No. S-267204
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

BANK OF MONTREAL

PETITIONER

AND:

1608083 B.C. Ltd.

RESPONDENT

APPLICATION RESPONSE

Application response of: AlixPartners Restructuring, Inc. (the "**Application Respondent**").

THIS IS A RESPONSE TO the Notice of Application of MBW Canada Holding Inc. ("**MBW**") dated November 6, 2026.

The Application Respondent:

☐ agrees to the applicant's hearing date of November 27, 2026.

☒ does not agree to the applicant's hearing date and has requested available date options through scheduling.

The Application Respondent estimates that the application will take a half day.

To assist the Court, the Application Respondent has summarized, in the table attached as **Schedule "A"**, the heads of relief sought by MBW's Notice of Application dated November 6, 2026 (the "**MBW Application**") and the Application Respondent's brief responses thereto.

Part 1 ORDERS CONSENTED TO

The Application Respondent consents to the granting of the orders set out in the following paragraphs of Part 1 of the Notice of Application on the following terms:

1. None.

Part 2 ORDERS OPPOSED

1. AlixPartners Restructuring, Inc., in its capacity as Court-appointed receiver and manager (the "**Receiver**") of 1608083 B.C. Ltd. ("**ResidualCo**"), opposes all relief sought by MBW at paragraphs 1 through 17 of Part 1 of the MBW Application.

2. The relief concerning the proposed distributions to Canada Revenue Agency ("**CRA**") and Bank of Montreal ("**BMO**"), including MBW's requests to restrain distributions or require a holdback, is addressed in the Receiver's own Notice of Application served November 13, 2026 (the "**Distribution Application**"), the Second Report of the Receiver, dated November 13, 2026 (the "**Second Report**") and the recent decision of the Court of Appeal in *MBW Canada Holding Inc. v. Canstar*, 2026 BCCA 455 (the "**MBW CA Decision**").

3. The Receiver's materials, including the draft distribution order (the "**Distribution Order**"), establish that no distribution to Fulcrum Capital Partners Inc. or its affiliates ("**Fulcrum**") is presently sought and that approximately $3.8 million is expected to remain after the Receiver's proposed distributions, subject to finalization of the amounts described in the Receiver's materials. The MBW CA Decision confirms, among other things, that MBW has no basis for seeking a return of the funds paid out of court to Canstar and, accordingly, no basis for asserting a claim to any of the funds in the Receiver's possession in priority to BMO (or any other secured creditor).

4. To avoid duplication, this Response focuses on MBW's remaining requests for production, investigation, independent counsel, leave to sue, restrictions on the administration of ResidualCo, cross-examination, and variation or reconsideration of the reverse vesting order granted by this Court on October 9, 2026 (the "**RVO**").

Part 3 ORDERS ON WHICH NO POSITION IS TAKEN

1. The Application Respondent takes no position on the granting of none of the orders set out in paragraphs 1 to 17 of Part 1 of the MBW Application.

Part 4 FACTUAL BASIS

Overview

1. Capitalized terms used, but not otherwise defined herein, have the meanings given to them in the Second Report.

2. The MBW Application should be dismissed. MBW appeared by counsel at the RVO hearing, raised the alleged conflict of Fasken Martineau DuMoulin LLP ("**Fasken**") and its concern regarding the Security Deposit previously paid out of Court, and was advised that no distribution was then sought, the proceeds would remain under the Receiver's control in ResidualCo, and MBW could assert any claimed priority when a distribution was proposed. After consulting its client, MBW's counsel confirmed that MBW would not pursue an adjournment and would not oppose the application for the RVO.

Second Report at Appendix "B", Transcript of Proceedings, *Bank of Montreal v Canstar Restorations Limited Partnership et al*, BCSC No S-267204, Vancouver Registry, October 8, 2026 **[October 8 Transcript]** at 6:13-27, 10:4-31, 28:13-20; *Bank of Montreal v Canstar Restorations Limited Partnership*, 2026 BCSC 2216 [***RVO Decision***] at para 4; Second Report at s 4.5(5).

3. The Court granted the RVO, the Transaction closed, and the Purchaser and other stakeholders have acted in reliance on it, including in continuing the operation of the business without interruption. The Receiver has now returned on notice seeking approval of certain distributions, as expected. MBW may advance its position concerning those distributions, but it is not entitled to seek to reopen the completed sale process, compel an insolvency-wide investigation, dictate the Receiver's choice of counsel, obtain leave to sue before identifying a proposed claim, or impose an MBW-specific veto over ResidualCo's litigation and insurance rights.

RVO Decision at paras 38, 44; Second Report at ss 2.0(2), 3.0(1); Distribution Application at Part 1, para 1.

4. The proposed Distribution Order contemplates the retention of significant funds and, as such, addresses MBW's preservation concern. What is more, since filing the MBW Application, the Court of Appeal has since released the MBW CA Decision dismissing the MBW Appeal (as defined and discussed in further detail below), thereby eliminating any basis for MBW's preservation concern.

MBW Canada Holding Inc. v Canstar Restorations Limited Partnership, 2026 BCCA 455.

5. The balance of the MBW Application rests on speculation. MBW identifies no executable asset-sale transaction that was available, no specific defect in BMO's security, copies of which were all previously provided in the Affidavit of Jesse Agassiz sworn September 21, 2026 ("**Agassiz Affidavit**") in support of BMO's petition for the Receivership Order, no confidential information transmitted to the Fasken receivership team, and no particulars of any alleged cause of action against the Receiver or its counsel, let alone a draft Notice of Civil Claim. The production and supplementary-report relief sought by MBW is at best a fishing expedition, rather than a claim already shown to have a *prima facie* foundation, and appears designed primarily to put the Receiver to considerable cost and inconvenience, all to the detriment of the only remaining financial stakeholder, Fulcrum.

Second Report at ss 4.3, 4.5(1), (6(a)), (7); Agassiz Affidavit at Exhibits "B"-"C", "E"-"F", "H"-"I", "K"-"L", "N"-"O", "Q", "S".

Canstar v MBW Litigation

6. The decision of Walker J. in *Canstar Restorations Limited Partnership v MBW Canada Holding Inc.*, 2026 BCSC 472 (the "***Canstar v MBW Decision***") provides a helpful history of the underlying litigation between Canstar LP and MBW. Following is a summary of the facts set out in that decision.

7. On December 31, 2020, a fire damaged MBW's hotel and restaurant property at 21735 Lougheed Highway, Maple Ridge, British Columbia (the "**MBW Property**"). MBW was insured by Gore Mutual Insurance Company, which retained an adjuster and appointed Canstar to perform emergency restoration work. On January 7, 2021, MBW and Canstar entered into a work authorization under which Canstar was to perform emergency and environmental services as directed by the adjuster or insurer and be paid its standard labour and material charges, plus applicable fees and taxes.

