Court File No. CV-19-619158-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

B E T W E E N:

AM-STAT CORPORATION

Applicant

- and -

6910 HWY7 INC. and 6910 HIGHWAY SEVEN LIMITED PARTNERSHIP

Respondents

MOTION RECORD

June 9, 2020

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Commerce Court Postal Station
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TAB 1

Court File No. CV-19-619158-CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

B E T W E E N:

AM-STAT CORPORATION

Applicant

- and -

6910 HWY7 INC. and 6910 HIGHWAY SEVEN LIMITED PARTNERSHIP

Respondents

NOTICE OF MOTION

Rosen Goldberg Inc. in its capacity as sales officer (the "**Sales Officer**") of the assets, undertakings and properties of the Respondents 6910 Hwy 7 Inc. ("**Hwy7**") and 6910 Highway Seven Limited Partnership ("**LP**" and together with Hwy7 Inc., collectively, the "**Debtors**"), including the real property municipally known as 6910 and 6950 Hwy. No. 7 East, in Markham (the "**Property**") will make a motion to a Judge presiding over the Commercial List on a date to be set by the Commercial List office, in Toronto, Ontario.

PROPOSED METHOD OF HEARING: The Motion is to be heard orally.

THE MOTION IS FOR:

1. If necessary, abridgment of the time for service and filing of this Notice Motion and the Sales Officer's Motion Record and dispensing with further service thereof;

2. Approval of the Sales Officer's Third Report dated June 9, 2020 and the activities and recommendations described therein;

3. Reporting to this Honourable Court regarding the status of the Sales Officer's marketing and sale efforts with respect to the property subject to its administration (the "**Property**"), the status of its efforts to understand the cost sharing obligations associated with the Property, and to recommend that the Property be remarketed forthwith;

4. Sealing in the Court file a commercially sensitive memorandum of WSP Canada Group Limited ("**WSP**") regarding the cost sharing obligations associated with the Property under certain costs sharing agreements to which the Property is subject;

5. Such further relief as counsel may advise and this Honourable Court may permit.

THE GROUNDS FOR THE MOTION ARE:

1. The Sales Officer was appointed by Order of McEwen J. dated June 4, 2019 over the assets, undertakings and properties of the Debtors;

2. Hwy7 is the registered owner of the Property, which it holds as nominee for the benefit of the LP. The Property consists of 2 vacant parcels which together comprise approximately 20 acres of valuable development land located in Markham, Ontario, directly south of the Markham-Stouffville Hospital;

3. Pursuant to a Marketing and Sale Process Approval Order of McEwen J. dated August 27, 2019, the Sales Officer implemented a process to market and sell the Property. The Property was listed for sale for $75 million;

4. The marketing and sale process resulted in the Sales Officer receiving multiple offers to purchase the Property;

5. On November 18, 2019, the Sales Officer accepted an offer. Under the agreement of purchase and sale arising from the Sales Officer's acceptance (the "**APS**"), the buyer's due diligence period was due to expire on January 3, 2020;

6. On January 2, 2020, the buyer requested an extension to its due diligence period. The Sales Officer was agreeable to granting an extension but required a further deposit as a term thereof. The buyer was unwilling to pay an additional deposit and the APS lapsed on January 3, 2020;

7. On January 11, 2020, the buyer approached the Sales Officer to advise that it had reconsidered and was willing to submit a further deposit in order to revive the APS;

8. On January 13, 2020, an agreement reviving the APS was executed, pursuant to which the due diligence period was extended to January 27, 2020, and a further deposit was paid to the Sales Officer;

9. On January 27, 2020, the buyer notified the Sales Officer that its due diligence conditions had not been satisfied and terminated the APS. The deposits paid to the Sales Officer were subsequently returned to the buyer;

10. In connection with terminating the APS, the buyer expressed concern with the quantum of cost sharing obligations associated with the Property after the buyer obtained an analysis performed by WSP, consulting engineers for the local landowners' group, of the cost sharing obligations associated with the Property under certain costs sharing agreements to which the Property is subject. The cost sharing agreements address the landowners' contributions for their proportionate share of community and infrastructure facilities, including schools, parks, roads, external services and stormwater management. According to WSP, the cost obligations, including in particular the parkland obligations attributable to the Property are significant, by virtue of the density that a developer of the Property would seek to achieve;

11. Given the commercially sensitive nature of WSP's memo, the Sales Officer recommends that it be sealed in the Court file;

12. The Sales Officer engaged its own consulting engineers to review the cost sharing agreements and WSP's memo. Representatives of the Sales Officer and its consulting engineers met with a representative of WSP, the landowner group's manager and several lawyers at Davies Howe LLP, including one who acts as trustee for the landowners group (in such capacity, the "**Trustee**"), on February 26, 2020. Prior to the meeting, the Sales Officer requested a breakdown of parkland obligations as between the Property and the neighbouring properties. Unfortunately, such information was not, and has not as of this date, been provided;

13. During the meeting, the Sales Officer was advised that: (i) the Sales Officer's concern with the quantum of parkland contributions is not exclusive to the Property and that other members of the landowners group have been grappling with it, although it has not been a priority; (ii) that the matter would be placed on the agenda at the next landowners meeting; and (iii) that no representatives of the Property have historically been invited to attend the landowners meetings. The Sales Officer nonetheless requested an invitation to attend the upcoming meeting. No invitation was forthcoming;

14. The Sales Officer has had no further communications with the Trustee;

15. In view of the seeming refusal on the part of the landowners group to respond to the Sales Officer's efforts to obtain greater transparency regarding cost sharing, the Sales Officer is considering its options, including engaging a municipal lawyer, moving for advice and directions with respect to cost sharing and possibly moving to disclaim some or all of the cost sharing agreements as they affect the Property;

16. The Property has not been actively remarketed since the onset of the COVID 19 crisis, although ther have been some expressions of interest and one offer. The Sales Officer has had continuing discussions with its listing agent, CBRE Limited, regarding the appropriateness of remarketing the Property in the current economic climate. CBRE advises that with the loosening of quarantine restrictions there are signs of liquidity in the marketplace and recommends that marketing efforts should be initiated as soon as possible;

17. Rules 1.04, 2.01, 3.02, 41.05 of the *Rules of Civil Procedure*, section 249 of the section 243(1) of the *Bankruptcy and Insolvency Act* and section 101 of the *Courts of Justice Act*; and

18. Such further grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Motion:

1. The Third Report of the Sales Officer dated June 9, 2020; and

2. Such further and other material as counsel may advise and this Honourable Court may permit.

June 9, 2020

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AM-STAT CORPORATION
Applicant

-and-

6910 HWY7 INC. et al.
Respondents

Court File No. CV-19-619158-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

NOTICE OF MOTION

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Lawyers for the Sales Officer, Rosen Goldberg Inc.

TAB 2

ROSEN GOLDBERG
INSOLVENCY & RESTRUCTURING

Court File No. CV-19-619158-CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

BETWEEN:

AM-STAT CORPORATION

Applicant

- and -

6910 HWY7 INC. and 6910 HIGHWAY SEVEN LIMITED PARTNERSHIP

Respondents

THIRD REPORT OF ROSEN GOLDBERG INC.

June 9, 2020

ROSEN GOLDBERG
INSOLVENCY & RESTRUCTURING

I INTRODUCTION

1. By Order of the Honourable Mr. Justice McEwen dated June 4, 2019, Rosen Goldberg Inc. was appointed as sales officer (the "**Sales Officer**") of the assets, undertakings and properties of 6910 Hwy 7 Inc. ("**Hwy7**") and 6910 Highway Seven Limited Partnership ("**LP**", and together with Hwy7 Inc., collectively, the "**Debtors**"). The Order was obtained upon application by Am–Stat Corporation ("**Am-Stat**") pursuant to section 243(1) of the *Bankruptcy and Insolvency Act* and section 101 of the *Courts of Justice Act*. A copy of the Order is attached as **Appendix A**.

II TERMS OF REFERENCE

2. In preparing this Third Report, the Sales Officer has relied upon information from third party sources (collectively, the **"Information"**). Certain information contained in this Third Report may refer to, or be based on, the Information. As the Information has been provided by other parties, or obtained from documents filed with the Court in this proceeding, the Sales Officer has relied on this Information, and to the extent possible reviewed the Information for reasonableness. However, the Sales Officer has not audited or otherwise attempted to verify the accuracy and completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the CPA Canada Handbook and, accordingly, the Sales Officer expresses no opinion or other form of assurance in respect of the Information.

III PURPOSE OF REPORT

3. This Third Report is being filed to report to this Honourable Court regarding the status of the Sales Officer's marketing and sale efforts with respect to the Property (hereinafter defined), the status of the Sales Officer's efforts to understand the cost sharing obligations associated with the Property, and to recommend that the Property be remarketed forthwith.

ROSEN GOLDBERG
INSOLVENCY & RESTRUCTURING

IV BACKGROUND

4. Hwy7 is the registered owner of real property municipally known as 6910 and 6950 Hwy. No. 7 East, in Markham (the "**Property**"), which it holds as nominee for the benefit of the LP.

5. The Property consists of two vacant parcels, which together comprise approximately 20 acres of valuable development land in Markham, Ontario, directly south of the Markham-Stouffville Hospital.

6. Am-Stat holds a first-ranking charge over the Property in connection with a loan to the Debtors in the principal amount of $24,163,000. As a result of the Debtors' failure to make interest payments to Am-Stat beginning on April 1, 2019, Am-Stat applied for the Sales Officer's appointment.

V MARKETING AND SALE PROCESS

7. Pursuant to a Marketing and Sale Process Approval Order of the Honourable Mr. Justice McEwen dated August 27, 2019, the Sales Officer implemented a process to market and sell the Property in accordance with the process described in its First Report dated August 16, 2019 (the "**First Report**"). A copy of the First Report (without appendices) is attached as **Appendix B**. A copy of the Marketing and Sale Process Approval Order is attached as **Appendix C**.

8. The Property was listed for sale for $75 million.

9. The marketing and sale process resulted in the Sales Officer receiving multiple offers to purchase the Property.

ROSEN GOLDBERG
INSOLVENCY & RESTRUCTURING

VI TERMINATION OF AGREEMENT OF PURCHASE AND SALE

10. As reported in the Sales Officer's Second Report dated December 13, 2019 (the "**Second Report**"), a copy of which is attached (without appendices) as **Appendix D**, on November 18, 2019, the Sales Officer accepted an offer.

11. Under the agreement of purchase and sale arising from the Sales Officer's acceptance (the "**APS**"):

- the buyer's due diligence period was due to expire on January 3, 2020;
- the Sales Officer received a deposit equivalent to 5% of the purchase price;
- a further deposit equivalent to 5% of the purchase price was payable upon waiver of conditions; and
- the closing was to occur on March 19, 2020.

12. The purchase price and the identity of the buyer under the APS were not disclosed in the Second Report. Rather, the Sales Officer reported that if, and when, the buyer waived its due diligence conditions, it would report more fully to the Court on the results of the marketing and sale process, the offers that were submitted, and the rationale for the Sales Officer's decision to enter into the APS with the buyer.

13. On January 2, 2020, the buyer requested an extension to its due diligence period. The Sales Officer was agreeable to granting an extension but required a further deposit as a term thereof. The buyer was unwilling to pay an additional deposit and the APS lapsed on January 3, 2020.

