Court File No. CV-23-00703161-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C.B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED

B E T W E E N:

ROMSPEN INVESTMENT CORPORATION

Applicant

-and-

TUNG KEE INVESTMENT CANADA LTD., and
TUNG KEE INVESTMENT LIMITED PARTNERSHIP

Respondents

MOTION RECORD OF THE COURT-APPOINTED RECEIVER
ERNST & YOUNG INC.
(Returnable June 4, 2024)

May 29, 2024

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TO: SERVICE LIST

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INDEX

TAB 1

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Respondents

NOTICE OF MOTION
(Claims Process)

Ernst & Young Inc. in its capacity as receiver and manager (the "**Receiver**") of all of the assets, undertakings and properties of the Respondents, will make a motion to a Judge of the Commercial List on Tuesday, the 4th day of June, 2024 at 12:00 pm, or as soon after that time as the motion can be heard, at 330 University Avenue in Toronto.

PROPOSED METHOD OF HEARING: The Motion is to be heard by judicial video conference via Zoom co-ordinates to be established by the Court prior to the motion date.

THE MOTION IS FOR an Order**:**

1. abridging the time for service of the Receiver's Motion Record and related Notice of Motion, validating service of the Motion Record and related Notice of Motion, and dispensing with further service thereof;

2. approving and accepting the Receiver's Interim Statement of Receipts and Disbursements for the period from October 19, 2023 to May 24, 2024, as set out in Appendix "A" to the Receiver's supplementary third report dated May 29, 2024 (the "**Supplementary Third Report**");

3. an Order substantially in the form of the draft order (the "**Claims Process Order**") attached at Appendix "A" hereto:
   a. approving the proposed claims procedure to identify and determine the claims of the Respondents' creditors (the "**Claims Procedure**"); and,
   b. authorizing and directing the Receiver to implement the Claims Procedure in accordance with the Claims Procedure Order; and,

4. such further and other relief as counsel may advise and this Honourable Court may permit;

THE GROUNDS FOR THE MOTION ARE:

1. further to the receivership application herein issued on July 21, 2023, by the Applicant Romspen Investment Inc. ("**Romspen**"), and by way of the Order of Justice Osborne dated October 19, 2023 (the "**Appointment Order**"), Ernst & Young Inc. was appointed Receiver over the assets, undertakings and properties of the Respondents, including the property municipally known as 3143 19^{th} Avenue, Markham, Ontario (the "**Real Property**");

2. the Real Property consists of three separate legally described parcels which collectively comprise approximately 66.29 acres of developable vacant land at the southeast corner of 19^{th} Avenue and Woodbine Avenue East in Markham;

3. the Respondent Tung Kee Investment Canada Ltd. ("**Tung Kee Ltd.**") is an Ontario corporation, and was the registered owner of the Real Property. The Respondent Tung Kee Investment Limited Partnership is an Ontario limited partnership, and was the beneficial owner of the Real Property;

Sale Approval, Appeal, and Closing

4. at the return of the receivership application herein on October 19, 2023, Justice Osborne approved the sale transaction (the "**Times Transaction**") put forward by the (at the time) proposed Receiver. It was an agreement of purchase and sale between Romspen and Times 1010 Inc. dated September 15, 2023, as amended by a waiver, assignment and amending agreement dated September 29, 2023, between Romspen, Times 1010 Inc., 3143 Holdings Inc., and Times 3143 Limited Partnership, which was scheduled to close on November 15, 2023 (the "**AVO**");

Payout of the Five Mortgages

5. there were five mortgages (the "**Five Mortgages**") and one lien claim registered on title to the Real Property as of the closing date of the Times Transaction, summarized below:

Ranking Priority	Creditor	Approx. Amount Owing
First	Romspen	$33.989 million
Second	Amber Mortgage Investment Corporation (“**Amber**”)	$10.182 million
Third	2149602 Ontario Inc. (“**214 Ontario**”)	$12.479 million
Fourth	Frank Pa and Steven Tung	$3.54 million
Fifth	SOW Capital Ontario Limited (“**SOW**”) and Miltom Services Limited (“**Miltom**”)	$13.001 million
Lien Claim	DX Strategies Inc. (“**DX**”)	$4,653,028

6. the purchase price under the Times Transaction in the amount of $68,001,312.05 was paid to the Receiver, and the following distributions were subsequently made to the holders of the Five Mortgages in accordance with the AVO, and subsequent orders of Justice Conway dated November 30, 2023, and December 5, 2023, and of Justice Kimmel dated May 23, 2024 (the “**Kimmel J. Distribution Order**”) made on the consent of the mortgagees and the Respondents:

   a. $33,787,897.39 to Romspen on November 16, 2023;

   b. $9,087,542.27 to Amber on November 16, 2023;

   c. $268,410.50 to Romspen on November 30, 2023;

   d. $984,797.75 to Amber on November 30, 2023;

e. $7,000,000 to 214 Ontario on December 5, 2023;

f. $757,846.02 to Miltom on December 5, 2023;

g. $7,242,153.98 to SOW on December 5, 2023;

h. $3,917,837.29 to 214 Ontario on May 24, 2024;

i. $150,000 to Pa and Tung on May 24, 2024; and,

j. $1,344,190.33 to SOW on May 24, 2024.

7. the Five Mortgages have been paid out in full as a result of the above distributions;

8. the PPSA registrations for the Respondents confirm that there do not appear to be any further secured creditors, save for an entity called UBS AG, who has a PPSA registration against the Respondents in respect of inventory and accounts. The Receiver has no information about the quantum or nature of the purported debt owed by the Respondents to UBS AG. UBS AG is represented by Justin Parappally at Stikeman Elliot LLP;

Basis and Need for a Claims Process

9. the Receiver is currently holding approximately $2,142,063.45;

10. the second report of the Receiver dated December 4, 2023 (the "**Second Report**") included, among other things, an analysis of the information and documentation received from the lien claimant DX in support of the validity and *quantum* of its lien claim, and the basis upon which DX sought priority over the mortgages that were registered over the Real Property (the "**Lien Analysis**"). Pursuant to the terms of the Kimmel J. Distribution Order, DX's

secured claim against the remaining sale proceeds is extinguished as against the Five Mortgages, and any priority claim DX had in that regard has similarly been extinguished;

11. the Lien Analysis determined that DX's lien did not appear to be perfected within the time required by the *Construction Act*, and it therefore expired. The Lien Analysis stated, among other things, that the net effect of the various errors of the Claim for Lien as set out in the Lien Analysis would be to invalidate DX's lien claim and, as a result, DX would be left with an unsecured claim for some amount of the approximately $4.6 million sought by it in its Claim for Lien;

12. in our about early-February, 2024, the Receiver was contacted by counsel Morris Group Financial, Inc. ("**Morris Group**"), who alleged a secured claim against Tung Kee Inc. in the amount USD$280,000. Morris Group did not have a mortgage registered on title to the Real Property, nor does it have PPSA registered security;

13. the Receiver attended at the Respondents' registered office on May 22, 2024, at which time the Respondents delivered to the Receiver, among other things, copies of unpaid invoices dated both before and after the Appointment Order (the "**Unpaid Invoices**");

14. the Unpaid Invoices total approximately $345,045. They are in respect of debts owed to 2205593 Ontario Inc., Cushman & Wakefield ULC, Chaitons LLP, Deloitte LLP, CBRE Limited and Teplitsky LLP. There were no invoices from UBS AG, DX or Morris Group in the Unpaid Invoices;

15. during the May 22, 2024 attendance at the Respondents' registered office, the Receiver was also provided with copies of bank statements for a TD bank account in the name of Tung

Kee Ltd. for the period from December, 2021 to April, 2024. The Receiver was not previously advised about this bank account. The bank statements indicate that, in the period between the date of the Appointment Order in October and November 2023, a total of approximately $266,000 in HST refunds were deposited into the TD account, of which approximately $229,000 was disbursed to parties related to Tung Kee Ltd., and approximately $37,000 was paid to suppliers;

16. in the circumstances, the Receiver is not able to conclude that the Unpaid Invoices represent a complete record of the outstanding claims against the Respondents. Accordingly, the Receiver requires a process in order to identify and quantify the claims of creditors against the Respondents;

17. the proposed Claims Procedure Order establishes a comprehensive process for the identification and determination of claims, including provisions regarding notice of the Claims Procedure, the filing of proofs of claim by the relevant claims bar date, a mechanism for review and resolution of proofs of claim, for the Respondents to challenge any proof of claim, and for the adjudication of potential disputes;

18. the proposed Claims Procedure Order creates a claims bar date of July 22, 2024, for all claims;

19. the Claims Procedure provided for by the proposed Claims Procedure Order will facilitate the identification and determination of claims, including the resolution or adjudication of any disputes arising with respect to claims, in a fair, efficient and transparent process;

Receipts and Disbursements, and Professional Fees

20. the Interim Statement of Receipts and Disbursements of the Receiver attached as Appendix "A" to the Supplementary Third Report is a fair and accurate representation of the funds received and disbursed directly by the Receiver since the Appointment Order herein. It sets out actual receipts over disbursements of approximately $2,142,063.45;

21. section 249 of the *Bankruptcy and Insolvency Act*,

22. Rules 2.03, 3.02, 37 and 41.05 of the *Rules of Civil Procedure*; and,

23. such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED ON THE HEARING OF THE MOTION:

1. the Receiver's first report dated October 31, 2023, and the appendices attached thereto;
2. the Second Report and the appendices attached thereto;
3. the Third Report and the appendices attached thereto;
4. the Supplementary Third report and the appendices attached thereto; and,
5. such further and other evidence as counsel may advise and this Honourable Court may permit.

May 29, 2024

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Lawyers for the Court-appointed Receiver,
Ernst & Young Inc.

TO: SERVICE LIST

APPENDIX "A"

Court File No. CV-23-00703161-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE	)	TUESDAY, THE 4th
	)	
JUSTICE	)	DAY OF JUNE, 2024

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C.B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED

B E T W E E N :

ROMSPEN INVESTMENT CORPORATION

Applicant

-and-

TUNG KEE INVESTMENT CANADA LTD., and
TUNG KEE INVESTMENT LIMITED PARTNERSHIP

Respondents

CLAIMS PROCESS ORDER

THIS MOTION, made by Ernst & Young Inc. in its capacity as court-appointed receiver and manager (in such capacity, the "**Receiver**") of all the assets undertakings and properties of the Respondents, for an Order, among other things, establishing a claims process to identify, determine and resolve claims of creditors of the Respondents, and approving the Receiver's Interim Statement of Receipts and Disbursements for the period from October 19, 2023 to May 24, 2024, was heard this day at 330 University Avenue, Toronto, Ontario, via judicial videoconference.

ON READING the Third Report of the Receiver dated May 17, 2023 (the "**Third Report**"), and the Supplementary Third Report of the Receiver dated May 29, 2024 (the "**Supplementary Third Report**"), and on hearing the submissions of counsel for the Receiver, counsel for the Respondents, and counsel for the lien claimant DX Strategies Inc., no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service of Chad Kopach sworn May 30, 2024, filed.

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Receiver's Notice of Motion returnable June 4, 2024, and the related motion material filed in support of that Notice of Motion (collectively, the "**Motion Record**"), is hereby abridged, and that service of the Motion Record is hereby validated, and that further service thereof is hereby dispensed with.

DEFINITIONS AND INTERPRETATION

2. The following terms shall have the following meanings ascribed thereto:

(a) "**Appointment Order**" means the Order Appointing the Receiver dated October 19, 2023 (as may be supplemented, amended or varied from time to time);

(b) "**Business Day**" means a day, other than a Saturday or a Sunday, on which banks are generally open for business in Toronto, Ontario;

(c) "**Claim**" means any right or claim of any Person, with the exception of an Excluded Claim, that may be asserted or made in whole or in part against any of the Respondents, in connection with any indebtedness, liability or obligation of any kind whatsoever of one or more of the Respondents, whether liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known or unknown, by guarantee, surety or otherwise and whether or not such right is executory in nature, including the right or ability of any Person to advance a claim for contribution or indemnity for or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation (A) is based in whole or in part on facts existing prior to the Filing Date, (B) relates to a time period prior to the Filing Date, or (C) would have been a claim provable in bankruptcy had the Respondents become bankrupt on the Filing Date;

(d) "**Claims Bar Date**" means 5:00 p.m. (prevailing Eastern Time) on July 22, 2024;

(e) "**Claims Officer**" means the person or persons who may be appointed by the Court to adjudicate Claims;

(f) "**Court**" means the Ontario Superior Court of Justice (Commercial List);

(g) "**Charges**" means the Receiver's Charge, and the Receiver's Borrowing Charge, as such terms are defined in the Appointment Order;

(h) "**Creditor**" means any Person asserting a Claim;

(i) "**Dispute Notice**" means a written notice to the Receiver, substantially in the form attached hereto as **Schedule "E"**, delivered to the Receiver by a Creditor who has received a Notice of Revision or Disallowance, of its intention to dispute such Notice of Revision or Disallowance;

(j) "**Excluded Claim**" means any Claim entitled to the benefit of an existing or future Court-ordered priority charge, including the Charges;

(k) "**Filing Date**" means October 19, 2023;

(l) "**Instruction Letter**" means the guide to completing the Proof of Claim form, in substantially the form attached hereto as **Schedule** "**B**";

(m) "**Known Creditors**" means any Person that the Receiver determines, based upon the books and records of the Respondents as available to the Receiver, has or may be entitled to assert a Claim against any of the Respondents as of the Filing Date, provided that the identification of a Person as a Known Creditor shall not constitute confirmation that such Person's Claim is a Proven Claim;

(n) "**Notice of Revision or Disallowance**" means a notice, substantially in the form attached hereto as **Schedule** "**D**", advising a Creditor that the Receiver has revised or disallowed all or part of such Creditor's Claim as set out in its Proof of Claim;

(o) "**Notice to Creditors**" means the Notice to Creditors for publication in substantially the form attached hereto as **Schedule** "**A**";

(p) "**Person**" is to be interpreted broadly and includes any individual, firm, general or limited partnership, joint venture, trust, corporation, limited or unlimited liability company, unincorporated organization, association, trust, collective bargaining agent, joint venture, federal or provincial government body, agency or Ministry, regulatory body, officer or instrumentality thereof, or any juridical entity, wherever situate or domiciled, and whether or not having legal status, howsoever designated or constituted, and whether acting on their own or in a representative capacity;

(q) "**Proof of Claim**" means the proof of claim to be completed and filed by a Person setting forth a Claim and which shall include all supporting documentation in respect of such Claim, substantially in the form attached hereto as **Schedule** "**C**";

(r) "**Proof of Claim Document Package**" means a document package that includes a copy of the Notice to Creditors, Instruction Letter, Proof of Claim, and such other materials as the Receiver may consider appropriate or desirable;

(s) "**Proven Claim**" means a Claim as finally accepted by the Receiver or determined by the Claims Officer or by the Court, including for purposes of distribution;

(t) "**Receiver**" means Ernst & Young Inc. in the capacity described in the preamble to this Order;

(u) "**Respondents**" means Tung Kee Investment Canada Ltd. and Tung Kee Investment Limited Partnership;

(v) "**Secured Claim**" means any Claim of a Creditor but only to the extent of the value of the security in respect of the Claim;

3. **THIS COURT ORDERS** that all references as to time herein shall mean local time in Toronto, Ontario, Canada, and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day, unless otherwise indicated herein.

4. **THIS COURT ORDERS** that all references to the word "including" shall mean "including without limitation".

5. **THIS COURT ORDERS** that all references to the singular herein include the plural, the plural include the singular, and any gender includes all genders.

RECEIVER'S ROLE

6. **THIS COURT ORDERS** that the Receiver, in addition to its prescribed rights, duties, responsibilities and obligations under the Appointment Order, is hereby directed and empowered to take all such other actions and fulfill such other roles as are authorized by this Order or are incidental thereto, and that in taking such other actions and in fulfilling such other roles, the Receiver shall have the protections given to it in the Appointment Order and this Order, including without limitation the protections provided in paragraph 30 of this Order.

NOTICE TO CREDITORS

7. **THIS COURT ORDERS** that:

(a) the Receiver shall, by no later than five (5) Business Days following the issuance of this Order, post a copy of the Proof of Claim Document Package on its website, in English, at www.ey.com/ca/tungkee;

(b) the Receiver shall, as soon as practicable following the issuance of this Order, send to each of the Known Creditors with a Claim greater than $50 (for which the Receiver has an address) listed in the Respondents' books and records, a copy of the Proof of Claim Document Package;

(c) the Receiver shall, as soon as practicable following the issuance of this Order, cause the Notice to Creditors, in English, to be published in the *Toronto Star* twice, for one (1) Business Day, with the second publication the week consecutive to the first, and on https://www.yorkregion.com/ontario-communities/markham/ twice, for (1) Business Day, with the second publication the week consecutive to the first; and

(d) the Receiver shall, as soon as reasonably possible following receipt of a request therefor, deliver a copy of the Proof of Claim Document Package to any Person claiming to be a Creditor and requesting such material.

CLAIMS BAR DATE

8. **THIS COURT ORDERS** that all Persons wishing to assert a Claim shall file a completed Proof of Claim including all relevant supporting evidence and other documentation in respect of such Claim with the Receiver on or before the Claims Bar Date.

9. **THIS COURT ORDERS** that any Creditor that does not file a Proof of Claim as provided for herein such that such Proof of Claim is received by the Receiver on or before the Claims Bar Date: (a) shall be, and is hereby forever barred from making or enforcing such Claim against the Respondents; (b) shall not be entitled to participate in any distribution to Creditors in this receivership proceeding or in any other insolvency proceeding in respect of the Respondents; and (c) shall not be entitled to any further notice of, and shall not be entitled to otherwise participate as a Creditor in these proceedings.

PROOFS OF CLAIM

10. **THIS COURT ORDERS** that each Creditor shall file a separate Proof of Claim against each of the Respondents against which it asserts a Claim and that each Creditor shall include any and all Claims it asserts against a Respondent in a single Proof of Claim.

11. **THIS COURT ORDERS** that, where a Creditor has taken an assignment or transfer of a Claim after the Filing Date, that Creditor shall file a separate Proof of Claim for each assigned or transferred Claim.

12. **THIS COURT ORDERS** that where a Claim against the Respondents is based on the Respondents' guarantee of the repayment of a debt of any other Person, the Proof of Claim in respect of such Claim shall clearly state that it is based on such a guarantee.