Canstar v MBW Decision at paras 8, 10-16.

8. Canstar performed emergency restoration work at the MBW Property and issued invoices exceeding $1 million. Canstar registered two builders' liens against the MBW Property totalling approximately $1.08 million. On November 23, 2021, Canstar commenced Supreme Court of British Columbia Action No. S218371 against MBW for payment of its

invoices, contractual interest and enforcement of the liens (the "**Canstar v MBW Litigation**").

Canstar v MBW Decision at paras 2, 30, 36; Affidavit #1 of Luo Lizhi, made October 6, 2026 [**Luo Affidavit #1**] at paras 7-8, Exhibit "C".

9. MBW defended that action and counterclaimed against Canstar. MBW alleged, among other things, that Canstar performed unauthorized or unnecessary work, failed to perform in a good and workmanlike manner, negligently designed or erected a temporary roof structure, damaged the Property and caused business-interruption and repair losses. MBW sought general, special, aggravated and punitive damages, including repair costs, lost hotel, restaurant and bar revenues, and asserted that its damages should be set off against any amount owing to Canstar (the "**MBW Counterclaim**").

Luo Affidavit #1 at para 9, Exhibits "D", "E".

10. On July 7, 2025, MBW paid $1,008,490.09 into Court to discharge Canstar's liens from the Property (the "**Security Deposit**").

Luo Affidavit #1 at para 11.

11. Canstar's contractual claim proceeded by summary trial on March 5 and 6, 2026. In the *Canstar v MBW Decision*, Walker J. found that the work authorization permitted Canstar to take directions from the adjuster, that Canstar's work fell within the contract and that MBW breached the agreement by failing to pay Canstar after receiving insurance proceeds intended for Canstar's invoices. The Court granted Canstar judgment for $1,038,549.15, contractual interest at 24% per annum, costs, and payment out of the Security Deposit plus accrued interest.

Canstar v MBW Decision at paras 85, 91, 97, 102, 106.

12. The summary-trial judgment did not determine the MBW Counterclaim. Justice Walker held that Canstar's debt claim was not inextricably interwoven with MBW's negligence counterclaim, that determining Canstar's contractual claim would not prejudice MBW's advancement of the counterclaim, and that the judge hearing the counterclaim would not be bound by factual findings made on the summary trial.

Canstar v MBW Decision at paras 5, 64, 71.

13. The reasons also record the procedural history preceding the summary trial. Canstar's summary-trial application was adjourned several times, including to permit MBW to retain new counsel. MBW later brought applications to disqualify Canstar's counsel[1], which were dismissed, an urgent Court of Appeal application connected to the disqualification issue, and a further adjournment application shortly before the ultimately scheduled summary trial, which was also dismissed. Justice Walker found that the procedural history favoured proceeding summarily and observed that MBW appeared to be attempting to avoid answering Canstar's claim.

Canstar v MBW Decision at 37-49, 65; *MBW CA Decision* at para 16.

14. MBW appealed the summary-trial judgment in Court of Appeal File No. CA51446 (the "**MBW Appeal**"). MBW also sought a stay preventing withdrawal of the Security Deposit. At the April 30, 2026 hearing of its stay application, MBW sought and obtained an adjournment after Canstar advised that, if the stay application were adjourned, Canstar would proceed to withdraw the funds. The Court-ordered payment out of approximately $1,030,599.62, including accrued interest, was completed on May 6, 2026. The stay application was heard and dismissed on May 22, 2026.

Affidavit #2 of Jordan Beaulieu, made October 8, 2026 **[Beaulieu Affidavit #2]** at paras 3, 6, Exhibit "B" (17:45-47 – 18:1-8 thereof), "C"-"D"; Luo Affidavit #1 at para 15.

15. The MBW Appeal was heard on October 6, 2026 and judgment remained under reserve at the time the RVO hearing was heard, when the MBW Application was filed, and when the Receiver served its Distribution Application. As a result of the extant MBW Appeal, MBW maintained that the payment out of the Security Deposit and Canstar's application of the funds were improper and that, if it succeeded on appeal, the approximately $1.03 million must be restored. Those matters are distinct from the continued prosecution of the MBW Counterclaim, which remains an unadjudicated claim against ResidualCo pursuant to the terms of the RVO.

---

[1] The *Canstar v MBW Decision* notes that the disqualification application was with respect to MBW's own legal counsel. The Receiver has confirmed that is a typographical error and MBW's Application materials filed with respect to its disqualification application are included as Exhibit "M" and "N" to Affidavit #3 of Jordan Beaulieu, made November 19, 2026 **[Beaulieu Affidavit #3]**.

Luo Affidavit #1 at paras 16-17; October 8 Transcript at 8:4-8, 30:18-25; RVO at paras 10(g)-(h); Second Report at s 4.5(3).

16. On November 18, 2026, the Court of Appeal dismissed the MBW Appeal, finding that Walker J. made no error in awarding summary judgment in favour of Canstar. In arriving at this determination, the Court of Appeal also noted that MBW will be unable to set off any damages awarded to it against the amounts invoiced by Canstar.

MBW CA Decision at paras 48-57.

Sale Process & RVO Approval

17. The Transaction was the culmination of a broad sale process implemented by an independent sales advisor, overseen by AlixPartners Restructuring, Inc. (prior to its appointment as Receiver). More than 50 prospective purchasers were contacted, 33 executed confidentiality agreements, and four parties submitted offers. The Court received the comparative bid and liquidation analysis and evidence concerning the transaction structure, including treatment of Excluded Assets and Excluded Liabilities.

Pre-Filing Report of the Proposed Receiver dated September 25, 2026 [**Pre-Filing Report**] at ss 1.0(9), 4.0(1)-(2), 5.0, 6.0(1)-(2), Appendices "D"-"F".

18. MBW was represented by counsel at the RVO hearing. The Receiver confirmed that no distribution was sought, the proceeds would remain in ResidualCo under the Receiver's control, MBW would receive notice of a distribution application, and any priority claim or required holdback could then be addressed. MBW did not pursue its requested adjournment and did not oppose the RVO.

October 8 Transcript at 6:13-27, 28:13-20, 31:3-10; *RVO Decision* at para 4; Second Report at s 4.5(5).

19. The Receiver also explained that litigation claims for and against Canstar would reside in ResidualCo, creditors would retain their rights and priorities against ResidualCo as the holder of the net Transaction proceeds, and the Receiver would determine in the ordinary course whether litigation should continue to be prosecuted.

October 8 Transcript at 8:4-22, 29:20-47.

20. Following the granting of the RVO, the Transaction closed on October 9, 2026. Upon closing, and in accordance with the RVO, the Purchaser became the sole shareholder of

Canstar GP and LUNA and the sole limited partner of Canstar LP, free and clear of claims, other than the Retained Liabilities and Permitted Encumbrances. The Excluded Assets and Excluded Liabilities, including the purchase price and Canstar v MBW Litigation, were transferred to and vested in ResidualCo, in respect of which these receivership proceedings continue.

