

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

**DBDC SPADINA LTD.,
and THOSE CORPORATIONS LISTED ON SCHEDULE "A" HERETO**

Applicants
(the "Bernstein Group")

- and -

**NORMA WALTON, RONAULD WALTON, THE ROSE & THISTLE
GROUP LTD. and EGLINTON CASTLE INC.**

Respondents
(the "Walton Group")

and

**THOSE CORPORATIONS LISTED IN SCHEDULE "B", TO BE BOUND BY THE
RESULT**

**AFFIDAVIT OF NORMA WALTON
SWORN OCTOBER 31ST, 2013**

I, NORMA WALTON, of the City of Toronto, make oath and say:

1. I am one of the Respondents in this matter and as such I have knowledge of the matters to which I herein depose.
2. This Affidavit is filed in response to the Notice of Application and Notice of Motion filed by the Applicants (hereinafter collectively called the "Bernstein Group"). I am

President and Director and the controlling mind, along with my husband Ronauld Walton, of the Respondents (hereinafter collectively called the “Walton Group”).

History of the Walton Group - Pre-Involvement with the Bernstein Group

3. In 2001 the Walton Group began its real estate business. That business consisted of identifying properties which were undervalued due to a lack of development, renovation, inferior leasing, zoning or other factors which could be remedied to increase the value of the subject property. Between 2001 and 2010, the Walton Group purchased approximately three properties per year for a total of 28. This led to the purchase, development and maturity of 28 different properties. With two exceptions, each one of these properties was profitable to the Walton Group. Indeed, nine of the 28 properties continue to be owned by the Walton Group. Eight of these nine properties are stable income-producing ventures which are leased by strong tenants and are in no further need of major development or renovation.

Early Involvement of the Bernstein Group with the Walton Group

4. During the increasing real estate activity carried out by the Walton Group, through its principal real estate arm, The Rose & Thistle Group Limited (“Rose & Thistle Group”), we became connected with a number of lawyers, mortgage brokers, property managers, construction experts, environmental experts, real estate agents and other professionals involved in the purchase and sale, financing, mortgaging, development, leasing and resale of commercial properties. We financed the twenty-eight properties mentioned above largely through debt financing in the form of mortgages and construction financing. The Walton Group used its own equity to purchase properties. In the context of this busy and profitable enterprise, I was introduced to Dr. Bernstein as a debt investor in 2008. Dr. Bernstein invested in approximately eight mortgages in the period of 2008 to 2010 and was thereby introduced to the Walton Group,

its method of operating and, possibly most importantly, its success in purchasing, developing, managing, and reselling commercial properties.

5. Over the ensuing years between 2010 and today, I became familiar with Dr. Bernstein's background. He is a successful practitioner and businessman. His central professional background is as a diet clinician. He was a general practitioner and in approximately 1974 commenced his business with one clinic assisting individuals in their goal of weight loss. He built that business across Canada and today has approximately 68 clinics across Canada. As Dr. Bernstein has made known to me, each clinic in Canada is profitable and annually produces a positive net cash flow which is available to Dr. Bernstein for investment.

6. Prior to Dr. Bernstein's involvement with the Walton Group, Dr. Bernstein and the Bernstein Group invested in first and second mortgages through lawyers and real estate brokers in what was and continues to be a highly profitable enterprise for him. He was highly experienced in the real estate investment field by the time that I first encountered him. I believe that he commenced his investment portfolio in the mid-1980s and has increased its value year by year from that date to today. Dr. Bernstein has strong real estate business acumen and a strong accounting staff assisting him in his various businesses.

7. Through providing the approximately eight mortgages in the period from 2008 to 2010, Dr. Bernstein became aware and apparently impressed by what we were doing in a number of ways. Dr. Bernstein understood that investing through contributions to equity rather than through debt vehicles such as mortgages can be more profitable and allows for a greater number of investments in a greater number of properties with much less money. For example, in a large commercial transaction, Dr. Bernstein could choose to invest in a mortgage in the amount of

\$10 million and receive a return of 7-12% plus a mortgage placement fee of 2%. This same amount of money could be used to invest in the equity of five to ten different projects producing returns in excess of 20%. Additionally, the investment over five to ten projects diminishes the risk of loss over the entire investment.

8. During this same period from 2008 to 2010, Dr. Bernstein became familiar with the method of operations and expected timing for projects with the Walton Group. Usually, a project takes approximately three years from its inception to its maturity. At the date of maturity, the project may be held (for example, the nine projects that the Walton Group continues to hold were developed in the period from 2001 to 2010) or sold (as with the remaining 19 projects developed in the same period). Additionally, beginning in 2010, each project in which Dr. Bernstein was involved with the Walton Group was made the subject of an agreement and a “pro forma” description indicating the financial and development details of the project leading to the time of maturity. Marked as Exhibits “A” (in a separate 31 tab volume served with this Affidavit) is a copy of all of the agreements and pro formas on each of the properties in which Dr. Bernstein invested.

Bernstein and Walton Groups Investments: 2010 to 2013

9. From the above, the following major principles can be drawn regarding the Walton Group’s relationship with the Bernstein Group after September 2010:

- (a) Dr. Bernstein was invited to participate in virtually every project commenced by the Walton Group after 2010. On some occasions, the Walton Group knew that Dr. Bernstein did not have any further funds and was not invited. Otherwise, Dr. Bernstein was invited and made investments in one of two ways: He always

invested as an equity investor in a separate company incorporated for the purpose of holding the property and he sometimes provided mortgage money;

- (b) each project was described in a pro forma statement and reviewed by Dr. Bernstein before the property was purchased and the Walton/Bernstein relationship was established. The Bernstein Group had a clear vision about the amount of time it would take to complete any particular transaction at the outset. These expectations were amended from time to time as necessary, but the usual period of development was approximately three years from the date of purchase;
- (c) while Dr. Bernstein was an equity investor in the 34 parcels listed in Exhibit "B", on or about the dates indicated in the Exhibit, and for the amounts indicated in the Exhibit, he did not involve himself in the day-to-day pre-purchase analysis, purchase, financing, renovation, leasing, development, rezoning, environmental remediation, property maintenance or management, accounting or other details except by way of reporting. Dr. Bernstein left all of these matters to the Walton Group. As is set out below, the projects as a whole were highly profitable to Dr. Bernstein as they were completed; and
- (d) each of the agreements provided that the Walton Group would make its own equity contribution to each of the projects. Dr. Bernstein knew and understood that the Walton Group contribution would be made as it was needed to complete the project and would be from unbilled services and monies obtained as profits from the projects as they were completed and sold from time to time. He also

knew that his money was to go in first and the Walton Group's contributions would go in as required by the project.

10. While Dr. Bernstein has complained that the Rose & Thistle Group has not made equity contributions in the same amounts as the Bernstein Group, Rose & Thistle is not required to do so. If there is an imbalance in the contributions, the Bernstein Group gets repaid its equity prior to any 50/50 share of net profits. There is therefore no obligation in Rose & Thistle to match the Bernstein equity until and unless needed to complete any particular project.

