

SURROGATE'S COURT OF THE STATE OF NEW YORK  
COUNTY OF MONROE

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In the Matter of the Application of

**AFFIDAVIT OF JAMES P. SCHNELL**

THOMAS F. BONADIO,  
as Co-Executor of the Estate of

File No. 2016-787

ANTHONY J. COSTELLO,

Deceased,

for advice and direction pursuant to Surrogate's  
Court Procedure Act §2107 and §2102(6)

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James P. Schnell, being duly sworn, deposes and states as follows:

1. Your Affiant is a certified public accountant (CPA) duly licensed in New York, a certified valuation analyst (CVA) and accredited in business valuation (ABV). I'm also a principal in the accounting firm of Mengel Metzger & Barr & Co. LLP, where I have chaired the tax department since December 2006. I am presently serving as tax accountant to the Estate of Anthony J. Costello, and to Elaine Costello, Anthony's surviving spouse.

2. I make this Affidavit in support of Petitioner, Elaine Costello's application to vacate the Consent Order entered in this Court on June 7, 2018 (the "Consent Order"). That Order appointed Richard Beers, Esq. as Special Master to, inter alia, market and sell certain real property in which the Estate holds a 60% interest, including Clinton Crossings Medical Center ("Clinton Crossings") and the Reserve on the Erie Canal (the "Reserve").

3. Prior to entry of the Consent Order, the parties and their respective attorneys had numerous discussions, Court conferences and telephone conferences dealing with the issues of what, if anything, to do about the Estate's ongoing and persistent cash flow issues and

the declining value of its real estate assets. (As a reminder, the Will designated most Estate assets to three testamentary trusts intended to provide income for life to Anthony Costello's wife, Elaine Costello.) In particular, the Co-Executors differed as to whether it was best for the Estate and its primary beneficiary, Elaine Costello, to operate the estate businesses and real estate interests as going concerns or to liquidate most of its holdings, including businesses and property with positive value (primarily USAirport and Clinton Crossing Medical Center), as well as under-performing assets, which were hemorrhaging cash (primarily the Reserve and a project known as CityGate).

4. Early in the Estate Administration, it became readily apparent that the two co-fiduciaries, Brett Costello and Thomas Bonadio, CPA, had very different approaches to the issue. Mr. Bonadio strongly advocated selling essentially all of the Estate's holdings in order to pay creditors (including Mr. Bonadio and his firm), starting with its most profitable and most valuable asset, Clinton Crossings, and then liquidating the remaining holdings at a later time. In contrast, Mr. Costello's approach was to liquidate the under-performing or non-performing assets, stem the cash flow issues, restructure the debt and preserve the key assets (especially Clinton Crossings) so as to preserve the value of Anthony Costello's significant real estate portfolio for the benefit his beneficiaries, particularly his wife, Elaine.

5. Sometime during the late fall or early winter of 2017, the Court directed Mr. Bonadio to prepare, at the Estate's expense, a written analysis of the cash-flow and tax consequences to the Estate and its beneficiaries of immediately liquidating Clinton Crossings and the Reserve. He presented that analysis under cover of a letter dated February 16, 2018 (the "Bonadio Report"). See Exhibit A.

6. Predictably, the Bonadio Report supported Mr. Bonadio's preference for selling off Clinton Crossings immediately. To that end it posited potential sale prices of \$80 million, \$90 million and \$100, million. In each case Bonadio projected substantial "Cash for Available Distribution" to the Estate, for its 60% share of the properties, and to the Costello children, who each own 10% shares. In particular, the Bonadio Report predicted that a sale, at the low side, of \$80 million would yield the Estate almost \$28.5 million after taxes and each child \$3 million after taxes; that a sale at \$90 million would provide the Estate with \$47.6 million net of taxes and each child \$3.6 - \$3.9 million after taxes; and that a sale at \$100 million would net the Estate almost \$54.4 million, and each of the children over \$4.3 million. In each case the Bonadio Report identified a charge for "intercompany receivables" against the Estate's share of \$16,151,852, but no other charges against any shares were identified. The clear implication was that even a sale on the "low" side at \$80 million would yield \$24,784,590 to be shared by Elaine's trusts and her children, while a sale at \$100 million would net them \$38,234,455 to share.

7. However, in its rush to justify an immediate sale of Clinton Crossings, the Bonadio Report inflated Clinton Crossings' likely sale price, relied upon dated information about intercompany obligations, and overlooked substantial closing expenses and liabilities of the Estate. The result of failing to do so was a significant overstatement of the amount of money that a sale would yield for the Estate. In fact, when adjusted for the actual intercompany transactions and known liabilities, the net result of a sale at \$80 million is negative for both the Estate and the Costello children. Attached as Exhibit B is a comparison of the Bonadio Report's

financial projections and assumptions with that same analysis corrected for actual intercompany transactions and expenses as reflected in the books of related companies.

8. For one thing, the Bonadio Report relied heavily upon an “intercompany loan” picture that was at least seven years old. In particular, the Report added \$28.4 to the Posited sales prices for Clinton Crossings without first pursuing a full reconciliation of all related entities as of the time of its analysis. Since the Bonadio firm had been the accountant for the Costello entities for approximately the prior twenty years, with full access to the data, it was beyond fair to expect an updated reconciliation of intercompany transactions. Had an updated reconciliation been performed the “addition” of cash to the sale prices would have shrunk from \$28.4 million to just over \$600,000.

9. The Bonadio Report also failed to take into account an \$18.6 million liability to M&T Bank that had been cross-collateralized by Clinton Crossings. It also failed to account for unpaid property taxes owed on the property in the amount of \$2.9 million, as well as other judgments and liens against the property exceeding \$160,000. The impact of these disregarded liabilities, coupled with the unreconciled reporting of intercompany loans, was sufficient to reduce the expected yield on an \$80 million sale to become negative, rather than \$49 million plus as Bonadio reported.

10. From the point of view of the Estate, the impact of a sale at the prices Bonadio projected was even more negative, due to liabilities of at least \$5 million to Northwest Bank, and claims for attorney’s fees and the Bonadio firm’s services in an undetermined amount, none of which were accounted for in the Bonadio Report, even though they would further

deplete whatever proceeds the Estate might hope to recoup from a sale of \$90 million or \$100 million.

11. Unfortunately, after close to a year on the market the Clinton Crossings property has failed to attract a buyer even at Bonadio's "low" estimate of \$80 million. Instead, Mr. Beers proposes to sell the property for only \$76,300,000.

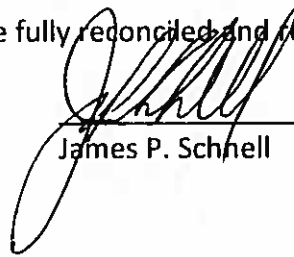
12. In a recent email (Exhibit C) Mr. Beers presented an analysis indicating that this proposed sale would yield "distributable proceeds" to the Estate and the Costello siblings of \$9,840,907.48. But his analysis doesn't included attorneys' fees for the closing which Mr. Bonadio projected at \$500,000. Nor has Mr. Beers accounted for outstanding judgments, miscellaneous liens and accounts payable, which collectively exceed \$500,000. And, like the Bonadio Report, Mr. Beers' fails to consider the claims against the Estate, including claims by Northwest Bank, Mr. Bonadio and his firm, and the attorneys (including Mr. Beers) who will be looking to the Estate for payment. Most significantly, Mr. Beers' analysis takes no account of the income taxes that both the Estate and the siblings will have to pay on this proposed transaction. If these items are accounted for there would be nothing left to help fund the testamentary trusts.

13. In summary, the omissions and faulty process approach evident in the Bonadio Report led to a severe overstatement of funds that would be available to the beneficiaries if the properties were sold, and unfairly mislead the Decedent's inexperienced primary beneficiary (Elaine Costello) by painting a false financial picture to advance its proponent's desire to liquidate estate assets over the objections of his co-fiduciary.


14. Furthermore, whatever opportunity, if any, a sale of Clinton Crossings may have presented for producing significant distributions to the Estate and its trusts during the fall/winter of 2017, it is crystal clear there is no such reasonable expectation now, in July, 2019.

