

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

THE HONOURABLE MADAM) TUESDAY, THE 1st DAY
JUSTICE PEPALL) OF SEPTEMBER, 2009

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



WESTLB AG, TORONTO BRANCH

Applicant

- and -

THE ROSSEAU RESORT DEVELOPMENTS INC.

Respondent

ORDER

THIS MOTION, made by The Rosseau Resort Management Services Inc. (“**RRMSI**”) by Notice of Motion dated August 19, 2009 (the “**RRMSI Motion**”) for an order amending paragraph 6 of the Order of the Honourable Madam Justice Pepall dated August 18, 2009 as amended (the “**August 18 Order**”) was heard the 28th day of August, 2009 at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion of RRMSI dated August 19, 2009, the Sixth Report to Court of 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 McIntosh & Morawetz Inc., in its capacity as interim receiver pursuant to section 47(1) of the *Bankruptcy and Insolvency Act* of the undertaking, assets and property of The Rosseau Resort Developments Inc. (“**RRDI**”)

(jointly and collectively, the “**RRDI Receiver**”) dated August 21, 2009 (the “**Sixth Report**”), the Supplementary Report to the Sixth Report dated August 25, 2009, the Second Report to Court of the RRDI Receiver dated July 3, 2009, the Supplementary Report to the Second Report of the RRDI Receiver dated July 7, 2009, the Fourth Report of the RRDI Receiver dated August 12, 2009, the Supplementary Report to the Fourth Report of the RRDI Receiver dated August 14, 2009, the Affidavit of Ken Fowler dated August 24, 2009, the Supplementary Motion Record of RRMSI dated August 27, 2009, and the letter dated November 5, 2008 from Red Leaves to Gordon and Judy Jacobs, and on hearing the submissions of Miller Thomson LLP as representative counsel appointed pursuant to the Order of the Honourable Madam Justice Pepall dated August 20, 2009, independent counsel for the RRDI Receiver, counsel for WestLB AG, Toronto Branch and the RRDI Receiver, counsel for Marriott Hotels of Canada, Ltd., counsel for Fortress Credit Corp. and counsel for RRMSI, no one appearing for any other person on the service list,

1. THIS COURT ORDERS that the RRMSI Motion to amend paragraph 6 of the August 18 Order be and is hereby dismissed without costs without prejudice to claims that may be made by either the Receiver of RRDI or RRMSI to the subject matter of the record and report referred to in paragraph 5 of the RRMSI Receivership Order dated September 1, 2009.



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

SEP 08 2009

PER / PAR:



WESTLB AG, TORONTO BRANCH
Applicant

V.

THE ROSSEAU RESORT DEVELOPMENTS INC.
Respondent

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SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT
TORONTO

ORDER

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