

Clerk's Stamp

COURT FILE NUMBER 1901 - 17453

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

APPLICANTS IN THE MATTER OF *THE COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF IEC LTD., AUDEAMUS CAPITAL CORP. ET AL

DOCUMENT **SUPPLEMENTAL AFFIDAVIT (RECEIVER)**

PARTY FILING THIS DOCUMENT SUN LIFE ASSURANCE COMPANY OF CANADA

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
BLAKE, CASSELS & GRAYDON LLP
3500, 855 – 2nd Street S.W.
Calgary, Alberta T2P 4J8

Attention: Kelly J. Bourassa
James Reid
Amanda G. Manasterski

Telephone: 403-260-9697
403-260-9731
403-260-9756

Facsimile: 403-260-9700

Email: kelly.bourassa@blakes.com
james.reid@blakes.com
amanda.manasterski@blakes.com

File Ref.: 28303/216

**SUPPLEMENTAL AFFIDAVIT OF RICARDO ESTRADA
SWORN ON DECEMBER 18th, 2019**

I, Ricardo Estrada, of the City of Calgary, in the Province of Alberta **MAKE OATH AND SAY THAT:**

- I am the Senior Director, Commercial Mortgages, Prairies at Sun Life Assurance Company of Canada ("**Sun Life**"). I have been directly involved with matters relating to certain of the Applicants and LP Stay Parties, as defined in the Initial Order granted by this Honourable Court on December 10, 2019, including Sundance Place II Ltd. ("**Sundance GP**") and Sundance II 1000 Limited Partnership ("**Sundance LP**" and together with Sundance GP, the "**Sundance Place Parties**"), respectively, and the commercial property owned by the Sundance Place

Parties that is municipally described as 1000, 15 Sunpark Plaza SE, Calgary, Alberta (the "**Sundance 1000 Property**").

2. As such, I have personal knowledge of the matters deposed to in this Affidavit, except where stated to be based upon information, in which case I believe the same to be true.
3. This Affidavit is supplemental to my Affidavit sworn on December 9, 2019 (the "**Receivership Affidavit**") in Court of Queen's Bench Action No. 1901-17394 (the "**Sun Life Enforcement Action**").
4. The purpose of this Affidavit is to respond to the Applicants' initial order under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 ("**CCAA**") and comeback application seeking, among other relief, a stay of proceedings, including the Sun Life Enforcement Action, to March 31, 2020, as it relates to the Sundance Place Parties.
5. Capitalized terms used herein but not otherwise defined have the meaning ascribed to them in the Receivership Affidavit.

THE SUN LIFE MORTGAGE

6. As set out fully at paragraphs 6 through 24 of the Receivership Affidavit:
 - (a) The Applicant, Sundance GP, is the registered owner of the Sundance 1000 Property. The LP Stay Party, Sundance LP, is the beneficial owner of a 35% interest in the property. The remaining 65% beneficial interest in the Sundance 1000 Property is held by 10108014 Canada Inc.;
 - (b) Sundance GP obtained a loan from Sun Life on behalf of Sundance LP in the amount of \$52,500,000.00 (the "**Loan**") secured by a mortgage granted in favour of Sun Life over the Sundance 1000 Property on October 21, 2014, with Sun Life as mortgagee and Sundance GP as mortgagor (the "**Mortgage**"). The Mortgage was registered on title in priority to any other registered security interest;
 - (c) The Mortgage matured on November 1, 2019. Sundance GP defaulted on payment of the balance owing on the Mortgage on November 1, 2019, as detailed further in my Receivership Affidavit at paragraphs 20 through 26. As of November 30, 2019, the total outstanding indebtedness under the Mortgage is \$42,651,665.72, inclusive of interest but exclusive of costs incurred to date (the "**Outstanding Indebtedness**");

- (d) On November 1, 2019, as a result of Sundance GP's defaults under the Mortgage, Sun Life demanded payment of the Outstanding Indebtedness and exercised its rights to have all rents from the Sundance 1000 Property directed to Sun Life pursuant to the Assignment of Rents;
- (e) On November 5, 2019, Sundance GP recalled its final monthly mortgage payment to Sun Life in the amount of \$296,935.46 that was due on November 1, 2019; and
- (f) On December 9, 2019, Sun Life commenced the Sun Life Enforcement Action and sought to appoint Alvarez & Marsal Canada Inc. LIT as receiver and manager over the Sundance 1000 Property.

