

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY AND INSOLVENCY)  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*,  
RSC 1985, c. B-3, AS AMENDED**

**IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF KUK-ILL JOHN KIM**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF MYOUNG-JA MARY KIM**

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**MOTION RECORD  
(Returnable September 28, 2022)**

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September 26, 2022

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY AND INSOLVENCY)  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*,  
RSC 1985, c. B-3, AS AMENDED**

**IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF KUK-ILL JOHN KIM**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF MYOUNG-JA MARY KIM**

**I N D E X**

<b>TAB</b>	<b>DOCUMENT</b>
1	Notice of Motion
	Schedule "A" – Draft Order
2	Affidavit of Silver Stephen Kim sworn September 26, 2022
	Exhibit A - Affidavit of Silver Stephen Kim sworn April 26, 2022
	Exhibit B - Affidavit of Silver Stephen Kim sworn June 2, 2022
	Exhibit C - Affidavit of Silver Stephen Kim sworn August 2, 2022
	Exhibit D - Order of Conway J dated April 28, 2022
	Exhibit E - Order of Osborne J dated June 27, 2022
	Exhibit F - Order of Dietrich J dated August 5, 2022
	Exhibit G - Email from Fred Tayar dated September 15, 2022

# TAB 1

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY AND INSOLVENCY)  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*,  
RSC 1985, c. B-3, AS AMENDED**

**IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF KUK-ILL JOHN KIM**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF MYOUNG-JA MARY KIM**

**NOTICE OF MOTION**

Kuk-Ill John Kim and Myoung-Ja Mary Kim (collectively, the “**Debtors**”) will make a motion to a judge presiding over the Commercial List on September 28, 2022 at 10:00 a.m., or as soon after that time as the motion can be heard, by judicial video conference at Toronto, Ontario.

**PROPOSED METHOD OF HEARING:** This motion is to be heard orally via judicial video conference:

1. **THE MOTION IS FOR** an Order, substantially in the form attached hereto as **Schedule “A”**:

- (a) if necessary, abridging the time for service and filing of the notice of motion and motion record in respect of this motion, validating same such that this motion is properly returnable on the day it is heard, and dispensing with further service of same;
- (b) amending the Order of the Honourable Justice Dietrich dated August 5, 2022 (the “**DIP Approval Order**”) to replace Hillmount Capital Inc. with such other person or persons as may be later identified in a certificate to be filed by Albert Gelman Inc. in its capacity as proposal trustee for the Debtors (the “**Proposal Trustee**”);

- (c) extending the time for the filing of a proposal by the Debtors by a period of eighteen (18) days, up to and including October 18, 2022;
- (d) approving the Fourth Report of the Proposal Trustee, and the activities described therein;
- (e) approving the fees of the Proposal Trustee;
- (f) such further and other relief as counsel may advise and this Court may permit.

2. **THE GROUNDS FOR THE MOTION ARE:**

***BACKGROUND***

- (a) The Debtors are individuals resident in the City of Toronto, in the Province of Ontario, and are spouses of each other;
- (b) On April 18, 2022, the Debtors each filed notices of intention to make a proposal (“**NOI**”) under Division I, Part III of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3 (the “**BIA**”);
- (c) The Debtors’ primary business asset is the Property, which is a vacant commercial property;
- (d) The Property had been used historically to conduct a dry-cleaning business and is the subject of two court actions relating to alleged environmental contamination (the “**Environmental Litigation**”);
- (e) The Debtors’ intend to sell the Property with a commercial listing agent and to utilize the proceeds derived therefrom to make a proposal to their creditors;
- (f) On August 5, 2022, the Court approved interim financing to be provided by Hillmount Capital Inc. but the contemplated financing transaction will not be completed;

- (g) The Debtors are attempting to find an alternative lender to provide interim financing on the substantially the same terms and conditions as had been approved in the DIP Approval Order;
- (h) The Debtors continue to act in good faith and with due diligence;
- (i) The Debtors can file a viable proposal to their creditors if an extension of time is granted;
- (j) No creditor will suffer any material prejudice by the granting of an extension of time;
- (k) The Proposal Trustee supports the relief sought;
- (l) It is just and convenient to grant the relief sought by the Debtors;
- (m) *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3, as amended, including sections 50.4(9), 50.6(1) and (3);
- (n) *Rules of Civil Procedure*, RRO 1990, Reg. 194, as amended, including Rules 2.03, and 3.02.

3. **THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of this motion:

- (a) The Affidavit of Silver S. Kim, sworn September 26, 2022, and exhibits thereto;
- (b) The Fourth Report of the Proposal Trustee and the appendices thereto; and
- (c) Such further and other materials as counsel may advise and this Court may permit.

Dated: September 26, 2022

**WEIRFOULDS LLP**  
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**Lawyers for Kuk-Il John Kim and  
Myoung-Ja Mary Kim**

**SCHEDULE “A” – DRAFT ORDER**

Court File No. 31-2822607  
Estate File No. 31-2822607

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY AND INSOLVENCY)  
(COMMERCIAL LIST)**

THE HONOURABLE ) WEDNESDAY, THE 28TH  
 )  
JUSTICE OSBORNE ) DAY OF SEPTEMBER, 2022

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*,  
RSC 1985, c. B-3, AS AMENDED**

**IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF KUK-ILL JOHN KIM**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF MYOUNG-JA MARY KIM**

**ORDER  
(Extension and Amending DIP Approval Order)**

**THIS MOTION**, made by Kuk-Ill John Kim and Myoung-Ja Kim (collectively, the “**Debtors**”) for, among other things, an extension of time to file a proposal, was heard this day by judicial videoconference.

**ON READING** the Motion Record of the Debtors, including the Affidavit of Silver Stephen Kim sworn on September 26, 2022 and the exhibits thereto (the “**Silver Affidavit**”), and the fourth report of Albert Gelman Inc. (“**AGI**”) in its capacity as proposal trustee (the “**Proposal Trustee**”) dated September 27, 2022 (the “**Fourth Report**”) and the appendices thereto, including the fee affidavit of \* sworn on September 27, 2022 (the “**Fee Affidavit**”) and on hearing the submissions of counsel for the Debtors and such other counsel as were present as listed on the counsel slip, no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service of \*\*\* sworn September xx, 2022, filed:

## **SERVICE**

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and Motion Record be and is hereby abridged and validated such that this motion is properly returnable today and hereby dispenses with further service thereof.

## **AMENDING DIP APPROVAL ORDER**

2. **THIS COURT ORDERS** that the Order of the Honourable Justice Dietrich dated August 5, 2022 (the “**DIP Approval Order**”) be and is hereby amended by replacing the words “Hillmount Capital Inc.” with “such person or persons as may confirm in writing to the Debtors and to the Proposal Trustee that such person or persons agrees to provide interim financing in accordance with this Order”.

3. **THIS COURT ORDERS** that upon a person or persons agreeing to provide interim financing in accordance with paragraph 1 of this Order, the Proposal Trustee will file a certificate with this Court certifying the identity of such person or persons (“**DIP Lender Certificate**”).

4. **THIS COURT ORDERS** that upon the filing of the DIP Lender Certificate, the person or persons identified in the DIP Lender Certificate shall be deemed to be the DIP Lender within the meaning of the DIP Approval Order and shall be entitled to the benefit of the DIP Lender’s Charge, together with all of rights and protections set out in the DIP Approval Order.

## **EXTENSION OF TIME**

5. **THIS COURT ORDER** that the time for the filing of a proposal by the Debtors is hereby extended in accordance with section 50.4(9) of the Bankruptcy and Insolvency Act by a period of eighteen (18) days from September 30, 2022, up to and including October 18, 2022.

## **APPROVAL OF FOURTH REPORT AND FEES**

6. **THIS COURT ORDERS** that the Fourth Report of the Proposal Trustee, and the actions, conduct and activities of the Proposal Trustee set out therein, be and are hereby

approved, provided however that only Albert Gelman Inc., in its personal capacity and only with respect to its personal liability, shall be entitled to rely upon or utilize in any way such approval.

7. **THIS COURT ORDERS** that the fees and disbursements of the Proposal Trustee as set out in the Fee Affidavit appended to the Fourth Report be and is hereby approved, and that the Proposal Trustee is hereby authorized and directed to pay the same from available funds.

#### **GENERAL**

8. **THIS COURT ORDERS** that any interested party (including the Debtors and the Proposal Trustee) may apply to this Court to vary or amend this Order on net less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

9. **THIS COURT ORDERS** that notwithstanding Rule 59.05, this Order is effective from 12:01 a.m. on the date that it is made and is enforceable without any need for entry and filing.

