

COURT FILE NO. 2201-13540  
COURT COURT OF KING'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE RECEIVERSHIP  
OF ALVARO DEVELOPERS INC. and  
ALVARO LIMITED PARTNERSHIP

PLAINTIFFS BANCORP FINANCIAL SERVICES INC.,  
BANCORP BALANCED MORTGAGE FUND  
II LTD. and BANCORP GROWTH  
MORTGAGE FUND II LTD.

DEFENDANTS ALVARO DEVELOPERS INC., ALVARO  
(RESPONDENTS) LIMITED PARTNERSHIP, CRUZ  
CUSTOM HOMES LTD., 1770374  
ALBERTA INC., SUNSET HOMES LTD.,  
DANIEL RODOLFO ASTETE-CRUZ and  
PEDRO ARNOLDO OCANA MULLER

APPLICANT ALVAREZ & MARSAL CANADA INC. in its  
capacity as Court-appointed Receiver and  
Manager of the assets, undertakings and  
properties of ALVARO DEVELOPERS INC.  
and ALVARO LIMITED PARTNERSHIP.

DOCUMENT **ORDER (Final Distribution, Approval of  
Receiver's Fees, Disbursements, and  
Activities, Discharge of Receiver, and Sharing  
of the Books and Records)**

ADDRESS FOR SERVICE AND CONTACT  
INFORMATION OF PARTY  
FILING THIS DOCUMENT Torys LLP  
4600 Eighth Avenue Place East  
525 - Eighth Ave SW  
Calgary, AB T2P 1G1

Attention: Kyle Kashuba  
Telephone: +1 403.776.3744  
Fax: +1 403.776.3800  
Email: [kkashuba@torys.com](mailto:kkashuba@torys.com)  
File No. 39108-2010

Clerk's Stamp



I hereby certify this to be a true copy of  
the original  
Dated this 10 day of May 2023  
for Clerk of the Court

DATE UPON WHICH ORDER WAS PRONOUNCED: May 10, 2023  
 NAME OF JUSTICE WHO MADE THIS ORDER: Justice Colin J. Feasby  
 LOCATION OF HEARING: Calgary, Alberta

**UPON THE APPLICATION** of Alvarez & Marsal Canada Inc., in its capacity as the Court-appointed receiver and manager (the “**Receiver**”) of Alvaro Developers Inc. (the “**Trustee**”) and Alvaro Limited Partnership (the “**Beneficial Owner**”, and together with the Trustee, the “**Debtor**”), for an Order for the final distribution of proceeds, approval of the Receiver’s fees and disbursements, approval of the Receiver’s activities and discharge of the Receiver; **AND UPON HAVING READ** the Receivership Order dated December 2, 2022, the Second Report of the Receiver, dated May 2, 2023, the Confidential Supplemental Report of the Receiver dated May 2, 2023 and the Affidavit of Service of Leah Bruchet (the “**Affidavit of Service**”); **AND UPON HEARING** the submissions of counsel for the Receiver, counsel for Bancorp Financial Services Inc., Bancorp Balanced Mortgage Fund II Ltd. and Bancorp Growth Mortgage Fund II Ltd. (collectively, the “**Secured Lender**”), and from any other interested parties who may be present, with no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service; **AND UPON** being satisfied that it is appropriate to do so:

**IT IS HEREBY ORDERED AND DECLARED THAT:**

**SERVICE**

1. Service of notice of this Application and supporting materials is hereby declared to be good and sufficient, and no other person is required to have been served with notice of this Application, and time for service of this Application is abridged to that actually given.

**DISTRIBUTION OF FUNDS**

2. The Receiver is authorized and directed to make a final distribution of funds, to the Secured Lender, as proposed in the Receiver’s Second Report.

**DISCHARGE OF THE RECEIVER**

3. The Receiver is hereby authorized to have all of the Debtor’s remaining books and records destroyed 30 days after the filing of this Order, unless a former director or officer of the Debtor makes

arrangements with the Receiver to physically take possession of the books and records, at their sole cost and expense, prior to the 30 days elapsing.

4. The previously undertaken actions, conduct and activities of the Receiver and of the Receiver's counsel as reported in the Second Report and in all other reports of the Receiver, are hereby authorized and approved.
5. The Receiver's accounts for fees and disbursements, as set out in the Receiver's Second Report and other reports filed herein are hereby approved without the necessity of a formal passing of its accounts.
6. The accounts of the Receiver's legal counsel, Torys LLP, for its fees and disbursements, as set out in the Receiver's Second Report and other reports filed herein are hereby approved without the necessity of a formal assessment of those accounts.
7. The Receiver is hereby authorized to pay any remaining professional fees up to the discharge of the Receiver, particulars of which are set out in the Receiver's Second Report.
8. The Receiver's activities as set out in the Receiver's Second Report and any other reports filed herein, and the Statement of Receipts and Disbursements as attached to the Receiver's Second Report, are hereby ratified and approved.
9. On the evidence before the Court, the Receiver has satisfied its obligations under and pursuant to the terms of the Orders granted in the within proceedings up to and including the date hereof, and the Receiver shall not be liable for any act or omission on its part including, without limitation, any act or omission pertaining to the discharge of its duties in the within proceedings, save and except for any liability arising out of any fraud, gross negligence or willful misconduct on the part of the Receiver, or with leave of the Court. Subject to the foregoing any claims against the Receiver in connection with the performance of its duties are hereby stayed, extinguished and forever barred.
10. No action or other proceeding shall be commenced against the Receiver in any way arising from or related to its capacity or conduct as Receiver, except with prior leave of this Court on notice to the Receiver, and upon such terms as the Court may direct.

