

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
ESTATES LIST**

**IN THE MATTER OF THE ESTATE OF PAUL ZIGOMANIS, deceased**

**GAIL MacDONALD**

**Applicant**

**- and -**

**VIOLET COOPER**

**Respondent**

**JONATHAN COOPERMAN OF  
A. FARBER & PARTNERS INC.**

**SECOND REPORT OF THE  
ESTATE TRUSTEE DURING LITIGATION  
(October 14, 2015 to May 11, 2016)**

**MAY 11, 2016**

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**INTRODUCTION**

1. This report is filed by Jonathan Cooperman of A. Farber & Partners Inc. (“**Farber**”), in his capacity as estate trustee during litigation (the “**Trustee**”) under sections 28 and 29 of the *Estates Act*, R.S.O. 1990, c. E. 21, of all property and assets of the estate, including all proceeds thereof (the “**Property**”) of Paul Zigomanis (“**Paul**” or the “**Deceased**” and collectively, the “**Estate**”).

2. By an Order of the Honourable Justice Conway dated October 14, 2015 (the “**Appointment Order**”) Jonathan Cooperman of Farber was appointed the Trustee of the Estate. The Appointment Order is attached as **Appendix “A”**.
3. A Certificate of Appointment dated December 3, 2015 was provided by the Court and is attached as **Appendix “B”**.
4. On March 7, 2016, the Trustee filed its first report (the “**First Report**”) with this Court in support of the Trustee’s motion to obtain court approval of its proposed method of service and notice period for service of the notice of motion for the relief being sought herein. A copy of the First Report, without appendices, is attached as **Appendix “C”**.
5. On March 9, 2016 the Honourable Justice Penny issued an order (the “**Service Approval Order**”) approving the process for service recommended by the Trustee in the First Report. A copy of the Service Approval Order is attached as **Appendix “D”**.

## **PURPOSES OF THIS REPORT**

6. The purposes of this Report (the “**Second Report**”) are to:
  - a) report to the Court on the Trustee’s activities since his appointment on October 14, 2015;
  - b) provide support for an order as requested by the Trustee, *inter alia*:
    - (i) recognizing that the real property municipally known as 3356 Brimley Road, Scarborough, Ontario (“**Brimley**”) was owned for the beneficial interest of the Deceased and directing applicable parties to legally transfer title of Brimley into the name of the Trustee on behalf of the Deceased with an effective date of January 1, 2015;

- (ii) approving this Second Report and the activities of the Trustee for the period from October 14, 2015 to May 11, 2016, the particulars of which are set out herein; and
- (iii) such other relief as this Honourable Court deems just.

## **BACKGROUND**

7. On April 20, 2015, the Deceased was killed when the home that he was living in exploded (the “**Explosion**”). The home was located at 3356 Brimley Road in Scarborough, Ontario (“**Brimley**”). The ownership of Brimley and status of legal title thereof is explained in more detail below.
8. An aerial photograph of the scene at Brimley after the Explosion on April 20 is attached as **Appendix “E”**. The Explosion was widely reported in the Toronto media.
9. The Explosion of Brimley completely destroyed the two-storey home and caused extensive damage to a number of surrounding homes.
10. The Deceased did not have a spouse or any children. The Deceased is survived by his two sisters, Gail MacDonald (“**Gail**”) and Violet Cooper (“**Violet**”), whom are also his closest living relatives and the Applicant and Respondent, respectively, to these proceedings.
11. The Deceased died intestate. The Trustee is advised that under the circumstances, Gail and Violet are the beneficiaries of the Estate.
12. The Deceased was predeceased by his parents, John and Mary Zigomanis (“**John and Mary**”), who passed away on December 31, 2014 and on March 23, 2013, respectively. Gail is the trustee of the estate of John (“**John’s Estate**”).
13. The Deceased was one of the named beneficiaries of his parents’ estates in which he has a one-third interest.