THE MORTGAGED PROPERTY

- 7. Sun Life has conducted an internal appraisal and value comparison for the Sundance 1000 Property. It is Sun Life's view that given the anticipated value of the Sundance 1000 Property it is the only economic stakeholder in respect of the Sundance 1000 Property and the CCAA proceedings are highly prejudicial to Sun Life's interests as first mortgagee lender on the Sundance 1000 Property. Marked as Exhibit "A", but not attached due to its confidential and commercially sensitive nature, is Sun Life's internal appraisal.
- 8. Sun Life has reviewed the confidential adjusted valuation for the Sundance 1000 Property provided by Strategic Group's counsel on December 16, 2019. Sun Life disagrees with that valuation and notes, among other things, that no breakdown or backup for the valuation was provided.

RENT PAYMENTS

- 9. As discussed in the Receivership Affidavit, Sun Life collected the December 1, 2019 rent payment in the amount of \$738,356.60 from the tenant of the Sundance 1000 Property (the "**Rent Received**").
- 10. Although there is currently a tenant of the Sundance 1000 Property and that tenant is paying rent, the property is predominately vacant. The tenant no longer occupies the property and a subtenant currently occupies a small portion of the leased premises. The current lease term with the tenant will expire on March 31, 2021.
- 11. Based on information received from Strategic Group's general counsel, the monthly operating costs for the Sundance 1000 Property, inclusive of G.S.T., is \$214,047.67 (the "**Operating**

Costs"). Attached hereto as Exhibit "B" is a letter from Strategic Group to James Reid of Blake, Cassels & Graydon LLP, dated December 4, 2019, requesting that Sun Life pay to Sundance GP the December 2019 Operating Costs for the Sundance 1000 Property.

12. As stated in the Strategic Group's December 4, 2019 letter, approximately \$81,375.00 of the monthly Operating Costs are paid to Strategic Group related entities that are not parties to these CCAA proceedings, being Strategic Maintenance Ltd. and Strategic Realty Management Corp.
13. The monthly rental payments on the Sundance 1000 Property are substantially higher than the monthly Operating Costs, as detailed below:

Rental Payments:	\$738,356.60
Operating Costs:	\$214,047.67
Difference:	\$524,308.93

14. There is a surplus of \$524,308.93 from the monthly rental payments on the Sundance 1000 Property (the "**Rent Surplus**").

PREJUDICE TO SUN LIFE

15. Sun Life has lost confidence in Sundance GP's ability to manage the Sundance 1000 Property.
16. The Mortgage matured and is now due and owing in its entirety. I believe there is no benefit to Sun Life in the Sundance Place Parties and the Sundance 1000 Property being included in the CCAA proceedings. The CCAA proceedings restrict Sun Life from pursuing the Sun Life Enforcement Action, which it is permitted to do under the Mortgage.
17. Further, instead of the Rent Surplus properly paying down the Outstanding Indebtedness owed to Sun Life, all future Rent Surpluses are proposed to continue to flow to Strategic Group related entities, including those that are not a part of these CCAA proceedings.
18. Interest on the Outstanding Indebtedness continues to accrue monthly in the approximate amount of \$114,100.00, although the exact figure will vary from month to month. Given the estimated value of the Sundance 1000 Property, I believe the position of Sun Life as a secured creditor will erode rapidly in these CCAA proceedings.

19. As a result of the foregoing, I believe that Sun Life will be significantly prejudiced if the Sundance 1000 Property remains part of the CCAA proceedings. I further believe the appointment of Alvarez & Marsal Canada Inc. LIT as limited receiver over the Sundance 1000 Property, to preserve and safeguard the property and to collect rents, is necessary and appropriate in order to protect the interests of Sun Life in the property and to preserve and realize on the value in the Sundance 1000 Property in an orderly fashion.
20. I swear this Affidavit in support of Sun Life's opposition to the extension of the CCAA initial order as it relates to the Sundance 1000 Property and in support of Sun Life's application for the appointment of Alvarez & Marsal Canada Inc. LIT as receiver of the Sundance 1000 Property.

SWORN BEFORE ME at the City of Calgary,
in the Province of Alberta, this 18th day of
December 2019.