14. On January 11, 2020, the buyer approached the Sales Officer to advise that it had reconsidered and was willing to submit a further deposit in order to revive the APS.

ROSEN GOLDBERG
INSOLVENCY & RESTRUCTURING

15. On January 13, 2020, an agreement reviving the APS was executed, pursuant to which:

- the due diligence period was extended to January 27, 2020;
- a further deposit of $1.45 million was paid to the Sales Officer;
- the purchaser agreed to pay a further deposit of $1.46 million upon waiver of conditions; and
- all other terms of the APS remained the same and time remained of the essence.

16. On January 27, 2020, the buyer notified the Sales Officer that its due diligence conditions had not been satisfied and terminated the APS. The deposits paid to the Sales Officer were subsequently returned to the buyer.

VII COST SHARING

17. In connection with terminating the APS, the buyer expressed concern to the Sales Officer's listing agent, CBRE Limited ("**CBRE**"), with the quantum of cost sharing obligations associated with the Property. The buyer shared with CBRE an analysis performed by WSP Canada Group Limited ("**WSP**"), consulting engineers for the local landowners' group, of the cost sharing obligations associated with the Property under certain costs sharing agreements to which the Property is subject. The cost sharing agreements address the landowners' contributions for their proportionate share of community and infrastructure facilities, including schools, parks, roads, external services and stormwater management. A copy of WSP's analysis is attached as **Confidential Appendix A**. According to WSP, the cost obligations, including in particular the parkland obligations attributable to the Property are significant by virtue of the density that a developer of the Property would seek to achieve.

ROSEN GOLDBERG
INSOLVENCY & RESTRUCTURING

18. Upon reviewing WSP's analysis, the Sales Officer determined that it was necessary to gain a fuller understanding of the cost sharing obligations before re-marketing the Property, in view of their potential impact upon realization.

19. The Sales Officer engaged Gerrits Engineering Limited ("**Gerrits**"), consulting engineers, to review the cost sharing agreements and WSP's analysis of the cost sharing obligations associated with the Property. Gerrits had previously consulted with the Sales Officer in relation to certain matters described in the Second Report.

20. Representatives of the Sales Officer and Gerrits met with a representative of WSP, the landowners group's manager, and several lawyers at Davies Howe LLP, including Kim Beckman, who acts as trustee for the landowners group (in such capacity, the "**Trustee**"), on February 26, 2020. Prior to the meeting, the Sales Officer's counsel requested a breakdown of parkland obligations as between the Property and the neighbouring properties. Unfortunately, such information was not, and has not as of this date, been provided.

21. During the meeting, the Sales Officer was advised, among other things, that: (i) the Sales Officer's concern with the quantum of parkland contributions is not exclusive to the Property and that other members of the landowners group have been grappling with it, although it has not been a priority; (ii) that the matter would be placed on the agenda at the next landowners meeting to be held at the beginning of March; and (iii) that no representatives of the Property have historically been invited to attend the landowners meetings. The Sales Officer nonetheless requested an invitation to attend the upcoming meeting. No invitation was forthcoming.

22. The Sales Officer followed up with the Trustee and asked to be included in future meetings of the landowners group. Copies of an email from Brahm Rosen to the Trustee dated March 4, 2020 and the response Mr. Rosen received are attached as **Appendix E**. The Sales Officer has had no further communications with the Trustee.

ROSEN GOLDBERG
INSOLVENCY & RESTRUCTURING

23. In view of the seeming refusal on the part of the landowners group to respond to the Sales Officer's efforts to obtain greater transparency regarding cost sharing, the Sales Officer is considering its options, including engaging a municipal lawyer, moving for advice and directions with respect to cost sharing and possibly moving to disclaim some or all of the cost sharing agreements as they affect the Property.

VIII NEXT STEPS

24. The Property has not been actively remarketed since the onset of the COVID 19 crisis, although CBRE and the Sales Officer have had some expressions of interest and one offer. The Sales Officer has had continuing discussions with CBRE regarding the appropriateness of remarketing the Property in the current economic climate. CBRE advises that with the loosening of quarantine restrictions there are signs of liquidity in the marketplace and recommends that marketing efforts should be initiated as soon as possible.

IX RECOMMENDATION

25. On the basis of the foregoing, the Sales Officer respectfully recommends that CBRE begin marketing the Property forthwith.

All of which is respectfully submitted,

Dated at Toronto, Ontario, this 9th day of June, 2020.

ROSEN GOLDBERG INC., SOLELY IN ITS CAPACITY AS COURT-APPOINTED SALES OFFICER OF 6910 HWY 7 INC. and 6910 HIGHWAY SEVEN LIMITED PARTNERSHIP

Brahm Rosen

Appendix A

Court File No. CV-19-619158-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE	)	TUESDAY, THE 4TH
	)	
JUSTICE McEWEN	)	DAY OF JUNE, 2019

AM-STAT CORPORATION

Applicant

- and -

6910 HWY7 INC. and 6910 HIGHWAY SEVEN LIMITED PARTNERSHIP

Respondents

ORDER
(Appointing Sales Officer)

THIS APPLICATION made by the Applicant Am-Stat Corporation for an Order appointing Rosen Goldberg Inc. as sales officer (in such capacities, the "Sales Officer") without security, of all of the assets, undertakings and properties of the Respondents 6910 Hwy7 Inc. and 6910 Highway Seven Limited Partnership (collectively, the "Respondents"), was heard this day at Osgoode Hall, 130 Queen Street West, Toronto, Ontario.

