



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

**NOTICE OF APPLICATION
(RE: SEALING ORDER)**

Name of applicant: Sanovest Holdings Ltd. ("Sanovest")

To: The Service List, a copy of which is attached hereto as Schedule "A"

TAKE NOTICE that an application will be made by the applicant to the Court at the courthouse at 800 Smithe Street, Vancouver, British Columbia on June 23 2025, at 10:30 am for the orders set out in Part 1 below.

The applicant estimates that the application will take 10 minutes.

- ☒ This matter is not within the jurisdiction of an associate judge. Justice Walker is seized of the matter. This application is related to applications set to be heard by Mr. Justice Walker on June 23, 2025. The time for these applications has been set by Scheduling.

Part 1 ORDERS SOUGHT

1. An order substantially in the form attached hereto as Schedule “B” (the “**Sealing Order**”), sealing the Confidential Supplemental Affidavit of Tian Kusumoto sworn on June 23, 2025 (the “**Confidential Affidavit**”), until all legal proceedings respecting the Hotel Arbitration have concluded, including any appeals with respect thereto, or further order of this Court
2. Such further and other relief as counsel may advise and this Honourable Court may permit.

Part 2 FACTUAL BASIS

Procedural Background

3. All capitalized terms used but not otherwise defined herein have the meanings given to them in the Confidential Affidavit. This Notice of Application should be read in conjunction with Sanovest’s three other pending applications filed in the within proceedings on June 16 and 17, 2025 seeking to: i) expand the within Receivership Proceedings to appoint the Receiver over all of the property and undertakings of the Respondent Resort Partnership’s Business; ii) determine the amount of the secured Indebtedness owing by the Respondents to Sanovest; and iii) set a case plan order in relation to Sanovest’s debt determination application.
4. Sanovest recently received information from the Resort Partnership’s legal counsel in the Hotel Arbitration which is material and relevant to this Court’s consideration of Sanovest’s application to expand the Receivership Proceedings, as it pertains to the Resort Partnership’s management of its current accounts payable.
5. This information also pertains to the dispute between the parties to the Hotel Arbitration, which, if disseminated, may prejudice the Resort Partnership in those ongoing proceedings. The information also concerns matters of solicitor-client privilege as between the Resort Partnership and its legal counsel in the Hotel Arbitration.
6. The proposed sealing order is intended to be of limited duration to be lifted once the Hotel Arbitration is complete, evidenced by the filing of a certificate of the Receiver (the “**Receiver’s Certificate**”). The filing of the Receiver’s Certificate will confirm the

completion of the Hotel Arbitration, including any appellate proceedings in relation thereto, and the payment of any awards made in the Hotel Arbitration such that the sealing order is no longer required to safeguard stakeholder interests.

Part 3 LEGAL BASIS

1. The court has jurisdiction to grant a sealing order pursuant to its inherent authority to control its own processes.

Royal Bank of Canada v. Westech Appraisal Services Ltd., 2017 BCSC 773, at para. 4

2. Court proceedings are presumptively open to the public. The test for ordering discretionary limits on openness as set out in *Sierra Club of Canada v. Canada (Minister of Finance)*, 2002 SCC 41, was recently recast by the Supreme Court of Canada in *Sherman Estate v. Donovan*, 2021 SCC 25 [“*Sherman Estate*”], such that a person seeking a sealing order must establish that:

- (a) court openness (i.e. not sealing the document in question in the court file) poses a serious risk to an important public interest;
- (b) such order 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 such order outweigh its negative effects.

Sherman Estate, 2021 SCC 25, at para. 38.

3. In restructuring and liquidation proceedings under Canadian insolvency statutes, courts regularly grant time-bounded sealing orders over commercially sensitive information.
4. Since *Sherman Estate*, the Ontario Court of Justice has confirmed that the protection of the integrity of a sales process and the maximization of recovery within such process is an important public interest that justifies the grant of a limited sealing order.

Rose-Isli Corp. v. Frame-Tech Structures Ltd., 2023 ONSC 832, paras. 137-141;

Ontario Securities Commission v. Bridging Finance, 2021 ONSC 4347, para. 24.