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**SCHEDULE "A" – DRAFT ORDER**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
KUK-ILL JOHN KIM et. al.**

Court File No. 31-2822607  
Estate No. 31-2822607

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY AND INSOLVENCY)  
(COMMERCIAL LIST)**

Proceeding commenced at TORONTO

**ORDER  
(Extension for the Filing of the Proposal)**

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY AND INSOLVENCY)  
(COMMERCIAL LIST)**

Proceeding commenced at TORONTO

**NOTICE OF MOTION**

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**Lawyers for Kuk-Ill John Kim and Myoung-Ja Mary Kim**

# TAB 2

Court File No. 31-2822607  
Estate File No. 31-2822607

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY AND INSOLVENCY)  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*,  
RSC 1985, c. B-3, AS AMENDED**

**IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF KUK-ILL JOHN KIM**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF MYOUNG-JA MARY KIM**

**AFFIDAVIT OF SILVER STEPHEN KIM**

I, **SILVER STEPHEN KIM**, of the City of Vancouver, in the Province of British Columbia, **MAKE OATH AND SAY:**

1. I am the adult son of the debtors, Kuk-Ill John Kim and Myoung-Ja Mary Kim (the “**Debtors**”). I have been assisting my parents with the administration of this insolvency process and have been the primary contact for the Debtors’ counsel, Philip Cho at WeirFoulds LLP. As such, I have knowledge of the matters to which I hereinafter depose. Where I have been advised of matters, I identify the source of my information and belief and verily believe such matters to be true.

***Background***

2. As set out in more detail in the Affidavit of Kuk-Ill John Kim sworn on April 26, 2022 (the “**John Kim Affidavit**”), a copy of which is attached hereto without exhibits and marked as

**Exhibit “A”**, on April 18, 2022, the Debtors each filed a notice of intention to make a proposal (“**NOI**”) under Division I, Part III of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3 (the “**BIA**”). I also refer to my Affidavits sworn on June 22, 2022 (the “**First Silver Affidavit**”) and on August 2, 2022 (the “**Second Silver Affidavit**”), copies of which are attached hereto without exhibits and marked as **Exhibits “B”** and “**C**”, respectively.

3. By order of the Honourable Justice Conway dated April 28, 2022 (the “**Administration Order**”), the Debtors’ NOI proceedings were procedurally consolidated, and a super priority charge was granted in favour of the insolvency professionals (the “**Administration Charge**”) securing the amount of \$125,000. A copy of the Administration Order is attached hereto and marked as **Exhibit “D”**.

4. By order of the Honourable Justice Osborne dated June 27, 2022 (the “**Extension Order**”), the time for the Debtors to file a proposal was extended to, and including, August 16, 2022. A copy of the Extension Order is attached hereto and marked as **Exhibit “E”**.

5. By order of the Honourable Justice Dietrich dated August 5, 2022 (the “**DIP Approval Order**”), the time for the Debtors to file a proposal was further extended to, and including, September 30, 2022. In addition, the DIP Approval Order approved interim financing to be provided by Hillmount Capital Inc. (“**Hillmount**”), secured by a DIP Lender’s Charge (as defined in the DIP Approval Order). A copy of the DIP Approval Order is attached hereto and marked as **Exhibit “F”**.

6. Albert Gelman Inc. (“**AGI**”) is the proposal trustee (the “**Proposal Trustee**”) in respect of these NOI proceedings.

7. The Debtors' sole asset is a piece of commercial property municipally known as 385 Spadina Road, Toronto, Ontario (the "**Property**"), which had been historically used to operate a dry-cleaning business. However, the Property is presently vacant and is the subject of certain environmental litigation proceedings (the "**Environmental Litigation**") initiated by the owners of the neighbouring properties: Lee-Mar Developments Limited (the "**Lee-Mar Plaintiff**") and Bosung Investments Inc., Byoung Ok Han and Jae Yol Han (the "**Bosung Plaintiff**").

8. The Debtors filed NOIs in order to, among other things, suspend the Environmental Litigation and work to sell the Property for the benefit of creditors. Although Madam Justice Conway authorized the Debtors to enter into a listing agreement for the marketing and sale of the Property, the Debtors have not listed the Property for sale. Instead, as set out in more detail in the First Silver Affidavit, the Debtors retained Blue Frog Environmental Consulting Inc. (the "**Environmental Consultant**") and sought interim DIP financing for the purpose of funding certain environmental work and other costs and expenses that may be required to prepare the Property for sale (the "**DIP Financing**").

9. On August 5, 2022, this Court approved interim financing pursuant to a term sheet provided by Hillmount, as more particularly set out in the DIP Approval Order.

*Actions taken since August 5, 2022*

10. Following the issuance of the DIP Approval Order, counsel to the Debtors and counsel to Hillmount engaged in discussions to amend the form of Non-Disclosure Agreement ("**NDA**") that had been prepared, as described in the Second Silver Affidavit.

11. On August 18, 2022, Hillmount accepted the amended form of NDA and delivered an executed NDA to the Debtors. However, at the same time, Hillmount requested additional amounts to be paid by the Debtors prior to beginning its due diligence on the environmental information.

12. Following this request, Debtors' counsel and Hillmount's counsel had several email exchanges regarding this request for additional fees. On August 25, 2022, as I am advised by Philip Cho, partner with WeirFoulds LLP, counsel to the Debtors, Hillmount was provided with a link to a virtual data room to access the environmental documents.

13. Between August 25, 2022 and September 13, 2022, Hillmount reviewed the environmental documents, asked some questions to Debtors' counsel, which were answered by Mr. Cho. Ultimately, as I am advised by Mr. Cho, on September 13, 2022, Hillmount's counsel informed Mr. Cho that Hillmount would not provide any financing without collateral security provided on additional real property.

14. Despite efforts to engage Hillmount to reconsider its decision, on September 15, 2022, Hillmount's counsel unequivocally advised that Hillmount "will not proceed with the loan in the current circumstances in the absence of further collateral security." Attached hereto and marked as **Exhibit "G"** is a copy of the email from Fred Tayar, counsel to Hillmount to Mr. Cho.

15. Following the collapse of the interim financing transaction, Mr. Cho arranged to have a call with counsel to the Lee-Mar Plaintiff (Brendan Wong of Borden Ladner Gervais LLP) and counsel to the Bosung Plaintiff (Rafaelle Sparano of FIJ Law LLP). On September 16, 2022, Mr. Cho discussed with Messers. Wong and Sparano the possibility of one or both of their clients

providing the interim financing on the same terms as had been approved by the Court and acting as the DIP Lender pursuant to the DIP Approval Order.

16. As set out in my Second Silver Affidavit, the principal terms of the interim financing as approved by the DIP Approval Order are as follows:

- (a) Maximum principal amount of facility: \$250,000 (“**DIP Facility**”);
- (b) Lender Commitment Fee: 5% of DIP Facility;
- (c) Interest Rate: 14% per annum compounded monthly, not in advance;
- (d) Maturity: The earlier of 12 months and the completion of the sale of the Property;  
and,
- (e) Prepayment: The DIP Facility can be permanently repaid in whole or in part at any time upon 15 days written notice after at least 2 months’ interest payments have been paid.

17. These discussions with the Environmental Litigation plaintiffs are still ongoing.

18. The Debtors are also exploring other possibilities to arrange for the necessary interim financing on substantially the same terms as approved in the DIP Approval Order.

19. If the Debtors cannot arrange for satisfactory interim financing, it may be that the Debtors will have to list the Property for sale on an “as is” basis without fulsome information about the status of the environmental condition of the Property. I understand that this will make the Property less attractive to potential purchasers.

20. The Debtors are therefore proposing an amendment to the DIP Approval Order such that if an alternative lender can be identified (whether the Environmental Litigation plaintiffs or another person), and provided that the alternative lender is satisfactory to the Proposal Trustee, then that alternative lender could be substituted as the DIP Lender within the meaning of the DIP Approval Order.

21. In this way, the Debtors will not be required to make a further motion to the Court as this matter has already been unfortunately delayed and the costs have been higher than expected for various reasons as has been described.

***Extension of Time***

22. The Debtors continue to act in good faith and with due diligence with respect to the NOI proceedings. The DIP Approval Order extended the time by which the Debtors must file a proposal to September 30, 2022. Presently, the Debtors are not in a position to put a proposal to its creditors and requires additional time to identify an alternative lender to act as the DIP Lender, complete the financing transaction, and then to instruct the Environmental Consultant to commence its work described in the First Silver Affidavit.

23. It may be that the work to be undertaken by the Environmental Consultant will commence after a Proposal is filed by the Debtors given that, as I am advised by Mr. Cho, the time to file a Proposal can only be extended to October 18, 2022 due to limitations under the *BIA*.

24. As such, the Debtors require a further extension of time to file a proposal up to and including October 18, 2022. The Debtors believe that they will be able to make a viable proposal if a further extension of time is granted.

25. The Proposal Trustee has been kept apprised of the matters as they have developed, and I understand will deliver its report to the Court recommending the granting of the relief sought.

**SWORN** remotely by **SILVER STEPHEN KIM** stated as being in the City of Vancouver, in the Province of British Columbia before me at the City of Toronto in the Province of Ontario, on September 26, 2022, in accordance with O. Reg 431/20, Administering an Oath or Declaration Remotely.

DocuSigned by:



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Commissioner for Taking Affidavits etc.

DocuSigned by:



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**SILVER STEPHEN KIM**

This is **Exhibit “A”** to the Affidavit of Silver Stephen Kim sworn remotely on this 26<sup>th</sup> day of September 2022.

DocuSigned by:



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A Commissioner for taking Affidavits, etc.

Dalal Hjjih  
(LSO #136719)

Court File No. 31-2822607

Estate File No. 31-2822607

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY AND INSOLVENCY)  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*,  
RSC 1985, c. B-3, AS AMENDED**

**IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF KUK-ILL JOHN KIM**

**AFFIDAVIT OF KUK-IL JOHN KIM**

I, **KUK-IL JOHN KIM**, of the City of Toronto, in the Province of Ontario,

**MAKE OATH AND SAY:**

1. I am an individual resident in the Province of Ontario. On April 18, 2022, I filed a notice of intention to make a proposal (“NOI”) under Division I, Part III of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3 (the “*BIA*”).

2. That same day, my wife, Myoung-Ja Mary Kim (“**Mary**”), also filed a NOI under Division I, Part III of the *BIA*. Mary is also resident in the Province of Ontario. I will use “we” and “our” to refer to Mary and myself throughout this Affidavit.

3. Albert Gelman Inc. (“**AGI**”) has agreed to act as proposal trustee in respect of the proceedings commenced by the NOIs filed by Mary and me (the “**Proposal Trustee**” and the “**NOI Proceedings**”). Copies of the certificates of filing NOIs are attached as **Exhibit “1”** and “**2**”.

***BACKGROUND***

4. Our sole asset is a piece of commercial property municipally known as 385 Spadina Road, Toronto, Ontario (the “**Property**”). For the reasons that I will explain below, the Property is presently vacant.

5. Historically the Property was used to conduct a dry-cleaning business. From June 1989, Mary and I operated a dry-cleaning business at the Property, until we sold the business in February 2003. Prior to June 1989, other parties operated a dry-cleaning business at the Property.

6. Initially we leased the ground floor premises to operate the dry-cleaning business from the prior owner of the Property. In February 1994, we purchased the Property.

7. In February 2003, we sold the dry-cleaning business to another proprietor and leased the Property to this proprietor until about January 31, 2013. However, this proprietor ultimately filed for bankruptcy. Since January 31, 2013, the Property has remained vacant due to allegations of environmental contamination originating from the Property.

8. To the best of our knowledge, there are no orders issued in respect of the Property in relation to the alleged environmental contamination.

9. On July 10, 2009, Lee-Mar Developments Limited issued a Statement of Claim against us, among others, bearing Court File No. CV-09-380882 (the “**Lee-Mar Action**”, and together with the Bosung Action, the “**Environmental Litigation**”), in which the Plaintiff, which is the registered owner of a property located near our Property, makes similar allegations as alleged in the Bosung Action. A copy of the Statement of Claim in the Lee-Mar Action is attached hereto

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and marked as **Exhibit “3”**. A copy of the Statement of Defence and Crossclaim in the Lee-Mar Action is attached hereto and marked as **Exhibit “4”**.

10. On November 17, 2014, Bosung Investments Inc., Byoung Ok Han and Jae Yol Han commenced an action bearing Court File No. CV-14-00516260-0000 (the “**Bosung Action**”) against us, and others, in which the Plaintiffs, who are the registered owners of a property located near our Property, allege, among other things, that the dry-cleaning business operated from the Property caused chemicals to migrate onto its property. A copy of the Statement of Claim in the Bosung Action is attached hereto and marked as **Exhibit “5”**. A copy of our Statement of Defence and Crossclaim is attached hereto and marked as **Exhibit “6”**.

11. As a result of the Environmental Litigation, we have not leased the Property due to the potential liability that may be attributable to any person in possession of the Property while the Environmental Litigation remains outstanding.

12. Professional fees associated with defending the Environmental Litigation have been funded through a series of personal loans provided by our daughter’s now ex-husband, Mr. Jussi Westergreen. However, neither Mr. Westergreen or our daughter are prepared to continue advancing funds to continue defending the Environmental Litigation.

13. As a result, we have decided to commence these NOI Proceedings to make a formal proposal under the BIA. We intend to sell the Property with a commercial real estate listing agent, and then to utilize the proceeds of sale to fund a proposal to our creditors.

***KNOWN CREDITORS***

14. The known creditors of Mary and me are:

- 4 -

- (a) Hyon-Cheong Sally Westergren, our daughter, who took an assignment of a promissory note in favour of her former spouse, Jussi Westergren;
- (b) Willms & Shier Environmental Lawyers LLP for unpaid legal accounts; and,
- (c) City of Toronto for unpaid property taxes in relation to the Property.

15. We also note that the plaintiffs in the Environmental Litigation have contingent claims against us. In all cases, the debts and liabilities are joint between Mary and me.

16. Registered on title to the Property is a charge in favour of Laurentian Trust of Canada Inc. in trust for Self-Directed RRSP 710467 in the amount of \$70,000, registered on June 26, 1997 (the “**Laurentian Charge**”), a copy of which is attached as **Exhibit “7”**. We had not realized that this Laurentian Charge remained on title to the Property until we were advised in relation to the NOI Proceedings.

17. We are in the process of obtaining information about the status of the Laurentian Charge but at the time of this affidavit, we only know, based on advice from our lawyers at WeirFoulds LLP, that Laurentian Trust of Canada is now operating as B2B Bank. We believe that this Laurentian Charge should be discharged because we no longer hold any RRSPs as they were collapsed and cashed at the time the Environmental Litigation started in or about 2009.

***PROCEDURAL CONSOLIDATION***

18. Mary and I own the Property in fee simple as joint tenants. We have always operated our commercial property business together in our individual capacities. As stated above, to the best of my knowledge, all our debts or liabilities are joint and several.

19. However, as individuals, we were required to file separate NOIs. I understand from the Proposal Trustee that without approval from the Court to consolidate the separate NOI Proceedings, then separate motions, filings, notices, and other required steps would have to be done in each NOI Proceeding.

20. As a result, we are seeking an order consolidating the administration of the NOI Proceedings. Consolidating our NOI Proceedings will be more efficient and less expensive, and will relieve us, the Court and the Proposal Trustee of the administrative burden of two separate NOI Proceedings. I believe that consolidating the NOI Proceedings will lessen the costs and impact on creditors and stakeholders and will not prejudice any person.

***ADMINISTRATION CHARGE***

21. The Property is presently vacant, and Mary and I have limited income. As a result, we are not in a position to pay the fees of our counsel and the Proposal Trustee on an ongoing basis.

22. Accordingly, Mary and I are seeking an order granting a priority charge (the “**Administration Charge**”) securing a maximum of \$125,000.00 in respect of the professional fees incurred in relation to the NOI Proceedings, including those of our counsel, the Proposal Trustee and if necessary, counsel to the Proposal Trustee. We propose that this Administration Charge have priority ahead of all creditors, including secured creditors.

23. The professionals whose fees will be secured by the Administration Charge have played and will continue to play a critical role in the NOI Proceedings. Without the security of the Administration Charge to protect the fees that will be incurred by the professionals, I understand

- 6 -

that they are not prepared to continue to act. I believe that the Administration Charge is necessary to ensure their continued participation.

24. Notice of this motion has been served on Laurentian Trust of Canada (care of B2B Bank).

25. I am advised by the Proposal Trustee and verily believe that it supports the proposed Administration Charge.

***APPROVAL OF LISTING AGREEMENT***

26. Mary and I, in consultation with our lawyers and with the Proposal Trustee, have concluded that the most effective way to realize the value of the Property and allow for a viable proposal to our creditors is to solicit a sale of the Property through a listing agreement and to market the property on the Multiple Listing Service.

27. In consultation with the Proposal Trustee, we believe that a sale of the Property by us would be more cost-effective and could attract better offers than if the Property were sold by a trustee in bankruptcy.

28. We accordingly request that this Court authorize us to enter into and perform a listing agreement with a commercial real estate broker to be determined in consultation with the Proposal Trustee, for the purpose of marketing and ultimately, entering into and completing an agreement of purchase and sale for the Property, subject to approval by this Court.

