Estates #11-2869762

REPORT OF TRUSTEE'S PRELIMINARY ADMINISTRATION

IN THE MATTER OF THE BANKRUPTCY OF
1379305 B.C. LTD (the "BANKRUPT")

of the City of Vancouver
Province of British Columbia

BY: ______________________________
Jason Eckford CPA, CIRP, LIT
Ernst & Young Inc., Trustee

October 14, 2022

SECTION A:

Background

Port Capital Development (EV) Inc (the "**Former General Partner**") and Evergreen House Development Limited Partnership ("**Evergreen**" and collectively, "**Terrace House**") owned a real estate development project called the "**Terrace House Project**". The Former General Partner was the bare trustee that held title to the Terrace House Project.

On May 29, 2020 Terrace House commenced proceedings pursuant to the *Companies' Creditors Arrangement Act* ("**CCAA**") (the "**CCAA Proceedings**"). Ernst & Young Inc. was appointed Monitor in the CCAA Proceedings.

The CCAA Proceedings resulted in the Supreme Court of British Columbia (the "**Court**") granting an order (the "**Approval and Vesting Order**") that among others, sold the Terrace House Project to Solterra Acquisitions Corp (the "**Solterra Transaction**"). The Solterra Transaction has closed and pursuant to the Approval and Vesting Order, the ownership of the Terrace House Project has transferred to Solterra free and clear of any encumbrances. The Terrace House Project accounted for all or substantially all of Terrace House's assets.

Pursuant to the Approval and Vesting Order, on September 19, 2022 the Monitor incorporated the Bankrupt. Pursuant to the Approval and Vesting Order, the liabilities of the Former General Partner have vested absolutely and exclusively in the Bankrupt.

On October 12, 2022 the Court granted a further order (the "**Distribution Order**"), a copy of which is attached hereto as **Exhibit "A"** that directed the Monitor to distribute the proceeds from the Solterra Transaction pursuant to the Distribution Order. For clarity, the proceedings from the Solterra Transaction are not assets of the Bankrupt's estate ("**Estate**").

Bankruptcy Proceedings

On September 28, 2022, the Bankrupt filed an assignment in bankruptcy pursuant to Section 49 of the *Bankruptcy and Insolvency Act* (the "**BIA**"). Ernst & Young Inc. was appointed as licensed insolvency trustee (the "T**rustee**") of the Estate, subject to affirmation by the unsecured creditors.

Pursuant to Section 85 (1) of the BIA, all of the property of Evergreen vested with the Estate upon the Bankrupt's assignment in bankruptcy; however, as noted above, the Terrace House Project account for all or substantially all of Evergreen's assets.

Causes of insolvency

Terrace House was undercapitalized in terms of equity and as a result, were unable to meet their obligation to fund cost overruns on the Terrace House Project that the construction lender determined were the responsibility of Terrace House to fund. Terrace House's financial difficulties were further compounded by the widespread business closures as a result of the COVID-19 global pandemic in the spring of 2020.

Terrace House was unable to pay interest due to the construction lender and on May 12, 2022, the construction lender made demand and issued a Notice of Intention to Enforce Security in respect of the construction loan indebtedness which Terrace House had insufficient funds to repay.

SECTION B

Preliminary Evaluation of Property, Assets and Undertakings

1379305 B.C. Ltd.
Preliminary Estimated Realization on assets
As at October 14, 2022

Assets	Ref	Estimated Realization
Cash and cash equivalents	1	$1,992
GST Refund	2	TBD
Preliminary Estimated Realization on Assets		

As mentioned above, the Terrace House Project accounted for all or substantially all of the Terrace House's assets and the proceeds from the Solterra Transaction are not assets of the Estate. The Trustee has identified certain remaining assets that are described below.

1 - Cash on hand

As at the date of bankruptcy, the Monitor held $1,992 in cash in its trust account related to the CCAA Proceedings and these funds have been transferred to the trust account for the Estate.

2 – GST Returns

On October 6, 2022, the Trustee was informed that Evergreen had filed a GST return claiming a refund of $80,769 for expenses incurred by Evergreen dated from February 1, 2020 to March 25, 2022.

The Canada Revenue Agency ("**CRA**") issued a letter to Evergreen stating that the GST return was subject to audit and requested supporting documentation. Evergreen did not provide this requested information and on October 4, 2022 the CRA issued a second letter proposing to disallow the claimed refund unless the supporting documentation is provided to the CRA by November 3, 2022.

The Trustee has performed a preliminary review of the GST return and it is not clear if this amount is collectable. Of the amount claims, $57,787 relates to the period prior to the CCAA Proceedings and the CRA may have right of set-off for other amounts owing as the CCAA "**Stay of Proceedings**" expired on September 30, 2022. Other amounts may have been previously claimed by Evergreen. The Trustee has not yet determined whether it will be able to realize on any GST returns.

Secured Creditors

All property of the Bankrupt is secured by security agreements and/or court ordered priority charges.

An estimate of the Bankrupt's secured debt stack, ranking in order of priority, is as follows:

Secured Creditor	**Amount**	**Cumulative**
Domain Facility Corp. (as at September 21, 2022)	$17,660,259	$17,660,259
1296371 B.C. Ltd. (before interest that has accrued)	$8,399,060	$26,059,319
Aviva – Deposit Insurance Protection Policy **(See Note #1)**	$14,700,000	$40,759,319
1260780 B.C. Ltd. (before interest that has accrued)	$2,150,000	$42,909,319
Note #1: Aviva has insured $14.7 million of pre-sale deposits that were released into the Terrace House Project. Aviva also represents approximately 35% of the 1296371 B.C. Ltd's secured charge.		

In addition to the above, there are a further $250,000 in court-ordered priority charges.

The proceeds from the Solterra Transaction are not assets of the Estate and the Trustee expects there will be a shortfall to the secured creditors.

The Trustee does not currently act for any of the Bankrupt's secured creditors.

SECTION C:

Books and Records of the Bankrupt

The Bankrupt was incorporated on September 19, 2022 pursuant to the Approval and Vesting Order and the Trustee is in possession of electronic copies of relevant books and records related to the Bankrupt's incorporation.

SECTION D:

Conservatory and Protective Measures

Not applicable.

Carrying on business

Not applicable. The Bankrupt was incorporated on September 19, 2022 pursuant to the Approval and Vesting Order and has not operated since its incorporation.

SECTION E:

Provable claims

As at 4:00PM on October 14, 2022, the Trustee received the six (6) unsecured proofs of claim totalling $518,488.

SECTION F:

Preferences and transfers at undervalue

Not applicable. The Bankrupt was incorporated on September 19, 2022 pursuant to the Approval and Vesting Order and the Trustee has found no evidence of any preferences or transfers at undervalues occurring.

Legal Proceedings

Not applicable.

SECTION G:

Anticipated realization and projected distribution

The proceeds from the Solterra Transaction are not assets of the Estate. Based on the realizable assets of the Bankrupt and the ranking priority creditors, it is very unlikely that there will be any distribution to the unsecured creditors of the Bankrupt.

SECTION H:

Other - Guarantee

The Trustee has been provided a guarantee of $20,000 for its fees and disbursements to be funded from the Supplement Administrative Charge in the CCAA Proceedings.

EXHIBIT A

FORM 35 (RULES 8-4(1), 13-1(3) AND 17-1(2))

No. S-205095
Vancouver Registry

In the Supreme Court of British Columbia

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

–AND–

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*, S.B.C. 2002, c. 57, AS AMENDED

–AND–

IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF 1379305 B.C. LTD. and EVERGREEN HOUSE DEVELOPMENT LIMITED PARTNERSHIP

ORDER MADE AFTER APPLICATION

BEFORE	)	THE HONOURABLE JUSTICE	)	12/OCT/2022
	)	FITZPATRICK	)	
	)		)	

ON THE APPLICATION of Domain Mortgage Corp. ("**Domain**"), coming on for hearing at Vancouver, British Columbia on 12/OCT/2022, and on hearing Scott H. Stephens, counsel for Domain, and those other counsel and parties listed on Schedule "A" hereto, and no-one else appearing although duly served in accordance with the Rules of Court, and on reading the materials filed herein;

THIS COURT ORDERS that:

1. The Monitor is hereby authorized and directed to distribute or retain, as applicable, the net proceeds arising from the sale transaction completed in accordance with the Amended and Restated Approval and Vesting Order made September 16, 2022 (the "**Approval Order**") as follows:

a) First, to the beneficiaries of the Administration Charge (as defined in the Further Amended and Restated Initial Order made February 14, 2022), $100,000;

b) Second, to Domain, the amount secured under its mortgage and security as of the date of payment;

c) Third, to the beneficiaries of the Supplemental Administration Charge (as defined in the Approval Order), $150,000;

d) Fourth, to Aviva, repayment of the monies it advanced as protective disbursements to pay insurance premiums as approved by the Monitor;

e) Fifth, $50,000 to be held by the Monitor on account of the reasonable fees and expenses of the Monitor and its counsel incurred from the date of this Order in connection with work approved by Aviva to complete the administration of the CCAA proceedings;

f) Sixth, to Aviva, 35% of the balance of the then remaining proceeds, if any; and

g) The remainder is to be retained by the Monitor pending further order of this court.

2. Endorsement of this order by any person other than counsel for Domain is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

Signature of lawyer for Domain Mortgage Corp., Scott H. Stephens

By the Court.

Registrar

CHECKED

DC