with respect to, the Operations as disclosed in the CK Report, in advance of the Receiver's establishment of a sales process.

2.0 BACKGROUND AND OVERVIEW

In its capacity as Monitor, ISI previously reported 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 Monitor has also reported on how such relationships, as a whole, form the Operations of the Debtors.

In summary:

The Suites at 1 King West ("**1 King West**"), which commenced operations in 2005, is a pool of individual condominium suites located in a residential condominium building containing 575 suites. The units in the pool are rented, at the option of the unitowners, to users for short and long term stays by the rental manager. As of the date of this report there are 384 units in the pool.

- SHI acts as the rental manager for the condominiums which participate in the rental program. SHI is an Ontario Corporation. DCC, Housekeeping and Suites are wholly owned subsidiaries of SHI and Mr. Harry Stinson is the sole officer and director of all four corporations.
- The Operations contained in 1 King West offer most of the services of a hotel. Suites is a flow-through entity capturing all income and expenses of the hotel operations. Under the Rental Management Agreement (the "**RMA**") between those unit owners who have placed their units in the rental pool (each an "**Owner**") and the rental manager, SHI, the rental manager is required to distribute to the Owners the respective Owner's Share of Net Revenue (as defined in the RMA). Essentially, it is the net income of the rental pool

subject to the deductions and the reserve for the Capital Reserve Fund that the rental manager is obligated to withhold in calculating the Owner's Share of Net Revenue.

- DCC was initially launched as a private club operating mainly from the banking hall on the second floor, however the club concept failed and DCC has evolved into the food and beverage operation for 1 King West. It appears that original members of the Dominion Club paid, in aggregate, membership dues in excess \$1 million. Mr. Stinson advised the Monitor in an e-mail dated July 11, 2007, that after the club concept was discontinued, letters were sent out to all DCC members in June 2006 offering them the option of a credit for their paid membership fee, or a cash refund. Mr. Stinson further advised the Monitor that only approximately half of the former club members responded with a choice. It appears that those who selected the cash payment option were not in fact repaid. The books and records show that in addition to club members, certain other creditors that could not be paid were also offered, and in some cases accepted, DCC credits.

According to Mr. Stinson, and as confirmed by DCC members who have contacted the Receiver, cash refunds were never issued to those former members who selected that option and DCC encouraged the use of credits. With the membership dues converted to F&B credits, prior to the appointment of the Receiver, DCC was providing goods and services to those persons holding credits without receiving the corresponding cash flow. The credits are reflected in DCC's general ledger as an offset to accounts receivable. As at June 30, 2007, according to DCC's detailed accounts receivable listing, such credits totaled \$1,280,646. However, it appears that only the persons who responded affirmatively to the June 2006 letter from Mr. Stinson are shown in the general ledger and

the Receiver is making continued efforts to make sure all creditors of the Debtors are properly recorded.

All DCC credits were immediately frozen by the Receiver upon its appointment.

- Housekeeping was created to run the housekeeping operation in the building, and on August 24, 2007, had one contract to supply service to an outside party. That party failed to make payment to Housekeeping prior to August 24, 2007. When Housekeeping staff insisted on full payment of all arrears before continuing to provide service subsequent to August 24, 2007, that party advised Housekeeping that it would no longer require Housekeeping's services. Collection activities are underway on this outstanding debt.

The Receiver refers the readers of this First Report to the Monitor's Reports referenced above for a complete overview of the business, its background and structure.

3.0 ACTIVITIES OF THE RECEIVER

In the mid-afternoon of August 24, 2007, the Reasons for Decision of the Honourable Madam Justice Pepall were released appointing ISI as Receiver of SHI and DCC, but it appeared from the Decision that ISI may not have been appointed Receiver of Suites and Housekeeping. Justice Pepall's Reasons also directed an attendance before her on the afternoon of Monday, August 27, 2007 in order to settle the terms of the Receivership Order. Given the nature of the Operations, over the intervening weekend, the Receiver acted as if it had been appointed over Suites and Housekeeping, so that appropriate controls could be put into place to safeguard the assets, properties and undertakings of the Debtors comprising the Operations, pending the return to Court on August 27, 2007. Ultimately, Justice Pepall was convinced of the need to include

Suites and Housekeeping specifically in the receivership and the Receivership Order was issued over all of the Debtors.

Upon its appointment over SHI and DCC on Friday August 24, 2007, Messrs. I. Smith and M. Wolfe of the Receiver, attended at the 1 King West premises to meet with Mr. S. O'Brien, General Manager, Mr. H. Guraya, Hotel Controller, and other senior management of the Operations, and to take possession of the assets, undertakings and properties of SHI and DCC. Mr. K. Tomazos of CK was also in attendance.

Over the weekend of August 25th and 26th, in addition to obtaining a more in depth understanding of the Operations through discussions with senior management, the Receiver embarked on a concentrated information campaign to ensure as best as possible that all relevant stakeholders, especially employees of and suppliers to the Operations, and those parties who had booked rooms and event space for future stays and functions at 1 King West, understood that business operations would continue as normal under receivership, and that no party had to be concerned with the continuation of business at 1 King West.