Pre-Filing Report at Appendix "E" (ss 1.1(dd), (hh) thereof);
Second Report at s 2.0(2)-(3).

21. The Receiver's Certificate was executed October 13, 2026, being the next business day following closing, and served on the service list, including former counsel to MBW, on October 15, 2026. MBW filed a Notice of Appeal of the RVO on October 16, 2026.

Second Report at ss 2.0(2), 4.5(2), Appendix "A".

Part 5 LEGAL BASIS

1. Sections 183, 187(5) and 243 of the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**"), together with the Receivership Order and the RVO, confer on the Court the authority to supervise the Receiver and make orders responsive to the circumstances of the receivership. Insolvency supervision is directed to timely, efficient and impartial resolution, preservation and maximization of value, fair treatment of claims and protection of the public interest. For its part, the Receiver, as an officer of the Court, must protect creditors and the public interest in the proper administration of the estate.

Bankruptcy and Insolvency Act, RSC 1985, c B-3, as amended at ss 183, 187(5), 243; *9354-9186 Québec inc v Callidus Capital Corp*, 2020 SCC 10 at paras 40, 42, [2020] 1 SCR 521 [***Callidus***]; *GMAC Commercial Credit Corporation – Canada v TCT Logistics Inc*, 2006 SCC 35 at para 58, [2006] 2 SCR 123 [***GMAC***]; Order Made After Application (Receivership Order) of the Honourable Justice Stephens, granted September 28, 2026 [**Receivership Order**] at paras 34-35; RVO at paras 39-40.

2. Rule 8-1(4) of the *Supreme Court Civil Rules*, BC Reg 168/2009 requires an applicant to state the orders sought and briefly summarize the factual and legal bases for them. Rule 22-1(4) permits cross-examination of an affiant on matters in their affidavit. Those procedural powers must be exercised consistently with the Rules' object of securing the just, speedy and inexpensive determination of proceedings on their merits.

Supreme Court Civil Rules, BC Reg 168/2009 [***Rules***] at rr 1-3(1)-(2), 8-1(4), 22-1(4).

3. Insolvency jurisdiction is remedial. It should not be used to create a free-standing discovery process that goes beyond the bounds conferred by the rules of ordinary civil procedure, conferring one stakeholder with control over the Court-officer, or undermining the finality on which Court-approved insolvency sales depend.

4. The above principles are relevant to the numerous heads of relief sought on the MBW Application and, for the further reasons noted below, all favour the dismissal of MBW's requested relief.

Production, Sealing and Supplementary Reporting

5. MBW seeks an order for disclosure of the Receiver's Confidential Report filed in support of its application for the RVO.

MBW Application at Part 1, para 2.

6. The open-court principle creates a strong presumption of public access. A discretionary limit requires proof that openness creates a serious risk to an important public interest, the order is necessary because reasonable alternatives will not prevent the risk, and the benefits outweigh the negative effects. The Confidential Report includes a commercially-sensitive summary of the Receiver's liquidation analysis, whose early release would prejudice the Purchaser and undermine the integrity of the Court-approved Transaction. The Sealing Order was limited in length such that the Confidential Report will be unsealed within 120 days following the filing of the Receiver's Certificate confirming closing has occurred (i.e. February 12, 2027).

Sherman Estate v Donovan, 2021 SCC 25 at paras 30, 38, 42, [2021] 2 SCR 75; Pre-Filing Report at s 8.0(1)-(3); Order Made After Application (Sealing Order) of the Honourable Justice Stephens, granted October 8, 2026 at para 1.

7. MBW has not shown that the interests protected by the existing Sealing Order have ceased to exist or that wholesale disclosure is necessary at this time. The Confidential Report has no relevance with respect to any distribution of the proceeds of the Transaction. Rather, it seems the disclosure sought by MBW go to its attempt to unwind the Court-approved Transaction, which MBW did not oppose (but nevertheless seeks to appeal).

Pre-Filing Report at s 8.0(1)-(2); October 8 Transcript at 28:13-20; *RVO Decision* at para 4; Second Report at s 4.5(5).

8. Accordingly, there is no basis for an order releasing the Sealing Order or otherwise compelling disclosure of the Confidential Report. MBW has demonstrated neither a material change in circumstances nor any genuine need for access to the contents of the Confidential Report, including as part of any opposition it might raise to the Receiver's distribution application.

9. MBW also seeks production of the security opinions provided to the Receiver and Fasken's internal conflict and file opening records.

MBW Application at Part 1, paras 6-7.

10. Solicitor-client privilege is a substantive rule and must remain as close to absolute as possible; any judicial incursion must be construed restrictively. MBW has not established that privileged legal advice, the Receiver's security opinions or Fasken's internal conflicts records are necessary to determine an asserted priority to the Remaining Funds. Furthermore, the Jackson Affidavit #2 supplies the relevant non-privileged facts to address MBW's conflict allegations against Fasken, which are discussed in further detail below, and the Agassiz Affidavit contains copies of the relevant BMO loan and security agreements. MBW may challenge a proposed distribution by identifying an actual defect in a security interest or a material non-privileged fact. It should not be permitted to obtain privileged files to investigate whether a challenge can be constructed.

Canada (Attorney General) v Federation of Law Societies of Canada, 2015 SCC 7 at paras 8, 44, [2015] 1 SCR 401; Affidavit #2 of Kibben Jackson, made November 19, 2026 **[Jackson Affidavit #2]** at paras 3-28; Agassiz Affidavit at Exhibits "B"-"C", "E"-"F", "H"-"I", "K"-"L", "N"-"O", "Q", "S".

11. MBW's request at paragraph 4(a) for, amongst other things, production of all the "Canstar group's commercial general liability, directors' and officers' and builder's risk insurance policies for the periods relevant to the claims in S-218371" is an attempt to obtain, through the receivership, document production that properly belongs in the Canstar v MBW Litigation. By its own terms, the request is defined by reference to "the claims in S-218371", and not by reference to any distribution, priority or other issue that this Court must decide. As noted above, insolvency jurisdiction does not result in a free-standing,

unfettered discovery process. MBW cannot seek to bypass the usual controls and process related to discovery by seeking in a receivership what it would have to justify in the action, nor to obtain, as an adversary of ResidualCo, access to documents on a footing not available to any other litigant, at the expense of the estate and its stakeholders.

MBW Application at Part1, para 4(a).