11. As will be set out below, Dr. Bernstein recovers investments, makes money and profits in three ways. The first way is that he receives premium interest rates on mortgage monies by receiving 8% on a first mortgage along with a 2% placement fee, and by receiving 11% on a second mortgage along with a 2% placement fee. The mortgage is a registered charge against the property and thus a secured investment. The second way is that he contributed equity pursuant to his contractual obligations to provide equity and that equity is to be paid before any profits are distributed to the Bernstein and Walton Groups as shareholders. The third way is that he received 50% of the profits from each project. As it turns out, I expect that Dr. Bernstein has or will receive a profit on all of the projects except one, as I hereinafter set out.

12. Ron and I recover investments, make money and profit in three ways as well. The first way is that we provide through the Rose & Thistle Group work and services to the project property in accordance with the pro formas provided to Dr. Bernstein in advance of a project investment by him. The second way is that we provide equity pursuant to our contractual obligations to provide equity as the project requires it and that equity is paid before any profits

are distributed to the Bernstein/Walton Groups as shareholders. The third way is that we receive 50% of the profits from each project.

13. In addition, Ron and I have the added risk of personally guaranteeing the bulk of all mortgages placed on the property currently in the total amount of approximately \$205 million.

14. There are two major phases in the development of the 34 projects between the Walton and Bernstein Groups in this period. The first phase runs from September 2010 to August 2011. In this first phase, the Walton Group identified and invited the Bernstein Group to participate in five projects. During this period, several of the projects were uniquely successful and all of the projects showed profits. Some of these projects showed very positive returns for Dr. Bernstein and the Walton Group much earlier than the expected three-year development period, and in a shorter time than indicated in the pro forma statements attached to each of the agreements.

First Phase of 2010 to 2013

15. Those projects include:

- (a) 241 Spadina, in which the Bernstein Group invested \$1.1 million in equity and provided a \$6.3 million first mortgage, purchased on September 24, 2010. By September 2012, the project was fully developed, renovated and 75% leased. It was fully leased by April 2013. As a result, Dr. Bernstein's first mortgage was repaid in full, and he receives \$6,921 per month as a return on his equity investment. This was a timely and successful project;

- (b) 18 Wynford Drive, in which the Bernstein Group invested \$2.6 million in equity and provided a first mortgage in the amount of \$9.6 million, purchased on February 1, 2011. By July 2012, approximately 20 of the approximately 103 commercial suites we purchased had been sold, giving Dr. Bernstein full repayment of his first mortgage and his equity contribution. The remaining approximately 83 units are expected to be sold through Colliers between now and the spring 2014, producing expected revenues totalling \$16.5 million and expected profits of \$3-4 million. This too was a highly profitable project and started to cash out in a shorter time period than was described in the pro forma or than was expected in light of the general three-year cycle;
- (c) the Riverdale Mansion, in which the Bernstein Group invested \$.47 million on a property purchased on June 27, 2011 and provided a \$3 million first mortgage. The original development and completion plan set out in the pro forma contemplated townhouses and condominiums in this old and valuable historically designated property. During the development, a second property became available at 875 Queen Street. A shelter for abused women and children called the "Red Door Shelter" is located at 875 Queen Street. This space is unrenovated and inadequate for the shelter's present needs. As a result of a complex negotiation, the Walton Group (with the consent of the Bernstein Group) made an agreement to rebuild the Riverdale Mansion based on a \$6.5 million payment from the Red Door Shelter. The payment is made up of \$4.5 million in cash from the Red Door Shelter and a \$2 million contribution from the Bernstein Group and the Walton Group. While this project is now a break even project, 875 Queen

Street will be redeveloped into a seven or eight-storey condominium building which will be sold to a developer in its raw state, who will take on the obligation of building the condominium. The Walton Group has calculated that the Queen Street property will achieve profits of approximately \$2 million. In the interim, Dr. Bernstein has insisted that the first mortgage on Riverdale be paid immediately. The Walton Group met with Firm Capital yesterday and they have agreed to replace the Bernstein mortgage with a new mortgage closing in November 2013;

- (d) the Liberty Village property (municipally known as 32 Atlantic Ave) involved an equity investment by Dr. Bernstein of \$2.25 million, a first mortgage in the amount of \$6.8 million and a \$4.5million construction facility. By approximately August 2012, the first mortgage and the construction facility were fully repaid, the property was fully leased and Dr. Bernstein receives \$12,500 per month return on equity. This was a highly successful project which enhanced the trust that Dr. Bernstein had in the Walton Group and led to intense business activity in 2012 and 2013; and
- (e) the 47 Jefferson property (adjacent to the Atlantic Ave. properties) involved an equity investment by Dr. Bernstein in the amount of \$.396 million and a first mortgage of \$2 million at an 8% interest rate plus a 2% placement fee. The property consists of a 7,000 sq.ft. warehouse on 8,000 sq.ft. of land. Rose & Thistle has obtained rezoning for a 25,000 sq.ft. commercial building. The property is now ready for sale. I have asked Dr. Bernstein to consent to the listing of the property of \$3.5 million with Colliers and in aid of that project provided

Dr. Bernstein with a Colliers valuation justifying the listing price. I have yet to hear back from Dr. Bernstein. In the interim, Dr. Bernstein has insisted that the first mortgages on Jefferson be paid immediately. The Walton Group met with Firm Capital yesterday and they have agreed to replace the Bernstein mortgage with a new mortgage closing in November 2013.

Second Phase of 2010 to 2013

16. The second phase of the investment arrangements between the Bernstein Group and the Walton Group commenced in January 2012. Four properties were purchased in that month and one property was purchased in April 2012.

17. The first was Hwy 7 in which Dr. Bernstein made an equity investment of \$2.3 million. This project involved the purchase of a commercial-industrial building containing 225,000 sq.ft. With minimal difficulty and renovation through Rose & Thistle's leasing of the previously vacant space, the building was almost immediately cash flow positive and provides to Dr. Bernstein a monthly return on equity of \$7,408. From a timing and unique opportunity perspective, this, too, was an unusual exception which the Walton Group identified and brought to fruition to the benefit of the Walton Group and Bernstein Group.

18. The second was 14 Trent Street, in which the Bernstein Group invested \$1.2 million in equity. This is currently a bingo hall which is being rezoned and developed into a 13-storey condominium building. It has been sold conditionally, waiting only upon the completion of the final rezoning. It too is a highly successful project which I hope will be brought to fruition in less than the time period indicated in the pro forma and less than the usual three-year period for a project of this nature.

19. The third was St. Clair Avenue, in which the Bernstein Group invested \$1.2 million in equity and provided a second mortgage in the amount of \$240,000 at 12% interest and with a 1% mortgage placement fee. That project is being developed into 21 townhouses and two detached houses. The Walton Group has achieved rezoning and refinancing. As a result, Dr. Bernstein's second mortgage has been fully repaid. The necessary one-year construction period is tracking to begin in Spring of 2014 and to be completed in the Spring of 2015. Construction financing has been arranged through an institutional construction lender. The Walton Group presently expects at least a \$.5 million profit.