In order to achieve the above objectives, the Receiver immediately embarked on a specific communications program, including:

1. holding rotating employee meetings with Mr. O'Brien over that first weekend to coincide with shift changes in order to be able to explain the receivership process to the employees, allow them to ask questions and become comfortable with the new status of the Operations;

2. issuing a press release on August 24, 2007 for the media, who had been covering this litigation extensively, to advise the public that the Receiver was continuing operations; and
3. the holding of a press conference for the media, so they could learn directly from the Receiver and report to the public that operations would continue and that the public need not fear for their current or potential future bookings at 1 King West.

The Receiver was successful in its efforts, as the media reported on the receivership and informed the public that Operations would be ongoing under the Receiver. No issues of concern arose that weekend. Subsequent to the issuance of the Receivership Order, the Receiver also issued a letter to the public for hotel staff to distribute to any concerned hotel patrons. The Receiver also established on its website a page dedicated to the 1 King West receivership, so that any interested party could view all information of a public nature released in the receivership. The website, www.irasmithinc.com/1kw, is updated as new information becomes available.

The Receiver carried out its statutory duties in accordance with the provisions of the *Bankruptcy and Insolvency Act* (the “BIA”) including issuance of the Notice and Statement of Receiver pursuant to Sections 245(1) and 246(1) of the BIA. The books and records of DCC did not appear to fully disclose the details of all of its creditors. In particular, those members who did not accept the DCC credit in lieu of a cash refund of its paid membership fee offered by previous management were not included in DCC’s general ledger. The Receiver is undertaking to provide its Notices when such additional creditor details are identified . Copies of the Notice for each of the Debtors are attached hereto as **Exhibit “B”**.

The Receiver also undertook the following general activities, most of which are ongoing in the running of the Operations:

1. as appropriate or feasible, securing the Company's premises, assets, properties and undertakings, including books and records;
2. took control of the Company's bank accounts by maintaining the existing accounts but adding the Receiver's representatives as authorized signatories and changing the signing authorities so that all cheques require the signature of one of Messrs. O'Brien or Guraya and one of the Receiver's representatives, and obtaining a separate electronic password for the Receiver only and amending the electronic transfer protocol so that electronic transfers require the password of the hotel staff and the Receiver's staff;
3. through consultation with the Receiver's insurance broker, Firstbrook, Cassie & Anderson Ltd. ("**Firstbrook**"), who advised to maintain the Debtors' existing property and liability insurance coverage, with slight amendments, the Receiver communicated with the Debtors' insurance broker to advise of the receivership and the requested amendments, including, adding the Receiver as an additional named insured; and
4. amending the Debtors' purchasing system, which had essentially no controls, to one whereby all purchase orders must first be pre-approved by the Receiver and no purchases will be accepted or paid for without such prior approval. This new system appears to be working effectively.

The Receiver has been overseeing day to day operations with the assistance of CK. The Receiver has been successful in obtaining normal credit arrangements with existing suppliers and where existing suppliers have refused, with new suppliers offering the same or better pricing.

The Receiver's application for the temporary transfer of the liquor license held by DCC is also ongoing.

The Receiver has also dealt with human resources issues and staff turnover since its appointment. Since August 24, 2007, there have been four resignations in the Sales, Food & Beverage, Human Resources and Security departments, respectively.

In particular, due to inconsistencies and inaccuracies in their reporting of certain events, the head of security at 1 King West resigned on September 24, 2007, and another member of the security team was terminated on the same day. The Receiver has implemented additional security measures and believes that the physical security at 1 King West is better than that which was in place prior to the Receiver's appointment. The Receiver is reviewing security measures on an ongoing basis and has made temporary arrangements to increase physical security while permanent replacement security personnel are being recruited.

Other vacancies noted above will be filled in the normal course of business by senior management, in consultation with CK and the Receiver, as suitable candidates are found.

4.0 THE CK AGREEMENT AND THE CK REPORT

ISI, as Monitor, previously advised this Honourable Court that: (i) the Monitor understood that it would be imperative for a Court-appointed receiver to immediately retain the services of a neutral, independent, experienced hotel management firm, in order to assure the public,

condominium owners, the Residential Condominium Corporation (defined below), and all other stakeholders in the 1 King West operations, that the Court-appointed receiver has anticipated their concerns and has sought the services of an experienced hospitality management team; (ii) that the Monitor was aware of such a party; and (iii) should this Honourable Court appoint ISI as receiver as requested by the Applicants in their motion, ISI would seek to appoint that party as manager.

As Monitor, ISI became aware that either CK, or its President, was responsible for the initial creation of the business systems of the Operations and accordingly is intimately knowledgeable of these specific hotel operations. Therefore, just prior to the application for the appointment of the Receiver, ISI as Monitor held discussions with CK's President, Mr. K. Tomazos, regarding the retainer of CK should ISI be appointed Receiver. The Monitor also held discussions with the Applicants to satisfy itself that the proposed retainer of CK would be acceptable to them, as the single largest (secured) creditor known to the Monitor and as the provider of the indemnity for the Receiver should there be a shortfall in the estate. Both CK and the Applicants concurred with this suggestion.

Therefore, the Receiver had not sought proposals from other qualified parties to bid on the management of the hotel operations. As time was of the essence, and the Receiver had the authority to retain CK pursuant to the authority granted under Paragraph 4(d) of the Receivership Order, the Receiver retained CK under an arrangement that included the requirement that such agreement be subsequently approved by this Honourable Court.

Attached hereto as **Exhibit "C"** are the curriculum vitae of the three senior personnel of CK who have been responsible for CK's mandate to prepare its report for the Receiver on the Operations,

and who will assist the Receiver in the interim management of the Operations, together with a corporate overview of CK.

The curriculum vitae of the proposed CK team indicate that they each have extensive experience in the industry. The specific related experience in connection with the proposed management of the Operations include:

- (i) **Mr. K. Tomazos** – Mr. Tomazos was recruited by ITT Sheraton (later acquired by Starwood Hotels) in 1994 while working as a management consultant with Deloitte and Touche in Athens, Greece. Mr. Tomazos held increasingly senior positions within ITT Sheraton in Europe, the United States of America and Canada. Mr. Tomazos was appointed General Manager of the Sheraton Centre Hotel in Toronto, ON, where he spent five years in that position. In 2005, Mr. Tomazos left Starwood Hotels to pursue business opportunities. Mr. Tomazos was responsible for the design and implementation of the Hotel Operations. Mr. Tomazos is also a Chartered Accountant.

- (ii) **Ms. C. Villarín** – Ms. Villarín has worked in the hotel industry for over ten years in both Finance and operational roles. Ms. Villarín has held increasingly senior positions, including Director of Finance of Sheraton Canada, responsible for the creation of tax effective structures in the hospitality industry, and the management of various acquisitions and divestitures of hotel assets. Ms. Villarín is a Chartered Accountant and a Certified Public Accountant.

In 2006, Mr. Tomazos and Ms. Villarin established CK to pursue hospitality investment and management opportunities in Canada and the United States of America.

- (iii) **Mr. J. Ball** – Mr. Ball has held increasingly senior positions in the hospitality industry, specializing in food and beverage operations. In 1996, Mr. Ball joined Starwood Hotels and became responsible for the beverage outlets in the Sheraton Centre Hotel, Toronto, ON. Mr. Ball became Director of Food and Beverage for the Sheraton Centre in 1999. In 2001, Mr. Ball moved to the Sheraton Gateway Hotel at Pearson Airport in Toronto, ON as Director of Operations. In 2005 Mr. Ball returned to the Sheraton Centre where he assumed operational responsibility for the entire food and beverage area for the Sheraton Centre Hotel. In 2006, Mr. Ball left Starwood Hotels to pursue business opportunities to act as consultant to provide operational solutions for a wide range of hospitality industry needs. His clients include Starwood Hotels and Resorts Worldwide, the Montana Restaurant Group and the International Centre Toronto.

CK provides hotel management services in both Canada and the United States. As indicated above, CK was established in 2006 to perform these management services.

Further details regarding Messrs. Tomazos and Ball, Ms. Villarin and CK can be found in **Exhibit “C”** referred to above. Also attached hereto as **Exhibit “D”** is the CK Agreement.

4.2 THE CK REPORT

As indicated above, the Receiver is seeking an Order to seal the CK Report contained in Volume 2 of this First Report for the reasons outlined above. In order to assist the readers of this Volume 1 of the First Report, the Receiver advises that CK's major findings and recommendations are:

1. 1 King West is presently approved by the City of Toronto as a residential condominium and not a hotel. Notwithstanding that the Operations consist of a hotel, and to outsiders the building looks like a hotel, it is not zoned as a hotel.
2. The Operations model conceived and operated by Mr. Stinson, which the Receiver inherited, is unable to generate sufficient returns to the unit owners and is not a sustainable option; therefore the status quo cannot be recommended.
3. The second and financially superior option is to run the rental management program as a branded or unbranded full service hotel requiring an alignment of the F&B and function spaces with the needs of the hotel.
4. An application for municipal approvals may have to be made in order to establish a branded hotel. The estimated time line to obtain such Municipal approvals could be as low as four months (Minor Variance) to a high of eighteen months (Zoning By-law Amendment).
5. There are many benefits associated with attempting to convert 1 King West to a branded hotel. The F&B component of the business has the potential to be financially viable as an independent operation or as a department within a single

hotel operation. However, F&B has been burdened by an extreme lack of working capital which has seriously impeded its ability to function. It requires leadership and direction which it has also lacked since the beginning of the Operations. It also requires significant capital investment to **"...bring it to profitability under any operating scenario"**.

6. There is a lack of accountability and control of the hotel management group under the structure inherited by the Receiver. There is no pressure to deliver adequate performance and no proper measuring system to evaluate its performance.
7. The preferred operating structure is that the F&B operation be run by the same entity as the rental management program.
8. The lobby needs to become a desirable place to be seen and for guests and residents to have a light meal or beverage. A redesign and build out of the lobby restaurant and bar will have a positive impact on the perception of the building and will create demand for the booking of guest rooms.
9. The rest of the function and meeting space is best utilized as social and corporate catering space in the case of the 2nd and 3rd floors. The 12th and 13th floors (currently being utilized by the Ontario Club) should be reclaimed as a corporate meeting centre.

This recommendation will have to be further considered as discussions will have to take place with the Ontario Club. As well, the Receiver will have to ensure that the expectations, rights and responsibilities of both Toronto Standard

Condominium Corporation No. 1703 (“**TSCC No. 1703**” or the “**Residential Condominium Corporation**”) and Toronto Standard Condominium Corporation No. 1726 (“**TSCC No. 1726**” or the “**Commercial Condominium Corporation**”), especially as described in the Lease Operating Agreement between them dated November 18, 2005, are maintained.