ON READING the Affidavit of Philip H. Meretsky, Q.C. sworn May 1, 2019 and the Exhibits thereto and the Affidavit of Patrick Chan sworn May 16, 2019 and the Exhibits thereto on hearing the submissions of counsel for the Applicant, also appearing as agent for counsel for each of the Respondents, 2563111 Ontario Inc., 2334266 Ontario Inc. and Simon Kronenfeld, on

reading the consent of Rosen Goldberg Inc. to act as the Sales Officer and on being advised of the consent of each of the Respondents, 2563111 Ontario Inc., 2334266 Ontario Inc. and Simon Kronenfeld to the within Order, no one else on the service list appearing, although served as appears from the Affidavit of Service of Laura Micoli sworn May 2, 2019

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and 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 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, Rosen Goldberg Inc. is hereby appointed Sales Officer, without security, of all of the assets, undertakings and properties of the Respondents, including the lands and premises legally described in Schedule "A" hereto, and all proceeds thereof (the "Property").

SALES OFFICER'S POWERS

3. THIS COURT ORDERS that the Sales Officer 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 Sales Officer is hereby expressly empowered and authorized to do any of the following where the Sales Officer considers it necessary or desirable:

(a) 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) to enter into any agreements in relation to the Property, incur any obligations in the ordinary course of business in relation to the Property, or cease to perform any contracts of the Respondents in relation to the Property;

(c) to engage consultants, appraisers, agents, experts, accountants, 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 Sales Officer's powers and duties, including without limitation those conferred by this Order;

(d) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Sales Officer's name or in the name and on behalf of the Respondents, for any purpose pursuant to this Order;

(e) 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 Sales Officer in its discretion may deem appropriate;

(f) with the approval of this Court, to sell, convey, transfer, or assign the Property or any part or parts thereof out of the ordinary course of business, and in each 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;

(g) 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;

(h) to report to, meet with and discuss with such affected Persons (as defined below) as the Sales Officer deems appropriate on all matters relating to the Property and the Sales Officer's administration, and to share information, subject to such terms as to confidentiality as the Sales Officer deems advisable;

(i) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;

(j) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Sales Officer, in the name of the Respondents; and

(k) 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 Sales Officer 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, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE SALES OFFICER

4. 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, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Sales Officer of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Sales Officer, and shall deliver all such Property to the Sales Officer upon the Sales Officer's request.

5. THIS COURT ORDERS that all Persons shall forthwith advise the Sales Officer of the existence of any books, 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, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Sales Officer or permit the Sales Officer to make, retain and take away copies thereof and grant to the Sales Officer unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 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 Sales Officer due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. 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 Sales Officer for the purpose of allowing the Sales Officer 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 Sales Officer in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Sales Officer. Further, for the purposes of this paragraph, all Persons shall provide the Sales Officer with all such assistance in gaining immediate access to the information in the Records as the Sales Officer may in its discretion require including providing the Sales Officer with instructions on the use of any computer or other system and providing the Sales Officer with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE SALES OFFICER

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

NO PROCEEDINGS AGAINST THE PROPERTY

8. THIS COURT ORDERS that no Proceeding against or in respect of the Property shall be commenced or continued except with the written consent of the Sales Officer or with leave of this Court and any and all Proceedings currently under way against or in respect of the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

9. THIS COURT ORDERS that all rights and remedies against the Sales Officer, or affecting the Property, are hereby stayed and suspended except with the written consent of the Sales Officer 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 Sales Officer or the Respondents to carry on any business which the Respondents are not lawfully entitled to carry on, (ii) exempt the Sales Officer 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, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE SALES OFFICER

10. 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, without written consent of the Sales Officer or leave of this Court.

SALES OFFICER TO HOLD FUNDS

11. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Sales Officer from and after the making of this Order from any source whatsoever, 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 new accounts to be opened by the Sales Officer (the "Post Appointment Accounts") and the monies standing to the credit of such Post Appointment Accounts from time to time, net of any disbursements provided for herein, shall be held by the Sales Officer to be paid in accordance with the terms of this Order or any further Order of this Court.

LIMITATION ON ENVIRONMENTAL LIABILITIES

12. THIS COURT ORDERS that nothing herein contained shall require the Sales Officer 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 Sales Officer from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Sales Officer shall not, as a result of this Order or anything done in pursuance of the Sales Officer'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 SALES OFFICER'S LIABILITY

13. THIS COURT ORDERS that the Sales Officer shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act.* Nothing in this Order shall derogate from the protections afforded the Sales Officer by section 14.06 of the BIA or by any other applicable legislation.

SALES OFFICER'S ACCOUNTS

14. THIS COURT ORDERS that the Sales Officer and counsel to the Sales Officer 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, and that the Sales Officer and counsel to the Sales Officer shall be entitled to and are hereby granted a charge (the "Sales Officer'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 Sales Officer'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 sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

15. THIS COURT ORDERS that the Sales Officer and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Sales Officer and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

16. THIS COURT ORDERS that prior to the passing of its accounts, the Sales Officer 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 Sales Officer or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE SALES OFFICER'S ADMINISTRATION

17. THIS COURT ORDERS that the Sales Officer 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 $500,000.00 (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 Sales Officer 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 "Sales Officer'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 Sales Officer's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

19. THIS COURT ORDERS that the Sales Officer is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "B" hereto (the "Sales Officer's Certificates") for any amount borrowed by it pursuant to this Order.

20. THIS COURT ORDERS that the monies from time to time borrowed by the Sales Officer pursuant to this Order or any further order of this Court and any and all Sales Officer'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 Sales Officer's Certificates.

SERVICE AND NOTICE

21. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: http://www.rosengoldberg.com/]www.rosengoldberg.com/admin/companyview.php?company_id=52.

22. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Sales Officer 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 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

23. THIS COURT ORDERS that the Sales Officer may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

24. 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 Sales Officer and its agents 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 Sales Officer, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Sales Officer and its agents in carrying out the terms of this Order.

25. THIS COURT ORDERS that the Sales Officer 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 Sales Officer 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.

26. THIS COURT ORDERS that the Applicant shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Sales Officer from the Respondents' estates with such priority and at such time as this Court may determine.

27. 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 to the Sales Officer and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

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

JUN 04 2019

PER / PAR:

SCHEDULE "A"

LANDS AND PREMISES

PIN	70013-0216 LT	*Interest/Estate*	Fee Simple
Description	PT LT 11 CON 9 MARKHAM; PT LT 12 CON 9 MARKHAM AS IN R436658; MARKHAM		
Address	6920 HIGHWAY NO. 7 EAST MARKHAM		

PIN	70013-0215 LT	*Interest/Estate*	Fee Simple
Description	PT LT 11 CON 9 PT LT 12 CON 9 MARKHAM AS IN R517792; MARKHAM		
Address	6950 HIGHWAY NO. 7 EAST MARKHAM		

SCHEDULE "B"

SALES OFFICER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT $_____

1. THIS IS TO CERTIFY that Rosen Goldberg Inc., the sales officer (the "Sales Officer") of the assets, undertakings and properties 6910 Hwy7 Inc. and 6910 Highway Seven Limited Partnership (collectively, the "Respondents") acquired for, or used in relation to a business carried on by the Respondents, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the 23rd day of May, 2019 (the "Order") made in an application having Court file number CV-19-619158-00CL, has received as such Sales Officer from the holder of this certificate (the "Lender") the principal sum of $_____, being part of the total principal sum of $_____ which the Sales Officer is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded monthly not in advance on the _____ day of each month after the date hereof at a notional rate per annum equal to the rate of _____ per cent.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Sales Officer pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Sales Officer to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Sales

Officer to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Sales Officer to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Sales Officer does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the _____ day of _____, 2019.

Rosen Goldberg Inc., solely in its capacity as Sales Officer of the Property, and not in its personal capacity

Per: _____

Name:

Title:

AM-STAT CORPORATION
Applicant

-and-

6910 HWY7 INC. et al
Respondents

Court File No. CV-19-619158-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

ORDER
(Appointing Sales Officer)

DICKINSON WRIGHT LLP
Barristers & Solicitors
199 Bay Street
Suite 2200, P.O. Box 447
Commerce Court Postal Station
Toronto, Ontario, M5L 1G4

DAVID P. PREGER (36870L)
Email: dpreger@dickinsonwright.com
Tel: (416) 646-4606

LISA S. CORNE (27974M)
Email: lcorne@dickinsonwright.com
Tel: (416) 646-4608
Fax: (844) 670-6009

Lawyers for the Applicant, Am-Stat Corporation

Appendix B

ROSEN GOLDBERG
INSOLVENCY & RESTRUCTURING

Court File No. CV-19-619158-CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

BETWEEN:

AM-STAT CORPORATION

Applicant

- and -

6910 HWY7 INC. and 6910 HIGHWAY SEVEN LIMITED PARTNERSHIP

Respondents

FIRST REPORT OF ROSEN GOLDBERG INC.

August 16, 2019

ROSEN GOLDBERG
INSOLVENCY & RESTRUCTURING

I INTRODUCTION

1. By Order of the Honourable Mr. Justice McEwen dated June 4, 2019, Rosen Goldberg Inc. was appointed as sales officer (the "**Sales Officer**") of the assets, undertakings and properties of 6910 Hwy 7 Inc. ("**Hwy7**") and 6910 Highway Seven Limited Partnership (the "**LP**" and together with Hwy7 Inc., collectively, the "**Debtors**"). The Order was obtained upon application by Am–Stat Corporation ("**Am-Stat**") pursuant to section 243(1) of the *Bankruptcy and Insolvency Act* and section 101 of the *Courts of Justice Act*. A copy of the Order is attached as **Appendix A**.

II TERMS OF REFERENCE

2. In preparing this First Report, the Sales Officer has relied upon information from third party sources (collectively, the "**Information**"). Certain information contained in this First Report may refer to, or be based on, the Information. As the Information has been provided by other parties, or obtained from documents filed with the Court in this proceeding, the Sales Officer has relied on this Information, and to the extent possible reviewed the Information for reasonableness. However, the Sales Officer has not audited or otherwise attempted to verify the accuracy and completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the CPA Canada Handbook and, accordingly, the Sales Officer expresses no opinion or other form of assurance in respect of the Information.

III PURPOSE OF REPORT

3. The purpose of this First Report is to:

a) recommend to this Honourable Court and seek approval of the Sales Officer's proposed marketing and sale process in respect of the Property (hereinafter defined);

b) recommend to this Honourable Court that the confidential appendices attached to this First Report be sealed on the terms hereinafter described;

c) report to this Honourable Court regarding the Sales Officer's dealings with the owner of lands to the west of the Property; and

d) obtain this Honourable Court's approval of the Sales Officer's activities and proposed activities described in this First Report.

IV BACKGROUND

4. Hwy7 is the registered owner of real property municipally known as 6910 and 6950 Hwy. No. 7 East, in Markham (the "**Property**"), which it holds as nominee for the benefit of the LP.

5. The Property consists of two vacant parcels which together comprise approximately 20 acres of valuable development land located in Markham, Ontario, directly south of the Markham-Stouffville Hospital.

6. Am-Stat holds a first-ranking charge over the Property in connection with a loan to the Debtors in the principal amount of $24,163,000 (the "**Loan**"). As a result of the Debtors' failure to make interest payments to Am-Stat beginning on April 1, 2019, Am-Stat applied for the Sales Officer's appointment.