20. The fourth project is Tisdale Mews, purchased by Dr. Bernstein on January 11, 2012, in which the Bernstein Group ultimately invested \$1.7 million in equity and provided a \$3.5 million mortgage at 8% interest with a 2% mortgage placement fee. That mortgage has been repaid. The property has been sold pending site plan approval to be obtained by the Walton Group. It is expected that site plan approval will be received in the Spring of 2014. This is the only project in the 34 properties in which the Bernstein Group is involved that is expected to suffer a loss. The loss is approximately \$300,000.

21. The fifth project is 1131 and 1131A Leslie Street, purchased on April 24, 2012, in which the Bernstein Group invested \$1.4 million in equity. 1131 Leslie has been sold for a profit of approximately \$.5 million. An offer to purchase for 1131A Leslie is being negotiated which if accepted would result in a profit of at least \$.5 million. The total profit from the project will be approximately \$1 million after the equity infusions of the Bernstein and Walton Groups have been repaid.

22. The sixth project is 1003 Queen Street (at Pape), purchased on June 7, 2012, in which the Bernstein Group invested \$.8 million in equity and provided a first mortgage in the amount of \$.4 million. This project was an abandoned condominium development. The Walton Group has re-established its physical integrity and is moving to complete the project of ten residential and two retail units. The project will be completed in the Fall of 2014 and sales are expected to be completed in early 2015. The expected profit ranges from \$.1 million to \$.5 million after all equity infusions have been repaid.

23. The seventh project involves the 875 Queen Street property and the neighbouring property at 887 Queen Street. The Walton Group was put in touch with the Red Door Shelter which itself had its facility situated in the old Woodgreen United Church. The United Church sold the property to The Red Door Shelter and the City of Toronto was to provide financing to renovate the shelter so it could permanently continue a 106-bed facility. With the election of our current Mayor, the financing for the shelter did not materialize. The Walton Group made a complex arrangement to buy Queen Street on behalf of the Red Door Shelter and to develop the Riverdale Mansion as set out above and give the Red Door Shelter a permanent new home. Once that has been completed, the Red Door Shelter will move permanently so that the Queen Street site which includes the entire block bounded by Queen, Logan, Booth and a laneway can be developed into a mid-rise seven-storey residential condominium complex. The first two storeys have been pre-sold for \$13 million. The entire project will then be sold as is to a builder/developer. The project is presently listed for sale and has been the subject of strong market interest. The expected profit after repayment of all equity infusions is at least \$2 million.

24. By this time, the Bernstein Group's confidence in the Walton Group had increased. At this point Dr. Bernstein indicated that he would like to focus his investments on

equity in the projects as opposed to the combination of equity and mortgages. This led to an intense phase of development where in the period from September 4 to 15, 2012, nine properties were purchased whereby the Bernstein Group infused equity in the approximate amount of \$45.5 million. Three of the projects had equity infusions of \$6.5 million, \$11.12 million and \$16.5 million, respectively. Three of the projects were purchased on September 4; three of the projects were purchased on September 13 and the remaining projects were purchased on September 28, October 4 and November 15, respectively. The Walton and Bernstein Groups were also active in 2013. Six new projects were purchased: two on February 14, one on March 14, two on April 10 and 11 and one on June 27, notably three weeks after the Bernstein complaint letter dealing with their concerns about accounting.

25. The eighth project is 1500 Don Mills (Donalda), which comprises a 235,000 sq.ft. commercial building on 5.5 acres of land. The Walton Group bought the project for \$43 million in which the Bernstein Group invested \$11.21 million in equity on September 4, 2012. The commercial building has approximately 14 tenants, producing an annual net income of \$2.9 million. The Walton Group has retained architects, lawyers, surveyors, planners, retail specialists, marketing specialists and zoning consultants and has developed a plan which has been presented to the municipal authorities. The project for the 5.5 acres has been provisionally approved. To the 235,000 sq.ft. commercial building we have obtained approval to add a 130,000 sq.ft. retail complex. This was a much larger success than had been contemplated in the pro forma and by the equity investors. The project has gone from having an end value of \$72 million to an end value of \$146 million. The costs have risen from \$58 million to \$100 million. If the Walton/Bernstein Groups were able to complete the project, it would show profits of approximately \$46 million. The increased construction costs require more financing

than originally contemplated. The Walton Group managed exceptional financing terms from OTERA, the Ontario investing arm of the Quebec Pension Fund known as the Caisse de Depot. A mortgage was obtained in the amount of \$31 million at 3.85% for ten years. The present market rate is approximately 5%. As a result of the rents and the highly attractive financing, the property remains cash flow positive to the shareholders providing \$16,000 per month to Dr. Bernstein as a return on equity. The disputes that have arisen between the Bernstein Group and Walton Group require that this project be sold once it has been developed. We are presently in preliminary discussions, and expect to sell the entire project by the Spring of 2014 in the approximate amount of between \$51 million and \$58 million. In these circumstances the equity investors will share \$1 million to \$8 million in net profits.

26. The ninth project is 1485 Dupont which is a 90,000 sq.ft., three storey, environmentally contaminated industrial building on approximately three quarters of an acre, in which the Bernstein Group has invested \$2.7 million in equity and was purchased on September 4, 2012. The property is partially tenanted and producing net rental income. The plan is to “gut renovate” the entire building and operating systems and remediate the contaminated site. This work is underway and will be completed in two years for an estimated profit of \$1 million. One tenant is an art school which has directed the renovation of the first floor and will be the lead tenant, attracting other art related/ media, studio space. Rezoning has already been provisionally obtained for the art school.

27. The tenth project is 1450 Don Mills, in which the Bernstein Group invested \$6.5 million in equity, purchased on September 4, 2012. The building is a 165,000 sq.ft., three storey commercial office building situated on 4.8 acres of land. It is being leased by the National Post until April 2014. The Walton Group is searching for a new commercial tenant in this highly

attractive location. Rezoning has been provisionally obtained for retail space in the existing parking lots. 1450 Don Mills is physically adjacent to part of 1500 Don Mills, mentioned above. The 1450 Don Mills property has the advantage of providing temporary parking to the 1500 Don Mills development if needed and also provides extra retail space to be part of the 1500 Don Mills project. The project is expected to enjoy a profit of approximately \$1-2 million.

28. The eleventh property is 140 Queen's Plate Drive, in which the Bernstein Group invested \$1.65 million in equity for a property purchased on September 13, 2012. This property interrelates with the property known as Cityview, hereinafter discussed. The property is a 5.25 acre site which was formerly an apple orchard at the corners of Rexdale/Hwy 7/Queen's Plate Drive. The property has been rezoned and is in the final stages of site plan approval for two different projects. 1.3 acres is being sold to the Toronto Fire Department for \$1.65 million. The second parcel of approximately 4 acres has been leased to a private school called MPS Etobicoke. The Walton Group is committed to building a 44,000 sq.ft. school, a 15,000 sq.ft. day care and playing fields. It is expected that the project will provide a profit of approximately \$1-2 million.

