

No. H110166  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN THE MATTER OF THE RECEIVERSHIP OF  
682202 B.C. LTD.**

**FIRST REPORT OF ALVAREZ & MARSAL CANADA INC.  
IN ITS CAPACITY AS RECEIVER AND MANAGER  
OF 682202 B.C. LTD.**

**MAY 10, 2011**

**IN THE MATTER OF THE RECEIVERSHIP OF  
682202 B.C. LTD.**

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## 1.0 INTRODUCTION

- 1.1 Pursuant to the March 9, 2011 order of the Supreme Court of British Columbia (the “**Receivership Order**”), Alvarez & Marsal Canada Inc. (the “**Receiver**”) was appointed Receiver and Manager of 682202 B.C. Ltd. d.b.a. Cedarbrooke Chateau (“**Cedarbrooke**”, “**682**” or the “**Company**”).
- 1.2 The petitioning creditor, 1397225 Ontario Limited (“**139**” or the “**Lender**”), filed the notice of application on February 8, 2011. The affidavit of Mark Katz, of 139, sworn on February 7, 2011 (the “**Katz Affidavit**”) was filed in support of the Receivership Order.
- 1.3 Capitalized terms not otherwise defined in this report are as defined in the Katz Affidavit.

## 2.0 PURPOSE OF REPORT

- 2.1 The purpose of this report (the “**First Report**”) is to provide the following:
- a) a summary of the Receiver’s initial activities;
  - b) a summary of 682’s estimated financial position and the status of its operations as at the date of this report;
  - c) an update on other matters, including the filing of an assignment in bankruptcy of 682; and
  - d) preliminary comments regarding the on-going receivership administration and the Receiver’s future course of activities.
- 2.2 This report does not include detailed information that may be considered competitively sensitive related to the Company’s business, nor the operating marketing strategy and cash flow budget which the Receiver continues to review and develop as a part of the administration of the receivership.

## 3.0 RECEIVER’S INITIAL ACTIVITIES

- 3.1 Cedarbrooke owns a 138 unit senior residence complex located in Mission, B.C. (“**Cedarbrooke Chateau**”) which offers independent living services, including meal packages, housekeeping and laundry as well as available spa, gym and pool amenities. The construction of the property was completed in and around March 2009. Kingsway Arms Management (at Cedarbrooke Chateau) Inc. (“**Kingsway**”) entered into a management agreement dated January 31, 2007 with Cedarbrooke (the “**Management Agreement**”) “...to oversee the construction management of a senior residence complex and to manage and operate the Business pursuant to the terms contained herein”.

- 3.2 The Receiver's initial activities since the date of the Receivership Order have been focused on stabilization of the operations during the transition of the management of the senior residence complex from Kingsway to the Receiver.

Kingsway (Transition of Operations)

- 3.3 Kingsway terminated its employees effective March 11, 2011 and paid the former employees of Kingsway for wages outstanding to March 11, 2011 excluding vacation pay. The Receiver then retained substantially all of the former employees to assist with ongoing operations. Kingsway advised that it was ceasing to provide management services as of March 11, 2011 and the Receiver's legal counsel has written to Kingsway's legal counsel confirming that.
- 3.4 On March 9 and 10, 2011, A&M requested a number of documents as well as the transfer of funds from Kingsway, in respect of the property of Cedarbrooke. The Receiver confirmed receipt of \$311,000 and \$17,700 transferred from Kingsway to the Receiver on March 14, 2011 and April 1, 2011, respectively.
- 3.5 Kingsway assigned all of the Resident Occupancy Agreements in place as of March 11, 2011 to the Receiver (the "**Assignment Agreement**"). Kingsway executed the Assignment Agreement on March 25, 2011.
- 3.6 A preliminary information request list was sent to Kingsway on March 14, 2011 followed by another letter dated March 18, 2011 requesting certain additional information. To date, while certain requests for information remain in process and continue to be provided, Kingsway has been cooperative.

Employees

- 3.7 As at March 9, 2011, there were no employees on record for 682. The Receiver understands that the Cedarbrooke staff were employed by Kingsway at the time of the Receivership. As noted previously, Kingsway terminated its employees effective March 11, 2011.
- 3.8 The Receiver met with most of the Cedarbrooke staff on March 10, 2011 and notified them of the Receivership Order and A&M's appointment as Receiver. On March 11, 2011, the Receiver distributed retainer letters to 26 individuals which the Receiver has retained effective March 12, 2011 (herein collectively referred to as "**Cedarbrooke Management and Staff**" and management members are herein referred to as "**Cedarbrooke Management**")
- 3.9 The 26 individuals were retained based on the same salaries or hourly pay, as applicable, with similar benefits that were previously provided by Kingsway. The Receiver has arranged alternative replacement

benefits coverage. In addition, the Receiver has agreed to pay vacation pay outstanding as at March 9, 2011.

- 3.10 A&M has arranged with Ceridian to transfer the payroll accounts to the Receiver and will continue to process the Company's payroll using Ceridian. The Receiver has also arranged a Workers Compensation Board account and related coverage.

#### Residents

- 3.11 On March 11, 2011, the Receiver attended a residents' meeting which was held for purposes of notifying the residents of Cedarbrooke Chateau of the Receivership Order. A notification letter, dated March 11, 2011 and addressed from Mrs. Holmgren, Executive Director, was distributed to each of the residents informing them of the Receiver's appointment. A copy of the letter is attached as Appendix "A".
- 3.12 At the time of A&M's appointment on March 9, 2011, there were 64 units occupied (or 46%). As at April 1, 2011, there are now 67 units occupied (or 49% occupancy), including 3 units which have been rented effective April 1, 2011. One resident has provided notice to vacate the premises effective April 30, 2011. The Receiver understands that this individual had indicated her intention to move to an alternative residence prior to the Receivership date (March 9, 2011).
- 3.13 With the assistance of the Cedarbrooke Management and Staff, the residents' pre-authorized payments were transferred from Kingsway to the Receiver effective April 1, 2011.
- 3.14 The Receiver is in the process, along with assistance from its legal counsel, of revising the existing occupancy agreement to take into consideration other relevant terms which the Receiver is of the view should be included in new occupancy agreements.

#### Insurance & Warranty Coverage

- 3.15 On March 9, 2011 the Receiver contacted the insurance broker, HKMB Hub International Limited, to arrange adding the Receiver as loss payee and insured to the pre-existing insurance in place prior to the date of the Receivership Order.
- 3.16 The insurance coverage currently in place expires June 24, 2011. The Receiver is in the process of reviewing current coverage and replacement coverage for post June 24, 2011.
- 3.17 The Receiver inquired about warranty documentation and coverage pertaining to the construction of the building from the former director, Mr. Terence Leroux. On April 11, 2011, Mr. Leroux indicated that there is no building construction warranty in place as the construction was done by an owner developer for purposes of rental and not resale.

## Other – Statutory Requirements

3.18 The Receiver has attended to the following statutory requirements:

- a) On March 18, 2011, notices were sent to the Office of Superintendent of Bankruptcy, the two directors (Mr. Leroux and Mr. Byrne) and the creditors of the Company which the Receiver was aware of.
- b) On March 17, 2011 a Notice of Appointment of Receiver and Manager was published in the Mission City Record newspaper.
- c) Pursuant to the Business Corporations Act, a Form 7 – Notice of Appointment of Receiver or Receiver and Manager, was sent to the Ministry of Finance on March 22, 2011.
- d) On April 4, 2011, a letter was sent to the New Westminster Land Title Office, including a copy of the Receivership Order, informing them of A&M's appointment as Receiver and Manager of Cedarbrooke.

