

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**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**

**B E T W E E N:**

**WESTLB AG, TORONTO BRANCH**

Applicant

- and -

**THE ROSSEAU RESORT DEVELOPMENTS INC.**

Respondent

**MOTION RECORD  
(Motion returnable March 9, 2011)**

March 3, 2011

**FRASER MILNER CASGRAIN LLP**

77 King Street West, Suite 400  
Toronto-Dominion Centre  
Toronto, ON M5K 0A1

**R. Shayne Kukulowicz**

LSUC No. 30729S  
Telephone: 416 863-4740  
Facsimile: 416 863-4592  
E-Mail: shayne.kukulowicz@fmc-law.com

**Jane O. Dietrich**

LSUC No. 49302U  
Telephone: 416 863-4467  
Facsimile: 416 863-4592  
E-mail: jane.dietrich@fmc-law.com

Independent Lawyers for Alvarez & Marsal  
Canada ULC, and Alvarez & Marsal Canada Inc.,  
in their respective capacities as Court-appointed  
Interim Receiver, Trustee, Receiver and Manager

TO: SERVICE LIST

**SERVICE LIST**

**TO: BLAKE, CASSELS & GRAYDON LLP**  
 Box 25, Commerce court West  
 Toronto, Ontario  
 M5L 1A9

**Pamela Huff**

Telephone: 416 863-2958  
 Facsimile: 416 863-2653  
 E-mail: pam.huff@blakes.com

**Katherine McEachern**

Telephone: 416 863-2566  
 Facsimile: 416 863-2653  
 E-mail: katherine.mceachern@blakes.com

*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*

**AND TO: AIRD & BERLIS LLP**  
 Brookfield Place, Suite 1800  
 181 Bay Street  
 Box 754  
 Toronto, Ontario M5J 2T9

**Harry Fogul**

Telephone: 416 863-1500  
 Facsimile: 416 863-1515  
 E-mail: hfogul@airdberlis.com

**Edmund Smith**

Telephone: 416 863-1500  
 Facsimile: 416 863-1515  
 E-mail: esmith@airdberlis.com

*Lawyers for the Respondent, The Rosseau Resort Developments Inc*

AND TO: **STIKEMAN ELLIOTT LLP**  
5300 Commerce Court West  
199 Bay Street  
Toronto, Ontario M5L 1B9

**Peter Howard**

Telephone: 416 869-5613  
E-mail: phoward@stikeman.com

**Craig Mitchell**

Telephone: 416 869-5509  
E-mail: cmitchell@stikeman.com

**Simon Romano**

Telephone: 416 869-5596  
E-mail: sromano@stikeman.com

**Maria Konyukhova**

Telephone: 416 869-5230  
E-mail: mkonyukhova@stikeman.com

*Lawyers for The Rosseau Resort Developments Inc., Ken Fowler  
Enterprises Limited, and The Rosseau Resort Management Services Inc.*

AND TO: **GOODMANS LLP**  
 250 Yonge Street  
 Suite 2400, Box 24  
 Toronto, Ontario M5B 2M6

**Fred Myers**

Telephone: 416 597-5923  
 Facsimile: 416 979-1234  
 E-mail: fmyers@goodmans.ca

**Robert Chadwick**

Telephone: 416 979-2211  
 Facsimile: 416 979-1234  
 E-mail: rchadwick@goodmans.ca

**Jeffrey A. Citron**

Telephone: 416 597-4256  
 Facsimile: 416 979-1234  
 E-mail: jcitron@goodmans.ca

**Daniel G. Cohen**

Telephone: 416 597-5494  
 Facsimile: 416 979-1234  
 E-mail: dcohen@goodmans.ca

**Joseph Cosentino**

Telephone: 416 597-4245  
 Facsimile: 416 979-1234  
 E-mail: jcosentino@goodmans.ca

*Lawyers for Fortress Investment Group*

AND TO: **PURSER DOOLEY COCKBURN SMITH LLP**  
 151 Ferris Lane, Suite 300  
 Barrie, Ontario L4M 6C1

**Eric O. Gionet**

Telephone: 705 792-6910  
 Facsimile: 705 792-6911  
 E-mail: egionet@pdcslaw.com

*Lawyers for 1581659 Ontario Limited carrying on business as CRS  
 Contractors Rental Supply, Quanbury Contract Interiors Inc., Wallwin  
 Electric Services Ltd., Wallwin North Ltd., Wallwin Voice & Data Ltd.,  
 1194400 Ontario Limited/Old Tymer Welding, Polished Professional  
 Painting & Decorating Limited, Dawson's Incorporated*

AND TO: **PURSER DOOLEY COCKBURN SMITH LLP**  
 151 Ferris Lane, Suite 300  
 Barrie, Ontario L4M 6C1

**Kate Owen-King**

Telephone: 705 792-6910  
 Facsimile: 705 792-6911  
 E-mail: kowenking@pdcslaw.com

*Lawyers for Creighton Michael c.o.b. as All Construction*

AND TO: **PALLET VALO LLP**  
 90 Burnhamthorpe Road West  
 Suite 1600  
 Mississauga, Ontario L5B 3C3

**Francesca Maio**

Telephone: 905 273-3022 Ext. 210  
 Facsimile: 905 273-6920  
 E-mail: fmaio@pallettvalo.com

*Lawyers for Trillium Architectural Products Ltd.*

AND TO: **DEVRY, SMITH & FRANK LLP**  
 95 Barber Greene Rd., Suite 100  
 Toronto, Ontario M3C 3E9

**Mark Mancini**

Telephone: 416 446-5830  
 Facsimile: 416 449-7071  
 E-mail: mark.mancini@devrylaw.ca

*Lawyers for Fowler Construction Company Ltd.*

AND TO: **CASSELS BROCK & BLACKWELL LLP**  
 2100 Scotia Plaza  
 40 King Street West  
 Toronto, Ontario M5H 3C2

**Marlin Horst**

Telephone: 416 860 6446  
 Facsimile: 416 644 9340  
 E-mail: mhorst@casselsbrock.com

*Lawyers for Barzelle Designs Ltd.*

AND TO: **GOLDMAN SLOAN NASH & HABER LLP**  
480 University Avenue, Suite 1600  
Toronto, Ontario M5G 1V6

**Stanley Naftolin**

Telephone: 416 597-3388  
Facsimile: 416 597-3370  
E-mail: naftolin@gsnh.com

*Lawyers for Vipond Inc.*

AND TO: **LAW OFFICE OF FREDERICK M. KAYE**  
3075 14th Ave.  
Suite 226  
Markham, Ontario L3R 0G9

**Frederick M. Kaye**

Telephone: 905 480-0286  
E-mail: fkaye@kayelaw.ca

*Lawyers for Bonavista Pools Ltd.*

AND TO: **HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF  
ONTARIO AS REPRESENTED BY THE MINISTER OF FINANCE  
(Income Tax, PST)**  
PO Box 620  
33 King Street West, 6th Floor  
Oshawa, Ontario L1H 8E9

**Kevin J. O'Hara**

E-mail: kevin.ohara@ontario.ca

AND TO: **BORDEN LADNER GERVAIS LLP**  
 Scotia Plaza  
 40 King Street West  
 Toronto, Ontario M5H 3Y4

**Michael J. MacNaughton**  
 Telephone: 416 367-6646  
 Facsimile: 416 682-2837  
 E-mail: [mmacnaughton@blgcanada.com](mailto:mmacnaughton@blgcanada.com)

**Roger Jaipargas**  
 Telephone: 416 367-6266  
 Facsimile: 416 682-2837  
 E-mail: [rjaipargas@blgcanada.com](mailto:rjaipargas@blgcanada.com)

**James MacLellan**  
 Telephone: 416 367-6592  
 Facsimile: 416 682-2837  
 E-mail: [jmaclellan@blgcanada.com](mailto:jmaclellan@blgcanada.com)

**Sam P. Rappos**  
 Telephone: 416 367-6033  
 Facsimile: 416 361-7306  
 E-mail: [srappos@blgcanada.com](mailto:srappos@blgcanada.com)

*Lawyers for Travelers Guarantee Company of Canada*

AND TO: **MILLER THOMSON LLP**  
 One London Place  
 255 Queens Avenue, Suite 2010  
 London, Ontario N6A 5R8

**Alissa K. Mitchell**  
 Telephone: 519 931-3510  
 Facsimile: 519 858-8511  
 E-mail: [amitchell@millerthomson.com](mailto:amitchell@millerthomson.com)

*Lawyers for Sparling's Propane Co. Limited*

AND TO: **CAREY & OTTEWELL**  
 Barristers & Solicitors  
 50 North Street  
 Goderich, Ontario , N7A 2T4

**Richard Ottewell**  
 Telephone: 519 524-2634  
 Facsimile: 519 524-5538  
 E-mail: r.ottewell@hurontel.on.ca

*Lawyers for Sparling's Propane Co. Limited*

AND TO: **BERKOW, COHEN LLP**  
 141 Adelaide Street West, Suite 400  
 Toronto, Ontario M5H 3L5

**Jack Berkow**  
 Telephone: 416 364-4900 ext 203  
 Facsimile: 416 364-3865  
 E-mail: jberkow@berkowcohen.com

*Lawyers for GM Exteriors Inc.*

AND TO: **GRAHAM WILSON & GREEN**  
 190 Cundles Road East at St Vincent Street, Suite 107  
 Barrie, Ontario L4M 4S5

**Mary E. Vallee**  
 Telephone: 705 737-1811  
 Facsimile 705 737-5390  
 E-mail: mev@gwg.on.ca

*Lawyers for Egress Systems of Canada Ltd.*

AND TO: **BLANEY MCMURTRY**  
 2 Queen Street East, Suite 1500  
 Toronto, Ontario M5C 3G5

**Lou Brzezinski**  
 Telephone: 416 593-2952  
 Facsimile: 416 593-5437  
 E-mail: lbrzezinski@blaney.com

*Lawyers for Schindler Elevator Corporation*



AND TO: **THE LAW OFFICES OF GORDON L. JACOBS**  
 73 Mutual Street  
 Toronto, Ontario M5B 2A9

**Gordon L. Jacobs**

Telephone: 416 981 0901

E-mail: gljacobs@sprynet.com

*Ad Hoc Homeowners' Committee Representatives*

AND TO: **ACROBAT RESEARCH LTD.**  
 170 Robert Speck Pkwy, Ste 201,  
 Mississauga Ontario L4Z 3G1

**Roland Klassen, President**

Telephone: 416 503 4343 ext. 4343

E-mail: roland@acrobat-research.com

*Ad Hoc Homeowners' Committee Representatives*

AND TO: **BIANCHI PRESTA LLP**  
 9100 Jane Street  
 3rd Floor, Building A  
 Vaughan, Ontario L4K 0A4

**Domenic C. S. Presta**

Telephone: 905 738-1078

Facsimile: 905 738-0528

E-mail: dpresta@bianchipresta.com

*Lawyers for Ayrfield Holdings Limited et al. c.o.b. Marel Contractors*

AND TO: **STEWART, ESTEN**  
 100 Collier Street  
 Barrie, Ontario L4M 4V3

**Judith L. Turner**

Telephone: 705 728-5591

Facsimile: 705 728-3566

E-mail: jturner@stewartesten.ca

*Lawyers for Can-Barr Mechanical Ltd. and G.R.C. Contracting*

AND TO: **SPEIGEL NICHOLS FOX LLP**  
 400-30 Eglinton Avenue West  
 Mississauga, Ontario M5R 3E7

**Jonathan Speigel**

Telephone: 905 366-9700 x 221  
 Facsimile: 905 366-9707  
 E-mail: jonathan@ontlaw.com

*Lawyers for Builders Choice Air Systems Ltd.*

AND TO: **LEE, ROCHE & KELLY**  
 6 Dominion Street, Box 990  
 Bracebridge, Ontario P1L 1V2

**Nicholas B.W. Roche**

Telephone: 705 645-2286  
 Facsimile: 705 645-5541  
 E-mail: nickroche@lrklaw.ca

*Lawyers for Randy Blain c.o.b. Randy Blain Construction AND for John B. Petch c.o.b. Outland Maintenance Company*

AND TO: **JOEL W. KENNEDY PROFESSIONAL CORPORATION**  
 7 James Street  
 Parry Sound, Ontario P2A 1T4

**Joel W. Kennedy**

Telephone: 705 746-6644  
 Facsimile: 705 746-2366  
 E-mail: joelkenedy@parrysoundlaw.com

*Lawyers for Parry Sound Glass Limited*

AND TO: **MINDEN GROSS LLP**  
 145 King Street West, Suite 2200  
 Toronto, Ontario M5H 4G2

**Stephen C. Nadler**

Telephone: 416 369-4162  
 Facsimile: 416 864-9223  
 E-mail: snadler@mindengross.com

*Lawyers for InterArt Décor Ltd.*

AND TO: **MILLER THOMSON LLP**  
 Scotia Plaza  
 40 King Street West, Suite 5800  
 Toronto, Ontario M5H 3S1