29. The twelfth project is 1, 9 and 11 Cityview Drive, in which the Bernstein Group has invested \$.99 million in equity and a first mortgage of \$4 million at 8% with a 2% mortgage placement fee and a second mortgage of \$650,000 at 11% with a 2% mortgage replacement fee on property purchased on September 13, 2012. This project was one six acre parcel of land which has now been severed into two parcels with severance to be effected in November 2013. The parcel at 1 Cityview was a 26,000 sq.ft. industrial building which was designed built for the temporary use of MPS Etobicoke, the private school mentioned above. Once the Queen's Plate Drive property has been built, the MPS Etobicoke will move into the new facility and 1 Cityview

will be sold to a school or other appropriate user. A \$2.8 million mortgage has been arranged on the 1 Cityview property to partially pay out Dr. Bernstein's mortgage. The second parcel is a 50,000 sq.ft. industrial space which has been sold for \$3.2 million. That deal is expected to close, and the severance will be final next month. The \$3.2 million that will be generated will go to pay off a contractor payment to the company that renovated the building for MPS Etobicoke and to pay off a portion of the Bernstein Group's mortgage. Once the new \$2.8 million mortgage and the sale proceeds have been received, the money available will pay out Dr. Bernstein's mortgages and all other costs. This property is currently in controversy as Dr. Bernstein will not approve the \$2.8 million mortgage and insists on payment of full mortgage proceeds prior to the sale and new mortgage being completed. The Bernstein mortgage was due in September and will presently be paid in November if Dr. Bernstein cooperates in what I hope will be a commercially reasonable manner.

30. The thirteenth project is 355 Weston Road, in which the Bernstein Group invested \$2.1 million in equity for a property purchased on September 13, 2012. This is an environmentally contaminated 100,000 sq.ft. industrial building solidly built in the 1980s. It has been a disappointment in that the Walton Group has arranged for environmental remediation and, pending completion, sought to lease the property. There was little market interest. As a result, the Walton Group put the property up for sale. An offer is currently being negotiated. Dr. Bernstein has agreed to sell at \$6.8 million dollars to an active vendor who has offered \$6.6 million. If this property is sold for \$6.8 million, it will produce an estimated profit of \$.4 million.

31. The fourteenth project is 65 Heward Avenue (Double Rose), in which the Bernstein Group invested \$3.332 million in equity and a \$6.5 million mortgage at 8% and a 2%

placement fee. The property consists of three buildings: two 10,000 sq.ft. film studios with 10,000 sq.ft. of ancillary wardrobe, catering, makeup and storage area; a 25,000 sq.ft. heritage building; and a 25,000 sq.ft. general office building. The ground water is environmentally contaminated and bugs have been contracted to eat vinyl chloride in the water. They are busily at work in approximately 40 separate wells dug for that purpose and are being heated to increase productivity. The Walton Group are seeking new long term permanent tenants. The expectation is that approximately \$2.5 million in net profit to the equity owners will be achieved.

32. The fifteenth property is 7, 15 and 30 Fraser Avenue, in which the Bernstein Group invested \$16.5 million in equity for properties purchased on October 4, 2012. The first parcel, municipally known as 30 Fraser, is just north of the Canada Bread Plant site and part of the Liberty Village community. The land was vacant when purchased and was converted to a parking lot, presently producing \$10,000 per month. The property has been provisionally rezoned to construct a 75,000 sq.ft. commercial facility. The second parcel is made up of 7 and 15 Fraser. 7 Fraser is presently used for a bait shop, live/work studios and storage. 15 Fraser is a unique complex in that it has such municipally useful facilities as a mock jail, police station, mock courtroom and torture chamber. It is rented out as a film studio. This site is provisionally rezoned to build a 550,000 sq.ft. commercial structure. The historically listed existing structure will form part of the new structure when completed. As a result of this dispute, the Walton Group has changed the plan and is seeking to sell both parcels. Had the project been completed, it would have produced a profit of approximately \$40 million. The sale is expected to produce a profit of approximately \$7 million. Development is very active on properties on both sides of 30 Fraser, rendering it to be sold at a premium. In aid of the proposed sale of these properties, Colliers has provided a valuation of both parcels of land in the amounts of \$4.5 million and \$33

million respectively. This valuation has been delivered to Dr. Bernstein along with a request that they be listed for sale with Colliers.

33. The sixteenth property is 0 Trent (Salmon River), in which the Bernstein Group has invested \$.398 million in equity and a \$.39 million mortgage at an 8% mortgage, plus a 2% placement fee. The property at 0 Trent is a “clean” property. The Walton Group owns the adjacent property (without the participation of Dr. Bernstein) at 2 Kelvin, which notionally consists of two parcels: one being environmentally contaminated and the second being “clean”. The proposal is to sever the “clean” portion of 2 Kelvin and add it to 0 Trent. It has been conditionally approved. The “clean” part of Kelvin will be joined with the clean lot at Trent and is being developed to be either sold as vacant land or a designed build facility. The contaminated portion of Kelvin will be reclaimed and a lessee has shown interest in the site.

34. The seventeenth property is 115-119 Skyway Boulevard and 30-34 Meridian Road, in which the Bernstein Group has made an equity investment in the amount \$.75 million and provided a mortgage in the amount of \$2.8 million at 8% with a 2% placement fee for a property purchased on February 14, 2013. This is a two acre parcel of land which has been severed into two parcels, subject to the completion of certain conditions which are expected to be finalized before the end of 2013. The two severed parcels have been sold subject to the completion of the conditions for a profit of \$.1-.3 million.

35. The eighteenth property is 295 the West Mall, a complex of 1.5 acres, consisting of a 90,000 sq.ft. building in ten storeys and a Keg Restaurant of 8,800 sq.ft. and below ground and above ground parking. The property was purchased for \$15.5 million and produces a net income of \$1.1 million. The proposal is to strata title the Keg Restaurant property and lease it to

a new owner. The Bernstein Group has invested \$4.17 million in equity. It is proposed that the parcels will be sold once the strata title has been effected, producing a profit of approximately \$.5-1 million.

36. The nineteenth property is Royal Gate, a property at Hwy 27 south of Hwy 7. It originally consisted of a 410,000 sq.ft. industrial facility on 16 acres. Since buying the property, the Walton Group has severed it into two parcels: a three acre parcel having a 75,000 sq.ft. building which has been sold, and a 320,000 sq.ft. building on 13 acres which has been appraised at \$26.25 million and is presently on the market for sale. The first parcel was sold for \$5.2 million closing yesterday. It is expected that the remaining parcel will be sold by the first quarter of 2014, providing a profit in excess of \$4 million. This is a highly successful profit in less than one year.

37. The twentieth property is 14 Dewhurst Boulevard, in which the Bernstein Group has invested \$1.4 million in equity. The property is a 21,000 sq.ft. former church on half of an acre of land, just north of the Danforth. The Walton Group rezoned the property for a daycare facility and contracted to design and build a facility for Kids & Co. It would have been a facility that the Walton Group wished to retain over the long term, but due to the present dispute it will be sold once the construction is completed, presently scheduled to be January 2015. The expected profit is \$.5-1 million.