## 4.0 FINANCIAL POSITION AND OPERATIONS OF THE COMPANY

4.1 A summary of Cedarbrooke's select financial information as at March 9, 2011 is as follows:

Select Financial Information		
	Estimated Value <sup>1</sup>	
\$000's	Mar 9, 11	Comments
<b>Assets</b>		
Accounts Receivable	329	Kingsway receivable paid on Mar 14 and Apr 19
Property and equipment	23,800	Based on 2011 tax assessment
	<u>24,129</u>	
<b>Liabilities</b>		
Accounts payable	948	CRA and property taxes
Accounts payable - other	unknown	Select few potential creditors
Long term debt	31,500	Secured creditor
	<u>32,448</u>	
<b>Note:</b>		
1. Realizable values may materially differ from the above.		

4.2 Assets as at March 9, 2011 primarily comprise \$329,000 of accounts receivables and property (land and building) of \$23.8 million. The latter is based on the 2010 property tax assessed value and is not necessarily representative, nor is meant to provide, an indication of the realizable value, which is unknown at this time.

4.3 Accounts payable of \$948,000 include amounts owing to Canada Revenue Agency of \$761,000 (net of an expected potential rebate of approximately \$400,000) relating to unremitted GST and \$187,000 owing for

arrears 2010 property tax. There are also additional undetermined amounts potentially owing to unsecured creditors that represent a select few arms length and non-arms length parties.

- 4.4 Long term debt of \$31.5 million, including accrued interest up until March 9, 2011, is due to 139. The Katz affidavit indicates that the total amount outstanding related to the secured loans to 139 as at December 31, 2010 was \$31.1 million and per diem interest has been accrued at approximately \$4,900 per day.
- 4.5 Since early 2009, Cedarbrooke has been operating a 138 unit senior residents' complex. As noted previously, prior to March 11, 2011, Kingsway operated the business pursuant to the Management Agreement.
- 4.6 The Receiver is working with the Cedarbrooke Management and Staff to continue to operate the complex as a going concern generally in the ordinary course. The operating marketing strategy is in the process of being reviewed by the Receiver with the intent to focus on increasing occupancy levels.
- 4.7 To date, there have been no borrowings by the Receiver and current information indicates that before capital reserves and the 2010 property tax arrears, which are currently outstanding, the Receiver may not need to borrow funds to continue operations in the near term.

## 5.0 **OTHER**

### Shareholder Discussions

- 5.1 Certain shareholders and/or creditors have contacted the Receiver indicating their potential interest to purchase the Cedarbrooke Chateau and/or seek alternative refinancing. The Receiver has made itself available to meet with these parties and has also advised the parties to keep the Receiver informed of any advances or updates regarding potential offers or refinancing. The shareholders have been advised that due to the limited time that has elapsed since the appointment of the Receiver, a realization strategy is currently being developed and to date, has not yet been formalized.

### Bankruptcy Status

- 5.2 In anticipation of an assignment in bankruptcy of 682, the Receiver commissioned and obtained an independent legal opinion from Gowlings LLP, counsel for the Receiver on March 30, 2011, with respect to the security granted by 682 in favour of the Lender. The security opinion indicated that the Lender's security and the mortgages created in favour of the Lender are valid and enforceable subject to the assumptions, qualification and limitations stated in the opinion.

- 5.3 On April 6, 2011, the Receiver filed a voluntary assignment in bankruptcy on behalf of 682 pursuant to the terms of the Receivership Order authorizing the Receiver to assign 682 into bankruptcy. A copy of the assignment certificate is attached as Appendix "B".
- 5.4 A&M, as Trustee in the matter of the bankruptcy of 682 has delivered notices to the OSB, to the former directors and the known creditors of 682 advising of the bankruptcy assignment and the date of the first creditors' meeting to be held at the offices of A&M at 400 Burrard Street, Suite 1680, on April 25, 2011 at 9:00 a.m. In addition, the Trustee is in the process of publishing a notice of the meeting of creditors in the Mission City Record paper.
- 6.0 **RECEIVER'S PRELIMINARY CONCLUSIONS**
- 6.1 There has been a limited period of time that has elapsed since the appointment of the Receiver and efforts to date have been focused on transition and stabilization of the operations as well as statutory related matters involved in the matter of the receivership and bankruptcy.
- 6.2 The Receiver will continue to attend to the on-going operating activities and develop a realization strategy. In this respect, A&M intends to provide subsequent report(s) to this Honourable Court on the administration of the receivership and any related realization efforts from time to time.