***EXTENSION OF TIME***

29. I understand that Mary and I, having filed NOIs on April 18, 2022, have until May 18, 2022 to file a proposal unless we obtain an extension of time to file a proposal prior to that date.

30. We request that this Court grant us a 45-day extension to file a proposal. We have and will continue to act in good faith and with due diligence with respect to these NOI Proceedings. I believe that this extension will give us the time we need to speak to and retain a commercial realtor, obtain an appraisal in respect of the Property, respond to any issues raised by that realtor and/or the appraisal, solicit offers with respect to the Property, and work with the Proposal Trustee on a viable proposal to present to the creditors.

31. I do not believe that any creditor will be prejudiced by the extension sought.

32. I understand that the Proposal Trustee will be filing a Report to the Court supporting our request for the relief sought.

33. I swear this Affidavit in support of the within motion and for no other or improper purpose.

**SWORN BEFORE ME** in the City of Toronto in the Province of Ontario on this 26<sup>th</sup> day of April, 2022 and having been interpreted to the deponent in my presence by **Ann Won** who took an oath before me to interpret the affidavit correctly.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits etc.

*Jae Cho, lawyer*

  
\_\_\_\_\_  
**KUK-IL JOHN KIM**

**Jae Hyon Cho**  
Barrister & Solicitor, Vaturi & Cho LLP  
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**IN THE MATTER OF THE BANKRUPTCY AND  
INSOLVENCY ACT, RSC 1985, c. B-3, AS AMENDED**

**IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF KUK-ILL JOHN KIM**

Court File No. 31-2822607  
Estate File No. 31-2822607

---

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

Proceeding commenced at TORONTO

---

**AFFIDAVIT OF KUK-ILL JOHN KIM SWORN APRIL 26, 2022**

---

**WeirFoulds LLP**  
66 Wellington Street West, Suite 4100  
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**Lawyers for Kuk-Ill John Kim and Myoung-Ja Mary Kim**

This is **Exhibit “B”** to the Affidavit of Silver Stephen Kim sworn remotely on this 26<sup>th</sup> day of September 2022.

DocuSigned by:



D5E3CE519311463

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A Commissioner for taking Affidavits, etc.

Dalal Hjjih  
(LSO #136719)

Court File No. 31-2822607  
Estate File No. 31-2822607

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY AND INSOLVENCY)  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*,  
RSC 1985, c. B-3, AS AMENDED**

**IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF KUK-ILL JOHN KIM**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF MYOUNG-JA MARY KIM**

**AFFIDAVIT OF SILVER STEPHEN KIM**

I, **SILVER STEPHEN KIM**, of the City of Vancouver, in the Province of British Columbia, **MAKE OATH AND SAY:**

1. I am the adult son of the debtors, Kuk-Ill John Kim and Myoung-Ja Mary Kim (the “**Debtors**”). I have been assisting my parents with the administration of this insolvency process and have been the primary contact for the Debtors’ counsel, Philip Cho at WeirFoulds LLP. As such, I have knowledge of the matters to which I hereinafter depose. Where I have been advised of matters, I identify the source of my information and belief and verily believe such matters to be true.

***Background***

2. As set out in more detail in the Affidavit of Kuk-Ill John Kim sworn on April 26, 2022 (the “**John Kim Affidavit**”), a copy of which is attached hereto without exhibits and marked as

**Exhibit “A”**, on April 18, 2022, the Debtors each filed a notice of intention to make a proposal (“**NOI**”) under Division I, Part III of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3 (the “**BLA**”).

3. By order of the Honourable Justice Conway dated April 28, 2022 (the “**Administration Order**”), the Debtors’ NOI proceedings were ordered to be procedurally consolidated and to continue under the within proceedings. A copy of the Administration Order is attached hereto and marked as **Exhibit “B”**.

4. Albert Gelman Inc. (“**AGI**”) was appointed proposal trustee (the “**Proposal Trustee**”) in respect of these NOI proceedings.

5. The Debtors’ sole asset is a piece of commercial property municipally known as 385 Spadina Road, Toronto, Ontario (the “**Property**”), which had been historically used to operate a dry-cleaning business. However, the Property is presently vacant and is the subject of certain environmental litigation proceedings (the “**Environmental Litigation**”) initiated by the owners of the neighbouring properties: Lee-Mar Developments Limited (the “**Lee-Mar Plaintiff**”) and Bosung Investments Inc., Byoung Ok Han and Jae Yol Han (the “**Bosung Plaintiff**”).

6. The Debtors filed NOIs in order to, among other things, suspend the Environmental Litigation and work to sell the Property for the benefit of creditors. Although Madam Justice Conway authorized the Debtors to enter into a listing agreement for the marketing and sale of the Property, for the reasons set out below, the Debtors have not yet taken this step.

*Actions taken since April 28, 2022*

7. Since the issuance of the Administration Order, the Debtors, through their counsel, have taken the following steps, described in more detail below:

- (a) Contacted and conferred with representatives from Terraprobe Inc. (“**Terraprobe**”), the environmental consultant retained by former counsel to the Debtors in the Environmental Litigation;
- (b) Consulted with, and retained, a new environmental consultant, Blue Frog Environmental Consulting Inc. (“**Blue Frog**”) to review the past reports, conduct a site inspection of the Property and recommend an action plan with a view to maximizing the sale price for the Property;
- (c) Determined that an immediate listing of the Property without having a better understanding of the nature and scope of the alleged environmental contamination would not likely generate the best price for the Property, particularly since prospective purchasers may not enter unconditional binding agreements without more information on the environmental risks;
- (d) Consulted with, and retained, a financing advisory firm, Isaacs Advisory (the “**Financing Advisor**”) to source debtor-in-possession financing to fund expenses necessary to prepare the Property for sale including, the fees of Blue Frog and a real estate appraisal;

- (e) Attended to certain matters affecting title to the Property, namely, applications to delete executions affecting title to the Property and an outstanding charge registered in favour of Laurentian Trust of Canada Inc.;
- (f) Engaged in discussions with counsel to the Lee-Mar Plaintiff and the Bosung Plaintiff to provide updates as to the steps taken by the Debtors; and,
- (g) Provided information to the Proposal Trustee with respect to the above.

*Environmental Issues*

8. On May 10, 2022, Janet Bobechko, an environmental lawyer from WeirFoulds, contacted Terraprobe to set up a time to discuss the Property and Terraprobe's past involvement. Following this contact, representatives of Terraprobe met with Debtors' counsel on May 26, 2022 over video conference to discuss the Property. During this meeting, Debtors' counsel were advised that the employees with knowledge of the actual work on the Property from Terraprobe were no longer employed. In addition, no work had been done by Terraprobe since December 2017. Terraprobe also confirmed that despite over 10 years of litigation, the parties to the litigation had not conducted comprehensive testing of the Property and no Phase 1 or Phase 2 assessment had ever been performed at the Property.

9. At the conclusion of the meeting, Terraprobe advised that due to their present volume of work, Terraprobe would have difficulty accommodating any request by the Debtors to be re-engaged for work in relation to the Property. As a result, the Debtors believe that there is no commercial benefit to re-engaging Terraprobe as the persons with historical knowledge of the

prior work are no longer employed and Terraprobe could have difficulty accommodating the Debtors' needs.

10. On June 2, 2022, WeirFoulds reached out to Blue Frog to discuss the possibility of engaging Blue Frog in relation to the Property. On June 10, 2022, Blue Frog's representative, Gerry Parrott met via video conference with Debtors' counsel to discuss the issues relating to the Property. Blue Frog confirmed that it could act and provided a scope of work for the initial phase which would include reviewing all of the environmental data, reports, and available site plans in relation to the Property in the Debtors' possession, identifying data gaps that need to be addressed, conducting a site visit, and preparing a recommended course of action. Blue Frog is aware of the insolvency proceeding and the goal of trying to sell the Property with a view to maximizing value.

11. I understand from Ms. Bobechko that Blue Frog is reputable consultant in the industry and in particular, Mr. Parrott has extensive experience dealing with similar properties in the Greater Toronto area.

12. As a result of the discussions with the environmental consultants and Debtors' counsel, the Debtors have decided that it is prudent to obtain updated and accurate information regarding any environmental contamination, and to include this information in the data available to prospective purchasers. Therefore, the Debtors have not yet engaged a listing agent for the sale of the Property.

*Need for DIP Financing*

13. Blue Frog has requested a reasonable financial retainer for its fees prior to beginning its work. The request is a reasonable one given that the Debtors are insolvent.

14. While the initial retainer requested is not significant, it is anticipated that additional work will be required including a Phase 1 and Phase 2 assessment. The Debtors are unable to finance the expenses associated with this environmental consultancy work, and other anticipated expenses, such as a real estate appraisal and perhaps some potential clean up work on the Property. In order to avoid any interruption or delay due to the inability to finance the costs of the work, on June 20, 2022, the Debtors engaged Adrian Isaacs at Isaacs Advisory to source debtor-in-possession financing.

