Court File No. CV-09-8201-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN:

WESTLB AG, TORONTO BRANCH

Applicant

and

THE ROSSEAU RESORT DEVELOPMENTS INC.

Respondent

IN THE MATTER OF SECTION 47(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C. 43, AS AMENDED, AND SECTION 68 OF THE *CONSTRUCTION LIEN ACT*, R.S.O. 1990, C. C. 30, AS AMENDED

MOTION RECORD
(Returnable July 24, 2009)

Date: July 21, 2009

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INDEX

Court File No. CV-09-8201-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN:

WESTLB AG, TORONTO BRANCH

Applicant

and

THE ROSSEAU RESORT DEVELOPMENTS INC.

Respondent

IN THE MATTER OF SECTION 47(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C. 43, AS AMENDED, AND SECTION 68 OF THE *CONSTRUCTION LIEN ACT*, R.S.O. 1990, C. C. 30, AS AMENDED

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TAB NO.

TAB 1

Court File No. CV-09-8201-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
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BETWEEN:

WESTLB AG, TORONTO BRANCH

Applicant

and

THE ROSSEAU RESORT DEVELOPMENTS INC.

Respondent

IN THE MATTER OF SECTION 47(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C. 43, AS AMENDED, AND SECTION 68 OF THE *CONSTRUCTION LIEN ACT*, R.S.O. 1990, C. C. 30, AS AMENDED

NOTICE OF MOTION
(Returnable July 24, 2009)

Alvarez & Marsal Canada ULC, in its capacity as Court-appointed receiver and manager pursuant to section 101 of the *Courts of Justice Act* and trustee and receiver and manager under the *Construction Lien Act* (Ontario) (the "CLA"), and McIntosh & Morawetz Inc., in its capacity as interim receiver pursuant to section 47(1) of the *Bankruptcy and Insolvency Act*, (jointly and collectively, the "Receiver") of the undertaking, property and assets of The Rosseau Resort Developments Inc. ("RRDI"), will make a motion to a Judge of the Commercial List at 10:00 a.m. on Friday, the 24th day of July, 2009, or as soon after that time as the Motion can be heard, at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion will be heard orally.

THE MOTION IS FOR ORDERS in the forms attached hereto as Schedules "A" and "B":

(a) abridging the time for service of the Notice of Motion and the Motion Record herein and dispensing with further service thereof;

(b) approving the proposed Marketing Campaign as defined in the Third Report of the Receiver dated July 21, 2009 (the "Third Report") and as described in the letter from Baker Real Estate Limited ("Baker Real Estate") dated July 20, 2009 (the "Baker Real Estate Letter") attached as Confidential Appendix "A" to the Third Report, with respect to the marketing and sale of unsold condominium units (the "Unsold Units") in the resort condominium known as The Rosseau, a JW Marriott Resort and Spa (the "Hotel");

(c) approving the proposed form of Newspaper Advertisement as defined in the Third Report and attached as Confidential Appendix "B" to the Third Report, and other forms of media advertising consistent with and similar to the Newspaper Advertisement to be used in connection with the Marketing Campaign;

(d) authorizing the Receiver and Baker Real Estate to proceed with the Retail Sales Program (as defined in the Third Report) on the basis of the minimum prices set out on the Baker Price List defined in the Third Report and attached as Confidential Appendix "C" to the Third Report;

(e) establishing a claims process for construction lien claims that have been asserted against the property of RRDI, as described in the Second Report of the Receiver dated July 3, 2009;

(f) approving the Third Report and the conduct and activities of the Receiver described therein;

(g) sealing Confidential Appendices "A", "B", and "C" to the Third Report pending further Order of this Court; and

(h) such further and other relief as counsel may request and this Honourable Court deems just.

THE GROUNDS FOR THE MOTION ARE:

(a) The Receiver has, in consultation with and on the recommendation of its broker in respect of the Retail Sales Program, Baker Real Estate, and with the assistance of the advertising and marketing firm, Montana Steele Advertising Inc. ("Montana Steele") designed the Marketing Campaign with a view to capturing the greatest level of interest possible from potential unit purchasers for the Unsold Units, while also respecting the impact such a campaign could have on other stakeholders;

(b) The proposed Marketing Campaign will include advertising in various forms of media communications such as newspapers and on radio, social media marketing, e-mail "blasts" and videography. The central theme of the Marketing Campaign is to create consumer awareness of an intended "One-Day Only" sale to be held at the Hotel later in August 2009. In this regard, the Receiver, Baker Real Estate, and Montana Steele consulted with Marriott Hotels of Canada Ltd. to settle on the final form of the Newspaper Advertisement which Montana Steele intends to have printed, on several occasions, in both the national edition of The Globe and Mail and the Toronto Star newspapers;

(c) Since the execution of the Baker Real Estate Listing Agreement (as described in the Second Report of the Receiver dated July 3, 2009, the "Second Report"), Baker Real Estate has been working onsite at the Hotel to, among other things, consider the prior list prices of the Unsold Units and consider appropriate pricing revisions to prepare the Baker Price List. The Baker Price List gives consideration to current market conditions and other factors affecting the Unsold Units including the physical location of each of the Unsold Units in the Hotel, the view from each of the Unsold Units, the size of each of the Unsold Units, and the

existence of other features such as a balcony which serve to either make the Unsold Units more attractive or less attractive;

(d) The Receiver brought a motion on July 8, 2009 to, among other things, approve a process for resolving construction lien claims. That motion was adjourned to permit interested parties to negotiate the form of Order. Since that date, the Receiver has consulted extensively with counsel for numerous construction lien claimants and has achieved consensus on the form of Order to be used to implement a process for resolving construction lien claims. The form of Order is attached hereto as Schedule "B";

(e) The grounds as further set out in the Second Report and the Third Report; and

(f) such further and other grounds as counsel may advise and this Honourable Court may permit.

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

(a) The pleadings and proceedings herein;

(b) The Third Report; and

(c) such further and other material as counsel may advise and this Honourable Court permit.

Date: July 21, 2009

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SCHEDULE "A"

Court File No. CV-09-8201-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE	)	FRIDAY, THE 24TH DAY
	)	
MR. JUSTICE	)	OF JULY, 2009

IN THE MATTER OF SECTION 47(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C. 43, AS AMENDED, AND SECTION 68 OF THE *CONSTRUCTION LIEN ACT*, R.S.O. 1990, C. C. 30, AS AMENDED

BETWEEN:

WESTLB AG, TORONTO BRANCH

Applicant

- and -

THE ROSSEAU RESORT DEVELOPMENTS INC.

Respondent

ORDER

THIS MOTION, made by Alvarez & Marsal Canada ULC, in its capacity as Court-appointed receiver and manager pursuant to section 101 of the *Courts of Justice Act* (Ontario) and trustee and receiver and manager under the *Construction Lien Act* (Ontario) (the "CLA"), and McIntosh & Morawetz Inc., in its capacity as interim receiver pursuant to section 47(1) of the *Bankruptcy and Insolvency Act* (jointly and collectively, the "Receiver"), of the undertaking, property and assets of The Rosseau Resort Developments Inc. ("RRDI") for an Order:

(a) abridging the time for service of the Notice of Motion and the Motion Record herein and dispensing with further service thereof;

(b) approving the proposed Marketing Campaign as defined in the Third Report of the Receiver dated July 21, 2009 (the "Third Report") and as described in the letter from Baker Real Estate Limited ("Baker Real Estate") dated July 20, 2009 (the "Baker Real Estate Letter") attached as Confidential Appendix "A" to the Third Report, with respect to the marketing and sale of unsold condominium units (the "Unsold Units") in the resort condominium known as The Rosseau, a JW Marriott Resort and Spa (the "Hotel");

(c) approving the proposed form of Newspaper Advertisement as defined in the Third Report and attached as Confidential Appendix "B" to the Third Report, and other forms of media advertising consistent with and similar to the Newspaper Advertisement to be used in connection with the Marketing Campaign;

(d) authorizing the Receiver and Baker Real Estate to proceed with the Retail Sales Program (as defined in the Third Report) on the basis of the minimum prices set out on the Baker Price List defined in the Third Report and attached as Confidential Appendix "C" to the Third Report;

(e) approving the Third Report and the conduct and activities of the Receiver described therein;

(f) sealing Confidential Appendices "A", "B", and "C" to the Third Report pending further Order of this Court; and

(g) such further and other relief as counsel may request and this Honourable Court deems just.

was heard this day, at 330 University Avenue, Toronto, Ontario.

ON READING the Third Report, and on hearing the submissions of independent counsel for the Receiver, counsel for WestLB AG, Toronto Branch, and the Receiver, counsel for Fortress Credit Corp., counsel for RRDI, RRMSI and Ken Fowler Enterprises Limited and

counsel for Marriott Hotels of Canada Ltd. ("Marriott"), no one appearing for any other person on the service list:

Service

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record is hereby abridged so that this Motion is properly returnable today and hereby dispenses with further service thereof.

Marketing Campaign

2. THIS COURT ORDERS that the Marketing Campaign, as described in the Third Report and in the Baker Real Estate Letter attached as Confidential Appendix "A" to the Third Report, be and is hereby approved, and the Receiver be and is hereby authorized to implement the Marketing Campaign.

3. THIS COURT ORDERS that the form of Newspaper Advertisement attached as Confidential Appendix "B" to the Third Report be and is hereby approved, together with such other forms of media advertising consistent with and similar to the Newspaper Advertisement (the "Other Media Advertising") proposed by the Receiver to be used in connection with the Marketing Campaign, and the Receiver is hereby authorized to use the Newspaper Advertisement and Other Media Advertising in connection with the Marketing Campaign.

4. THIS COURT ORDERS that the minimum prices set out in the Baker Price List attached as Confidential Appendix "C" to the Third Report are hereby approved, and the Receiver and Baker Real Estate are hereby authorized to proceed with the Retail Sales Program on the basis of minimum prices set out in the Baker Price List.

Third Report

5. THIS COURT ORDERS that the Third Report, and the activities and conduct of the Receiver described therein, be and are hereby approved.

Sealing Order

6. THIS COURT ORDERS that Confidential Appendices "A", "B" and "C" attached to the Third Report be and are hereby sealed and shall remain sealed until further Order of this Court.

Aid and Recognition

7. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

_____

Court File No. CV-09-8201-00CL

WESTLB AG, TORONTO BRANCH	V.	THE ROSSEAU RESORT DEVELOPMENTS INC.
Applicant		Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

ORDER

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SCHEDULE "B"

Court File No. CV-09-8201-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE	)	, THE DAY
	)	
JUSTICE	)	OF JULY, 2009

IN THE MATTER OF SECTION 47(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C. 43, AS AMENDED, AND SECTION 68 OF THE *CONSTRUCTION LIEN ACT*, R.S.O. 1990, C. C. 30, AS AMENDED

BETWEEN:

WESTLB AG, TORONTO BRANCH

Applicant

- and -

THE ROSSEAU RESORT DEVELOPMENTS INC.

Respondent

CONSTRUCTION LIEN CLAIMS PROCESS ORDER

THIS MOTION, made by Alvarez & Marsal Canada ULC ("A&M"), in its capacity as Court-appointed receiver and manager pursuant to section 101 of the *Courts of Justice Act* (the "CJA") and trustee and receiver and manager under the *Construction Lien Act* (Ontario) (the "CLA"), and McIntosh & Morawetz Inc., in its capacity as interim receiver (the "Interim

Receiver") pursuant to section 47(1) of the *Bankruptcy and Insolvency Act*, (jointly and collectively, the "Receiver") of the undertaking, property and assets, including the Property (as defined below) of The Rosseau Resort Developments Inc. ("RRDI"), for, *inter alia,* approval of a construction lien claims process, was heard this day at 330 University Avenue, Toronto, Ontario.

WHEREAS pursuant to the Order of the Honourable Madam Justice Pepall dated May 22, 2009, A&M was appointed as trustee pursuant to section 68(1) of the CLA and McIntosh & Morawetz Inc. was appointed Interim Receiver;

AND WHEREAS pursuant to the Amended and Restated Appointment Order of the Honourable Madam Justice Pepall dated June 2, 2009, A&M was appointed receiver and manager pursuant to section 101 of the CJA and the CLA;

AND WHEREAS the Receiver has not adopted or affirmed any contracts or agreements of RRDI, including any contracts with any party (each, a "Lien Claimant") who is entitled to assert a claim for lien under the CLA in respect of the lands and premises legally described in **Schedule "A"** hereto and the condominium project under construction thereon (the "Property") for services and materials provided prior to May 22, 2009 (each, a "Claim");

AND WHEREAS the Receiver has entered into new contracts for the provision of services and materials with respect to the Property after May 22, 2009;

AND WHEREAS the Receiver seeks the approval of the process described in the Second Report of the Receiver dated July 3, 2009 (the "Second Report") and described herein for the administration of any such Claims (the "Construction Lien Claims Process");

ON READING the Second Report; filed; and on hearing the submissions of counsel for WestLB AG, Toronto Branch ("WestLB"), Fortress Investment Group ("Fortress") and the Receiver; counsel for the Debtor; independent counsel for the Receiver; **[other parties]** no one else appearing.

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record is hereby abridged so that this Motion is properly returnable today and hereby dispenses with further service thereof.

CLAIMS PROCESS

2. THIS COURT ORDERS AND DECLARES that the Construction Lien Claims Process is hereby approved and is the exclusive process by which all Claims shall be determined, and all Claims shall attorn to the Construction Lien Claims Process.

3. THIS COURT ORDERS that the Receiver is hereby authorized and directed to implement and administer the Construction Lien Claims Process, including the acceptance, revision, disallowance and/or settlement of any Claims by any Lien Claimant, and the Receiver may take any steps which it believes are incidental or necessary for the implementation of the Construction Lien Claims Process.

4. THIS COURT ORDERS AND DIRECTS that all Claims shall be determined and administered by the Receiver under the supervision of this Court pursuant to the Construction Lien Claims Process and any such determination or disposition of any Claim shall have the same force and effect as if made by a court of competent jurisdiction pursuant to the CLA. The Receiver may retain any consultant or assistant as it may require to assist in the review and determination of any Claim.

5. THIS COURT ORDERS AND DECLARES that, for the purposes of the CLA, all contracts and subcontracts for the provision of services and materials with respect to the Property prior to May 22, 2009 are deemed to have been substantially performed, completed or abandoned (as the case may be) on the earlier of date(s) so determined pursuant to the provisions of the CLA and May 22, 2009.

6. THIS COURT ORDERS AND DIRECTS that in order to be properly filed with the Receiver for purposes of the Construction Lien Claims Process, a Claim, including any sheltered claim for lien, must have been preserved and perfected in accordance with the provisions of the

CLA (a "Lien Action") and shall have been served upon the Receiver and all named defendants to such Lien Action.

7. THIS COURT ORDERS AND DIRECTS that in filing a Claim with the Receiver, all Lien Claimants shall include:

(a) a copy of the contract or subcontract including any change orders, amendments, purchase orders, or other related documents on which such Claim is asserted;

(b) the names of the parties to the contract or subcontract;

(c) the contract price and a statement of account, including the dates and amounts of payments received;

(d) a copy of any labour and material payment bond posted by a subcontractor with a contractor or by a subcontractor with a subcontractor; and

(e) any other documents or information as the Receiver may reasonably request for the purpose of assessing and determining any Claims in accordance with paragraph 3 of this Order.

NO DEFAULT PROCEEDINGS OR DEFENCES

8. THIS COURT ORDERS that no default or enforcement proceedings shall be commenced against any defendant in any Lien Action unless authorized by further Order of this Court.

9. THIS COURT ORDERS that the requirement for the Receiver, RRDI, WestLB, Fortress, or any defendant in any Lien Action to file a statement of defence is hereby dispensed with subject to any further Order of this Court.

DETERMINATION OF CLAIMS

10. THIS COURT ORDERS that the Receiver shall accept, revise and/or disallow a Claim as set out in a Lien Claimant's Statement of Claim by delivering a notice of determination including the reasons for such determination (a "Notice of Determination"), and all documentation, if any,

referred to in the notice of determination to such Lien Claimant on or before October 15, 2009, and the Receiver shall post each Notice of Determination only, without any supporting documentation, on its website immediately after delivery to such Lien Claimant and in any event on or before October 15, 2009. Any Lien Claimant who files a Notice of Dispute with respect to a Notice of Determination of the Claim of another Lien Claimant may request, and the Receiver shall provide, any documentation referred to in such Notice of Determination.

DISPUTE NOTICE AND APPEALS

11. THIS COURT ORDERS that a Lien Claimant may appeal the acceptance, revision and/or disallowance (as the case may be) of any Claim as set out in a Notice of Determination by delivering a Dispute Notice to the Receiver substantially in the form attached to this Order as **Schedule "B"** ("Dispute Notice"), within 30 days of the posting of such Notice of Determination by the Receiver on its website. Any Lien Claimant who does not deliver a Dispute Notice within 30 days of such posting shall be deemed to have accepted the Receiver's determination as set out in the Notice of Determination, which shall be final and binding, and that portion, or the whole, of the Claim so disallowed (as the case may be), shall be forever barred and extinguished pursuant to this Order.

12. THIS COURT ORDERS AND DIRECTS that any appeal of a Notice of Determination as set out in a Dispute Notice shall be referred to a claims officer (with construction lien expertise), as appointed by further order of this Court or by reference by order of this Court to a Construction Lien Master or Case Management Master. Any appeal of a Notice of Determination shall be conducted as a hearing *de novo* and any appeal (or motion to oppose confirmation of a report), of a claims officer, Construction Lien Master or Case Management Master, shall be heard by this Court on a timetable agreed to by the parties to that proceeding and approved by this Court and shall be final and binding on all parties with no further appeal thereof.

CLAIMS BAR PROVISIONS

13. THIS COURT ORDERS that any Claim:

(i) which is not preserved and perfected pursuant to the provisions of the CLA and served in accordance with paragraph 6 of this Order with all accompanying documentation as required by paragraph 7 hereof; or

(ii) for which a Dispute Notice is not delivered by a Lien Claimant disputing a Notice of Determination with respect to its Claim to the Receiver within 30 days of the posting of a Notice of Determination by the Receiver;

shall be forever barred and extinguished and such Lien Claimant shall be forever estopped and enjoined from asserting or enforcing any further Claims against the Property, RRDI, WestLB, Fortress or the Receiver, and such Lien Claimant shall not be entitled to receive further notice of these proceedings, and in any event, all claims of any nature against the Receiver, WestLB and Fortress are hereby forever barred and extinguished. However, nothing in this Order shall bar or extinguish:

(i) trust claims under the CLA, against any party other than the Receiver, WestLB and Fortress, or against the Property or proceeds of sale of the Property subsequent in priority to the Receiver, WestLB and Fortress, and RRDI, as permitted by further Order of this Court; and

(ii) any claims in contract against any party, other than the Receiver, WestLB and Fortress, and subject to further Order of this Court, RRDI.

NOTICES AND COMMUNICATION

14. THIS COURT ORDERS that, except as otherwise provided herein, the Receiver may deliver any notice or other communication to be given under this Order to Lien Claimants or other interested parties by forwarding true copies thereof by ordinary mail, courier, personal delivery, facsimile or e-mail to such Lien Claimants or parties at the address last shown on the books and records of the Debtor, and that any such service or notice by ordinary mail, courier, personal delivery, facsimile or e-mail shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail on the third business day

after mailing within Ontario, the fifth business day after mailing within Canada, and the tenth business day after mailing internationally.

15. THIS COURT ORDERS that any notice or other communication to be given under this Order by a Lien Claimant to the Receiver shall be in writing in substantially the form, if any, provided for in this Order and will be effective only if delivered by registered mail, courier, personal delivery, e-mail or facsimile transmission addressed to:

Alvarez & Marsal Canada ULC as
Court-Appointed Receiver of the
Rosseau Resort Developments Inc.
Attention: Greg Karpel
Royal Bank Plaza, Suite 2000
Toronto, ON M5J 2J1
Tel: 416 -847-5170

Fax: 416-847- 5201
Email: gkarpel@alvarezandmarsal.com

- with a copy to:

Blake, Cassels & Graydon LLP
Barristers & Solicitors
Attention: Michael McGraw
199 Bay Street
Suite 2800, Commerce Court West
Toronto ON M5L 1A9
Fax: (416) 863-2653
Email: michael.mcgraw@blakes.com

-and a copy to:

Fraser Milner Casgrain LLP
Attention: Jane Dietrich
1 First Canadian Place
100 King Street West
Toronto, ON M5X 1B2
Fax: 416-863-4592
Email: jane.dietrich@fmc-law.com

AID AND ASSISTANCE OF OTHER COURTS

16. THIS COURT HEREBY REQUESTS the aid and recognition of any court or any judicial, regulatory or administrative body in any province or territory of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province or any court or any judicial, regulatory or administrative body of the United States and of any other nation or state to act in aid of and to be complementary to this Court in carrying out the terms of this Order.

17. THIS COURT ORDERS that, notwithstanding the terms of this Order, any party may apply to this Court from time to time for direction with respect to the Construction Lien Claims Process and/or such further order or orders as this Court may consider necessary or desirable to amend, supplement or replace this Order, including, but not limited to, any order for the delivery of information pursuant to section 39 of the CLA and the process for determination of holdback.

SCHEDULE "A"

LEGAL DESCRIPTION OF THE LANDS AND PREMISES

SCHEDULE "B"

Dispute Notice of The Rosseau Resort Developments, Inc. ("RRDI")

Defined terms not defined within this Dispute Notice form have the meaning ascribed thereto in the Construction Lien Claims Process Order dated July [●], 2009. Pursuant to paragraph 12 of the Construction Lien Claims Process Order, we hereby give you notice of our intention to dispute the Notice of Determination bearing Reference Number _____ and dated _____ issued by Alvarez & Marsal Canada ULC as Receiver of RRDI in respect of our Claim.

Name of Creditor: _____

Reasons for Dispute (attach additional sheet and copies of all supporting documentation, if necessary):

_____
_____
_____

Signature of Individual/Authorized Signing Officer: _____

Date: _____

(Please print name) _____

Telephone Number: ( ) _____ Facsimile Number: ( ) _____

Full Mailing Address:_____
_____
_____

THIS FORM AND SUPPORTING DOCUMENTATION TO BE RETURNED BY REGISTERED MAIL, PERSONAL SERVICE, E-MAIL, FACSIMILE OR COURIER TO THE ADDRESS INDICATED HEREIN AND TO BE RECEIVED NO LATER THAN 30 DAYS AFTER RECEIPT OF THE NOTICE OF DETERMINATION TO:

Alvarez & Marsal Canada ULC as
Court-Appointed Receiver of the
Rosseau Resort Developments Inc.
Attention: Greg Karpel
Royal Bank Plaza, Suite 2000
Toronto, ON M5J 2J1
Tel: 416 -847-5170

Fax: 416-847- 5201
Email: gkarpel@alvarezandmarsal.com

- with a copy to:

Blake, Cassels & Graydon LLP
Barristers & Solicitors
Attention: Michael McGraw
199 Bay Street
Suite 2800, Commerce Court West
Toronto ON M5L 1A9
Fax: (416) 863-2653
Email: michael.mcgraw@blakes.com

-and a copy to:

Fraser Milner Casgrain LLP
Attention: Jane Dietrich
1 First Canadian Place
100 King Street West
Toronto, ON M5X 1B2
Tel: : 416-863-4467
Fax: 416-863-4592
Email: jane.dietrich@fmc-law.com

Court File No. CV-09-8201-00CL

WESTLB AG, TORONTO BRANCH	V.	THE ROSSEAU RESORT DEVELOPMENTS INC.
Applicant		Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

CONSTRUCTION LIEN CLAIMS PROCESS ORDER

BLAKE, CASSELS & GRAYDON LLP
Box 25, Commerce Court West
Toronto, Ontario M5L 1A9

Pamela Huff LSUC#: 27344V
Tel: (416) 863-2958

Katherine McEachern LSUC#: 38345M
Tel: (416) 863-2566
Fax: (416) 863-2653

Lawyers for WestLB, AG, Toronto Branch and McIntosh & Morawetz LLP and Alvarez & Marsal ULC Canada, in their respective capacities as Court-appointed interim receiver, trustee, receiver and manager

Court File No. CV-09-8201-00CL

IN THE MATTER of Section 47(1) of the *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O 1990, C. C. 43, AS AMENDED, AND SECTION 68 OF THE *CONSTRUCTION LIEN ACT*, R.S.O. 1990, C. C. 30, AS AMENDED

Applicant		Respondent
WESTLB AG, TORONTO BRANCH	V.	THE ROSSEAU RESORT DEVELOPMENTS INC.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

NOTICE OF MOTION
(Returnable July 24, 2009)

BLAKE, CASSELS & GRAYDON LLP
Barristers & Solicitors
P.O. Box 25, Commerce Court West
Toronto, Ontario M5L 1A9

Pamela L.J. Huff - LSUC#: 27344V
Tel: 416-863-2958
Fax: 416-863-2653

Katherine McEachern – LSUC#: 38345M
Tel: 416-863-2566
Fax: 416-863-2653

Lawyers for WestLB, AG, Toronto Branch and McIntosh & Morawetz Inc., and Alvarez & Marsal ULC Canada, in their respective capacities as Court-appointed Interim Receiver, Trustee, Receiver and Manager

TAB 2

Court File No.: CV-09-8201-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

BETWEEN:

WESTLB AG, TORONTO BRANCH

Applicant

and

THE ROSSEAU RESORT DEVELOPMENTS INC.