7. The Debtors' financial default under the Loan appears to have been triggered by an ongoing internal dispute among the partners in the LP regarding their financial obligations to contribute funds to the LP.

ROSEN GOLDBERG
INSOLVENCY & RESTRUCTURING

V APPRAISALS OF PROPERTY

8. To assist in assessing the value of the Property, the Sales Officer engaged PVCI, an independent real estate appraisal and consulting firm, to appraise the Property. A copy of its narrative appraisal dated July 19, 2019, is attached as **Confidential Appendix 1**. Given the commercially sensitive nature of the appraisal, the Sales Officer recommends that it be sealed until the Property is sold.

VI MARKETING AND SALES PROCESS

9. In weighing whether to conduct a sale by tender or to engage a listing broker, the Sales Officer determined that engaging a qualified listing broker would be the most effective approach to achieve a maximum realization, given the nature and value of the Property.

10. The Sales Officer obtained proposals from and met with representatives of four (4) brokers; (a) CBRE; (b) Colliers International; (c) Cushman & Wakefield; and (d) Lennard Commercial Realty. Each broker submitted a detailed proposal outlining its qualifications and experience, marketing plan, opinion of value and fee structure. Copies of the proposals are attached as **Confidential Appendices 2, 3, 4 and 5**. Given the commercial sensitivity of the proposals, the Sales Officer recommends that they be sealed until the Property is sold.

11. Based on the proposals submitted and the Sales Officer's discussions with each broker's representatives, the Sales Officer recommends that it be authorized to engage CBRE as listing broker. A copy of CBRE's listing agreement which the Sales Officer proposes to sign, with the listing price redacted, is attached **Appendix B**. CBRE's commission will be one percent (1%) of the sale price of the Property. The listing price will become public upon this Honourable Court's approval of the listing agreement.

ROSEN GOLDBERG
INSOLVENCY & RESTRUCTURING

12. CBRE proposes to proceed with the following marketing program according to the following timelines:

Week 1-2	• New aerial photos to be taken and a drone to be flown for video; • Hard copy and electronic marketing package to be completed and approved within two (2) weeks after signing of listing agreement; • Marketing materials to reflect current property specific information as well as any information gathered from discussions with the City of Markham.
Week 3-5	• Creation of a Data Room with all necessary due diligence materials. Interested parties to be required to execute a Confidentiality Agreement to gain access to due diligence material; • Hard copy brochure to mailed out to CBRE's database of reputable developers and investors; • Electronic brochure to be sent out through individual email marketing campaign; • Media advertising in select publications; • With Sales Officer's approval, signage to be placed on the Property along Highway 7 East; • Targeted phone campaign and face-to-face meetings with interested parties; • Drone video to be posted on CBRE's web site and link to be provided in CBRE's email campaign.
Week 6-8	• Offer preparation and presentation to Sales Officer; • Negotiations; • Secure agreement of purchase and sale.
Week 9	• Commencement of due diligence (60-90 days).
Closing	• 30 days following waiver of due diligence conditions.

VII OTHER MATTERS

13. The Sales Officer was contacted by 2431988 Ontario Limited ("**CP Capital**"), the owner of the lands to west of the Property. CP Capital has requested a right to use and access a portion of the Property for the purposes of undertaking grading, installing sewers and

water mains, constructing a temporary headwall and realigning a tributary that runs through the Property. The Sales Officer has retained a consulting engineer to assist it in assessing the need and impact of the proposed work on the Property.

VIII RECOMMENDATION

14. On the basis of the foregoing, the Sales Officer respectfully requests that this Honourable Court:

a) approve the Sales Officer's proposed marketing and sale process and authorize it to sign the proposed listing agreement with CBRE;

b) seal the confidential appendices attached to this First Report on the terms hereinabove described; and

c) approve the Sales Officer's activities and proposed activities hereinabove described.

All of which is respectfully submitted,

Dated at Toronto, Ontario, this 16th day of August, 2019.

ROSEN GOLDBERG INC., SOLELY IN ITS CAPACITY AS
COURT-APPOINTED SALES OFFICER
6910 HWY 7 INC. and 6910 HIGHWAY SEVEN LIMITED PARTNERSHIP

Rosen Goldberg Inc.

Appendix C

Court File No. CV-19-619158-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE	)	TUESDAY, THE 27TH
	)	
JUSTICE McEWEN	)	DAY OF AUGUST, 2019

AM-STAT CORPORATION

Applicant

- and -

6910 HWY7 INC. and 6910 HIGHWAY SEVEN LIMITED PARTNERSHIP

Respondents

MARKETING AND SALE PROCESS APPROVAL ORDER

THIS MOTION made by Rosen Goldberg Inc. in its capacity as sales officer (the "**Sales Officer**") of the assets, undertakings and properties of the Respondents 6910 Hwy 7 Inc. and 6910 Highway Seven Limited Partnership, including the real property municipally known as 6910 and 6950 Hwy. No. 7 East, in Markham (the "**Property**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the First Report of the Sales Officer dated August 16, 2019 (the **First Report**") and on hearing the submissions of counsel for the Sales Officer and being advised that no one on the service list opposes the relief sought in the Sales Officer's Notice of Motion,

SERVICE

1. THIS COURT ORDERS that the time for service of the Sales Officer's Notice of Motion and Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

MARKETING AND SALE PROCESS

2. THIS COURT ORDERS that the marketing and sale process described in the First Report is hereby approved.

3. THIS COURT ORDERS that the Sales Officer is hereby authorized to execute the listing agreement with CBRE Limited referred to in the First Report.

