

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

IN THE MATTER OF THE PROPOSAL OF
S.K. BERNSTEIN HOLDINGS INC.
IN THE CITY OF TORONTO,
IN THE PROVINCE OF ONTARIO

**MOTION RECORD OF THE COURT-APPOINTED
PROPOSAL TRUSTEE, DODICK LANDAU INC.
returnable February 12, 2021
(Proposal Approval)**

February 5, 2021

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TO: THE SERVICE LIST

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
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IN THE MATTER OF THE PROPOSAL OF
S.K. BERNSTEIN HOLDINGS INC.
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TAB 1

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

IN THE MATTER OF THE PROPOSAL OF
S.K. BERNSTEIN HOLDINGS INC.
IN THE CITY OF TORONTO,
IN THE PROVINCE OF ONTARIO

**NOTICE OF MOTION
returnable February 12, 2021
(Proposal Approval)**

Dodick Landau Inc. (“**DLI**”) in its capacity as the Court-appointed proposal trustee (in such capacity, the “**Proposal Trustee**”), in the proceedings of S.K. Bernstein Holdings Inc. (the “**Company**”) will make a motion to a judge of the Commercial List of the Superior Court of Justice on **Friday, February 12, 2021** at **11:00 a.m.** or as soon thereafter as the motion can be heard.

THE PROPOSED METHOD OF HEARING: The motion is to be heard via zoom videoconference.

THE MOTION IS FOR ORDERS:

1. Approving the proposal filed by the Company with the Official Receiver on January 11, 2021 (the “**Proposal**”); and
2. Authorizing the Proposal Trustee and the Company to take all necessary steps to implement the Proposal.

THE GROUNDS FOR THE MOTION ARE:

Background

3. The Company is a holding company of leases in various locations once occupied by diet clinics owned by the operating company, Post Road Health and Diet Inc. (“**Post Road**”). The leases were located in three provinces Ontario (12 locations), Alberta (3 locations) and British Columbia (5 locations) (collectively, the “**Leases**”);

4. The Company's financial difficulties were caused by various challenges encountered by its tenant, Post Road, including a declining number of new clients in recent years, rendering many of the diet clinics unprofitable and unable to meet their cash flow needs, and more recently, the onset of the COVID-19 pandemic, which resulted in the government mandated closure of all its clinics in late March 2020, including those whose leases were held in the Company;

5. As the Company was unable to collect rent from Post Road in light of the COVID-19 pandemic, it had no other readily available option but to assign itself into bankruptcy;

6. On May 29, 2020, the Company filed an assignment in bankruptcy and DLI was appointed as trustee ("**Bankruptcy Trustee**") of the estate of the bankrupt;

7. At the time of the bankruptcy filing, the Company's sole asset was cash on hand totalling \$890,036 and the potential provable claims totalling approximately \$2.9 million, which represented the total remaining lease payments owing to the Company's landlords for the remaining terms of the Leases;

8. The Bankruptcy Trustee, with Inspector approval, disclaimed the Leases which reduced the value of the landlords claims to approximately \$520,000;

9. After payment of all proven claims, which included payment of the Landlord Creditors' claims in full, and the bankruptcy administration expenses, it was estimated that approximately \$320,000 of residual funds ("**Residual Funds**") would be remaining in the bankrupt estate;

10. In exchange for creditors granting various releases and injunctions detailed in the Proposal, and discussed further below, the shareholder of the Company agreed to forgo receipt of the Residual Funds and agreed to contribute the Residual Funds to fund additional distributions to the Landlord Creditors;

The Proposal

11. On January 11, 2021, the Company filed with the Official Receiver a Proposal pursuant to section 62(1) of the Act and DLI was appointed as Proposal Trustee;

12. The Proposal acts as a mechanism to distribute the surplus Residual Funds to the unsecured Landlord Creditors of the Company;

13. The Proposal also provides for certain releases (the "**Releases**") in favour of:

- a) The former and current directors of the Company;
- b) The Company, the Trustee and each of their present and former employees and contractors and each of their respective financial advisors, legal counsel and agents; and
- c) Dr. Stanley K. Bernstein, Post Road and its present and former directors, officers, employees contractors, successors and assigns, and each of their respective financial advisors, legal counsel and agents, personally and in all their capacities (the “**Released Third Parties**”);

14. The Releases are an important and necessary aspect of the Proposal as the shareholder of the Company has only agreed to forego receipt of the Residual Funds and voluntarily contribute the Residual Funds to fund additional distributions to the Landlord Creditors in exchange for the Landlord Creditors agreeing to the Releases, and in particular, the releases in favour of the Released Third Parties;

15. The Releases will also provide finality to the Company and ensure that the Residual Funds can be distributed in the Proposal without a concern about any future claims against the Company;

Approval of the Proposal

16. On January 13, 2021, the Proposal Trustee gave notice to the Company, the division office and to Landlord Creditors, or their duly appointed representatives, of the calling of a meeting of creditors (the “**Creditors’ Meeting**”) to be held on January 28, 2021 via videoconference to consider the Proposal;

17. The Proposal Trustee’s Report on Proposal, included with the notice described above, noted, among other things:

- a) there are no creditors at the filing of the Proposal because all creditors, including the Landlord Creditors, were paid in full, with interest, in the bankruptcy proceedings;
- b) the Proposal provides the Landlord Creditors with the opportunity to receive a further significant distribution; and

- c) should the Proposal not be approved, the Residual Funds will likely be distributed to the Company's shareholder and there will be no further payment to the Landlord Creditors;

18. Accordingly, the Proposal Trustee recommended that the Landlord Creditors vote in favour of the Proposal;

19. The Creditors' Meeting was held on January 28, 2021 via videoconference and the Proposal was accepted by the required majority of Landlord Creditors at the meeting;

20. On February 2, 2021, the Proposal Trustee sent the Notice of Hearing of Application for Court Approval of Proposal to the Company and all known Landlord Creditors of the Company who have proved a claim to the Official Receiver;

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

- a) The Report of the Trustee on Proposal dated February 4, 2021; and
- b) Such further and other evidence as counsel may advise and this Honourable Court may permit.

February 5, 2021

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Lawyers to the Proposal Trustee, Dodick Landau Inc.

TO: THE SERVICE LIST

IN THE MATTER OF THE PROPOSAL OF S.K. BERNSTEIN HOLDINGS INC.
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

Court/Estate File No.: 31-2648369

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

Proceeding commenced at TORONTO

**NOTICE OF MOTION
returnable February 12, 2021
(Proposal Approval)**

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Lawyers to the Proposal Trustee, Dodick Landau Inc.

TAB 2

Court File No. 31-2648369
Estate File No. 32-2648369

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)

COMMERCIAL LIST

IN THE MATTER OF THE PROPOSAL OF
S.K. BERNSTEIN HOLDINGS INC.
OF THE CITY OF TORONTO
IN THE PROVINCE OF ONTARIO

REPORT OF TRUSTEE ON PROPOSAL

February 4, 2021

INTRODUCTION

1. The purpose of this report (the “**Report**”) of Dodick Landau Inc. (“**DLI**”) in its capacity as proposal trustee (the “**Proposal Trustee**”) of S.K. Bernstein Holdings Inc. (the “**Company**” or “**S.K. Bernstein**”), which includes the report in the form prescribed in section 59(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), is to support the request for an order, among other things:
 - a) approving the proposal (the “**Proposal**”); and
 - b) authorizing the Proposal Trustee and the Company to take all steps necessary to implement the Proposal.

2. The Proposal has been developed to effect a proposal for the distribution of the Residual Funds (as defined further herein) to the Landlord Creditors in accordance with proposed distribution schedule included in the Proposal.

DISCLAIMER

3. In preparing this Report, the Proposal Trustee has relied upon certain unaudited, draft and/or internal financial information, the Company’s books and records, discussions with the Company’s former management (“**Management**”), certain Landlord Creditors, the bankruptcy Trustee and information from other third-party sources (collectively, the “**Information**”). Except as described in this Report:

- a) the Proposal Trustee has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the Canadian Institute of Chartered Accountants Handbook and, accordingly, the Proposal Trustee expresses no opinion or other form of assurance in respect of the Information;
 - b) some of the information referred to in this Report consists of forecasts and projections. An examination or review of the financial forecast and projections, as outlined in the Canadian Institute of Chartered Accountants handbook, has not been performed; and
 - c) the Proposal Trustee has prepared this Report in its capacity as a Court appointed officer. Parties using this Report, other than for the purpose of evaluating the Proposal, are cautioned that it may not be appropriate for their purposes.
4. The capitalized terms not defined in this report are defined in the Proposal and this Report should only be read in conjunction with the Proposal. While this Report summarizes key aspects of the Proposal, Landlord Creditors are advised to carefully read the Proposal in full. Should there be any discrepancy between the summary contained in this Report and the Proposal, the Proposal shall govern.
5. Unless otherwise stated, all monetary amounts contained herein are in Canadian dollars.

REPORT ON PROPOSAL

6. DLI, the trustee acting in the Proposal of S.K. Bernstein, hereby reports to the Court as follows:
- a) On May 29, 2020, S.K. Bernstein filed an assignment in bankruptcy and DLI was appointed as trustee (“**Bankruptcy Trustee**”) of the estate of the bankrupt;
 - b) On January 11, 2021 S.K. Bernstein filed with the Official Receiver a Proposal pursuant to section 62(1) of the Act and named DLI as Proposal Trustee, a copy of which is attached hereto as **Appendix “A”**;
 - c) On January 13, 2021, the Proposal Trustee gave notice to the Company, the division office and to every known creditor (whose names and addresses appear in such notice) affected by the Proposal (the “**Landlord Creditors**”) or their duly appointed representative of the calling of a meeting of creditors (the “**Creditors’ Meeting**”) to be held on January 28, 2021 via video conference to consider the Proposal;

- d) With such notice was included a copy of the Proposal, proxy and voting letter, as well as the Proposal Trustee's Report on Proposal ("**Trustee's Report to Creditors**"). The Bankruptcy Trustee provided the Proposal Trustee copies of all of the Landlord Creditor proven proofs of claim. Accordingly there was no requirement for the Landlord Creditors to file another proof of claim in the Proposal. A copy of the complete notice and creditors' package ("**Creditor's Package**") is attached hereto as **Appendix "B"**;
- e) The Creditors' Meeting was held on the 28th day of January, 2021 via video conference, at 11:00 a.m., and was presided over by Mr. Rahn Dodick of the Proposal Trustee;
- f) As described further below under the heading "Creditors' Meeting", the Proposal was accepted by the required majority of Landlord Creditors at the meeting;
- g) A copy of the minutes of the Creditor's Meeting (without appendices) are attached as **Appendix "C"**;
- h) The Trustee's Report to Creditors in the Creditors' Package (Appendix "B"), included, among other things, (i) background information on S.K. Bernstein; (ii) causes of its financial difficulties; (iii) information on S.K. Bernstein's bankruptcy proceedings; (iii) a description of the Proposal, including, among other things, a description of the releases provided for in the Proposal which are discussed further herein; (iv) estimated payment available under the Proposal; and (v) alternatives to the Proposal;
- i) As noted in the Trustee's Report to Creditors, there are no creditors as at the filing of the Proposal as all creditors, including the Landlord Creditors, were paid in full with interest in the bankruptcy proceedings. The Proposal provides the Landlord Creditors with the opportunity to receive a further significant distribution. Should the Proposal not be approved, the residual funds remaining in the bankruptcy estate after payment of all proven claims ("**Residual Funds**") will likely be distributed to the Company's shareholder and there will be no further payment to the Landlord Creditors. Accordingly, the Proposal Trustee recommended that the Landlord Creditors vote in favour of the Proposal; and
- j) The Proposal Trustee forwarded a copy of the Report to the official receiver on this day.

RELEASES

7. The Proposal provides for releases (the “**Releases**”) in favour of:
 - i) the former and current directors of the Company;
 - ii) the Company, the Trustee and each of their present and former employees and contractors and each of their respective financial advisors, legal counsel and agents (all in such capacities, the “**Released Company Parties**”); and
 - iii) Dr. Stanley K. Bernstein, Post Road (together with Dr. Stanley K. Bernstein, the “**Sponsors**”) and its present and former directors, officers, employees, contractors, successors and assigns, and each of their respective financial advisors, legal counsel and agents, personally and in all their capacities (the “**Released Third Parties**”).
8. The releases in favour of directors for claims that may have arisen against those directors (in such capacity) before the commencement of proceedings under the BIA are expressly contemplated by Section 50(13) of the BIA, subject to exceptions for, among other things, misrepresentation or wrongful or oppressive conduct. The releases provided to current and former directors of the Company are consistent with Section 50(13) of the BIA.
9. The Released Company Parties are released from any claims that are connected to Landlord Creditor claims, the Bankruptcy proceedings or the Proposal, subject to exceptions for any obligations under this Proposal or Court Order implementing the Proposal or any particular debt or liability referred to in s. 178(1) of the BIA except to the extent that the person with such claim voted for acceptance of the Proposal.
10. The Released Third Parties are released from any claims of any Landlord Creditor including any claim arising under sections 95-101 of the BIA and any provincial statute related to preference, fraudulent conveyance, transfer at undervalue, or the like.
11. The Releases are an important and necessary aspect of the Proposal. The shareholder of the Company has only agreed to forego receipt of the Residual Funds and voluntarily contribute the Residual Funds to fund additional distributions to the Landlord Creditors in exchange for the Landlord Creditors agreeing to the Releases, and in particular, the releases in favour of the Released Third Parties.

12. The Releases also provide finality to the Company and ensure that the Residual Funds can be distributed in the Proposal without a concern about any future claims against the Company, whether directly or as claims against the directors or the sponsors that may result in indemnity claims against the Company, that cannot be satisfied due to the distribution of all of the Company's assets.