Respondent

IN THE MATTER OF SECTION 47(1) OF *THE BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C.B-3, AS AMENDED, SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C. 43, AND SECTION 68 OF THE *CONSTRUCTION LIEN ACT*, R.S.O. 1990 C. C. 30, AS AMENDED

THIRD REPORT OF ALVAREZ & MARSAL CANADA ULC, AS RECEIVER AND MANAGER AND CONSTRUCTION LIEN ACT TRUSTEE AND MCINTOSH & MORAWETZ INC., AS INTERIM RECEIVER OF THE ASSETS OF THE ROSSEAU RESORT DEVELOPMENTS INC.

JULY 21, 2009

Table of Contents

1.0 Introduction

1.1 On May 22, 2009, the Ontario Superior Court of Justice (the "Court") issued an order appointing Alvarez & Marsal Canada ULC ("A&M") and McIntosh & Morawetz Inc., as trustee and interim receiver, respectively (collectively the "Interim Receiver") pursuant to Section 68 of the *Construction Lien Act (Ontario)* ("CLA") and Section 47(1) of the *Bankruptcy and Insolvency Act* ("BIA") of all the property, assets and undertakings (the "Assets") of The Rosseau Resort Developments Inc. ("RRDI" or the "Company"). On June 2, 2009, the Court issued an order (the "Appointment Order") appointing A&M as receiver and manager (the "Receiver and Manager") pursuant to Section 101 of the *Courts of Justice Act* ("CJA") and pursuant to the CLA of the Assets of RRDI (the Interim Receiver and the Receiver and Manager hereinafter collectively defined as the "Receiver").

1.2 On July 3, 2009, the Receiver filed its second report with this Honourable Court and on July 7, 2009, the Receiver filed a supplementary report to the second report (the "Supplementary Report to the Second Report") (the second report and the Supplementary Report to the Second Report are collectively defined as the "Second Report") with this Honourable Court. The purpose of the Second Report was to, among other things, describe the Receiver's proposed Sales and Marketing Process. A copy of the Second Report (without appendices) is attached as Appendix "1".

1.3 The Second Report also described a proposed construction lien claims resolution process that the Receiver was seeking authorization for on its motion returnable on July 8, 2009. However, the Court adjourned that aspect of the relief sought in order to provide time to

settle upon the proposed form of order with all relevant stakeholders. The Receiver and the construction lien claimants have now agreed on a form of order in respect of the construction lien claims process. Accordingly, the Receiver will be seeking this Honourable Court's authorization of this process on the return of this motion on July 24, 2009.

1.4 On July 8, 2009, this Honourable Court issued an order (the "Sales and Marketing Order"), which among other things, authorized the Receiver to undertake the Sales and Marketing Process as described in the Second Report, including the sale and marketing of the 84 unsold Hotel Units (the "Unsold Units"), not currently subject to agreements of purchase and sale ("APS"), together with the residual interest of RRDI in the Hotel and all other Assets.

1.5 The Sales and Marketing Order authorized the Receiver to commence the Sales and Marketing Process consisting of (i) the Retail Sales Program; and (ii) the Institutional Sales Process (each of which are described in the Second Report) and to retain Baker Real Estate Incorporated ("Baker Real Estate") and Colliers MacCaulay Nicolls (Ontario) Inc. ("Colliers") as the brokers to conduct the Retail Sales Program and Institutional Sales Process, respectively.

1.6 Capitalized terms in this report (the "Third Report") shall have the meanings ascribed to them in either the Reports of the Proposed Interim Receiver or the First Report and Second Report unless otherwise defined herein.

1.7 The purpose of this Third Report is to seek this Honourable Court's approval of:

- The proposed marketing and promotional program planned by Baker Real Estate, as described in a letter from Baker Real Estate to the Receiver dated July 20, 2009 (the "Baker Real Estate Letter"), with respect to the Retail Sales Program, which, among other forms of media, will include a print advertisement that Baker Real Estate intends to have placed in certain Canadian newspapers (the "Newspaper Advertisement"); and

- The proposed price list (the "Baker Price List") that Baker has developed and is intending to utilize in connection with the sale of the Unsold Units. The Baker Price List contains the minimum prices for the sale of the Unsold Units.

1.8 Copies of the Baker Real Estate Letter, the form of the Newspaper Advertisement and the Baker Price List are attached as Confidential Appendices "A", "B" and "C", respectively. The contents of Confidential Appendices "A", "B" and "C" contain sensitive information regarding the Retail Sales Program which, if disclosed publicly, could potentially prejudice the Sales and Marketing Process. Accordingly, the Receiver respectfully requests that these Appendices, which are filed separately in a sealed envelope, remain sealed and only be opened and viewed by the Judge presiding over this Application and be returned to the envelope and sealed after the hearing of this Application and not form part of the permanent Court file.

2.0 Terms of Reference

2.1 In preparing this Third Report, the Receiver has relied on unaudited financial information prepared by the Company's management and the Company's consultants and advisors, the Company's books and records and discussions with its management. The Receiver has not performed an audit or other verification of such information. An examination of the Company's financial forecasts as outlined in the Canadian Institute of Chartered Accountants Handbook has not been performed. Future oriented financial information relied on in this Third Report is based on management's assumptions regarding future events; actual results achieved may vary from this information and these variations may be material. The Receiver expresses no opinion or other form of assurance with respect to the accuracy of any financial information presented in this Third Report, or relied upon by the Receiver in preparing the Third Report. All references to dollar figures contained in the Third Report are in Canadian currency unless otherwise specified.

3.0 The Retail Sales Program

3.1 Subsequent to the Court authorizing the Receiver to commence the Retail Sales Program, the Receiver entered into the Baker Real Estate Listing Agreement with Baker Real Estate. As contemplated in the Second Report, upon its engagement, Baker Real Estate commenced working with the Receiver on its advertising and marketing materials in connection with a planned "major product launch" – a "One-Day Sale" to be held on or about August 15, 2009. Baker Real Estate is currently intending to conduct this sale later in August 2009.

3.2 To assist with the design of the advertising and marketing materials, as well as the development and implementation of the Retail Sales Program, the Receiver, on the recommendation of Baker Real Estate, engaged Montana Steele Advertising Inc. ("Montana Steele"). Montana Steele is an advertising and marketing firm located in the Greater Toronto Area which focuses exclusively on real estate programs such as the Retail Sales Program.

3.3 In addition, to assist with the design and development of a public relations strategy in connection with the Retail Sales Program, the Receiver, on the recommendation of Baker Real Estate, engaged The Communications Group Inc. ("TCG"). TCG is a public relations firm located in the Greater Toronto Area with a focus on real estate and related matters.

3.4 In consultation with Baker Real Estate, Montana Steele and TCG, a marketing strategy was designed with a view to capturing the greatest level of interest possible from

potential unit purchasers while also respecting the impact such a campaign could have on other stakeholders (the "Marketing Campaign").

3.5 The proposed Marketing Campaign will include advertising in various forms of media communications such as newspapers and on radio, social media marketing, e-mail "blasts" and videography. The central theme of the Marketing Campaign is to create consumer awareness of an intended "One-Day Sale" to be held at the Hotel later in August 2009. In this regard, the Receiver, Baker Real Estate and Montana Steele met extensively with Marriott Hotels to settle on the final form of the Newspaper Advertisement which Montana Steele intends to have printed, on several occasions, in both the national edition of The Globe and Mail and the Toronto Star newspapers. Marriott Hotels has advised the Receiver that it has approved the form of the Newspaper Advertisement. The proposed radio advertisements, as well as social media graphics and e-mail "blasts" were still under development as at the date of this Third Report. However, the forms and content of these advertisements and communications will be of a similar nature to that of the Newspaper Advertisement. The proposed Newspaper Advertisement is attached as Confidential Appendix "B".

3.6 Since the execution of the Baker Real Estate Listing Agreement, Baker Real Estate has been working onsite at the Hotel to, among other things, review the prior list prices of the Unsold Units, and consider appropriate pricing revisions to prepare the Baker Price List. The Baker Price List gives consideration to current market conditions and other factors affecting the Unsold Units including the physical location of each of the Unsold Units in the Hotel, the view from each of the Unsold Units, the size of each of the Unsold Units,

and the existence of other features such as a balcony which serve to either make the Unsold Units more attractive or less attractive.

3.7 The Baker Real Estate Letter (attached as Confidential Appendix "A") provides this Honourable Court with a summary of Baker Real Estate's rationale in support of the design of the Marketing Campaign in general and the form of Newspaper Advertisement specifically, as well as the Baker Price List. The Baker Price List is attached as Confidential Appendix "C".

3.8 The Syndicate has reviewed the form of the Newspaper Advertisement and the Baker Price List, and has confirmed that it is supportive of both. Fortress has reviewed the form of the Newspaper Advertisement and the Baker Price List, and has confirmed that it is not opposed to either.

4.0 Conclusions and Recommendations

4.1 The Receiver concurs with the content and the conclusions as set out in the Baker Real Estate Letter. The Receiver has had numerous discussions with Baker Real Estate and other knowledgeable parties regarding alternative realization scenarios for the Unsold Units. The Receiver has concluded that if Baker Real Estate is successful in achieving those prices for the Unsold Units as set out on the Baker Price List, then maximum value would be achieved for the Company's stakeholders.

4.2 The Receiver respectfully requests that this Honourable Court:

- Approve the Marketing Campaign described in the Baker Real Estate Letter and attached as Confidential Appendix "A" and the form of the Newspaper Advertisement attached as Confidential Appendix "B"; and

- Authorize the Receiver and Baker Real Estate to proceed with the Retail Sales Program, utilizing the minimum prices set out on the Baker Price List attached as Confidential Appendix "C".

* * *

All of which is respectfully submitted, this 21st day of July, 2009

ALVAREZ & MARSAL CANADA ULC &
McINTOSH & MORAWETZ INC. IN THEIR CAPACITIES AS
CONSTRUCTION LIEN ACT TRUSTEE AND RECEIVER AND MANAGER,
AND INTERIM RECEIVER, RESPECTIVELY, OF THE ASSETS OF
THE ROSSEAU RESORT DEVELOPMENTS INC.

Per: _____
Richard A. Morawetz

APPENDIX "1"

Court File No.: CV-09-8201-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

BETWEEN:

WESTLB AG, TORONTO BRANCH

Applicant

and

THE ROSSEAU RESORT DEVELOPMENTS INC.

Respondent

IN THE MATTER OF SECTION 47(1) OF *THE BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C.B-3, AS AMENDED, SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C. 43, AND SECTION 68 OF THE *CONSTRUCTION LIEN ACT*, R.S.O. 1990 C. C. 30, AS AMENDED

SECOND REPORT OF ALVAREZ & MARSAL CANADA ULC, AS RECEIVER AND MANAGER AND CONSTRUCTION LIEN ACT TRUSTEE AND MCINTOSH & MORAWETZ INC., AS INTERIM RECEIVER OF THE ASSETS OF THE ROSSEAU RESORT DEVELOPMENTS INC.

