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DATED AT TORONTO THIS 1st DAY OF October 20 19
FAIT A TORONTO LE 1er JOUR DE Octobre 20 19


REGISTRAR C. Irwin GREFIER-Registral

Court File No.

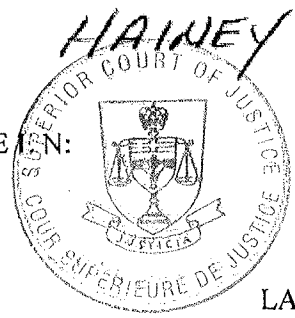
CV-19-628258-0002

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE)
JUSTICE HAINES)

MONDAY, THE 30th
DAY OF SEPTEMBER, 2019

BETWEEN:
(Court Seal)



LAW SOCIETY OF ONTARIO

Applicant

and

DEREK SORRENTI and
SORRENTI LAW PROFESSIONAL CORPORATION

Respondents

APPLICATION UNDER section 49.47 of the *Law Society Act*, R.S.O. 1990, c. L.8 and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43

ORDER

THIS APPLICATION, made by the Law Society of Ontario (the "Law Society") for an Order pursuant to section 49.47 of the *Law Society Act*, R.S.O. 1990, c. L.8 and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 appointing FAAN Mortgage Administrators Inc. ("FAAN Mortgage") as trustee (in such capacity, the "Trustee"), without security, of all of the assets, undertakings and properties of Derek Sorrenti or Sorrenti Professional Law Corporation ("Respondents") relating to the Respondents' trusteeship and administration of syndicated

mortgage loans in projects affiliated with Fortress Real Developments Inc. (“**FRDI**”) and all of its direct or indirect affiliates, and any entity under common control with FRDI (collectively, “**Fortress**”), was heard this day at 330 University Avenue, Toronto, Ontario, M5G 1R7.

ON READING the Notice of Application, the Affidavit of Nadia Musclow, the Affidavit of Nadiatou Fagbemi, the Pre-Filing Report of FAAN Mortgage, the consent of FAAN Mortgage to act as Trustee, the consent of the Respondents, and on hearing the submissions of the lawyer(s) for the parties,

SERVICE

1. THIS COURT ORDERS that the time for service and filing of the notice of application and the application record is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 49.47 of the *Law Society Act* and section 101 of the *Courts of Justice Act*, FAAN Mortgage is hereby appointed as Trustee, without security, of all of the assets, undertakings and properties in the possession, power or control of the Respondents relating to the Respondents’ professional business (as defined in the *Law Society Act*) of trusteeship and administration of syndicated mortgage loans in Fortress projects (the “**Syndicated Mortgage Loan Administration Business**”), including, without limitation, all of the assets in the possession or under the control of the Respondents, its counsel (if any), agents and/or assignees relating to the Syndicated Mortgage Loan Administration Business but held on behalf of any other party, including, but not limited to, lenders under any syndicate mortgage loans (“**Investors**”), brokers, or

borrowers, in each case whether or not such property is held in trust or is required to be held in trust (collectively referred to as “**Property**”), which Property, for greater certainty, includes any and all real property charges in favour of the Respondents (the “**Real Property Charges**”), including, without limitation, any and all monetary and non-monetary entitlements in respect to the assets and values thereunder, the period of which appointment shall run from 12:01 a.m. on the date hereof until such date that all assets under all syndicated mortgage loans related to the Syndicated Mortgage Loan Administration Business have been realized and all Property has been distributed to those entitled to it.

3. THIS COURT ORDERS that nothing in this Order in any way interferes with or alters the terms of the Appointment Order dated April 20, 2018 granted by this Court in court file number CV-18-596204-00CL (the “**BDMC Proceeding**”), or any other Order made in the BDMC Proceeding.