CREDITORS' MEETING

13. For purposes of considering, and voting on, the Proposal, and receiving a distribution pursuant to the Proposal, the creditors were grouped into one class of creditors comprised of Landlord Creditors.
14. At the Creditors' Meeting, Mr. Dodick acted as the chair (the "**Chair**") and Ms. Brenda McKnight acted as the scrutineer (the "**Scrutineer**") and secretary.
15. The Scrutineer reported that a quorum was present at the Creditors' Meeting and accordingly, the Chair declared that the Creditors' Meeting was properly constituted.
16. A motion to consider a resolution to accept the Proposal was proposed at the Creditors' Meeting (the "**Resolution**"). The Resolution tabled at the meeting was as follows:
17. "Be and it is hereby resolved to accept the Proposal of S.K. Bernstein Holdings Inc. dated December 30, 2020, and, if approved, the Proposal Trustee and S.K. Bernstein Holdings Inc. will take all necessary steps to implement the terms of the Proposal."
18. The Scrutineer tabulated the results of the vote, and the Chair reported the results at the Creditors' Meeting. The Landlord Creditors, or their proxy holders, entitled to vote at the Creditor's Meeting voted on the Resolution to approve the Proposal as follows:

	For		Against	
	#	\$	#	\$
Creditors having a voting claim voting in person, by proxy or by voting letter	3	\$85,603.93	0	NIL
Percentage of the total votes	100%	100%	0%	0%

19. In summary, a majority in number representing in excess of two-thirds in value of the Landlord Creditors holding proven claims and voting in person or by proxy at the Creditors' Meeting, or by voting letter, voted in favour of the Resolution to approve the Proposal.

APPROVAL OF THE PROPOSAL

20. The BIA requires the Proposal be approved by the Court following approval by the requisite majorities of Creditors by class. As such, the Proposal Trustee requests that the Court issue an order approving the Proposal.

NOTICE OF HEARING OF THE APPLICATION

21. On February 2, 2021, the Proposal Trustee sent the Notice of Hearing of Application for Court Approval of Proposal (Form 40.1) (the "**Notice**") to the Company and to all known Landlord Creditors of S.K Bernstein who have proved a claim and to the official receiver. Attached hereto as **Appendix "D"** is a true copy of the Affidavit of Mailing of Brenda McKnight, together with a copy of the Notice.

CONCLUSION AND RECOMMENDATION

22. The Proposal acts as a mechanism to distribute the surplus Residual Funds to the unsecured Landlord Creditors of the Company. The Proposal provides an opportunity for a further distribution to the Landlord Creditors in excess of their proven claims. If court approval is not granted, the Residual Funds will be distributed to the Company's shareholder and there will be no further payment to the Landlord Creditors. Therefore, the Proposal Trustee respectfully recommends that the Court grant an order approving the Proposal and authorizing the Proposal Trustee to take all steps necessary to implement the Proposal.

Yours very truly,

DODICK LANDAU INC.

Trustee *re* the Proposal of S.K. Bernstein Holdings Inc.
and not in its personal or corporate capacity.

Per:



Rahn Dodick, CPA, CA, CIRP, LIT

APPENDIX "A"



Industry Canada
**Office of the Superintendent
of Bankruptcy Canada**

Industrie Canada
**Bureau du surintendant
des faillites Canada**

District of Ontario
Division No. 09 - Toronto
Court No. 31-2648369
Estate No. 31-2648369

In the Matter of the Proposal of:

S.K. Bernstein Holdings Inc.
Debtor

DODICK LANDAU INC.
Licensed Insolvency Trustee

Date of Proposal:	January 08, 2021		
Date of Bankruptcy:	May 29, 2020, 08:09	Security:	\$
Meeting of Creditors:	January 28, 2021, 13:30 Zoom video conference https://zoom.us/j/96002171947?pwd=N3ZubDzrTW Toronto, Ontario Canada,		
Chair:	Trustee		

CERTIFICATE OF FILING OF A PROPOSAL BY A BANKRUPT

-- AMENDED --

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that:

- the aforementioned debtor was declared bankrupt and is presently undischarged;
- a proposal in respect of the debtor was subsequently filed under the provisions of the *Bankruptcy and Insolvency Act*.

The aforementioned trustee is required:

- to provide to me, without delay, security in the aforementioned amount;
- to send to all creditors, at least ten days prior to the meeting, a notice of a meeting of creditors, to be held at the aforementioned time and place.

Date: January 11, 2021, 07:30

E-File/Dépôt Electronique

Official Receiver

151 Yonge Street, 4th Floor, Toronto, Ontario, Canada, M5C2W7, (877)376-9902

Canada

APPENDIX "B"

DODICK LANDAU

January 13, 2021

CREDITOR PACKAGE

To the Creditors of S. K. Bernstein Holdings Inc., ("Bernstein" or the "Company")

Please be advised that on January 8, 2021, Dodick Landau Inc., ("DLI") in its capacity as Proposal Trustee (the "Proposal Trustee") of the Estate of S. K. Bernstein Holdings Inc. filed with the Official Receiver a proposal in the name, and on behalf of S. K. Bernstein Holdings Inc. (the "Proposal").

The reason you are receiving this letter and the enclosed creditor information ("Creditor Package") is because you are a proven landlord creditor of S. K. Bernstein Holdings Inc. in the bankruptcy estate currently being administered by DLI and you may now be eligible to vote in the Proposal. The purpose of the Creditor Package is to provide you with the information you require to evaluate, and vote on, the Proposal.

Enclosed in this Creditor Package are the following documents:

- 1) Notice of Proposal to Creditors;
- 2) Proposal;
- 3) Trustee's Report on Proposal;
- 4) Proxy;
- 5) Voting Letter

A Meeting of the Creditors to consider the Proposal will be held on Thursday, January 28, 2021 at 1:30 p.m. Due to physical distancing requirements, the meeting will be held by video conference. The link to the Zoom videoconference is:

<https://zoom.us/j/86002171947?pwd=N3ZubDZrTWJBS0RKN2N5Umx1eVITZz09>

Your claim amount admitted in the bankruptcy estate will also be your claim amount admitted in the proposal estate, therefore you will not be required to resubmit a new claim form in the proposal proceeding.

As the meeting is being held by video conferencing, creditors should submit their proxy, if required and voting letter in advance of the meeting. The required forms are enclosed in this package.

DODICK LANDAU

Any creditor who wishes to vote by video conference at the Meeting of Creditors may do so, however, due to the forum in which this meeting is being held, patience is required as the trustee must verify the identity of each person voting.

Completed proxies and/or voting letters, may be returned to the Trustee to the attention of Brenda McKnight by fax (416-649-7725) or electronic mail (brenda.mcknight@dodick.ca). Should you need further assistance, you may contact our office by telephone at 416-645-0542. Proxies and/or voting letters will be accepted for the purpose of the meeting and voting, up to 1:30 p.m. on January 28, 2021.

To access further information pertaining to the S. K. Bernstein Holdings Inc. proceedings, including an electronic copy of the Creditor Package, please visit the Trustee's website (<http://dodick.ca/public-documents/>).

**DODICK LANDAU INC.,
Proposal Trustee of the estate of
S. K. Bernstein Holdings Inc.
and not in its personal or
corporate capacity.**

Per:



**Rahn Dodick, CPA, CA, CIRP, LIT
President.**

NOTICE OF PROPOSAL

District of: Ontario
Division No. 09 - Toronto
Court No. 31-2648369
Estate No. 31-2648369

FORM 92
Notice of Proposal to Creditors
(Section 51 of the Act)

In the matter of the proposal of
S.K. Bernstein Holdings Inc.
of the city of Toronto, in the Province of Ontario

Take notice that S.K. Bernstein Holdings Inc. of the city of Toronto in the Province of Ontario has lodged with me a proposal under the *Bankruptcy and Insolvency Act*.

A copy of the proposal, a condensed statement of the debtor's assets, and liabilities, and a list of the creditors affected by the proposal and whose claims amount to \$250 or more are enclosed.

A general meeting of the creditors will be held on the 28th day of January 2021 at 1:30 PM at by Zoom videoconference, <https://zoom.us/j/96002171947?pwd=N3ZubDZrTWJBS09KN2N5Umx1eVlTZz09>.

The creditors or any class of creditors qualified to vote at the meeting may by resolution accept the proposal either as made or as altered or modified at the meeting. If so accepted and if approved by the court the proposal is binding on all the creditors or the class of creditors affected.

Proxies and voting letters intended to be used at the meeting may be filed at any time up until the moment a vote is called.

Dated at the city of Toronto in the Province of Ontario, this 13th day of January 2021.

Dodick Landau Inc. - Licensed Insolvency Trustee



4646 Dufferin St., Suite 6

Toronto ON M3H 5S4

Phone: (416) 645-0542 Fax: (416) 649-7725

PROPOSAL

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

**IN THE MATTER OF THE BANKRUPTCY OF S.K. BERNSTEIN HOLDINGS INC.
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

PROPOSAL

S.K. Bernstein Holdings Inc. (the "Company"), by its bankruptcy trustee, Dodick Landau Inc. ("Trustee"), hereby submits the following Proposal under Part III, Division I of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA").

ARTICLE 1 - INTERPRETATION

1.01 Definitions

In this Proposal, capitalized terms have the following meanings:

- (a) "2880" means 2880 Queen Street Centre Inc.;
- (b) "2880 Queen St. Fee" means the fee payable to 2880 for expenses payable in the facilitation of this Proposal in the amount equal to \$50,000 less the amount of its dividend as set out in the Distribution Schedule;
- (c) "Applicable Law" means, with respect to any Person, property, transaction, event or other matter, any Law relating or applicable to such Person, property, transaction, event or other matter, including, where appropriate, any interpretation of the law (or any part) by any Person, court or tribunal having jurisdiction over it, or charged with its administration or interpretation;
- (d) "Bankruptcy Proceedings" means the proceedings initiated by the Company's filing of an assignment in bankruptcy on May 29, 2020;
- (e) "Bankruptcy Distributions" has the meaning given to it in Section 1.01(a) hereof;
- (f) "BIA" means the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended;
- (g) "Business Day" means any day other than a Saturday or a Sunday or a day observed as a holiday under the laws of the Province of Ontario or the federal laws of Canada applicable therein;
- (h) "Claim" means any claim against the Company and includes any indebtedness, liability, action, cause of action, suit, debt, due, account, bond, covenant, contract, counterclaim, demand, claim, right and obligation of any nature whatsoever of the Company to any person, whether liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known or unknown, by guarantee, by surety or otherwise and whether or not such right is executory in nature, including the right or ability of any person to

advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action whether existing at present or commenced in the future based in whole or in part on facts which existed prior to or at the Filing Date but excluding Unaffected Claims;

- (i) **"Company"** has the meaning given to it in the preamble;
- (j) **"Court"** means the Ontario Superior Court of Justice (Commercial List);
- (k) **"Crown"** means Her Majesty in Right of Canada or of any Province of Canada their agents;
- (l) **"Crown Claims"** means the claims of the Crown set out in Section 60(1.1) of the BIA outstanding as at the Filing Date against the Company, if any, payment of which will be made in priority to distributions in respect of the Claims, and specifically excludes any other claims of the Crown;
- (m) **"Distribution Schedule"** means the schedule outlining the proposed distribution of Surplus Funds set out on Schedule "A" hereto;
- (n) **"Event of Default"** has the meaning given to it in ARTICLE 8 of this Proposal;
- (o) **"Filing Date"** means the date on which the Bankruptcy Proceedings were commenced;
- (p) **"Governmental Entity"** means any government, regulatory authority, governmental department, agency, commission, bureau, official, minister, Crown corporation, court, board, tribunal or dispute settlement panel or other law, rule or regulation-making organization or entity: (a) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power;
- (q) **"Landlord Affected Claims"** means the claims of any Landlord Creditor in respect of its dealings with the Company, including any Landlord Surplus Claim as well as any Claim of the Landlord Creditor under its respective lease with the Company both prior to or subsequent to the disclaimer of such lease by the Trustee, and to the extent permitted by law, any debt or liability referred to in subsection 178(1) of the BIA;
- (r) **"Landlord Creditor"** means a lessor of real property to the Company on the Filing Date;
- (s) **"Landlord Surplus Claim Methodology"** has the meaning given to it in Section 3.01 hereof;
- (t) **"Landlord Surplus Claims"** means the Surplus Claims of the Landlord Creditors listed on the Distribution Schedule;
- (u) **"Law"** means any law, statute, order, decree, consent decree, judgment, rule, regulation, ordinance or other pronouncement having the effect of law, whether in Canada or any other country, or any domestic or foreign state, county, province, city or other political subdivision or of any Governmental Entity;
- (v) **"Levy"** means and any amounts payable to the Superintendent of Bankruptcy in respect of the levy payable under the BIA in respect of either the Bankruptcy Distributions or distributions under this Proposal;
- (w) **"Meeting"** means a meeting of the Landlord Creditors of the Company called for the purpose of considering and voting in respect of this Proposal;
- (x) **"Person"** means any individual, corporation, firm, limited or unlimited liability company, general or limited partnership, association (incorporated or unincorporated), trust, unincorporated organization, joint venture, trade union, government authority or any agency, regulatory body or

officer thereof or any other entity, wherever situate or domiciled, and whether or not having legal status;

- (y) **"Post Road"** means Post Road Health & Diet Inc.;
- (z) **"Proposal"** means this Proposal made pursuant to the BIA, as may be further amended or supplemented from time to time;
- (aa) **"Proposal Approval Motion"** has the meaning given to it in Section 10.01 hereof;
- (bb) **"Proposal Approval Order"** has the meaning given to it in Section 10.02 hereof;
- (cc) **"Proposal Implementation Date"** means the date on which this Proposal is implemented as evidenced by the service of the Proposal Trustee's certificate as contemplated by Section 10.04;
- (dd) **"Proposal Implementation Time"** means [12:01am] on the Proposal Implementation Date (or such other time as the Trustee and the Sponsors may designate);
- (ee) **"Released Claims"** has the meaning given to it in Section 7.02 hereof;
- (ff) **"Released Company Claims"** has the meaning given to it in Section 7.01 hereof;
- (gg) **"Released Company Parties"** has the meaning given to it in Section 7.01 hereof;
- (hh) **"Released Parties"** has the meaning given to it in Section 7.02 hereof;
- (ii) **"Released Third Parties"** has the meaning given to it in Section 7.02 hereof;
- (jj) **"Released Third Party Claims"** has the meaning given to it in Section 7.02 hereof;
- (kk) **"Required Majority"** means the required majority of Landlord Creditors entitled to vote on the Proposal as contemplated by Section 54 of the BIA;
- (ll) **"Sponsors"** means Dr. Stanley K. Bernstein and Post Road Health & Diet Inc.;
- (mm) **"Surplus Funds"** has the meaning given to it in Section 3.02 hereof;
- (nn) **"Trustee"** has the meaning given to it in the preamble;
- (oo) **"Unaffected Claims"** means the fees and expenses of the Trustee incidental to the bankruptcy proceeding and the preparation and facilitation of the Proposal and any amendments thereto, including fees incurred by the Trustee in the administration of the Surplus Funds, and the legal fees and expenses incurred by the Trustee before and following execution, acceptance and approval of this Proposal and in connection with the bankruptcy proceeding and the preparation of this Proposal, as well as advice to the Company in connection therewith; and
- (pp) **"Unaffected Creditor"** means a Person holding one or more Unaffected Claims in respect of and to the extent of such Unaffected Claim.