14. Gail and Violet had a strained relationship with the Deceased. In the fall of 2013 the Deceased was charged with threatening death and assaulting his two sisters. The charges were still before the courts when Paul died.
15. The Trustee has become aware that the Deceased had sought legal counsel from six different lawyers on various matters prior to his death, as follows:
  - a) Alexander Procope (“**Mr. Procope**”): matters involving the Deceased’s interest in his parents’ estate;
  - b) Jordan Weisz (“**Mr. Weisz**”): criminal defense lawyer for the assault charges;
  - c) Brendan Pooran (“**Mr. Pooran**”): potentially to represent the Deceased on real estate matters involving the transfer of Brimley;
  - d) William (Bill) Tsapralis (“**Mr. Tsapralis**”): counsel to the Deceased’s parents and the lawyer who attended to the transfer of title to Brimley from the Deceased to his parents in 1996;
  - e) David Smith (“**Mr. Smith**”): counsel who represented the Deceased for a period of time after his mother’s death to deal with a power of attorney matter in respect of his father’s failing health; and
  - f) Lawrence Geffen (“**Mr. Geffen**”): counsel briefly retained by the Deceased in 2013 to deal with the offer by Gail and Violet to transfer Brimley to the Deceased.

#### **ACTIVITIES OF THE TRUSTEE**

16. Upon the Trustee’s appointment, the Trustee attended at Brimley on October 16, 2015 to observe its current state. The site had been cleared of debris, the foundation removed and the basement had been infilled. Brimley is currently a vacant lot.

17. The Trustee arranged for security fencing to be erected around the lot at Brimley to deter general public access, parking and dumping. The Trustee engaged a property manager to conduct bi-weekly site visits and submit reports to the Trustee.
18. The Trustee arranged for liability insurance coverage on Brimley.
19. The Trustee contacted the following public officeholders and agencies to make them aware of the Trustee's appointment and to make inquiries into the investigation that ensued after the Explosion:
  - Toronto Police Services (“**TPS**”);
  - Office of the Fire Marshal of Ontario (“**FMO**”); and
  - Office of the Chief Coroner of Ontario (“**OCC**”).

At the time of the Trustee's appointment, none of these parties had finalized their investigations.

20. On October 28, 2015, the Trustee sent an email to notify TPS of its appointment and initiate discussion. A copy of the email is attached as **Appendix “F”**.
21. On October 30, 2015, November 17, 2015 and December 15, 2015, the Trustee and its legal counsel sent letters to the FMO in order to request a copy of the Fire Marshal's Report (the “**FMO Report**”) and request that:
  - a) evidence in the possession of the FMO not be released to any other party without the Trustee's prior written consent;
  - b) no copies of the FMO Report be released, except as may be required by law, without the Trustee's prior written consent; and
  - c) any enquiries of a private nature involving Paul and his affairs be directed to the Trustee's office.

Copies of the letters to the FMO are attached as **Appendix “G”**.



22. On November 13, 2015, the Trustee sent a letter of notification to the OCC. A copy of the letter is attached as **Appendix “H”**.
23. At the time of writing this Second Report, the Trustee had received copies of the reports of FMO and OCC, discussed later in this Report. However, TPS had not yet provided their investigative reports and files to the Trustee for review.
24. The Trustee first spoke with one of the investigating detectives of TPS on November 2, 2015 and had an initial discussion about the involvement and informal findings of TPS to date. After several subsequent written requests by the Trustee to meet with TPS personnel to review TPS’s investigation files in respect of the Deceased and the Explosion, on March 21, 2016 TPS eventually directed the Trustee to apply under the Freedom of Information and Protection of Privacy Act (“**FIPPA**”) to obtain access to TPS’s investigation files. The Trustee has filed such an application with TPS to access information under FIPPA. Subsequently, the Trustee received a letter from TPS dated April 22, 2016 advising that “Paul Zigomanis is currently still being investigated” and that TPS was precluded from “the dissemination of any information prior to the conclusion of a police investigation.” The Trustee is considering further what other steps might be appropriate to gain access to information and documents from TPS which the Trustee believes might be extremely useful to the Trustee’s court-appointed mandate “to conduct an investigation with respect to the Deceased, the Estate and the Property...”.
25. The Trustee also wrote to each of the following to request any information that they may have about Paul:
  - a) Six lawyers, namely Mr. Procope, Mr. Pooran, Mr. Weisz, Mr. Tsparalis, Mr. Smith and Mr. Geffen, that Paul was known to have dealings with and requested copies of their files for further investigation. The Trustee has spoken to or corresponded with each of the six lawyers about the affairs of the Deceased:

- (i) Mr. Procope: Mr. Procope provided the Trustee with copies of his files. Included in Mr. Procope's files were references to the other counsel; Mr. Pooran, Mr. Weisz and Mr. Tsparalis. Mr. Procope had been retained by Paul to address Paul's interest in the estate of his parents. Mr. Procope was specifically in the process of negotiating minutes of settlement with Gail and Violet that would have seen title to Brimley transferred back to Paul.
- (ii) Mr. Pooran: Mr. Procope had recommended Paul to Mr. Pooran, a real estate lawyer, to deal with the transfer of Brimley. Mr. Pooran had not been formally retained by Paul at the time of the Explosion and thus did not have any files nor information to provide to the Trustee.
- (iii) Mr. Weisz: Paul retained Mr. Weisz to represent him in respect of the criminal charges brought against him regarding death threats and the assault on Gail and Violet. The Trustee spoke with Mr. Weisz who advised that Paul did not speak to him about any matters outside of the criminal charges, such as estate issues. Mr. Weisz did provide a copy of his file to the Trustee to review but it did not yield any information relevant to the Trustee's mandate. Mr. Weisz informed the Trustee that he was in possession of the Crown Attorney's disclosure which contained personal information of the victims which he was bound to not disclose without the written approval of the Crown. The Trustee did not see a need to obtain the disclosure document.
- (iv) Mr. Tsparalis: Mr. Tsapralis dealt with the transfer of Brimley from Paul to his parents in 1996. In 1998, Mr. Tsapralis sold his law practice and retired. The Trustee has sought to meet with Mr. Tsapralis to discuss the transfer of Brimley. However, Mr. Tsapralis has advised that he does not know the whereabouts of his legal files that he sold in 1998 nor does he recollect any special

reasons as to why Paul would have transferred Brimley to his parents for nominal consideration in 1996.

- (v) Mr. Smith: On April 27, 2016, the Trustee was advised by Gail and Violet that Paul retained Mr. Smith of the firm Hull & Hull LLP to deal with the power of attorney regarding their father, John, whose health was failing. Gail, Violet and Paul were all named on the power of attorney and, according to Gail and Violet, there were difficulties in getting agreement from Paul which would allow for the transfer of John to a long term health care facility. The Trustee wrote to Mr. Smith on April 27, 2016. Mr. Smith recently replied that he had very little information.
  - (vi) Mr. Geffen: According to Gail's affidavit sworn on May 9, 2016, Paul retained Mr. Geffen in 2013 to deal with the offer by Gail and Violet to transfer Brimley to Paul. Mr. Geffen later advised Gail that he was no longer retained. The Trustee wrote to Mr. Geffen but has not yet received a response.
- b) Seven financial institutions to enquire of any dealings they may have had with Paul. Two of the financial institutions have provided the Trustee with banking information of the Deceased and remitted the balance of funds in bank accounts to the Trustee, as discussed below. The other five institutions advised the Trustee that they had no dealings with the Deceased; and
- c) Canada Revenue Agency (“**CRA**”) to request copies of Paul's last five years of personal tax returns. CRA has provided the Trustee with the last five annual personal income tax returns filed by Paul, namely 2007 to 2011. The Trustee will file returns for 2012 through to the date of Paul's death on April 20, 2015. The five years of tax returns received indicate that Paul's only source of income was social assistance payments.

26. The Trustee notified Canada Post of his appointment and initiated a mail redirection to have Paul's mail sent to the Trustee's offices. On January 14, 2016, the Trustee received a batch of mail from Canada Post that had been accumulating since Paul's death. Relevant mail included correspondence from CRA in respect of personal income tax and H.S.T. tax credits, credit card statements, and a letter from a lawyer, Mazo Chowbay, acting on Paul's behalf in a slip and fall incident at a Toronto area hospital.
27. The Trustee contacted Jack Burke-Gaffney of Mazo Chowbay and obtained a copy of the statement of claim filed by Paul against the hospital (the "**Hospital Claim**"). The Hospital Claim is in the amount of \$1,000,000. Mr. Burke-Gaffney advised that an initial offer of settlement of the Hospital Claim had been offered by the hospital's insurer but that through the passage of time, the hospital closed its file and the offer has lapsed. The Trustee is currently assessing the merits of the Hospital Claim and will deal with the matter in consultation with counsel.
28. On April 27, 2016, the Trustee was advised that Paul was a member of a pension plan through the union associated with a previous employer. According to a Member Pension Statement, the account value of the pension as at December 31, 2015 was \$96,120.98. The Trustee wrote to the Pension Plan administrator on May 10, 2016. Copies of the Trustee's letter and the Pension Plan Statement are attached as **Appendix "I"**.