15. The Financing Advisor has an extensive network of alternative lenders and has experience finding sources of funding in insolvency proceedings. The Financing Advisor is also aware of the urgency of the circumstances, including the limited number of extensions of time available to the Debtors under the NOI process. However, it is important to ensure that appropriate financing is in place to properly fund the work that is anticipated in order to put the Property in a position to market and sell.

16. When a potential lender has been found and a commitment letter issued to the Debtors, the Debtors will return to court for approval of the interim financing in accordance with the provisions of the *Bankruptcy and Insolvency Act*.

*Title Matters*

17. The parcel register for the Property disclosed a number of unusual encumbrances and clouds on title. The thumbnail description for the Property indicated many executions that may affect title to the Property. In addition, there was a charge in favour of Laurentian Trust registered on title with which the Debtors were not familiar. Attached hereto and marked as **Exhibit "C"** is a copy of the parcel register for the Property dated April 7, 2022.

18. Debtors' counsel investigated these issues and discovered that all but one of the executions had expired. The one execution that was not expired was in relation to a person that was not one and the same as either of the Debtors. Debtors' counsel applied to delete the executions from the thumbnail description which was registered and certified by the Land Registrar. With respect to the Laurentian Trust charge, Debtors' counsel discovered that Laurentian Trust had signed a discharge in November 2001 but for unknown reasons, the lawyer that was supposed to register the discharge did not do so. Debtors' counsel has now obtained a new discharge which was registered on June 21, 2022. Attached hereto and marked as **Exhibit "D"** is a copy of the parcel register for the Property dated June 21, 2022 which shows the thumbnail description with executions removed and the discharge registered. I understand that once the Land Registrar certifies the discharge, the Laurentian Trust charge and the discharge will both be deleted from title.

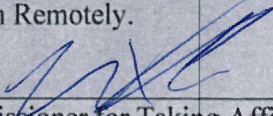
*Other matters including extension of time*

19. Throughout this period, Debtors' counsel has engaged in update calls with counsel to the Lee-Mar Plaintiff and counsel to the Bosung Plaintiff as requested from time to time. In addition, the Proposal Trustee has been kept apprised of the matters as they have developed.

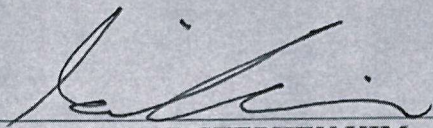
20. As such, I believe that the Debtors have acted in good faith and with due diligence with respect to the NOI proceedings. The Administration Order extended the time by which the Debtors must file a proposal to July 2, 2022. For the reasons described above, the Debtors are not in a position to put a proposal to its creditors at this time. As such, the Debtors require a further extension of time to file a proposal up to and including August 16, 2022. The Debtors believe that they will be able to make a viable proposal if a further extension of time is granted.

21. I understand that the Proposal Trustee will deliver its report and is supportive of a further extension of time.

SWORN remotely by **SILVER STEPHEN KIM** stated as being in the City of Vancouver, in the Province of British Columbia before me at the City of Toronto in the Province of Ontario, on June 22, 2022, in accordance with O. Reg 431/20, Administering an Oath or Declaration Remotely.



Commissioner for Taking Affidavits etc.



**SILVER STEPHEN KIM**

Max Skrow LSD # 79799L

**IN THE MATTER OF THE NOTICE OF INTENTION  
TO MAKE A PROPOSAL OF KUK-ILL JOHN KIM et.  
al.**

Court File No. 31-2822607  
Estate File No. 31-2822607

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

Proceeding commenced at TORONTO

**AFFIDAVIT OF SILVER STEPHEN KIM**

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Fax: 416-365-1876

**Lawyers for Kuk-Ill John Kim and Myoung-Ja Mary Kim**

This is **Exhibit “C”** to the Affidavit of Silver  
Stephen Kim sworn remotely on this 26<sup>th</sup> day of  
September 2022.

DocuSigned by:



825BDF13-0E1F-4EFE-9302-83600646521E

A Commissioner for taking Affidavits, etc.

Dalal Hjjih  
(LSO #136719)

Court File No. 31-2822607  
Estate File No. 31-2822607

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY AND INSOLVENCY)  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*,  
RSC 1985, c. B-3, AS AMENDED**

**IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF KUK-ILL JOHN KIM**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF MYOUNG-JA MARY KIM**

**AFFIDAVIT OF SILVER STEPHEN KIM**

I, **SILVER STEPHEN KIM**, of the City of Vancouver, in the Province of British Columbia, **MAKE OATH AND SAY:**

1. I am the adult son of the debtors, Kuk-Ill John Kim and Myoung-Ja Mary Kim (the “**Debtors**”). I have been assisting my parents with the administration of this insolvency process and have been the primary contact for the Debtors’ counsel, Philip Cho at WeirFoulds LLP. As such, I have knowledge of the matters to which I hereinafter depose. Where I have been advised of matters, I identify the source of my information and belief and verily believe such matters to be true.

***Background***

2. As set out in more detail in the Affidavit of Kuk-Ill John Kim sworn on April 26, 2022 (the “**John Kim Affidavit**”), a copy of which is attached hereto without exhibits and marked as

**Exhibit “A”**, on April 18, 2022, the Debtors each filed a notice of intention to make a proposal (“**NOI**”) under Division I, Part III of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3 (the “**BIA**”). I also refer to my Affidavit sworn on June 22, 2022 (the “**First Silver Affidavit**”), a copy of which is attached hereto without exhibits and marked as **Exhibit “B”**.

3. By order of the Honourable Justice Conway dated April 28, 2022 (the “**Administration Order**”), the Debtors’ NOI proceedings were procedurally consolidated, and a super priority charge was granted in favour of the insolvency professionals (the “**Administration Charge**”) securing the amount of \$125,000. A copy of the Administration Order is attached hereto and marked as **Exhibit “C”**.

4. By order of the Honourable Justice Osborne dated June 27, 2022 (the “**Extension Order**”), the time for the Debtors to file a proposal was extended to, and including, August 16, 2022. A copy of the Extension Order is attached hereto and marked as **Exhibit “D”**.

5. Albert Gelman Inc. (“**AGI**”) was appointed proposal trustee (the “**Proposal Trustee**”) in respect of these NOI proceedings.

6. The Debtors’ sole asset is a piece of commercial property municipally known as 385 Spadina Road, Toronto, Ontario (the “**Property**”), which had been historically used to operate a dry-cleaning business. However, the Property is presently vacant and is the subject of certain environmental litigation proceedings (the “**Environmental Litigation**”) initiated by the owners of the neighbouring properties: Lee-Mar Developments Limited (the “**Lee-Mar Plaintiff**”) and Bosung Investments Inc., Byoung Ok Han and Jae Yol Han (the “**Bosung Plaintiff**”).

7. The Debtors filed NOIs in order to, among other things, suspend the Environmental Litigation and work to sell the Property for the benefit of creditors. Although Madam Justice Conway authorized the Debtors to enter into a listing agreement for the marketing and sale of the Property, the Debtors have not listed the Property for sale. Instead, as set out in more detail in the First Silver Affidavit, the Debtors retained Blue Frog Environmental Consulting Inc. (the “**Environmental Consultant**”) and sought interim DIP financing for the purpose of funding certain environmental work and other costs and expenses that may be required to prepare the Property for sale (the “**DIP Financing**”).

*Actions taken since June 27, 2022*

8. Since the issuance of the Extension Order, the Debtors, through their counsel, have taken the following steps, described in more detail below:

- (a) Consulted with the former environmental consultant, Terraprobe Inc. (“**Terraprobe**”), counsel to the Lee-Mar Plaintiff (“**BLG**”) and counsel to the Bosung Plaintiff (“**FIJ Law**”) to prepare a form of Non-Disclosure Agreement to be executed by a potential DIP lender for access to view copies of confidential environmental documents (the “**Environmental Documents**”) obtained in the course of the Environmental Litigation; and,
- (b) Worked with financing advisory firm, Isaacs Advisory (the “**Financing Advisor**”) to source DIP Financing, engage in negotiations with Hillmount Capital Inc. (the “**DIP Lender**”), and finalize the terms and conditions, on which the DIP Lender would provide interim financing to the Debtors.

***Non-Disclosure Agreement***

9. Shortly after the Extension Order was issued, WeirFoulds reached out to former litigation counsel, Willms & Shier LLP, Terraprobe, BLG and FIJ Law (collectively, the “**Affected Third Parties**”) to seek consent to share the Environmental Documents with potential lenders so long as the receiving person executed a Non-Disclosure Agreement (“**NDA**”).

