

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT  
OF HUDSON'S BAY COMPANY ULC COMPAGNIE DE LA BAIE D'HUDSON  
SRI, HBC CANADA PARENT HOLDINGS INC., HBC CANADA PARENT  
HOLDINGS 2 INC., HBC BAY HOLDINGS I INC., HBC BAY HOLDINGS II  
ULC, THE BAY HOLDINGS ULC, HBC CENTERPOINT GP INC., HBC YSS 1  
LP INC., HBC YSS 2 LP INC., HBC HOLDINGS GP INC., SNOSPMIS  
LIMITED, 2472596 ONTARIO INC., and 2472598 ONTARIO INC.**

**RESPONDING RECORD OF  
THE JV MORTGAGE LENDERS  
(Comeback Motion Returnable March 17, 2025)**

March 16, 2025

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Lawyers for the JV Mortgage Lenders

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HBC CANADA PARENT HOLDINGS INC., HBC CANADA PARENT HOLDINGS 2  
INC., HBC BAY HOLDINGS I INC., HBC BAY HOLDINGS II ULC, THE BAY  
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**RESPONDING RECORD OF  
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1.      Affidavit of Steven MacKinnon, sworn March 16, 2025
2.      Affidavit of Benjamin Chua, sworn March 16, 2025
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Tab 1

**ONTARIO  
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LP INC., HBC HOLDINGS GP INC., SNOSPMIS LIMITED, 2472596 ONTARIO  
INC., and 2472598 ONTARIO INC.**

**AFFIDAVIT OF STEVEN MACKINNON  
(Sworn March 16, 2025)**

I, Steven MacKinnon, of the City of Mississauga, in the Province of Ontario, MAKE  
OATH AND SAY:

1. I am a Managing Director, Corporate Banking at BMO Capital Markets. I have been with Bank of Montreal or its affiliates ("**BMO**") since 2002.
2. Through my current and previous roles, I am familiar with the BMO Loan (as defined below) and related agreements and, as such, have personal knowledge of the matters to which I depose in this affidavit. Where I do not possess personal knowledge, I have stated the source of my information and believe it to be true.
3. I swear this affidavit in opposition to the following relief sought in the *Companies' Creditors Arrangement Act* ("**CCAA**") proceedings of Hudson's Bay Company ULC et al. (the "**CCAA Proceedings**"):

- (i) in the proposed Amended & Restated Initial Order (the “**Initial Order**”):
  - (a) the last sentence of paragraph 10 which permits Hudson’s Bay ULC (“**HBC**”) to continue to use leased premises post-filing but purports to stay the payment of rent to certain joint venture entities, contrary to section 11.01(a) of the CCAA (the “**Rent Suspension**”);
  - (ii) the extension of paragraph 13 to the Non-Applicant Stay Parties (as defined in the Initial Order), which prohibits the Non-Applicant Stay Parties from making any payments to their creditors and would, among other things, prohibit the Non-Applicant Stay Parties from making payments on the BMO Loan (as defined below), even from rent and other amounts paid by businesses other than HBC (the “**Non-Applicant Payment Bar**”); and
  - (iii) The inclusion of the leases, business and property of the Non-Applicant Stay Parties in the proposed Lease Monetization Process and Sale and Investment Solicitation Process (“**SISP**”) particularly (i) without ensuring that creditors with priority security in respect of such assets are consulted and that their consent would be required in respect of any proposed transaction; and (ii) instead, providing consent and consultation rights to other parties, such as the DIP Lender, whose charge does not extend to such assets.