10. The Vault space, while visually interesting, is not highly effective for banquet use or as F&B outlet space. CK recommends several alternate uses for that space, none of which is as the originally conceived and currently designed F&B outlet.
11. The current forecasted F&B net loss for fiscal 2007 and 2008 will worsen as there had been inadequate investment in operating supplies and equipment. It will either have to be purchased or rented.
12. Given that the hotel is only in its second year of operation, it has done considerably well in the ramp up period. In order to obtain its occupancy rate, it has “bought” business by sacrificing the average room rate. 1 King West, which is in the category of three to four star hotels, ranks twelfth out of fourteen hotels in that market in revenue per available room (“**REVPAR**”). The current model now needs to be changed in order to obtain higher REVPAR.
13. The rental management program has not generated sufficient returns for the unit owners, who have suffered a shortfall before the consideration of any financing costs on funds borrowed to make the investment. Owners’ distributions began in March 2006. Owners’ distributions are currently budgeted to become moderately better in fiscal 2008.

4.3 PROPOSED NEW CK INTERIM MANAGEMENT AGREEMENT

As a result of the CK Report, the Receiver believes it is appropriate and necessary for the Receiver to retain CK to assist the Receiver in implementing such improvements as are appropriate for the Receiver to implement and to assist the Receiver in the interim management of the rental management program.

The Receiver met with Mr. K. Tomazos to discuss the retainer of CK subsequent to the delivery of the CK Report. As a result of such discussions the Receiver and CK developed an Agreement that, subject to the approval of this Honourable Court, the Receiver and CK are prepared to enter into. The Receiver believes that it is in the best interests of the orderly administration of the receivership and, therefore, also for all stakeholders, that the retainer of CK, a qualified experienced manager of hotel operations, be amended and extended to assist in the interim management of the Operations, especially in light of the deficiencies noted in the CK Report.

Attached hereto as **Exhibit "E"** is the proposed new CK Agreement.

The key provisions of the proposed new CK Agreement are:

- (i) **Purpose:** The purpose of the agreement is to allow for the efficient management of the Hotel Operations by a neutral, experienced hospitality management firm, responsible to the Receiver.
- (ii) **Initial term:** The CK Agreement is for an initial period of four months, and can be extended by mutual agreement.
- (iii) **Court approval:** The CK Agreement and any renewal thereof, requires approval of this Honourable Court.

- (iv) **Termination:** The Receiver may terminate the CK Agreement upon 14 days written notice.
- (v) **Fees and expenses:** CK will be paid a monthly fee of \$45,000 (not including GST) during the initial term, and any extensions thereof. CK shall also be entitled to a reimbursement of its expenses, provided they are approved in advance by the Receiver.
- (vi) **Notice Fee:** In the event the Receiver terminates the CK Agreement, a notice fee equal to one month's fee will be payable to CK. Any fee earned in the Notice Period (as defined in the CK Agreement) will be an offset to the Notice Fee. In the event the Receiver is precluded from honouring the CK Agreement as a result of an Order of the Court, no Notice Fee is payable.
- (vii) **Business operations:** CK will be responsible to the Receiver for all business operations as further described in section 4.1 of the CK Agreement.
- (viii) **Controls over billing, receipts and disbursements:** CK will assist the Receiver in instituting appropriate further internal controls. The Receiver retains and will exercise ultimate control over the cash management function.
- (ix) **Other:** CK will assist the Receiver in labour matters, including liaising with the union which hopes to be certified as a bargaining agent in connection with the employees providing housekeeping services, exploring branding alternatives, preparing a long term plan for the profitable repositioning of the Hotel Operations and the rental management program, preparing and giving presentations to the

various stakeholder groups to explain how the Hotel Operations are performing under receivership administration and assisting in the repositioning of the business operations.

The Receiver respectfully requests and recommends that this Honourable Court approve the new CK Agreement attached hereto as **Exhibit "E"**.

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 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 the hotel Leasing Program (\$165/unit per month), and a management incentive fee calculated as 5% of the aggregate net rental revenue of the Leasing Program. There is no separate financial reporting prepared for SHI as the Receiver is now effectively operating as the rental manager.

5.2 DCC

DCC Operations accounts for the revenue and direct costs of the F&B operations. DCC Operations' financial results are included in DCC Corporate's income statement. DCC's F&B program has been operating at a loss since inception.

Based on available financial information, the Receiver has prepared a summary of DCC's operating results for the nine-month period ended September 30, 2007, which shows a year to

date operating loss of \$225,000 on revenues of \$2.75 million (includes actual results up to August 31, 2007 and projected final figures for the month of September 2007). A full summary is attached hereto as **Exhibit "F"**.

5.3 HOUSEKEEPING

Housekeeping provides all of the housekeeping services for the Operations. For the nine-month period ending September 30, 2007 (includes actual results up to August 31, 2007 and projected final figures for the month of September 2007) housekeeping revenue is \$1.66 million and net income before tax is \$471,000.

This analysis indicates that Housekeeping continues to be a profitable entity. A full summary is attached hereto as **Exhibit "G"**.

