AlixPartners

No. S-267204
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

BANK OF MONTREAL

PETITIONER

AND

1608083 B.C. LTD.

RESPONDENT

SECOND REPORT OF ALIXPARTNERS RESTRUCTURING, INC. AS RECEIVER

November 13, 2026

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AlixPartners

1.0 Introduction

1. Pursuant to an order (the "**Receivership Order**") of the Supreme Court of British Columbia (the "**Court**") granted on September 28, 2026 (the "**Filing Date**"), AlixPartners Restructuring, Inc. ("**AlixPartners**") was appointed as receiver and manager (in such capacity, the "**Receiver**") of Canstar Restorations Limited Partnership ("**Canstar LP**"), Canstar Restorations GP Inc. ("**Canstar GP**" and together with Canstar LP, "**Canstar**") and L.U.N.A Restorations Inc. ("**LUNA**", and together with Canstar, the "**Canstar Group**") and their property, assets and undertaking.

2. Following the issuance of the Receivership Order, the Receiver learned that a number of trades and subcontractors in Alberta and Saskatchewan had taken the position that they were entitled to file or register lien claims in those provinces because the language in paragraph 8 of the Receivership Order referenced only the lien legislation in British Columbia, and not the lien legislation in those provinces. Accordingly, on October 2, 2026, on application by the Petitioner, Bank of Montreal ("**BMO**"), the Court issued an order amending the receivership order (the "**Amended Receivership Order**") replacing the stay provisions under paragraph 8 of the Receivership Order to include references to claims under the *Builders Lien Act*, SBC 1997, c 45, the *Prompt Payment and Construction Lien Act*, RSA 2000, c P-26.4, and *The Builders' Lien Act*, SS 1984-85-86, c B-7.1 (collectively, the "**Lien Acts**"), as more particularly described in the Receiver's First Report to Court dated October 7, 2026 (the "**First Report**").

3. On October 9, 2026, the Court granted a transaction approval and reverse vesting order (the "**RVO**") approving a transaction (the "**Transaction**") pursuant to which the Canstar Group's business was sold to Premium Restoration Ltd. (the "**Purchaser**") pursuant to a share purchase agreement dated September 15, 2026, as amended by a First Amending Agreement dated September 24, 2026 and a Second Amending Agreement dated October 9, 2026 (collectively, the "**Agreement**"), between the Canstar Group, as vendors, and the Purchaser.

4. This report (the "**Second Report**") provides an update on developments since the First Report, including the closing of the Transaction and the Receiver's activities since closing, and sets out the basis for the Receiver's application (the "**Application**") for an order (the "**Distribution Order**"), among other things:

    a) authorizing and directing the Receiver to make one or more distributions to Canada Revenue Agency ("**CRA**") in satisfaction of all amounts owing by the Canstar Group for statutory deemed trust claims for unpaid source deductions as of the Filing Date;

b) authorizing and directing the Receiver to make one or more distributions to BMO in full satisfaction of the amounts owing by the Canstar Group to BMO, under the BMO Credit Facilities, inclusive of accrued interest and costs, but net of the Investor's Subordinate Interest (as defined below) (the "**Net BMO Distribution**");

c) approving the activities and prior reports of the Receiver, including the Pre-Filing Report dated September 25, 2026 (the "**Pre-Filing Report**"), the Confidential Supplement to the Pre-Filing Report of the Receiver dated September 25, 2026, the First Supplement to the Pre-Filing Report of the Receiver dated September 29, 2026, the Second Supplement to the Pre-Filing Report dated October 2, 2026, the First Report, and this Second Report of the Receiver;

d) declaring that the Receiver shall not incur any liability under the *Income Tax Act* (Canada) (the "**ITA**"), the *Excise Tax Act* (Canada), or any other similar federal, provincial, state or territorial tax legislation (collectively, the "**Tax Statutes**") for facilitating any distributions contemplated by the requested order; and

e) approving the professional fees and disbursements of the Receiver, Fasken Martineau DuMoulin LLP ("**Fasken**"), as the Receiver's counsel, and McDougall Gauley LLP ("**McDougall Gauley**"), as the Receiver's Saskatchewan counsel (collectively the "**Receiver's Professional Fees**").

5. This Second Report should be read in conjunction with the Pre-Filing Report, the First Report, and the affidavit of Jesse Agassiz sworn in support of the receivership application. Copies of Court materials filed in these proceedings can be found on the Receiver's case website at https://cdncases.alixpartners.com/experience/case/canstar. Unless otherwise noted, capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Pre-Filing Report.

1.1 Purposes of this Report

1. The purposes of this Second Report are to provide the Court with:

a) an update on the closing of the Transaction and the Receiver's activities since the First Report;

b) the basis for the proposed distributions to CRA and BMO;

c) the matters to be resolved prior to any distribution to Fulcrum on account of the Investor's Subordinate Interest;

d) information regarding the fees and disbursements of (i) the Receiver for the period from September 1, 2026 to October 9, 2026; (ii) Fasken for the period from September 1 to October 31, 2026; and (iii) McDougall Gauley for the period from September 18, 2026 to October 31, 2026; and

e) the Receiver's recommendations in respect of the Receiver's applications for the proposed distributions, the approval of its activities, and the approval of the fees and costs of the Receiver and its counsel.

1.2 Restrictions and Qualifications

1. In preparing this Second Report, the Receiver has relied upon the Canstar Group's unaudited financial information, books and records, and discussions with the Canstar Group's management, BMO's representatives and its legal counsel, Fulcrum, the Purchaser, and various stakeholders and their representatives (the "**Information**").

2. The Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information relied on to prepare this Second Report in a manner that complies with Canadian Auditing Standards ("**CAS**") pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance contemplated under the CAS in respect of such information. Other than the Court, any party wishing to place reliance on the Information should perform its own diligence.

3. This Second Report has been prepared to update the Court and the Canstar Group's stakeholders as to the status of the receivership and with respect to the Application. This Second Report is not appropriate for any other purpose. Neither AlixPartners, in its personal or corporate capacities, nor as Receiver, assumes any responsibility or liability for losses incurred by any party as a result of the circulation, publication, reproduction, or use of this Second Report.

2.0 Closing of the Transaction[1]

1. As set out in the First Report, the Receiver scheduled, and the Court heard, an application for approval of the Transaction and the RVO on October 8, 2026. The Court granted the RVO on October 9, 2026.

2. The Transaction closed later in the day on October 9, 2026 (the "**Closing Date**"). In accordance with the terms of the RVO, the Purchaser paid the full amount of the Purchase Price on the Closing Date. The Receiver released a copy of the Receiver's Certificate to the Purchaser on October 9, 2026, confirming that all applicable conditions to closing under the Agreement had been satisfied or waived and that the Transaction had closed. A copy of the Receiver's Certificate was filed with the Court following closing and served on the service list on October 15, 2026.

[1] Capitalized terms in this section have the meaning provided to them in the Agreement. Reference should be made to the Agreement for a complete understanding of its terms, a copy of which is appended as Appendix "E" to the Pre-Filing Report.

3. Upon closing, and in accordance with the RVO: (a) the Subscribed Shares and the New LP Units were issued to the Purchaser, which became the sole shareholder of Canstar GP and LUNA and the sole limited partner of Canstar LP; (b) the Excluded Assets and Excluded Liabilities, including the Purchase Price, were transferred to and vested in 1608083 B.C. Ltd. ("**ResidualCo**"); and (c) the Canstar Group was released from the purview of the Receivership Proceedings and substituted with ResidualCo, in respect of which the Receivership Proceedings continue, as more particularly described in the RVO.

4. On the Closing Date, and as contemplated by the RVO, the security registrations listed in Schedule "C" to the RVO were discharged from the personal property registries of British Columbia, Alberta and Saskatchewan.

5. The Transition Services Agreement between the Purchaser and ResidualCo was executed at closing, pursuant to which ResidualCo employs the Transition Employees and holds the Transition Leases for the 90-day Transition Period following closing. Under the Transition Services Agreement:

    a) ResidualCo permits the Canstar Group and the Purchaser to use the premises subject to the Transition Leases and provides the Canstar Group with the services of the Transition Employees;

    b) the Canstar Group may terminate its occupation of any premises on 30-days' prior written notice and the services of any Transition Employee on five days' prior written notice;

    c) the Canstar Group and the Purchaser are responsible for the lease costs, employee costs, and ResidualCo's costs of administering the Transition Services Agreement, including the Receiver's professional fees and disbursements, up to $2,000 per month unless otherwise agreed; and

    d) ResidualCo's costs are secured by a deposit paid to ResidualCo by the Purchaser equal to one month's estimated costs under the Transition Services Agreement (the "**Deposit**").

6. On October 9, 2026, the Receiver received $160,000 from the Purchaser, representing the Deposit payable under the Transition Services Agreement. The Deposit is being held by the Receiver in a trust account to be used, if necessary, in accordance with the terms of the Transition Services Agreement.

7. On October 13, 2026, the Receiver sent letters to each of the Transition Employees advising that their employment had been transferred to ResidualCo in accordance with the terms of the RVO, and how their employment would be treated during the transition period. As of the date of this Second Report, eight of the nine Transition Employees remain employed by ResidualCo.

8. Under the Agreement, the Purchase Price is subject to an adjustment based on the Canstar Group's Net Working Capital immediately prior to the Closing Effective Time. The Net Working Capital as of the Closing Date was calculated using the methodology set out in the sample calculation attached to the Agreement. Following closing, the Purchaser is required, within 60 days after the Closing Date, to deliver to the Receiver a Closing Statement calculating the final Net Working Capital and the resulting Purchase Price Adjustment using the same methodology. The Receiver then has 30 days to review the Closing Statement and, if necessary, deliver a Protest Notice identifying any disputed amounts and the basis for the dispute. Any dispute not resolved by the Purchaser and the Receiver within the following 30 days is to be referred to an independent accounting firm for determination within 45 days, with that determination being final and binding absent manifest mathematical error. Within 10 days after the final determination, any negative Purchase Price Adjustment is payable by ResidualCo to the Purchaser and any positive Purchase Price Adjustment is payable by the Purchaser to the Receiver, as receiver of ResidualCo.

9. As set out in Section 4.5 below, the Receiver will retain the Remaining Funds (as defined below), which the Receiver believes is sufficient to address any obligations of ResidualCo that may arise from the Purchase Price Adjustment, as well as other matters, including MBW's asserted contingent claim to a return of the Security Deposit (as discussed more fully below) and the estimated professional fees and costs to complete these proceedings. Repayment of the BMO obligation at this time will reduce significant interest and costs that are accruing on BMO's debt at approximately $4,000/day. Repayment of the Deemed Trust Claims is required before BMO can be paid. The Deemed Trust Claims are discussed in paragraph 4.1 below.

3.0 Post-Closing Activities of the Receiver

1. Since the closing of the Transaction, the Receiver has, among other things:

   a) overseen the transition of the Business to the Purchaser and monitored the performance of the Transition Services Agreement;

   b) sent termination letters to the Excluded Employees in accordance with the Agreement and the RVO;

   c) sent letters to the Transition Employees, advising of the transfer of their employment to ResidualCo in accordance with the Agreement and the RVO;

   d) through Fasken, confirmed that the security registrations listed in Schedule "C" to the RVO had been discharged by the Purchaser following closing;

   e) continued to engage with the Canstar Group's stakeholders regarding the effect of the Court-approved Transaction on their dealings with the Canstar Group;

f) prepared this Second Report, and reviewed all motion materials filed in connection with this motion;

g) through Fasken, responded to various correspondence from, and a Notice of Appeal filed with respect to the RVO by, MBW Canada Holding Inc. ("**MBW**"), as discussed in further detail below; and

h) continued to maintain the Receiver's case website and update the Service List as requests for notice have been received.

2. In addition to the foregoing, the Receiver has also investigated whether any lien claims have been registered under the Lien Acts against the Canstar Group or its Property, or against projects in respect of which the Canstar Group is currently providing services. As of the date of this Second Report, the Receiver is not aware of any such lien claims having been registered.

4.0 Proposed Distributions

4.1 Canada Revenue Agency

1. As of the date of this Second Report, the Receiver has proceeds available for distribution of approximately $21.3 million.

2. The Receiver estimates that as of the date of this Second Report, the CRA has a statutory deemed trust claim against the Canstar Group of approximately $739,589 for unremitted source deductions (the "**Deemed Trust Claims**").[2] As of the date of this Second Report, the Receiver was dealing with CRA to determine the amount of the Deemed Trust Claims.

3. CRA has also asserted claims of approximately $1,014,020 for GST and HST. In light of the anticipated bankruptcy of ResidualCo, the GST and HST claims will rank as unsecured claims, and the Receiver does not intend to make a distribution to the CRA in respect of those claims.

4.2 BMO

1. As set out in the Pre-Filing Report, as at the date of the Pre-Filing Report, the Canstar Group was indebted to BMO in an aggregate amount exceeding $16.85 million under operating and term loan facilities, with interests and costs continuing to accrue (together the "**BMO Credit Facilities**"). The BMO Credit Facilities were secured by the registrations described in the Agassiz Affidavit and Schedule "C" to the RVO. As at October 26, 2026, the amount owing to BMO was approximately $16.75 million, with interest and costs continuing to accrue.

[2] Which is exclusive of interest, penalties and the employer portion of source deductions, as those are not subject to the deemed trust claim.

2. The Receiver has obtained from its respective legal counsel, Fasken and McDougall Gauley, security opinions respecting BMO's security interests in the Canstar Group's assets in each of British Columbia and Alberta (Fasken), and Saskatchewan (McDougall Gauley) (together the "**Security Opinions**"). Subject to the customary assumptions and qualifications, the Security Opinions confirm that BMO holds valid and enforceable security over the Canstar Group's Property.

3. Other than any amounts owing in respect of the Receiver's Charge under the Amended Receivership Order and the CRA's Deemed Trust Claims, the Receiver is not aware of any creditor with a claim ranking in priority to BMO's security. The Receiver proposes to make a distribution to BMO, being the Net BMO Distribution from the proceeds of the Transaction, in full satisfaction of the amounts owing to BMO by the Canstar Group under the BMO Credit Facilities (but, for clarity, excluding the Investor's Subordinate Interest owing to Fulcrum). Repaying BMO at this time will avoid the further accrual of significant interest and costs, accruing at approximately $4,000/day, while leaving approximately $3.8 million in Remaining Funds.

4.3 Fulcrum

1. As set out in the Pre-Filing Report, the Canstar Group is also indebted on a *pari passu* basis to Fulcrum and Canstar Construction Ltd., directly or indirectly, in an amount not less than $23.4 million, of which approximately $19.2 million is owed to Fulcrum and the balance is owed to Canstar Construction, pursuant to subordinate secured debt instruments.

2. Additionally, pursuant to a Participation and Administration Agreement dated June 29, 2026 (the "**Participation Agreement**") among Fulcrum and other Fulcrum affiliates (collectively, the "**Investor**") and BMO, the Investor purchased from BMO an interest in the BMO Credit Facilities in the aggregate amount of $5 million, in exchange for BMO applying that amount against the Canstar Group's indebtedness to BMO and releasing the related guarantees previously provided by Fulcrum. Under the Participation Agreement, BMO allocated to the Investor a subordinate interest of up to $5 million in the aggregate principal amount available under the BMO Credit Facilities (the "**Investor's Subordinate Interest**") and BMO acts as the Investor's agent in respect of the Investor's Subordinate Interest and the associated security. The Investor's Subordinate Interest is subordinate to BMO's interest in the BMO Credit Facilities and is separate from the approximately $23.4 million in additional subordinate secured indebtedness owing to Fulcrum and Canstar Construction described above.

3. The Receiver has verified the $5 million advance from Fulcrum to BMO.

4. The Receiver does not seek authority on this Application to make any distribution to Fulcrum in respect of the Investor's Subordinate Interest or in respect of the subordinate secured indebtedness owing to Fulcrum and Canstar Construction. Once the matters to be funded from the Remaining Funds have been addressed, the Receiver intends to bring a further distribution application, on notice to all parties on the Service List, in respect of a distribution from the Remaining Funds.

4.4 Unsecured Creditor Distributions

1. The Canstar Group's creditors with claims ranking subordinate to BMO and the Investor's Subordinate Interest under the Participation Agreement are not anticipated to receive any distribution in respect of the amounts owed to them from the proceeds of the Transaction or otherwise, other than in respect of Retained Liabilities, which, pursuant to the terms of the Transaction, remain obligations of the Canstar Group in the ordinary course.

4.5 Remaining Funds

1. After making the distributions to the CRA and the Net BMO Distribution, the Receiver intends to retain the balance of the net transaction proceeds in the approximate amount of $3.8 million (the "**Remaining Funds**") until a further distribution application is brought. The Remaining Funds will be sufficient to: (i) address any obligations of ResidualCo arising from the Purchase Price Adjustment; (ii) address MBW's asserted contingent claim to the Security Deposit, should MBW establish that entitlement and any priority it asserts in respect of it; and (iii) fund completion of the Receivership Proceedings and anticipated bankruptcy of ResidualCo, including the fees and costs of the Receiver and the Trustee and their counsel. As noted, the Remaining Funds will not be distributed to Fulcrum except pursuant to a further application on notice to all parties on the Service List.

2. MBW, a current judgment debtor of Canstar, has instigated an appeal from the RVO. Specifically, on October 16, 2026, MBW filed a Notice of Appeal of the RVO in the Court of Appeal for British Columbia, which it amended on October 19, 2026 (the "**MBW Appeal**"). Among other things, on the MBW Appeal, MBW seeks to set aside the RVO, to freeze or reserve the proceeds of the Transaction and stay any distribution of them, and to stay or discharge Canstar's judgment against MBW, which was granted in separate litigation proceedings and is registered against MBW's real property. Attached as **Appendix "A"** is a copy of MBW's Amended Notice of Appeal.

