



COURT OF APPEAL FILE NO. CA51343  
599315 B.C. Ltd. v. Sanovest Holdings Ltd.  
Application Book for Leave to Appeal

**COURT OF APPEAL**

ON APPEAL FROM the order of the Honourable Mr. Justice P. Walker of the Supreme Court of B.C. pronounced on the 29<sup>th</sup> of January, 2026.

BETWEEN:

**599315 B.C. Ltd. and Daniel Matthews**

**APPELLANTS**  
(Attendees)

AND:

**Sanovest Holdings Ltd.**

**RESPONDENT**  
(Petitioner)

AND:

**Ecoasis Developments LLP, Ecoasis Bear Mountain Developments Ltd., Ecoasis Resort and Golf LLP, 0884185 B.C. Ltd., 0884188 B.C. Ltd., 0884190 B.C. Ltd., 0884194 B.C. Ltd., BM 81/82 Lands Ltd. BM 83 Lands Ltd., BM 84 Lands Ltd., BM Capella Lands Ltd., BM Highlands Golf Course Ltd., BM Highlands Lands Ltd., BM Mountain Golf Course Ltd., Bear Mountain Adventures Ltd.**

**RESPONDENTS**  
(Respondents)

AND:

**Tomoson Kusumoto, and Royal Bank of Canada**

**RESPONDENTS**  
(Attendees)

AND:

**Alvarez & Marsal Canada Inc.**

**RESPONDENT**  
(Receiver)

**Sealing Order of Justice Walker pronounced July 4, 2025: Exhibit B to Affidavit #1 of Mia Liang sworn July 3, 2025 is sealed until further order of this Court.**

**Sealing Order of Justice Walker pronounced September 10, 2024: Affidavit #2 of Daniel Matthews made on June 21, 2024 is sealed until further order of this Court.**

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Appellants' Application Book for Leave to Appeal  
599315 B.C. Ltd. and Daniel Matthews

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## IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Sanovest Holdings Ltd. v. Ecoasis  
Developments LLP,*  
2026 BCSC 141

Date: 20260129  
Docket: S243389  
Registry: Vancouver

Between:

**Sanovest Holdings Ltd.**

Petitioner

And

**Ecoasis Developments LLP, Ecoasis Bear Mountain Developments Ltd.,  
Ecoasis Resort and Golf LLP, 0884185 B.C. Ltd., 0884188 B.C. Ltd.,  
0884190 B.C. Ltd., 0884194 B.C. Ltd., BM 81/82 Lands Ltd., BM 83 Lands Ltd.,  
BM 84 Lands Ltd., BM Capella Lands Ltd., BM Highlands Golf Course Ltd.,  
BM Highlands Lands Ltd., BM Mountain Golf Course Ltd.  
and Bear Mountain Adventures Ltd.**

Respondents

Before: The Honourable Mr. Justice P. Walker

### Reasons for Judgment

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Place and Dates of Hearing:

Vancouver, B.C.  
November 24, 26,  
December 1, 2025,  
and January 12, 21, 27, 2026

Place and Date of Judgment:

Vancouver, B.C.  
January 29, 2026

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## **Introduction**

[1] Sanovest Holdings Ltd. (“Sanovest”) applies for an order that would bring four separate actions within the ambit of this insolvency litigation involving entities in which it is a stakeholder (e.g., limited partner and secured creditor). The parties refer to those actions, previously ordered to be tried together, as the “Bear Mountain Litigation” (see 2024 BCSC 635; 2025 BCSC 991).

[2] This insolvency litigation concerns lands and assets known as the Bear Mountain Resort located near Langford, British Columbia. I issued a receivership order by consent (“Receivership Order”) in this proceeding on September 18, 2024, following a lengthy and fractious hearing, where nearly every issue was in dispute. The parties ultimately agreed to an order appointing Alvarez & Marsal Canada Inc. as receiver and manager (“Receiver”) over certain lands (“Lands”) within the Bear Mountain Resort community, together with all of the assets and undertakings of the other respondents, including Ecoasis Bear Mountain Developments Ltd. (“EBMD”).

[3] Two of the terms of the parties’ agreement that resulted in the Receivership Order excluded the business of Ecoasis Resort and Golf LLP (“Resorts”), including all of its operations such as its golf course and tennis club, and the Bear Mountain Litigation from the ambit of the receivership (“Receivership”). The trial of the Bear Mountain Litigation, which has been proceeding separately with no case management judge assigned, was scheduled to commence in January 2026; it has been adjourned to January 2027.

[4] Additional terms of the Receivership Order allowed any party to apply to vary it, and as will be seen from the discussion below, included carveouts for the Bear Mountain Litigation (defined in the Receivership Order as the “Oppression Litigation”), the Receiver’s involvement in the tennis club and golf course business, and an arbitration proceeding involving some of the entities and a third party (referred to as the “Hotel Arbitration”; a discussion of the issues in the Hotel Arbitration may be found at *Bear Mountain Resort & Spa Ltd. v. Ecoasis Resort and Golf LLP.*, 2025 BCCA 368).

[5] My reasons for judgment, issued in this proceeding following a subsequent variation application heard in July 2025, should be read in conjunction with these reasons as they include a lengthy discussion of underlying facts, parties, and issues; see 2025 BCSC 1504.

[6] Sanovest's instant application is grounded in the terms of the Receivership Order permitting variation, or alternatively, s. 187(5) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 [*BIA*].

[7] It will suffice at this juncture to say that all litigation between the parties remains highly fractious. The principal combatants are Mr. Tian Kusumoto and Mr. Daniel Matthews. Mr. Kusumoto is a director of Sanovest. Mr. Matthews is the director and president of 599315 B.C. Ltd. ("599").

[8] Adding to the intensity and complexity of their litigation, and complicating an orderly resolution of the Receivership proceeding, are their competing claims (advanced on their own behalf and through various entities) in the Bear Mountain Litigation, alleging various forms of *mala fide* conduct against each other such as breach of fiduciary duty and oppression.

[9] Sanovest's position is that the Bear Mountain Litigation must now be brought within the Receivership to promote its orderly, efficient resolution for the benefit of all stakeholders. Sanovest submits that the outcome of the Receivership depends on the timely determination of the claims in the Bear Mountain Litigation. As a consequence, Sanovest says that case management is urgently needed, with a view to incorporating hybrid procedures contemplated in the *BIA*, as was done in *Alderbridge Way GP Ltd. (Re)*, 2023 BCSC 1718 and *Walter Energy Canada Holdings, Inc. (Re)*, 2017 BCSC 709, now that trial is delayed by a year.

[10] Although part of the relief Sanovest seeks is an order for a hybrid form of trial, as was done in *Alderbridge*, I advised the parties that I am not able to determine suitability without further in-depth submissions, particularly in light of Mr. Matthews'

almost universal and adamant opposition to anything other than a traditional trial on account of significant credibility issues and resulting prejudice.

### **The Key Parties**

[11] Before turning to discuss the component actions of the Bear Mountain Litigation and their intersection with the Receivership proceeding, and whether I can and should vary the Receivership Order as Sanovest asks, it is useful to describe the role of Mr. Kusumoto and Mr. Matthews in the various entities.

[12] I will start with the relevant ownership structure of Resorts and the various Ecoasis entity respondents. Ownership is structured through a tiered layer of entities. The parent entity and managing partner is EBMD. Immediately below EBMD in the tier is Ecoasis Developments LLP. The parties refer to it either as “Developments” or the “Partnership” (I will refer to it by the former to align with my prior reasons: 2025 BCSC 1504). Below Developments in the tier sits Resorts (also a partnership) and below Resorts is another entity, BM Golf Course Ltd.

[13] Sanovest and 599 each own 50% of EBMD. Each one also owns 49.75% of the units of Developments (EBMD owns the remaining 0.5%). Developments owns 99% of Resorts (EBMD owns the remaining 1%).

[14] Sanovest is also the senior secured lender to Developments.

[15] The two principals of the various entities in this proceeding are Mr. Kusumoto and Mr. Matthews. Both hold significant positions in the various ownership entities. For example, Mr. Kusumoto is a director and the chief financial officer of EBMD. Mr. Matthews is a director and the chief executive officer and president of EBMD. Both are directors of the remaining corporate respondents (those entities are guarantors of Developments’ indebtedness to Sanovest).

[16] Additionally, Mr. Tom Kusumoto, who is Tian Kusumoto’s father and a former director of Sanovest, is a party in some of the actions comprised in the Bear Mountain Litigation.

**Bear Mountain Litigation**

[17] I summarize the nature of the four actions below and will use the short form descriptors used by the parties for each.

[18] VA S223937 was commenced by Sanovest on May 13, 2022 (“Sanovest Action”), seeking an award of equitable compensation payable to Developments, against Mr. Matthews and Tom Kusumoto, for alleged breaches of fiduciary duties and failures to disclose self-interested transactions between January 2016 and June 2022.

[19] VA S234047 was commenced on June 1, 2023 by 599 and on behalf of Developments and Resorts (“Partnership Action”), all represented by counsel acting for 599 and Mr. Matthews. The claim in that action is for damages, on behalf of Developments, against Sanovest, EBMD, and Tian Kusumoto for alleged breaches of the terms of Developments’ partnership agreement and duties owed to it.

[20] VA S234048 was commenced by petition on June 1, 2023 (“Oppression Action”) and converted to an action on April 18, 2024. In that action, Mr. Matthews and 599 seek oppression remedies against Developments, Resorts, and EBMD. Some of the relief overlaps with matters concerning the Receivership. For example, Mr. Matthews seeks an order authorizing Developments to obtain third-party financing and an order directing equity distributions to be paid to 599.

[21] The parties ultimately agreed in oral submissions on this application that the Sanovest Action, the Partnership Action, and the Oppression Action are predominantly derivative actions. They are not inter-creditor disputes (as 599 and Mr. Matthews argued at one point).

[22] The parties have not addressed the effect, if any, arising from the fact that leave was not sought to commence derivative actions on behalf of Developments. The fact that Mr. Matthews both brings an action on behalf of Developments in the Partnership Action and has sued Developments in the Oppression Action has been raised by Sanovest as an issue affecting the lens through which I should view the

objections raised by Mr. Matthews and 599 to the relief it seeks on the instant application.

[23] The fourth action comprising the Bear Mountain Litigation, VA S226218, was commenced by Tom Kusumoto seeking judgment against Mr. Matthews for \$1.585 million plus interest arising from three loans that he advanced to Mr. Matthews between July 2019 and February 2020 in the context of their business relationship in Developments (“Debt Action”).

[24] Most of the terms of a case plan order issued in the Bear Mountain Litigation have been met. The initial examination for discovery of Mr. Matthews did not finish by the deadline but has now completed. In all, I was told that 12 days of discovery have taken place. There remain outstanding requests for documents and questions from examination for discovery (with contested production applications forthcoming). Expert reports have not been served (the deadlines were October 17, 2025 for initial reports and November 28, 2025 for responding reports). I am told by counsel that those reports are intended to deal with quantum issues, and the experts cannot be properly instructed until the amount realized from the Receiver’s sale of the assets encompassed in the Receivership is known. That is one of the key reasons why the trial was adjourned.

### **The Receivership Order Provides for Variation**

[25] As seen from the excerpt below, the parties specifically contemplated the prospect for variation of the Receivership Order, generally, as well as specifically to the Receiver’s role in the Bear Mountain Litigation, Resorts’ business, and the Hotel Arbitration:

#### **APPOINTMENT**

...

2. Until further Order, this appointment [of the Receiver] shall not include or extend to:
  - (a) the Oppression Litigation (as defined in paragraph 13) [the Bear Mountain Litigation], and, for clarity and notwithstanding anything else in this Order, subject to further order of this Court, the Receiver shall

have no obligation to manage or otherwise participate in the Oppression Litigation; and

- (b) Resorts' operations and business (the "**Resorts Business**") which, subject to further order of this Court, shall continue to be managed by EBMD, provided that EBMD and Resorts are required to provide access and cooperation to the Receiver pursuant to paragraphs 7 to 10 of this Order, including in respect of Resorts and the Resorts Business. For greater clarity, the Resorts Business does not include the ownership, disposition or encumbrance of any interests in real property.

...

### **NO PROCEEDINGS AGAINST THE DEVELOPMENT ENTITIES OR THE PROPERTY**

...

13. Notwithstanding paragraphs 3(g), 3(j), 12 and 14, subject to further order of this Court, this Order shall not in any way impact the litigation in Action Nos. (Vancouver Registry) S223937, S226218, S234047 and S234048 (collectively, the "Oppression Litigation") [Bear Mountain Litigation] or the arbitration proceedings [Hotel Arbitration] between Ecoasis Resort and Golf LLP and Bear Mountain Resort & Spa Ltd., BM Management Holdings Ltd. and BM Resort Assets Ltd.

...

### **GENERAL**

39. Any interested party may apply to this Court to vary or amend this order on not less than seven (7) clear business days' notice to the Service List and to any other party who may be affected by the variation or amendment, or upon such other notice, if any, as this Court may order.

[Bold in original; insertion in square brackets and underlining emphasis added]

### **Discussion**

[26] As noted at the outset, the Receivership Order resulted from the compromise of a hotly contested receivership application, where the predominant dispute was whether a broad (Sanovest's position) or slim (Mr. Matthews' and 599's position) receivership order was appropriate in the circumstances. Given the significant liquidity issues facing the entities comprised in Resorts, it was essential that some form of receivership be granted without delay to allow a sales process to get underway.

[27] In relation to the Bear Mountain Litigation, 599 and Mr. Matthews made it clear in submissions during the hearing that led to the Receivership Order that they did not wish to have their claims in the Bear Mountain Litigation stayed on account of a receivership order. In bringing the instant application, Sanovest does not seek to stay the Bear Mountain Litigation, nor to have the Receiver take control of it. Sanovest's stated purpose is to engage case management within the Receivership with a view to using, where appropriate, the summary procedures contemplated by the *BIA*. It is noteworthy that at one point in their submissions, 599 and Mr. Matthews acknowledged that summary procedures might be appropriate but say that if any are, they should be crafted under the *Supreme Court Civil Rules* and not under the *BIA*.

[28] I did not find when I issued the Receivership Order that the exclusionary provisions concerning the Bear Mountain Litigation were an impermissible attempt to contract out of the single proceeding model contemplated by the case authorities: see, e.g. *Century Services Inc. v. Canada (Attorney General)*, 2010 SCC 60 para. 22; *Peace River Hydro Partners v. Petrowest Corp.*, 2022 SCC 41 at paras. 54–55; *Mundo Media Ltd. (Re)*, 2022 ONCA 607 at para. 6; *Alderbridge* at paras. 46–54.

[29] Nothing was drawn to my attention at the time I issued the Receivership Order concerning any possible intersection between the Receivership and the Bear Mountain Litigation. The possible connection concerned Resorts' business and I agreed to exclude it on a provisional basis to allow Mr. Matthews and 599 the opportunity to demonstrate that they could, contrary to Sanovest's assertion, operate its business as a going concern. Otherwise, the parties were to await the outcome of the Receiver's analysis of the appropriate manner in which to sell the Lands and whether Resorts should be brought into the Receivership.

[30] Those were the circumstances in which the Receivership Order was made and are some of the important factors for my determination of the instant application:

*Integris Credit Union v. Mercedes-Benz Financial Services Canada Corporation*, 2016 BCCA 231 at paras. 25–28.

[31] The fact that the Receivership Order was a consent order is not an impediment to variation in the circumstances: see, e.g., *Century Services* at para. 22; *Mundo Media* at paras. 6, 40, 52; *Alderbridge* at paras. 104–106; *Williams Moving & Storage (B.C.) Ltd. v. Canada (Minister of National Revenue)*, 2024 BCCA 160 at paras. 85–89.

[32] Nor do I find Sanovest’s current application to be an attempt to reopen an order where a change in material fact(s) must be shown. There is no basis to construe the Receivership Order as a final order incapable of variation without demonstrating a change in material fact(s).

[33] Variation of the Receivership Order has in fact occurred twice.

[34] As mentioned, in July 2025, I varied the Receivership Order to include Resorts’ business and operations in the Receivership. 599 and Mr. Matthews opposed Sanovest’s application at that time but did not assert that the Receivership Order could not be varied unless a change in material fact(s) is shown.

[35] Moreover, Mr. Matthews and 599 supported Sanovest’s subsequent application (contested by the third party) to vary the Receivership Order to include the Hotel Arbitration within the ambit of the Receivership.

[36] There is also no basis to establish that Sanovest has delayed in putting 599 and Mr. Matthews on notice of their intention to bring the instant application nor in filing it. The delay in having it heard was due to the court’s scheduling.

[37] 599 and Mr. Matthews did not establish, any prejudice if the order is made. Mr. Matthews’ evidence that bringing the Bear Mountain Litigation into the Receivership “could signal potential problems” with lenders and appraisers is a general statement not supported by any facts.

[38] I disagree with 599 and Mr. Matthews' characterization of the variation provisions of the Receivership Order (citing *Canada North Group Inc (Companies' Creditors Arrangement Act)*, 2017 ABQB 550 at paras. 50, 51–56) as a “come back” provision, available only when circumstances change.

[39] These remarks of the eminent insolvency jurist Justice Farley in *Ravelston Corp. (Re)*, [2005] O.J. No. 1643, 138 A.C.W.S. (3d) 792, are instructive to the facts of the instant case:

[6] ...

(j) In this regard, I reiterate what I have said before in other cases and what should be taken as a given automatic if not expressed. No party or interested person using the comeback clause on a timely basis should feel constrained by the fact that the court has today granted these orders – constrained legally, functionally or psychologically. The onus is always on the applicants to justify the order and its language and the court is always willing to adjust the language or amend, vary or delete any term – or indeed to terminate the order if that is the appropriate thing to do. The race is not to the swift and there is no benefit to being on the high ground in the sense of having an order in place which has not been exposed to full debate on an informed basis.

[Emphasis added]

[40] As I have pointed out, the intersection between the Bear Mountain Litigation and the Receivership was not addressed when the Receivership Order was issued. Nor was the notion that the Receivership Order could only be varied on a change in material fact(s). There was no full debate.

[41] At this juncture, I can only determine that it is not clear the way in which the outcome of the Bear Mountain Litigation will affect the distribution of sale proceeds (called the “waterfall”) as between Sanovest and 599 as equity partners contemplated by Developments' partnership agreement; what is certain is that the outcome of the claims in the Bear Mountain Litigation is a critical factor to determining the quantum of the assets currently encompassed within the Receivership and the ultimate distributions to be made.

**Orders Made at the Hearing**

[42] When the initial phase of the hearing concluded on December 1, 2025, I advised the parties that whether or not I varied the Receivership Order to bring the Bear Mountain Litigation within the ambit of the Receivership, I was satisfied that the litigation required case management and interim orders directed at moving the litigation forward in an efficient and proactive manner so as not to hold up the Receivership to the detriment of all stakeholders.

[43] To that end, and with the parties' agreement, I made the following orders in the Bear Mountain Litigation on December 1, 2025: (a) the parties will respond to all outstanding examination for discovery requests by December 12, 2025; (b) the parties will meet and confer on all outstanding document discovery issues by December 19, 2025; (c) the parties will write to each other and to the Court identifying any document discovery or other motions they wish to bring (together with issue identification and time estimates); and (d) any party who is a plaintiff in any action in the Bear Mountain Litigation will deliver trial management briefs by January 16, 2026; any party who is a defendant by January 23, 2026.

**Subsequent Event: Sale of Assets**

[44] The parties returned to court on January 21, 2026 on a sale approval application to advise me that the limited partners – Sanovest, 599, and EBMD – had reached agreement (“Settlement Agreement”) concerning the sale of the Lands and other assets owned by Developments and subsidiary entities (including Resorts) to Groundplay Developments Ltd. (“Groundplay”), an entity involving Mr. Matthews, for just over \$141 million. After reviewing the transaction and hearing the parties' submissions (including submissions grounded on evidence dispelling any concern that the Developments and Resorts partnerships had been inadvertently dissolved), and after being told of the Receiver's recommendation to approve the sale, I granted the order sought and approved the asset purchase agreement (“APA”), as I found the asset sale to be fair and reasonable. It is a significant, positive step in moving the Receivership towards conclusion for the benefit of all stakeholders.

**Disposition**

[45] None of the events following the conclusion of the initial phase of the hearing of this application, including the sale to Groundplay, have altered my assessment that the outcome of the claims in the Bear Mountain Litigation is a critical factor to determining the quantum of the assets currently encompassed within the Receivership and the ultimate distributions to be made.

[46] Even after the APA completes, the outcome of the claims in the Bear Mountain Litigation remains intertwined with the Receivership.

[47] The Receiver will remain involved, as it will need to attend to distributions and holdbacks contemplated by the Settlement Agreement (e.g., \$3.4 million until after the resolution of the claims in the Bear Mountain Litigation), and prepare financial statements and attend to tax filings (for 2025 and for a long and undefined period thereafter).

[48] Moreover, in view of the Settlement Agreement, the Receiver will remain involved to assess: (a) claims that Sanovest and 599 and Mr. Matthews assert for legal expenses incurred in the Bear Mountain Litigation; and (b) any claims Mr. Matthews and 599 assert for management fees, reimbursement of partnership expenses incurred personally by Mr. Matthews or 599, as they are now, per the Settlement Agreement and a claims process order I issued by consent on January 27, 2026, included within the claims process in the Receivership:

[Settlement Agreement]

15. b. Sanovest is entitled to prove a claim for its costs of the [Bear Mountain] Litigation as a claim of Sanovest against Ecoasis [defined to include Developments, EBMD, and Resorts], including, without limitation, under any of its loan agreements;

...

15. d. Mr. Matthews and 599 represent and agree that the maximum amount of any claims they may submit in such claims process will not exceed \$1,000,000 in aggregate.

[Claims Process Order]

24. Notwithstanding anything else in this Claims Process Order, for certainty, pursuant to section 15(d) of the Settlement Agreement, Mr. Daniel

Matthews and 599315 B.C. Ltd. may submit Claims in the Claims Process for: (a) management fees payable by the Ecoasis Entities to Mr. Daniel Matthews or 599315 B.C. Ltd.; or (b) reimbursement by the Ecoasis Entities of partnership expenses personally incurred by Mr. Daniel Matthews or 599315 B.C. Ltd. (including, by way of example, costs of the [Hotel Arbitration]);

[Insertion in square brackets added

[49] Whether claims Mr. Matthews and 599 may present in the claims process, per para. 24(b) of the claims process order, for reimbursement of management fees and expenses are included within the claims to be determined in the Bear Mountain Litigation is a disputed issue. Thus, proving those claims as well as the claims for recovery of legal expenses engages, at a minimum, the risk of inconsistent findings if the Bear Mountain Litigation is determined outside of the Receivership.

[50] I disagree with the submission of 599 and Mr. Matthews that in light of the approved sale to Groundplay, the Bear Mountain Litigation is now “normal commercial litigation” that should follow a step-by-step, and what I took to be a likely drawn-out, path through interlocutory procedures and trial.

[51] Quite apart from the seeming overlap between claims asserted in some of the actions in the Bear Mountain Litigation and the Receivership, given the clear intersection between the Bear Mountain Litigation and the need for a prompt, efficient, and orderly conclusion of the Receivership for the benefit of all stakeholders, the Bear Mountain Litigation must be brought within the ambit of the Receivership.

[52] I also reject the recent assertion, advanced by 599 and Mr. Matthews, that Groundplay will be prejudiced if the order is granted because of the stigma of receivership. Their submission overlooks the fact that Groundplay and the assets it purchased fall outside the Receivership. Their further contention that bringing the Bear Mountain Litigation within the ambit of the Receivership will draw undue public attention to their disputes in the Bear Mountain Litigation is not supported by evidence and moreover, fails to recognize that the litigation and its connection with the Receivership are already public knowledge. Their prejudice submission drives

home the need for as swift a conclusion as possible to the Receivership, as opposed to the point they made about a staged approach in “normal commercial litigation”.

[53] As I said above, this is not a case where a change in material circumstances is required. Even if it were, now that Sanovest and the Receiver have identified matters not previously disclosed arising from the Bear Mountain Litigation that require the Receiver to remain engaged until that litigation is concluded, there is a justifiable basis for Sanovest’s alternative ground for variation – s. 187(5) of the *BIA*. Continuing to exclude the Bear Mountain Litigation outside the ambit of the Receivership would now, in the present circumstances, be an unwarranted departure from the single proceeding model.

[54] Accordingly, the Receivership Order is varied to encompass the Bear Mountain Litigation within the Receivership.

[55] The parties should schedule a further hearing concerning Sanovest’s application to establish summary procedures in the Bear Mountain Litigation.

“P. Walker J.”

No. S-243389  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE RECEIVERSHIP OF  
ECOASIS DEVELOPMENTS LLP AND OTHERS

BETWEEN:

SANOVEST HOLDINGS LTD.

PETITIONER

AND:

ECOASIS DEVELOPMENTS LLP, ECOASIS BEAR  
MOUNTAIN DEVELOPMENTS LTD., ECOASIS RESORT  
AND GOLF LLP, 0884185 B.C. LTD., 0884188 B.C. LTD.,  
0884190 B.C. LTD., 0884194 B.C. LTD., BM 81/82 LANDS  
LTD., BM 83 LANDS LTD., BM 84 LANDS LTD., BM  
CAPELLA LANDS LTD., BM HIGHLANDS GOLF COURSE  
LTD., BM HIGHLANDS LANDS LTD., BM MOUNTAIN GOLF  
COURSE LTD. and BEAR MOUNTAIN ADVENTURES LTD.

RESPONDENTS

**ORDER MADE AFTER APPLICATION**

	)		)	
BEFORE	)	THE HONOURABLE MR. JUSTICE P.	)	29/JAN/2026
	)	WALKER	)	
	)		)	
	)		)	

ON THE APPLICATION of Sanovest Holdings Ltd., Tian Kusumoto, and TRK Investments Corporation, and coming on for hearing at Vancouver, British Columbia, on November 24 and 26, and December 1, 2025, and January 12, 21, and 27, 2026;

AND ON HEARING Andrew Nathanson K.C., Kibben Jackson, Lisa Hiebert, Lars Brusven, Thor Paulson, and Emma Madden-Krasnick, Articled Student, counsel for the Petitioner; Scott Stephens, Malcolm Funt, and Jessica Chan, counsel for 599315 BC Ltd. and Daniel Matthews; W. Eric Pedersen, counsel for Tomoson (Tom) Kusumoto; Peter Rubin, Claire Hildebrand, and Encina Roh, counsel for Alvarez & Marsal; and Jef Poulsen, counsel for Royal Bank of Canada;

AND ON READING the material filed herein;

AND JUDGMENT BEING RESERVED TO THIS DATE;

**THE COURT ORDERS AND DIRECTS** that:

1. This Court's September 18, 2024 Order (the "**Receivership Order**") is varied such that the Oppression Litigation, as defined in the Receivership Order, shall form part of the proceedings in No. S-243389 (the "**Receivership Proceedings**") and will be subject to the control and direction of this Court in the Receivership Proceedings.
2. Notwithstanding paragraph 1 of this Order, the Oppression Litigation shall not be stayed, and the Receiver shall continue to have no obligation to manage or otherwise participate in the Oppression Litigation, subject to further order this Court.
3. The parties to the Oppression Litigation shall schedule a further hearing concerning Sanovest's application to establish summary procedures in the Oppression Litigation.

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4. Endorsement of this Order by counsel appearing on this application other than counsel for the Petitioner, counsel for 599315 B.C. Ltd. and Daniel Matthews, and counsel for the Receiver is dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

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Signature of Andrew Nathanson, K.C.  
Lawyer for Sanovest Holdings Ltd., Tian  
Kusumoto, and TRK Investments  
Corporation

---

Signature of Malcom Funt  
Lawyer for 599315 BC Ltd. and Daniel  
Matthews in Action Nos. S223937, S226218,  
S234047, and S234048

---

Signature of Scott Stephens  
Lawyer for 599315 BC Ltd. and Daniel  
Matthews in Action No. S243389

---

Signature of Peter Rubin  
Lawyer for Alvarez & Marsal

BY THE COURT

---

REGISTRAR

No. S243389  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

SANOVEST HOLDINGS LTD.

PETITIONER

AND:

ECOASIS DEVELOPMENTS LLP ET AL  
RESPONDENTS

---

**ORDER MADE AFTER APPLICATION**

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**FASKEN MARTINEAU DuMOULIN LLP**

Barristers and Solicitors  
550 Burrard Street, Suite 2900  
Vancouver, BC, V6C 0A3  
+1 604 631 3131

Counsel: Andrew Nathanson, K.C.  
E-mail: [anathanson@fasken.com](mailto:anathanson@fasken.com)  
Matter No: 329480.00001/14082



No. S-243389  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE RECEIVERSHIP OF  
ECOASIS DEVELOPMENTS LLP AND OTHERS

**BETWEEN:**

**SANOVEST HOLDINGS LTD.**

**PETITIONER**

**AND:**

**ECOASIS DEVELOPMENTS LLP,  
ECOASIS BEAR MOUNTAIN DEVELOPMENTS LTD.,  
ECOASIS RESORT AND GOLF LLP,  
0884185 B.C. LTD.,  
0884188 B.C. LTD.,  
0884190 B.C. LTD.,  
0884194 B.C. LTD.,  
BM 81/82 LANDS LTD.,  
BM 83 LANDS LTD.,  
BM 84 LANDS LTD.,  
BM CAPELLA LANDS LTD.,  
BM HIGHLANDS GOLF COURSE LTD.,  
BM HIGHLANDS LANDS LTD.,  
BM MOUNTAIN GOLF COURSE LTD., and  
BEAR MOUNTAIN ADVENTURES LTD.**

**RESPONDENTS**

**ORDER MADE AFTER APPLICATION**

BEFORE THE HONOURABLE

MR. JUSTICE WALKER

September 18, 2024

ON THE APPLICATION of the Petitioner for an Order pursuant to Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and Section 39 of the *Law and Equity Act*, R.S.B.C. 1996 c. 253, as amended (the "LEA") appointing Alvarez & Marsal Canada Inc. as receiver and manager (in such capacity, the "Receiver") without security, of certain lands of the Respondent Bear Mountain Adventures Ltd. ("BMA"), any interests in real

property of Ecoasis Resort and Golf LLP ("**Resorts**") and all of the assets, undertakings and property of the Respondents Ecoasis Developments LLP ("**EDL**"), Ecoasis Bear Mountain Developments Ltd. ("**EBMD**"), 0884185 B.C. Ltd., 0884188 B.C. Ltd., 0884190 B.C. Ltd., 0884194 B.C. Ltd., BM 81/82 Lands Ltd., BM 83 Lands Ltd., BM 84 Lands Ltd., BM Capella Lands Ltd., BM Highlands Golf Course Ltd., BM Highlands Lands Ltd. and BM Mountain Golf Course Ltd. (collectively, the "**Development Entities**" and together with BMA and Resorts, the "**Ecoasis Entities**"), coming on for hearing this day at Vancouver, British Columbia and with the consent of 599315 B.C. Ltd and Daniel Matthews.

AND ON READING the material filed, including the Affidavit #1 of Tian Kusumoto made May 22, 2024, the Affidavit #1 of Suzanne Volkow made May 16, 2024 and the consent of Alvarez & Marsal Canada Inc. to act as the Receiver; AND ON HEARING Kibben Jackson and Lisa Hiebert, counsel for the Petitioner Craig A.B. Ferris, K.C. and William L. Roberts, counsel for 599315 B.C. Ltd. and Daniel Matthews and those other counsel as listed on Schedule "A" hereto, and no one else appearing, although duly served.

THIS COURT ORDERS AND DECLARES that:

#### APPOINTMENT

1. Pursuant to Section 243(1) of the BIA and Section 39 of the LEA, Alvarez & Marsal Canada Inc. is appointed Receiver, without security, of:
  - (a) those lands having a legal description of:
 

Lot A District Lot 82 Highland District Plan EPP70640, PID: 030-726-123

including all proceeds and any personal property related to or derived from those lands (the "**Gondola Lands**");
  - (b) all of the assets, undertakings and property of the Development Entities, including all proceeds, but excluding any interest in the Oppression Litigation (as defined in paragraph 13); and
  - (c) any interests in real property of Resorts, including all proceeds  
(collectively, the "**Property**").
  
2. Until further Order, this appointment shall not include or extend to:
  - (a) the Oppression Litigation (as defined in paragraph 13), and, for clarity and notwithstanding anything else in this Order, subject to further order of this Court, the Receiver shall have no obligation to manage or otherwise participate in the Oppression Litigation ~~on behalf of EBMD~~; and
  - (b) Resorts' operations and business (the "**Resorts Business**") which, subject to further order of this Court, shall continue to be managed by EBMD, provided that EBMD and Resorts are required to provide access and cooperation to the Receiver pursuant

to paragraphs 7 to 10 of this Order, including in respect of Resorts and the Resorts Business. For greater clarity, the Resorts Business does not include the ownership, disposition or encumbrance of any interests in real property.