**Jeffrey Carhart**

Telephone: 416 595-8615  
 Facsimile: 416 595-8695  
 E-mail: jcarhart@millerthomson.com

**Margaret Sims**

Telephone: 416 595-8577  
 Facsimile: 416 595-8695  
 E-mail: msims@millerthomson.com

**Arthi Sambasivan**

Telephone: 416 595-8636  
 Facsimile: 416 595-8695  
 E-mail: asambasivan@millerthomson.com

*Lawyers for Ad Hoc Homeowners' Committee*

AND TO: **WYJAD FLEMING**  
 P.O. Box 177, 39 Dominion Street  
 Bracebridge, Ontario P1L 1T6

**Daniel J. Wyjad**

Telephone: 705 645-8787  
 Facsimile: 705 645-3390  
 E-mail: bracebridge@wylaw.ca

*Lawyers for 1569243 Ontario Inc. c.o.b. Rock Solid Granite Tops*

AND TO: **WOOLGAR VANWIECHEN KETCHESON DUCOFFE LLP**  
 70 The Esplanade, Suite 401  
 Toronto, Ontario M5E 1R2

**Geoffrey Ketcheson**

Telephone: 416 867-1666  
 Facsimile: 416 867-1434  
 E-mail: gketch@woolvan.com

*Lawyers for Marsha Marcus*

AND TO: **THORNTONGROUTFINNIGAN LLP**  
 Barristers and Solicitors  
 Suite 3200 Canadian Pacific Tower  
 100 Wellington Street West  
 Toronto, Ontario M5K 1K7

**Grant B. Moffat**  
 Telephone: 416 304-0599  
 Facsimile: 416 304-1313  
 E-mail: gmoftat@tgf.ca

*Lawyers for Marriott Hotels of Canada Limited and its affiliates*

AND TO: **RICHARD J. MAZAR PROFESSIONAL CORPORATION**  
 210 - 419 King Street West  
 Oshawa Executive Tower  
 Oshawa, Ontario L1J 2K5

**Richard Mazar**  
 Telephone: 905 571-2558  
 Facsimile: 905 571-3548  
 E-mail: karen@mazarlaw.com

*Lawyers for Rolla Landscaping Construction Ltd.*

AND TO: **ZALDIN AND FINE LLP**  
 60 Yonge Street, Suite 900  
 Toronto, Ontario M5E 1H5

**Stephen R. Jackson**  
 Telephone: 416 868-1431 x223  
 Facsimile: 416 868-6381  
 E-mail: sjackson@zaldinandfine.ca

*Lawyers for Artech Communications Inc.*

AND TO: **FOGLER, RUBINOFF LLP**  
 1200-95 Wellington Street West  
 Toronto, Ontario M5J 2Z9

**Vern W. DaRe**

Telephone: 416 941-8842  
 Facsimile: 416 941-8852  
 E-mail: vdare@foglers.com

**Michael S. Slan**

Telephone: 416 941-8857  
 Facsimile: 416 941-8852  
 E-mail: mslan@foglers.com

*Lawyers for Certain Unit Purchasers, including Wayne Cipollone and Mary Cipollone*

AND TO: **OLDHAM LAW FIRM**  
 A Professional Corporation  
 88 James Street  
 Parry Sound, Ontario  
 P2A 1T9

**Bonnie C. Oldham**

Telephone: 705 746-8852  
 Facsimile: 705 746-6188  
 E-mail: bonnie@oldhamlaw.ca

*Lawyers for BACC Enterprises Inc., o/a Rona Building Centre*

AND TO: **MCCARTHY TÈTRAULT LLP**  
 Suite 5300, Toronto Dominion Bank Tower  
 Toronto, Ontario  
 M5K 1E6

**Malcolm M. Mercer**

Telephone: 416 601-7659  
 Facsimile: 416 868-0673  
 E-mail: mmercerc@mccarthy.ca

AND TO: **CHAITONS LLP**  
 185 Sheppard Avenue West  
 North York, Ontario  
 M2N 1M9

**Harvey G. Chaiton**  
 Telephone: 416 222-8888  
 Facsimile: 416 222-8402  
 E-mail: Harvey@chaitons.com

Lawyers for CIT Financial Ltd.

AND TO: **FASKEN MARTINEAU**  
 66 Wellington Street West, Suite 4200  
 Toronto-Dominion Bank Tower  
 Toronto, Ontario  
 M5K 1N6

**Jonathan A. Levin**  
 Telephone: 416 863-4401  
 Facsimile: 416 364-7813  
 E-mail: jlevin@fasken.com

*Lawyers for the Ad Hoc Committee and the Independent Directors of  
 Muskoka Condominium Corporation No. 62*

AND TO: **ROBERT J. BASSERMANN**  
 Barrister and Solicitor  
 Suite 214  
 214-120 Carlton Street  
 Toronto, Ontario  
 M5A 4K2

Telephone: 416 323-3741  
 Facsimile: 416 924-7166  
 E-mail: basslaw@rogers.com

*Lawyers for Farruk D. Robson*

AND TO: **KEN FOWLER (N.Y.), INC.**  
**KEN FOWLER TEXAS, INC.**  
**KEN FOWLER, COLUMBUS, INC.**  
**PETER FOWLER ENTERPRISES LTD.**  
 110 Hannover Drive, Suite 203B  
 St. Catharines, Ontario  
 L2W 1A4

AND TO: **KEN FOWLER (N.Y.) INC.**  
c/o CT Corporation System  
111 Eighth Avenue  
New York, New York 10011  
U.S.A.

AND TO: **KEN FOWLER TEXAS, INC.**  
c/o CT Corporation System  
350 N. St. Paul Street  
Dallas, TX 75201  
U.S.A.

AND TO: **KEN FOWLER, COLUMBUS, INC.**  
c/o CT Corporation System  
1300 East 9<sup>th</sup> Street  
Cleveland, OH 44114  
U.S.A.

AND TO: **2258454 ONTARIO INC.**  
110 Hannover Drive  
Suite 203B  
St. Catharines, Ontario  
L2W 1A4

AND TO: **MICHELLE SIMMONDS**  
29 Vista Green Crescent  
Brampton, Ontario  
L7A 2S4

## INDEX



**INDEX**

<b><u>DOCUMENT</u></b>	<b><u>TAB</u></b>
Notice of Motion	1
Draft Order	A
Fifteenth Report of the Monitor, dated March 3, 2011	2
Appendix “A” – Glossary of Defined Terms	A
Appendix “B” – Correspondence of Receiver’s legal counsel with respect to Forfeited Deposits	B
Appendix “C” – Receiver’s Statement of Receipts and Disbursements	C
Appendix “D” – 2011 Budget	D
Confidential Appendix 1 – Key Terms of the Potential Transaction	1

## TAB 1

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**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

**NOTICE OF MOTION  
(Returnable March 9, 2011)**

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), and Alvarez & Marsal Canada 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 Wednesday the 9<sup>th</sup> day of March, 2011, 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 AN ORDER:**

- (a) abridging the time for service of this Notice of Motion and Motion Record, if necessary, validating service of the Notice of Motion and Motion Record, and dispensing with further service thereof;
- (b) terminating the Institutional Sales Process authorized by Order of this Court dated July 9, 2009 and suspended by Order of this Court dated May 19, 2010;
- (c) declaring that the deposits paid by Wayne and Mary Cipollone, Michelle Simmonds, and Farruk D. Robson (the "Terminated Purchasers") in connection with executed agreements of purchase and sale with RRDI, by its Receiver, as more particularized on Schedule "A" to the draft Order (the "Forfeited Deposits"), have been forfeited to RRDI by the Terminated Purchasers as a result of their failure to close their respective purchase transactions;
- (d) authorizing that the Forfeited Deposits, held in trust by Blake, Cassels & Graydon LLP ("Blakes"), be remitted by Blakes to the Receiver as property of RRDI and releasing and discharging Blakes and the Receiver from any and all obligations and claims in respect of the Forfeited Deposits upon such remittance;
- (e) directing that of the sum of \$295,655.03 currently retained in trust by McCarthy Tetrault LLP ("McCarthys") on account of Closing Costs Holdback (as defined in the Fifteenth Report), \$225,000 be paid to McCarthys in full and final settlement of all claims of McCarthys to payment of its accounts rendered during the period December 19, 2009 to May 6, 2009 (the "McCarthy Accounts") and the balance of \$70,655.03 shall be paid to the Receiver on behalf of RRDI;
- (f) authorizing the Receiver to continue to participate in negotiations with the Potential Purchaser as defined in the Fifteenth Report to Court of the Receiver (the "Fifteenth Report");
- (g) approving the Fifteenth Report, and the conduct and activities of the Receiver as described therein;

- (h) sealing and treating as confidential, Confidential Appendix “1” to the Fifteenth Report until further order of this Court; and
- (i) such further and other relief as counsel may request and this Honourable Court deems just.

**THE GROUNDS FOR THE MOTION ARE:**

- (a) To date, the Receiver has filed fourteen reports with the Court. The most recent, comprehensive report of the Receiver was its Twelfth Report dated November 5, 2010. The Fifteenth Report of the Receiver provides a general update on the activities of the Receiver since the filing of the Twelfth Report. Terms not otherwise defined herein, have the meaning provided to them in the Fifteenth Report;
- (b) As more fully described in the Fifteenth Report, by Order dated May 19, 2010, the Receiver obtained the authorization of the Court to suspend the Institutional Sales Process previously approved by the Court. The Institutional Sales Process was suspended primarily as a result of uncertainty arising as a result of the New RPMA Dispute. Prospective purchasers were also concerned with unresolved matters relating to Water and Sewage Infrastructure and entitlements thereto as between RRDI and the neighbouring properties. These issues currently remain unresolved;
- (c) As previously outlined in reports to the Court, the Receiver, with the support of WestLB, entered into discussions with the Ad Hoc Committee and the Independent Directors of the Condominium Corporation with respect to a proposal for the Condominium Corporation to acquire the commercial operations of the Hotel (the “Condominium Corporation Transaction”);
- (d) The Receiver was advised by WestLB in late December 2010 that it had been approached by a party related to Maureen Fowler, the spouse of Ken Fowler (the “Potential Purchaser”), for the purchase of the Assets of RRDI (the “Potential

Transaction”). The Receiver was also advised that WestLB no longer supported further negotiations with respect to the Condominium Corporation Transaction and that it did not want the Receiver to undertake a further sale process, as WestLB favoured pursuit of the Potential Transaction.

- (e) As outlined in the Fifteenth Report, given that the Potential Purchaser as part of the Potential Transaction has indicated that it would assume any claims of the Unit Owners secured by the Unit Owners Charges and of Marriott Hotels secured by the Marriott Charges and that WestLB has acquired the Determined Lien Claims, WestLB is of the view that it has the only economic interest at play and no other stakeholders would benefit from the sales proceeds.
- (f) For the reasons set out in the Fifteenth Report, the Receiver agrees that WestLB has the only significant economic interest in the Assets of RRDI and the Receiver requests authority to continue to participate in negotiations with the Potential Purchaser with respect to the Potential Transaction;
- (g) The Fifteenth Report also provides background relating to the Forfeited Deposits. In brief, the Forfeited Deposits which total \$37,000 were provided by three purchasers who entered into agreements of purchase and sale with RRDI during the One Day Sale held in August of 2009. The Terminated Purchasers did not exercise their rescission rights during the statutory 10 day rescission period provided by the *Condominium Act*, but later decided not to close the purchase of the applicable units;
- (h) The Receiver has also continued the monitoring and oversight of the operations of the Hotel and the administration of the receivership generally, including liaising with various stakeholders in order to resolve various matters as detailed in the Fifteenth Report;
- (i) The grounds as more particularly set out in the Fifteenth Report; and

- (j) 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 Fifteenth Report; and
- (c) such further and other material as counsel may advise and this Honourable Court permit.