15. Any fair analysis of the Bonadio Report, especially when viewed in light of the significant changes in circumstances since its issuance, dictate that the primary beneficiary of Anthony Costello's Will, his wife Elaine Costello, should be afforded an opportunity to re-visit her prior "consent," informed by more complete, more fully reconciled and realistic data.

Dated: July 24, 2019

  
James P. Schnell

Sworn to before me this  
24<sup>th</sup> day of July, 2019.

  
Notary Public

CATHERINE A. BLOOD  
Notary Public, State of New York  
Registration #01BL6325920  
Qualified In Orleans County  
Commission Expires 10/8/23

## **Exhibit A**

February 16, 2018

Mr. Brett Costello, Executor  
Estate of Anthony J. Costello  
c/o A.J. Costello Group LLC  
One Airport Way  
Rochester, NY 14624

Dear Brett,

As requested, we have prepared income tax projections for the Anthony J. Costello Estate (Estate) as well as Lynette, Alicia, Andrea and yourself that may result if the properties known as Clinton Crossings were sold in a single transaction for an aggregate gross purchase price of \$80M, \$90M or \$100M. We have also prepared income tax projections for the Estate, Lynette, Alicia, Andrea, yourself as well as certain family trusts that may that may result if the property known as the "82 acres" were sold in a transaction for an aggregate gross purchase price of \$12M, \$14M or \$16M. In regard to the potential sale of the "Reserve", we have prepared an analysis of the potential income tax benefits to the Estate base on a sale of the Reserve for three amounts. These amounts are for the aggregate third party amount, the third party debt amount less \$2M and the third party debt amount less \$5M.

It should be noted that all of these projections were based on financial information provided by the company by Michael Picard and/or his staff. The analysis used financial information as of October 2017 for the Clinton Crossing and the 82 acres. For the Reserve, we used financial information as of 12/31/17. These projections were prepared based on numerous assumptions and does not incorporate any taxable income impact of any other business that is owned directly or indirectly by the estate and/or the family of Anthony J. Costello. We have not audited or otherwise reviewed the information provided by the company. It should be noted that the projections are prepared based upon the 2018 income tax rate.

**Certain assumptions:**

1. In the calculation of the income tax on the Clinton Crossing properties, certain assumptions concerning that allocation of purchase price amongst the properties were made. The aggregate purchase price was allocated to each of the properties based upon the ratio of the appraised value of the individual properties prepared by Empire valuation at the time of Anthony's passing. Any change in the purchase price allocation could impact the income tax calculations.
2. Again, in the calculation of the income tax on the Clinton Crossing properties, certain assumptions were made in the allocation of the purchase price within each property to categories of assets. The tax rules require that the purchase price be allocated according the fair market value of the property sold. The actual allocation of the purchase price within each



property will certainly differ from the assumed allocation and will result in a change in the category of gain to be allocated to each of the owners and as a result will impact the projected tax due for the properties.

3. The calculations reflect the tax basis adjustments recorded as of the date of death for the Estate under section 743 of the Internal Revenue Code. In the calculations, there were assumptions made concerning the costs of sale of each property. These costs could differ from the estimates.
4. We have not included in the income tax projections or the cash flow the impact of any other costs other than those indicated on the schedules.
5. The projected capital loss indicated on the Reserve calculations assume that the entire loss is being funded by the estate. A legal interpretation regarding the creditor status of the Estate and the resulting tax loss may be required.
6. The projected losses from the Reserve are calculated based upon the accounting methods adopted by the Reserve in its historical tax returns.
7. The calculations for the Estate assumes that the Estate is considered to be a Real Estate Professional as defined in the tax law. The impact is that the income being recognized is not subject to the Net Investment Income Tax.
8. The calculations for Bret assumes that he is considered to be a Real Estate Professional as defined in the tax law. The impact is that the income being recognized is not subject to the Net Investment Income Tax.

There are other assumptions that are noted in the attached calculations.

We appreciate that these computations are complex and may require further explanation or inquiry. If you have any questions or would like to discuss, please let me know.

Sincerely,  
BONADIO & CO., LLP

Thomas Bruckel, CPA

Cc: Thomas Bonadio  
Edward Hourihan  
Elena F. Cariola  
Mary P. Moore  
Cressida Dixon  
Frank B. Iacovangelo  
Edward A. Wurtz

CPA FOR DISCUSSION PURPOSES ONLY

# Analysis for the Estate of Anthony J Costello

Clinton  
Crossing  
Gain(Loss)  
Analysis

**Clinton Crossing Gain Analysis**

**Partner Summary**

**Sale Price**

	\$ 80,000,000	\$ 80,000,000	\$ 100,000,000
<b>Distribution of Proceeds</b>			
<b>Brett C.</b>			
Cash for Avail Distribution	4,806,713	5,731,616	6,656,518
Less Taxes to be Paid	1,555,448	1,825,922	2,092,034
Subtotal	3,251,267	3,905,694	4,563,685
Loan to Settle Interco (Outside Sale)			
Remaining	<u>\$ 3,251,267</u>	<u>\$ 3,905,694</u>	<u>\$ 4,563,685</u>
<b>Lynette Alicia, Andrea (ea.)</b>			
Cash for Avail Distribution	4,806,713	5,731,616	6,656,518
Less Taxes to be Paid	1,741,695	2,047,317	2,349,175
Subtotal	3,065,018	3,684,299	4,307,343
Loan to Settle Interco (Outside Sale)			
Remaining	<u>\$ 3,065,018</u>	<u>\$ 3,684,299</u>	<u>\$ 4,307,343</u>
<b>Estate including GVA</b>			
Cash for Avail Distribution	30,019,681	36,220,051	42,420,442
Less Taxes to be Paid	1,530,131	3,569,323	5,520,838
Subtotal	28,489,530	32,650,728	36,899,603
Loan to Settle Interco (Outside Sale)	16,151,262	16,151,262	16,151,262
Remaining	<u>\$ 12,338,268</u>	<u>\$ 16,499,466</u>	<u>\$ 20,748,541</u>
<b>Amounts included in Cash for Avail Distribution</b>			
Interco Rec (Outside Sale)	22,129,387		
Settle Interco Payable (Outside Sale)	(5,978,125)		
	<u>16,151,262</u>		
<b>And loaned by the Estate</b>	<u>16,151,262</u>		

Financial Statement - Balance Sheet

Account	2019		2018		2017		2016		2015		2014	
	Assets	Liabilities	Assets	Liabilities	Assets	Liabilities	Assets	Liabilities	Assets	Liabilities	Assets	Liabilities
Current Assets	1,234,567	567,890	1,345,678	678,901	1,456,789	789,012	1,567,890	890,123	1,678,901	901,234	1,789,012	1,234,567
Cash	100,000	50,000	110,000	60,000	120,000	70,000	130,000	80,000	140,000	90,000	150,000	100,000
Accounts Receivable	200,000	100,000	210,000	110,000	220,000	120,000	230,000	130,000	240,000	140,000	250,000	200,000
Inventory	300,000	150,000	310,000	160,000	320,000	170,000	330,000	180,000	340,000	190,000	350,000	300,000
Prepaid Expenses	40,000	20,000	45,000	25,000	50,000	30,000	55,000	35,000	60,000	40,000	65,000	40,000
Other Current Assets	194,567	97,890	205,678	103,901	216,789	119,012	227,890	125,123	238,901	131,234	249,012	194,567
Non-Current Assets	1,134,000	517,890	1,235,678	618,901	1,336,789	679,012	1,437,890	730,123	1,538,901	781,234	1,639,012	1,134,000
Property, Plant & Equipment	800,000	400,000	850,000	450,000	900,000	500,000	950,000	1,000,000	1,050,000	1,100,000	1,150,000	800,000
Intangible Assets	334,000	117,890	385,678	168,901	436,789	179,012	487,890	230,123	538,901	281,234	589,012	334,000
Other Non-Current Assets	0	0	0	0	0	0	0	0	0	0	0	0
Current Liabilities	456,789	234,567	467,890	245,678	478,901	256,789	489,012	267,890	500,123	278,901	511,234	456,789
Accounts Payable	150,000	75,000	160,000	80,000	170,000	85,000	180,000	90,000	190,000	95,000	200,000	150,000
Short-Term Debt	100,000	50,000	110,000	55,000	120,000	60,000	130,000	65,000	140,000	70,000	150,000	100,000
Other Current Liabilities	206,789	109,567	217,890	115,678	228,901	111,789	239,012	125,123	250,123	113,901	261,234	206,789
Non-Current Liabilities	678,901	283,323	710,012	313,234	740,012	323,323	770,012	333,234	800,012	343,323	830,012	678,901
Long-Term Debt	500,000	200,000	550,000	250,000	600,000	300,000	650,000	350,000	700,000	400,000	750,000	500,000
Other Non-Current Liabilities	178,901	83,323	160,012	63,234	140,012	23,323	120,012	83,234	100,012	43,323	80,012	178,901
Equity	777,778	332,323	877,778	423,234	977,778	513,323	1,077,778	553,234	1,177,778	593,323	1,277,778	777,778
Common Stock	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000
Retained Earnings	277,778	332,323	377,778	423,234	477,778	513,323	577,778	553,234	677,778	593,323	777,778	277,778

