

Court File No.

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

BETWEEN:

WESTLB AG, TORONTO BRANCH

Applicant

and

THE ROSSEAU RESORT DEVELOPMENTS INC.

Respondent

**APPLICATION UNDER 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**

**SUPPLEMENTAL AFFIDAVIT OF ROBERT DYCK
(Sworn May 19, 2009)**

I, **ROBERT DYCK** of the City of Toronto, in the Province of Ontario, **MAKE
OATH AND SAY AS FOLLOWS:**

1. I am the Executive Director, Principal Officer of the Applicant, WestLB AG, Toronto Branch ("**WestLB**"). Accordingly, I have knowledge of the matters deposed to in this Supplemental Affidavit. Where this Supplemental Affidavit is not based on my direct personal knowledge, it is based on information and belief and I verily believe such information to be true.

2. I swear this Supplemental Affidavit in addition to my affidavit sworn May 19, 2009 in this matter (the “**Original Affidavit**”) to provide additional information and evidence to the Court in support of WestLB’s application and in particular to provide information with respect to the arrangements and agreements between RRDI and Marriott referenced in the Original Affidavit.
3. All capitalized terms not otherwise defined in this Supplemental Affidavit have the same meaning as in the Original Affidavit.
4. As stated at paragraph 9 of the Original Affidavit, the Hotel is currently operating under the banner of “JW Marriott Resort and Spa” pursuant to the Management Agreement and related agreements between RRDI and Marriott.
5. As set out at paragraph 57 of the Original Affidavit, pursuant to the terms of the Funding Letter, a copy of which is attached hereto as **Exhibit “A”**, RRDI agreed to fund approximately \$1.95 million to Marriott to pay net operating losses and working capital requirements through May 31, 2009.
6. As described at paragraph 59 of the Original Affidavit, by letter dated April 30, 2009, a copy of which is attached hereto as **Exhibit “B”**, Marriott requested a payment of an additional \$850,000 from RRDI to be made as of June 2, 2009 to fund Operating Losses (as defined in the Management Agreement), which are asserted by Marriott to be payable under the Management Agreement.
7. This Supplemental Affidavit is made in support of WestLB’s application for, *inter alia*, the appointment of A&M as Receiver, and for no other or improper purpose.

SWORN BEFORE ME at the City of Toronto,)
 in the Province of Ontario)
 this 19th day of May, 2009)

EFUA COBBINA,
 A COMMISSIONER, ETC.,
 PROVINCE OF ONTARIO,
 WHILE A STUDENT-AT-LAW.
 A Commissioner for taking affidavits

E. Cobbina

Robert Dyck
 ROBERT DYCK

EXHIBIT "A"

MARRIOTT HOTELS OF CANADA LTD.
2425 MATHESON BOULEVARD EAST, SUITE 100
MISSISSAUGA, ONTARIO L4W 5K4

April 1, 2009

CONFIDENTIAL

The Rosseau Resort Developments Inc.
The Rosseau Resort Management Services Inc.
c/o Ken Fowler Enterprises Limited
110 Hanover Drive, Suite 203B
St. Catharines, Ontario, Canada L2R 7P7
Attn: Mr. Ken Fowler

WestLB AG, Toronto Branch
Royal Bank Plaza, North Plaza
Suite 2301, Box 41
200 Bay Street
Toronto, Ontario, Canada M5J 2J1
Attn: Mr. Robert Dyck

Re: The Rosseau, a JW Marriott Resort & Spa

Ladies and Gentlemen:

Reference is made to that certain Amended and Restated Management Agreement (the "Management Agreement"), dated as of October 6, 2006, between The Rosseau Resort Developments Inc. and The Rosseau Resort Management Services Inc. (collectively, "Owner") and Marriott Hotels of Canada, Ltd. ("Operator") relating to that certain hotel known as "The Rosseau, a JW Marriott Resort & Spa." Capitalized terms not specifically defined herein shall have the meanings set forth in the Management Agreement.

Owner has agreed to fund One Million Nine Hundred Fifty Thousand Three Hundred Eleven Canadian Dollars (CAN\$1,950,311) no later than April 8, 2009, to fund Operating Losses and Working Capital needs of the Hotel. In consideration of such payment, Operator agrees not to declare a default or event of default resulting from the failure to fund Operating Losses or Working Capital in accordance with the terms of the Management Agreement prior to May 31, 2009. Operator's agreement not to declare a default or event of default prior to May 31, 2009, is limited solely to those claims arising out of the failure of Owner to fund Operating Losses and additional Working Capital. Operator's agreements hereunder shall not be deemed a waiver by Operator of Owner's obligation to fund Operating Losses and Working Capital in accordance with the terms of the Management Agreement (provided, however, that Operator agrees that Owner shall not be required to fund any additional amounts for Operating Losses or the Working Capital needs of the Hotel prior to June 1, 2009), or of any other right Operator may have under the Management Agreement or applicable law for claims arising in the future or with respect to

The Rosseau Resort Developments Inc.
The Rosseau Resort Management Services Inc.
WestLB AG
April 1, 2009
Page 2

any other breach or default by Owner. Owner acknowledges and agrees that Operator's agreements hereunder shall be null and void and of no further effect if Operator has not received CAN\$1,950,311 by 5:00 p.m. on April 8, 2009 from or on behalf of Owner to fund Operating Losses and Working Capital needs of the Hotel.

Except as specifically provided in this letter agreement, the terms and conditions of the Management Agreement (including, without limitation, the Technical Services Agreement and Pre-Commencement Addendum to the Management Agreement) shall not be modified and shall remain in full force and effect.

Owner's countersignature below shall evidence its consent to the terms and conditions set forth in this letter agreement.

[Signatures follow on next page]

The Rosseau Resort Developments Inc.
The Rosseau Resort Management Services Inc.
WestLB AG
April 1, 2009
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Very truly yours,

MANAGER:

MARRIOTT HOTELS OF CANADA
LTD.
a Canadian corporation

By: H. J. Beckley
Name: Michael J. Beckley
Title: Vice President

ACCEPTED AND AGREED
this ____ day of April, 2009

THE ROSSEAU RESORT DEVELOPMENTS INC.
an Ontario corporation

By: _____
Name:
Title:

THE ROSSEAU RESORT MANAGEMENT SERVICES INC.
an Ontario corporation

By: _____
Name:
Title:

The Rosseau Resort Developments Inc.
The Rosseau Resort Management Services Inc.
WestLB AG
April 1, 2009
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Very truly yours,

MANAGER:

MARRIOTT HOTELS OF CANADA
LTD.
a Canadian corporation

By: _____
Name: Michael J. Beckley
Title: Vice President

ACCEPTED AND AGREED
this ____ day of April, 2009

THE ROSSEAU RESORT DEVELOPMENTS INC.
an Ontario corporation

By: _____
Name: Ken Fowler
Title:

THE ROSSEAU RESORT MANAGEMENT SERVICES INC.
an Ontario corporation

By: _____
Name: Ken Fowler
Title:

The Rosseau Resort Developments Inc.
The Rosseau Resort Management Services Inc.
WestLB AG
April 1, 2009
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ACKNOWLEDGED

this ____ day of April, 2009

WESTLB AG, TORONTO BRANCH

By: _____
Name:
Title:

By: _____
Name:
Title:

EXHIBIT "B"



2425 Matheson Blvd. East, Suite 100, Mississauga, ON L4W 5K4
905/366-5200, fax 905/366-5220

April 30, 2009

The Rosseau Resort Developments Inc.
The Rosseau Resort Management Services Inc.
c/o Ken Fowler Enterprises Limited
110 Hanover Drive, Suite 203B
St. Catharines, Ontario, Canada L2R 7P7

Attn: Jamie Farrar

Fax: 905-688-3060

VIA FACSIMILE AND FEDERAL EXPRESS

Re: Notice of Request to Fund Operating Losses and Working Capital-
The Rosseau, A JW Marriott Resort & Spa

Gentlemen:

Pursuant to Section 4.01.C and Section 4.06 of the Hotel Management Agreement, we hereby request that you provide funds in the amount of CAN\$850,000 to fund Operating Losses and Working Capital needs of the Hotel. Accordingly, we request that you transfer funds in the total amount of CAN\$850,000 to the account set forth in the wire transfer instructions attached hereto as Exhibit A no later than June 2, 2009.

Please let me know if you have any questions.

Sincerely yours,

Marriott Hotels of Canada, Ltd.

A handwritten signature in cursive script, appearing to read "Eric Deudney".

By: Eric Deudney

Exhibit A

**THE ROSSEAU, A JW MARRIOTT RESORT
& SPA**

**1050 Paignton House Road
PO Box 31
Minett, Ontario P0B 1G0**

WIRE TRANSFERS, DIRECT DEPOSIT, ELECTRONIC REMITTANCE

**SCOTIA BANK
44 KING STREET WEST
TORONTO ONTARIO
M5H 1H1
CANADA**

Swift Code: NOSCCATT

Bank Account Number: 47696 07730 18

**NOSCUS 33 if the transfer is from the United States to Canada
ADA # is 026002532**

Bank Account Number: 47696 07730 18

Hotel Contact Information

**Tania LeSarge
P: (705) 765-1900 F: (705) 765-6948
Tania.Lesarge@marriott.com
www.Marriott.com**

Muskoka - Operating Loss Funding Summary - April 29, 2009

Period	Losses	C\$'000	Owner Funding	Net Unfunded Losses for Period	Net Unfunded Losses - Cumulative
<i>actual</i>	13	278	-	278	278
<i>actual</i>	1	559	157	402	680
<i>actual</i>	2	682	205	477	1,157
<i>actual</i>	3	642	116	526	1,683
<i>actual</i>	4	615	1,950	(1,335)	348
<i>forecast</i>	5	502	-	502	850
<i>forecast</i>	6	96	-	96	946
		3,374	2,428	946	
<i>forecast</i>	P/O Exp	120		120	
				<u>1,066</u>	

Through P6 - 2009 Only & Excluding PreO 668

WESTLB AG, TORONTO BRANCH
Applicant

V.

THE ROSSEAU RESORT DEVELOPMENT INC.
Respondent

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

**SUPPLEMENTAL AFFIDAVIT OF
ROBERT DYCK
(SWORN MAY 19, 2009)**

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

Pamela Huff LSUC# 27344V
Tel: (416) 863-2958
Fax: (416) 863-2653

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

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Tel: (416) 863-4247
Fax: (416) 863-2653

Lawyers for the Applicant