5. The same principles can be applied to the current situation where the Applicant is seeking to preserve the Receiver's ability to pursue and maximize the recoveries from the Hotel Arbitration by seeking to have the sensitive information filed under seal.
6. The need to keep confidential the contents of the Confidential Affidavit fits squarely within the test established by *Sherman Estate*. In particular:
 - (a) there is a public interest in maximizing realizations from the Hotel Arbitration. To that end, it is necessary to maintain the confidentiality of the Confidential Affidavit and ensure that any information which might prejudice the ongoing litigation, including collection and enforcement of any awards rendered in that process, are kept confidential. Disclosure of the Confidential Affidavit poses a serious risk to such interest;
 - (b) the Sealing Order is necessary to prevent this risk and Sanovest is not aware of any alternative to prevent it; and
 - (c) Sanovest is not aware of any prejudice to the other parties or stakeholders if the Confidential Affidavit is filed under seal, including because of the fact that the Receiver and all other Respondents to these proceedings have access to this information.
7. The Sealing Order being sought is the least restrictive and prejudicial alternative to prevent the dissemination of the confidential information, such that it is fair and just in the circumstances to restrict public access to the Confidential Affidavit.
8. The Petitioner submits that the Sealing Order is appropriate and should be granted for the reasons set forth above.

Part 4 MATERIAL TO BE RELIED ON

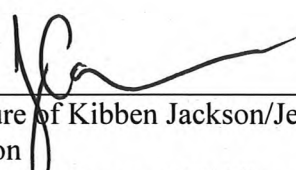
1. The Confidential Supplemental Affidavit of Tian Kusumoto, made June 23, 2025.
2. The pleadings and other materials previously filed in these proceedings.

3. Such further and other materials as counsel may advise and this Honourable Court may allow.

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).

Dated: June 23, 2025



Signature of Kibben Jackson/Jessica
Cameron
Lawyers for Sanovest Holdings Ltd.

To be completed by the court only:

Order made

☐ in the terms requested in paragraphs of Part 1 of
this Notice of Application

☐ with the following variations and additional terms:

.....
.....
.....

Date:

.....
Signature of ☐ Judge ☐ Associate
Judge

APPENDIX

THIS APPLICATION INVOLVES THE FOLLOWING:

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ other matters concerning document discovery
- ☐ 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
- ☒ none of the above

Schedule "A"

Service List

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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

SERVICE LIST

(as of January 28, 2025)