13. **THIS COURT ORDERS** that if any Claim arose in a currency other than Canadian dollars, then the Creditor making the Claim shall complete its Proof of Claim indicating the amount of the Claim in such currency, rather than in Canadian dollars or any other currency. The Receiver shall subsequently calculate the amount of such Claim in Canadian dollars, using the Bank of Canada closing rate on October 19, 2023 (1 USD = 1.3715 CAD).

REVIEW OF PROOFS OF CLAIM

14. **THIS COURT ORDERS** that the Receiver shall review all Proofs of Claim filed, and at any time:

(a) may request additional information from a Creditor;

(b) may request that the Creditor file a revised Proof of Claim;

(c) may attempt to resolve and settle any issue arising in the Proof of Claim or in respect of a Claim;

(d) may accept the amount and/or status of any Claim and notify the Creditor in writing; and,

(e) may by notice in writing revise or disallow (in whole or in part) the amount and/or status of any Claim.

15. **THIS COURT ORDERS** that, following the Claims Bar Date, the Receiver shall deliver to the Respondents copies of all Proofs of Claim filed, and the Respondents shall have ten (10) Business Days within which to provide the Receiver with the basis of any challenge to any Proof of Claim filed.

16. **THIS COURT ORDERS** that where a Claim is revised or disallowed (in whole or in part, and whether as to amount and/or as to status), the Receiver shall deliver to the Creditor a Notice of Revision or Disallowance, attaching a form of Dispute Notice.

17. **THIS COURT ORDERS** that the Receiver is hereby authorized to use its reasonable discretion as to the adequacy of compliance with respect to the manner and timing in which forms delivered hereunder are completed and executed, and may, where it is satisfied that a Claim has been adequately proven, waive strict compliance with the requirements of this Order as to completion and execution of such forms. Notwithstanding any other provision of this Order, any Claim filed with the Receiver after the Claims Bar Date may, in the reasonable discretion of the Receiver or subject to further Order of the Court, be deemed to have been filed on or before the Claims Bar Date, and may be reviewed by the Receiver in accordance with the process set out in this Order.

DISPUTE NOTICE

18. **THIS COURT ORDERS** that a Creditor who intends to dispute a Notice of Revision or Disallowance shall file a Dispute Notice with the Receiver as soon as reasonably practicable, but in any event such that the Dispute Notice shall be received by the Receiver on or before 5:00 p.m. (prevailing Eastern Time) on the day that is fourteen (14) days after the Creditor is deemed to have received the Notice of Revision or Disallowance in accordance with paragraph 32 of this Order. The filing of a Dispute Notice with the Receiver within the fourteen (14) day period specified in this paragraph shall constitute an application to have the amount or status of such Claim determined as set out in paragraphs 20 to 24 hereof.

19. **THIS COURT ORDERS** that where a Creditor that receives a Notice of Revision or Disallowance fails to file a Dispute Notice with the Receiver within the time period provided for in paragraph 18 above, the amount and status of such Creditor's Claim shall be deemed to be as set out in the Notice of Revision or Disallowance and such amount and status, if any, shall constitute such Creditor's Proven Claim.

RESOLUTION OF CLAIMS

20. **THIS COURT ORDERS** that, as soon as practicable after a Dispute Notice is received by the Receiver in accordance with this Order, the Receiver, in consultation with the Creditor, shall attempt to resolve and settle the amount and status of the Creditor's Claim.

21. **THIS COURT ORDERS** that, in the event that a dispute raised in a Dispute Notice is not settled within a reasonable time period or in a manner satisfactory to the Receiver and the applicable Creditor, the Receiver may, in its sole discretion: (a) refer the dispute to a Claims

Officer for determination, or (b) on notice to the disputing Creditor, bring the dispute before the Court for determination.

22. **THIS COURT ORDERS** that the Receiver is hereby authorized to bring a motion to Court seeking an order appointing a Claims Officer in respect of any or all disputed Claims.

23. **THIS COURT ORDERS** that subject to further order of the Court, the Claims Officer shall determine the status and/or amount of each Claim in respect of which a dispute has been referred to the Claims Officer and in doing so, the Claims Officer shall be empowered to determine the process by which evidence may be brought before him or her as well as any other procedural matters which may arise in respect of the determination of any disputed Claim.

24. **THIS COURT ORDERS** that the Creditor or the Receiver may appeal the Claims Officer's determination to this Court by serving upon the other, within ten (10) calendar days of notification of the Claims Officer's determination of such Creditor's Claim, a notice of motion returnable on a date to be fixed by this Court. If a notice of motion is not served within such period, then the Claims Officer's determination shall be deemed to be final and binding and shall be such Creditor's Proven Claim.

DETERMINATION OF PROVEN CLAIM

25. **THIS COURT ORDERS** that the amount and status of every Claim, including any Secured Claim, as finally determined in accordance with the procedures set forth in this Order, shall be final for all purposes, including for distributions made to Creditors of the Respondents, provided however, that no Claim may be allowed or may be established as a Proven Claim unless a Proof of Claim with respect to that Claim is filed in accordance with this Order.

26. **THIS COURT ORDERS** that a Claim shall not be a Proven Claim in whole or in part unless and until the Claim has been allowed or otherwise finally determined in whole or in part in accordance with the procedures set out in this Order or further Order of the Court.

NOTICE OF TRANSFEREES

27. **THIS COURT ORDE**RS that the Receiver shall not be obligated to give notice to or to otherwise deal with a transferee or assignee of a Claim as the Creditor in respect thereof unless and until (a) actual written notice of transfer or assignment, together with satisfactory evidence of such transfer or assignment, shall have been received by the Receiver, and (b) the Receiver shall have acknowledged in writing such transfer or assignment, and thereafter such transferee or assignee shall for the purposes hereof constitute the "Creditor" in respect of such Claim. Any such transferee or assignee of a Claim, and such Claim, shall be bound by any notices given or steps taken in respect of such Claim in accordance with this Order prior to the written acknowledgement by the Receiver of such transfer or assignment.

28. **THIS COURT ORDERS** that if the holder of a Claim has transferred or assigned the whole of such Claim to more than one Person or part of such Claim to another Person or Persons, such transfer or assignment shall not create a separate Claim or Claims and such Claim shall continue to constitute and be dealt with as a single Claim notwithstanding such transfer or assignment, and the Receiver shall in each such case not be bound to acknowledge or recognize any such transfer or assignment and shall be entitled to give notices to and to otherwise deal with such Claim only as a whole and then only to and with the Person last holding such Claim in whole as the Creditor in respect of such Claim. Provided that a transfer or assignment of the Claim has taken place in accordance with paragraph 27 of this Order and the Receiver has

acknowledged in writing such transfer or assignment, the Person last holding such Claim in whole as the Creditor in respect of such Claim may by notice in writing to the Receiver direct that subsequent dealings in respect of such Claim, but only as a whole, shall be with a specified Person and, in such event, such Creditor, such transferee or assignee of the Claim and the whole of such Claim shall be bound by any notices given or steps taken in respect of such Claim by or with respect to such Person in accordance with this Order.

29. **THIS COURT ORDERS** that the transferee or assignee of any Claim (a) shall take the Claim subject to the rights and obligations of the transferor/assignor of the Claim, and subject to the rights of the Respondents against any such transferor or assignor, including any rights of set-off which the Respondents had against such transferor or assignor, and (b) cannot use any transferred or assigned Claim to reduce any amount owing by the transferee or assignee to the Respondents, whether by way of set off, application, merger, consolidation or otherwise.

PROTECTIONS FOR RECEIVER

30. **THIS COURT ORDERS** that: (a) in carrying out the terms of this Order, the Receiver shall have all of the protections given to it by the *Bankruptcy & Insolvency* Act, the Appointment Order or as an officer of this Court, including the stay of proceedings and limitation of liability in its favour; (b) the Receiver shall incur no liability or obligation as a result of the carrying out of the provisions of this Order, except for claims based on gross negligence or wilful misconduct; (c) the Receiver shall be entitled to rely on the books and records of the Respondents and any information provided by the Respondents, all without independent investigation; and (d) the Receiver shall not be liable for any claims or damages resulting from any errors or omissions in

such books, records or information, except for claims based on gross negligence or wilful misconduct.

DIRECTIONS

31. **THIS COURT ORDERS** that the Receiver may, at any time, and with such notice as this Court may require, seek directions from the Court with respect to this Order and the claims process set out herein, including the forms attached as Schedules hereto.

SERVICE AND NOTICE

32. **THIS COURT ORDERS** that the Receiver is at liberty to deliver the Proof of Claim Document Package, and any letters, notices or other documents to Creditors or other interested Persons, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic or digital transmission to such Persons at the address as last shown on the records of the Respondents and that any such service or notice by courier, personal delivery or electronic or digital transmission shall be deemed to be received on the next Business Day following the date of forwarding thereof, or if sent by prepaid ordinary mail, on the third Business Day after mailing.

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

Ernst & Young Inc.
Court-appointed Receiver of Tung Kee Investment Canada Ltd., et. al.
Ernst & Young Tower
100 Adelaide Street West, P.O. Box 1
Toronto, Ontario
Canada M5H 0B3
Attention: Rob Ferguson

Telephone: 1-833-453-2978 / 1-416-943-8055
E-mail: tungkee@ca.ey.com

MISCELLANEOUS

34. **THIS COURT ORDERS** that notwithstanding any other provision of this Order, the solicitation of Proofs of Claim, and the filing by a Person of any Proof of Claim, shall not, for that reason only, grant any Person any standing in this receivership proceeding or in any other insolvency proceeding in respect of the Respondents.