## **ASSETS OF THE ESTATE**

29. The Trustee has identified the following as assets of the Estate:
  - A one-third interest in the estates of John and Mary, valued at approximately \$500,000;
  - Cash in bank accounts at Royal Bank of Canada (\$6,143.78) and TD Canada Trust (\$1,066.61), obtained by the Trustee;

- Registered Retirement Savings Plan administered by Royal Bank of Canada, liquidated and paid to the Trustee (\$38,519.11);
  - Potential settlement of the Hospital Claim;
  - Balance of fee retainer held by Mr. Procope in the amount of \$1,358.21, which has been paid to the Trustee; and
  - Pension plan (account value as at December 31, 2015 of \$96,120.98).
30. The Trustee has identified the following potential assets of the Estate, dependent on the outcome of the pending Motion before the Court:
- The real property at Brimley, as a vacant lot. The Trustee obtained a verbal appraisal from a real estate agent that the lot may be worth \$430,000 to \$440,000; and
  - Insurance proceeds from the destruction of Brimley, discussed below.

### **3356 BRIMLEY ROAD, SCARBOROUGH**

31. As previously stated, the two-storey home formerly located at Brimley was completely destroyed in a natural gas explosion on April 20, 2015.
32. According to land registry documents, Brimley was purchased on December 31, 1990 by John and Mary for \$270,000.
33. On May 17, 1991, title to Brimley was transferred to the Deceased for “natural love and affection”.
34. On August 1, 1996, Paul transferred title to Brimley from himself to John and Mary for \$2. Copies of the transfer documents are attached as **Appendix “J”**.
35. At the time of the Explosion, legal title to Brimley was registered in the names of John and Mary. Copies of the Parcel Register and Parcel Map for Brimley are attached as **Appendix “K”**.

36. The Trustee has conducted an investigation to determine the real beneficial ownership of Brimley.
37. As part of its investigations, the Trustee has taken the following steps:
  - a) Met and interviewed Gail and Violet on April 27, 2016;
  - b) Reviewed the affidavits of Gail and Violet;
  - c) Reviewed the parcel register with title history to Brimley;
  - d) Had discussions with Tsapralis, counsel involved with the transfer of Brimley; and
  - e) Reviewed the legal files of Mr. Procope.
38. It is the Trustee's understanding that Paul was the sole occupant for the entire twenty-four years he lived at Brimley, with no evidence to the contrary.
39. Gail and Violet have advised the Trustee that the purpose of transferring title of Brimley to John and Mary in 1996 was to create a trust for Paul as he was having substance abuse problems at the time, with a history of drug use. It was John and Mary's intent to protect Brimley on Paul's behalf until he was fit to control ownership once again. Although no formal trust documents were ever signed, it was always understood by Gail, Violet, Paul, and John and Mary that Paul was the true beneficial owner of Brimley and that Brimley was held in trust for Paul by John and Mary.
40. Mary died on March 23, 2013. Shortly thereafter, Gail and Violet, who were managing John's financial affairs, wrote a letter to Paul seeking to transfer Brimley to Paul effective immediately, stipulating that Paul was to be entirely responsible for all of its associated expenses. A copy of the letter dated May 8, 2013 is attached as **Appendix "L"**. The transfer did not occur following the May 8, 2013 letter and was not completed prior to John's death.

41. John died on December 31, 2014. John's will named Gail as his estate trustee and divided the residue of his estate among his three children equally. A copy of John's will is attached as **Appendix "M"**. The will does not contain provisions to specifically address Brimley. Notwithstanding, in her capacity as estate trustee of John's Estate, Gail began the process of transferring the title of Brimley to Paul.
42. Paul retained a lawyer, Mr. Procope of Swadron Associates, to prepare minutes of settlement to effect the transfer of Brimley. The Trustee has since discussed this matter with Mr. Procope and, as indicated previously, received all of Mr. Procope's files relevant to Paul (the "**Procope Files**").
43. Included in the Procope Files are Mr. Procope's intake notes from his first meeting with Paul on April 6, 2015. The following is relevant information taken from Mr. Procope's notes:
- In November 1989, Monarch developers purchased land from John and his two partners; in lieu of John's 1/3 interest in the land Monarch built a home on the lot for John. This home is Brimley.
  - "made deal with Monarch to construct a house in his name to avoid capital gains tax".
  - "Bill [Tsapralis] remembers transfer of property in 1996". Paul "was going into business for himself as Ziggy Mechanical Commercial HVAC".
  - [Paul suffered] "accident being electrocuted in 1996; additional medical problems in 1997 (coma for 11 days); started getting OW [Ontario Works] in 1997 or 1998; was running out of money".
  - "insolvency lawyer suggested transferring house to father; wasn't defeating creditors; did it to keep the company; spoke about transferring it [Brimley] back but there was no event to trigger this".

- “Bill [Tsapralis] already spoke to sisters [Gail and Violet] about the Brimley property”.
  - “renting room in basement in Brimley property \$500 per month”.
  - “paid rent because ODSP [Ontario Disability Support Program] paying something for it”.
  - “made all payments on Brimley property; has records of various payments he made on those bills (because he owned it)”.
  - Paul “has tribunal matter at landlord-tenant; water fixed, no hot water; fixing other things; maintaining property; repayment for things that he fixed”.
44. Mr. Procope wrote to Paul on April 8, 2015 summarizing their April 6 meeting, including his comments on whether Brimley was being held in trust for Paul. Mr. Procope also provided Paul with draft minutes of settlement proposed by Mr. Procope which would effect an agreement between Paul and his sisters including, *inter alia*, the transfer of Brimley to Paul. Copies of Mr. Procope’s April 8, 2015 letter to Paul and the draft minutes of settlement are attached as **Appendices “N” and “O”**, respectively.
45. On April 8, 2015, Angela Casey of the law firm de Vries Litigation, counsel to Gail as estate trustee of John’s Estate, wrote to Mr. Procope setting out the intent of both Gail and Violet to transfer Brimley to Paul. A copy of the letter from Ms. Casey to Mr. Procope is attached as **Appendix “P”**.
46. Before the minutes of settlement could be signed or transfer could be effected, Paul was killed in the Explosion.
47. A copy of this Second Report has been provided in draft to Gail and Violet for their review and to confirm the Trustee’s understanding of the facts outlined in the Report relevant to Brimley to the extent that they had knowledge.



48. Although there is room for interpretation, the Trustee has concluded, based on the totality of all of the available information and evidence, that Brimley was held and was always meant to be held for the benefit of Paul by John and Mary, and that from the time of the initial transfer to Paul on May 17, 1991, Paul was the true beneficial owner of Brimley throughout the period until his death. Accordingly, to give proper effect to this beneficial ownership, legal title should be transferred, *nunc pro tunc*, to the Trustee (on Paul's behalf) to the day immediately following John's death, which would be January 1, 2015. The Trustee is therefore bringing this motion on the basis that Brimley ought to be part of the Estate.

### **THE EXPLOSION AND AVIVA**

49. Aviva Canada Inc. ("**Aviva**") was the insurer of Brimley. The Trustee has had numerous discussions with Aviva. The named insureds on the insurance policy that was in force at the time of the Explosion (the "**Aviva Policy**") were John and Mary. The Trustee determined that the policy premium for the period March 27, 2015 to March 27, 2016 was paid directly from a bank account in John's name. A copy of the Aviva Policy declarations is attached as **Appendix "Q"**.

50. Aviva retained the investigation firm Origin & Cause ("**O&C**") to conduct an independent investigation into the cause of the Explosion. A copy of O&C's report (the "**O&C Report**") was provided to the Trustee, a copy of which is attached as **Appendix "R"**.

51. The O&C Report determined the origin of the explosion was a vapour fueled explosion within the house at Brimley. As found on page 10 of the O&C Report, in the opinion of O&C, the cause was determined to be the deliberate act to disconnect the natural gas supply line to the natural gas fueled hot water tank, resulting in natural gas escaping the delivery system and being ignited by an ignition source within the home. As indicated therein, the O&C Report was finalized before O&C received a copy of the FMO Report.

