

**IN THE MATTER OF THE BANKRUPTCIES OF
Southmount Healthcare Centre Inc. and
180 Vine Purchaser Inc.**

**TRUSTEE'S REPORT TO THE FIRST MEETING OF CREDITORS
ON PRELIMINARY ADMINISTRATION**

BACKGROUND

The Debtors

Southmount Healthcare Centre Inc. (“**Southmount**”) and 180 Vine Purchaser Inc. (“**Vine Purchaser Co.**”, and together with Southmount, the “**Debtors**”) were each incorporated under the *Business Corporations Act* (Ontario) and owned medical office buildings located as follows:

Debtor	Location	Address
Southmount Healthcare Centre Inc.	Stoney Creek, Ontario	35 Upper Centennial Parkway
180 Vine Purchaser Inc.	St. Catharines, Ontario	180 Vine Street

(collectively, the “**Buildings**”).

The Buildings were tenanted primarily by doctors, clinics, and other medical-related occupants. The Debtors collected rents from the tenants of the Buildings on a monthly basis and engaged a property management company to manage the day-to-day operations. The Debtors did not have any employees.

Receivership Proceedings

On June 17, 2021, the Debtors’ primary secured creditors, American General Life Insurance Company, Lexington Insurance Company, and The Variable Annuity Life Insurance Company (collectively, the “**Applicants**”) proceeded with an application to the Ontario Superior Court of Justice [Commercial List] (the “**Court**”) for an order under 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 (the “**Receivership Order**”) appointing KPMG Inc. (“**KPMG**”) as receiver and manager (the “**Receiver**”) of, among other things, the assets and undertakings of the Debtors, 100 Colborne Holdings Inc., 2478658 Ontario Ltd., 240 Old Penetanguish Holdings Inc., 2009 Long Lake Holdings Inc., and 65 Larch Holdings Inc. (collectively, the “**Legal Owners**”). The Receivership Order in respect of those proceedings (the “**Receivership Proceedings**”) was granted on June 29, 2021 (Court File No.: CV-21-00664273-00CL).

The Legal Owners are each co-borrowers of the Applicants’ secured debt, which debt is cross-collateralized across the assets of each of the Legal Owners.

In connection with the Receivership Proceedings, on October 29, 2021, the Court granted an order, among other things, approving a sale process (the “**Sale Process**”), and authorizing the Receiver to market and sell the entire portfolio of real property assets subject to the Receivership Proceedings, being seven (7) medical office buildings and a parking lot, including the Buildings (the “**Real Properties**”). The Sale Process has resulted in the sale of each of the Buildings via separate transactions (the “**Transactions**”), which transactions closed during August, 2022. Sale transactions with respect to the real property assets owned by 100 Colborne Holdings Inc., 2478658 Ontario Ltd., and 240 Old Penetanguish Holdings Inc. closed in May and June, 2022, while sale transactions with respect to the remaining real property assets of the Legal Owners, being those owned by 2009 Long Lake Holdings Inc., and 65 Larch Holdings Inc. have been agreed to and approved by the Court, but are not yet completed. The net proceeds of the Receivership Proceedings, including the net proceeds from the Transactions, are expected to be insufficient to repay the Applicants in full.

Pursuant to the Receivership Order, the Receiver was empowered and authorized to, among other things, file an assignment in bankruptcy on behalf of the Legal Owners (including the Debtors), should the Receiver consider it necessary or desirable.

BANKRUPTCY PROCEEDINGS

On July 15, 2022, the Court issued an order (the “**Consolidation Order**”) which among other things, authorized KPMG, in its capacity as bankruptcy trustee of – in this case – the Debtors (the “**Trustee**”) to carry out its administrative duties and responsibilities as trustee in bankruptcy as if the various bankruptcy proceedings were a single proceeding under the BIA, including without limitation, authorizing:

- a) the meetings of creditors of the Debtors to be convened and conducted jointly;
- b) the Trustee to issue consolidated reports in respect of the Debtors;
- c) the Trustee to deal with all filings and notices relating to the bankruptcies on a consolidated basis;
- d) the Trustee to procedurally consolidate the bankruptcy proceedings of the Debtors together with the bankruptcy proceedings of the other Legal Owners and of Victoria Avenue North Holdings Inc. (“**Victoria Avenue**”); and
- e) the Trustee to maintain a single estate trust account in respect of the bankruptcy proceedings of the Debtors, the other Legal Owners, and Victoria Avenue, to the extent such bankruptcy proceedings are procedurally consolidated.

Following the completion of the Transactions, on August 29, 2022 (the “**Bankruptcy Date**”), the Receiver filed an assignment in bankruptcy under the BIA on behalf of each of the Debtors, and KPMG was appointed as Trustee of the respective estates, subject to affirmation by the creditors of the Trustee’s appointment or substitution of another trustee at the first meeting of creditors.

On September 1, 2022, notice of the first meeting of creditors, a list of creditors, proof of claim form and proxy were sent to all known creditors of the Debtors, and on September 7, 2022, a notice of the bankruptcy and the first meeting of creditors was published in the National Post. Pursuant to the Consolidation Order, the first meeting of creditors will be convened, and this report has been prepared, in connection with the bankruptcy proceedings of each of the Debtors on a consolidated basis.