3. The thrust of MBW's position appears to be that the RVO was granted without regard to MBW's unadjudicated counterclaim and asserted equitable set-off, which MBW says exceeds $10 million, and that a reserve should be maintained in respect of both: (i) its contingent counterclaim (exceeding $10 million), and (ii) the approximately $1 million of builders lien security deposit that was paid out of court to Canstar LP (the "**Security Deposit**", and MBW's claims being, collectively, the "**MBW Claim**"). The Receiver understands that MBW's separate appeal of Canstar's judgment (Court of Appeal File No. CA51446) was heard on October 6, 2026, and judgment remains under reserve at the time of finalizing this Second Report.

4. After receiving notice of the Receiver's intention to schedule a distribution application, MBW delivered a Notice of Application and supporting affidavit in these proceedings seeking, among other things, to restrain distribution of the Transaction proceeds and preserve funds in respect of its asserted claims.

5. MBW was represented by counsel at the hearing at which the RVO was granted. MBW raised its concerns regarding the separate litigation, the Security Deposit and preservation of the Transaction proceeds. No distribution was sought at that hearing, and the Receiver advised that MBW would receive notice of any subsequent distribution application. MBW did not pursue its requested adjournment of the RVO application and did not oppose the RVO, largely on the basis of its ability to later challenge any proposed distributions. The Court did not determine the validity, amount or priority of MBW's asserted claims. Attached hereto and marked as **Appendix "B"** is a copy of the transcript of proceedings dated October 8, 2026 on the Receiver's application for approval of the RVO.

6. The Receiver is of the view that neither the MBW Appeal nor MBW's asserted claims preclude the proposed distributions being made, including for the following reasons:

    a) MBW's concerns regarding the approximately $1.03 million paid out of court are adequately addressed by the approximately $3.8 million the Receiver expects to retain after the proposed distributions, from which MBW may seek to establish an entitlement in priority to Fulcrum or any other stakeholder.

    b) No additional reserve is needed for MBW's counterclaim and asserted equitable set-off, which is relevant only to the extent of Canstar's approximately $2 million claim against MBW. Any set-off against the balance still owing to Canstar would be covered by the funds being retained, and any excess of MBW's claim would be an unsecured liability.

7. To be clear, the Receiver is not commenting on the merits of any of MBW's claims. The Receiver's comments regarding the retention of funds after distributions to CRA and BMO reflect the prudent manner in which the Receiver intends to proceed, and are not intended to constitute an admission as to the validity, amount, characterization, traceability or priority of the MBW Claim.

8. The Receiver therefore does not see MBW's Appeal or its extant claims as an impediment to the proposed distributions.

5.0 Receiver's Professional Fees

1. The fees and disbursements of the Receiver during the period from September 1 to October 9, 2026 total $141,550, exclusive of $18,401.50 in applicable taxes.

2. The fees and disbursements of Fasken, the Receiver's legal counsel, during the period from September 1 to October 31, 2026, total $304,014.23, exclusive of $60,615.60 in applicable taxes.

3. The fees and disbursements of McDougall Gauley, the Receiver's Saskatchewan legal counsel, during the period from September 18, 2026 to October 31, 2026, total $3,959.04, exclusive of $422.95 in applicable taxes.

4. The fee affidavits of the Receiver, Fasken and McDougall Gauley, which include the corresponding invoices, will be filed separately in these proceedings.

5. The average hourly rates for the Receiver, Fasken and McDougall Gauley for the respective billing periods were $755.13, $824.90 and $646.55 (after a courtesy discount was applied), respectively.

6. The Receiver is of the view that its fees and costs and those of its legal counsel are reasonable in the circumstances and have been validly incurred in accordance with the provisions of the orders granted in these Receivership Proceedings.

7. In reaching this conclusion, the Receiver considered the nature, extent and value of the work performed by the Receiver and its legal counsel throughout these proceedings, including reviewing the Canstar Group's financial and operational circumstances and restructuring alternatives; overseeing and participating in the Sale Process, evaluating the offers received and preparing the Liquidation Analysis; negotiating, documenting and seeking Court approval of the Transaction, including by way of the reverse vesting structure, and the Transition Services Agreement; addressing stakeholder, employee, landlord, lien, and other issues arising before and after the Receiver's appointment; obtaining and reviewing security opinions in British Columbia, Alberta and Saskatchewan; implementing and closing the Transaction, including the transfer of assets and liabilities to ResidualCo and the post-closing transition arrangements;

and administering the Receivership Proceedings, including maintaining the case website and service list, responding to stakeholder inquiries, monitoring the Transition Services Agreement, reviewing priority claims and preparing for the proposed distributions and anticipated bankruptcy of ResidualCo. The Receiver considers this work to have been necessary to preserve the Canstar Group's going-concern value, complete the Transaction on an expedited basis and advance the orderly administration of the estate, and considers the time spent, the hourly rates charged and the resulting Receiver's Professional Fees to be fair and reasonable in the circumstances.

6.0 Conclusion and Recommendation

1. The Receiver has considered MBW's opposition and the relief sought in MBW's Notice of Application. No distribution to Fulcrum is sought on this Application, and approximately $3.8 million in Remaining Funds is expected after the proposed distributions to CRA and BMO. The Receiver considers the Remaining Funds sufficient to address the identified contingencies, including MBW's asserted entitlement concerning the Security Deposit, should MBW establish that entitlement and its asserted priority. The Receiver does not consider MBW's unadjudicated counterclaim or asserted set-off to require retention of the full amount claimed or to justify delaying the proposed priority distributions. The Receiver therefore respectfully recommends that this Honourable Court grant the relief requested in this Second Report.

* * *

All of which is respectfully submitted,

AlixPartners Restructuring, Inc.

ALIXPARTNERS RESTRUCTURING, INC.
IN ITS CAPACITY AS RECEIVER AND MANAGER OF
1608083 B.C. LTD.
AND NOT IN ITS PERSONAL CAPACITY

Appendix “A”

COURT OF APPEAL FOR BRITISH COLUMBIA

FORM 1 AMENDED NOTICE OF APPEAL (RULE 6(1))

Original Notice of Appeal filed October 16, 2026. Amended on October 19, 2026 pursuant to Rule 82(2) of the Court of Appeal Rules, B.C. Reg. 120/2022, and s. 193 of the Bankruptcy and Insolvency Act / Rule 31 of the Bankruptcy and Insolvency General Rules. Amendments are underlined; deleted text is struck through.

VANCOUVER
OCT 19 2026
COURT OF APPEAL
REGISTRY

Court of Appeal File No. CA51922 **Supreme Court File No.** S-267204

Supreme Court Registry Location Vancouver Registry

To the respondent(s)

A court proceeding has been commenced against you in the Court of Appeal. See the final page of this form for details on how to respond.

1. PARTIES TO THE APPEAL

Appellant(s)	MBW Canada Holding Inc. (~~Respondent~~ Interested Party, Person Aggrieved / Affected Party under BIA s. 193, Secured Claimant, Counterclaimant and Creditor)
Respondent(s)	BANK OF MONTREAL (Petitioner) CANSTAR RESTORATIONS LIMITED PARTNERSHIP, by its general partner CANSTAR RESTORATIONS GP INC. (Respondent) CANSTAR RESTORATIONS GP INC. (Respondent) L.U.N.A RESTORATIONS INC. (Respondent) PREMIUM RESTORATION LTD., also referred to in Schedule "A" to the Order as PREMIUM RESTORATIONS INC. (~~Respondent~~ Purchaser) AlixPartners Restructuring, Inc., in its capacity as court-appointed receiver and manager of the assets, undertakings and property of the Respondents (~~Respondent~~ Receiver) 1608083 B.C. LTD., also known as "ResidualCo" (Affected Party / ResidualCo) FCP CANSTAR HOLDCO INC. / FULCRUM CAPITAL PARTNERS (Affected Party / Subordinated Claimant)

2. THE ORDER YOU ARE APPEALING

Is leave to appeal required?	☑ Yes ☐ No
Who made the order?	Mr. Justice Stephens
What court and/or tribunal pronounced the order(s)?	☑ Supreme Court ☐ Tribunal
Date the order was pronounced (DD/MM/YYYY)	October 9, 2026 ~~09/10/2026~~
City where the order was pronounced	Vancouver
Length of lower court hearing	2.5 hours
What type of proceeding are you appealing from?	☑ Chambers Judgment

3. RELIEF SOUGHT

PART A: LEAVE NOT REQUIRED

Part of the order being appealed:

The Order Made After Application (Transaction Approval and Reverse Vesting Order) of Justice Stephens made October 9, 2026 in BCSC Action No. S-267204 (the "Order"), in whole; or in the alternative, paragraphs 10(d), 10(g), 11, 12, 18, 29, 30, and 31 of the

Order, insofar as they approve an extraordinary Reverse Vesting Order ("RVO") structure rather than a standard Approval and Vesting Order ("AVO"), wrongly treat MBW as an unsecured creditor despite MBW's statutory court security deposit and prior-in-time secured Counterclaim set-off rights, vest the Purchase Price in a shell company (ResidualCo / 1608083 BC Ltd.) to be dissolved within 90 days, channel MBW's $1,008,490.09 (or $1,030,599.62) court security deposit undertaking and over-$10,000,000 unresolved Counterclaim into ResidualCo, authorize distributions of proceeds to BMO (despite unconsented collateralization of MBW's court deposit and Art Infiniti fire insurance proceeds) and to Fulcrum (despite no bank statements supporting its purported June 2026 $5,000,000 advance), and grant broad releases (para. 31), without holding back or reserving in Court the disputed deposit and Counterclaim funds.

Order(s) you are seeking on appeal:

1. A declaration that MBW has an appeal as of right pursuant to s. 193(a), (b), and (c) of the Bankruptcy and Insolvency Act ("BIA"), or in the alternative, an order granting leave to appeal pursuant to BIA s. 193(e) and Rule 12 of the Court of Appeal Rules.

2. An order setting aside the Reverse Vesting Order pronounced October 9, 2026 in BCSC S-267204 and directing that any transaction proceed only by way of a standard Approval and Vesting Order (AVO); or in the alternative, an order varying the terms of the Reverse Vesting Order to direct a dedicated escrow reserve and mandatory distribution freeze in respect of disputed funds, requiring that: (a) $1,008,490.09 (or $1,030,599.62 per the May 6, 2026 court payment record) plus accrued interest, being MBW's statutory court security deposit extracted via Canstar's April 21, 2026 undertaking in Appeal CA51446 (Affidavit #1 of Santosh Mohanan, para. 9) and unlawfully swept into BMO's collateral without MBW's consent (impressed with a remedial constructive trust under BIA s. 67(1)(a)); and (b) sufficient realization proceeds to cover MBW's prior-in-time unresolved Counterclaim (exceeding $10,000,000 arising from the 2021 contract) and secured equitable set-off rights under PPSA s. 41(2)(a) (including freezing all distributions to BMO in respect of its $16.85M claim and to Fulcrum in respect of its unverified $5,000,000 claim, releasing any unconsented security over Art Infiniti insurance proceeds, and compelling production of bank statements for the $5,000,000 claim and disclosure of the Purchaser's ultimate beneficial ownership (UBO)), be held in Court from the Purchase Price / realization proceeds pending final determination of Appeal CA51446 and MBW's Counterclaim.

3. Costs (including special costs) of this appeal and of the application below.

PART B: SEEKING LEAVE TO APPEAL

Part of the order being appealed:

The Order Made After Application (Transaction Approval and Reverse Vesting Order) of Justice Stephens made October 9, 2026 in BCSC Action No. S-267204 (the "Order"), in whole; or in the alternative, paragraphs 10(d), 10(g), 11, 12, 18, 29, 30, and 31 of the Order, insofar as they approve an extraordinary Reverse Vesting Order ("RVO") structure rather than a standard Approval and Vesting Order ("AVO"), wrongly treat MBW as an unsecured creditor despite MBW's statutory court security deposit and prior-in-time secured Counterclaim set-off rights, vest the Purchase Price in a shell company (ResidualCo / 1608083 BC Ltd.) to be dissolved within 90 days, channel MBW's $1,008,490.09 (or $1,030,599.62) court security deposit undertaking and over-$10,000,000 unresolved Counterclaim into ResidualCo, authorize distributions of proceeds to BMO (despite unconsented collateralization of MBW's court deposit and Art Infiniti fire insurance proceeds) and to Fulcrum (despite no bank statements supporting its purported June 2026 $5,000,000 advance), and grant broad releases (para. 31), without holding back or reserving in Court the disputed deposit and Counterclaim funds.

Grounds for leave to appeal:

1. Malicious Mischaracterization of MBW as "Unsecured" & Unconsented Collateralization of MBW's Court Security Deposit and Insurance Proceeds (Nemo Dat Violation): Arising from a restoration contract following a December 31, 2020 hotel fire, MBW deposited $1,008,490.09 (or $1,030,599.62 per the May 6, 2026 court payment slip) into Court as statutory security regarding disputed invoices and holds an over-$10,000,000 Counterclaim. MBW is in law and fact a secured claimant holding statutory court security, proprietary insurance rights, and prior-in-time equitable set-off security. However, without MBW's knowledge or consent, Canstar and BMO privately agreed in the May 2024 BMO credit agreement to define an "Art Infiniti Prepayment Trigger Event" capturing any amount received in connection with the claim against MBW (Agassiz Affidavit #1, p. 43 / s. 1.1, pp. 58–60), mandate a 100% net cash sweep to BMO (s. 9.5, p. 83 / pp. 58–60), and assign MBW's Art Infiniti project insurance proceeds to BMO as collateral (Schedule F, item 18, p. 130 / p. 142). Due to prior errors and deliberate circular manipulation, the respondents and counsel falsely and maliciously categorized and excluded MBW as an "out-of-the-money unsecured creditor" to strip MBW's standing and notice, while simultaneously converting MBW's security deposit and insurance proceeds into BMO collateral. Under nemo dat quod non habet, the Builders Lien Act, and the PPSA, Canstar could not grant BMO security over MBW's property or court deposit, and these material provisions were not specifically drawn to Justice Stephens' attention.

2. Material Misrepresentation, Misleading the Court & Prima Facie Fraud on April 21, 2026 (Constructive Trust & Interference with Appeal CA51446): On April 21, 2026, Canstar's Executive Vice President (Santosh Mohanan) swore Affidavit #1 in Appeal CA51446 before this Court, positively deposing that "Canstar is a going concern" and undertaking (para. 9) on behalf of Canstar and its related entities to pay MBW the court funds of $1,008,490.09 (or $1,030,599.62) plus accrued interest if MBW succeeds on appeal, thereby

extracting MBW's statutory security deposit from Court directly into BMO's unconsented 100% collateral sweep. On the exact same day—April 21, 2026—Canstar executed a Forbearance Agreement with BMO (Agassiz Affidavit #1, Exhibit "U", pp. 240–248) acknowledging an insolvent default indebtedness of $21,497,659.89, which was concealed from this Court. Executing two diametrically opposed legal instruments on April 21, 2026 constitutes material misrepresentation, misleading the Court, and prima facie fraud on the Court (or equitable fraud). Furthermore, the respondents obtained the October 9, 2026 Order stripping the April 21 undertaking into a shell company (ResidualCo) to render Appeal CA51446 nugatory. This impresses the extracted deposit with a remedial constructive trust (exempt from the estate under BIA s. 67(1)(a)) and disentitles the respondents to extraordinary RVO relief or para. 31 releases under the clean hands doctrine, fraus omnia corrumpit, and BIA s. 178(1)(d)/(e).

3. Unresolved Over-$10,000,000 Counterclaim & Prior-in-Time Secured Equitable Set-Off: MBW maintains an unresolved Counterclaim exceeding $10,000,000 arising from the 2021 underlying contract, conferring prior-in-time equitable set-off security and builders lien rights long predating BMO's May 2024 credit facility and Fulcrum's purported June 2026 subordinated participation. Under PPSA s. 41(2)(a) and Supreme Court of Canada authority (Holt v. Telford), any security or assignment claimed by BMO ($16.85M) or Fulcrum ($5M) is strictly subject and subordinate to MBW's prior equitable set-off, which extinguishes the debtors' claims in full. The chambers judge erred in treating MBW as unsecured, channeling MBW's Counterclaim and court deposit undertaking into ResidualCo (paras. 10(g) and 12), and permitting distributions (paras. 11, 18, 29, 30) instead of holding the over-$10,000,000 disputed funds and $1,008,490.09 ($1,030,599.62) deposit in Court pending final adjudication.

4. Irreconcilable Historical Conflict of Interest (Possession of Confidential Information Since Sept 30, 2026), Breach of Procedural Fairness & Late Receipt of Record on October 12, 2026: On or about September 30, 2026, in connection with the appeal hearing in CA51446, MBW delivered its complete confidential files, evidence, and full litigation strategy to counsel, giving rise to possession of MBW's confidential information and an irreconcilable historical conflict of interest (MacDonald Estate v. Martin, [1990] 3 S.C.R. 1235). At the October 8, 2026 hearing—held only ten days after the September 28, 2026 Receivership Order without formal service of the unverified 647-page Affidavit #1 of Jesse Agassiz on MBW—this irreconcilable conflict of interest was brushed over lightly, and because of prior errors and the conflict, MBW was wrongfully relegated to "unsecured" status without its secured Counterclaim and court deposit rights being advanced. Counsel appearing on October 8 stated non-opposition to general transaction approval after receiving the massive record only days earlier, without having read the 647-page materials and without informed consent. MBW itself did not formally receive the record until October 12, 2026 (after the October 9 Order), when review first revealed the concealed April 21 forbearance agreement and unconsented collateral clauses.

5. Unaudited 647-Page Record, Unverified $5,000,000 Claim Without Bank Statements & Suspected Collusive Restructuring (UBO Inquiry): The 647-page Agassiz record lacks any independent third-party audit or verification. In particular, the purported June 2026 $5,000,000 subordinated participation claimed by the controlling sponsor (Fulcrum) is unsupported by any bank statements or verified proof of funds transfer, while Fulcrum directly participated in selecting the Purchaser (Premium Restoration Ltd. / Premium Restorations Inc.) without disclosing the Purchaser's ultimate beneficial ownership (UBO).