<p>Alvarez & Marsal Canada Inc. Cathedral Place Building 925 West Georgia Street, Suite 902 Vancouver, BC, V6C 3L2</p> <p>Todd Martin email: tmartin@alvarezandmarsal.com</p> <p>Anthony Tillman email: atillman@alvarezandmarsal.com</p> <p>Marianna Lee email: marianna.lee@alvarezandmarsal.com</p> <p>Taylor Poirier email: tpoirier@alvarezandmarsal.com</p> <p><i>Court-appointed Receiver</i></p>	<p>Blake, Cassels & Graydon LLP 1133 Melville Street Suite 3500, The Stack Vancouver, BC V6E 4E5</p> <p>Peter Rubin email: peter.rubin@blakes.com</p> <p>Peter Bychawski email: peter.bychawski@blakes.com</p> <p><i>Counsel for the Receiver</i></p>
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<p>Fasken Martineau DuMoulin LLP 550 Burrard Street, Suite 2900 Vancouver, BC V6C 0A3</p> <p>Kibben Jackson email: kjackson@fasken.com</p> <p>Lisa Hiebert email: lhiebert@fasken.com</p> <p>Suzanne Volkow email: svolkow@fasken.com</p> <p><i>Counsel for Sanovest Holdings Ltd.</i></p>	<p>Lawson Lundell LLP Cathedral Place Building 925 West Georgia Street, Suite 1600 Vancouver, BC, V6C 3L2</p> <p>William Roberts email: wroberts@lawsonlundell.com</p> <p>Gordon Brandt email: gbrandt@lawsonlundell.com</p> <p><i>Counsel for 599315 B.C. Ltd. and Daniel Matthews</i></p>
<p>Young Anderson c/o 1616 – 808 Nelson Street Vancouver, BC V6Z 2H2</p> <p>Sukhbir Manhas email: manhas@younganderson.ca</p> <p><i>Counsel for City of Langford</i></p>	<p>Singleton Urquhart Reynolds Vogel LLP 1200 – 925 West Georgia Street Vancouver, BC V6C 3L2</p> <p>Mark C. Stacey email: mstacey@singleton.com service@singleton.com</p> <p><i>Counsel for Bear Mountain Resort and Spa Ltd.</i></p>
<p>Stevenson Luchies & Legh Barristers & Solicitors 300-736 Broughton Street Victoria, BC V8W 1E1</p> <p>Justin J. Hanson email: hanson@sll.ca</p> <p><i>Solicitor for The Owners, Strata Plan EPS 5110</i></p>	<p>Jack's Place / Kuma Sushi Bear Mountain 2020 Country Club Way Langford, BC V9B 6R3</p> <p>Jody Twa email: jodytwa@shaw.ca</p>
<p>Boughton Law Corporation 700 - 595 Burrard Street Vancouver, BC V7X 1S8</p> <p>Martin Sennott email: msennott@boughtonlaw.com</p> <p>Sherri Evans email: sevens@boughtonlaw.com</p>	<p>Strata Plan VIS 6037 1999 Country Club Way Victoria, BC V9B 6R3</p> <p>David Clarke email: david.clarke@westinbearmountain.com</p> <p><i>President of Strata Plan VIS 6037</i></p>
<p>Ministry of Attorney General Legal Services Branch Justice, Health & Revenue Group 2nd Floor - 1001 Douglas Street Victoria, BC V8W 9J7</p> <p>email: AGLSBRevTaxInsolvency@gov.bc.ca</p> <p><i>Counsel for the His Majesty the King in right of the Province of British Columbia</i></p>	

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Schedule "B"

Draft Order

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COURSE LTD. and BEAR MOUNTAIN ADVENTURES LTD.

RESPONDENTS

SEALING ORDER

BEFORE THE HONOURABLE

)

JUSTICE WALKER

)

June 23, 2025

)

ON THE APPLICATION of Sanovest Holdings Ltd. ("**Sanovest**") coming on for hearing at Vancouver, British Columbia on this 23rd day of June, 2025; AND ON HEARING Kibben Jackson and Jessica Cameron, counsel for Sanovest, Scott Stephens, counsel for 599315 B.C. Ltd. and Daniel Matthews, Peter Rubin, counsel for Alvarez & Marsal Canada Inc. (the "**Receiver**") in its capacity as the receiver of certain assets of the Respondents (the "**Property**"), and those other counsel as listed on Schedule "A" hereto, and no one else appearing, although duly served;

THIS COURT ORDERS AND DECLARES THAT:

1. The following document is to be sealed by the Registrar of this Honourable Court for the duration noted:

Description:	Date filed, if applicable	Number of copies filed, including any extra copies for the judge.	Duration of sealing order: <i>(until further order of the Court; until the first day of trial; or until a specific date)</i>	Sought	Granted	
					YES	NO
1a) Specific Documents Confidential Supplemental Affidavit of Tian Kusumoto, sworn June 23, 2025	To be filed	2	Until the earlier of: (a) The filing of a Receiver's Certificate confirming the completion of the Hotel Arbitration, including any appeal proceedings taken therefrom; or (b) Further Order of this Court.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1b) Entire File				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2) Clerk's Notes				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3) Order				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4) Reasons for Judgment				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2. Access to the sealed items are permitted by:

- a. ☐ Parties
- b. ☐ Counsel for a party
- c. ☒ Other: Further Order of the Court

3. Endorsement of this Order by counsel appearing on this application other than counsel for the Petitioner is hereby 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:

Signature of Kibben Jackson/Jessica Cameron
Lawyer for the Applicant, Sanovest Holdings Ltd.

BY THE COURT

REGISTRAR

Schedule A – Appearance List

Counsel	Party

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SEALING ORDER

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