

COURT FILE NUMBER

1903-04121

COURT

COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE

EDMONTON

IN THE MATTER OF THE TRUSTEE ACT, RSA
2000, C T-8 SECTIONS 43 AND 46

APPLICANTS

WESTPOINT INVESTMENT TRUST BY ITS
TRUSTEE MUNIR VIRANI AND MARNIE KIEL

RESPONDENTS

WESTPOINT CAPITAL CORPORATION,
WESTPOINT CAPITAL MANAGEMENT
CORPORATION, WESTPOINT CAPITAL
SERVICES CORPORATION, WESTPOINT
SYNDICATED MORTGAGE CORPORATION,
CANADIAN PROPERTY DIRECT
CORPORATION, WESTPOINT MASTER LIMITED
PARTNERSHIP, RIVER'S CROSSING LTD.,
1897869 ALBERTA LTD., 1780384 ALBERTA
LTD., 1897837 ALBERTA LTD. and THE
VILLAGE AT PALDI ENT. LTD.

DOCUMENT

**BENCH BRIEF FILED ON BEHALF OF THE
JUDICIAL TRUSTEE BDO CANADA LIMITED**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

MILLER THOMSON LLP
Barristers and Solicitors
2700, Commerce Place
10155-102 Street
Edmonton, AB, Canada T5J 4G8
Phone: 780.429.1751 Fax: 780.424.5866

Lawyer's Name: Terrence Warner
Lawyer's Email: twarner@millerthomson.com
File No.: 240413.1

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF THE OTHER
PARTIES

Kennedy Agrios Oshry Law
Barristers and Solicitors
1325 Manulife Place
10180 - 101 Street
Edmonton, AB T5J 3S4
Phone: (780) 969-6907 Fax: (780) 969-6901

Lawyer's Name: Scott E. B. Harwardt
Lawyer's Email: SHarwardt@kaolawyers.com
File No.: 76009-2 JAA



INDEX

I. INTRODUCTION.....3

II. BACKGROUND.....3

III. GROUNDS FOR DISALLOWANCE OF CITY'S PROOF OF CLAIM4

IV. RELIEF SOUGHT BY THE CITY.....5

V. OVERVIEW OF RELEVANT FACTS.....5

VI. ISSUE7

VII. ARGUMENT.....7

VIII. RELIEF SOUGHT14

I. INTRODUCTION

1. This Bench Brief is submitted on behalf of BDO Canada Limited in its capacity as the Judicial Trustee (the "**Trustee**") of Westpoint Investment Trust ("**WIT**") in response to the application brought on behalf of the City of Spruce Grove (the "**City**").

II. BACKGROUND

2. A detailed background of the proceedings and the activities of the Trustee leading up to the Application is more fully described in the various reports filed before the Court in these proceedings, including the Third Report to the Court of BDO Canada Limited in its Capacity as Judicial Trustee of WIT dated January 6, 2023 (the "**Third Report**").
3. A brief overview of the significant events in the Court proceedings is set out below:
 - (a) On March 8, 2019, the Court of Queen's Bench of Alberta granted an Order appointing BDO as Judicial Trustee in respect of WIT.¹
 - (b) Also on March 8, 2019, the Court granted an Order appointing BDO as the Interim Receiver of the Respondent corporations.²
 - (c) On April 10, 2019, the Court granted an Order appointing BDO as Receiver of the Companies (the "**Receivership Order**").³
 - (d) On November 13, 2019, the Court issued a Claims Process Order in regard to the Respondent Corporations (the "**First Claims Process Order**").⁴
 - (e) On April 20, 2022, the Court issued an Order which, *inter alia*, extinguished the claims of creditors:
 - (i) which were not Accepted Claims;
 - (ii) who did not deliver a Proof of Claim on or before the Claims Bar date
 - (iii) were served with a Notice of Disallowance and failed to submit a Notice of Objection and file a Notice of Motion seeking this Court's review of the Notice of Disallowance.⁵
 - (f) On September 2, 2022, the Court issued the Claims Process Order in regard to WIT (the "**WIT Claims Process Order**").⁶

¹ Third Report, para 1.

² Third Report, para 2.

³ Third Report, para 3.

⁴ First Claims Process Order, Appendices, Tab 1.

⁵ April 20, 2022 Order, Appendices, Tab 2.

- (g) On September 6, 2022, the Trustee issued a Notice of Claims Procedure to known creditors.⁷
- (h) On October 4, 2022, the City through its counsel forwarded to the Trustee the City's Proof of Claim (the "City's Claim").⁸
- (i) On November 3, 2022, the Trustee issued its Notice of Disallowance of the City's Claim.⁹
- (j) On December 2, 2022, the Court granted a Consent Order dispensing with the requirement in paragraph 19 of the WIT Claims Process Order that Spruce Grove file a Notice of Motion returnable within 15 days of delivery of its Notice of Objection.¹⁰
- (k) On December 8, 2022, the City filed its Application seeking an Order to set aside the Notice of Disallowance.

III. GROUNDS FOR DISALLOWANCE OF CITY'S PROOF OF CLAIM

- 4. There were initially two grounds cited by the Trustee for disallowance of the City's Claim:
 - (a) The City's Claim as set out in the Amended Statement of Claim was statute barred as it was filed outside the 2 year limitation period; and
 - (b) The City's Claim is based upon a Letter of Credit issued on August 8, 2014 by Westpoint Capital Performance Mortgage Investment Corporation ("PMIC"), which following a reorganization in 2015, was not an obligation assumed by WIT.

The first ground is not being maintained by the Trustee based upon the advice of counsel, as is stated in the Third Report.¹¹

IV. RELIEF SOUGHT BY THE CITY

- 5. The City is seeking an Order:
 - (a) setting aside the Trustee's Notice of Disallowance dated November 3, 2022, which disallowed City's Claim in its entirety;

⁶ Third Report, Exhibit 1.

⁷ Third Report, Para 23(a) and Exhibit 2

⁸ Third Report, Para 25 and Exhibit 5

⁹ Third Report, Para 33 and Exhibit 7

¹⁰ December 2, 2022 Order, Appendices, Tab 3.

¹¹ Third Report, Para 35.

- (b) requiring the Trustee to allow the City's Claim, in its entirety; and
- (c) granting the City its costs of the Application.

V. OVERVIEW OF RELEVANT FACTS

6. A brief overview of the facts relevant to this matter is set out below:

- (a) WIT was established by way of a Declaration of Trust dated June 1, 2015 which was amended and restated by an agreement dated September 3, 2015 and made effective June 30, 2015. The Trust is a mutual fund trust with the purpose of investing in mortgage and real estate assets.¹²
- (b) Prior to the establishment of WIT, the assets of the Trust were held by 2 mortgage investment corporations, PMIC and Westpoint Capital High Yield Mortgage Investment Corporation ("**HMIC**"; collectively, the "**MICs**"). The MICs held assets in British Columbia and Alberta, primarily mortgages.¹³
- (c) WCC provided mortgage administration, capital raising and mortgage brokerage services to the MICs. Another corporation, the Respondent Westpoint Capital Services Corporation ("**WCSC**"), provided business support services, staffing and office space to the MICs.¹⁴
- (d) Paragraph 2 of the Affidavit of Robin Pedlar sworn November 15, 2022 states:

"On August 8, 2014, Westpoint Capital Performance Mortgage Investment Corporation ("PMIC") issued an irrevocable letter of credit to Spruce Grove in the amount of \$1,155,378 (the "LOC") at the request of its client, 1831575 Alberta Ltd. (the "Developer") in relation to a development project known as Spruce Grove Ridge Gardens – Stages 3 (the "Project")."¹⁵
- (e) The Trust, WCC and the MICs entered into an Arrangement Agreement made effective the 4th day of June, 2015 (the "**Arrangement**").¹⁶
- (f) The Arrangement was approved by Order of the Court of Queen's Bench issued July 14, 2015.¹⁷

¹² Third Report, para 9

¹³ Third Report, para 10.