6. Error in Principle — Fundamental Impropriety of RVO vs. AVO (Misrepresented Employee Count: 399 vs. 113 & 90-Day Shell Liquidation): The chambers judge erred in principle under Harte Gold Corp. (Re), 2022 ONSC 653 in approving an extraordinary RVO rather than a standard Approval and Vesting Order (AVO). While the RVO was justified on preserving "399 employees," Canadian government records show only 113 full-time employees (with the remainder being part-time). Moreover, under the receivership and Order structure, employees and liabilities are channeled into a shell company (ResidualCo / 1608083 BC Ltd.) to be dissolved within 90 days and offloaded onto the government, leaving MBW manifestly worse off than under an AVO. The debtors fundamentally do not qualify for an RVO; only an AVO could be considered.

7. Statutory Jurisdiction, Significance to Insolvency Practice, Prima Facie Merit & Reservation of Rights: MBW appeals as of right under BIA s. 193(a)–(c) (as the Order involves future rights, affects other cases of a similar nature, and the property in question far exceeds $10,000), or alternatively seeks leave under BIA s. 193(e). The appeal raises questions of broad significance to insolvency practice, is prima facie meritorious, and the alternative relief of a court holdback/reserve will not unduly hinder the receivership (Power Consolidated (China) Pulp Inc. v. British Columbia Resources Investment Corp. (1988), 19 C.P.C. (3d) 396 (B.C.C.A.)). MBW reserves the right to further amend or supplement these grounds in accordance with Rule 82 of the Court of Appeal Rules upon full disclosure and production of bank statements.

4. ADDITIONAL INFORMATION

Sealing order	☑ Yes ☐ No — Date: October 8, 2026 ~~08/10/2026~~
Anonymity order / publication ban	☐ Yes ☑ No

Areas of law raised in the appeal	☑ Civil Procedure ☑ Commercial ☑ Equity [☐] Other: Insolvency (BIA s. 193, s. 67, s. 178) / PPSA s. 41 / Builders Lien Act / Constructive Trust, Equitable Set-off & Conflict of Interest
Appeals involving children	☐ Yes ☑ No

5. SERVICE

Are you representing yourself?	☑ Yes ☐ No
Name(s) and address(es) within BC for service of appellant(s)	MBW Canada Holding Inc. Attention: Luo Lizhi also known as Max Luo 950 Greenwood Road West Vancouver, BC V7S 1X7
Phone number(s) of appellant(s)	604-767-5991
Email address(es) for service of the appellant(s)	artinfiniti.ca@gmail.com
Date form completed (DD/MM/YYYY)	~~16/10/2026~~ 19/10/2026
Name of lawyer or party authorizing filing of this form	Luo Lizhi

Signature of party authorizing filing:

Luo Lizhi (Max Luo)

Sole Director, MBW Canada Holding Inc.

Appendix “B”

No. S267204
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA
(BEFORE THE HONOURABLE JUSTICE K.M. STEPHENS)

Vancouver, BC
October 8, 2026

BETWEEN:

Bank of Montreal

Petitioner

AND:

Canstar Restorations Limited Partnership, by its general partner Canstar Restorations GP Inc., Canstar Restorations GP Inc., and L.U.N.A Restorations Inc.

Respondents

PROCEEDINGS IN CHAMBERS

COPY

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Respondents

PROCEEDINGS IN CHAMBERS

Counsel for the Petitioner:	W. Roberts B. Hunt
Counsel for AlixPartners:	K. Jackson J. Cameron G. Foster (by videoconference)
Counsel for Premium Restoration:	R. Laity
Counsel for MBW Canada Holding:	C. Rubinstein

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OCTOBER 8, 2026

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No exhibits marked.

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October 8, 2026
Vancouver, BC

(PROCEEDINGS COMMENCED)([10:05:49 AM])
(VIDEOCONFERENCE COMMENCES)([10:05:49 AM])
(CNSL G. FOSTER AT REMOTE LOCATION)

THE CLERK: In the supreme court of British Columbia at Vancouver on this 8th day of October, 2026, calling the matter of the Bank of Montreal and Canstar Restorations Limited Partnership, Justice.
THE COURT: All right. Just one moment, please. Yes.
CNSL K. JACKSON: Sorry, Justice. It's Jackson, initial K., appearing for the receiver, AlixPartners Restructuring, comma, Inc. With me today is Jessica Cameron, last name C-a-m-e-r-o-n, initial J. And appearing virtually is a solicitor, but he may be called upon if detailed questions come up around the agreement. It's Grant Foster. Last name is F-o-s-t-e-r, first initial G.

You'll see on the TV there's at least one other person appearing -- not "appearing" -- in attendance. We've had a few requests to observe. They've been asked to mute and keep their cameras off. They are not counsel and they won't be appearing, but in case you see other names, that's likely who those are.

THE COURT: All right. And they are representatives of the receiver?
CNSL K. JACKSON: No, no. No. Sorry. That's -- I'm glad you reminded me of that. No, these are generally representatives of various creditors.
THE COURT: All right.
CNSL K. JACKSON: They're just, as I say, observing. I mean, a lot of people have asked -- they've not lawyered up. They're more here to see what happens.
THE COURT: All right. And I presume if they've been given the Teams link that they're aware of the court's practice directive on MS Teams meetings and not recording, et cetera?
CNSL K. JACKSON: We did remind them -- I think we flipped the link on, which would have had everything, but what we'll do is maybe we can send a quick email to our assistant who sent the link to them. She did remind them about muting and

not -- not having their camera on, but we'll send a further reminder about not recording.
THE COURT: All right. Just -- and for the benefit of those who are listening, they must abide by the court's policy on use of electronic devices and the administrative notice for MS Teams video hearings.
CNSL K. JACKSON: And thank you, Justice, for reminding me, because in attendance from the receiver is Bobby or Robert Kofman, K-o-f-m-a-n.
THE COURT: All right.
CNSL K. JACKSON: Thank you.
THE COURT: Just one moment, please, just before ... yes.
CNSL W. ROBERTS: Justice, Roberts, initial W. With me is Ms. Hunt, first initial B. For Bank of Montreal.
THE COURT: All right. Yes.
CNSL C. RUBINSTEIN: Good morning, Justice. Last name Rubinstein, R-u-b-i-n-s-t-e-i-n, first initial C. I'm counsel for the company MBW Canada Holding Inc.
THE COURT: All right. Thank you. Yes.
CNSL R. LAITY: My name is Laity, L-a-i-t-y, first initial R., and I'm counsel to the proposed purchaser in the application today, Premium Restoration Ltd.
THE COURT: All right. Yes.

DISCUSSION RE BACKGROUND OF TODAY'S APPLICATIONS:

CNSL K. JACKSON: So --
THE COURT: So I -- just so you're aware, I received a supplemental application record that has a notice of application of October 5th --
CNSL K. JACKSON: M'mm-hmm.
THE COURT: -- in it.
CNSL K. JACKSON: Yes.
THE COURT: And then I also have the binders from an earlier hearing which had an application for an RVO.
CNSL K. JACKSON: Right.
THE COURT: And I --
CNSL K. JACKSON: Right.
THE COURT: -- presume that those are relevant for today's appearance at least in some way.
CNSL K. JACKSON: Most certainly. So this was, as the

court may recall, the date to which the application for the RVO sale approval was -- was adjourned or set over. And so that is, you know, the primary purpose of our attendance here today, is to seek approval of that transaction in the form of the RVO.

There is, married with that, an application for a sealing order that we're bringing to have filed under seal a supplemental report of --

THE COURT: M'mm-hmm.

CNSL K. JACKSON: -- the receiver which has some sensitive commercial information in it, and Ms. Cameron will be speaking to both of those applications.

There is an application by the petitioner -- by Bank of Montreal which is for an amended and restated receivership order which is -- if you'll recall the last time there was issues around notice to secured creditors dealing --

THE COURT: M'mm-hmm.

CNSL K. JACKSON: -- with charges going ahead on them.

THE COURT: Right.

CNSL K. JACKSON: So the idea was that there would be a further application on better notice or any notice to creditors that we're seeking to subordinate to the receivership charges now. That's the primary purpose of that application and that --

THE COURT: Right.

CNSL K. JACKSON: -- we had proposed, you know, frankly, Justice, to have after the application for the sale approval because I think that's -- as I say, that's the primary purpose of today's application. I think we have enough time, which is a good segue for me to explain to the court that --

THE COURT: Is it an opposed application?

CNSL K. JACKSON: No.

THE COURT: All right.

CNSL K. JACKSON: I'm -- I -- I will -- there's a bit of nuance around that, which I'll come to in a moment, with Mr. Rubinstein's --

THE COURT: It did come to my attention that Mr. Rubinstein's --

CNSL K. JACKSON: Yes.

THE COURT: -- client filed an application -- or petition response or some --

CNSL K. JACKSON: Yes.

THE COURT: -- form of responsive pleading.
CNSL K. JACKSON: Right. Right. It's a response to our application. That's right.
THE COURT: M'mm-hmm.
CNSL K. JACKSON: So I can -- I'll give you a bit of colour on that, but what I'm happy to say is that I think for something -- for -- for a company with so many stakeholders, including suppliers, contract counterparties, landlords -- both those whose leases are to be retained and those whose leases are being disclaimed -- the fact that we're here today without any opposition and, frankly, without really any counsel apart from -- again leaving out Mr. Rubinstein's client for a moment -- with counsel for just the bank and for the purchaser is I think a testament to the fact that there has been a great deal of effort around notice, communication and education of the stakeholders over the last week.

And we did have a couple of issues which were raised by in particular -- so the CRA -- counsel for CRA on one of the terms of the proposed order --

THE COURT: M'mm-hmm.
CNSL K. JACKSON: -- and by counsel for I guess the attorney general for Saskatchewan who pointed out -- identified an inconsistency in the purchase agreement and in the order and had some commentary around the terms of the order dealing with transition employees, which are the ones that would be transferred to ResidualCo and employed for a period of time post-closing to assist in the post-closing transition to the new purchaser.
THE COURT: M'mm-hmm.
CNSL K. JACKSON: Which we -- in the last 24 hours I'm pleased to say we were able to resolve both of those.
THE COURT: All right.
CNSL K. JACKSON: And so there are changes to the order that again Ms. Cameron will take the court through, but that's -- that's the type of engagement we've had over the last week, and as I say, I think it's a testament to the fact that there's been good communication and discussion that we were able to come here today without opposition. Which is another opportunity then to segue to Mr. Rubinstein's presence here today.

THE COURT: M'mm-hmm.
CNSL K. JACKSON: So his client -- I'll give you some background. MBW is a judgment debtor of Canstar, and so they -- as you'll -- he has an affidavit in there which you could -- I'll give you a brief background, but they had had -- they had a restaurant in Maple Ridge. There was a fire and damage to the restaurant, of course. There was -- the insurer engaged Canstar for the restoration work. The restoration work was done.

Ultimately Canstar -- and I couldn't give you the full details of the background of the reason that this happened -- they weren't paid, as they were not. So they filed a builder's lien claim. That lien claim was released upon posting just over a $1 million into court. Canstar -- and this is through -- it's -- counsel on this is not Fasken; it's DLA Piper -- then brought an application for a summary judgment on their claim. They were awarded judgment. MBW sought to appeal and at some point sought an adjournment of that appeal.

It was then brought to the court of appeal's -- the justice at the court of appeal's attention that if to [sic] be adjourned, that the intention from Canstar was to go and take the funds from court, seek to have them paid out if there was no appeal proceeding or the lien -- it wasn't proceeding and there was no stay application -- the stay was ultimately dismissed, that application.

And so Canstar had the funds paid out to it, the $1 million. It still has about $1 million or so, as I recall, owing as a result of interest and other amounts, costs. And so it still has judgments registered against the property of MBW. And there is an appeal -- the -- as I say, there was an appeal of the decision. That appeal was heard this week on -- Monday or Tuesday?
CNSL J. CAMERON: Tuesday.
CNSL K. JACKSON: Tuesday, I believe. And so of course judgment was reserved. We're waiting to see what happens with that.

Initially when we heard from Mr. Rubinstein that his client was concerned about the application -- we've had some discussions both yesterday and again this morning. There was

initially going to be an application for an adjournment, but that will not proceed now.

There is concern I think on the part of Mr. Rubinstein's client that if they are successful on the appeal, that they would like to get their $1 million paid back to them or perhaps into court, I suppose. I -- I'm not sure that that would be likely to happen in the context of a receivership, but we also explained that in our view this isn't a prejudicial application from the perspective of his client. There is nothing being done which precludes them from seeking that order later. There is not an application today before the court to distribute the proceeds of sale. It will be with ResidualCo under the control of the receiver if it's approved and we close. There will be notice of any application to pay funds out, and if MBW wants to oppose that application, of course that's their entitlement and that can be dealt with at that time.

And so I think for that reason that the explanation that there is no prejudice -- practically speaking the claim is preserved exactly as it is today; it just happens to be ResidualCo in place of Canstar. And there would be no distribution. We don't have an application for an adjournment.

What I'm told by Mr. Rubinstein is his client wishes him to raise an issue that he's identified, which is an alleged conflict on the part of Fasken. And this arose in -- so we found out about this on the 30th, so it was -- yes, it was right around -- exactly, it was the 30th. And counsel for Canstar, as I say, is a gentleman -- Mr. Robertson at DLA Piper. And I got an email from -- we -- we were aware of this claim. It was part of the -- it's -- it's identified as an excluded asset, and so we were aware of it. And so Mr. Robertson emailed me on the 30th and -- forwarding an email from another lawyer at my office in our litigation group saying they've been retained to act for MBW on the appeal. And I immediately contacted the lawyer in my office and said whoa, we can't do that. We're acting for the receiver of Canstar. And so he said "got it" and contacted I guess the principal of MBW and advised that Fasken couldn't -- couldn't act on that

basis. So they retained other counsel for the appeal.

The -- I think what we've seen in -- pardon me, Justice? I'm sorry. I missed that.

THE COURT: Oh, I didn't say anything.

CNSL K. JACKSON: Oh, I'm so sorry. I thought I heard --

THE COURT: I don't think so. I was -- I was just reaching for something, but --

CNSL K. JACKSON: Oh, very good. Okay.

THE COURT: Yeah, no. I'm just listening.

CNSL K. JACKSON: Yes, thank you.

And so we've seen in MBW's materials that they have a concern about Fasken's acting in conflict. There -- we don't believe that to be true. We have -- we caught it early. We have put an ethical wall in place or are putting one in place. I have to go and see if it's actually been done.

But more to the point, Fasken doesn't act for Canstar on this. DLA Piper always has and continues to. So the receiver's instructing DLA Piper, not Fasken on this claim.

There is no application to have Fasken removed as counsel. I have spoken with Mr. Rubinstein and said this order today -- the application today wouldn't preclude you from bringing that application subsequently and we're happy to have discussions around it further and perhaps convince them that there's no reason to do that.

But I think, from what I understand, Mr. Rubinstein wished to address the court about specifically just that, the Fasken's conflict.

THE COURT: Okay. So your understanding is that there's no opposition to the relief sought by MBW on this application; is that right?

CNSL K. JACKSON: That's right, Justice, yes.

THE COURT: Okay. All right. Well, I may -- I may just hear from Mr. -- is it Mr. --

CNSL K. JACKSON: Rubinstein.

THE COURT: Rubinstein?

CNSL K. JACKSON: Yeah.

THE COURT: And I may have some other questions. When you say it was an excluded asset, is that the moneys -- the 1 million -- the judgment --

CNSL K. JACKSON: Well --

THE COURT: -- is -- is an excluded asset that --
CNSL K. JACKSON: Yes.
THE COURT: -- will stay with ResidualCo?
CNSL K. JACKSON: Excluded asset, excluded liability. Any litigation claims both for and against Canstar or any of the other Canstar Group entities are all being assigned to, transferred to and vesting in ResidualCo. And so with respect to this particular claim, at present there is -- well, given that currently the lower court's order stands, there is a million plus dollars owing under a judgment which is registered against MBW's lands.

There is, I suppose, in fairness to MBW if they are fully successful on their appeal and again in the court below, that there's a world in which that judgment is vacated and there's a counterclaim by MBW which ends up with a claim -- a judgment in favour of MBW. It would be an unsecured judgment against ResidualCo in place of Canstar in that instance and be dealt with as any other unsecured claim.

Now, I do appreciate that Mr. Rubinstein or his client may come up with an argument as to why they should have $1 million paid back into court in preference to secured creditors. That's not an issue for today. As I say, that may come up on the distribution order --

THE COURT: Okay.
CNSL K. JACKSON: -- application. But as of today that claim is really just -- the claim as both for and against would be vesting in ResidualCo under the order and under -- as contemplated by the agreement. So that was --
THE COURT: All right. Okay.
CNSL K. JACKSON: -- as far as it's a excluded asset, but I suppose it's also potentially an excluded liability.
THE COURT: Okay. Thank you. Okay.
CNSL K. JACKSON: I may have forechecked a bit more than I should have on that, Justice, but I did think it was helpful to hear a bit of background around MBW's --
THE COURT: M'mm-hmm.
CNSL K. JACKSON: -- engagement here and how it's a stakeholder. And so I don't have anything more to say on that. I may have something --

THE COURT: Okay.
CNSL K. JACKSON: -- in response, but that's about it.
THE COURT: Okay. So how are you proposing to proceed then? So are you -- so are you proposing I hear from Mr. Rubinstein now just generally and then you return to the basis for your application on the RVO and -- or how --
CNSL K. JACKSON: Well, that's --
THE COURT: How do you -- how do you propose to proceed?
CNSL K. JACKSON: You -- it took -- now that you ask it, I -- I in my head had it that Mr. Rubinstein would address the court now in case there was something that --
THE COURT: Okay.
CNSL K. JACKSON: -- raised a concern, but I -- I -- having asked the question, I realize I didn't actually fully consider that. There's not -- there's no opposition. It could also go at the end. But it did in my mind seem at least --
THE COURT: All right.
CNSL K. JACKSON: -- logical to hear from Mr. Rubinstein in case --
THE COURT: I'm certainly content with that. I just --
CNSL K. JACKSON: Right.
THE COURT: -- was curious if that's how you were intending to proceed.
CNSL K. JACKSON: That certainly works for me. Thank you, Justice.