38. The twenty first property is 153 Eddystone Place, which is a property purchased on April 11, 2013 in which the Bernstein Group invested \$1.58 million in equity. The property consisted of a 44,000 sq.ft. industrial space sitting on 1.5 acres. It has been provisionally rezoned as institutional/office. 30,000 sq.ft. have been leased to The Griffin Centre, a non-profit

organization caring for mentally challenged youth and adults. The Walton Group is presently negotiating a lease with Community Living Toronto for the remaining 14,000 sq.ft.. That organization provides service compatible with those services provided by The Griffin Centre. The Walton Group has agreed to design and build out the facility for occupancy in early 2014. Environmentally contaminated soils have been remediated. The building will be sold at an expected profit of \$.5-1 million.

39. The twenty second property is 620 Richmond Street West and 165 Bathurst Street, purchased on June 27, 2013, in which the Bernstein Group invested approximately \$3.8 million in equity. The property consists of a 60,000 sq.ft. heritage building sitting on 10,000 sq.ft. of land and has six storeys at the corner of Richmond and Bathurst. The building will be renovated and leased with two levels of retail and four levels of commercial usage. It is expected that the building will produce a profit of \$2 million.

Conclusions and Overview - Regarding 27 Projects

40. With respect to all 27 projects described above in paragraphs 15 to 39 there is a dynamic and complex series of steps being taken involving the approximately 40 permanent employees at Rose & Thistle and an additional 20-40 occasional employees engaged in administration, supervision, management, maintenance, construction and related activities. There are also approximately 40 third party different companies and professional groups involved in providing services to the Rose & Thistle projects. The company is deeply engaged with the real estate community including sales agents, mortgage brokers, leasing companies, financial institutions, surveyors, architects, planners, trades, suppliers and construction contractors. The success of the 27 projects described above and the other 21 properties owned exclusively by the Walton Group depends upon the confidence that all of these interrelated

players have in the Group. Any major intervention in the various projects that interferes with the Walton Group's ability to develop and finance its projects will have a negative domino impact upon the entire Group.

Accounting, Cooperation and Answers to Problems Raised

41. I now will give evidence about three areas of significance in this application and motion, as follows:

- (a) the accounting issues first arose as Rose & Thistle expanded its portfolio of properties in the years 2011/2012/2013. The ability of Rose & Thistle to give timely and accurate accounting information was severely constrained by the computer program that Rose & Thistle was using up to this year. When Dr. Bernstein rightly complained about a lack of accounting information in June 2013, Rose & Thistle was unable to give him the required accounting information in a timely way because of the volume of activity, the fact that inputting was not up to date, and the inadequacy of the accounting software. I will give evidence explaining the details of this problem and the corrections that were already underway in June 2013. My regret in this regard was not giving the Bernstein Group a full explanation of the issue in June 2013 and leaving the matter until September 2013 when this proceeding was commenced;
- (b) the second issue is the positive evidence of portfolio success and the dynamic environment, the personal stake that Ron and I had in the Bernstein/Walton portfolio of properties through personal guarantees, the cooperation that has occurred among the Bernstein Group, the Walton Group and the Inspector since

October 4, 2013; the attempts by the Walton Group to repay any monies which were used outside the Bernstein portfolio by refinancing 30 and 30A Hazelton; the Walton Group's proposal to Dr. Bernstein to answer one of his complaints about unequal equity infusions and the negative impact of Dr. Bernstein's request for Certificates of Pending Litigation for properties that are not part of the Bernstein Group of properties; and

- (c) an explanation of a series of individual concerns, namely allegations of contempt of court regarding usual course payments after October 4, 2013, the Riverdale credit note, the 355 Weston Road offer to sell, the Tisdale payments, the 140 Queen's Plate mortgage and the two \$3 million loans on the Don Mills properties.

A. The Accounting Issue

42. I have described the growth of the Bernstein-Walton projects in the period 2010 to 2013 in paragraphs 15 to 39. These projects include 27 different properties in which the Bernstein Group provided equity investments and sometimes a mortgage investment as described and 21 other projects owned by the Walton Group alone. I have also described in general terms the activity needed to bring these projects to financial and developmental fruition. I think it fair to say that this much development activity was as challenging as it was successful. Rose & Thistle increased its employee numbers in this period so that there are presently 40 full-time employees and 20 to 40 occasional weekly employees. I have also described the number of professional and construction firms retained by Rose & Thistle to manage all the activities within the real estate portfolio.

43. Rose & Thistle used and continues to use an accounting system called Quickbooks. Two things occurred in the time of great growth from 2010 to 2013 that indicated Rose & Thistle needed a new and more robust accounting system. First is that the accounting system and its ability to give accurate reports on so much activity fell behind as my attention and that of my employees concentrated on growth rather than on the accounting function and inputting data. The second is the actual system itself. Beginning in the Spring of 2013, my husband Ron commenced his search for a more robust accounting software system. In the end, he identified two appropriate systems and we have now chosen and purchased the Voyageur Accounting Program at a capital cost of \$100,000 and an average monthly fee of \$3,000 to \$4,000. This system is sophisticated and suitable for an enterprise the size of Rose & Thistle. It is in place and is tracking to be operational by the end of 2013 when all the historical inputs will be complete. It will permit real time financial reports combining all receipts and disbursements related to a particular property in one place without having to draw from a number of different sources and files, as has been necessary to date.

44. I deeply regret that I was unable to give Dr. Bernstein up to date accounting in June 2013 or in September 2013 and more importantly that I did not simply tell him of this accounting problem. To some extent I am the author of my own problems now before the Court by trying to pretend that the accounting system in place was adequate and up-to-date to maintain Dr. Bernstein's confidence in the financial reporting side of the business. This was a mistake. The lack of accurate reporting has combined with other matters dealt with below to cause concern. The evidence set out below is my explanation of my problems and my plan to ensure that none of these issues arise while the Bernstein/Walton portfolio of properties is developed and sold or at all.

B. Positive Aspects of the Relationship: Cooperation

45. It appears to be uncontroverted that the Bernstein/Walton portfolio of properties has done well and continues to perform at a high level. This has been accomplished in part because the Walton Group has the freedom to make proposals to and involve Dr. Bernstein when he is in funds. Other projects are purchased by the Walton Group alone. This method of proceeding allows the real estate group to be managed in a dynamic and efficient manner. The Walton Group is seeking investment opportunities, providing financing, developing and managing properties, and giving overall guidance to the successful completion of the project. While I do not wish to ignore the problems addressed below, I do wish to point out that any undue restrictions on the Walton Group's ability to operate (while completing proper reporting and protecting Dr. Bernstein's interests) will diminish my ability to make profits from the existing portfolio and to complete the outstanding projects in a timely manner.

46. Dr. Bernstein's counsel has requested Certificates of Pending Litigation on certain properties in which Dr. Bernstein has no interest. That would restrict my ability to provide the very financing and equity that Dr. Bernstein is insisting be provided. The imposition of such encumbrances will soon be recognized in the marketplace and diminish my ability to bring this portfolio to a profitable conclusion. In addition, I have taken steps (as I indicated in my Affidavit of October 3, 2013) to refinance the Walton Group properties and my personal properties. As is apparent in the e-mail exchange attached as Exhibit "C" to this my Affidavit I have refinanced the properties owned by the Walton Group, namely 30 and 30A Hazelton providing a capital sum of \$1.5 million. I informed Dr. Bernstein of this financing and that I intended to repay certain monies that were diverted from the \$6 million mortgages arrangement outside of the Bernstein Group's interests. I informed the Inspector, Dr. Bernstein and Mr.

Reitan of the contemplated refinancing proceeds and how I intended to apply them, out of courtesy and caution. Dr. Bernstein refused his consent and countered with another proposal. I accepted his proposal on certain conditions which he has yet to consent to. This is a good news story in one sense and an impediment to sensible business decisions on another. I hope overall that it augers well for a continuing series of consensual business decisions.

47. In that regard, I mark as Exhibit "D" a series of e-mail exchanges dealing with my request for the consent to sell 355 Weston Road and 1131A Leslie Street over the last week. As can be seen, the parties have come to agreements on sale prices. This does auger well for the future. At the same time, I have a positive relationship with the Inspector, and Mr. Reitan, in the day to day investigation and the day to day receipts and disbursements activities, respectively.

48. I end this part of my Affidavit by emphasizing the importance of maintaining the greatest amount of freedom to operate. I have been involved in commercial real estate for over 12 years. I had been successful in the marketplace because of my ability to move quickly to purchase properties, recognize their development potential, finance them, develop them and sell them. I have developed relationships with a large array of professionals who want my business at every level of the project. Professionals bring me properties to purchase, want to finance properties that I own and manage, and wish to sell properties which I have developed and managed. If a receiver/manager is appointed or financing impediments are placed on properties which I owned, I believe that the dynamic nature of this portfolio will suffer and in the end cause unnecessary losses. I have tried to show my willingness to work with the Inspector while at the same time operate a very complex real estate business portfolio. I have tried to cooperate with Mr. Reiten and set up systems in keeping with the Court's direction regarding signing authority and other matters. I have tried to live up to the spirit of the Court Order. I do so because it is my

duty and because it is in the interests of the real estate portfolio over which I have responsibilities. I wish to rebuild trust with the Bernstein Group or maintain sufficient controls so that they can be satisfied that their investments are being managed in an appropriate and transparent manner through their right to co-sign and receive real-time information. I therefore urge the Court and Dr. Bernstein to seek minimal requirements to protect their interests while our business relationship is wound down in the context of the above portfolio of properties.

C. Problems: An Explanation and Commitment

49. While the accounting issues stimulated Dr. Bernstein's initial concerns, other issues have plainly caused him to lose confidence in my management of the real estate portfolio such that he requires the measures that are currently in place, namely and the Inspector and co-signing authority. These protections have arisen because of my issues and I am willing and committed to making the portfolio profitable while working with these new limitations. While I recognize I must continue to have these limitations in some form, I do not wish to add any further impediments as I address the past concerns and commit to no further repetition of the concerns raised.

50. The first issue relates to two \$3 million mortgages on the Don Mills properties. This should not have been done without Dr. Bernstein's consent. An explanation (as opposed to an excuse) is that I arranged one \$3 million mortgage to be placed on 1450 Don Mills Road along with a second fail safe mortgage also to be registered against 1450 Don Mills because Dr. Bernstein needed a repayment of \$2 million of equity by July 31st to facilitate a personal property purchase he was making and I wanted to ensure I had it available. While I do not raise this personal matter as an excuse, it is part of the factual matrix which affects my decision to close the Don Mills mortgages that I was out of the office for one month beginning May 7 until June 5.

Upon my return, I was working five hour days as opposed to the usual intense work days. I am responsible for the financing of all of the Rose & Thistle Group portfolio of properties. Had I been in the office during the period May 7 to June 5, I would have arranged orderly financing and avoided any of the circumstances which I will hereinafter described. On May 7 I gave birth to my fourth child through caesarian section. I could not attend to business or the office during the four week period up to June 5, 2013. As a result, the orderly arrangement of financing was interrupted. In this context I will now describe the further steps taken in the Don Mills financing.

51. I also initiated the refinancing of St. Clair for the same purpose. In my experience mortgages sometimes do not close and I wanted to ensure I had the funds available to Dr. Bernstein. As it turned out, we were able to repay him sufficient monies from the St. Clair refinancing such that he indicated he did not need any more. The Don Mills mortgages were scheduled to close at the same time. Around the same time I recognized that the joint portfolio required cash urgently to pay some amounts owing. Rather than abandon the closing of the Don Mills mortgage and refinance one of our properties to pay the equity required, or alternatively advise Dr. Bernstein of my intent to refinance Don Mills, I closed the Don Mills mortgages that were already approved by the lender and in process and ready to close and used \$3.3 million of the \$5.5 million net proceeds to satisfy joint portfolio obligations. The monies should not have been diverted and I should have refinanced one of our Walton Group properties instead. On the other hand, the use of the \$6 million was transparent on the books and records of Rose & Thistle and in the recipient enterprises. The Walton Group has considerable equity in both of these properties as does the Bernstein Group. In any final accounting no monies would have been improperly used. This is again not an excuse but required as an explanation as to what

happened. Exhibit "E" is a copy of an email exchange on September 14, 2013, in which I disclose the mortgages to Dr. Bernstein.

52. Approximately \$2.1 million of the \$6 million was used outside the Bernstein/Walton projects. I have said in my earlier evidence that I would find monies to repay this \$2.1 million and operate all of the 31 investment companies in which the Bernstein Group has an interest as separate companies and businesses unless Dr. Bernstein consents to using money from one project to benefit another project in which he has an interest. My refinancing of 30 and 30A Hazelton is my first step in bringing all of the individual companies into proper and transparent alignment.

53. Dr. Bernstein has complained that the Rose & Thistle Group has not adequately put in equity capital into the real estate projects in which the Bernstein Group has an interest. As is set out above, it was never the expectation that Rose & Thistle would match Dr. Bernstein's equity investments dollar for dollar. Dr. Bernstein was always to provide his equity first and Rose & Thistle was to provide our equity second as the project required. To the extent cash is needed, Rose & Thistle uses monies obtained from profits obtained when projects are sold. Dr. Bernstein knew of this business arrangement. In any event, he has made his complaint about an imbalance in the equity contributions as he sees it. In the face of this concern, I offered Dr. Bernstein a new arrangement whereby he would receive a financial benefit based on the differential between the Bernstein Group's equity infusion and that of the Walton Group. In exchange, Dr. Bernstein agreed to personally guarantee to us the personal guarantees we'd provided on all mortgage debt, recognizing that we were personally liable for the approximately \$205 million of mortgage debt and recognizing that we had shielded him from all personal liability from lenders. Attached as Exhibit "F" is an e-mail exchange between Mr. Reitan and

me with respect to this. I understood that this was acceptable to Dr. Bernstein and prepared six written agreements on six projects recognizing this. Dr. Bernstein has agreed with one of those new arrangements but not given me his answer on the remaining five. Whatever the result I am attempting to make the business arrangement work by being accommodating and as fair as possible to Dr. Bernstein regarding this arrangement, subject to formal agreements.