IDENTIFICATION OF THE PROPERTY

4. THIS COURT ORDERS that in order to protect the privilege and confidentiality of the documents and information pertaining to that portion of the Respondents’ professional business that is unrelated to the Syndicated Mortgage Loan Administration Business, the Law Society is hereby authorized, without bond, to review all of the information and documents in the possession of the Respondents, including client files, corporate records and seals, financial books and records, electronic data, email accounts and any electronic devices containing any client information or client data, trust funds, general accounts, practice related materials and client property of any kind that is in the possession, power or control of the Respondents, for the purpose of identifying the Property and separating it

from all other property of the Respondents, including client files, corporate records and seals, documents, financial books and records, electronic data, email accounts and any electronic devices containing any client information or client data, trust funds, general accounts, law practice related materials and client property of any kind that is in the possession, power or control of the Respondents that does not relate to the Syndicated Mortgage Loan Administration Business (the “**Excluded Property**”), and to take possession of the Excluded Property (the foregoing being referred to herein as the “**Identification**”).

5. THIS COURT ORDERS that the duty to provide access and cooperation as set out in paragraphs 9-13 below shall apply equally to the Law Society in respect of the Identification process.
6. THIS COURT ORDERS that following the Identification, the Law Society shall provide the Property to the Trustee.
7. THIS COURT ORDERS that in the event that the Trustee is provided with any Excluded Property, the Trustee shall inform the Law Society upon becoming aware of its possession of any Excluded Property and return such Excluded Property to it. Such disclosure to the Trustee shall not be interpreted as a waiver of solicitor-client privilege that may exist as between the Respondents and the clients referenced in the Excluded Property.

TRUSTEE’S POWERS

8. THIS COURT ORDERS that the Trustee is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Trustee is hereby expressly empowered and authorized to

do any of the following where the Trustee considers it necessary or desirable with respect to the Property:

- a. subject to paragraphs 4-7 above, to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- b. subject to paragraphs 4-7 above, to receive, preserve, protect and maintain control of the Property, or any part or parts thereof, including, but not limited to, the holding of mortgage security in trust on behalf of Investors, the administering of the mortgages, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- c. to manage, operate, and carry on the Syndicated Mortgage Loan Administration Business, including, without limitation, the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the Syndicated Mortgage Loan Administration Business, or cease to perform any contracts of the Respondents related to the Syndicated Mortgage Loan Administration Business;
- d. to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Trustee's powers and duties, including, without limitation, those conferred by this Order;

- e. to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the Respondents' Syndicated Mortgage Loan Administration Business or any part or parts thereof;
- f. to receive and collect all monies and accounts now owed or hereafter owing to the Respondents in connection with the Syndicated Mortgage Loan Administration Business and to exercise all remedies of the Respondents in collecting such monies, including, without limitation, to enforce any security held by the Respondents, including, without limitation, such security held on behalf of Investors;
- g. to settle, extend or compromise any indebtedness owing to the Respondents in connection with the Syndicated Mortgage Loan Administration Business;
- h. to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Respondents in connection with the Syndicated Mortgage Loan Administration Business, the Property or the Trustee, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- i. to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Trustee in its discretion may deem appropriate;

- j. with the approval of this Court, to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business, and in such case notice under subsection 63(4) of the *Ontario Personal Property Security Act* or section 31 of the *Ontario Mortgages Act*, as the case may be, shall not be required;
- k. to restructure the Property in a manner that the Trustee considers reasonable, including, without limitation, the conversion, in whole or in part, of the Property or any part or parts thereof, out of the ordinary course of business, into an alternative or different interest in the capital structure of the Property or any part or parts thereof, including, without limitation, an ownership interest therein;
- l. to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- m. to report to, meet with and discuss with such affected Persons (as defined below) as the Trustee deems appropriate on all matters relating to the Property and the Trustee's mandate, and to share information, subject to such terms as to confidentiality as the Trustees deems advisable;
- n. to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- o. to apply for any permits, licences, approvals or permissions with respect to the Syndicated Mortgage Loan Administration Business as may be required by any

governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Trustee, in the name of the Respondents;

- p. to enter into agreements with any trustee in bankruptcy appointed in respect of the Respondents, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Respondents;
- q. to exercise any shareholder, partnership, joint venture or other rights which the Respondents may have with respect to the Property or the Syndicated Mortgage Loan Administration Business; and
- r. to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Trustee takes any such actions or steps, it shall be exclusively authorized and empowered to do so to the exclusion of all other Persons (as defined below), including the Respondents, without interference from any other Person and without regard to any arrangement in existence as of the date hereof between the Respondents and Investors as to how and when such actions or steps are to be taken. For greater certainty, the Trustee shall be and is empowered to take such actions or steps without seeking instructions from Investors where the Trustee determines, in its sole discretion, that it is necessary and appropriate to do so (having regard for the interests of Investors), and in all other cases, the Trustee is specifically authorized to continue to comply with the existing arrangements, including any deemed consent provisions contained therein. Nothing in this paragraph is intended to limit the Law Society's ability to carry out the Identification.