DISCUSSION RE MBW'S ADJOURNMENT APPLICATION:

THE COURT: Yes, Mr. Rubinstein.
CNSL C. RUBINSTEIN: If -- I'm just going to hand up an additional affidavit.
THE COURT: Okay.
CNSL C. RUBINSTEIN: So my friend did a good job of summarizing my client's position, and so MBW -- the main --
THE COURT: And just -- court clerk, can you pick up on the microphone Mr. -- standing down there, or should he come up to the front?
THE CLERK: There is a microphone down that way.
THE COURT: Okay.
THE CLERK: Let me double check.
THE COURT: All right. Well, you can continue. Just if the court clerk says that for some reason you

need to come up to the front, I'll ask you to do that.

CNSL C. RUBINSTEIN: Yes.

And so the main concern today was my client just heard about these proceedings on Monday and was concerned with the RVO being approved, and on the backs [sic] of that it just so happens that there was this conflict of interest that arose as well. And so there were concerns around their ability to oppose this application, but given that no distribution is proceeding today from the sale proceeds, the main concern for my client is that he be given an opportunity to advance a claim in priority to the secured creditors for that 1 million plus that was paid into court as security.

The appeal was heard, as my friend alluded to, on Tuesday of this week. I've spoken with appeal counsel, and they're optimistic that an appeal judgment will be rendered in hopefully two to four weeks, at which time we'll know whether or not MBW has any right or claim to that security.

It did attempt to bring an application for a stay of execution, but ultimately that was adjourned, and so on -- the merits of that issue haven't really been determined. And so we feel that there is a basis for an application to determine priority and my client's right to that.

So as long as there's preservation and no payout today, then -- then my client is prepared to have that proceed in light of the conflict, but we just wanted to raise that issue now.

THE COURT: All right. And just to be clear, I -- I'm not giving you or your client any advice on what -- what -- on this issue, but you're -- you're advising me that you understand there's no -- going to be no distribution application today and so -- and you've said that your client may bring an application for payment of the million dollars depending on how the court of appeal case --

CNSL C. RUBINSTEIN: Yes.

THE COURT: -- turns out.

CNSL C. RUBINSTEIN: Yes.

THE COURT: Okay.

CNSL C. RUBINSTEIN: And so if there could be some language in the -- protecting those funds pending the determination of the appeal, that is the

relief that my client is seeking today.
THE COURT: All right. Well, I'm not certain about what that relief would be.
Was that -- is that something that's implicit in -- Mr. Jackson, in your submissions or ...?
CNSL K. JACKSON: I think -- I think it -- well, I think it is, Justice. I think ...
THE COURT: And sorry to interrupt you, sir.
CNSL C. RUBINSTEIN: No, no. That's all right.
THE COURT: Just -- I just -- because I -- I was -- I was gaining the impression that your client was not opposed to the relief sought and you've just -- you've just said so long as there's some language -- you've conditioned your non-opposition, and I just wanted to --
CNSL K. JACKSON: Right.
THE COURT: -- see if there's any -- going to be any issue about that.
CNSL K. JACKSON: I don't think it's -- I mean, if all you're saying is that the funds don't get distributed without further order of the court on notice to affected parties and anyone who asks for service, which will include MBW, that's not a problem because the order doesn't allow for distribution and we can't distribute without -- without a further order. So I think it's implicit, as you say, Justice.
THE COURT: All right. So, Mr. Rubinstein, that's what Mr. Jackson says.
CNSL C. RUBINSTEIN: That -- that is fair, then --
THE COURT: Okay.
CNSL C. RUBINSTEIN: -- that statement. Yeah.
THE COURT: All right. And just to be -- just to be clear, for me, I have not -- I don't wish you to rely on me for any assurance about what may or may not transpire, but I take it, based on what Mr. Jackson said, that your client's not opposing this order.
CNSL C. RUBINSTEIN: Well, he -- he hasn't had the full opportunity to review the materials and his initial instructions were to oppose, but based on the argument being advanced that it's not going to impact his -- his interests at this point, I don't see there being a basis to oppose.
THE COURT: Okay.
CNSL C. RUBINSTEIN: And so at this point -- he did want to seek an adjournment today, but I -- but

I -- he's -- I don't believe, based on the information, that that's going to proceed.
THE COURT: Okay. All right. Well, I think -- I think what my -- what I understand is that your client's not seeking an adjournment today and is not opposing the orders sought today. That's what I understand you saying.
CNSL C. RUBINSTEIN: Yeah. Is -- would it be possible to confirm with him? Because he's --
THE COURT: All right.
CNSL C. RUBINSTEIN: -- just in the audience. If I could stand down for five minutes.
THE COURT: All right. Well, or -- I just wonder whether I might hear some submissions from Mr. Jackson about -- about -- just on the main application just so we can move that along unless you -- unless you feel it'd be --
CNSL K. JACKSON: No, no. I --
THE COURT: -- helpful to stand down for a minute.
CNSL K. JACKSON: I -- I don't think -- I think we'd be better served doing that and --
THE COURT: Yes.
CNSL K. JACKSON: -- then Mr. Rubinstein can confirm instructions at the break.
THE COURT: Yes. Well, I think Mr. Rubinstein could hear your submissions and then --
CNSL K. JACKSON: Right.
THE COURT: -- confirm -- confirm instructions at the break. So, Mr. Rubinstein, I don't --
CNSL C. RUBINSTEIN: That's fair.
THE COURT: If that's satisfactory I think we'll just proceed in that way.
CNSL K. JACKSON: Okay.
THE COURT: Okay? Thank you.
CNSL K. JACKSON: Yeah. I think that makes sense for efficiency's sake, Justice. Thank you.

DISCUSSION RE DOCUMENTS:

CNSL K. JACKSON: So I actually -- I'm -- submissions on the main for the application for the sealing order and RVO will be done by Ms. Cameron today.
THE COURT: Okay.
CNSL K. JACKSON: And -- but I'm here carrying stuff and handing things --
THE COURT: M'mm-hmm.
CNSL K. JACKSON: -- up for her. So I do have two

books of authority which I may pass up. I don't know, as usual, how many of them will be necessary to refer to, but here they are. Also on top of that an unfiled affidavit -- it's a secretarial affidavit. It's number 2 of Jordan Beaulieu.

THE COURT: Okay.

CNSL K. JACKSON: So the first part is the relevant part for today's applications. It's the one that attaches a very brief amending agreement which was -- actually, it's not executed. It's to be executed today. It amends the agreement further to address with that internal -- address -- address the internal inconsistency identified by Saskatchewan's AG. Ms. Cameron can give you the details of it, but it's dealing with the transition employees and what the agreement said and what the RVO says. So she can take you to that exhibit on the affidavit. I'll get you a filed copy after the break as well.

And the rest of it --

THE COURT: All right.

CNSL K. JACKSON: -- deals really with MBW and communications and goings-on between MBW and its other -- and counsel for the receiver prior to that, Canstar, DLA Piper. Not going to be necessary to look at it unless things change on Mr. Rubinstein's end.

THE COURT: M'mm-hmm. Okay. So -- so that's all in the second affidavit of Jordan Beaulieu.

CNSL K. JACKSON: Correct.

THE COURT: Okay.

CNSL K. JACKSON: Exactly. So it's only that first exhibit that we expect to need to refer the court to because the agreement that we're seeking to be approved is the agreement that was in the initial periods, you know, amended twice, and so it's as amended. So we'll have to bring that to the court's attention --

THE COURT: Okay.

CNSL K. JACKSON: -- and explain that amendment as well.

THE COURT: All right.

CNSL K. JACKSON: I think that's it for me, Justice, and I might --

THE COURT: So your colleague's going to speak to the sealing order?

CNSL K. JACKSON: If -- with -- and the RVO

application.
THE COURT: And the RVO application.
CNSL K. JACKSON: Yes.
THE COURT: All right.
CNSL K. JACKSON: With your leave, Justice, yes.
THE COURT: Yeah. I'm content for [sic] that and then I'll hear Mr. Rubinstein after -- after that and of course Mr. Roberts and anyone else who wishes to make a submission.
CNSL K. JACKSON: Thank you, Justice.
CNSL J. CAMERON: Thank you, sir. One other matter of housekeeping. The supplemental record that was sent to the court had a placeholder for the first report of the receiver.
THE COURT: M'mm-hmm.
CNSL J. CAMERON: And that is attached as tab 6.
THE COURT: Okay.
CNSL J. CAMERON: We brought -- we sent a copy to the court.
THE COURT: Okay.
CNSL J. CAMERON: And I'm not sure if it's made its way to you, but we did bring a hard copy hole punched, ready for you to insert.
THE COURT: Okay.
CNSL J. CAMERON: If I can approach. Thank you.
THE COURT: Thank you.
CNSL J. CAMERON: And that should go in at tab 6 of the supplemental record.
THE COURT: Okay. I've got it.
CNSL J. CAMERON: Thank you, sir.

SUBMISSIONS RE APPROVAL OF SALE BY CNSL J. CAMERON:

CNSL J. CAMERON: So as Mr. Jackson foreshadowed, this transaction is the culmination of a broad, competitive sale process conducted by Summit with the oversight and direct involvement of AlixPartners in anticipation of these receivership proceedings. The result is a going concern transaction that the receiver considers to be in the best interests for all stakeholders and the Canstar Group.

The transaction is somewhat unique in two respects. First, the sale process was conducted before the receiver's formal appointment, so this is a pre-pack3 approval. And second, it's to be implemented through a reverse vesting order

structure rather than a traditional asset vesting and sale. Neither feature is a reason to withhold approval and both require careful scrutiny by the court. And the receiver has approached this application on that basis, and we'll walk through the requirements in some detail today.

The essential submission is this: that the market has been tested. Premium submitted the best transaction. There's no funding or commercial justification to run the process again. And the developments since the receiver's appointment only a week and a half ago demonstrate that delay itself is now impairing the business. The RVO is the means by which the market tested value can be preserved and realized here.

Before I turn to my main submissions I will touch on service.

THE COURT: M'mm-hmm.

CNSL J. CAMERON: The -- we've provided an affidavit of service from Jordan Beaulieu, and that's the first affidavit of service --

THE COURT: Yes.

CNSL J. CAMERON: -- sworn October 6th.

THE COURT: M'mm-hmm.

CNSL J. CAMERON: And that is found at tab 10 of the supplemental record.

THE COURT: Yes, I have it.

CNSL J. CAMERON: Thank you, sir. On September 28th and 29th the service list was served with a copy of the receivership order that was entered by the court on September 28th, the receiver's notice of application for approval of this transaction and RVO, the pre-filing report of the receiver dated September 25th and the supplement to the pre-filing report dated September 29th.

The service emails also provided recipients with a link to the receiver's case website where all court filed materials were accessible, including appendices to the pre-filing report which were too large to send via email attachment.

On September 29th a service letter was also sent by courier to the courier recipients identified on the service list. The email service did generate bounceback emails from JCL Holdings Limited and the Township of Langley. Both parties were then added to the courier recipient list and served by courier.

The first report explains how the service list was developed. And for your reference, sir, the first report can be found at tab 6 to the supplemental record.

THE COURT: Okay. Yes.

CNSL J. CAMERON: And in particular the discussion on service is at section 3.0, paragraph 1. So the service list includes, among other parties, all parties with a registered security interest against one or more of the debtors in British Columbia, Alberta or Saskatchewan --

THE COURT: Sorry. The -- just give me one moment.

CNSL J. CAMERON: M'mm-hmm.

THE COURT: Okay. Yes, I'm with you. Okay.

CNSL J. CAMERON: Thank you.

THE COURT: So the service list -- yes.

CNSL J. CAMERON: So secured parties --

THE COURT: M'mm-hmm.

CNSL J. CAMERON: -- counterparties to the debtors' real property leases --

THE COURT: M'mm-hmm.

CNSL J. CAMERON: -- whether those leases are to be retained, excluded or treated as transition leases and the counterparties to approximately 20 key customer contracts that were identified by Canstar management with the receiver as being key to Canstar's business, all of which are retained contracts under the transaction.

Now, just yesterday I can advise the court that our office was advised that one of the lease agreements had been assigned to a party. And we had served the landlord, JCL Holdings.

THE COURT: M'mm-hmm.

CNSL J. CAMERON: As a result of the assignment, that we were unaware of, there is a new landlord who has since received the materials and reached out. However, the two leases in question are both retained contracts, and in speaking with the landlord we understood they would not be appearing at today's application, and indeed they are not.

THE COURT: M'mm-hmm.

CNSL J. CAMERON: Presumably they are happy with the continuation of their leases.

The service list did not include each of the debtors' approximately 650 vendors and trades. The receiver concluded that individualized service on those parties would be both impracticable and

unnecessary because any outstanding account payable related to an active job site is a retained liability under the transaction, and if a vendor's claim is not on an active job site and it isn't therefore an excluded liability, the vendor is going to retain whatever interest it has against the net transaction sale proceeds, which are going to be held by ResidualCo and for which we are not seeking a distribution today. And they'll retain the same priority that they have as of today if this order is granted.

THE COURT: So -- so you're saying in reference to the *PaySlate* case but you're going through service because of the *PaySlate* case --

CNSL J. CAMERON: I am, sir.

THE COURT: And you're saying -- your submission is that this is not a *PaySlate* problem.

CNSL J. CAMERON: Correct, sir.

THE COURT: Because the orders sought -- well, you tell me why.

CNSL J. CAMERON: I submit, sir, that their interests are not directly affected by this order --

THE COURT: Okay.

CNSL J. CAMERON: -- because their -- the nature of their claims is being preserved.

THE COURT: Okay.

CNSL J. CAMERON: I also submit, sir, that there's a practicability issue here if we were to attempt to effect service on approximately 650 parties in addition to the fulsome service list that we do have.

THE COURT: Well, I mean, it -- all right. I ...

CNSL J. CAMERON: In the -- in the *PaySlate* case --

THE COURT: There were counterparties that weren't served.

CNSL J. CAMERON: Correct. To the retained contracts.

THE COURT: M'mm-hmm.

CNSL J. CAMERON: My colleagues were actually counsel --

THE COURT: M'mm-hmm.

CNSL J. CAMERON: -- on the *PaySlate* matter.

THE COURT: M'mm-hmm.

CNSL J. CAMERON: And it was the retained contracts that Justice Walker --

THE COURT: M'mm-hmm.

CNSL J. CAMERON: -- had a concern with. And here these are trade vendors.

THE COURT: M'mm-hmm.
CNSL J. CAMERON: And so we did in fact serve the key retained contracts.
THE COURT: M'mm-hmm.
CNSL J. CAMERON: And those would be the approximately 20 key customer contracts.
THE COURT: M'mm-hmm. Okay. All right. Well, I'll -- perhaps you can continue.
CNSL J. CAMERON: Thank you, sir.
THE COURT: The ...
CNSL J. CAMERON: So --
THE COURT: All right.
CNSL J. CAMERON: -- the receiver submits that service -- the service that was undertaken was broad and appropriately target -- targeted to those parties most directly affected by the proposed relief. And part of the form of order that we will walk through --
THE COURT: M'mm-hmm.
CNSL J. CAMERON: -- at the end of my submissions is a request to confirm and validate service.
THE COURT: M'mm-hmm.
CNSL J. CAMERON: In terms of a road map for my submissions this morning, sir, I propose to address the application in seven parts as there are indeed several heads of relief --
THE COURT: M'mm-hmm.
CNSL J. CAMERON: -- that are being sought by the receiver.

First, I will provide a brief factual background concerning the Canstar Group's financial circumstances, the sales process and development since the receiver's appointment.

Second, I will address approval of the Premium transaction under the *Soundair* principles with particular attention to the pre-pack nature of the sale process.

Third, I will address why the RVO structure is necessary and satisfies the additional considerations identified in the *Harte Gold* decision.

THE COURT: M'mm-hmm.
CNSL J. CAMERON: Fourth, and related to transaction approval, I will address approval of the transition services agreement.
THE COURT: M'mm-hmm.
CNSL J. CAMERON: Fifth, I will address the requested

releases.
THE COURT: M'mm-hmm.
CNSL J. CAMERON: Sixth, I will address approval of the engagement of Summit, the sales advisor, and the granting of a corresponding sale advisor charge.

Seventh, and finally, I will address the temporary sealing order sought over the confidential supplement to the receiver's pre-filing report.
THE COURT: And I don't have that yet, I don't think. Is that right? I don't believe I have that. I could be wrong, but I don't think --
CNSL J. CAMERON: I thankfully brought a hard copy for you as --
THE COURT: Was it in one of the binders?
CNSL J. CAMERON: It would not have been --
THE COURT: Yes.
CNSL J. CAMERON: -- in one of the binders.
THE COURT: Yes.
CNSL J. CAMERON: I had understood it had been sent to the court, but if I can bring this up for you, sir.
THE COURT: Oh, I see. Yes, okay. If it has --
CNSL J. CAMERON: Yeah.
THE COURT: -- then it hasn't reached me, so ...
CNSL J. CAMERON: So I'll bring --
THE COURT: Yeah. There was --
CNSL J. CAMERON: -- this up to put in the red --
THE COURT: -- a blank tab I think to the binders last week -- yeah. So yeah, I don't have that. Thank you.
CNSL J. CAMERON: M'mm-hmm.
THE COURT: Thank you.
CNSL J. CAMERON: So beginning with -- first with the factual background that brought us here today.