The activities of the Trustee since its appointment have primarily consisted of statutory work in accordance with the provisions of the BIA.

CAUSES OF INSOLVENCY

In late 2019, the Legal Owners (including the Debtors) failed to make scheduled loan payments to the Applicants, primarily as a result of high vacancy rates in the Real Properties. Beginning in April 2020, the Legal Owners faced further liquidity issues stemming from the tenants' inability to pay monthly rents as they came due, which issues were largely connected to COVID-19-related lockdowns. Between May 2020 and June 2021, the Legal Owners and the Applicants entered into a series of forbearance agreements in order to provide the Legal Owners with time to pursue an out-of-court refinancing and/or sale of the Real Properties, however these efforts were ultimately unsuccessful and upon expiry of the final forbearance agreement, the Applicants proceeded to make an application to the Court for the Receivership Order.

FINANCIAL POSITION/ASSETS

As noted above, the Applicants hold a security interest in, among other things, all of the property of the Legal Owners (the "**Property**"). The Buildings, which as detailed above, have been sold via the Transactions in the Receivership Proceedings, represented substantially all of the assets of the Debtors' assets with any recoverable value.

The Receiver obtained an independent written legal opinion (the "**Opinion**") from Norton Rose Fulbright Canada LLP ("**Norton Rose**"), with respect to the validity and enforceability of the security granted in favour of the Applicants under the laws of the Province of Ontario, concluding (subject to the qualifications, assumptions and limitations included therein) that the Applicants' security is valid and enforceable against all of the Property (including the Debtor's assets) and that first in time registrations of the Applicants' security have been made against all of the Property. A copy of this opinion was provided to the Court in the Receivership Proceedings.

As noted above, the net proceeds from the Receivership Proceedings are expected to be insufficient to repay the Applicants in full. As a result, it is anticipated that there will be no funds available for distribution to the any other creditors of the Debtors.

BOOKS AND RECORDS

The Receiver has taken possession of certain books and records of the Debtors, including financial statements, bank statements, general ledgers, and tax-related documents, and as a result, the Trustee has not done so at this time.

SECURED CREDITORS

Given that there are not anticipated to be sufficient proceeds in the Receivership Proceedings to repay the Applicants in full, each of the Debtors' Statements of Affairs indicate that there were no known secured creditors as at the Bankruptcy Date.

The Applicants' debt is listed on each of the Debtors' Statements of Affairs in the amount owing at the date of the commencement of the Receivership Proceedings, less distributions made by certain Legal Owners (other than the Debtors) in the Receivership Proceedings prior to the Bankruptcy Date.

Further, the debt of secured mortgagee, Cannect International Mortgage Corporation is also listed as unsecured on Southmount's Statements of Affairs. Given the level of anticipated recoveries, a review of the related security was not undertaken.

SECURITY FOR UNPAID WAGES – S.81.3 CLAIMS

As noted above, the Debtors did not have any employees.

PREFERRED CREDITORS

Each of the Debtors' Statements of Affairs indicates that there were no known preferred creditors as at the Bankruptcy Date.

UNSECURED CREDITORS

The Debtors Statements of Affairs indicates that there are collectively 29 unique unsecured creditors with claims totaling approximately \$56.7 million in aggregate (including but not duplicating the Applicants' debt, to which the Debtors are co-borrowers).

PROVABLE CLAIMS

As at 9:00am on the date of this report, the Trustee has recorded Proof of Claims filed, as follows:

	Claims Filed (#)	Amount (\$)	Proxies in Favour of Trustee (#)	Amount (\$)
Secured				
Unsecured	1	14,145.02	1	14,145.02
TOTAL	1	14,145.02	1	14,145.02

PREFERENCE PAYMENTS AND TRANSFERS AT UNDER VALUE

The Trustee has not performed a review of the Debtors' books and records, with respect to potential fraudulent preferences, settlements or transfers at undervalue, as defined in the BIA. It is the intention of the Trustee to discuss the scope of its review with the Inspectors to be appointed at the first meeting of creditors.

TRUSTEE'S FEES

Pursuant to the Consolidation Order, the Receiver is permitted to transfer to the Trustee from time to time, funding for costs associated with the bankruptcy proceedings of certain of the Legal Owners, including the Debtors, as determined by the Receiver in consultation with the Applicants (the “**Bankruptcy Costs**”). The Bankruptcy Costs include the Trustee’s fees and disbursements.

OTHER

The Receivership Proceedings are ongoing, and KPMG is continuing to act as Receiver in the proceedings. The fees and disbursements of the Receiver are being paid pursuant to the orders of the Court in the Receivership Proceedings. As discussed above, the Receiver obtained the Opinion from Norton Rose.

Further information related to the Debtors’ bankruptcy proceedings and the Receivership Proceedings may be obtained from KPMG’s website at: home.kpmg/ca/SouthmountEtAl.

Dated at Toronto, Ontario, this 15th day of September, 2022.

KPMG Inc.

in its capacity as Trustee of the estates of

Southmount Healthcare Centre Inc.
180 Vine Purchaser Inc.

and not in its personal capacity

Per:



Katherine Forbes
CPA, CA, CIRP, LIT
President