10. Between June 28, 2022 and July 14, 2022, WeirFoulds worked on negotiating the form of NDA that would be acceptable to such persons. By July 14, 2022, the form of NDA was finalized among the Debtors and the Affected Third Parties.

***DIP Interim Financing***

11. As set out in the First Silver Affidavit, the Debtors realized that interim funding was required to undertake certain actions that are likely to maximize the potential for sale of the Property given the allegations made in the Environmental Litigation. The Financing Advisor was engaged to source potential sources of interim financing.

12. The Financing Advisor advised that there was a lack of lenders interested in providing interim financing due to the lack of any income generated by the Property, the pre-existing environmental issues, and lower size of the potential transaction. However, the Financing Advisor was able to locate the DIP Lender who was willing to advance interim financing, subject to certain terms and conditions.

13. On June 30, 2022, we received from the Financing Advisor a letter from the DIP Lender extending a preliminary offer to provide financing subject to the terms and conditions set out in the letter. Over the following weeks, discussions, facilitated by the Financing Advisor, occurred

such that a revised letter was delivered on July 15, 2022. The Debtors signed back the letter on July 20, 2022.

14. Further discussions ensued between the Debtors' lawyers and the DIP Lender's lawyer, resulting in amendments and a newly issued letter, which was issued and signed back on July 29, 2022 (the "**Term Sheet**"). Attached hereto and marked as **Exhibit "E"** is a copy of the Term Sheet.

15. The DIP Lender is prepared to provide the Debtors with secured interim financing (the "**DIP Financing**") subject to certain conditions, including the DIP Lender receiving a super priority charge (the "**DIP Lender's Charge**"), which will be subject only to the Administration Charge. The purpose of the DIP Financing will be for (i) carrying costs of the Property, (ii) appraisal costs, (iii) environmental reports, (iv) payment of the fees and disbursements of Debtors' insolvency counsel and of the Proposal Trustee, and other reasonably necessary costs so that the Debtors can determine if the Property could be sold "as is, where is", or if remediation of the Property is necessary before sale,

16. The principal terms of the DIP Financing are as follows:

- (a) Maximum principal amount of facility: \$250,000 ("**DIP Facility**");
  - (b) Lender Commitment Fee: 5% of DIP Facility;
  - (c) Interest Rate: 14% per annum compounded monthly, not in advance;
  - (d) Maturity: The earlier of 12 months and the completion of the sale of the Property;
- and,

- (e) Prepayment: The DIP Facility can be permanently repaid in whole or in part at any time upon 15 days written notice after at least 2 months' interest payments have been paid.

17. Presently, the Property is unencumbered, and the Debtors have no secured creditors. Attached hereto and marked as **Exhibit "F"** is a copy of the Parcel Register dated June 21, 2022 showing no encumbrances on title. Attached hereto and marked as **Exhibit "G"** is a copy of the PPSR search results for each of the Debtors.

18. The terms of the DIP Financing are such that interest only is payable during the term of the loan, which may be funded from the DIP Facility. A copy of the Debtors' cashflow statements filed in these proceedings is attached and marked as **Exhibit "H"**. As set out, the Debtors have no revenue in relation to the Property, which is the reason, in part, for the DIP Financing.

19. In the circumstances, the terms of the DIP Facility are reasonable. Without the DIP Facility, the Debtors will be unable to finance the cost of the necessary environmental work recommended to be undertaken in advance of marketing the Property for sale. I believe that any attempt to sell the Property without this information will not realize appropriate value to the detriment of the unsecured creditors.

***Extension of Time***

20. The Debtors continue to act in good faith and with due diligence with respect to the NOI proceedings. The Extension Order extended the time by which the Debtors must file a proposal to August 16, 2022. Presently, the Debtors are not in a position to put a proposal to its creditors

and requires additional time to complete the DIP Financing transaction and instruct the Environmental Consultant to commence its work described in the First Silver Affidavit.

21. As such, the Debtors require a further extension of time to file a proposal up to and including September 30, 2022. The Debtors believe that they will be able to make a viable proposal if a further extension of time is granted.

22. The Proposal Trustee has been kept apprised of the matters as they have developed, and I understand will deliver its report to the Court recommending the granting of the relief sought.

**SWORN** remotely by **SILVER STEPHEN KIM** stated as being in the City of Vancouver, in the Province of British Columbia before me at the City of Toronto in the Province of Ontario, on August 2, 2022, in accordance with O. Reg 431/20, Administering an Oath or Declaration Remotely.



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Commissioner for Taking Affidavits etc.

Wojtek Jaskiewicz (LSO # 49809L)



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**SILVER STEPHEN KIM**

**IN THE MATTER OF THE NOTICE OF INTENTION  
TO MAKE A PROPOSAL OF KUK-ILL JOHN KIM et.  
al.**

Court File No. 31-2822607  
Estate File No. 31-2822607

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

Proceeding commenced at TORONTO

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**AFFIDAVIT OF SILVER STEPHEN KIM**

**WeirFoulds LLP**  
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**Philip Cho** (LSO #45615U)  
pcho@weirfoulds.com

Tel: 416-365-1110  
Fax: 416-365-1876

**Lawyers for Kuk-Ill John Kim and Myoung-Ja Mary Kim**

This is **Exhibit “D”** to the Affidavit of Silver Stephen Kim sworn remotely on this 26<sup>th</sup> day of September 2022.

DocuSigned by:



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A Commissioner for taking Affidavits, etc.

Dalal Hjjih  
(LSO #136719)

Court File No. 31-2822607  
Estate File No. 31-2822607

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY AND INSOLVENCY)  
(COMMERCIAL LIST)**

THE HONOURABLE ) THURSDAY THE 28TH  
 )  
JUSTICE CONWAY ) DAY OF APRIL, 2022

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*,  
RS C 1985, c B-3, AS AMENDED**

**IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE ARRANGEMENTS OF KUK-ILL JOHN KIM**

**ORDER**

**(Administrative Consolidation, Administration Charge and other relief)**

**THIS MOTION** made by Kuk-Ill John Kim (the “**John Kim**”) for administrative consolidation, an administration charge and other relief, was heard this day by videoconference.

**ON READING** the Motion Record of the John Kim, including the Affidavit of John Kim sworn on April 26, 2022 and the exhibits thereto, and the First Report of Albert Gelman Inc. (“**AGI**”) in its capacity as proposal trustee (the “**Proposal Trustee**”), and on hearing the submissions of counsel for John Kim and Myoung-Ja Mary Kim (“**Mary Kim**”, and together with John Kim, the “**Debtors**”) and such other counsel as were present as listed on the counsel slip, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Max Skrow sworn April 27, 2022, filed:

**SERVICE**

1. **THIS COURT ORDERS** that the time for service and filing of the notice of motion and the motion record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

**EXTENSION OF TIME**

2. **THIS COURT ORDERS** that the time for the filing of a proposal by John Kim and the time for the filing of a proposal by Mary Kim are hereby extended in accordance with section 50.4(9) of the *Bankruptcy and Insolvency Act* (the “**BIA**”) by a period of forty-five (45) days, up to and including July 2, 2022.

**ADMINISTRATIVE CONSOLIDATION**

3. **THIS COURT ORDERS** that, without prejudice to the right of any party to seek or oppose substantive consolidation in respect of any or all of the following proceedings:

- (a) In the Matter of the Notice of Intention to Make a Proposal of Kuk-Ill John Kim, Estate and Court File No. 31-2822607; and
- (b) In the Matter of the Notice of Intention to Make a Proposal of Myoung-Ja Mary Kim, Estate and Court File No. 31-2822601;

(collectively the “**NOI Proceedings**”)

the NOI Proceedings shall be procedurally consolidated and the Proposal Trustee shall be authorized and directed to administer the NOI Proceedings on a consolidated basis for all purposes in carrying out its administrative duties and other responsibilities as trustee under the BIA including, without limitation, the following:

- (a) Sending notices to creditors of the Debtors pursuant to one consolidated notice;
- (b) Calling and conducting any meetings of creditors of the Debtors pursuant to one combined advertisement and meeting;
- (c) Issuing consolidated reports in respect of the estates of the Debtors;
- (d) Preparing, filing, advertising and distributing any and all filings and/or notices relating to the administration of the estates of the Debtors on a consolidated basis; and

- (e) Bringing motions to this Honourable Court on a consolidated basis.

4. **THIS COURT ORDERS** that the single Court File Number 31-2822607 (the “**Consolidated Court File**”) and the following title of proceeding shall be assigned to the NOI Proceedings:

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*,  
RSC 1985, c. B-3, AS AMENDED**

**IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF KUK-ILL JOHN KIM**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF MYOUNG-JA MARY KIM**

5. **THIS COURT ORDERS** that a copy of this Order shall be filed by the Debtors in the court file for each of the NOI Proceedings but that any other document required to be filed in any of the NOI Proceedings shall hereafter only be required to be filed in the Consolidated Court File.