The Canstar Group operates a regional restoration and remediation business through multiple division [sic] and brands in British Columbia, Alberta and Saskatchewan. The business includes emergency restoration, repair, construction and hazardous material remediation.

As at the date of the pre-filing report the Canstar Group employed approximately 339 employees. The workforce is not unionized.

The Canstar Group's financial difficulties are significant. The debtors have been in default of the BMO facilities for several months. The

debtors owe BMO approximately $16.85 million. The operating facility is fully drawn. The debtors also have secured debt of approximately $23.4 million owing to its shareholders, including Fulcrum Capital and its affiliates and Canstar Construction Limited. The debtors have incurred significant and recurring losses as at --

THE COURT: Are you reading from something? Or just -- if I could follow --

CNSL J. CAMERON: Oh, sure.

THE COURT: I'll follow you along if you're reading from a document or if -- are --

CNSL J. CAMERON: I'm reading --

THE COURT: -- you just reading --

CNSL J. CAMERON: -- from my submission notes.

THE COURT: Okay.

CNSL J. CAMERON: It is summarized in the pre-filing report.

THE COURT: Okay. Thank you.

CNSL J. CAMERON: In particular, if you would want to turn to section 2.1. So I've ...

THE COURT: Which report is that? Is that the --

CNSL J. CAMERON: The --

THE COURT: -- one from the --

CNSL J. CAMERON: -- pre-filing report.

THE COURT: -- pre-filing -- okay. Yes. Okay. Yes.

CNSL J. CAMERON: Should be in the original --

THE COURT: Yes.

CNSL J. CAMERON: -- application record.

THE COURT: It is.

CNSL J. CAMERON: Yeah.

THE COURT: And -- okay. I've got that open, and you said 2.1?

CNSL J. CAMERON: So -- yes. 2.1.

THE COURT: Okay. Thank you. That's helpful. Sorry. So ...

CNSL J. CAMERON: It's page 7 at the bottom.

THE COURT: Page 7 at the bottom.

CNSL J. CAMERON: 7 of 27.

THE COURT: Okay. I'm with you. Thank you. Under "Financial Difficulties."

CNSL J. CAMERON: That's correct.

THE COURT: Okay. Thank you.

CNSL J. CAMERON: So we've touched on BMO, the shareholders, and then, at the bottom there, the debtors have incurred significant and recurring losses. As at June 30th, 2026 --

THE COURT: Yes.
CNSL J. CAMERON: -- the debtors had accumulated a deficit of approximately $70 million.

The debtors have incurred significant secured and unsecured indebtedness, including vendor accounts that are aged, and that discussion begins on page 11.
THE COURT: M'mm-hmm.
CNSL J. CAMERON: Again as at June 30th there were approximately $13.6 million in unsecured creditor claims.

And then in the first report -- or pardon me. In the pre-filing report it goes on to advise that the debtors' financial position has continued to deteriorate since the receiver was engaged in its advisory capacity in March of this year.

Given these financial difficulties --
THE COURT: M'mm-hmm.
CNSL J. CAMERON: -- on March 11th of this year the Canstar Group entered into a forbearance agreement with BMO. The details of the forbearance agreement are on page 9 of the report.
THE COURT: Just on the unsecured -- that 13 million dollar --
CNSL J. CAMERON: M'mm-hmm.
THE COURT: -- figure, that was a table that had the ten largest suppliers and service providers, I think.
CNSL J. CAMERON: That's correct.
THE COURT: So are those the ones that did get served with -- are those the contract counterparties of 20 key customer contracts or --
CNSL J. CAMERON: No. No, they are not. So the key customer contracts that were served are in the service list under -- there's a heading like "Customer Contracts."
THE COURT: I see. Okay. So that's different than table 2.
CNSL J. CAMERON: That's different than table, yes, 2.8.
THE COURT: Table 2 point -- okay.
CNSL J. CAMERON: So on page 9 of the pre-filing report the forbearance arrangements with BMO are discussed.
THE COURT: M'mm-hmm.
CNSL J. CAMERON: Essentially the parties -- BMO and Canstar, I should say, entered into a forbearance

agreement on March 11th of this year due to Canstar's financial difficulties. That forbearance agreement has been amended and extended on several occasions. Most recently the forbearance period actually expired on September 30th as it was not extended as, of course, the parties had filed their materials for the receivership order and approval of this transaction at that time.

As part of the terms of the Canstar Group's forbearance agreement with BMO they retained Summit in April of 2026 to conduct the sale process under AlixPartners' oversight --

THE COURT: M'mm-hmm.

CNSL J. CAMERON: -- and in coordination with the secured stakeholders. Summit's engagement -- the discussion surrounding Summit's engagement begins on page 11 of the pre-filing report.

THE COURT: M'mm-hmm.

CNSL J. CAMERON: Summit is an independent investment banking advisory firm based in Vancouver that provides services to middle market businesses. Summit prepared the marketing materials, financial package and virtual data room with respect to the sales process, developed a buyer universe of strategic and financial parties, conducted market outreach, administered confidentiality agreements and data room access, coordinated management meetings, site visits and information requests, solicited and evaluated offers, assisted in the negotiation of the proposed transaction and reported throughout on the process and the comparative merits of the proposals received in it.

The process was launched on May 15th, and the sale process discussion begins on page 13.

THE COURT: M'mm-hmm.

CNSL J. CAMERON: An offering summary and form of confidentiality agreement were distributed to more than 50 prospective purchasers. That included both strategic and financial prospective buyers. Parties that signed confidentiality agreements were provided with the confidential information memorandum and access to the virtual data room. The materials included information concerning the operations, management, historic and projected financial performance, et cetera.

Summit then issued a formal bid process letter setting a common deadline and identifying the information required in each proposal. A copy of that bid letter is at appendix C to the pre-filing report. I don't intend to take you through that letter, sir. I can say that what was set out in that letter all very much has the trappings we would expect to see in a court approved sales process in that proposals were to identify the purchase price and assumed liabilities and working capital requirements, the proposed transaction structure, evidence of the party's financial capacity to complete, any financing conditions or remaining due diligence items, conditions to closing, employee treatment and treatment of leases and other material contracts.

In total 33 parties signed confidentiality agreements and obtained access to the data room, and ultimately four parties submitted offers and five bids were received. The discrepancy between those two numbers is the fact that one party increased --

THE COURT: M'mm-hmm.

CNSL J. CAMERON: -- its first offer verbally.

And I'd like to pause here and take you to those four bids that were received. The comparative bid summary is contained in the Summit report, and so this is in the confidential supplement that I handed up to you --

THE COURT: Okay.

CNSL J. CAMERON: -- in the red folder, in particular at appendix 1.

THE COURT: Okay. So --

CNSL J. CAMERON: Oh, it's not tabbed. My apologies.

THE COURT: No, that's all right.

CNSL J. CAMERON: It should be very short.

SUBMISSIONS RE SEALING ORDER BY CNSL J. CAMERON:

THE COURT: I just was wondering, are you proposing to speak to the sealing order for this after -- at the end, or how are you -- how would you like to proceed with -- you'd like to go --

CNSL J. CAMERON: I -- I can --

THE COURT: -- through this with me now or --

CNSL J. CAMERON: I can go through it with you now and

speak to the sealing request now if that's your preference.
THE COURT: If that's how you wish to proceed.
CNSL J. CAMERON: Sure, we can do that.
THE COURT: Okay. All right. So I've got -- I've got -- I've got it.
CNSL J. CAMERON: Okay.
THE COURT: So I take it you're not going to read it --
CNSL J. CAMERON: I'm not.
THE COURT: -- aloud.
CNSL J. CAMERON: Yes.
THE COURT: Would you like me to go to a particular tab? Is that right?
CNSL J. CAMERON: Yes. So --
THE COURT: Appendix 1?
CNSL J. CAMERON: Let's go to appendix 1.
THE COURT: M'mm-hmm.
CNSL J. CAMERON: And you'll see here, sir, that this contains the base purchase price of each offer that was received in the process.
THE COURT: M'mm-hmm.
CNSL J. CAMERON: And so the only information that has been redacted in the publicly available version of this --
THE COURT: M'mm-hmm.
CNSL J. CAMERON: -- is the last -- the financial information in the last column --
THE COURT: M'mm-hmm.
CNSL J. CAMERON: -- as well as the notes, note 1 and 2, where they ascribe value to certain portions of the bids. Otherwise parties have been provided with the bidder descriptions and transaction structures in the pre-filing report.
The other information contained in the confidential supplement -- there is a summary of the results of the sale process, and this is contained in the main body of the report.
THE COURT: M'mm-hmm.
CNSL J. CAMERON: And most importantly is the liquidation analysis summary at part 3 of the confidential supplement.
THE COURT: M'mm-hmm.
CNSL J. CAMERON: And in particular, sir -- I would direct your attention so that you have these numbers handy -- paragraph 3 of part 3 --
THE COURT: M'mm-hmm.
CNSL J. CAMERON: -- is the gross recoveries in a

liquidation scenario before considering liabilities that may rank ahead of secured creditors in a liquidation scenario. And then the receiver has summarized potential priority claims that in a liquidation may rank ahead of secured creditors. And then when you take into account those potential priority claims you get the gross estimated liquidation value at paragraph 5.

THE COURT: M'mm-hmm.

CNSL J. CAMERON: And so those are the numbers that I'd ask you to bear in mind as we're talking about today's application and the receiver's view that the transaction before the court for approval is better for stakeholders than a liquidation.

And so with respect to the requested sealing order, sir, we seek a temporary sealing order over the confidential report which contains both the bid summary, the liquidation analysis and then, I should say, the unredacted copy of the share purchase agreement, and in that share purchase agreement on the public record we have redacted the purchase price, the deposit -- which could be used to reverse engineer the purchase price potentially -- as well as the calculations related to the networking capital adjustments.

The sealing order that we are seeking is limited to the earlier of 120 days following completion of the transaction or further order of the court.

And I submit, sir, that the *Sierra Club* factors as recast by the supreme court in *Sherman Estate v. Donovan* are satisfied here as, number 1, the sealing prevents a serious risk to an important public interest, being the integrity of the sale process and ability of the court officer to maximize realizations.

Number 2, sealing is necessary because reasonable alternative measures will not prevent that risk. The transaction has not yet closed. If it fails, the receiver may need to pursue another sale or realization process, so disclosure of this information -- of the financial terms of the agreement, the terms and structure of competing proposals, the receiver's liquidation assumptions and analysis and the confidential working capital inputs could permit future bidders to formulate offers with knowledge of the previous

bids and the receiver's downside valuation. It would, I submit, impair competitive tension and could prejudice recoveries.

And the third element of the test: the benefits of the order outweigh its negative effects. Here the benefits are material in that they protect the integrity of any renewed sale process, preserve competitive tension and prevent anchoring to disclose transaction and liquidation values. And the effect on the court openness is limited as the only -- only the confidential report is to be sealed. The seal expires after the stipulated post-closing period unless the court otherwise orders.

So in light of the foregoing I submit that the requested sealing order is appropriate. And we do have a revised form of sealing order for the court.

[Indiscernible].

CNSL K. JACKSON: It is not -- it would be the first one. It's not been vetted, Justice. I do have to --

THE COURT: All right. Well --

CNSL K. JACKSON: I can do that at the break, is my thinking, but ...

THE COURT: M'mm-hmm. Well, I was going to propose we take the morning break shortly, and then we can return and perhaps -- why don't we do that. We can take the break. The order --

CNSL J. CAMERON: We'll go --

THE COURT: -- can be vetted.

CNSL J. CAMERON: -- get this vetted.

THE COURT: And then I can perhaps consider whether I give reasons just after the break on the sealing order. Then we --

CNSL J. CAMERON: M'mm-hmm.

THE COURT: I just wanted to remind counsel that I have -- this is a half day hearing until 12:30 and I'm not able to sit past 12:30 today --

CNSL J. CAMERON: M'mm-hmm.

THE COURT: -- or in the afternoon. That wasn't by way of necessarily rushing you. I just wanted you to know that that's what's available today for court time. And so I'll just -- perhaps with that I'll take the morning recess.

And I think -- just to let you know as you move through your submissions I think I will

have -- possibly have some questions about what a ResidualCo would look like or what -- I've just been told that some litigation claims would stay with the ResidualCo, including, I think, if I heard correctly, the judgment that was granted by the court and is on appeal. And I just may have some questions about the ResidualCo if an order were granted in the form sought. And I may also have some further questions about the -- about the creditors in that 2.8 part of the report that were not served. All right? Just as you go through the submissions.

And -- so we'll take the 15-minute recess and then -- and also over the break you can just confer with Mr. Rubinstein. All right?

THE CLERK: Order in chambers. Chambers is adjourned for morning break.

(PROCEEDINGS ADJOURNED FOR MORNING RECESS)([10:59:47 AM])
(PROCEEDINGS RECONVENED)([11:17:57 AM])

THE CLERK: Back on the record, Justice.
THE COURT: All right.
CNSL J. CAMERON: Thank you.
THE COURT: Yes.
CNSL J. CAMERON: So at the break we did go down to the registrar's office and had this sealing order vetted.
THE COURT: All right.
CNSL J. CAMERON: I can hand a copy up to the court.
THE COURT: Thank you very much.
CNSL J. CAMERON: Thank you very much.
THE COURT: All right. Any other parties have submissions on the sealing order? I'm just going to make a decision on the sealing order. Nothing?
CNSL W. ROBERTS: No submissions.
THE COURT: No submissions? All right. I'll just give reasons for judgment. These are reasons for judgment on ... I'm just looking for the paragraph on the notice of application that seeks the sealing order. Ah, there.

[ORAL REASONS FOR JUDGMENT]

THE COURT: So paragraph 2 of the notice of application is --

CNSL J. CAMERON: Thank you, sir.
THE COURT: -- granted. Thank you.
All right. And I've signed the -- I just signed the sealing order. Thank you.
CNSL J. CAMERON: Thank you, sir. We'll make sure to get that filed.
THE COURT: All right. Thank you.
CNSL J. CAMERON: Okay.
THE COURT: Yes.
CNSL J. CAMERON: So turning -- oh, before I turn to the meat of the matter --
THE COURT: Yes.
CNSL J. CAMERON: -- I should say that we did confer with my friend Mr. Rubinstein during the break and he's confirmed that his instructions are to not pursue the adjournment request and to not oppose --
THE COURT: All right.
CNSL J. CAMERON: -- the application.
THE COURT: Okay. Thank you.

SUBMISSIONS RE APPROVAL OF SALE BY CNSL J. CAMERON continuing:

CNSL J. CAMERON: So the transaction that we are here seeking approval of is detailed at section 6 of the receiver's first report -- or pardon me -- pre-filing report dated September 25th.
THE COURT: All right. I have it.
CNSL J. CAMERON: At a high level the Premium transaction is structured as a share and partnership interest transaction to be implemented by way of a reverse vesting order.
THE COURT: Sorry. Not your -- what paragraph is that again? Just so I'm --
CNSL J. CAMERON: So page 15.
THE COURT: Page 15.
CNSL J. CAMERON: Yeah. Section --
THE COURT: All right. Thank you.
CNSL J. CAMERON: -- 6, "transaction."
THE COURT: Yes. Okay.
CNSL J. CAMERON: So Premium will acquire newly issued shares in Canstar GP and LUNA and newly issued limited partnership units in Canstar LP. The Canstar operating entities will retain operating assets, retained contracts, authorizations and defined retained liabilities while --

THE COURT: M'mm-hmm.
CNSL J. CAMERON: -- the excluded assets, excluded contracts and excluded liabilities will be transferred to ResidualCo.
Now, sir, before the break you asked about the administration of ResidualCo.
THE COURT: Yes.
CNSL J. CAMERON: The reverse vesting order provides that should you grant the order the Canstar entities will come out of receivership proceedings --
THE COURT: M'mm-hmm.
CNSL J. CAMERON: -- and continue as a going concern --
THE COURT: M'mm-hmm.
CNSL J. CAMERON: -- and the ResidualCo will be substituted in the receivership proceedings --
THE COURT: M'mm-hmm.
CNSL J. CAMERON: -- in place of the debtors.
THE COURT: Okay.
CNSL J. CAMERON: So the ResidualCo will remain subject to the receivership order under the control of the receiver, and it will be the receiver's job to effect an orderly wind-down and distribution of the sale proceeds that will be vested in ResidualCo. And so the administration of ResidualCo will in effect be the same as the administration of any other company in a receivership proceeding.
THE COURT: But the ResidualCo has -- will have some litigation.
CNSL J. CAMERON: Correct.
THE COURT: So will that be prosecuted? Is that going to be --
CNSL J. CAMERON: The receiver will have to review the litigation claims on a case-by-case basis and make a determination whether it's in the estate's interests to continue to prosecute those litigation claims. And any party that has a claim that's an excluded liability invested in ResidualCo will retain the same rights that they have today to assert claims against the Canstar Group but that will now be asserted against ResidualCo and the sale proceeds. So everybody retains the same priority that they had today against the sale proceeds.
THE COURT: As against the sale proceeds.
CNSL J. CAMERON: As against the sale proceeds. As

against ResidualCo. ResidualCo could come into more money because there are certain excluded -- we call them excluded assets, and they are litigation claims.

THE COURT: M'mm-hmm.

CNSL J. CAMERON: And that seems to be at odds with each other, but in those actions it's actually the Canstar Group that has a potentially [sic] recovery under those claims.

THE COURT: All right.

CNSL J. CAMERON: So the pot of available funds in ResidualCo has the potential to grow if the receiver determines to continue those claims and prosecutes it through judgment and enforcement.

THE COURT: And then there's the amount -- the million dollar amount which resides -- will reside in ResidualCo?

CNSL J. CAMERON: Those moneys have been paid out to Canstar already under the requisition. And so if MBW's claim is ultimately -- if they're ultimately successful on appeal --

THE COURT: M'mm-hmm.