54. Dr. Bernstein's counsel has made complaint about \$268,104.57 leaving the Tisdale Mews account to pay off renovation costs at 44 Park Lane, my personal residence. However, Rose & Thistle funded 100% of the \$268,104.57 purchases before any cheques were sent out of the Tisdale Mews account. Overall, Rose & Thistle has a positive net transfer to the Tisdale Mews account of \$2,208,964, as per Exhibit "G" to the Inspector's First Interim Report dated October 21, 2013.

55. Dr. Bernstein has complained that I sent out an offer to sell 355 Weston Road for \$7 million without Dr. Bernstein's consent. Marked as Exhibit "H" to this my Affidavit is an e-mail exchange between me and Dr. Bernstein where I had understood he had consented to making the \$7 million offer.

56. Regarding Queen's Plate Drive, Dr. Bernstein has complained that he approved a \$3.27 million mortgage and I obtained a \$3.35 million mortgage, being \$80,000 greater than Dr. Bernstein's alleged consent. I had understood his approval was for the \$3.35 million mortgage so long as Rose & Thistle paid into the account the \$80,000 difference. That is what we did with the documents in respect of which are attached hereto as Exhibit "H". This was not in contempt of the Court Order as the transaction closed on October 4, 2013 and had been in the works for several weeks before closing.

57. I now recognize that Dr. Bernstein must consent to each and every transaction, properties in which he has an interest. By reason of the Court Order and agreements I certainly intend to live up to that private commitment as well as the Court Order which obliges me in any event.

58. Dr. Bernstein's counsel has alleged that I was in contempt of the Court Order of October 4 because payments over \$50,000 were made after October 4, 2013. The information that was presented to the Court was inaccurate. These payments were already sent to creditors of Rose & Thistle prior to the Order on October 4, 2013. After the Court Order, I informed all ten creditors who had cheques outstanding above \$50,000 that they would not be paid immediately and to hold them pending further advisement. I have not advised these creditors that they can cash their cheques up to this time. I also informed the Meridian Bank to stop pay these cheques out of an abundance of caution. Far from being in contempt of Court, I have tried to fully abide by the Court Order in its spirit and to the letter.

59. Dr. Bernstein's counsel has raised an issue of a \$1 million, approximately, credit note on the Riverdale property. Let me explain. The Riverdale property originally involved the construction of townhouses and condominiums in the Riverdale mansion. Considerable work was done to prepare the site for that construction. Deposits were due to trades for future work contracted. As the work was proceeding, the project was changed as set out above. The townhouse and condominium project was abandoned in favour of the Red Door Shelter for abused women and children. Rose & Thistle was owed certain monies for its work. An invoice for \$1,291,025 inclusive of HST was made. The Inspector thought the amount claimed was too high. I therefore issued a credit note and submitted a lower invoice for \$257,065.62 inclusive of HST that reflected the value of the work done by Rose & Thistle. I was not attempting to

manipulate the books and records of either of the companies but merely forgot to re-do the invoice after the plans changed. I do recognize an error in the valuation.

60. Dr. Bernstein complained that I breached the order or failed to cooperate with the Inspector because a laptop was about to be removed from the Rose & Thistle offices on October 4, 2013. No information regarding the business of Rose & Thistle or the properties in which the Bernstein Group invested or any relevant other information left the premises. That laptop computer was 13 years old and we were disposing of it. One of our occasional workers asked if he could have it and we agreed. This timing was unfortunate. The server information for the company is contained in eight server towers permanently affixed to the premises. There was therefore no improper taking of information from the premises or any breach of the Court Order. My staff and I have completely cooperated with the Inspector with respect to imaging the servers, as the Inspector will confirm and as evidenced by the Inspector's bills provided in his brief wherein he confirms the hours we spent with him the evening of October 4th and the Saturday October 5th and Sunday October 6th ensuring he obtained a full and complete image of the server. We had one of our IT employees on call to assist the Inspector's IT employees and had one of our staff on Friday night assist his IT professional image individual computers.

61. I raised concerns regarding Mr. Reitan with Dr. Bernstein in the summer of 2013. I also raised concerns regarding Mr. Reitan with the Inspector on October 4th. Prior to the October 9, 2013 appearance in chambers before Justice Newbould, the Inspector volunteered to ask Mr. Reitan not to return to the premises as we were adjusting to the new work environment. In any event since the endorsement of October 9, 2013, I have fully cooperated with Mr. Reitan and we have developed a cooperative working relationship to the benefit of both parties. In aid of fulfilling our obligations under the Court Order of October 25, 2013 and achieving co-signing

authority for the Bernstein Group, I contacted the Meridian Bank to make those arrangements. The bank advised that Mr. Reitan must be a director of any company over which he has co-signing authority. Mr. Reitan refuses to become a director of any of the relevant owner companies in which he is not yet a director. I believe Dr. Bernstein is a director on only six of the owner corporations. I trust that the Bernstein Group and the bank will find an appropriate accommodation to allow it to be a co-signer at the bank if that continues to be necessary.

Obligations and Commitments

62. I end this part of my Affidavit with evidence concerning the commitment of Ron and myself to the Bernstein/Walton properties. Ron and I have personally guaranteed \$206,057,500 of \$249,019,500 of mortgage debt across the real estate portfolio. Our good credit was necessary to arrange the financing required. While this does not attempt to justify some of the problems and mistakes set out above, it does show that we are responsible and committed to these projects in the ultimate interests of both groups. Any issues surrounding accounting or other matters will be and were always to be dealt with in the final accounting in each project. I do apologize to Dr. Bernstein for operating the portfolio without his consent from time to time. Plainly, that will never occur again as a matter of personal commitment and court order. I am sorry the Court Order was necessary.

Future Financing

63. Dr. Bernstein has called six loans and asked for repayment of the \$6 million mortgaged on the Don Mills properties. In addition, Rose & Thistle Group is required to provide more equity capital to complete the projects in which the Bernstein Group has an interest.

64. I have taken or am taking the following steps to satisfy these obligations:

- (a) As indicated above, I have remortgaged 30 and 30A Hazelton and obtained cash in the amount of \$1.5 million, \$1,072,000 of which I intend to direct to repay a portion of the \$2.1 million that was used in non-Bernstein portfolio projects;
- (b) I am working to arrange financing as set out below to pay back the remaining approximately \$4.9 million portion of the \$6 million mortgages taken out on Don Mills;
- (c) Dr. Bernstein has called his mortgage on Cityview of approximately \$4.65 million. As set out above, arrangements are in place to repay that mortgage in the month of November 2013;
- (d) Dr. Bernstein has called his mortgage on 47 Jefferson in the amount of \$2 million. I have obtained a commitment from Pencor, the same lender as on 32 Atlantic, for \$2.2 million and have sent that commitment to Dr. Bernstein for his approval. His approval has not yet been forthcoming. As a failsafe, I have also obtained yesterday a commitment from Firm Capital to provide mortgage money to repay this loan, to close in November 2013;
- (e) Dr. Bernstein has demanded that his mortgage of \$3 million on the Riverdale Mansion be repaid. I have obtained yesterday a commitment from Firm Capital to provide mortgage money to replace this loan to close in November 2013;
- (f) Dr. Bernstein has asked for repayment of his loan on a property owned exclusively by the Walton Group, namely a second mortgage on 65 Front Street

for \$2.5 million. I have obtained yesterday a commitment from Firm Capital to provide mortgage money to replace this loan, to close in November 2013;