1.02 Headings

The division of this Proposal, into parts, paragraphs and subparagraphs, and the insertion of headings, is for convenience only and is not to affect the construction or interpretation of this Proposal.

1.03 Business Days

In the event that any date on which any action is required to be taken hereunder is not a Business Day, such action will be required to be taken on the next succeeding day that is a Business Day.

1.04 Inclusiveness

The words "includes" and "including" and similar terms of inclusion shall not, unless expressly modified by the words "only" or "solely", be construed as terms of limitation, but rather shall mean "includes but is not limited to" and "including but not limited to", so that references to included matters shall be regarded as illustrative without being either characterizing or exhaustive.

1.05 Successors and Assigns

This Proposal will be binding upon and will enure to the benefit of all persons named or referred to herein including all Landlord Creditors and their heirs, estate administrators, personal representatives, successors and assigns as the case may be.

ARTICLE 2 - PURPOSE AND EFFECT OF THIS PROPOSAL

2.01 Purpose

The purpose of this Proposal is to effect a proposal for the distribution of the Surplus Funds to holders of Landlord Surplus Claims in accordance with the Distribution Schedule subject to the terms and conditions set out herein.

2.02 Persons Affected

At the Proposal Implementation Time, this Proposal will become effective on and, subject to the fulfillment by the Company and Sponsors of their obligations hereunder, shall be binding on the Company and Sponsors, their directors and officers, and the Landlord Creditors.

2.03 Effect of Proposal Implementation

Effective on the Proposal Implementation Time, the Company and the Sponsors shall thereupon release all claims to the Surplus Funds, and all Landlord Affected Claims and Released Third Party Claims shall be discharged, and the Company and Released Third Parties shall thereupon be released from all Landlord Affected Claims and Released Third Party Claims, other than the obligation to make payment and provide other consideration in the manner and to the extent described in this Proposal or as otherwise described.

2.04 Unaffected Claims

Unaffected Claims will not be affected by this Proposal and are to continue in the ordinary course under their present arrangements unless otherwise agreed to by an Unaffected Creditor.

ARTICLE 3 – DETERMINATION OF LANDLORD SURPLUS CLAIMS AND DISTRIBUTION OF SURPLUS FUNDS

3.01 Determination of Landlord Surplus Claim Amounts

Landlord Surplus Claim amounts have been calculated by the Trustee based on the Landlord Creditors' estimated pro rata percentage of their proven claims in the Bankruptcy Proceedings (the "Landlord Surplus Claim Methodology").

The allowed amount of each Landlord Surplus Claim and their estimated pro rata percentage for distribution is set out on the Distribution Schedule.

3.02 Determination of Surplus Funds

The determination of the amount of funds available for distribution on account of Landlord Surplus Claims (the "Surplus Funds") shall be the funds remaining in the estate of the Company after payment of or reservation for:

- (a) Distributions to be made by the Trustee in the Bankruptcy Proceedings on account of proven claims including any Landlord Affected Claims other than Landlord Surplus Claims and Crown Claims (the "Bankruptcy Distributions");
- (b) the estimated amount of the Levy and Unaffected Claims; and
- (c) the 2880 Queen St. Fee.

3.03 Distribution of Surplus Funds

Within 10 days of the Proposal Implementation Date, the Trustee shall (a) distribute the Surplus Funds in on a pro rata basis in accordance with the Distribution Schedule; and (b) pay the 2880 Queen St. Fee to 2880 or as it may direct.

ARTICLE 4- VOTING ON THE PROPOSAL

4.01 For the purpose of voting on the Proposal, there shall be one class of comprised of Landlord Creditors in respect of Landlord Surplus Claims.

4.02 For greater certainty, no other Person shall be entitled to vote on this Proposal and Landlord Creditors shall only be entitled to vote on account of their Landlord Surplus Claims.

ARTICLE 5- CLAIMS AGAINST DIRECTORS

5.01 In accordance with Section 50(13) of the BIA, effective on receipt of the Proposal Approval Order, the Proposal shall be deemed, for all purposes whatsoever, to constitute the complete compromise, release and discharge of all claims, of any nature or source whatsoever, of all Landlord against any director of the Company, which arose before the Filing Date and which relate to obligations of the Company where such director is by law liable in its capacity as director for payment of such obligations, provided however that nothing in this Section 5.01 shall release or discharge or be deemed to have released or discharged any claims against the director that cannot be released or discharged pursuant to Section 50(14) of the BIA, and any such claim against a current or former director of the Company is permitted recourse, and sole recourse, to the Surplus Funds.

ARTICLE 6 - PREFERENCES, TRANSFERS AT UNDER VALUE, ETC.

6.01 In conformity with Section 101.1 of the BIA, Sections 95-101 of the BIA and any provincial statute related to preference, fraudulent conveyance, transfer at undervalue, or the like shall not apply to this Proposal.

6.02 In addition, Sections 95-101 of the BIA and any provincial statute related to preference, fraudulent conveyance, transfer at undervalue, or the like, and all of the rights, remedies, recourses and claims described therein:

- (a) shall be completely unavailable to the Trustee or any Landlord Creditors against the Company, any of the Company's assets or property or any other Person whatsoever; and
- (b) the Trustee and all of the Landlord Creditors shall be deemed, for all purposes whatsoever, to have irrevocably and unconditionally waived and renounced such rights, remedies and recourses and any claims based thereon against the Company, the Company's assets and property or any other Persons.

ARTICLE 7- RELEASES

7.01 Company Release

At the Proposal Implementation Time, the Company, the Trustee and each of their present and former employees and contractors and each of their respective financial advisors, legal counsel and agents (all in such capacities herein referred to as the "**Released Company Parties**") shall be released and discharged from any and all rights and claims of any Person against a Released Company Party ("**Released Company Claims**"), including any Landlord Affected Claim and any claim arising under sections 95-101 of the BIA and any provincial statute related to preference, fraudulent conveyance, transfer at undervalue, or the like, whether or not any such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present or future, known or unknown, where such right or claim is based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place (x) on or prior to the Proposal Implementation Date, or (y) after the Proposal Implementation Date in furtherance of the Proposal and that is in any way relating to, arising out of, or in connection with: (i) Landlord Affected Claims; (ii) the Bankruptcy Proceedings; or (iii) this Proposal; provided, however, that nothing in this Section 7.01 will release or discharge the Company of, or from, any obligation under this Proposal or Order implementing this Proposal or any particular debt or liability referred to in s. 178(1) except to the extent that the Person voted for the acceptance of this Proposal.

7.02 Third Party Release

At the Proposal Implementation Time, the Sponsors, their present and former directors, officers, employees, contractors, successors and assigns, and each of their respective financial advisors, legal counsel and agents, personally and in all their capacities (the "**Released Third Parties**", and together with the Released Company Parties, the "**Released Parties**") shall be released and discharged from any rights and claims of any Landlord Creditor against a Released Third Party that are connected to, arise from or are otherwise in respect of any Landlord Affected Claim, including any claim arising under sections 95-101 of the BIA and any provincial statute related to preference, fraudulent conveyance, transfer at undervalue, or the like ("**Released Third Party Claims**", and together with the Released Company Claims, the "**Released Claims**").

7.03 Injunctions

All Landlord Creditors are permanently and forever barred, estopped, stayed and enjoined, on and after the Proposal Implementation Time, with respect to any and all Released Claims, from

- (a) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits, demands or other proceedings of any nature or kind whatsoever against the Released Parties, as applicable;
- (b) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, decree or order against the Released Parties;

- (c) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any lien or encumbrance of any kind against the Released Parties or their property; or
- (d) taking any actions to interfere with the implementation or consummation of this Proposal; provided, however, that the foregoing shall not apply to the enforcement of any obligations under this Proposal.

For greater certainty, each Landlord Creditor agrees not to make or join in any claim or demand or to take any proceedings whatsoever against any Person that does or could result in a claim over against any or all of the Released Parties for any form of contribution, indemnity or other relief over, whether arising at law, equity or under the provisions of the BIA or otherwise, in respect of, by reason of or in any way related to Released Claims, and the Landlord Creditors hereby irrevocably release and consent to an order dismissing any such action to the extent of such claim over, and, irrevocably authorizes each of the Released Parties to endorse a consent to such an order.

7.04 Timing of Releases and Injunctions

All releases and injunctions set forth in this Article shall become effective on the Proposal Implementation Date.

7.05 Knowledge of Claims

Each Person to which Sections 7.01 and 7.02 hereof applies shall be deemed to have granted the releases set forth in Sections 7.01 and 7.02 notwithstanding that it may hereafter discover facts in addition to, or different from, those which it now knows or believes to be true, and without regard to the subsequent discovery or existence of such different or additional facts, and such party expressly waives any and all rights that it may have under any Applicable Law which would limit the effect of such releases to those claims, including claims or causes of action known or suspected to exist at the time of the granting of the release.

ARTICLE 8 - EVENT OF DEFAULT

8.01 The responsibility of the Company under this Proposal shall be deemed to be satisfied at the Plan Implementation Time, and the payment of amounts under ARTICLE 3 within ten (10) Business Days of the date on which such payment is due shall be the responsibility of the Trustee, and will not constitute an event of default by the Company for the purposes of Section 62.1 of the BIA or otherwise under this Proposal.

ARTICLE 9– TRUSTEE

9.01 Dodick Landau Inc. is acting in its capacity as Trustee, and not in its personal capacity, and shall not incur any personal liabilities or obligations in connection with this Proposal or in respect of the business, liabilities, obligations of the Company, whether existing as at the Filing Date or incurred subsequent thereto.

ARTICLE 10 - COURT APPROVAL, CONDITIONS PRECEDENT AND IMPLEMENTATION

10.01 Application for Approval Order

Each of the Landlord Creditors, Equity Holders and the Official Receiver (as defined in and appointed under the BIA) are hereby given notice that, after acceptance of this Proposal by the requisite majority of

Landlord Creditors in accordance with the relevant provisions of the BIA, the Proposal Trustee will present a motion (the **"Proposal Approval Motion"**) to the Court seeking the Proposal Approval Order on [• 2020] at • o'clock a.m. or soon thereafter.

10.02 Proposal Approval Order

The order approving the Proposal (the **"Proposal Approval Order"**) shall be in form and substance satisfactory to the Released Parties and, among other things, declare that:

- (a) The Landlord Surplus Claim Methodology is approved;
- (b) this Proposal is fair and reasonable;
- (c) this Proposal has been approved pursuant to Section 60 of the BIA and will be binding and effective as herein set out on the Company, all Landlord Creditors and any other Person to the extent provided for in this Proposal or in the Proposal Approval Order;
- (d) grant to the Trustee in addition to its rights and obligations under the BIA and any other Court Order, the powers, duties and protections contemplated by and required under the Proposal;
- (e) the commencement or prosecution, whether directly, indirectly, derivatively or otherwise, of any demands, claims, actions, counterclaims, suits, judgment, or other remedy or recovery as described in Section 7.03 hereof shall be permanently enjoined; and
- (f) compromise, discharge and release the Released Parties from any and all claims of any nature in accordance with the Proposal, and declare that the ability of any Person to proceed against the Released Parties in respect of or relating to any such claims shall be forever discharged and restrained, and all proceedings with respect to, in connection with or relating to such claims be permanently stayed.

10.03 Conditions to Implementation

The implementation of this Proposal shall be conditional upon the fulfillment, satisfaction or waiver (to the extent permitted by this Proposal) of the following conditions:

- (a) The Trustee shall have made the Bankruptcy Distributions and set aside sufficient funds in respect of the Levy and the Unaffected Claims;
- (b) the Proposal shall have been approved by the Required Majority at the Meeting;
- (c) the Court shall have granted the Proposal Approval Order, the operation and effect of which shall not have been stayed, reversed or amended, or in the event of an appeal or application for leave to appeal, final determination shall have been made by the applicable appellate court;
- (d) no Applicable Law shall have been passed and become effective, the effect of which makes the consummation of this Proposal illegal or otherwise prohibited;
- (e) all documents necessary to give effect to all material provisions of this Proposal shall have been executed and/or delivered by all relevant Persons; and
- (f) all required stakeholder, regulatory and Court approvals, consents, waivers and filings shall have been obtained or made, as applicable, and, in the case of waiting or

suspensory periods, such waiting or suspensory periods shall have expired or been terminated.

10.04 Proposal Trustee's Certificate of Proposal Implementation

Upon written notice from the Trustee that the conditions to implementation set out in Section 10.03 have been satisfied or waived, the Proposal Trustee shall, as soon as possible following receipt of such written notice, serve on the service list in the Bankruptcy Proceedings, and file with the Court, a certificate which states that all conditions precedent set out in Section 10.03 have been satisfied or waived and that the Proposal Implementation Date has occurred or will occur on a future date specified in the certificate.

ARTICLE 11 - MISCELLANEOUS

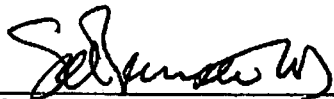
11.01 On receipt of the Proposal Approval Order, all Landlord Creditors will be deemed to have consented and agreed to all of the provisions of this Proposal in its entirety, including the terms of the Proposal Approval Order. For greater certainty, each such Landlord Creditor will be deemed to have waived any default by the Company in any provision, express or implied, in any agreement existing between the Landlord Creditors and the Company that has occurred on or prior to the Filing Date, and to have agreed that, to the extent that there is any conflict between the provisions of any such agreement and the provisions of the Proposal, the provisions of this Proposal take precedence and priority and the provisions of any such agreement are amended accordingly.

11.02 The payment, compromise or other satisfaction of any Claim under this Proposal will be binding on the Landlord Creditors and their respective heirs, executors, administrators, successors and assigns for all purposes.

11.03 The Proposal shall be governed by and construed in accordance with the Laws of Ontario and the federal laws of Canada applicable therein. Any disputes as to the interpretation or application of the Proposal and all proceedings taken in connection with the Proposal shall be subject to the exclusive jurisdiction of the Court.

Dated at Toronto this ²⁰ day of December, 2020.

S.K. BERNSTEIN HOLDINGS INC.

Per: 

 Stanley K. Bernstein

President

(I have the authority to bind the Company)

SCHEDULE "A" – DISTRIBUTION SCHEDULE

District of ONTARIO
 Division No. 09-Toronto
 Court No. 31-2648369
 Estate No. 31-2648369

**In the matter of the proposal of
 S.K. Bernstein Holdings Inc.
 of the city of Toronto, in the Province of Ontario**

DRAFT

FORM 12

Final Statement of Receipts and Disbursements

RECEIPTS

1. Miscellaneous			
Transfer from Bankruptcy estate		<u>302,800.37</u>	<u>302,800.37</u>
TOTAL RECEIPTS			<u><u>\$302,800.37</u></u>

DISBURSEMENTS

2. Fees Paid			
To Registrar		150.00	
To Official Receiver		<u>150.00</u>	300.00
3. Licensing Fee			
Ascend Licensing Fee		<u>190.00</u>	190.00
4. Notice of First Meeting			
To 22 creditor(s)		121.00	
HST charged on Trustee's remuneration		<u>41.58</u>	162.58
5. Trustee's Remuneration			
Trustee's fees - estimate		19,500.00	
HST charged on Trustee Remuneration		<u>2,535.00</u>	22,035.00
6. Notice of final dividend and trustee discharge			
To 22 creditor(s)		44.00	
Postage		<u>19.58</u>	63.58
7. Other notices and reports			
To 22 creditors		12.50	
Postage		<u>4.20</u>	16.70
8. Miscellaneous			
Bank charges		42.50	
2880 Queen St. Fee		34,753.45	
Legal fees/disbursements - estimate		25,500.00	
HST on Legal fees		3,315.00	
HST on Ascend Licence		<u>24.70</u>	63,635.65

TOTAL DISBURSEMENTS86,403.51**Amount available for distribution**216,396.86

9. Levy payable under section 147 of the Act

10,819.84**10. Net amount available for distribution**205,577.02**Notes.**

1. S.K. Bernstein Holdings Inc. (the "Company") filed an assignment in bankruptcy on May 29, 2020 and Dodick Landau was appointed as Trustee in Bankruptcy of the estate.

2. On _____, 2020 the Trustee, on behalf of the Company, filed a Proposal to the landlord creditors of the bankruptcy estate.

3. On _____, 2020 meeting of creditors was held and the Proposal was approved.

4. On _____, 2020 the Proposal was approved in Court.

5. The Proposal was fully performed as of _____, 2020.

Dated at the City of Toronto in the Province of Ontario, this 17th day of November, 2020.

Dodick Landau Inc.

Per:

 Rahn Dodick - Licensed Insolvency Trustee
 4646 Dufferin Street, Suite 6
 Toronto, ON M3H5S4
 Phone: (416) 736-4357 Fax: (416) 649-7725

Taxed at the sum of \$ _____, this _____ day of _____, _____

 Registrar

District of ONTARIO
Division No. 09-Toronto
Court No. 31-2648369
Estate No. 31-2648369

DIVIDEND SHEET

In the matter of the proposal of
S.K. Bernstein Holdings Inc.
of the city of Toronto, in the Province of Ontario

Date declared: January 2021

	CLAIM \$	TOTAL			INTERIM PAYMENT \$	CURRENT		
		DIVIDEND \$	LEVY \$	PAYMENT \$		DIVIDEND \$	LEVY \$	PAYMENT \$
UNSECURED								
0846869 BC Ltd.	46,596.49	19,381.07	969.05	18,412.01	0.00	19,381.07	969.05	18,412.01
170 North Queen Developments Inc.	47,734.65	19,854.47	992.72	18,861.74	0.00	19,854.47	992.72	18,861.74
2479945 Ontario Corporation	19,455.96	8,092.40	404.62	7,687.78	0.00	8,092.40	404.62	7,687.78
2880 Queen Street Centre Inc.	36,656.17	15,246.55	762.33	14,484.22	0.00	15,246.55	762.33	14,484.22
Avison Young ITF Van Lee G.P. Ltd.	43,989.91	18,296.90	914.85	17,382.06	0.00	18,296.90	914.85	17,382.06
Calloway REIT (Pickering) Inc.	12,630.72	5,253.55	262.68	4,990.87	0.00	5,253.55	262.68	4,990.87
Canadian Property Holdings (Fir Street) Inc.	21,041.61	8,751.92	437.60	8,314.33	0.00	8,751.92	437.60	8,314.33
Capital City Shopping Centre Limited	19,020.91	7,911.44	395.57	7,515.87	0.00	7,911.44	395.57	7,515.87
First Capital Holdings (ALB) Corporation & 7838760 Canada Inc.	29,972.43	12,466.55	623.33	11,843.23	0.00	12,466.55	623.33	11,843.23
Her Majesty the Queen in the right of Canada	30,670.00	12,756.70	637.83	12,118.86	0.00	12,756.70	740.27	14,065.16
LDASK MBC Corp.	13,090.71	5,444.87	272.24	5,172.63	0.00	5,444.87	272.24	5,172.63
Parklane Plaza Inc.	12,722.58	5,291.75	264.59	5,027.17	0.00	5,291.75	264.59	5,027.17
Ravine Equities Inc. & Ravine Properties Limited	28,983.30	12,055.14	602.76	11,452.38	0.00	12,055.14	602.76	11,452.38
Rhyl Realty Inc.	19,820.08	8,243.85	412.19	7,831.65	0.00	8,243.85	412.19	7,831.65
Sun Life Assurance Co.	36,130.75	15,028.01	751.40	14,276.61	0.00	15,028.01	751.40	14,276.61
Sun Life Assurance Company of Canada	29,601.45	12,312.25	615.61	11,696.64	0.00	12,312.25	615.61	11,696.64
Terra Losa Equities Ltd.	26,920.40	11,197.11	559.86	10,637.26	0.00	11,197.11	559.86	10,637.26
Transmark Developments Ltd.	17,982.03	7,479.34	373.97	7,105.37	0.00	7,479.34	373.97	7,105.37
Valiant Rental Inc.	23,665.68	9,843.36	492.17	9,351.19	0.00	9,843.36	492.17	9,351.19
Wantage Development Corp.	3,581.40	1,489.63	74.48	1,415.14	0.00	1,489.63	74.48	1,415.14
TOTAL:	520,267.23	216,396.86	10,819.84	205,577.02	0.00	216,396.86	10,819.84	205,577.02
GRAND TOTALS:	\$ 520,267.23	\$216,396.86	10,819.84	205,577.02	\$0.00	\$ 216,396.86	\$10,819.84	\$205,577.02

Court No. 31-2648369

Estate No. 31-2648369

**In the matter of the proposal of
S.K. BERNSTEIN HOLDINGS INC.
of the City of Toronto, in the Province of Ontario**

**Form 12
Final Statement of Receipts and Disbursements**

**Dodick Landau Inc.
4646 Dufferin Street, Suite 6
Toronto, On M3H 5S4
Phone: (416) 736-4357 Fax: (416) 649-7725**

REPORT ON PROPOSAL

**Court File No. 31-2648369
Estate File No. 31-2648369**

**IN THE MATTER OF THE PROPOSAL OF
S.K. BERNSTEIN HOLDINGS INC.
OF THE CITY OF TORONTO
IN THE PROVINCE OF ONTARIO**

REPORT OF TRUSTEE ON PROPOSAL

January 14, 2021

INTRODUCTION

1. On May 29, 2020 (the "Bankruptcy Filing Date"), S.K. Bernstein Holdings Inc. ("S.K. Bernstein" or the "Company") filed an assignment in bankruptcy and Dodick Landau Inc. ("DLI") was appointed as trustee ("Trustee") of the estate of the bankrupt. On January 11, 2021 ("Proposal Filing Date"), S.K. Bernstein, pursuant to section 50(2) of the Bankruptcy and Insolvency Act (the "BIA" or the "Act"), filed a proposal (the "Proposal") with the Official Receiver pursuant to section 62(1) of the Act and named DLI as Proposal Trustee ("Proposal Trustee").
2. The purpose of this report ("Report") is to provide information to the creditors affected by the Proposal (the "Landlord Creditors") in order to assist in their evaluation of the Proposal.
3. The Proposal has been developed to effect a proposal for the distribution of the Residual Funds (as defined further herein) to the Landlord Creditors in accordance with the proposed distribution schedule included in the Proposal.
4. A meeting of the Landlord Creditors to consider the Proposal will be held via videoconference, on January 28, 2021 at 1:30 p.m. The videoconference link is as follows:

<https://zoom.us/j/96002171947?pwd=N3ZubDZrTWJBS09KN2N6Umx1eVITZz09>

DISCLAIMER

5. In preparing this Report, the Proposal Trustee has relied upon certain unaudited, draft and/or internal financial information, the Company's books and records, discussions with the Company's former management ("Management"), certain Landlord Creditors, the bankruptcy Trustee and information from other third-party sources (collectively, the "Information"). Except as described in this Report:

- i) the Proposal Trustee has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the Canadian Institute of Chartered Accountants Handbook and, accordingly, the Proposal Trustee expresses no opinion or other form of assurance in respect of the Information;
 - ii) some of the information referred to in this Report consists of forecasts and projections. An examination or review of the financial forecast and projections, as outlined in the Canadian Institute of Chartered Accountants handbook, has not been performed; and
 - iii) the Proposal Trustee has prepared this Report in its capacity as a Court appointed officer. Parties using this Report, other than for the purpose of evaluating the Proposal, are cautioned that it may not be appropriate for their purposes.
6. Future oriented financial information referred to in this Report was prepared based on estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections, even if the assumptions materialize, and the variations could be significant.
7. The capitalized terms not defined in this report are defined in the Proposal and this Report should only be read in conjunction with the Proposal. While this Report summarizes key aspects of the Proposal, Landlord Creditors are advised to carefully read the Proposal in full. Should there be any discrepancy between the summary contained in this Report and the Proposal, the Proposal shall govern.
8. Unless otherwise stated, all monetary amounts contained herein are in Canadian dollars.

BACKGROUND

Operations

9. S.K. Bernstein Holdings Inc. is a holding company of leases in various locations once occupied by diet clinics owned by the operating company, Post Road Health and Diet Inc. ("Post Road"). The Company's leases were located in three provinces: Ontario (12 locations), Alberta (3 locations) and British Columbia (5 locations) (collectively the "Leases").

CAUSES OF FINANCIAL DIFFICULTIES

10. According to a representative of the Company, S.K. Bernstein's financial difficulties were caused by various challenges encountered by its tenant, Post Road. Post Road's challenges included a declining number of new clients in recent years, rendering many of the diet clinics unprofitable and unable to meet their cash flow needs.
11. Post Road's decline was further accelerated by the onset of the COVID-19 pandemic, which resulted in late March 2020 in the government mandated closure of all its clinics including those whose leases were held in S.K. Bernstein.
12. Unable to collect rent from Post Road in light of the COVID-19 pandemic, the Company had no other readily available option but to assign itself into bankruptcy. As at the Bankruptcy Filing Date, the Company's sole asset was cash on hand totalling \$890,036 and potential provable claims totaling approximately \$2.9 million, which represented the total remaining lease payments owing to the Company's landlords for the remaining terms of the Leases.

BANKRUPTCY PROCEEDING

13. As the Trustee had no ongoing need for the Leases, and to assist the Landlords to be able re-let the premises to new tenants, the Trustee, with Inspector approval, disclaimed the Leases. Following the disclaimer of the Leases the value of the landlords' claims were reduced to approximately \$520,000.
14. After payment of all proven claims, which included payment of the Landlord Creditors' claims in full, and bankruptcy administration expenses, it is estimated that approximately \$320,000 of residual funds ("Residual Funds") will be remaining in the bankrupt estate. In exchange for creditors granting various releases and injunctions detailed in the Proposal and discussed further herein, the shareholder of S.K. Bernstein has agreed to forgo receipt of the Residual Funds and has agreed to contribute the Residual Funds to fund additional distributions to the Landlord Creditors of S.K. Bernstein in the Proposal.

THE PROPOSAL

Secured and Unsecured Debt

15. There are no Creditors as at the Proposal Filing Date as all Creditors were paid in full with interest in the bankruptcy proceeding. The Proposal acts as a mechanism to distribute the surplus Residual Funds to the unsecured Landlord Creditors of the Company.

Determination of Landlord Surplus Claim Amounts

16. The Landlord Creditors' claim amounts for the purpose of the Proposal are the same landlord claims proved in the Bankruptcy proceeding ("Landlord Surplus Claim"). The distribution of the Residual Funds to the Landlord Creditors has been calculated by the Proposal Trustee based on the Landlord Creditors' pro rata percentage share of the total proven claims by Landlord Creditors in the bankruptcy proceeding, which, as noted above, totalled approximately \$520,000.
17. The amount of each respective Landlord Surplus Claim and their estimated pro rata percentage for distribution is set out on the Distribution Schedule to the Proposal. The Landlord Surplus Claims are the only claims eligible to receive a distribution in the Proposal and represented over 95% of total creditors' claims in the bankruptcy proceeding.

2880 Queen Street Centre Inc.

18. 2880 Queen Street Centre Inc. ("2880 Queen"), one of the Landlord Creditors, was actively involved in negotiating the terms of the Proposal. To compensate 2880 Queen for the expenses it incurred in the facilitation of the Proposal, the shareholder agreed that a fee would be payable to 2880 Queen ("2880 Queen Fee") totaling approximately \$35,000.

Funds Available for Distribution

19. The determination of the amount of funds available for distribution on account of Landlord Surplus Claims shall be the funds remaining in the estate of the Company after payment of, or reservation for:
- i) distributions to be made by the Trustee in the bankruptcy proceeding on account of proven claims, after bankruptcy administration expenses;
 - ii) the estimated amount of the Superintendent Levy and the fees and expenses of DLI incidental to the bankruptcy proceeding and the preparation and facilitation of the Proposal; and
 - iii) the 2880 Queen Fee.

Classes

20. For the purpose of the Proposal, there shall be one class of creditors comprised of Landlord Creditors in respect of the Landlord Surplus Claims.
21. For greater certainty, no other parties shall be entitled to vote on the Proposal and Landlord Creditors shall only be entitled to vote on account of their Landlord Surplus Claims.

Distribution of Residual Funds

22. Following receipt of Landlord Creditor and Court approvals of the Proposal, the Proposal Trustee shall (a) distribute the Residual Funds on a pro rata basis to the Landlord Creditors; and (b) pay the 2880 Queen Fee, after payment of the Proposal administration expenses.

Releases

23. The Proposal provides for releases (the "Releases") in favour of:
 - i) the former and current directors of the Company;
 - ii) the Company, the Trustee and each of their present and former employees and contractors and each of their respective financial advisors, legal counsel and agents (all in such capacities, the "Released Company Parties"); and
 - iii) Dr. Stanley K. Bernstein, Post Road (together with Dr. Stanley K. Bernstein, the "Sponsors") and its present and former directors, officers, employees, contractors, successors and assigns, and each of their respective financial advisors, legal counsel and agents, personally and in all their capacities (the "Released Third Parties").
24. The releases in favour of directors for claims that may have arisen against those directors (in such capacity) before the commencement of proceedings under the BIA are expressly contemplated by Section 50(13) of the BIA, subject to exceptions for, among other things, misrepresentation or wrongful or oppressive conduct. The releases provided to current and former directors of the Company are consistent with Section 50(13) of the BIA.
25. The Released Company Parties are released from any claims that are connected to Landlord Creditor claims, the Bankruptcy proceedings or the Proposal, subject to exceptions for any obligations under this Proposal or Court Order implementing the Proposal or any particular debt or liability referred to in s. 178(1) of the BIA except to the extent that the person with such claim voted for acceptance of the Proposal.

26. **The Released Third Parties are released from any claims of any Landlord Creditor including any claim arising under sections 95-101 of the BIA and any provincial statute related to preference, fraudulent conveyance, transfer at undervalue, or the like.**
27. **The Releases are an important and necessary aspect of the Proposal. The shareholder of the Company has only agreed to forego receipt of the Residual Funds and voluntarily contribute the Residual Funds to fund additional distributions to the Landlord Creditors in exchange for the Landlord Creditors agreeing to the Releases, and in particular, the releases in favour of the Released Third Parties.**
28. **The Releases also provide finality to the Company and ensure that the Residual Funds can be distributed in the Proposal without a concern about any future claims against the Company, whether directly or as claims against the directors or the Sponsors that may result in indemnity claims against the Company, that cannot be satisfied due to the distribution of all of the Company's assets.**

OVERVIEW OF S.K. BERNSTEIN'S WEEKLY CASH FLOW FORECAST

29. **The Trustee has prepared a cash flow forecast for the period from January 2, 2021 to April 2, 2021 ("Cash Flow Forecast"). A copy of the Cash Flow Forecast is attached hereto as Appendix "A". The Cash Flow Forecast has been prepared in support of the Company's Proposal proceeding, using probable and hypothetical assumptions set out in notes 1 to 7 attached to the Cash Flow Forecast. The Cash Flow Forecast reflects receipts and disbursements to be received or paid over the 13-week forecast period in Canadian dollars.**
30. **The Cash Flow Forecast projects that S.K. Bernstein will have sufficient liquidity to fund the Proposal's administration costs and dividend distributions.**
31. **The Cash Flow Forecast assumes that the funds received from the bankruptcy estate of the Company will be used to pay all costs related to the administration of the Proposal including, among other things, the 2880 Queen Fee and will then distribute the remaining Residual Funds to the Landlord Creditors, on account of the Landlord Surplus Claims, pursuant to the terms of the Proposal.**
32. **The Cash Flow Forecast has been prepared solely for the purpose described above, and readers are cautioned that it may not be appropriate for other purposes.**

Estimated Payment under the Proposal Scenario

33. As is detailed in this Report, Landlord Creditor claims have been paid in full in the bankruptcy proceeding. The Proposal provides an opportunity for a further distribution to the Landlord Creditors in excess of their proven claim amounts. The following chart (rounded to the nearest thousand dollars) sets out the expected additional payment to be available to the Landlord Creditors on account of the Landlord Surplus Claims in the Proposal scenario.

Estimated Payment in a Proposal Scenario	
Funds available from bankruptcy Estate (note 1)	303
Less: Proposal disbursements (note 2)	(1)
Less: Estimated Professional fees and expenses (note 3)	(51)
Less: 2880 Queen Fee (note 4)	(35)
Less: Superintendent's Levy (note 5)	(11)
Additional amount available for Landlord Creditors (note 5)	205

Notes:

1. *This amount represents the expected Residual Funds available from the bankruptcy proceeding to fund the Proposal.*
 2. *This amount represents the various out-of-pocket disbursements payable in connection with the Proposal proceeding.*
 3. *This amount represents a provision for estimated professional fees, which include administering the Proposal before and after Court approval, and legal fees.*
 4. *2880 Queen Fee represents the fee payable to 2880 Queen Street Centre Inc. for expenses incurred to negotiate the terms of the Proposal.*
 5. *The Superintendent's Levy applies to the distributions made to the Landlord Creditors and is calculated as 5% of each payment.*
34. Absent acceptance of the Proposal by the requisite majorities, the Residual Funds will likely be returned to the shareholder resulting in NO further payments to the Landlord Creditors. However, should the Proposal be accepted by the Landlord Creditors, an additional payment equal to approximately 39% of the Landlord Creditors proven claim value, as calculated in the chart below

(rounded to the nearest thousand dollars), for a total recovery of 139% under the Proposal scenario.

Additional amount available for Landlord Creditors (per above) (A)	205
Bankruptcy distribution paid by Trustee to Landlord Creditors (B)	520
Total Available for Landlord Creditors (C) = (A+B)	725
Original Claim of Landlord Creditors (D)	520
Total Recovery for Landlord Creditors in the Proposal'=(C/D)	139%
Total Recovery should the Proposal be Rejected'=(B/D)	100%

CREDITORS' MEETINGS/VOTING PROCEDURE AND CLASSES OF CREDITORS

Creditors' Meetings/Voting Procedure

35. The meeting of the Landlord Creditors (the "Meeting") to consider the Proposal will be held via videoconference, on January 28, 2021 at 1:30 p.m. The videoconference link is as follows:
- <https://zoom.us/j/96002171947?pwd=N3ZubDZrTWJBS09KN2N5Umx1eVITZz09>
36. The primary purpose of the Meeting is to permit the Landlord Creditors to consider the acceptance or rejection of the Proposal. For the Proposal to be accepted, at least two-thirds (66.67%) by dollar value, and more than 50% of by number, must vote in favour of the Proposal at the Meeting either in person, by proxy or by mailing a voting letter to the Proposal Trustee in advance of the Meeting. Only those Landlord Creditors who actually vote are counted for the purpose of determining whether the necessary thresholds have been reached.
37. Those Landlord Creditors who do not intend to have a personal representative at the Meeting, to be held on January 28, 2021, may complete and submit the voting letter, which is enclosed in the creditor package, prior to the Meeting indicating their vote for or against the acceptance of the Proposal. The Proposal Trustee has also enclosed a form of proxy should a Landlord Creditor wish to appoint a proxy to represent them at the Meeting. Should the Proposal not be accepted by the required majority of Landlord Creditors, the Residual Funds will likely be distributed to the shareholder of the Company by the Bankruptcy Trustee.

38. If the Proposal is accepted by the required statutory majorities referenced above, the Proposal Trustee will then make an application to the Court for approval of the Proposal. The Court application is scheduled to be heard on February 12, 2021 at 11:00 a.m. (Toronto time) by videoconference. If the Court provides such approval ("Approval Order"), the Proposal will be binding on all Landlord Creditors and such Landlord Creditors, and their respective heirs, executors, administrators, successors and assigns, shall have no further Claim against the Company other than for the distributions provided in the Proposal.

Class of Creditors

39. For purposes of considering, and voting on, the Proposal, and receiving a distribution pursuant to the Proposal, the Landlord Creditors are one class.
40. Distributions to Landlord Creditors will be made as described in the "Distribution" section of this Report.

Alternatives to the Proposal

41. At the Meeting, the Landlord Creditors are being asked by the Proposal Trustee to choose between two alternatives, namely accepting the Proposal, or rejecting the Proposal. Rejecting the Proposal would likely result in the Residual Funds being distributed to the shareholder of the Company and no further distributions being available for the Landlord Creditors.

Creditors' Claims

42. The Bankruptcy Trustee has provided the Proposal Trustee copies of all the Landlord Creditor proven proofs of claim. Accordingly, there is no requirement for the Landlord Creditors to file another proof of claim in the Proposal.

PREVIOUS BUSINESS DEALINGS WITH S.K. BERNSTEIN

43. As outlined above DLI is acting as both Bankruptcy Trustee and Proposal Trustee. Prior to the Company's Bankruptcy Filing Date, DLI had not had any business dealings with S.K. Bernstein and is not in a conflict of interest.

SUMMARY COMMENTS/RECOMMENDATION

44. The Proposal provides the Landlord Creditors with the opportunity to receive a further significant distribution. If the Proposal is rejected by the Landlord Creditors, the Residual Funds will likely be distributed to the Company's shareholder and there will be no further payment to the Landlord Creditors. Accordingly, the Proposal Trustee recommends that the Landlord Creditors vote in favour of the Proposal.

Yours very truly,

DODICK LANDAU INC.
Proposal Trustee *re* the Proposal of S.K. Bernstein Holdings Inc.
and not in its personal or corporate capacity.

Per:



Rahn Dodick, CPA, CA, CIRP, LIT

APPENDIX "A"

S.K. Bernstein Holdings Inc.
Weekly Cash Flow Forecast
For the period from January 2, 2021 to April 2, 2021

Week Ending	14-Jan-21	21-Jan-21	28-Jan-21	04-Feb-21	11-Feb-21	18-Feb-21	25-Feb-21	03-Mar-21	10-Mar-21	17-Mar-21	24-Mar-21	31-Mar-21	07-Apr-21	TOTAL
Receipts														302,000
2														302,000
200,577														200,577
3														200,577
4														11,000
5														34,733
6														50,850
Total Disbursements														12,792
Net Cash Flow														(12,792)
Bank Balance														0
7														0
Opening Bank Balance														0
Add: Net Cash Flow														0
Closing Bank Balance														0

This statement of forecast cash flow of S.K. Bernstein Holdings Inc. is prepared in accordance with section 504 (2) of the Bankruptcy and Insolvency Act and should be read in conjunction with the accompanying notes and Trustee's report on cash flow statement dated this 5th day of January, 2021.

Dodick Landon Inc.
 Per: 
 Robin Dodick, CPA, CA, CMA, CIT

S.K. Bernstein Holdings Inc. ("S.K. Bernstein" or the "Company")
Major Assumptions
Cash Flow Forecast
For the Period January 2, 2021 to April 2, 2021 (the "Period")

1. S.K. Bernstein's financial projections have been prepared for the purpose of meeting the requirements of the Bankruptcy and Insolvency Act. The Projection is based on the hypotheses that the proceeds received from the Company's Bankruptcy Trustee will be used to pay all costs related to the administration of the Proposal and then distributed in full to the Company's Creditors thereafter pursuant to the terms of the Proposal.

Receipts:

2. S.K. Bernstein's receipts in the Period are the estimated surplus funds remaining in the Bankruptcy estate of the Company after all distributions are made in the bankruptcy proceeding by the Trustee in Bankruptcy.

Disbursements:

3. Landlord Distributions represents the estimated net distributions payable to the Company's former landlords pursuant to the terms of the Proposal.
4. Proposal Fees include the levy payable to the Superintendent of Bankruptcy in respect of distributions under the Proposal as well various miscellaneous fees payable in connection with the Proposal.
5. 2880 Queen St. Fee represents the fee payable to 2880 Queen Street Centre Inc. for expenses payable in the facilitation of the Company's Proposal in accordance with the terms of the Proposal.
6. Professional fees include forecast estimated fees for the Proposal Trustee as well as the Company's legal counsel for the Period.
7. The opening cash balance as of January 2, 2021 is NIL as the only receipts in the Proposal will be the surplus transferred from the Bankruptcy proceeding.

PROXY

District of: Ontario
Division No. 09 - Toronto
Court No. 31-2648369
Estate No. 31-2648369

FORM 36
Proxy
(Subsection 102(2) and paragraphs 51(1)(e) and 66.15(3)(b) of the Act)

In the matter of the proposal of
S.K. Bernstein Holdings Inc.
of the city of Toronto, in the Province of Ontario

I, _____, of _____, a creditor in the above matter, hereby
appoint _____, of _____, to be
my proxyholder in the above matter, except as to the receipt of dividends, _____ (with or without)
power to appoint another proxyholder in his or her place.

Dated at _____, this _____ day of _____.

Witness

Individual Creditor

Witness

Name of Corporate Creditor

Per _____
Name and Title of Signing Officer

Return To:

Dodick Landau Inc. - Licensed Insolvency Trustee

4646 Dufferin St., Suite 6
Toronto ON M3H 5S4
Phone: (416) 645-0542 Fax: (416) 649-7725
E-mail: brenda.mcknight@dodick.ca

VOTING LETTER

District of: Ontario
Division No. 09 - Toronto
Court No. 31-2648369
Estate No. 31-2648369

FORM 37

**Voting Letter
(Paragraph 51(1)(f) of the Act)**

**In the matter of the proposal of
S.K. Bernstein Holdings Inc.
of the city of Toronto, in the Province of Ontario**

I, _____, creditor (or I, _____, representative
of _____, creditor), of _____, a creditor in the above matter
for the sum of \$ _____, hereby request the trustee acting with respect to the proposal of S.K.
Bernstein Holdings Inc., to record my vote _____ (for or against) the acceptance of the proposal
as made on the _____ day of _____.

Dated at _____, this _____ day of _____.

Witness

Individual Creditor

Witness

Name of Corporate Creditor

Per _____
Name and Title of Signing Officer

Return To:
Dodick Landau Inc. - Licensed Insolvency Trustee
Per:

Rahn Dodick - Licensed Insolvency Trustee
4646 Dufferin St., Suite 6
Toronto ON M3H 5S4
Phone: (416) 645-0542 Fax: (416) 649-7725
E-mail: brenda.mcknight@dodick.ca

APPENDIX "C"

COURT FILE NO.: 31-2648369

ESTATE NO.: 31-2648369

S.K. BERNSTEIN HOLDINGS INC.

**MINUTES OF THE FIRST MEETING OF CREDITORS
(the "Meeting")**

DATE, TIME AND LOCATION

Date: January 28, 2021

Time: 1:30 p.m.

Location: By Zoom videoconference

Chair: Rahn Dodick
Dodick Landau Inc. – Trustee in Bankruptcy (the "Trustee")

**Secretary and
Scrutineer:** Brenda McKnight – Dodick Landau Inc.

QUORUM

The Chair established that a quorum existed.

CALL TO ORDER

All parties attending by videoconference stated their names. An attendance sheet was created based on the responses of the individuals in the conference and the proxies on hand. The attendance sheet is attached as Exhibit "A".

The Chair discussed the changes in conducting a Meeting of Creditors. Due to the Covid-19 pandemic this meeting is being held via videoconference for all parties.