CNSL J. CAMERON: -- and get an order undoing Canstar's judgment, they will have a claim against ResidualCo. But again we're not seeking to effect any distributions and there will be more than sufficient proceeds.

THE COURT: Of that -- I see. Okay.

CNSL J. CAMERON: But they will face a priority contest with the secured creditors. But that's a fight for another day and is not relevant to today's application.

THE COURT: Okay.

CNSL J. CAMERON: It's a distribution issue, in my submission.

THE COURT: Okay. And then just hypothetically, if this were to -- if an order were granted in the form sought, is this a situation where the distribution order is not going to be sought for a while while things play out with litigation or -- I'm not asking you to -- if you're not in a position to say and you don't know, then I understand that, but I just --

CNSL J. CAMERON: I think the --

THE COURT: This is not a situation --

CNSL J. CAMERON: Yes.

THE COURT: -- where there's going to be a distribution

order application the following week or something like that?
CNSL J. CAMERON: I can't commit to that. I know my friends on behalf of BMO are hoping that the receiver is able to get the necessary security reviews done as soon as it can to effect distributions, but any distribution will be on notice to MBW, and we can also deal with that issue potentially through holdbacks if that becomes necessary.
THE COURT: Okay.
CNSL K. JACKSON: I should say, Justice, to put a finer point on that, there is an expectation on the part of the secured creditors to get on with the distribution application --
THE COURT: Yes. I --
CNSL K. JACKSON: -- very quickly. You may have gathered that.
THE COURT: Yes. But I just -- all right. Okay.
CNSL J. CAMERON: Okay.
THE COURT: And then -- so -- and when you say the cause -- so the cause of action will go to the ResidualCo -- all the causes of action will reside in the ResidualCo.
CNSL J. CAMERON: Correct.
THE COURT: The causes of action of the debtors will reside in the ResidualCo.
CNSL J. CAMERON: Correct.
THE COURT: Okay. Okay.
CNSL J. CAMERON: With respect -- turning to the other terms of the transaction, the receiver is in receipt of the requisite deposit under the agreement. So we have those funds. We've discussed retained assets and excluded assets.
One issue that I'll direct your attention to, sir, is on page 18 --
THE COURT: M'mm-hmm.
CNSL J. CAMERON: -- of the receiver's report. And this is a networking capital adjustment, which is a commercial term of the agreement.
THE COURT: M'mm-hmm.
CNSL J. CAMERON: So the purchase price for the transaction is subject to a positive or negative adjustment based on the value of the debtors' networking capital at closing.
THE COURT: M'mm-hmm.
CNSL J. CAMERON: The parties have agreed on a target

networking capital figure of $1.75 million. So if the debtors' actual networking capital at closing is higher than that, the purchase price will increase by the difference, and if it's lower, the purchase price will decrease by the difference.

THE COURT: Okay.

CNSL J. CAMERON: The other nuance to this transaction -- or maybe not nuance; I would say benefit -- is the employee treatment. And that's described at page 19.

THE COURT: M'mm-hmm.

CNSL J. CAMERON: So substantially all of the Canstar Group's 339 employees will continue their employment following the implementation of the transaction.

A limited number will become excluded employees. They are not being offered employment. Their employment will be terminated. And that -- as at the time of the pre-filing report that estimated number was nine employees to be terminated.

A further seven employees will become what we've referred to as transition employees by virtue of the RVO. And these employees' employment will be transitioned -- or will be transferred to ResidualCo and they will continue their employment with ResidualCo and they will provide services to Canstar under a transition services agreement.

And the purchaser -- the basis of why we did that -- the purpose is because the purchaser is considering whether it may ultimately offer the transition employees full-time employment. It was more of a diligencing issue and timing. And so in the receiver's submission this is a benefit to those employees because the alternative is an outright termination. And so this at least provides an opportunity for full-time employment at the end of the transition period.

THE COURT: A possibility of --

CNSL J. CAMERON: A possibility. Correct.

The transaction has a defined outside date of October 30th, and the granting of the RVO, which we are seeking today, is a material condition to closing. As was reported in the first report of the receiver, the parties are attempting to close the transaction tomorrow if at all possible in

light of the fact that there's no opposition to the transaction.

Turning to the law for approval of the transaction, the starting point for court approval is, of course, the oft-cited test from *Royal Bank v. Soundair*. And I don't intend to recite that to you, sir. I will rely on the receiver's notice of motion. Specifically if you could turn to the application record, tab 1.

THE COURT: Yes.

CNSL J. CAMERON: Paragraph 33 --

THE COURT: Okay.

CNSL J. CAMERON: -- is where we begin discussing the relevant law beginning with *Soundair*, which was adopted by this court in *Aquilini Development v. Garibaldi*, amongst others.

THE COURT: M'mm-hmm.

CNSL J. CAMERON: I also note on this application that the authorities indicate that the court should also give appropriate deference to the receiver's commercial expertise and that the certainty and efficacy of court supervised insolvency sales could be undermined if we aren't listening to the court's officer who's, in this case, been involved with Canstar since March of this year in its advisory capacity.

Now I'm going to address the *Soundair* factors within my submissions on the framework for approval of a pre-pack transaction as --

THE COURT: M'mm-hmm.

CNSL J. CAMERON: -- there's significant overlap between those factors.

THE COURT: M'mm-hmm.

CNSL J. CAMERON: The relevant authority on pre-packs are set out in the receiver's materials --

THE COURT: M'mm-hmm.

CNSL J. CAMERON: -- beginning at paragraph 36 with the reference to the *Tool-Plas* decision.

THE COURT: Yes. M'mm-hmm.

CNSL J. CAMERON: We also have commentary from Justice Fitzpatrick in *Mountain Equipment Co-op* --

THE COURT: M'mm-hmm.

CNSL J. CAMERON: -- where she noted that:

> There is nothing inherently flawed in a "pre-pack" approach.

And that there's often sound reasons for doing so. And in that decision Justice Fitzpatrick cited Justice Romaine's decision in *Sanjel*, a finding that a pre-filing SISP is not in itself abusive and nothing in the statute precludes it.

THE COURT: M'mm-hmm.

CNSL J. CAMERON: What those authorities tell the court is that we just have to provide scrutiny to the pre-filing process and examine its details to ensure that the process is fair, effective and that the market was adequately tested.

One authority, sir, that was brought to our attention following the finalization of the receiver's notice of motion and is not contained in it --

THE COURT: M'mm-hmm.

CNSL J. CAMERON: -- I do have a copy of the decision for the court -- is a recent decision from the Quebec superior court in the *Sheertex* matter.

THE COURT: M'mm-hmm.

CNSL J. CAMERON: And this was not included in our notice of application because *Sheertex* doesn't actually cite any of the other known authorities on pre-pack transaction approval, and if your search doesn't include a hyphen in the word "pre-pack" it also does not come up.

THE COURT: All right.

CNSL J. CAMERON: So my apologies. I have a copy for the court. And I'll just briefly go through that as that is not in our notice of motion.

THE COURT: Okay.

CNSL J. CAMERON: We learned about it through our colleagues in Quebec.

THE COURT: All right. Paragraph?

CNSL J. CAMERON: There's -- I had planned to kind of summarize it for you, sir, but I'll find the -- I would say paragraph 27, sir --

THE COURT: M'mm-hmm.

CNSL J. CAMERON: -- summarizes -- and it's quite lengthy -- the criteria that should guide the court's review of pre-pack transactions. It identifies the following non-exhaustive considerations --

THE COURT: M'mm-hmm.

CNSL J. CAMERON: -- which -- that the transaction must be pursued in good faith for a valid commercial purpose and without an improper motive. The court

must receive full and transparent disclosure. The court's officer's report should explain the purchaser and assets being acquired, et cetera. It should detail stakeholder consultation and the reason for expedited approval.

I submit, sir, that *Sheertex* does not alter the law that we place before the court --

THE COURT: M'mm-hmm.

CNSL J. CAMERON: -- in our notice of application. It is consistent with all of the principles in *Soundair*, *Tool-Plas*, *Sanjel*, *Mountain Equipment Co-op* as well as the *Romspen* decision in it -- that it reinforces that a pre-pack is permissible but requires transparent disclosure, meaningful market testing and consideration of potential alternatives.

And based on the evidence before you, sir, I submit that we have satisfied those elements here as the sale process was conducted in good faith for the valid commercial purpose of identifying a going concern solution. It was administered, as we mentioned earlier, by an independent sale advisor, Summit, and overseen by AlixPartners in anticipation of formal insolvency proceedings. We've provided on behalf of the receiver detailed evidence concerning the process, transaction and alternatives.

BMO and Fulcrum, the presumptive first two ranking secured creditors, support the transaction and Fulcrum does so despite the fact that it will suffer a significant shortfall.

The Premium transaction was selected only after multiple competing offers were obtained and evaluated. And expedition is required here because the business continues to underperform and there's no funding available to support continuing losses or a second sales process.

I also note that the transaction is superior to a liquidation. We've -- I'd taken you earlier to the receiver's liquidation analysis, and it is said on the record that the estimated net realizable value in an orderly liquidation would be substantially less than the projected realizations under the transaction.

THE COURT: You're referring to the sealed report.

CNSL J. CAMERON: That statement is actually contained in the public pre-filing report of the receiver.

THE COURT: Okay.
CNSL J. CAMERON: In particular you can find it on page 14.
THE COURT: Okay. Thank you.
CNSL J. CAMERON: M'mm-hmm. Notably, in the pre-filing report, section 5, paragraph 3 the receiver has also advised stakeholders that it believes that Canstar's financial position has deteriorated since the liquidation analysis was prepared, which was prepared in March of this year at the commencement of AlixPartners' advisory engagement. So an updated liquidation analysis is likely to produce an even less favourable result.

The first report also provides current evidence supporting the receiver's original assessment that a further process would not be -- merely be unnecessary as the receiver does not believe it would result in a superior transaction; it would create additional risk to the business.

So the first report, which is in the supplemental record --
THE COURT: M'mm-hmm.
CNSL J. CAMERON: -- at tab 6, section 2 --
THE COURT: M'mm-hmm.
CNSL J. CAMERON: -- paragraph 8 --
THE COURT: All right.
CNSL J. CAMERON: -- indicates that since the filing date some customers have deferred awarding new projects to Canstar pending transaction approval. Vendors have hesitated to continue work on active projects, and lien concerns required an amendment to the receivership order, as you know, sir. The parties were before you --
THE COURT: M'mm-hmm.
CNSL J. CAMERON: -- on Friday.

This matters because the business's value depends on continuity. A prolonged second sale process would deepen the uncertainty affecting each of the value drivers here, and the evidence since the receiver's appointment therefore validates its original decision to pursue an expedited going concern closing.

I think it's also of note that in the bid process letter that Summit sent to parties the target execution date for definitive documents was July 31st. So this company has continued to limp along since then, largely at the good graces of

its secured creditor BMO.

So on the whole, sir, I submit that the Premium transaction satisfies both the *Soundair* factors and the framework for approval of a pre-pack transaction. And the question really then becomes whether it's appropriate to utilize the reverse vesting order structure.

THE COURT: M'mm-hmm.

CNSL J. CAMERON: So the receiver recognizes that approval of an RVO is not considered routine and the court must address the four questions posed by *Harte Gold*. And those factors are set out at paragraph 41 of our notice of application.

THE COURT: Yes, I'm with you.

CNSL J. CAMERON: Thank you. I'm not going to regurgitate those factors to you, sir, or the law in relation to that; I'll rely on the notice of motion. But what I will do is tell you why we submit that the factors have been satisfied --

THE COURT: Okay.

CNSL J. CAMERON: -- in this case.

So the first factor is that -- whether the RVO is necessary. The principal reason for the structure of this transaction is that dozens of customer contracts require consents or waivers before they can be transferred to a purchaser. Those contracts and associated authorizations underpin the value of Canstar's business.

THE COURT: So this is someone who needs restoration services and they have -- Canstar's doing the work. They've got a contract with them.

CNSL J. CAMERON: These would be the contracts with the key customers of Canstar.

THE COURT: M'mm-hmm.

CNSL J. CAMERON: And the service list identifies these largely as large institutional --

THE COURT: I see.

CNSL J. CAMERON: -- customers like insurance companies.

THE COURT: I see. Okay.

CNSL J. CAMERON: So we're talking about the Intacts, the Avivas, the Wawanesas --

THE COURT: Okay.

CNSL J. CAMERON: -- the Co-operators of the world. Canstar also has significant customer contracts with universities.

So obtaining the consents of dozens of

customer contracts like that would involve a material amount of time, cost, delay and uncertainty. With this business that's continuing to underperform, no funding being available to it to absorb ongoing losses, the receiver is concerned that any further delay seeking individual consents would place the transaction at risk.

THE COURT: M'mm-hmm.

CNSL J. CAMERON: And the receiver's comments on this are in the pre-filing report at section 6.2.

THE COURT: And so the value -- or part of the value is in those contracts, you're saying, and if there's a measure of uncertainty about that, then ...

CNSL J. CAMERON: The value's destroyed. Correct.

THE COURT: Or affected at -- or --

CNSL J. CAMERON: Significantly. So a conventional asset sale would therefore require the very assets that constitute the going concern value to be extracted from the entities through lengthy and uncertain contract by contract consent processes. The RVO avoids this risk and allows the value -- valuable contracts to remain with the existing entities.

The stakeholder response since the appointment also demonstrates why a prolonged consent and assignment process would be commercially harmful. Customers are withholding new work. Vendors are uncertain about continuing performance. And the employees, I submit, require certainty here. The RVO permits the transaction to close without delay. This is, I submit, necessity, not convenience, which satisfies the first branch of the *Harte Gold* test.

The second --

THE COURT: Is the difference -- in just a hypothetical straight sale purchase of -- so if there's -- if the shares were purchased by the purchaser, the contracts would stay with the -- with Canstar.

CNSL J. CAMERON: Correct. Which --

THE COURT: That's not --

CNSL J. CAMERON: -- is what we're doing. Yeah. So --

THE COURT: Well, except you're vesting out some other assets or liabilities --

CNSL J. CAMERON: That's right.

THE COURT: -- before that happens.

CNSL J. CAMERON: Yes. So we -- if it was just a

straight share purchase agreement --
THE COURT: Yes.
CNSL J. CAMERON: -- without the reverse vesting order --
THE COURT: Yes.
CNSL J. CAMERON: -- the entity would not be cleansed of its $70 million deficit. And I don't expect my friend Mr. Laity's client would want to take those operations --
THE COURT: Yeah. I just was asking the question --
CNSL J. CAMERON: Yes.
THE COURT: -- because you're making submissions on why that occurred.
CNSL J. CAMERON: M'mm-hmm.
THE COURT: Okay. Or why that structure is being proposed.
CNSL J. CAMERON: Yes. And the second part of the *Harte Gold* test is that the RVO produces the best available economic result. So there's no superior conventional transaction available here. This is the only transaction that -- viable transaction that emerged through the sale process.
THE COURT: M'mm-hmm.
CNSL J. CAMERON: The market was tested, competing offers were obtained and Premium's proposal was selected as the best offer.
THE COURT: M'mm-hmm.
CNSL J. CAMERON: As I mentioned, there's no funding for a further process, and in any event the receiver does not believe that additional marketing would produce a better outcome here as the company's financial position has deteriorated. The alternative is not a conventional asset sale on equivalent terms. The realistic alternative is therefore liquidation, in the receiver's submission. And those are the numbers that I took you to in the confidential supplement on the receiver's liquidation analysis, which demonstrates that if we're in the world of a liquidation it's going to produce a materially inferior result, thus satisfying the second branch of *Harte Gold*.

The third branch is that no stakeholder is worse off under the RVO structure. In fact, I submit that many stakeholders are in fact better off under the transaction. The RVO does not extinguish the excluded liabilities. Those

liabilities, as we've discussed, are transferred to ResidualCo and retain the same priorities against ResidualCo, which will have the sale proceeds that they have today and they'll be administered through the continuing receivership.

THE COURT: Just getting back to the 70 million. The 70 million is where there are losses. I think that -- wasn't that --

CNSL J. CAMERON: Recurring losses. Correct.

THE COURT: Right. So that's not --

CNSL J. CAMERON: Yeah.

THE COURT: So that --

CNSL J. CAMERON: We've got --

THE COURT: That's not a -- what you're talking about being vested out is not -- I'm not -- I'm not --

CNSL J. CAMERON: M'mm-hmm.

THE COURT: -- being critical of you. I'm just worried about -- that 70 million, I thought that was like -- those were operating losses; they were losing money.

CNSL J. CAMERON: Yes.

THE COURT: What are you saying is the -- isn't the effect of the RVO is to remove liabilities?

CNSL J. CAMERON: Yes.

THE COURT: Which may or may not correlate to the 70 million. I'm not certain, but --

CNSL J. CAMERON: That's fair.

THE COURT: So -- but I think your point on the 70 million was that there's a problem -- just financially there are problems, but that's -- I don't -- it didn't strike me as -- the 70 million number, it was liabilities that the purchaser would have -- which they have vested out into a ResidualCo before it took the shares in the company.

CNSL K. JACKSON: [Indiscernible] including 13 of unsecured; right? Roughly.

CNSL J. CAMERON: It's higher -- we're just doing the quick math.

THE COURT: Yeah.

CNSL J. CAMERON: And it's in excess of $54 million when you take into account BMO's secured indebtedness --

THE COURT: Yes.

CNSL J. CAMERON: -- the secured indebtedness of Fulcrum --

THE COURT: Yes.

CNSL J. CAMERON: -- and the unsecured creditors.
THE COURT: Okay. Thank you. And that's what's being --
CNSL J. CAMERON: That's what's being --
THE COURT: -- retained in the ResidualCo.
CNSL J. CAMERON: -- vested in ResidualCo --
THE COURT: Okay.
CNSL J. CAMERON: -- to be dealt with.
THE COURT: Thank you. Yes, I interrupted you. Were you on sub (C) of that page? Or you were on "the stakeholders were not worse off," I think.
CNSL J. CAMERON: That's correct.
THE COURT: Okay.
CNSL J. CAMERON: So we've talked about how they'll retain the same priority.