12. Apart from the foregoing, it bears noting that MBW has not established that it is an insured, additional insured, loss payee or judgment creditor entitled to policy-wide disclosure, or identified a particular policy and occurrence that could affect the proposed distributions. The RVO already preserves applicable Excluded Insurance Claims and does not determine coverage. If MBW later establishes a legally cognizable claim requiring disclosure of a responsive policy, that issue can be addressed on a focussed record, whether through the ordinary discovery process in the Canstar v MBW Litigation or on a properly supported application in this proceeding. A blanket production order now would disclose commercially sensitive policy terms and potentially privileged coverage communications without demonstrated necessity.

RVO at para 10(d); Pre-Filing Report at Appendix "E" (ss 1.1(dd)(ii), (gg) thereof).

13. MBW's request for production of the Receiver and Fasken's professional liability insurance if leave to sue is granted is doubly premature. No leave should be granted for the reasons noted below, no proceeding or pleaded cause of action exists, and no coverage issue is before the Court. Liability insurance is not a source of pre-action merits discovery. Any obligation to disclose insurance would arise, if at all, in a properly authorized proceeding under the procedural rules governing that proceeding. The requested prospective production order should therefore be refused.

MBW Application at Part 1, para 4(b).

14. A receiver's duty is to the creditors and the public interest in proper estate administration, not to advance one stakeholder's litigation theory. The supervising court balances efficiency, value preservation, fairness and public interest in a case-specific manner. Here, the Receiver has reported on the sale process, Transaction, proceeds, secured claims, proposed distributions and Remaining Funds in the Second Report. Requiring a further report tailored to MBW's proposed "AVO-equivalent" case would enlist the Receiver in

developing MBW's collateral challenge, impose additional estate expense and delay the distributions, without a threshold showing that the requested investigation is material to any right MBW must establish with respect to a claim over the Remaining Funds.

GMAC at para 58; *Callidus* at paras 40, 42; *Rules* at rr 1-3(2), 7-1(1), 7-1(10)-(14); *Eastern Platinum Ltd v Cameron*, 2019 BCSC 1515 at paras 23-28, 309 ACWS (3d) 706; *Greenpower Motor Company Inc v Oldridge*, 2023 BCSC 315 at paras 7-11, 2023 CarswellBC 539; MBW Application at Part 1, para 5; Second Report at ss 2.0-4.0.

Security Review and Administration of ResidualCo

15. Insolvency supervision favours timely and efficient resolution and value maximization. MBW identifies no particular registration, agreement, perfection issue or legal defect capable of impeaching BMO's security. The Receiver has obtained the security reviews it considers necessary to support the relief presently sought on its Distribution Application. Ordering a duplicate security review would add delay and expense without a demonstrated issue. A review of Fulcrum's position is also premature because no distribution to Fulcrum is sought and any future distribution will require a further application on notice to the Service List, including MBW.

GMAC at para 58; *Callidus* at paras 40, 42; Second Report at ss 4.2(2), 4.3(4).

16. The Receivership Order and RVO authorize the Receiver to administer ResidualCo and its property. Proper administration is entrusted to the Court's officer subject to the Court's supervision, not to the whims of one creditor. If a later litigation transaction requires notice or approval, the Court can address an actual proposal. A pre-emptive MBW consent right would displace the Receiver's mandate and elevate MBW above other stakeholders.

Receivership Order at para 2; RVO at para 10(l).

17. The directions sought at paragraph 11 of the MBW Application improperly seek advisory declarations and an MBW-specific restraint over the Canstar v MBW Litigation. Whether equitable set-off is available depends on the claims and equities plead or otherwise arising in that litigation and should be determined there, not abstractly on this application. The RVO preserves claims and defences according to its terms and its release exceptions speak for themselves. No proposed settlement, sale, assignment, abandonment or discontinuance

of the Canstar v MBW Litigation is before the Court. Requiring MBW's consent would grant it a unilateral veto over litigation in which it is the defendant; requiring advance Court approval for every litigation-management step would displace the Receiver's authority and impose unnecessary estate expense. If the Receiver later proposes a material disposition requiring approval, the issue can be addressed on notice in the context of an actual transaction.

MBW Application at Part 1, para 11; RVO at paras 10(g)-(h), 31-32.

18. The insurance relief at paragraph 12 of the MBW Application is similarly unnecessary and overbroad. The Receiver does not contend that the RVO extinguishes rights that MBW may have under an applicable policy or at law. Those rights, if any, are governed by the policy language, the RVO and applicable insurance law. MBW has not identified a pending coverage decision or proposed act by the Receiver that would impair a specific insurance right. A general order preserving undefined rights adds nothing to the existing legal framework, while a prohibition on compromising, assigning or dealing with any policy or Excluded Insurance Claim without MBW's consent would elevate MBW over other stakeholders and impede the Receiver's administration. Any concrete proposed transaction affecting a demonstrated MBW right can be addressed if and when it arises.

MBW Application at Part 1, para 12.

19. MBW's paragraph 7(b) request concerning the date, place and circumstances of ResidualCo's incorporation and its registered and records offices should also be refused. The RVO: (i) identifies ResidualCo, (ii) approves and ratifies its incorporation, (iii) approves and ratifies the appointment of Mr. Flater as its first director; and (iv) effects the vesting of the Excluded Assets and Excluded Liabilities into it. MBW does not explain how additional corporate-record particulars bear on the validity or priority of its asserted claims, the proposed distributions or any relief requiring present determination. To the extent public corporate information is available through the corporate registry, relief in these proceedings is unnecessary; to the extent MBW seeks internal incorporation instructions or solicitor communications, those materials are irrelevant and privileged.

MBW Application at Part 1, para 7(b); RVO at paras 3, 10(d), (g)-(h), 21-22.

Fasken Should Not be Removed as the Receiver's Counsel

20. The governing conflict inquiry asks whether the lawyer received confidential information attributable to a solicitor-client relationship that is relevant to the matter and whether there is a risk it will be used to the client's prejudice. Where relevant confidential information reached the opposing firm, dissemination and prejudice are presumed unless rebutted by clear and convincing evidence of reasonable protective measures. The analysis is therefore directed to the information received, its relevance, its dissemination and the effectiveness of protective measures, not merely the existence of a brief proposed retainer.

> *MacDonald Estate v Martin*, [1990] 3 SCR 1235 (SCC), [1990] SCJ No 41 at 1260-63 (paras 47-48, 51-52), as summarized in *Celanese Canada Inc v Murray Demolition Corp*, 2006 SCC 36, [2006] 2 SCR 189 at para 42, 48-55, 65-66 [***Celanese***].

21. The Jackson Affidavit #2 addresses the matters identified in *Celanese*: how the issue arose, what was done when it was recognized, the extent of any review, the stage of the proceeding and the potential effectiveness of a firewall. The proposed retainer was promptly discontinued (within one day following execution of the engagement letter), an ethical wall was implemented, the screened lawyers did not participate in any way in Fasken's mandate as counsel for the Receiver, and the lawyers at Fasken involved in such mandate did not receive or use any information imparted by MBW to the screened lawyers. Critically, Fasken does not advise or represent the Receiver with respect to the Canstar v MBW Litigation or CA51446; those mandates are, and have always been, handled by DLA Piper. On that evidence, the factual predicate for disqualification is absent.