### RECEIVER'S POWERS

3. The Receiver is empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
  - (a) to take possession of and exercise control over the Property and any and all receipts and disbursements arising out of or from the Property;
  - (b) to receive, preserve and protect the Property, or any part or parts thereof, including, but not limited to, changing locks and security codes, relocation of Property, engaging independent security personnel, taking physical inventories and placing insurance coverage;
  - (c) to manage, operate and carry on the business of the Development Entities, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Development Entities or of BMA in respect of the Gondola Lands;
  - (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including, without limitation, those conferred by this Order;
  - (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Development Entities or any part or parts thereof;
  - (f) to receive and collect all monies and accounts now owed or hereafter owing to the Development Entities and BMA and to exercise all remedies of the Development Entities and BMA in collecting these amounts, including, without limitation, enforcement of any security held by the Development Entities and BMA, provided that in respect of BMA this shall apply only to monies and accounts in respect of the Gondola Lands;
  - (g) to settle, extend or compromise any indebtedness owing to BMA in respect of the Gondola Lands or to the Development Entities;
  - (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Development Entities, for any purpose pursuant to this Order;

- (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Development Entities;
- (j) to initiate, manage and direct all legal proceedings now pending or hereafter pending (including appeals or applications for judicial review) in respect of the Development Entities, the Property or the Receiver, including initiating, prosecuting, continuing, defending, settling or compromising the proceedings;
- (k) subject to paragraph 6, to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver considers appropriate;
- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business:
  - (i) without the approval of this Court in respect of a single transaction for consideration up to \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$200,000; and
  - (ii) with the approval of this Court in respect of any transaction in which the individual or aggregate purchase price exceeds the limits set out in subparagraph (i) above,and in each such case notice under Section 59(10) of the *Personal Property Security Act*, R.S.B.C. 1996, c. 359 shall not be required;
- (m) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers, free and clear of any liens or encumbrances;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver considers appropriate on all matters relating to the Property and the receivership, and to share information, subject to confidentiality terms as the Receiver considers appropriate;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if considered necessary or appropriate by the Receiver, in the name of BMA, in respect of the Gondola Lands or in the name of the Development Entities;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Development Entities, or BMA in respect of the Gondola Lands, including, without limitation, the ability to enter into occupation agreements for any property owned or leased by the Development Entities, or by BMA in respect of the Gondola Lands;

- (r) to exercise any shareholder, partnership, joint venture or other rights which the Development Entities may have; and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Ecoasis Entities, and without interference from any other Person.

#### **RECEIVER'S REPORTING AND SUBSEQUENT HEARING DATE**

4. On or before Friday, October 25, 2024, the Receiver shall deliver a report and recommendation regarding Resorts, including the inclusion of other assets, undertakings and properties of Resorts, management by EBMD of the Resorts Business and whether EBMD ought to continue to manage the Resorts Business and, if so, on what terms, if any (the "**Report**").
5. A hearing for the Receiver's counsel to speak to the Report, and for any applications resulting from the Report or any ancillary relief, shall be held at the Courthouse at 800 Smithe Street, Vancouver BC at 10:00am on the 6<sup>th</sup> day of November 2024, or such other date as this Court may order.
6. On or before Monday, December 2, 2024, or such other date as this Court may order, the Receiver shall deliver a report in respect of a marketing and sale process, to be approved by the Court, and shall only market or sell the Property or business in accordance with that marketing and sale process, except for the sale of Property within the limits in paragraph 3(l)(i).

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

7. Each of (i) the Ecoasis Entities; (ii) all of the Ecoasis Entities' current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf; and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (collectively, "**Persons**" and each a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependent on maintaining possession) to the Receiver upon the Receiver's request.
8. All Persons, other than governmental authorities, shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Development Entities or the Gondola Lands, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (collectively, the "**Records**") in that Person's possession or control. Upon

request, governmental authorities shall advise the Receiver of the existence of any Records in that Person's possession or control.

9. Upon request, all Persons shall provide to the Receiver or permit the Receiver to make, retain and take away copies of the Records and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities, provided however that nothing in paragraphs 8, 9 or 10 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to solicitor client privilege or statutory provisions prohibiting such disclosure.
10. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by an independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may require including, without limitation, providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

11. No proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE DEVELOPMENT ENTITIES OR THE PROPERTY**

12. No Proceeding against or in respect of the Development Entities or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Development Entities or the Property are stayed and suspended pending further Order of this Court; provided, however, that nothing in this Order shall prevent any Person from commencing a Proceeding regarding a claim that might otherwise become barred by statute or an existing agreement if such Proceeding is not commenced before the expiration of the stay provided by this paragraph and provided that no further step shall be taken in respect of the Proceeding except for service of the initiating documentation on the Development Entities and the Receiver.
13. Notwithstanding paragraphs 3(g), 3(j), 12 and 14, subject to further order of this Court, this Order shall not in any way impact the litigation in Action Nos. (Vancouver Registry) S223937, S226218, S234047 and S234048 (collectively, the "**Oppression Litigation**") or

the arbitration proceedings between Ecoasis Resort and Golf LLP and Bear Mountain Resort & Spa Ltd., BM Management Holdings Ltd. and BM Resort Assets Ltd.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

14. All rights and remedies (including, without limitation, set-off rights) against the Development Entities, the Receiver, or affecting the Property, are stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that nothing in this Order shall (i) empower the Receiver or the Development Entities to carry on any business which the Development Entities is not lawfully entitled to carry on, (ii) affect the rights of any regulatory body as set forth in section 69.6(2) of the BIA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien. This stay and suspension shall not apply in respect of any "eligible financial contract" as defined in the BIA.

#### **NO INTERFERENCE WITH THE RECEIVER**

15. No Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Development Entities, without written consent of the Receiver or leave of this Court. Nothing in this Order shall prohibit any party to an eligible financial contract from closing out and terminating such contract in accordance with its terms.

#### **CONTINUATION OF SERVICES**

16. All Persons having oral or written agreements with the Development Entities or EBMD in its capacity as EDL's managing partner, or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Development Entities or EBMD are restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and the Receiver shall be entitled to the continued use of the Development Entities's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Development Entities or EBMD in its capacity as EDL's managing partner, or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

#### **RECEIVER TO HOLD FUNDS**

17. All funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever including, without limitation, the sale of all or any of the Property and the collection of any accounts receivable, in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post-Receivership Accounts**") and the monies standing to

the credit of such Post-Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further order of this Court.

## EMPLOYEES

18. Subject to the employees' right to terminate their employment, all employees of the Development Entities shall remain the employees of the Development Entities until such time as the Receiver, on the Development Entities' behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities of the Development Entities, including any successor employer liabilities as referred to in Section 14.06(1.2) of the BIA, other than amounts the Receiver may specifically agree in writing to pay or in respect of obligations imposed specifically on receivers by applicable legislation, including sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*, S.C. 2005, c.47. The Receiver shall be liable for any employee-related liabilities, including wages, severance pay, termination pay, vacation pay, and pension or benefit amounts relating to any employees that the Receiver may hire in accordance with the terms and conditions of such employment by the Receiver.

## PERSONAL INFORMATION

19. Pursuant to Section 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 or Section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c. 63, the Receiver may disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Development Entities, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

## LIMITATION ON ENVIRONMENTAL LIABILITIES

20. Nothing in this Order shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release, or deposit of a substance contrary to any federal, provincial or other law relating to the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination (collectively "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation.

21. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless the Receiver is actually in possession.
22. Notwithstanding anything in federal or provincial law, the Receiver is not personally liable in that position for any environmental condition that arises or environmental damage that occurred:
  - (a) before the Receiver's appointment; or,
  - (b) after the Receiver's appointment, unless it is established that the condition arose or the damage occurred as a result of the Receiver's gross negligence or wilful misconduct.
23. Notwithstanding anything in federal or provincial law, but subject to paragraph 22 of this Order, where an order is made which has the effect of requiring the Receiver to remedy any environmental condition or environmental damage affecting the Property, if the Receiver complies with the BIA section 14.06(4), the Receiver is not personally liable for the failure to comply with the order and is not personally liable for any costs that are or would be incurred by any Person in carrying out the terms of the order.

#### **LIMITATION ON THE RECEIVER'S LIABILITY**

24. The Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except:
  - (a) any gross negligence or wilful misconduct on its part; or
  - (b) amounts in respect of obligations imposed specifically on receivers by applicable legislation.

Nothing in this Order shall derogate from the protections afforded the Receiver by Section 14.06 of the BIA or by any other applicable legislation.

#### **RECEIVER'S ACCOUNTS**

25. The Receiver and its legal counsel, if any, are granted a charge (the "**Receiver's Charge**") on the Property as security for the payment of their fees and disbursements, in each case at their standard rates, in respect of these proceedings, whether incurred before or after the making of this Order. The Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to Sections 14.06(7), 81.4(4), and 81.6(2) of the BIA and the mortgage registered against certain of the Ecoasis Entities' real property in favour of HSBC Trust Company (Canada) under Charge No. CA3393750.

26. The Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are referred to a judge of the Supreme Court of British Columbia and may be heard on a summary basis.
27. Prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### FUNDING OF THE RECEIVERSHIP

28. The Receiver is authorized and empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$2,500,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as the Receiver deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge, the charges as set out in Sections 14.06(7), 81.4(4), and 81.6(2) of the BIA, and the mortgage registered against certain of the Ecoasis Entities' real property in favour of HSBC Trust Company (Canada) under Charge No. CA3393750.
29. Neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.
30. The Receiver is authorized to issue certificates substantially in the form annexed as **Schedule "B"** hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.
31. The monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.
32. The Receiver is authorized and empowered, but not required, to advance funds to EBMD and Resorts, and the Receiver is hereby granted a charge over all of the assets, undertakings and properties of EBMD and Resorts (the "**Resorts Funding Charge**") as security for the repayment of any such advances, together with any interest and charges thereon. The Resorts Funding Charge shall rank in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the mortgage registered against certain of the Ecoasis

Entities' real property in favour of HSBC Trust Company (Canada) under Charge No. CA3393750. For greater clarity, such advances shall be within the borrowing limits set by paragraph 28.

## ALLOCATION

33. Any interested party may apply to this Court on notice to any other party likely to be affected for an order allocating the Receiver's Charge and Receiver's Borrowings Charge amongst the Property.

## SERVICE AND NOTICE OF MATERIALS

34. The Receiver shall establish and maintain a website in respect of these proceedings at: [www.alvarezandmarsal.com/ecoasisdevelopments](http://www.alvarezandmarsal.com/ecoasisdevelopments) (the "**Website**") and shall post there as soon as practicable:
- (a) all materials prescribed by statute or regulation to be made publicly available, including pursuant to Rule 10-2 of the *Supreme Court Civil Rules*; and,
  - (b) all applications, reports, affidavits, orders and other materials filed in these proceedings by or on behalf of the Receiver, except such materials as are confidential and the subject of a sealing order or pending application for a sealing order.
35. Any Person who is served with a copy of this Order and that wishes to be served with any future application or other materials in these proceedings must provide to counsel for the Receiver a demand for notice in the form attached as **Schedule "C"** (the "**Demand for Notice**"). The Receiver need only provide further notice in respect of these proceedings to Persons that have delivered a properly completed Demand for Notice. The failure of any Person to provide a properly completed Demand for Notice releases the Receiver from any requirement to provide further notice in respect of these proceedings until such Person delivers a properly completed Demand for Notice. The Receiver shall maintain a service list identifying all parties that have delivered a properly completed Demand for Notice (the "**Service List**"). The Receiver shall post and maintain an up-to-date form of the Service List on the Website.
36. Any interested party, including the Receiver, may serve any court materials in these proceedings by facsimile or by emailing a PDF or other electronic copy of such materials to the numbers or addresses, as applicable, set out on the Service List. Any interested party, including the Receiver, may serve any court materials in these proceedings by mail to any party on the Service List that has not provided a facsimile number or email address, and materials delivered by mail shall be deemed received five (5) days after mailing.
37. Notwithstanding paragraph 36 of this Order, service of the Petition and any affidavits filed in support shall be made on the Federal and British Columbia Crowns in accordance with the *Crown Liability and Proceedings Act*, R.S.C. 1985, c.C-50 and its regulations for the Federal Crown and the *Crown Proceedings Act*, R.S.B.C. 1996 c.89 in respect of the British Columbia Crown.

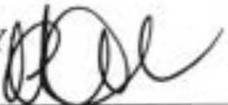
38. The Receiver and its counsel are authorised to serve or distribute this Order, any other orders and any other materials as may be reasonably required in these proceedings, including any notices or other correspondence, by forwarding copies by facsimile or by email to the Ecoasis Entities' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of any legal or juridical obligation and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*.

#### **GENERAL**

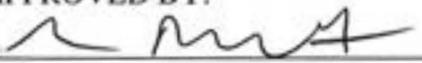
39. Any interested party may apply to this Court to vary or amend this Order on not less than seven (7) clear business days' notice to the Service List and to any other party who may be affected by the variation or amendment, or upon such other notice, if any, as this Court may order.
40. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
41. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Ecoasis Entities.
42. This Court requests the aid, recognition and assistance of any court, tribunal, regulatory or administrative body having jurisdiction, wherever located, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All such courts, tribunals and regulatory and administrative bodies are respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.
43. The Receiver is authorized and empowered to apply to any court, tribunal or regulatory or administrative body, wherever located, for recognition of this Order and for assistance in carrying out the terms of this Order and the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

44. Endorsement of this Order by counsel appearing on this application other than the Petitioner and counsel for 599315 B.C. Ltd. is dispensed with.

THE FOLLOWING PARTIES APPROVE OF THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

APPROVED BY   
\_\_\_\_\_

Signature of Kibben Jackson/Lisa Hiebert  
lawyer for the Petitioner

APPROVED BY:  
  
\_\_\_\_\_

Signature of Craig A.B. Ferris, K.C./William  
L. Roberts, lawyer for 599315 B.C. Ltd. and  
Daniel Matthews

BY THE COURT   
DISTRICT REGISTRAR



**SCHEDULE "A"**  
**LIST OF COUNSEL**

<b>Counsel/Person Appearing</b>	<b>Party Represented</b>
Andrew Nathanson, K.C. Kibben Jackson Lisa Hiebert Daniel Byma (appearing on September 10, 11 and 12 only)	Sanovest Holdings Ltd.
Craig A.B. Ferris, K.C. (appearing on September 10, 11 and 12 only) William L. Roberts Gordon Brandt Caitlin Ohama-Darcus	599315 B.C. Ltd. and Daniel Matthews
Peter Rubin (appearing on September 12, 17 and 18 only)	The proposed receiver, Alvarez & Marsal Canada Inc.

**SCHEDULE "B"**  
**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT

\$ \_\_\_\_\_

1. THIS IS TO CERTIFY that Alvarez & Marsal Canada Inc., as receiver and manager (the "**Receiver**") of certain lands of the Respondent Bear Mountain Adventures Ltd. ("**BMA**"), any interests in real property of Ecoasis Resort and Golf LLP ("**Resorts**") and all of the assets, undertakings and property of the Respondents Ecoasis Developments LLP, Ecoasis Bear Mountain Developments Ltd., 0884185 B.C. Ltd., 0884188 B.C. Ltd., 0884190 B.C. Ltd., 0884194 B.C. Ltd., BM 81/82 Lands Ltd., BM 83 Lands Ltd., BM 84 Lands Ltd., BM Capella Lands Ltd., BM Highlands Golf Course Ltd., BM Highlands Lands Ltd. and BM Mountain Golf Course Ltd. (collectively, the "**Development Entities**" and together with BMA and Resorts, the "**Ecoasis Entities**") acquired for, or used in relation to a business carried on by the Development Entities, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Supreme Court of British Columbia and/or the Supreme Court of British Columbia (In Bankruptcy and Insolvency) (the "**Court**") dated the 18th day of September, 2024 (the "**Order**") made in SCBC Action No. S-243389 has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$2,500,000 which the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded ~~daily~~ monthly not in advance on the \_\_\_\_\_ day of each month after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of \_\_\_\_\_ from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of the Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at \_\_\_\_\_.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.
7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum under this Certificate in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_ day of \_\_\_\_\_, 2024.

Alvarez & Marsal Canada Inc., solely in its capacity as Receiver of the Property, and not in its personal capacity

Per:  
Name:  
Title:

**Schedule "C"  
Demand for Notice**

**TO: Alvarez & Marsal Canada Inc.**  
925 West Georgia St  
Vancouver BC V6C 3L2  
Attention: Anthony Tillman and Pinky Law  
Email: atillman@alvarezandmarsal.com and pinky.law@alvarezandmarsal.com

**AND TO: Blakes Cassels & Graydon LLP**  
3500 – 1133 Melville Street  
Vancouver BC V6E 4E5  
Attention: Peter Rubin  
Email: peter.rubin@blakes.com

**Re: In the matter of the Receivership of Ecoasis Developments LLP and others (Action No. S-243389)**

I hereby request that notice of all further proceedings in the above Receivership be sent to me in the following manner:

- 1. By email, at the following address (or addresses):

\_\_\_\_\_

OR

- 2. By facsimile, at the following facsimile number (or numbers):

\_\_\_\_\_

OR

- 3. By mail, at the following address:

\_\_\_\_\_

Name of Creditor: \_\_\_\_\_

Name of Counsel (if any): \_\_\_\_\_

Creditor's Contact Address: \_\_\_\_\_

\_\_\_\_\_

Creditor's Contact Phone Number: \_\_\_\_\_

Action No.

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IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE RECEIVERSHIP OF  
ECOASIS DEVELOPMENTS LLP and others

BETWEEN:

SANOVEST HOLDINGS LTD.

Petitioner

- and -

ECOASIS DEVELOPMENTS LLP and others

Respondents

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**RECEIVERSHIP ORDER**

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**FASKEN MARTINEAU DuMOULIN LLP**

Barristers and Solicitors  
550 Burrard Street, Suite 2900  
Vancouver, BC, V6C 0A3  
+1 604 631 3131

Counsel: Lisa Hiebert  
E-mail: lhiebert@fasken.com

Matter No: 329480.00004

This is the 8<sup>th</sup> Affidavit of Daniel Matthews in this case and was made on November 26, 2025

NO. S-243389  
VANCOUVER REGISTRY



**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE RECEIVERSHIP OF  
ECOASIS DEVELOPMENTS LLP AND OTHERS**

**BETWEEN:**

**SANOVEST HOLDINGS LTD.**

**PETITIONER**

**AND:**

**ECOASIS DEVELOPMENTS LLP, ECOASIS BEAR MOUNTAIN DEVELOPMENTS LTD., ECOASIS RESORT AND GOLF LLP, 0884185 B.C. LTD., 0884188 B.C. LTD., 0884190 B.C. LTD., 0884194 B.C. LTD., BM 81/82 LANDS LTD., BM 83 LANDS LTD., BM 84 LANDS LTD., BM CAPELLA LANDS LTD., BM HIGHLANDS GOLF COURSE LTD., BM HIGHLANDS LANDS LTD., BM MOUNTAIN GOLF COURSE LTD. and BEAR MOUNTAIN ADVENTURES LTD.**

**RESPONDENTS**

**AFFIDAVIT #8 of DANIEL MATTHEWS**

I, **Daniel Matthews**, businessman, c/o 505 – 1168 Hamilton Street, in the City of Vancouver, in the Province of British Columbia, AFFIRM THAT:

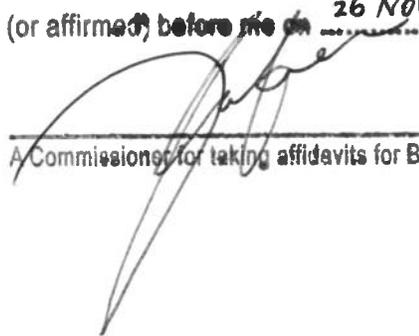
1. I am the president and a director of 599315 B.C. Ltd. ("**599**"), which is the equal partner to the petitioner Sanovest Holdings Ltd. ("**Sanovest**") in the respondent Ecoasis Developments LLP (the "**Partnership**"). I am also a director of the

respondent Ecoasis Bear Mountain Developments Ltd. (“**EBMD**”), which is the managing partner of the Partnership and of Ecoasis Resort and Golf LLP (the “**Resort Partnership**”), and I am a director of the other respondent companies. In the foregoing capacities, I have personal knowledge of the facts and matters hereinafter deposed to, save and except where the same are stated to be made upon information and belief, and, as to such facts, I verily believe the same to be true.

2. On November 25, 2025, the Receiver filed a Notice of Application for an Approval and Vesting order, approving the Asset Purchase Agreement of Groundplay Developments Ltd. (an affiliated entity to 599 and myself) as Purchaser and 599 as guarantor. Attached as **Exhibit “A”** is a copy of the Notice of Application by the Receiver filed in the within proceedings on November 25, 2025.
3. The Receiver is supportive of the Groundplay bid submitted in the SISP. This is a transaction worth over \$141 million. The bid includes sufficient funds to pay all creditors, including all of the secured and unsecured debt and all trade creditors.
4. As I experienced firsthand when purchasing the Bear Mountain Assets in 2013, shaking off the stigma of a court-ordered bankruptcy, even with a clean break, was a long and costly process.
5. The cloud of uncertainty and instability created from the continued association with a receivership process could create a challenging environment for the future owner’s resort and real estate business and the resale of existing homeowner properties in the Bear Mountain community of over 3000 residents. The community and other stakeholders should not be unfairly burdened by this.
6. Lenders and appraisers, prefer trouble-free environments, and a continued association with the receivership process could signal potential problems and lead to millions in value destruction.



This is Exhibit "A" referred to in the affidavit  
of D: MATTHEWS sworn  
(or affirmed) before me on 26 NOV 2025

  
A Commissioner for taking affidavits for British Columbia

**FORCE FILED**No. S-243389  
Vancouver RegistryIN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCYIN THE MATTER OF THE RECEIVERSHIP OF  
ECOASIS DEVELOPMENTS LLP AND OTHERS

BETWEEN:

**SANOVEST HOLDINGS LTD.**

PETITIONER

AND:

**ECOASIS DEVELOPMENTS LLP, ECOASIS BEAR MOUNTAIN DEVELOPMENTS LTD., ECOASIS RESORT AND GOLF LLP, 0884185 B.C. LTD., 0884188 B.C. LTD., 0884190 B.C. LTD., 0884194 B.C. LTD., BM 81/82 LANDS LTD., BM 83 LANDS LTD., BM 84 LANDS LTD., BM CAPELLA LANDS LTD., BM HIGHLANDS GOLF COURSE LTD., BM HIGHLANDS LANDS LTD., BM MOUNTAIN GOLF COURSE LTD., and BEAR MOUNTAIN ADVENTURES LTD.**

RESPONDENTS

**NOTICE OF APPLICATION**

**Name of applicant:** Alvarez & Marsal Canada Inc. ("**A&M**"), in its capacity as Court-appointed "**Receiver**", without security, of certain lands of Bear Mountain Adventures Ltd., of the property and all of the operations and business of Ecoasis Resort and Golf LLP, and all the assets, undertakings and property of Ecoasis Developments LLP, Ecoasis Bear Mountain Developments Ltd., 0884185 B.C. Ltd., 0884188 B.C. Ltd., 0884190 B.C. Ltd., 0884194 B.C. Ltd., BM 81/82 Lands Ltd., BM 83 Lands Ltd., BM 84 Lands Ltd., BM Capella Lands Ltd., BM Highlands Golf Course Ltd., BM Highlands Lands Ltd., and BM Mountain Golf Course Ltd. (collectively, "**Ecoasis**")

To: The Service List

TAKE NOTICE that an application will be made by the Receiver to the Court at the courthouse at 800 Smithe Street, Vancouver, British Columbia on December 1, 2025, at 10 a.m., for the orders set out in Part 1 below.

The Receiver estimates that the application will take 1 day.

This matter is not within the jurisdiction of an associate judge. Justice Walker is seized of this matter.

**Part 1: ORDERS SOUGHT**

1. The Receiver seeks the following orders:

- (a) an **"Approval and Vesting Order"**, substantially in the form attached as **Schedule "A"** hereto, approving the Asset Purchase Agreement (the **"Groundplay APA"**) among the Receiver, in its capacity as receiver of Ecoasis, as vendor, Groundplay Developments Ltd., as purchaser (the **"Purchaser"**), and 599315 B.C. Ltd. (**"599"**), as guarantor (collectively, the **"Proposed Transaction"**); and
  - (b) a **"Sealing Order"**, sealing the confidential supplemental report (the **"Confidential Supplement"**) to the Eighth Report of the Receiver dated November 24, 2025 (the **"Eighth Report"**) on the court file.
2. The Receiver may also seek such other orders as counsel for the Receiver may advise and this Court may deem appropriate in the circumstances.

## **Part 2: FACTUAL BASIS**

3. Capitalized terms not otherwise defined in this Notice of Application have the meanings ascribed to them in the Receivership Order, the Amended Receivership Order, the SISP Order (each as defined below) or the Groundplay APA, as applicable.

### **Background**

4. On September 18, 2024, on the application of Sanovest Holdings Ltd. (**"Sanovest"**), the secured lender in these receivership proceedings, this Court granted an order (the **"Receivership Order"**), among other things, appointing A&M as Receiver of:
- (a) all of the assets, undertakings and property of Ecoasis Developments LLP (**"Developments LLP"**), Ecoasis Bear Mountain Developments Ltd. (**"EBMD"**), 0884185 B.C. Ltd., 0884188 B.C. Ltd., 0884190 B.C. Ltd., 0884194 B.C. Ltd., BM 81/82 Lands Ltd., BM 83 Lands Ltd., BM 84 Lands Ltd., BM Capella Lands Ltd., BM Highlands Golf Course Ltd., BM Highlands Lands Ltd. and BM Mountain Golf Course Ltd. (collectively, **"Developments"**);
  - (b) any interests in real property owned by Ecoasis Resort and Golf LLP (**"Resorts"**); and
  - (c) certain real property owned by Bear Mountain Adventures Ltd. (**"BMA"**).
5. On July 10, 2025, on the application of Sanovest, this Court expanded the Receivership Order (the **"Amended Receivership Order"**) to appoint A&M as Receiver of all the operations and business of Resorts. This included Resorts' interest in the arbitration proceedings between Resorts and Bear Mountain Resort & Spa Ltd., BM Management Holdings Ltd., and BM Resort Assets Ltd. (the **"Hotel Arbitration"**).
6. On July 15, 2025, this Court granted a **"SISP Order"** approving a sale and investment solicitation process (the **"SISP"**) with respect to the property and business operations of Ecoasis. The subsequent implementation of the SISP by the Receiver is described in greater detail below.

### **Ecoasis's Business Operations and Structure**

7. Ecoasis owns and operates a resort community (the "**Bear Mountain Resort**"), which straddles the City of Langford and the District of Highlands on Vancouver Island. Ecoasis also owns 28 parcels of land, ranging from undeveloped to fully developed (the "**Real Property**").

8. There are two primary aspects to the Ecoasis business:

- (a) the "**Resorts Business**", which operates the two golf courses, a driving range and 10,000 sq.ft. of putting greens, indoor/outdoor tennis courts, food and beverage outlets, a Pro Shop, and golf club storage. The Pro Shop, golf club storage, and limited food and beverage services are operated out of the Bear Mountain activity center (the "**BMAC**") facility. The BMAC, which includes a gym and heated outdoor pool and hot tub, is not subject to these receivership proceedings and is owned by BMA; and
- (b) the "**Developments Business**" (together with the Resorts Business, the "**Business**"), which is the real estate sales and development arm of Ecoasis. The Developments Business's assets include the land from which the Resorts Business operates and all the developable land.

9. Since 2013, Bear Mountain Resort has been owned and operated by Sanovest, 599, and EBMD, through Developments LLP, a limited liability partnership. Mr. Tian Kusumoto is a director of Sanovest and EBMD, as well as the CFO of EBMD. Mr. Daniel Matthews is the director and president of 599 as well as the President, CEO and director of EBMD. Both Mr. Kusumoto and Mr. Matthews are directors of Developments and BMA. An organizational chart identifying the relationships of the parties referenced herein is attached as **Schedule "B"** to this Notice of Application.

10. 599, Mr. Matthews, and Sanovest are collectively referred to as the "**Shareholders**" in this Notice of Application.

### ***Litigation Proceedings***

11. Since in or around 2021, Sanovest and 599 have had a number of disagreements relating to Ecoasis's Business. This has resulted in ongoing litigation, which includes:

- a) No. S-234048, an action brought by 599 and Mr. Matthews against Developments LLP, Resorts, and EBMD, wherein 599 and Mr. Matthews alleged, among other matters, that Sanovest and Mr. Tian Kusumoto have stymied the operations of EBMD and the Bear Mountain Project and wrongfully and oppressively prevented the sale of development land owned by Ecoasis to gain control and benefit financially (the "**Oppression Action**");
- b) No. S-234047, an action brought by 599, Resorts, and Developments LLP against Sanovest, Tian Kusumoto, TRK Investments Corporation (Mr. Tian Kusumoto's investment company), and EBMD alleging, among other matters, breaches of the partnership agreements and duties as partners (the "**Partnership Action**");
- c) No. S-223937, an action brought by Sanovest against Mr. Matthews and Mr. Tom Kusumoto (Mr. Tian Kusumoto's father and a former director of Sanovest), wherein Sanovest advanced claims against, amongst others, Mr. Tom Kusumoto and Mr. Matthews regarding allegedly self-interested transactions and wrongdoings in their

capacities as directors of EBMD and with respect to Developments LLP's affairs (the "**Sanovest Action**"); and

- d) No. S-226218, an action brought by Mr. Tom Kusumoto against Mr. Matthews in which Mr. Tom Kusumoto sought judgment against Mr. Matthews in respect of alleged loans that Mr. Tom Kusumoto advanced to Mr. Matthews within the context of their business relationship in Developments LLP

(collectively, the "**Litigation Proceedings**").

12. The allegations, claims, and counterclaims in the above noted legal proceedings have not been proven, and the Receiver understands that a trial in respect of the above has been set to commence in January 2027.

13. One point of contention in the Litigation Proceedings was the amount owing to Sanovest as secured lender to Developments LLP, with Sanovest having previously financed Resorts and Developments LLP's acquisition of the assets associated with the Bear Mountain Project in October 2013. This Court declared pursuant to an Order dated November 12, 2025 that Developments, Developments LLP, and Resorts owed Sanovest \$62,251,535.35 of secured debt as of November 10, 2025, plus \$4,992,563.84 of unsecured debt as of December 31, 2025.

#### ***The SISP***

14. As set out above, this Court approved the SISP in July of this year, which has been implemented by the Receiver, in consultation with Placemark Design Studio Inc. ("**Placemark**") and Colliers Macaulay Nicolls Inc. ("**Colliers**" or the "**Sales Agent**"), and has resulted in the Proposed Transaction now before the Court.

15. In developing the SISP, the Receiver worked extensively with Placemark, a multi-disciplinary design and development studio, specializing in community planning, urban design, land development and resort design.

16. Placemark was selected by the Receiver following the Receiver's review of various proposals from consultants with experience in design, consultation and implementation of master planned communities. Placemark was engaged by the Receiver to assess the development assets of Bear Mountain Resort and to advance a master planning report (the "**Placemark Report**"), intended to aid in the development of the SISP and related market approach. The Receiver also consulted with each of the Shareholders regarding the Placemark Report and a sales and marketing strategy.

17. The Receiver also engaged Colliers as a Sales Agent for the purpose of the SISP, in consultation with the Shareholders and after soliciting marketing proposals from three potential brokers. Colliers, who has extensive experience in the sale of resorts, development projects, and commercial retail spaces, also assisted with the development and implementation of the SISP.

18. The SISP was divided into two phases. The following table sets out the target milestones under the SISP (with capitalized terms as defined in the SISP):

PHASE	TARGET DATE
Commencement of SISP	July 22, 2025

PHASE	TARGET DATE
Letter of Intent Deadline	September 16, 2025
Commencement of Final Bid Process	September 22, 2025
Final Bid Deadline	November 3, 2025
Auction or other process (If Applicable)	No later than November 17, 2025
Final Agreement Deadline	November 28, 2025
Court Approval	No later than December 8, 2025
Outside Closing Date	December 31, 2025

19. Both prior to and following the commencement of the SISP, the Receiver made significant efforts to advance a potential stalking horse bid with Sanovest and 599, including through conducting numerous meetings and extensive discussions with these parties and/or their respective legal counsel. However, the Receiver ultimately determined to not proceed with either stalking horse bid advanced by those two parties.

20. Since the approval of the SISP, the Receiver has been working to implement the SISP and otherwise advance Ecoasis's restructuring. As is set out in further detail in the Seventh Report of the Receiver dated October 27, 2025, and Eighth Report (including the Marketing Report from Colliers attached to the Eight Report), these steps taken by the Receiver, in consultation with and with the assistance of Colliers and others, include but are not limited to the following:

- a) reviewing marketing materials including but not limited to, marketing brochures, social media and ad publications, and video footage, prepared by Colliers to be included as part of the SISP;
- b) holding meetings with the City of Langford and the District of Highlands, facilitated by Placemark, to discuss the master planning as it relates to each municipality;
- c) gathering and reviewing due diligence materials to be included in a data room prepared and managed by Colliers, which included the Placemark Report;
- d) reviewing and executing confidentiality agreements to permit interested parties to access the virtual data room, with confidentiality agreements executed with 45 parties;
- e) meeting with Colliers to review diligence requests and SISP strategy, and responding to questions posed by interested parties by and through Colliers;
- f) in consultation with legal counsel, developing a guidance document to assist interested parties with submissions of a letter of intent ("LOI") and a template asset purchase agreement;
- g) reviewing the six (6) LOIs received, including performing due diligence and holding discussions with Colliers and legal counsel;
- h) reviewing the three (3) Final Bids received as of the Final Bid Deadline and attending various discussions with counsel to the Qualified Bidders and the Receiver's counsel in respect of these Final Bids; and

- 6 -

- i) preparing materials for court approval of the superior Final Bid received by the Final Bid Deadline.