52. As a result of the O&C Report, Aviva concluded it was not obligated to pay the full amounts otherwise payable under the Aviva Policy. Aviva's position is that it will only pay out 66 $\frac{2}{3}$  percent of the total loss that would otherwise be payable to the homeowner in respect of property insurance (contents and dwelling coverages), thereby only paying the amounts that the two surviving family members (being Gail and Violet) would be entitled to as beneficiaries of John's Estate. The remaining 33 $\frac{1}{3}$  percent in respect of Paul was denied due to Paul's alleged purposeful act. Aviva cited that it would recognize the beneficial interest of Gail and Violet in John's Estate in accordance with provisions in the Family Law Act. Aviva stated that it would not be paying on the \$1,000,000 comprehensive liability portion of the Aviva Policy. A copy of an email from Prosper Benchetrit of Aviva is attached as **Appendix "S"**.
53. The maximum contents coverage per the insurance policy was \$560,400.
54. The maximum dwelling building coverage per the insurance policy was \$700,300. Aviva has determined the replacement cost of Brimley to be \$529,359.
55. Aviva stated that any settlement of the insurance coverage would be affected by:
- (i) a 25% depreciation reduction for materials;
  - (ii) an offset for Aviva's expenses to deal with the property such as are described below; and
  - (iii) an apportionment of amounts payable to Gail and Violet as opposed to the apportionment denied with respect to Paul.
56. Included with the O&C Report was an invoice from CDT International (the "**CDT Invoice**") totaling \$114,934. CDT International was retained and instructed by Aviva to conduct work relating to demolition and debris removal services at Brimley after the Explosion. Aviva states that it paid the CDT Invoice in full.
57. Included in the CDT Invoice were storage fees of \$4,396 regarding Paul's vehicle, a 1990 Buick Regal (the "**Buick**") that was found in the garage at Brimley. Shortly

after the Explosion the Buick was removed from Brimley at the request of the Fire Marshal and transported to a storage compound in Stoney Creek, Ontario. The Buick was not insured and it was significantly damaged in the Explosion. Accrued storage charges to December 31, 2015 were \$6,350 plus H.S.T. As the Buick was only worth scrap value, the Trustee released any and all interest in the Buick to CDT International. A copy of the letter dated February 9, 2016, addressed to CDT International is attached as **Appendix “T”**.

58. Since Paul is not a named insured on the Aviva Policy and since title to Brimley is in the name of John and Mary, the Trustee is not currently in a position to accept or reject Aviva's offers or otherwise deal with the insurance and is awaiting the outcome of the within motion before taking further action. Issues regarding insurance, including the validity of the O&C Report, will be addressed after the determination of the ownership of Brimley.

#### **THE FMO REPORT**

59. The Trustee was informed that the final draft of the FMO Report was released to TPS and OCC in December to obtain their respective approvals before the FMO Report could be finalized. The Trustee received a copy of the FMO Report by letter dated February 10, 2016. The FMO Report concluded that the Explosion was fueled by natural gas. Specifically, the natural gas union that formed part of the supply piping to the hot water heater was separated at some point in time prior to the Explosion and that this was caused by direct human intervention. There is, however, no time connection or reason associated between these two events (being the separation and the Explosion). The separation allowed for natural gas to flow into the interior of the Brimley House. A copy of the FMO Report is attached **Appendix “U”**.
60. Aviva concluded because of the O&C Report that Paul deliberately caused the Explosion. Attached as **Appendix “S”** is a copy of an email from Aviva dated January 4, 2016 where Aviva concludes “a deliberately set act by the occupant of the home, Mr. Paul Zigomanis”. On the other hand, while the FMO Report states

that the Explosion was caused by the problems outlined above, the FMO Report does not attribute the Explosion itself to an intentional deliberate act to cause an explosion or to any individual.

61. The Trustee will consider the validity of the FMO Report after the issue regarding the ownership of Brimley has been resolved.

### **THE CORONER'S REPORT**

62. On February 5, 2016, the Trustee received a copy of the Coroner's Investigation Statement, Post Mortem Examination Report and Toxicology Report (collectively the "**OCC Report**") from Dr. Roger Skinner, Regional Supervising Coroner of the Central Region of the OCC, confirming that Paul was killed due to explosion related injuries. A copy of the OCC Report is attached as **Appendix "V"**.
63. The Trustee was advised by the OCC that the OCC was the lead investigative body in respect of the Explosion given that there was a fatality involved.
64. The OCC Report further states that the Coroner considered both accident and suicide and concluded that the manner of death is undetermined.
65. In the covering letter that accompanied the OCC Report, Dr. Skinner requested that the Trustee contact him if the Trustee believed that any information documented in the OCC Report was factually incorrect. On March 23, 2016, the Trustee wrote to Dr. Skinner to advise that he had reasons to believe that the OCC Report does contain factual inaccuracies, to be outlined in due course as the Trustee completes his investigations.