> *Celanese* at para 59; Jackson Affidavit #2 at paras 6, 9-22.

22. Disqualification is not automatic. A court must consider whether a remedy short of removal will protect privilege, because choice of counsel is an important element of the adversarial system. The existing ethical wall and separation of the underlying MBW litigation from Fasken's receivership work address the asserted confidentiality concern. MBW's request to remove or restrict Fasken from every matter "adverse" to MBW is broader than the litigation for which the screened Fasken lawyers were approached and would impose substantial duplication, cost and delay on the estate without protecting any demonstrated

confidential-information interest. There is therefore no basis to remove Fasken as the Receiver's counsel in this matter.

Celanese at paras 56-59; Jackson Affidavit #2 at paras 11, 15-22; MBW Application at Part 1, para 7(c).

Leave to Sue is Premature

23. Each of the Receivership Order and RVO require leave before proceedings are commenced against the Receiver and, by virtue of the RVO, extend that protection to its counsel. The leave threshold protects court officers from frivolous, vexatious or factually unsupported claims while preserving legitimate claims; the inquiry is whether the evidence discloses a *prima facie* case, not a final merits determination.

Receivership Order at para 7; RVO at para 34; *GMAC* at paras 55-61, 67-72, 74.

24. The applicant must provide evidence supporting the cause of action sought to be asserted. A proposed pleading ordinarily identifies the cause of action and material facts so the Court can perform its gatekeeping function.

GMAC at paras 57-61; *Netlink Computer Inc (Re)*, 2018 BCSC 2309 at paras 4, 8-10, 28, 300 ACWS (3d) 697 [***Netlink***].

25. In the present case, MBW is attempting to embark on a fishing expedition to obtain extensive document production first and perhaps formulate a pleading later. That reverses the required sequence. MBW has not identified any proposed cause of action, the material facts said to support it, the conduct attributable to each proposed defendant or the loss caused by that conduct. What's more, MBW disclaims any present allegation of fraud, gross negligence or wilful misconduct against the Receiver or their legal counsel. Without a proposed pleading or equivalent particulars, the Court lacks the record required to perform its gatekeeping function mandated by *GMAC* to ensure frivolous and vexatious claims are not pursued against its Court-officer and their legal counsel.

MBW Application at para 9(e); *GMAC* at paras 57-70, 74; *Netlink* at paras 8-10, 25-30.

26. Discovery is not a substitute for the *prima facie* evidentiary foundation required on a leave application. There is on MBW's application absolutely no evidentiary basis upon which MBW might assert any cause of action against the Receiver or its legal counsel. As a result,

MBW's request for leave to sue the Receiver and Fasken should be refused. The Receiver's present request for approval of its activities and conduct does not relieve MBW of that threshold. If MBW contends that a specific activity disclosed in a report should not be approved, it must identify that activity and provide evidence and legal submissions supporting its position. A general reservation against the legal effect of an approval order is not a proper response to any such application.

MBW Application at Part 1, para 8; Distribution Application at Part 1, para 1(c).

27. The related requests to restrict future approval, release or discharge orders should also be refused. MBW asks the Court to reserve an unspecified future leave application, prohibit reliance on future approval orders, restrict any further release, and adjourn leave until after production.

MBW Application at Part 1, para 10.

28. The Receiver's application seeks approval of its activities and conduct as described in its reports. That relief is before the Court on notice, and MBW may oppose approval of a particular activity by identifying the activity, the evidence said to undermine it and the legal consequence sought. What MBW cannot properly obtain is an order in advance that the approval order will have no effect against an unidentified future claim. That would require the Court to approve the Receiver's conduct while simultaneously withholding the ordinary consequences of approval.

Distribution Application at Part 1, para 1(c).

29. The Receiver does not presently seek its discharge or any further release. Any future discharge or release application will proceed on notice and can be addressed on the record then existing.

Distribution Application at Part 1, para 1.

30. Court approval of a receiver's reported activities confirms that the receiver acted properly within its mandate on the record disclosed to the Court; it is not a discharge, a release of unknown claims or an adjudication of matters not fairly disclosed. The Receiver seeks approval so that it may proceed with the administration without repeated collateral review of activities fully reported to the Court.

Canacol Energy Ltd (Re), 2026 ABKB 654, [2026] AWLD 4105 at para 11, citing *Kingsett Mortgage Corporation v Churchill Lands United Inc*, 2024 ONSC 7127 at para 45, 2024 ACWS 6655; *Leslie & Irene Dube Foundation Inc v P218 Enterprise Ltd*, 2014 BCSC 1855 at para 54, [2014] BCWLD 7241.

31. MBW's broad allegations do not identify any statement in the reports said to be inaccurate, any material omission affecting a reported decision, or any particular activity that should be excluded from approval. There is therefore no principled basis to withhold approval of the Receiver's reported activities and conduct.

MBW's Request to Cross-Examine the Receiver Should be Refused

32. A Court-appointed receiver is not generally subject to cross-examination on the contents of its reports, and cross-examination is permitted only in exceptional or unusual circumstances. It is an extraordinary form of relief, not a procedural entitlement that follows from the filing of a report or from a stakeholder's dissatisfaction with its contents.

Ravelston Corporation Limited (Re), 2007 CanLII 2663 (ON SC) at paras 37, 40, aff'd 2007 ONCA 135 [***Ravelston***]; *Re Big Sky Living Inc (Bankrupt)*, 2007 ABQB 249 at para 4 [***Big Sky***]; *Coast Automotive Group Inc (Re)*, 2026 ABCA 123 at paras 8, 21 [***Coast Automotive***].

33. The presumption protects the receiver's neutrality, guards against examination being used as a fishing expedition or as a means of establishing the basis for potential claims against the receiver at the expense of the estate, and avoids the cost and delay of collateral process to the detriment of the stakeholders whose recoveries depend on the estate. As the chambers judge in *Coast Automotive* put it, officers of the Court are entitled to protection from irrelevant or improper questioning.

Ravelston at paras 62, 67; *Big Sky* at para 4; *Coast Automotive* at paras 10, 25.

34. It is for MBW to demonstrate exceptional or unusual circumstances, and the Court's discretion must be guided by Rule 22-1(4) and the applicable case law. Rule 22-1(4) permits a party to cross-examine an affiant, but the examination is tied to matters in the affidavit and the issues on the application. Factors to be considered in the exercise of the court's discretion include whether:

a) There are material facts in issue;

b) The cross-examination is relevant to an issue that may affect the outcome of the substantive application; and

c) The cross-examination will serve a useful purpose in terms of eliciting evidence that would assist in determining the issue.