21. In addition to the above, as described in greater detail in the Eighth Report, as part of the SISP, Colliers, as Sales Agent, also provided significant information to a significant number of potential bidders, which included the following:

- (a) a website established by Colliers, that included professional drone footage of the site and neighborhood, which went live on July 22, 2025, with over 5,700 views and over 650 engagements;
- (b) a video highlighting the key features of Ecoasis's assets which was finalized on July 23, 2025, with over 1,400 views;
- (c) a Colliers "Eblast" sent to over 4,900 recipients on July 23, 2025 with respect to the launch of the SISP;
- (d) a Colliers Eblast sent to over 5,000 recipients on September 5, 2025 with an LOI submission notice, with a second Eblast sent on September 10, 2025 with a reminder of the LOI submission deadline;
- (e) direct calls and communications made to a targeted list of over 120 prospective purchasers, determined in coordination with the Receiver; and
- (f) information through various other news reports, social media, and digital advertising, as described in greater detail in the Marketing Report included in the Eighth Report.

### **The Proposed Transaction**

22. The Receiver's implementation of the SISP, in consultation with Placemark and Colliers, has resulted in the Proposed Transaction, which is an *en bloc* bid for substantially all the Property and the Business of Ecoasis. The Proposed Transaction will see the Business continue as a going concern. Key terms of the Proposed Transaction include the following:

<b>Term</b>	<b>Details</b>
<b>Purchaser</b>	Groundplay Developments Ltd., an affiliated entity to Mr. Matthews and 599.
<b>Purchase Price</b>	\$141,440,724.50 plus the value of certain additional Assumed Liabilities.
<b>Deposit</b>	The Purchaser has paid \$6,625,000.00 to the Receiver (5% of the cash portion of the Purchase Price).
<b>Composition of Purchase Price</b>	Includes the following: <ul style="list-style-type: none"> <li>• as to \$125,875,000.00, the Purchaser shall pay such amount by wire transfer of immediately available funds to such account as may be designated in writing by the Receiver or Blakes;</li> <li>• as to \$7,500,000 of the Purchase Price, the Purchaser shall issue to Developments LLP 7,500,000 Redeemable Special Shares in the capital of the Purchaser;</li> </ul>

	<ul style="list-style-type: none"> <li>• as to \$6,625,000 (the amount of the Deposit), the Receiver shall apply the Deposit against the amount of the Purchase Price for the account of the Purchaser; and</li> <li>• as to \$1,440,724.50, by the assumption by the Purchaser of the Assumed Liabilities in Schedule "G" of the Groundplay APA (i) related to accrued vacation pay and banked overtime obligations of Resorts and Developments LLP as at November 1, 2025 in respect of the employees of the Resorts Business and the Developments Business; and (ii) owing to legal counsel related to the Hotel Arbitration.</li> </ul>
<b>Proposed Transaction Structure</b>	With the exception of the Real Property registered in the name of BMA, which is being acquired in fee simple, the "Real Property" described in Schedule "B" of the Groundplay APA is being purchased through the acquisition of (i) all of the issued and outstanding shares in the capital of each Ecoasis corporation that holds legal title to any Real Property as nominee and/or bare trustee for the benefit of either Developments LLP or Resorts; and (ii) all beneficial interests in the Real Property that are held by an Ecoasis corporation as nominee and/or bare trustee for the benefit of Developments LLP and/or Resorts.
<b>Purchased Assets</b>	<p>Include:</p> <ul style="list-style-type: none"> <li>• all assets, properties and rights of Developments LLP used or held for use in connection with the conduct of the Developments Business;</li> <li>• all assets, properties and rights of Resorts used or held for use in connection with the conduct of the Resorts Business;</li> <li>• Development's 50% equity interest in Bear Mountain Legacy Homes LLP ("BMLH"), which beneficially owns a remaining interest in Cypress Gates, together with all amounts receivable from BMLH owing to any of the Ecoasis entities (if any);</li> <li>• the interest of Resorts in the Hotel Arbitration; and</li> <li>• all contracts relating to the operation and maintenance of the Resorts Business, the Developments Business, or the Real Property (with certain limited exceptions).</li> </ul>
<b>Assumed Liabilities</b>	<p>Include:</p> <ul style="list-style-type: none"> <li>• all liabilities of Ecoasis under the Schedule A Contracts (as discussed below) arising in respect of the period from and after 12:01 a.m. (Vancouver time) on the Closing Date;</li> <li>• all liabilities of Ecoasis to pay amounts necessary to cure any monetary defaults as a condition to the assignment and assumption of the Schedule A Contracts pursuant to an Assignment Order (as discussed below), if and to the extent required under the Schedule A Contracts;</li> <li>• liabilities of Resorts owing to customers of Resorts in respect of gift cards, e-commerce gift cards, rain checks, and credit books incurred in the ordinary course of business of Resorts prior to the appointment of the Receiver in respect of the Resorts Business;</li> <li>• all liabilities owing to employees that are employed by Resorts or Developments LLP immediately prior to the closing of the Proposed Transaction (the "Closing") in respect of accrued vacation pay and/or banked overtime and any severance entitlements arising post-closing in respect of any such employees; and</li> </ul>

	<ul style="list-style-type: none"> <li>all liabilities owing to legal counsel related to the Hotel Arbitration.</li> </ul>
<b>Excluded Assets</b>	<p>Include:</p> <ul style="list-style-type: none"> <li>any interests and/or obligations of Ecoasis in the Oppression Action, the Partnership Action, and the Sanovest Action (the "Excluded Litigation");</li> <li>all cash and cash equivalents, including any pre-paid cash amounts received on account of 2026 golf and tennis membership dues prior to the appointment of the Receiver in respect of the Resorts Business;</li> <li>all income tax refunds, credits, rebates, input tax credits (including GST or PST), and other tax-related recoveries or attributes of Ecoasis relating to any period prior to the Closing Date;</li> <li>any amounts that may be owing to an Ecoasis entity from any other Ecoasis entity; and</li> <li>any amounts that may be owing to an Ecoasis entity from any partner of Developments LLP or any principal of any partner of Developments LLP.</li> </ul>
<b>Conditions Precedent</b>	Include the granting of the Approval and Vesting Order approving the Groundplay APA and the Proposed Transaction.
<b>Closing Date</b>	No later than December 31, 2025.
<b>Tax</b>	The Purchaser is liable for and will pay any and all transfer taxes, including GST and PST, if any, pertaining to the Purchaser's acquisition of the Purchased Assets.
<b>Employees</b>	On or before the Closing Date, the Purchaser will offer employment to be effective as of the Closing Date to all employees of Resorts and Developments LLP on terms and conditions substantially the same as or better than those upon which such employees were employed by Resorts or Developments LLP immediately prior to the Closing Date, and the Purchaser will assume and be responsible for any employment history (including in respect of severance obligations) of any such employees.

23. As discussed in greater detail below, in the Receiver's view, the Proposed Transaction is the result of fair, transparent, and reasonable sales process, and is the best bid received as of the Final Bid Deadline.

24. The Receiver notes that after the Final Bid Deadline passed on November 3, 2025, in the evening of November 21, 2025, the Receiver received a revised offer from Sanovest, who had previously also submitted a Final Bid. As discussed in the Eighth Report, the Receiver will report on this revised Sanovest bid at a later date.

#### ***The Assigned Contracts***

25. The Purchaser is acquiring all contracts related to the operation of the Business. The Purchaser has also identified a subset of assigned contracts, set out in Schedule "A" of the Groundplay APA (the "**Schedule A Contracts**"), that, in the Purchaser's view, are material and critical to the operation of the Business as a going concern.

26. The Receiver is not seeking any relief with respect to the assigned contracts or the Schedule A Contracts at this hearing. Pursuant to the Groundplay APA, the Purchaser and the Receiver will make efforts to obtain all consents required to assign the Schedule A Contracts to

the Purchaser prior to Closing. However, the Receiver may seek a Court order assigning the Schedule A Contracts prior to Closing.

### **Part 3: LEGAL BASIS**

#### ***Governing Legal Principles with respect to a Sale Approval***

27. The following considerations established by the Ontario Court of Appeal in *Royal Bank of Canada v. Soundair Corp.* must be taken into account by a Court in deciding whether to approve a sale negotiated by a Court-appointed receiver:

- (a) whether the receiver made sufficient efforts to obtain the best price and did not act improvidently;
- (b) the interests of all parties;
- (c) the efficacy and integrity of the process by which offers were obtained; and
- (d) whether there has been any unfairness in the sale process.

***Kruger v Wild Goose Vintners Inc.*, 2021 BCSC 1406 at para. 26; *Aquilini Development Limited Partnership v Garibaldi at Squamish Limited Partnership*, 2024 BCSC 764 at para. 100; *Royal Bank of Canada v. Soundair Corp.*, 1991 CanLII 2727 (ON CA) [*Soundair*] at para. 16.**

28. Courts afford considerable deference to a receiver's business judgment in respect of a course of action that requires the Court's approval, including for sale approvals. Indeed, courts will generally approve a sale where a Court-appointed officer is of the view that the sale price and terms are commercially reasonable and satisfactory.

***RBC Investor Services Trust v Asfars Holdings Ltd.*, 2024 BCSC 2142 at para. 32; *Peoples Trust Company v Censorio Group (Hastings & Carleton) Holdings Ltd.*, 2020 BCSC 1013 at para. 47; *North American Tungsten Corporation Ltd. (Re)*, 2016 BCSC 12 at para. 30.**

#### ***The Proposed Transaction should be Approved***

29. For the reasons set out below (and described in greater detail in the Eighth Report and the Confidential Supplement), the Receiver is of the view that the Proposed Transaction is the superior bid received as of the Final Bid Deadline and meets the *Soundair* criteria.

- (a) The SISP was Fair and Reasonable: As is set out in detail above, the Receiver has made significant efforts to obtain the highest price for Ecoasis's assets. The SISP, which was developed in consultation with the Sales Agent and Placemark, was approved by this Court in July. It was then implemented by the Receiver, with the assistance of the Sales Agent and in accordance with the SISP Order.

The SISP was implemented in a fair and transparent manner, with sufficient information made available to bidders through the marketing efforts described above and the data

room, which included the Placemark Report, and provided for appropriate time to allow bidders to conduct due diligence and submit their bids.

- (b) The Proposed Transaction was the Best Bid Submitted by the Final Bid Deadline: The Receiver has determined, in its business judgment, that the Proposed Transaction contemplated by the Groundplay APA is the best bid submitted by the Final Bid Deadline. This is for, among others, the following reasons:
- (i) the Proposed Transaction and the Groundplay APA represents the highest and best offer received as of the Final Bid Deadline;
  - (ii) the Proposed Transaction contemplates acquisition of the Business and substantially all of Ecoasis's assets, except for the Excluded Litigation and select affiliate claims held by Ecoasis;
  - (iii) the Proposed Transaction will permit the Business to continue in the normal course, with retention of all employees and assumption of their accrued vacation liability and other entitlements;
  - (iv) 599, of which Groundplay is an affiliate, has been involved with the operations of the Business for over 10 years and has the industry knowledge and background to continue Ecoasis as a going concern; and
  - (v) the Groundplay APA includes limited conditions, reducing the risk of non-completion, and has a closing date of December 31, 2025 (ensuring a timely resolution for all stakeholders and reducing ongoing costs of the Receivership).
- (c) The Purchase Price is Fair and Reasonable: The Receiver is of the view that the Purchase Price is fair and reasonable in the circumstances, taking into account, among other things, the value and nature of the assets being disposed of and the other offers received during the SISP. The purchase price is also consistent with the indication of value and development strategy prepared by Placemark.
- (d) The Proposed Transaction Benefits Ecoasis's Stakeholders: The Proposed Transaction contemplates the continuation of Ecoasis's business as a going concern and with sufficient funds to permit the payment of all creditors, including all of Sanovest's secured and unsecured debt and all trade creditors. The Proposed Transaction also excludes the Excluded Litigation, allowing those claims to be pursued following completion of the Proposed Transaction.

30. For these reasons, the Receiver submits that approval of the Groundplay APA is reasonable and appropriate in the circumstances.

#### ***The Sealing Order Should be Granted***

31. The Receiver also seeks an order sealing the Confidential Supplement on the Court file until further Court order or until the closing of the Proposed Transaction.

32. The test for when a sealing order should be granted is found in the Supreme Court of Canada's decision *Sherman Estates v. Donovan*. An applicant must establish that:

- (a) court openness poses a serious risk to an important public interest;
- (b) the order sought is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk; and
- (c) as a matter of proportionality, the benefits of the order outweigh its negative effects.

***Sherman Estates v. Donovan, 2021 SCC 25 at paras. 38 and 43.***

33. This Court has previously sealed confidential information relating to various offers received through a sales process in a receivership proceeding. This Court has also sealed sale agreements in insolvency proceedings on the basis that disclosure of certain confidential information would be prejudicial to stakeholders.

***Bank of Montreal v Haro-Thurlow Street Project Limited Partnership, 2024 BCSC 1722 at paras. 11-12; Walter Energy (Re), 2016 BCSC 1746 at paras. 5-10.***

34. The Confidential Supplement contains confidential information with respect to the LOIs and Final Bids received pursuant to the SISP. The Receiver is seeking this sealing order to preserve the confidentiality of bids submitted during the SISP and maintain the competitive integrity of the SISP (which will be necessary should the Proposed Transaction fail to close). Any deleterious effects are outweighed by the benefits of the Sealing Order. The Receiver therefore asks this Court to approve the proposed Sealing Order.

35. As noted in the Eighth Report, in light of recent developments with respect to Sanovest, the Receiver may ultimately not seek a sealing order over all information contained in the Confidential Supplement (but at this time is seeking a sealing order over the entire Confidential Supplement).

#### **Part 4: MATERIAL TO BE RELIED ON**

1. Second Report of the Receiver dated December 2, 2024;
2. Fifth Report of the Receiver dated June 17, 2025;
3. Sixth Report of the Receiver dated July 8, 2025;
4. Seventh Report of the Receiver dated October 27, 2025;
5. Eighth Report of the Receiver, dated November 24, 2025;
6. Confidential Supplement to the Eighth Report of the Receiver; and
7. such further and other materials as counsel may advise.

**TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION:** If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application

or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
  - (i) you intend to refer to at the hearing of this application, and
  - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
  - (i) a copy of the filed application response;
  - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
  - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Date: November 25, 2025

For:   
 Signature of lawyer for the Receiver  
 Peter L. Rubin

To be completed by the court only:	
Order made	
<input type="checkbox"/>	in the terms requested in paragraphs ..... of Part 1 of this notice of application
<input type="checkbox"/>	with the following variations and additional terms:
_____	
_____	
_____	
Date: _____	Signature of <input type="checkbox"/> Judge <input type="checkbox"/> Associate Judge

**APPENDIX****THIS APPLICATION INVOLVES THE FOLLOWING:**

- discovery: comply with demand for documents
- discovery: production of additional documents
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial
- case plan orders: amend
- case plan orders: other
- experts

**Schedule "A" to Notice of Application**



**Service**

1. The time for service of the Notice of Application and supporting materials is hereby abridged such that the Notice of Application is properly returnable today and service thereof upon any interested party other than those listed on the Service List is hereby dispensed with.

**Capitalized Terms**

2. Capitalized terms not defined in this Order shall have the meaning given to them in the Asset Purchase Agreement between the Receiver, in its capacity as Receiver of Ecoasis, as vendor, Groundplay Developments Ltd., as purchaser (the "**Purchaser**"), and 599315 B.C. Ltd., as guarantor (the "**Sale Agreement**").

**Approval of Transaction**

3. The Sale Agreement, a copy of which is attached as **Appendix "B"** to the Eighth Report, and the transaction contemplated thereby (the "**Transaction**") is hereby approved, and the Sale Agreement is commercially reasonable. The execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such amendments to the Sale Agreement as the Receiver and the Purchaser may agree to (provided such amendments do not alter the substance of the material terms of the Transaction), and the Receiver is hereby authorized to take such additional steps, and to execute and deliver such additional agreements and other documents, as may be necessary or desirable for the completion of the Transaction and the conveyance to the Purchaser of all of the Purchased Assets on Closing, which Purchased Assets are set out in the Sale Agreement and which, for certainty, do not include the Excluded Assets.
4. Upon delivery by the Receiver to the Purchaser of a certificate substantially in the form attached as **Schedule "B"** hereto (the "**Receiver's Certificate**") confirming that all conditions to Closing have been satisfied and/or waived, including the payment of the Purchase Price in the manner contemplated in the Sale Agreement, all of Ecoasis' right, title and interest in and to the Purchased Assets, as described in the Sale Agreement shall vest absolutely in the Purchaser in fee simple, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured, or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of this Court dated September 18, 2024 or the Order of this Court dated July 10, 2025; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* of British Columbia or any other personal property registry system; and (iii) those Claims listed on **Schedule "C"** hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the Permitted Encumbrances listed on **Schedule "D"** hereto), and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.
5. Upon presentation for registration in the Land Title Office for the Land Title District of Victoria of a certified copy of this Order, together with a letter from Blake, Cassels, &

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Graydon LLP, solicitors for the Receiver, authorizing registration of this Order, the British Columbia Registrar of Land Titles is hereby directed to:

- (a) enter the Purchaser as the owner of the lands described as PID: 030-726-123, Lot A District Lot 82 Highland District Plan EPP70640 and registered in the name of Bear Mountain Adventures (the "**Bear Mountain Property**"), together with all buildings and other structures, facilities and improvements located thereon and fixtures, systems, interests, licenses, rights, covenants, restrictive covenants, commons, ways, profits, privileges, rights, easements and appurtenances to the said hereditaments belonging, or with the same or any part thereof, held or enjoyed or appurtenant thereto, in fee simple in respect of the Bear Mountain Property, and this Court declares that it has been proved to the satisfaction of the Court on investigation that the title of the Purchaser and to the Bear Mountain Property is a good, safe holding and marketable title and directs the British Columbia Registrar of Land Titles to register indefeasible title in favour of the Purchaser as aforesaid; and
  - (b) having considered the interest of third parties, to discharge, release, delete and expunge from title to the Real Property set out in **Schedule "E"** hereto all of the registered Encumbrances, which Encumbrances, for certainty, do not include those Permitted Encumbrances as set out in the Sale Agreement and listed on **Schedule "D"**.
6. For the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets (the "**Net Proceeds**") shall stand in the place and stead of the Purchased Assets, and from and after the delivery of the Receiver's Certificate all Claims shall attach to the Net Proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having had possession or control immediately prior to the sale.
7. The Receiver is to file with the Court a copy of the Receiver's Certificate forthwith after delivery thereof.
8. Pursuant to Section 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act* or Section 18(10)(o) of the *Personal Information Protection Act* of British Columbia, the Receiver is hereby authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in Ecoasis' records pertaining to Ecoasis' past and current employees, including personal information. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by Ecoasis.
9. Subject to the terms of the Sale Agreement, vacant possession of the Purchased Assets, including any real property, shall be delivered by the Receiver to the Purchaser at the Closing Effective Time, subject to the Permitted Encumbrances as set out in the Sale Agreement and listed on **Schedule "D"**.
10. The Receiver, with the consent of the Purchaser, shall be at liberty to extend the Closing Date to such later date as those parties may agree without the necessity of a further Order of this Court.

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11. Notwithstanding:

- (a) these proceedings;
- (b) any applications for a bankruptcy order in respect of Ecoasis now or hereafter made pursuant to the *Bankruptcy and Insolvency Act* and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made by or in respect of Ecoasis,

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Ecoasis and shall not be void or voidable by creditors of Ecoasis, nor shall it constitute or be deemed to be a transfer at undervalue, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

**General**

12. The Receiver and the Purchaser have liberty to apply for such further or other directions or relief as may be necessary or desirable to give effect to this Order and Transaction.

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

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

\_\_\_\_\_  
Signature of Peter Rubin  
Counsel to the Receiver

BY THE COURT

\_\_\_\_\_  
REGISTRAR

**Schedule A****Counsel List**

<b>COUNSEL NAME</b>	<b>PARTY REPRESENTED</b>

**Schedule B – Receiver's Certificate**

No. S-243389  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE RECEIVERSHIP OF  
ECOASIS DEVELOPMENTS LLP AND OTHERS

BETWEEN:

**SANOVEST HOLDINGS LTD.**

PETITIONER

AND:

**ECOASIS DEVELOPMENTS LLP, ECOASIS BEAR MOUNTAIN DEVELOPMENTS LTD.,  
ECOASIS RESORT AND GOLF LLP, 0884185 B.C. LTD., 0884188 B.C. LTD., 0884190  
B.C. LTD., 0884194 B.C. LTD., BM 81/82 LANDS LTD., BM 83 LANDS LTD., BM 84  
LANDS LTD., BM CAPELLA LANDS LTD., BM HIGHLANDS GOLF COURSE LTD., BM  
HIGHLANDS LANDS LTD., BM MOUNTAIN GOLF COURSE LTD., and BEAR MOUNTAIN  
ADVENTURES LTD.**

RESPONDENTS

**RECEIVER'S CERTIFICATE**

- A. Pursuant to an Order of Justice Walker of the Supreme Court of British Columbia (the "**Court**") dated September 18, 2024, Alvarez & Marsal Canada Inc., in its capacity as Court-appointed "**Receiver**", without security, of certain lands of Bear Mountain Adventures Ltd., of the property and all of the operations and business of Ecoasis Resort and Golf LLP, and all the assets, undertakings and property of Ecoasis Developments LLP, Ecoasis Bear Mountain Developments Ltd., 0884185 B.C. Ltd., 0884188 B.C. Ltd., 0884190 B.C. Ltd., 0884194 B.C. Ltd., BM 81/82 Lands Ltd., BM 83 Lands Ltd., BM 84 Lands Ltd., BM Capella Lands Ltd., BM Highlands Golf Course Ltd., BM Highlands Lands Ltd., and BM Mountain Golf Course Ltd.
- B. Pursuant to an Order of the Court dated December 1, 2025 (the "**Approval and Vesting Order**"), the Court, among other things, approved the Asset Purchase Agreement dated December \_\_\_\_, 2025 (the "**Sale Agreement**") between the Receiver, in its capacity as receiver of Ecoasis, as vendor, Groundplay Developments Ltd., as purchaser (the "**Purchaser**"), and 599315 B.C. Ltd., as guarantor, a copy of which is attached as Appendix "B" to the Eighth Report of the Receiver dated November 24, 2025, and the transactions contemplated thereby, and providing for the occurrence of certain events in the specified sequence upon delivery by the Receiver to the Purchaser of a certificate confirming (i) payment by the Purchaser of the Purchase Price; (ii) that the conditions to completion as

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set out in Article 10 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

- C. Unless otherwise indicated herein, the capitalized terms have the meanings set out in the Approval and Vesting Order.

**THE RECEIVER HEREBY CERTIFIES** the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to closing set out in Article 10 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at \_\_\_\_\_ on \_\_\_\_\_, 2025.

**ALVAREZ & MARSAL CANADA INC.** in its capacity as Court appointed receiver of certain lands of Bear Mountain Adventures Ltd., the property and all of the operations and business of Ecoasis Resort and Golf LLP and all the assets, undertakings and property of Ecoasis Developments LLP, Ecoasis Bear Mountain Developments Ltd., 0884185 B.C. Ltd., 0884188 B.C. Ltd., 0884190 B.C. Ltd., 0884194 B.C. Ltd., BM 81/82 Lands Ltd., BM 83 Lands Ltd., BM 84 Lands Ltd., BM Capella Lands Ltd., BM Highlands Golf Course Ltd., BM Highlands Lands Ltd. and BM Mountain Golf Course Ltd., and not in its personal or corporate capacity

Per: \_\_\_\_\_

Name:

Title:

**Schedule C – Encumbrances to Be Discharged from Real Property**

1. as to 2131 Players Drive (Parcel Identifier: 027-205-207):

**Charges, Liens and Interests:**

- Mortgage CA3393763 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
- Assignment of Rents CA3393764 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
- Modification CA5448661 registered on August 24, 2016
- Priority Agreement CA5805234 registered on February 3, 2017 granting CA5805232 priority over CA3393751, CA3393752, CA3393753, CA3393754, CA3393755, CA3393756, CA3393757, CA3393758, CA3393759, CA3393760, CA3393761, CA3393762, CA3393763, CA3393764, CA3393769 and CA3393770

2. as to 2109 Players Drive (Parcel Identifier: 027-205-215):

**Charges, Liens and Interests:**

- Mortgage CA3393763 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
- Assignment of Rents CA3393764 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
- Modification CA5448661 registered on August 24, 2016
- Priority Agreement CA5805234 registered on February 3, 2017 granting CA5805232 priority over CA3393751, CA3393752, CA3393753, CA3393754, CA3393755, CA3393756, CA3393757, CA3393758, CA3393759, CA3393760, CA3393761, CA3393762, CA3393763, CA3393764, CA3393769 and CA3393770

3. as to 1004 Capella Drive (Lot A) (Parcel Identifier: 027-567-907):

**Charges, Liens and Interests:**

- Mortgage CA3393763 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
- Assignment of Rents CA3393764 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
- Modification CA5448661 registered on August 24, 2016
- Priority Agreement CA5805234 registered on February 3, 2017 granting CA5805232 priority over CA3393751, CA3393752, CA3393753, CA3393754, CA3393755,

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CA3393756, CA3393757, CA3393758, CA3393759, CA3393760, CA3393761, CA3393762, CA3393763, CA3393764, CA3393769 and CA3393770

4. as to 1004 Capella Drive (Lot B) (Parcel Identifier: 027-567-915):

**Charges, Liens and Interests:**

- Mortgage CA3393763 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
- Assignment of Rents CA3393764 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
- Modification CA5448661 registered on August 24, 2016
- Priority Agreement CA5805234 registered on February 3, 2017 granting CA5805232 priority over CA3393751, CA3393752, CA3393753, CA3393754, CA3393755, CA3393756, CA3393757, CA3393758, CA3393759, CA3393760, CA3393761, CA3393762, CA3393763, CA3393764, CA3393769 and CA3393770

5. as to 1294 Academy Way (Parcel Identifier: 030-726-123):

**Charges, Liens and Interests:**

- Mortgage CA3393750 registered on October 8, 2013 in favour of HSBC Trust Company (Canada), as extended by CA5455736, CA6571464 and CA7452289
- Mortgage CA3393769 registered on October 8, 2013 in favour of Sanovest Holdings Ltd., as extended by CA6571462 and CA7452290
- Assignment of Rents CA3393770 registered on October 8, 2013 in favour of Sanovest Holdings Ltd., as extended by CA6571463 and CA7452291
- Modification CA5448664 registered on August 24, 2016
- Priority Agreement CA5805233 registered on February 3, 2017 granting CA5805232 priority over CA3393750
- Priority Agreement CA5805234 registered on February 3, 2017 granting CA5805232 priority over CA3393769 and CA3393770
- Priority Agreement CA7385622 registered on March 8, 2019 granting CA7385620 priority over CA3393750
- Priority Agreement CA7385624 registered on March 8, 2019 granting CA7385623 priority over CA3393750
- Priority Agreement CA7385625 registered on March 8, 2019 granting CA7385623 priority over CA3393769 and CA3393770

- Priority Agreement BB1534017 registered on April 11, 2019 granting CA7385620 priority over CA3393769 and CA3393770

6. as to 2079 Hedgestone Lane (Parcel Identifier: 025-838-555):

**Charges, Liens and Interests:**

- Mortgage CA3393751 registered on October 8, 2013 in favour of Sanovest Holdings Ltd., as extended by CA5455734
- Assignment of Rents CA3393752 registered on October 8, 2013 in favour of Sanovest Holdings Ltd., as extended by CA5455735
- Modification CA5448655 registered on August 24, 2016
- Priority Agreement CA5805234 registered on February 3, 2017 granting CA5805232 priority over CA3393751, CA3393752, CA3393753, CA3393754, CA3393755, CA3393756, CA3393757, CA3393758, CA3393759, CA3393760, CA3393761, CA3393762, CA3393763, CA3393764, CA3393769 and CA3393770

7. as to 1445 Bear Mountain Parkway (Parcel Identifier: 009-853-103):

**Charges, Liens and Interests:**

- Mortgage CA3393751 registered on October 8, 2013 in favour of Sanovest Holdings Ltd., as extended by CA5455734
- Assignment of Rents CA3393752 registered on October 8, 2013 in favour of Sanovest Holdings Ltd., as extended by CA5455735
- Modification CA5448655 registered on August 24, 2016
- Priority Agreement CA5805234 registered on February 3, 2017 granting CA5805232 priority over CA3393751, CA3393752, CA3393753, CA3393754, CA3393755, CA3393756, CA3393757, CA3393758, CA3393759, CA3393760, CA3393761, CA3393762, CA3393763, CA3393764, CA3393769 and CA3393770
- Priority Agreement CA7230413 registered on December 4, 2018 granting CA7230412 priority over CA3393751 and CA3393752
- Priority Agreement CA7230427 registered on December 4, 2018 granting CA7230426 priority over CA3393751 and CA3393752

8. as to Parcel Identifier: 025-088-106, Section 3 Range 4 West Highland District except Parts in Plans 27507, VIP76196, VIP76988, VIP80330, VIP80743, VIP81146, VIP82127 and VIP88981, EPP27392:

**Charges, Liens and Interests:**

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- Mortgage CA3393751 registered on October 8, 2013 in favour of Sanovest Holdings Ltd., as extended by CA5455734
- Assignment of Rents CA3393752 registered on October 8, 2013 in favour of Sanovest Holdings Ltd., as extended by CA5455735
- Modification CA5448655 registered on August 24, 2016

9. as to 2050 Country Club Way (Parcel Identifier: 009-858-636):

**Charges, Liens and Interests:**

- Mortgage CA3393751 registered on October 8, 2013 in favour of Sanovest Holdings Ltd., as extended by CA5455734
- Assignment of Rents CA3393752 registered on October 8, 2013 in favour of Sanovest Holdings Ltd., as extended by CA5455735
- Priority Agreement CA4047083 registered on October 29, 2014 granting CA4047082 priority CA3393751 and CA3393752
- Modification CA5448655 registered on August 24, 2016
- Priority Agreement CA5805234 registered on February 3, 2017 granting CA5805232 priority over CA3393751, CA3393752, CA3393753, CA3393754, CA3393755, CA3393756, CA3393757, CA3393758, CA3393759, CA3393760, CA3393761, CA3393762, CA3393763, CA3393764, CA3393769 and CA3393770

10. as to 1296 Bear Mountain Parkway (Parcel Identifier: 027-590-127):

**Charges, Liens and Interests:**

- Mortgage CA3393751 registered on October 8, 2013 in favour of Sanovest Holdings Ltd., as extended by CA5455734
- Assignment of Rents CA3393752 registered on October 8, 2013 in favour of Sanovest Holdings Ltd., as extended by CA5455735
- Modification CA5448655 registered on August 24, 2016
- Priority Agreement CA5805234 registered on February 3, 2017 granting CA5805232 priority over CA3393751, CA3393752, CA3393753, CA3393754, CA3393755, CA3393756, CA3393757, CA3393758, CA3393759, CA3393760, CA3393761, CA3393762, CA3393763, CA3393764, CA3393769 and CA3393770

11. as to 1991 Bear Mountain Parkway (Parcel Identifier: 009-858-652):

**Charges, Liens and Interests:**

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- Mortgage CA3393761 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
  - Assignment of Rents CA3393762 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
  - Modification CA5448660 registered on August 24, 2016
  - Priority Agreement CA5805234 registered on February 3, 2017 granting CA5805232 priority over CA3393751, CA3393752, CA3393753, CA3393754, CA3393755, CA3393756, CA3393757, CA3393758, CA3393759, CA3393760, CA3393761, CA3393762, CA3393763, CA3393764, CA3393769 and CA3393770
12. as to 1950 Bear Mountain Parkway (Parcel Identifier: 009-853-081):

**Charges, Liens and Interests:**

- Mortgage CA3393759 registered on October 8, 2013 in favour of Sanovest Holdings Ltd., as extended by CA7502164
- Assignment of Rents CA3393760 registered on October 8, 2013 in favour of Sanovest Holdings Ltd., as extended by CA7502165
- Modification CA5448659 registered on August 24, 2016
- Priority Agreement CA5805234 registered on February 3, 2017 granting CA5805232 priority over CA3393751, CA3393752, CA3393753, CA3393754, CA3393755, CA3393756, CA3393757, CA3393758, CA3393759, CA3393760, CA3393761, CA3393762, CA3393763, CA3393764, CA3393769 and CA3393770
- Priority Agreement CA7230401 registered on December 4, 2018 granting CA7230400 priority over CA3393759 and CA3393760
- Priority Agreement CA7230407 registered on December 4, 2018 granting CA7230406 priority over CA3393759 and CA3393760
- Priority Agreement CA7230415 registered on December 4, 2018 granting CA7230414 priority over CA3393759 and CA3393760
- Priority Agreement CA7230421 registered on December 4, 2018 granting CA7230420 priority over CA3393759 and CA3393760
- Priority Agreement CA7249558 registered on December 4, 2018 granting CA7249557 priority over CA3393760 and CA5448659
- Priority Agreement CA7262490 registered on January 4, 2019 granting CA7262489 priority over CA3393759, CA3393760 and CA5448659
- Priority Agreement CA7279677 registered on January 4, 2019 granting CA7279676 priority over CA3393759, CA3393760 and CA5448659

13. as to 2105 Players Drive (Parcel Identifier: 026-575-680):

**Charges, Liens and Interests:**

- Mortgage CA3393753 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
- Assignment of Rents CA3393754 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
- Modification CA5448656 registered on August 24, 2016
- Priority Agreement CA5805234 registered on February 3, 2017 granting CA5805232 priority over CA3393751, CA3393752, CA3393753, CA3393754, CA3393755, CA3393756, CA3393757, CA3393758, CA3393759, CA3393760, CA3393761, CA3393762, CA3393763, CA3393764, CA3393769 and CA3393770