35. **THIS COURT ORDERS AND REQUESTS** the aid and recognition of any court of any judicial, regulatory or administrative body in any province or territory of Canada and of any other nation or state, to act in aid of and to be complementary to this Court in carrying out the terms of this Order. 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 the Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its respective agents in carrying out the terms of this Order.

36. **THIS COURT ORDERS** that the Receiver's Interim Statement of Receipts and Disbursements for the period from October 19, 2023 to May 24, 2024, as set out in Appendix "A" to the Supplementary Third Report, be and is hereby accepted and approved.

SCHEDULE “A”

NOTICE TO CREDITORS

Court File No. CV-23-00703161-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O 1990 C. C.43, AS AMENDED

B E T W E E N:

ROMSPEN INVESTMENT CORPORATION

Applicant

- and -

TUNG KEE INVESTMENT CANADA LTD. and TUNG KEE INVESTMENT LIMITED PARTNERSHIP

Respondents

NOTICE OF CLAIMS PROCESS AND CLAIMS BAR DATE FOR THE RESPONDENTS

NOTICE IS HEREBY GIVEN that, pursuant to an Order of the Court dated June 4, 2024 (the “**Claims Process Order**”), a claims process has been commenced for the purpose of identifying and determining claims against the Respondents. Capitalized terms in this Notice that are not defined herein have the meaning ascribed to them in the Claims Process Order (a copy of which is available on the Receiver’s website at www.ey.com/ca/tungkee).

PLEASE TAKE NOTICE that the claims process applies to Claims, as described in the Claims Process Order. Any Person who has not received a Proof of Claim Document Package and who believes that he or she has a Claim against the Respondents must contact the Receiver in order to obtain a Proof of Claim form or visit the Receiver’s Website.

THE CLAIMS BAR DATE is 5:00 p.m. (Toronto Time) on July 22, 2024. This bar date applies to all Claims. Proofs of Claim must be completed and filed with the Receiver using the procedures required in the Claims Process Order so that they are received by the Receiver on or before the Claims Bar Date.

HOLDERS OF CLAIMS WHO DO NOT FILE A PROOF OF CLAIM BY THE CLAIMS BAR DATE SHALL BE FOREVER EXTINGUISHED AND BARRED FROM ASSERTING THEIR CLAIMS AGAINST THE RESPONDENTS.

CREDITORS REQUIRING INFORMATION or claims documentation may contact the Receiver. The Receiver's contact details for additional information relating to the Appointment Order or the Claims Process is:

Ernst & Young Inc.
Court-appointed Receiver of Tung Kee Investment Canada Ltd., et. al.
Ernst & Young Tower
100 Adelaide Street West, P.O. Box 1
Toronto, Ontario M5H 0B3
Attention: Rob Ferguson

Hotline: 1-833-453-2978 / 1-416-943-8055
Email: tungkee@ca.ey.com
Website: http://www.ey.com/ca/tungkee

SCHEDULE "B"

INSTRUCTION LETTER

Court File No. CV-23-00703161-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C.B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED

B E T W E E N:

ROMSPEN INVESTMENT CORPORATION

Applicant

- and -

TUNG KEE INVESTMENT CANADA LTD. and TUNG KEE INVESTMENT LIMITED PARTNERSHIP

Respondents

INSTRUCTION LETTER

CLAIMS PROCESS

By Order of the Ontario Superior Court of Justice (Commercial List) dated June 4, 2024 ("**Claims Process Order**"), Ernst & Young Inc., in its capacity as Court-appointed Receiver of the Respondents (in such capacity, the "**Receiver**"), has been authorized to conduct a claims process (the "**Claims Process**"). A copy of the Claims Process Order and other public information concerning these proceedings can be obtained from the Receiver's website at: https://www.ey.com/ca/tungkee

This letter provides general instructions for completing a Proof of Claim form. Defined terms not defined within this instruction letter shall have the meaning ascribed thereto in the Claims Process Order.

The Claims Process is intended to identify and determine the quantum of Claims of Creditors against the Respondents.

Please review the Claims Process Order for the full terms of the Claims Process.

All notices and inquiries with respect to the Claims Process should be directed to the Receiver by prepaid registered mail, courier, personal delivery, facsimile transmission or email at the address below:

Ernst & Young Inc.
Court-appointed Receiver of Tung Kee Investment Canada Ltd., et. al.
Ernst & Young Tower
100 Adelaide Street West, P.O. Box 1
Toronto, Ontario M5H 0B3
Attention: Rob Ferguson

Hotline:	1-833-453-2978 / 1-416-943-8055
Email:	tungkee@ca.ey.com
Website:	http://www.ey.com/ca/tungkee

FOR CREDITORS SUBMITTING A PROOF OF CLAIM

If you believe that you have a Claim as a Creditor of any of the Respondents, you must complete and file a Proof of Claim form with the Receiver.

All Proofs of Claim must be received by the Receiver before 5:00 p.m. (Toronto Time) on July 22, 2024 (the "**Claims Bar Date**"), subject to the provisions of the Claims Process Order.

All Claims denominated in a foreign currency shall be filed in such currency and will be converted to Canadian Dollars at the rate as set out in the Claims Process Order.

ADDITIONAL FORMS

Additional Proof of Claim forms can be obtained from the Receiver's website at http://www.ey.com/ca/tungkee or by contacting the Receiver.

DATED this 4th day of June, 2024.

SCHEDULE "C"

PROOF OF CLAIM

Court File No. CV-23-00703161-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C.B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED

B E T W E E N:

ROMSPEN INVESTMENT CORPORATION

Applicant

\- and -

TUNG KEE INVESTMENT CANADA LTD. and TUNG KEE INVESTMENT LIMITED PARTNERSHIP

Respondents

PROOF OF CLAIM

---

1. PARTICULARS OF CREDITOR

Full Legal Name of Creditor:	
Full Mailing Address of Creditor:	
Telephone Number of Creditor:	
E-mail Address of Creditor:	

Attention (Contact Person of Creditor):	

2. PARTICULARS OF ORIGINAL CREDITOR FROM WHOM YOU ACQUIRED THE CLAIM, IF APPLICABLE:

(a) Have you acquired this Claim by assignment? Yes ◻ No ◻
(if yes, attach documents evidencing assignment)

a. Full Legal Name of original creditor(s):

____

3. PROOF OF CLAIM

THE UNDERSIGNED CERTIFIES AS FOLLOWS:

That I am a Creditor [or hold the position of ______________________ of the Creditor] and have knowledge of all the circumstances connected with the Claim described herein;

That I have knowledge of all the circumstances connected with the Claim described and set out below;

________________________ [Insert Respondent Name(s)] was and is still indebted to the Creditor as follows:

When completing the Proof of Claim, please ensure to include the exact legal name of the Respondent that you are asserting a Claim again (i.e. Tung Kee Investment Canada Ltd. or Tung Kee Investment Limited Partnership). Any Claims denominated in a foreign currency shall be filed in such currency and will be converted to Canadian Dollars at the rate as set out in the Claims Process Order.

Respondent[1] *(Tung Kee Investment Canada Ltd., Tung Kee Investment Limited Partnership)*	**Amount of Claim** *(include the foreign currency if not Canadian dollars)*
	$

[1] Please include the full legal name of the Respondent that you are asserting a Claim against. If you are asserting Claims against multiple Respondents, you must complete a separate Proof of Claim in respect of each Respondent.

4. NATURE OF CLAIM

(CHECK AND COMPLETE APPROPRIATE CATEGORY)

□ Total Unsecured Claim of $___________________________

□ Total Secured Claim of $ _____________________________

In respect of this debt, I hold security over the assets of _________________ [*Insert Respondent Name]* valued at $__________________ [*List the value of security*], the particulars of which security and value are attached to this Proof of Claim form[2].

(*If the Claim is secured, provide full particulars of the security, including the date on which the security was given, the value for which you ascribe to the assets charged by your security, the basis for such valuation and attach a copy of the security documents evidencing the security.*)

5. PARTICULARS OF CLAIM:

The particulars of the undersigned's total Claims are attached.

> (*Provide full particulars of the Claim(s) and supporting documentation, including the legal name of the Respondent(s) you are asserting a Claim against, the amount, description of transaction(s) or agreement(s) giving rise to the Claim(s), name of any guarantor(s) which has guaranteed the Claim(s), and amount of Claim(s) allocated thereto, date and number of all invoices, particulars of all credits, discounts, etc. claimed.)*

[2] If you hold security over more than one Respondent, please attach particulars to this Proof of Claim form that clearly describe the Respondent that you hold security from and the amount of such security.

6. FILING OF CLAIM

This Proof of Claim must be returned to and received by the Receiver by 5:00 p.m. (Toronto Time) on the Claims Bar Date (July 22, 2024).

In each case, completed forms must be delivered by prepaid registered mail, courier, personal delivery, facsimile transmission or email to the Receiver at the following address:

Ernst & Young Inc.
Court-appointed Receiver of Tung Kee Investment Canada Ltd., et. al.
Ernst & Young Tower
100 Adelaide Street West, P.O. Box 1
Toronto, Ontario M5H 0B3
Attention: Rob Ferguson

Hotline: 1-833-453-2978 / 1-416-943-8055
Email: tungkee@ca.ey.com

Dated at ___________________(location) this ________ day of __________________, 2024.