JULY 3, 2009

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Appendix C	-	The standard form of Rental Pool Management Agreement
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Appendix E	-	Assignment of the Hotel Management Agreement
Appendix F	-	Subordination, Non-Disturbance and Attornment Agreement
Appendix G	-	Letter to counsel for RRMSI asking for the consensual agreement to assign the Rental Pool Management Agreements to RRDI dated June 8, 2009
Appendix H	-	Joint Undertakings
Appendix I	-	Receipts and Disbursements Statement for the period ended June 30, 2009

1.0 Introduction

1.1 On May 22, 2009, the Ontario Superior Court of Justice (the "Court") issued an order appointing Alvarez & Marsal Canada ULC ("A&M") and McIntosh & Morawetz Inc., as trustee and interim receiver, respectively (collectively the "Interim Receiver") pursuant to Section 68 of the *Construction Lien Act (Ontario)* ("CLA") and Section 47(1) of the *Bankruptcy and Insolvency Act* ("BIA") of all the property, assets and undertakings (the "Assets") of The Rosseau Resort Developments Inc. ("RRDI" or the "Company"). On June 2, 2009, the Court issued an Amended and Restated Appointment Order (the "Appointment Order") appointing A&M as receiver and manager (the "Receiver and Manager") pursuant to Section 101 of the *Courts of Justice Act* ("CJA") and pursuant to the CLA of the Assets of RRDI (the Interim Receiver and the Receiver and Manager hereinafter collectively defined as the "Receiver"). A copy of the Appointment Order is attached as Appendix "A", without schedules attached.

1.2 A&M, as proposed receiver, filed a report dated May 19, 2009 and a supplementary report dated May 20, 2009 (collectively the "A&M Report") in these proceedings in support of the application brought before this Honourable Court by WestLB AG, Toronto Branch ("WestLB"), as agent for the Lender Syndicate of WestLB AG, Toronto Branch and CIT Financial Ltd. (the "Syndicate") for the appointment of the Receiver. The A&M Report contains relevant background with respect to the Company. A copy of the A&M Report can be found at the Receiver's website, www.alvarezandmarsal.com/rosseau.

1.3 On May 27, 2009, the Interim Receiver filed its first report with this Honourable Court and on May 29, 2009, the Interim Receiver filed a supplementary report to its first report (the first report and the supplementary report being collectively defined as the "First Report"). The First Report provided this Honourable Court with, among other things, an update on the Interim Receiver's activities from the date of its appointment as Interim Receiver to the date of the First Report.

1.4 This purpose of this report (the "Second Report") is to:

- Provide the Court with an update on the status of the Receiver's activities since the date of the First Report, including an update on the status of construction of the hotel/condominium complex known as "The Rosseau" (the "Hotel") and the anticipated timing of construction completion;

- Describe the Receiver's proposed sales and marketing strategy (the "Sales and Marketing Process") with respect to the Assets and seek this Honourable Court's approval authorizing the Receiver to commence the Institutional Sales Process and the Retail Sales Program, both as defined herein;

- Describe to the Court the various agreements entered into between Marriott Hotels of Canada Ltd. ("Marriott Hotels") and/or its affiliates and the Company and seek the authorization of this Honourable Court to permit the Receiver to enter into the New Marriott Marketing License Agreement as defined herein;

- Describe to the Court the arrangements between the Company and an affiliated company, The Rosseau Resort Management Services Inc. ("RRMSI"), to act as

rental pool manager, and to seek direction on distributions, if any, to be made by Marriott Hotels;

- Request that this Court establish a claims process for construction lien claimants, to be conducted by the Receiver;

- Request that this Honourable Court permit the Receiver to distribute certain funds, currently being held by McCarthy Tetrault LLP ("McCarthys") in connection with closing costs associated with condominium purchases that were completed prior to the date of the receivership, to those parties for whom the Receiver believes the funds are being held in trust; and

- Request that this Honourable Court approve the activities of the Receiver from the date of the First Report to the date of this Second Report.

2.0 Terms of Reference

2.1 In preparing this Second Report, the Receiver has relied on unaudited financial information prepared by the Company's management and the Company's consultants and advisors, the Company's books and records and discussions with its management. The Receiver has not performed an audit or other verification of such information. An examination of the Company's financial forecasts as outlined in the Canadian Institute of Chartered Accountants Handbook has not been performed. Future oriented financial information relied on in this Second Report is based on management's assumptions regarding future events; actual results achieved may vary from this information and these variations may be material. The Receiver expresses no opinion or other form of assurance with respect to the accuracy of any financial information presented in this Second Report, or relied upon by the Receiver in preparing the Second Report. All references to dollar figures contained in the Second Report are in Canadian currency unless otherwise specified.

2.2 Capitalized terms in this Second Report shall have the meanings ascribed to them in either the A&M Report or the First Report unless otherwise defined herein.

3.0 Status of Construction of the Hotel and Anticipated Timing of Unit Closings

3.1 As described in the First Report, upon its appointment, the Interim Receiver discontinued all construction activities at the Hotel to provide it with time to negotiate and enter into new arrangements with those trade contractors, architects, engineers and design consultants that were required to complete construction of the Hotel. Furthermore, until the granting of the Appointment Order, the Interim Receiver was only authorized to utilize the Receiver's Borrowings for specific purposes, including payroll and related expenses, utilities payments and other urgent payments. Accordingly, the Receiver was not in a position to allow ongoing work to continue until such time as it was certain that it would be able to make payment for any future services rendered or work performed, through the priority Receiver's Borrowings authorized by the Appointment Order.

3.2 Given the quantum of outstanding amounts owing to many trade contractors, the status of their respective lien claims, the relatively short timelines for which to complete construction of the Hotel and the determination by the Receiver and its construction consultant, Altus, of many technical issues that the Receiver had not been made aware of by the Company prior to its appointment, the negotiations with many of the parties required to complete construction of the Hotel were difficult and complicated. Nonetheless, immediately upon the granting of the Appointment Order and this Honourable Court's authorization to permit the Receiver to utilize the full amount of the Receiver's Borrowings, the Receiver commenced entering into those arrangements necessary to allow for construction to be completed on a timely basis.

3.3 As at the date of this Second Report, the Receiver has entered into arrangements with all major trade contractors, architects, engineers and design consultants required to complete construction of the Hotel. In addition, the Receiver has been able to negotiate with the suppliers of the furniture, fixtures and equipment ("FF&E") for the Hotel. Many of the suppliers of FF&E had been holding the FF&E in their possession due to the failure of the Company to make payment for the release and delivery of the FF&E which were required to make the uncompleted portions of the Hotel ready for occupancy.

3.4 In general, the Receiver was able to enter into arrangements with those same contractors who had been providing their construction and related services to the Company prior to the receivership. The Receiver views this positively as it has allowed for continuity of construction and the preservation of the majority of warranties on work previously conducted as well as work still to be performed. Notwithstanding the foregoing, the largest single trade contract to be awarded by the Receiver related to completion of the outdoor landscaping in and around the Hotel. Given the quantum of the landscaping work to be completed, the stand-alone nature of this work and certain other issues, the Receiver considered it prudent to undertake a bid process specifically for the completion of this outstanding work. Accordingly, with the assistance of Altus, as well as MDP Landscape Consultants Ltd., the landscape architect engaged by the Receiver, the Receiver sought and obtained bids for the landscaping work to be completed. These bids were received on June 22, 2009 and on June 23, 2009, the Receiver awarded the landscape contract to Advanced Landscaping Ltd. (the "Landscape Contractor"). The arrangements with the

Landscape Contractor call for the substantial completion of all landscape work by July 23, 2009, subsequent to which a non-completion penalty clause will take effect for each day the works remain unfinished (subject to reasonable allowances for weather delays and other acts of God).

3.5 Altus has advised the Receiver that it believes that all construction will be substantially complete at the Hotel by July 31, 2009. The Receiver believes that the trades are on schedule to meet this timeframe. Marriott Hotels is scheduled to take possession of Paignton House on July 5, 2009, at which point Marriott Hotels will commence the process of undertaking the final fit out of the guest suites and making its pre-opening preparations. Marriott Hotels has been working closely with the Receiver and Altus to oversee completion of construction and has advised the Receiver that it is pleased with the progress to date and the quality of the product. It is anticipated that the unfinished components of the Hotel will be fully operational by July 31, 2009.

3.6 Altus has also advised the Receiver that it believes that the major construction works will be completed within budget in accordance with the updated construction forecast as described in the A&M Report.

3.7 The Receiver has commenced the process of scheduling pre-delivery inspections ("PDIs") with those unit purchasers who purchased condominium units in Paignton House prior to the receivership. PDIs are scheduled to commence on July 15, 2009. Subsequent to completion of the PDI process, the Receiver will be in a position to commence unit closings at Paignton House. There are currently 25 units located at

Paignton House which are subject to an agreement of purchase and sale with RRDI ("APS") but not yet closed.

3.8 While the Appointment Order authorized the Receiver to take those actions necessary to complete the unit purchase transactions which had not been completed prior to the receivership, since the commencement of the receivership the Receiver has not yet closed on any such transactions. As described in the A&M Report and the First Report, there are currently 64 unclosed transactions. Of the 64 unclosed transactions, 25 relate to units which are situated in Paignton House for which closings cannot occur until completion of construction and 30 transactions are Sale Leaseback Transactions (as defined herein) for units located in Longview[1]. While Longview is complete, the Receiver did not believe it was appropriate to compel purchasers to close until a proposal could be made with respect to the treatment of the Sale Leaseback Transactions and other Purchaser Incentives (as defined herein). As well, a significant number of the 64 purchasers with unclosed transactions have entered into rental pool management agreements with RRMSI which, as described below, need to be addressed.

[1] Note that there are a total of 33 Sale Leaseback Transactions which have not yet been closed; 30 of which are located in Longview and 3 of which are located in Paignton House.

4.0 Issues Relating to Unit Purchaser Incentives

4.1 During the course of its sale of condominium units, the Company provided unit purchasers with several types of incentives and benefits to entice unit purchasers to enter into an APS. Several types of incentives (the "Purchaser Incentives") were provided to unit purchasers, including the Company's agreement to pay unit purchasers' condominium fees and expenses and the issuance of certain "indulgence cards" which provide holders with a "currency" for use at the Hotel to pay for discretionary expenses. One specific form of Purchaser Incentive offered by the Company was a sale leaseback program (the "Sale Leaseback Program"). While there were approximately five versions of the Sale Leaseback Program offered to purchasers, in general, the Sale Leaseback Program allowed a purchaser (the "Leaseback Unit-Owner") to purchase a unit and then lease it back to the Company (a "Sale Leaseback Transaction"), the general terms of which are described as follows:

- A Leaseback Unit-Owner would forego substantially all of his or her rights to occupy the purchased unit either for a term of three or four years.

- In exchange for foregoing occupancy rights to the unit, the Leaseback Unit-Owner would receive an annual rent, payable by the Company, ranging between 6% and 8% per annum of the purchase price (the "Annual Return"), depending on the "version" of the Sale Leaseback Transaction entered into by the Leaseback Unit-Owner.

- Leaseback Unit-Owners executed rental pool management agreements with RRMSI, but waived any distributions from the rental pool operation of their unit as a result of the Annual Return anticipated from the Sale Leaseback Transaction.

- In addition to the Annual Return, certain Leaseback Unit-Owners received other incentives as well, such as the Company's commitment to pay condominium fees and expenses and realty taxes throughout the term of the Sale Leaseback Transaction.

4.2 The Company entered into a total of 67 Sale Leaseback Transactions with the Leaseback Unit-Owners, of which 34 Sale Leaseback Transactions have previously closed and 33 Sale Leaseback Transactions have not yet closed. The Receiver has been advised by its legal counsel that all Purchaser Incentives, including the claims of the Leaseback Unit-Owners against the Company relating to the Sale Leaseback Transactions, for those unit purchasers who have closed are unsecured claims against the Company. There may be some possible claims of purchasers who have closed to certain funds held by RRDI's legal counsel McCarthy Tetrault LLP, as described below. The Receiver has been advised by its legal counsel that it could compel a unit purchaser, who received a lease from the Company on entering into interim occupancy, to complete the closing of a Sale Leaseback Transaction which has not yet closed, even if the lease previously delivered by RRDI on interim occupancy is in default and no further payments will be made by RRDI. Such default is not a basis to terminate the APS. In the case of a unit which has already closed, the Receiver is entitled to repudiate a Purchaser Incentive granted by RRDI, for which the unit purchaser would have an unsecured claim against the Company. It is the Receiver's

view however, that if it were not able to reach agreement with unit purchasers who hold a Purchaser Incentive or had entered into a Sale Leaseback Transaction, then (a) those unit purchasers who have already closed on their units could, in the case of a Sale Leaseback Transaction, be put in jeopardy of defaulting on their existing unit mortgage financing; and (b) those unit purchasers that have not already closed may resist closing, resulting in significant costs and delays to the Receiver in connection with either litigating against such unit purchasers or ultimately remarketing such units if seeking to close these transactions becomes too difficult.

4.3 Accordingly, the Receiver, in consultation with the Syndicate and Fortress, has met with a representative group of unit purchasers (the "Ad Hoc Committee") and its legal counsel in an attempt to formulate a draft proposal of the Receiver to address the Purchaser Incentives (the "Purchaser Incentive Proposal"). Progress has been made and the Receiver is hopeful it will be able to provide an update to the Court in a Supplemental Report to the Court before the July 8, 2009 motion.

5.0 The Receiver's Proposed Sales and Marketing Process

5.1 Upon authorization from this Honourable Court, the Receiver intends to commence a Sales and Marketing Process in respect of the Assets of the Company. In connection with the Sales and Marketing Process, the Receiver has consulted with various industry experts, including hotel real estate consultants and advisors, real estate brokers and Marriott Hotels. Given the nature of the Assets to be marketed, consisting of (a) individual unsold condominium units; (b) development lands surrounding the Hotel (approximately 50 lots); and (c) the residual interest in the Hotel itself, the Receiver intends to undertake a "twin track process" as described herein.

5.2 The Receiver intends, upon Court approval, to retain Colliers International Hotels ("Colliers"), a brokerage house with international expertise in the marketing of hotel resort properties throughout the world, to undertake a sales and marketing process of all of the Assets on an en bloc basis (the "Institutional Sales Process"). The Receiver also intends, upon Court approval, to retain Baker Real Estate Incorporated ("Baker Real Estate"), a well-respected, Toronto based real estate brokerage firm to implement a retail sales and marketing program of the Company's unsold condominium units, as well as potentially the development lands surrounding the Hotel, on an individual unit or lot basis (the "Retail Sales Program").

5.3 In connection with the Institutional Sales Process, the Receiver held discussions and received proposals from two experienced brokerage houses. Meetings were held with each group, and the Receiver ultimately concluded that Colliers was the most suitable broker in the circumstances to be retained. In connection with the Retail Sales

Program, the Receiver met with four brokerage groups and obtained detailed proposals from each regarding specifically, how the unsold condominium units would be marketed for sale. Based on its due diligence, the Receiver concluded that Baker Real Estate would be the most suitable party to administer the Retail Sales Program.

The Institutional Sales Process:

5.4 Upon the Receiver obtaining Court approval, Colliers will commence the preparation of marketing materials in connection with the en bloc sale of the Assets. The Institutional Sales Process will seek to identify parties interested in the purchase of the Assets on an en bloc basis. Such a purchaser would essentially be acquiring the 84 unsold condominium units in the Hotel, plus the residual interest in the Hotel, which includes the Hotel's various commercial amenities such as its three restaurants, 15,000 square foot spa and 20,000 square foot conference centre, plus the undeveloped lands surrounding the Hotel. Colliers intends to undertake a robust sales and marketing process for the Assets which will include contacting all parties throughout the world which Colliers believes may have an interest in acquiring the Assets. In addition to utilizing its own database, Colliers intends to advertise the property for sale in various relevant industry publications and by way of email notification to institutional investors and high net-worth individuals. The Receiver has also been contacted by certain parties who have expressed interest in the Assets; these parties will also be included in the Institutional Sales Process.

5.5 In connection with the Institutional Sales Process, the Receiver and its legal counsel will work with Colliers to prepare all relevant sales and marketing materials,

including investment overview documents, offering memoranda, an appropriate form of confidentiality agreement, a draft form of asset purchase agreement for use by potential purchasers when submitting bids and a secure electronic dataroom to permit purchasers to conduct due diligence. On the advice of Colliers, the Receiver does not intend to set an asking price for the Assets, nor does it intend to set a date for submission of bids. Given the current economic environment and the nature of the Assets, it is Colliers' opinion, and the Receiver agrees, that either setting an asking price or a bid date at this time, may discourage interested parties from bidding on the Assets.

5.6 Prior to commencing the formal marketing of the Assets, the Receiver and Colliers have agreed to work jointly to seek to obtain expressions of interest from lenders and other sources of debt capital financing who may have an interest in working with an equity sponsor to acquire the Assets. It is the Receiver's view that, to the extent such a source of capital could be pre-identified and pre-qualified, it may reduce the likelihood of a transaction not being completed due to a purchaser's inability to secure financing. In addition, the pre-identification and pre-qualification of available financing will assist to confirm value by indicating to purchasers the quantum of debt financing available to fund a transaction.

5.7 Given the nature of the Institutional Sales Process, the Receiver believes that offers for the Assets would likely not be received until later this year. The timing of receipt of offers pursuant to the Institutional Sales Process will allow for the completion of a full unit sales selling season pursuant to the Retail Sales Program.

Retail Sales Program:

5.8 Upon the Receiver obtaining Court approval, Baker Real Estate will commence its advertising program and pre-launch sales administration in preparation for its major product launch, planned to be held onsite on August 13 and 15, 2009. Baker Real Estate will be working closely in conjunction with an advertising and marketing agency and the Receiver in the development of promotional material and the implementation of activities to increase awareness and generate sales leads for the unsold units prior to holding the major sales events at the Hotel. In addition, the Receiver plans to discuss and develop with Baker Real Estate a strategy to sell the undeveloped lands surrounding the Hotel, on a lot by lot basis.

5.9 In connection with the marketing of the unsold condominium units, Baker Real Estate and the Receiver will consider the Company's most recent pricing of the units, current market conditions, and appropriate terms to offer purchasers. The Receiver does not plan to undertake any liquidation sale of the unsold units. The Receiver plans to have unit sales conducted in an orderly manner, recognizing current market conditions.

5.10 The Receiver intends to arrange for representatives of Baker Real Estate to be located onsite at the Hotel to interact with Hotel guests and prospective purchasers, and to highlight the experience and opportunity of condominium ownership at the Hotel.

5.11 Baker Real Estate specializes in the project marketing and sales of new home communities, including condominiums, townhouses, and single family homes, as well as hotel condominiums and resort properties. In addition, Baker Real Estate has

worked on a number of real estate projects with receivers and is familiar with marketing and sales programs that are subject to a Court process. Baker Real Estate is experienced in the development and implementation of marketing and sales strategies, project sales and sales management, each an essential function necessary to succeed in this challenging marketplace.

Sales and Marketing Process Summary:

5.12 The Receiver believes that a "twin track process" will provide it with the greatest level of flexibility to maximize value to stakeholders. Due to the nature of both the Institutional Sales Process and the Retail Sales Program and the method of Asset sales to be employed (i.e. en bloc versus unit by unit), it is possible that the Retail Sales Program may yield total sale proceeds that, in the aggregate, would be greater than that realized by the Institutional Sales Process. However, the Retail Sales Program could take more time to complete, be more costly and result in a requirement by the Receiver to continue to fund any net operating losses of the Hotel throughout 2010.

5.13 The Receiver believes that by undertaking a twin track process throughout the summer/early fall of 2009, it will be in a better position to assess whether a Retail Sales Program will ultimately be successful in maximizing recoveries to stakeholders, or whether the Institutional Sales Process should continue to be pursued.

5.14 The Receiver plans to file before the return of this motion on July 8, 2009, a confidential supplementary report outlining the financial terms of the listing and marketing agreements with Colliers and Baker Real Estate.

6.0 Marriott Operating Agreements & Rental Pool Management

6.1 The following is a description of the principal agreements governing the management of the Hotel and the rental pool of condominium units.

Marriott Agreements:

6.2 In connection with the planning, development, construction, completion, and subsequent management and operation of the Hotel, RRDI entered into a Hotel Management Agreement (the "Hotel Management Agreement") with Marriott Hotels along with other ancillary agreements with Marriott Hotels and/or its affiliates, as described below. The Receiver is including in this report descriptions of these agreements and the involvement of RRMSI which have been provided to the Receiver by its counsel.

6.3 In addition to the Hotel Management Agreement, certain related or supplementary agreements were also executed with Marriott Hotels and/or its affiliates. These consist of a license and royalty agreement (the "License Royalty Agreement"), an international services agreement (the "International Services Agreement"), a technical services agreement (the "Technical Services Agreement") and a marketing license agreement (the "Marketing License Agreement") (all of these agreements together with the Hotel Management Agreement, collectively referred to herein as the "Marriott Agreements"). RRMSI and RRDI are both parties to all of the Marriott Agreements except for the Technical Services Agreement and the Marketing License Agreement, to which RRDI is a party alone.

6.4 For its services, Marriott Hotels and/or its affiliates are entitled pursuant to the Marriott Agreements to the payment of various fees which are not disclosed in this report given confidentiality restrictions. In general, the various fees Marriott Hotels and/or its affiliates are entitled to receive include a management fee, base royalties, incentive royalties if certain operating profit thresholds are exceeded, chain services fees, technical service fees during the construction of the Hotel and Introduction Fees (defined and described in more detail below) associated with the sale of Hotel units.

The Hotel Management Agreement:

6.5 The Hotel Management Agreement is the key agreement governing the relationship between RRDI, as the owner of the Hotel property and Marriott Hotels, as Hotel operator. The initial term of the Hotel Management Agreement is 25 years after the year in which the Hotel opens, with automatic renewal terms for each of four successive periods of ten years, unless Marriott Hotels elects not to renew the initial term or any renewal term. RRMSI is also a party to the Hotel Management Agreement and RRDI and RRMSI are collectively defined as the "Owner" therein.

6.6 Under the Hotel Management Agreement, the operation of the Hotel is placed under the exclusive supervision and control of Marriott Hotels. In fulfilling its obligations and in keeping with the "Marriott" system standards, Marriott Hotels has discretion and control in all matters relating to management and operation of the Hotel, subject to certain consultation rights provided to Owner.

6.7 As manager and operator, Marriott Hotels undertakes responsibility for all aspects of the Hotel operations, from employing the staff, to booking the facilities, to marketing

and promotion. In fulfilling its obligations under the Hotel Management Agreement, Marriott Hotels is not required to fund expenses of the Hotel and Marriott Hotels is not obliged to incur any liability or obligation with respect to the Hotel. Marriott Hotels collects all revenue of the Hotel and is responsible for applying it and distributing it in accordance with the Hotel Management Agreement. In the event that Marriott Hotels incurs any liability or obligation, Marriott Hotels is entitled to deduct these amounts from future distributions to the Owner if it has not otherwise been reimbursed.

6.8 The treatment of gross revenue from the operations of the Hotel and distribution of operating profit, if any, and treatment of operating losses are outlined in the Hotel Management Agreement. Generally, Marriott Hotels is entitled to deduct all of the costs and expenses properly incurred in connection with the operation and management of the Hotel as a deduction from gross revenues. Any remaining amounts constitute operating profit, which is to be distributed to the Owner in accordance with the provisions of the Hotel Management Agreement. The Hotel Management Agreement does not specify which Owner (RRDI or RRMSI) is to receive payment of the operating profit, but permits Marriott Hotels to treat either Owner as the Owner for any purposes under the Hotel Management Agreement.

6.9 To the extent that deductions exceed gross revenues, the Hotel will incur an operating loss. Additional funds in the amount of any such operating loss must be provided by the Owner within thirty (30) days after requested in writing by Marriott Hotels. If the Owner does not fund such an operating loss within the thirty (30) day time period, Marriott Hotels has the right to withdraw an amount to cover such operating losses

from future distributions of funds otherwise due to the Owner. In addition to funding operating losses, the Owner is responsible for providing Marriott Hotels with sufficient working capital to carry on operations at the Hotel, to the extent that gross revenues are an insufficient source of cash for doing so.

6.10 Operating losses have been consecutively incurred at the Hotel since it opened in December 2008. While the Hotel is forecast to generate modest operating profits throughout the summer months of July to September 2009, these operating profits will not be sufficient to offset the operating losses incurred prior to July 2009, or forecast to be incurred during the balance of the year subsequent to September. In April 2009, the Syndicate funded the sum of approximately $1.9 million to RRDI to reimburse Marriott Hotels for operating losses incurred to that point and to provide working capital for the period to May 31, 2009. In June 2009, the Receiver funded a further sum of approximately $550,000 for additional operating losses and working capital requirements.

The Rental Pool:

6.11 The Hotel is a mixed-use condominium development. The units when purchased are owned by individual unit owners (the "Unit Owners"), who purchase the units as investments. Units are required to be included in a rental pool, by which units are to be made available for rent by guests at the Hotel. This requirement is key to the operation of the Hotel. All of the units are required to be available for rent to the public except during periods of Unit Owner use as agreed with each of the Unit Owners.