4. Capitalized terms used but not otherwise defined herein have the meanings given to them in the Initial Order.

***A. BMO Loan***

5. BMO is the Administrative Agent (the “**Administrative Agent**”) for a syndicate of lenders including BMO, Canadian Imperial Bank of Commerce, Bank of China (Canada), SBI Canada Bank, and Hudson’s Bay Company Pension Plan (the “**Lenders**”) that provided a mortgage loan in the principal amount of \$105,000,000 (the “**BMO Loan**”) to RioCan-HBC Limited Partnership (the “**JV**”). This loan is secured by, among other things, first-priority security in:

- (i) the freehold interest of the JV in the property municipally known as 200-8th Avenue SW, Calgary, Alberta (the “**Downtown Calgary Property**”);
- (ii) the leasehold interest of the JV in the property municipally known as 800 Des Promenades Boulevard, Saint-Bruno-de-Montarville, Quebec (the “**St. Bruno Property**”); and
- (iii) the leasehold interest of the JV in the property municipally known as 3045 Le Carrefour Boulevard, Laval, Quebec (the “**Carrefour Laval Property**” and collectively with the Downtown Calgary Property and the St. Bruno Property, the “**BMO Secured Properties**”).

6. As set out in greater detail in the Affidavit of Dennis Blasutti sworn March 14, 2025 (the “**Blasutti Affidavit**”) filed by RioCan Real Estate Investment Trust (“**RioCan**”), the interest of the JV in each of the BMO Secured Properties is leased or subleased, as applicable, to HBC for a fixed rental rate on terms typical of real property leasing/subleasing arrangements.

7. The JV is a distinct legal entity from HBC. As set out in the Blasutti Affidavit, the limited partnership interests in the JV are held by RioCan (approximately 22%) and HBC (approximately 78%). The shares of the general partner of the JV (RioCan-HBC General Partner Inc.) are held equally by RioCan and HBC, each of which has the right to appoint two board members, and various decisions require unanimous approval of all of the directors of the general partner, although the decision to sent notices of default or to exercise any rights and remedies of the landlord under any lease with HBC requires only the approval of the directors appointed by RioCan.

8. In advancing the BMO Loan, the Lenders relied on this structure, whereby their borrower would be a distinct legal entity from HBC (as opposed to lending to HBC directly) and the borrower would be subject to restrictions on its ability to take steps that may jeopardize the Lenders' collateral, such as altering the leases with HBC.

***B. Lease Monetization Process and SISP***

9. The Lease Monetization Process and the SISP each purports to market leases and property to which the Administrative Agent has a first-priority security interest. Specifically:

- (i) ground leases held by the Non-Applicant Stay Parties for the St. Bruno Property and the Carrefour Laval Property; and
- (ii) real property owned by the Non-Applicant Stay Parties, including the Downtown Calgary Property.

10. This is property that is not wholly-owned by the Applicants and that does not form part of the "Property" of the Applicants subject to the Charges (or the priority of the DIP

Lender or other lenders involved in the sales processes). The Lease Monetization Process and the SISP provide consultation and consent right to the DIP Lender and Pathlight Agent in respect of such property notwithstanding that such property is not part of their collateral.

11. The Administrative Agent has not consented to this property being included in the Lease Monetization Process or SISP. The Administrative Agent was only notified that the Lenders' collateral was proposed to be included in the Lease Monetization Process and the SISP when the Applicants delivered their motion record for the comeback hearing, after the close of business on March 14, 2025. The Applicants clearly shared the Lease Monetization Process and SISP with their other lenders in advance, but did not share them with the Administrative Agent despite it being a first-ranking secured creditor of property that they are proposing be subject to those processes. The Administrative Agent instead was only provided with less than one business day's notice. The Administrative Agent strongly objects to any sale taking place without its consent.

12. If these leases and property are included, the Administrative Agent requires that:

- (i) any sale or other transaction in relation to such property only be done with the Administrative Agent's consent;
- (ii) any consultation and consent rights provided to the DIP Lender and Pathlight Agent in respect of such property be replaced with a reference to the Administrative Agent; and



- (iii) rights be reserved to argue at a subsequent motion on full notice that such leases and property be removed from these processes and be subject instead to enforcement by the Administrative Agent.

***C. Significant Prejudice Suffered by Lenders***

13. If the Rent Suspension is continued and HBC is permitted to continue to use the BMO Secured Properties without making the rent payments required under the applicable leases, the Administrative Agent expects that the JV will not be able to make the required payments on the BMO Loan.