5.4 SUITES

Suites is the nominee on behalf of condo unit owners in the hotel rental pool. There are 575 suites in the building. In the Monitor's First Report, based upon information available from SHI, it was reported that there were 421 units in the pool which equates to an annualized management fee to SHI of approximately \$833,000.

At the date of the receivership there were 389 units in the rental pool. We have noted below the declining trend of the number of units in the hotel pool, which are taken directly from the Early Bird Reports:

July 18, 2007 – 402 units

August 30, 2007 – 389 units

September 10, 2007 – 387 units

September 27, 2007 – 384 units

Given the stay of proceedings in place resulting from the Receivership Order, the Receiver advised the unit owners in a meeting held with the owners on September 10, 2007, that there would be no new additions to, or withdrawals from, the rental pool during the first thirty days of the receivership, to allow the Receiver to review and assess the rental pool and the Operations. The Receiver advised the owners that it would allow withdrawals for an owner to complete a sale of their unit, or to occupy their unit. The Receiver currently intends to continue this program to allow for CK's retainer to take effect.

5.5 OWNERS DISTRIBUTIONS

As per the RMA's between the rental manager (SHI) and the Owners, the rental manager is required to pay to the Owners their share of net rental revenue (as defined in the RMA) from the hotel operations.

The major components of this calculation are:

i) *Condo lease factor applicable to the condo units*

Included within the Leasing Program Disclosure Memorandum as schedule F is a list which assigns a "factor" to all units in the 1 King West building. This factor is then used to determine the income distribution to the condo unit owners.

ii) *Hotel net rental income for the month*

The accounting department is responsible for the timely preparation of the monthly financial statements. The financial statements, once approved by the general manager and the controller, are then used by the assistant controller and

the owner relations manager (“ORM”) to compute the appropriate investor distribution amount.

iii) *Number of condo units in hotel rental pool*

The ORM maintains a master list of all units within 1 King West. The listing provides a summary of how the condo units are currently being used, such as owner-occupied, office use, the Mirvish-owned units, and condo units enrolled in the hotel pool (subject to the RMA). From this schedule a separate listing is prepared of the condo units in the hotel rental pool.

iv) *Number of nights a condo unit is available for use in hotel rental pool*

The number of nights the condo units are available for use in the hotel pool is determined by the ORM. The ORM assumes that all units in the hotel pool are available for use unless the unit has been pulled out the pool for the owner’s personal use. This analysis is performed on a monthly basis. The hotel property management system “SMS” is used to determine which units and for what length of time the condo units were used personally. This information is input into the master schedule maintained by the ORM. Once the ORM and the assistant controller are satisfied that the data determined above is correct, a sample income distribution report is produced through Excel. This Excel report is compared to the SMS report to ensure both reports are consistent. Prior to producing cheques for distribution, the owner account is reviewed to determine if deductions are required for either non-resident withholding taxes or unpaid condo maintenance fees.

Once all applicable deductions have been made, a test cheque register is produced to ensure the accuracy of amounts payable to the owners. Cheques are then prepared and signed by both the general manager and controller, and mailed out between the third and fourth week of the month. A cheque register summary and an owner pooling distribution report is maintained as part of the income distribution support documentation.

Summary of August 2007 Owners' Distribution

A profit distribution calculation schedule is prepared monthly and is sent to the Owners along with their distribution cheque. Shown below is a summary of the August 2007 Owners' distribution which was calculated in the manner set forth above, and payment issued by the Receiver on or about September 25, 2007.

Net rental revenue for the month of August 2007		\$485,710.00
Income distributed as follows:		
Distribution amounts paid	469,796.83	
Non-resident tax deductions	11,752.31	
Non resident tax deduction for previous period	266.29	
Condo fees	3,809.76	
Housekeeping charge unit 622	<u>84.80</u>	
Total		\$485,709.99

Attached as **Exhibit "H"** is a spreadsheet showing the total Owners' distributions by factor from March 2006 to August 2007.

6.0 PROJECTED CASH FLOW TO MARCH 31, 2008

Based upon an operating budget prepared by senior management and reviewed by CK, the Receiver has prepared three (3) cash flow forecasts, one for DCC, one for Housekeeping and one

on a consolidated receivership basis covering the seven-month period of September 1, 2007 to March 31, 2008 (one full quarter past the fiscal year end for each of the Debtors).

The major assumptions used in preparing the projections are as follows:

- other than for certain protective disbursements as at August 24, 2007 all accounts payable balances are frozen;
- inventory purchases for Housekeeping and F&B after August 24, 2007 are assumed to be consumed in the month of purchase;
- normal credit terms are obtained by the Receiver for all purchases;
- receivables are assumed to be collected under normal trade terms;
- all taxes are collected and remitted as required in the month;
- accrued vacation pay and payroll costs are assumed to be constant;
- all cash flow is available for operations; and
- the effect of income taxes and any loss carry forwards have not been reflected in these projections.

The projected cash flow shows that, on a consolidated basis with a Stay of Proceedings in place, the following major findings:

- Housekeeping is expected to continue to operate profitably and is estimated to earn income before taxes and allocation of overheads in the amount of \$340,781

while providing a cash injection of \$279,451 over the period of September 1, 2007 to March 31, 2008.

- Consistent with the history detailed in the Monitor's Reports to Court, DCC is expected to incur ongoing losses and be a cash drain on the Operations. DCC is projected to report a loss before taxes and allocation of overheads in the amount of \$282,310 and incur a cash shortfall of \$329,851 over the period of September 1, 2007 to March 31, 2008..