There are also here a bucket of creditors referred to -- parties that have retained networking capital liabilities, and those liabilities are actually being retained by the purchaser and will not be vested in ResidualCo, and those relate to trades and operating vendors engaged on active job sites.

THE COURT: M'mm-hmm.
CNSL J. CAMERON: Their continued performance is required to complete work in progress --
THE COURT: M'mm-hmm.
CNSL J. CAMERON: -- protect customer relationships and preserve those retained contracts going forward. Many, because they are active job sites, could also give rise to builder's lien concerns.
THE COURT: M'mm-hmm.
CNSL J. CAMERON: So those are being retained. So I submit that they're likely in a better position than they would be in a liquidation.

There's another category of stakeholders that are materially better off under this transaction, and that is the Canstar Group of [sic] employees, the vast majority of whom will continue their employment, as I mentioned, with the Canstar Group. Given these considerations, sir, I submit that the third branch of *Harte Gold* is also satisfied.

Turning to the fourth and final consideration, and that's that the consideration reflects the value preserved by the RVO. The contracts and authorizations were part of the business, marketed through the sale process. They

were not collateral or incidental assets. Their preservation is central to Premium's ability to acquire and continue the business as a going concern, and the receiver's evidence -- uncontroverted evidence is that the consideration reflects the importance and value of these contracts. And for reference that's in the pre-filing report, section 6.2 at paragraph 7.

So those are my specific submissions on the reverse vesting order. Unless you have any other questions about the RVO I would propose to turn to the TSA, the transition services agreement.

THE COURT: So just -- so could you just return to the creditors who have not been served -- the unsecured creditors who have not been served and the *PaySlate* case where -- now, I appreciate in the *PaySlate* case the unsecured creditors were some of the -- were counterparties to retained contracts, but I just would like your submission on why that case is distinguishable --

CNSL J. CAMERON: M'mm-hmm.

THE COURT: -- please.

CNSL J. CAMERON: Yes. My friend Mr. -- or colleague, I guess, Mr. Jackson --

CNSL K. JACKSON: And friend.

CNSL J. CAMERON: And friend. Is going to address that submission for the court.

THE COURT: All right. Thank you.

SUBMISSIONS RE APPROVAL OF SALE BY CNSL K. JACKSON:

CNSL K. JACKSON: Thank you, Justice. And while I have the opportunity I'm just going to maybe assist on a couple other things. Mr. Foster, who had been listening along --

THE COURT: Yes.

CNSL K. JACKSON: -- intently passed along an email just to update the numbers of -- of the excluded and transition employees, so now -- there are now, as a result of most of the first amendment to the agreement, which is -- where it says -- there's only -- there's only six excluded employees. So six will have their employment terminated and there's ten transition employees.

THE COURT: Okay.

CNSL K. JACKSON: That's the updated numbers.

THE COURT: Thank you.

CNSL K. JACKSON: On -- one of the things you raised about -- was -- was the indebtedness. The first -- the pre-filing report of the monitor, which is at tab 2 --
CNSL J. CAMERON: Receiver.
CNSL K. JACKSON: -- sorry, wrong proceeding -- at page 8 has a table which lays out the liabilities in the balance sheet at June 30th.
THE COURT: Just give me one second.
CNSL K. JACKSON: Yes.
THE COURT: Yes, I've got it, I think.
CNSL K. JACKSON: Very good. You'll see that on that table at the top of that page about three quarters of the way down, the total liabilities -- this includes secured, unsecured --
THE COURT: M'mm-hmm.
CNSL K. JACKSON: -- is about $67 million on --
THE COURT: Okay.
CNSL K. JACKSON: -- June -- as of June 30th.
THE COURT: Right.
CNSL K. JACKSON: And one of the things that Mr. Kofman pointed out to me that I think is important in this is part of the reason we have to do this in a process rather than a share sale, even if those liabilities were, you know, all acceptable, there's a number of leases that have been terminated --
THE COURT: M'mm-hmm.
CNSL K. JACKSON: -- and there are some employees being terminated --
THE COURT: M'mm-hmm.
CNSL K. JACKSON: -- in this process and that's the cleanup job to make this a viable going concern.
THE COURT: M'mm-hmm.
CNSL K. JACKSON: And those, of course, would give -- will give rise to significant additional claims, and so doing this outside of a process would just crush value as a result of those additional claims included.
THE COURT: Okay.
CNSL K. JACKSON: And so some -- and so -- which actually is probably a good opportunity to talk about *PaySlate*, because some of those unsecured liabilities will not get paid. And -- and so there are certain unsecured creditors whose claims will be assigned to ResidualCo and they will not get paid, which helps to preserve value, of

course, on the transaction. But some of them will get paid because they're involved in ongoing projects, and so it's -- we don't have the exact breakdown, but that's -- that's the reality of it.

So when you asked about the hundreds of trade creditors out there, some won't get paid, but many of them will. We don't have the exact breakdown, but it's -- but -- but to go to *PaySlate* -- and I have a copy -- I realize we didn't put a copy in the -- we were studiously avoiding putting it in the -- in the --

THE COURT: Well --

CNSL K. JACKSON: -- book of authorities.

THE COURT: -- one table is saying there's -- the top ten of them had about $13 million in debt.

CNSL K. JACKSON: Right. Right. Not insignificant. And some of those -- some of those will get paid.

THE COURT: Thank you very much.

CNSL K. JACKSON: But -- but in *PaySlate* there was -- there was two -- so the court was very much focused in *PaySlate* on contract counterparties.

THE COURT: Yes.

CNSL K. JACKSON: We have those getting paid. Those -- those have been on notice, I should say.

THE COURT: Yes.

CNSL K. JACKSON: They've all been given notice. In this case we're just dealing with unsecured creditors. But the court did make a couple of comments around unsecured creditors and dealing with them. At paragraph 62 on page 18 -- this is in the consideration around service and notice --

THE COURT: M'mm-hmm.

CNSL K. JACKSON: -- and what the court found to be deficient in that case. At paragraph 62 there was a submission by another party --

THE COURT: Yes.

CNSL K. JACKSON: -- a stakeholder --

THE COURT: Yes.

CNSL K. JACKSON: -- adopted by PaySlate. It says:

> Where there's unsecured creditors who are out of the money, there is no requirement to serve the entire body ... where ... there is no value to them.

And then it goes on to say -- the court seems to accept that but goes on to say at the very bottom:

That, of course, presumes that PaySlate has established that there is, in fact, no value to the unsecured creditors, a finding I am unable to make.

Okay. Well, in this case for the unsecured creditors who didn't get notice and won't get paid there is ample notice in the pre-filing report as to -- and quite frankly on the transaction value -- to show that there is a shortfall to the secured creditors and no world in which unsecured creditors would get paid.

And so the court seems to implicitly accept that notice to unsecured creditors who are out of the money is not required if there's evidence satisfactory to the court that they are out of the money, and I think we do that here.

And then the sort of corollary to that, I suppose, is the --

THE COURT: The court says that they weren't able to make the finding there.

CNSL K. JACKSON: Right.

THE COURT: I --

CNSL K. JACKSON: I'm hoping this court can, is what I'm saying.

THE COURT: All right.

CNSL K. JACKSON: Right. In that case the court didn't have evidence to be satisfied of that, whereas I think we have fairly extensive evidence given the marketing and the liquidation analysis that's in the confidential supplement.

THE COURT: M'mm-hmm.

CNSL K. JACKSON: Between those -- the value that's being ascribed now, the amount owing to the secured creditors and the liquidation analysis I think there's ample evidence for the court to actually make that finding as distinct from what happened in *PaySlate*, where the court says it couldn't.

And the second part --

THE COURT: So you're advancing the proposition that in an RVO situation unsecured creditors who will not get paid --

CNSL K. JACKSON: Right.

THE COURT: -- in either -- in an RVO scenario anyway don't have to have notice of the RVO.

CNSL K. JACKSON: Right. Right.
THE COURT: All right.
CNSL K. JACKSON: And this isn't -- they're not -- yeah. Right. I mean -- and -- and I think the court -- putting aside the retained contracts, that the court was concerned to [sic] say look, they need to know that there's a sale and they're going to be dealing with -- while it may be the same company, a different owner of that company.

Unsecured creditors was a different category, and they would almost -- unless they're asked -- unless they ask to be put on the service list, which happens, there wouldn't be notice to those in the context of a transaction -- in the context of a regular approval and vesting order, really, or -- or a reverse vesting order where there's just no expectation that they have any financial stake in the outcome. And -- but -- but the court needs to be satisfied of that.

THE COURT: M'mm-hmm.
CNSL K. JACKSON: Right.
THE COURT: And on the numbers you say the secured creditors are owed --
CNSL K. JACKSON: Right. Back to that table --
THE COURT: Yes.
CNSL K. JACKSON: -- it shows the liabilities -- is it right here ... That's the operating line -- oh, here we go. So we have the secured -- BMO operating line at 13 million plus long-term debt of 5.8 million. So you're talking about -- I think BMO's about ...
CNSL J. CAMERON: 16.
CNSL K. JACKSON: 16 point something presently.
THE COURT: M'mm-hmm.
CNSL K. JACKSON: And you'll see Fulcrum below that with the subordinated debt and interest payable somewhere in the region of 23 million.

And so between those two alone on the transaction value and conversely in the downside liquidation scenario from the liquidation report attached to the supplemental report -- liquidation analysis attached to the supplemental report there is in either the best case -- i.e., this transaction -- or the worst case, a liquidation, a massive shortfall to at least Fulcrum as a secured creditor.

THE COURT: I must say -- I just say the submission

that it would be hard to serve them is not one that's that attractive to me as a reason to not serve them if they otherwise required service.

CNSL K. JACKSON: If they required -- I --

THE COURT: But -- so I take your point to be that they -- they do not require service because they're -- as I understand your submission, they're not going to receive any -- any money from --

CNSL K. JACKSON: Right.

THE COURT: -- the process.

CNSL K. JACKSON: Those who won't get -- some will get paid but -- but some won't. And -- and without -- I don't think it matters -- going into exactly how many do and how many don't --

THE COURT: And would they be affected by any of the releases or any of the other relief sought?

CNSL K. JACKSON: Well --

THE COURT: That was another issue that came up in *PaySlate*, as I understand it.

CNSL K. JACKSON: Yeah. I mean, there's releases -- there's releases against Canstar, but those are, of course, required to ensure --

THE COURT: M'mm-hmm.

CNSL K. JACKSON: -- that we have a viable transaction. There's releases against the monitor [sic]. There are limited releases for the bank and the sales agent and such, but I don't think those are parties that an unsecured creditor would ever have in -- in any scenario a claim against. So --

THE COURT: Okay.

CNSL K. JACKSON: -- I think -- I think there are releases against Canstar but there's no release against ResidualCo for whatever -- but, you know, for whatever that's worth. An unsecured creditor of ResidualCo, if there is, as expected, at some point a bankruptcy, will get notice and opportunity to prove the claim, but there will be no expectation that they would recover anything except -- I can't see -- I can't see a realistic scenario to play that out, so -- I mean, sure, there's a release that affects them in the sense that their claim against Canstar is gone, but it's replaced with a claim against ResidualCo, which is the whole purpose of this.

THE COURT: M'mm-hmm.

CNSL K. JACKSON: So I think -- I think you did a good

job, Justice, if I may say so, of distilling that down just to say that if notice was required it'd be difficult to stand here and say that difficulty of service is the issue. I think it's -- if service is required -- and I -- I think it's very -- it's a -- it would be not a stretch at all to say that notice to unsecured creditors in the context of a transaction where they're out of the money would be exceptional. And that seems to be adopted by Justice Walker in *PaySlate* with a concern on his part that there was insufficient evidence to back that up.

And so I think if -- putting all that together I think we're able to overcome that concern.

THE COURT: All right. All right.

CNSL K. JACKSON: Thank you, Justice. I think Ms. Cameron -- I should probably hand it back to Ms. Cameron unless --

THE COURT: Okay.

CNSL K. JACKSON: -- you have any questions on those issues.

THE COURT: Thank you.

CNSL K. JACKSON: Thank you.

SUBMISSIONS RE APPROVAL OF SALE BY CNSL J. CAMERON continuing:

CNSL J. CAMERON: Thank you, Justice. So part and parcel of the transaction also includes approval of the transition services agreement between the Canstar Group and ResidualCo. The TSA addresses two practical requirements that can't be completed instantaneously on closing, and that's the continued availability of a limited number of transition employees --

THE COURT: Yes.

CNSL J. CAMERON: -- and temporary access to the premises governed by the transition leases.

THE COURT: M'mm-hmm.

CNSL J. CAMERON: And the details of the TSA are on page 20 of the pre-filing report. Under the proposed structure ResidualCo will employ the transition employees during the 90-day transition period and it will also hold the transition leases. The Canstar Group, who's now owned by Premium, will be permitted to use the services of

the transition employees and access the applicable leased premises and the costs of those transition services will be borne by the Canstar Group and Premium in accordance with the TSA.

With respect to the legal authority for approval of transition services agreements in the context of insolvency proceedings, in our notice of motion you will see reference to the *Wallace & Carey* decision, which is a decision of Justice Marion from the Alberta Court of King's Bench.

THE COURT: Yes.

CNSL J. CAMERON: Sorry. I just --

THE COURT: Sorry. Where are we?

CNSL J. CAMERON: -- changed pages on you here. Pardon? Thank you.

THE COURT: Is the other point -- just returning to service. Is the other point -- I'm sorry, counsel.

CNSL J. CAMERON: M'mm-hmm.

THE COURT: I -- because the supplemental report or the -- in the supplemental record it makes the point that they -- the -- if the transaction were approved, the amount of the purchase price would flow to ResidualCo and the unsecured creditors would have the same position in that -- I think the point you -- in the -- in the report at tab 6 of the supplemental record it says:

> The parties will retain the same priority they have against the net transaction sale proceeds now held by ResidualCo as they currently have against the debtors.

Is that the other point that you're making about service on that?

CNSL J. CAMERON: That's correct in that their interests are not affected by the transaction because their rights and priorities as they exist as of today are preserved against ResidualCo, who now has a pot of money --

THE COURT: Yes.

CNSL J. CAMERON: -- against which they can assert those --

THE COURT: Instead of a --

CNSL J. CAMERON: -- rights, versus an insolvent --

THE COURT: -- going concern business they have -- they have money or they --

CNSL J. CAMERON: Correct.
THE COURT: I guess the receiver would say that's the maximum or the -- or the amount of money that could be had for that, so they're not in a worse position, having instead of that a going concern that appears to be failing.
CNSL J. CAMERON: That -- and is arguably insolvent.
THE COURT: Yes. Okay. All right. Yes, I -- I -- you were -- and I do -- I do again note the time, and I know I've had a couple of questions, but I'm afraid I can't go past 12:30.
CNSL J. CAMERON: Noted, sir.
THE COURT: And so what --
CNSL J. CAMERON: I think what I would propose to do with that is that I'd like to walk you through the form of order we are seeking --
THE COURT: M'mm-hmm.
CNSL J. CAMERON: -- and the additional relief that we've not yet touched on, which is with respect to the releases and approval of the Summit engagement letter. We can perhaps address those submissions as we walk through the form of order, if that's agreeable to you, sir.
THE COURT: All right. Okay.
CNSL J. CAMERON: So I have for you here, sir, a black line copy to [sic] the form of order that was appended to our application material because I do want to address some of the changes that have been made to the order and then --
CNSL K. JACKSON: I do [indiscernible].
CNSL J. CAMERON: Okay. Yeah. So I'll hand that up to you, sir. So just noting the changes, of course we've updated the date of the order --
THE COURT: Yes.
CNSL J. CAMERON: -- and updated the preamble to reference the -- the amendments to the agreement that have been made, the additional supplemental materials that have been filed and the appearance of counsel.
THE COURT: Okay. Thank you.
CNSL J. CAMERON: The first part of the order is declaring service to be good and sufficient in the application returnable today. You have our submissions on service. I don't intend to belabour that point.
Section 3 is approval of the transaction as well as the share purchase agreement and the

transition services agreement --
THE COURT: M'mm-hmm.
CNSL J. CAMERON: -- that's to be entered into between the purchaser and ResidualCo.
THE COURT: M'mm-hmm.
CNSL J. CAMERON: It also authorizes the receiver to complete the transaction subject to the terms of the agreement and the transition services agreement to perform its obligations thereunder.
THE COURT: Yes.
CNSL J. CAMERON: Paragraph 4 provides that this order shall be the only authorization required by the receiver to do so and that it doesn't require director or shareholder approval.

Beginning at paragraph 5 we discuss the reorganization and closing of the transaction.
THE COURT: M'mm-hmm.
CNSL J. CAMERON: The first step -- well, it authorizes the receiver to issue the subscribed shares and the new limited partnership units in exchange for the purchase price --
THE COURT: M'mm-hmm.
CNSL J. CAMERON: -- and it directs that those equity interests are to be issued free and clear from any claims or encumbrances other than retained liabilities and permitted encumbrances.

Paragraph 7 authorizes the receiver and purchaser to execute and deliver any further ancillary documents in relation to implementing the transaction.
THE COURT: M'mm-hmm.
CNSL J. CAMERON: Paragraph 8 elaborates on that authorization to permit the parties to file articles of amendment or amalgamation. It's kind of corporate cleanup steps, I would characterize it as.

Paragraph 9 contains a direction to the registrar of the *Business Corporations Act* to allow the receiver to file new documents.
THE COURT: M'mm-hmm.
CNSL J. CAMERON: And then the vesting of assets and liabilities begins at paragraph 10.
THE COURT: M'mm-hmm.
CNSL J. CAMERON: All of the steps below paragraph 10 become effective upon the filing of the receiver's certificate, and that's the certificate that will be filed by the receiver confirming that the

purchase price has been paid and all conditions to closing have been satisfied.

