

COURT FILE NUMBER 1401-12431  
 COURT COURT OF QUEEN'S BENCH OF ALBERTA  
 JUDICIAL CENTRE CALGARY  
 APPLICANT ACCESS MORTGAGE CORPORATION (2004) LIMITED  
 RESPONDENT ARRES CAPITAL INC.  
 DOCUMENT **ORDER (Discharge)**  
 ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT  
 McCARTHY TÉTRAULT LLP  
 4000, 421 – 7<sup>th</sup> Avenue SW  
 Calgary, AB T2P 4K9  
 Attention: Walker W. MacLeod / Pantelis Kyriakakis  
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**DATE ON WHICH ORDER WAS PRONOUNCED:** April 19, 2021  
**LOCATION OF HEARING:** Calgary, Alberta  
**NAME OF JUDGE WHO MADE THIS ORDER:** Justice B.E.C. Romaine

**UPON** the application (the "**Application**") of Alvarez & Marsal Canada Inc., in its capacity as the court-appointed receiver (the "**Receiver**") of Arres Capital Inc. (the "**Debtor**"), pursuant to the order issued by the Honourable Madam Justice Strekaf under the *Civil Enforcement Act* (Alberta) (the "**CEA**") on February 13, 2015, as subsequently amended and restated pursuant to the Order issued by the Honourable Madam Justice B.E.C. Romaine on October 23, 2017 (the "**Receivership Order**"), in the proceedings under Court File Number 1401-12431 (the "**Receivership Proceedings**"); **AND UPON** having read the Application and the Fifth Report of the Receiver, dated August 26, 2020 (the "**Fifth Receiver's Report**"); all filed; **AND UPON** having read to Affidavit of Service of Katie Doran, to be filed (the "**Service Affidavit**"); **AND UPON** hearing counsel for the Receiver and counsel for any other persons present;

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

1. The time for service of the Receiver's Application and Fifth Receiver's Report is abridged, the Receiver's Application is properly returnable today, service of the Receiver's

Application and the Fifth Receiver's Report on the service list, in the manner described in the Service Affidavit, is good and sufficient, and no other persons, other than those listed on the service list (the "**Service List**") attached as an exhibit to the Service Affidavit, are entitled to service of the Application or the Fifth Receiver's Report.

2. The Receiver's accounts for its fees and disbursements (Final Taxation Period Billings), as set out in the Fifth Receiver's Report, including the Forecast Fees and Costs, in respect of the Debtor (General) are hereby approved without the necessity of a formal passing of its accounts.

3. The accounts of the Receiver's legal counsel, McCarty Tétrault LLP, for its fees and disbursements (Final Taxation Period Billings), as set out in the Fifth Receiver's Report, including the Forecast Fees and Costs, in respect of the Debtor (General), are hereby approved without the necessity of a formal assessment of its accounts.

4. The Receiver's activities as set out in the Fifth Receiver's Report and in all of its other reports filed herein, and the Final General Statement of Receipts and Disbursements and the Final Graybriar Statement of Receipts and Disbursements, as included to the Fifth Receiver's Report, are hereby ratified and approved.

5. The Receiver is authorized and directed to make the following distributions as outlined in the Forecast General R&D, as set out in the Fifth Receiver's Report, namely:

- (a) the amount of \$30,145 to satisfy the fees and disbursements of the Receiver and its legal counsel that were previously approved by the Court relating to accounts up to and including June 30, 2019 from the General remaining funds;;
- (b) the amount of \$25,000 as a retainer to Alvarez & Marsal Canada Inc., in its capacity as trustee in bankruptcy of the Debtor, to satisfy professional fees and costs of the Receiver incurred and forecast fees and costs, which will not form part of the bankruptcy estate;
- (c) Forecast Fees and Costs of \$50,000 to the Receiver and its legal counsel, as approved by this Order; and
- (d) the balance (less amounts required to be paid for contingency costs of \$15,000, if required) to the beneficiary of the Receiver's Borrowing Charge.

6. 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 in 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.

7. No action or other proceedings 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 this Court may direct.

8. Upon the Receiver filing with the Clerk of the Court a certificate, substantially in the form attached as Appendix "A" hereto, confirming that all distributions authorized by this Order have been completed 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.

9. If the parties are unable to agree on costs they may make written submissions.

10. 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.



\_\_\_\_\_  
J.C.C.Q.B.A.

**AGREED AS TO FORM AND CONTENT:**

**SUGIMOTO AND COMPANY**

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



Loran V. Halyn  
Counsel to Kenzie Financial  
Investments Ltd., Shelly Beck,  
Therese F. Daley, Linda Jaeger,  
Andrew Little, Laurie Little, Agnes M.  
Oberg, Steven Ogg, Lester S. Ikuta  
Professional Corporation, Lester  
Ikuta, Mickey Ikuta, Brian Sekiya,  
Holly Sekiya, Sandra Sommer,  
Marion Sommer, Allan Sommer,  
Steven Reilly, Swarts Bros Limited,  
and Clara Mae Woroschuk

**CASELS BROCK & BLACKWELL LLP**

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



Jeffrey Oliver  
Counsel to the Plaintiff

**APPENDIX "A" TO THE DISCHARGE ORDER**

Clerk's Stamp

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COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY  
APPLICANT ACCESS MORTGAGE CORPORATION (2004) LIMITED  
RESPONDENT ARRES CAPITAL INC.  
DOCUMENT **RECEIVER'S DISCHARGE CERTIFICATE**  
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT  
McCARTHY TÉTRAULT LLP  
4000, 421 – 7<sup>th</sup> Avenue SW  
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**RECEIVER'S DISCHARGE CERTIFICATE**

1. All capitalized terms used in this Receiver's Discharge Certificate and not otherwise defined shall have the meaning ascribed to them in the Order issued by The Honourable Justice B.E.C. Romaine of the Court of Queen's Bench of Alberta, in the within proceedings, granted on April 19, 2021 (the "**Discharge Order**").
2. Pursuant to the Discharge Order, the Court provided for the discharge of the Receiver, upon the filing of this certificate, by the Receiver, confirming that all remaining and residual funds have been distributed.

**THE RECEIVER HEREBY CONFIRMS AND CERTIFIES THE FOLLOWING:**

1. All remaining and residual funds have been distributed.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021.

**ALVAREZ & MARSAL CANADA INC.**, in its capacity as the court appointed receiver and manager of the assets, properties, and undertaking of **ARRES CAPITAL INC.** and not in its personal or corporate capacity

Per: \_\_\_\_\_  
Name:  
Title: