

COURT FILE NUMBER 1901 - 18029

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

IN THE MATTER OF AN APPLICATION UNDER SECTION 47(1)
OF THE *BANKRUPTCY AND INSOLVENCY ACT*, RSC 1985, c B-3

AND IN THE MATTER OF AN APPLICATION UNDER SECTION
13(2) OF THE *JUDICATURE ACT*, RSA 2000, c J-2

APPLICANT SUN LIFE ASSURANCE COMPANY OF CANADA, AND THOSE
OTHER APPLICANTS SET OUT IN SCHEDULE "A.1" OF THE
INTERIM RECEIVERSHIP ORDER DATED DECEMBER 20, 2019

RESPONDENTS SUNDANCE PLACE II LTD., SUNDANCE PLACE II 1000 LIMITED
PARTNERSHIP by its general partner SUNDANCE PLACE II LTD.,
AND THOSE OTHER RESPONDENTS SET OUT IN SCHEDULE
"A.2" OF THE INTERIM RECEIVERSHIP ORDER DATED
DECEMBER 20, 2019

DOCUMENT **APPLICATION BY CANADIAN WESTERN BANK**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
McLENNAN ROSS LLP
#600 McLennan Ross Building
12220 Stony Plain Road
Edmonton, AB T5N 3Y4
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Telephone: (780) 482-9115
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File No.: 195829

NOTICE TO RESPONDENTS:

This application is made against you. You are a Respondent.

You have the right to state your side of this matter before the Justice.

To do so, you must be in Court when the application is heard as shown below:

Date: August 31, 2020
Time: 3:00 p.m.
Where: Calgary Courts Centre
Before Whom: Justice Barbara E. Romaine

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1. An Order substantially in the form of the Consent Order attached as Schedule B.

Grounds for making this application:

2. Four properties in the Receivership are financed by Canadian Western Bank ("CWB");
3. CWB has agreed with Alvarez and Marsal Canada Inc., LIT (the "Receiver") that these four properties will be withdrawn from the sales and investment solicitation process ("SISP") previously approved by this Court;
4. CWB is making arrangements to satisfy the fees and disbursements of the Receiver;
5. The Receiver is holding back \$20,000 per property in addition to the amounts being paid by CWB, as security for payment of future costs;
6. Such further and other grounds as counsel may advise and this Honourable Court may permit.

Material or evidence to be relied on:

7. The pleadings and proceedings filed and taken in this action;
8. The Report of the Receiver to be filed; and
9. Such further and other material as counsel may advise and this Honourable Court may permit.

Applicable rules:

10. Alberta Rules of Court, AR 124/2010, Rules 1.3, 1.4, 3.68, 3.73; and
11. Such further and other rules as counsel may advise and this Honourable Court may permit.

Applicable legislation and regulations:

12. *Companies' Creditors Arrangement Act*; and
13. Such further and other legislation and regulations as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

14. None.

How the application is proposed to be heard or considered:

15. In person before Justice Barbara E.C. Romaine at Calgary Courts Centre on August 31, 2020 at 3:00 p.m.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the Applicant what they want in your absence. You will be bound by any order that the Court makes.

If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an Affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the Applicant.

SCHEDULE B

Clerk's stamp:

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|---|---|
| COURT FILE NUMBER | 1901 - 18029 |
| COURT | COURT OF QUEEN'S BENCH OF ALBERTA |
| JUDICIAL CENTRE | CALGARY |
| | IN THE MATTER OF AN APPLICATION UNDER SECTION 47(1) OF THE <i>BANKRUPTCY AND INSOLVENCY ACT, RSC 1985, c B-3</i> AND IN THE MATTER OF AN APPLICATION UNDER SECTION 13(2) OF THE <i>JUDICATURE ACT, RSA 2000, c J-2</i> |
| APPLICANTS | SUN LIFE ASSURANCE COMPANY OF CANADA, AND THOSE OTHER APPLICANTS SET OUT IN SCHEDULE "A.1" OF THE INTERIM RECEIVERSHIP ORDER DATED DECEMBER 20, 2019 |
| RESPONDENTS | SUNDANCE PLACE II LTD., SUNDANCE PLACE II 1000 LIMITED PARTNERSHIP BY ITS GENERAL PARTNER SUNDANCE PLACE II LTD., AND THOSE OTHER RESPONDENTS SET OUT IN SCHEDULE "A.2" OF THE INTERIM RECEIVERSHIP ORDER DATED DECEMBER 20, 2019 |
| DOCUMENT | <u>CONSENT ORDER</u> |
| ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT | McLENNAN ROSS LLP #600 McLennan Ross Building 12220 Stony Plain Road Edmonton, AB T5N 3Y4 Lawyer: Charles P. Russell, Q.C. Telephone: (780) 482-9115 Fax: (780) 733-9757 Email: crussell@mross.com File No.: 195829 |
| Date on which this order was pronounced: | August 31, 2020 |
| Location where order was pronounced: | Calgary, Alberta |
| Name of judge who made this order: | The Honourable Justice Barbara E. Romaine |

UPON THE APPLICATION by Canadian Western Bank ("**CWB**");

AND UPON noting the consent of Alvarez and Marsal Canada Inc., LIT, in its capacity as Court-appointed receiver and manager (the "**Receiver**") under the Interim Receivership Order dated December 20, 2019 ("**Interim Receivership Order**"), and receiver and manager under the Receivership Order (Expanded Powers) dated January 30, 2020 ("**Expanded Receivership Order**") and the Amended and Restated Receivership Order (Expanded Powers) dated February 19, 2020 (as amended on March 3, 2020, the "**Amended and Restated Receivership Order**");

AND UPON having read the Interim Receivership Order and the Amended and Restated Receivership Order;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. CWB, an Applicant mortgage lender, has provided notice to the Receiver that it wishes to terminate the receivership proceedings in respect of the Non-Atlantic Debtors listed at paragraph 3 herein ("**Non-Atlantic Debtors**") and the Non-Atlantic Lands listed in paragraph 3 herein ("**Non-Atlantic Lands**").
2. The Non-Atlantic Debtors and the Receiver will cooperate with CWB to ensure an orderly transition from these proceedings to any mortgagee-driven proceeding or other arrangement in respect of CWB and the Non-Atlantic Debtors' collateral.
3. The Receiver shall be partially discharged as receiver and manager of the Non-Atlantic Debtors and Non-Atlantic Lands upon the Receiver filing a Receiver's Certificate indicating that all matters necessary to transition the Non-Atlantic Lands have been completed (the "**Termination Date**");

Applicants and Non-Atlantic Debtors

| APPLICANTS | NON-ATLANTIC DEBTORS |
|-----------------------|--|
| Canadian Western Bank | 534 Capital Corp. and 534 Limited Partnership by its general partner 534 Capital Corp. |
| Canadian Western Bank | Macleod Place Holding Corp., Macleod Place Ltd. and Macleod Place Limited Partnership by its general partner Macleod Place Ltd. |
| Canadian Western Bank | Parkwood/Eastgate Capital Corp. and Parkwood/Eastgate Limited Partnership by its general partner Parkwood/Eastgate Capital Corp. |
| Canadian Western Bank | Strategic Centre Ltd. and Strategic Centre Limited Partnership by its general partner Strategic Centre Ltd. |

Non-Atlantic Lands

| No. | Entity (Building Name) | General Partner/Holdco | Legal Land Description |
|-----|------------------------|------------------------|---|
| 22. | Ship & Anchor Building | 534 Capital Corp. | <p>PLAN A1 BLOCK 107 THE WESTERLY 10 FEET OF LOT 40 AND ALL OF LOTS 41, 42 AND 43</p> <p>EXCEPTING THEREOUT: PLAN NUMBER HECTARES (ACRES) MORE OR LESS ROAD 7611168 AS TO PORTION (LOTS 40 TO 43 INCLUSIVE) EXCEPTING THEREOUT ALL MINES AND MINERALS</p> |
| 14. | Macleod Lands | Macleod Place Ltd. | <p>FIRST: PLAN 4880AJ BLOCK 2 LOTS 11 AND 12 EXCEPTING THEREOUT ALL MINES AND MINERAL</p> <p>SECOND: PLAN 4880AJ BLOCK 2 LOTS 13 TO 15 INCLUSIVE EXCEPTING THEREOUT ALL MINES AND MINERALS</p> <p>THIRD: PLAN 4880AJ BLOCK 2 LOTS 16 TO 19 INCLUSIVE EXCEPTING OUT OF LOTS EIGHTEEN (18) AND NINETEEN (19) ALL MINES AND MINERALS</p> <p>FOURTH: PLAN 4880AJ BLOCK (2) LOTS (32), (33) AND (34) EXCEPTING OUT OF LOT (34) THAT PORTION BOUNDED AS FOLLOWS</p> |