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All of which is respectfully submitted to this Honourable Court this 10th day of May, 2011.

**Alvarez & Marsal Canada Inc., in its capacity as  
Receiver and Manager of 682202 B.C. Ltd.**

  
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Per: Pam K. Boparai  
Vice President



## APPENDIX A

March-15-11

Dear Cedarbrooke Chateau Residents and Family:

We are writing to communicate that on March 9, 2011, Alvarez & Marsal Canada Inc. ("Alvarez & Marsal") was appointed Receiver and Manager of 682202 B.C. Ltd., the company carrying on the business of Cedarbrooke Chateau, by the Supreme Court of British Columbia.

After two years of service to seniors and dedication to Cedarbrooke Chateau, our commitment to you continues to be that of providing excellent service and an environment of beautiful community to live in.

Be assured that the familiar faces you know will continue to remain as I and my senior team will continue to manage business as usual. We will be working together with Alvarez & Marsal, thru the continued management of your home.

The on-site staff of Cedarbrooke Chateau will continue to provide excellent service that you have been used to, as part of the Cedarbrooke family. Over time, we hope to continue to improve our innovative products and services into the communities.

We appreciate your patience during the next couple of months, as we transition items like billing and other functions. We hope that you will not experience any disruptions as a result of our transitioning, but if you do please immediately bring your concerns to me as your Executive Director.

We will continue to do our best to provide the service that you deserve at Cedarbrooke Chateau.

Sincerely,

A handwritten signature in black ink, appearing to read "K. Holmgren", written in a cursive style.

Karen Holmgren  
Executive Director

## APPENDIX B



Office of the Superintendent  
of Bankruptcy Canada

An Agency of  
Industry Canada

Bureau du surintendant  
des faillites Canada

Un organisme  
d'Industrie Canada

District of: British Columbia  
Division No.: 03 - Vancouver  
Court No.: 11-1483460  
Estate No.: 11-1483460

In the Matter of the Bankruptcy of:

**682202 B.C. Ltd.**

Debtor

**ALVAREZ & MARSAL CANADA INC.**

Trustee

Ordinary Administration

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Date and time of bankruptcy:	April 06, 2011, 15:52	Security:	\$0.00
Date of trustee appointment:	April 06, 2011		
Meeting of creditors:	April 25, 2011, 09:00 400 Burrard Street, Suite 1680 VANCOUVER, British Columbia Canada,		
Chair:	Trustee		

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CERTIFICATE OF APPOINTMENT - Section 49 of the Act; Rule 85

-- AMENDED --

I, the undersigned, official receiver in and for this bankruptcy district, do hereby certify that:

- the aforementioned debtor filed an assignment under section 49 of the *Bankruptcy and Insolvency Act*;
- the aforementioned trustee was duly appointed trustee of the estate of the debtor.

The said trustee is required:

- to provide to me, without delay, security in the aforementioned amount;
- to send to all creditors, within five days after the date of the trustee's appointment, a notice of the bankruptcy; and
- when applicable, to call in the prescribed manner a first meeting of creditors, to be held at the aforementioned time and place or at any other time and place that may be later requested by the official receiver.

Date: April 07, 2011, 12:44

E-File/Dépôt Electronique

Official Receiver

#2000 - 300 W. Georgia St., Vancouver, British Columbia, Canada, V6B6E1, (877)376-9902

Canada