¹⁴ Third Report, para 12.

¹⁵ Third Report, para 27.

¹⁶ Third Report, para 13.

¹⁷ Third Report, para 15.

- (g) The Arrangement was completed on July 14, 2015, and simplistically, PMIC was rolled into HMIC, and HMIC was amalgamated with the Respondent Westpoint Capital Management Corporation (“**WCMC**”).¹⁸
 - (h) Following the completion of the Arrangement, WIT held a beneficial interest in assets comprised mostly of mortgages and some real estate holdings, held by various Companies in trust for WIT.¹⁹
7. A complete analysis of the transactions of the Arrangement is set out in the Third Report at paragraph 42, and will not be repeated here, but the Trustee’s conclusions of the result of the various transactions are set out at paragraphs 43 and 44 of the Third Report, as follows:

“43. As part of the restructuring, PMIC was wound up into HMIC and HMIC was amalgamated with WCMC, so WCMC is the combination of the PMIC and HMIC predecessor entities.

44. As a result of the foregoing, the liability resulting from the letter of credit issued by PMIC currently resides with WCMC and not WIT as alleged by the City of Spruce Grove.”

8. It should also be noted that WCMC itself had no assets, based upon the analysis completed in the Receivership, but owed significant inter corporate debt to various other Respondent Corporations and to WIT. Attached as Exhibit 4 to the First Supplemental Report is a copy of Exhibit 6 that was included in the Eighth Report which is an analysis prepared by the Receiver outlining the intercorporate debt.²⁰
9. A Proof of Claim submitted by the City of Spruce Grove in regard to WCMC may have been accepted by the Receiver but there would have been no funds available to pay out on this claim.

VI. ISSUE

10. The issue to be determined by this Honourable Court is whether the Trustee was correct in disallowing the of the City’s Claim.
11. It should be noted that the Brief filed on behalf of the City cites as an issue the first ground of the Trustee’s disallowance, being the limitation issue. As counsel for the City

¹⁸ Third Report, para 43 and 44.

¹⁹ Third Report, para 21.

²⁰ First Supplemental Report to the Third Report to the Court of BDO Canada Limited in its Capacity as Judicial Trustee of Westpoint Investment Trust, dated January 11, 2023 (the “**First Supplemental Report**”), para 22.

well knows, this was withdrawn by the Trustee well prior to the preparation of the City's Brief and as such is no longer an issue and should not have been represented as such.

VII. ARGUMENT

12. The Trustee's position is simply stated. Under the circumstances of this matter, the Trustee was justified in disallowing the City's Claim *vis a vis* WIT because it simply is not an obligation of WIT.
13. Two comments of the City's Brief need to be addressed up front relating to alleged misrepresentations. First, at paragraph 3 of the City's Brief, which is a key component underlying the City's Argument, it is stated:

"3. Spruce Grove, in addition to the Claim against WIT, had potential claims against Westpoint Capital Corporation ("WCC") and Westpoint Capital Management Corporation ("WCMC") in respect of the same Letter of Credit underlying the Claim against WIT. Despite this, Spruce Grove was never provided with the Claims Process Order granted in November 2019 in respect of WCC and WCMC."
14. We submit that by prefacing the last sentence in this paragraph with "[d]espite this", the implication is that the failure to provide the City with the First Claims Process Order was a deliberate act on the part of the Receiver.
15. These and other comments in the City's Argument constitute a collateral attack on the integrity of the Receiver and Trustee. There is no evidence to suggest that the Receiver and Trustee acted with anything other than the utmost good faith and integrity.
16. The fact is, at the time the First Claims Process Order was issued in 2019, the Trustee was not aware that the City was a creditor of PMIC, or had a claim against any of the Respondent corporations.²¹
17. On November 25, 2019, when the Receiver sent out its claims process notices (the "Notices"), these were sent to all known creditors of WCC et al. This was based on information provided initially by management of the Respondent Corporations ("Management") and a review by the Receiver of the books and records of the various Respondent Corporations, and in particular, their accounting records.²²

²¹ First Supplemental Report, para 8.

²² First Supplemental Report, para 9.

18. The City of Spruce Grove was not identified to the Receiver by Management as a creditor nor was it apparent from the Receiver's review of the books and records of the Respondent Corporations that the City of Spruce Grove was a creditor.²³
19. There was no copy of the Statement of Claim in the records of the Respondent corporations, nor was there anything in the accounting records to indicate that the City was a creditor at the time of the First Claims Process Order.²⁴
20. The Trustee only became aware of the City's Claim when it received an email from former counsel to the Respondent Corporations on September 14, 2020, forwarding a communication from counsel to the City regarding amending its Statement of Claim. Prior to this the Receiver was unaware of the City's Statement of Claim.²⁵
21. The second aspect of the City's Brief that needs to be addressed up front are the comments in paragraphs 4 and 5 of the argument. Paragraph 4 states:

“4. The Trustee advised that it intended to address Spruce Grove's claim via the claims process being set up in respect of WIT. Spruce Grove relied on the Trustee's representation and did not submit a Proof of Claim in respect of either WCC or WCMC or otherwise challenge the claims process in respect of those entities. As a result, Spruce Grove's claims against WCC and WCMC have been extinguished.”

Paragraph 5 states:

“5. The Trustee now takes the position that the Letter of Credit was not assumed by WIT and has disallowed Spruce Grove's Claim against WIT on this basis. If the Trustee is permitted to resile from its representations that Spruce Grove's Claim would be addressed via the WIT claims process (upon which Spruce Grove relied), then Spruce Grove will be left with no recovery in respect of the Letter of Credit.”

22. First, while it is accurate to say that counsel for the Trustee stated that the City's claim would be addressed in the WIT Claims process, nowhere was it represented or even intimated that the City's Claim would be accepted by the Trustee without review and analysis. To suggest otherwise is ludicrous, and would be an abdication of the duties imposed upon the Trustee.²⁶

²³ First Supplemental Report, para 11.

²⁴ First Supplemental Report, para 14.

²⁵ First Supplemental Report, para 16 and 17.

²⁶ First Supplemental Report, para 26 and 27.

23. Indeed, the evidence given by a legal assistant at Kennedy Agrios Oshry Law on behalf of the City²⁷ includes as part of Exhibit "A" an email from Counsel for the Receiver to counsel for the City in response to the proposed amendment to the Statement of Claim being sought, where it is stated (in part):

"Assuming there is liability and assuming there are funds to distribute, the issue of who is entitled to what will have to be addressed by the court."

24. Accordingly, those aspects of the argument of the City built upon the alleged misrepresentation simply are untenable.

25. Paragraph 39 of the City's Brief appears to accuse the Trustee of bad faith in reference to the comments that the City's Claim would be addressed in the WIT claims process and that "...an Order extinguishing Claims against WCC, WCMC and other related entities would not affect said Claim."

26. We categorically reject any such suggestion of bad faith. Again, it was never suggested at any point that the City's Claim would be accepted without analysis by the Trustee, and as stated above, it was stipulated that if there were liability and funds to distribute, there would be a process to determine who gets what.

27. The Argument suggests in paragraph 39 that what the Trustee says was a deliberate act on the part of the Trustee "...with the intent of forestalling any challenge." This suggestion is highly offensive and suggests that the Trustee has something to gain by denying the claim of the City of Spruce Grove.²⁸

28. The Trustee is simply performing the task assigned to it by this Honourable Court when it was appointed Judicial Trustee. There is nothing to gain or lose by the Trustee either accepting or rejecting the claim of the City of Spruce Grove.²⁹

Knowledge of the City of the Claims Process

29. It is interesting to note that nowhere in the evidence of the City is there any suggestion that the City did not know there was a claims process in place in regard to the Respondent Corporations.

²⁷ Affidavit of Salma Parwa, sworn November 18, 2022 (the "**Parma Affidavit**"), para 3 and Exhibit "A".

²⁸ First Supplemental Report, para 28.

²⁹ First Supplemental Report, para 29.

30. The closest the evidence gets to that point is the carefully crafted evidence given by a legal assistant at Kennedy Agrios Oshry Law on behalf of the City, which simply states that the First Claims Process Order was not served on counsel for the City.³⁰

31. Paragraph 7 of the First Claims Process Order states (in part):

“(a) the Receiver shall, not later than ten (10) Business Days following the granting of this Claims Procedure Order, mail by prepaid ordinary mail, courier, personal delivery, facsimile transmission or email to each of the Known Creditor or their counsel, a copy of the Notice to Creditors and a blank Proof of Claim Form, in the form attached hereto as Schedule “A”;

(b) the Receiver shall cause to be published on or before December 6, 2019, the Notice to Creditors in the following newspapers: (i) The Globe and Mail (National Edition); (ii) the Edmonton Journal and (iii) the Vancouver Sun in the form attached hereto as Schedule “B”;

(c) the Receiver shall post a copy of this Claims Procedure Order, the on its website at www.extranets.bdo.ca (the “Receiver’s Website”);”

32. All of these provisions were complied with by the Receiver, diligently and in good faith. Advertisements were placed in the Globe and Mail, the Edmonton Journal and the Vancouver Sun on December 4, 2019 outlining the claims process, and the Receiver received numerous claims from parties that were not on the list of known creditors.³¹

33. We submit that even in the absence of service of the First Claims Process Order, the City ought to have known there was a claims process in place, as it was broadly advertised and a copy of the First Claims Process Order was posted on the Receiver’s website.

34. The claims process and the First Claims Process Order was referenced in reports filed on behalf of the Receiver, which were also posted on the Receiver’s website.

35. Paragraph 17 of the City’s Brief overstates the evidence. It reads (in part):

“In response, counsel for Spruce Grove wrote to counsel for the Trustee, noting that they had never been served or otherwise provided with a copy of the November 2019 Claims Process Order, nor had they been advised of the existence of the Claims Process Order, despite the correspondence counsel [sic] regarding the status of the claims process.”

In support, the City’s Brief references paragraph 7 of the legal assistant’s affidavit which reads:

³⁰ Parma Affidavit, para 5.

³¹ First Supplemental Report, para 9.

“7. In response to the Trustee's application, counsel for Spruce Grove wrote to the Trustee's counsel expressing concern regarding the above noted request and noting that Spruce Grove had never been provided with a copy of the Claims Process Order in respect of WCC or WCMC.”

36. At numerous points in the City's Brief, reference is made to evidence which is lacking, namely that counsel was not advised of the existence of the previous claims process.
37. The City's argument goes beyond what is supported by the evidence in that regard.

Reliance on Representations

38. Paragraphs 31 through 41 of the City's Argument are premised upon the alleged misrepresentations addressed earlier in this Brief and the argument is the City did not oppose the application that resulted in the April 20, 2022 Order because of representations that the City's claim would be addressed in the WIT claims process. The doctrine of promissory estoppel and estoppel by representation are argued.
39. Again, as indicated earlier, there was never any suggestion that the claim would be accepted as submitted without review and analysis. The claim of the City was received, analyzed and dealt with in the WIT proceedings.
40. It should be noted that the City of Spruce Grove's claim, as originally framed in the City's Statement of Claim, was only against WCC.
41. Had the City of Spruce Grove received notice of the Claims Process Order in November of 2019 when the Notices were sent out, and had they submitted a proof of claim as against WCC, based upon the analysis conducted by the Trustee as contained in the Third Report, a claim asserted against WCC alone as of the date of the First Claims Process Order would similarly have been disallowed, as this was not an obligation of WCC either.³²
42. WCMC was added to the Statement of Claim well after the First Claims Process Order was issued. Assuming that the City's Claim was legitimately advanced against WCMC where the liability appears to have ended up after the Arrangement was completed, by the time the claim was asserted against WCMC in the Amended Statement of Claim the time for filing a proof of claim had expired under the First Claims Process Order.

³² First Supplemental Report, para 20.

43. WCMC itself had no assets based upon the analysis completed by the Receiver in the Receivership, but owed significant inter corporate debt to various other Respondent Corporations and to WIT.³³
44. Given that the obligation arising from the Letter of Credit, based upon the analysis of the transactions set out in the Arrangement Agreement, shows that the obligation currently resides with WCMC, a Proof of Claim submitted by the City of Spruce Grove in regard to WCMC would have been accepted by the Trustee but there would have been no funds available to pay out on this claim.³⁴

Trustee's Analysis of the Arrangement

45. Paragraphs 42 to 52 of the City's Argument focusses on the Trustee's analysis of the Arrangement. The Argument starts off by suggesting that the Court should find that the Letter of Credit obligation was assumed by WIT based on a general statement of the purpose of the Arrangement in the 2015 Articles of Arrangement.
46. The City urges the Court to conclude that the "plain language interpretation" of Article 2.1 of the Articles of Arrangement should be preferred over the Trustee's interpretation, which (as the argument goes") would alter the meaning of the word "all" to "none" and render the actual words used meaningless.
47. However, the interpretation urged upon the Court by the City would do precisely what the City argues should not be done, namely ignore the plain meaning of the words used in the Articles of Arrangement. What the City is asking the Court to do is ignore certain provisions of the Articles of Arrangement to give meaning to another provision viewed in isolation.
48. What is described in the Arrangement as a general statement is expressly qualified by the specific provisions of the Plan of Arrangement.
49. The preamble to Article 2.1 stipulates:

³³ First Supplemental Report, para 23.