Cowichan Valley (Regional District) v Cobble Hill Holdings Ltd, 2015 BCSC 1995 at paras 26-27.

35. MBW has not established exceptional or unusual circumstances. It has not identified any statement in the Receiver's reports said to be inaccurate, any passage that requires clarification, or any disputed material fact that cross-examination would resolve. It has put forward no evidence that the Receiver has failed to act objectively and neutrally and, to the contrary, disclaims any present allegation of fraud, gross negligence or wilful misconduct against the Receiver.

36. As in *Big Sky*, where the applicants were unable to provide meaningful particulars of the conduct they impugned, and as in *Ravelston*, where the evidentiary record did not support the allegation that the receiver was not acting in an objective and neutral manner, there is no good reason to depart from the norm. The Receiver has reported on the sale process, the Transaction, the proceeds, secured claims, proposed distributions and Remaining Funds in the Second Report, and MBW can advance its position on the proposed distributions on the Distribution Application without cross-examining the Receiver.

MBW Application at para 9(e); MBW Application at Part 1, para 13(a); Second Report at ss 2.0-4.0; *Ravelston* at paras 39-40; *Big Sky* at paras 3, 8.

37. The examination MBW seeks appears directed not at testing the Receiver's reports but at gathering information in support of MBW's other objectives: its requests for leave to sue the Receiver and its counsel, the variation or rehearing of the RVO to produce an "AVO-equivalent result", and its position in the Canstar v MBW Litigation. That is precisely the use of examination against which the case law guards: a fishing expedition, or an attempt to establish the basis for potential claims against a Court officer, at the cost of the estate.

38. In *Coast Automotive*, leave to appeal was refused where the concerns raised did not rise above the requirement for exceptional or unusual circumstances and one of the driving goals of the applicants was to obtain information for a separate claim. Cross-examination here would also divert the Receiver and the estate into collateral process, delay the Receiver's proposed distributions, and be funded by the estate to the prejudice of the only remaining financial stakeholder, Fulcrum.

Big Sky at para 4; *Coast Automotive* at paras 25, 29-30; MBW Application at Part 1, paras 2-8, 13-14.

39. In any event, MBW should not be granted a blanket authorization to cross-examine the Receiver "on the Receiver's reports" or every affidavit deponent. The scope of any examination must be connected to a live issue and the contents of the particular report or affidavit relied upon. MBW has not identified the passages, deponents or disputed facts requiring examination.

MBW Application at Part 1, para 13(a).

40. Paragraphs 13(b) and (c) of the MBW Application seek a production and examination timetable and an automatic return hearing for MBW's application to vary/rehear the RVO to produce an "AVO-equivalent result". Those orders presuppose that MBW has established entitlement to the broad production in paragraphs 2 through 7 and a viable basis to reopen the RVO. It has established neither. The Court should not create a staged investigative process whose purpose is to allow MBW to search for evidence supporting reconsideration or unpled claims. If a discrete remaining issue survives determination of these applications, case-management directions can then be made on a defined record.

MBW Application at Part 1, paras 2-7, 13(b)-(c).

No Basis to Reopen or Vary the RVO

41. Section 187(5) of the BIA permits the Court to review, rescind or vary an order made under its bankruptcy jurisdiction. That discretion must be exercised consistently with timely and efficient resolution, value maximization, fair treatment and public confidence, and with appropriate regard to the supervising judge's case-specific assessment. It does not create a parallel route by which a party may seek what is effectively the vacation of an order it did not oppose in the first instance and that it is already challenging on appeal.

BIA at s 187(5); *Callidus* at paras 40-49.

42. The doctrine of abuse of process engages the Court's inherent power to prevent procedures that would be manifestly unfair or bring the administration of justice into disrepute. It extends beyond the technical requirements of *res judicata* and may prevent relitigation where a second proceeding would offend judicial economy, consistency, finality and the integrity of adjudication. The doctrine focuses on the integrity of the process rather than the motive or procedural label adopted by the party seeking a second determination.

Toronto (City) v CUPE, Local 79, 2003 SCC 63 at paras 35-38, 42-47, [2003] 3 SCR 77 [***Toronto v CUPE***].

43. A party may challenge an order through the review mechanisms provided by law, including an appeal. What is improper is to seek to impeach the same judicial determination by relitigating it through another route. Proper appellate review reinforces the authority and finality of the adjudicative process; parallel relitigation wastes resources and risks inconsistent results.

Toronto v CUPE at paras 46, 50-52.

44. MBW has already appealed the RVO and seeks relief in the Court of Appeal directed to its validity and effects. Paragraph 14 of the MBW Application asks this Court, in parallel, to vary or rehear the same RVO and to replace its economic consequences with an "AVO-equivalent" result. The substance of that relief overlaps with the pending appeal: both proceedings seek to impeach or materially alter the RVO. Requiring the Receiver, the estate and this Court to litigate the same challenge simultaneously creates duplication and the risk of inconsistent determinations concerning a subsisting order. That parallel attack is an abuse of process and should be dismissed or, at minimum, deferred to the Court of Appeal process.

Toronto v CUPE at paras 37-38, 43, 46, 50-52; MBW Application at Part 1, para 14; Second Report at s 4.5(2), Appendix "A".

45. Alternatively, even if paragraph 14 of the MBW Application is considered on its merits under section 187(5) of the BIA, MBW does not satisfy the governing criteria. Section 187(5) permits the Court to vary an order to (a) address a fundamental change in circumstances after the original hearing or newly discovered evidence, previously

unknown, that could have produced a different result, or to (b) rectify an order which fails to state what the Court decided or intended. Neither of these circumstances apply here. Further, any exercise of such discretion by the Court is not to be treated as a substitute for an appeal, should be exercised sparingly, and consistently with the policies of the BIA, including to minimize costs with a view to maximizing value for stakeholders.

BIA at s 187(5); *Williams Moving & Storage (BC) Ltd v Canada (Minister of National Revenue)*, 2024 BCCA 160 at paras 73-89, [2024] 4 CTC 142 [***Williams Moving***]; *HOJ National Leasing Corp, Re*, 2008 ONCA 390, 166 ACWS (3d) 216 at paras 27-28 and 35; MBW Application at Part 1, para 14.

46. MBW identifies no fundamental post-hearing change and no previously unavailable evidence capable of producing a different result. Its complaints concern the same sale structure, treatment of ResidualCo, alleged priority, set-off rights, insurance rights and information available or capable of being raised when the RVO was heard. MBW appeared through counsel, raised its concerns, withdrew its adjournment request and did not oppose the RVO. Its later dissatisfaction with the consequences of the approved structure is not the kind of new circumstance contemplated on a variation application.

October 8 Transcript at 10:4-31, 28:13-20; *RVO Decision* at para 4; Second Report at s 4.5(5).