11. Upon the Receiver filing with the Clerk of the Court a sworn Affidavit (the “**Discharge Affidavit**”) of a licensed Trustee employed by the Receiver, substantially in the form attached hereto as Schedule “A”, confirming that:

- (a) the matters set out in paragraph 2 of this Order have been completed; and
- (b) all other minor administrative tasks required of the Receiver have been taken,

then the Receiver shall be discharged as Receiver of the Debtor, provided however, that notwithstanding its discharge herein: (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of the Receiver in its capacity as Receiver.

#### SHARING OF BOOKS AND RECORDS

12. The Receiver may share certain books and records of the Debtor (including, bank statements, and accounting records) with 1788459 Alberta Ltd. (“178”), a secured creditor of the Debtor, to assist 178 to understand how the funds 178 advanced to the Debtor were used, upon 178 entering into a confidentiality agreement with the Receiver, at the sole cost and expense of 178.

#### MISCELLANEOUS

13. The Receiver is at liberty to reapply for further advice, assistance and direction as may be necessary to give full force and effect to, and in carrying out the terms of, this Order.
14. This Order must be served only upon those interested parties attending or represented at the within Application and service may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following the transmission or delivery of such documents.
15. Service of this Order on any party not attending this Application is hereby dispensed with.

  
 Justice of the Court of King's Bench of Alberta

## Schedule "A"

COURT FILE NO.	2201-13540
COURT	COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
	IN THE MATTER OF THE RECEIVERSHIP OF ALVARO DEVELOPERS INC. and ALVARO LIMITED PARTNERSHIP
PLAINTIFFS	BANCORP FINANCIAL SERVICES INC., BANCORP BALANCED MORTGAGE FUND II LTD. and BANCORP GROWTH MORTGAGE FUND II LTD.
DEFENDANTS (RESPONDENTS)	ALVARO DEVELOPERS INC., ALVARO LIMITED PARTNERSHIP, CRUZ CUSTOM HOMES LTD., 1770374 ALBERTA INC., SUNSET HOMES LTD., DANIEL RODOLFO ASTETE-CRUZ and PEDRO ARNOLDO OCANA MULLER
APPLICANT	ALVAREZ & MARSAL CANADA INC. in its capacity as Court-appointed Receiver and Manager of the assets, undertakings and properties of ALVARO DEVELOPERS INC. and ALVARO LIMITED PARTNERSHIP.
DOCUMENT	<b>AFFIDAVIT</b> <b>(Confirming Discharge of Receiver)</b>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Torys LLP 4600 Eighth Avenue Place East 525 - Eighth Ave SW Calgary, AB T2P 1G1

Clerk's Stamp

Attention: Kyle Kashuba  
 Telephone: +1 403.776.3744  
 Fax: +1 403.776.3800  
 Email: [kkashuba@torys.com](mailto:kkashuba@torys.com)  
 File No. 39108-2010

**AFFIDAVIT OF OREST KONOWALCHUK**

Sworn on ■, 2023

I, Orest Konowalchuk, of the City of Calgary, in the Province of Alberta, SWEAR AND SAY THAT:

1. I am a Licenced Insolvency Trustee, and a Senior Vice President with Alvarez & Marsal Canada Inc., which is the Court-appointed receiver and manager (the “**Receiver**”) of the assets, undertakings and properties of Alvaro Developers Inc. (the “**Trustee**”) and Alvaro Limited Partnership (the “**Beneficial Owner**”, and together with the Trustee, the “**Debtor**”).
2. Pursuant to the Order granted by the Honourable Justice D. Mah of the Court of King’s Bench of Alberta (the “**Court**”) dated December 2, 2022, Alvarez & Marsal Canada Inc. was appointed as the Receiver over the assets, undertakings and properties of the Debtor.
3. Pursuant to an Order (Final Distribution, Approval of Receiver’s Fees, Disbursements, Activities and Discharge of Receiver, and Sharing of the Books and Records) granted by Justice Colin J. Feasby dated May 10, 2023 (the “**Discharge Order**”), the Court approved the discharge of the Receiver, subject to the filing an Affidavit in the within form confirming that the Receiver had completed certain other administrative activities required to complete its administration of the Debtors’ receivership proceedings.
4. This will confirm that the Receiver has completed all other activities required to complete its administration of the Debtors’ receivership proceedings, including, without limitation, all matters set out in paragraph 2 of the Discharge Order and the Receiver’s Second Report.
5. I make this Affidavit further to the requirements of the Discharge Order, and understand that upon the filing of this Affidavit, Alvarez & Marsal Canada Inc. will be fully and finally discharged from its capacity as the Receiver of the Debtor.
6. I make this Affidavit for no other or improper purpose.

SWORN before me at the City of  
Calgary, in the Province of Alberta,  
this \_\_\_\_\_ day of \_\_\_\_\_, 2023

\_\_\_\_\_  
A Commissioner for Oaths in and  
for the Province of Alberta

\_\_\_\_\_  
Name: Orest Konowalchuk, LIT