Date: March 3, 2011

**FRASER MILNER CASGRAIN LLP**  
1 First Canadian Place  
39th Floor, 100 King Street West  
Toronto, Ontario M5X 1B2

**R. Shayne Kukulowicz**  
LSUC#30729S  
Tel: (416) 863-4740  
Fax: (416) 863-4592

**Jane Dietrich**  
LSUC # 49302U  
Tel: (416) 863 4467  
Fax: (416) 863 4592

Independent Lawyers for Alvarez & Marsal  
Canada ULC and Alvarez & Marsal Canada Inc.  
in their respective capacities as Court-appointed  
Receiver and Manager, Trustee, and Interim  
Receiver

**TO: ATTACHED SERVICE LIST**

## EXHIBIT “A”



**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

THE HONOURABLE MR. ) WEDNESDAY, THE 9<sup>TH</sup> DAY  
 )  
JUSTICE CAMPBELL ) OF MARCH, 2011

**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), and Alvarez & Marsal Canada 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 (the “**Assets**”) of The Rosseau Resort Developments Inc. (“**RRDI**”), for an Order:

- (a) abridging the time for service of this Notice of Motion and Motion Record, if necessary, validating service of the Notice of Motion and Motion Record, and dispensing with further service thereof;
- (b) terminating the Institutional Sales Process authorized by Order of this Court dated July 9, 2009 and suspended by Order of this Court dated May 19, 2010;
- (c) declaring that the deposits paid by Wayne and Mary Cipollone, Michelle Simmonds, and Farruk D. Robson (the “**Terminated Purchasers**”) in connection with executed agreements of purchase and sale with RRDI, by its Receiver, as more particularized on Schedule “A” to this Order (the “**Forfeited Deposits**”), have been forfeited to RRDI by the Terminated Purchasers as a result of their failure to close their respective purchase transactions;
- (d) authorizing that the Forfeited Deposits, held in trust by Blake, Cassels & Graydon LLP (“**Blakes**”), be remitted by Blakes to the Receiver as property of RRDI and releasing and discharging Blakes and the Receiver from any and all obligations and claims in respect of the Forfeited Deposits upon such remittance;
- (e) directing that of the sum of \$295,655.03 currently retained in trust by McCarthy Tetrault LLP (“**McCarthys**”) on account of Closing Costs Holdback (as defined in the Fifteenth Report), \$225,000 be paid to McCarthys in full and final settlement of all claims of McCarthys to payment of its accounts rendered during the period December 19, 2009 to May 6, 2009 (the “**McCarthy Accounts**”) and the balance of \$70,655.03 shall be paid to the Receiver on behalf of RRDI;

- (f) authorizing the Receiver to continue to participate in negotiations with the Potential Purchaser (as defined in the Fifteenth Report);
- (g) approving the Fifteenth Report, and the conduct and activities of the Receiver as described therein;
- (h) sealing and treating as confidential, Confidential Appendix "1" to the Fifteenth Report until further order of this Court; and
- (i) 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 Fifteenth Report, the affidavits of service filed, and on hearing the submissions of counsel for WestLB AG, New York Branch, independent counsel for the Receiver, [and counsel for •], no one else appearing,

1. **THIS COURT ORDERS** that the method and timing of service of the Notice of Motion and the Motion Record shall be and is hereby abridged and validated, so that this Motion is properly returnable today and any further service thereof upon any interested party other than the persons served with the Motion Record is hereby dispensed with.
2. **THIS COURT ORDERS** that the Institutional Sales Process authorized by Order of this Court dated July 9, 2009 and suspended by Order of this Court dated May 19, 2010 be and is hereby terminated.
3. **THIS COURT ORDERS AND DECLARES** that (i) the Forfeited Deposits have been forfeited to RRDI by the Terminated Purchasers as a result of their failure to close their respective purchase transactions; (ii) that the Forfeited Deposits, held in trust by Blakes, be remitted by Blakes to the Receiver as property of RRDI; and (iii) Blakes and the Receiver be and are hereby released and discharged from any and all obligations and claims in respect of the Forfeited Deposits upon such remittance.
4. **THIS COURT ORDERS** that of the sum of \$295,655.03 currently retained in trust by McCarthys on account of Closing Costs Holdback, \$225,000 shall be paid to

McCarthys in full and final settlement of all claims of McCarthys to payment of the McCarthy Accounts from the Closing Costs Holdback, and the balance of \$70,655.03 shall be paid to the Receiver on behalf of RRDI. No further claims shall be made by McCarthys against RRDI for the McCarthy Accounts.

5. **THIS COURT ORDERS** that the Receiver be and is hereby authorized to continue to participate in negotiations with the Potential Purchaser.

6. **THIS COURT ORDERS** that the Fifteenth Report, and the conduct and activities of the Receiver as described therein be and are hereby approved.

7. **THIS COURT ORDERS** that Confidential Appendix "1" to the Fifteenth Report shall be sealed and treated as confidential pending further order this Court.

---

**Schedule "A"**  
Forfeited Deposits

1. Purchase Agreement dated August 22, 2009 re: Suite 1439, Unit 19, Level 4, Muskoka Condominium Plan No. 62.
  - Purchasers: Wayne Cipollone and Mary Cipollone
  - Forfeited Deposit: \$27,000
2. Purchase Agreement dated August 22, 2009 re: Suite 1110, Unit 22, Level 1, Muskoka Condominium Plan No. 62
  - Purchaser: Michelle Simmonds
  - Forfeited Deposit: \$10,000
3. Purchase Agreement dated August 23, 2009 re: Suite 2114, Unit 36, Level 1, Muskoka Condominium Plan No. 62
  - Purchaser: Farruk D. Robson
  - Forfeited Deposit: \$10,000.

# ONTARIO

**SUPERIOR COURT OF JUSTICE  
PROCEEDING COMMENCED AT  
TORONTO**

**ORDER**  
(March 9, 2011)

**FRASER MILNER CASGRAIN LLP**  
77 King Street West, Suite 400  
Toronto-Dominion Centre  
Toronto, Ontario, M5K 0A1

**Lawyer:** R. Shayne Kukulowicz  
**LSUC:** 30729S  
**Email:** shayne.kukulowicz@fmc-law.com  
**Telephone:** 416 863-4740  
**Facsimile:** 416 863-4592

**Lawyer:** Jane O. Dietrich  
**LSUC No.** 49302U  
**E-mail:** jane.dietrich@fmc-law.com  
**Telephone:** 416 863-4467  
**Facsimile:** 416 863-4592

**Independent Lawyers for Alvarez & Marsal Canada ULC, and Alvarez & Marsal Canada Inc., in their respective capacities as Court-appointed Interim Receiver, Trustee, Receiver and Manager**

# ONTARIO

**SUPERIOR COURT OF JUSTICE  
PROCEEDING COMMENCED AT  
TORONTO**

**NOTICE OF MOTION**  
(Motion returnable March 9, 2011)

**FRASER MILNER CASGRAIN LLP**  
77 King Street West, Suite 400  
Toronto-Dominion Centre  
Toronto, Ontario, M5K 0A1

**Lawyer:** R. Shayne Kukulowicz  
**LSUC:** 30729S  
**Email:** shayne.kukulowicz@fmc-law.com  
**Telephone:** 416 863-4740  
**Facsimile:** 416 863-4592

**Lawyer:** Jane O. Dietrich  
**LSUC No.** 49302U  
**E-mail:** jane.dietrich@fmc-law.com  
**Telephone:** 416 863-4467  
**Facsimile:** 416 863-4592

**Independent Lawyers for Alvarez & Marsal Canada ULC, and Alvarez & Marsal Canada Inc., in their respective capacities as Court-appointed Interim Receiver, Trustee, Receiver and Manager**

## TAB 2



**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**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**

**BETWEEN:**

**WESTLB AG, TORONTO BRANCH**

**Applicant**

**and**

**THE ROSSEAU RESORT DEVELOPMENTS INC.**

**Respondent**

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

**MARCH 3, 2011**

## ***Table of Contents***

---

	<u><b>Page</b></u>
<b>1.0 INTRODUCTION AND SUMMARY OF PROCEEDINGS TO DATE .....</b>	<b>1</b>
<b>2.0 TERMS OF REFERENCE .....</b>	<b>5</b>
<b>3.0 RECEIVER ACTIVITIES AND CERTAIN OUTSTANDING ISSUES .....</b>	<b>6</b>
<b>4.0 SUMMARY OF VARIOUS SALE PROCESSES AND MARKETING INITIATIVES .....</b>	<b>12</b>
<b>5.0 ECONOMIC INTEREST OF WESTLB, THE RECEIVER'S CURRENT CASH POSITION, AND URGENCY TO COMPLETE A TRANSACTION.....</b>	<b>19</b>
<b>6.0 THE RECEIVER'S CONCERNS AND THE POTENTIAL TRANSACTION.....</b>	<b>22</b>
<b>7.0 CONCLUSIONS AND RECOMMENDATIONS.....</b>	<b>25</b>

## ***Listing of Schedules & Appendices***

---

**Appendix A - Glossary of Defined Terms**

**Appendix B - Correspondence of Receiver's legal counsel with respect to Forfeited Deposits**

**Appendix C - Receiver's Statement of Receipts and Disbursements**

**Appendix D - 2011 Budget**

**Confidential Appendix "1" – Key Terms of the Potential Transaction**

## ***1.0 Introduction and Summary of Proceedings to Date<sup>1</sup>***

- 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. (now Alvarez & Marsal Canada 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* (Canada) (“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”) continuing the appointment of the Interim Receiver and appointing A&M as receiver and manager (the “Receiver and Manager”) pursuant to Section 101 of the *Courts of Justice Act* (Ontario) (“CJA”) and pursuant to the CLA of the Assets of RRDI (the Interim Receiver and the Receiver and Manager collectively defined as the “Receiver”).
- 1.2 All background materials in respect of these proceedings, including, among other things, the Receiver’s past reports to Court and orders of the Court, can be found on the Receiver’s website at [www.alvarezandmarsal.com/rosseau](http://www.alvarezandmarsal.com/rosseau).
- 1.3 To date, the Receiver has filed fourteen reports with this Honourable Court. The Twelfth Report provided a summary of the Receiver’s activities and was filed in support of the Receiver’s motion for an order (a) approving additional Receiver’s Borrowings so as to provide continued financing for the receivership proceedings through to an expected transaction in the spring of 2011 (the “Third Tranche Receiver’s Borrowings”); (b) authorizing the distribution to WestLB AG, New York Branch of the sum of \$730,380.32

---

<sup>1</sup> Capitalized terms in this Fifteenth Report shall have the meanings ascribed to them in either the body of this report or in the Glossary of Defined Terms attached as Appendix “A”.

in partial repayment of the First Tranche of Receiver's Borrowings; and (c) approving the activities of the Receiver.

- 1.4 On November 12, 2010, the Court issued an order (the "November 12 Order") granting the relief sought by the Receiver in the Twelfth Report, including the authorization of the Third Tranche Receiver's Borrowings.
- 1.5 On December 1, 2010, the Receiver filed its thirteenth report to Court (the "Thirteenth Report") in support of a motion for, among other things, an order requesting (a) approval of amounts determined by the Receiver in its capacity as trustee under the CLA for certain Construction Lien Claims filed by construction lien claimants (the "Lien Claimants") under the Construction Lien Claims Process Order dated July 24, 2009 (the "Construction Lien Claims Process Order") pursuant to notices of determination issued by the Construction Lien Trustee in accordance with the Construction Lien Claims Process Order (the "Notices of Determination"); (b) confirming the priority of the Construction Lien Claims determined pursuant to the Notices of Determination over, among other things, all judgments, executions, assignments, attachments, garnishments, receiving orders, conveyances, mortgages/charges or other agreements affecting RRDI's interest in its premises in accordance with the provisions of the CLA including the charges registered in favour of WestLB, Travelers, and Fortress (if any) other than the Receiver's Charge and the Receiver's Borrowings Charge; and (c) approval of the activities of the Receiver.
- 1.6 On December 7, 2010, the Court issued an order (the "December 7 Order") granting the relief sought by the Receiver in the Thirteenth Report, including, the approval of the Notices of Determination and the priority of the Determined Lien Claims effective upon

delivery to the Construction Lien Trustee of written confirmation (the “Confirmation”) by WestLB and the applicable Lien Claimant of the completion of the assignment of the relevant Determined Lien Claim to WestLB.

- 1.7 On December 13, 2010, the Receiver filed its fourteenth report (the “Fourteenth Report”) with the Court in support of a motion by the Receiver for, among other things, authorization to pay to Fasken Martineau DuMoulin LLP (“Faskens”) the amount of \$145,953.17 in satisfaction of 60% of the amount invoiced by Faskens to Muskoka Standard Condominium Corporation No. 62 (the “Condominium Corporation”) in respect of legal fees and disbursements more particularly described in the Fourteenth Report.
- 1.8 On December 16, 2010, the Court issued an Order (the “December 16 Order”) granting the relief sought by the Receiver in the Fourteenth Report.
- 1.9 The purpose of this Fifteenth Report is to:
  - Provide this Honourable Court with a summary of the Receiver’s activities to date;
  - Summarize the Sales Processes previously undertaken by the Receiver;
  - Advise the Court with respect to recent negotiations that have taken place between WestLB and a third party purchaser related to Maureen Fowler, the spouse of Ken Fowler (the “Potential Purchaser”) in respect of a proposed potential sale transaction (the “Potential Transaction”); and
  - Provide support for a motion by the Receiver seeking an order:
    - Authorizing the Receiver to formally terminate the Institutional Sales Process previously suspended by order of the Court dated May 18, 2010;

- Approving the activities of the Receiver as set out herein;
- Authorizing McCarthys to distribute the balance remaining in its trust account relating to certain closing costs retained from proceeds of sales of Units;
- Authorizing Blakes to remit to the Receiver those funds being held in its trust account on account of certain Unit sales transactions arising from the “One Day Sale” that were not completed, as described below;
- Sealing Confidential Appendix “1” hereto until further order of the Court; and
- Authorizing the Receiver to continue to participate in the negotiations with the Potential Purchaser, to determine if the Potential Transaction can be completed, subject to approval of this Court.