14. The JV and certain nominees that hold title to certain of the freehold and leasehold interests in the BMO Secured Properties that are charged in favour of the Administrative Agent are Non-Applicant Stay Parties in the Initial Order. As a result of the stay of proceedings against the Non-Applicant Stay Parties, the Administrative Agent is stayed from exercising any rights or remedies against its borrower, the JV, which is not an Applicant in these proceedings, notwithstanding its default under the BMO Loan.

15. Furthermore, the Non-Applicant Payment Bar prohibits the JV from making *any* payments on account of the BMO Loan, regardless of whether the funds to make those payments come from HBC or another source unconnected to these CCAA Proceedings.

16. The combination of these provisions in the Initial Order will result in serious prejudice to the Lenders, while HBC would be permitted to continue to use the BMO Secured Properties to liquidate inventory and other assets. In essence, the Lenders – who contracted for first-priority security in respect of property that is not wholly-owned by HBC and relied

on that separation in making its advances – would be forced to fund the liquidation of the broader HBC business for the benefit of HBC's secured lenders.

17. The requested relief relating to the Lease Monetization Process and SISP go even further to deny the Lenders their rights as senior secured creditors in respect of the Non-Applicant Stay Party leases and property, drawing the Lenders' collateral into a process that the Lenders do not control or approve and providing rights instead to others who do not even have security over the property.

18. The Administrative Agent objects to provisions that treat the Lenders so unfairly.

***D. Conclusion***

19. For the reasons stated above, the Rent Suspension and the Non-Applicant Payment Bar should not be granted, and the leases, business and property of the Non-Applicant Stay Parties should not be included in the proposed Lease Monetization Process and SISP unless appropriate rights are provided to senior secured creditors such as the Administrative Agent in relation to the BMO Secured Properties.

SWORN BEFORE ME over videoconference this 16th day of March, 2025 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely. The affiant and commissioner were both located in the City of Toronto, in the Province of Ontario.



A Commissioner for taking Affidavits, etc.  
Trevor Courtis | LSO #66715A

  
Steven MacKinnon

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

Proceeding commenced at Toronto

**AFFIDAVIT OF  
STEVEN MACKINNON  
(Sworn March 16, 2025)**

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Lawyers for Bank of Montreal,  
as Administrative Agent

Tab 2

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LP INC., HBC HOLDINGS GP INC., SNOSPMIS LIMITED, 2472596 ONTARIO  
INC., and 2472598 ONTARIO INC.**

**AFFIDAVIT OF BENJAMIN CHUA  
(Sworn March 16, 2025)**

I, Benjamin Chua, of the City of Richmond Hill, in the Province of Ontario, MAKE  
OATH AND SAY:

1. I am a Managing Director and Market Leader, Real Estate Financing (Central and Western Canada) with Desjardins Financial Security Life Assurance Company ("Desjardins"). I have held various roles within the Real Estate Financing group of Desjardins since May 2016.
2. Through my current and previous roles with Desjardins, I am familiar with the Ottawa Loan and Georgian Mall Loan (as defined below) and, as such, have personal knowledge of the matters to which I depose in this affidavit. Where I do not possess personal knowledge, I have stated the source of my information and believe it to be true.
3. I swear this affidavit in opposition to the following relief sought in the *Companies' Creditors Arrangement Act* ("CCAA") proceedings of Hudson's Bay Company ULC et al.

