

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE MADAM) WEDNESDAY, THE 10TH
)
JUSTICE CONWAY) DAY OF MARCH, 2021
)

IN THE MATTER OF THE *COURTS OF JUSTICE ACT*, R.S.O.
1990, c. C.43, AS AMENDED

AND IN THE MATTER OF THE ADMINISTRATION
PROCEEDINGS OF **CARRIAGE HILLS VACATION
OWNERS ASSOCIATION**

ORDER

THIS MOTION made by BDO Canada Limited (“**BDO**”), in its capacity as receiver (in such capacity, the “**Receiver**”) over all of the assets, properties and undertakings of the Carriage Hills Vacation Owners Association (the “**Applicant**”) and all the lands and premises on which the Applicant operated the Carriage Hills Resort, appointed by an Amended and Restated Appointment Order (the “**Receivership Order**”) with effect as of January 6, 2021, for an Order, *inter alia*, (i) approving the Second Report of the Receiver dated March 1, 2021 (the “**Second Report**”) and the activities of the Receiver set out therein, (ii) approving the form and content of the Settlement Proposal to be sent to those of the Applicant’s members (the “**Subject Members**”) who are subject to the Receiver’s Collection Plan Order made February 16, 2021 (the “**Collection Plan Order**”), (iii) amending the timeline of the collection plan set out in the Collection Plan Order, and (iv) approving the engagement of external accountants by the Receiver was heard this day via Zoom judicial video conference due to the COVID-19 pandemic.

ON READING the Motion Record of the Receiver dated March 1, 2021 (the “**Motion Record**”) and the Second Report, and on hearing the submissions of counsel for the Receiver, counsel for Wyndham Worldwide Corporation and counsel for David and Phyllis Lennox and the submissions of Christopher Diana, no one else appearing for any other parties on the Service List, although duly served as appears from the affidavit of service of Christine Doyle sworn March 1, 2021,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Motion Record and the Notice of Motion contained therein is hereby validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

APPROVAL OF ACTIVITIES

2. **THIS COURT ORDERS** that the Second Report and the Receiver’s activities set out therein be and are hereby approved.

SETTLEMENT OFFERS

3. **THIS COURT ORDERS** that the form and substance of the settlement offer to Subject Members (the “**Settlement Offer**”), substantially in the form attached as **Schedule “A”** hereto, is hereby approved with such minor changes as the Receiver may, from time to time, consider necessary or desirable.

4. **THIS COURT ORDERS** that, for purposes of the Settlement Offers, the Discounts, as defined in and calculated in accordance with sections 2.2.3 and 2.2.4 of the Seconds Report, are hereby approved for Subject Members whose accounts, apart from the Court-imposed Delinquency Fee and the Receiver-assessed Collection Fee (as such terms are defined in the Second Report): (a) exceed \$50; and (b) include unpaid fees, reserve fees, property taxes and/or sales taxes.

5. **THIS COURT ORDERS** that the Receiver is authorized and directed not to serve Settlement Offers on Subject Members whose accounts, apart from the Delinquency Fee and the Collection Fee:

- a. include only interest and late fees but no unpaid fees, reserve fees, property taxes or sales taxes; or
- b. do not exceed \$50,

(collectively, the “**Small Account Subject Members**”) until further Order of this Court, and that the Collection Plan Order, including its Schedules, is hereby amended accordingly.

COLLECTION PLAN

6. **THIS COURT ORDERS** that paragraph 10 of the Collection Plan Order is hereby amended to increase the number of days for service of the Claims Package from seven (7) days following the Comeback Date to fourteen (14) days following the Comeback Date (as such capitalized terms are defined in the Collection Plan Order).

ENGAGEMENT OF ACCOUNTANT

7. **THIS COURT ORDERS** that the engagement of Powell Jones LLP by the Receiver, as authorized by paragraph 4(d) of the Receivership Order and for the purposes described in the Second Report, is hereby approved.

GENERAL

8. **THIS COURT ORDERS** that this Order is effective from the date that it is made and is enforceable without any need for entry and filing.

9. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Receiver in any foreign proceeding, or to assist the Receiver and its agents in carrying out the terms of this Order.

A handwritten signature in blue ink, appearing to read "Conway J.", is written over a horizontal line.