| | | | |
|-----|-----------------|---------------------------------|--|
| | | | <p>COMMENCING AT A POINT IN THE EAST BOUNDARY, AT A DISTANCE OF (17) FEET SOUTH OF THE NORTH EAST CORNER OF THE SAID LOT (34) THENCE NORTHERLY ALONG THE SAID EAST BOUNDARY TO THE SAID NORTH EAST CORNER THENCE WESTERLY ALONG THE NORTH BOUNDARY TO THE NORTH WEST CORNER OF THE SAID LOT (34) THENCE SOUTHERLY ALONG THE WEST BOUNDARY OF THE SAID LOT (34) A DISTANCE OF (10) FEET THENCE EASTERLY PARALLEL WITH THE SAID NORTH BOUNDARY A DISTANCE OF (110) FEET THENCE SOUTH EASTERLY IN A STRAIGHT LINE TO THE POINT OF COMMENCEMENT, CONTAINING .012 OF A HECTARE (0.03 OF AN ACRE) MORE OR LESS EXCEPTING THEREOUT OF LOT 32 ALL MINES AND MINERALS</p> |
| 19. | Parkwood Office | Parkwood/Eastgate Capital Corp. | <p>FIRST: PLAN 7622073 BLOCK 2 LOT 9 EXCEPTING THEREOUT ALL MINES AND MINERALS AREA: 0.45 HECTARES (1.11 ACRES) MORE OR LESS</p> <p>SECOND: PLAN 7622073 BLOCK 2 LOT 10 EXCEPTING THEREOUT ALL MINES AND MINERALS AREA: 0.45 HECTARES (1.11 ACRES) MORE OR LESS</p> |

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|-----|------------------|-----------------------|--|
| 24. | Strategic Centre | Strategic Centre Ltd. | PLAN A1 BLOCK 48 LOTS 35, 36 AND 37 EXCEPTING OUT OF LOTS 35 AND 36 THE MOST SOUTHERLY 7 FEET THEREOF EXCEPTING THEREOUT ALL MINES AND MINERALS |
|-----|------------------|-----------------------|--|

provided however that notwithstanding the terms of this Order: (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete its administration under the Amended and Restated Receivership Order; (b) the Receiver shall continue to have the benefit of the provisions of the Amended and Restated Receivership Order, including the Receiver's Charge, which shall secure:

- i. the professional fees and disbursements of the Receiver and counsel to the Receiver which were incurred up to the Termination Date in relation to the applicable Property (as defined in the Amended and Restated Receivership Order), which includes the Non-Atlantic Lands;
- ii. the professional fees and disbursements of the Receiver and counsel to the Receiver which are incurred after the Termination Date on account of costs and services rendered by the Receiver to further transition the applicable Property (as defined in the Amended and Restated Receivership Order), which includes the Non-Atlantic Lands, and complete the administration under the Amended and Restated Receivership Order;

(c) the Receiver shall continue to have the benefit of the Receiver's Borrowing Charge, the ability and right to request that its further fees and disbursements be approved and allocated amongst Property (as defined within the Amended and Restated Receivership Order), the right to seek all approvals, protections and stays of proceedings in favour of the Receiver in its capacity as Receiver under the Amended and Restated Receivership Order, including in connection with any action taken by the Receiver following the Termination Date, the right to seek a full Discharge Order from the Court with respect to the Non-Atlantic Debtors and Non-Atlantic Lands.

4. Following the Termination Date:

- i. the Receiver shall submit all remaining cash on hand arising from the Non-Atlantic Lands to CWB other than cash on hand necessary to pay the Receiver's and its counsel's professional fees, including to complete the Receiver's administration under the Amended and Restated Receivership Order. In the event the Receiver does not have sufficient funds for its costs for the administration of the Non-Atlantic Lands under the Amended and Restated Receivership Order, CWB shall remit requisite funds requested by the Receiver for its costs to complete the administration, which costs shall be secured by the Receiver's Charge;
- ii. CWB shall pay all accounts related to the Non-Atlantic Lands following the Termination Date for services rendered from the date of the Interim Receivership Order to the Termination Date;

- iii. other than accounts for professional fees, the Receiver shall have no further duty or obligation to pay accounts submitted to it or its property manager following the Termination Date relating to the Non-Atlantic Lands.
5. A copy of this Order shall be served upon the service list created in these proceedings.
6. Any interested party (including the Applicant and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.
7. Service of this Order shall be deemed good and sufficient in the manner set out at paragraphs 42 and 43 of the Amended and Restated Receivership Order.

Justice of the Court of Queen's Bench of Alberta

CONSENTED TO BY:

DENTONS CANADA LLP

Per: _____

Sam Gabor
Counsel for the Receiver
Alvarez & Marsal Canada Inc.