____
Witness Name:

Name of Creditor: _____________________

Signature of Creditor:

____

If Creditor is other than an individual, print name and title of authorized signatory

Name: ____________________________

Title: ______________________________

SCHEDULE "D"

NOTICE OF REVISION OR DISALLOWANCE

Court File No. CV-23-00703161-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C.B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED

B E T W E E N:

ROMSPEN INVESTMENT CORPORATION

Applicant

\- and -

TUNG KEE INVESTMENT CANADA LTD. and TUNG KEE INVESTMENT LIMITED PARTNERSHIP

Respondents

NOTICE OF REVISION OR DISALLOWANCE

TO:

This Notice of Revision or Disallowance is issued pursuant to the Claims Process Order. The Receiver hereby gives you notice that it has reviewed your Proof of Claim(s) dated ______________, 2024, and has revised or disallowed your Claim(s) for the following reasons:

____

____

____

Subject to further dispute by you in accordance with the provisions of the Claims Process Order, your Claim(s) will be allowed as follows:

Respondent	Amount of Claim per Proof of Claim	Disallowed Amount	Allowed as Revised

Terms not otherwise defined in this Notice have the meaning ascribed thereto in the Claims Process Order. The Claims Process Order can be accessed on the Receiver's website at http://www.ey.com/ca/tungkee.

If you intend to dispute this Notice of Revision or Disallowance, you must notify the Receiver of such intent by delivery to the Receiver of a Dispute Notice in accordance with the Claims Process Order, such that it is received by the Receiver by 5:00 p.m. no later than fourteen (14) calendar days after you receive such Notice of Revision or Disallowance, at the following address by prepaid registered mail, courier, personal delivery, facsimile transmission or email:

Ernst & Young Inc.
Court-appointed Receiver of Tung Kee Investment Canada Ltd., et. al.
Ernst & Young Tower
100 Adelaide Street West, P.O. Box 1
Toronto, Ontario M5H 0B3
Attention: Rob Ferguson

Hotline: 1-833-453-2978 / 1-416-943-8055
Email: tungkee@ca.ey.com

If you do not deliver a Dispute Notice in accordance with the Claims Process Order, the value of your Claim(s) shall be deemed to be as set out in this Notice of Revision or Disallowance.

DATED at ______________________ this ________ day of ___________________, 20____.

SCHEDULE "E"

DISPUTE NOTICE

Court File No. CV-23-00703161-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O 1990 C. C.43, AS AMENDED

B E T W E E N:

ROMSPEN INVESTMENT CORPORATION

Applicant

- and -

TUNG KEE INVESTMENT CANADA LTD. and TUNG KEE INVESTMENT LIMITED PARTNERSHIP

Respondents

DISPUTE NOTICE

---

7. PARTICULARS OF CREDITOR

Full Legal Name of Creditor:	
Full Mailing Address of Creditor:	
Telephone Number of Creditor:	
E-mail Address of Creditor:	

Attention (Contact Person):	

8. **PARTICULARS OF ORIGINAL CREDITOR FROM WHOM YOU ACQUIRED THE CLAIM, IF APPLICABLE:**

(b) Have you acquired this Claim by assignment? Yes ◻ No ◻

(if yes, attach documents evidencing assignment)

Full Legal Name of original creditor(s): ______________________________

9. **DISPUTE OF REVISION OR DISALLOWANCE OF CLAIM:**

(Any Claims denominated in a foreign currency shall be filed in such currency and will be converted to Canadian dollars at the rate as set out in the Claims Process Order.)

We hereby disagree with the value of our Claim(s) as set out in the Notice of Revision or Disallowance dated ________________________, as set out below:

Respondent[1]	**Claim as Allowed or Revised per Notice of Revision or Disallowance**	**Claim amount per Creditor**
	$	$
	$	$
	$	$
	$	$

(Insert particulars of your Claim(s) per Notice of Revision or Disallowance, and the value of your Claim(s) as asserted by you.)

[1] Please include the full legal name of the Respondent that you are asserting a Claim against.

10. REASONS FOR DISPUTE:

Provide full particulars of the Claim(s) and supporting documentation, including amount, description of transaction(s) or agreement(s) giving rise to the Claim(s), name of any guarantor(s) which has guaranteed the Claim(s), and amount of Claim(s) allocated thereto, date and number of all invoices, particulars of all credits, discounts, etc. claimed. The particulars provided must support the value of the Claim(s), as stated by you in item 3 above.

If you intend to dispute the Notice of Revision or Disallowance, you must notify the Receiver of such intent by delivery to the Receiver of a Dispute Notice in accordance with the Claims Process Order such that it is received by the Receiver by 5:00 p.m. no later than fourteen (14) calendar days after you receive such Notice of Revision or Disallowance at the following address by prepaid registered mail, courier, personal delivery, facsimile transmission or email:

Ernst & Young Inc.
Court-appointed Receiver of Tung Kee Investment Canada Ltd., et. al.
Ernst & Young Tower
100 Adelaide Street West, P.O. Box 1
Toronto, Ontario M5H 0B3
Attention: Rob Ferguson

Hotline: 1-833-453-2978 / 1-416-943-8055
Email: tungkee@ca.ey.com

Court File No. CV-23-00703161-00CL

ROMSPEN INVESTMENT CORPORATION and **TUNG KEE INVESTMENT CANADA LTD. et al.**
Applicant Respondents

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

CLAIMS PROCESS ORDER

BLANEY McMURTRY LLP
Barristers & Solicitors
2 Queen Street East, Suite 1500
Toronto ON M5C 3G5

Eric Golden (LSO #38239M)
(416) 593-3927 (Tel)
egolden@blaney.com

Chad Kopach (LSO #48084G)
(416) 593-2985 (Tel)
ckopach@blaney.com

Lawyers for the Court-appointed Receiver,
Ernst & Young Inc.

Court File No. CV-23-00703161-00CL

ROMSPEN INVESTMENT CORPORATION and **TUNG KEE INVESTMENT CANADA LTD. et al.**
Applicant Respondents

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

NOTICE OF MOTION
(Claims Process)

BLANEY McMURTRY LLP
Barristers & Solicitors
2 Queen Street East, Suite 1500
Toronto ON M5C 3G5

Eric Golden (LSO #38239M)
(416) 593-3927 (Tel)
egolden@blaney.com

Chad Kopach (LSO #48084G)
(416) 593-2985 (Tel)
ckopach@blaney.com

Lawyers for the Court-appointed Receiver,
Ernst & Young Inc.

TAB 2

Court File No. CV-23-00703161-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O 1990 C. C.43, AS AMENDED

B E T W E E N:

ROMSPEN INVESTMENT CORPORATION

Applicant

- and -

TUNG KEE INVESTMENT CANADA LTD. and TUNG KEE INVESTMENT LIMITED PARTNERSHIP

Respondents

FIRST SUPPLEMENT TO THE THIRD REPORT
OF THE RECEIVER AND MANAGER
DATED MAY 29, 2024

INTRODUCTION

1. This supplement to the third report of the Receiver and Manager (the "**Supplemental Third Report**") is filed by EYI[1] in its capacity as Receiver pursuant to the Appointment Order.

2. On May 16, 2024, the Receiver filed its Third Report to update the Court on, among other things, the status of the Five Mortgages.

3. On May 23, 2024, Justice Kimmel issued a distribution order (the "**Distribution Order**") authorizing the Receiver to make the following full and final distributions to certain of the Five Mortgagees as follows:

[1] All capitalized terms not defined herein have the meaning set out in the Receiver's Third Report dated May 16, 2023 (the "**Third Report**")

i) $3,917,837.29 to 214 Ontario in full and final satisfaction of the amounts owing under its third mortgage over the Real Property;

ii) $150,000 to Pa and Tung in full and final satisfaction of the amounts owing under their fourth mortgage over the Real Property; and

iii) $1,344,190.33 to SOW in full and final satisfaction of the amounts owing under its fifth mortgage over the Real Property.

4. The Distribution Order also approved the release to SOW of a $3,242,153.98 (plus accrued interest) reserve from the sale proceeds of the Times Transaction that had been placed into a joint trust GIC account at the Royal Bank of Canada in the names of Fogler, Rubinoff LLP (counsel to 214 Ontario and to Pa and Tung) and Keyser Mason Ball LLP (former counsel to SOW), pursuant to the December 5 Interim Distributions Order of Justice Conway.

5. As a result of the foregoing distributions, all secured creditors holding mortgages over the Real Property have now been repaid in full. It appears that there will be a surplus available to be distributed to the Respondents, subject to ongoing professional fees of the Receiver and its counsel, and completing a claims process as discussed below.

6. The purpose of this Supplemental Third Report is to update the Court with respect to:

i) the Receiver's review of the Respondents' books and records;

ii) the status of the full and final distributions to the third, fourth and fifth mortgagees;

iii) the Receiver's request for an Order (the "**Claims Process Order**") approving a process (the "**Claims Process**") pursuant to which the Receiver will:

a) call for claims of the Respondents' creditors (defined in the proposed Claims Process Order as "Claims", and summarized below), and establish a bar date by which such Claims must be filed;

b) determine the status and amount of such Claims for distribution purposes; and,

c) following completion of the Claims Process, seek Court approval for final distributions.

TERMS OF REFERENCE

7. In preparing this Supplemental Third Report and making the comments herein, the Receiver has been provided with, and has relied upon certain unaudited, draft and/or internal financial information, the application and motion materials filed in respect of these proceeding, and discussions with management's counsel (collectively, the "**Information**"). Future oriented financial information relied upon in the Supplemental Report is based on assumptions regarding future events. Actual results achieved may vary from this information and these variations may be material.