## **2.0    *Terms of Reference***

---

- 2.1    In preparing this Fifteenth Report, the Receiver has relied on unaudited financial information prepared by the Company and the Company's consultants and advisors, the Company's books and records and discussions with certain remaining employees of the Company. 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 Fifteenth Report is based on 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 Fifteenth Report, or relied upon by the Receiver in preparing the Fifteenth Report. All references to dollar figures contained in the Fifteenth Report are in Canadian currency unless otherwise specified.



### ***3.0 Receiver Activities and Certain Outstanding Issues***

---

3.1 As described in previous Court Reports, since its appointment, the Receiver has, among other things:

- a) consulted extensively with stakeholders, including WestLB and the other members of the Syndicate, Fortress, the Lien Claimants, Marriott Hotels, Existing Unit Purchasers, the Unit Owners, the District of Muskoka, former employees and contractors of RRDI, and other unsecured creditors;
- b) completed construction of the Hotel;
- c) acted as asset manager in respect of the Hotel, including overseeing its operations and financial performance, along with conducting detailed ongoing reviews of Marriott Hotel's operating and capital budgets, operating results and funding requirements in respect of the Hotel and its operations;
- d) addressed construction deficiencies with respect to the Hotel, including remedying major deficiencies with the Balcony Handrails and suite windows as discussed in detail in the Twelfth Report;
- e) pursuant to an order of the Ministry of Environment, undertook remediation work to correct deficiencies existing prior to the receivership, with respect to the Sewage Treatment Plant and Water Treatment Plant, including conducting an extensive effluent monitoring program;
- f) conducted, in consultation with legal counsel, an extensive review of zoning, permitting, and other issues in respect of the undeveloped lands located adjacent to the Hotel on RRDI's property;
- g) regularized arrangements with numerous suppliers of goods and services to the Hotel;

- h) overseen the administration of RRDI, including the preparation of tax returns and financial statements and collection of a significant GST/HST refund;
- i) in conjunction with Representative Counsel to the Unit Owners (appointed by Order of the Court dated August 20, 2009), applied to the Court for the appointment of a receiver of RRMSI. By Order dated September 1, 2009, the Court appointed A&M as the receiver of certain rights relating to the contracts which RRMSI was a party to, including the Current HMA and the Current RPMAs;
- j) conducted lengthy negotiations and entered into settlement agreements with Unit Owners and Existing Unit Purchasers as described in the Eighth Report;
- k) repudiated the Current HMA with Marriott Hotels and Current RPMAs, including repudiating RRMSI as rental pool manager;
- l) after extensive negotiations with the Unit Owners and Marriott Hotels, entered into New RPMAs;
- m) after extensive negotiations with Marriott Hotels, entered into the New HMA and New Marriott Agreements as described in section 9 of the Eleventh Report;
- n) liaised extensively with the Hotel's executive management team and Marriott Hotel's senior leadership on all matters in respect of the Hotel's operations;
- o) reviewed the Notices of Dispute delivered to the Receiver by certain Unit Owners and undertook significant financial analysis on the effect of the RPMA Dispute on the ultimate cashflow available to an owner of the Hotel and the Unit Owners. The Receiver developed alternative solutions and held privileged and confidential

discussions and negotiations with members of the Ad Hoc Committee in an effort to settle the RPMA Dispute;

- p) negotiated and permitted the repudiation of agreements with Existing Unit Purchasers, as directed by the Court, who were unable or unwilling to close, and facilitated the return of the applicable deposits from Travelers;
- q) considered various retail sale strategic alternatives, and ultimately conducted the Retail Sales Program, including the One Day Sale Event, which resulted in the sale of 15 Units;
- r) implemented an Institutional Sales Process in December 2009, and as described further below, took various steps related to the Institutional Sales Process;
- s) engaged in discussions with the Unit Owners and WestLB regarding the Unit Owner Proposal (as discussed below) as late as December 2010;
- t) retained, along with the Unit Owners, Altus Tax Group to pursue an appeal of realty tax assessment of the Units and the Commercial Space;
- u) initiated the Construction Lien Claims Process and requested that certain matters relating to the relationship between RRDI and RRCI be referred to a Master as outlined in the RRCI/RRDI Reference. Given the complexity, cost and time expected to be involved in the litigation of the RRCI/RRDI Reference, WestLB negotiated settlements with all but two of the Lien Claimants. In conjunction with these settlements, the Receiver issued Notices of Determination and sought the December 7 Order. To date the Receiver has received 25 Confirmations indicating that such Construction Lien Claims have been assigned to WestLB. There remain two Construction Lien Claims which have not been assigned to

West LB, and for which the Receiver has not issued Notices of Determination, one for which cash is held in Court on account of the Lien Claim and the other, Parry Sound Glass Limited o/a Ross Windows & Doors, which is the subject of a significant counterclaim by the Receiver;

- v) established, implemented and completed a claims process to determine the entitlement of unpaid real estate agents and brokers to amounts set aside by McCarthys and held in trust for real estate commissions (the “Commissions Claims Process”) related to pre-receivership sales of units; and
- w) performed, with legal counsel, extensive analysis on certain trust funds held by McCarthys as described in the Eighth Report, and negotiated with the Unit Owners a settlement of the entitlements to such trust funds that was approved by the Order of the Court dated December 21, 2009.

3.2 Notwithstanding the Receiver’s substantial progress and accomplishments, as highlighted above, there remain a number of outstanding issues that the Receiver has been unable to settle to date. These outstanding issues relate primarily to (i) the interaction and interconnectedness between RRDI and its neighbouring properties including matters concerning disputes over water and sewage infrastructure, certain development rights, the Resort Association (the “Outstanding Neighbouring Property Issues”); and (ii) the Unit Owners in respect of the RPMA Dispute.

3.3 In addition, certain Unit Owners as well as certain members of the Condominium Corporation’s board of directors have raised concerns over the Receiver’s interaction with the Condominium Corporation. These concerns will be addressed in a subsequent report to Court by the Receiver, but focus on the ability of the Receiver to satisfy RRDI’s

common expense obligations to the Condominium Corporation with respect to those Units which it remains owner of, by setting off against those amounts that were owed by the Condominium Corporation to RRDI for shared common expenses, such amounts paid by RRDI pursuant to certain agreements and by way of RRDI's funding of all operating losses of the Hotel prior to and since the appointment of the Receiver.

### ***McCarthys Settlement***

- 3.4 In its Second Report dated July 3, 2009, the Receiver advised the Court of certain funds held in the trust account of McCarthy Tetrault LLP ("McCarthys") relating to certain closing costs retained from proceeds of sales of Units closed prior to the receivership (the "Closing Costs Holdback"). The amounts had been retained pursuant to certain Joint Undertakings agreed to with the Syndicate, Travelers, and Fortress. By Order dated July 8, 2009 (the "July 8 Order"), the Court authorized certain distributions out of those amounts held in trust, and ordered that McCarthys make no further distributions from the Closing Costs Holdback without approval of the Court.
- 3.5 By Order dated December 21, 2009, the Court ordered certain further distributions from the McCarthys trust account in resolution of certain claims to those funds in respect of common expense payments and the like, as detailed more fully by the Receiver in its Eighth Report dated December 14, 2009.
- 3.6 The July 8 Order also authorized the payment by the Receiver of funds held for payments to real estate agents and brokers of their fees out of the Closing Costs Holdback, once such claims were determined by the Receiver. A Commission Claims Process was established by separate Order dated December 21, 2009 to determine such claims. Distribution of payments to agents and brokers, once determined by the Commission

Claims Process, were made out of the Closing Costs Holdback, and as reported in the Receiver's Twelfth Report, the surplus of funds after payment of all Commission Claims was retained as property of RRDI.

- 3.7 The balance remaining in the trust account, after such distributions, is the sum of \$295,655.03. This amount was the subject matter of a claim by McCarthys for payment of outstanding legal accounts relating to work performed for RRDI prior to the receivership, as outlined in detail in the Second Report. The Receiver has engaged in discussions with McCarthys, and a settlement of the amount remaining has been reached, which would involve the payment of \$225,000 to McCarthys, and the balance of \$70,655.03 to the Receiver as property of RRDI. The Receiver recommends this settlement and requests an Order authorizing McCarthys to distribute the balance in its trust account accordingly.

#### ***4.0 Summary of Various Sale Processes and Marketing Initiatives***

---

- 4.1 As highlighted above and as detailed in previous reports to this Honourable Court, the Receiver has undertaken significant efforts to realize on, and maximize the value of the Assets of RRDI. Specifically, these efforts have included: (a) conducting the Retail Sales Program; (b) commencing the Institutional Sales Process; and (c) exploring a transaction with the Condominium Corporation, whereby, among other things, the Condominium Corporation would acquire the commercial operations of the Hotel, potentially allowing for the simplification and restructuring of the Assets (the “Unit Owner Proposal”). The Retail Sales Program, the Institutional Sales Process and the Receiver’s pursuit and efforts to negotiate the Unit Owner Proposal were each approved by this Honourable Court. The following paragraphs provide a summary of the Receiver’s efforts, the outcomes achieved, and the impediments encountered by the Receiver with respect to the various Sales Processes.

##### ***The Sales and Marketing Process***

- 4.2 The Receiver recommended the Sales and Marketing Process for the Assets of RRDI in its Second Report. Subsequently, the Court issued the Sales and Marketing Order, authorizing the Receiver to undertake the Sales and Marketing Process as described. In the Second Report, the Receiver recommended that a “twin track” process be undertaken consisting of both the Retail Sales Program and the Institutional Sales Process given the nature of the Assets; namely (a) individual unsold condominium Units; (b) development lands surrounding the Hotel; and (c) the residual interest (or commercial elements) of the Hotel itself.

4.3 Accordingly, the Court authorized the Receiver to (a) retain Colliers to conduct the Institutional Sales Process which process would include the marketing of all of the Assets of RRDI on an en bloc basis; and (b) retain Baker Real Estate to implement the Retail Sales Program in an effort to realize on the 84 Units which were unsold and were not the subject of pre-existing asset purchase agreements.<sup>2</sup>

### ***The Retail Sales Program***

4.4 It was the Receiver's view that the most prudent way to maximize the value of the Assets would be to first execute on the Retail Sales Program, as all interested parties, including real estate advisors consulted by the Receiver, agreed that the likely value of the Units sold to retail purchasers would be significantly greater than if those units were sold, en bloc, institutionally. Accordingly, on July 21, 2009, the Receiver filed its Third Report to Court seeking approval of the Retail Sales Program proposed by Baker Real Estate. The Court issued an order dated July 24, 2009 authorizing the Receiver to instruct Baker Real Estate to proceed with the Retail Sales Program.

4.5 Subsequently and commensurate with planning for the Retail Sales Program, which included the execution of the "One Day Sale" to be held on August 22 and 23, 2009, the Receiver, along with its legal counsel, worked to implement a restructuring of the Rental

---

<sup>2</sup> As described in the Receiver's Supplementary Report to the Sixth Report, subsequent to the filing of the Third Report and prior to the One Day Sale, the Receiver became aware that two Existing Unit Purchasers (which, collectively had agreements to purchase three Units) had each objected to the closing of their transactions on account of breach by RRDI. They each independently agreed to enter into standstill agreements with RRDI prior to the commencement of the receivership proceedings (the "Standstill Agreements"), as a means of resolving the issues. Pursuant to the Standstill Agreements, RRDI agreed to take steps to sell each of the respective Units at minimum prices agreed upon between RRDI and the respective Existing Unit Purchaser. The Standstill Agreements stipulated that if sale transactions were completed at a value less than the initial purchase price of the Unit under consideration, the respective Existing Unit Purchaser would forfeit a portion of their deposit in respect of that particular Unit. Given the nature and terms of these existing Standstill Agreements, the Receiver believed it would be in the best interests of all stakeholders to honour the Standstill Agreements and accordingly, the total number of Units made available for sale at the One Day Sale was 87.



Pool arrangements governing the operation of the Hotel. This restructuring was carried out with the intention of maximizing the value of the Units and correcting blatant deficiencies in the existing structure which were apparent to the Receiver. The restructuring of the Rental Pool arrangement included, among other things, the negotiation of the New RPMAs with the Unit Owners, the negotiation of the Settlement Agreements with the Unit Owners, the development of a strategy whereby RRDI would become Rental Pool Manager, transferring such authority from RRMSI, and developing the necessary condominium disclosure document required to be provided to purchasers at the time of agreeing to purchase a Unit. All of these matters were addressed in detail in the Receiver's Third Report to Court, and on July 24, 2009, this Honourable Court authorized the Receiver to proceed with the One Day Sale.