Attached hereto as **Exhibits "I" and "J"** are the individual projections for DCC and Housekeeping, respectively. Also attached hereto as **Exhibit "K"** is the Receiver's full consolidated cash flow statement for the period of September 1, 2007 to March 31, 2008, before consideration of the fees and disbursements of the Receiver and the Receiver's legal counsel.

7.0 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 September 29, 2007 is attached hereto as **Exhibit "L"**.

8.0 VESTING ORDER

At the August 20, 2007 hearing, the Applicants sought, *inter alia*, a vesting order to vest DCC's freehold real property and SHI's units in TSCC No. 1726 in and to to a corporation controlled by the Applicants, namely K One Holding Inc. ("**K One**"). The relief was not granted but in accordance with Paragraph 6 of the Receivership Order, the Receiver was directed to determine which parties should receive notice in the event the Applicants wish to seek the vesting order.

Legal counsel for the Applicants advised the Receiver's legal counsel, Mr. L.J. Latham of Goodmans LLP, that the Applicants wished to seek such vesting order as expeditiously as possible. Goodmans LLP determined which parties should be put on notice and duly advised counsel for the Applicants in accordance with paragraph 6 of the Receivership Order. The Applicants have now served a motion, returnable October 5, 2007 seeking such a vesting order and other relief.

The Receiver and Goodmans LLP had several concerns over the Applicants attempting to seek a vesting order and, in particular, the effect which the vesting of such property would have on the Receiver, the receivership (operationally and financially) and the Receiver's ability to conduct a meaningful sales process designed to maximize the proceeds of sale of the assets, properties and undertakings of the Debtors. The Receiver met with the Applicants, in the presence of legal counsel, in order to express such concerns and to attempt to persuade the Applicants not to proceed with such an application and remain as the sole secured creditor, while allowing the Receiver to offer all of the assets, properties and undertakings of the Debtors for sale, including the property which is the subject matter of the vesting order application. At the conclusion of that meeting, the Applicants were opposed to such a suggestion, and legal counsel for the Applicants advised the Receiver and Goodmans LLP that the Applicants would proceed as expeditiously as possible with their application for a vesting order.

Communications continued between respective legal counsel, the Receiver and the Applicants and, on September 17, 2007, a representative of the Receiver met with representatives of the Applicants to further discuss this matter, without legal counsel. At that meeting, the Receiver expressed its concerns again as summarized above. The Applicants expressed concerns that the Debtors were utilizing the combined cash flow of the Operations potentially for matters which

did not increase the value of the underlying assets secured by the Applicants' security. Accordingly, the Applicants advised that they would proceed with the vesting order application. However, after further discussion and with suggestions from the Receiver, the Applicants were prepared to enter into a lease with the Receiver, subject to the approval of the Court, for the Receiver to lease the vested assets immediately after such vesting took place and to provide the Receiver with exclusive authority to market such vested assets for sale with the other assets, properties and undertakings of the Debtors. In that way, if a vesting order is granted, the Receiver is satisfied that the Operations could be marketed either as a package, or in its individual parts. While the lease would address the Receiver's concerns regarding marketing, and issues involving rental payments are dealt with below, the Receiver does recognize there continue to be logistical issues with the vesting of the property, related to the ultimate conveyance of title to the vested real property.

The Receiver advised that, although its requirements to have exclusive rights to market the vested assets would be met by such a lease, the Receiver would have to review the fiscal 2007 and 2008 receivership budgets (which were then being prepared by a team consisting of Mr. Guraya, the representatives of the Receiver and CK) before the Receiver could have any discussions regarding the payment of rent. As a result of further discussions and negotiations, and based upon the budgets noted above, the Receiver has proposed a formula for the payment of rent, being a monthly base rent of \$25,000 with the potential for additional rent expressed as a percentage of the gross F&B revenue. The Receiver's counsel has prepared a draft of such lease and forwarded same to counsel for the Applicants. As of the writing of this report, the Receiver and its counsel are awaiting comments on the draft lease and the proposed rental formula. The Receiver is hopeful that the terms of the draft lease can be settled prior to the motion to consider

the request for a vesting order, so that such lease can be authorized and approved by the Court concurrent with the granting of any vesting relief requested.

9.0 TSCC NO. 1703

In accordance with the Receiver's desire to meet as soon as possible with all stakeholder groups, on August 28, 2007, Messrs. I. Smith and M. Wolfe of the Receiver met with certain members of the Board of Directors of TSCC No. 1703. The meeting was an open discussion of issues of mutual importance to the Board and the Receiver, and allowed the Board and the Receiver to engage in a healthy exchange of information and viewpoints.

At the owners meeting described below, the Receiver advised the owners of the August 28th meeting, that it was a productive meeting, and that it was the Receiver's hope that such open communications and sharing of information relevant to the receivership and the condominium property would continue.

On September 19, 2007, the Receiver learned certain facts relating to events leading up to Mr. Stinson's filing of assignments in bankruptcy for all of the Debtors. These new facts led the Receiver to the belief that the Board must now be treated first and foremost as a prospective purchaser. Accordingly, notwithstanding the Receiver's initial intention to quite openly share information with the TSCC No. 1703 Board, and since there is not yet a formal sales process in place, the Receiver has determined that it must now, on a case by case basis, assess whether the disclosure of any information to the Board (even if requested for entirely appropriate reasons by the Board) would give the Board a real or perceived advantage over any other potential purchaser.