8. The Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards ("**GAAS**") pursuant to the *Chartered Professional Accountants Canada Handbook*. Accordingly, the Receiver expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.

9. The Receiver will make a copy of the Supplemental Third Report, and related documents with respect to this Receivership application, available on the Receiver's website at www.ey.com/ca/tungkee. The Receiver has also established a toll-free phone number that is referenced on the Receiver's website so that parties may contact the Receiver if they have questions with respect to this proceeding.

10. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

REVIEW OF THE RESPONDENTS' BOOKS AND RECORDS

11. Shortly after the Appointment Order was issued on or about October 26, 2023, the Receiver corresponded with the Respondents' counsel to secure the Respondents' books and records, and provided the Respondents' counsel with information requests. During these receivership proceedings, only limited information was delivered to the Receiver. The Receiver understood that the Respondents had limited books and records, as they were non-operating entities whose only asset of significance at the time of the Appointment Order, was a piece of vacant land (i.e. the Real Property).

12. On May 22, 2024, being approximately seven months after the Receiver's Appointment, the Respondents made arrangements for the Receiver to attend at the Respondents' registered office, at which time the Respondents delivered to the Receiver the following books and records:

i) the minute book for Tung Kee Ltd.;

ii) TD bank statements for Tung Kee Ltd. for the period from December, 2021 to April, 2024 (the Receiver was not previously advised about this bank account);

iii) certain invoices that were paid during the period from December, 2021 to April, 2024;

iv) certain unpaid invoices dated both before and after the Appointment Order; and,

v) HST tax filings for the period from January, 2023 to October, 2023.

13. The unpaid invoices totaled approximately $345,045, and were in respect of debts owed to six entities summarized below:

Vendor	**Amount**
2205593 Ontario Inc.	150,000.00
Cushman & Wakefield ULC	20,643.24
Chaitons LLP	134,273.20
Deloitte LLP	17,229.68
CBRE Limited	21,554.75
Teplitsky LLP	1,344.70
	345,045.57

(collectively, the "**Unpaid Invoices**"). Certain of these Unpaid Invoices that pre-date the Appointment Order from Cushman & Wakefield ULC, Deloitte LLP and CBRE Limited include notations of "unpaid – under negotiation / dispute".

14. Based on a review of the above-referenced records, the Receiver is not able to conclude that the Unpaid Invoices represent a complete record of the outstanding claims. Notably absent were copies of invoices from: a) DX, who has provided the Receiver with four different invoices all dated May 18, 2023 (though in different amounts, and with different descriptions of services supplied – see Appendix I to the Receiver's Third Report), and b) Morris Group Financial, Inc. ("**Morris Group**"), who claims to be owed US$280,000.

15. The Morris Group alleges it has a secured claim against Tung Kee Ltd., though it did not have a mortgage registered on title to the Real Property, and the security opinion at Appendix F to the Receiver's Second Report confirms it also did not have PPSA registered security. The Morris Group is represented by Justin Papazian of Papazian, Heisey, Meyers, who has advised the Receiver that the Morris Group's claim relates to an agreement dated April 15, 2023, pursuant to which Morris Group was retained "to assist in obtaining financing for the [Real Property]" with a lender called "MGF Syndicate", resulting in an alleged obligation to pay "a Commitment Fee and a Processing Fee to Morris Group totalling USD680,000, of which USD400,000 was paid on behalf of Tung Kee". Morris Group appears to allege it has a claim in this regard notwithstanding that no financing from "MGF Syndicate" for the Real Property ever materialized.

16. The security opinions attached to the Second Report confirm that, following the payout of the Five Mortgages, there are no other secured creditors of the Respondents, save for an entity called UBS AG, who has a PPSA registration against the Respondents in respect of inventory and accounts. The Receiver has no information about the quantum or nature of the purported debt owed by the Respondents to UBS AG.

17. Upon review of the Tung Kee Ltd. bank statements, the Receiver noted that after the date of the Appointment Order in October and November 2023, a total of approximately $266,000 in HST refunds were deposited into Tung Kee Ltd.'s bank account. Based on handwritten notes on the bank statements, it appears approximately $229,000 was disbursed to parties related to Tung Kee Ltd., and approximately $37,000 was paid to suppliers. These bank statements reflect minimal transactions between December, 2023 and April, 2024.

18. Based on the Receiver's review of the books and records, it appears that there are a number of known unsecured creditors whose debts pre-date the Appointment Order, but the Receiver is not able to determine the nature and *quantum* of the claims that creditors may have against the Respondents, including claims as at October 19, 2023. This warrants the Receiver conducting a claims process to effect a distribution to the unsecured creditors before any surplus is returned to the Respondents.

STATEMENT OF RECEIPTS AND DISBURSEMENTS

19. Attached hereto as **Appendix "A"** is the Receiver's Interim Statement of Receipts and Disbursements for the period from October 19, 2023, to May 24, 2024, which indicates actual receipts over disbursements of $2,142,063. This statement incorporates all of the payments to all Five Mortgagees which have extinguished their claims.

CLAIMS PROCESS

Overview

20. Now that the Five Mortgagees have been repaid in full, and based on the Receiver's review of the Respondents' books and records, the Receiver is of the view that it is appropriate to commence a process to call for claims of creditors of each of the Respondents. Determination of creditor claims is a necessary step before the Receiver can distribute the remaining sale proceeds to the Respondents.

21. The following is a summary of the terms of the Claims Process Order, including the defined terms used in the Order. Readers should consult the terms of the Claims Process Order in order to determine their rights and obligations under the Order.

22. The purpose of the proposed Claims Process as set out in the Claims Process Order is to:

i) authorize the Receiver to call for Claims against each of the Respondents existing or arising as at the date of the Appointment Order (the "**Pre-Filing Claims**"), as well as claims arising after the filing date (the "**Post-Filing Claims**");

ii) establish a process for notifying Creditors (as defined in the proposed Claims Process Order) in respect of the call for Claims;

iii) establish a process for Creditors to file their Claims including the form of proof of claim ("**Proof of Claim**") to be used;

iv) establish a bar date by which Creditors of the Respondents are required to file their Proofs of Claim;

v) establish a process for the Receiver to adjudicate the Claims filed, including the determination of the nature, amount and validity of any filed Claim; and,

vi) with Court approval, to make distributions to Creditors with proven Claims.

23. The proposed Claims Process Order provides that the determination of the amount and status of any Claim, as determined in accordance with the proposed Claims Process Order shall be final for all purposes including for distributions made to Creditors of the Respondents.

24. The proposed Claims Process Order provides that Creditors shall assert claims separately against each of the Respondents, and the Receiver intends to review and determine Claims as against each Respondent on an individual basis.

<u>Claims Bar Date</u>

25. Creditors will be required to file a Proof of Claim with the Receiver prior to 5:00 pm (prevailing Eastern time) on July 22, 2024 (the "**Claims Bar Date**").

26. Subject to the ability of the Receiver to waive certain filing requirements, any Creditors not filing a Proof of Claim with the Receiver on or before the applicable Claims Bar Date shall:

    i) be forever barred from making or enforcing any Claim against the Respondents;

    ii) not be entitled to participate in any distribution in this receivership proceeding or in any other insolvency proceeding in respect of the Respondents; and

    iii) not be entitled to any further notice in, and shall not be entitled to otherwise participate in these proceedings.

27. The Receiver is of the view that the Claims Bar Date is reasonable in that it provides in excess of 45 calendar days from the date of the proposed Claims Process Order, during which Creditors may evaluate their Claims against the Respondents and submit the necessary Proofs of Claim.

Notice to Creditors

28. The Receiver will send, in English: (a) the Notice to Creditors; (b) an Instruction Letter; and, (c) a Proof of Claim form (collectively, the "**Proof of Claim Document Package**"), to each Known Creditor (defined below) with a Claim greater than $50 by regular mail as soon as practical following the issuance of the proposed Claims Process Order.

29. The term "Known Creditor" means any person that the Receiver determines, based upon the books and records of the Respondents, and information known to the Receiver, that has or may be entitled to assert a Claim against any of the Respondents before or after the Filing Date.

30. A copy of the Proof of Claim Document Package is attached hereto as **Appendix "B"**.

31. The Receiver will publish, as soon as practical following the issuance of the Claims Process Order, the Notice to Creditors, in English, in the *Toronto Star* and https://www.yorkregion.com/ontario-communities/markham/.

32. The Receiver will post an electronic copy of the Proof of Claim Document Package, in English, within five days following the issuance of the proposed Claims Process Order, on the Receiver's website at www.ey.com/ca/TungKee.

33. In addition, the Receiver will send a Proof of Claim Document Package to any person claiming to be a Creditor as soon as reasonably possible after receipt of a request for the Proof of Claim Document Package.

34. In the Receiver's view, the identification of Known Creditors, the mailing of the Proof of Claim Document Packages, and the newspaper advertisements described above will provide sufficient and timely notification to allow Creditors to submit Proofs of Claim prior the applicable Claims Bar Date.

Review of Proof of Claims

35. Following the Claims Bar Date, the Receiver will provide copies of all filed Proofs of Claim to the Respondents. The Respondents will then have 10 business days within which to provide the Receiver with the basis of any challenge to any Proof of Claim filed. The Receiver will then review each Proof of Claim as filed, and any challenge(s) from the Respondents, and at any time may:

i) request additional information from a Creditor;

ii) request the Creditor to file a revised Proof of Claim;

iii) attempt to consensually resolve the amount of the Proof of Claim with the Creditor;

iv) accept the amount and/or status of the Claim and notify the Creditor in writing; and,

v) pursuant to the provisions of the Claims Process Order, by notice in writing, revise or disallow (in whole or in part) the amount and/or status of any Claim by delivering to the Creditor a notice of revision or disallowance (the "**Notice of Revision or Disallowance**") substantially in the form attached hereto as **Appendix "C"**. For administrative purposes, the Creditor will also be provided at the same time with a notice of dispute form (the "**Dispute Notice**") substantially in the form attached hereto as **Appendix "D"**.

36. Any Creditor who intends to dispute the amount of its Claim as set out in the Notice of Revision or Disallowance must file a Dispute Notice with the Receiver no later than 14 calendar days after the deemed receipt (pursuant to the provisions of proposed Claims Process Order) of the Notice of Revision or Disallowance from the Receiver.

37. The Receiver is of the view that the period of time to file a Dispute Notice is reasonable, as most Creditors will have already performed an evaluation of their Claim prior to submitting a Proof of Claim and therefore should be in a position to respond within the time period established.

38. Upon receipt of a Dispute Notice, the Receiver may attempt to consensually resolve the amount of the Claim with the Creditor with the assistance and/or approval of the Respondents, if necessary, and if the Claim is not settled within a time period or in a manner satisfactory to the Receiver, the Receiver will refer the dispute to a Claims Officer (as defined in the proposed Claims Process Order) for determination, or, on notice to the disputing Creditor, bring the dispute before the Court for determination.

39. Any Creditor who intends to dispute the Claims Officer's determination may do by way of appeal to the Court via a notice of motion, to be served within ten calendar days.

40. Following the Claims Process, the Receiver will seek Court authorization to distribute funds to Creditors with proven Claims and distribute the surplus, if any, to the Respondents in an amount to be determined by the Receiver.

RECOMMENDATION

41. The Receiver is of the view that the Claims Process, including the Receiver's role in administering the Claims Process, provides for a fair, reasonable and efficient process to call for and determine claims, is appropriate given the Receiver's role as an independent court officer, and is consistent with processes utilized in similar court proceedings.

42. The Claims Process will allow the Receiver to determine the quantum of Claims of Creditors against each of the Respondents, and will enable the Receiver, with Court approval, to distribute to Creditors the amount of their proven Claims so that any surplus can be distributed to the Respondents, and the Receiver can seek its discharge.

All of which is respectfully submitted this 29th day of May 2024.

ERNST & YOUNG INC.,
solely in its capacity as Receiver of the assets, property and undertaking of the Tung Kee Investment Canada Ltd. and Tung Kee Investment Limited Partnership and not in its personal capacity
Per:

Jeffrey Kerbel

Jeffrey D. Kerbel
Senior Vice-President

Appendix “A”

ERNST & YOUNG INC.
Court appointed Receiver and Manager of
Tung Kee Investment Canada Ltd. and Tung Kee Investment Limited Partnership
INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS
For the period from October 19, 2023 to May 24, 2024

		October 19, 2023 to May 24, 2024
Receipts:		
Sale Proceeds	$	68,001,312.05
Interest Earned		221,916.91
HST Refunds		211,520.07
Return of Deposit from Alectra		160,460.87
HST Refund Interest		938.24
Total Receipts	$	68,596,148.14
Disbursements:		
Distribution to Romspen	$	33,787,897.39
Distribution to Amber Mortgage		9,087,542.27
Distribution to Sow Capital		7,242,153.98
Distribution to 2149602 Ontario		7,000,000.00
2149602 Ontario - Final Payout Amount		3,917,837.29
Real Estate Commissions		1,360,000.00
Sow Capital - Final Payout Amount		1,344,190.33
Amber - Final Payout Amount		984,797.75
Distribution to Miltom Services		757,846.02
Romspen - Final Payout Amount		268,410.50
Legal Fees		227,584.50
HST Paid		219,236.23
Distribution to Pa and Tung		150,000.00
Receiver and Manager Fees		98,055.00
Property Taxes		6,058.87
Legal Disbursements		1,787.08
Insurance		550.00
Registration Fees		75.30
Bank Charges		62.18
Total Disbursements	$	66,454,084.69
Excess of Receipts over Disbursements	$	2,142,063.45

Appendix “B”

NOTICE TO CREDITORS

Court File No. CV-23-00703161-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O 1990 C. C.43, AS AMENDED

B E T W E E N:

ROMSPEN INVESTMENT CORPORATION

Applicant

- and -

TUNG KEE INVESTMENT CANADA LTD. and TUNG KEE INVESTMENT LIMITED PARTNERSHIP

Respondents

NOTICE OF CLAIMS PROCESS AND CLAIMS BAR DATE FOR THE RESPONDENTS

NOTICE IS HEREBY GIVEN that, pursuant to an Order of the Court dated June 4, 2024 (the "**Claims Process Order**"), a claims process has been commenced for the purpose of identifying and determining claims against the Respondents. Capitalized terms in this Notice that are not defined herein have the meaning ascribed to them in the Claims Process Order (a copy of which is available on the Receiver's website at www.ey.com/ca/tungkee).

PLEASE TAKE NOTICE that the claims process applies to Claims, as described in the Claims Process Order. Any Person who has not received a Proof of Claim Document Package and who believes that he or she has a Claim against the Respondents must contact the Receiver in order to obtain a Proof of Claim form or visit the Receiver's Website.

THE CLAIMS BAR DATE is 5:00 p.m. (Toronto Time) on July 22, 2024. This bar date applies to all Claims. Proofs of Claim must be completed and filed with the Receiver using the procedures required in the Claims Process Order so that they are received by the Receiver on or before the Claims Bar Date.

HOLDERS OF CLAIMS WHO DO NOT FILE A PROOF OF CLAIM BY THE CLAIMS BAR DATE SHALL BE FOREVER EXTINGUISHED AND BARRED FROM ASSERTING THEIR CLAIMS AGAINST THE RESPONDENTS.

CREDITORS REQUIRING INFORMATION or claims documentation may contact the Receiver. The Receiver's contact details for additional information relating to the Appointment Order or the Claims Process is:

Ernst & Young Inc.
Court-appointed Receiver of Tung Kee Investment Canada Ltd., et. al.
Ernst & Young Tower
100 Adelaide Street West, P.O. Box 1
Toronto, Ontario M5H 0B3
Attention: Rob Ferguson

Hotline: 1-833-453-2978 / 1-416-943-8055
Email: tungkee@ca.ey.com
Website: http://www.ey.com/ca/tungkee

INSTRUCTION LETTER

Court File No. CV-23-00703161-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C.B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED

B E T W E E N:

ROMSPEN INVESTMENT CORPORATION

Applicant

\- and -

TUNG KEE INVESTMENT CANADA LTD. and TUNG KEE INVESTMENT LIMITED PARTNERSHIP

Respondents

INSTRUCTION LETTER

CLAIMS PROCESS

By Order of the Ontario Superior Court of Justice (Commercial List) dated June 4, 2024 ("**Claims Process Order**"), Ernst & Young Inc., in its capacity as Court-appointed Receiver of the Respondents (in such capacity, the "**Receiver**"), has been authorized to conduct a claims process (the "**Claims Process**"). A copy of the Claims Process Order and other public information concerning these proceedings can be obtained from the Receiver's website at: https://www.ey.com/ca/tungkee

This letter provides general instructions for completing a Proof of Claim form. Defined terms not defined within this instruction letter shall have the meaning ascribed thereto in the Claims Process Order.

The Claims Process is intended to identify and determine the quantum of Claims of Creditors against the Respondents.

Please review the Claims Process Order for the full terms of the Claims Process.

All notices and inquiries with respect to the Claims Process should be directed to the Receiver by prepaid registered mail, courier, personal delivery, facsimile transmission or email at the address below:

Ernst & Young Inc.
Court-appointed Receiver of Tung Kee Investment Canada Ltd., et. al.
Ernst & Young Tower
100 Adelaide Street West, P.O. Box 1
Toronto, Ontario M5H 0B3
Attention: Rob Ferguson

Hotline: 1-833-453-2978 / 1-416-943-8055
Email: tungkee@ca.ey.com
Website: http://www.ey.com/ca/tungkee

FOR CREDITORS SUBMITTING A PROOF OF CLAIM

If you believe that you have a Claim as a Creditor of any of the Respondents, you must complete and file a Proof of Claim form with the Receiver.

All Proofs of Claim must be received by the Receiver before 5:00 p.m. (Toronto Time) on July 22, 2024 (the "**Claims Bar Date**"), subject to the provisions of the Claims Process Order.

All Claims denominated in a foreign currency shall be filed in such currency and will be converted to Canadian Dollars at the rate as set out in the Claims Process Order.

ADDITIONAL FORMS

Additional Proof of Claim forms can be obtained from the Receiver's website at http://www.ey.com/ca/tungkee or by contacting the Receiver.

DATED this 4th day of June, 2024.