- 4.6 The One Day Sale initially achieved strong results, whereby the Receiver, over the sale weekend, entered into agreements of purchase and sale with 76 New Unit Purchasers.
- 4.7 However, the *Condominium Act* provides purchasers with a right to rescind such agreements of purchase and sale for a period of 10 days during which time a purchaser is permitted to seek and obtain legal advice, further consider the purchase, and if they so desire, on notice to the vendor, rescind such purchase agreements and seek a return of their deposit.
- 4.8 Given the uncertainty afforded to the Hotel and the Units as a result of the receivership, the forecast high costs of ownership, and the fact that, at that time, the Receiver had not yet completed its negotiations with Marriott Hotels with respect to the New HMA (albeit the successful completion of this latter point was a condition precedent to the closing of any transaction with any New Unit Purchaser), all but 18 agreements of purchase and sale

executed in connection with the One Day Sale, were rescinded within the applicable 10 day rescission period.

- 4.9 As a result, in late January and early February, the Receiver closed fifteen unit sale transactions resulting in gross proceeds of \$4.3 million. One additional sale was closed by the Receiver in March 2010. Subsequent to the closing of all of these transactions, of the 221 Units in the Hotel, 89 (40%) were owned by individual Unit Owners and 132 remained in the possession of RRDI (60%).
- 4.10 Subsequent to the expiry of the 10-day rescission period in which purchasers were entitled to a return of their deposit, three purchasers advised the Receiver that they were not prepared to close on the Units for which they had entered into agreements during the One Day Sale. The Receiver's legal counsel communicated with these purchasers and advised them that failure to close would result in forfeiture of those deposits which were provided at the time of entering into their respective transactions (the "Forfeited Deposits"). Copies of correspondence from the Receiver's legal counsel with respect to the Forfeited Deposits are attached as **Appendix "B"**.
- 4.11 The Forfeited Deposits, amounting to \$37,000, continue to be held by the Receiver's legal counsel, Blakes, in its trust account. The Receiver is hereby requesting the Court's authorization to permit Blakes to transfer the Forfeited Deposits to the Receiver and declare that the Forfeited Deposits have been forfeited.

#### ***The Institutional Sales Process***

- 4.12 On December 14, 2009, the Receiver filed its Eighth Report to the Court seeking the Court's approval of the Institutional Sales Process Protocol. The Institutional Sales Process Protocol set out the steps and timeline in connection with the Institutional Sales

Process. The Receiver also sought the Court's approval of the various forms of marketing materials, including investment overview, information memorandum, data room protocol and form of confidentiality agreement, to be used in connection with the Institutional Sales Process. On December 21, 2009, the Court issued an order granting the Receiver the relief it sought and authorizing it to proceed with the Institutional Sales Process.

- 4.13 With the assistance of Colliers, the Assets of RRDI were initially marketed to 875 companies and 1,350 individuals (all potential purchasers). This resulted in the execution of 23 confidentiality agreements and receipt of non-binding Expressions of Interest (with no indication of purchase price) demonstrating the bidder's financial wherewithal or ability to obtain financing.
- 4.14 All of the parties that executed confidentiality agreements received copies of the confidential information memorandum. The Receiver and Colliers held numerous meetings with prospective purchasers, including conducting numerous tours of the property. Approximately 16 purchasers actively engaged in due diligence by reviewing information made available in the electronic data room.
- 4.15 By March 31, 2010, the Receiver and Colliers were of the view that there were four parties that remained seriously interested in considering a transaction in respect of the Assets, and the Receiver and Colliers were working with those parties in the hopes of receiving firm offers. However, in late March and April 2010, the Receiver received 64 Notices of Dispute from individual Unit Owners who objected to the calculation of

distributions payable pursuant to the New RPMA that had been negotiated and entered into with the Receiver and each respective Unit Owner (except two).<sup>3</sup>

- 4.16 As a result of the RPMA Dispute, which brought into question the ultimate cash flow distributions that would be available to a purchaser upon completion of a transaction to acquire the Assets, the Receiver was faced with a significant impediment in continuing with the Institutional Sales Process. The Unit Owner Proposal was subsequently proposed by the Unit Owners as a means to settle this dispute. As described in the Receiver's Twelfth Report to the Court, the Receiver sought and obtained authority from the Court to suspend the Institutional Sales Process and attempt to negotiate the terms of the Unit Owner Proposal with the Independent Directors of the Condominium Corporation and members of the Ad Hoc Committee, and to come back with recommendations to the Court as to how it should proceed.

### ***Recent Developments***

- 4.17 As described in the Receiver's Twelfth Report, the completion of the Unit Owner Proposal would simplify the Rental Pool structure of the Hotel, and potentially create a scenario whereby the value of the Units could be maximized/realized on at a greater price than otherwise would have been the case. The Receiver and its legal counsel spent significant time discussing with and providing analysis of the proposed Unit Owner Proposal to WestLB which, from June to November, 2010, supported such a strategy, subject to internal and Syndicate approvals.
- 4.18 Notwithstanding the Receiver's efforts to pursue the Unit Owner Proposal on an expeditious and timely manner, its completion was ultimately not supported by WestLB.

---

<sup>3</sup> In total the Receiver has received 65 Notices of Dispute, as one additional notice was received in July, 2010.

The Receiver has been advised by WestLB that it wishes to pursue the alternative scenario of the Potential Transaction which in WestLB's view could offer the most comprehensive and cost-effective exit strategy for WestLB, the conclusion of the receivership and attendant costs.

- 4.19 The Receiver was advised by WestLB in late December 2010, that it had been approached by the Potential Purchaser in respect of the Potential Transaction. The Receiver was subsequently advised that WestLB did not want the Receiver to undertake a further sales process, as WestLB favoured pursuit of the Potential Transaction, which would include a global resolution of issues and costly litigation with the guarantors of RRDI's indebtedness to WestLB. Since WestLB had acquired the Construction Lien Claims, it was of the view that it had the only economic interest at play, and no other stakeholders would benefit from sale proceeds.

**5.0 *Economic Interest of WestLB, the Receiver's Current Cash Position, and Urgency to Complete a Transaction***

---

- 5.1 The Receiver recognizes that, based on the reasonable expectations of realization values under any realistic scenario, WestLB is the only party with any significant economic interest in the Assets of RREDI. As previously discussed, WestLB has entered into settlement agreements with all but two of the Lien Claimants whereby such claims have been assigned to WestLB in exchange for releases from the applicable Lien Claimants. Of the remaining two Lien Claimants, the Receiver has a significant litigation claim against one and the other is secured by funds paid into Court, prior to the Receivership.
- 5.2 The only other parties with a remaining economic interest, which could benefit from proceeds of sale in any transaction, are the Unit Owners and Marriott Hotels, in the event Marriott Hotels is terminated as Hotel operator. The Potential Purchaser, as part of the Potential Transaction, has indicated that it would assume any such claims of Unit Owners secured by the Unit Owners Charges and of Marriott Hotels secured by the Marriott Charges in the event the New HMA and other Marriott Agreements are terminated. The Potential Transaction, if concluded, would see approximately \$950,000 of payments on closing to Unit Owners with Sale Leasebacks for accrued rental obligations under the Sale Leasebacks secured by the Unit Owners Charges.
- 5.3 Currently, the total amount of outstanding indebtedness arising from the three tranches of Receiver's Borrowings is approximately \$30 million. The total value of the Determined Lien Claims, which have been assigned to WestLB, is approximately \$2.8 million. The Syndicate, of which WestLB is the Agent, is also owed approximately \$68 million as at May 19, 2009, not including interest accrued since then and substantial costs related to the original construction mortgage. The Receiver has received an opinion from its

independent legal counsel, FMC, that the Syndicate's security is valid and enforceable, subject to customary assumptions and qualifications.

- 5.4 Accordingly, other than the Unit Owners and Marriott Hotels, as mentioned above, unless more than \$100 million of proceeds are achieved, there would be no funds available to anyone other than WestLB, the Syndicate, the Unit Owners and Marriott Hotels. The Receiver considers it remote that a sales process for the Assets, if conducted, would conceivably yield proceeds anywhere approaching this amount. In fact, based on input from bidders last year in the Institutional Sales Process, CBRE today, and the Receiver's own analysis of the estimated value, the Receiver believes that, in any sale process, the Syndicate would suffer a significant loss on the construction mortgage.
- 5.5 The Receiver has been advised by WestLB that WestLB will not support or fund any further borrowings by the Receiver. As at February 28, 2011, the balance of funds held by the Receiver is approximately \$7.4 million, and is comprised of the remaining Third Tranche Receiver Borrowings, certain funds remitted to the Receiver from McCarthys as a result of the completion of the Commission Claims Process, and a GST refund.
- 5.6 Attached as Appendix "C" is the Receiver's statement of Receipts and Disbursements for the period from May 22, 2009 to February 28, 2011 (the "R&D"). Attached as Appendix "D" is a copy of the Receiver's monthly cash flow forecast for the period ending April 30, 2011 (the "2011 Budget"). This cash flow forecast indicates that, on a status quo basis (without any sale transaction occurring), approximately \$6.6 million of the \$8.7 million of proceeds from the Third Tranche Receiver's Borrowings would be utilized by April 30, 2011, with the balance of \$2.1 million available to fund costs

incurred thereafter.<sup>4</sup> This analysis suggests that the Receiver could possibly utilize all of its remaining funding at some time between June and July 2011. Accordingly, time is of the essence to complete a sale transaction. The Receiver recognizes the need for these proceedings to be brought to conclusion in an expeditious manner in light of the limited amount of remaining available funding and considering the interests of WestLB, as the only apparent remaining stakeholder with a significant economic interest in the Assets.

---

<sup>4</sup> Refer to Note 8 of Appendix “D”



**6.0    *The Receiver's Concerns and the Potential Transaction***

---

- 6.1    As mentioned above, the Institutional Sales Process was suspended in May 2010 due to issues and uncertainty arising primarily as a result of the RPMA Dispute. Prospective purchasers were also concerned with the Outstanding Neighbouring Property Issues, including matters concerning water and sewage infrastructure and entitlements thereto as between RRDI and the neighbouring properties which were complicated and had not been resolved.
- 6.2    The Receiver discussed with WestLB's legal counsel the Receiver's concerns over proceeding with the Potential Transaction without completing a Court-approved sales process. Although the Receiver's view is that the unresolved issues referenced in Paragraph 6.1 could potentially be resolved in the context of a formal sales process, those issues remain outstanding and could negatively impact realizable value. The Potential Transaction eliminates the Outstanding Neighbouring Property Issues, thereby eliminating risk in that regard.
- 6.3    Since the Receiver has not completed a formal sales process (as the Institutional Sales Process was suspended), it has not fully tested the market, and therefore, cannot advise the Court with certainty whether or not the Potential Transaction represents the best offer. Based on recent discussions the Receiver has had with industry experts, the Receiver understands that market conditions for resort properties such as the Hotel have improved significantly over the past year since the time of the active phase of the Institutional Sales Process. Transaction activity has increased sharply, with numerous U.S. investors returning to the market, players who were not interested in pursuing acquisition opportunities in early 2010.

- 6.4 Accordingly, valuation metrics have increased over the past year, such that the Hotel's potential value could exceed the purchase price contemplated by the Potential Transaction. The Receiver discussed with WestLB a condensed sales process which could be implemented concurrently while negotiating the Potential Transaction in order to quickly determine whether an offer in excess of the proposed purchase price in the Potential Transaction could be achieved. WestLB did not support such a recommendation. The Potential Transaction, if concluded, would resolve disputes between WestLB and guarantors of the RRDI indebtedness as well as bring certainty and resolution to the receivership proceedings. However, an alternative sales process is still a possibility if the Potential Transaction is not concluded, which sales process would benefit from the resolution of the Outstanding Neighbouring Property Issues contemplated by the Potential Transaction.
- 6.5 The Receiver, in weighing its concerns with the prospect of not undertaking a sales process, also balanced those concerns against the benefits of the Potential Transaction, as presented to the Receiver by WestLB. WestLB anticipated additional benefits including: (i) a quick sale of the Assets which would decrease operating costs and continuing expenses, maximizing a return of Tranche Three Receiver's Borrowings; (ii) a resolution of the Outstanding Neighbouring Property Issues which would be available to the Receiver if the Potential Transaction did not close for any reason; and (iii) additional consideration to WestLB as between WestLB and its guarantors, the details of which are confidential and privileged and have not been made available to the Receiver.
- 6.6 In the circumstances, given the strong preference of WestLB to pursue the Potential Transaction as part of a broader settlement of certain receivership issues as well as

guarantor obligations to WestLB, and recognizing the paramountcy of WestLB's economic interest, the Receiver is supportive of the continued negotiation of the Potential Transaction.

- 6.7 The Receiver and its independent legal counsel have been provided with drafts of the agreements connected with the Potential Transaction, and have provided their input accordingly. Certain terms of the agreements are still the subject of negotiation, and WestLB and Syndicate approvals.
- 6.8 A summary of the key terms of the Potential Transaction, are attached as Confidential Appendix "1". As the Potential Transaction has not yet been finalized and remains subject to negotiation, and approval by this Honourable Court, the Receiver requests that Confidential Appendix "1" be sealed until further order of the Court.