(the “**CCAA Proceedings**”):

- (i) in the proposed Amended & Restated Initial Order (the “**Initial Order**”):
  - (a) the last sentence of paragraph 10, which permits Hudson’s Bay ULC (“**HBC**”) to continue to use leased premises post-filing but purports to stay the payment of rent to certain joint venture entities, contrary to section 11.01(a) of the CCAA (the “**Rent Suspension**”);
  - (b) the extension of paragraph 13 to the Non-Applicant Stay Parties (as defined in the Initial Order), which prohibits the Non-Applicant Stay Parties from making any payments to their creditors and would, among other things, prohibit the Non-Applicant Stay Parties from making payments on the Ottawa Loan and Georgian Mall Loan (as defined below), even from rent and other amounts paid by businesses other than HBC (the “**Non-Applicant Payment Bar**”); and
- (ii) The inclusion of the leases, business and property of the Non-Applicant Stay Parties in the proposed Lease Monetization Process and Sale and Investment Solicitation Process (“**SISP**”), particularly (i) without ensuring that creditors with priority security in respect of such assets are consulted and that their consent would be required in respect of any proposed transaction; and (ii) instead, providing consent and consultation rights to other parties, such as the DIP Lender, whose charge does not extend to such assets.

4. Capitalized terms used but not otherwise defined herein have the meanings given to

them in the Initial Order.

**A. Ottawa Loan**

5. Desjardins provided a mortgage loan in the original principal amount of \$56,525,000 (the “**Ottawa Loan**”) to Rio-Can-HBC (Ottawa) Holdings Inc. (“**Ottawa Holdings**”) as nominee for RioCan-HBC (Ottawa) Limited Partnership (“**Ottawa LP**”). Each of Ottawa Holdings and Ottawa LP is a subsidiary of RioCan-HBC Limited Partnership (the “**JV**”). The Ottawa Loan is secured by, among other things, first-priority security in certain property owned by Ottawa Holdings, and certain property leased by Ottawa Holdings, within Freiman Mall at 73, 85 and 87 Rideau Street, Ottawa, Ontario (the “**Ottawa Property**”), in each case as nominee for Ottawa LP.

**B. Georgian Mall Loan**

6. Desjardins provided a mortgage loan in the original principal amount of \$110,000,000 loan (the “**Georgian Mall Loan**”) to RioCan Holdings Inc. (“**RioCan Holdings**”) as nominee for two co-owners: the JV (50% interest) and RioCan Realty Investments Partnership Twenty Two LP (“**Twenty-Two LP**”) (an affiliate of RioCan) (50% interest) (together, the “**Georgian Mall Co-Owners**”). The Georgian Mall Loan is secured by, among other things, first-priority security in the Georgian Mall shopping centre at 509 Bayfield Street, Barrie, Ontario (“**Georgian Mall**”) owned by the Georgian Mall Co-Owners.

7. HBC leases only a portion of the Georgian Mall (the “**Georgian Mall Store**”). HBC is one of over 100 tenants of the Georgian Mall, including numerous other major retail brands such as Indigo, Shoppers Drug Mart, Sportchek, H&M, lululemon and Roots, among others.

In 2024, the base rent payment from HBC represented only approximately 1.5% of the total rent and other payments made by tenants of Georgian Mall to RioCan Holdings. To my knowledge, such other tenants are continuing to pay rent to RioCan Holdings and such amounts are not sourced from nor do they involve HBC.

***C. Leases/Subleases to HBC***

8. As set out in greater detail in the Affidavit of Dennis Blasutti sworn March 14, 2025 (the “**Blasutti Affidavit**”) filed by RioCan Real Estate Investment Trust (“**RioCan**”), the freehold and leasehold interests of the JV in the Ottawa Property and the co-ownership interest of the JV in the portion of Georgian Mall that comprises the HBC store are leased or subleased, as applicable, to HBC for a fixed rental rate on terms typical of real property leasing/subleasing arrangements.

9. The JV is a distinct legal entity from HBC. As set out in the Blasutti Affidavit, the limited partnership interests in the JV are held by RioCan (approximately 22%) and HBC (approximately 78%). The shares of the general partner of the JV (RioCan-HBC General Partner Inc.) are held equally by RioCan and HBC, each of which has the right to appoint two board members, and various decisions require unanimous approval of all of the directors of the general partner, although the decision to send notices of default or to exercise any rights and remedies of the landlord under any lease with HBC requires only the approval of the directors appointed by RioCan.

10. Since the Georgian Mall is owned by the Georgian Mall Co-Owners, the interest of RioCan (and its affiliate) in the Georgian Mall total approximately 61% (the 50% co-



ownership interest plus approximately 22% of the other 50% co-ownership interest), and the interest of HBC is approximately 39.01% (approximately 78% of the co-ownership interest).

11. In advancing the Ottawa Loan and the Georgian Mall Loan, Desjardins relied on this structure, whereby its borrower would be a distinct legal entity from HBC (as opposed to lending to HBC directly) and the borrower would be subject to restrictions on its ability to take steps that may jeopardize Desjardins' collateral, such as altering the leases with HBC.

***D. Lease Monetization Process and SISP***

12. The Lease Monetization Process and the SISP each purports to market leases and property to which Desjardins has a first-priority security interest. Specifically:

- (i) ground leases held by the Non-Applicant Stay Parties, including for a portion of the Ottawa Property;
- (ii) real property owned by the Non-Applicant Stay Parties, including portions of the Ottawa Property;
- (iii) co-ownership interests of the Non-Applicant Stay Parties, including the 50% co-ownership interest of the JV in Georgian Mall (of which only a portion is leased to HBC).

13. This is property that is not wholly-owned by the Applicants and that does not form part of the "Property" of the Applicants subject to the Charges (or the priority of the DIP Lender or other lenders involved in the sales processes). The Lease Monetization Process and

the SISP provide consultation and consent right to the DIP Lender and Pathlight Agent in respect of such property notwithstanding that such property is not part of their collateral.

14. Desjardins has not consented to this property being included in the Lease Monetization Process or SISP. Desjardins was only notified that its collateral was proposed to be included in the Lease Monetization Process and the SISP when the Applicants delivered their motion record for the comeback hearing, after the close of business on March 14, 2025. The Applicants clearly shared the Lease Monetization Process and SISP with their other lenders in advance, but did not share them with Desjardins despite it being a first-ranking secured creditor of property that they are proposing be subject to those processes. Desjardins instead was only provided with less than one business day's notice. Desjardins strongly objects to any sale taking place without its consent.

15. If these leases and property are included, Desjardins requires that:

- (i) any sale or other transaction in relation to such property only be done with Desjardins' consent;
- (ii) any consultation and consent rights provided to the DIP Lender and Pathlight Agent in respect of such property be replaced with a reference to Desjardins; and
- (iii) rights be reserved to argue at a subsequent motion on full notice that such leases and property be removed from these processes and be subject instead to enforcement by Desjardins.

***E. Significant Prejudice Suffered by Desjardins***

16. If the Rent Suspension is continued and HBC is permitted to continue to use the Ottawa Property and the Georgian Mall Store without making the rent payments required under the applicable leases, the JV will not receive payments that it would be expected to, in turn, use to pay the Ottawa Loan and the Georgian Mall Loan.

17. The JV and certain nominees that hold title to certain of the freehold, leasehold and co-ownership interests in the Ottawa Property and Georgian Mall that are charged in favour of Desjardins are Non-Applicant Stay Parties in the Initial Order. As a result of the stay of proceedings against the Non-Applicant Stay Parties, Desjardins is stayed from exercising any rights or remedies against its borrowers, which are not Applicants in these proceedings, notwithstanding their defaults under the Ottawa Loan and/or Georgian Loan.

18. Furthermore, the Rent Suspension prohibits the JV from making any payments on account of the Ottawa Loan and Georgian Mall Loan, regardless of whether the funds to make those payments come from HBC or another source unconnected to these CCAA Proceedings. The unfairness is particularly acute in the context of Georgian Mall, where rent payments by HBC represent only approximately 1.5% of the total rent received by the JV that it in turn uses to service the Georgian Mall Loan.

19. The combination of these provisions in the Initial Order will result in serious prejudice to Desjardins, while HBC would be permitted to continue to use the Ottawa Property and the Georgian Mall Store to liquidate inventory and other assets. In essence, Desjardins – who contracted for first-priority security in respect of property that is not wholly-owned by HBC and relied on that separation in making its advances – would be forced to fund the liquidation

of the broader HBC business for the benefit of HBC's secured lenders.