³⁴ First Supplemental Report Para 24

“2.1 The following is only intended to be a general statement of the purpose of the Arrangement and is qualified in its entirety by the specific provisions of the Arrangement.”³⁵

[emphasis added]

50. An analysis of the specific provisions of the Articles of Arrangement is therefore *required* in order to interpret what took place. It is not as the City suggests, stripping the Article of meaning but rather it is giving meaning to all of the words used.
51. It is not a proper approach to analysis of a document to pick certain words that may achieve a certain result if viewed in isolation and ignore the words that may lead to a contrary result, especially where the document expressly stipulates that those certain words are modified by what follows. The words of the document must be read in their entirety, especially where general statements are expressly qualified by express provisions.
52. The case cited by the City, *Hibberd v Hurricane Hydrocarbons Ltd.*, 2007 ABCA 408 at para 29 does not assist the City. Quite the contrary, as the Court of Appeal rejected the Appellant's position that the "...Plan of Arrangement should be broadly and generously interpreted to achieve its objectives."³⁶
53. The court goes on to say in the paragraph cited that "However, this Court is not entitled to ignore the plain language of the Plan of Arrangement....".
54. It would seem that the City is paying lip service to this statement of the law, but is asking the court to ignore the plain language of the Plan of Arrangement in order to arrive at a result that supports the City's Claim.

Quantum of The City's Claim

55. As stated in the First Supplemental Report, the Trustee does not take issue with the quantum of the City's Claim.

³⁵ Plan of Arrangement, Appendices, Tab 4. The Plan of Arrangement was attached as Schedule One to the Arrangement Agreement attached as Exhibit "F" to the Affidavit of Munir Virani, sworn February 24, 2019.

³⁶ *Hibberd v Hurricane Hydrocarbons Ltd.*, 2007 ABCA 408, City's Authorities Tab 6 and para 29.

VIII. RELIEF SOUGHT

56. Based upon the materials filed and the foregoing submission, the Trustee respectfully submits that the Notice of Disallowance was proper and the application of the City should be dismissed.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 12th DAY OF January, 2023

MILLER THOMSON LLP

Per: 

TERRENCE M. WARNER
Legal Counsel for the Applicant,
BDO Canada Limited in its
capacity as Judicial Trustee of
Westpoint Investment Trust

APPENDICES

APPENDICES

TAB 1

I hereby certify this to be a true copy of the original.

M. O'Keefe
Clerk of the Court



COURT FILE NUMBER

1903-04121

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

EDMONTON

IN THE MATTER OF THE TRUSTEE ACT, RSA 2000, C
T-8 SECTIONS 43 AND 46

APPLICANTS

WESTPOINT INVESTMENT TRUST BY ITS TRUSTEE
MUNIR VIRANI AND MARNIE KIEL

RESPONDENTS

WESTPOINT CAPITAL CORPORATION, WESTPOINT
CAPITAL MANAGEMENT CORPORATION, WESTPOINT
CAPITAL SERVICES CORPORATION, WESTPOINT
SYNDICATED MORTGAGE CORPORATION,
CANADIAN PROPERTY DIRECT CORPORATION,
WESTPOINT MASTER LIMITED PARTNERSHIP,
RIVER'S CROSSING LTD., 1897869 ALBERTA LTD.,
1780384 ALBERTA LTD., 1897837 ALBERTA LTD. and
THE VILLAGE AT PALDI ENT. LTD.

DOCUMENT

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

CLAIMS PROCESS ORDER

MILLER THOMSON LLP

Barristers and Solicitors

2700, Commerce Place

10155-102 Street

Edmonton, AB, Canada T5J 4G8

Phone: 780.429.1751

Fax: 780.424.5866

Lawyer's Name:

Terrence Warner

Lawyer's Email:

twarner@millerthomson.com

File No.:

240413.1

DATE ON WHICH ORDER WAS PRONOUNCED: November 13, 2019

PLACE WHERE ORDER WAS PRONOUNCED: Edmonton, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: ACJ K. Nielsen

ORDER

UPON the application of BDO Canada Limited in its capacity as the Court-appointed receiver (the "Receiver") of the Respondents Westpoint Capital Corporation *et al* (collectively the "Corporations"); AND UPON reviewing the Receivership Order issued April 10, 2019 and the Consent Amending and Receivership Order issued May 30, 2019 (collectively the "Receivership Order"); AND Upon being advised that the entire service list was served with notice of the Application in this matter; AND Upon reviewing the Third Report of the Receiver to the Court filed November 2, 2019; AND UPON HEARING the submissions of counsel for the Receiver;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. A process for submitting and establishing Claims of Creditors, as such are defined herein, as against the Respondents, shall be established in accordance with the terms of

this Order. Notwithstanding anything herein to the contrary, this Order applies only to Claims of Creditors as against the Respondent Debtors, and the definition of "Claim" herein applies exclusively to Claims against the Respondent Corporations, and excludes any claims of any nature whatsoever as against Westpoint Investment Trust.

2. For the purposes of this Order, in addition to terms defined elsewhere herein, the following terms shall have the following meanings:
 - (a) "**Assessments**" means Claims of Her Majesty the Queen in Right of Canada or of any Province or Territory or Municipality or any other taxation authority in any Canadian or foreign jurisdiction, including, without limitation, amounts which may arise or have arisen under any notice of assessment, notice of reassessment, notice of objection, notice of appeal, audit, investigation, demand or similar request from any taxation authority;
 - (b) "**Business Day**" means a day, other than a Saturday or a Sunday, on which banks are generally open for business in Edmonton, Alberta;
 - (c) "**Claim**" means:
 - (i) any right or claim of any Person against any of the Respondents, Westpoint Capital Corporation, Westpoint Capital Management Corporation, Westpoint Capital Services Corporation, Westpoint Syndicated Mortgage Corporation, Canadian Property Direct Corporation, Westpoint Master Limited Partnership, River's Crossing Ltd., 1897869 Alberta Ltd., 1780384 Alberta Ltd., 1897837 Alberta Ltd. and The Village At Paldi Ent. Ltd. (collectively the Debtors), whether or not asserted, in connection with any indebtedness, liability or obligation of any kind of the Debtors in existence on the Receivership Date, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, unknown, by guarantee, by surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any Assessment and any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation is based in whole or in part on facts that existed prior to the Receivership Date and any other claims that would have been claims provable in bankruptcy had the Debtors become bankrupt on the Receivership Date, including for greater certainty any claim against the Debtors, or Directors or Officers of the Respondents in respect of a Director/Officer Claim, in each case, where such monies remain unpaid as of the date hereof (each, a "**Claim**");
 - (ii) any right or claim of any Person against the Debtors in connection with any indebtedness, liability or obligation of any kind whatsoever alleged to be owed by the Debtors to such Person arising out of (A) the disclaimer, resiliation, termination or breach by the Debtors on or after the Receivership Date of any contract, lease or other agreement or arrangement whether written or oral or (B) the termination of employment

with the Applicant on or after the Receivership Date, whether arising by contract, under statute or otherwise (each, a "**Receivership Claim**"); and

- (iii) any right or claim of any Person against one or more of the Directors and/or Officers of the Respondents howsoever arising, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any Assessment and any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, for which any Director or Officer is alleged to be, by statute or otherwise by law or equity, liable to pay in his or her capacity as a Director or Officer (each a "**Director/Officer Claim**"), provided that "Claim" shall not include an Excluded Claim;
- (d) "**Claim Document Package**" means a document package that contains a copy of the Instruction Letter, the Notice to Creditors, a Claim Statement and Notice of Dispute of Claim Statement (in respect of a Claim Document Package delivered to a Listed Creditor), a Proof of Claim (in respect of a Claim Document Package delivered to a Creditor other than a Listed Creditor), and such other materials as the Receiver may consider appropriate or desirable;
- (e) "**Claim Statement**" means a statement prepared by the Receiver, based upon the Receiver's review of the books and records of the Respondent Debtors, providing details of the Claim of a Known Creditor, as such is reflected in the books and records of the Respondent Debtors;
- (f) "**Claims Bar Date**" means 5:00 p.m. on January 31, 2020, or such later date as may be ordered by the Court;
- (g) "**Creditor**" means any Person having or asserting a Claim;
- (h) "**Directors**" means all former directors (or their estates) of the Respondents, in such capacity, and "Director" means any one of them;
- (i) "**Receivership Date**" means April 10, 2019;
- (j) "**Known Creditors**" means with respect to the Debtors:
 - (i) those Creditors that the books and records of the Debtors disclose were owed monies by one or more of the Debtors as of the Receivership Date, where such monies remain unpaid in full or in part as of the date hereof;
 - (ii) any Person who commenced a legal proceeding against one or more of the Debtors as of the Receivership Date or one or more Directors or Officers in respect of a Claim, which legal proceeding was commenced and served prior to the Receivership Date;

- (k) **"Person"** means any individual, partnership, limited partnership, joint venture, trust, corporation, unincorporated organization, government or agency or instrumentality thereof, or any other corporate, executive, legislative, judicial, regulatory or administrative entity howsoever designated or constituted, including, without limitation, any present or former shareholder, supplier, customer, employee, agent, client, contractor, lender, lessor, landlord, sublandlord, tenant, sub-tenant, licensor, licensee, partner or advisor; and
 - (l) **"Proof of Claim"** means a Proof of Claim form in substantially the form attached hereto as part of Schedule A;
3. The Claims Procedure and the forms of Notice to Creditors, Instruction Letter, Proof of Claim, Claim Statement and Notice of Dispute of Claim Statement are hereby approved. Notwithstanding the foregoing, the Receiver may, from time to time, make non-substantive changes to the forms as the Receiver, in its sole discretion, may consider necessary or desirable.
 4. The Receiver is hereby authorized to use reasonable discretion as to the adequacy of compliance with respect to the manner in which forms delivered hereunder are completed and executed, and may waive strict compliance with the requirements of this Claims Procedure Order as to completion, execution and submission of such forms and to request any further documentation from a Creditor that the Receiver may require.
 5. There shall be no presumption of validity or deeming of the amount due in respect of amounts claimed in any Assessment.
 6. Copies of all forms delivered hereunder, as applicable, shall be maintained by the Receiver.

NOTICE TO CREDITORS

7. It is hereby ordered that:
 - (a) the Receiver shall, not later than ten (10) Business Days following the granting of this Claims Procedure Order, mail by prepaid ordinary mail, courier, personal delivery, facsimile transmission or email to each of the Known Creditor or their counsel, a copy of the Notice to Creditors and a blank Proof of Claim Form, in the form attached hereto as Schedule "A";
 - (b) the Receiver shall cause to be published on or before December 6, 2019, the Notice to Creditors in the following newspapers: (i) The Globe and Mail (National Edition); (ii) the Edmonton Journal and (iii) the Vancouver Sun in the form attached hereto as Schedule "B";
 - (c) the Receiver shall post a copy of this Claims Procedure Order, the on its website at www.extranets.bdo.ca (the "Receiver's Website");
 - (d) the Receiver shall deliver as soon as reasonably possible following receipt of a request therefor, a copy of the Claim Document Package to any Person claiming to be a Creditor and requesting such material in writing; and

- (e) any notices of disclaimer or resiliation delivered to Creditors by the Receiver after the Filing Date shall be accompanied by a Claim Document Package and upon becoming aware of any other circumstance giving rise to a Receivership Claim, the Receiver shall send a Claim Document Package to the Creditor in respect of such Receivership Claim.

CLAIM STATEMENT

8. The Receiver may determine to deliver a Claim Statement to a Known Creditor by including such Claim Statement in the Claim Document Package delivered to such Known Creditor, which shall be based on the books and records of the Debtors (the "Listed Claim").
9. The Receiver shall be entitled to rely on the accuracy and completeness of the information obtained from the books and records of the Debtors regarding the Known Creditors. For greater certainty, the Receiver shall have no liability in respect of the information provided to it or otherwise obtained by it regarding the Known Creditors and shall not be required to conduct any independent inquiry and/or investigation with respect to that information.
10. Any Creditor who does not dispute the amount or nature of the amount set forth in the Claim Statement delivered to such Creditor is not required to take any further action and the Listed Claim of such Creditor shall, be deemed to be the Claim of such creditor.
11. Any Creditor who wishes to dispute the amount and/or nature of the Listed Claim set forth in the Claim Statement delivered to such Creditor or to assert an additional Claim in relation to the Debtors other than the Listed Claim shall be required to deliver a Notice of Dispute of Claim Statement to the Receiver so that it is actually received by the Receiver by no later than the Claims Bar Date.
12. If, after the date on which a Claim Statement is initially delivered to a Creditor, the Receiver determines that it is appropriate to change the amount or nature of the Listed Claim set forth in such Claim Statement, the Receiver shall cause an amended Claim Statement (an "Amended Claim Statement") to be delivered to such Creditor, which Amended Claim Statement and the revised Listed Claim specified therein shall thereafter supersede any previous Claim Statement delivered to such Creditor.
13. If the Creditor wishes to dispute the amount and/or nature of the Listed Claim set forth in the Amended Claim Statement, such Creditor shall be required to deliver a Notice of Dispute of Statement or Claim so that it is actually received by the Receiver on or before the later of (i) the Claims Bar Date and (ii) thirty (30) days after the date on which the Amended Claim Statement is delivered to the Creditor.
14. Any Creditor that does not deliver a Notice of Dispute of Claim Statement in respect of a Claim Statement or an Amended Claim Statement, if applicable, shall be forever barred from disputing amount or nature of the Listed Claim set forth in the Claim Statement or Amended Claim Statement, as applicable, and any Claim of a different classification or nature or in excess of the amount specified in the Claim Statement or Amended Claim Statement, as applicable, shall be forever barred and extinguished.

PROOFS OF CLAIM

15. Every Creditor asserting a Claim against the Debtors or the Directors or Officers or any of them shall set out its aggregate Claim in a Proof of Claim, including supporting documentation, and deliver that Proof of Claim to the Receiver so that it is actually received by the Receiver by no later than the Claims Bar Date.
16. Any Person that does not deliver a Proof of Claim in respect of a Claim in the manner required by this Claims Procedure Order such that it is actually received by the Receiver on or before the Claims Bar date shall be and is hereby forever barred from making or enforcing such Claim against the Debtor, or the Directors or Officers or any of them, and such Claim shall be and is hereby extinguished without any further act or notification.
17. The Receiver will review the submitted proofs of claim by no later than six weeks following the Claims Bar Date. In the event that the Receiver determines not to accept a creditor's Proof of Claim, the Receiver shall send a Notice of Disallowance to the affected creditor by registered or other recorded mail, courier service or email to the physical address or email address stipulated in the Proof of Claim.
18. If the affected Creditor wishes to challenge the disallowance, it must notify the Receiver of its objection in writing by registered mail, courier service or email within fifteen days after the issuance of the Notice of Disallowance.
19. The affected Creditor shall thereafter serve on the Receiver, a Notice of Motion in these proceedings returnable within fifteen days after it gave its Notice of Objection to the Notice of Disallowance issued by the Receiver. In the event that the affected Creditor fails to file a motion in accordance within the time period set out above, unless otherwise ordered by this Court, the affected creditor shall be conclusively deemed to have accepted the assessment of its claim set out in the Notice of Disallowance.
20. Nothing in this Claims Procedure Order shall affect any right of set-off which the Applicant may have against any Creditor.

TRANSFER OF CLAIMS

21. If the holder of a Claim transfers or assigns the whole of such Claim to another Person, the Receiver shall not be obligated to give notice or otherwise deal with the transferee or assignee of such Claim in respect thereof unless and until written notice of such transfer or assignment, together with satisfactory evidence of such transfer or assignment, has been received by the Receiver and the Receiver has provided written confirmation acknowledging the transfer or assignment of such Claim, and thereafter such transferee or assignee shall for the purposes hereof constitute the "Creditor" in respect of such Claim.
22. Any such transferee or assignee of a Claim shall be bound by any notices given or steps taken in respect of such Claim in accordance with this Claims Procedure Order prior to receiving written confirmation by the Receiver acknowledging such assignment or transfer. After the Receiver has delivered a written confirmation acknowledging the notice of the transfer or assignment of a Claim, the Receiver shall thereafter be required only to deal with the transferee or assignee and not the original holder of the Claim. A

transferee or assignee of a Claim takes the Claim subject to any rights of set-off to which the Debtor may be entitled with respect to such Claim.

23. For greater certainty, a transferee or assignee of a Claim is not entitled to set-off, apply, merge, consolidate or combine any Claims assigned or transferred to it against or on account or in reduction of any amounts owing by such Person to the Debtor. Reference to transfer in this Claims Procedure Order includes a transfer or assignment whether absolute or intended as security.
24. If a Creditor or any subsequent holder of a Claim, who in any such case has previously been acknowledged by the Applicant and the Receiver as the holder of the Claim, transfers or assigns the whole of such Claim to more than one Person or part of such Claim to another Person, such transfers or assignments shall not create separate Claims and such Claims shall continue to constitute and be dealt with as a single Claim notwithstanding such transfers or assignments. The Receiver shall not, in each case, be required to recognize or acknowledge any such transfers or assignments and shall be entitled to give notices to and to otherwise deal with such Claim only as a whole and then only to and with the Person last holding such Claim, provided such Creditor may, by notice in writing delivered to the Receiver, direct that subsequent dealings in respect of such Claim, but only as a whole, shall be dealt with by a specified Person and in such event, such Person shall be bound by any notices given or steps taken in respect of such Claim with such Creditor or in accordance with the provisions of this Claims Procedure Order.

SERVICE AND NOTICE

25. The Receiver may, unless otherwise specified by this Claims Procedure Order, serve and deliver or cause to be served and delivered the Claim Document Package, any letters, notices or other documents to Creditors or any other interested Person by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile transmission or email to such Persons or their counsel (including counsel of record in any ongoing litigation) at the physical or electronic address, as applicable, last shown on the books and records of the Debtor or set out in such Creditor's Proof of Claim or Notice of Dispute of Claim Statement, if one has been filed.
26. Any such service and delivery shall be deemed to have been received: (i) if sent by ordinary mail, on the third Business Day after mailing within Canada, and the fifth Business Day after mailing internationally; (ii) if sent by courier or personal delivery, on the next Business Day following dispatch; and (iii) if delivered by facsimile transmission or email by 5:00 p.m. on a Business Day, on such Business Day and if delivered after 5:00 p.m. or other than on a Business Day, on the following Business Day.
27. Service of this Order shall be deemed good and sufficient by serving the same on the parties attending or represented at the application for this Order and by posting a copy of this Order on the Receiver's website, and service on any other person is hereby dispensed with.
28. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.

29. Any notice or communication required to be provided or delivered by a Creditor to the Receiver under this Claims Procedure Order shall be in writing in substantially the form, if any, provided for in this Claims Procedure Order and will be sufficiently given only if delivered by prepaid registered mail, courier, personal delivery or email addressed to:

BDO Canada Limited
616, 10216 - 124 Street
Edmonton, AB T5N 4A3
Attention: David Lewis
email: dlewis@bdo.ca

Any such notice or communication delivered by a Creditor shall be deemed to be received upon actual receipt thereof before 5:00 p.m. on a Business Day or if delivered outside of normal business hours, the next Business Day.

30. The publication of the Notice to Creditors and the mailing of the Claim Document Packages as set out in this Claims Procedure Order shall constitute good and sufficient notice to Creditors of the Claims Bar Date and the other deadlines and procedures set forth herein, and that no other form of notice or service need be given or made on any Person, and no other document or material need be served on any Person in respect of the claims procedure described herein.
31. In the event that this Claims Procedure Order is subsequently amended by further Order of the Court, the Receiver shall serve notice of such amendment on the Service List in these proceedings and the Receiver shall post such further Order on the Receiver's website and such posting shall constitute adequate notice to all Persons of such amended Claims Procedure Order.

GENERAL PROVISIONS

32. All references to time herein shall mean Edmonton Time and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day unless otherwise indicated herein.
33. All Claims shall be denominated in Canadian dollars. Any Claims denominated in a foreign currency shall be converted to Canadian dollars at the Bank of Canada daily average exchange rate on the Filing Date.
34. The Receiver and any interested party, shall be at liberty to apply for further advice, assistance and direction as may be necessary in order to give full force and effect to the terms of this Order.
35. This Honourable Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any of its provinces or territories or in any foreign jurisdiction, to act in aid of and to be complimentary to this Court in carrying out the terms of this Order, 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 order and to provide such assistance to the Receiver, as an officer of the Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

36. This Order must be served only upon those interested parties attending or represented at the within application and service may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following the transmission or delivery of such documents.



Justice of the Court of Queen's Bench of Alberta

2019-07-12 14:20:19

SCHEDULE "A"

NOTICE TO CREDITORS OF WESTPOINT CAPITAL CORPORATION, WESTPOINT CAPITAL MANAGEMENT CORPORATION, WESTPOINT CAPITAL SERVICES CORPORATION, WESTPOINT SYNDICATED MORTGAGE CORPORATION, CANADIAN PROPERTY DIRECT CORPORATION, WESTPOINT MASTER LIMITED PARTNERSHIP, RIVER'S CROSSING LTD., 1897869 ALBERTA LTD., 1780384 ALBERTA LTD., 1897837 ALBERTA LTD. and THE VILLAGE AT PALDI ENT. LTD.