**7.0 *Conclusions and Recommendations***

---

7.1 For the reasons outlined herein, the Receiver respectfully recommends that this Honourable Court grant an Order for the relief set out in section 1.9 hereof.

\* \* \*

All of which is respectfully submitted, this 3<sup>rd</sup> day of March, 2011.

**ALVAREZ & MARSAL CANADA ULC &  
ALVAREZ & MARSAL CANADA 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”

## ***Glossary of Defined Terms for Receiver's Reports***

<b><u>Term</u></b>	<b><u>Definition</u></b>
<b>2010 Budget</b>	A budget prepared by the Receiver for the six-month period ending May 31, 2010 being the period during which the Institutional Sales Process is contemplated to be conducted
<b>2011 Budget</b>	The budget prepared by the Receiver and approved by WestLB for the period to April 30, 2011, at which time the Receiver expects to have concluded a transaction which will exit the Hotel from receivership
<b>A&amp;M</b>	Alvarez & Marsal Canada ULC
<b>Act</b>	<i>Red Leaves Resort Association Act, 2006</i>
<b>Ad Hoc Committee</b>	The Ad Hoc Committee of Unit Owners, consisting of certain Unit Owners and Existing Unit Purchasers
<b>Altus Tax Group</b>	Altus Group Tax Consulting Paralegal Professional Corporation
<b>Amended August 18 Order</b>	The Order of Madam Justice Pepall dated August 18, 2009, as amended August 20, 2009
<b>Appointment Order</b>	Amended and Restated Appointment Order issued June 2, 2009, as amended by Orders dated December 21, 2009 and April 15, 2010
<b>APS</b>	Agreement(s) of purchase and sale
<b>Assets</b>	All the property, assets and undertakings of The Rosseau Resort Developments Inc.
<b>Baker Real Estate</b>	Baker Real Estate Inc.
<b>Balcony Handrails</b>	The Hotel's balcony handrails that required substantial remediation work, as described in the Twelfth Report
<b>BIA</b>	<i>Bankruptcy and Insolvency Act</i> (Canada)
<b>Blakes</b>	Blake, Cassels & Graydon LLP
<b>Board</b>	Board of Directors of the Red Leaves Resort Association
<b>Building Consultants</b>	Designers, building architects, mechanical, structural, and electrical engineers
<b>Bulletin 19 Reporting Requirements</b>	Certain reporting requirements pursuant to the Taron Home Warranty Program
<b>By-laws</b>	The Red Leaves Resort Association By-laws dated April 2008
<b>CJA</b>	<i>Courts of Justice Act</i> (Ontario)
<b>CLA</b>	<i>Construction Lien Act</i> (Ontario)

<b><u>Term</u></b>	<b><u>Definition</u></b>
<b>Closing Costs Holdback</b>	Certain funds held in the trust account of McCarthys relating to certain closing costs retained from proceeds of sales of Units closed prior to the Receivership
<b>COA</b>	The sewage treatment plant operates pursuant to Certificate of Approval No. 2176-74DPM9, issued by the Ministry of the Environment on July 20, 2007
<b>Colliers</b>	Colliers Macaulay Nicolls (Ontario) Inc.
<b>Commission Claim Materials</b>	The Commission Claims Process Order, Notice and Instruction Letter to Commission Creditors and a Proof of Commission Claim Form
<b>Commission Claims</b>	As defined in the Commission Claims Process Order
<b>Commission Claims Bar Date</b>	Creditors were required to submit their Proof of Commission Claim Form to the Receiver on or before March 1, 2010
<b>Commission Claims Process</b>	A claims process for the determination of entitlements of real estate agents and brokers to amounts set aside by McCarthys and held in trust for real estate commissions
<b>Commission Claims Process Order</b>	Order dated December 21, 2009, authorizing the Receiver to conduct a commission claims process
<b>Commission Funds</b>	The funds available to pay real estate commissions owed to them, which were set aside on closing of Unit sale transactions by McCarthy Tetrault LLP
<b>Committee</b>	Same as the Ad Hoc Committee
<b>Company</b>	The Rosseau Resort Developments Inc.
<b>Condominium Corporation</b>	The Muskoka Standard Condominium Corporation No. 62
<b>Confirmation</b>	Written confirmation by WestLB and the applicable Lien Claimant of the completion of the assignment of the relevant Determined Lien Claim to WestLB
<b>Construction Lien Claims</b>	Lien claims registered on title to the real property owned by RREDI pursuant to the CLA
<b>Construction Lien Claims Process</b>	The construction lien claims process set out in the Claims Process Order
<b>Construction Lien Claims Process Order</b>	Order of the Court dated July 24, 2009
<b>Construction Lien Trustee</b>	Alvarez & Marsal Canada ULC
<b>Court</b>	Ontario Superior Court of Justice
<b>CRA</b>	Conestoga-Rovers & Associates
<b>CT</b>	Commercial tax class

<b><u>Term</u></b>	<b><u>Definition</u></b>
<b>Current HMA</b>	Amended and Restated Hotel Management Agreement among RRDI, RRMSI, and Marriott Hotels dated October 6, 2006
<b>Current RPMA(s)</b>	The form of rental pool management agreement Unit Owners entered into with RRMSI, as Rental Pool Manager
<b>December 7 Order</b>	The Order issued by the Court on December 7, 2010
<b>December 16 Order</b>	The Order issued by the Court in December 16, 2010
<b>December 21 Order</b>	The Order issued by the Court on December 21, 2009
<b>Declaration</b>	The Rosseau Resort Condominium Declaration, made pursuant to the <i>Condominium Act</i> , 1998
<b>Determined Lien Claim</b>	Construction Lien Claims determined pursuant to the Notices of Determination and approved by the Court
<b>Development Lands</b>	The undeveloped lands located adjacent to the Hotel on RRDI's property, principally along the waterfront and neighbouring The Rock Golf Course
<b>Disputing Unit Owners</b>	63 Unit Owners who delivered notices of dispute to the Receiver in respect of the RPMA Dispute
<b>District or District of Muskoka</b>	The District Municipality of Muskoka Corporate and Emergency Services Department
<b>Eighth Report</b>	The Receiver's Eighth Report dated December 14, 2009
<b>Eleventh Report</b>	The Receiver's Eleventh Report dated May 12, 2010
<b>Existing Unit Purchasers</b>	Existing purchasers who have not yet closed outstanding APSs with RRDI
<b>Faskens</b>	Fasken Martineau DuMoulin LLP
<b>Fifteenth Report</b>	The Receiver's Fifteenth Report dated March 3, 2011
<b>First Tranche Receiver's Borrowings</b>	The monies borrowed by the Receiver from the Syndicate, on a priority basis, to fund the costs and expenses of the receivership in the principal amount of \$15,000,000
<b>FMC</b>	Fraser Milner Casgrain LLP
<b>Forfeited Deposits</b>	Funds held by Blakes in respect of deposits provided by three unit purchasers at the time of signing agreements of purchase and sale to purchase a Hotel Unit during the One Day Sale
<b>Fortress</b>	Fortress Credit Corp.
<b>Fourteenth Report</b>	The Receiver's Fourteenth Report dated December 13, 2010
<b>Hotel</b>	221 unit condominium hotel complex located on the property owned by RRDI situated along the north-west end of Lake Rosseau in Muskoka, Ontario



<b><u>Term</u></b>	<b><u>Definition</u></b>
<b>Hotel Management Unit</b>	The condominium unit designated for the operations of the Hotel
<b>Independent Directors</b>	The independent directors of the Muskoka Standard Condominium Corporation No. 62
<b>Independent Engineers</b>	Collectively, Morrison Hershfield and Trow
<b>Initial Water Taking Permit</b>	The water taking permit issued on September 21, 2001
<b>Institutional Sales Process</b>	The sales and marketing process for all of the Assets of RRDI on an en bloc basis, as conducted by Colliers
<b>Interim Receiver</b>	Alvarez & Marsal Canada Inc. (formerly McIntosh & Morawetz Inc.)
<b>July 8 Order</b>	The Order dated July 8, 2009
<b>KFE</b>	Ken Fowler Enterprises Limited
<b>Known Commission Creditors</b>	As defined in the Commissions Claims Process Order
<b>Lender Syndicate</b>	WestLB AG, New York Branch and CIT Financial Ltd.
<b>Lien Claimants</b>	Those parties which filed Construction Lien Claims under the Construction Lien Claims Process Order dated July 24, 2009
<b>Marriott Hotels</b>	Marriott Hotels of Canada, Ltd.
<b>May 19 Order</b>	The Order of Madam Justice Pepall dated May 19, 2010
<b>McCarthys</b>	McCarthy Tetrault LLP
<b>Miller Thomson</b>	Miller Thomson LLP
<b>MOE</b>	Ministry of the Environment
<b>MPAC</b>	Municipal Property Assessment Corporation
<b>New HMA</b>	A New Hotel Management Agreement that is based on the template of the Current HMA and modified by the Side Letter, the financial terms and conditions of which are set out in the Summary of Terms approved by the Court
<b>New Marriott Agreements</b>	Other New Marriott Agreements together with the New HMA
<b>New RPMA</b>	New forms of Rental Pool Management Agreements agreed upon by the Committee and RRDI, and approved by the Court
<b>New Unit Purchasers</b>	New purchasers of unsold Units
<b>Ninth Report</b>	The Receiver's Ninth Report dated April 9, 2010
<b>Notices of Determination</b>	Notices issued by the Construction Lien Trustee determining the amounts under the CLA for certain Construction Lien Claims filed by construction lien claimants under the Construction Lien Claims Process Order

<b><u>Term</u></b>	<b><u>Definition</u></b>
<b>Notices of Dispute</b>	The notices delivered to the Receiver by the Disputing Unit Owners in connection with the RPMA Dispute
<b>November 12 Order</b>	The Order issued by the Court on November 12, 2009 granting the relief sought by the Receiver in the Twelfth Report
<b>OBC</b>	Ontario Building Code
<b>Outstanding Neighbouring Property Issues</b>	The interaction and interconnectedness between RRDI and its neighbouring properties including matters concerning disputes over water and sewage infrastructure, certain development rights, and the Resort Association
<b>Other Current Marriott Agreements</b>	Royalty and Licensing Agreement between RRDI, RRMSI and IHLC dated October 6, 2006, and any other current agreements between RRDI, RRMSI, and Marriott Hotels or its affiliates
<b>Performance Audit</b>	A common element performance audit undertaken by Trow Associates Inc. on behalf of the Board
<b>Potential Purchaser</b>	A third party purchaser related to Maureen Fowler, the spouse of Ken Fowler
<b>Potential Transaction</b>	A proposed potential sale transaction of the Assets of RRDI to the Potential Purchaser
<b>Priority Lien Claims</b>	The portion of construction lien claims which are determined to have priority over all mortgages registered on title to the real property of RRDI
<b>Project</b>	The development and construction of the Hotel and surrounding property, all of which is on the property owned by RRDI
<b>Protocol</b>	The Institutional Sales Process Protocol prepared by the Receiver, in conjunction with its legal counsel and Colliers
<b>Provincial Officer's Order</b>	Consensual Order issued by the MOE on September 29, 2010 requiring RRDI to complete the Remediation Plan by January 31, 2011
<b>R&amp;D</b>	The Receiver's statement of receipts and disbursements
<b>RCPC</b>	Resort condominium property tax class
<b>Receiver</b>	Collectively, the Interim Receiver and the Receiver and Manager
<b>Receiver and Manager</b>	Alvarez & Marsal Canada ULC in its capacity as receiver and manager

<b><u>Term</u></b>	<b><u>Definition</u></b>
<b>Receiver's Borrowings</b>	Collectively, those receiver's borrowings authorized by the Appointment Order, including the First Tranche Receiver's Borrowings, Second Tranche Receiver's Borrowings and Third Tranche Receiver's Borrowings
<b>Remediation Plan</b>	Plan developed by the Receiver, with the assistance of CRA and the Receiver's legal counsel, and the MOE to remediate the STP
<b>Rental Pool</b>	The rental pool in which all Unit Owners are required to participate
<b>Rental Pool Manager</b>	Rental pool manager
<b>Resort</b>	Red Leaves Resort complex
<b>Resort Association</b>	The Red Leaves Resort Association
<b>Retail Sales Program</b>	Proposed 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 or lot basis
<b>Ross Windows</b>	Parry Sound Glass Limited o/a Ross Windows
<b>RPMA Dispute</b>	A dispute commenced by the Disputing Unit Owners regarding the Receiver's interpretation of the New RPMA
<b>RPMA(s)</b>	Rental Pool Management Agreement(s)
<b>RRCI</b>	Rock Ridge Contractors Inc.
<b>RRCI/RRDI Reference</b>	The reference to a Master of the Ontario Superior Court to determine the preliminary issue of whether RRCI is a general contractor or a construction manager for RRDI, and whether certain certificates of substantial performance are valid
<b>RRDI</b>	The Rosseau Resort Developments Inc.
<b>RRDI Infrastructure</b>	The water treatment plant and certain water taking infrastructure, including pumps, pumping equipment and piping
<b>RRDI/RRCI Contract</b>	The contract between RRDI and RRCI
<b>RRMSI</b>	The Rosseau Resort Management Services Inc.
<b>RRMSI Receiver</b>	A&M as receiver over certain assets of RRMSI, namely RRMSI's rights in any contracts with Marriott Hotels and/or affiliates which relate to the Hotel (including the Current HMA) and in any Current RPMAs
<b>Sales and Marketing Order</b>	The Order issued by the Court on July 8, 2009