20. The requested relief relating the Lease Monetization Process and SISP go even further to deny Desjardins its rights as senior secured creditors in respect of the Non-Applicant Stay Party leases and property, drawing Desjardins' collateral into a process that Desjardins does not control or approve and providing rights instead to others who do not even have security over the property.

21. Desjardins objects to the continuation of provisions that treat it so unfairly.

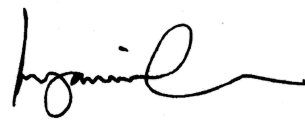
***E. Conclusion***

22. For the reasons stated above, the Rent Suspension and the Non-Applicant Payment Stay should not be granted, and the leases, business and property of the Non-Applicant Stay Parties should not be included in the proposed Lease Monetization Process and SISP unless appropriate rights are provided to senior secured creditors such as Desjardins in relation to the Ottawa Property and Georgian Mall.

SWORN BEFORE ME over videoconference this 16th day of March, 2025 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely. The affiant and commissioner were both located in the City of Toronto, in the Province of Ontario.



A Commissioner for taking Affidavits, etc.  
**Trevor Courtis | LSO #67715A**



**Benjamin Chua**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
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Proceeding commenced at Toronto

**AFFIDAVIT OF  
BENJAMIN CHUA  
(Sworn March 16, 2025)**

**McCarthy Tétrault LLP**  
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Lawyers for Desjardins Financial  
Security Life Assurance Company

Tab 3

Court File No.: CV-25-00738613-00CL

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INC., and 2472598 ONTARIO INC.**

**AFFIDAVIT OF SUVIR HARIPERSAD  
(Sworn March 16, 2025)**

I, Suvir Haripersad, of the City of Winnipeg, in the Province of Manitoba, MAKE  
OATH AND SAY:

1. I am a Senior Managing Director, Portfolio and Risk Management with The Canada Life Assurance Company ("**Canada Life**"). I have been employed with the company for ten years and responsible for Portfolio Management and Portfolio Manager responsible for segregated mortgage funds within Canada Life's Mortgage Investment Division. I have over twenty years of experience in capital markets real estate investment management, with exposure to corporate strategy, asset management, operations, acquisitions and dispositions. Prior to joining Canada Life, I held senior management roles with financial institutions headquartered in South Africa and the UK.
2. Through my current role with Canada Life, I am familiar with the Oakville Place Loan (as defined below) and, as such, have personal knowledge of the matters to which I depose in

this affidavit. Where I do not possess personal knowledge, I have stated the source of my information and believe it to be true. With regards to any knowledge and information pertaining to The Toronto-Dominion Bank (“**TD**”), I have been informed by Nathalie Phan, who is the Associate Vice President, Credit at TD.

3. I swear this affidavit in opposition to the following relief sought in the *Companies’ Creditors Arrangement Act* (“**CCAA**”) proceedings of Hudson’s Bay Company ULC et al. (the “**CCAA Proceedings**”) in the proposed Amended & Restated Initial Order (the “**Initial Order**”):

- (i) the last sentence of paragraph 10 which permits Hudson’s Bay ULC (“**HBC**”) to continue to use leased premises post-filing but purports to stay the payment of rent to certain joint venture entities, contrary to section 11.01(a) of the CCAA (the “**Rent Suspension**”);
- (ii) the extension of paragraph 13 to the Non-Applicant Stay Parties (as defined in the Initial Order), which prohibits the Non-Applicant Stay Parties from making any payments to their creditors and would, among other things, prohibit the Non-Applicant Stay Parties from making payments on the Oakville Place (as defined below), even from rent and other amounts paid by businesses other than HBC (the “**Non-Applicant Payment Bar**”); and
- (iii) the inclusion of the leases, business and property of the Non-Applicant Stay Parties in the proposed Sale and Investment Solicitation Process (“**SISP**”), particularly (i) without ensuring that creditors with priority security in respect of such assets are consulted and that their consent would be required in respect



of any proposed transaction; and (ii) instead, providing consent and consultation rights to other parties, such as the DIP Lender, whose charge does not extend to such assets.