6.12 Under the Hotel Management Agreement, the Owner is obligated to require that all Unit Owners execute and deliver a rental pool management agreement (the "Rental Pool Management Agreement") as a condition to the Unit Owner's purchase. The Owner is obligated to maintain and keep in full force and effect each of the Rental Pool Management Agreements, comply with all the obligations under each of the Rental Pool Management Agreements and take such actions as may be necessary to ensure compliance by the Unit Owners with respect to their obligations under the Rental Pool Management Agreements.

6.13 Consistent with these provisions of the Hotel Management Agreement, Unit Owners have been required by the terms of their APS to enter into a Rental Pool Management Agreement pursuant to which a rental pool manager was engaged to manage the rental of the Hotel units. The typical requirement in the APS is attached as Appendix "B". Among other things, Unit Owners are prohibited from leasing or permitting occupation of their units except as permitted by the Rental Pool Management Agreement; this is a fundamental requirement for the operation of the Hotel. The standard form of Rental Pool Management Agreement executed by purchasers on closing or on interim occupancy is attached as Appendix "C".

The Rental Pool Manager:

6.14 To date, the Rental Pool Management Agreements executed by Unit Owners each appoint RRMSI as the exclusive rental pool manager (the "Rental Pool Manager").

6.15 According to the condominium disclosure documents provided to each purchaser, RRDI "arranged" for RRMSI to act as the Rental Pool Manager with the exclusive right to manage the rental of the Hotel units as part of the rental pool in the Hotel.

6.16 RRMSI is a sister corporation of RRDI. As Rental Pool Manager, RRMSI was characterized in the condominium disclosure documents as a newly incorporated entity that had no prior history of managing rentals or rental pools. RRMSI was described as a single purpose entity which had no assets, and that its ability to fulfill its obligations to fund the ongoing operations of the rental pool may depend on its ability to arrange other sources of financing.

6.17 Given its status as Rental Pool Manager, RRMSI is a party to the Hotel Management Agreement. RRMSI is identified therein as the "Rental Pool Manager", and, jointly with RRDI, is identified as the Owner.

6.18 The obligations of RRDI and RRMSI under the Hotel Management Agreement are joint and several. The rights of either RRDI or RRMSI as the Owner can be exercised by either RRDI or RRMSI and any act or failure to act by, or with respect to either of them is treated as an act or failure to act by, or with respect to each of them and of the Owner. In its dealings with RRDI and/or RRMSI under the Hotel Management Agreement, Marriott Hotels is entitled to deal and interact with, and otherwise treat either of RRDI and RRMSI as the Owner.

6.19 Under the Hotel Management Agreement, RRMSI, as the Rental Pool Manager, delegated to Marriott Hotels substantially all of its obligations under the Rental Pool Management Agreements, except the obligation to provide periodic financial

statements to Unit Owners and to make distributions to Unit Owners, if and when available. As a result of this delegation, Marriott Hotels is generally responsible for managing the rental of the units in accordance with the requirements of the Rental Pool Management Agreements entered into with the Unit Owners and employs all staff necessary for the management and operation of the Hotel. The Receiver understands that RRMSI has one employee for the purposes of preparing periodic financial statements for Unit Owners.

6.20 To date, notwithstanding its joint obligation under the Hotel Management Agreement, RRMSI has not participated in the funding of any net operating losses, working capital deficiencies or pre-opening expenses that have been incurred by Marriott Hotels. To the extent payments have been made to Marriot Hotels, these expenses have been borne solely by RRDI and the Receiver.

The Rental Pool Management Agreements:

6.21 The Rental Pool Management Agreement contains provisions with respect to the periods of personal use by the Unit Owner and availability of the unit for rent to the public as part of the rental pool.

6.22 The Rental Pool Management Agreement outlines the duties and obligations of RRMSI as Rental Pool Manager, which includes the provision of services to the units, the accounting and distribution of proceeds to Unit Owners and other related services. As noted above, substantially all of these obligations have been delegated to Marriott Hotels under the terms of the Hotel Management Agreement.

6.23 The Rental Pool Management Agreements provide that in the event that in a fiscal year, costs exceed revenue, the Rental Pool Manager agrees that it will be responsible for and will pay such costs to the extent of such deficiency. Given that the calculation of Owner's Net Rental Revenue pursuant to and as defined in the Rental Pool Management Agreement is different, and in some ways entirely unrelated, to the calculation of operating profits or operating losses pursuant to the Hotel Management Agreement, the structure of the Rental Pool Management Agreement is such that it is possible for RRMSI to be obligated to make distributions to Unit Owners regardless of whether or not operating profits are payable to the Owner by Marriott Hotels pursuant to the Hotel Management Agreement. The Receiver does not believe that RRMSI has any resources to meet such an obligation.

6.24 Under the Rental Pool Management Agreement, RRMSI and the Unit Owner confirm that Marriott Hotels, although not a party to the Rental Pool Management Agreement, is nevertheless a third party beneficiary thereof. As such, the parties confer on Marriott Hotels the benefit of the covenants of the Unit Owner in favour of the Rental Pool Manager, and the ability to enforce the rights and privileges of the Rental Pool Manager against the Unit Owner. As a result, Marriott is granted the right to enforce all obligations of the Unit Owners.

Rental Pool Covenant:

6.25 In addition to the requirement in each APS for the purchaser to enter into a Rental Pool Management Agreement, a rental pool covenant (the "Rental Pool Covenant") has been registered on title to the units and common elements of the condominiums,

for the purposes of facilitating the operation of the Hotel and the rental pool. A copy of the Rental Pool Covenant is attached as Appendix "D".

6.26 The Rental Pool Covenant restricts a unit from, among other things, being used for any purpose other than the personal use permitted by the Rental Pool Management Agreement or for rent to the public as part of the rental pool under the Rental Pool Management Agreement. In addition, the covenant requires that each Hotel unit must only be available and offered for rent to the public as part of the rental pool as operated and managed by the rental pool manager. "Rental Pool Manager" is defined in the covenant as the person named as rental pool manager from time to time under the Rental Pool Management Agreements whose responsibility it is to manage and operate the Hotel and the rental pool and includes any person to whom its responsibilities have been delegated in accordance with the Rental Pool Management Agreements.

Assignment of Hotel Management Agreement:

6.27 RRDI and RRMSI have each assigned to WestLB, as administrative agent for the Syndicate, all of their right, title and interest in and to the Hotel Management Agreement and all monies or sums payable to them thereunder, for its benefit and the benefit of the Syndicate (the "Assignment"), a copy of which is attached as Appendix "E", as security for the funds advanced to RRDI under the credit agreement executed by RRDI and WestLB (the "Credit Agreement"). Marriott Hotels has consented to such assignment pursuant to the Subordination, Non-Disturbance and Attornment Agreement, a copy of which is attached as Appendix "F".

Credit Agreement:

6.28 Under the Credit Agreement between RRDI and the Syndicate dated February 1, 2007, WestLB agreed to permit RRDI to enter into certain "Affiliate Transactions" with affiliates of RRDI, as set out on Schedule II to the Credit Agreement. The Credit Agreement provides that "all rights and remedies and options under an Affiliate Transaction may be terminated by the Administrative Agent without premium or penalty after an Event of Default has occurred and is continuing."

6.29 Schedule II identifies the Affiliate Transactions. Included on that Schedule is the following: "The Rosseau Resort Management Services Inc. will provide any services required in the areas of Rental Pool and/or Property Management responsibilities."

6.30 It does not appear that there is a written agreement between RRDI and RRMSI delegating the role of Rental Pool Manager to RRMSI. It appears from the disclosure statements, the Hotel Management Agreement, and the reference in the Credit Agreement that there is an implied agreement as between RRDI and RRMSI to delegate the responsibilities as Rental Pool Manager to RRMSI, which were then delegated to Marriott Hotels.

7.0 Issues in Respect of Rental Pool Management Agreements

7.1 In order to effectively sell the Assets, the Receiver needs to address the Rental Pool Management Agreements, which are inconsistent with the Hotel Management Agreement and are with a party outside of the receivership, and has commenced discussions with the stakeholders in this regard.

7.2 In light of the Assignment of the Hotel Management Agreement in favour of WestLB and the delegation of substantially all management responsibilities to Marriott Hotels, it appears as though RRMSI has no further practical ability to continue to perform any services as Rental Pool Manager under the Rental Pool Management Agreements. Furthermore, the Receiver understands that RRMSI has no ability to fund any distributions to Unit Owners pursuant to the Rental Pool Management Agreements in respect of the calculation of Owner's Net Rental Revenue.

7.3 By letter dated June 8, 2009, counsel to the Receiver wrote to counsel for RRMSI asking for RRMSI's consensual agreement to assign the Rental Pool Management Agreements to RRDI for the effective administration of the receivership. A copy of the letter is attached as Appendix "G". At a meeting with representatives of Ken Fowler Enterprises Inc. ("KFE") and Stikeman Elliott LLP, KFE's legal counsel, on or about June 19, 2009, this issue, among other things, was discussed. It is the intention of the Receiver to communicate further with legal counsel to KFE and RRMSI to renew its request for arrangements to be put in place on a co-operative basis for the effective management of the rental pool and to facilitate a transfer of the business and the rental pool in a sale process, without having to assert various legal remedies available to the Receiver and WestLB.

7.4 Of immediate concern is the possibility of distribution of operating profits. Marriott is required to pay Operating Profits, as defined in and in accordance with the Hotel Management Agreement, to the Owner, without specification as to whether the payee is RRDI or RRMSI. Marriott is entitled to treat either RRDI or RRMSI as the Owner and understandably seeks certainty as to whom it should pay Operating Profits, if and when any are payable.

7.5 The Receiver seeks direction from the Court that Marriott Hotels be directed to pay any Operating Profits that may be payable under the Hotel Management Agreement to the Receiver, subject to further directions from the Court, should Operating Profits be generated over the summer months and Marriott Hotels elects not to apply such profits against previously incurred Operating Losses as defined in the Hotel Management Agreement, as it has the right to do pursuant to the Hotel Management Agreement.

7.6 Marriott Hotels has advised the Receiver, and it is the Receiver's opinion, based on its independent review of the Hotel's operating forecast, that the Hotel will generate Operating Profits between July and September 2009, but will then subsequently incur Operating Losses for the balance of 2009. The Operating Profits generated during the July to September 2009 period are not expected to be sufficient to offset the Operating Losses that the Hotel has already incurred during the year or is forecast to incur during the balance of the year.

8.0 Interim Arrangements with Marriott Hotels

8.1 As noted above, the Hotel Management Agreement has a term of 25 years, with successive automatic renewal terms. The Receiver is not in a position to assume and adopt the Hotel Management Agreement, as it is not practical or appropriate for the Receiver to undertake such a long term obligation. In addition, the Receiver intends to market the property for sale, pursuant to the Sales and Marketing Process. While the Sales and Marketing Process will seek to identify purchasers interested in retaining Marriott Hotels as the Hotel operator, it is possible that a purchaser may wish to install its own Hotel operator. While Marriott Hotels has expressed its desire to the Receiver to continue to operate the Hotel, the Receiver must maintain its ability to repudiate the Marriott Agreements.

8.2 In order to proceed with the Sales and Marketing Process, it was necessary for the Receiver to address the Marketing License Agreement, pursuant to which International Hotel Licensing Company s.a.r.l ("IHLC") licensed important rights to RRDI for the purposes of marketing and selling the Hotel units using the "Marriott" trademarks (the "Marriott Trademarks"). RRDI was granted a non-exclusive, non-transferable license within Ontario and the United Kingdom to use the Marriott Trademarks in written materials prepared in connection with the sale of Hotel units. The Marketing License Agreement also provides IHLC with various approval rights. In consideration for the rights granted to RRDI pursuant to the Marketing License Agreement, RRDI is required to pay to IHLC an "Introduction Fee" on the sale of each unit calculated on the gross sale proceeds generated for a particular unit, in

excess of a price of $450 per square foot, less agreed upon taxes, commissions and closing costs, up to a cumulative total cap on Introduction Fees of $1.2 million.

8.4 Arrears are currently outstanding under the Marketing License Agreement in the amount of approximately $675,000, for amounts due and owing by RRDI arising prior to the receivership.

The New Marriott Marketing License Agreement:

8.5 The Receiver has conducted extensive negotiations with Marriott Hotels since the commencement of the receivership with a view to normalizing arrangements with Marriott Hotels, without adopting or affirming any of the Marriott Agreements. It is anticipated that the Receiver will shortly conclude an arrangement with Marriott Hotels for the interim management and operation of the Hotel by Marriott Hotels during the course of the receivership, for which it will seek Court approval.