6. **THIS COURT ORDERS** that for avoidance of doubt, any motion, application or action, including the herein motion, in respect of the Debtors or any of them shall be brought and filed in the Consolidated Court File and if so brought and filed, it shall be deemed brought and filed in each of the NOI Proceedings, as appropriate, without prejudice to any rules of civil procedure or otherwise that are applicable.

7. **THIS COURT ORDERS** that the procedural consolidation of the NOI Proceedings shall not:

- (a) cause either of the Debtors to be liable for any claim for which they otherwise are not liable; or
- (b) affect the Proposal Trustee’s or a creditor’s rights to seek to disallow any claim, including on the basis that such claim is a duplicative claim.

## **ADMINISTRATION CHARGE**

8. **THIS COURT ORDERS** that the Proposal Trustee, counsel to the Proposal Trustee (if any), and counsel to the Debtors shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Debtors as part of the costs of these NOI Proceedings. The Debtors are hereby authorized but not required to pay the accounts of the Proposal Trustee, counsel to the Proposal Trustee (if any) and counsel to the Debtors on a monthly basis.

9. **THIS COURT ORDERS** that the Proposal Trustee, its legal counsel (if any) and counsel to the Debtors shall pass their accounts from time to time, and for this purpose the accounts of the Proposal Trustee and its legal counsel (if any) are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

10. **THIS COURT ORDERS** that the Proposal Trustee, counsel to the Proposal Trustee (if any) and counsel to the Debtors shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the property, municipally known as 385 Spadina Road, Toronto, Ontario (the “**Property**”), which charge shall not exceed an aggregate amount of \$125,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Proposal Trustee and such counsel, both before and after the making of this Order in respect of the NOI Proceedings.

11. **THIS COURT ORDERS** that the Administration Charge shall constitute a charge on the Property and such Administration Charge shall rank in priority to all other security interests, trusts, liens, charges, encumbrances, claims of secured creditors, statutory or otherwise.

12. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge shall not be required, and that the Administration Charge shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Administration Charge coming into existence, notwithstanding any such failure to file, register, record or perfect.

13. **THIS COURT ORDERS** that the Administration Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the

Administration Charge (collectively, the “**Chargees**”) shall not otherwise be limited or impaired in any way by: (a) the pendency of these proceedings and the declarations of insolvency made in these proceedings; (b) any application for a bankruptcy order pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of the creditors pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of encumbrances contained in any existing loan documents, lease, sublease, offer to lease to lease or other agreements (collectively, an “**Agreement**”) which binds the Debtor, and notwithstanding any provision to the contrary in any such Agreement:

- (a) The creation of the Administration Charge shall not create or be deemed to constitute a breach by the Debtors of any Agreement to which they are parties;
- (b) None of the Chargees shall have any liability to any person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Administration Charge; and
- (c) The payments made by the Debtors pursuant to this Order, and the granting of the Administration Charge, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

#### **APPROVAL OF LISTING AGREEMENT**

14. **THIS COURT ORDERS** that the Debtors (or either of them) are hereby authorized to enter into and perform a standard form listing agreement with a licensed real estate agent, with such variations as the Proposal Trustee may approve, and to do all things necessary or attendant to the same, for the purpose of listing, marketing and selling the Property.

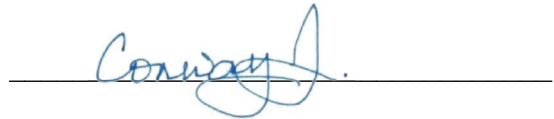
**APPROVAL OF FIRST REPORT**

15. **THIS COURT ORDERS** that the First Report of the Proposal Trustee, and the actions, conduct and activities of the Proposal Trustee as set out therein, be and are hereby approved.

**GENERAL**

16. **THIS COURT ORDERS** that any interested party (including the Debtors and the Proposal Trustee) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

17. **THIS COURT ORDERS** that notwithstanding Rule 59.05, this Order is effective from 12:01 a.m. on the date that it is made and is enforceable without any need for entry and filing.

A handwritten signature in blue ink is written over a horizontal line. The signature appears to be "Conway J." with a stylized flourish at the end.

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF KUK-ILL  
JOHN KIM**

Court File No. 31-2822607

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

Proceeding commenced at TORONTO

**ORDER**

**(Re Administrative Consolidation, Sale Approval,  
Administration Charge and Related Relief)**

**WeirFoulds LLP**

66 Wellington Street West, Suite 4100  
P.O. Box 35, Toronto-Dominion Centre  
Toronto, ON M5K 1B7

**Philip Cho** (LSO #45615U)  
pcho@weirfoulds.com

**Max Skrow** (LSO # 79799L)  
mskrow@weirfoulds.com

Tel: 416-365-1110  
Fax: 416-365-1876

**Lawyers for Kuk-Ill John Kim and Myoung-Ja Mary Kim**

This is **Exhibit “E”** to the Affidavit of Silver Stephen Kim sworn remotely on this 26<sup>th</sup> day of September 2022.

DocuSigned by:



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A Commissioner for taking Affidavits, etc.

Dalal Hjjih  
(LSO #136719)

Court File No. 31-2822607  
Estate File No. 31-2822607

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY AND INSOLVENCY)  
(COMMERCIAL LIST)**

THE HONOURABLE ) MONDAY THE 27TH  
 )  
JUSTICE OSBORNE ) DAY OF JUNE, 2022

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*,  
RSC 1985, c. B-3, AS AMENDED**

**IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF KUK-ILL JOHN KIM**

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF MYOUNG-JA MARY KIM**

**ORDER  
(Extension and approval of activities and fees)**

**THIS MOTION**, made by Kuk-Ill John Kim and Myoung-Ja Kim (collectively, the “**Debtors**”) for, among other things, an extension of time to file a proposal, was heard this day by judicial videoconference.

**ON READING** the Motion Record of the Debtors, including the Affidavit of Silver Stephen Kim sworn on June 22, 2022 and the exhibits thereto (the “**Silver Affidavit**”), and the second report of Albert Gelman Inc. (“**AGI**”) in its capacity as proposal trustee (the “**Proposal Trustee**”) dated June 22, 2022 (the “**Second Report**”) and the appendices thereto, and on hearing the submissions of counsel for the Debtors and such other counsel as were present as listed on the counsel slip, no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service of Candace Buckmire sworn June 23, 2022, filed:

**SERVICE**

1. **THIS COURT ORDERS** that the time for service and filing of the notice of motion and the motion record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

**EXTENSION OF TIME**

2. **THIS COURT ORDERS** that the time for the filing of a proposal by the Debtors is hereby extended in accordance with section 50.4(9) of the *Bankruptcy and Insolvency Act* (the “BIA”) by a period of forty-five (45) days up to and including August 16, 2022.

**APPROVAL OF REPORT AND FEES**

3. **THIS COURT ORDERS** that the Second Report of the Proposal Trustee, and the actions, conduct and activities of the Proposal Trustee as set out therein, be and are hereby approved, provided however that only AGI in its personal capacity and with respect to its personally liability shall be entitled to rely upon or utilize in any way such approval.

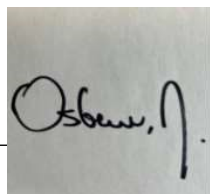
4. **THIS COURT ORDERS** that the fees and disbursements of counsel to the Debtor as set out in the fee affidavit appended to the Second Report be and are hereby approved, and that the Proposal Trustee is hereby authorized and directed to pay the same from available funds.

5. **THIS COURT ORDERS** that the fees and disbursements of the Proposal Trustee as set out in the fee affidavits appended to the Second Report be and are hereby approved, and that the Proposal Trustee is hereby authorized and directed to pay the same from available funds.

**GENERAL**

6. **THIS COURT ORDERS** that any interested party (including the Debtors and the Proposal Trustee) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

7. **THIS COURT ORDERS** that notwithstanding Rule 59.05, this Order is effective from 12:01 a.m. on the date that it is made and is enforceable without any need for entry and filing.

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**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
KUK-ILL JOHN KIM et. al.**

Court File No. 31-2822607  
Estate No. 31-2822607

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY AND INSOLVENCY)  
(COMMERCIAL LIST)**

Proceeding commenced at TORONTO

**ORDER  
(Extension and approval of activities and fees)**

**WeirFoulds LLP**  
66 Wellington Street West, Suite 4100  
P.O. Box 35, Toronto-Dominion Centre  
Toronto, ON M5K 1B7

**Philip Cho** (LSO #45615U)  
pcho@weirfoulds.com

**Max Skrow** (LSO # 79799L)  
mskrow@weirfoulds.com

Tel: 416-365-1110  
Fax: 416-365-1876

**Lawyers for Kuk-Ill John Kim and Myoung-Ja Mary Kim**

This is **Exhibit "F"** to the Affidavit of Silver Stephen Kim sworn remotely on this 26<sup>th</sup> day of September 2022.