<b><u>Term</u></b>	<b><u>Definition</u></b>
<b>Sales and Marketing Process</b>	Generally, the process the Receiver intends to run in respect of selling the Assets of the Company approved by the Sales and Marketing Order
<b>Second Tranche Receiver's Borrowings</b>	A second tranche of Receiver's Borrowings in the principal amount of \$7.5 million to be provided by WestLB
<b>Service List</b>	List of all interested parties who are entitled to receive copies of all documents filed with the Court and have either served a Notice of Appearance or requested to be added to the Service List
<b>Standstill Agreements</b>	Those agreements pursuant to which prior to the Receivership two additional Existing Unit Purchasers had each independently agreed to enter into agreements whereby RRDI agreed to attempt to sell each of the respective Units at minimum prices agreed upon between RRDI and the Existing Unit Purchaser
<b>STP</b>	Sewage treatment plant
<b>STP Lease</b>	A lease agreement dated February 13, 2009, between RRDI, as tenant and Wallace Marine, as landlord, for a term of 21 years less a day in respect of the lands on which the sewage treatment plant is situated
<b>Syndicate</b>	The lender syndicate being WestLB AG, New York Branch and CIT Financial Ltd.
<b>Tarion</b>	Tarion Warranty Corporation
<b>Tenth Report</b>	The Receiver's Tenth Report dated April 19, 2010
<b>The Rock</b>	1515511 Ontario Inc. o/a The Rock Golf Club
<b>Third Tranche Receiver's Borrowings</b>	A third tranche of Receiver's Borrowings in the principal amount of \$8.7 million to be provided by WestLB
<b>Third Tranche Term Sheet</b>	The term sheet negotiated by the Receiver with WestLB for the Third Tranche Receiver's Borrowings, consistent with the form of term sheets executed in respect of prior Receiver's Borrowings
<b>Thirteenth Report</b>	The Receiver's Thirteenth Report dated December 1, 2010
<b>Township</b>	The Township of Muskoka Lakes
<b>TPL</b>	Total phosphorus level(s)
<b>Travelers</b>	Travelers Guarantee Company of Canada
<b>Trow</b>	Trow Associates Inc.
<b>Twelfth Report</b>	The Receiver's Twelfth Report dated November 5, 2010

<b><u>Term</u></b>	<b><u>Definition</u></b>
<b>Unit Owner Proposal</b>	The proposal of the Independent Directors and the Ad Hoc Committee to acquire certain assets of RRDI, specifically the commercial property and operations of the Hotel and RRDI's interest in the Marriott Hotel Agreements and New RPMAs, and simplify the rental pool structure.
<b>Unit Owners</b>	Current owners of Units at the Hotel
<b>Units</b>	The 221 condominium units of the Hotel
<b>Unsold Units</b>	132 unsold condominium units of the Hotel (note that in prior reports, "Unsold Units" was defined as 84 unsold condominium units of the Hotel, this past definition excluded those units that were subject to an APS but not sold)
<b>Wallace Marine</b>	Wallace Marine Limited
<b>Water and Sewage Infrastructure</b>	Water and sewage infrastructure on or adjacent to RRDI's property including the sewage treatment plant and the water treatment plant
<b>Water Supply Agreement</b>	A proposed, mutually acceptable water supply agreement, whereby RRDI would continue to supply The Rock with water for irrigation purposes
<b>Water Taking Permit</b>	Permit No. 0465-5ZTL4C, which provides RRDI with the authority to take water primarily from Lake Rosseau, governed by the Ontario <i>Water Resources Act</i>
<b>WestLB</b>	WestLB AG, Toronto Branch or WestLB AG, New York Branch
<b>Window and Door Systems</b>	The windows and exterior balcony doors of the Units
<b>WTP</b>	Water treatment plant that is situated on RRDI's property

## APPENDIX “B”



Blake, Cassels & Graydon LLP  
Barristers & Solicitors  
Patent & Trade-mark Agents  
199 Bay Street  
Suite 2800, Commerce Court West  
Toronto ON M5L 1A9 Canada  
Tel: 416-863-2400 Fax: 416-863-2653

Suzanne M. Séguin  
Lawyer  
Dir: 416-863-5843  
Assistant: 416-863-2920

## FACSIMILE

August 26, 2010

Number of Pages Including Cover Page: *2*

To: Robert J. Basserman  
Toronto, ON  
Fax: 416-924-7166 Dir: 416-323-3741

## MESSAGE:

RE: The Rosseau Resort Developments Inc. ("RRDI") by Alvarez & Marsal Canada ULC, in its capacity as receiver and manager and trustee and not in its personal capacity, and by Alvarez & Marsal Canada Inc. (formerly McIntosh & Morawetz Inc.), in its capacity as interim receiver and not in its personal capacity (collectively, the "Receiver") (RRDI, by its Receiver, hereinafter the "Vendor") Sale to ROBSON, Farrukh D. (the "Purchaser") Suite 2114, Unit 36, Level 1, Muskoka Standard Condominium Plan No. 62 (the "Resort Unit")

21928177.1

ORIGINALS SENT BY: (check one) ☐ MAIL ☐ COURIER ☐ NOT SENT ☐ (PLEASE SPECIFY) \_\_\_\_\_

ANY PROBLEMS? PLEASE CONTACT THE BLAKES FAX OPERATOR AT 416-863-3192

CONFIDENTIALITY NOTE: This message is CONFIDENTIAL and is legally privileged. It is intended only for the person(s) or organization(s) named above and any other use or disclosure is strictly forbidden. If this message is received by anyone else, please notify us at once by telephone and return the original by mail to the above address. Thank You

FILE REFERENCE: 75334/9

SENDER: SMS

RETURN TO:

TIME IN: \_\_\_\_\_

TIME SENT: *11:52 am*

OPERATOR: *Jodie Tang*

MONTREAL OTTAWA TORONTO CALGARY VANCOUVER NEW YORK CHICAGO LONDON BEIJING **blakes.com**

\* \* \* TRANSMISSION RESULT REPORT ( AUG. 26. 2010 11:53AM ) \* \* \*

TTI

DATE	TIME	ADDRESS	MODE	TIME	PAGE	RESULT	PERS. NAME	FILE
AUG. 26.	11:53AM	416 924 7166	G3TES	1:00	P.	2 OK		8832

# : BATCH  
M : MEMORY  
S : STANDARD  
!S : REMOTE TRANSFER

C : CONFIDENTIAL  
L : SEND LATER  
D : DETAIL  
B : FAX ON DEMAND

T : TRANSFER  
G : FORWARDING  
F : FINE

P : POLLING  
E : ECM  
/ : REDUCTION





Blake, Cassels & Graydon LLP  
Barristers & Solicitors  
Patent & Trade-mark Agents  
199 Bay Street  
Suite 2800, Commerce Court West  
Toronto ON M5L 1A9 Canada  
Tel: 416-863-2400 Fax: 416-863-2653

August 26, 2010

VIA FACSIMILE AND OVERNIGHT COURIER

Suzanne M. Séguin  
Lawyer

Dir: 416-863-5843  
suzanne.seguin@blakes.com

Reference: 75334/9

Mr. Robert J. Basserman  
Barrister and Solicitor  
214-120 Carlton Street  
Toronto, ON M5A 4K2

RE: The Rosseau Resort Developments Inc. ("RRDI") by Alvarez & Marsal Canada ULC, in its capacity as receiver and manager and trustee and not in its personal capacity, and by Alvarez & Marsal Canada Inc. (formerly McIntosh & Morawetz Inc.), in its capacity as interim receiver and not in its personal capacity (collectively, the "Receiver") (RRDI, by its Receiver, hereinafter the "Vendor")

RE: Sale to Robson, Farruk D. (the "Purchaser")

RE: Suite 2114, Unit 36, Level 1, Muskoka Standard Condominium Plan No. 62

RE: Closing Date: February 5, 2010 (the "Closing Date")

Dear Mr. Basserman:

We write further to our letter to you of February 5, 2010. We reiterate that the Purchaser is in breach of the agreement of purchase and sale dated August 23, 2009 (the "Agreement") as a result of wrongfully refusing to complete the Agreement on the Closing Date or thereafter despite the Vendor being ready, willing and able to complete the Agreement as stated in our letter to you of February 5, 2010.

In the circumstances, our client, the Vendor, treats the Agreement as terminated by reason of the Purchaser's default and treats the deposit as being forfeited to the Vendor as liquidated damages pursuant to section 20 of the Agreement. The Vendor reserves its rights to damages and costs against the Purchaser.

Yours truly,

Suzanne M. Séguin

SMS/malp

22017254.1



Blake, Cassels & Graydon LLP  
Barristers & Solicitors  
Patent & Trade-mark Agents  
199 Bay Street  
Suite 2800, Commerce Court West  
Toronto ON M5L 1A9 Canada  
Tel: 416-863-2400 Fax: 416-863-2653

## FACSIMILE

Suzanne M. Séguin  
Lawyer  
Dir: 416-863-5843  
Assistant: 416-863-2920

August 26, 2010

Number of Pages Including Cover Page: *2*

To: Michael S. Slan  
Fogler, Rubinoff LLP Toronto, ON  
Fax: 416-941-8852 Dir: 416-941-8857

### MESSAGE:

RE: The Rosseau Resort Developments Inc. ("RRDI") by Alvarez & Marsal Canada ULC, in its capacity as receiver and manager and trustee and not in its personal capacity, and by Alvarez & Marsal Canada Inc. (formerly McIntosh & Morawetz Inc.), in its capacity as interim receiver and not in its personal capacity (collectively, the "Receiver") (RRDI, by its Receiver, hereinafter the "Vendor") Sale to Wayne Cipollone and Mary Cipollone (the "Purchaser")

RE: Suite 1439, Unit 19, Level 4, Muskoka Standard Condominium Plan No. 62

RE: Closing Date: January 28, 2010 (the "Closing Date")

22025855.1

ORIGINALS SENT BY: (check one) ☐ MAIL ☐ COURIER ☐ NOT SENT ☐ (PLEASE SPECIFY) \_\_\_\_\_

ANY PROBLEMS? PLEASE CONTACT THE BLAKES FAX OPERATOR AT 416-863-3192

CONFIDENTIALITY NOTE: This message is CONFIDENTIAL and is legally privileged. It is intended only for the person(s) or organization(s) named above and any other use or disclosure is strictly forbidden. If this message is received by anyone else, please notify us at once by telephone and return the original by mail to the above address. Thank You

FILE REFERENCE: 75334/13

SENDER: SMS

RETURN TO:

TIME IN: \_\_\_\_\_

TIME SENT: *11:49 am*

OPERATOR: *John Tang*

MONTREAL OTTAWA TORONTO CALGARY VANCOUVER  
NEW YORK CHICAGO LONDON BAHRAIN AL-KHOBAR\* BEIJING SHANGHAI\* blakes.com  
\* Associated Office

\* \* \* TRANSMISSION RESULT REPORT ( AUG. 26. 2010 11:50AM ) \* \* \*

TTI

DATE	TIME	ADDRESS	MODE	TIME	PAGE	RESULT	PERS. NAME	FILE
AUG. 25	11:40AM	04169416852	G3TES	0:52	2	OK		6831

H : BATCH  
 M : MEMORY  
 S : STANDARD  
 J : REMOTE TRANSFER

C : CONFIDENTIAL  
 L : SEND LATER  
 D : DETAIL  
 B : FAX ON DEMAND

S : TRANSFER  
 F : FORWARDING  
 R : FINE

P : POLLING  
 E : ECM  
 > : REDUCTION



Blake, Cassels & Graydon LLP  
Barristers & Solicitors  
Patent & Trade-mark Agents  
199 Bay Street  
Suite 2800, Commerce Court West  
Toronto ON M5L 1A9 Canada  
Tel: 416-863-2400 Fax: 416-863-2653

August 26, 2010

**VIA FACSIMILE AND MESSENGER**

Fogler, Rubinoff LLP  
Barristers and Solicitors  
1200-95 Wellington St. W.  
Toronto, ON  
M5J 2Z9

**Suzanne M. Séguin**  
Lawyer

Dir: 416-863-5843  
suzanne.seguin@blakes.com

Reference: 75334/13

Attention: Mr. Michael Slan

RE: The Rosseau Resort Developments Inc. ("RRDI") by Alvarez & Marsal Canada ULC, in its capacity as receiver and manager and trustee and not in its personal capacity, and by Alvarez & Marsal Canada Inc. (formerly McIntosh & Morawetz Inc.), in its capacity as interim receiver and not in its personal capacity (collectively, the "Receiver") (RRDI, by its Receiver, hereinafter the "Vendor") Sale to Wayne Cipollone and Mary Cipollone (the "Purchaser")

RE: Suite 1439, Unit 19, Level 4, Muskoka Standard Condominium Plan No. 62

RE: Closing Date: January 28, 2010 (the "Closing Date")

Dear Sir:

We write further to our letter to Messrs Lee, Roche & Kelly, the Purchaser's former solicitors, of January 28, 2010. We reiterate that the Purchaser is in breach of the agreement of purchase and sale dated August 22, 2009 (the "Agreement") as a result of wrongfully refusing to complete the Agreement on the Closing Date or thereafter despite the Vendor being ready, willing and able to complete the Agreement as stated in our letter to Lee, Roche & Kelly of January 28, 2010.