47. Nor is the relief sought by MBW corrective or procedural. Unlike the clerical correction approved in *Williams Moving*, which did not alter the substance of the proposal or prejudice creditors or third parties, MBW seeks a substantive reallocation of the approved Transaction proceeds and liabilities after closing. That relief would affect the Receiver, secured creditors, the Purchaser and other stakeholders who relied on the RVO. It would also use section 187(5) as an alternative route to the relief MBW is already pursuing on appeal.

MBW Application at Part 1, para 14.

48. On either basis, the discretion should not be exercised. The RVO preserved MBW's asserted claims against ResidualCo and its opportunity to assert any priority against the proceeds. Paragraph 14 of the MBW Application and the investigative machinery designed to support it should therefore be dismissed.

RVO at paras 10(g)-(h).

Enhanced Costs Should be Granted in Favour of the Receiver

49. Section 197(1) of the BIA provides that the costs of and incidental to proceedings under the BIA are in the Court's discretion. Under section 197(2) of the BIA, costs ordinarily follow the event on a party-and-party basis, but the Court may direct costs as between solicitor and client or fix a lump sum. Rule 14-1(1) of the *Supreme Court Civil Rules* likewise permits an award of special costs. Special costs may be ordered where a party's litigation conduct is reprehensible, a standard that includes not only scandalous or outrageous conduct but also milder misconduct deserving of reproof or rebuke. The conduct considered must be conduct in the litigation. Special costs serve two purposes: to compensate the successful party, usually to the point of indemnifying it for the legal expenses it has incurred, and to sanction (that is, condemn and deter) the misconduct giving rise to the award. Conduct that has attracted special costs includes pursuing a case so weak that it is bound to fail, pursuing claims frivolously or without foundation, and making the resolution of an issue far more difficult than it should have been.

> *BIA* at ss 197(1)-(2); *Rules* at r 14-1(1); *Garcia v Crestbrook Forest Industries Ltd*, [1994] BCJ No 2486 (BCCA) at paras 17, 23-25, 9 BCLR (3d) 242; *Young v Young*, [1993] 4 SCR 3 (SCC) at para 260, [1993] 8 WWR 513; *Smithies Holdings Inc v RCV Holdings Ltd*, 2017 BCCA 177 at paras 56-57, 134, [2017] 12 WWR 216; *Hy's North Transportation Ltd v Yukon Zinc Corporation*, 2014 BCSC 2291 [***Hy's North***] at paras 42-45.

50. Alternatively, the Court may award enhanced tariff costs where ordinary costs would be grossly inadequate or unjust. Appendix B, section 2(5) of the *Supreme Court Civil Rules* permits the Court, in unusual circumstances, to direct that the value of each unit be 1.5 times the otherwise applicable amount. The Court may also fix a lump sum under section 197(2) of the BIA. In an insolvency proceeding, those powers should be exercised with regard to the fact that there is already a presumption of prejudice to stakeholders as a result of the debtor's insolvency. In such circumstances, the Court should look to the party that caused the expense and consider whether that party or the estate and innocent stakeholders should bear the cost of unsuccessful, unnecessary or abusive litigation. In the receivership context specifically, a party whose conduct exacerbates receivership costs through disputatious proceedings, or who otherwise interferes with the receiver, should indemnify the innocent stakeholders. Where a stakeholder brings an unmeritorious application that

the receiver is required to answer, it is that stakeholder, and not the other stakeholders in the insolvency, that should bear the receiver's costs of doing so. As Donegan J. observed in *Hy's North*, to allow a receiver's costs of responding to such an application to "deplete the assets … to the detriment of all of its creditors, would defeat the purpose of the Receivership Order and the very purpose of the appointment of the Receiver." The MBW Application is brought within the receivership proceeding itself, so those principles apply with full force.

Peace River Hydro Partners v Petrowest Corp, 2022 SCC 41 at paras 51-53, [2022] 3 SCR 265; *Hy's North* at paras 46-50, 52, citing *Naramalta Development Corporation v Therapy General Partner Ltd*, 2012 BCSC 191 at para 44, and *Pinnacle Capital Resources Limited v Kraus Inc*, 2013 ONSC 674 at para 10.

51. MBW's conduct warrants an enhanced costs award. MBW appeared through counsel at the RVO hearing, raised its concerns regarding the Transaction, future distribution of transaction proceeds, and the alleged Fasken conflict, withdrew its request for an adjournment, and expressed on the record that it did not oppose the RVO. It has nevertheless commenced or maintained multiple overlapping proceedings seeking to disturb the same order and its economic consequences, including by its pending appeal and the relief sought by the MBW Application. That duplicative litigation is the very abuse of process addressed above and has required the Receiver to respond on parallel fronts at substantial estate expense. The Receiver has had no real choice but to do so. As in *Hy's North*, where the Court found that a receiver had a clear obligation to participate in and oppose an application that threatened a court-supervised transaction to the detriment of the debtor's other creditors, the Receiver, as an officer of the Court, cannot stand aside while the Transaction and the Receiver's administration of its proceeds are put in issue.

October 8 Transcript at 10:4-31, 28:13-20; *RVO Decision* at para 4; Second Report at 4.5(2), (5), Appendix "A"; *Hy's North* at paras 35-36.

52. The balance of MBW's application compounds that conduct. MBW seeks blanket prospective relief across numerous subjects, including wholesale production, policy-wide insurance disclosure, a new security review, a supplementary investigative report, removal of the Receiver's counsel, leave to sue unidentified defendants on unidentified causes of action, prospective restrictions on approvals, releases and discharge, control over

ResidualCo's litigation and insurance rights, blanket cross-examination and a staged rehearing of the RVO. It advances those requests without a proposed pleading, without identifying a defect in BMO's security, without identifying confidential information transmitted to the Receiver team, without identifying a proposed transaction affecting insurance or litigation rights, and without evidence of a fundamental change or newly discovered fact supporting variation it seeks under section 187(5) of the BIA. The leave requirements in the Receivership Order and RVO exist as a procedural safeguard to protect the Receiver from frivolous and vexatious actions and claims without merit or foundation, and MBW's unparticularized claims for leave and related relief are exactly what that safeguard is intended to screen out. As in *Pinnacle Capital*, where a stakeholder's irrelevant, unreasonable and unmeritorious application that the receiver was required to answer attracted substantial indemnity costs, the cost of answering such an application should be borne by the applicant that brought it, not by the estate and its other stakeholders.

53. With respect, MBW's application appears to be part of an abusive pattern of conduct by MBW across numerous litigation proceedings, including foreclosure proceedings commenced against its Property and the underlying Canstar v MBW Litigation, a proceeding in which it notably also sought to remove Canstar LP's legal counsel and in which the Court of Appeal has noted MBW's delaying conduct, inaction, and failure to adduce evidence, as part of its consideration in dismissing the MBW Appeal.