14. as to 2125 Players Drive (Parcel Identifier: 027-568-849):

**Charges, Liens and Interests:**

- Mortgage CA3393753 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
- Assignment of Rents CA3393754 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
- Modification CA5448656 registered on August 24, 2016
- Priority Agreement CA5805234 registered on February 3, 2017 granting CA5805232 priority over CA3393751, CA3393752, CA3393753, CA3393754, CA3393755, CA3393756, CA3393757, CA3393758, CA3393759, CA3393760, CA3393761, CA3393762, CA3393763, CA3393764, CA3393769 and CA3393770

15. as to 2121 Players Drive (Parcel Identifier: 027-568-857):

**Charges, Liens and Interests:**

- Mortgage CA3393753 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
- Assignment of Rents CA3393754 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
- Modification CA5448656 registered on August 24, 2016
- Priority Agreement CA5805234 registered on February 3, 2017 granting CA5805232 priority over CA3393751, CA3393752, CA3393753, CA3393754, CA3393755, CA3393756, CA3393757, CA3393758, CA3393759, CA3393760, CA3393761, CA3393762, CA3393763, CA3393764, CA3393769 and CA3393770

16. as to Parcel Identifier: 024-672-092, Lot A Section 4 Range 4W Highland District Plan VIP70021 (see Plan as to Limited Access) except that Part in Plan VIP75586:

**Charges, Liens and Interests:**

- Mortgage CA3393757 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
- Assignment of Rents CA3393758 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
- Priority Agreement CA4490172 registered on June 25, 2015 granting CA4490170 priority over CA3393757 and CA3393758
- Modification CA5448658 registered on August 24, 2016

17. as to Parcel Identifier: 009-861-831, Section 12 Highland District except Parts in Plans 10853,11134 and 45402:

**Charges, Liens and Interests:**

- Mortgage CA3393750 registered on October 8, 2013 in favour of HSBC Trust Company (Canada), as extended by CA5455736, CA6571464 and CA7452289
- Mortgage CA3393757 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
- Assignment of Rents CA3393758 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
- Priority Agreement CA4490171 registered on June 25, 2015 granting CA4490170 priority over CA3393750
- Priority Agreement CA4490172 registered on June 25, 2015 granting CA4490170 priority over CA3393757 and CA3393758
- Modification CA5448658 registered on August 24, 2016

18. as to Parcel Identifier: 009-861-815, Section 5 Range 4 West Highland District except Part in Plans VIP60675, VIP67875 and VIP75584

**Charges, Liens and Interests:**

- Mortgage CA3393750 registered on October 8, 2013 in favour of HSBC Trust Company (Canada), as extended by CA5455736, CA6571464 and CA7452289
- Mortgage CA3393757 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
- Assignment of Rents CA3393758 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
- Priority Agreement CA4490171 registered on June 25, 2015 granting CA4490170 priority over CA3393750

- Priority Agreement CA4490172 registered on June 25, 2015 granting CA4490170 priority over CA3393757 and CA3393758
- Modification CA5448658 registered on August 24, 2016

19. as to Parcel Identifier: 009-861-823, The South 60 Acres of Section 6 Range 4 West Highland District except Part in Plan VIP67875:

**Charges, Liens and Interests:**

- Mortgage CA3393750 registered on October 8, 2013 in favour of HSBC Trust Company (Canada), as extended by CA5455736, CA6571464 and CA7452289
- Mortgage CA3393757 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
- Assignment of Rents CA3393758 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
- Priority Agreement CA4490171 registered on June 25, 2015 granting CA4490170 priority over CA3393750
- Priority Agreement CA4490172 registered on June 25, 2015 granting CA4490170 priority over CA3393757 and CA3393758
- Modification CA5448658 registered on August 24, 2016

20. as to 1500 Hannington Road (Parcel Identifier: 009-861-866):

**Charges, Liens and Interests:**

- Mortgage CA3393750 registered on October 8, 2013 in favour of HSBC Trust Company (Canada), as extended by CA5455736, CA6571464 and CA7452289
- Mortgage CA3393757 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
- Assignment of Rents CA3393758 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
- Priority Agreement CA4490171 registered on June 25, 2015 granting CA4490170 priority over CA3393750
- Priority Agreement CA4490172 registered on June 25, 2015 granting CA4490170 priority over CA3393757 and CA3393758
- Modification CA5448658 registered on August 24, 2016

21. as to Parcel Identifier: 025-088-092, Block B Section 75 Land District 24:

**Charges, Liens and Interests:**

- Mortgage CA3393750 registered on October 8, 2013 in favour of HSBC Trust Company (Canada), as extended by CA5455736, CA6571464 and CA7452289
- Mortgage CA3393757 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
- Assignment of Rents CA3393758 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
- Priority Agreement CA4490171 registered on June 25, 2015 granting CA4490170 priority over CA3393750
- Priority Agreement CA4490172 registered on June 25, 2015 granting CA4490170 priority over CA3393757 and CA3393758
- Modification CA5448658 registered on August 24, 2016

22. as to Parcel Identifier: 005-438-187, Lot 24, Section 17, Highland District Plan 4128 Except Part in Plan 45401:

**Charges, Liens and Interests:**

- Mortgage CA3393757 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
- Assignment of Rents CA3393758 registered on October 8, 2013 in favour of Sanovest Holdings Ltd.
- Priority agreement CA4490172 registered on June 25, 2015 granting CA4490170 priority over CA3393757 and CA3393758
- Modification CA5448658 registered on August 24, 2016

23. as to 2133 Champions Way (Parcel Identifier: 025-695-126):

**Charges, Liens and Interests:**

- Mortgage CA3393750 registered on October 8, 2013 in favour of HSBC Trust Company (Canada), as extended by CA5455736, CA6571464 and CA7452289
- Mortgage CA3393769 registered on October 8, 2013 in favour of Sanovest Holdings Ltd., as extended by CA6571462 and CA7452290
- Assignment of Rents CA3393770 registered on October 8, 2013 in favour of Sanovest Holdings Ltd., as extended by CA6571463 and CA7452291
- Priority Agreement CA4443194 registered on June 4, 2015 granting CA4443193 priority over CA3393750
- Priority Agreement CA4443195 registered on June 4, 2015 granting CA4443193 priority over CA3393769 and CA3393770

- Modification CA5448664 registered on August 24, 2016
- Priority Agreement CA5805233 registered on February 3, 2017 granting CA5805232 priority over CA3393750 and CA5455736
- Priority Agreement CA5805234 registered on February 3, 2017 granting CA5805232 priority over CA3393751, CA3393752, CA3393753, CA3393754, CA3393755, CA3393756, CA3393757, CA3393758, CA3393759, CA3393760, CA3393761, CA3393762, CA3393763, CA3393764, CA3393769 and CA3393770
- Priority Agreement CA7230393 registered on December 4, 2018 granting CA7230392 priority over CA3393750
- Priority Agreement CA7230394 registered on December 4, 2018 granting CA7230392 priority over CA3393769 and CA3393770
- Priority Agreement CA7230404 registered on December 4, 2018 granting CA7230403 priority over CA3393750
- Priority Agreement CA7230405 registered on December 4, 2018 granting CA7230403 priority over CA3393769 and CA3393770
- Priority Agreement CA7230418 registered on December 4, 2018 granting CA7230417 priority over CA3393750
- Priority Agreement CA7230419 registered on December 4, 2018 granting CA7230417 priority over CA3393769 and CA3393770
- Priority Agreement CA7230424 registered on December 4, 2018 granting CA7230423 priority over CA3393750
- Priority Agreement CA7230425 registered on December 4, 2018 granting CA7230423 priority over CA3393769 and CA3393770

24. as to Parcel Identifier: 025-838-466, Air Space Lot A District Lot 82 Highland District Air Space Plan VIP76364:

**Charges, Liens and Interests:**

- Mortgage CA3393769 registered on October 8, 2013 in favour of Sanovest Holdings Ltd., as extended by CA6571462 and CA7452290
- Assignment of Rents CA3393770 registered on October 8, 2013 in favour of Sanovest Holdings Ltd., as extended by CA6571463 and CA7452291
- Modification CA5448664 registered on August 24, 2016
- Priority Agreement CA5805234 registered on February 3, 2017 granting CA5805232 priority over CA3393751, CA3393752, CA3393753, CA3393754, CA3393755, CA3393756, CA3393757, CA3393758, CA3393759, CA3393760, CA3393761, CA3393762, CA3393763, CA3393764, CA3393769 and CA3393770

25. as to 1270 Bear Mountain Parkway (Parcel Identifier: 025-695-118):

**Charges, Liens and Interests:**

- Mortgage CA3393750 registered on October 8, 2013 in favour of HSBC Trust Company (Canada), as extended by CA5455736, CA6571464 and CA7452289
- Mortgage CA3393769 registered on October 8, 2013 in favour of Sanovest Holdings Ltd., as extended by CA6571462 and CA7452290
- Assignment of Rents CA3393770 registered on October 8, 2013 in favour of Sanovest Holdings Ltd., as extended by CA6571463 and CA7452291
- Modification CA5448664 registered on August 24, 2016
- Priority Agreement CA5805233 registered on February 3, 2017 granting CA5805232 priority over CA3393750 and CA545573
- Priority Agreement CA5805234 registered on February 3, 2017 granting CA5805232 priority over CA3393751, CA3393752, CA3393753, CA3393754, CA3393755, CA3393756, CA3393757, CA3393758, CA3393759, CA3393760, CA3393761, CA3393762, CA3393763, CA3393764, CA3393769 and CA3393770
- Priority Agreement CA7230398 registered on December 4, 2018 granting CA7230397 priority over CA3393750
- Priority Agreement CA7230399 registered on December 4, 2018 granting CA7230397 priority over CA3393769 and CA3393770
- Priority Agreement CA7230410 registered on December 4, 2018 granting CA7230409 priority over CA3393750
- Priority Agreement CA7230411 registered on December 10, 2018 granting CA7230409 priority over CA3393769 and CA3393770
- Priority Agreement CA7385621 registered on March 8, 2019 granting CA7385620 priority over CA3393750
- Priority Agreement CA7385622 registered on March 8, 2019 granting CA7385620 priority over CA3393750
- Priority Agreement CA7385627 registered on March 8, 2019 granting CA7385626 priority over CA3393750
- Priority Agreement CA7385628 registered on March 8, 2019 granting CA7385626 priority over CA3393769 and CA3393770
- Priority Agreement CA7385630 registered on March 8, 2019 granting CA7385629 priority over CA3393750

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- Priority Agreement CA7385631 registered on March 8, 2019 granting CA7385629 priority over CA3393769 and CA3393770
- Priority Agreement BB1534016 registered on April 11, 2019 granting CA7385619 priority over CA3393769 and CA3393770
- Priority Agreement BB1534017 registered on April 11, 2019 granting CA7385620 priority over CA3393769 and CA3393770

26. as to 2030 Pebble Drive (Parcel Identifier: 029-938-490):

**Charges, Liens and Interests:**

- Nil.

27. as to #126 – 2030 Pebble Drive (Parcel Identifier: 030-616-956):

**Charges, Liens and Interests:**

- Nil.

28. as to #128 – 2030 Pebble Drive (Parcel Identifier: 030-616-948):

**Charges, Liens and Interests:**

- Nil.

## Schedule D – Permitted Encumbrances

### GENERAL ENCUMBRANCES

The reservations, limitations, exceptions, provisos and conditions, if any, expressed in the original grant or contained in any other grant or disposition from the Crown, registered or pending restrictive covenants and rights-of-way in favour of utilities and public authorities.

### SPECIFIC ENCUMBRANCES

1. as to 2131 Players Drive (Parcel Identifier: 027-205-207):

#### **Legal Notations:**

- Title may be affected by a Permit under Part 26 of the Local Government Act, see CA5773222, expires 2020-01-16
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET137876
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET38059
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET91149
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET96734
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV70972
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW127709
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW136595
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW15157
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW40024
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FA16252
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FA64258

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- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FB63093
- Easement FB95827 over Lot 4, Plan VIP83700

**Charges, Liens and Interests:**

- Undersurface and other Exc & Res EP16337 registered February 29, 2000 in favour of the Crown in right of British Columbia
  - Covenant FB95822 registered September 7, 2007 in favour of the City of Langford
  - Rent Charge FB95823 registered September 7, 2007 in favour of the City of Langford
  - Covenant CA5805232 registered February 3, 2017 in favour of the City of Langford
2. as to 2109 Players Drive (Parcel Identifier: 027-205-215):

**Legal Notations:**

- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET137876
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET38059
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET91149
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET96734
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV70972
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW127709
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW136595
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW15157
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW40024
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FA16252

- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FA64258
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FB63093

**Charges, Liens and Interests:**

- Undersurface and other Exc & Res EP16337 registered February 29, 2000 in favour of the Crown in right of British Columbia
- Covenant FB95822 registered September 7, 2007 in favour of the City of Langford
- Rent Charge FB95823 registered September 7, 2007 in favour of the City of Langford
- Covenant FB95825 registered September 7, 2007 in favour of the City of Langford
- Easement FB95827 registered September 7, 2007 appurtenant to Lots 1-4, Plan VIP83700
- Covenant CA5805232 registered February 3, 2017 in favour of the City of Langford

3. as to 1004 Capella Drive (Lot A) (Parcel Identifier: 027-567-907):

**Legal Notations:**

- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET137876
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET38059
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET91149
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET96734
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV70972
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW127709
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW136595
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW15157

- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW40024
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FA16252
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FA64258
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FB164434
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FB63093
- Easement FB95827 over Lot 4, Plan VIP83700

**Charges, Liens and Interests:**

- Undersurface and other Exc & Res EP16337 registered February 29, 2000 in favour of the Crown in right of British Columbia
  - Covenant FB95822 registered September 7, 2007 in favour of the City of Langford
  - Rent Charge FB95823 registered September 7, 2007 in favour of the City of Langford
  - Easement FB190862 registered July 10, 2008 appurtenant to Lot B, Plan VIP85309
  - Covenant CA5805232 registered February 3, 2017 in favour of the City of Langford
4. as to 1004 Capella Drive (Lot B) (Parcel Identifier: 027-567-915):

**Legal Notations:**

- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET137876
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET38059
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET91149
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET96734
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV70972

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- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW127709
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW136595
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW15157
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW40024
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FA16252
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FA64258
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FB164434
- Easement FB190862 over Lot A, Plan VIP85309
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FB63093
- Easement FB95827 over Lot 4, Plan VIP83700

**Charges, Liens and Interests:**

- Undersurface and other Exc & Res EP16337 registered February 29, 2000 in favour of the Crown in right of British Columbia
  - Covenant FB95822 registered September 7, 2007 in favour of the City of Langford
  - Rent Charge FB95823 registered September 7, 2007 in favour of the City of Langford
  - Covenant CA5805232 registered February 3, 2017 in favour of the City of Langford
5. as to 1294 Academy Way (Parcel Identifier: 030-726-123):

**Legal Notations:**

- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see CA4716085
- Title may be affected by a Permit under Part 14 of the *Local Government Act*, see CA5356029

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- Title may be affected by a Permit under Part 14 of the *Local Government Act*, see CA5383703
- Title may be affected by a Permit under Part 14 of the *Local Government Act*, see CA5404171
- Title may be affected by a Permit under Part 14 of the *Local Government Act*, see CA5640467
- Restrictive Covenant CA6788826 over part of Lot 28 Plan EPP63084 except part in strata plan EPS4577 (Phase 1) shown in Plan EPP81502
- Easement CA7142605 over parts of Lot 29 Plan EPP63084 except strata plan EPS5110 (Phase 1) and part of the common property, strata plan EPS5110 shown on Plan EPP85478
- Easement CA7249559 over Lots 14 and 15 Plan EPP85219, as shown as Areas 4 and 5 on Plan EPP85220
- Easement CA7385619 over part of Lot 1 Plan VIP75509 except Plans VIP76365, VIP79028, VIP82848, VIP82851, VIP85324, EPP19660, EPP63084, EPP72419, EPP80460 and EPP40640 shown on Plan EPP70909
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET137876
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET38059
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET91149
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET96734
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV48928
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW40024
- Restrictive Covenant EX72379 over Lot A Plan VIP79028
- Easement EX72380 over part of Lot A, Plan VIP79028 shown on Plan VIP79029
- Easement FB191153 over Lot C, Plan VIP85324 shown on Plan VIP85326
- Easement FB191154 over Lot B, Plan VIP85324 shown on Plan VIP85327
- Easement FB226922 over that part of the common property of Strata Plan VIS6701 shown on Plan VIP85914

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- Restrictive Covenant FB231104 over Strata Lots 1 – 31, Strata Plan VIS6714
- Restrictive Covenant FB27405 over part of Lot A Plan VIP82848 shown on Plan VIP82849
- Easement FB27406 over part of Lot A, Plan VIP82848 shown on Plan VIP82849

**Charges, Liens and Interests:**

- Covenant ET65734 registered June 12, 2002 in favour of the District of Langford
- Statutory Right of Way EV78530 registered July 17, 2003 in favour of District of Langford
- Covenant EW5425 registered January 16, 2004
- Covenant EW5436 registered January 16, 2004 in favour of the City of Langford
- Statutory Right of Way EW5465 registered January 16, 2004 in favour of the City of Langford
- Covenant EX93625 registered July 28, 2005 in favour of the City of Langford, as modified and extended by CA5974571, CA5974580 and CA5974590
- Covenant FA124596 registered October 16, 2006 in favour of the City of Langford, as modified and extended by CA5974572, CA5974581 and CA5974591
- Covenant CA5805232 registered February 3, 2017 in favour of the City of Langford
- Covenant CA6671337 registered March 9, 2018 in favour of the City of Langford
- Covenant CA7385620 registered March 8, 2019 in favour of BM Mountain Golf Course Ltd.
- Covenant CA7385623 registered March 8, 2019 in favour of the City of Langford

6. as to 2079 Hedgestone Lane (Parcel Identifier: 025-838-555):

**Legal Notations:**

- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET137876
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET38059
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET91149
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET96734

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- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV151152
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV151155
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV48928
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV85847
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV90987
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW120077

**Charges, Liens and Interests:**

- Covenant ET65734 registered June 12, 2002 in favour of the District of Langford
  - Covenant EW5425 registered January 16, 2004
  - Covenant EW5451 registered January 16, 2004 in favour of the City of Langford
  - Statutory Right of Way EW5456 registered January 16, 2004 in favour of the City of Langford
  - Priority Agreement EW5457 registered January 16, 2004
  - Statutory Right of Way EW5459 registered January 16, 2004 in favour of the City of Langford
  - Restrictive Covenant EX72376 registered June 16, 2005
  - Covenant EX93625 registered July 28, 2005 in favour of the City of Langford, as modified and extended by CA5974571, CA5974580 and CA5974590
  - Covenant FA124596 registered October 16, 2006 in favour of the City of Langford, as modified and extended by CA5974572, CA5974581 and CA5974591
  - Covenant CA5805232 registered February 3, 2017 in favour of the City of Langford
7. as to 1445 Bear Mountain Parkway (Parcel Identifier: 009-853-103):

**Legal Notations:**

- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see CA4716085

- Title may be affected by a Permit under Part 14 of the *Local Government Act*, see CA5356029
- Title may be affected by a Permit under Part 14 of the *Local Government Act*, see CA5383703
- Restrictive Covenant CA8830260 over Lot A Plan VIP81958 except Part in Plan EPP42751
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET137876
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET38059
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET91149
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET96734
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW120076
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW127709
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW136595
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW40024
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FA64258

**Charges, Liens and Interests:**

- Exceptions and Reservations ES60836 registered on July 24, 2001 in favour of the Crown in right of British Columbia
- Exceptions and Reservations ES60844 registered on July 24, 2001 in favour of the Crown in right of British Columbia
- Covenant ES60857 registered on July 24, 2001 in favour of the Crown in right of British Columbia
- Covenant ET65734 registered June 12, 2002 in favour of the District of Langford
- Covenant EW5425 registered January 16, 2004

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- Covenant EX93625 registered July 28, 2005 in favour of the City of Langford, as modified and extended by CA5974571, CA5974580 and CA5974590
- Covenant FA124596 registered October 16, 2006 in favour of the City of Langford, as modified and extended by CA5974572, CA5974581 and CA5974591
- Statutory Right of Way FB28070 registered March 26, 2007 in favour of British Columbia Hydro and Power Authority
- Statutory Right of Way FB28071 registered March 26, 2007 in favour of Telus Communications Inc.
- Statutory Right of Way FB420102 registered June 24, 2011 in favour of the City of Langford
- Easement FB463406 registered October 24, 2012, part in Plan VIP88982; appurtenant to Lot A, Plan VIP89370
- Covenant CA5805232 registered February 3, 2017 in favour of the City of Langford
- Covenant CA6671337 registered March 9, 2018 in favour of the City of Langford
- Statutory Right of Way CA7230412 registered December 4, 2018 in favour of the City of Langford
- Statutory Right of Way CA7230426 registered December 4, 2018 in favour of the City of Langford

8. as to Parcel Identifier: 025-088-106, Section 3 Range 4 West Highland District except Parts in Plans 27507, VIP76196, VIP76988, VIP80330, VIP80743, VIP81146, VIP82127 and VIP88981, EPP27392:

**Legal Notations:**

- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET137876
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET38059
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET91149
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET96734
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW107601
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW127709

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- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW136595
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW15157
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW40024
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FA54524
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FA64258

**Charges, Liens and Interests:**

- Exceptions and Reservations ES60859 registered on July 24, 2001 in favour of the Crown in right of British Columbia
- Covenant ET65734 registered June 12, 2002 In favour of the District of Langford
- Covenant EV133948 registered November 4, 2003 in favour of TLC the Land Conservancy of British Columbia and the District of Highlands
- Statutory Right of Way EV133949 registered November 4, 2003 in favour of TLC the Land Conservancy of British Columbia and the District of Highlands
- Rent Charge EV156957 registered November 4, 2003 in favour of TLC the Land Conservancy of British Columbia and the District of Highlands
- Covenant EW5425 registered January 16, 2004
- Covenant EX93625 registered July 28, 2005 in favour of the City of Langford, as modified and extended by CA5974571, CA5974580 and CA5974590
- Covenant FA124596 registered October 16, 2006 in favour of the City of Langford, as modified and extended by CA5974572, CA5974581 and CA5974591
- Covenant FB420112 registered June 24, 2011 in favour of the City of Langford

9. as to 2050 Country Club Way (Parcel Identifier: 009-858-636):

**Legal Notations:**

- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see CA4716085
- Restrictive Covenant CA8830260 over Lot A Plan VIP81958 except Part in Plan EPP42751

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- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET137876
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET38059
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET96734
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV90987
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW127709
- Easement FB126994 over Lot B, Plan VIP81135 Except part in Strata Plan VIS6323 (Phase 1)

**Charges, Liens and Interests:**

- Right of Way B72660 registered August 13, 1973 in favour of British Columbia Hydro and Power Authority
- Statutory Right of Way EW61969 registered May 20, 2004 in favour of City of Langford
- Covenant EW61975 registered May 20, 2004 in favour of City of Langford
- Covenant EX93625 registered July 28, 2005 in favour of the City of Langford, as modified and extended by CA5974571, CA5974580 and CA5974590
- Covenant FA124596 registered October 16, 2006 in favour of the City of Langford, as modified and extended by CA5974572, CA5974581 and CA5974591
- Statutory Right of Way FB28070 registered March 26, 2007 in favour of British Columbia Hydro and Power Authority
- Statutory Right of Way FB28071 registered March 26, 2007 in favour of Telus Communications Inc.
- Statutory Right of Way FB420102 registered June 24, 2011 in favour of the City of Langford
- Covenant FB420112 registered June 24, 2011 in favour of the City of Langford
- Easement FB463406 registered October 24, 2012, part in Plan VIP88982; appurtenant to Lot A, Plan VIP89370
- Covenant CA4047082 registered October 29, 2014 in favour of the City of Langford
- Covenant CA5805232 registered February 3, 2017 in favour of the City of Langford

10. as to 1296 Bear Mountain Parkway (Parcel Identifier: 027-590-127):

**Legal Notations:**

- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET137876
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET38059
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET91149
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET96734
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV151152
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV151155
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV48928
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV85847
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV90987
- Easement FA85386 over Lot 2, Plan VIP76365
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FB13320

**Charges, Liens and Interests:**

- Covenant ET65734 registered June 12, 2002 in favour of the District of Langford
- Covenant EW5425 registered January 16, 2004
- Covenant EW5451 registered January 16, 2004 in favour of the City of Langford
- Statutory Right of Way EW5456 registered January 16, 2004 in favour of the City of Langford
- Statutory Right of Way EW5459 registered January 16, 2004 in favour of the City of Langford

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- Statutory Right of Way EW5462 registered January 16, 2004 in favour of the City of Langford
  - Covenant EW5471 registered January 16, 2004 in favour of the City of Langford
  - Covenant EX93625 registered July 28, 2005 in favour of the City of Langford, as modified and extended by CA5974571, CA5974580 and CA5974590
  - Easement FA85386 registered July 13, 2006 appurtenant to Lot B, Plan VIP81135
  - Covenant FA124596 registered October 16, 2006 in favour of the City of Langford, as modified and extended by CA5974572, CA5974581 and CA5974591
  - Easement FB191154 registered July 11, 2008
  - Easement FB191155 registered July 11, 2008
  - Easement FB191156 registered July 11, 2008
  - Statutory Right of Way FB191157 registered July 11, 2008 in favour of Capital Regional District
  - Covenant CA5805232 registered February 3, 2017 in favour of the City of Langford
11. as to 1991 Bear Mountain Parkway (Parcel Identifier: 009-858-652):

**Legal Notations:**

- Title may be affected by a Permit under Part 14 of the *Local Government Act*, see CA6710399
- Hereto is annexed Restrictive Covenant CA9168459 over Lot A Plan EPP68922 cancelled by CB665578 2023-06-02
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET137876
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET38059
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET91149
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET96734
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW107601

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- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW120076
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW127709
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW136595
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW40024
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FA64258

**Charges, Liens and Interests:**

- Undersurface Rights 203247G registered December 17, 1956 in favour of Oswood G. Macdonald
  - Right of Way B72660 registered August 13, 1973 in favour of British Columbia Hydro and Power Authority
  - Undersurface Rights ED12879 registered February 1, 1990 in favour of Robert Clyde Smith, executor of the will of Oswood Guy Macdonald
  - Undersurface Rights ED12883 registered February 1, 1990 in favour of Auterra International Resources Inc, as transferred to Global Hunter Corp. by FB157692
  - Covenant ET65734 registered June 12, 2002 in favour of the District of Langford
  - Covenant EW5425 registered January 16, 2004
  - Covenant EX93625 registered July 28, 2005 in favour of the City of Langford, as modified and extended by CA5974571, CA5974580 and CA5974590
  - Covenant FA124596 registered October 16, 2006 in favour of the City of Langford, as modified and extended by CA5974572, CA5974581 and CA5974591
  - Statutory Right of Way FB178905 registered June 3, 2008 in favour of Capital Regional District
  - Statutory Right of Way FB188854 registered July 3, 2008 in favour of Capital Regional District
  - Covenant FB420112 registered June 24, 2011 in favour of the City of Langford
  - Covenant CA5805232 registered February 3, 2017 in favour of the City of Langford
12. as to 1950 Bear Mountain Parkway (Parcel Identifier: 009-853-081):

**Legal Notations:**

- Title may be affected by a Permit under Part 14 of the *Local Government Act*, see CA6710399
- Title may be affected by a Permit under Part 14 of the *Local Government Act*, see CA9058811
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET137876
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET38059
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET91149
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET96734
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW120076
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW127709
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW136595
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW40024
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FA64258

**Charges, Liens and Interests:**

- Undersurface Rights 203247G registered December 17, 1956 in favour of Oswood G. Macdonald
- Right of Way A18791 registered February 15, 1972 in favour of British Columbia Hydro and Power Authority
- Exceptions and Reservations ES60836 registered on July 24, 2001 in favour of the Crown in right of British Columbia
- Exceptions and Reservations ES60844 registered on July 24, 2001 in favour of the Crown in right of British Columbia
- Covenant ES60857 registered on July 24, 2001 in favour of the Crown in right of British Columbia

- Covenant ET65734 registered June 12, 2002 in favour of the District of Langford
  - Covenant EW5425 registered January 16, 2004
  - Covenant EX93625 registered July 28, 2005 in favour of the City of Langford, as modified and extended by CA5974571, CA5974580 and CA5974590
  - Covenant FA124596 registered October 16, 2006 in favour of the City of Langford, as modified and extended by CA5974572, CA5974581 and CA5974591
  - Statutory Right of Way FB420102 registered June 24, 2011 in favour of the City of Langford
  - Easement FB463406 registered October 24, 2012, part in Plan VIP88982; appurtenant to Lot A, Plan VIP89370
  - Covenant CA5805232 registered February 3, 2017 in favour of the City of Langford
  - Covenant CA6671337 registered March 9, 2018 in favour of the City of Langford
  - Statutory Right of Way CA7230400 registered December 4, 2018 in favour of the City of Langford
  - Statutory Right of Way CA7230406 registered December 4, 2018 in favour of the City of Langford
  - Statutory Right of Way CA7230414 registered December 4, 2018 in favour of the City of Langford
  - Statutory Right of Way CA7230420 registered December 4, 2018 in favour of the City of Langford
  - Statutory Right of Way CA7249557 registered December 13, 2018 in favour of the City of Langford
  - Statutory Right of Way CA7262489 registered December 20, 2018 in favour of Capital Regional District
  - Statutory Right of Way CA7279676 registered January 4, 2019 in favour of the City of Langford
13. as to 2105 Players Drive (Parcel Identifier: 026-575-680):

**Legal Notations:**

- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET137876
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET38059

- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET91149
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET96734
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV70972
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW127709
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW136595
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW15157
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW40024

**Charges, Liens and Interests:**

- Undersurface and other Exc & Res EP16337 registered February 29, 2000 in favour of the Crown in right of British Columbia
  - Statutory Building Scheme EV78519 registered July 17, 2003
  - Statutory Building Scheme EV1554466 registered December 19, 2003
  - Covenant FA11741 registered January 25, 2006 in favour of the City of Langford
  - Covenant CA5805232 registered February 3, 2017 in favour of the City of Langford
14. as to 2125 Players Drive (Parcel Identifier: 027-568-849):

**Legal Notations:**

- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET137876
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET38059
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET91149
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET96734

- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV70972
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW127709
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW136595
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW15157
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW40024
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FA16252
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FA64258
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FB63093
- Easement FB95827 over Lot 4, Plan VIP83700

**Charges, Liens and Interests:**

- Undersurface and other Exc & Res EP16337 registered February 29, 2000 in favour of the Crown in right of British Columbia
  - Covenant FB95822 registered September 7, 2007 in favour of the City of Langford
  - Rent Charge FB95823 registered September 7, 2007 in favour of the City of Langford
  - Easement FB190866 registered July 10, 2008 appurtenant to Lot B, Plan VIP85310
  - Covenant CA5805232 registered February 3, 2017 in favour of the City of Langford
15. as to 2121 Players Drive (Parcel Identifier: 027-568-857):

**Legal Notations:**

- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET137876
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET38059

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- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET91149
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET96734
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV70972
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW127709
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW136595
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW15157
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW40024
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FA16252
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FA64258
- Easement FB190866 over Lot A, Plan VIP85310
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FB63093
- Easement FB95827 over Lot 4, Plan VIP83700

**Charges, Liens and Interests:**

- Undersurface and other Exc & Res EP16337 registered February 29, 2000 in favour of the Crown in right of British Columbia
- Covenant FB95822 registered September 7, 2007 in favour of the City of Langford
- Rent Charge FB95823 registered September 7, 2007 in favour of the City of Langford
- Covenant CA5805232 registered February 3, 2017 in favour of the City of Langford

16. as to Parcel Identifier: 024-672-092, Lot A Section 4 Range 4W Highland District Plan VIP70021 (see Plan as to Limited Access) except that Part in Plan VIP75586:

**Legal Notations:**

- Title may be affected by a Permit under Part 26 of the Municipal Act, see EN95646

- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW6099
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EX94242

**Charges, Liens and Interests:**

- Right of Way 410140G registered December 22, 1970 in favour of British Columbia Hydro and Power Authority
- Covenant EP1783 registered January 7, 2000 in favour of District of Highlands
- Covenant EV83607 registered July 29, 2003 in favour of District of Highlands
- Covenant EX126687 registered October 4, 2005 in favour of District of Highland
- Modification CA4490170 registered June 25, 2015

17. as to Parcel Identifier: 009-861-831, Section 12 Highland District except Parts in Plans 10853, 11134 and 45402:

**Legal Notations:**

- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET136958
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EX25447
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EX94242
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FB481949

**Charges, Liens and Interests:**

- Right of Way B72660 registered August 13, 1973 in favour of British Columbia Hydro and Power Authority
- Covenant EX126687 registered October 4, 2005 in favour of District of Highland
- Modification CA4490170 registered June 25, 2015

18. as to Parcel Identifier: 009-861-815, Section 5 Range 4 West Highland District except Part in Plans VIP60675, VIP67875 and VIP75584:

**Legal Notations:**

- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ES63268

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- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ES95026
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET106224
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET130135
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET136958
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET73670
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV83546
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EX25447
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EX94242
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FB294002
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FB481949
- Title may be affected by a Permit under Part 14 of the *Local Government Act*, see WX2116923

**Charges, Liens and Interests:**

- Right of Way B72660 registered August 13, 1973 in favour of British Columbia Hydro and Power Authority
- Statutory Building Scheme EJ16134 registered February 9, 1995
- Easement EN22698 registered March 17, 1999
- Covenant ES60261 registered July 23, 2001 in favour of District of Highlands
- Covenant ES60857 registered July 24, 2001 in favour of the Crown in right of British Columbia
- Easement EV83585 registered July 29, 2003
- Covenant EX126687 registered October 4, 2005 in favour of District of Highland

- Statutory Right of Way FB371564 registered September 10, 2010 in favour of the City of Langford
- Statutory Right of Way FB414708 registered May 19, 2011 in favour of British Columbia Hydro and Power Authority
- Statutory Right of Way FB414709 registered May 19, 2011 in favour of Telus Communications Inc.
- Modification CA4490170 registered June 25, 2015

19. as to Parcel Identifier: 009-861-823, The South 60 Acres of Section 6 Range 4 West Highland District except Part in Plan VIP67875:

**Legal Notations:**

- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET136958
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EX25447
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EX94242

**Charges, Liens and Interests:**

- Right of Way B72660 registered August 13, 1973 in favour of British Columbia Hydro and Power Authority
- Covenant EX126687 registered October 4, 2005 in favour of District of Highland
- Modification CA4490170 registered June 25, 2015

20. as to 1500 Hannington Road (Parcel Identifier: 009-861-866):

**Legal Notations:**

- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET130135
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET136958
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV113982
- Easement EV147587 over part of Lot 38 Plan VIP76197 in Plan VIP76200

- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV22729
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EX25447
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EX94242
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FB294002
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FB317905, amended by FB324104
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FB481949
- Title may be affected by a Permit under Part 14 of the *Local Government Act*, see WX2116924

**Charges, Liens and Interests:**

- Covenant ES60857 registered July 24, 2001 in favour of the Crown in right of British Columbia
  - Covenant EW5454 registered January 16, 2004 in favour of the City of Langford
  - Statutory Right of Way EW106878 registered August 11, 2004 in favour of the City of Langford
  - Covenant EX126687 registered October 4, 2005 in favour of District of Highland
  - Statutory Right of Way FB371564 registered September 10, 2010 in favour of the City of Langford
  - Statutory Right of Way FB414708 registered May 19, 2011 in favour of British Columbia Hydro and Power Authority
  - Statutory Right of Way FB414709 registered May 19, 2011 in favour of Telus Communications Inc.
  - Modification CA4490170 registered June 25, 2015
21. as to Parcel Identifier: 025-088-092, Block B Section 75 Land District 24:

**Legal Notations:**

- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EX25447

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- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EX94242

**Charges, Liens and Interests:**

- Exceptions and Reservations ES60856 registered July 24, 2001 in favour of the Crown in right of British Columbia
- Covenant ES60857 registered July 24, 2001 in favour of the Crown in right of British Columbia
- Covenant EX126687 registered October 4, 2005 in favour of District of Highland
- Modification CA4490170 registered June 25, 2015

22. as to Parcel Identifier: 005-438-187, Lot 24, Section 17, Highland District Plan 4128 Except Part in Plan 45401:

**Legal Notations:**

- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EX25447
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EX94242

**Charges, Liens and Interests:**

- Right of Way B2267 registered November 27, 1972 in favour of British Columbia Hydro and Power Authority
- Covenant EX126687 registered October 4, 2005 in favour of District of Highlands
- Modification CA4490170 registered June 25, 2015

23. as to 2133 Champions Way (Parcel Identifier: 025-695-126):

**Legal Notations:**

- Easement CA4047091 over Part of Lots 14, 15, 17, 18, Plan EPP42751 shown on Plan EPP43389, modified by CA4251950 on February 26, 2015
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see CA4348220
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see CA4412262
- Easement CA4443182 over Lots 30 and 31, Plan EPP46993 as shown on Plan EPP46995

- Easement CA4443206 over Lots 32, 33 and 34, Plan EPP46993 as shown on Plan EPP50843
- Easement CA6993685 over part of Lot 18 Plan EPP42751 shown on Plan EPP83743
- Easement CA8830258 over Lot A Plan VIP81958 except part in Plan EPP42751
- Easement CA8830259 over Lot A Plan VIP81958 except part in Plan EPP42751
- Restrictive Covenant CA8830260 over Lot A Plan VIP81958 except part in Plan EPP42751
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET137876
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET38059
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET96734
- Restrictive Covenant EW151027 over Lots 1 – 25 Plan VIP77878
- Restrictive Covenant EW61980 over Lots 1 – 43 Plan VIP76988
- Restrictive Covenant EW61981 over part of Lots 1 – 6 Plan VIP76988
- Easement EW61982 over part of Lot 9 Plan VIP76988 included in Plan VIP76991
- Easement EW61983 over part of Lot 10 Plan VIP76988 included in Plan VIP76991
- Restrictive Covenant EX57762 over Lots 1 – 36 Plan VIP78873
- Easement EX57763 over that part of Lots 28, Plan VIP78873 shown on Plan VIP 78880
- Restrictive Covenant EX72376 over part of Lots 1 and 2, Plan VIP76365 and Lot 1, Plan VIP75509 except part in Plan VIP76365
- Easement FA131180 over strata lot 13, strata plan VIS6137 as shown on Plan VIP82046
- Easement FA85382 over that part of Lot A, Plan VIP81135 shown on Plan VIP81357
- Easement FA85383 over that part of Lot A, Plan VIP81135 shown on Plan VIP81358
- Easement FB191155 over Lot B, Plan VIP85324
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FB465586
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see FB482332

- Easement FB74242 over Lot B Plan VIP81135 as shown on Plan VIP83443

**Charges, Liens and Interests:**

- Undersurface Rights 203247G registered December 17, 1956 in favour of Oswood G. Macdonald
- Right of Way A18791 registered February 15, 1972 in favour of British Columbia Hydro and Power Authority
- Right of Way B72660 registered August 13, 1973 in favour of British Columbia Hydro and Power Authority
- Undersurface Rights ED12879 registered February 1, 1990 in favour of Robert Clyde Smith, executor of the will of Oswood Guy Macdonald
- Undersurface Rights ED12883 registered February 1, 1990 in favour of Auterra International Resources Inc., as transferred to Global Hunter Corp. by FB157692
- Exceptions and Reservations ES60836 registered on July 24, 2001 in favour of the Crown in right of British Columbia
- Exceptions and Reservations ES60844 registered on July 24, 2001 in favour of the Crown in right of British Columbia
- Covenant ET65734 registered June 12, 2002 in favour of the District of Langford
- Statutory Right of Way EV78530 registered July 17, 2003 in favour of District of Langford
- Covenant EW5425 registered January 16, 2004
- Covenant EW5436 registered January 16, 2004 in favour of the City of Langford
- Statutory Right of Way EW5465 registered January 16, 2004 in favour of the City of Langford
- Statutory Right of Way EW154228 registered November 18, 2004 in favour of British Columbia Hydro and Power Authority
- Statutory Right of Way EW154229 registered November 18, 2004 in favour of the Telus Communications Inc.
- Statutory Right of Way EX57764 registered May 20, 2005 in favour of the City of Langford, modified by CA4047073
- Statutory Right of Way EX57766 registered May 20, 2005 in favour of Capital Regional District
- Covenant EX93625 registered July 28, 2005 in favour of the City of Langford, as modified and extended by CA5974571, CA5974580 and CA5974590

- Covenant FA124596 registered October 16, 2006 in favour of the City of Langford, as modified and extended by CA5974572, CA5974581 and CA5974591
- Statutory Right of Way FB420102 registered June 24, 2011 in favour of the City of Langford
- Easement FB463406 registered October 24, 2012, part in Plan VIP88982; appurtenant to Lot A, Plan VIP89370
- Statutory Right of Way CA4443193 registered June 4, 2015 in favour of the City of Langford
- Covenant CA5805232 registered February 3, 2017 in favour of the City of Langford
- Covenant CA6671337 registered March 9, 2018 in favour of the City of Langford
- Statutory Right of Way CA7230392 registered December 4, 2018 in favour of the City of Langford
- Statutory Right of Way CA7230403 registered December 4, 2018 in favour of the City of Langford
- Statutory Right of Way CA7230417 registered December 4, 2018 in favour of the City of Langford
- Statutory Right of Way CA7230423 registered December 4, 2018 in favour of the City of Langford

24. as to Parcel Identifier: 025-838-466, Air Space Lot A District Lot 82 Highland District Air Space Plan VIP76364:

**Legal Notations:**

- Easement CA8830258 over Lot A, Plan VIP81958 except part in Plan EPP42751
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET137876
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET38059
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET91149
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET96734
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV151152

- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV151155
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV48928
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV85847
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV90987

**Charges, Liens and Interests:**

- Right of Way B72660 registered August 13, 1973 in favour of British Columbia Hydro and Power Authority
- Covenant ET65734 registered June 12, 2002 in favour of the District of Langford
- Covenant EW5425 registered January 16, 2004
- Covenant EX93625 registered July 28, 2005 in favour of the City of Langford, as modified and extended by CA5974571, CA5974580 and CA5974590
- Covenant FA124596 registered October 16, 2006 in favour of the City of Langford, as modified and extended by CA5974572, CA5974581 and CA5974591
- Covenant CA5805232 registered February 3, 2017 in favour of the City of Langford

25. as to 1270 Bear Mountain Parkway (Parcel Identifier: 025-695-118):

**Legal Notations:**

- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see CA4716085
- Title may be affected by a Permit under Part 14 of the *Local Government Act*, see CA5356029
- Title may be affected by a Permit under Part 14 of the *Local Government Act*, see CA5383703
- Title may be affected by a Permit under Part 14 of the *Local Government Act*, see CA5404171
- Title may be affected by a Permit under Part 14 of the *Local Government Act*, see CA5640467
- Restrictive Covenant CA6788826 over part of Lot 28 Plan EPP63084 except part in strata plan EPS4577 (Phase 1) shown in Plan EPP81502

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- Easement CA7142605 over parts of Lot 29 Plan EPP63084 Except strata plan EPS5110 (Phase 1) and part of the common property, strata plan EPS5110 shown on Plan EPP85478
- Easement CA7249559 over lots 14 and 15 Plan EPP85219, as shown as Areas 4 and 5 on Plan EPP85220
- Restrictive Covenant CA8830260 over Lot A Plan VIP81958 except part in plan EPP42751
- Easement CA9329709 over Lot 25 Plan EPP63084
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET137876
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET38059
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET91149
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET96734
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV48928
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW40024
- Restrictive Covenant EX72379 over Lot A Plan VIP79028
- Easement EX72380 over part of Lot A, Plan VIP79028 shown on Plan VIP79029
- Easement FB191153 over Lot C, Plan VIP85324 shown on Plan VIP85326
- Easement FB191154 over Lot B, Plan VIP85324 shown on Plan VIP85327
- Easement FB226922 over that part of the common property of Strata Plan VIS6701 shown on Plan VIP85914
- Restrictive Covenant FB231104 over Strata Lots 1 – 31, Strata Plan VIS6714
- Restrictive Covenant FB27405 over part of Lot A Plan VIP82848 shown on Plan VIP82849
- Easement FB27406 over part of Lot A, Plan VIP82848 shown on Plan VIP82849

**Charges, Liens and Interests:**

- Right of Way B72660 registered August 13, 1973 in favour of British Columbia Hydro and Power Authority

- Exceptions and Reservations ES60836 registered on July 24, 2001 in favour of the Crown in right of British Columbia
- Exceptions and Reservations ES60844 registered on July 24, 2001 in favour of the Crown in right of British Columbia
- Covenant ET65734 registered June 12, 2002 in favour of the District of Langford
- Statutory Right of Way EV78530 registered July 17, 2003 in favour of District of Langford
- Covenant EW5425 registered January 16, 2004
- Covenant EW5436 registered January 16, 2004 in favour of the City of Langford
- Statutory Right of Way EW5465 registered January 16, 2004 in favour of the City of Langford
- Restrictive Covenant EX72376 registered June 16, 2005
- Covenant EX93625 registered July 28, 2005 in favour of the City of Langford, as modified and extended by CA5974571, CA5974580 and CA5974590
- Covenant FA124596 registered October 16, 2006 in favour of the City of Langford, as modified and extended by CA5974572, CA5974581 and CA5974591
- Statutory Right of Way FB27418 registered March 23, 2007 in favour of the City of Langford
- Statutory Right of Way FB226917 registered November 4, 2008 in favour of the City of Langford
- Statutory Right of Way FB420102 registered June 24, 2011 in favour of the City of Langford
- Easement FB463406 registered October 24, 2012, part in Plan VIP88982; appurtenant to Lot A, Plan VIP89370
- Covenant CA5805232 registered February 3, 2017 in favour of the City of Langford
- Covenant CA6671337 registered March 9, 2018 in favour of the City of Langford
- Statutory Right of Way CA7230397 registered December 4, 2018 in favour of the City of Langford
- Statutory Right of Way CA7230409 registered December 4, 2018 in favour of the City of Langford
- Easement CA7385619 registered March 8, 2019 appurtenant to Lot A, Plan EPP70640
- Covenant CA7385620 registered March 8, 2019 in favour of BM Mountain Golf Course Ltd.

- Statutory Right of Way CA7385626 registered March 8, 2019 in favour of Capital Regional District
- Statutory Right of Way CA7385629 registered March 8, 2019 in favour of the City of Langford

26. as to 2030 Pebble Drive (Parcel Identifier: 029-938-490):

**Legal Notations:**

- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see CA4716085
- Title may be affected by a Permit under Part 14 of the *Local Government Act*, see CA5356029
- Title may be affected by a Permit under Part 14 of the *Local Government Act*, see CA5383703
- Title may be affected by a Permit under Part 14 of the *Local Government Act*, see CA5404171
- Phased Strata Plan Declaration (Form P) CA7142591, filed October 22, 2018
- Easement CA7142607 over the common property, Strata Plan EPS5110 (PH. 1)
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET137876
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET38059
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET91149
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET96734
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV48928
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW40024
- Restrictive Covenant EX72379 over Lot A Plan VIP79028
- Easement EX72380 over part of Lot A, Plan VIP79028 shown on Plan VIP79029
- Easement FB191153 over Lot C, Plan VIP85324 shown on Plan VIP85326

- Easement FB191154 over Lot B, Plan VIP85324 shown on Plan VIP85327
- Easement FB226922 over that part of the common property of Strata Plan VIS6701 shown on Plan VIP85914
- Restrictive Covenant FB231104 over Strata Lots 1 – 31, Strata Plan VIS6714
- Restrictive Covenant FB27405 over part of Lot A Plan VIP82848 shown on Plan VIP82849
- Easement FB27406 over part of Lot A, Plan VIP82848 shown on Plan VIP82849

**Charges, Liens and Interests:**

- Exceptions and Reservations ES60836 registered on July 24, 2001 in favour of the Crown in right of British Columbia
- Exceptions and Reservations ES60844 registered on July 24, 2001 in favour of the Crown in right of British Columbia
- Covenant ET65734 registered June 12, 2002 in favour of the District of Langford
- Statutory Right of Way EV78530 registered July 17, 2003 in favour of District of Langford
- Covenant EW5425 registered January 16, 2004
- Covenant EW5436 registered January 16, 2004 in favour of the City of Langford
- Statutory Right of Way EW5465 registered January 16, 2004 in favour of the City of Langford
- Covenant EX93625 registered July 28, 2005 in favour of the City of Langford, as modified and extended by CA5974571, CA5974580 and CA5974590
- Covenant FA124596 registered October 16, 2006 in favour of the City of Langford, as modified and extended by CA5974572, CA5974581 and CA5974591
- Covenant CA5455798 registered August 26, 2016 in favour of the City of Langford
- Covenant CA5455808 registered August 26, 2016 in favour of the City of Langford
- Covenant CA5455813 registered August 26, 2016 in favour of the City of Langford
- Rent Charge FB504502 registered September 22, 2016 in favour of City of Langford
- Covenant CA5805232 registered February 3, 2017 in favour of the City of Langford
- Statutory Right of Way CA5853419 registered March 3, 2017 in favour of British Columbia Hydro and Power Authority
- Statutory Right of Way CA5853420 registered March 3, 2017 in favour of Telus Communications Inc.

- Statutory Right of Way CA5950249 registered April 25, 2017 in favour of FortisBC Energy Inc.
- Covenant CA7142603 registered October 22, 2018 in favour of the City of Langford
- Easement CA7142605 registered October 22, 2018
- Easement CA7142611 registered October 22, 2018

27. as to #126 – 2030 Pebble Drive (Parcel Identifier: 030-616-956):

**Legal Notations:**

- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see CA4716085
- Title may be affected by a Permit under Part 14 of the *Local Government Act*, see CA5356029
- Title may be affected by a Permit under Part 14 of the *Local Government Act*, see CA5383703
- Title may be affected by a Permit under Part 14 of the *Local Government Act*, see CA5404171
- Phased Strata Plan Declaration (Form P) CA7142591, filed October 22, 2018
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET137876
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET38059
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET91149
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET96734
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV48928
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW40024
- Restrictive Covenant EX72379 over Lot A Plan VIP79028
- Easement EX72380 over part of Lot A, Plan VIP79028 shown on Plan VIP79029
- Easement FB191153 over Lot C, Plan VIP85324 shown on Plan VIP85326

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- Easement FB191154 over Lot B, Plan VIP85324 shown on Plan VIP85327
- Easement FB226922 over that part of the common property of Strata Plan VIS6701 shown on Plan VIP85914
- Restrictive Covenant FB231104 over Strata Lots 1 – 31, Strata Plan VIS6714
- Restrictive Covenant FB27405 over part of Lot A Plan VIP82848 shown on Plan VIP82849
- Easement FB27406 over part of Lot A, Plan VIP82848 shown on Plan VIP82849

**Charges, Liens and Interests:**

- Exceptions and Reservations ES60836 registered on July 24, 2001 in favour of the Crown in right of British Columbia
- Exceptions and Reservations ES60844 registered on July 24, 2001 in favour of the Crown in right of British Columbia
- Covenant ET65734 registered June 12, 2002 in favour of the District of Langford
- Statutory Right of Way EV78530 registered July 17, 2003 in favour of District of Langford
- Covenant EW5425 registered January 16, 2004
- Covenant EW5436 registered January 16, 2004 in favour of the City of Langford
- Statutory Right of Way EW5465 registered January 16, 2004 in favour of the City of Langford
- Covenant EX93625 registered July 28, 2005 in favour of the City of Langford, as modified and extended by CA5974571, CA5974580 and CA5974590
- Covenant FA124596 registered October 16, 2006 in favour of the City of Langford, as modified and extended by CA5974572, CA5974581 and CA5974591
- Covenant CA5455798 registered August 26, 2016 in favour of the City of Langford
- Covenant CA5455808 registered August 26, 2016 in favour of the City of Langford
- Covenant CA5455813 registered August 26, 2016 in favour of the City of Langford
- Rent Charge FB504502 registered September 22, 2016 in favour of City of Langford
- Covenant CA5805232 registered February 3, 2017 in favour of the City of Langford
- Statutory Right of Way CA5853419 registered March 3, 2017 in favour of British Columbia Hydro and Power Authority
- Statutory Right of Way CA5853420 registered March 3, 2017 in favour of Telus Communications Inc.

- Statutory Right of Way CA5950249 registered April 25, 2017 in favour of FortisBC Energy Inc.
- Covenant CA7142603 registered October 22, 2018 in favour of the City of Langford
- Strata Property Act Lien CB1127662 registered on January 22, 2024 in favour of the Owners, Strata Plan EPS5110
- Certificate of Pending Litigation CB1480998 registered on July 31, 2024 in favour of the Owners, Strata Plan EPS5110

28. as to #128 – 2030 Pebble Drive (Parcel Identifier: 030-616-948):

**Legal Notations:**

- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see CA4716085
- Title may be affected by a Permit under Part 14 of the *Local Government Act*, see CA5356029
- Title may be affected by a Permit under Part 14 of the *Local Government Act*, see CA5383703
- Title may be affected by a Permit under Part 14 of the *Local Government Act*, see CA5404171
- Phased Strata Plan Declaration (Form P) CA7142591, filed October 22, 2018
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET137876
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET38059
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET91149
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see ET96734
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EV48928
- Title may be affected by a Permit under Part 26 of the *Local Government Act*, see EW40024
- Restrictive Covenant EX72379 over Lot A Plan VIP79028
- Easement EX72380 over part of Lot A, Plan VIP79028 shown on Plan VIP79029

- Easement FB191153 over Lot C, Plan VIP85324 shown on Plan VIP85326
- Easement FB191154 over Lot B, Plan VIP85324 shown on Plan VIP85327
- Easement FB226922 over that part of the common property of Strata Plan VIS6701 shown on Plan VIP85914
- Restrictive Covenant FB231104 over Strata Lots 1 – 31, Strata Plan VIS6714
- Restrictive Covenant FB27405 over part of Lot A Plan VIP82848 shown on Plan VIP82849
- Easement FB27406 over part of Lot A, Plan VIP82848 shown on Plan VIP82849

**Charges, Liens and Interests:**

- Exceptions and Reservations ES60836 registered on July 24, 2001 in favour of the Crown in right of British Columbia
- Exceptions and Reservations ES60844 registered on July 24, 2001 in favour of the Crown in right of British Columbia
- Covenant ET65734 registered June 12, 2002 in favour of the District of Langford
- Statutory Right of Way EV78530 registered July 17, 2003 in favour of District of Langford
- Covenant EW5425 registered January 16, 2004
- Covenant EW5436 registered January 16, 2004 in favour of the City of Langford
- Statutory Right of Way EW5465 registered January 16, 2004 in favour of the City of Langford
- Covenant EX93625 registered July 28, 2005 in favour of the City of Langford, as modified and extended by CA5974571, CA5974580 and CA5974590
- Covenant FA124596 registered October 16, 2006 in favour of the City of Langford, as modified and extended by CA5974572, CA5974581 and CA5974591
- Covenant CA5455798 registered August 26, 2016 in favour of the City of Langford
- Covenant CA5455808 registered August 26, 2016 in favour of the City of Langford
- Covenant CA5455813 registered August 26, 2016 in favour of the City of Langford
- Rent Charge FB504502 registered September 22, 2016 in favour of City of Langford
- Covenant CA5805232 registered February 3, 2017 in favour of the City of Langford
- Statutory Right of Way CA5853419 registered March 3, 2017 in favour of British Columbia Hydro and Power Authority

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- Statutory Right of Way CA5853420 registered March 3, 2017 in favour of Telus Communications Inc.
- Statutory Right of Way CA5950249 registered April 25, 2017 in favour of FortisBC Energy Inc.
- Covenant CA7142603 registered October 22, 2018 in favour of the City of Langford
- Strata Property Act Lien CB1127721 registered on January 22, 2024 in favour of the Owners, Strata Plan EPS5110
- Certificate of Pending Litigation CB1480998 registered on July 31, 2024 in favour of the Owners, Strata Plan EPS5110

**Schedule E – Real Property**

<b>#</b>	<b>Legal Owner</b>	<b>PID</b>	<b>Legal Description</b>	<b>Municipal Address</b>
	0884185 B.C. Ltd.	027-205-207	Lot 3, Section 3, Range 4W, Highland District, Plan VIP83700	2131 PLAYERS DR LANGFORD BC
	0884188 B.C. Ltd.	027-205-215	Lot 4, Section 3, Range 4W, Highland District, Plan VIP83700	2109 PLAYERS DR LANGFORD BC
	0884190 B.C. Ltd.	027-567-907	Lot A, Section 3, Range 4W, Highland District, Plan VIP85309	1004 CAPELLA DR LANGFORD BC
	0884194 B.C. Ltd.	027-567-915	Lot B, Section 3, Range 4W, Highland District, Plan VIP85309	1004 CAPELLA DR LANGFORD BC
	Bear Mountain Adventures Ltd.	030-726-123	Lot A District Lot 82 Highland District Plan EPP70640	1294 ACADEMY WAY LANGFORD BC
	BM 81/82 Lands Ltd	025-838-555	Lot 1 Section 82 Highland District Plan VIP76365 except Part in Plan VIP79028 and VIP85324	2079 HEDGESTONE LN LANGFORD BC
		009-853-103	Section 81 Highland District except Part in Plans VIP72556 VIP75509, EPP63084 and EPP80460	1445 BEAR MOUNTAIN PKY LANGFORD BC
		025-088-106	Section 3 Range 4 West Highland District except Parts in Plans 27507, VIP76196, VIP76988, VIP80330, VIP80743, VIP81146, VIP82127 and VIP88981, EPP27392	N/A
		009-858-636	Section 82 Highland District except Part in Plans VIP75509 VIP76197 VIP76364 VIP76365 VIP76988 VIP77878 VIP80330 VIP81135 VIP88981 EPP27392 EPP46993 EPP54046 and EPP63084	2050 COUNTRY CLUB WAY LANGFORD BC V9B 6R3
		027-590-127	Lot A Section 82 Highland District Plan VIP85331	1296 BEAR MOUNTAIN PKY LANGFORD BC

#	Legal Owner	PID	Legal Description	Municipal Address
				V9B 6R3
	BM 83 Lands Ltd.	009-858-652	Section 83 Highland District except Parts in Plans VIP75509 VIP77878, VIP78873, VIP80330, VIP82040, VIP82483, VIP82960, VIP88981, VIP88983, EPP33056, EPP80460, EPP68922 and EPP86748	1991 BEAR MOUNTAIN PKY LANGFORD BC
	BM 84 Lands Ltd.	009-853-081	Section 84 Highland District except Plans VIP72556, VIP75509, VIP89370, EPP72419, EPP80460, EPP86748, EPP101117 and EPP111201	1950 BEAR MOUNTAIN PKY LANGFORD BC
	BM Capella Lands Ltd.	026-575-680	Lot 34 Section 3 Range 4 West Highland District Plan VIP80330	2105 PLAYERS DR LANGFORD BC
		027-568-849	Lot A, Section 3, Range 4W, Highland District, Plan VIP85310	2125 PLAYERS DR LANGFORD BC
		027-568-857	Lot B, Section 3, Range 4W, Highland District, Plan VIP85310	2121 PLAYERS DR LANGFORD BC
	BM Highlands Golf Course Ltd. and BM Highlands Lands Ltd.	024-672-092	Lot A Section 4 Range 4W Highland District Plan VIP70021 (see Plan as to Limited Access) except that Part in Plan VIP75586	N/A
		009-861-831	Section 12 Highland District except Parts in Plans 10853,11134 and 45402	N/A
		009-861-815	Section 5 Range 4 West Highland District except Part in Plans VIP60675, VIP67875 and VIP75584	N/A
		009-861-823	The South 60 Acres of Section 6 Range 4 West Highland District except Part in Plan VIP67875	N/A
		009-861-866	Section 16 Highland District except that Part in Plan VIP72555,	1500 HANNINGTON RD VICTORIA BC

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#	Legal Owner	PID	Legal Description	Municipal Address
		025-088-092	Block B Section 75 Land District 24	N/A
		005-438-187	Lot 24, Section 17, Highland District Plan 4128 Except Part in Plan 45401	N/A
	BM Mountain Golf Course Ltd.	025-695-126	Lot 2 Sections 81, 82, 83 and 84 Highland District Plan VIP75509 except Parts in Plans VIP76365, VIP78873, VIP81135, VIP81958, VIP82040, VIP89370, EPP42751, EPP46993, EPP80460, EPP68922 and EPP111201	2133 CHAMPIONS WAY LANGFORD BC
		025-838-466	Air Space Lot A District Lot 82 Highland District Air Space Plan VIP76364	N/A
		025-695-118	Lot 1 Sections 81, 82 and 84 Highland District Plan VIP75509 except Plans VIP76365, VIP79028, VIP82848, VIP82851, VIP85324, EPP19660, EPP63084, EPP72419, EPP80460 and EPP70640	1270 BEAR MOUNTAIN PKY LANGFORD BC
		029-938-490	Lot 29 Section 81 Highland District Plan EPP63084 except Strata Plan EPS5110 (Phase 1)	2030 PEBBLE DR LANGFORD BC
		030-616-956	Strata Lot 4 Section 81 Highland District Strata Plan EPS5110	#126 2030 PEBBLE DR LANGFORD BC V9B 0T4
		030-616-948	Strata Lot 3 Section 81 Highland District Strata Plan EPS5110	#128 2030 PEBBLE DR LANGFORD BC V9B 0T4

No. S-246877  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY

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IN THE MATTER OF THE RECEIVERSHIP OF  
ECOASIS DEVELOPMENTS LLP AND OTHERS

BETWEEN:

**SANOVEST HOLDINGS LTD.**

PETITIONER

AND:

**ECOASIS DEVELOPMENTS LLP and others**

RESPONDENTS

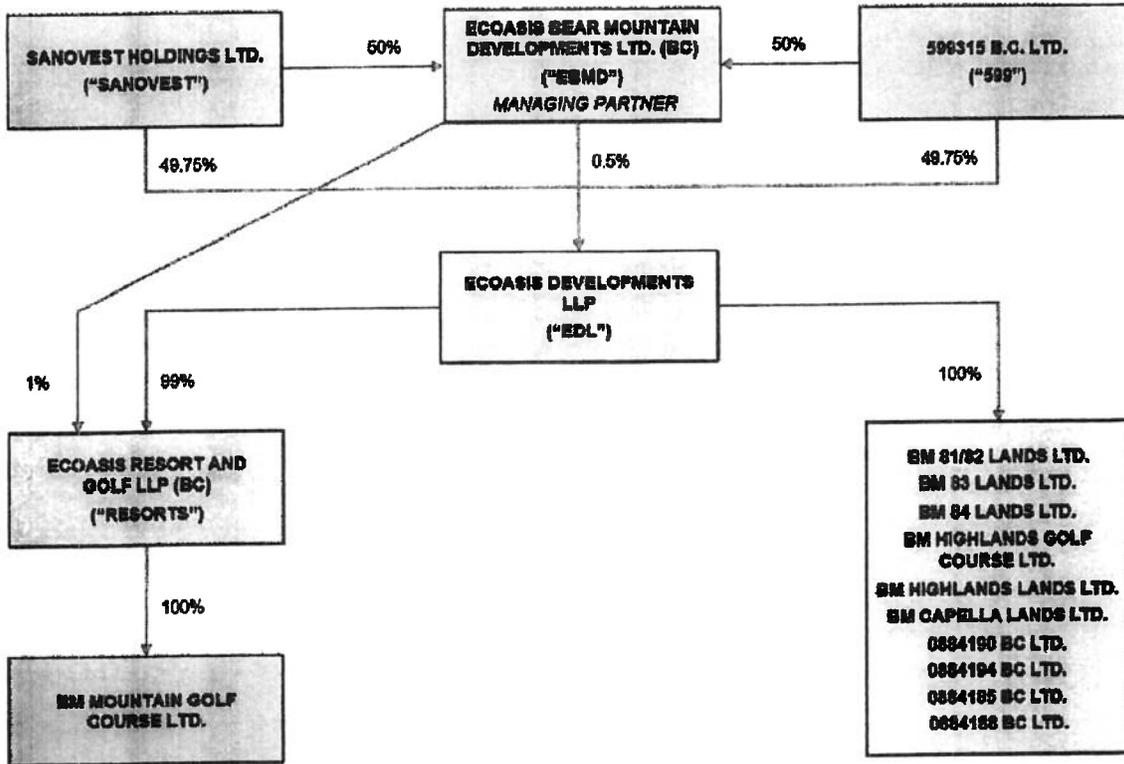
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**APPROVAL AND VESTING ORDER**

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Peter Rubin  
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Barristers and Solicitors  
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Suite 3500, The Stack  
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**Schedule "B" to Notice of Application**



**LEGEND**

- Partnership Entities
- Entities holding lands and premises in trust for EDL pursuant to bare trust agreements dated October 8, 2013
- Entities holding lands and premises in trust for EDL, Resorts and Bear Mountain Legacy Homes LLP ("BMLH") pursuant to bare trust agreements dated October 8, 2013 and March 1, 2017, respectively.

**NOTES**

1. Resorts is owned by EDL (99%) and EBMD (1%).
2. Bear Mountain Adventures Ltd. ("BMA") owns the Gondola Lands. Bear Mountain Adventures Nominee Ltd ("BMA Nominee") owns the Bear Mountain Activity Centre ("BMAC") which is not subject to these Receivership Proceedings. BMA is owned equally by 1096501 B.C. Ltd and SJN Holdings Ltd. Mr. Dan Matthews and Mr. Tian Kusumoto are directors of BMA.

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE RECEIVERSHIP OF  
ECOASIS DEVELOPMENTS LLP AND OTHERS

BETWEEN:

SANOVEST HOLDINGS LTD.

PETITIONER

AND:

ECOASIS DEVELOPMENTS LLP, ECOASIS BEAR  
MOUNTAIN DEVELOPMENTS LTD., ECOASIS RESORT  
AND GOLF LLP, 0884185 B.C. LTD., 0884188 B.C. LTD.,  
0884190 B.C. LTD., 0884194 B.C. LTD., BM 81/82 LANDS  
LTD., BM 83 LANDS LTD., BM 84 LANDS LTD., BM  
CAPELLA LANDS LTD., BM HIGHLANDS GOLF COURSE  
LTD., BM HIGHLANDS LANDS LTD., BM MOUNTAIN GOLF  
COURSE LTD. and BEAR MOUNTAIN ADVENTURES LTD.

RESPONDENTS

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**WRITTEN SUBMISSIONS OF  
599315 B.C. LTD. AND DANIEL MATTHEWS  
HEARING REGARDING THE EXCLUDED LITIGATION**

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November 24 and 26, 2025 at 10:00 a.m.  
Vancouver Law Courts, 800 Smithe Street  
Hearing Before the Honourable Mr. Justice Walker

**Submitted by Counsel for the Matthews Parties**

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## PART I – OVERVIEW

### ***A fundamental change in circumstances is required***

1. Sanovest Holdings Ltd. (“**Sanovest**”), Tian Kusumoto, and TRK Investments Corporation (“**TRK**”) (collectively, the “**Sanovest Parties**”) have applied to bring the Excluded Litigation – excluded from the Receivership Proceeding by consent since September 2024 – into the Receivership Proceeding to be tried summarily. The Sanovest Parties’ application is made pursuant to s. 187(5) of the *BIA* and the comeback relief in paragraph 39 of the Receivership Order.<sup>1</sup>
2. To invoke the court’s sparingly-exercised discretion under s. 187(5) of the *BIA*, the applicant must demonstrate, among other things, there has been a fundamental change in circumstances between the original hearing and the time of the motion to vary, or evidence must have been discovered that was not known at the time of the original hearing and which could have led to a different result.<sup>2</sup>
3. Comeback relief under any receivership order is only appropriate where there has been a change in circumstances.<sup>3</sup>
4. The comeback relief in the Receivership Order, i.e., “until further order” in para. 2 or para. 39, is analogous to the statutory recourse found in s.187(5) of the *BIA*.<sup>4</sup> Indeed, if it was not analogous, what test would be applied to vary an order pursuant to “until further order”? The Sanovest Parties suggest no legal tests and point to none, rather submit simply that if the court accepts that they are right, the order should be varied. That would significantly deviate from the principles set out by the Court of Appeal in considering statutory comeback relief in *Williams Moving*.
5. The question on this application is not whether the Excluded Litigation is connected to the estate or whether there is overlap in the proceedings. Indeed there is. There always has been.
6. Rather, at a minimum, the Sanovest Parties are required to show a change in circumstances between September 18, 2024 and October 22, 2025. They have not done so.

### ***There is no basis to set aside the agreement between the parties***

7. However, the present case goes beyond that of a usual comeback provision or statutory relief pursuant to s.187(5) because the order sought to be varied

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<sup>1</sup> Sanovest Parties’ Notice of Application, para. 1 [Vol. 1, Tab 1]

<sup>2</sup> *Williams Moving & Storage (B.C.) Ltd. v. Canada (Minister of National Revenue)*, 2024 BCCA 160 (CanLII), para. 89 [Sanovest Parties’ BOA, Tab 22]

<sup>3</sup> *Canada North Group Inc (Companies’ Creditors Arrangement Act)*, 2017 ABQB 550 (CanLII), para. 50 [Matthews Parties’ BOA, Tab 4]

<sup>4</sup> *Ibid*, para. 53

was made by consent. Altering an order made by consent requires grounds to be shown that justify setting aside the underlying contract. Such grounds include such things as duress, undue influence, fraud, misrepresentation, mistake and unconscionability.<sup>5</sup> Nothing of the sort has been suggested here. Sanovest remains bound by the agreement and by the order that incorporated it.

8. The Excluded Litigation has been excluded from the Receivership by consent since September 2024. The Sanovest Parties have expressly acknowledged in the Notice of Application that the exclusion reflects a compromise between the parties during the hearing of the Receivership Order in September 2024.<sup>6</sup>
9. In his submissions, Mr. Nathanson pointed out that Mr. Ferris gave submissions in 2024 regarding the nature of the disputes, essentially making the point that the court had an incomplete picture. Mr. Nathanson's submission misses a key fact, which is that the Receivership Order made was by consent. Whether or not the court had fulsome submissions is beside the point. Sanovest certainly understood the pleadings and the claims being made. There cannot be any suggestion that these claims at the outset were not understood to be in part derivative claims. Sanovest proceeded with the Receivership based on that compromise, it was not the Court's doing. Now Sanovest seeks to walk that back by saying the Court did not understand the full picture. This application seeks to upend the agreement between the parties, and seeks to do so without any new material change in circumstances.
10. Including words like "until further Order" in the Receivership Order does not change the fact that Sanovest voluntarily made the informed decision – knowing full well the nature of the disputes and the time required for the resolution of the disputes – to reach a compromise with the Matthews Parties that the extant litigation are carved out in exchange for the Matthews Parties' consent for a full receivership. There is no basis to set aside the consent that Sanovest voluntarily gave.
11. The Matthews Parties have *bona fide* relied on the exclusion of the extant litigation from the Receivership Proceeding for 14 months and progressed the litigation and the Debt Declaration Application on that basis. The status quo should not be disrupted.
12. The fact that in July of 2025, Mr. Nathanson suggested that Sanovest may possibly bring this application does not alter that fact. Parties cannot be expected to make strategic decisions based on what a party may or may not do, especially nearly a year after a consent agreement was made.

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<sup>5</sup> *Verma v. Verma*, 2007 BCCA 566, para. 28 [Matthews BOA, Tab15]

<sup>6</sup> Sanovest Parties' Notice of Application, paras. 3 and 14 [Vol. 1, Tab 1]

13. Mr. Nathanson on this application submits that the “Bear Mountain Litigation belongs in the Receivership” because of the “basic” point that the litigation consists of what are in substance derivative claims. This has always been the case. What the Sanovest Parties do not do on this application is explain why their consent has changed.
14. If you accept the Sanovest Parties’ submission that in the ordinary course this litigation would be required to proceed in the Receivership,<sup>7</sup> there is even more reason not to vary the consent order and agreement between the parties. This is a substantive change, not one that one party should be able to walk back 14 months later without explanation.
15. The question of “who bears the onus” of deviating from the single proceeding model shows the problem of renegeing on the agreement between the parties. The parties did not contract out of the single control model, rather, the court has endorsed a carve out to a receivership (which all parties consented to) that otherwise maintains the single control function currently in place. The single control model is a model that favours litigation involving an insolvent company to be dealt within a single jurisdiction. The single proceeding model is intended to mitigate the inefficiency and chaos that would result if each stakeholder in an insolvency initiated a separate claim to enforce its rights as against the insolvent debtor. This is not a concern here nor is it a reason to grant the orders sought.

***The orders sought are prejudicial to the Matthews Parties***

16. There are three ways that this application is prejudicial to the Matthews Parties:
  - a) Prejudice of reversing course on the proceedings that have already taken place over the past 14 months. This includes the prejudice of making strategic decisions, for example relating to the Debt Declaration Application and hiring litigation counsel. This is exactly the type of “mounting prejudice” that occurs with delay in bringing a comeback motion, described as the “virtual impossibility of unscrambling the egg.”<sup>8</sup>
  - b) Prejudice in imposing the *BIA* regime on the Matthews Parties, when they negotiated out of that regime 14 months ago, including the presumption of summary procedures, in a complex proceeding that is worth tens of millions of dollars.
  - c) Prejudice of an ongoing nature to the value of the Bear Mountain assets themselves. Bringing the Excluded Litigation into the Receivership signals to the market that the assets are still mired in disputes. It is fundamentally different than the SISP concluding, the closing of the

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<sup>7</sup> The Sanovest Parties’ Written Submissions, para. 87

<sup>8</sup> *Canada North Group Inc (Companies’ Creditors Arrangement Act)*, 2017 ABQB 550 (CanLII), para. 56 [Matthews Parties’ BOA Tab 4]

transaction occurring and the work of the Receiver largely completing, while the former partners, of the old partnership, litigate outside of the bankruptcy context.

17. On November 25, 2025, the Receiver filed the application for an Approval and Vesting order, approving the Asset Purchase Agreement of Groundplay Developments Ltd. (an affiliated entity to the Matthews Parties) as purchaser and 599 as guarantor.<sup>9</sup> The Receiver filed its Eighth Report supporting this bid and recommending it for approval. This is a transaction worth over \$141 million. There is significant prejudice and potential stigma associated with having the Excluded Litigation bound in a bankruptcy proceeding.<sup>10</sup>
18. This type of prejudice was specifically contemplated in the initial receivership application prior to the agreement on the carve out being reached:
  - a) Counsel for Matthews Parties: “the blunt instrument of a full, non-nuanced receivership does create prejudice, not just in the community of purchasers but the larger community... They’ve been through a receivership once already. If we do another full receivership, that’s two times. That’s going to cause prejudice long-term to the membership and to the viability of operations.” (Transcripts of Hearing, September 10, 2024, pg. 33-34).<sup>11</sup>
  - b) The Court inquired about this stigma when considering a full versus limited receivership: “But don’t you already have the stigma if I appoint a limited receiver in any event?” (Transcripts of Hearing, September 10, 2024, pg. 38).<sup>12</sup>
  - c) Counsel for Sanovest (Mr. Jackson), acknowledged the media’s role during this hearing: “There’s plenty of evidence about the partnership dispute and the financially strained circumstances of the partnership in the media already... It has been aired in public extensively.”<sup>13</sup>
19. The last thing this project needs is for the receivership to broaden significantly in scope at the very moment when there is finally good news that a sale is occurring for significant value.
20. A number of additional questions of potential prejudice arise if the order is granted, in particular:
  - a) The receivership proceedings naturally focus on the rights of the secured creditor. This is an unusual receivership where the secured creditor also

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<sup>9</sup> D. Matthews #8, Exhibit “A”

<sup>10</sup> D. Matthews #8, paras. 3-7

<sup>11</sup> M. Liang #2, Exhibit “A” [Vol. 1, Tab 6, pg. 125]

<sup>12</sup> *Ibid* [Vol. 1, Tab 6, pg. 130]

<sup>13</sup> *Ibid* [Vol. 1, Tab 6, pg. 95]

happens to be one of the main two parties wearing a different hat in the partnership dispute. The lens by which the receivership naturally progresses is not the same lens that parties in a partnership dispute face. This creates a concern of fairness if the litigation is brought within the scope of the receivership for the first time late in the process.

- b) Mr. Nathanson gave submissions that Mr. Tian Kusumoto was “proven right” in his business judgment given that the Receivership has proceeded with an *en bloc* sale, which was the course of action that Mr. Kusumoto insisted on back in 2021 while he vetoed the site sale strategy endorsed by Colliers. It cannot be accepted as a *fait accompli* that this is correct, and it is very much in dispute.
- c) There is an allegation, made strenuously by Mr. Ferris at the original application for the receivership on behalf of the Matthews Parties, that Sanovest effectively manufactured the bankruptcy, which forms part of its oppressive conduct.<sup>14</sup> That allegation is significantly harder to address when the same court that ordered the receivership is now determining the litigation itself. It was on the heels of that submission that the carve out occurred in the first place.

***The justification for the proposed order, being that the proceedings “are not working”, is not correct***

21. This is an important point and addressed a number of key issues for this application:

- a) The Case Plan Proposal<sup>15</sup> has been followed.<sup>16</sup> The litigation is proceeding in the normal course. In particular:
  - i. Document discovery has occurred and is largely complete outside of a few remaining issues. Thousands of documents have been produced in accordance with a collaborative ‘meet and confer’ process. The parties have been responsive and prompt in their dealings on these issues, including working with prior counsel as needed.
  - ii. 12 days of examinations for discovery have occurred within the deadline set out in the Case Plan Order. There are no further examinations proposed outside of follow up to requests.

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<sup>14</sup> M. Liang #2, Exhibit “A” [Vol. 1, Tab 6, pg. 167]

<sup>15</sup> Case Plan Order of the Honourable Mr. Justice Walker of September 12, 2024 [Vol. 3, Tab 41]

<sup>16</sup> The only possible complaint regarding the Case Plan Order that Sanovest could make is that the initial discoveries brought by the Matthews Parties did not occur until September 2025, after counsel changed. Mr. Matthews was examined within the initial timeline as set out. The Sanovest Parties cannot use their own witness’s examination transcript as evidence. There has been no prejudice or delay as a result of the initial discoveries not completing by May 2025. All the discoveries were completed by the ultimate deadline.

- iii. Responses to requests of Mr. Matthews' initial discovery were provided in August 2025, as agreed between the parties.
  - iv. A trial management conference was scheduled for December as per the case plan order, which has now been adjourned.
  - v. Expert reports have not yet been exchanged given the ultimate adjournment of the trial. The Matthews Parties sought Sanovest's consent to amend the Case Plan Proposal by one month to allow the instructions of experts after the discoveries, so that the trial could proceed, that proposal was not accepted by Sanovest.
  - vi. All other pre-trial steps, including trial briefs, trial certificates and trial records were not yet due at the time of the adjournment.
  - vii. There is ample time to complete the remaining pre-trial steps prior to January 2027, which include the exchange of expert reports and witness lists.
- b) There has not been an inordinate amount of court time spent or any conflicting decisions of the court. The parties, despite the animosity, have resolved most issues by consent. Even the Debt Declaration Application and the Receivership Application resulted in agreements. The only other applications concerned the hearing of the actions together (which the Matthews Parties were successful on) and the first adjournment application brought by Sanovest. This is not a picture of scrambled and unorganized litigation, rather these are normal applications which are to be expected in complex litigation. Certainly, these could have been anticipated in September 2024 and do not constitute a change in circumstances.
- c) The Sanovest Parties and Mr. Tom Kusumoto have not availed themselves of any of the tools available under the *Rules* to address any of the problems they now complain, for example:
- i. No document production applications have been brought by the Sanovest Parties.
  - ii. No applications to address any now (sort of) alleged conflict have been brought by the Sanovest Parties.
  - iii. No applications for summary trial have been brought by any party, despite being specifically allowed in the Order of Justice Morellato ordering the actions be heard together. If Mr. Tom Kusumoto is so concerned about being dragged through a trial, why hasn't that application been brought in the normal course?

- iv. Similarly, no applications to vary the Order of Justice Morelatto have been brought on the basis of material change of circumstances, despite being specifically allowed in that Order.
  - v. No further case planning conferences have been scheduled or proposed by the Sanovest Parties.
  - vi. No concrete proposal has been tendered by the Sanovest Parties even on this application for how the proposed order would expedite the resolution of the Excluded Litigation.
- d) A trial is scheduled for 29 days in January 2027. It is the Sanovest Parties that are now taking the position that this trial cannot complete, saying 50 days is required. They have provided no credible explanation on why they previously agreed that 25 days would be sufficient and now have doubled that estimate.
22. The Sanovest Parties have not justified why this order sought, if issued, would prevent any of the conflict or issues that have arisen. As Mr. Nathanson said, this is complex litigation. There is no case plan proposal. There is no substantive or concrete description on how the Excluded Litigation will progress if the order is granted. There is no explanation on why the Sanovest Parties did not avail themselves of the case planning tools available to it in the litigation under the *Rules*. The Sanovest Parties have never proposed any sort of solution to the Matthews Parties regarding the format of trial that has been rejected. There is no need to “stop the fragmentation and the scramble”, there is no fragmentation and scramble occurring.
23. Far from a change in circumstances, there is less reason now to bring the Excluded Litigation within the receivership than there was when it was carved out in 2024. The sale process has nearly concluded in parallel with the Excluded Litigation – all secured and unsecured and all trade creditors will be paid in full following the closing of the transaction. The Excluded Litigation has substantially progressed as contemplated. All that remains is that the parties get on with trial as soon as possible.
24. The Sanovest Parties say that the orders sought will protect the integrity of the Receivership. There is no threat to the integrity of the Receivership. That process is playing out exactly as planned and ordered in September 2024. The Receiver has been able to execute their duties professionally and no one is questioning the integrity of that process at this stage.
25. The reality is that the Excluded Litigation is working in the normal course. The parties have been able to resolve the Debt Declaration Application to allow the sale process to continue. The Resort Partnership issue has been determined. Discoveries have taken place, documents exchanged, applications consented to. There is nothing of substance that this proposed order actually

accomplishes, besides imposing the bankruptcy regime onto the parties in the Excluded Litigation, which was specifically excluded over a year ago.

***So where do we go from here?***

26. The Court asked counsel to consider what the Matthews Parties propose going forward. The Matthews Parties propose the following:
  - a) A case planning conference brought pursuant to Part 5 of the *Rules* be held within 21 days (the same timeframe as proposed by Sanovest on this application).
  - b) At that conference, the parties can advance case plan proposals pursuant to the *Rules*.
  - c) The Matthews Parties are agreeable to amending the current case plan order by substituting new dates in 2026 for the remaining items to ensure that this matter proceeds as scheduled.
  - d) The Matthews Parties are agreeable to making themselves available in almost the entirety of 2026. It is understood that Mr. Nathanson is primarily not available at any time in 2026 for a trial of this matter; however, should that change, the Matthews Parties want to proceed and are agreeable to amending the case plan order to accommodate an expedited timeline.
  - e) The Matthews Parties are agreeable to an order that the trial date is peremptory on all parties, to ensure no delay in resolution.
27. The Matthews Parties want the Excluded Litigation to be resolved as expeditiously as possible.
28. Given the nature of the allegations made, the nature of the relief sought, the complexity of the factual and legal issues, and most importantly that credibility of the witnesses is critical to the determination of most of the issues in dispute, with limited exceptions on specific issues, the Excluded Litigation should not be resolved summarily. It would not be in the interest of justice. That said, the Matthews Parties are certainly open to solutions that would streamline the evidence.
29. The trial of the Excluded Litigation is set for 29 days commencing January 11, 2027. There is no reasonable prospect that the Excluded Litigation is resolved earlier than that, even if the orders sought are granted. Counsel for the Sanovest Parties have said that they are not available for a trial (even for the originally scheduled 25 days) in 2026. They have refused to provide a time

estimate for the proposed “hybrid” summary trial. They have refused to say that they are available in 2026 for the hearing they propose.<sup>17</sup>

30. Not disrupting the status quo and allowing the Excluded Litigation to proceed with the trial as scheduled in January 2027 would ensure the timely resolution of the Excluded Litigation, consistent with the policies underlying the provisions of the *BIA*.

***The orders sought are not essential to the receivership proceedings or conclusion of the sales process***

31. Unlike the case in relation to the hotel arbitration, the Receiver does not take the position that the Excluded Litigation should be brought within the Receivership Proceeding.<sup>18</sup> The Receiver does not take the position that the orders sought are essential to the completion of the SISP.<sup>19</sup>
32. Sanovest relies heavily on *Alderbridge*<sup>20</sup> to support its application. The circumstances in *Alderbridge* were fundamentally different, as set out by Justice Fitzpatrick:

[69] I would emphasize again the Monitor’s comments in the Report at paras. 9 and 15, which I have summarized above, about how the priority issue is expected to negatively impact the Monitor’s ability to arrange a sale of the Development if the disputes in the Related Actions are not resolved beforehand. The Monitor does not describe the resolution of the Related Actions as merely “desirable”; rather it is described as “important” and “essential” to achieving the objectives that are before the stakeholders in this insolvency proceeding.

[70] It cannot be seriously questioned that, in these unique circumstances, it is critical and necessary to determine who holds debt and security against the Development and, if security is held, what is its priority.

33. *Alderbridge* was dealing with a circumstance where it was important to resolve the litigation *before* the sale process. That is simply not the case here.
34. The amount due by the Partnership to Sanovest has been determined pursuant to Sanovest’s application to have the amount of the secured debt determined summarily.<sup>21</sup> The SISP is expected to complete by December 31, 2025.<sup>22</sup> Counsel for the Receiver has confirmed this.

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<sup>17</sup> V. Cheng #1, Exhibit “U” [Vol. 2, Tab 10, pg. 454]

<sup>18</sup> Receiver’s Application Response [Vol. 1, Tab 4]

<sup>19</sup> *Ibid*

<sup>20</sup> *Alderbridge Way GP Ltd. (Re)*, 2023 BCSC 1718 [Sanovest Parties’ BOA, Tab 4]

<sup>21</sup> Order of the Honorable Mr. Justice Walker made November 12, 2025 [Vol. 3, Tab 43]

<sup>22</sup> Order of the Honorable Mr. Justice Walker made July 15, 2025 [Vol. 3, Tab 16]

35. Counsel for the Receiver also has confirmed that proceeds of the sale will be able to pay Sanovest, HSBC, and other creditors in full. Any remaining distribution will be paid pursuant to the Partnership Agreement and the Matthews Parties are not seeking that distributions be stayed. Once the sale completes, the role of the Receiver will be minimal as the only issue remaining will be the Excluded Litigation and the remaining payout based on that result.

## PART II –THE EVOLUTION AND THE CURRENT STATE OF THE EXCLUDED LITIGATION

37. The Matthews Parties' core complaint in the Excluded Litigation is Sanovest's oppressive conduct and breaches of the Sanovest Loan Agreements and the Partnership Agreements. In particular, Sanovest refused to fund the operations (not even for the payment of property taxes payable to the municipal government) and voted against efforts to find third-party financing. Sanovest also vetoed any sale of the lands in order to entrench the Sanovest Loan.
38. The Matthews Parties have no reason to delay the resolution of the Excluded Litigation. The ongoing accrual of interest under the Sanovest Loan Agreements – which, according to Sanovest, continues to accrue at a rate of \$14,700 per day as of May 2025 – continues to erode 599's and Mr. Matthews' equity in the Partnership.

### ***The Matthews Parties' effort to progress the Excluded Litigation before the Receivership Order***

39. In October 2023, the Matthews Parties applied to consolidate the Oppression Action, the Partnership Action, and the Sanovest Action.<sup>23</sup>
40. On November 24, 2023, 599 and other plaintiffs in the Partnership Action served their list of documents in the Partnership Action.<sup>24</sup>
41. On December 13, 2023, 599 and other plaintiffs in the Partnership Action filed a notice of trial, setting the trial in the Partnership Action for 25 days beginning on January 6, 2025.<sup>25</sup>
42. On April 3, 2024, Mr. Matthews served his list of documents in the Sanovest Action.<sup>26</sup>
43. On the Matthews Parties' application, on April 18, 2024, Associate Justice Nielsen ordered that the Oppression Action, the Partnership Action, and the Sanovest Action be consolidated on certain terms.<sup>27</sup>
44. As of April 2024, the Sanovest Parties had yet to list or produce a single document in any of the Excluded Litigation, including in the Sanovest Action, which Sanovest had commenced almost two years ago in May 2022.

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<sup>23</sup> V. Cheng #1, Exhibit "A" [Vol. 2, Tab 10, pg. 1-17]

<sup>24</sup> V. Cheng #1, Exhibit "B" [Vol. 2, Tab 10, pg. 18-20]

<sup>25</sup> V. Cheng #1, Exhibit "C" [Vol. 2, Tab 10, pg. 21-25]

<sup>26</sup> V. Cheng #1, Exhibit "D" [Vol. 2, Tab 10, pg. 26-27]

<sup>27</sup> Order of Associate Judge Nielson of April 18, 2024 [Vol. 3, Tab 40] *Ecoasis Developments LLP v. Sanovest Holdings Ltd.*, 2024 BCSC 635 [Matthews Parties' BOA, Tab 5]

45. On April 25, 2024, the Sanovest Parties applied to adjourn the trial set for January 2025, before any attempt to comply with their document production obligations under the *Rules*.<sup>28</sup>
46. On April 29, 2024, 599 filed an application to compel the listing and production of documents by the Sanovest Parties in the Partnership Action.<sup>29</sup>
47. On May 2, 2024, the Sanovest Parties delivered a first list of documents in each of the Oppression Action, the Partnership Action, and the Sanovest Action – listing just 775 documents on each of those lists.<sup>30</sup>
48. By contrast, the Matthew Parties at the time had listed and produced more than 6,800 documents in the Partnership Action and the Sanovest Action.<sup>31</sup>
49. Given the state of the Sanovest Parties' document production at the time, the Matthews Parties, in July 2024, consented to their application to adjourn the trial.
50. On July 24, 2024, the Matthews Parties set down the Oppression Action, the Partnership Action, and the Sanovest Action for trial commencing on January 12, 2026, with 25 days reserved.<sup>32</sup>
51. The parties agreed at the time that the trial of the Oppression Action, the Partnership Action, and the Sanovest Action could be completed in 25 days.

***The Excluded Litigation is excluded from the Receivership Proceeding by consent***

52. In May 2024, Sanovest filed a petition in the within proceedings for the appointment of a receiver. Around the same time, the Matthews Parties filed an application in the Oppression Action for the appointment of a receiver with a limited scope and authority to sell some of the assets to fully repay the Sanovest Loan and to fund the operations of the Partnership.
53. Sanovest's petition and the Matthews Parties' application were heard by the Honourable Mr. Justice Walker on September 10-12 and 17-28, 2024.
54. Ultimately, the Honourable Mr. Justice Walker made the Receivership Order by consent on September 18, 2024. As the Honourable Mr. Justice Walker noted in para. 2 in *Sanovest Holdings Ltd. v Ecoasis Developments LLP*, 2025 BCSC 1504<sup>33</sup>:

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<sup>28</sup> V. Cheng #1, Exhibit "F" [Vol. 2, Tab 10, pg. 38-52]

<sup>29</sup> V. Cheng #1, Exhibit "G" [Vol. 2, Tab 10, pg. 53-61]

<sup>30</sup> V. Cheng #1, Exhibit "H" [Vol. 2, Tab 10, pg. 62-122]

<sup>31</sup> V. Cheng #1, Exhibit "I" [Vol. 2, Tab 10, pg. 123-338]

<sup>32</sup> V. Cheng #1, Exhibit "K" [Vol. 2, Tab 10, pg. 344-349]

<sup>33</sup> *Sanovest Holdings Ltd. v Ecoasis Developments LLP*, 2025 BCSC 1504 [Matthews Parties' BOA, Tab 14]

“I issued the receivership order by consent (“Receivership Order”) on September 18, 2024, following a lengthy and fractious hearing, where nearly every issue was in dispute.”

55. The Excluded Litigation is excluded from the Receivership Proceeding by consent. As noted in para. 14 of the Sanovest Parties’ Notice of Application<sup>34</sup>:

“The Bear Mountain Litigation was carved out from the Receivership Order pursuant to a consent agreement reached between Sanovest and the Matthews Parties during the hearing in September 2024.”

***The Matthews Parties continued to progress the Excluded Litigation after the Receivership Order***

56. In October 2024, the Matthews Parties applied for an order that the Debt Action be tried and heard together with the Oppression Action, the Partnership Action, and the Sanovest Action.
57. The “meet and confer” process for document discovery took place in August-November 2024. The parties exchanged lists/amended lists of documents in mid December 2024.
58. The parties worked collaboratively in the next three months to resolve the issue concerning privilege over partnership documents. Amended lists of documents were exchanged in February 2025. Voluminous documents were produced and delivered to the other parties. The Matthews Parties began to review the documents disclosed by the Sanovest Parties and Mr. Tom Kusumoto.
59. In late February 2025, Mr. Matthews was examined for 2 days by counsel for the Sanovest Parties.
60. The Matthews Parties’ joinder application was heard on February 7, 2025. By Order of the Honourable Madam Justice Morellato dated May 16, 2025, the Debt Action, the Oppression Action, the Partnership Action, and the Sanovest Action were ordered to be heard together.<sup>35</sup>
61. On June 6, 2025, the Matthews Parties’ former counsel delivered notices of intention to withdraw in the Excluded Litigation. About one month later, the Matthews Parties’ new counsel in the Excluded Litigation came on record on July 14, 2025.<sup>36</sup>

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<sup>34</sup> Sanovest Parties’ Notice of Application, [Vol. 1, Tab 1, para. 14]

<sup>35</sup> *Ecoasis Developments LLP v. Sanovest Holdings Ltd.*, 2025 BCSC 991. Order of Madam Justice Morellato of May 16, 2025 [Vol. 2, Tab 10] [Matthews Parties’ BOA Tab 6]

<sup>36</sup> V. Cheng #1, Exhibits “Q” and “R” [Vol. 2, Tab 10]

62. Subsequent to that, the Matthews Parties continued to diligently progress the Excluded Litigation:
- a) Requests for information and documents made of Mr. Matthews during his examination for discovery were addressed in August 2025.
  - b) Mr. Tian Kusumoto was examined for discovery for four days in September and early October 2025.
  - c) Mr. Tom Kusumoto was examined for discovery for two days in early October 2025. And for a further day by Sanovest in October 2025.
  - d) Mr. Matthews was examined further for discovery by counsel of the Sanovest Parties and counsel of Tom Kusumoto in October 2025.
63. In early September 2025, the Matthews Parties' new counsel discussed the preparation of the January 2026 trial with the Sanovest Parties' counsel, and the latter expressed the concern that there may not be sufficient time for the parties to exchange expert reports.
64. On September 19, 2025, the Matthews Parties suggested a slight variation of the Case Plan Orders to allow the parties more time for the exchange of expert reports. The Sanovest Parties responded on October 8, 2025, insisting without any elaboration, that outstanding discovery issues must be completed before expert reports are exchanged and that the January 2026 trial must be adjourned.<sup>37</sup> Interestingly, the Case Plan Order itself contemplated discoveries completing by November 15, 2025 and the Expert Reports being exchanged by October 17, 2025.<sup>38</sup>

***The Sanovest Parties applied to adjourn the trial of the Excluded Litigation for the second time***

65. The adjourned trial of the Excluded Litigation was scheduled to commence in January 2026. As the January 2026 trial approached, Sanovest raised concerns about the Matthews Parties' document production efforts. Sanovest first raised those concerns in September 2025, 9 months after the amended lists were served on them and 7 months after the partnership privilege issue was resolved and documents were provided to Sanovest. All of the concerns were unfounded.<sup>39</sup>
66. Contrary to Sanovest's submissions that they are concerned about delay and costs of the Excluded Litigation, the Sanovest Parties in December 2024 abandoned the agreed joint collection of the emails from the 14 custodians and insisted that every single email of each and every employee of the Partnership

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<sup>37</sup> V. Cheng #1, Exhibit "T" [Vol. 2, Tab 10, pg. 445-452]

<sup>38</sup> Case Plan Order of the Honourable Mr. Justice Walker of September 12, 2024 [Vol. 3, Tab 41]

<sup>39</sup> V. Cheng #1, Exhibit "S" [Vol. 2, Tab 10, pg. 418-444]

and the Resort Partnership and all data in the servers must be collected and reviewed for production.

67. The Sanovest Parties are still seeking to expand the already voluminous production record. The Sanovest Parties claim in October 2025, without basis, that they have doubts as to the Matthews Parties' production, and suggest that they will collect and review all the electronically stored information of the employees of the Partnership.<sup>40</sup>
68. The second adjournment of the trial of the Excluded Litigation was necessitated by the delay and inaction of the Sanovest Parties. The Matthews Parties consented to the application brought by Sanovest to adjourn the 2026 trial date. Counsel have worked collaboratively to find the next available trial date, which is January 2027, a (not unusual) one year delay.
69. In any event, none of these circumstances are ones that are not common in litigation or are materially different from what could have been expected in September 2024 when the receivership order was made. There has been no change in circumstances.

***Procedural steps required before the January 2027 trial***

70. The trial of the Excluded Litigation is now scheduled to commence on January 11, 2027, with 29 days reserved.
71. In the next 13 months, the parties will be able to complete all the outstanding procedural steps required.
72. The parties altogether have produced over 30,000 documents. Mr. Matthews, Mr. Tian Kusumoto, and Mr. Tom Kusumoto altogether have attended 12 days of examinations for discovery. The parties are addressing the outstanding requests made during the examinations for discovery. Once the outstanding requests are addressed, the parties can then schedule follow-up examinations for discovery.
73. The SISP will be completed by December 2025. Expert reports will be completed and exchanged prior to the commencement of the January 2027 trial.

**Length of the trial**

74. When the trial of the Excluded Litigation was adjourned for the first time at the request of the Sanovest Parties in July 2024, the Sanovest Parties agreed that the trial of the Excluded Litigation could be finished within 25 days.<sup>41</sup>

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<sup>40</sup> V. Cheng #1, Exhibit "S" [Vol. 2, Tab 10, pg. 418-444]

<sup>41</sup> V. Cheng #1, Exhibit "K" [Vol. 2, Tab 10, pg. 344-349]

75. The Sanovest Parties now take the position that 50 days is necessary for the trial of the Excluded Litigation.
76. The Sanovest Parties first communicated the new time estimate – a double of the previous time estimate – to the Matthews Parties’ counsel in mid-November 2025, when the parties tried to fix the further adjourned trial of the Excluded Litigation as a result of the Sanovest Parties’ second adjournment application.
77. The new time estimate was not communicated to the Matthews Parties in September and October 2025, when the parties were discussing varying the timetable for the exchange of expert report.<sup>42</sup>
78. The Sanovest Parties say that one of the reasons why the Sanovest Parties are of the view that the trial of the Excluded Litigation would take 50 days is because the Excluded Litigation is only ordered to be heard together, but has not been ordered to be merged in any manner.<sup>43</sup>
79. In the Oral Reasons for Judgment, Justice Morellato stated in paragraph 60 that:

[60] Third, while each of the Bear Mountain Actions will be heard together, each will proceed to trial as if they were separate actions and nothing in this order shall be construed to merge or consolidate the claims. Subject to the discretion of the trial judge, the parties are at liberty to reach agreement on the sequencing and presentation of the four Bear Mountain Actions at trial.