4. Capitalized terms used but not otherwise defined herein have the meanings given to them in the Initial Order.

*A. Oakville Place Loan*

5. TD and Canada Life provided a mortgage loan in the original principal amount of \$95,000,000 (the “**Oakville Place Loan**”) to RioCan Holdings (Oakville Place) Inc. (“**Oakville Holdings**”) as nominee for two co-owners: RioCan-HBC Limited Partnership (the “**JV**”) (50%) and RioCan Real Estate Investment Trust (“**RioCan**”) (50%) (together, the “**Co-Owners**”). TD and Canada Life act as co-lenders, with each lender holding a 50% interest in the Oakville Place Loan. The Oakville Place Loan is secured by, among other things, first-priority security in the Oakville Place shopping centre property at 240 Leighland Avenue, Oakville, Ontario (“**Oakville Place**”) owned by the Co-Owners. The 50% co-ownership interest of the JV in Oakville Place has also been further charged to a RioCan facility as second mortgage security.

6. As at March 16, 2025, there was approximately \$86,890,315.36 in principal outstanding under the Oakville Place Loan.

7. HBC leases only a portion of Oakville Place (the “**Oakville Place Store**”). HBC is one of over 100 tenants of Oakville Place, including numerous other major retail brands such as Shoppers Drug Mart, Sportchek, Sephora, H&M, and Roots, among others. To my

knowledge, such other tenants are continuing to pay rent to Oakville Holdings and such amounts are not sourced from nor do they involve HBC.

***B. Leases to HBC***

8. As set out in greater detail in the Affidavit of Dennis Blasutti sworn March 14, 2025 (the “**Blasutti Affidavit**”) filed by RioCan Real Estate Investment Trust (“**RioCan**”), the co-ownership interest of the JV in the portion of Oakville Place that comprises the HBC store is leased to HBC for a fixed rental rate on terms typical of real property leasing arrangements.

9. The JV is a distinct legal entity from HBC. As set out in the Blasutti Affidavit, the limited partnership interests in the JV are held by RioCan (approximately 22%) and HBC (approximately 78%). The shares of the general partner of the JV (RioCan-HBC General Partner Inc.) are held equally by RioCan and HBC, each of which has the right to appoint two board members, and various decisions require unanimous approval of all of the directors of the general partner, although the decision to send notices of default or to exercise any rights and remedies of the landlord under any lease with HBC requires only the approval of the directors appointed by RioCan.

10. In advancing the Oakville Place Loan, TD and Canada Life relied on this structure, whereby its borrower would be a distinct legal entity from HBC (as opposed to lending to HBC directly) and the borrower would be subject to restrictions on its ability to take steps that may jeopardize TD and Canada Life’s collateral, such as altering the leases with HBC.

**C. *SISP***

11. The SISP purports to market property to which TD and Canada Life each have a first-priority security interest. Specifically:

- (i) real property owned by the Non-Applicant Stay Parties, including portions of Oakville Place;
- (ii) co-ownership interests of the Non-Applicant Stay Parties, including the 50% co-ownership interest of the JV in Oakville Place (of which only a portion is leased to HBC).

12. This is property that is not wholly-owned by the Applicants and that does not form part of the “Property” of the Applicants subject to the Charges (or the priority of the DIP Lender or other lenders involved in the sales processes). The SISP provides consultation and consent rights to the DIP Lender and Pathlight Agent in respect of such property notwithstanding that such property is not part of their collateral.

13. TD and Canada Life have not consented to this property being included in the SISP. TD and Canada Life were only notified that their collateral was proposed to be included in the SISP when the Applicants delivered their motion record for the comeback hearing, after the close of business on March 14, 2025.

14. The Applicants clearly shared the SISP with its other lenders in advance, but did not share them with TD and Canada despite both being a first-ranking secured creditor of property that they are proposing be subject to the SISP. TD and Canada Life instead were

only provided with less than one business day's notice. TD and Canada Life strongly object to any sale taking place without their consent, especially on essentially no notice.