Account	2019		2018		2017		2016		2015		2014	
	Assets	Liabilities	Assets	Liabilities	Assets	Liabilities	Assets	Liabilities	Assets	Liabilities	Assets	Liabilities
Current Assets	1,234,567	567,890	1,345,678	678,901	1,456,789	789,012	1,567,890	890,123	1,678,901	901,234	1,789,012	1,234,567
Cash	100,000	50,000	110,000	60,000	120,000	70,000	130,000	80,000	140,000	90,000	150,000	100,000
Accounts Receivable	200,000	100,000	210,000	110,000	220,000	120,000	230,000	130,000	240,000	140,000	250,000	200,000
Inventory	300,000	150,000	310,000	160,000	320,000	170,000	330,000	180,000	340,000	190,000	350,000	300,000
Prepaid Expenses	40,000	20,000	45,000	25,000	50,000	30,000	55,000	35,000	60,000	40,000	65,000	40,000
Other Current Assets	194,567	97,890	205,678	103,901	216,789	119,012	227,890	125,123	238,901	131,234	249,012	194,567
Non-Current Assets	1,134,000	517,890	1,235,678	618,901	1,336,789	679,012	1,437,890	730,123	1,538,901	781,234	1,639,012	1,134,000
Property, Plant & Equipment	800,000	400,000	850,000	450,000	900,000	500,000	950,000	1,000,000	1,050,000	1,100,000	1,150,000	800,000
Intangible Assets	334,000	117,890	385,678	168,901	436,789	179,012	487,890	230,123	538,901	281,234	589,012	334,000
Other Non-Current Assets	0	0	0	0	0	0	0	0	0	0	0	0
Current Liabilities	456,789	234,567	467,890	245,678	478,901	256,789	489,012	267,890	500,123	278,901	511,234	456,789
Accounts Payable	150,000	75,000	160,000	80,000	170,000	85,000	180,000	90,000	190,000	95,000	200,000	150,000
Short-Term Debt	100,000	50,000	110,000	55,000	120,000	60,000	130,000	65,000	140,000	70,000	150,000	100,000
Other Current Liabilities	206,789	109,567	217,890	115,678	228,901	111,789	239,012	125,123	250,123	113,901	261,234	206,789
Non-Current Liabilities	678,901	283,323	710,012	313,234	740,012	323,323	770,012	333,234	800,012	343,323	830,012	678,901
Long-Term Debt	500,000	200,000	550,000	250,000	600,000	300,000	650,000	350,000	700,000	400,000	750,000	500,000
Other Non-Current Liabilities	178,901	83,323	160,012	63,234	140,012	23,323	120,012	83,234	100,012	43,323	80,012	178,901
Equity	777,778	332,323	877,778	423,234	977,778	513,323	1,077,778	553,234	1,177,778	593,323	1,277,778	777,778
Common Stock	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000
Retained Earnings	277,778	332,323	377,778	423,234	477,778	513,323	577,778	553,234	677,778	593,323	777,778	277,778



Financial Statements - Summary

Year ended 31/12/2020

	2019 / 2019	2018 / 2018	2017 / 2017	2016 / 2016	2015 / 2015	2014 / 2014	2013 / 2013	2012 / 2012	2011 / 2011	2010 / 2010	2009 / 2009
<b>Income Statement</b>											
Revenue	1,000,000	950,000	900,000	850,000	800,000	750,000	700,000	650,000	600,000	550,000	500,000
Cost of Sales	(400,000)	(380,000)	(360,000)	(340,000)	(320,000)	(300,000)	(280,000)	(260,000)	(240,000)	(220,000)	(200,000)
Gross Profit	600,000	570,000	540,000	510,000	480,000	450,000	420,000	390,000	360,000	330,000	300,000
Operating Expenses	(200,000)	(190,000)	(180,000)	(170,000)	(160,000)	(150,000)	(140,000)	(130,000)	(120,000)	(110,000)	(100,000)
Operating Profit	400,000	380,000	360,000	340,000	320,000	300,000	280,000	260,000	240,000	220,000	200,000
Finance Income	50,000	45,000	40,000	35,000	30,000	25,000	20,000	15,000	10,000	5,000	0
Finance Expenses	(20,000)	(18,000)	(16,000)	(14,000)	(12,000)	(10,000)	(8,000)	(6,000)	(4,000)	(2,000)	(1,000)
Profit Before Tax	430,000	407,000	384,000	361,000	340,000	315,000	292,000	269,000	246,000	223,000	199,000
Tax Expense	(100,000)	(95,000)	(90,000)	(85,000)	(80,000)	(75,000)	(70,000)	(65,000)	(60,000)	(55,000)	(50,000)
Profit After Tax	330,000	312,000	294,000	276,000	260,000	240,000	222,000	204,000	186,000	168,000	149,000
Dividend Paid	(50,000)	(45,000)	(40,000)	(35,000)	(30,000)	(25,000)	(20,000)	(15,000)	(10,000)	(5,000)	(2,000)
Retained Profit	280,000	267,000	254,000	241,000	230,000	215,000	202,000	189,000	176,000	163,000	147,000

	2019 / 2019	2018 / 2018	2017 / 2017	2016 / 2016	2015 / 2015	2014 / 2014	2013 / 2013	2012 / 2012	2011 / 2011	2010 / 2010	2009 / 2009
<b>Balance Sheet</b>											
Share Capital	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000
Reserves	330,000	312,000	294,000	276,000	260,000	240,000	222,000	202,000	186,000	168,000	149,000
Liabilities	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000
Total	2,330,000	2,312,000	2,294,000	2,276,000	2,260,000	2,240,000	2,222,000	2,202,000	2,186,000	2,168,000	2,149,000

	2019 / 2019	2018 / 2018	2017 / 2017	2016 / 2016	2015 / 2015	2014 / 2014	2013 / 2013	2012 / 2012	2011 / 2011	2010 / 2010	2009 / 2009
<b>Cash Flow Statement</b>											
Operating Activities	400,000	380,000	360,000	340,000	320,000	300,000	280,000	260,000	240,000	220,000	200,000
Investing Activities	(100,000)	(95,000)	(90,000)	(85,000)	(80,000)	(75,000)	(70,000)	(65,000)	(60,000)	(55,000)	(50,000)
Financing Activities	(50,000)	(45,000)	(40,000)	(35,000)	(30,000)	(25,000)	(20,000)	(15,000)	(10,000)	(5,000)	(2,000)
Net Increase/Decrease	250,000	240,000	230,000	220,000	210,000	200,000	190,000	180,000	170,000	160,000	148,000
Opening Balance	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000
Closing Balance	1,250,000	1,240,000	1,230,000	1,220,000	1,210,000	1,200,000	1,190,000	1,180,000	1,170,000	1,160,000	1,148,000