80. Justice Morellato held that the Excluded Litigation should be heard together because the Excluded Litigation is inter-connected and hearing them together would very likely reduce the trial time required for the Excluded Litigation because, among other things, the same witnesses would not be called or recalled multiple times to speak to overlapping and related matters. In paragraph 52, Justice Morellato stated that:

[52] I am satisfied, given the interconnected nature of the Bear Mountain Actions that hearing them together will streamline pre-trial procedures and will reduce the number of days of trial. The common background, factual matrix and inter-related issues will very likely reduce the trial time required for the Bear Mountain Actions if they are heard together, better ensuring the court is more fully informed of the entirety of the facts and issues before it, and avoiding the need to call and recall the same witnesses multiple times to speak to overlapping and related

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<sup>42</sup> V. Cheng #1, Exhibit “T” [Vol. 2, Tab 10, pg. 445-452]

<sup>43</sup> M. Liang #4, Exhibit “C” [Vol. 2, Tab 8, pg. 15]

matters. Hearing the matters together should also facilitate in streamlining pre-trial discovery and other procedures.

81. It is up to the parties to discuss sequencing and presentation of the Excluded Litigation at trial so that the trial of the Excluded Litigation could be finished within the time currently booked. If the parties cannot reach an agreement, a case planning conference can be scheduled.
82. All these steps could be done under the *Rules* by the parties' counsel working collaboratively without disrupting the parties' consent agreement that the Excluded Litigation be excluded from the Receivership Proceeding.
83. Instead, the Sanovest Parties opted to make this application to set aside the consent agreement that the parties had reached.

***The proposed summary/hybrid trial would not take place before January 2027***

84. The Matthews Parties are in favour of resolving the Excluded Litigation expeditiously. The Matthews Parties however disagree that the relief sought by the Sanovest Parties will speed up the process, given that the adjourned trial is scheduled for January 2027 and Sanovest's lack of any plan on how this hybrid process would actually advance the resolution of the Excluded Litigation prior to January 2027.
85. There is no reasonable prospect that the Excluded Litigation can be resolved earlier than January 2027, even if the orders sought are granted. Counsel for the Sanovest Parties have said that they are not available for a trial (even for the originally scheduled 25 days) in 2026. They have refused to provide a time estimate for the proposed "hybrid" summary trial, and have refused to say that they are available in 2026 for the hearing they propose.<sup>44</sup>

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<sup>44</sup> V. Cheng #1, Exhibit "U" [Vol. 2, Tab 10, pg. 454]

### PART III – THE BANKRUPTCY COURTS HAVE NO JURISDICTION TO DETERMINE QUESTIONS BETWEEN THE CREDITORS

86. The Excluded Litigation is undeniably disputes between the partners, 599 and Sanovest.
87. In paragraph 48 of Sanovest’s written submissions for the appointment of receiver dated August 15, 2024, Sanovest described the Excluded Litigation as “***contentious, unresolved litigation between the Partners containing cross-allegations of serious breaches of duty, bad faith, oppressive conduct and equitable, if not actual, dishonesty, including, among other things, allegations of undervalue transactions to the detriment of Sanovest and the Partnerships.***” (Emphasis added.)

#### The Partnership Disputes

48. The Partnerships are currently unable to generate revenue from the development and sale of the Project Lands because, although 599 and Sanovest agree that the lands have significant value, they disagree on the appropriate strategy to realize that value.<sup>47</sup> This disagreement has led to an effective deadlock in the Partnerships and contentious, unresolved litigation between the Partners containing cross-allegations of serious breaches of duty, bad faith, oppressive conduct and equitable, if not actual, dishonesty,<sup>48</sup> including, among other things, allegations of undervalue transactions to the detriment of Sanovest and the Partnerships.<sup>49</sup>

49. There is no expectation that the Partners’ disputes and the resulting deadlock can be resolved other than through litigation, which, apart from involving substantial costs to all parties, will not be concluded for years to come.

#### ***Proceedings brought under the BIA***

88. There are limits in respect of the jurisdiction of the bankruptcy courts.
89. The Sanovest Parties have emphasized time and again that the single control model and the single proceeding model applies to insolvency proceedings.
90. The single control model is a model that favours litigation involving an insolvent company to be dealt within a single jurisdiction. The single proceeding model is intended to mitigate the inefficiency and chaos that would result if each stakeholder in an insolvency initiated a separate claim to enforce its rights as against the insolvent debtor. These models do not require that each and every dispute be tried in the bankruptcy courts.
91. It is well established that the court sitting in bankruptcy has no jurisdiction to determine questions between creditors: *The 2025 Annotated Bankruptcy and*

*Insolvency Act*, Lloyd W. Houlden, Jeffrey B. Morawetz, and Janis P. Sarra, Thomson Reuters at §8:28, p. 1014.<sup>45</sup>

92. In *Alda Wholesale Ltd. (Trustee of)*, 2001 BCSC 921<sup>46</sup>, the Honourable Mr. Justice Burnyeat discussed the jurisdiction of the Supreme Court of British Columbia sitting in bankruptcy.
93. In paragraphs 57 and 58, Justice Burnyeat stated that:

[57] **Where a trustee in bankruptcy is not claiming an interest in assets, there is no right to litigate a disputed claim regarding priority rights in the Bankruptcy Court:** *Re Halikas* (1943) 25 C.B.R. 67 (Que.C.A.); *Re Princeton Tailors Ltd.* (1931) 12 C.B.R. 208 (Ont.S.C.); and *Re Points of Call Airlines Ltd.* (1990) 1990 CanLII 464 (BC SC), 80 C.B.R. (n.s.) 157 (B.C.S.C.). In *Re Points of Call Airlines Ltd.*, *supra*, Parrett J. stated:

This court in its jurisdiction sitting in bankruptcy is confined to matters dealing with the administration of an insolvent estate by the trustee. **Its bankruptcy jurisdiction does not extend to the trial and determination of issues between creditors but rather to claims by the bankrupt against creditors or by creditors against the bankrupt.** (at para.39)

[58] Similarly, in *Re Rico Enterprises Ltd.* (1994) 1994 CanLII 996 (BC SC), 92 B.C.L.R. (2d) 67 (B.C.S.C.), Tysoe J. adopted the reasoning in the decision of *Re Orzy* (1924) 1923 CanLII 489 (ON CA), 1 D.L.R. 250 (Ont.C.A.) when stating:

... **the practice in bankruptcy does not permit of the adjustment of the rights and privileges of creditors *inter se* but only the rights, privileges and preferences of creditors as against the insolvent and his estate** ... the reason or principle governing being that bankruptcy proceedings are designated to administer the rights of creditors of the estate as against the bankrupt and his estate, and therefore the Court may not in that administration be delayed or hindered by being called upon to determine questions between creditors ... (at p.77)" (Emphasis added.)

94. While the Partnership and the Resort Partnership are named as defendants in the Oppression Action, the Matthews Parties did not make any claims against the Partnership and the Resort Partnership in the Oppression Action.

<sup>45</sup> Matthews Parties' BOA, Tab 17

<sup>46</sup> Matthews Parties' BOA, Tab 1

95. In the Sanovest Action, Sanovest included a claim for breach of EBMD's reporting obligations under the Partnership and Sanovest Loan Agreements. Sanovest however agrees in paragraph 18 of the Written Submissions that such claim is now essentially academic because of the appointment of the Receiver.
96. As Sanovest has rightly described in its written submissions for the appointment of receiver, the Excluded Litigation is essentially disputes between 599 and Sanovest containing cross-allegations of oppressive conduct and serious breaches of duties and dishonesty. They do not involve any meaningful claims against the debtor by the creditors.
97. The fact that the Excluded Litigation is, in part, for the benefit of the debtor does not mean that the Excluded Litigation should be tried in the bankruptcy courts.
98. As Justice Burnyeat stated in *Alda Wholesale Ltd. (Trustee of)*, the court in its jurisdiction sitting in bankruptcy is confined to matters dealing with the administration of an insolvent estate by the trustee.
99. The Excluded Litigation is brought by the partners making cross-allegations against the other partner. They were not brought by the Receiver; they are not and will not be managed by the Receiver.
100. Unlike the hotel arbitration, the Receiver does not take the position that the Excluded Litigation should be brought within the Receiver's control.
101. The Sanovest Parties did not refer to any authority where disputes between the partners or disputes not controlled by the trustee/receiver are heard in the proceedings brought under the *BIA*.

### ***Proceedings brought under the CCAA***

102. In contrast to proceedings brought under the *BIA*, there is some limited discretion in the *CCAA* context. The courts have consistently held that the court would not determine inter-creditor disputes, unless the resolution of such disputes is inextricably connected to the bankruptcy process.
103. This principle was restated in a recent judgment of the Court of King's Bench of Alberta. In *National Bank of Canada v Sunterra Food Corporation*, 2025 ABKB 599, the Honourable Justice Michael J. Lema held that it is not a proper use of a *CCAA* proceeding to determine disputes between parties other than the debtor company, unless where the resolution of such dispute is "inextricably connected to the restructuring process".<sup>47</sup>

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<sup>47</sup> [Matthews Parties' BOA, Tab 9]

104. Justice Lema stated in paragraphs 12 and 13:

[12] It is not a proper use of a CCAA proceeding to determine disputes between parties other than the debtor company: *Stelco (Re)*, 2005 CanLII 42247 (ONCA) (para 32). See also *Green Growth Brands Inc (In the matter of a plan of compromise or arrangement)*, 2020 ONSC 3565 (paras 33-37).

[13] An exception is where the resolution of such disputes is “inextricably connected to the restructuring process”: *Stelco Inc (Re)*, 2006 CanLII 16526 (ONCA) (paras 11 and 12) and *Alderbridge Way GP Ltd*, 2023 BCSC 1718 (Fitzpatrick J.) (paras 34-57). For examples of such connections, see *Stelco (2006)* (paras 5-10), *Alderbridge* (paras 58-72) and *Dynamic Technologies Group Inc (Re CCAA)*, 2023 ABKB 172 (Mah J.).

105. In *Alderbridge Way GP Ltd. (Re)*, 2023 BCSC 1718, brought under the CCAA, the Court made the exception to try inter-creditor disputes within the bankruptcy proceedings because of the Monitor’s position that the expeditious resolution of the inter-creditor disputes was important in relation to the future marketing and sale of the real estate development.<sup>48</sup>

106. In paragraph 16, Justice Fitzpatrick cited the Monitor’s position that the resolution of the inter-creditor disputes was important and essential to the SISF process to be re-commenced:

[16] The Monitor believes that an expeditious resolution of the claims between the CCAA Debtors/Guarantors, GEC and Romspen is important in relation to the future marketing and sale the Development. The Monitor states that it is important, if not essential, for the Monitor, who has conduct of the sales process, to have clarity on the relative priorities and amounts of the secured claims when the SISF is re-started or, at least, shortly thereafter.

107. Justice Fitzpatrick emphasized the Monitor’s position again in paragraph 69:

[69] I would emphasize again the Monitor’s comments in the Report at paras. 9 and 15, which I have summarized above, about how the priority issue is expected to negatively impact the Monitor’s ability to arrange a sale of the Development if the disputes in the Related Actions are not resolved beforehand. The Monitor does not describe the resolution of the Related Actions as merely “desirable”; rather it is described as “important” and “essential” to achieving the objectives that are before the stakeholders in this insolvency proceeding.

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<sup>48</sup> [Matthews Parties’ BOA, Tab 2]

108. In the present case, there is no such statement from the Receiver.
109. The receivership process and the Excluded Litigation have been specifically separated since September 2024.
110. When Sanovest applied on June 16, 2025 to have the Indebtedness summarily determined in the Receivership Proceeding, Sanovest explained in the notice of application that the determination of the Indebtedness is essential for the sale process conducted by the Receivership.<sup>49</sup>
111. The Debt Declaration Application has been resolved.<sup>50</sup>
112. The Receiver applied on July 8, 2025 – 10 months after the specific exclusion of the Excluded Litigation from the Receivership Proceeding – for the approval of, among other things, a SISP for the Partnership or its business and/or property. The Receiver proposed a timetable for the implementation of the SISP, with a commencement date on July 22, 2025, and an outside closing date on December 31, 2025.<sup>51</sup>
113. At the time of the Receiver’s SISP application, the trial of the Excluded Litigation was scheduled to commence in mid January 2026 – after the completion of the SISP. There was no mention in the notice of application that the completion of the SISP is dependent on the resolution of the Excluded Litigation.<sup>52</sup>
114. Since its appointment, the Receiver has submitted altogether 8 reports, with the latest one submitted on November 25, 2025. The Receiver has not made any reference in the reports that the resolution of the Excluded Litigation is inextricably connected to the SISP.
115. The Receiver will come before this Court on December 1, 2025 to seek the Court’s approval of a transaction emanating from the SISP, with an outside closing date on December 31, 2025.<sup>53</sup>
116. The sale process will see that the secured and unsecured claims of Sanovest, the secured claim of HSBC, and the other unsecured claims by all remaining creditors be paid in full following the closing date.
117. After the transaction approval and closing, the Receiver’s role, if any, would be limited to the issues set out in paragraph 9 of the Receiver’s Application Response – “*distributions to the partners, claims and cross-claims impacting*

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<sup>49</sup> Sanovest’s Notice of Application (Debt Declaration) [Vol. 3, Tab 17]

<sup>50</sup> Order of the Honourable Mr. Justice Walker of November 12, 2025 [Vol. 3, Tab 43]

<sup>51</sup> Receiver’s Notice of Application (SISP) [Vol. 3, Tab 19, para. 14]

<sup>52</sup> Receiver’s Notice of Application (SISP) [Vol. 3, Tab 19]

<sup>53</sup> Receiver’s Notice of Application (SISP) [Vol. 3, Tab 19, para. 14]

Receiver’s Application Response [Vol. 1, Tab 4, para. 6]  
D. Matthews #8, Exhibit “A”

*final recovery to the partners, the funding of tax obligations under the partnership agreements, and the need to settle financial statements”.*<sup>54</sup>

118. The Sanovest Parties argue that the Excluded Litigation is intimately connected with the Receivership proceeding because the outcome of the Excluded Litigation would impact the final assets and liabilities of the estate and the equity claims of the partners. This is however the case for every bankruptcy/receivership matter involving disputes that the bankruptcy courts do not have jurisdiction over, such as trustee’s claims as against third parties and inter-creditor disputes. This is not the reason to disrupt the well-established limits of the bankruptcy courts.

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<sup>54</sup> Receiver’s Application Response [Vol. 1, Tab 4, para. 9]

## PART IV – THE COMEBACK RELIEF SHOULD NOT BE USED IN THE CIRCUMSTANCES

### *There is no basis to set aside the consent order*

119. As acknowledged by the Sanovest Parties in paragraph 14 of the Notice of Application, the Excluded Litigation was carved out from the Receivership Order “*pursuant to a consent agreement reached between Sanovest and the Matthews Parties during the hearing in September 2024*”.
120. The Sanovest Parties argue that the carve-out of the Excluded Litigation from the Receivership Proceeding was provisional. This position does not stand up to scrutiny. The carve-out is recorded in the Receivership Order which took effect immediately upon pronouncement on September 18, 2024.
121. The existence of words like “until further Order” in the Receivership Order does not change the analysis. A material change in circumstances is still required.
122. The fact remains that, in September 2024, Sanovest voluntarily made the informed decision – knowing full well the nature of the Excluded Litigation and the time required for the resolution of the Excluded Litigation – to reach a compromise with the Matthews Parties that the Excluded Litigation is carved out in exchange for the Matthews Parties’ consent for a full receivership.
123. Consent orders represent an agreement of the parties and will not generally be set aside or varied unless grounds can be shown that would justify setting aside the underlying contract. Grounds would include such things as duress, undue influence, fraud, misrepresentation, mistake, and unconscionability. *Verma v. Verma*, 2007 BCCA 566, para. 28.<sup>55</sup>
124. The Sanovest Parties have not suggested that Sanovest’s consent to exclude the Excluded Litigation from the Receivership in September 2024 was given under duress, undue influence, fraud, misrepresentation, mistake, and other unconscionable conduct. There is simply no evidence.
125. There is simply no basis to set aside the consent that Sanovest voluntarily gave in September 2024.
126. The Sanovest Parties rely on *Mundo Media Ltd. (Re)*, 2022 ONCA 607 (CanLII)<sup>56</sup> and argue that the parties should not be allowed to contract out of the single proceeding model where doing so would adversely affect all creditors. *Mundo* is clearly distinguishable here.
127. In *Mundo*, the receiver commenced a claim to seek repayment of the single largest account receivable of the bankrupt company, and the merit of the claim

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<sup>55</sup> Matthews Parties’ BOA, Tab 15

<sup>56</sup> Sanovest Parties’ BOA, Tab 14

and the defence of set-off (if successful, eliminating all debt owing to the bankrupt company) would impact if there is any distribution to the creditors at all. The facts are strikingly different here: the proceeds from the sale will see that all of the secured and unsecured creditors be paid in full in the coming two months or so, way before the resolution of the Excluded Litigation, whether it is in the receivership proceeding or not.

128. The exclusion of the Excluded Litigation did not and will not adversely affect any of the creditors.

***The Sanovest Parties are required to show a fundamental change in circumstances***

129. As stated in paragraph 1 of the Sanovest Parties' Notice of Application, the Sanovest Parties make this application to vary the Receivership Order pursuant to s. 187(5) of the *BIA* and paragraph 39 of the Receivership Order.

Statutory comeback relief under s. 187(5) of the BIA

130. In line with the judgment by the Court of Appeal in *Williams Moving & Storage (B.C.) Ltd. v. Canada (Minister of National Revenue)*, 2024 BCCA 160 (CanLII), for s. 187(5) of the *BIA* to apply, the Sanovest Parties must show that there has been a fundamental change in circumstances between the original hearing of the receivership order (i.e., September 2024) and the time of the motion to vary (i.e., October 22, 2025). The Court of Appeal made clear that the jurisdiction given by s. 187(5) should be sparingly exercised and a motion to vary pursuant to s. 187(5) should be made promptly because bankruptcy proceedings take place in real time.<sup>57</sup>

Comeback relief under the receivership order itself

131. Recourse through the comeback clause is available when circumstances change.<sup>58</sup> This is analogous to section 187(5) of the *BIA*.<sup>59</sup>
132. Comeback motions must be made *post haste* because of delay prejudice and the mounting prejudice caused by the momentum of proceeding itself.<sup>60</sup>
133. Comeback relief cannot prejudicially affect the position of parties who have relied *bona fide* on the previous order in question.<sup>61</sup>

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<sup>57</sup> *Williams Moving & Storage (B.C.) Ltd. v. Canada (Minister of National Revenue)* 2024 BCCA 160 (CanLII), para. 89 [Sanovest Parties' BOA Tab 22]

<sup>58</sup> *Canada North Group Inc. (Companies' Creditors Arrangement Act)* 2017 ABQB 550, para. 50 [Matthews Parties' BOA Tab 4]

<sup>59</sup> *Ibid* at paras. 2 and 53

<sup>60</sup> *Ibid*, para. 56

<sup>61</sup> *Ibid*, para. 68

***There has been no change in the circumstances, let alone a fundamental change in circumstances***

134. There has been no change in the circumstances that warrant the exercise of the comeback clause to set aside the consent agreement.
135. The Sanovest Parties argue that the following, singly or collectively, represent a material change in circumstances:
  - a) the Matthews Parties' failure to comply with the Case Plan Orders;
  - b) the adjournment of the January 2026 trial date;
  - c) the Receiver's findings and recommendations concerning the Partnership and Resort Partnership's business; and
  - d) the variation of the Receivership Order already made.
136. In respect to the first two matters, as discussed above, these do not constitute a change in circumstances. The litigation has progressed in the normal course. Further, the orders sought would not speed up the resolution of the Excluded Litigation prior to the currently scheduled trial date in January 2027.
137. In respect of the last two matters, the variation of the Receivership Order was made in August 2025 because of the Resort Partnership's circumstances and the Receiver's recommendations. Here, the Receiver does not take the position that the Excluded Litigation should be brought within the Receivership Proceeding. In fact, the Receiver has confirmed that the sale proceeds will see that all the secured and unsecured creditors be paid, and the remaining issues are the distributions to equity partners. Counsel for the Receiver also confirmed that it would not serve the parties to bring the Excluded Litigation within the Receiver's control.
138. The earlier variation of the Receivership Order was for a specific purpose that does not change the circumstances with respect to the Excluded Litigation in any way.

***The Matthews Parties have bona fide relied on the consent order***

139. The Matthews Parties provided their consent to the receivership on the basis of the carve out.
140. The Matthews Parties have progressed the Excluded Litigation and the Debt Declaration Application pursuant to this compromise between the parties. For example, in July 2025, the Matthews Parties retained different counsel for the Receivership Proceeding (Owen Bird Law Corporation) and the Excluded Litigation (Bojm, Funt & Gibbons LLP). They have conducted the litigation through that lens, including conducting discoveries and making procedural and

strategic decisions. The Matthews Parties are now faced essentially with the prospect of changing counsel from current commercial litigation counsel or proceeding with the litigation within the receivership proceeding with counsel who has very limited insolvency experience.

141. In June 2025, Sanovest applied to have the amount due under the Sanovest Loan determined summarily in the Receivership Proceeding.<sup>62</sup>
142. The Matthews Parties agreed to have the Indebtedness determined summarily in the Receivership Proceeding and agreed to the scope of the Debt Declaration Application on the understanding that the Matthews Parties' claims in the Oppression Action and in the Partnership Action – including the allegations that Sanovest's conduct was oppressive and calculated to entrench the Sanovest Loan, increase the interest accrued under the Sanovest Loan, and in turn erode 599's equity in the partnership – will be fully canvassed at the trial of the Excluded Litigation.<sup>63</sup>
143. Pursuant to paragraph 7 of the SISP Order made July 15, 2025, Sanovest can credit bid the entirety of its secured debt, which is approximately \$62.25 million.<sup>64</sup> This includes approximately \$16.4 million in disputed interest that the Matthews Parties will seek as damages in the Excluded Litigation.

***The Sanovest Parties did not bring this Notice of Application post haste***

144. The Sanovest Parties argue that the Matthews Parties could not complain about prejudice, because when the scope of the Debt Declaration Application was agreed to, the Matthews Parties were aware of the possibility of the current application.
145. At the hearing on July 4, 2025, Mr. Nathanson did not inform the Matthews Parties or the Court that the Sanovest Parties would definitely bring the current application to bring the Excluded Litigation to the Receiver Proceeding. Mr. Nathanson simply stated that the Sanovest Parties may or may not do so. **Transcripts of Proceedings in Chambers**, July 4, 2025, at pg. 8, l. 47 – pg. 9, ll. 1-9<sup>65</sup>

And -- and then the last point I think I need to say by way of fairness is I don't want to be taken by this agreement to be saying -- to be in any way limited to what I may seek to do with the excluded litigation. So I'm -- it's possible that we will seek some summary determination. It is also possible that we might apply to you to bring

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<sup>62</sup> Vol. 3, Tab 17

<sup>63</sup> V. Cheng #1, Exhibit "P" [Vol. 2, Tab 10, pg. 406-410]

<sup>64</sup> Order of the Honorable Mr. Justice Walker made July 15, 2025 [Vol. 3, Tab 16]

<sup>65</sup> M. Liang #2, Exhibit "G" [Vol. 1, Tab 6, pg. 378-379]

the excluded litigation back into this process. I don't know if we will or not. We haven't been heard -- you haven't heard a lot about this.

146. The Matthews Parties could only make strategic decisions based on the status quo – that the Excluded Litigation is excluded by consent. They cannot make litigation decisions based on what the Sanovest Parties may or may not do.
147. Sanovest points to that statement as “notice” to the Matthews Parties. That works both ways, as it also begs the question of why this application was not brought months ago. Certainly, this application was contemplated by Sanovest prior to July. Instead, Sanovest has strategically allowed the Receivership proceedings to proceed with the simplicity of the Debt Determination application, refused to agree to simple amendments to the case plan order to allow the trial to proceed as scheduled, and only after it has achieved those goals, brings this application.
148. The law is clear. Applications pursuant to s. 187(5) of the *BIA* and the comeback relief in a receivership order must be made without delay given that the bankruptcy proceedings take place in real time.
149. This is the exact problem that the requirement that any motion to vary a receivership order must be brought without delay is seeking to avoid. Foreshadowing a possibility in July 2025 that the Sanovest Parties may or may not bring this application in July 2025 is not sufficient. The application to vary was only brought on October 22, 2025.

## PART V – THE EXCLUDED LITIGATION SHOULD NOT BE HEARD ON A SUMMARY/HYBRID BASIS

150. Even if it is accepted that allowing the application would expedite the litigation, the Matthews Parties further disagree that the timing should be the paramount consideration. There are significant credibility and other issues that make the litigation impossible to be resolved entirely through the process contemplated by the Sanovest Parties.
151. The Sanovest Parties ask this Court to adopt the summary trial procedure taken in *Forjay Management Ltd. v. 0981478 BC Ltd.*, 2019 BCSC 238 for the resolution of the issues in dispute in the Excluded Litigation.
152. *Forjoy* concerns a foreclosure proceeding and there were disputes in respect of the validity and the priority of the amounts claimed under the first and second mortgages registered against the subject property in the foreclosure proceeding. Validity and priority of claims against the estate are routinely dealt with summarily by the bankruptcy courts. The issues in disputes in *Forjay* were discrete and straightforward.
153. In *Forjay*, a summary trial was conducted to resolve most of the disputes. The stakeholders participating in the summary trial did not object to the suitability of the issues being decided on a summary basis. Case planning orders were made in preparation for the summary trial and all stakeholders prepared for the summary trial in accordance with the case planning orders. The evidence at the summary trial consisted of affidavits filed by the various stakeholders, readings from the discovery transcripts and the *viva voce* evidence of certain witnesses who were cross-examined on their affidavits.
154. The Excluded Litigation cannot justly be heard on a summary/hybrid basis.
155. Determination of the suitability of an application for summary trial is a discretionary exercise. The exercise of the discretion is guided by two lines of inquiry: (a) whether the court finds the facts necessary to decide the issues of fact or law, and (b) whether it is just in the circumstances to decide the issues summarily.<sup>66</sup>
156. Proportionality is relevant to this determination.<sup>67</sup>
157. In determining suitability, the court may also consider (a) the cost of taking the case forward to a conventional trial in relation to the amount involved, (b) the course of proceedings, and (c) any other matters which arise for consideration on this question, such as: (i) the cost of the litigation and the time of the summary trial; (ii) whether credibility is a critical factor in the determination of

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<sup>66</sup> *Greenleaf Brewing Corporation v. Lonsdale Quay Market Corp.*, 2023 BCSC 2005, paras. 19-21 [Matthews Parties' BOA, Tab 8]

<sup>67</sup> *Ibid*, para. 22

the dispute; (iii) whether the summary trial may create unnecessary complexity in the resolution of the dispute; and (iv) whether the application would result in litigating in slices.<sup>68</sup>

158. In deciding whether to convert a petition into an action or to use hybrid procedures within the petition proceeding, fairness is the ultimate consideration. The court will take into account various factors, including (a) the undesirability of multiple proceedings; (b) the desirability of avoiding unnecessary costs and delay; (c) whether the particular issues involved require an assessment of the credibility of witnesses; (d) the need for the court to have a full grasp of the evidence; and (e) whether it is in the interest of justice that there be pleadings and discovery in the usual way to resolve the dispute.<sup>69</sup>

159. Including pre-trial and trial procedures within a petition (or in this case a receivership) hearing may overwhelm and undermine the benefits of the intended summary process. In *Boffo Developments (Jewel 2) Ltd. v. Pinnacle International (Wilson) Plaza Inc.*, 2009 BCSC 1701<sup>70</sup>, the Court noted in para. 50 that:

“On this point I would add that the Court ought to be cautious in making orders which have the objective of addressing the resolution of a bona fide triable issue through the creation of a hybrid proceeding that permits certain pre-trial and trial mechanisms to the parties, but denies them others. Where the driving underpinning for such an approach is largely one of practicality, it strikes me there is a very real risk of diminishing returns where the summary process is expanded to allow the filing of additional lengthy affidavits, cross-examination on affidavits and possibly a broader scope of cross-examination, selective document disclosure, and other features of the trial process. **At some point, the process that looks like a trial, should be a trial.**” (Emphasis added.)

160. The current application is neither a summary trial application nor an application to convert a petition into an action, but these factors are pertinent.

161. In paragraph 80 of the Sanovest Parties’ written submissions, the Sanovest Parties argue that the Receivership Order was not final and there is no need for the Sanovest Parties to show a fundamental change in circumstances. The Sanovest Parties ask the court to determine, among other things, what course of action is most consistent with the policies underlying the provisions of the *BIA* and what the ends of justice require.

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<sup>68</sup> *Greenleaf Brewing Corporation v. Lonsdale Quay Market Corp.*, 2023 BCSC 2005, para. 26 [Matthews Parties’ BOA, Tab 8]

<sup>69</sup> *New Great Land Developing Ltd. v 1034113 B.C. Ltd.*, 2023 BCSC 2207, paras. 37-40 [Matthews Parties’ BOA, Tab 10]

<sup>70</sup> *Boffo Developments (Jewel 2) Ltd. v. Pinnacle International (Wilson) Plaza Inc.*, 2009 BCSC 1701 [Matthews Parties’ BOA, Tab 3]

162. The Matthews Parties submit that the Excluded Litigation could not be justly determined summarily. The Matthews Parties also disagree that bringing the Excluded Litigation within the Receivership Proceeding is going to speed up the resolution of the Excluded Litigation.

***The nature of the allegations and the complexity of the issues***

163. The Excluded Litigation in substance concern disputes between two partners with long-term business relationship. Cross-allegations of serious misconduct, dishonesty, and breaches of duty have been made. The factual and legal issues to be determined by the court are complex. It is therefore essential for the court to have a full grasp of the evidence.

164. This is acknowledged by the Sanovest Parties. The Sanovest Parties' counsel stated in its May 2, 2024 letter that: "*The material facts giving rise to the three actions span over ten years of a complex business relationship between the parties. The proceedings involve serious reputationally damaging cross-allegations of misconduct and assets of significant value. Given the time frame, complexity and nature of allegations, we expect there to be dozens of custodians with numerous ESIs which must be searched, likely with tens of thousands if not over one hundred thousand documents in those various sources. Production without protocols in those circumstances will either be uneconomical or result in deficient lists of documents.*"<sup>71</sup>

165. The relief sought and the issues to be determined are summarized below.

**The Oppression Action**

166. On June 1, 2023, Matthews and 599 commenced an oppression petition seeking relief under s. 227 of the *Business Corporations Act* ("**BCA**").

167. Matthews and 599 seek *inter alia* the following relief:

- a) a declaration that the affairs of EBMD are being conducted in a manner that is oppressive to 599, entitling Matthews and 599 to relief under s. 227 of the *BCA*;
- b) orders that Sanovest and Tian Kusumoto compensate 599 (i) by reversing interest credited to Sanovest on its financing from and after June 1, 2021, or such other date as the Court deems appropriate, (ii) by payment to 599 to the extent of lost distributions through the partnerships that EBMD manages, in amounts as may be established at the hearing or trial, resulting from lost sales revenues from and after June 1, 2021, and (iii) by disentitling Sanovest from receiving preferential payments on

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<sup>71</sup> V. Cheng #1, Exhibit "J" [Vol. 2, Tab 10, pg. 339-343]

distributions to be paid through the limited liability partnerships that EBMD manages;

- c) an order directing Tian Kusumoto compensate Matthews, as an aggrieved person, for harm and loss suffered as a result of disparaging statements Tian Kusumoto has made against Matthews and his family in connection with the conduct of EBMD's affairs; and
- d) an order converting the petition into an action.

168. In August 2023, Sanovest and Tian Kusumoto filed a response to petition. They consented that the petition be converted into an action. Sanovest's and Tian Kusumoto's consent to convert the petition into an action was recorded in the Order of Associate Judge Nielsen dated April 18, 2024.

169. Based on the pleadings filed in the Oppression Action<sup>72</sup>, the major factual and legal issues to be resolved include but are not limited to the following:

- a) whether the evidence supports the reasonable expectations asserted by Matthews and 599 (the court will take into account factors such as general commercial practice, nature of the corporation, the relationship between the parties, past practices, representations and agreements, and the fair resolution of conflicting interests between corporate stakeholders);
- b) whether the reasonable expectations were violated by conduct of Sanovest and Tian Kusumoto;
- c) whether the conduct of Sanovest and Tian Kusumoto was oppressive;
- d) whether Sanovest wrongfully blocked sale of development;
- e) whether Sanovest breached the Loan Agreement, whether Sanovest wrongfully withheld advances under the Loan Agreement, and whether Sanovest wrongfully refused third-party financing;
- f) whether Tian Kusumoto caused Sanovest not to fund and then at the same time offered to lend funds from TRK at an interest rate significantly higher than that under the Sanovest Loan;
- g) whether Sanovest's acts were calculated to entrench its dual position as a lender and a partner to the detriment of 599 and Matthews;
- h) whether Tian Kusumoto told Matthews that his goal was to have Sanovest purchase 599's equity on a discounted or distressed basis, and

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<sup>72</sup> Petition [Vol. 3, Tab 36]; Matthews #1 (Oppression) [Supp. AR, Tab 1]; Response to Petition [Vol. 3, Tab 37]; Tian Kusumoto #1 (Oppression) [Supp. AR, Tab 2]

that he had the benefit of time to do so, given that Sanovest was continuing to earn interest on the Sanovest loan, effectively intentionally eroding 599's interest in the Partnership;

- i) whether Tian Kusumoto told Kevin Isomura, the partnership's external accountant, that he was happy to wait 10 years and let the interest on the Sanovest Loan eat up all of 599's equity in the Bear Mountain Project;
- j) whether Tian Kusumoto refused to authorize ordinary course of business payments;
- k) whether 599's claim could only be advanced derivatively or 599 is entitled to relief under the oppression remedy;
- l) whether any of 599's claims are barred by laches;
- m) the tailoring of fair and appropriate corporate remedies under s. 227(3) of the *BCA* to rectify the oppression in light of the factual circumstances;
- n) whether Sanovest and Tian Kusumoto exercised business judgment in good faith or in bad faith or dishonestly;
- o) whether Tian Kusumoto has personally benefitted from the entrenchment and continuation of the Sanovest Loan through his arrangement, personally or through TRK, with Sanovest;
- p) the scope of compensatory orders under s. 227(3)(j) and 227(3)(m) of the *BCA*;
- q) whether Tian Kusumoto should be personally liable under s. 227(3) of the *BCA*; and
- r) whether Tian Kusumoto made disparaging comments against Matthews and his family, and whether Matthews and/or his family should be compensated as aggrieved persons under the *BCA*.