RE: Notice of Claims Procedure for the creditors of Westpoint Capital Corporation, Westpoint Capital Management Corporation, Westpoint Capital Service Capital, Westpoint Syndicated Mortgage Corporation, Canadian Property Direct Corporation, Westpoint Master Limited Partnership, River's Crossing Ltd., 1897869 Alberta Ltd., 1780384 Alberta Ltd, 1897837 Alberta Ltd. and The Village at Paldi Ent Ltd. (collectively the "Companies" or "WCC et al.")

DEADLINE: **January 31, 2020 at 5:00 p.m. (Mountain Standard Time)**

INTRODUCTION

Notice is hereby given that pursuant to an Order of the Court of Queen's Bench of Alberta (the "Court") granted November 13, 2019 (the "Claims Procedure Order") the Court has ordered a procedure for the filing of claims by creditors against one or more of the Companies (as outlined in the Claims Procedure Order). A copy of the Claims Procedure Order and a blank proof of claim form are enclosed herein or may also be obtained from BDO Canada Limited, the Court-Appointed Receiver ("Receiver") by contacting Jesse McDonald at jmcdonald@bdo.ca or by phone at 780-441-2159.

Any person who believes that they have a claim against one or more of the Companies send a completed Proof of Claim to the Receiver, which must be delivered no later than **5:00 PM (Mountain Standard Time) on January 31, 2020** (the "Claims Bar Date").

Claims which are not received by the Claims Bar Date will not be entitled to share in the distribution of funds by the Receiver.

CONTACT INFORMATION AND FILING OF PROOF OF CLAIM

Completed proofs of claim **must include a statement of account or other similar documentation evidencing the debt owed by one or more of the Companies**, and may be delivered to the Receiver by mail, fax, courier, personal delivery or email as follows:

BDO Canada Limited
Attn: Jesse McDonald
616, 10216 124 Street Edmonton AB T5N 4A3
Fax: (780) 424-3222
Email: jmcdonald@bdo.ca

If you have any questions respecting anything contained in this Notice, have any questions respecting the completion of the Proof of Claim Form, wish copies of any of the documents or have any other inquiries you may contact the Receiver at the address and contact information indicated herein.

BDO CANADA LIMITED

in its capacity as Court-Appointed Receiver of
WCC et al.

Per: _____
David Lewis

BDO Canada Limited
616, 10216 - 124 Street
Edmonton, AB T5N 4A3
Attention: David Lewis
email: dlewis@bdo.ca

District of: Edmonton
Division No. 01 – Edmonton
Court No. 24-115987
Estate No. 24-115987

FORM 31
Proof of Claim

(Sections 50.1, 81.5, 81.6 subsections 65.2(4), 81.2(1), 81.3(8), 81.4(8), 102(2), 124(2), 128(1), and paragraphs 51(1)(e) and 66.14(b) of the Act)

In the matter of the receivership of
WESTPOINT CAPITAL CORPORATION et al, of the City of Edmonton, in the Province of Alberta

All notices or correspondence regarding this claim must be forwarded to the following address:

In the matter of the receivership of the receivership of WESTPOINT CAPITAL CORPORATION *et al*, of the City of Edmonton, in the Province of Alberta, and the claim of _____.

I, _____ (name of creditor or representative of the creditor), of the City of _____, in the Province of _____, do hereby certify:

1. That I am a creditor of _____ (or I am _____ (position/title) of _____ (Creditor), a creditor of _____.
2. That I have knowledge of all the circumstances connected with the claim referred to below.
3. That the debtor was, at the date of the Receivership, namely the 10th day of April 2019, and still is, indebted to the Creditor in the sum of \$ _____, as specified in the statement of account (or affidavit) attached and marked Schedule "A", after deducting any counterclaims to which the debtor is entitled. (The attached statement of account or affidavit must specify the vouchers or other evidence in support of the claim.)
4. (check and complete appropriate category.)

A. UNSECURED CLAIM OF \$ _____
(other than as a customer contemplated by Section 262 of the Act)

That in respect of this debt, I do not hold any assets of the debtor as security and
(check appropriate description)

- Regarding the amount of \$ _____, I claim a right to a priority under section 136 of the Act.
- Regarding the amount of \$ _____, I do not claim a right to a priority.
(Set out on an attached sheet details to support priority claim.)
- B. CLAIM OF LESSOR FOR DISCLAIMER OF A LEASE \$ _____.

That I hereby make a claim under subsection 65.2(4) of the Act, particulars of which are as follows:

(Give full particulars of the claim, including the calculations upon which the claim is based).

C. SECURED CLAIM OF \$ _____

That in respect of this debt, I hold assets of the debtor valued at \$ _____ as security, particulars of which are as follows:

(Give full particulars of the security, including the date on which the security was given and the value at which you assess the security, and attach a copy of the security documents.)

D. CLAIM BY FARMER, FISHERMAN OR AQUACULTURIST OF \$ _____

That I hereby make a claim under subsection 81.2(1) of the Act for the unpaid amount of \$ _____.

(Attach a copy of sales agreement and delivery receipts.)

E. CLAIM BY WAGE EARNER OF \$ _____

That I hereby make a claim under subsection 81.3(8) of the Act in the amount of \$ _____.

That I hereby make a claim under subsection 81.4(8) of the Act in the amount of \$ _____.

F. CLAIM AGAINST DIRECTOR \$ _____.

(To be completed when a proposal provides for the compromise of claims against directors.)

That I hereby make a claim under subsection 50(13) of the Act, particulars of which are as follows:

(Give full particulars of the claim, including the calculations upon which the claim is based.)

G. CLAIM OF A CUSTOMER OF A BANKRUPT SECURITIES FIRM \$ _____.

That I hereby make a claim as a customer for net equity as contemplated by section 262 of the Act, particulars of which are as follows:

(Give full particulars of the claim, including the calculations upon which the claim is based.)

5. That, to the best of my knowledge, the above-named creditor is not related to the debtor within the meaning of the section 4 of the Act, and has not dealt with the debt or in a non-arm's length manner.

6. That the following are the payments that I have received from, and the credits that I have allowed to, and the transfers at undervalue within the meaning of subsection 2(1) of the Act that I have been privy to or a party to with the debtor within the three months (or, if the creditor and the debtor are related within the meaning of section 4 of the Act, within the 12 months) immediately before the date of the initial bankruptcy event within the meaning of Section 2 of the Act: (provide details of payments, credits and transfers at undervalue.)

(Applicable only in the case of the bankruptcy of an individual.)

Whenever the trustee reviews the financial situation of a bankrupt to determine whether or not the bankrupt is required to make payments under section 68 of the Act, I request to be informed, pursuant to paragraph 68(4) of the Act, of the new fixed amount or of the fact that there is no longer surplus income.

I request that a copy of the report filed by the trustee regarding the bankrupt's application for discharge pursuant to subsection 170(1) of the Act to be sent to the above address.

Dated at _____, _____ this _____ day of _____, 20____.

Witness

Creditor

Phone Number:

Fax Number:

Email Address:

Note: If an affidavit is attached, it must have been made before a person qualified to take affidavits.

Warning: A trustee may, pursuant to subsection 128(3) of the Act, redeem a security on payment to the secured creditor of the debt or the value of the security as assessed, in a proof of security, by the secured creditor.

Subsection 201(1) of the Act provides severe penalties for make any false claim, proof, declaration or statement of account.