8.6 In the meantime, the conclusion of arrangements with Marriott Hotels in respect of the Marketing License Agreement is of particular importance in connection with the Sales and Marketing Process. Without the benefit of the rights licensed pursuant to the Marketing License Agreement, the Receiver is not entitled to market or sell any of the unsold Hotel units using the Marriot Trademarks.

8.7 In order to facilitate the commencement, as soon as possible, of the Sales and Marketing Process, the Receiver, Marriott Hotels and IHLC have, subject to Court approval, agreed to the terms of an agreement (the "New Marriott Marketing License Agreement") whereby the Receiver will be permitted to use the Marriott Trademarks,

in consideration of the payment of an increased introduction fee per unit closing (the "New Introduction Fee") that recognizes the past due amount owing to IHLC under the Marketing License Agreement, and the amount that will arise on the sale and be payable on the closing of future Unit transactions.

8.8 The following terms will form the basis for the New Marriott Marketing License Agreement:

(a) The New Introduction Fee will be paid by the Receiver for each unit closing on the basis of a calculation of 5% of unit gross sale revenue ("Unit Gross Revenue") for the remaining 64 units that are subject to APS but have not yet closed (the "64 Units"). Unit Gross Revenue does not include the cost of sale/leaseback obligations, mortgage rate pay-downs, or other rebates or sale incentives resulting in a reduction of the amounts payable on closing for the 64 Units;

(b) The total New Introduction Fee will not exceed $1.2 million (this cap is in the same amount as was provided for in the Marketing License Agreement with RRDI);

(c) Out of each New Introduction Fee for each of the 64 Units closing, the Receiver will withhold the sum equal to 20% of the New Introduction Fee, subject to an aggregate cap on such holdback in the amount of $200,000 (the "Holdback");

(d) The Holdback shall be payable to IHLC at the end of 2009, if, for the periods 7 to 13 of the Hotel's operations (the "Holdback Period"), as such periods are provided for in Marriott Hotels' annual forecast, there is no loss on a cumulative basis. If no loss is realized, IHLC will be entitled to receive the full amount of the Holdback. If the

entire projected loss for the period of approximately $304,000 is realized (the "Projected Loss"), IHLC will forfeit the whole amount of the Holdback. Any partial reduction of the Projected Loss will entitle IHLC to payment of a portion of the Holdback calculated on the basis of the percentage that the Projected Loss has been reduced;

(e) In the event that IHLC does not earn New Introduction Fees up to the cap of $1.2 million from the closing of the 64 Units, IHLC will be entitled to earn the balance of the New Introduction Fee on the closing of the sale of the remaining Units to be sold by the Receiver, which are not yet subject to agreements of purchase and sale (the "Remaining Units"), provided that, any amount of the Holdback that has been forfeited as provided for at paragraph (d) above, shall not be recoverable on the closings of the Remaining Units;

(f) It is a condition of the New Marriott Marketing License Agreement to obtain, as part of the Court Order approving these terms, a provision barring any claims against Marriott Hotels, IHLC, and affiliates, that may be asserted relating to the use of the Marriott Trademarks by the Receiver or any of its agents in their promotion, marketing, and sale of the Remaining Units. The Receiver has agreed with IHLC that the Retail Sales Program using the Marriott Trademarks will only be conducted in Canada; and

(g) The New Marketing License Agreement will be in a form agreeable to the parties, either as a new agreement, or as an amendment to the existing Marketing License Agreement.

8.9 Marriott Hotels acknowledges that the Receiver has not, by entering into the New Marketing License Agreement, adopted or affirmed any of the Marriott Agreements, and reserves all rights of repudiation. The parties intend to continue negotiations and discussions in respect of an interim arrangement for the management and operation of the Hotel.

9.0 Distribution of Condominium Closing Costs Held by McCarthy Tetrault LLP

9.1 In order to facilitate final closings of the Hotel condominium units, RRDI needed to agree on a protocol with the Syndicate, Fortress Credit Corp. ("Fortress") and Travelers Guarantee Company of Canada ("Travelers") (ie, the three mortgage lenders) to determine the basis upon which net closing proceeds would be distributed in return for such mortgage lenders discharging their mortgage security over the sold units.

9.2 The Receiver's counsel advises that the agreed protocol with the Syndicate, Fortress and Travelers included the following documents and terms. RRDI and McCarthys signed and delivered three joint undertakings (collectively, the "joint undertakings"), one dated March 25, 2009, one dated April 9, 2009 and one dated April 20, 2009, each in favour of the Syndicate, and its solicitors, Blake, Cassels & Graydon LLP, Travelers, and its solicitors, Baker Schneider Ruggiero LLP, and Fortress, and its solicitors, Goodmans LLP. A copy of the three joint undertakings is attached as Appendix "H". Each of the joint undertakings is identical in form and substance, other than the reference in paragraph 1(b) thereof to a particular authorization and direction from WestLB to McCarthys setting out the terms upon which McCarthys was authorized to discharge the Syndicate security.

9.3 Pursuant to the joint undertakings, RRDI and McCarthys undertook and agreed that as long as any amounts continued to be owed to the Syndicate under the Syndicate's security, McCarthys would remit the Net Closing Proceeds (as defined therein) received by McCarthys in connection with the final closing of each unit sale

transaction by wire transfer to the Syndicate within one business day after McCarthys' receipt of such funds.

9.4 Pursuant to paragraph 1(c) of each of the joint undertakings "Net Closing Proceeds" is defined as follows:

"(c) for the purposes hereof, "Net Closing Proceeds" for any unit means the balance due on closing in accordance with the final Statement of Adjustments related to the sale of that unit less the following:

(i) any goods and services taxes ("GST"), retail sales taxes and non-resident withholding taxes included therein;

(ii) an amount equal to 4.5% of the net sales price for that unit (net of incentives, including sale-leaseback incentives credited to the purchaser on closing) (the "Closing Costs Holdback"). The Closing Costs Holdback shall be held in trust by McCarthy deposited into an account to be specified by WestLB (which shall be pledged in favour of WestLB) and shall be used to pay closing costs comprised of brokerage commissions and other reasonable closing costs (including legal fees and disbursements) subject to the prior approval of WestLB acting reasonably and without delay in accordance with a control agreement in favour of WestLB, provided that McCarthy shall be entitled to deduct and to pay the following on closing:

A. brokerage commissions which are required to be paid as a term of the agreement of purchase and sale for the unit plus GST; and

B. the levy payable to the Law Society of Upper Canada respecting the sale of the unit plus GST;

(iii) amounts collected from purchasers on account of estimated realty taxes which shall be held in trust by McCarthy and paid to the Township of Muskoka Lakes to be applied against the realty taxes attributable to the unit (including realty taxes pursuant to a supplementary tax bill when issued);

(iv) the entry fees agreed to be paid by RRDI pursuant to the applicable sale agreement payable to Red Leaves Resort Association on behalf of the purchaser and RRDI being a total of 0.5% of the sale price of the unit (excluding furniture and equipment) plus GST;

(v) the following amounts (plus GST) agreed to be paid by RRDI pursuant to the applicable sale agreement in respect of certain Hotel units:

A. the estimated realty taxes attributable to the unit covering the period of three years following the occupancy date to be paid by McCarthys to the Township of Muskoka Lakes for credit to the tax account for the unit;

B. the estimated common expenses attributable to the unit for the period from the closing date until the third anniversary of the occupancy date of the unit to be paid by McCarthy to Muskoka Standard Condominium Corporation No. 62 for credit to the account of that unit;

C. the estimated fees for telecommunications service (including telephone, satellite television and internet service) attributable to the unit for the period from the closing date until the third anniversary of the occupancy date of the unit to be paid by McCarthy to the Rental Pool Manager, The Rosseau Resort Management Services Inc., in trust, for credit to the account for that unit; and

D. the basic annual fee payable to the Red Leaves Resort Association (being $1.00 per annum per square foot of the area of the unit for the period of three years following the occupancy date of the unit to be paid by McCarthy to Red Leaves Resort Association for credit to the account for that unit;

(vi) [a certain sum] agreed to be paid by RRDI pursuant to the applicable sale agreement to cover the fees payable for Marriott Gold membership for a period of two years as listed on the spreadsheet provided to WestLB entitled Minimum Sales Prices – Schedule VII dated March 16, 2009 (the "**Spreadsheet**") to be paid by McCarthy to Marriott Hotels of Canada Limited;

(vii) the value of the Indulgence Card agreed to be issued pursuant to the applicable sale agreement to the purchaser of the unit on closing, if any, as shown on the Spreadsheet with such amount to be paid by McCarthy to RRDI to be held in trust and applied to satisfy amounts charged against the Indulgence Card. Upon request by WestLB, RRDI will transfer or cause

McCarthy to transfer the amounts deducted hereunder less any amounts previously paid to satisfy amounts charged against the Indulgence Card to an account designated by WestLB provided that such account will be subject to a control agreement between WestLB and RRDI in form satisfactory to both acting reasonably and which will, *inter alia*, provide for payment of amounts charged against the Indulgence Card;

(viii) [a certain sum] agreed to be paid by RRDI pursuant to the applicable sale agreement to cover the fees for two years membership in the Resort to Resort Program as listed on the Spreadsheet to be paid by McCarthy to Intrawest Resort to Resort; and

(ix) the amount of common expenses agreed to be paid by RRDI pursuant to the applicable sale agreements on behalf of the purchasers of those units as listed on the Spreadsheet to be paid by McCarthy to Muskoka Standard Condominium Corporation No. 62 for credit to the accounts for those units."

9.5 McCarthys is holding $1,411,626.66 on account of the Closing Costs Holdback (as defined in paragraph 1(c)(ii) of each joint undertaking) in respect of the 73 unit sale transactions that have closed. Pursuant to paragraph 1(c)(ii) of each joint undertaking, the Closing Costs Holdback was to be used to pay closing costs comprised of brokerage commissions and other reasonable closing costs (including legal fees and disbursements) subject to the prior approval of the Syndicate, acting reasonably. Closing costs also specifically included the levy payable to the Law Society of Upper Canada respecting the sale of each unit plus GST. $3,832.50, in the

aggregate, is due to the Law Society of Upper Canada in respect of the 73 completed unit sale transactions(the "Law Society Levy").

9.6 By e-mail transmission dated April 17, 2009 from McCarthys to the Syndicate's legal counsel, McCarthys provided (i) a list of real estate commissions payable in respect of sales completed in March 2009 showing an aggregate amount owing of $97,969.77 (based on information received from their client), and (ii) a copy of their accounts respecting closing (invoice no. 2314578 dated March 20, 2009 in the amount of $37,835.18 and invoice no. 2318439 dated April 8, 2009 in the amount of $107,049.24). By subsequent e-mail transmission dated April 30, 2009 from McCarthys to the Syndicate's legal counsel, McCarthys sent a revised list of real estate commissions owing in respect of March sales in the revised aggregate amount of $90,372.82.

9.7 By e-mail transmission dated May 1, 2009 from McCarthys to the Syndicate's legal counsel, McCarthys provided a list of real estate commissions payable in respect of sales completed in April 2009 showing an aggregate amount owing of $906,417.69, resulting in a total of $996,790.51 in respect of real estate commissions owing in respect of March and April closings.

9.8 The Receiver was subsequently advised by McCarthys that RRDI had reviewed the amount of the real estate commissions and determined that the total liability was substantially less.

9.9 By letter dated May 8, 2009, McCarthys forwarded to the Syndicate's legal counsel a statement of their outstanding and unpaid invoices (together with copies of the

invoices) which McCarthys stated was to be covered by the Closing Costs Holdback. The invoices were in the aggregate amount of $538,630.13. Of that amount, $220,183.13 is in respect of closing costs related to closing the specific unit sale transactions and are comprised of the two invoices previously forwarded to the Syndicate's legal counsel on April 17, 2009, together with an additional invoice dated May 6, 2009 in the amount of $75,298.71. The Receiver's legal counsel has been advised by McCarthys that $314,240.48 is in respect of costs related to the condominium as a whole (i.e. the legal work required in connection with the registration of the resort condominium) and the remaining $4,206.52 is in respect of other matters including trademark matters and securities law matters.