AFFIRM THE APPOINTMENT OF THE PROPOSAL TRUSTEE

1. A motion was brought by Neil Finlayson, and seconded by Caley Denton by proxy, affirming the appointment of the Proposal Trustee.

NOTICE OF MEETING

2. The Chair tabled, for inclusion in the minutes, the form Notice of Proposal to Creditors, Meeting of Creditors, the Proposal, the Report of Trustee on Proposal and the Affidavit of Mailing, all attached as Exhibit "B" to these minutes.

FUNDING OF PROPOSAL

- 3. The Proposal Trustee outlined the terms of the Proposal, the order of distribution and the recovery potential to creditors. The Proposal Trustee referred attendees to the Trustee's Report to the Creditors on the Proposal and provided an overview of the Proposal filed by the Company.**

QUESTIONS ABOUT THE PROPOSAL

- 4. The floor was opened to questions by the Proposal Trustee. Questions were raised and addressed by the Proposal Trustee and its legal counsel.**

REPORT ON ATTENDANCE

- 5. The Scrutineer provided a report on attendance and advised the Meeting that there were 11 people on the videoconference. Three attendees were representing companies who had a claim value of \$85,603.93 in unsecured liabilities.**

VOTING ON PROPOSAL

- 6. A Motion to consider a resolution to approve the Proposal by the unsecured creditors was proposed at the Creditors' Meeting (the "Resolution"). The Resolution tabled at the meeting was as follows:**

"Be and it is hereby resolved to accept the Proposal of S. K. Bernstein Holdings Inc. dated January 8, 2021, and, if approved, the Proposal Trustee and S. K. Bernstein Holdings Inc. will take the necessary steps to implement the terms of the proposal.

The Proposal was accepted by the creditors. The Voting Summary is attached to these Minutes and noted as Exhibit "C".

APPOINTMENT OF INSPECTORS

- 7. The Chair asked the individuals present at the meeting of the unsecured creditors whether anyone would volunteer to act as Inspector. There was no volunteers.**

TERMINATION OF MEETING

- 8. As there was no further business brought before the Meeting, the Meeting was terminated at 1:45 p.m.**

Dated at Toronto, Ontario, this 28th day of January, 2021.

A handwritten signature in black ink, appearing to read 'R. Dodick', written over a horizontal line.

Per: Rahn Dodick, Chair

**Dodick Landau Inc.
Acting as Proposal Trustee for
S. K. Bernstein Holdings Inc.
and not in its personal or corporate capacity.**

EXHIBIT "C"

District of Ontario
 Division No. 09 - Toronto
 Court No. 31-2648369
 Estate No. 31-2648369

Voting Summary

In the matter of the proposal of
 S.K. Bernstein Holdings Inc.
 of the city of Toronto, in the Province of Ontario

Insolvency Date: 08-Jan-2021
 Estate Number: 31-2648369

Result of Voting

Class	Total #		Dollar Value of Claims		Percentage by Votes		Percentage by Value		Result		
	Votes	Yes	No	Yes	No	Yes	No	Yes	No	By Votes	By Value
	3	3	0	85,603.93	0.00	100.00	0.00	100.00	0.00	App.	App.

List of creditors

Class	Creditor Name	Type	Account #	\$ Admitted for Voting	Voted By	Vote
	Avison Young ITF Van Lee G.P. Ltd.	U		43,989.91	In Person	For
	Calloway REIT (Pickering) Inc.	U		12,630.72	Letter	For
	Ravine Equities Inc. & Ravine Properties Limited	U		28,983.30	Letter	For

APPENDIX "D"

CANADA
 Province of Ontario
 District of: Ontario
 Division No. 09 - Toronto
 Court No. 31-2648369
 Estate No. 31-2648369

Affidavit of Mailing

In the matter of the proposal of
 S.K. Bernstein Holdings Inc.
 of the city of Toronto, in the Province of Ontario

I, Brenda McKnight, of the Trustee's office of Dodick Landau Inc., 4646 Dufferin St., Suite 6, Toronto, ON, M3H 5S4, hereby make oath (or solemnly affirm) and say:

That on the 28th day of January 2021, I did cause to be sent by prepaid ordinary mail to everyone on the attached mailing list and by e-file to the Office of the Superintendent of Bankruptcy, whose names and addresses appear on the paper writing marked exhibit "A" annexed hereto, a copy of: Notice of hearing of application for court approval of proposal.

And that, on the 28th day of January 2021, I mailed to the debtor a copy of same.



Brenda McKnight
 Phone: (416) 736-4357
 Fax: (416) 649-7725

SWORN (or SOLEMNLY DECLARED) before me in the city of Toronto in the Province of Ontario, this 28th day of January 2021.



Rahn Dodick, Commissioner of Oaths
 For the Province of Ontario
 Expires July 20, 2023

Creditor Mailing List

In the matter of the proposal of
S.K. Bernstein Holdings Inc.
of the city of Toronto, in the Province of Ontario

This document is Exhibit " A "
to the Affidavit of 61 smcknig
Dated the 28th day of
January, 20 21
[Signature]

Creditor Type	Name	Attention	Address
Director	Stanley Bernstein		21 Kern Road Toronto ON M3B 1S9
Official Receiver	Office of the Superintendent of Bankruptcy	Mr. Brian Haley	151 Yonge Street, 4th Floor Toronto ON M5C 2W7
Unsecured	0846869 BC Ltd.	Dale Mumford	c/o SDM Realty Advisors Ltd. Suite 1850, 1040 West Georgia Street, Box 3 Vancouver BC V6E 4H1 dalem@sdmrealty.com
	170 North Queen Developments Inc.	Barry Godfrey	c/o Boris W. Zayachkowski, Minden Gross LLP 145 King Street West, Suite 2200 Toronto ON M5H 4G2 Fax: (647) 348-5715 bgodfrey@quaestus.ca
	2479945 Ontario Corporation		62 Shaver Road St. Catharines ON L2S 4B3
	2880 Queen Street Centre Inc.	D.J. Miller	c/o Thornton Groat Finnigan LLP 100 Wellington Street West, Suite 3200 Toronto ON M5K 1K7 Fax: (416) 635-1713 djmiller@tgf.ca
	Avison Young ITF Van Lee G.P. Ltd.	Neil Finlayson	401 Bay Street, 11th Floor, Mail Box #11 Toronto ON M5H 2Y4 Neil.Finlayson@avisonyoung.com
	Calloway REIT (Pickering) Inc.		700 Applewood Cres., Suite 200 Vaughan ON L4K 5X3 mlepiero@smarteentres.com
	Canadian Property Holdings (Fir Street) Inc.		c/o CREIT Management (B.C.) 1040-1185 West Georgia Street Vancouver BC V6E 4E6 Fax: (604) 683-1183 nelly.mosstaghimi@choicereit.ca
	Capital City Shopping Centre Limited	Joanne Rowsell Grem	1 Queen St. East, Suite 300 Toronto ON M5C 2W5 Fax: (416) 955-0569 joanne.rowsell@cushwake.com
	Her Majesty the Queen in the right of Canada	Manager, NCA Commercial & Property Transactions	Minister of Public Works & Governmental Services 191 Promenade du Portage, 3rd Floor Gatineau QC K1A 0S5
	LDASK MBC Corp.	Morris Rozen	1002 Lawrence Ave. E., Suite 101 Toronto ON M3C 1R4 Fax: (416) 225-6432 mrozen@mpicanada.com
	Parklane Plaza Inc.	Joel Moldaver	c/o Joel S. Moldaver Professional Corporation 121 George St. North, PO Box 1387 Peterborough ON K9J 7H6 moldavera@cogeco.net

Creditor Mailing List

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In the matter of the proposal of
S.K. Bernstein Holdings Inc.
of the city of Toronto, in the Province of Ontario

Creditor Type	Name	Attention	Address
Unsecured	Ravine Equities Inc. & Ravine Properties Limited	Michael B. Morgan	c/o Shape Properties Corp./c/o Lawson Lundel LLP 1600-925 West Georgia Street Vancouver BC V5K 1J5 Fax: (604) 669-1620 mmorgan@lawsonlundell.com
	Rhyl Realty Inc.	Scott Henry	3200 Dufferin Street, Suite 424 Toronto ON M6A 3B2 Fax: (416) 256-0248 s.henry@rhylrealty.com
	Sherwood Park, AB, First Capital Holdings (ALB) Corporation and 7838760 Canada Inc.		85 Hanna Avenue, Suite 400 Toronto ON M6K 3S1
	Sun Life Assurance Co.	Charlotte Cooper	c/o Bentall Kennedy (Canada) LP E204 - 20159 88th Avenue Langley BC V1M 0A4 Charlotte.Cooper@bentallgreenoak.com
	Sun Life Assurance Company of Canada		c/o Bentall Kennedy (Canada) LP E204 - 20159 88th Avenue Langley BC V1M 0A4 Charlotte.Cooper@bentallgreenoak.com
	Terra Losa Equities Ltd.		BK Prime Alberta LGP Inc. c/o BentallGreenOak (Canada) Limited Partnership 1750-10303 Jasper Avenue Edmonton AB T5J 3N6 haylie.thomlison@bentallgreenoak.com
	Transmark Developments Ltd.	Marty Sversky	272 Lawrence Ave.W., 3rd Floor Toronto ON M5M 4M1
	Valiant Rental Inc.		20 - 177 Nonquon Road Oshawa ON L1G 3S2 Fax: (905) 579-9472
	Wantage Development Corp.	Amy Wong	1559 Alta Vista Drive Oshawa ON K1G 5T7 wantagedevelopmentsinc@gmail.com

District of: Ontario
Division No. 09 - Toronto
Court No. 31-2648369
Estate No. 31-2648369

FORM 40.1
Notice of Hearing of Application for Court Approval of Proposal
(Paragraph 58(b) of the Act)

In the matter of the proposal of
S.K. Bernstein Holdings Inc.
of the city of Toronto, in the Province of Ontario

In Superior Court of Justice - Toronto.

In the matter of the proposal of S.K. Bernstein Holdings Inc., a debtor.

Take notice that an application will be made to the court, at 330 University Avenue, 9th Floor, Toronto, Ontario, on the 12th day of February 2021, at 11:00 AM, to approve the proposal of S.K. Bernstein Holdings Inc., accepted by the creditors at a meeting held on the 28th day of January 2021.

Dated at the city of Toronto in the Province of Ontario, this 28th day of January 2021.

Dodick Landau Inc. - Licensed Insolvency Trustee



4646 Dufferin St., Suite 6

Toronto ON M3H 5S4

Phone: (416) 736-4357 Fax: (416) 649-7725

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

Proceeding commenced at TORONTO

**REPORT OF TRUSTEE ON PROPOSAL
DATED FEBRUARY 4, 2021**

NORTON ROSE FULBRIGHT CANADA LLP
222 Bay Street, Suite 3000, P.O. Box 53
Toronto, ON M5K 1E7

Jennifer Stam, LSO#: 46735J
Tel: +1 416.202-6707
Fax: +1 416.216-3930
jennifer.stam@nortonrosefulbright.com

Lawyers to the Proposal Trustee, Dodick Landau Inc.

TAB 3

Court/Estate File No.: 31-2648369

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY**

THE HONOURABLE)	FRIDAY, THE 12TH
)	
JUSTICE KOEHNEN)	DAY OF FEBRUARY, 2021

**IN THE MATTER OF THE PROPOSAL OF S.K. BERNSTEIN
HOLDINGS INC., OF THE CITY OF TORONTO, IN THE
PROVINCE OF ONTARIO**

**ORDER
(Proposal Approval Order)**

THIS MOTION, made by Dodick Landau Inc., in its capacity as the proposal trustee (in such capacity, the “**Proposal Trustee**”) of S.K. Bernstein Holdings Inc. (the “**Company**”), for an order, *inter alia*, approving the proposal filed by the Company with the Official Receiver on January 11, 2021 (the “**Proposal**”), was heard this day virtually via Zoom videoconference as a result of the COVID-19 pandemic.

ON READING the Motion Record of the Proposal Trustee, including the Report of the Proposal Trustee dated February ●, 2021, and on hearing the submissions of counsel for the Proposal Trustee, and those other parties present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of ● sworn ●, 2021, filed:

1. **THIS COURT ORDERS** that capitalized terms used and not defined herein shall have the meanings ascribed thereto in the Proposal.

SERVICE

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

APPROVAL OF PROPOSAL

3. **THIS COURT ORDERS AND DECLARES** that the Proposal (attached hereto as Schedule "A"), including without limitation Landlord Surplus Claim Methodology provided for therein, as accepted by the requisite majority of the Company's creditors, is fair and reasonable and is hereby approved and is effective in accordance with its terms.

PROPOSAL IMPLEMENTATION

4. **THIS COURT ORDERS** that effective at the Proposal Implementation Time, the Proposal shall be implemented and all of its provisions shall be fully effective and binding on the Company, all Landlord Creditors and on all other Persons affected by the Proposal, and their respective heirs, executors, administrators, legal representatives, successors and assigns.

5. **THIS COURT ORDERS** that in addition to the powers and rights afforded to it under the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3, the Proposal Trustee be and is hereby authorized to take all actions and steps necessary or appropriate to implement the Proposal and the transactions contemplated thereby, subject to the terms of the Proposal, and that such steps and actions are hereby approved.

6. **THIS COURT ORDERS AND DECLARES** that the distributions, payments and disbursements delivered pursuant to the Proposal are not delivered by the Proposal Trustee in its personal or corporate capacity or as legal representative of the Company and shall be without personal or corporate liability of the Proposal Trustee, and without limiting the foregoing, the Proposal Trustee shall have no, and is released from any, obligation or liability in connection with any taxes owing by the Company, or any withholdings or deductions that any person may assert should or should not have been paid or made in connection with such distributions, disbursements or payments.

7. **THIS COURT ORDERS** that, for the avoidance of doubt, the Proposal Trustee shall incur no liability or obligation for any act or omission as a result of carrying out the provisions of this Order and the Proposal, save and except for any gross negligence or wilful misconduct on its part.

8. **THIS COURT ORDERS** that effective at the Proposal Implementation Time, the commencement, continuation or prosecution, whether directly, indirectly, derivatively or otherwise, of any demands, claims, actions, counterclaims, suits, judgment, or other remedy or

recovery from or against the Released Parties shall be and are hereby permanently barred, estopped and enjoined.

9. **THIS COURT ORDERS AND DECLARES** that effective at the Proposal Implementation Time, any and all claims of any nature against the Released Parties shall be and are hereby compromised, discharged and released in accordance with the Proposal, and the ability of any Person to proceed against the Released Parties in respect of or relating to any such claims shall be and is hereby forever discharged and restrained, and all proceedings with respect to, in connection with or relating to such claims shall be and are hereby permanently stayed.