15. If the property is included, TD and Canada Life require that:

- (i) any sale or other transaction in relation to such property only be done with both TD and Canada Life's consent;
- (ii) any consultation and consent rights provided to the DIP Lender and Pathlight Agent in respect of such property be replaced with a reference to TD and Canada Life; and
- (iii) rights be reserved to argue at a subsequent motion on full notice that such property be removed from the SISP process and be subject instead to enforcement by TD and Canada Life.

***D. Significant Prejudice Suffered by Lenders***

16. If the Rent Suspension is continued and HBC is permitted to continue to use the Oakville Place Store without making the rent payments required under the applicable leases, the JV will not receive payments that it would be expected to, in turn, use to pay the Oakville Place Loan.

17. The JV which holds a co-ownership interest in Oakville Place that is charged in favour of TD and Canada Life is a Non-Applicant Stay Party in the Initial Order. As a result of the stay of proceedings against the Non-Applicant Stay Parties, TD and Canada Life are stayed from exercising any rights or remedies against its borrowers, which are not Applicants in

these proceedings, notwithstanding their defaults under the Oakville Place Loan.

18. Furthermore, the Rent Suspension prohibits the JV from making any payments on account of the Oakville Place Loan, regardless of whether the funds to make those payments come from HBC or another source unconnected to these CCAA Proceedings. The unfairness is particularly acute in the context of Oakville Place, where rent payments by HBC represent only a small portion of the total rent received by the JV that it in turn uses to service the Oakville Place.

19. The combination of these provisions in the Initial Order will result in serious prejudice to TD and Canada Life, while HBC would be permitted to continue to use the Oakville Place Store to liquidate inventory and other assets. In essence, TD and Canada Life – who contracted for first-priority security in respect of property that is not wholly-owned by HBC and relied on that separation in making its advances – would be forced to fund the liquidation of the broader HBC business for the benefit of HBC's secured lenders.

20. The requested relief relating to the SISP process goes even further to deny TD and Canada Life its rights as senior secured creditors in respect of the Non-Applicant Stay Party property, drawing TD and Canada Life's collateral into a process that TD and Canada Life do not control or approve and providing rights instead to others who do not even have security over the property.

21. TD and Canada Life object to the continuation of provisions that treat TD and Canada Life so unfairly.

***E. Conclusion***

22. For the reasons stated above, the Rent Suspension and the Non-Applicant Payment Stay should not be granted, and the leases, business and property of the Non-Applicant Stay Parties should not be included in the proposed SISP unless appropriate rights are provided to senior secured creditors such as TD and Canada Life in relation to Oakville Place.

SWORN BEFORE ME over videoconference this 16<sup>th</sup> day of March, 2025 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely. The affiant was located in the City of Winnipeg, in the Province of Manitoba and the commissioner was located in the City of Hamilton, in the Province of Ontario.

DocuSigned by:  
*Meena Alnajjar*  
A508ACD93E3E426

A Commissioner for taking Affidavits, etc.

**Meena Alnajjar | LSO #89626N**

DocuSigned by:  
*Suvir Haripersad*  
DF9E4C5D44FA4AC

Suvir Haripersad

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985,  
c. C-36, AS AMENDED, AND IN THE MATTER OF HUDSON'S BAY COMPANY ULC et al.

Court File No.: CV-25-00738613-00CL

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

Proceeding commenced at Toronto

**AFFIDAVIT OF  
SUVIR HARIPERSAD  
(Sworn March 16, 2025)**

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Lawyer for Toronto-Dominion Bank and  
The Canada Life Assurance Company, as  
mortgagees of Oakville Place

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

Proceeding commenced at Toronto

**RESPONDING RECORD OF  
THE JV MORTGAGE LENDERS**  
**(Comeback Hearing returnable  
March 17, 2025)**

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Lawyers for the JV Mortgage Lenders