9.10 McCarthys' position is that the phrase "including legal fees and disbursements" in paragraph 1(c)(ii) of each joint undertaking is entirely general, and is a deemed inclusion into "reasonable closing costs", and thus entitles McCarthys to be paid all of its outstanding accounts from such Closing Costs Holdback. In the event that "legal fees and disbursements" should be limited by the phrase "reasonable closing costs", then McCarthys' position is that "reasonable closing costs" properly includes the legal costs and disbursements of completing the condominium registration. The closing of individual condominium units by a condominium developer necessarily includes and requires such legal costs and disbursements.

9.11 The Receiver's legal counsel has reviewed the language of paragraph 1(c)(ii) of each joint undertaking and has provided the Receiver with its opinion that a trust was created that provided for the Closing Costs Holdback to be used to satisfy certain obligations in respect of closing costs with the remainder to be paid to WestLB.

However, since there is some question as to whether all of McCarthys' legal fees properly comprise "closing costs" and as the liability owed to real estate agents still needs to be verified, the Receiver recommends the following: (1) McCarthys will continue to hold in trust $538,630.13 of the Closing Costs Holdback representing the amount McCarthys is claiming they are owed from such Closing Costs Holdback, but will not make any distributions from such amount except as set out below; (2) the balance of the Closing Costs Holdback (the "Commission and Levy Funds") will be transferred by McCarthys to the Receiver; (3) the Receiver will be entitled to pay the real estate agents the commission owed to them from the Commission and Levy Funds, on receipt of proof satisfactory to the Receiver of their claim, and the Receiver will be entitled to remit the Law Society Levy provided that the Receiver shall not make any such distributions until (A) all of the real estate agent claims have been ascertained, and (B) the Receiver is satisfied that the amount of Commission and Levy Funds is sufficient to satisfy each proven real estate agent claim and the Law Society Levy. If the Receiver is satisfied that the amount of Commission and Levy Funds is sufficient to satisfy each proven real estate agent claim and the Law Society Levy, then the Receiver requests that this Honourable Court authorize it to direct McCarthys to pay itself $220,183.13 from the portion of the Closing Costs Holdback retained by them, but McCarthys is not to make any further distributions from such fund without Court approval. If the Receiver is not satisfied that the amount of Commission and Levy Funds is sufficient to satisfy each proven real estate agent claim and the Law Society Levy, then the Receiver will seek further direction of the Court.

Other Incentive Holdbacks:

9.12 As noted in paragraph 9.4 above, in addition to the Closing Costs Holdback, there were several other deductions from the balance due on the closing of each unit sale transaction in determining the "Net Closing Proceeds" that were to be remitted to the Syndicate.

9.13 The Receiver has been advised by its legal counsel that McCarthys has advised it that it is holding the following amounts:

(a) $15,418.50 on account of GST, and $92,806.08 on account of RST, as contemplated in paragraph 1(c)(i) of each joint undertaking;

(b) $211,880.32 representing amounts collected from purchasers on account of estimated realty taxes to be held in trust by McCarthys for such purchasers to be applied against such purchasers' future realty tax liability (as contemplated in paragraph 1(c)(iii) of each joint undertaking);

(c) remaining balance of $3,263.58 on account of the Red Leaves Resort Association entry fee, as contemplated in paragraph 1(c)(iv) of each joint undertaking ($48,401.20 was remitted by McCarthys to the Resort Association by cheque dated April 7, 2009 in the amount of $14,968.14 and cheque dated May 11, 2009 in the amount of $33,433.06);

(d) $4,704.00 on account of Marriott Gold membership fee, as contemplated in paragraph 1(c)(vi) of each joint undertaking;

(e) $26,444.55 on account of the Resort to Resort fee, as contemplated in paragraph 1(c)(viii) of each joint undertaking;

(f) $210,000.00 on account of indulgence cards, as contemplated in paragraph 1(c)(vii) of each joint undertaking;

(g) $1,134,407.35 on account of common expenses, as contemplated in paragraph 1(c)(ix) of each joint undertaking; and

(h) the following amounts as contemplated in paragraph 1(c)(v) of each joint undertaking: $20,813.62 (paragraph 1(c)(v)(A) for realty taxes); $37,751.32 (paragraph 1(c)(v)(B) for common expenses); $5,670.00 (paragraph 1(c)(v)(C) for telecommunications fees); and $2,812.95 (paragraph 1(c)(v)(D) for basic annual fee to Resort Association).

9.14 Other than in respect of the items in paragraphs 9.13(a) and (b) above, where the Receiver has received an opinion from its legal counsel that a trust exists, further review is required to determine if RRDI has any claims with respect to the balance of the funds. The Receiver will be seeking further direction from the Court after such review.

10.0 Proposed Process for Determination of Priority Lien Claims

10.1 The Receiver has investigated how best to address the construction lien claims which have been advanced. The CLA provides a complete code for the administration and determination of lien claims, including questions of holdback.

10.2 A lien claimant must register a lien claim on title to preserve its claim for lien. The lien claimant then has a limited period of time in which it must "perfect" its lien claim (45 days from the last day on which a lien could be registered), by commencing an action by way of statement of claim (and registering a certificate of action on title). A defendant has 20 days from service of the statement of claim to file a defence. The Appointment Order permits steps being taken by a lien claimant to perfect its claim, but otherwise stays the action against RRDI.

10.3 After pleadings have closed, outside of receivership, the normal procedure in Toronto is for a party, generally the lien claimant, to bring a motion before a Judge for a judgment directing a reference pursuant to the CLA and Rules of Civil Procedure.

10.4 Such judgment refers the action to a construction lien master. A request is normally made to consolidate all lien actions relating to the same improvement or project. The Receiver could bring a motion seeking a reference and consolidation of all lien actions in respect of the project to a construction lien master or case management master in Toronto.

10.5 Instead, the Receiver proposes a claims process for the lien claims in substantially the same manner as a standard claims process in a receivership or CCAA proceeding. In particular, the claims process order would provide the Receiver with the authorization

and direction to review and allow or disallow claims, fully or partially, within a prescribed period of time, during which it would be required to issue notices of disposition in respect of each claim. Lien claimants would have the right to appeal any disallowance by motion to the Commercial List on timetables agreed to by the interested parties and approved by the Court. The claims process order would dispense with the requirement for RRDI, through the Receiver, to deliver statements of defence to each lien claim and would also provide that no parties could commence default proceedings against any defendants in any lien action, so that there is a cost-effective, co-ordinated process supervised by the Receiver.

10.6 The Receiver proposes to review with legal counsel for the lien claimants a draft claims process order, for anticipated approval on July 8, 2009.

11.0 Other Activities of the Receiver to Date

11.1 In addition to the activities of the Receiver as set out in this Second Report, the following is a summary of other activities that the Receiver has engaged in since the date of the First Report.

11.2 Since the date of the First Report, the Receiver has worked closely with its legal counsel to review and respond to various requests for information pursuant to Section 39 of the CLA, submitted by those parties who have registered construction liens against the Assets of the Company. The Receiver has not yet completed its work to respond to all such information requests; however, it is working diligently to do so and intends to be able to respond within the timeframes stipulated in the CLA. Notwithstanding that the Receiver has not yet responded in all cases, the Receiver's counsel has responded to counsel to each of the construction lien claimants requesting information pursuant to the CLA, to advise of the Receiver's obligations and intentions to respond to such requests.

11.3 Subsequent to its appointment, the Receiver engaged O'Connor Associates Environmental Inc. ("O'Connor"), environmental consultants and engineers, to undertake a Phase I environmental assessment of the Company's property. O'Connor attended at the property to inspect the lands and review relevant information and documentation. As at the date of this Second Report, the Phase I environmental assessment conducted by O'Connor has been substantially completed. While the assessment did identify some relatively minor environmental issues, a determination by the Receiver and O'Connor on the necessity to proceed with a Phase II

environmental assessment has not yet been made. The Receiver will advise this Honourable Court of the outcome thereof in a subsequent report.

11.4 The Receiver has met with and corresponded with both Tarion Warranty Corporation ("Tarion") and Travelers to discuss relevant issues concerning both the ongoing Tarion warranty coverage and the ultimate release of deposit funds being held by Travelers. In both cases, legal counsel for the Receiver and legal counsel for Travelers and Tarion are continuing to review relevant documentation and agreements. In the interim, the Appointment Order grants a stay against Tarion preventing it from altering or terminating the warranty coverage afforded to the Company and unit purchasers. The Receiver intends to provide this Honourable Court with an update regarding this matter in a subsequent report.

11.5 The Receiver has met and held discussions with representatives of KFE on matters relating to the administration of the Company and the Hotel and the ultimate divestiture of the Assets. KFE has advised the Receiver of its interest to work cooperatively with it in maximizing proceeds to all stakeholders. In that regard, the Receiver will continue to maintain an ongoing dialogue with KFE representatives to work through matters relating to maximizing recoveries and also to coordinate addressing the various interconnected issues between the Company and its affiliates.

11.6 The Receiver has also met and/or corresponded with various other stakeholders that have an interest in the Company and/or the Hotel and is responding appropriately to all relevant enquiries.

12.0 Conclusions and Recommendations

12.1 Attached as Appendix "I" is the Receiver's statement of Receipts and Disbursements for the period ended June 30, 2009. As previously indicated, Altus has advised the Receiver that it expects that the completion of major construction works will be completed by the end of July 2009, and that the works will be completed within the budget described in the A&M Report.

12.2 As described in this Second Report, the Receiver has been working with all of the Company's various stakeholders to advance construction, stabilize operations, and develop the sales and marketing strategy to maximize realizations for all stakeholders involved.

12.3 The Receiver respectfully requests that this Honourable Court:

- Authorize the Receiver to commence the proposed Sales and Marketing Process and to enter into agreements with Colliers and Baker Real Estate;

- Authorize the Receiver to enter into the New Marriott Marketing License Agreement with Marriott Hotels and/or IHLC;

- Issue an order directing Marriott Hotels to pay any operating profit that may be payable under the Hotel Management Agreement to the Receiver, pending further order of the Court;

- Direct McCarthys to transfer to the Receiver the Commission and Levy Funds, and authorize the Receiver to distribute certain of those Commission and Levy Funds on the basis as described in Section 9 herein;

- Approve an Order authorizing and directing the Receiver to implement and administer the construction lien claim process; and

- Approve the Receiver's activities from the date of the First Report to the date of this Second Report.

* * *

All of which is respectfully submitted, this 3rd day of July, 2009

ALVAREZ & MARSAL CANADA ULC &
McINTOSH & MORAWETZ INC. IN THEIR CAPACITIES AS
CONSTRUCTION LIEN ACT TRUSTEE AND RECEIVER AND MANAGER,
AND INTERIM RECEIVER, RESPECTIVELY, OF THE ASSETS OF
THE ROSSEAU RESORT DEVELOPMENTS INC.

Per: _____
Richard A. Morawetz

APPENDIX "A"

Confidential Appendix "A"

Baker Real Estate Letter

THE DOCUMENTS IN THIS EXHIBIT ARE SUBJECT TO A SEALING ORDER REQUEST AND ARE TO BE KEPT STRICTLY CONFIDENTIAL AND ARE NOT TO BE DISCLOSED TO ANYONE EXCEPT THE JUDGE HEARING THE APPLICATION.

APPENDIX "B"

Confidential Appendix "B"

Form of Newspaper Advertisement

THE DOCUMENTS IN THIS EXHIBIT ARE SUBJECT TO A SEALING ORDER REQUEST AND ARE TO BE KEPT STRICTLY CONFIDENTIAL AND ARE NOT TO BE DISCLOSED TO ANYONE EXCEPT THE JUDGE HEARING THE APPLICATION.

APPENDIX "C"

Confidential Appendix "C"

Price List

THE DOCUMENTS IN THIS EXHIBIT ARE SUBJECT TO A SEALING ORDER REQUEST AND ARE TO BE KEPT STRICTLY CONFIDENTIAL AND ARE NOT TO BE DISCLOSED TO ANYONE EXCEPT THE JUDGE HEARING THE APPLICATION.

Court File No. CV-09-8201-00CL

IN THE MATTER of Section 47(1) of the *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O 1990, C. C. 43, AS AMENDED, AND SECTION 68 OF THE *CONSTRUCTION LIEN ACT*, R.S.O. 1990, C. C. 30, AS AMENDED

WESTLB AG, TORONTO BRANCH V. THE ROSSEAU RESORT DEVELOPMENTS INC.

Applicant Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

MOTION RECORD
(Returnable July 24, 2009)

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Lawyers for WestLB, AG, Toronto Branch and Alvarez & Marsal ULC Canada, and McIntosh & Morawetz Inc., in their respective capacities as Court-appointed Trustee, Receiver and Manager and Interim Receiver