In the circumstances, our client, the Vendor, treats the Agreement as terminated by reason of the Purchaser's default and treats the deposit as being forfeited to the Vendor as liquidated damages pursuant to section 20 of the Agreement. The Vendor reserves its rights to damages and costs against the Purchaser.

Yours truly,

Suzanne M. Séguin

SMS/malp

22014766.1



Blake, Cassels & Graydon LLP  
Barristers & Solicitors  
Patent & Trade-mark Agents  
199 Bay Street  
Suite 2800, Commerce Court West  
Toronto ON M5L 1A9 Canada  
Tel: 416-863-2400 Fax: 416-863-2653

January 26, 2010

Suzanne M. Séguin  
Lawyer  
Dir: 416-863-5843  
suzanne.seguin@blakes.com

**VIA EMAIL, OVERNIGHT COURIER AND REGULAR MAIL**

Reference: 75334/27

Ms. Michelle Simmonds  
29 Vista Green Crescent  
Brampton, ON  
L7A 2S4

Dear Madam:

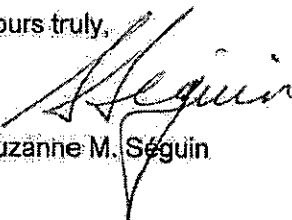
RE: The Rosseau Resort Developments Inc. ("RRDI") by Alvarez & Marsal Canada ULC, in its capacity as receiver and manager and trustee and not in its personal capacity, and by Alvarez & Marsal Canada Inc. (formerly McIntosh & Morawetz Inc.), in its capacity as interim receiver and not in its personal capacity (collectively, the "Receiver") (RRDI, by its Receiver, hereinafter the "Vendor") Sale to SIMMONDS, Michelle (the "Purchaser") pursuant to Agreement of Purchase and Sale dated August 22, 2009 (the "Purchase Agreement")  
Suite 1110, Unit 22, Level 1, Muskoka Standard Condominium Plan No. 62 (the "Resort Unit")  
RE: Closing Date: January 28, 2010

We are in receipt of your email dated January 25, 2010.

We advise, on behalf of the Vendor, that since you have not delivered your second deposit as required pursuant to the terms of the Purchase Agreement, despite our numerous requests, you are in breach of the Purchase Agreement. Accordingly, the Vendor hereby gives you notice of termination of the Purchase Agreement pursuant to clause 20 thereof. In addition to any other remedies to which the Vendor may be entitled, your deposit is hereby forfeited to the Vendor as liquidated damages.

The Vendor reserves its right to claim from you any and all damages arising out of your breach, as well as its legal costs for pursuing such claims.

Yours truly,



Suzanne M. Séguin

SMS/mm

## APPENDIX “C”

**The Rosseau Resort Developments Inc. ("RRDI")  
by its Receiver and Manager and Trustee of its Assets,  
Alvarez & Marsal Canada ULC  
Receipts and Disbursements for the period - May 22, 2009 to February 28, 2011  
Unaudited (\$)**

	<u>TOTAL</u>
<b>Receipts:</b>	
Receiver's Borrowings	\$ 31,200,000
Condo Retail Sale Proceeds, Gross	4,523,129
Funds distributed from McCarthys - Commission Funds	869,347
Funds distributed from McCarthys - RRDI Trust Allocation	730,380
Interest	19,581
GST collected	886,617
PST collected	92,806
Pre-Receiver's bank account transfers	91,060
Miscellaneous	76,121
Marriott GST collected [1]	72,464
<b>Total Receipts</b>	<b>38,561,505</b>
<b>Disbursements:</b>	
RRDI payroll costs incl. source deductions	858,186
Independent contractors	552,432
Construction costs	3,241,605
Railing remediation	541,132
Furniture, fixtures & equipment	350,931
Red Leaves Resort Association	36,454
Construction consultants/contractors	618,872
Marriott working capital funding	4,175,000
Marriott Marketing & Licensing Agreement Fee	183,160
Marketing & advertising	747,840
Real estate commissions on retail sales	113,660
Commission claims payouts	303,432
Utilities, resort operating costs & realty taxes	303,514
GST paid	779,938
PST Paid	122,283
HST Paid	285,656
Marriott GST repayment [1]	72,464
Insurance	164,003
Office expenses	38,778
Loan paydown and fees on First Tranche Receiver's Borrowings	4,913,147
Interest and fees on Second and Third Tranche Receiver's Borrowings	1,121,147
Security	21,410
Professional fees and costs	11,603,179
Miscellaneous	13,395
Holdback trust account [2]	2,471
<b>Total Disbursements</b>	<b>31,164,089</b>
<b>Excess Receipts over Disbursements [3]</b>	<b>\$ 7,397,416</b>

**NOTES:**

[1] GST related to Marriott's operation of the Hotel. GST is remitted by Marriott, however, the GST number is through RRDI's corporate account. GST refunds are collected by RRDI and then flowed back to Marriott.

[2] The Receiver maintains a segregated trust account which holds funds related to construction holdback amounts for post-receivership contracts. These funds will be released to trade contractors pursuant to the provisions of the Construction Lien Act (Ontario). Once released, the disbursement is recorded in "construction costs".

[3] As at February 28, 2011, the Receiver was holding cash of approximately \$7.397 million comprised of approximately \$5.971 million representing the remaining funds on hand from Third Tranche Receiver Borrowings; \$566,000 previously held by McCarthys related to unpaid real estate commissions arising on pre-receivership unit sales, which are unclaimed following a commission claims process; and \$860,000 for a GST refund.

## APPENDIX “D”



**The Rosseau Resort Developments Inc.**  
**Operating Forecast**  
**For the Period Ending April 30, 2011**

	Note	Nov-10 Forecast	Dec-10 Forecast	Jan-11 Forecast	Feb-11 Forecast	Mar-11 Forecast	Apr-11 Forecast	Total
<b>Receipts</b>								
Receiver's Borrowings		-	-	-	-	-	-	-
Miscellaneous Receipts		-	-	-	-	-	-	-
Proceeds from Condo Sales		-	-	-	-	-	-	-
GST Receivable	1	-	-	-	-	-	-	-
Litigation Proceeds	2	-	-	-	-	-	-	-
<b>Disbursements</b>								
Staff Wages & Benefits		8,200	8,200	8,200	8,200	8,200	8,200	49,200
Condo Corporation Fees	3	46,200	46,200	46,200	46,200	46,200	46,200	277,200
Utilities		7,300	7,300	3,100	2,600	2,600	3,100	26,000
Insurance	4	-	-	50,000	-	-	-	50,000
Construction Costs		74,000	147,000	321,000	-	-	-	542,000
Marriott Funding	5	250,000	700,000	250,000	250,000	250,000	250,000	1,950,000
Marriott Incentive Fee	6	-	180,000	-	-	-	-	180,000
Professional Fees	7	450,000	295,000	295,000	450,000	450,000	295,000	2,235,000
Accrued Professional Fees		-	1,344,000	-	-	-	-	1,344,000
Resort Association		50,000	-	-	-	-	-	50,000
Outside consultants		106,500	26,500	69,000	-	-	-	202,000
Post Closing Receivership Costs	8	-	-	-	-	-	2,107,300	2,107,300
WestLB Interest - Tranche 2		122,200	62,100	62,100	56,100	62,100	60,100	424,700
WestLB Interest - Tranche 3		-	74,500	74,500	67,300	74,500	72,100	362,900
Contingency - general		50,000	50,000	25,000	25,000	25,000	25,000	200,000
Total Disbursements		1,164,400	2,940,800	1,204,100	905,400	918,600	2,867,000	10,000,300
<b>Net Cash Flow</b>		<b>(1,164,400)</b>	<b>(2,940,800)</b>	<b>(1,204,100)</b>	<b>(905,400)</b>	<b>(918,600)</b>	<b>(2,867,000)</b>	<b>(10,000,300)</b>
<b>Cash Roll forward</b>								
Operating Cash	9	1,310,489	146,089	(2,794,711)	(3,998,811)	(4,904,211)	(5,822,811)	1,310,489
Net Cash Flow		(1,164,400)	(2,940,800)	(1,204,100)	(905,400)	(918,600)	(2,867,000)	(10,000,300)
<b>Closing Cash</b>	<b>10</b>	<b>146,089</b>	<b>(2,794,711)</b>	<b>(3,998,811)</b>	<b>(4,904,211)</b>	<b>(5,822,811)</b>	<b>(8,689,811)</b>	<b>(8,689,811)</b>

**The Rosseau Resort Developments Inc.**  
**Operating Forecast**  
**For the Period Ending April 30, 2011**

**Notes:**

1. The Receiver is in the process of collecting a GST refund. The quantum and timing of the receipt are unknown.
2. The Receiver issued a statement of claim for \$1.5 million against Ross Windows relating to the supply and installation of defective railings and windows. At this time, it is difficult to estimate the quantum and timing of any net proceeds.
3. Condominium Corporation fees are estimates and are payable once the 2011 Condominium Corporation budget is finalized. To date all Condominium Corporation fees have been satisfied by setting off such fees against amounts owing to RRD1 by the Condominium Corporation for reimbursement of costs paid by RRD1 in funding the costs that are to be shared by the Condominium Corporation pursuant to contractual arrangements between RRD1 and the Condominium Corporation. It is expected that future amounts payable in respect of Condominium Corporation fees, as estimated herein, will be similarly satisfied.
4. RRD1 property insurance for the commercial space to be paid in January 2011.
5. This is based on forecast operating losses provided to A&M by Marriott for the period up to December 31, 2010. As Marriott has not yet provided a forecast for 2011, forecast operating losses for the period January to April 2011 are based on January to June 2010 operating losses, but reflect an improvement of 20%.
6. Marriott is owed approximately \$180,000 with respect to an incentive fee payment related to the Receiver's sale of retail units.
7. Professional fees and costs includes payments to the Receiver, the Receiver's legal counsel, and the Receiver's independent legal counsel.
8. \$2.1 million in the budget is available to fund costs incurred after April 30, 2010 in connection with a sale transaction. The costs would be incurred subsequent to April 30, 2011.
9. As at October 31, 2010, the Receiver was holding cash of \$2,040 million comprised of \$744,000 representing the remaining funds on hand from the Tranche 2 borrowings; \$566,000 of funds previously held by McCarthy's related to unpaid real estate commissions arising on pre-receivership unit sales, which are unclaimed following a commission claims process; and \$730,000 of proceeds from funds previously held by McCarthy's which are for the benefit of the Estate. Once Tranche 3 borrowings are established, the Receiver plans to distribute the \$730,000 against the Tranche 1 borrowings and therefore has not included the \$730,000 in the 'Opening Cash' balance.
10. The forecast cash requirement is approximately \$8.7 million, which provides for approximately \$2.1 million to be available for costs associated with the receivership period after April 30, 2011.

APPENDIX 1  
CONFIDENTIAL

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**  
**PROCEEDING COMMENCED AT**  
**TORONTO**

**MOTION RECORD**  
(Motion returnable March 9, 2011)

FRASER MILNER CASGRAIN LLP  
77 King Street West, Suite 400  
Toronto-Dominion Centre  
Toronto, Ontario, M5K 0A1

Lawyer: R. Shayne Kukulowicz  
LSUC: 30729S  
Email: shayne.kukulowicz@fmc-law.com  
Telephone: 416 863-4740  
Facsimile: 416 863-4592

Lawyer: Jane O. Dietrich  
LSUC No. 49302U  
E-mail: jane.dietrich@fmc-law.com  
Telephone: 416 863-4467  
Facsimile: 416 863-4592

Independent Lawyers for Alvarez & Marsal Canada  
ULC, and Alvarez & Marsal Canada Inc., in their  
respective capacities as Court-appointed Interim  
Receiver, Trustee, Receiver and Manager