### **LIABILITY CLAIMS AND SERVICE OF THE TRUSTEE'S MOTION**

66. The Explosion caused extensive damage to a number of surrounding homes. Litigation arising from the other homeowners who suffered damages from the Explosion will likely ensue. To date, Aviva has been put on notice in respect of seven (7) claims.

67. Given that John and Mary are title holders to Brimley and they are also the named policy holders on Aviva's property insurance, notwithstanding that it is the Trustee's position that Paul's Estate is the beneficial owner of Brimley, the Trustee anticipates that John's Estate will be named as a defendant in lawsuits by the homeowners who suffered damages.
68. The Trustee anticipates that Paul's Estate will also be a named defendant because:
- (i) Paul was the sole occupant of Brimley;
  - (ii) Aviva determined (via the O&C Report) that the explosion was a result of a deliberate act to disconnect the natural gas supply line to the natural gas fuelled hot water tank; and
  - (iii) the Trustee's position that Paul was the true beneficial owner of Brimley.
69. The Trustee recognized that identifying potential stakeholders and claimants in the Estate would be challenging. Accordingly, the Trustee issued his First Report to Court in support of the Service Approval Order. The Service Approval Order included approval of the proposed process to identify stakeholders and the method for serving the motion record in respect of the relief sought herein.
70. Attached as **Appendix "W"** is a schedule listing likely creditors and potential claimants in the Estate. The listing is comprised of:
- regular creditors of Paul; and
  - claimants in respect of the Explosion of which the Trustee is currently aware.

The information for the above listing came from:

- redirected mail;
- parties who have contacted Aviva; and

- parties who have contacted the FMO.
71. Attached as **Appendix “X”** is a schedule that lists parties that neither the Trustee, nor Aviva, nor the FMO have heard from, but who the Trustee determined might have suffered a loss and who should receive notice of the motion before this Court in accordance with the Service Approval Order.
  72. The Trustee will be serving the relevant parties on Appendices “W” and “X” with the Notice of Motion according to the Service Approval Order.

### **TRUSTEE’S STATEMENT OF RECEIPTS AND DISBURSEMENTS**

73. Attached as **Appendix “Y”** is the Trustee’s Statement of Receipts and Disbursements for the period from October 14, 2015 to May 11, 2016. As indicated therein, the Trustee presently has \$44,515.70 in his trust account.
74. The Trustee has been provided with retainer payments which total \$130,000 from John’s Estate, currently considered to be advances against Paul’s eventual share of that estate.
75. The professional fees of the Trustee and its counsel, Bennett Jones, have not been paid. The Trustee will apply to Court at a future date regarding these fees.

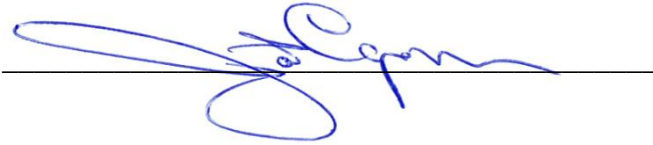
### **RECOMMENDATIONS**

76. The Trustee respectfully requests that this Honourable Court issue an Order:
  - a) recognizing that Brimley was owned for the beneficial interest of the Deceased and directing applicable parties to legally transfer title of Brimley into the name of the Trustee on behalf of the Deceased with an effective date of January 1, 2015;
  - b) approving this Second Report and the activities of the Trustee for the period from October 14, 2015 to May 11, 2016, as reported herein; and

c) such other relief as this Honourable Court deems just.

All of which is respectfully submitted this 11<sup>th</sup> day of May, 2016.

**JONATHAN COOPERMAN OF A. FARBER & PARTNERS INC.  
IN HIS CAPACITY AS ESTATE TRUSTEE DURING LITIGATION OF  
THE ESTATE OF PAUL ZIGOMANIS, DECEASED**

A handwritten signature in blue ink is written over a horizontal line. The signature is stylized and appears to read 'Jonathan Cooperman'.