MBW Application at Part 1; Beaulieu Affidavit #3 at paras 13-14, Exhibits "M", "Q" and "R"; *MBW CA Decision* at para 56; *Hy's North* at paras 32, 50, citing Frank Bennett, *Bennett on Receiverships*, 3d ed (Toronto: Thomson Reuters, 2011) at 905, and *Pinnacle Capital Resources Limited v Kraus Inc*, 2013 ONSC 674 at para 10.

54. The practical consequence is that the receivership estate, and therefore the creditors and stakeholders whose recoveries depend on it, must fund a substantial response to claims that are collateral, duplicative and unsupported. Ordinary estate-funded costs would transfer the financial burden of MBW's litigation strategy to innocent stakeholders and would undermine the very purpose of the Receiver's appointment, which is to preserve and realize the debtor's assets for the benefit of all creditors. In these circumstances, the Receiver seeks special costs of responding to the MBW Application, payable forthwith by MBW. Alternatively, the Receiver seeks costs payable by MBW at Scale C, with units enhanced

by 1.5 under Appendix B, section 2(5), or a lump sum reflecting that enhanced basis, payable forthwith.

Hy's North at paras 52-58, citing *Gichuru v Smith*, 2014 BCCA 414 at paras 101, 154-156; *Rules* at rr 14-1(3), 14-1(13), 14-1(15).

Part 6 MATERIAL TO BE RELIED ON

1. Second Report of the Receiver, dated November 13, 2026;
2. Pre-Filing Report of the Receiver, dated September 25, 2026;
3. Confidential Supplement to the Pre-Filing Report of the Receiver dated September 25, 2026;
4. First Supplement to the Pre-Filing Report of the Receiver dated September 29, 2026;
5. Second Supplement to the Pre-Filing Report of the Receiver dated October 2, 2026;
6. First Report of the Receiver dated October 7, 2026;
7. Affidavit #2 of Kibben Jackson, made November 19, 2026;
8. Affidavit #1 of Jesse Agassiz, made September 21, 2026;
9. Affidavit #1 of Luo Lizhi, made October 6, 2026 (filed October 6, 2026);
10. Affidavit #2 of Luo Lizhi, made October 7, 2026;
11. Affidavit #2 of Jordan Beaulieu, made October 8, 2026;
12. Affidavit #3 of Jordan Beaulieu, made November 19, 2026;
13. Response to Petition of MBW Canada Holding Inc. dated October 6, 2026;
14. Receivership Order made September 28, 2026, as amended;
15. Reverse Vesting Order made October 9, 2026;
16. Sealing Order made October 8, 2026; and
17. Such further and other material as counsel may advise.

☒ The Application Respondent has filed in this proceeding a document that contains the Application Respondent's address for service.

☐ The Application Respondent has not filed in this proceeding a document that contains an address for service.

Dated: 19-Nov-2026

Signature of Lawyer for the Receiver,
AlixPartners Restructuring, Inc.
Kibben Jackson / Jessica Cameron

The Solicitors for the Receiver are Fasken Martineau DuMoulin LLP, whose office address and address for delivery is 550 Burrard Street, Suite 2900, Vancouver, BC V6C 0A3 Telephone: +1 604 631 3131 Facsimile: +1 604 631 3232 E-mail: kjackson@fasken.com (Reference: 267908.00039/15053)

Schedule "A":

Summary of Relief Sought by MBW & Receiver's Responses

MBW Application Para.	MBW Relief Sought	Receiver's Response
1(a)-(d)	Freeze distributions; segregate $1.03 million; report proceeds; alternatively restrain Fulcrum distribution.	General distribution freeze opposed; addressed in Distribution Application. No Fulcrum Distribution is sought, Second Report provides summary of proceeds, and Remaining Funds address MBW's concern respecting the Security Deposit without admitting trust, tracing or priority. Court of Appeal dismissed the MBW Appeal of the summary judgment award in any event.
2-3	Unseal/produce Sealed Materials and all Schedule A documents.	Opposed. Overbroad, disproportionate and largely unrelated to issues requiring determination; captures confidential information and potentially privileged material.
4(a)-(b)	Produce Canstar insurance and Receiver/Fasken professional liability insurance.	Opposed. No present entitlement to policy-wide discovery; professional liability disclosure is premature before any authorized proceeding exists.
5	Compel supplementary Receiver report on sources/uses, AVO comparator, relationships, compensation and financing.	Opposed. Receiver has reported on its administration through the Second Report, amongst others. MBW cannot compel the Court's officer to prepare an investigative report for collateral theories.
6	Require new independent security opinions.	Opposed. Existing review supports current relief; no specific defect is identified and no Fulcrum distribution is sought.
7(a)	Produce Fasken conflict/file-opening records and screening information.	Opposed. Jackson Affidavit #2 supplies relevant non-privileged facts. Internal conflicts records and

		privileged/confidential information are not producible.
7(b)	Disclose ResidualCo incorporation and registered-office information.	Opposed. RVO approved and ratified both the incorporation of ResidualCo and appointment of first director. Disclosure of requested information is irrelevant to the issues before the Court and privileged.
7(c)	Remove/restrict Fasken and require the Receiver retain new counsel.	Opposed. Fasken does not advise on the underlying litigation between Canstar and MBW. Proposed MBW retainer was promptly discontinued and an ethical screen implemented.
8	Leave to sue Fasken and potentially Receiver/Fasken.	Opposed. Premature and unsupported. No draft pleading identifies material facts or causes of action.
9-10	Reserve leave rights; restrict future releases and Receiver's discharge.	Opposed. The Receiver presently seeks approval of its activities and conduct as reported in the Reports, but does not seek its discharge or any additional release. MBW may oppose approval of a specific reported activity; it is not entitled to a prospective order stripping the approval order of its ordinary legal effect or restricting future releases and discharges.
11	Directions concerning set-off, release exceptions and Action No. S-218371.	Opposed. RVO speaks for itself; MBW should not obtain a veto over litigation administration by the Receiver.
12	Preserve insurance rights and restrict dealings with policies.	Opposed. Rights are governed by policies, RVO and law; no MBW-specific regime is warranted.
13	Prospective cross-examination, production timetable and return hearing.	Opposed. Premature and dependent on investigative and reconsideration relief MBW has not established.
14	Vary/rehear RVO or grant "AVO-equivalent" result.	Opposed. Attempt to reopen an implemented transaction without identifying an available alternative or meeting the variation threshold. MBW already has an extant Notice of Appeal filed with respect to the RVO.

15-17	Costs, abridgement and further relief.	Opposed. The Receiver seeks enhanced costs payable by MBW personally and forthwith, including special costs or, alternatively, costs at Scale C with the maximum permissible unit enhancement. MBW's broad, overlapping and unsupported relief should not be financed by the estate to the prejudice of other stakeholders.