DUTY TO PROVIDE ACCESS AND COOPERATION TO THE TRUSTEE

9. THIS COURT ORDERS that, for the purpose of conducting the Identification described in paragraph 4 above, the Respondents shall provide the Law Society with access to their business premises at 310-3300 Highway 7, Vaughan, Ontario, and any other premises or storage facilities maintained by the Respondents in connection with their professional business that contain Property or Excluded Property, during customary business hours at the Law Society's request.

10. THIS COURT ORDERS that (i) the Respondents; (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf; (iii) all other individuals, firms, corporations, governmental bodies or agencies or other entities having notice of this Order, including, without limitation, Fortress, any entity that is a joint venture among a Fortress entity and another entity, and each director, officer, employee and agent of Fortress (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Trustee of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Trustee, and shall deliver all such Property to the Trustee upon the Trustee's request.

11. THIS COURT ORDERS that, pursuant to and without limiting the generality of the foregoing, all Persons shall, unless otherwise instructed by the Trustee (i) deliver to the Trustee (or, in the case of RRSP or other registered funds administered by Olympia Trust Company ("**OTC**"), Computershare Trust Company of Canada ("**Computershare**") or any other person acting for Investors in respect of investments held through RRSPs or other registered accounts or funds (each an "**RRSP Trustee**"), not release to any Person

without further Order of this Court) any and all monies held in trust that are related to the Syndicated Mortgage Loan Administration Business (collectively, the "**Trust Funds**"), which Trust Funds, for greater certainty, include any and all monies in any OTC, Computershare or other RRSP Trustee account that are purported to be held in trust for the Investors in or beneficiaries under any of the Real Property Charges, including, without limitation, all monies held by way of interest reserves to satisfy interest payments to such Investors or beneficiaries, which Trust Funds are to be held or used by the Trustee in accordance with the terms of this Order and any further Order of this Court; and (ii) upon the Trustee's request, provide an accounting of all funds received from or on behalf of the Respondents related to the Syndicated Mortgage Loan Administration Business.

12. THIS COURT ORDERS that all Persons shall forthwith advise the Trustee of the existence of any books, emails, user accounts, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Respondents related to the Syndicated Mortgage Loan Administration Business, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information, including copies of any previously performed electronic back ups (the foregoing, collectively, the "**Records**") in that Person's possession or control, and, subject to paragraph 7 above, shall provide to the Trustee or the Law Society or permit the Trustee or the Law Society to make, retain and take away copies thereof and grant to the Trustee unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 12 or in paragraph 13 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to

the Trustee due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

13. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Trustee for the purpose of allowing the Trustee to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Trustee in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Trustee. Further, for the purposes of this paragraph, all Persons shall provide the Trustee with all such assistance in gaining immediate access to the information in the Records as the Trustee may in its discretion require including providing the Trustee with instructions on the use of any computer or other system and providing the Trustee with any and all access codes, account names and account numbers that may be required to gain access to the information.

INTERIM STABILIZATION MEASURES

14. THIS COURT ORDERS that the Trustee shall:

- a. hold, until further Order of the Court, in a separate account all (1) funds from the Syndicated Mortgage Loan Administration Business that are currently in the Respondents' possession, or that may come into the Respondents' or Trustee's possession, in each case as a result of a repayment (in whole or in part) of principal

on any loan or other indebtedness owing to or administered by the Respondents on behalf of Investors in connection with the Syndicated Mortgage Loan Administration Business, whether or not (i) secured by any Real Property Charges in the name of the Respondents or in the name of OTC, Computershare or any other RRSP Trustee, (ii) received before or after the date of this Order, or (iii) paid or payable in trust, plus (2) all interest paid or payable to the Respondents or the Trustee in connection with the Syndicated Mortgage Loan Administration Business at the time such repayment (in whole or in part) of principal is made (collectively "**Realized Property**") and shall report to the Court with a recommendation regarding next steps with respect to the Realized Property, including any potential distribution of any Realized Property to the Investors; and

- b. hold in a separate account all funds (other than Realized Property) that were in the Respondents' possession on or prior to the date of this Order as well as any amounts (other than Realized Property) paid or payable to the Respondents or the Trustee (in trust or otherwise) after the date of this Order, including in respect of interest where principal is not repaid, fees, expenses or other amounts, (collectively "**Estate Property**") and shall be authorized to use such Estate Property as set out in this Order and as further clarified herein.
- c. For greater certainty, Realized Property and Estate Property shall be included within the definition of "Property" as set out in this Order.