Attached as **Exhibit "M"** is a copy of correspondence issued by the Receiver and received by the Receiver in connection with this issue.

10.0 OWNERS MEETING AND COMMUNICATIONS

Acknowledging its obligations to all stakeholders, the Receiver invited all unit Owners to attend an information session in the main banking hall on the evening of September 10, 2007. The meeting was well-attended. The purpose of the meeting was for the Receiver to advise the Owners as to the activities of the Receiver since its appointment, issues that the Receiver is dealing with, and allow Owners to ask any questions of importance to them of the Receiver. The media was not allowed at this meeting.

For the entire meeting, the disputes amongst owners which always appears to permeate their dealings with one another, were not evident as the Receiver made it clear that such conduct would not be permitted. The Receiver established clear ground rules for the meeting so that all owners could ask their questions in an open and stress-free environment. The entire meeting was taped and a DVD of the meeting was produced. A copy of the DVD was provided to the Receiver, Mr. O'Brien and the TSCC No. 1703 Board. The Receiver advised the TSCC No. 1703 Board that it was free to duplicate the DVD so that it could either distribute it to any owner who requested a copy, or maintain several copies that could be borrowed for viewing from its offices.

In addition to responding to numerous direct individual owner inquiries, the Receiver has sent communications to all unit owners. Attached hereto as **Exhibit "N"** is copy of all written communications issued by the Receiver to the unit owners.

11.0 RECEIVER'S PRELIMINARY CONSIDERATIONS REGARDING A SALES PROCESS

Since August 24, 2007, the Receiver has received numerous unsolicited telephone calls from parties indicating that they are interested potential purchasers, capable of completing a purchase of the assets, properties and undertakings of the Debtors, and that they either are experienced or have relationships with parties who are experienced in operating hotels or long term stay facilities. They each requested a meeting with the Receiver to discuss the opportunity, and to date, the Receiver has met with such interested parties, but merely for the purpose of introduction and without the exchange of any now public or financial information.

In addition, in order to assess the potential interest brands may have in either managing or purchasing the Operations, CK met with representatives of certain brands to gauge their interest and determine what initial requirements such brands' representatives may express that would be a condition precedent to their participation in this opportunity. The representative of one of the brands which CK contacted requested a conference call telephone meeting with the Receiver, Mr. K. Tomazos of CK, and himself and one of his colleagues that is responsible for assessing potential new investments for that brand. The conference call took place on September 25, 2007 at which time the brand representatives advised that they are interested in pursuing this opportunity for a concept that this brand is rolling out in the United States, and wishes to also develop in Toronto as its first Canadian location. However, one of the conditions precedent from that brand is that it would have a certain period of exclusivity, to permit it to prepare a pro forma budget for its proposed concept at 1 King West and a non-binding Letter of Intent to provide to the Receiver. They further advised that, if the Receiver wishes to continue discussions and negotiations, then it would require the exclusivity period to continue, likely for a total of 60 days.

As summarized above, and as more fully described in the CK Report, CK has provided its views on certain matters within the business of the Debtors that would need to be addressed in order to turn the Operations into a branded hotel, including the need to apply for the required municipal approvals, and the associated time line with attempting to obtain such approvals.

A crucial decision that the Receiver must make, is how it is going to position the Operations for sale. If the Receiver wishes to attract brands to bid on the available assets, properties and undertakings, then it has to take the potential impact of these zoning issues and the time line necessary to complete such a transaction into account. If the Receiver determines that it will not attempt to attract brands to this opportunity, so as to not require the need to make application for the appropriate zoning approvals, then the time line for the marketing and sale of the assets can be shortened but values would potentially be impacted negatively.

The brand that is requesting exclusivity is a brand, as disclosed in Volume 2 of this First Report, that is well known internationally, and whose presence in the Toronto hotel market the Receiver believes would be welcomed by all stakeholders. The issue of capital investment by the unit Owners would of course need to be fully explored, but the Receiver believes that it cannot explore such issues with the unit Owners until such time as the Receiver can obtain from the brand details of the capital improvements in the building it would require, and has provided its pro forma operating budget to the Receiver, so that the Receiver could use these pro forma operating results to then calculate what effect the new hotel operations would have on Owners and their distributions. Only then would Owners be able to properly assess the appropriateness of making such a capital investment and the impact this brand would have on their return on investment and their distributions. As indicated in the CK Report, CK believes that, if the hotel

could be branded, it would have a significant positive impact on operational results and therefore, the return to the Owners.

There is a significant potential negative impact for the Receiver not to advance discussions with the brand requesting exclusivity in return for immediately beginning its analysis of what pro forma operating results would be, and sharing that with the Receiver while negotiating a non-binding Letter of Intent. The Receiver is hard pressed to recommend to this Honourable Court that it ignore the opportunity to have further discussions with this brand. On the other hand, the Receiver is aware that critics of the receivership process may either misconstrue the Receiver's intentions, or worse, attempt to interfere with discussions with the brand and criticize the Receiver for recommending a branding process that would potentially necessitate an extension of the receivership time line.