	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	Total
<b>Operating Income</b>	1,234,567	1,345,678	1,456,789	1,567,890	1,678,901	1,789,012	1,890,123	1,901,234	1,912,345	1,923,456	1,934,567	1,945,678	1,956,789	19,567,890
<b>Operating Expenses</b>	(876,543)	(987,654)	(1,098,765)	(1,209,876)	(1,320,987)	(1,432,098)	(1,543,209)	(1,654,320)	(1,765,431)	(1,876,542)	(1,987,653)	(2,098,764)	(2,209,875)	(22,109,876)
<b>Operating Profit</b>	358,024	358,024	358,024	358,024	358,024	358,024	358,024	358,024	358,024	358,024	358,024	358,024	358,024	358,024
<b>Other Income</b>	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	1,000,000
<b>Other Expenses</b>	(50,000)	(50,000)	(50,000)	(50,000)	(50,000)	(50,000)	(50,000)	(50,000)	(50,000)	(50,000)	(50,000)	(50,000)	(50,000)	(500,000)
<b>Net Income</b>	408,024	408,024	408,024	408,024	408,024	408,024	408,024	408,024	408,024	408,024	408,024	408,024	408,024	4,080,240

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For Discussion Purposes



Company Financials Summary

Category	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Revenue	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00
Cost of Sales	30.00	30.00	30.00	30.00	30.00	30.00	30.00	30.00	30.00	30.00	30.00	30.00
Gross Profit	70.00	70.00	70.00	70.00	70.00	70.00	70.00	70.00	70.00	70.00	70.00	70.00
Operating Expenses	20.00	20.00	20.00	20.00	20.00	20.00	20.00	20.00	20.00	20.00	20.00	20.00
Operating Income	50.00	50.00	50.00	50.00	50.00	50.00	50.00	50.00	50.00	50.00	50.00	50.00
Interest Expense	5.00	5.00	5.00	5.00	5.00	5.00	5.00	5.00	5.00	5.00	5.00	5.00
Income Before Tax	45.00	45.00	45.00	45.00	45.00	45.00	45.00	45.00	45.00	45.00	45.00	45.00
Tax Expense	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00
Net Income	35.00	35.00	35.00	35.00	35.00	35.00	35.00	35.00	35.00	35.00	35.00	35.00

Category	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Operating Assets	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00
Operating Liabilities	30.00	30.00	30.00	30.00	30.00	30.00	30.00	30.00	30.00	30.00	30.00	30.00
Operating Equity	70.00	70.00	70.00	70.00	70.00	70.00	70.00	70.00	70.00	70.00	70.00	70.00

Category	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Operating Assets	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00
Operating Liabilities	30.00	30.00	30.00	30.00	30.00	30.00	30.00	30.00	30.00	30.00	30.00	30.00
Operating Equity	70.00	70.00	70.00	70.00	70.00	70.00	70.00	70.00	70.00	70.00	70.00	70.00



**Clinton Crossings Gain Analysis**

**Assumptions used in calculations**

**Gain on Sale**

Calculated based on data through October 31, 2017  
Reviewed trial balances as of 11/30/17 and no significant change

Allocated 30% of 1245 property (5 & 7 year) accumulated depreciation as depreciation capture  
Estimated gain on 30% of 1245 property and the remainder to sell for NBS

**741(b) Allocation**

The original 754 step up in basis was allocated to 30yr property and depreciation over 5/1  
No allocation was made to 15yr property nor 1245 property

In the alternative, the allocation of the 741(b) has been applied in the following manner  
First to 1731 Capital Gain  
Next to Unrecaptured Gain  
Lastly if necessary to Ordinary 1245/1250 recapture

**Sales Price**

Use if sales prices of \$80, \$90, \$100M for calculation purposes and assumption is that all  
Clinton Crossing property including GVA would be sold as one group

**Tax on gain**

Anthony and Estate are Real Estate professionals exempt from the 3.8% Medicare surcharge  
Other partners are subject as income is passive  
Used highest tax rates for Fed and State

**Intercompany**

Based on analysis of intercompany che-ld/trans it would be necessary for the Estate to loan funds to  
A) Costello Group and Costello Enterprises. These funds are then allocated out Clinton Crossing entity

Estate	
Amount to Others to Repay Clinton Crossing	34,340,225 Paid to B,D,I,F,G,H
	1,611,043 Paid to GVA
	<u>16,751,262</u>
Amounts included in Cash Avail via pay off intercompany T/F	
	1,434,022 Brett C
	1,434,022 I quote, Adela, Andrea (as)
	10,475,174 Estate
	<u>16,751,262</u>

I have gone through the loan documents for the debt on the Clinton Crossings buildings. Listed below are the prepayment penalties:

**Buildings A, B & C** Wells Fargo Bank ( Interest Swap with Citizens Bank)

According to the loan documents, there is no prepayment fee for the loan. However, there is an interest rate swap exit fee of 1%.

**Building D** Morgan Stanley (Wells Fargo as loan administrator)

There is a 3% prepayment penalty on this loan.

**Buildings E & F** Canandaigua National Bank

The prepayment penalty is tiered. If paid in 2018 it is 4%; 2019 is 3%; 2020 is 2% and 2021 is 1%.

**Building G** M & T Bank

The prepayment penalty is also tiered. If paid in 2018, it is 4%; 2019 is 3%; 2020 is 2% and 2021 is 1%.

**Building H** Canandaigua National Bank

If paid in 2018, the penalty is 1%. If paid in 2019 or 2020, it is 3%.

Regards,

Mike

*Michael T. Picard*  
*Chief Financial Officer*

 **The Costello Group**



585-328-2280 ext. 110

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**Team Due (Flight) Analysis as of 12/11/19**

Team	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Team A		7,612,289	1,134,000	(1,090,000)	(1,220,700)		631	(13,042)	2,464,487	(200,040)			2,487,847
Team B	(2,770,134)		79,000	(64,510)	(2,040)			(3,000)	(3,019,300)	1,634,044			(800,487)
Team C	15,434,976	(79,000)		(62,430)	14,819	2,731	(8,200)	(8,200)	(1,714,220)	1,601,711			103,497
Team D	20,127,711	88,765	(60,570)		(20,719)	10,010	30,047	116,070	677,182	(4,021,000)			6,679,121
Team E	2,220,700	2,070	(16,070)	20,741		11,000		72	1,204,200	200,201			1,646,802
Team F			(7,721)	(10,010)	(11,000)		(27,000)	(10,400)	(60,700)	1,400,200			1,420,524
Team G	(687)		6,000	(60,000)		21,000		77,400	(30,000)	2,000,200			2,000,700
Team H													
<b>Total</b>	<b>17,912,289</b>	<b>7,612,289</b>	<b>1,117,930</b>	<b>(1,305,210)</b>	<b>(1,236,990)</b>	<b>44,700</b>	<b>(7,569)</b>	<b>124,708</b>	<b>1,891,710</b>	<b>(1,770,840)</b>			<b>3,676,037</b>

**Team Due (Flight) Analysis as of 12/11/19**

Category	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Team Due (Flight)	17,912,289	7,612,289	1,117,930	(1,305,210)	(1,236,990)	44,700	(7,569)	124,708	1,891,710	(1,770,840)			3,676,037
Team Due (Flight) - Non-Team													

**Team Due (Flight) Analysis as of 12/11/19**

Category	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Team Due (Flight) - Non-Team													
Team Due (Flight) - Non-Team													

**Team Due (Flight) Analysis as of 12/11/19**

Category	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Team Due (Flight) - Non-Team													
Team Due (Flight) - Non-Team													

**Team Due (Flight) Analysis as of 12/11/19**

1,100,000 - 2019 entry for team distribution on Day D Part  
 2,200,000 - 2019 entry for team distribution on Day D Part  
 3,300,000 - 2019 entry for team distribution on Day D Part