15. THIS COURT ORDERS and confirms that, with the exception of Realized Property, the Trustee is hereby empowered and authorized, but not obligated, to use any Property

(including for greater certainty Estate Property) to aid the Trustee in complying with this Order and carrying out its mandate, as the Trustee, in its sole discretion, considers necessary or desirable for the effective administration of the estate including, without in any way limiting the generality of the foregoing, to do any of the following:

- d. to provide a retainer for and to pay the professional fees, expenses and disbursements of the Trustee, its counsel, and any experts or other advisors retained by the Trustee pursuant to this Order, whether incurred prior to or after the date of this Order;
- e. to pay expenses of the Respondents that the Trustee reasonably believes are necessary to carry out the Syndicated Mortgage Loan Administration Business, including, without limitation, payroll, rent, utilities, taxes and other statutory remittances;
- f. to pay expenses incurred in the administration of any loan or indebtedness administered by the Respondents in connection with the Syndicated Mortgage Loan Administration Business, including, without limitation, in connection with obtaining new appraisals of any property or, if necessary, taking any enforcement action;
- g. to make protective disbursements to or on behalf of a borrower or in respect of a mortgaged project, provided that any such disbursement shall be an advance made to the applicable borrower in respect of such project and the amount of such advance plus any applicable expenses incurred in connection therewith shall be

added to the sum owing by the borrower and shall be added to the Real Property Charge in respect of same; or

h. to pay general expenses of the Respondents or the Trustee, in that capacity, not covered by the foregoing,

in each case without interference from any other Person and without regard to any arrangement in existence as of the date hereof between the Respondents, any borrower, any Investor or any other person.

16. THIS COURT ORDERS that, in using any Property in accordance with this Order, the Trustee shall keep detailed records regarding the source and use for such payments and shall report to the Court from time to time regarding same.

17. THIS COURT ORDERS that the Trustee is authorized, but not required, to apply for any licenses as the Trustee determines are necessary or desirable for it to hold in connection with its mandate.

REPRESENTATIVE COUNSEL

18. THIS COURT ORDERS that Chaitons LLP is hereby appointed as counsel ("**Representative Counsel**") for all Investors in respect of these proceedings (including, without limitation, all those persons who are Investors as a result of having investments held through registered retirement savings plans ("**RRSPs**") or other registered accounts or funds with RRSP Trustees regarding their common interests in the loans and other indebtedness administered by the Respondents in their Syndicated Mortgage Loan Administration Business, including the common interests of Investors in any particular

loan or other indebtedness administered by the Respondents, unless and until written notice is provided by a particular Investor to Representative Counsel that such Investor does not wish to be represented by Representative Counsel.

19. THIS COURT ORDERS that, in fulfilling its mandate under Paragraph 18, Representative Counsel shall act in the best interests of the Investors and shall take such necessary and appropriate steps or actions as Representative Counsel deems fit from time to time, including, where appropriate, to give such consents on behalf of Investors that may be necessary or desirable in the circumstances, provided however that Representative Counsel shall not be obligated to take any step or action where Representative Counsel determines (in consultation with the Trustee) that the best interests of Investors would not be served by any such step or action.

20. THIS COURT ORDERS that Representative Counsel shall have no obligation to consult with, follow the instructions of, or provide an opinion to, any individual Investor in connection with the discharge of its duties under this Order.