SALES OFFICER'S ACTIVITIES

4. THIS COURT ORDERS that the Sales Officer's activities and proposed activities described in the First Report are hereby approved.

SEALING OF CONFIDENTIAL APPENDICES TO FIRST REPORT

5. THIS COURT ORDERS that the Confidential Appendix 1, Confidential Appendix 2, Confidential Appendix 3, Confidential Appendix 4 and Confidential Appendix 5 to the First Report shall be sealed, kept confidential, and not form part of the public record, but rather shall be placed separate and apart from all other contents of the Court File in separately sealed envelopes on which are affixed a notice setting out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be after the sale of the Property is completed.

SUPERIOR COURT OF JUSTICE
ENTERED

AUG 29 2019

COUR SUPÉRIEURE DE JUSTICE
ENTRÉ

AM-STAT CORPORATION
Applicant

-and-

6910 HWY7 INC. et al.
Respondents

Court File No. CV-19-619158-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

MARKETING AND SALE PROCESS APPROVAL ORDER

DICKINSON WRIGHT LLP
Barristers & Solicitors
199 Bay Street
Suite 2200, P.O. Box 447
Commerce Court Postal Station
Toronto, Ontario, M5L 1G4

DAVID P. PREGER (36870L)
Email: dpreger@dickinsonwright.com

Tel: (416) 646-4606
Fax: (844) 670-6009

Lawyers for the Sales Officer, Rosen Goldberg Inc.

Appendix D

ROSEN GOLDBERG

Court File No. CV-19-619158-CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

BETWEEN:

AM-STAT CORPORATION

Applicant

- and -

6910 HWY7 INC. and 6910 HIGHWAY SEVEN LIMITED PARTNERSHIP

Respondents

SECOND REPORT OF ROSEN GOLDBERG INC.

December 13, 2019

ROSEN GOLDBERG

I INTRODUCTION

1. By Order of the Honourable Mr. Justice McEwen dated June 4, 2019, Rosen Goldberg Inc. was appointed as sales officer (the "**Sales Officer**") of the assets, undertakings and properties of 6910 Hwy 7 Inc. ("**Hwy7**") and 6910 Highway Seven Limited Partnership (the "**LP**" and together with Hwy7 Inc., collectively, the "**Debtors**"). The Order was obtained upon application by Am–Stat Corporation ("**Am-Stat**") pursuant to section 243(1) of the *Bankruptcy and Insolvency Act* and section 101 of the *Courts of Justice Act*. A copy of the Order is attached as **Appendix A**.

II TERMS OF REFERENCE

2. In preparing this Second Report, the Sales Officer has relied upon information from third party sources (collectively, the "**Information**"). Certain information contained in this Second Report may refer to, or be based on, the Information. As the Information has been provided by other parties, or obtained from documents filed with the Court in this proceeding, the Sales Officer has relied on this Information, and to the extent possible reviewed the Information for reasonableness. However, the Sales Officer has not audited or otherwise attempted to verify the accuracy and completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the CPA Canada Handbook and, accordingly, the Sales Officer expresses no opinion or other form of assurance in respect of the Information.

III PURPOSE OF REPORT

3. The purpose of this Second Report is to:

   a) briefly report to this Honourable Court regarding an agreement of purchase and sale which the Sales Officer has entered into to sell the property subject to its administration (the

ROSEN GOLDBERG

"**Property**"); and

b) recommend to this Honourable Court that the Sales Officer be authorised to enter into an agreement to permit an abutting property owner to access and use the Property for the purpose of conducting certain infrastructure work.

IV BACKGROUND

4. Hwy7 is the registered owner of real property municipally known as 6910 and 6950 Hwy. No. 7 East, in Markham (the "**Property**"), which it holds as nominee for the benefit of the LP.

5. The Property consists of two vacant parcels, which together comprise approximately 20 acres of valuable development land in Markham, Ontario, directly south of the Markham-Stouffville Hospital.

6. Am-Stat holds a first-ranking charge over the Property in connection with a loan to the Debtors in the principal amount of $24,163,000 (the "**Loan**"). As a result of the Debtors' failure to make interest payments to Am-Stat beginning on April 1, 2019, Am-Stat applied for the Sales Officer's appointment.

V AGREEMENT OF PURCHASE AND SALE

7. Pursuant to a Marketing and Sale Process Approval Order of the Honourable Mr. Justice McEwen dated August 27, 2019, the Sales Officer implemented a process to market and sell the Property in accordance with the process described in its First Report dated August 16, 2019 (the "**First Report**"). A copy of the First Report (without appendices) is attached as **Appendix B**. A copy of the Marketing and Sale Process Approval Order is attached as **Appendix C**.

ROSEN GOLDBERG

8. The marketing and sale process resulted in the Sales Officer receiving multiple offers to purchase the Property.

9. On November 18, 2019, the Sales Officer accepted an offer. Under the agreement of purchase and sale arising from the Sales Officer's acceptance (the "**APS**"), the buyer's due diligence period expires on January 3, 2020. The Sales Officer is holding a deposit equivalent to 5% of the purchase price. A further deposit equivalent to 5% of the purchase price is payable upon waiver of conditions. The closing date is March 19, 2020. The form of the APS is substantially the same as the form of Offer to Purchase that was developed by the Sales Officer and circulated in connection the marketing and sale process.

10. The purchase price and the identity of the buyer under the APS are being kept confidential by the Sales Officer. If, and when, the buyer waives its due diligence conditions, the Sales Officer will report more fully to the Court on the results of the marketing and sale process, the offers that were submitted, and the rationale for the Sales Officer's decision to enter into the APS with the present buyer.