SCHEDULE “A”

Court File No. CV-20-00640265-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

CARRIAGE HILLS VACATION OWNERS ASSOCIATION, by
its Court-appointed receiver, BDO CANADA LIMITED

Claimant

and

THE SUBJECT MEMBER IDENTIFIED IN THE ATTACHED
APPENDIX “A”

Respondent

IN THE MATTER OF THE *COURTS OF JUSTICE ACT*, R.S.O.
1990, c. C.43, AS AMENDED

AND IN THE MATTER OF THE ADMINISTRATION
PROCEEDINGS OF **CARRIAGE HILLS VACATION
OWNERS ASSOCIATION**

SETTLEMENT OFFER

The Claimant, Carriage Hills Vacation Owners Association (the “**Association**”) by its Court-appointed receiver, BDO Canada Limited (in such capacity, the “**Receiver**”), offers to settle the Receiver’s Claim enclosed with this Settlement Offer on the following terms:

1. The Subject Member shall pay to the Receiver the amount identified as the Proposed Account Settlement as set out on the attached **Appendix “A”** (the “**Settlement Amount**”).

2. For the purpose of encouraging settlements, a litigation avoidance discount, approved by Order of Madam Justice Conway of the Ontario Superior Court of Justice made March 10, 2021 (the “**Discount**”), has been incorporated into the Settlement Amount. The Discount is equal to the aggregate amount of all late fees, administrative fees, accrued financing and other charges assessed by the Association against the Subject Member’s account but does not include any amount in respect of the \$1,000 Delinquency Fee charged pursuant to the Order of Madam Justice Conway made July 2, 2020, or any amount in respect of the \$500 Collection Fee assessed by the Receiver.
3. The Receiver shall accept payment of the Settlement Amount in full and final settlement of the Receiver’s Claim if this Settlement Offer is accepted and payment is made by no later than thirty (30) days from the date of service of this Settlement Offer (the “**Acceptance of Settlement Deadline**”).
4. The Receiver shall provide any Subject Member who pays the Settlement Amount by the Acceptance of Settlement Deadline with confirmation of full and final satisfaction of the Receiver’s Claim and will not deduct the amount of the Discount from any future distribution to which the Subject Member may be entitled.
5. If you wish to accept this Settlement Offer, you must execute Appendix “A” and return the executed document together with the Settlement Amount to the Receiver by the Acceptance Settlement Deadline. The required payment and the executed Settlement Offer may be delivered by prepaid registered mail, courier or personal delivery to:

BDO CANADA LIMITED

20 Wellington Street East, Suite 500
Toronto, ON M5E 1C5

Attention: Carriage Hills Collections

6. Note that this Settlement Offer is not made in respect of, nor will acceptance of this Settlement Offer compromise, any amounts owing by the Subject Member to the Association that do not form part of the Receiver's Claim. These excluded amounts will include any amounts subject to:
- (a) a legal proceeding for the collection thereof already commenced by the filing of a claim; or
 - (b) a payment plan agreed to between the member and the Applicant's collections agent, where the member is not in default under such plan.

Date: , 2021

AIRD & BERLIS LLP

Barristers and Solicitors
Brookfield Place
Suite 1800, Box 754
181 Bay Street
Toronto, Ontario
M5J 2T9

Sanjeev P.R. Mitra (LSO # 37934U)

Tel: (416) 865-3085
E-mail: smitra@airdberlis.com

Sam Babe (LSO # 49498B)

Tel: (416) 865-7718
E-mail: sbabe@airdberlis.com

Fax (416) 863-1515

*Lawyers for BDO Canada Limited in its
capacity as the court-appointed Receiver of
Carriage Hills Vacation Owners Association*

**Settlement Offer Appendix "A"
Proposed Account Settlement**

Subject Member Name: <*>

Subject Member Carriage Hills Vacation Owners Association Account No.: <*>

Proposed Account Settlement amount = \$<*>

This Settlement Offer must be accepted by return of the acceptance below along with payment of the above amount within thirty (30) days from the date of service of this Settlement Offer.

* * *

In consideration of the Settlement Offer and the Discount contained therein, the undersigned Subject Members hereby accepts the Settlement Offer as of the ____ day of _____, 2021 and encloses herewith irrevocable payment in the amount of the Proposed Account Settlement.

)	
)	
)	
)	
_____)	_____
Witness Name:)	<*>
)	

IN THE MATTER OF SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O

AND IN THE MATTERS OF THE ADMINISTRATION PROCEEDINGS OF CARRIAGE HILLS VACATIONS OWNERS ASSOCIATION

Applicant

Court File No. CV-20-00640265-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceedings commenced at Toronto

ORDER

AIRD & BERLIS LLP
Barristers and Solicitors
Brookfield Place
181 Bay Street, Suite 1800
Toronto, ON M5J 2T9

Sanjeev P.R. Mitra (LSO # 37934U)

Tel: (416) 865-3085

E-mail: smitra@airdberlis.com

Sam Babe (LSO # 49498B)

Tel: (416) 865-7718

E-mail: sbabe@airdberlis.com

Fax (416) 863-1515

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