21. THIS COURT ORDERS that, subject to paragraphs 4-7 above, the Law Society or the Trustee shall provide to Representative Counsel, without charge to the Investors, the following information, documents and data (including personal information), to the extent such information, documents or data is in the Law Society and/or Trustee's possession or control in respect of these proceedings (the "**Information**");

- a. the names, last known addresses and last known email addresses (if any) of the Investors (the "**Investor Contact Information**"); and

- b. such additional information, documents and data (including personal information) as may be reasonably requested in writing by Representative Counsel and which is (i) relevant to the Investors' participation in these proceedings and (ii) reasonably necessary for Representative Counsel to fulfill its mandate in these proceedings, or as ordered by the Court,

provided that the Law Society and its counsel or the Trustee and its counsel may recover their time and expenses for so doing at their standard rates. This Order shall be sufficient legal authority for the Law Society or the Trustee to disclose the Information to Representative Counsel under the *Personal Information Protection and Electronic Documents Act* (Canada), other applicable privacy legislation, or any other applicable law without the knowledge or consent of the individual Investors or any other person, the Law Society and/or Trustee are not required to obtain any consent from any Investor or any other person to authorize disclosure of the Information to Representative Counsel, and the Law Society and Trustee shall have no liability whatsoever for making such disclosures in accordance with the terms hereof.

22. THIS COURT ORDERS that notice of the granting of this Order shall be sent by Representative Counsel (or by the Law Society or Trustee on behalf of Representative Counsel) to each Investor by electronic or regular mail at the address for such Investor provided within seven business days of the date of receipt by Representative Counsel of the Investor Contact Information, and that the notice shall also be posted on the Trustee's website at www.faanmortgageadmin.com.

23. THIS COURT ORDERS that any Investor who does not wish to be represented by Representative Counsel in these proceedings shall notify the Trustee and Representative

Counsel, in writing, that he, she or it is opting out of representation by delivering a notice by electronic or regular mail and such Investor shall thereafter not be bound by the actions of Representative Counsel and shall represent himself, herself or itself or be represented by any counsel that he, she or it may retain exclusively at his, her or its own expense.

24. THIS COURT ORDERS that Representative Counsel may communicate with any Investor who has not opted out pursuant to Paragraph 23 hereof by electronic or regular mail at the addresses provided pursuant to Paragraph 21(a) or such other addresses provided by the applicable Investor to Representative Counsel.

25. THIS COURT ORDERS that Representative Counsel shall have no liability as a result of its appointment or the performance of its duties or in carrying out the provisions of this Order and any subsequent Orders in these proceedings, save and except for any gross negligence or willful misconduct on its part.

26. THIS COURT ORDERS that, subject to prior approval by the Trustee or further Order of the Court, Representative Counsel shall be paid its reasonable fees and disbursements, at its standard rates and charges, and shall be entitled to and is hereby granted a charge (the "**Representative Counsel Charge**") on the Property as security for its fees and disbursements in respect of these proceedings, both before and after the making of this Order, and that the Representative Counsel Charge shall form a charge on the Property ranking immediately subordinate in priority to the Trustee's Charge (as defined below) but ranking in priority to all other security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person.

27. THIS COURT ORDERS that, subject to prior approval by the Trustee or further Order of the Court, Representative Counsel is entitled to be paid its fees and disbursements from any distributions to be made to the Investors in these proceedings.
28. THIS COURT ORDERS that all reasonable professional fees and disbursements that may be incurred by Representative Counsel, whether incurred prior to or after the date of this Order, will form part of the indebtedness owing to the Investors.
29. THIS COURT ORDERS that Representative Counsel shall be given notice of all motions in these proceedings, and that the giving of notice to Representative Counsel shall constitute service on all of the Investors who have not opted out pursuant to Paragraph 23 hereof.
30. THIS COURT ORDERS that Representative Counsel shall be at liberty and is authorized at any time to apply to this Court for advice and directions in the performance or variation of its powers and duties.