A Commissioner of Oaths in and for Alberta


RICARDO ESTRADA

AMANDA G. MANASTERSKI
Barrister & Solicitor

THIS IS EXHIBIT " A "
referred to in the Affidavit of
RICARDO ESTRADA
Sworn before me this 18
day of December A.D. 2019




ACOMMISSIONER FOR OATHS
IN AND FOR ALBERTA

AMANDA G. MANASTERSKI
Barrister & Solicitor

EXHIBIT “A”

SUN LIFE INTERNAL VALUATION
REDACTED DUE TO CONFIDENTIALITY

THIS IS EXHIBIT " B "
referred to in the Affidavit of
RICARDO ESTRADA
Sworn before me this 18
day of December A.D. 2019



A COMMISSIONER FOR OATHS
IN AND FOR ALBERTA

AMANDA G. MANASTERSKI
Barrister & Solicitor



400, 630 - 8 Avenue SW
Calgary, AB T2P 1G6
strategicgroup.ca

General Counsel: Beamer Comfort
Direct: 587.747.0360
Email: bcomfort@strategicgroup.ca

Paralegal: Alicia Aitchison
Direct: 403.234.4235
Email: aaitchison@strategicgroup.ca

December 4, 2019

Blake, Cassels & Graydon LLP
Barristers & Solicitors
Patent & Trade-mark Agents

VIA EMAIL: james.reid@blakes.com

ATTN: James Reid

Dear Mr. Reid,

Re: Sundance 1000 Mortgage and Operating Costs

We are in receipt of your letter of November 28, 2019 requesting details regarding the Operating Costs for the Building (the "Op-Cost Letter"). Unless otherwise defined herein, the capitalized terms in this letter have the meanings ascribed to them in the Reservation Letter and the Op-Cost Letter.

Below is a list of the service provider, the services being provided, and the approximate amount to be paid to each service provider. Please note that there may be other small providers that may fall into the categories listed that are not captured by this list.

Service Provider	Services Provided	Approximate Amount
Waste Connections of Canada	Waste Disposal	\$1,300
Marsh Canada Limited (via Strategic Realty Management Corp.)	Insurance	\$1,337
Enmax Hudson Energy Canada Corp Telus Services Inc.	Utilities	\$25,777
ThyssenKrupp Elevator (Canada) Limited Gunn Consultants Inc. Ainsworth Inc.	Repairs and Maintenance	\$38,582
City of Calgary	Property Taxes	\$31,529
	Unrelated Party Subtotal	\$98,525
Strategic Maintenance Ltd.	Landscaping & Snow Removal	\$12,663
Strategic Maintenance Ltd. Encompass Facility Service & Supply Ltd.	Cleaning – Common Area and In-suite	\$8,796



Strategic Maintenance Ltd. ADT Security Services Canada Ltd. ABOE Lockworks Ltd.	Security	\$3,025
Strategic Realty Management Corp.	Repairs and Maintenance (Building Operator Wages)	\$14,999
Strategic Realty Management Corp.	Administration Fee	\$25,770
Strategic Realty Management Corp.	Manager Out of Pockets	\$5,857
Strategic Realty Management Corp.	Direct Costs	\$10,265
	Related Party Subtotal	\$81,375
	TOTAL	\$179,900

Please note that the above total amount has been revised and updated from our previous letter (the “**Revised Operating Costs**”).

With respect to the request for contracts, please find attached the material contracts that were available. As with the list above, there are likely additional services provided by small vendors under various agreements or terms and conditions that are neither material nor accessible in the time permitted for a response.

As is likely apparent from the list of service providers, some of the service providers are entities within the Strategic Group. Each of Strategic Maintenance Ltd. (“**SML**”), Encompass Facility Service & Supply Ltd. (“**Encompass**”), Strategic Realty Management Corp. (together, the “**Related Parties**”) provide the Borrower with essential services such as snow removal and security. With the exception of Encompass, there are no formal written agreements in place between the Borrower and the Related Parties. However, the Related Parties provide their services at, or below, market rates on a cost-recovery basis. For example, SML provides its services to the Borrower at cost plus 5% to cover overhead. The Related Parties are able to offer their services at these cost recovery rates because they gain efficiencies across the Strategic Group portfolio and do not need to generate profits from related entities.

In addition to the Flow-Through Payments described in our previous letter, the Gross Amount Payable also included GST charged to tenants in the amount of \$34,147.67 (the “**GST Amount**”), which is payable to the Canada Revenue Agency. As such we request that, in addition to returning the Revised Flow-Through Amounts to the Borrower, the Lender also return the GST Amount to the Borrower for remittance to the CRA for a total payment of \$214,047.67 (the “**Revised Flow-Through Payment**”).



Based on the above, we ask that the Lender contact Mr. Mamdani directly to make arrangements for the Revised Flow-Through Payment and the process for accounting for its distribution the service providers. We remain committed to working with the Lender to ensure that the Building is properly maintained and finding a path to the repayment of the Indebtedness.

Yours truly,
Strategic Group

Beamer Comfort
General Counsel
BC/ala