THE COURT: M'mm-hmm.

CNSL J. CAMERON: The change that has been made is at paragraph -- subparagraph (E), Roman numeral (i).

THE COURT: M'mm-hmm.

CNSL J. CAMERON: And this was raised by the attorney general of Saskatchewan, that we cannot simultaneously terminate the transition employees' employment and then transfer that employment to ResidualCo.

THE COURT: M'mm-hmm.

CNSL J. CAMERON: So the change that has been made -- and it's also reflected in the amending agreement -- is that the transition employees will -- their employment will be transferred to ResidualCo like an excluded contract and ResidualCo will become their employer and they will be paid their wages by ResidualCo, who's reimbursed by Canstar and the purchaser. So there's no cost to the estate for that -- the transition services --

THE COURT: Okay.

CNSL J. CAMERON: -- of the employees.

The treatment of the transition leases is discussed at subparagraph (F), and this again transfers the lease agreements to ResidualCo such that ResidualCo essentially becomes the tenant under those lease agreements responsible for making the ongoing lease payments until the leases are disclaimed or terminated.

THE COURT: M'mm-hmm.

CNSL J. CAMERON: Subparagraph (G) is the transferring of excluded liabilities into and vesting exclusively in ResidualCo. And this is the operative provision of the order that preserves the parties' priorities. So Roman numeral (i) of (G) indicates that any claims and encumbrances shall continue to attach to the excluded assets with the same nature and priority they had immediately prior to the closing effective [sic] time.

Subparagraph (I) is with respect to the discharges of security registrations. This is a direction that those --

THE COURT: M'mm-hmm.

CNSL J. CAMERON: -- be discharged against the Canstar

Group.

And then we -- after all of the vesting occurs, that's when the new equity interests are issued to the purchaser, which is accomplished at (J), (K) -- (J) and (K).

THE COURT: M'mm-hmm.

CNSL J. CAMERON: At subparagraph (L) is the discussion we had concerning the substitution of ResidualCo for the Canstar Group in the receivership proceedings.

THE COURT: M'mm-hmm.

CNSL J. CAMERON: So the ResidualCo will be substituted for the debtors in the receivership and be subject to the terms of the receivership order and all other orders granted in the receivership proceedings.

Paragraph 11 speaks to cure costs. After the closing of the transaction, after the delivery of the receiver's certificate the receiver's authorized to pay from the proceeds any applicable cure costs to contract counterparties. As of right now that number is estimated to be zero.

Paragraph 12 is just for clarity. If you had a claim against Canstar, you now have a claim against ResidualCo.

THE COURT: Just on this point again about the unsecured creditors, on a distribution order for the payment would the unsecured creditors be given notice of that? Are you advising that the practice then is to just simply not give notice of certain -- a certain subset or a band of unsecured creditors at all?

CNSL K. JACKSON: If I --

CNSL J. CAMERON: Yeah.

CNSL K. JACKSON: -- could jump in on this. Justice, again the -- so in her defence Ms. Cameron only practises in Alberta most of the time, so not in the BC.

THE COURT: Yeah.

CNSL K. JACKSON: But to be fair it's -- it's consistent nationally.

Generally they would not get notice and -- and there's two reasons. One, on a receivership there is a notice that gets mailed out by -- or sent out by the receiver upon appointment to all creditors, and so they would have notice of the receivership.

THE COURT: I see. So they have --
CNSL K. JACKSON: And then those --
THE COURT: -- notice of the receivership.
CNSL K. JACKSON: And so those --
THE COURT: I see.
CNSL K. JACKSON: Right. So a sufficiently interested --
THE COURT: But -- sorry to interrupt. And that's --
CNSL K. JACKSON: Yes.
THE COURT: Some -- some unsecured creditors are asked [sic] to be added to the service list. That's the context in which you say --
CNSL K. JACKSON: Correct. Yes. So --
THE COURT: So they have had notice of this proceeding.
CNSL K. JACKSON: Right. They will have -- how many days is that?
R. KOFMAN: That notice just goes out -- I mean, this whole proceeding is just about a week old. So they will not have yet received that.
CNSL K. JACKSON: Not yet.
R. KOFMAN: No, they will not have --
CNSL K. JACKSON: No, but undoubtedly before we end up with a distribution application they will have had notice of the proceeding.
R. KOFMAN: 100 percent. They'll have it within -- they'll have it within days. It's going out --
THE COURT: Within days.
R. KOFMAN: -- as we speak.
CNSL K. JACKSON: Yes. There's a prescribed time limit within which the notice must go out.
R. KOFMAN: Ten days.
CNSL K. JACKSON: Ten days?
R. KOFMAN: Ten days.
CNSL K. JACKSON: Yes. Ten days. And so that notice will be going out. They will have notice, and so unsecured creditors that are sufficiently interested in the process can then ask to be noticed of future applications. And so -- so those ones who do get that notice and do ask to be added to the service list will have notice. We generally wouldn't give notice of a distribution, but we would in that instance come before the court and say to the court we as counsel for the receiver have done -- have vetted the security of the secured creditors. We believe it to be --
THE COURT: Yeah.
CNSL K. JACKSON: Presumably in most cases we say --

believe it to be valid and perfected, and there is a presumption of -- of priority based on and including their own evidence, which would then say to the court that that -- unsecured creditors who wish to have notice will have had notice, but the others, we really don't see a purpose in doing that given those two things.

THE COURT: All right. So you're -- I think -- and another way of saying it is that by the time of the distribution order the -- all of the creditors, including unsecureds --

CNSL K. JACKSON: Yeah.

THE COURT: -- will have had notice of this receivership proceeding.

CNSL K. JACKSON: Correct. Yes. Yes.

THE COURT: And if and to the extent they wish to be added to the service list they would --

CNSL K. JACKSON: Right.

THE COURT: -- so indicate.

CNSL K. JACKSON: And -- and they can always, of course, go to the website and look at the materials as well, and so there's access to information that will be available to them to make that decision on an informed basis as well.

THE COURT: All right. Okay.

CNSL J. CAMERON: Sir, I do note the time and that we did provide a copy of --

THE COURT: M'mm-hmm.

CNSL J. CAMERON: -- of the form of order, so with your leave I propose to address the changes that have been made.

THE COURT: Okay.

CNSL J. CAMERON: Unless you had any specific questions.

THE COURT: No. I don't think I have any specific questions -- well, I have been asking some --

CNSL J. CAMERON: Yes.

THE COURT: -- questions plainly.

CNSL J. CAMERON: So just jumping ahead then to paragraph 21, where you'll see the next change. We removed throughout this section the reference to the approval of the relief being nunc pro tunc. We understood you had raised concerns about that and --

THE COURT: Right.

CNSL J. CAMERON: -- relooking at that issue --

THE COURT: Right.

CNSL J. CAMERON: -- we felt that approval and ratification is sufficient here because we're not asking the court to correct a legal irregularity that occurred. What we're asking you to do is to approve our incorporation of ResidualCo for the purposes of facilitating this transaction and also the appointment of its first director, who agreed to act in that role again to facilitate the transaction.

We also have removed paragraph 24, and that was at the request of the CRA or the entity, I should say, who administers the Wage Earner Protection program.

THE COURT: Okay.

CNSL J. CAMERON: They had concerns with this language, and this was a holdover from the form of RVO when this proceeding was contemplated to be a daylight receivership.

THE COURT: M'mm-hmm.

CNSL J. CAMERON: We do not -- we submit that this doesn't prejudice any of the employees and their ability to apply under WEP because now Canstar is in receivership and so their employment is going to have been terminated by a company in receivership, so this paragraph is no longer necessary to protect their interests.

THE COURT: All right.

CNSL J. CAMERON: Flipping ahead to the sale advisor charge. So that's something that we've not yet fully touched on, and that's the approval of Summit's engagement letter and a limited charge.

So paragraph 28 approves Canstar's engagement of Summit to be their sale advisor. A copy of that engagement letter was attached to the receiver's report -- the pre-filing report.

Paragraph 29 grants Summit a sale advisor's charge on the net proceeds of the transaction only in the amount of the greater of 3 percent of the enterprise value or $500,000 as security for payment of its success fee, all of which is in accordance with the terms of Summit's engagement letter, which has also been approved by the secured creditors, BMO and Fulcrum.

THE COURT: All right.

CNSL J. CAMERON: Paragraph 30 allows the receiver to pay the -- only the sale advisor from the transaction proceeds.

While we didn't make any changes to this provision, I do want to touch on the releases that are being sought. So we're seeking to release the Canstar Group, the purchaser, the receiver, the ResidualCo director, the sale advisor and BMO from claims that have been undertaken or completed in connection with or pursuant to the terms of this RVO or the receivership proceedings or that are related to the agreement or the completion of the transaction. The release does not release any claims arising from fraud or gross negligence.

And I submit, sir, that the releases that we are seeking are consistent with the legal authority for the granting of third party releases in receivership proceedings as set out in *Lydian International*, which is included in our notice of application at -- beginning at paragraph 56.

So I submit each of the released parties were necessary and contributed materially to the transaction, that they are transaction specific and appropriately limited --

THE COURT: M'mm-hmm.

CNSL J. CAMERON: -- that they will provide the parties with the necessary finality here so this company can continue as a going concern and parties will continue to retain whatever claims they have against ResidualCo --

THE COURT: M'mm-hmm.

CNSL J. CAMERON: -- and that the releases benefit stakeholders generally as the transaction here is going to produce the best overall recovery in the circumstances, preserves the business and maintains substantially all employment.

And I will rely on our submissions in our notice of application with respect to the releases for more fulsome submissions.

THE COURT: All right.

CNSL J. CAMERON: Turning to the next change in the order --

THE COURT: I just wonder, given it's --

CNSL J. CAMERON: Yes.

THE COURT: -- 12:23, whether we should just address timing and what counsel -- I have registered the submission from the receiver, and --

CNSL J. CAMERON: M'mm-hmm.

THE COURT: -- I haven't heard Mr. Roberts, but I -- or other counsel, but I take it there's some time

sensitivity to this.
CNSL J. CAMERON: Yes, there is.
THE COURT: I'm just simply not available after 12:30 PM, and so that's challenging.
So, Mr. Jackson, do you --
CNSL K. JACKSON: Yeah.
THE COURT: -- wish to just address --
CNSL K. JACKSON: Sure.
THE COURT: -- anything?
CNSL K. JACKSON: I've spoken with my friend Mr. Roberts and he agrees that his application doesn't have to be --
THE COURT: Okay.
CNSL K. JACKSON: -- heard today. It's -- it's really just -- it really boils down to just getting those charges, but we'll be sitting on cash if we close tomorrow or Tuesday as expected. But -- but closing quickly is very important for this just for continuity of the business and maintaining value.
THE COURT: M'mm-hmm.
CNSL K. JACKSON: That was all part of the -- part and parcel --
THE COURT: For the reasons set out in the -- in the --
CNSL K. JACKSON: Report.
THE COURT: -- one of the reports, and -- and I'm -- I'm sensitive to that. I just -- I just --
CNSL K. JACKSON: Yeah.
THE COURT: -- am advising --
CNSL K. JACKSON: Yeah.
THE COURT: -- what the situation is. I am hearing another matter at 2:00 o'clock.
CNSL K. JACKSON: Right. We don't wish to impose, Justice. What I'm -- and this -- this may seem presumptuous to suggest, but if the court is minded to grant the order, it could do so with -- with reasons to follow, and that would certainly --
THE COURT: I'm not certain I'm -- I'm going to do that.
CNSL K. JACKSON: Right. Okay.
THE COURT: I -- I haven't heard -- I'm not certain if I've heard the end of your colleague's submissions yet.
CNSL J. CAMERON: We are at the end, sir.
THE COURT: We're at the end?
CNSL J. CAMERON: One change left in the order.

THE COURT: Okay. All right. Well, perhaps you'll just -- you can bring that to my attention and I'll --
CNSL J. CAMERON: Yes.
THE COURT: -- I'll have a look at that. Thank you.
CNSL J. CAMERON: So the last change that was made to the form of order that was provided to the court was the removal of paragraph 37.
THE COURT: M'mm-hmm.
CNSL J. CAMERON: And this was a statement that the receiver may rely on written notice from the purchaser regarding the purchaser's payment of cure costs, but of course that's not the commercial terms of this particular transaction. The receiver is the party who will be remitting payment of any applicable cure costs from the transaction proceeds after closing, and again, as I said, right now those are nil.

So subject to any further questions you have for me, sir, those respectfully are my submissions.

THE COURT: Okay. Thank you. Thank you very much.
CNSL W. ROBERTS: I have nothing substantive to add to that.

Justice, the bank supports the application. The sales process was managed in a professional manner by professionals. It has resulted in exactly what it was intended to result in, which is the highest and best value for these assets. There's no circumstance where any stakeholder is worse off under this transaction than they were otherwise, and in fact they are markedly better off. And I mean all stakeholders. Employees, counterparties.

DISCUSSION RE TIMING:

CNSL W. ROBERTS: We have an application in front of you to vary the order you granted last week. I note the time. That doesn't have to happen today. You may want to hear submissions on it. If you have availability next week for half an hour, we could do it then or -- I'm in your hands.
THE COURT: I'm not certain whether I do. I'm not certain whether I do. I may be available at 9:00 AM on Tuesday.
CNSL W. ROBERTS: We will make that work if that works

for you.
THE COURT: I think that would just have to be confirmed with scheduling, but --
CNSL W. ROBERTS: Good.
THE COURT: -- I think I -- I think I could be available for that. I think I may also be available in the afternoon on Tuesday.
CNSL W. ROBERTS: Okay. Well, we'll check with scheduling. Whichever -- whatever works for you we can do --
THE COURT: Okay.
CNSL W. ROBERTS: -- as long as the receiver is fine with that delay. They are.
THE COURT: I think I should just -- I'll -- do you have any other submissions that you'd like to make?
CNSL W. ROBERTS: No. Just that we support the receiver's application.
THE COURT: All right. Okay. Thank you. Mr. Rubinstein.
CNSL C. RUBINSTEIN: I don't have any comments other than I don't know if they -- there's a specific provision other than the payout to the cure costs and that there's -- that those funds will just remain in trust, but I -- my -- I think my friend's submission is that that's what happens and we'll get notice in due course, so I don't have any issue with that. That ...
THE COURT: So your client does not oppose the order.
CNSL C. RUBINSTEIN: No.
THE COURT: Okay. All right. Yes, Mr. Laity.
CNSL R. LAITY: Nothing for me.
THE COURT: All right. This is a bit challenging, counsel, because I'm not inclined to just to give an order with reasons to follow. I'd like to give some reasons, but I've only got one minute until I have to -- you know, I don't know whether it may be something -- whether I could request the parties appear back before me at the end of the day today. I am hearing another matter, but if the parties could return at 3:45 I may be in a position to bring the matter -- call the matter again.
Court clerk, I know I'm doing this a little on the fly. I haven't asked you to check with scheduling about that.
But that's my inclination, to request a

reappearance and see if I'm in a position to give reasons on the application at the end of the day today.

CNSL K. JACKSON: Very good. Justice, if it's -- another suggestion -- again just to put it out there as an option -- is first thing tomorrow morning, because that wouldn't affect the closing tomorrow if -- if we got the order.

THE COURT: I'm afraid I do not --

CNSL K. JACKSON: Okay.

THE COURT: -- have availability tomorrow.

CNSL K. JACKSON: Okay. That won't help at all then. Okay. Very good.

THE COURT: I am hearing a matter tomorrow -- pardon me -- for the day. It may -- another possibility is that I might be able to request scheduling to just allow me to give reasons at 10:00 o'clock tomorrow morning for a half hour and then start my other matter after that.

CNSL K. JACKSON: That's certainly equally convenient for us, Justice.

CNSL R. LAITY: If it's all the same to the court, I -- our client would prefer today.

THE COURT: I realize that, sir, but I'm just trying to determine -- is there a reason for that?

CNSL R. LAITY: The reason is closing mechanics. There's financing to this acquisition and they will be expecting to see a signed order as a CP to effect the closing. There's wire cutoffs to deal with and so forth. So if it's at all possible to get the signed order today.

THE COURT: Well, I'm not sure I'm going to be able to accommodate your client --

UNIDENTIFIED SPEAKER: We won't be able [indiscernible] --

THE COURT: -- unfortunately.

UNIDENTIFIED SPEAKER: -- the order. Registry closes when?

THE COURT: Yeah.

CNSL R. LAITY: I guess that's true.

THE COURT: Because even if -- there's no one [indiscernible] that would be available, so -- at the end of the day if reasons were given at 4:00.

So I think, court clerk, I will provisionally just request that the parties appear back before me at 10:00 o'clock tomorrow.

CNSL J. CAMERON: Sir, with your leave I'd like to appear virtually as I --

THE COURT: Yes, you may.
CNSL J. CAMERON: -- have a flight back to Calgary.
THE COURT: Yes.
CNSL J. CAMERON: Thank you, sir.
CNSL W. ROBERTS: And we'll check with scheduling on your availability for next week?
THE COURT: Yes. That's right. And I think that could probably be confirmed tomorrow morning at 10:00 o'clock.
CNSL W. ROBERTS: Excellent.
THE COURT: And I -- I'm grateful for counsel's submissions, and I just would not -- prefer not to give reasons at 4:00 o'clock today. I think it's preferable for -- for me to give reasons at 10:00 o'clock tomorrow morning.
CNSL K. JACKSON: We appreciate --
CNSL W. ROBERTS: Thank you.
CNSL K. JACKSON: -- your time. Thank you, Justice.
CNSL J. CAMERON: Thank you.
THE COURT: We will adjourn till 10:00 o'clock tomorrow morning.
CNSL K. JACKSON: Thank you, Justice.
THE CLERK: Order in chambers. Chambers is adjourned until tomorrow morning.

(VIDEOCONFERENCE CONCLUDES)([12:32:31 PM])
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Valerie Friesen
Authorized Reporter

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