GENERAL

10. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada against all persons, firms, corporations, governmental, municipal and regulatory authorities against whom it may be enforceable.

11. **THIS COURT ORDERS AND REQUESTS** the aid and recognition of any court or any judicial, regulatory or administrative body in any province or territory of Canada and the Federal Court of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province to act in aid of and to be complementary to this Court in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance as may be necessary or desirable to give effect to this Order or to assist the Proposal Trustee and its agents in carrying out the terms of this Order.

Schedule "A"
Proposal

[Remainder of page intentionally left blank.]

Court File No./Estate File No. 31-2648369

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

**IN THE MATTER OF THE BANKRUPTCY OF S.K. BERNSTEIN HOLDINGS INC.
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

PROPOSAL

S.K. Bernstein Holdings Inc. (the "**Company**"), by its bankruptcy trustee, Dodick Landau Inc. ("**Trustee**"), hereby submits the following Proposal under Part III, Division I of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**").

ARTICLE 1 - INTERPRETATION

1.01 Definitions

In this Proposal, capitalized terms have the following meanings:

- (a) "**2880**" means 2880 Queen Street Centre Inc.;
- (b) "**2880 Queen St. Fee**" means the fee payable to 2880 for expenses payable in the facilitation of this Proposal in the amount equal to \$50,000 less the amount of its dividend as set out in the Distribution Schedule;
- (c) "**Applicable Law**" means, with respect to any Person, property, transaction, event or other matter, any Law relating or applicable to such Person, property, transaction, event or other matter, including, where appropriate, any interpretation of the law (or any part) by any Person, court or tribunal having jurisdiction over it, or charged with its administration or interpretation;
- (d) "**Bankruptcy Proceedings**" means the proceedings initiated by the Company's filing of an assignment in bankruptcy on May 29, 2020;
- (e) "**Bankruptcy Distributions**" has the meaning given to it in Section 1.01(a) hereof;
- (f) "**BIA**" means the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended;
- (g) "**Business Day**" means any day other than a Saturday or a Sunday or a day observed as a holiday under the laws of the Province of Ontario or the federal laws of Canada applicable therein;
- (h) "**Claim**" means any claim against the Company and includes any indebtedness, liability, action, cause of action, suit, debt, due, account, bond, covenant, contract, counterclaim, demand, claim, right and obligation of any nature whatsoever of the Company to any person, whether liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known or unknown, by guarantee, by surety or otherwise and whether or not such right is executory in nature, including the right or ability of any person to

advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action whether existing at present or commenced in the future based in whole or in part on facts which existed prior to or at the Filing Date but excluding Unaffected Claims;

- (i) **"Company"** has the meaning given to it in the preamble;
- (j) **"Court"** means the Ontario Superior Court of Justice (Commercial List);
- (k) **"Crown"** means Her Majesty in Right of Canada or of any Province of Canada their agents;
- (l) **"Crown Claims"** means the claims of the Crown set out in Section 60(1.1) of the BIA outstanding as at the Filing Date against the Company, if any, payment of which will be made in priority to distributions in respect of the Claims, and specifically excludes any other claims of the Crown;
- (m) **"Distribution Schedule"** means the schedule outlining the proposed distribution of Surplus Funds set out on Schedule "A" hereto;
- (n) **"Event of Default"** has the meaning given to it in ARTICLE 8 of this Proposal;
- (o) **"Filing Date"** means the date on which the Bankruptcy Proceedings were commenced;
- (p) **"Governmental Entity"** means any government, regulatory authority, governmental department, agency, commission, bureau, official, minister, Crown corporation, court, board, tribunal or dispute settlement panel or other law, rule or regulation-making organization or entity: (a) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power;
- (q) **"Landlord Affected Claims"** means the claims of any Landlord Creditor in respect of its dealings with the Company, including any Landlord Surplus Claim as well as any Claim of the Landlord Creditor under its respective lease with the Company both prior to or subsequent to the disclaimer of such lease by the Trustee, and to the extent permitted by law, any debt or liability referred to in subsection 178(1) of the BIA;
- (r) **"Landlord Creditor"** means a lessor of real property to the Company on the Filing Date;
- (s) **"Landlord Surplus Claim Methodology"** has the meaning given to it in Section 3.01 hereof;
- (t) **"Landlord Surplus Claims"** means the Surplus Claims of the Landlord Creditors listed on the Distribution Schedule;
- (u) **"Law"** means any law, statute, order, decree, consent decree, judgment, rule, regulation, ordinance or other pronouncement having the effect of law, whether in Canada or any other country, or any domestic or foreign state, county, province, city or other political subdivision or of any Governmental Entity;
- (v) **"Levy"** means and any amounts payable to the Superintendent of Bankruptcy in respect of the levy payable under the BIA in respect of either the Bankruptcy Distributions or distributions under this Proposal;
- (w) **"Meeting"** means a meeting of the Landlord Creditors of the Company called for the purpose of considering and voting in respect of this Proposal;
- (x) **"Person"** means any individual, corporation, firm, limited or unlimited liability company, general or limited partnership, association (incorporated or unincorporated), trust, unincorporated organization, joint venture, trade union, government authority or any agency, regulatory body or

officer thereof or any other entity, wherever situate or domiciled, and whether or not having legal status;

- (y) **"Post Road"** means Post Road Health & Diet Inc.;
- (z) **"Proposal"** means this Proposal made pursuant to the BIA, as may be further amended or supplemented from time to time;
- (aa) **"Proposal Approval Motion"** has the meaning given to it in Section 10.01 hereof;
- (bb) **"Proposal Approval Order"** has the meaning given to it in Section 10.02 hereof;
- (cc) **"Proposal Implementation Date"** means the date on which this Proposal is implemented as evidenced by the service of the Proposal Trustee's certificate as contemplated by Section 10.04;
- (dd) **"Proposal Implementation Time"** means [12:01am] on the Proposal Implementation Date (or such other time as the Trustee and the Sponsors may designate);
- (ee) **"Released Claims"** has the meaning given to it in Section 7.02 hereof;
- (ff) **"Released Company Claims"** has the meaning given to it in Section 7.01 hereof;
- (gg) **"Released Company Parties"** has the meaning given to it in Section 7.01 hereof;
- (hh) **"Released Parties"** has the meaning given to it in Section 7.02 hereof;
- (ii) **"Released Third Parties"** has the meaning given to it in Section 7.02 hereof;
- (jj) **"Released Third Party Claims"** has the meaning given to it in Section 7.02 hereof;
- (kk) **"Required Majority"** means the required majority of Landlord Creditors entitled to vote on the Proposal as contemplated by Section 54 of the BIA;
- (ll) **"Sponsors"** means Dr. Stanley K. Bernstein and Post Road Health & Diet Inc.;
- (mm) **"Surplus Funds"** has the meaning given to it in Section 3.02 hereof;
- (nn) **"Trustee"** has the meaning given to it in the preamble;
- (oo) **"Unaffected Claims"** means the fees and expenses of the Trustee incidental to the bankruptcy proceeding and the preparation and facilitation of the Proposal and any amendments thereto, including fees incurred by the Trustee in the administration of the Surplus Funds, and the legal fees and expenses incurred by the Trustee before and following execution, acceptance and approval of this Proposal and in connection with the bankruptcy proceeding and the preparation of this Proposal, as well as advice to the Company in connection therewith; and
- (pp) **"Unaffected Creditor"** means a Person holding one or more Unaffected Claims in respect of and to the extent of such Unaffected Claim.

1.02 Headings

The division of this Proposal, into parts, paragraphs and subparagraphs, and the insertion of headings, is for convenience only and is not to affect the construction or interpretation of this Proposal.

1.03 Business Days

In the event that any date on which any action is required to be taken hereunder is not a Business Day, such action will be required to be taken on the next succeeding day that is a Business Day.

1.04 Inclusiveness

The words "includes" and "including" and similar terms of inclusion shall not, unless expressly modified by the words "only" or "solely", be construed as terms of limitation, but rather shall mean "includes but is not limited to" and "including but not limited to", so that references to included matters shall be regarded as illustrative without being either characterizing or exhaustive.

1.05 Successors and Assigns

This Proposal will be binding upon and will enure to the benefit of all persons named or referred to herein including all Landlord Creditors and their heirs, estate administrators, personal representatives, successors and assigns as the case may be.

ARTICLE 2 - PURPOSE AND EFFECT OF THIS PROPOSAL

2.01 Purpose

The purpose of this Proposal is to effect a proposal for the distribution of the Surplus Funds to holders of Landlord Surplus Claims in accordance with the Distribution Schedule subject to the terms and conditions set out herein.

2.02 Persons Affected

At the Proposal Implementation Time, this Proposal will become effective on and, subject to the fulfillment by the Company and Sponsors of their obligations hereunder, shall be binding on the Company and Sponsors, their directors and officers, and the Landlord Creditors.

2.03 Effect of Proposal Implementation

Effective on the Proposal Implementation Time, the Company and the Sponsors shall thereupon release all claims to the Surplus Funds, and all Landlord Affected Claims and Released Third Party Claims shall be discharged, and the Company and Released Third Parties shall thereupon be released from all Landlord Affected Claims and Released Third Party Claims, other than the obligation to make payment and provide other consideration in the manner and to the extent described in this Proposal or as otherwise described.

2.04 Unaffected Claims

Unaffected Claims will not be affected by this Proposal and are to continue in the ordinary course under their present arrangements unless otherwise agreed to by an Unaffected Creditor.

ARTICLE 3 – DETERMINATION OF LANDLORD SURPLUS CLAIMS AND DISTRIBUTION OF SURPLUS FUNDS

3.01 Determination of Landlord Surplus Claim Amounts

Landlord Surplus Claim amounts have been calculated by the Trustee based on the Landlord Creditors' estimated pro rata percentage of their proven claims in the Bankruptcy Proceedings (the "Landlord Surplus Claim Methodology").

The allowed amount of each Landlord Surplus Claim and their estimated pro rata percentage for distribution is set out on the Distribution Schedule.

3.02 Determination of Surplus Funds

The determination of the amount of funds available for distribution on account of Landlord Surplus Claims (the "Surplus Funds") shall be the funds remaining in the estate of the Company after payment of or reservation for:

- (a) Distributions to be made by the Trustee in the Bankruptcy Proceedings on account of proven claims including any Landlord Affected Claims other than Landlord Surplus Claims and Crown Claims (the "Bankruptcy Distributions");
- (b) the estimated amount of the Levy and Unaffected Claims; and
- (c) the 2880 Queen St. Fee.

3.03 Distribution of Surplus Funds

Within 10 days of the Proposal Implementation Date, the Trustee shall (a) distribute the Surplus Funds in on a pro rata basis in accordance with the Distribution Schedule; and (b) pay the 2880 Queen St. Fee to 2880 or as it may direct.

ARTICLE 4- VOTING ON THE PROPOSAL

4.01 For the purpose of voting on the Proposal, there shall be one class of comprised of Landlord Creditors in respect of Landlord Surplus Claims.

4.02 For greater certainty, no other Person shall be entitled to vote on this Proposal and Landlord Creditors shall only be entitled to vote on account of their Landlord Surplus Claims.

ARTICLE 5- CLAIMS AGAINST DIRECTORS

5.01 In accordance with Section 50(13) of the BIA, effective on receipt of the Proposal Approval Order, the Proposal shall be deemed, for all purposes whatsoever, to constitute the complete compromise, release and discharge of all claims, of any nature or source whatsoever, of all Landlord against any director of the Company, which arose before the Filing Date and which relate to obligations of the Company where such director is by law liable in its capacity as director for payment of such obligations, provided however that nothing in this Section 5.01 shall release or discharge or be deemed to have released or discharged any claims against the director that cannot be released or discharged pursuant to Section 50(14) of the BIA, and any such claim against a current or former director of the Company is permitted recourse, and sole recourse, to the Surplus Funds.

ARTICLE 6 - PREFERENCES, TRANSFERS AT UNDER VALUE, ETC.

6.01 In conformity with Section 101.1 of the BIA, Sections 95-101 of the BIA and any provincial statute related to preference, fraudulent conveyance, transfer at undervalue, or the like shall not apply to this Proposal.

6.02 In addition, Sections 95-101 of the BIA and any provincial statute related to preference, fraudulent conveyance, transfer at undervalue, or the like, and all of the rights, remedies, recourses and claims described therein:

- (a) shall be completely unavailable to the Trustee or any Landlord Creditors against the Company, any of the Company's assets or property or any other Person whatsoever; and
- (b) the Trustee and all of the Landlord Creditors shall be deemed, for all purposes whatsoever, to have irrevocably and unconditionally waived and renounced such rights, remedies and recourses and any claims based thereon against the Company, the Company's assets and property or any other Persons.

ARTICLE 7- RELEASES

7.01 Company Release

At the Proposal Implementation Time, the Company, the Trustee and each of their present and former employees and contractors and each of their respective financial advisors, legal counsel and agents (all in such capacities herein referred to as the "**Released Company Parties**") shall be released and discharged from any and all rights and claims of any Person against a Released Company Party ("**Released Company Claims**"), including any Landlord Affected Claim and any claim arising under sections 95-101 of the BIA and any provincial statute related to preference, fraudulent conveyance, transfer at undervalue, or the like, whether or not any such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present or future, known or unknown, where such right or claim is based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place (x) on or prior to the Proposal Implementation Date, or (y) after the Proposal Implementation Date in furtherance of the Proposal and that is in any way relating to, arising out of, or in connection with: (i) Landlord Affected Claims; (ii) the Bankruptcy Proceedings; or (iii) this Proposal; provided, however, that nothing in this Section 7.01 will release or discharge the Company of, or from, any obligation under this Proposal or Order implementing this Proposal or any particular debt or liability referred to in s. 178(1) except to the extent that the Person voted for the acceptance of this Proposal.

7.02 Third Party Release

At the Proposal Implementation Time, the Sponsors, their present and former directors, officers, employees, contractors, successors and assigns, and each of their respective financial advisors, legal counsel and agents, personally and in all their capacities (the "**Released Third Parties**", and together with the Released Company Parties, the "**Released Parties**") shall be released and discharged from any rights and claims of any Landlord Creditor against a Released Third Party that are connected to, arise from or are otherwise in respect of any Landlord Affected Claim, including any claim arising under sections 95-101 of the BIA and any provincial statute related to preference, fraudulent conveyance, transfer at undervalue, or the like ("**Released Third Party Claims**", and together with the Released Company Claims, the "**Released Claims**").