LAND TITLE DOCUMENTS

31. In addition to any other powers granted to the Trustee in this Order, the Trustee is hereby empowered:
- a. to direct the applicable land registry office, registrar, other official or similar government authority under *The Land Titles Act* (Ontario), the *Land Registration Reform Act* (Ontario), or any other comparable legislation in any province ("**Real Property Authority**") to register a copy of this Order and any other Orders in respect of the Property, notwithstanding the requirements of s. 191 of the *Land Titles Act*, RSA

2000, c L-4, or the provisions of any other similar provincial enactment, and notwithstanding that the appeal period in respect of this Order has not elapsed, which appeal period is, for the purposes of this paragraph 31, expressly waived, and for such purposes the Trustee shall be treated as if it were a receiver appointed pursuant to the *Bankruptcy and Insolvency Act*, RSC, 1985, c B-3 (“**BIA**”); and

b. to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Trustee's name or in the name and on behalf of the Respondents for any purpose pursuant to this Order, including, without limitation, any documents in connection with any registration, discharge, partial discharge, transfer, assignment, postponement, subordination or similar dealings in respect of any mortgage or interest in land (each, a "**Land Title Document**") and, for greater certainty, the applicable Real Property Authority is hereby directed, following (i) registration of this Order or being presented with a certified true copy of this Order and (ii) being presented with such Land Title Document, to register such Land Title Document to register, discharge, partially discharge, transfer, assign, postpone, subordinate or otherwise deal with such mortgage in accordance with such Land Title Document without any obligation to inquire into the propriety of the execution or effect of such Land Title Document.

NO PROCEEDINGS AGAINST THE TRUSTEE

32. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Trustee except with the written consent of the Trustee or with leave of this Court.

NO PROCEEDINGS AGAINST THE RESPONDENTS OR THE PROPERTY

33. THIS COURT ORDERS that, with the exception of any ongoing, pending or future regulatory proceedings by the Law Society under the *Law Society Act*: (i) no Proceeding against or in respect of any of the Respondents in connection with the Syndicated Mortgage Loan Administration Business, or the Property shall be commenced or continued except with the written consent of the Trustee or with leave of this Court; and (ii) any and all Proceedings currently under way against or in respect of any of the Respondents' Syndicated Mortgage Loan Administration Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

34. THIS COURT ORDERS that all rights and remedies against the Respondents in connection with the Syndicated Mortgage Loan Administration Business, the Trustee, or affecting the Property (including, without limitation, pursuant to any arrangement in existence as of the date hereof between the Respondents and any other Person in relation to the Syndicated Mortgage Loan Administration Business and Investors), are hereby stayed and suspended except with the written consent of the Trustee or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall: (i) empower the Trustee or the Respondents to carry on any business which the Respondents are not lawfully entitled to carry on; (ii) exempt the Trustee or the Respondents from compliance with statutory or regulatory provisions relating to health, safety or the environment; (iii) prevent the filing of any registration to preserve or perfect a

security interest; (iv) prevent the registration of a claim for lien; or (v) prevent the filing and service of a statement of claim solely to permit the perfection of a lien, provided that no further proceedings on such statement of claim shall be permitted other than pursuant to paragraph 33.

NO INTERFERENCE WITH THE TRUSTEE

35. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Respondents in respect of the Syndicated Mortgage Loan Administration Business, without written consent of the Trustee or leave of this Court, including, for greater certainty, any authority granted to the Respondents to act as an administrator or trustee of syndicated mortgage loans. Nothing in this paragraph is intended to constrain the ability of the Law Society to complete the Identification as described above.

CONTINUATION OF SERVICES

36. THIS COURT ORDERS that all Persons having oral or written agreements with the Respondents in relation to the Syndicated Mortgage Loan Administration Business, or statutory or regulatory mandates for the supply of goods and/or services, including, without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Respondents that is used (in whole or in part) by the Respondents in connection with the Syndicated Mortgage Loan Administration Business are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or

terminating the supply of such goods or services as may be required by the Trustee, and that the Trustee shall be entitled to the continued use of the Respondents' current telephone numbers, facsimile numbers, internet addresses and domain names, provided that such continued use by the Trustee does not interfere with the operation of that portion of the Respondents' professional business that does not include the Mortgage Administration Business and provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Trustee in accordance with normal payment practices of the Respondents or such other practices as may be agreed upon by the supplier or service provider and the Trustee, or as may be ordered by this Court.

TRUSTEE TO HOLD FUNDS

37. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Trustee from and after the making of this Order from any source whatsoever relating to the Syndicated Mortgage Loan Administration Business, including, without limitation, the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more accounts controlled by the Trustee or, if the Trustee determines it is advisable, new accounts to be opened by the Trustee (the "**Post Trusteeship Accounts**") and the monies standing to the credit of such Post Trusteeship Accounts from time to time, net of any disbursements provided for herein, shall be held by the Trustee to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

38. THIS COURT ORDERS that all employees of the Respondents in connection with the Syndicated Mortgage Loan Administration Business shall remain the employees of the Respondents until such time as the Trustee, on the Respondents' behalf, may terminate the employment of such employees. The Trustee shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in subsection 14.06(1.2) of the BIA, other than such amounts as the Trustee may specifically agree in writing to pay, or in respect of its obligations under subsections 81.4(5) and 81.6(3) of the BIA or under the *Wage Earner Protection Program Act* ("WEPP").

PIPEDA

39. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act* and any other applicable privacy legislation, the Trustee shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Trustee, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Respondents, and

shall return all other personal information to the Trustee, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

40. THIS COURT ORDERS that nothing herein contained shall require the Trustee to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Trustee from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Trustee shall not, as a result of this Order or anything done in pursuance of the Trustee's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE TRUSTEE'S LIABILITY

41. THIS COURT ORDERS THAT (a) FAAN Mortgage shall incur no liability or obligation relating to or arising from any activities undertaken by it prior to the date of this Order in respect of the Respondents or the Syndicated Mortgage Loan Administration Business,

including, without limitation, activities undertaken by FAAN Mortgage to assist the Law Society in its application for this Order and to gain a better understanding of the projects currently being administered by the Respondents; and (b) the Trustee shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, in each case, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under subsections 81.4(5) or 81.6(3) of the BIA or under the WEPP. Nothing in this Order shall derogate from the protections afforded the Trustee by section 14.06 of the BIA or by any other applicable legislation.

TRUSTEE'S ACCOUNTS

42. THIS COURT ORDERS that the Trustee and counsel to the Trustee shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, which fees and disbursements shall be added to the indebtedness secured by the Real Property Charges and that the Trustee and counsel to the Trustee shall be entitled to and are hereby granted a charge (the "**Trustee's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Trustee's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to subsections 14.06(7), 81.4(4) and 81.6(2) of the *BIA*.
43. THIS COURT ORDERS that the Trustee and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Trustee and its legal counsel are hereby referred to the Commercial List of the Ontario Superior Court of Justice.

44. THIS COURT ORDERS that prior to the passing of its accounts, the Trustee shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Trustee or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE APPOINTMENT

45. THIS COURT ORDERS that the Trustee be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$1,000,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Trustee by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Trustee’s Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Trustee’s Charge, the Representative Counsel Charge and the charges as set out in subsections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

46. THIS COURT ORDERS that neither the Trustee’s Borrowings Charge nor any other security granted by the Trustee in connection with its borrowings under this Order shall be enforced without leave of this Court.

47. THIS COURT ORDERS that the Trustee is at liberty and authorized to issue Trustee certificates for any amount borrowed by it pursuant to this Order.

48. THIS COURT ORDERS that the monies from time to time borrowed by the Trustee pursuant to this Order or any further order of this Court and any and all Trustee's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Trustee's Certificates.

SERVICE AND NOTICE

49. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in these proceedings, the service of documents made in accordance with the Protocol shall be valid and effective service. Subject to Rule 17.05 of the *Rules of Civil Procedure* (the "**Rules**"), this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission.

50. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Trustee is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Respondents' creditors in relation to the Syndicated Mortgage Loan Administration Business or other interested parties at their respective addresses as last shown on the records of the Respondents and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be

received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

51. THIS COURT ORDERS that the Trustee may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
52. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Trustee 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 Trustee as may be necessary or desirable to give effect to this Order or to assist in carrying out the terms of this Order.
53. THIS COURT ORDERS that the Trustee be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Trustee is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
54. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice, or such shorter period of time as the Court may permit, to the Trustee, and to any other party likely to be affected by the order sought.

55. THIS COURT ORDERS that this Order is without prejudice to the Respondents' ability to apply to this Court for a determination in respect of his administration fees or other monies to which he claims an entitlement up until the date of this Order, further to the notice requirements set out in paragraph 54.


Signature

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

SEP 30 2019

PER / PAR: 

LAW SOCIETY OF ONTARIO
Applicant

-and- DEREK SORRENTI et al
Respondents

CV-19-628258-0001
Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

ORDER

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