VI REQUEST FOR ACCESS TO THE PROPERTY

11. As noted in the First Report, the Sales Officer was contacted by 2431988 Ontario Limited ("**CP Capital**"), the owner of the abutting lands immediately to west of the Property. CP Capital requested the right to use and access a portion of the Property for the purposes of undertaking certain infrastructure work (the "**Works**").

12. The proposed Works consist of the following:

- Grading past CP Capital's property line into the Property at the east limit of Rustle Woods Avenue to make up grade differential and to install sewers and water main. Extending the

ROSEN GOLDBERG

sewers and water main past the property line will ensure that the roads are constructed to the property line and prevent the need to excavate sections of road in the future when services are extended east into the Property. A temporary headwall past the east limit of Rustle Woods Avenue is also required to temporarily outlet flows from a portion of Rustle Woods Avenue and the Markham-Stouffville Hospital to the surface. Following the extension of Rustle Woods Avenue east to Bur Oak Avenue and Stoney Stanton Road south to Highway 7, the headwall will be removed and flows will be piped to an existing storm water management pond;

- Grading past CP Capital's property line into the Property at the east limit of Arthur Bonner Avenue to make up grade differential and to install sewers and water main stubs. Extending the sewers and water main will ensure that the roads are constructed to the property line and prevent the need to excavate sections of road in the future when services are extended east; and

- Realigning a section of a tributary which currently runs through the Property and discharges onto the lands to the west. The realignment will direct flows further south on the Property until they are south of Arthur Bonner Avenue before they are discharged to the lands to the west and directed to an existing culvert under Highway 7.

13. In connection with CP Capital's request, the Sales Officer engaged Gerrits Engineering Limited ("**Gerrits**"), consulting engineers, to review drawings which detail the work to be completed on the Property, prepared by WSP Canada Limited, consulting engineers, on behalf of CP Capital. Based on Gerrits' review, the Sales Officer is satisfied that the proposed works will benefit the Property. Completion of the work as soon as possible will ensure the timely opening of a nearby York Region Transit bus terminal.

ROSEN GOLDBERG

14. CP Capital and the Receiver have settled on a Permission to Enter form of agreement (the "**PTE**") to facilitate access by CP Capital and its agents to the Property for the purposes of conducting the Works. A draft of the PTE is attached as **Appendix D.** CP Capital has advised the Sales Officer that the form of the PTE is acceptable to the City of Markham for the purposes of authorizing the Works to proceed.

15. The PTE contemplates that if ownership of the Property is transferred or conveyed, the PTE shall be assumed by the transferee and the Sales Officer shall be released and discharged from its obligations under the PTE.

16. The APS provides that title to the Property shall be subject to the PTE and the form of the PTE is annexed as a schedule thereto.

17. At the Sales Officer's request, CP Capital has agreed to lodge $30,000 with the law firm of Davies Howe LLP as security for the completion of the Works and the restoration of any disturbed area on the Property pursuant to an escrow agreement (the "**Escrow Agreement**") a draft of which is attached as **Appendix E.** The Escrow Agreement also provides, among other things, that if a construction lien is registered against the Property in connection with the Works, CP Capital shall forthwith, at its expense, obtain the removal thereof.

VII RECOMMENDATION

18. On the basis of the foregoing, the Sales Officer respectfully requests that this Honourable Court: authorize the Sales Officer to enter into the PTE, in the same or substantially the same form attached as Appendix D, and the Escrow Agreement, , in the same or substantially the same form attached as Appendix E.

ROSEN GOLDBERG

All of which is respectfully submitted,

Dated at Toronto, Ontario, this 13th day of December, 2019.

ROSEN GOLDBERG INC., SOLELY IN ITS CAPACITY AS COURT-APPOINTED SALES OFFICER OF 6910 HWY 7 INC. and 6910 HIGHWAY SEVEN LIMITED PARTNERSHIP

Appendix E

Brahm Rosen

From: Brahm Rosen
Sent: March 4, 2020 11:56 AM
To: Kim Beckman
Subject: 6910 Highway 7
Attachments: Appointment Order of the Honourable Justice McEwen dated June 4, 2019.pdf

Kim

Nice meeting with you last week.

I attach the order appointing us as Sales Officer for your reference.

Can you please confirm that there is a meeting of the landowners group this week. We continue to somewhat miffed and concerned that we are to invited to attend this meeting, as we believe we have a right to attend and it would be appropriate.

Brahm

BRAHM ROSEN, CPA CA CIRP
President

Direct: 416 224 4210
Main: 416 224 4200
Fax: 416 224 4330

Rosen Goldberg Inc.
Licensed Insolvency Trustee
5255 Yonge Street, Suite 804
Toronto, Ontario M2N 6P4

Brahm Rosen

From: Robert Webb <rwebb@webbco.ca>
Sent: March 10, 2020 11:48 AM
To: Brahm Rosen
Cc: Kim Beckman
Subject: Re: 6910 Highway 7

Hello Brahm,

Sorry for the delay in responding.

Thank you for meeting with us and for the information which you provided.

Kim and I did meet last week with the Cornell Landowners and explained your position, concerns and urgency. A fair amount of time was spent discussing alternative approaches to sharing Master Park Agreement obligations, but an alternative approach has not been agreed to at this point.

The Owners have been asked to consider options. The landowners will meet again in early April, at which time we will continue to seek to advance matters.

We will keep you informed.

Bob

Robert Webb

WEBB + CO LIMITED
647-407-1967
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On Mar 10, 2020, at 11:21 AM, Brahm Rosen <brosen@rosengoldberg.com> wrote:

Following up

Brahm

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Confidential Appendix A

Subject to Sealing Request

AM-STAT CORPORATION
Applicant

-and-

6910 HWY7 INC. et al.
Respondents

Court File No. CV-19-619158-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT
TORONTO

MOTION RECORD

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