#### The Partnership Action

170. Also on June 1, 2023, 599 commenced a common law derivative claim naming Sanovest, EBMD, Tian Kusumoto, and TRK as defendants, seeking *inter alia* the following relief:

- a) As against Sanovest and EBMD (to the extent Sanovest has controlled or inhibited EBMD's actions as "manager partner"), damages for breach of the terms of the Partnership Agreement and the Resort Partnership Agreement and damages for breach of its duties of fairness and good faith, and breach of fiduciary duties to the Partnership, the Resort Partnership, and 599;

- b) As against Tian Kusumoto, damages for knowingly assisting Sanovest in its breaches of duty to the Partnership, the Resort Partnership, and 599;
- c) As against Tian Kusumoto and TRK, damages for knowing receipt of fees earned under the Sanovest Loan Agreement (including as extended and modified) in breach of Sanovest's obligations to the Partnership, the Resort Partnership, and 599;
- d) An accounting of all proceeds or payments received by Sanovest, Tian Kusumoto, and TRK in relation to Sanovest's breach of its duties to the Partnership, the Resort Partnership, and 599, and/or the knowing assistance and knowing receipt of such proceeds or payments, and an order for restitution or disgorgement, or in the alternative, equitable damages;
- e) A declaration that Sanovest, Kusumoto, and TRK hold all such funds in trust, as constructive trustee, for the Partnership and Resort Partnership, and an order for an accounting and tracing of all such funds;
- f) In the alternative, damages for unjust enrichment; and
- g) Aggravated and/or punitive damages.

171. Based on the pleadings filed in the Partnership Action<sup>73</sup>, the major issues to be resolved include but not limited to the following:

- a) the express and implied terms of the Partnership Agreement and the Resort Partnership Agreement;
- b) whether Sanovest breached statutory and common law duties to the Partnership, the Resort Partnership, and 599;
- c) whether the negotiation of the Second Modification Agreement was improper;
- d) whether Tian Kusumoto knowingly directed Sanovest's breaches and permitted himself to carry out the breaches on behalf of Sanovest;
- e) whether Tian Kusumoto personally and/or through TRK, has benefitted from Sanovest's breaches of duties;
- f) whether Sanovest, Tian Kusumoto, and/or TRK have been unjustly enriched to the detriment of the Partnership, the Resort Partnership, and 599.

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<sup>73</sup> Notice of Civil Claim [Vol. 3, Tab 38]; Response to Civil Claim [Vol. 3, Tab 39]

## The Sanovest Action

172. On May 13, 2022, Sanovest commenced the Sanovest Action alleging self-interested transactions and wrongdoings in their capacities as directors of EBMD and with respect to the Partnership's affairs. The Amended Notice of Civil Claim was served in March 2023.
173. Sanovest seeks *inter alia* the following relief:
- a) An order that as a result of the self-interested transactions, Matthews and Tom Kusumoto pay equitable compensation to EBMD and BM Mountain Golf Course Ltd. ("**BMGC**");
  - b) In the alternative, an order that Matthews and Tom Kusumoto account to EBMD and BMGC for any profit that has or will accrue to them as a result of the self-interested transactions;
  - c) An agreement for specific performance of EBMD's reporting obligations under the Partnership Agreement and Sanovest Loan Agreement.
174. Matthews has filed a response to the notice of civil claim as well as a counterclaim against Sanovest, Tom Kusumoto, and Tian Kusumoto. Matthews has also served a third party notice on Tom Kusumoto.
175. Based on the pleadings filed by the parties in the Sanovest Action<sup>74</sup>, the major issues to be determined may include the following:
- a) Whether Sanovest has standing to commence the action when the allegations relating to harm done to the Partnership and breaches of alleged fiduciary duties said to be owed to EBMD and BMGC;
  - b) the applicability of the disclosure requirements of ss. 142, 147-153 of the *BCA*;
  - c) whether Matthews has instructed EBMD not to prepare financial statements for the Partnership since 2018, and whether the delay in preparing updated financial statements was attributable to Matthews;
  - d) whether Sanovest had waived the requirement of audited financial statements, and whether Sanovest has full access to the Partnership financial information at all material times;
  - e) whether EBMD or the Partnership has refused to comply with any reporting obligations under the Partnership Agreement, the Sanovest

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<sup>74</sup> Amended Notice of Civil Claim [Vol. 3, Tab 27]; Response to Amended Notice of Civil Claim of Mr. Matthews [Vol. 3, Tab 28]; Counterclaim of Mr. Matthews [Vol. 3, Tab 29]; Third Party Notice to Mr. Tom Kusumoto of Mr. Matthews [Vol. 3, Tab 30]

Loan Agreement, the *Partnership Act*, or otherwise, and whether Matthews has directed any refusal or non-cooperation by EBMD;

- f) whether the referenced transactions were done with the knowledge and approval of Sanovest;
- g) Tom Kusumoto's position at Sanovest at all material times and the scope of Tom Kusumoto's actual and implied authority vis-à-vis Sanovest;
- h) whether Matthews' reliance on Tom Kusumoto's representations that he had authority to enter into and approve transactions on Sanovest's behalf was reasonable;
- i) whether the referenced transactions were approved by both shareholders of the Partnership;
- j) whether Sanovest has come before the Court with clean hands;
- k) whether Sanovest is barred from seeking all, or in the alternative some, of the relief claimed by reason of estoppel, acquiescence, laches, or unreasonably delay, and by operation of the *Limitation Act*, and whether Sanovest's knowledge includes (1) all matters that were or ought to have been known to Tom Kusumoto in conducting Partnership business and in acting as Sanovest's nominee to EBMD and BMGC, and (2) all matters that were or ought to have been known to Tian Kusumoto at all material times.

### The Debt Action

176. In August 2022, Mr. Tom Kusumoto commenced an action demanding repayment of 3 loans from Mr. Matthews. Mr. Matthews alleges that the loans were advanced under an "umbrella agreement" where Mr. Tom Kusumoto would lend \$5 million to him, to be repaid by the profit distribution to 599 when a substantial portion of the Bear Mountain Assets were sold, allowing for the retirement of the Sanovest Loan and the realization of profits.

177. Based on the pleadings filed by the parties in the Debt Action<sup>75</sup>, the major issues to be determined include but not limited to the following:

- a) whether and how the umbrella agreement exists;
- b) whether the umbrella agreement is enforceable;
- c) whether the umbrella agreement applies or informs the conduct alleged by Sanovest in the Sanovest Action; And

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<sup>75</sup> Notice of Civil Claim [Vol. 3, Tab 33]; Response to Civil Claim [Vol. 3, Tab 34]

- d) whether Mr. Tom Kusumoto breached the umbrella agreement; and
  - e) whether Mr. Matthews is entitled to damages for breach of the umbrella agreement.
178. The Excluded Litigation are disputes between the Partners concerning cross-allegations of serious breaches of duty, bad faith, oppressive conduct and dishonesty. The factual and legal issues to be determined are complex. The Sanovest Parties' current estimate that the trial of the Excluded Litigation would take 50 days underscores this point.
179. The documents involved are voluminous. The parties so far have listed and produced approximately 30,000 documents. The Sanovest Parties are still looking to further expand the document production record by insisting that the email data of all of the Partnership's employees and all data on the servers of the Partnership and the Resort Partnership must be collected and reviewed for production.
180. The nature and severity of the allegations and the nature of the defences mitigate against summary trial determination. It would be unjust to the parties if these reputationally damaging allegations and the defences are determined on a summary basis.
181. This issue was directly contemplated at the initial receivership application, which led to the compromise by the parties leading to the consent order that the Excluded Litigation be excluded from the Receivership Order.
182. Near the outset of that hearing, the Honourable Justice Walker posed the questions of whether the allegations of *malafide* conduct and tortious conduct require determination at trial: **Transcripts of Proceedings in Chambers**, September 10, 2024, at pg. 5, ll. 5-11.<sup>76</sup>

And so I just wonder how much of the -- the allegations concerning oppressive conduct, breach of fiduciary duty, mall -- I'll call it *malafide* conduct, tortuous conduct. I can decide on a summary application. And, really, aren't they the type of allegations that require the determination at trial?

### ***The amount involved***

183. The Matthews Parties' case in the Oppression Action and the Partnership Action is that but for Sanovest's oppressive conduct and breaches of duty calculated to entrench Sanovest's position as a lender, the Sanovest Loan would have been retired in 2021, and the Partnership should not be held liable

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<sup>76</sup> M. Liang #2, Exhibit "A" [Vol. 1, Tab 6, pg. 10]

for the interest accrued from 2021 onwards. The amount concerned with respect to interest alone is in excess of \$16 million. Further significant claims for damages due to this conduct for loss of opportunity are in the tens of millions of dollars.

184. From a proportionality perspective, this consideration mitigates against summary trial determination.

***Credibility of witnesses is critical for the determination of the Excluded Litigation***

185. Given the nature of the allegations and the state of conflicting affidavit evidence, credibility of the major witnesses including Mr. Matthews, Mr. Tom Kusumoto, and Mr. Tian Kusumoto is critical for the determination of most of the issues in the Excluded Litigation. This factor significantly mitigates against summary trial determination.
186. Justice Walker also queried the appropriateness to resolve the significant conflicts in the evidence on a summary basis: **Transcripts of Proceedings in Chambers**, September 10, 2024, at pg. 21, ll. 16-47, and pg, 22, l, 1.<sup>77</sup>

THE COURT: -- in the oppression proceeding, I take it, then, that there are -- the affidavits there contain significant conflicts -- significant conflicts --

CNSL K. JACKSON: Indeed.

THE COURT: -- in the evidence.

CNSL K. JACKSON: Right.

THE COURT: So whoever has -- is dealing with that, the one question I had -- one of the questions I had is, is it appropriate for me to even determine them on a summary basis? And, if it is, how can I do that given the nature of the conflict?

CNSL K. JACKSON: I would -- it's a question I would ask myself, Justice. I don't have an answer for that. I don't think the court can determine what -- it could. It could be asked to wade into that. It may be asked to wade into that. I don't think it needs to wade into that and make a determination because it is an awful lot of conflicting evidence.

I mean, fundamentally, each party thinks the other is -- is guilty of various misdeeds and misconduct.

It would take -- I don't know. I'm not a --

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<sup>77</sup> M. Liang #2, Exhibit "A" [Vol. 1, Tab 6, pg. 26-27]

I'm not a true litigator, Justice. My impression is it would take -- I'm surrounded by them, but I am not one for good reason. It would take, I think, an awful lot of additional evidence, perhaps viva voce evidence, everything else to be able to explore all of those issues properly to make a determination. And you don't need to, Justice, because it doesn't affect the availability of relief. Period.

### ***Uncertainty surrounding hybrid procedure***

187. In *New Great Land Developing Ltd. v 1034113 B.C. Ltd.*, 2023 BCSC 2207<sup>78</sup>, the court discussed the suitability of hybrid procedure.

[64] I have considered whether hybrid procedures would save time and expense while maintaining the Court's ability to make a fair and just determination.

[65] After considering the various tools that would have to be included in the petition to craft a fair procedure, I have concluded that such an effort would result in precisely the "diminishing returns" discussed above. In other words, this case would likely reach a point where the caution in *Boffo* would be engaged, i.e. that a process that looks too much like a trial should simply be a trial. For example, the hybrid procedure would perhaps require the cross-examination of seven separate witnesses.

[66] I also fear the potential for further litigation regarding the precise parameters of any hybrid procedure. As pointed out in *Phaneuf* at para. 73, a hybrid process runs the risk of fostering a lack of certainty about the applicable procedures, leading to the need for many interim determinations.

188. Given the nature and severity of the allegations, the complexity of the legal and factual issues to be resolved, the conflicting evidence, and that most of the issues turn on the assessment of credibility of witnesses, a fair hybrid procedure that maintains the parties' ability to present their respective cases and the court's ability to make a fair and just determination of the issues would very much look like a trial. Further examinations for discovery will have to be scheduled. Lengthy affidavits will have to be filed in each of the proceedings. A broader scope of cross-examination, i.e., beyond cross-examination on affidavits, will have to be permitted. The number of factual witnesses and expert witnesses to be subject to cross-examination very likely will exceed 10.

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<sup>78</sup> Matthews Parties' BOA, Tab 10

189. As the Court has noted in *Boffo*, a process that looks like a trial should simply be a trial. *New Great Land Developing Ltd. v 1034113 B.C. Ltd.*, para. 65.
190. Further, given the acrimony between the parties, the precise parameters of a hybrid procedure would likely be the subject of further applications and hearings before this Court, causing further delay. *New Great Land Developing Ltd. v 1034113 B.C. Ltd.*, para. 66.
191. Counsel for the Matthews Parties requested that Sanovest provide a time estimate for the proposed hearing and available dates in 2026. That request was denied. No substantive proposal has been tendered in the application which would address any of the concerns surrounding delay or timing.

### **Conclusion**

192. At a minimum, Sanovest must show that there is a material change in circumstances in order to consider the orders sought. Even if there has been a material change, there is no need for the order to be made and significant prejudice both procedurally and substantively to the Matthews Parties if the order is granted.
193. The Matthews Parties have proposed an alternative path forward which would see to the expedient resolution of the proceedings while not prejudicing any party and allow the parties the opportunity to avail themselves of all their procedural rights pursuant to the litigation framework that was agreed to as part of a compromise in 2024.

ALL OF WHICH IS RESPECTFULLY SUBMITTED ON THIS 26<sup>TH</sup> DAY OF NOVEMBER,  
2025

  
\_\_\_\_\_  
Malcolm Funt and Jessica Chan  
Counsel for 599315 B.C. Ltd. and Daniel Matthews

COURT OF APPEAL FILE NO. CA51343  
599315 B.C. Ltd. v. Sanovest Holdings Ltd.  
Memorandum of Argument

**COURT OF APPEAL**

BETWEEN:

**599315 B.C. Ltd. and Daniel Matthews**

**APPELLANTS**  
(Attendees)

AND:

**Sanovest Holdings Ltd.**

**RESPONDENT**  
(Petitioner)

AND:

**Ecoasis Developments LLP, Ecoasis Bear Mountain Developments Ltd., Ecoasis Resort and Golf LLP, 0884185 B.C. Ltd., 0884188 B.C. Ltd., 0884190 B.C. Ltd., 0884194 B.C. Ltd., BM 81/82 Lands Ltd. BM 83 Lands Ltd., BM 84 Lands Ltd., BM Capella Lands Ltd., BM Highlands Golf Course Ltd., BM Highlands Lands Ltd., BM Mountain Golf Course Ltd., Bear Mountain Adventures Ltd.**

**RESPONDENTS**  
(Respondents)

AND:

**Tomoson Kusumoto, and Royal Bank of Canada**

**RESPONDENTS**  
(Attendees)

AND:

**Alvarez & Marsal Canada Inc.**

**RESPONDENT**  
(Receiver)

**Sealing Order of Justice Walker pronounced July 4, 2025: Exhibit B to Affidavit #1 of Mia Liang sworn July 3, 2025 is sealed until further order of this Court.**

**Sealing Order of Justice Walker pronounced September 10, 2024: Affidavit #2 of Daniel Matthews made on June 21, 2024 is sealed until further order of this Court.**

### Part 1: Facts

1. On September 18, 2024, Mr. Justice Paul Walker (the “**Chambers Judge**”) made an order, by consent, appointing Alvarez & Marsal Canada Inc. as receiver over the property of the respondents, Ecoasis Developments LLP (the “**Partnership**”); Ecoasis Bear Mountain Developments Ltd. (“**EBMD**”) and Ecoasis Resort and Golf LLP (“**Resorts**”), among others (the “**Consent Order**”). The property and operations at issue comprise what is known as the “**Bear Mountain Resort**”.
2. The Receiver’s appointment was sought by Sanovest Holdings Ltd. (“**Sanovest**”) and opposed by the applicants, Daniel Matthews and 599315 B.C. Ltd. (“**599**”) (the “**Matthews Applicants**”). Sanovest is a secured lender to the Partnership and partner in the Partnership, along with EBMD and 599. When Sanovest commenced the receivership proceeding, the partners were involved in ongoing litigation (the “**Bear Mountain Litigation**”). The Bear Mountain Litigation commenced in May 2022.
3. Sanovest and the Matthews Applicants ultimately reached an agreement and the Matthews Applicants consented to the Receiver’s appointment with three carve-outs. The Bear Mountain Litigation was excluded, the “**Hotel Arbitration**” was excluded, and the operations of Resorts were excluded.
4. The exclusions were provided for “until further order of the court”, and the Consent Order contained a term providing that any interested party could apply to vary or amend the Consent Order. The term providing for variation or amendment is a standard clause included in the Model Receivership Order prescribed by Practice Directive 47 - Model Orders.
5. Following the appointment of the Receiver pursuant to the Consent Order, the receivership and the Bear Mountain Litigation were carried on separately, with the Receiver obtaining approval of a sales and investment solicitation process (the “**SISP**”) and the Bear Mountain Litigation proceeding in the ordinary course.<sup>1</sup>

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<sup>1</sup> See *Ecoasis Developments LLP v Sanovest Holdings Ltd.*, 2025 BCSC 991.

6. On July 10, 2025, following an application by Sanovest, the chambers judge varied the Consent Order to bring the Hotel Arbitration and Resorts' previously excluded operations within the Receiver's control. The application was supported by the Receiver.<sup>2</sup> The Matthews Applicants did not support or consent to this amendment of the Consent Order.
7. On October 22, 2025, following examinations for discovery conducted in the Bear Mountain Litigation, Sanovest filed a second application, this time seeking an order to vary the Consent Order to bring the Bear Mountain Litigation within the receivership proceedings. Sanovest did not seek to vary the Receiver's appointment, and the Receiver took no position on the application. The Matthews Applicants opposed the application.
8. The application was initially heard on November 24 and 26, 2025, with judgement reserved. Before judgement was rendered, the Receiver applied for approval of a bid received from Groundplay Developments Ltd. ("**Groundplay**"). An amended bid by Groundplay was later consented to by the parties and approved by the court on January 21, 2026.
9. One week later, on January 29, 2026, the chambers judge made an order varying the Consent Order to encompass the previously excluded Bear Mountain Litigation (the "**Variation Order**"). Under the Variation Order, the parties to the Bear Mountain Litigation will maintain control of it within the receivership. The Variation Order does not vary the Receiver's appointment but does vary the Consent Order appointing the Receiver.
10. The precise effects of the Variation Order and what, exactly, it does, remain unclear. The jurisdictional basis for the Variation Order is likewise unclear.

## Part 2: Issues

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<sup>2</sup> Sanovest Holdings Ltd. v Ecoasis Developments LLP, 2025 BCSC 1504.

11. Is leave to appeal the Variation Order required?

12. If leave to appeal the Variation Order is required, should leave to appeal be granted?

### **Part 3: Analysis**

#### **I. Appeals Generally**

13. Section 193 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 9 (the “**BIA**”) provides that unless otherwise expressly provided, an appeal lies to the Court of Appeal from any order or decision of a judge of the court in the following cases:

(a) if the point at issue involves future rights;...

(c) if the property involved in the appeal exceeds in value ten thousand dollars;...

(e) in any other case by leave of a judge of the Court of Appeal.

14. The test for granting leave under s. 193(e) is set out in *Farm Credit Canada v. Gidda*, 2014 BCCA 501, at paragraph 11 and asks whether the proposed appeal:

a) raises an issue that is of general importance to the practice of bankruptcy and insolvency matters or to the administration of justice as a whole, and is one that this Court should therefore consider and address;

b) is *prima facie* meritorious; and

c) would unduly hinder the progress of the bankruptcy and insolvency proceedings.

15. The test requires the interests of justice to be the “overarching concern.”<sup>3</sup>

16. For section 193 of the *BIA* to apply, the order appealed from must have been made by a justice exercising powers conferred by the *BIA*.<sup>4</sup>

#### **II. Leave to Appeal is Not Required**

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<sup>3</sup> *McKibbon v. BDO Canada Limited*, 2020 BCCA 7, at para. 22.

<sup>4</sup> *Crowe Mackay & Company Ltd. v. 0731431 B.C. Ltd.*, 2022 BCCA 158, at para. 33.

17. The Matthews Applicants' primary position is that leave to appeal is not required.<sup>5</sup> The Variation Order varies the Consent Order but does not vary the Receiver's appointment. Section 243(1) of the *BIA* and section 39 of the *Law and Equity Act*, R.S.B.C. 1996 c. 253, (the "**LEA**") do not permit or contemplate a "receivership" absent appointment of a receiver and there can be no receivership outside of the receiver. Excepting the secondarily relied on section 187(5) of the *BIA* (the stringent test for which was not applied or met) there was and is no statutory basis for the Variation Order. As a result, the Variation Order was necessarily made pursuant to the court's inherent jurisdiction and not pursuant to the *BIA*. As such, it may be appealed as of right.

18. In addition, the Variation Order swept into the receivership four ongoing civil actions. Mr. Matthews is a personal defendant and plaintiff by counterclaim in two of the actions, neither of which is brought by an insolvent business organization. To the extent the Variation Order was made pursuant to the *BIA*, the point at issue involves future rights, including Mr. Matthews' future rights to take a considered approach to his rights of appeal in a 30 rather than 10-day period.

### **III. Leave to Appeal Should Be Granted**

19. If leave to appeal is required, leave to appeal should be granted. The proposed appeal will not delay the insolvency proceedings, the proposed appeal is of general importance to insolvency practice, and the proposed appeal is meritorious.

#### **a. The Appeal Will Not Delay the Receivership**

20. The proposed appeal will not delay the receivership. A sale has been approved to Groundplay Developments for approximately \$141 million. There is no question that all creditors will be paid in full, including Sanovest. As the judge was aware, the remaining "stakeholders" are the equity partners 599 and Sanovest. The parties are actively progressing the Bear Mountain Litigation, with trial set to commence in January of 2027. Nothing material has changed since the original carve-out of the

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<sup>5</sup> See *Stagewest Winery Limited Partnership (Re)*, 2023 BCCA 296 at para. 19.

Bear Mountain Litigation and there is no reason why the Bear Mountain Litigation and the receivership cannot continue in tandem with this appeal.

21. A further judicial management conference relating to the Bear Mountain Litigation is scheduled for February 26-27, 2026, along with two applications scheduled to be heard relating to document production and an application to strike pursuant to rule 9-5. The appeal will not delay the proceedings.

*b. The Appeal is of General Importance in Insolvency Proceedings*

22. The proposed appeal raises issues of general importance to insolvency litigation. These include:

- a. the test to be applied on an application to vary a receivership order when the order was made by consent, an issue not addressed in *Williams Moving & Storage (B.C.) Ltd. v. Canada (Minister of National Revenue)*, 2024 BCCA 160 at para. 89;
- b. the test for and intersection between the comeback relief in the Consent Order, i.e., “until further order” in paras 2 and 39, and the statutory comeback relief found in s.187(5) of the *BIA*; and
- c. what it means for claims to be “brought within” a receivership, which includes the important question of whether a receiver’s appointment can be varied to include litigation over which the receiver has no control—giving the judge direct control over the claims process and outcome, absent the mediating action and recommendation of the receiver as its neutral appointee.

*c. The Appeal is Meritorious*

**The Chambers Judge Failed to Identify and Apply the Correct Legal Test**

23. The chambers judge incorrectly rejected the characterization of Sanovest’s application as “comeback relief” and found that the fact that the Consent Order was made by consent “was not an impediment to variation in the circumstances.” Respectfully, the

chambers judge cited a number of cases for this proposition, none of which were directly applicable on this point.

24. The chambers judge did not identify the legal test to be applied when a consent order is sought to be varied if s.187(5) does not apply. As a result, the chambers judge failed to recognize that Sanovest had not met the test required for the relief that it was seeking (even if that relief was available—which it was not) and failed to recognize the significance of the bargain at the heart of the Consent Order.
25. The chambers judge rejected the argument that a material change is required to vary the Consent Order. He did not state, nor did he apply an alternative test in those circumstances. Instead, he appears to have applied a general discretion outside of section 187(5) in finding that the litigation must be brought within the ambit of the Receivership given the intersection between the litigation and the need for a prompt, efficient and orderly conclusion of the Receivership. The chambers judge did not state how bringing the litigation within the Receivership would accomplish that goal (especially as the trial is scheduled for January 2027 in either case). Further, at the conclusion of the hearing the chambers judge put in place case management orders (pursuant to the *SCCR*) that were proposed by the parties and further reduced the need or justification for the order ultimately made.

**The Comeback wording in the Consent Order is Analogous to Comeback Relief in section 187(5)**

26. The Consent Order includes the standard clause included in the Model Receivership Order for B.C. In other provinces, this clause is also used and understood as “comeback relief” available only where a party shows a material change in circumstances. The question in this appeal is whether the presence of the standard comeback language “until further order” effectively negates the requirements for variation of an order under s.187(5) as set out by this Court in *Williams Moving*. The appellants say that it does not and that the chambers judge erred in determining that it did.

27. In *7451190 Manitoba Ltd v CWB Maximum Financial Inc et al*, 2019 MBCA 95, the Court of Appeal for Manitoba discussed the same clause at issue in a similar order appointing a receiver. Manitoba's Court of Appeal specifically identified the term as a "comeback clause" available for use by a party who had not had opportunity to make full submissions on the issue they sought to vary.
28. Likewise, in *2615333 Ontario Inc. v. Central Park Ajax Developments Phase 1 Inc. et al*, 2024 ONSC 1484, the court in Ontario identified a similar "comeback clause" and dismissed an applicant's motion to vary a consent order containing the clause on the basis that the order had been consented to, and the variance at issue would be prejudicial. The court accepted that, for variance to be available, a material change in circumstances was required. The court also accepted that the fact the order was made by consent *did* present an impediment to variation in the circumstances, given the parties' underlying bargain.

### **The Chambers Judge Relied on His Own Understanding of the Facts**

29. In this instance, the only change in circumstances identified by the chambers judge was a change in his knowledge and understanding of the circumstances at issue. Such a change cannot meet the threshold for a material change in circumstances. If so, parties would be incentivized to withhold information to support later variation of an order and would be unable to trust the bargain struck in a consent order. This would not be conducive to the orderly or efficient resolution of insolvency proceedings for the benefit of all stakeholders.
30. Further, the chambers judge at para. 35 incorrectly states (and consequently relies on) the fact that the Matthews Applicants previously supported Sanovest's application to vary the Consent Order to include the Hotel Arbitration within the ambit of the Receivership. Contrarily, the Matthews Applicants opposed *all* of the orders sought by Sanovest in their June 16, 2025, application to amend the receivership to include the operations of Resorts and the Hotel Arbitration. This position was explained in the application response concluding at paragraph 102 as follows:

“The exclusion of the Hotel Arbitration from the Receivership Order was one of the negotiated terms and of paramount importance to Matthews/599 in consenting to the receivership order, in particular given the legitimate concern that Tian Kusumoto was and is actively working with the Hotel operators to disrupt and derail the arbitration proceedings.”

### **The Chambers Judge Incorrectly applied s.187(5) of the BIA**

31. This Court in *Williams Moving & Storage (B.C.) Ltd. v. Canada (Minister of National Revenue)* at para. 89, sets out the principles to be applied when exercising s.187(5) to vary an order. This discretion should be “sparingly exercised.” Mr. Justice Willcock, for the court, sets out at 89(e):

(e) For the provision to apply, there must have been a fundamental change in circumstances between the original hearing and the time of the motion to vary, or evidence must have been discovered that was not known at the time of the original hearing and which could have led to a different result.

32. The chambers judge did not refer to the requirements set out by this Court in *Williams Moving*. Rather, the chambers judge referred to a “justifiable basis” for the variation under s.187(5) of the *BIA* (para 53). The chambers judge found, without explanation, that the continued exclusion of the litigation would be an “unwarranted departure from the single proceeding model” and thus varied the Consent Order on that basis.

33. The chambers judge, in finding a justifiable basis for variation, did not weigh this factor against any of the arguments raised by the Matthews Parties in relation to prejudice. The Matthews Parties had submitted the following ways the order sought was prejudicial to them:

- a. Prejudice of reversing course on the proceedings that have already taken place over the past 14 months. This includes the prejudice of making strategic decisions, for example relating to the Debt Declaration Application and hiring litigation counsel. This is exactly the type of “mounting prejudice” that occurs with delay in bringing a comeback motion, described as the “virtual impossibility of unscrambling the egg.”<sup>6</sup>
- b. Prejudice in imposing the *BIA* regime on the Matthews Parties, when they negotiated out of that regime 14 months ago, including the presumption of

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<sup>6</sup> *Canada North Group Inc (Companies' Creditors Arrangement Act)*, 2017 ABQB 550 at para. 56.

summary procedures, in a complex proceeding that is worth tens of millions of dollars.

- c. Prejudice of an ongoing nature to the value of the Bear Mountain assets themselves. Bringing the Excluded Litigation into the Receivership signals to the market that the assets are still mired in disputes. It is fundamentally different than the SISP concluding, the closing of the transaction occurring and the work of the Receiver largely completing, while the former partners, of the old partnership, litigate outside of the bankruptcy context.
- d. On November 25, 2025, the Receiver filed the application for an Approval and Vesting order, approving the Asset Purchase Agreement of Groundplay Developments Ltd. (an affiliated entity to the Matthews Parties) as purchaser and 599 as guarantor.<sup>7</sup> The Receiver filed its Eighth Report supporting this bid and recommending it for approval. This is a transaction worth over \$141 million. There is significant prejudice and potential stigma associated with having the Excluded Litigation bound in a bankruptcy proceeding.<sup>8</sup> That bid, in slightly revised form was later agreed to by the parties and approved by the court.

34. The chambers judge found that the parties' agreement regarding the sale was a significant and positive step. In such a context, the last thing the Bear Mountain Resort needs is for the receivership to broaden significantly in scope at the very moment when there is finally good news that a sale will occur for significant value.

#### **IV. Conclusion**

35. By making the Variation Order, the chambers judge rejected the applicable legal test and substituted his own understanding (limited due to the fact that the order was by consent) of the facts as they were when the Consent Order was made with the facts that were, in fact, known and knowable.

36. The Variation Order made deprives the Matthews Applicants of the benefits that they bargained for in the Consent Order and deprives all parties to the Bear Mountain Litigation of the clarity and protections afforded under the Supreme Court Civil Rules. This leaves them subject to vague and unidentified "hybrid procedures contemplated in the *BIA*".

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<sup>7</sup> Affidavit # 8 of Daniel Matthews made November 26, 2025 ("**Matthews #8**") Exhibit "A"

<sup>8</sup> Matthews #8 at paras. 3-7

37. If leave to appeal is required, leave to appeal should be granted. The Variation Order complicates these proceedings specifically and insolvency proceedings generally. No harm or delay will result from the appeal and the appeal has merit.

**Part 4: Order Sought**

38. The Matthews Applicants seek an order that leave to appeal is not required. If leave to appeal is required, the Matthews Applicants seek an order granting leave to appeal the order made January 29, 2026, bringing the Bear Mountain Litigation within the ambit of the receivership proceedings.

All of which is respectfully submitted.

Dated at the City of Vancouver, Province of British Columbia, this February 9, of 2026



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Malcolm Funt and Faith Pierce

Authorities	Page # in factum	Para # in factum
<i>2615333 Ontario Inc. v. Central Park Ajax Developments Phase 1 Inc. et al</i> , 2024 ONSC 1484	8	28
<i>7451190 Manitoba Ltd v CWB Maximum Financial Inc et al</i> , 2019 MBCA 95	8	27
<i>Canada North Group Inc (Companies' Creditors Arrangement Act)</i> , 2017 ABQB 550	9	
<i>Crowe Mackay &amp; Company Ltd. v. 0731431 B.C. Ltd.</i> , 2022 BCCA 158	4	16
<i>Ecoasis Developments LLP v Sanovest Holdings Ltd.</i> , 2025 BCSC 991	2	1
<i>Farm Credit Canada v. Gidda</i> , 2014 BCCA 501	4	14
<i>McKibbon v. BDO Canada Limited</i> , 2020 BCCA 7	4	15
<i>Sanovest Holdings Ltd. v Ecoasis Developments LLP</i> , 2025 BCSC 1504	3	6
<i>Stagewest Winery Limited Partnership (Re)</i> , 2023 BCCA 296	5	17
<i>Williams Moving &amp; Storage (B.C.) Ltd. v. Canada (Minister of National Revenue)</i> , 2024 BCCA 160	6, 7, 9	22, 26, 31
Bankruptcy and Insolvency Act, R.S.C. 1985,		
Law and Equity Act, R.S.B.C. 1996 c. 253		