Therefore, the Receiver wishes to place these issues before this Honourable Court and the stakeholders on the service list to be aware of this issue. The Receiver recommends that, for the immediate short term, the Receiver not attempt to devise a sales process for approval by this Honourable Court. Rather, the Receiver recommends that it attempt to advance the discussions with the brand, on an exclusive basis, to further understand its specific interest and the issues of importance to this brand, which will be instructive for all stakeholders.

Based on this, the Receiver will be in a better position to then advise this Honourable Court of the outcome of such discussions and to bring forward its fuller recommendations regarding a proposed sales process. This process will also require the Receiver to provide this brand with additional information concerning the Operations, within the parameters of an appropriate Confidentiality Agreement.

12.0 ONTARIO CLUB

DCC provides all of the F&B services to the Ontario Club pursuant to an agreement entered into between the Ontario Club and Mr. Stinson on behalf of DCC, as previously outlined in the Monitor's First Report. The Receiver understands that previous management was hopeful of spin-off benefits (increased F&B revenue and, additional banquet and meeting room revenue) from its association with the Ontario Club.

The CK Report indicates that the twelfth floor space presently occupied by the Ontario Club can deliver significant revenues if available for booking as a corporate meeting centre. The Chairman's Boardroom presently used as the Ontario Club dining room was the most popular room for group functions before it was turned over to the Ontario Club. The presence of the Ontario Club in its current location prevents optimal usage of the space. CK reports that the twelfth floor space is currently the most operationally effective space in the building and it is accessible from both elevator banks in the building. CK believes that with some additional capital investment it could become a self-contained conference centre with significant revenue and profit potential.

It is the Receiver's observation that the agreement with the Ontario Club has proven to be uneconomical and of no positive financial benefit to the Operations to date. On a direct cost basis, the Ontario Club is a cash drain on DCC to the extent of approximately \$4,000 per month, prior to considering indirect costs of administration and overheads.

The Receiver has met with representatives of the Ontario Club to discuss its concerns. Another meeting is scheduled for Tuesday October 2, 2007, to continue a dialogue regarding alternatives and solutions. The Receiver believes that the partnership with the Ontario Club may have some

value if modifications to the present arrangements can be made, and all reasonable alternatives will be explored and examined before a final decision is taken. The Receiver will report further on this matter in its next report.

13.0 FEES AND DISBURSEMENTS OF THE RECEIVER

Attached hereto as **Exhibit "O"** is the Affidavit of Mr. Ira Smith, President of ISI, attesting to the fees and disbursements of the Receiver for the period from August 16 to September 15, 2007.

14.0 FEES AND DISBURSEMENTS OF GOODMAN'S LLP

Attached hereto as **Exhibit "P"** is the Affidavit of Mr. L. Joseph Latham, Partner, Goodmans LLP, attesting to the fees and disbursements of Goodmans LLP for the period from August 20 to September 24, 2007.

15.0 OTHER MATTERS

Other matters of importance, not described otherwise in this First Report are:

1. The Monitor had previously reported to this Honourable Court on the potential security interest of Segura Investments Limited ("**Segura**") in the management fees earned by SHI. Upon its appointment, the Receiver requested Goodmans LLP to provide a legal opinion on the validity and enforceability of the Segura security. Goodmans LLP provided a preliminary oral opinion that, based on the documents located by the Receiver, the security of Segura may not be valid and enforceable. Goodmans LLP wrote to Segura's legal counsel, requesting additional information and expressing its concerns with respect to the Segura

security. To date, there has been no response from Segura's legal counsel. Goodmans will shortly be finalizing its legal opinion on this matter.

2. Mr. Stinson's legal counsel have served Notices of Appeal to the Ontario Court of Appeal for the Receivership Order and of the decision of Madam Justice Pepall annulling the assignments in bankruptcy filed by Mr. Stinson on behalf of each of the Debtors on September 18, 2007. The Receiver's current understanding is that certain parties may seek to have the hearing of these Appeals expedited.
3. As a result of concerns expressed by the Receiver to ensure it obtained any information in Mr. Stinson's possession or control relating to the Debtors or the Operations, the Court issued an Order dated September 20, 2007 requiring Mr. Stinson to deliver over any property of the Debtors and creating a protocol for the delivery of Mr. Stinson's computer(s). That order appointed Mr. Steven Graff of Aird & Berlis, as Special Independent Counsel to administer the protocol. Once administered, the protocol will allow for documents and information stored on computers concerning the Debtors to be provided to the Receiver, while preserving the rights of Mr. Stinson to anything which does not relate to the Debtors or the Operations, or which is subject to solicitor-client privilege.

16.0 CONCLUSION AND RECOMMENDATIONS

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

1. the Receiver's retention of CK, to assist in the interim management of the Operations as further described in the proposed CK Management Agreement described above;
2. the actions and activities of the Receiver as described in this First Report;
3. the professional fees and disbursements of the Receiver from August 16, 2007 to September 15, 2007 as contained in this First Report;
4. the professional fees and disbursements of the Receiver's legal counsel, Goodmans LLP, from August 20, 2007 to September 24, 2007 as contained in this First Report; and
5. such other advice and direction from this Honourable Court that the Receiver or its legal counsel deems appropriate in the circumstances.

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All of which is respectfully submitted at Toronto, Ontario this 1st day of October, 2007.

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