- (g) Dr. Bernstein had called his loan on the Galloway property in the approximate amount of \$1.5 million. I am refinancing and selling properties as set out below to repay this obligation;
- (h) Dr. Bernstein has called his loan on the West Mall property in the amount of approximately \$1.9 million. I am refinancing and selling properties as set out below to repay this obligation;
- (i) Rose & Thistle provide needs to provide further equity financing in the amount of approximately \$4.5 million on the remaining parcels on which the Bernstein Group has an interest;
- (j) I want to remortgage 44 Park Lane (from which I expect to receive approximately \$4 million). I also have an offer to sell 14 College with a profit of approximately \$2.5 million, and have offer/bid dates pending for 646 Broadview, 30 and 30A Hazelton, and 252 Carlton which should produce respectively profits in the amount of \$.5 million, \$5.5 million, and \$1.5 million. That tallies \$14 million.

65. As I calculate the amounts, not including the mortgages which will be replaced by new mortgages from third party lenders, I am in need of approximately \$14 million to meet the above obligations. My present financing plans will produce approximately this amount. Also, once the Bernstein portfolio begins to sell properties as developed, as indicated in the attached Exhibit "B", I expect that the entire portfolio will be fully liquidated by the end of 2015. As the

properties are sold between now and 2015, the Rose & Thistle profits will be used as necessary to fund the later development and other costs.

66. Let me end where I began. I explained in the early development of the projects from 2001 to 2010 and the projects with Dr. Bernstein from 2010 to 2012 the method of efficiently developing properties in a priority system, which permitted time to develop and recover profits to be used in later projects as part of the business plan of Rose & Thistle and the Walton Group. As I have set out above, Dr. Bernstein understood this method of operating. On the plans set out above, I believe that this business proposition remains sound as the Walton Group has continued to develop properties with dexterity and efficiency. I am accelerating the refinancing and sale of certain properties because of the troubles, but the fundamental business propositions remain achievable.

Inspector and Meridian Bank

67. The Court required Rose & Thistle to produce the municipal addresses connected to companies which are owned by the Walton Group (but in which the Bernstein Group has no interest) and received monies from the Don Mills mortgages. Those companies and municipal addresses are as follows:

- (a) Cinderella Productions Inc. (\$42,900.00) – 1 William Morgan Road
- (b) 6195 Cedar Street Ltd. (\$200.00) – 2 Kelvin Avenue
- (c) Highland Creek Townes Inc. (\$15,100.00) – 232 Galloway Road
- (d) The Old Apothecary Building Inc. (\$17,650.00) – 66 Gerrard Street East

- (e) Atala Investments Ltd. (\$18,250.00) – 30 Hazelton Avenue
- (f) Academy Lands Ltd. (\$54,000.00) – 2454 Bayview Avenue
- (g) Gerrard House Inc. (\$2,600.00) – 26 Gerrard Street East
- (h) 1780355 Ontario Inc. (\$5,400.00) – 346 Jarvis Street
- (i) Front Church Properties Limited (\$361,750.00) – 65 Front Street East
- (j) Norma Walton (\$460,000.00) – 44 Park Lane Circle
- (k) Carlaw Corner Corp. (\$2,900.00) – 319 Carlaw Street, Suite 107
- (l) Urban King Corp. (\$91,450.00) – 231 – 235 King Street East

68. In the 4 working days since the second Order of Justice Newbould, I and my staff have given the Inspector as much information and documentation as could be reasonably be expected. My staff and I have spent the week operating the business, meeting with my lawyers to prepare an affidavit which covers the history of the company over 13 years, answered questions of the Inspector, directed my staff to meet with the Inspector at his convenience, met with lawyers and mortgage brokers regarding re-financing of the properties to meet the demands of Dr. Bernstein and his accountant, dealt with the Meridian Bank which has informed me that, because Mr. Reitan will not comply with their requests that he become an Officer of the companies in which he intends to become a co-signer of the bank accounts, they are freezing not only the Bernstein Group-related accounts, but all of the Rose and Thistle accounts (except, curiously, 8 accounts randomly selected). At 11:15 a.m. this morning, I was informed that the

Meridian Bank was only maintaining a freeze on the Bernstein related accounts. This remains a serious problem would ought not to have occurred by reason of the above.

69. In the period since the Court's Order, the Inspector has met with Mark Goldberg, EVP of Real Estate for Rose and Thistle, and spent several hours with him and received all of the documents requested. The Inspector has also met with Yvonne Liu, Project Manager, Construction and has provided to them information that has been requested, along with one construction budget. I am sending to the Inspector over the next three days all remaining budgets. The Inspector has spoken with and met with Mario Bucci, CFO of the Rose and Thistle Group and Mr. Bucci has provided to the Inspector all information requested. I have offered to the Inspector to arrange a meeting with Carlos Carreiro, former Director of Construction of Rose and Thistle but the Inspector has not done so. Steve Williams, VP of Operations has also met with the Inspector and provided what the Inspector requested.

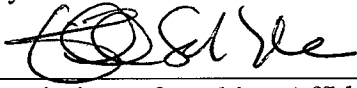
70. The Inspector has stated that they have not been provided with third party invoices, contracts, payroll records, or other contemporaneous documents. Other than the budgets that are being provided by Ms. Liu over the next 3 days, I am not aware of any request made that has not been fulfilled, as best it can be.

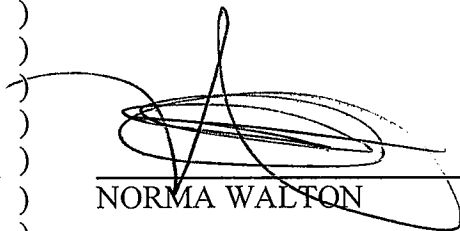
71. The Inspector keeps asking which filing cabinet he can review to obtain this information. The information he seeks can only be obtained through discussions with the staff mentioned above as all documentation is on computer and not contained in a filing cabinet.

72. As a result of the above, I believe that the Inspector has been given the kind of access to the Rose and Thistle documents that is available and reasonable under the Order of Justice Newbould. Without wishing to criticize the Inspector, I am informed that he expects to

have “physical copies of documents produced to him from a filing cabinet”. This is not the way that Rose and Thistle stores its information. Upon request being made in an orderly manner, the Inspector has and will receive information and documentation as soon as it can be retrieved and ordered in a manner that meets his request.

73. With respect to Ms. Yvonne Liu, she is the Project Manager, Construction of Rose and Thistle. She is presently managing 8 active construction projects. I believe that her answer to the Inspector is reasonable in the circumstances.

SWORN BEFORE ME at the City of)
Toronto, in the Province of Ontario, this)
31st day of October 2013.)
)
A Commissioner for taking Affidavits, etc.)
Guillermo Schible)


NORMA WALTON