Financial Statement Analysis

Statement Item	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
<b>Shareholders' Equity</b>										
Share of Issuance of Common	371,728	176,353	18,071	79,133	7,443	67,000				17,711
Share of Issuance of Preferred	0	0	0	0	0	0	0	0	0	0
Share of Issuance of Warrants	0	0	0	0	0	0	0	0	0	0
Share of Issuance of Options	0	0	0	0	0	0	0	0	0	0
Share of Issuance of Restricted Stock	0	0	0	0	0	0	0	0	0	0
<b>Retained Earnings</b>										
Retained Earnings	(1,200,000)	(2,200,000)	1,700,000	2,200,000	2,200,000	2,200,000	2,200,000	2,200,000	2,200,000	2,200,000
Retained Earnings	(200,000)	(200,000)	200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000
Retained Earnings	(200,000)	(200,000)	200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000
Retained Earnings	(200,000)	(200,000)	200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000
Retained Earnings	(200,000)	(200,000)	200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000
<b>Shareholders' Equity</b>										
Shareholders' Equity	1,171,728	1,576,353	1,818,071	2,279,133	2,207,443	2,267,000	2,200,000	2,200,000	2,200,000	2,217,711
Shareholders' Equity	1,171,728	1,576,353	1,818,071	2,279,133	2,207,443	2,267,000	2,200,000	2,200,000	2,200,000	2,217,711
Shareholders' Equity	1,171,728	1,576,353	1,818,071	2,279,133	2,207,443	2,267,000	2,200,000	2,200,000	2,200,000	2,217,711
Shareholders' Equity	1,171,728	1,576,353	1,818,071	2,279,133	2,207,443	2,267,000	2,200,000	2,200,000	2,200,000	2,217,711
Shareholders' Equity	1,171,728	1,576,353	1,818,071	2,279,133	2,207,443	2,267,000	2,200,000	2,200,000	2,200,000	2,217,711
<b>Total Equity at 12/31</b>										
Total Equity at 12/31	1,171,728	1,576,353	1,818,071	2,279,133	2,207,443	2,267,000	2,200,000	2,200,000	2,200,000	2,217,711
Total Equity at 12/31	1,171,728	1,576,353	1,818,071	2,279,133	2,207,443	2,267,000	2,200,000	2,200,000	2,200,000	2,217,711
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Total Equity at 12/31	1,171,728	1,576,353	1,818,071	2,279,133	2,207,443	2,267,000	2,200,000	2,200,000	2,200,000	2,217,711
<b>2017 Activity Through 10/31</b>										
2017 Activity Through 10/31	1,171,728	1,576,353	1,818,071	2,279,133	2,207,443	2,267,000	2,200,000	2,200,000	2,200,000	2,217,711
2017 Activity Through 10/31	1,171,728	1,576,353	1,818,071	2,279,133	2,207,443	2,267,000	2,200,000	2,200,000	2,200,000	2,217,711
2017 Activity Through 10/31	1,171,728	1,576,353	1,818,071	2,279,133	2,207,443	2,267,000	2,200,000	2,200,000	2,200,000	2,217,711
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<b>Total Equity Through 10/31</b>										
Total Equity Through 10/31	1,171,728	1,576,353	1,818,071	2,279,133	2,207,443	2,267,000	2,200,000	2,200,000	2,200,000	2,217,711
Total Equity Through 10/31	1,171,728	1,576,353	1,818,071	2,279,133	2,207,443	2,267,000	2,200,000	2,200,000	2,200,000	2,217,711
Total Equity Through 10/31	1,171,728	1,576,353	1,818,071	2,279,133	2,207,443	2,267,000	2,200,000	2,200,000	2,200,000	2,217,711
<b>2018 Equity at 12/31</b>										
2018 Equity at 12/31	1,171,728	1,576,353	1,818,071	2,279,133	2,207,443	2,267,000	2,200,000	2,200,000	2,200,000	2,217,711
2018 Equity at 12/31	1,171,728	1,576,353	1,818,071	2,279,133	2,207,443	2,267,000	2,200,000	2,200,000	2,200,000	2,217,711
2018 Equity at 12/31	1,171,728	1,576,353	1,818,071	2,279,133	2,207,443	2,267,000	2,200,000	2,200,000	2,200,000	2,217,711
2018 Equity at 12/31	1,171,728	1,576,353	1,818,071	2,279,133	2,207,443	2,267,000	2,200,000	2,200,000	2,200,000	2,217,711

For Discussion Purposes

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**82 acres  
Gain(Loss)  
Analysis**

**AJC & Son (Anthony) Development**

82 Acres of Land Adjacent to Clinton Crossing

<b>Sale</b>				
Selling Price		12,000,000	14,000,000	16,000,000
Less: Brokerage Fee		120,000	140,000	160,000
Less: Estimated Closing Costs		40,000	40,000	40,000
Less: Other (Prepayment)				
Net Proceeds		11,840,000	13,720,000	15,600,000
<b>Boys</b>				
Land		5,712,400	5,212,000	5,112,000
<b>Gain</b>	Total Gain (Loss)	6,127,600	8,508,000	10,488,000
<b>Cash Received</b>				
Cash on Hand (EO)				
Sale Proceeds - Net		11,840,000	13,720,000	15,600,000
Interest Rec. (Assumed 0.25% CC rate)				
<b>Use of Proceeds</b>				
Mortgage Payoff		1,157,540	1,157,540	1,157,560
Accounts Payable		2,510,201	2,510,201	2,510,201
Settle Interest Payable				
Cash for Avail Distribution		8,162,259	10,142,259	12,122,239
<b>Tax on Gain:</b>				
20% 1231 (Capital)		1,312,480	1,712,480	2,112,480
3.8% Medicare Surcharge		251,081	326,321	401,561
0.8% NYS Income Tax		581,451	755,691	929,831
Total Tax on Gain		2,154,012	2,799,492	3,444,972

**Distribution of Proceeds:**

Cash for Avail Distribution	8,162,259	10,142,259	12,122,239
Less: Taxes to be Paid	2,154,012	2,799,492	3,444,972
<b>Total</b>	<b>6,008,247</b>	<b>7,342,767</b>	<b>8,677,267</b>

**Distribution of Proceeds per Partner:**

Brett	5%	300,411	367,137	433,863
Trust (Brett)	7.5%	450,617	550,706	650,795
Brett C Family Trust	5%	300,411	367,137	433,863
Lynette	5%	300,411	367,137	433,863
Trust (Lynette)	7.5%	450,617	550,706	650,795
Lynette JC Family Trust	5%	300,411	367,137	433,863
Alicia	5%	300,411	367,137	433,863
Trust (Alicia)	7.5%	450,617	550,706	650,795
Alicia Family Trust	5%	300,411	367,137	433,863
Andrea	5%	300,411	367,137	433,863
Trust (Andrea)	7.5%	450,617	550,706	650,795
Andrea Family Trust	5%	300,411	367,137	433,863
Estate AJC	30%	1,802,488	2,302,824	2,803,180
<b>Total</b>		<b>6,008,247</b>	<b>7,342,767</b>	<b>8,677,267</b>

**Gain Allocation**

Brett	5%	303,370	429,370	528,370
Trust (Brett)	7.5%	495,555	644,055	792,555
Brett C Family Trust	5%	330,370	429,370	528,370
Lynette	5%	330,370	429,370	528,370
Trust (Lynette)	7.5%	495,555	644,055	792,555
Lynette JC Family Trust	5%	330,370	429,370	528,370
Alicia	5%	330,370	429,370	528,370
Trust (Alicia)	7.5%	495,555	644,055	792,555
Alicia Family Trust	5%	330,370	429,370	528,370
Andrea	5%	330,370	429,370	528,370
Trust (Andrea)	7.5%	495,555	644,055	792,555
Andrea Family Trust	5%	330,370	429,370	528,370
Estate AJC	30%	1,982,220	2,576,220	3,170,220
<b>Total</b>		<b>6,607,400</b>	<b>8,587,400</b>	<b>10,567,400</b>

**AJC & Son (Anthony) Development**

**Assumptions used in calculations**

Land presumed held for Investment not for Development  
Capital gain treatment

Accounts payable on balance sheet of \$3,454,583 has been reduced by the  
\$934,382 due to Clinton Crossing entities expected to be paid prior to land sale

Per Mike Picard - The Estate has a loan of \$2.275M which is secured by this property.