DocuSigned by:



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A Commissioner for taking Affidavits, etc.

Dalal Hjjih  
(LSO #136719)



## **SERVICE**

1. **THIS COURT ORDERS** that the time for service and filing of the notice of motion and the motion record be and is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

## **EXTENSION OF TIME**

2. **THIS COURT ORDERS** that the time for the filing of a proposal by the Debtors is hereby extended in accordance with section 50.4(9) of the *Bankruptcy and Insolvency Act* (the “BIA”) by a period of forty-five (45) days from August 16, 2022, up to and including September 30, 2022.

## **DIP FINANCING**

3. **THIS COURT ORDERS** that the Debtors are hereby authorized and empowered to obtain and borrow under a credit facility from Hillmount Capital Inc. (the “**DIP Lender**”) provided that borrowings under such credit facility shall not exceed \$250,000 unless permitted by further order of this Court.

4. **THIS COURT ORDERS** that the DIP Facility shall substantially be on terms and subject to conditions set forth in the term sheet between the Debtors and the DIP Lender, accepted on July 29, 2022 (the “**DIP Term Sheet**”), attached as Exhibit “E” to the Silver Affidavit, subject to such minor amendments as may be acceptable to the Debtors and the DIP Lender, and approved by the Proposal Trustee.

5. **THIS COURT ORDERS** that the Debtors are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs, security documents, guarantees, and other definitive documents (collectively, the “**Definitive Documents**”), as are contemplated by the DIP Term Sheet or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Debtors are hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, costs, liabilities, and obligations to the DIP Lender under and pursuant to the DIP Term Sheet and the Definitive Documents as and

when the same become due and are to be performed, notwithstanding any other provision of this Order.

6. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the “**DIP Lender’s Charge**”) on the property, municipally known as 385 Spadina Road, Toronto, Ontario (the “**Property**”) as security for the Debtors’ obligations to the DIP Lender under the DIP Term Sheet, which obligations include, without limitation, principal, interest, costs and fees. The DIP Lender’s Charge shall not secure an obligation that exists before this Order is made. The DIP Lender’s charge shall have the priority set out in paragraphs 9 and 11 of this Order.

7. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order, the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record, or perfect the DIP Lender’s Charge or any of the Definitive Documents.

8. **THIS COURT ORDER AND DECLARES** that the DIP Lender shall be treated as unaffected in any proposal filed by the Debtors under the BIA with respect to any advances made under the Definitive Documents.

9. **THIS COURT ORDERS** that the priorities of the Administration Charge granted by this Court pursuant to the Order of Justice Conway on April 28, 2022 and the DIP Lender’s Charge (together, the “**Charges**”) as among them, shall be as follows:

- (a) First – Administration Charge (up to the maximum of \$125,000); and,
- (b) Second – DIP Lender’s Charge (up to the maximum of \$250,000).

10. **THIS COURT ORDERS** that the filing, registration, or perfection of the DIP Lender’s Charge shall not be required, and that the DIP Lender’s Charge shall be valid and enforceable for all purposes, including as against any right, title, or interest filed, registered, recorded or perfected subsequent to the DIP Lender’s Charge coming into existence, notwithstanding any such failure to file, register, record or project.

11. **THIS COURT ORDERS** that the DIP Lender’s Charge shall, subject to the Administration Charge, constitute a charge on the Property and such DIP Lender’s Charge shall

rank in priority to all other security interests, trusts, liens, charges, encumbrances, and claims of secured creditors, statutory or otherwise.

12. **THIS COURT ORDERS** that the DIP Lender's Charge shall not be rendered invalid or unenforceable and the rights and remedies of the DIP Lender shall not otherwise be limited or impaired in any way by: (a) the pendency of these proceedings and the declarations of insolvency made in these proceedings; (b) any application for a bankruptcy order pursuant to the BIA, or any bankruptcy order made pursuant to such application; (c) the bankruptcy of the Debtors, or any of them; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of encumbrances contained in any existing loan documents, lease, sublease, offer to lease or other agreements (collectively, an "**Agreement**") which bind the Debtors, or either of them, and notwithstanding any provision to the contrary in any such Agreement:

- (a) the creation of the DIP Lender's Charge shall not create or be deemed to constitute a breach by the Debtors, or either of them, of any Agreement to which they are parties;
- (b) the DIP Lender shall not have any liability to any person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the DIP Lender's Charge;
- (c) the payments made by the Debtors, or either of them, pursuant to this Order, and the granting of the DIP Lender's Charge, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

#### **APPROVAL OF THIRD REPORT**

13. **THIS COURT ORDERS** that the Third Report of the Proposal Trustee, and the actions, conduct and activities of the Proposal Trustee as set out therein, be and are hereby approved, provided, however, that only AGI in its personal capacity and with respect to its personal liability shall be entitled to rely upon or utilize in any way such approval.

**GENERAL**

14. **THIS COURT ORDERS** that any interested party (including the Debtors, the DIP Lender, and the Proposal Trustee) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

15. **THIS COURT ORDERS** that notwithstanding Rule 59.05, this Order is effective from 12:01 a.m. on the date that it is made and is enforceable without any need for entry and filing.

  
\_\_\_\_\_

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF KUK-ILL  
JOHN KIM et al.**

Court File No. 31-2822607  
Estate File No. 31-2822607

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY AND INSOLVENCY)  
(COMMERCIAL LIST)**

Proceeding commenced at TORONTO

**ORDER  
(DIP Approval and Charge)**

**WeirFoulds LLP**  
66 Wellington Street West, Suite 4100  
P.O. Box 35, Toronto-Dominion Centre  
Toronto, ON M5K 1B7

**Philip Cho** (LSO #45615U)  
pcho@weirfoulds.com

Tel: 416-365-1110  
Fax: 416-365-1876

**Lawyers for Kuk-III John Kim and Myoung-Ja Mary Kim**

This is **Exhibit “G”** to the Affidavit of Silver Stephen Kim sworn remotely on this 26<sup>th</sup> day of September 2022.

DocuSigned by:



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A Commissioner for taking Affidavits, etc.

Dalal Hjjih  
(LSO #136719)

## Margo Sabbah

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**From:** Fred Tayar <fred@fredtayar.com>  
**Sent:** September 15, 2022 5:34 PM  
**To:** Philip Cho  
**Subject:** RE: Kim's NOI - NDA Agreement

[External Message]

Philip,

I was surprised to receive this email from you moments ago.

The proposal trustee contacted me yesterday and he understands my client's position.

I do not wish to spend any more time or money for which my client will not be compensated to respond to your email.

Suffice it to say that my client disagrees with what you say. I will however respond to the last question you posed, since I gather my email yesterday was unclear to you: my client will not proceed with the loan in the current circumstances in the absence of further collateral security.

Fred

Fred Tayar  
Fred Tayar & Associates  
Professional Corporation  
65 Queen St. West  
Suite 1200  
Toronto, Ontario  
M5H 2M5

tel: (416)363-1800 x200

fax: (416)363-3356

[fred@fredtayar.com](mailto:fred@fredtayar.com)

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**IN THE MATTER OF THE NOTICE OF INTENTION  
TO MAKE A PROPOSAL OF KUK-ILL JOHN KIM et.  
al.**

Court File No. 31-2822607  
Estate File No. 31-2822607

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

Proceeding commenced at TORONTO

**AFFIDAVIT OF SILVER STEPHEN KIM**

**WeirFoulds LLP**  
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P.O. Box 35, Toronto-Dominion Centre  
Toronto, ON M5K 1B7

**Philip Cho** (LSO #45615U)  
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Fax: 416-365-1876

**Lawyers for Kuk-Ill John Kim and Myoung-Ja Mary Kim**

**IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE A PROPOSAL OF KUK-ILL JOHN KIM et. al.**

Court File No. 31-2822607  
Estate File No. 31-2822607

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY AND INSOLVENCY)  
(COMMERCIAL LIST)**

Proceeding commenced at TORONTO

**MOTION RECORD  
(Returnable September 28, 2022)**

**WeirFoulds LLP**  
66 Wellington Street West, Suite 4100  
P.O. Box 35, Toronto-Dominion Centre  
Toronto, ON M5K 1B7

**Philip Cho** (LSO #45615U)  
[pcho@weirfoulds.com](mailto:pcho@weirfoulds.com)

Tel: 416-365-1110  
Fax: 416-365-1876

**Lawyers for Kuk-Ill John Kim and Myoung-Ja Mary Kim**