7.03 Injunctions

All Landlord Creditors are permanently and forever barred, estopped, stayed and enjoined, on and after the Proposal Implementation Time, with respect to any and all Released Claims, from

- (a) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits, demands or other proceedings of any nature or kind whatsoever against the Released Parties, as applicable;
- (b) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, decree or order against the Released Parties;

- (c) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any lien or encumbrance of any kind against the Released Parties or their property; or
- (d) taking any actions to interfere with the implementation or consummation of this Proposal; provided, however, that the foregoing shall not apply to the enforcement of any obligations under this Proposal.

For greater certainty, each Landlord Creditor agrees not to make or join in any claim or demand or to take any proceedings whatsoever against any Person that does or could result in a claim over against any or all of the Released Parties for any form of contribution, indemnity or other relief over, whether arising at law, equity or under the provisions of the BIA or otherwise, in respect of, by reason of or in any way related to Released Claims, and the Landlord Creditors hereby irrevocably release and consent to an order dismissing any such action to the extent of such claim over, and, irrevocably authorizes each of the Released Parties to endorse a consent to such an order.

7.04 Timing of Releases and Injunctions

All releases and injunctions set forth in this Article shall become effective on the Proposal Implementation Date.

7.05 Knowledge of Claims

Each Person to which Sections 7.01 and 7.02 hereof applies shall be deemed to have granted the releases set forth in Sections 7.01 and 7.02 notwithstanding that it may hereafter discover facts in addition to, or different from, those which it now knows or believes to be true, and without regard to the subsequent discovery or existence of such different or additional facts, and such party expressly waives any and all rights that it may have under any Applicable Law which would limit the effect of such releases to those claims, including claims or causes of action known or suspected to exist at the time of the granting of the release.

ARTICLE 8 - EVENT OF DEFAULT

8.01 The responsibility of the Company under this Proposal shall be deemed to be satisfied at the Plan Implementation Time, and the payment of amounts under ARTICLE 3 within ten (10) Business Days of the date on which such payment is due shall be the responsibility of the Trustee, and will not constitute an event of default by the Company for the purposes of Section 62.1 of the BIA or otherwise under this Proposal.

ARTICLE 9– TRUSTEE

9.01 Dodick Landau Inc. is acting in its capacity as Trustee, and not in its personal capacity, and shall not incur any personal liabilities or obligations in connection with this Proposal or in respect of the business, liabilities, obligations of the Company, whether existing as at the Filing Date or incurred subsequent thereto.

ARTICLE 10 - COURT APPROVAL, CONDITIONS PRECEDENT AND IMPLEMENTATION

10.01 Application for Approval Order

Each of the Landlord Creditors, Equity Holders and the Official Receiver (as defined in and appointed under the BIA) are hereby given notice that, after acceptance of this Proposal by the requisite majority of

Landlord Creditors in accordance with the relevant provisions of the BIA, the Proposal Trustee will present a motion (the "**Proposal Approval Motion**") to the Court seeking the Proposal Approval Order on [• 2020] at • o'clock a.m. or soon thereafter.

10.02 Proposal Approval Order

The order approving the Proposal (the "**Proposal Approval Order**") shall be in form and substance satisfactory to the Released Parties and, among other things, declare that:

- (a) The Landlord Surplus Claim Methodology is approved;
- (b) this Proposal is fair and reasonable;
- (c) this Proposal has been approved pursuant to Section 60 of the BIA and will be binding and effective as herein set out on the Company, all Landlord Creditors and any other Person to the extent provided for in this Proposal or in the Proposal Approval Order;
- (d) grant to the Trustee in addition to its rights and obligations under the BIA and any other Court Order, the powers, duties and protections contemplated by and required under the Proposal;
- (e) the commencement or prosecution, whether directly, indirectly, derivatively or otherwise, of any demands, claims, actions, counterclaims, suits, judgment, or other remedy or recovery as described in Section 7.03 hereof shall be permanently enjoined; and
- (f) compromise, discharge and release the Released Parties from any and all claims of any nature in accordance with the Proposal, and declare that the ability of any Person to proceed against the Released Parties in respect of or relating to any such claims shall be forever discharged and restrained, and all proceedings with respect to, in connection with or relating to such claims be permanently stayed.

10.03 Conditions to Implementation

The implementation of this Proposal shall be conditional upon the fulfillment, satisfaction or waiver (to the extent permitted by this Proposal) of the following conditions:

- (a) The Trustee shall have made the Bankruptcy Distributions and set aside sufficient funds in respect of the Levy and the Unaffected Claims;
- (b) the Proposal shall have been approved by the Required Majority at the Meeting;
- (c) the Court shall have granted the Proposal Approval Order, the operation and effect of which shall not have been stayed, reversed or amended, or in the event of an appeal or application for leave to appeal, final determination shall have been made by the applicable appellate court;
- (d) no Applicable Law shall have been passed and become effective, the effect of which makes the consummation of this Proposal illegal or otherwise prohibited;
- (e) all documents necessary to give effect to all material provisions of this Proposal shall have been executed and/or delivered by all relevant Persons; and
- (f) all required stakeholder, regulatory and Court approvals, consents, waivers and filings shall have been obtained or made, as applicable, and, in the case of waiting or

suspensory periods, such waiting or suspensory periods shall have expired or been terminated.

10.04 Proposal Trustee's Certificate of Proposal Implementation

Upon written notice from the Trustee that the conditions to implementation set out in Section 10.03 have been satisfied or waived, the Proposal Trustee shall, as soon as possible following receipt of such written notice, serve on the service list in the Bankruptcy Proceedings, and file with the Court, a certificate which states that all conditions precedent set out in Section 10.03 have been satisfied or waived and that the Proposal Implementation Date has occurred or will occur on a future date specified in the certificate.

ARTICLE 11 - MISCELLANEOUS

11.01 On receipt of the Proposal Approval Order, all Landlord Creditors will be deemed to have consented and agreed to all of the provisions of this Proposal in its entirety, including the terms of the Proposal Approval Order. For greater certainty, each such Landlord Creditor will be deemed to have waived any default by the Company in any provision, express or implied, in any agreement existing between the Landlord Creditors and the Company that has occurred on or prior to the Filing Date, and to have agreed that, to the extent that there is any conflict between the provisions of any such agreement and the provisions of the Proposal, the provisions of this Proposal take precedence and priority and the provisions of any such agreement are amended accordingly.

11.02 The payment, compromise or other satisfaction of any Claim under this Proposal will be binding on the Landlord Creditors and their respective heirs, executors, administrators, successors and assigns for all purposes.

11.03 The Proposal shall be governed by and construed in accordance with the Laws of Ontario and the federal laws of Canada applicable therein. Any disputes as to the interpretation or application of the Proposal and all proceedings taken in connection with the Proposal shall be subject to the exclusive jurisdiction of the Court.

Dated at Toronto this ²⁰ day of December, 2020.

S.K. BERNSTEIN HOLDINGS INC.

Per: 

 Stanley K. Bernstein

President

(I have the authority to bind the Company)

SCHEDULE "A" – DISTRIBUTION SCHEDULE

District of ONTARIO
 Division No. 09-Toronto
 Court No. 31-2648369
 Estate No. 31-2648369

**In the matter of the proposal of
 S.K. Bernstein Holdings Inc.
 of the city of Toronto, in the Province of Ontario**

DRAFT

FORM 12
 Final Statement of Receipts and Disbursements

RECEIPTS

1. Miscellaneous		
Transfer from Bankruptcy estate	<u>302,800.37</u>	<u>302,800.37</u>
TOTAL RECEIPTS		<u><u>\$302,800.37</u></u>

DISBURSEMENTS

2. Fees Paid		
To Registrar	150.00	
To Official Receiver	<u>150.00</u>	300.00
3. Licensing Fee		
Ascend Licensing Fee	<u>190.00</u>	190.00
4. Notice of First Meeting		
To 22 creditor(s)	121.00	
HST charged on Trustee's remuneration	<u>41.58</u>	162.58
5. Trustee's Remuneration		
Trustee's fees - estimate	19,500.00	
HST charged on Trustee Remuneration	<u>2,535.00</u>	22,035.00
6. Notice of final dividend and trustee discharge		
To 22 creditor(s)	44.00	
Postage	<u>19.58</u>	63.58
7. Other notices and reports		
To 22 creditors	12.50	
Postage	<u>4.20</u>	16.70
8. Miscellaneous		
Bank charges	42.50	
2880 Queen St. Fee	34,753.45	
Legal fees/disbursements - estimate	25,500.00	
HST on Legal fees	3,315.00	
HST on Ascend Licence	<u>24.70</u>	63,635.65

TOTAL DISBURSEMENTS86,403.51**Amount available for distribution**216,396.86

9. Levy payable under section 147 of the Act

10,819.84**10. Net amount available for distribution**205,577.02

Notes.

1. S.K. Bernstein Holdings Inc. (the "Company") filed an assignment in bankruptcy on May 29, 2020 and Dodick Landau was appointed as Trustee in Bankruptcy of the estate.

2. On _____, 2020 the Trustee, on behalf of the Company, filed a Proposal to the landlord creditors of the bankruptcy estate.

3. On _____, 2020 meeting of creditors was held and the Proposal was approved.

4. On _____, 2020 the Proposal was approved in Court.

5. The Proposal was fully performed as of _____, 2020.

Dated at the City of Toronto in the Province of Ontario, this 17th day of November, 2020.

Dodick Landau Inc.

Per:

 Rahn Dodick - Licensed Insolvency Trustee
 4646 Dufferin Street, Suite 6
 Toronto, ON M3H5S4
 Phone: (416) 736-4357 Fax: (416) 649-7725

Taxed at the sum of \$ _____, this _____ day of _____, _____

 Registrar

District of ONTARIO
 Division No. 09-Toronto
 Court No. 31-2648369
 Estate No. 31-2648369

DIVIDEND SHEET

In the matter of the proposal of
 S.K. Bernstein Holdings Inc.
 of the city of Toronto, in the Province of Ontario

Date declared: January 2021

	CLAIM \$	TOTAL			INTERIM PAYMENT \$	CURRENT		
		DIVIDEND \$	LEVY \$	PAYMENT \$		DIVIDEND \$	LEVY \$	PAYMENT \$
UNSECURED								
0846869 BC Ltd.	46,596.49	19,381.07	969.05	18,412.01	0.00	19,381.07	969.05	18,412.01
170 North Queen Developments Inc.	47,734.65	19,854.47	992.72	18,861.74	0.00	19,854.47	992.72	18,861.74
2479945 Ontario Corporation	19,455.96	8,092.40	404.62	7,687.78	0.00	8,092.40	404.62	7,687.78
2880 Queen Street Centre Inc.	36,656.17	15,246.55	762.33	14,484.22	0.00	15,246.55	762.33	14,484.22
Avison Young ITF Van Lee G.P. Ltd.	43,989.91	18,296.90	914.85	17,382.06	0.00	18,296.90	914.85	17,382.06
Calloway REIT (Pickering) Inc.	12,630.72	5,253.55	262.68	4,990.87	0.00	5,253.55	262.68	4,990.87
Canadian Property Holdings (Fir Street) Inc.	21,041.61	8,751.92	437.60	8,314.33	0.00	8,751.92	437.60	8,314.33
Capital City Shopping Centre Limited	19,020.91	7,911.44	395.57	7,515.87	0.00	7,911.44	395.57	7,515.87
First Capital Holdings (ALB) Corporation & 7838760 Canada Inc.	29,972.43	12,466.55	623.33	11,843.23	0.00	12,466.55	623.33	11,843.23
Her Majesty the Queen in the right of Canada	30,670.00	12,756.70	637.83	12,118.86	0.00	12,756.70	740.27	14,065.16
LDASK MBC Corp.	13,090.71	5,444.87	272.24	5,172.63	0.00	5,444.87	272.24	5,172.63
Parklane Plaza Inc.	12,722.58	5,291.75	264.59	5,027.17	0.00	5,291.75	264.59	5,027.17
Ravino Equities Inc. & Ravino Properties Limited	28,983.30	12,055.14	602.76	11,452.38	0.00	12,055.14	602.76	11,452.38
Rhyl Realty Inc.	19,820.08	8,243.85	412.19	7,831.65	0.00	8,243.85	412.19	7,831.65
Sun Life Assurance Co.	36,130.75	15,028.01	751.40	14,276.61	0.00	15,028.01	751.40	14,276.61
Sun Life Assurance Company of Canada	29,601.45	12,312.25	615.61	11,696.64	0.00	12,312.25	615.61	11,696.64
Terra Rosa Equities Ltd.	26,920.40	11,197.11	559.86	10,637.26	0.00	11,197.11	559.86	10,637.26
Transmark Developments Ltd.	17,982.03	7,479.34	373.97	7,105.37	0.00	7,479.34	373.97	7,105.37
Valiant Rental Inc.	23,665.68	9,843.36	492.17	9,351.19	0.00	9,843.36	492.17	9,351.19
Wantage Development Corp.	3,581.40	1,489.63	74.48	1,415.14	0.00	1,489.63	74.48	1,415.14
TOTAL:	520,267.23	216,396.86	10,819.84	205,577.02	0.00	216,396.86	10,819.84	205,577.02
GRAND TOTALS:	\$ 520,267.23	\$216,396.86	10,819.84	205,577.02	\$0.00	\$ 216,396.86	\$10,819.84	\$205,577.02

Court No. 31-2648369

Estate No. 31-2648369

In the matter of the proposal of
S.K. BERNSTEIN HOLDINGS INC.
of the City of Toronto, in the Province of Ontario

Form 12
Final Statement of Receipts and Disbursements

Dodick Landau Inc.
4646 Dufferin Street, Suite 6
Toronto, On M3H 5S4
Phone: (416) 736-4357 Fax: (416) 649-7725

IN THE MATTER OF THE PROPOSAL OF S.K. BERNSTEIN HOLDINGS INC.
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

Court/Estate File No.: 31-2648369

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY**

Proceeding commenced at TORONTO

**ORDER
(Proposal Approval Order)**

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Dodick Landau Inc.

IN THE MATTER OF THE PROPOSAL OF S.K. BERNSTEIN HOLDINGS INC.
IN THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

Court/Estate File No.: 31-2648369

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

Proceeding commenced at TORONTO

**MOTION RECORD OF THE COURT-APPOINTED
PROPOSAL TRUSTEE, DODICK LANDAU INC.
returnable February 12, 2021
(Proposal Approval)**

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