DRAFT  
For Discussion Purposes

# The Reserve Gain(Loss) Analysis

**AJC & Son (Joseph) as of 12/31/17 - The Reserve**

Reserve	Sales Price = Mortgage Balance	Sales Price = Mortgage Balance Less: 2M	Sales Price = Mortgage Balance Less: 3M
<b>Sale:</b>			
Selling Price (Mortgage Bal)	14,825,000	17,825,000	9,825,000
Less: Brokerage Fee	148,250	178,250	98,250
Less: Estimated Closing Costs	-	-	-
Less: Other (Prepayment)	-	-	-
Net Proceeds	14,676,750	17,646,750	9,726,750
<b>Debit</b>			
Intangible Assets-Start Up & Ac	1,795,575	1,795,575	1,795,575
Construction in Progress	6,094,884	6,094,884	6,094,884
SoR Cost	10,469,145	10,469,145	10,469,145
Drhd & Canal	2,785,708	2,785,708	2,785,708
Drweaton SF Homes	599,834	599,834	599,834
Drwastone	699,497	699,497	699,497
Clubhouse LD and Construction	7,854,719	7,854,719	7,854,719
Fl Plan SF Homes	496,576	496,576	496,576
Glennville Townhomes	827,215	827,215	827,215
Lofts West	359,850	359,850	359,850
LD - Waterford Estates CIP	604,280	604,280	604,280
Land	1,193,620	1,193,620	1,193,620
Less: Contra Accounts	(4,169,245)	(4,169,245)	(4,169,245)
Clubhouse	76,489	76,489	76,489
Less: Accum Depr	(2,478)	(2,478)	(2,478)
Furniture	42,783	42,783	42,783
<b>Total Debit</b>	<b>30,178,922</b>	<b>30,178,922</b>	<b>30,178,922</b>
<b>Gain:</b>			
Total Gain (Loss)	<b>(15,502,172)</b>	<b>(17,532,172)</b>	<b>(20,452,172)</b>
<b>Cash Received</b>			
Cash on Hand (H)	123,750	123,750	123,750
Sale Proceeds - Net	14,676,750	17,646,750	9,726,750
Accs Receivable	317,709	317,709	317,709
Due from HOA	13,000	13,000	13,000
Interco Rec	-	-	-
<b>Use of Proceeds</b>			
Mortgage Payoff	14,671,671	14,671,671	14,671,671
Accounts Payable	3,049,171	3,049,171	3,049,171
Customer Rental Security Deposits	7,750	7,750	7,750
Customer Deposits	176,386	176,386	176,386
<b>Cash for Avail Distribution - Before Interco Settle</b>	<b>(773,769)</b>	<b>(2,753,769)</b>	<b>(5,723,769)</b>
Settle Interco Payable	4,259,971 **	4,259,971 **	4,259,971 **
Due to Anthony J Costello	8,500,254	8,500,254	8,500,254
Due to Estate of AJC Fund	1,339,413	1,339,413	1,339,413
<b>Total Interco</b>	<b>14,099,638</b>	<b>14,099,638</b>	<b>14,099,638</b>
<b>Insufficient Funds - Potential COD Income</b>	<b>(14,873,407)</b>	<b>(16,853,407)</b>	<b>(19,823,407)</b>
<b>Tax on Gain:</b>			
20% 1231 (Capital)	-	-	-
3.8% Medicare Surcharge	-	-	-
R.8% NYS Income Tax	-	-	-
<b>Total Tax on Gain</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>**Analysis of Interco Payable</b>			
2520 - AJC & Son (ANDR(A))	1,277,006.05	(Amount maybe cleared if Clinton Crossing transaction occurs first)	
2440 - Enterprise	98,910.32		
2502 - GROUP	2,603,913.91		
2430 - Due To/ Fr AJC & Son (SPENCE)	7,412,956.40		
2420 - Due To/ Fr Related Entities - Other	2,132,815.43		
	<b>4,259,971.25</b>		

AJC & Ben, Joseph LLC - The Reserve  
Income Tax Base Schedules

	AJC	DRETT	LYN	ALICIA	ANDREA	AJC	TOTAL
	ES						
	ATE						
12/31/2015 Capital Accounts		252,317	252,318	232,217	232,217	1,099,297	2,332,100
2016 LOSS ALLOCATED TO AJC						(204,111)	(204,111)
TAX BASIS IN LLC (FIRE REST DOD(743) MANDATORY ADJUSTMENT)	1						
LOSS ALLOCATED TO OTHER PARTNERS		(170,559)	(170,558)	(170,559)	(170,559)		(682,235)
LOSS ALLOCATED TO (2016)	(819,240)						(819,240)
SECTION 743 ADJUSTMENT REDUCTION IN LOSS	30,034						
TOTAL LOSSES							(1,705,586)
TAX BASIS AT 12/31/2016	(784,205)	82,658	82,660	82,658	82,658	n/a	(533,571)
ESTIMATED LOSS ALLOCATED AT 2/28/17 ON TD ADJUSTMENT							(145,223)
TOTAL LOSS ESTIMATED 2/28/17	(87,850)	(11,379)	(11,320)	(11,320)	(11,320)		231,858
							(113,284)
ESTIMATED LOSS ALLOCATED AT 2/28/17 ON TD ADJUSTMENT							(567,335)
TOTAL INCOME ESTIMATED 2/28/17	(23,193)	(3,885)	(3,885)	(3,885)	(3,885)		518,681
SECTION 743 ADJUSTMENT REDUCTION IN LOSS	30,034						(38,834)
BASES AT 12/31/2017	(848,322)	47,466	47,468	47,466	47,466		(850,458)
LOSS ON SALE OF ASSETS	(8,301,301)	(1,550,217)	(1,550,217)	(1,550,217)	(1,550,217)		(15,502,172)
REMAINING 743 ADJUSTMENT	1,125,117						
DEBT FOR GIVENESS	8,894,044	1,487,341	1,487,341	1,487,341	1,487,341		14,873,407
NET TAX Capital Account	(92,464)	(15,410)	(15,468)	(15,410)	(15,410)		(154,104) From further investigation
Reported Taxable Income in 2017/2018 from operations	(88,117)	(15,192)	(15,192)	(15,192)	(15,192)		
Reported Taxable Income in 2017/2018 from SALE	747,858	(82,877)	(82,877)	(82,877)	(82,877)		
total 2017/2018 Income/Loss	659,741	(78,068)	(78,068)	(78,068)	(78,068)		
*Pierino note estate has NOL carryforward							
Potential CDO Deduction at Capital Loss	(14,675,487)						

For Discussion Purposes

# Combined Sale Gain(Loss) Analysis

**AJC & SON JOSEPH LLC - THE RESERVE**

We have prepared estimates of the impact of the sale of the assets of this LLC in various scenarios. Each of these scenarios that we have considered would result in insufficient funds to extinguish the outstanding indebtedness of the LLC at the time of liquidation. Analysis is based on the 12/31/17 balance sheet provided by the Company.

It is our understanding that the outstanding indebtedness owed to third party financial institutions is guaranteed by the AJC estate. Any cash shortfall at the time of the sale is assumed to be funded by the AJC estate.

It should be noted that as indicated in the attached calculations, the loans and advances made by AJC and subsequently the estate of AJC would be treated as debt and as a result of the insolvency of the LLC result in forgiveness of indebtedness for income tax purposes. The estate and any other group creditor should have a short term capital loss for their basis in the indebtedness.

If the loss were able to be claimed by the estate in the same income tax period as the sale of Clinton Crossing and/or the 82 acres, the capital loss should be able to be offset some of the capital gain from the sale of the Clinton Crossing and/or the 82 acres.

Below are the various realizations of the Tax Benefit assuming the sale of the Reserve takes place in the same tax period as the sale of Clinton Crossing and/or the 82 acres.

**SALE OF RESERVE AND CLINTON CROSSING DURING SAME TAX PERIOD**

		If Sold within same tax period				
		Capital Gain Clinton Crossing	Assumes Sale Price - Bank Debt	Reserve - Proceeds equal to:		
			(14,873,407)	Less: 2M (16,853,407)	Less: 5M (18,823,407)	
<b>Potential Usable Capital Loss</b>						
Clinton Crossing (ESTATE)	80M	3,022,160	3,022,160	3,022,160	3,022,160	
Assumes Sale Price	90M	8,768,775	8,768,775	8,768,775	8,768,775	
	100M	14,787,008	14,787,008	14,787,008	14,787,008	
<b>Potential Tax Benefit of Capital Loss</b>						Tax on non capital gain
Clinton Crossing (ESTATE)	80M	1,530,131	1,155,322	1,155,322	1,155,322	374,809
Assumes Sale Price	90M	3,869,323	3,026,618	3,026,618	3,026,618	542,705
	100M	5,520,638	4,910,534	4,910,534	4,910,534	810,104



**SALE OF RESERVE AND CLINTON CROSSING AND 82 ACRES DURING SAME TAX PERIOD**

<b>Capital Gain by Property</b>		
<b>82 Acres (BGTATB)*</b>		
Assume Sale Price	12M	1,082,220
	14M	2,570,220
	16M	3,170,220
<b>Clinton Crossing (BGTATB)*</b>	80M	3,022,100
Assume Sale Price	90M	6,708,775
	100M	14,787,008

<b>Potential Usable Capital (Loss) on Reserve</b>		(14,873,407)	(16,853,407)	(19,873,407)	
<b>Potential Usable Capital Loss</b>					
	<b>82 Acres</b>				
	<b>Sale Amount</b>				
<b>Total Capital Gain CC at 80M</b>	12M	5,004,380	5,004,380	5,004,380	5,004,380
	14M	5,598,380	5,598,380	5,598,380	5,598,380
	16M	6,192,380	6,192,380	6,192,380	6,192,380
<b>Total Capital Gain CC at 90M</b>	12M	10,750,995	10,750,995	10,750,995	10,750,995
	14M	11,344,995	11,344,995	11,344,995	11,344,995
	16M	11,938,995	11,938,995	11,938,995	11,938,995
<b>Total Capital Gain CC at 100M</b>	12M	16,789,228	14,873,407	16,789,228	16,789,228
	14M	17,383,228	14,873,407	16,853,407	17,383,228
	16M	17,977,228	14,873,407	16,853,407	17,977,228
<b>Potential Tax Benefit of Capital Loss 80M</b>		<b>Tax w/o Reserve Loss</b>			<b>Tax on non capital gain</b>
	12M	2,101,010	1,726,201	1,726,201	374,809
	14M	2,272,082	1,897,273	1,897,273	374,809
	16M	2,443,154	2,068,345	2,068,345	374,809
<b>Potential Tax Benefit of Capital Loss 90M</b>	12M	4,140,202	3,597,497	3,597,497	542,705
	14M	4,311,274	3,768,569	3,768,569	542,705
	16M	4,482,346	3,939,641	3,939,641	542,705
<b>Potential Tax Benefit of Capital Loss 100M</b>	12M	5,091,517	4,840,626	5,481,413	610,104
	14M	6,282,589	4,810,926	6,480,185	610,104
	16M	6,433,661	4,781,226	6,480,485	610,104

At 100M sales price - Capital Gain up to \$10,135,406 will be taxed at:  
 75.0% Unrecaptured 1250  
 8.8% NYS Income Tax  
 Plus Ordinary Gain

\*Used Estate only due to bad debt assumed to be allocated to Estate. Item to be discussed with client and attorneys  
 Amount in table is excess loss.

<b>Note: The Reserve and Clinton Crossing have a 2/28 YE. The 82 Acres has a 12/31 YE</b>	
<b>Sale of Clinton Crossing and/or Reserve between 3/1/18 - 2/28/19</b>	
Will be included in the return of:	
The Estate	2/28/2019
Individuals	12/31/2019
<b>Sale of 82 Acres 3/1/18 - 12/31/18</b>	
The Estate	2/28/2019
Individuals	12/31/2018
<b>Sale of 82 Acres 1/1/19 - 2/28/19</b>	
The Estate	2/28/2019
Individuals	12/31/2019

# Cross Collateral Analysis

For Discussion Purposes  
DRAFT

Costello Entities  
 Cross Collateralization of Loans

Re-creation of email from Mike Picard with updated information received later the same day (2/8/17)

Clinton Crossings  
 Cross - Collateralization

<u>Collateralized Buildings</u>	<u>Loan Amount</u>	<u>Bank Terms</u>	<u>Loan on Books of:</u>
AJC & Son (Andrea) Development (Building D)	\$ 3,600,000.00	M&T Bank/Interest Only	Spencer (Costco)
AJC & Son (Tyler) Development (Building E)	\$ 7,000,000.00	M&T Bank/Interest Only	Spencer (Costco)
AJC & Son (Alicia) Development (Building G)	\$ 3,000,000.00	M&T Bank/Interest Only	Spencer (Costco)
AJC & Son (Lynette) Development (Building H)	\$ 3,000,000.00	M&T Bank/Interest Only	Spencer (Costco)
	<u>\$ 16,600,000.00</u>		
	\$ 1,494,239.00	M&T Bank/Interest Only	Flight Support
	\$ 3,500,000.00	M&T Bank/Interest Only	AJC/Estate
AJC & Son Development (Building F)	\$ 14,825,000.00	Northwest/Construction Loans	Joseph (Reserve)
		*Balance as of 12/31/17	
		Note: Original Loan amount \$19,445,005	

## **Exhibit B**

Estimated Clinton Crossings Sale Results (Proceeds)

	(per 5/2019 analysis) Reviewed Financials	(per 2/2018 analysis) Bonadio
Sale Proceeds	\$ 80,000,000	\$ 80,000,000
Closing Costs	(2,939,577)	(2,372,577)
Property Taxes Owed	(2,954,612)	-
Net Proceeds	74,105,811	77,627,423
1st Mortgages	(43,259,778)	(44,539,102)
M&T Guar/Cross Mortgages	(18,094,239)	-
AJC Personal Mortgage	(3,000,000)	-
Northwest Mortgage Deficit	(5,000,000)	-
Judgements	(82,036)	-
Liens	(81,927)	-
CCMC (Cash & AP-Net)	(2,394,095)	6,931
Settle Intercompany Loans	609,822	28,431,861
Settle Intercompany Loans	-	(12,280,598)
Proceeds before Taxes	<u>\$ 2,803,558</u>	<u>\$ 49,246,515</u>

Projected Cash available for Distribution - Bonadio Estimate

	Brett	Lynette	Alicia	Andrea	Estate	Total
Proceeds From Sale	\$ 4,806,713	\$ 4,806,713	\$ 4,806,713	\$ 4,806,713	\$ 30,019,663	\$ 49,246,515
Less: Taxes	(1,555,446)	(1,741,695)	(1,741,695)	(1,741,695)	(1,530,132)	(8,310,663)
Less: Loans	-	-	-	-	(16,151,262)	(16,151,262)
Net Proceeds	<u>\$ 3,251,267</u>	<u>\$ 3,065,018</u>	<u>\$ 3,065,018</u>	<u>\$ 3,065,018</u>	<u>\$ 12,338,269</u>	<u>\$ 24,784,590</u>

Projected Cash available (shortfall) for Distribution - Costello Estimate

	Brett	Lynette	Alicia	Andrea	Estate	Total
Proceeds From Sale	\$ 280,356	\$ 280,356	\$ 280,356	\$ 280,356	\$ 1,682,135	\$ 2,803,558
Less: Taxes	(1,839,812)	(2,059,961)	(2,059,961)	(2,059,961)	(1,808,362)	(9,828,057)
Less: Loans	-	-	-	-	609,822	609,822
Net (Shortfall)	<u>\$ (1,559,456)</u>	<u>\$ (1,779,605)</u>	<u>\$ (1,779,605)</u>	<u>\$ (1,779,605)</u>	<u>\$ (126,228)</u>	<u>\$ (7,024,499)</u>

**Estimated Clinton Crossings Sale Results (Taxes)**

	(per 5/2019 analysis) Reviewed Financials	(per 2/2018 analysis) Bonadio
Purchase Price	\$ 80,000,000	\$ 80,000,000
Less Attorney Fees	(275,000)	-
Less Commissions	(1,125,000)	(800,000)
Less Closing Costs	(467,000)	(500,000)
Prepayment Penalty	(1,072,577)	(1,072,577)
Net Proceeds	<u>\$ 77,060,423</u>	<u>\$ 77,627,423</u>
Cost Basis	\$ 57,506,033	\$ 59,938,665
A/D (Tax)	(35,950,385)	(30,982,314)
Net Tax Basis	<u>21,555,649</u>	<u>28,956,351</u>
Total Gain	<u>\$ 55,504,774</u>	<u>\$ 48,671,072</u>
743b Adj	\$ 27,334,240	\$ 25,030,759
Estimated Taxes on Gain		
37% Ordinary	\$ 941,206	\$ 789,928
25% Recaptured 1250	3,245,950	2,724,074
20% 1231 (Capital)	2,528,587	2,157,566
3.8 Medicare Surcharge	633,307	558,747
8.8% NYS Income Tax	<u>2,479,007</u>	<u>2,080,348</u>
Total Taxes (Estimated)	<u>\$ 9,828,057</u>	<u>\$ 8,310,663</u>

**Clinton Crossing**  
Estimated Basis

	<u>Totals</u>	<u>GVA</u>	<u>Andrea</u>	<u>Tyler</u>	<u>Dev</u>	<u>Alicia</u>	<u>Lynette</u>	<u>Janine</u>	<u>Maria</u>	<u>Cameron</u>
Cost Basis	56,831,283	4,649,588	14,288,523	10,190,628	3,322,541	4,359,082	7,099,394	4,760,924	8,046,107	114,497
Intangible Asset (Net Basis)	674,750	65,971	79,320				17,234	170,553	341,672	
Accumulated Depreciation	(35,950,385)	(3,807,095)	(7,560,610)	(6,102,725)	(2,349,397)	(2,354,211)	(4,536,221)	(3,330,642)	(5,909,483)	-
	<u>\$ 21,555,649</u>	<u>\$ 908,464</u>	<u>\$ 6,807,233</u>	<u>\$ 4,087,903</u>	<u>\$ 973,144</u>	<u>\$ 2,004,871</u>	<u>\$ 2,580,407</u>	<u>\$ 1,600,835</u>	<u>\$ 2,478,296</u>	<u>\$ 114,497</u>
Remaining 743b Adj	<u>\$ 27,334,240</u>		12,809,001	4,000,645	983,000	2,590,001	3,984,000	1,674,162	1,293,432	-
<b><u>Basis w/o debt 2/28/2018</u></b>										
ESTATE OF AJC	\$ 24,359,860		16,468,532	946,905	101,988	3,292,093	1,685,256	1,938,108	(141,720)	68,698
BRETT COSTELLO	<u>\$ (1,069,960)</u>		885,889	(1,621)	(183,280)	(807,088)	(501,098)	(238,359)	(235,853)	11,450
ANDREA DILIBERTO	<u>\$ (1,026,149)</u>		920,882	(1,619)	(183,280)	(807,079)	(492,303)	(238,361)	(235,839)	11,450
LYNETTE WARD	<u>\$ (1,037,369)</u>		909,690	(1,621)	(183,279)	(807,085)	(492,304)	(238,363)	(235,856)	11,449
ALICIA COSTELLO-SMITH	<u>\$ (1,057,037)</u>		904,010	(15,622)	(183,281)	(807,084)	(492,302)	(238,360)	(235,848)	11,450





## **Exhibit C**

## Kim Hale

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**From:** Mike Townsend  
**Sent:** Friday, June 21, 2019 11:00 AM  
**To:** Brett Costello  
**Cc:** Kim Hale  
**Subject:** FW: Sale of Clinton Crossings  
**Attachments:** CLINTON CROSSINGS EQUITY ANALYSIS(1006361.1)-C1.xlsx

**From:** Richard M. Beers <RBeers@phillipslytle.com>  
**Sent:** Thursday, June 20, 2019 5:41 PM  
**To:** Mike Townsend <mtownsend@thecostellogroupllc.com>  
**Subject:** FW: Sale of Clinton Crossings

Mike: FYI.

**From:** Richard M. Beers  
**Sent:** Thursday, June 20, 2019 1:57 PM  
**To:** 'ehourihan@bsk.com' <ehourihan@bsk.com>; 'Frank B. Iacovangelo' (FrankIacovangelo@GalloLaw.com) <FrankIacovangelo@GalloLaw.com>  
**Cc:** 'sdonato@bsk.com' <sdonato@bsk.com>  
**Subject:** Sale of Clinton Crossings

Ed and Frank: I have attached an analysis of the potential net proceeds arising from the sale of Clinton Crossings. This analysis assumes that M&T will be paid in full for the debts owed by the owners of Clinton Crossings (which debt is secured by a mortgage on much of City Gate). I am making that assumption based on the likelihood that M&T will obtain a money judgment in the amount of \$18,618,059,58 prior to closing. Even if M&T were not able to obtain a money judgment, the companies would not be able to distribute the sale proceeds to the members before paying such debt.

For purposes of the analysis, I initially allocated the M&T debt evenly among the five borrower companies. As there will not be sufficient proceeds from the sale of Buildings F and G to pay the fully allocated share, I allocated all of the net proceeds for such buildings to M&T and reallocated the balance among the remaining three companies.

Under this analysis, there are not sufficient proceeds from the sale of Building F to pay that company's obligations to both M&T and Northwest (The Reserve debt). As long as Northwest does not obtain a money judgment against the owner of Building F, the Northwest debt does not present an obstacle to closing on Clinton Crossings. Your clients should be reminded to advise you in the event they receive any pleadings relating to an action by Northwest. Northwest will continue to have a claim against the estate under Anthony's personal guarantee.

This analysis does not include the payment of any attorneys fees or my fee. It also does not reflect any other debt owed by the various companies. The tax and mortgage amounts are reasonably accurate but subject to adjustment.

One of the obvious conclusions from this is that not only will the four siblings likely receive substantial cash from this transaction, but the retirement of the M&T debt makes the City Gate project a viable source of future cash.

I am happy to discuss.

BUILDING	OWNER	SBL	REAL PROPERTY TAXES DUE	MORTGAGE BALANCE	TOTAL LIENS	PURCHASE PRICE ALLOCATION	EQUITY	COMMISSIONS	TRANSFER TAX	NET PROCEEDS	M&T (1)	NORTHWEST	DISTRIBUTABLE PROCEEDS
			DELINQUENT										
A	MARIA	136.19-1.60.1				\$ 5,800,000.00	\$ 1,572,322.56	\$ 58,000.00	\$ 23,200.00	\$ 1,359,522.56	N/A	N/A	\$ 1,359,522.56
B	JANINE	136.19-1.60.6				\$ 4,100,000.00	\$ 8,493,990.71	\$ 41,000.00	\$ 16,400.00	\$ 8,264,390.71	\$4,635,389.97	N/A	\$ 2,001,500.03
C	GVC	136.19-1.60.4				\$ 5,300,000.00	\$ 1,817,102.68	\$ 53,000.00	\$ 21,200.00	\$ 1,749,902.68	\$1,749,902.68	N/A	\$ 3,629,000.74
A+B+C													
D	ANDREA	136.19-1.61.1				\$ 18,280,000.00	\$ 6,892,810.00	\$ 182,800.00	\$ 73,120.00	\$ 6,636,890.00	\$4,635,389.97	N/A	\$ 2,001,500.03
E	TYLER	149.07-1.3.62	\$ 399,415.35	\$ 7,179,869.00	\$ 7,906,009.29	\$ 16,400,000.00	\$ 8,493,990.71	\$ 164,000.00	\$ 65,600.00	\$ 8,264,390.71	\$4,635,389.97	N/A	\$ 3,629,000.74
F	(BLANK)	149.07-1.6.1	\$ 168,020.16	\$ 2,693,648.00	\$ 2,982,897.32	\$ 4,800,000.00	\$ 1,817,102.68	\$ 48,000.00	\$ 19,200.00	\$ 1,749,902.68	\$1,749,902.68	N/A	\$ 0.00
G	ALICIA	149.07-1.6.2				\$ 6,800,000.00	\$ 3,057,187.00	\$ 68,000.00	\$ 27,200.00	\$ 2,961,987.00	\$2,961,987.00	N/A	\$ 0.00
H	LYNETTE	149.07-1.6.311				\$ 14,620,000.00	\$ 7,522,111.00	\$ 146,200.00	\$ 58,480.00	\$ 7,317,431.00	\$4,635,389.97	N/A	\$ 2,682,041.03
I	CAMERON	136.19-1.64.1	\$ 16,131.43	\$ 7,097,889.00	\$ 7,097,889.00	\$ 200,000.00	\$ 171,643.12	\$ 2,000.00	\$ 800.00	\$ 168,843.12	N/A	N/A	\$ 168,843.12
TOTAL LIENS			\$ 583,566.94	\$ 45,452,866.30	\$ 46,772,832.93	\$ 76,300,000.00	\$ 29,527,167.07	\$ 763,000.00	\$ 305,200.00	\$ 168,843.12	\$18,618,059.59	N/A	\$ 9,840,907.48

(1) M&T debt = \$18,618,059.58