PROOF OF CLAIM

Court File No. CV-23-00703161-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C.B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED

B E T W E E N:

ROMSPEN INVESTMENT CORPORATION

Applicant

\- and -

TUNG KEE INVESTMENT CANADA LTD. and TUNG KEE INVESTMENT LIMITED PARTNERSHIP

Respondents

PROOF OF CLAIM

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1. PARTICULARS OF CREDITOR

Full Legal Name of Creditor:	
Full Mailing Address of Creditor:	
Telephone Number of Creditor:	
E-mail Address of Creditor:	
Attention (Contact Person of Creditor):	

2. PARTICULARS OF ORIGINAL CREDITOR FROM WHOM YOU ACQUIRED THE CLAIM, IF APPLICABLE:

(a) Have you acquired this Claim by assignment? Yes ◻ No ◻

(if yes, attach documents evidencing assignment)

a. Full Legal Name of original creditor(s):

____

3. PROOF OF CLAIM

THE UNDERSIGNED CERTIFIES AS FOLLOWS:

That I am a Creditor [or hold the position of ______________________ of the Creditor] and have knowledge of all the circumstances connected with the Claim described herein;

That I have knowledge of all the circumstances connected with the Claim described and set out below;

_________________________ [Insert Respondent Name(s)] was and is still indebted to the Creditor as follows:

When completing the Proof of Claim, please ensure to include the exact legal name of the Respondent that you are asserting a Claim again (i.e. Tung Kee Investment Canada Ltd. or Tung Kee Investment Limited Partnership). Any Claims denominated in a foreign currency shall be filed in such currency and will be converted to Canadian Dollars at the rate as set out in the Claims Process Order.

Respondent[1] *(Tung Kee Investment Canada Ltd., Tung Kee Investment Limited Partnership)*	**Amount of Claim** *(include the foreign currency if not Canadian dollars)*
	$

[1] Please include the full legal name of the Respondent that you are asserting a Claim against. If you are asserting Claims against multiple Respondents, you must complete a separate Proof of Claim in respect of each Respondent.

4. NATURE OF CLAIM

(CHECK AND COMPLETE APPROPRIATE CATEGORY)

□ Total Unsecured Claim of $___________________________

□ Total Secured Claim of $ _____________________________

In respect of this debt, I hold security over the assets of _________________ [*Insert Respondent Name]* valued at $__________________ [*List the value of security*], the particulars of which security and value are attached to this Proof of Claim form[2].

(*If the Claim is secured, provide full particulars of the security, including the date on which the security was given, the value for which you ascribe to the assets charged by your security, the basis for such valuation and attach a copy of the security documents evidencing the security.*)

5. PARTICULARS OF CLAIM:

The particulars of the undersigned's total Claims are attached.

> (*Provide full particulars of the Claim(s) and supporting documentation, including the legal name of the Respondent(s) you are asserting a Claim against, the amount, description of transaction(s) or agreement(s) giving rise to the Claim(s), name of any guarantor(s) which has guaranteed the Claim(s), and amount of Claim(s) allocated thereto, date and number of all invoices, particulars of all credits, discounts, etc. claimed.)*

[2] If you hold security over more than one Respondent, please attach particulars to this Proof of Claim form that clearly describe the Respondent that you hold security from and the amount of such security.

6. FILING OF CLAIM

This Proof of Claim must be returned to and received by the Receiver by 5:00 p.m. (Toronto Time) on the Claims Bar Date (July 22, 2024).

In each case, completed forms must be delivered by prepaid registered mail, courier, personal delivery, facsimile transmission or email to the Receiver at the following address:

Ernst & Young Inc.
Court-appointed Receiver of Tung Kee Investment Canada Ltd., et. al.
Ernst & Young Tower
100 Adelaide Street West, P.O. Box 1
Toronto, Ontario M5H 0B3
Attention: Rob Ferguson

Hotline: 1-833-453-2978 / 1-416-943-8055
Email: tungkee@ca.ey.com

Dated at ____________________(location) this ________ day of ___________________, 2024.

____
Witness Name:

Name of Creditor: ______________________

Signature of Creditor:

____

If Creditor is other than an individual, print name and title of authorized signatory

Name: _____________________________

Title: ______________________________

Appendix “C”

NOTICE OF REVISION OR DISALLOWANCE

Court File No. CV-23-00703161-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C.B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED

B E T W E E N:

ROMSPEN INVESTMENT CORPORATION

Applicant

- and -

TUNG KEE INVESTMENT CANADA LTD. and TUNG KEE INVESTMENT LIMITED PARTNERSHIP

Respondents

NOTICE OF REVISION OR DISALLOWANCE

TO:

This Notice of Revision or Disallowance is issued pursuant to the Claims Process Order. The Receiver hereby gives you notice that it has reviewed your Proof of Claim(s) dated ______________, 2024, and has revised or disallowed your Claim(s) for the following reasons:

____

____

____

Subject to further dispute by you in accordance with the provisions of the Claims Process Order, your Claim(s) will be allowed as follows:

Respondent	**Amount of Claim per Proof of Claim**	**Disallowed Amount**	**Allowed as Revised**

Terms not otherwise defined in this Notice have the meaning ascribed thereto in the Claims Process Order. The Claims Process Order can be accessed on the Receiver's website at http://www.ey.com/ca/tungkee.

If you intend to dispute this Notice of Revision or Disallowance, you must notify the Receiver of such intent by delivery to the Receiver of a Dispute Notice in accordance with the Claims Process Order, such that it is received by the Receiver by 5:00 p.m. no later than fourteen (14) calendar days after you receive such Notice of Revision or Disallowance, at the following address by prepaid registered mail, courier, personal delivery, facsimile transmission or email:

Ernst & Young Inc.
Court-appointed Receiver of Tung Kee Investment Canada Ltd., et. al.
Ernst & Young Tower
100 Adelaide Street West, P.O. Box 1
Toronto, Ontario M5H 0B3
Attention: Rob Ferguson

Hotline: 1-833-453-2978 / 1-416-943-8055
Email: tungkee@ca.ey.com

If you do not deliver a Dispute Notice in accordance with the Claims Process Order, the value of your Claim(s) shall be deemed to be as set out in this Notice of Revision or Disallowance.

DATED at ______________________ this ________ day of ___________________, 20____.

Appendix “D”

DISPUTE NOTICE

Court File No. CV-23-00703161-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O 1990 C. C.43, AS AMENDED

B E T W E E N:

ROMSPEN INVESTMENT CORPORATION

Applicant

- and -

TUNG KEE INVESTMENT CANADA LTD. and TUNG KEE INVESTMENT LIMITED PARTNERSHIP

Respondents

DISPUTE NOTICE

---

1. PARTICULARS OF CREDITOR

Full Legal Name of Creditor:	
Full Mailing Address of Creditor:	
Telephone Number of Creditor:	
E-mail Address of Creditor:	
Attention (Contact Person):	

2. PARTICULARS OF ORIGINAL CREDITOR FROM WHOM YOU ACQUIRED THE CLAIM, IF APPLICABLE:

(a) Have you acquired this Claim by assignment? Yes □ No □

(if yes, attach documents evidencing assignment)

Full Legal Name of original creditor(s): ______________________________

3. DISPUTE OF REVISION OR DISALLOWANCE OF CLAIM:

(Any Claims denominated in a foreign currency shall be filed in such currency and will be converted to Canadian dollars at the rate as set out in the Claims Process Order.)

We hereby disagree with the value of our Claim(s) as set out in the Notice of Revision or Disallowance dated ________________________, as set out below:

Respondent[1]	**Claim as Allowed or Revised per Notice of Revision or Disallowance**	**Claim amount per Creditor**
	$	$
	$	$
	$	$
	$	$

(Insert particulars of your Claim(s) per Notice of Revision or Disallowance, and the value of your Claim(s) as asserted by you.)

[1] Please include the full legal name of the Respondent that you are asserting a Claim against.

4. REASONS FOR DISPUTE:

Provide full particulars of the Claim(s) and supporting documentation, including amount, description of transaction(s) or agreement(s) giving rise to the Claim(s), name of any guarantor(s) which has guaranteed the Claim(s), and amount of Claim(s) allocated thereto, date and number of all invoices, particulars of all credits, discounts, etc. claimed. The particulars provided must support the value of the Claim(s), as stated by you in item 3 above.

____

____

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If you intend to dispute the Notice of Revision or Disallowance, you must notify the Receiver of such intent by delivery to the Receiver of a Dispute Notice in accordance with the Claims Process Order such that it is received by the Receiver by 5:00 p.m. no later than fourteen (14) calendar days after you receive such Notice of Revision or Disallowance at the following address by prepaid registered mail, courier, personal delivery, facsimile transmission or email:

Ernst & Young Inc.
Court-appointed Receiver of Tung Kee Investment Canada Ltd., et. al.
Ernst & Young Tower
100 Adelaide Street West, P.O. Box 1
Toronto, Ontario M5H 0B3
Attention: Rob Ferguson

Hotline: 1-833-453-2978 / 1-416-943-8055
Email: tungkee@ca.ey.com

Court File No. CV-23-00703161-00CL

ROMSPEN INVESTMENT CORPORATION and **TUNG KEE INVESTMENT CANADA LTD. et al.**
Applicant Respondents

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

MOTION RECORD OF THE COURT-APPOINTED RECEIVER ERNST & YOUNG INC.
(Returnable June 4, 2024)

BLANEY McMURTRY LLP
Barristers & Solicitors
2 Queen Street East, Suite 1500
Toronto ON M5C 3G5

Eric Golden (LSO #38239M)
(416) 593-3927 (Tel)
egolden@blaney.com

Chad Kopach (LSO #48084G)
(416) 593-2985 (Tel)
ckopach@blaney.com

Lawyers for the Court-appointed Receiver,
Ernst & Young Inc.