Note: If a copy of this Form is sent electronically by means such as email, the name and contact information of the sender, prescribed in Form 1.1, must be added at the end of the document.

SCHEDULE "B"
IN THE COURT OF QUEEN'S BENCH OF ALBERTA
(COMMERCIAL LIST)

IN THE MATTER OF THE TRUSTEE ACT, RSA 2000, C T-8 SECTIONS 43 AND 46
AND IN THE MATTER OF

**WESTPOINT CAPITAL CORPORATION, WESTPOINT CAPITAL MANAGEMENT CORPORATION,
WESTPOINT CAPITAL SERVICES CORPORATION, WESTPOINT SYNDICATED MORTGAGE
CORPORATION, CANADIAN PROPERTY DIRECT CORPORATION, WESTPOINT MASTER
LIMITED PARTNERSHIP, RIVER'S CROSSING LTD., 1897869 ALBERTA LTD., 1780384
ALBERTA LTD., 1897837 ALBERTA LTD. and THE VILLAGE AT PALDI ENT. LTD.**

Notice To Creditors of Westpoint Capital Corporation, Westpoint Capital Management Corporation, Westpoint Capital Service Capital, Westpoint Syndicated Mortgage Corporation, Canadian Property Direct Corporation, Westpoint Master Limited Partnership, River's Crossing Ltd., 1897869 Alberta Ltd., 1780384 Alberta Ltd, 1897837 Alberta Ltd. and The Village at Paldi Ent Ltd. (collectively the "Companies" or "WCC et al.")

RE: NOTICE OF CLAIMS PROCEDURE FOR WCC et al. PURSUANT TO THE CLAIMS PROECUDRE ORDER

PLEASE TAKE NOTICE that this notice is being published pursuant to an order of the Court of Queen's Bench for Alberta dated November 13, 2019 (the "**Claims Procedure Order**") establishing a procedure for determining the amount of Claims (as defined in the Order) against WCC et al. The Court has ordered that the Receiver send Proof of Claim forms to the known creditors of the Companies. Any person who has not received a Proof of Claim form and who believes that they have a claim against the Companies should send a completed Proof of Claim to the Receiver to be received by **5:00 p.m. (Mountain Standard Time) on January 31, 2020 (the "Claims Bar Date")**.

CLAIMS WHICH ARE NOT RECEIVED BY THE RECEIVER BY THE CLAIMS BAR DATE WILL BE BARRED AND EXTINGUISHED FOREVER.

- a) Creditors who have not received a Proof of Claim from the Receiver may download a copy from our website at <http://www.extranets.bdo.ca/WCC ET. AL.>, or alternatively you may contact Jesse McDonald at BDO Canada Limited, the Court-Appointed Receiver of WCC et al. to obtain a Proof of Claim package.

DATED at Edmonton, this 20th day of November 2019

BDO CANADA LIMITED
616, 10216 124 Street
Edmonton, AB T5N 4A3
Attention: Jesse McDonald
Email: jemcdonald@bdo.ca
Phone: 780-441-2159
Fax: 780-424-3222



SCHEDULE "C"

CLAIM STATEMENT

WESTPOINT CAPITAL CORPORATION, WESTPOINT CAPITAL MANAGEMENT CORPORATION, WESTPOINT CAPITAL SERVICES CORPORATION, WESTPOINT SYNDICATED MORTGAGE CORPORATION, CANADIAN PROPERTY DIRECT CORPORATION, WESTPOINT MASTER LIMITED PARTNERSHIP, RIVER'S CROSSING LTD., 1897869 ALBERTA LTD., 1780384 ALBERTA LTD., 1897837 ALBERTA LTD. and THE VILLAGE AT PALDI ENT. LTD. (collectively the "Companies" or "WCC et al.")

To: [Insert Name of Known Creditor] (the "Creditor")
[Insert Address of Known Creditor]

This Claim Statement is delivered to the Creditor, as a Known Creditor of one or more of the Companies, pursuant to the Order of the Court of Queen's Bench of Alberta dated November 13, 2019 (the "Claims Procedure Order") in proceedings in respect of the Companies. Pursuant to the Claims Procedure Order, the Court-appointed Receiver of the Applicant, BDO Canada Limited (the "Receiver"), has been directed to conduct a claims procedure with respect to claims against the Companies in accordance with the terms of the Claims Procedure Order. Unless otherwise defined, all capitalized terms used herein have the meanings given to those terms in the Claims Procedure Order.

According to the books, records and other relevant information of the Companies in the possession of the Receiver, the Claim of the Creditor is set out in the table below (the "Listed Claim"):

| Amount of Claim ^{1,2} | Name of Debtor | Nature of Claim |
|--------------------------------|----------------|--|
| [Insert amount of Claim] | | [Unsecured Claim / Unsecured Priority Claim / Secured Claim] |

If the Listed Claim accurately reflects the Claim that the Creditor has in respect of the specified Company or Companies (you are not required to take any further action or to file a Proof of Claim with the Receiver in the Claims Procedure Order.

If the Creditor wishes to dispute the classification, amount and/or nature of the Listed Claim or to assert an additional Claim in relation to one or more of the Companies other than the Listed Claim, the Creditor must complete a Notice of Dispute of Claim Statement and deliver it to the Receiver such that it is received by the Receiver by no later than 5:00 p.m. (Edmonton time) on January 31, 2020 (the "Claims Bar Date").

If a completed Notice of Dispute of Claim Statement in respect of the Listed Claim is not received by the Receiver by the Claims Bar Date, the Creditor shall be forever barred from disputing the amount or nature of the Listed Claim and any Claim in excess of the amount specified in the Listed Claim shall be forever barred and extinguished.

¹ Amount is in Canadian dollars. Claims in a foreign currency have been converted to Canadian dollars at the Bank of Canada daily average exchange rate for September 19, 2017. The Canadian dollar/U.S. dollar daily average exchange rate for that date was CDNS\$1.2277 / USD\$1.00.

² If applicable, additional information with respect to the Listed Claim is provided in a schedule to this Claim Statement.

IF A NOTICE OF DISPUTE OF CLAIM STATEMENT IS NOT RECEIVED BY THE RECEIVER WITHIN THE PRESCRIBED TIME PERIOD, THE CLAIM AS SET OUT IN THE CLAIM STATEMENT WILL BE DEEMED TO BE THE CLAIM OF THE CREDITOR AND WILL BE FINAL AND BINDING ON THE CREDITOR FOR ALL PURPOSES.

Creditors requiring further information or Claim documentation, or who wish to submit a Notice of Dispute of Claim Statement, may contact the Receiver at the following address:

BDO Canada Limited
Attn: Jesse McDonald
616, 10216 124 Street Edmonton AB T5N 4A3
Fax: (780) 424-3222
Email: jemcdonald@bdo.ca

Dated at _____ this _____ day of _____, 20_____.

SCHEDULE "D"

NOTICE OF DISPUTE OF CLAIM STATEMENT

WESTPOINT CAPITAL CORPORATION, WESTPOINT CAPITAL MANAGEMENT CORPORATION, WESTPOINT CAPITAL SERVICES CORPORATION, WESTPOINT SYNDICATED MORTGAGE CORPORATION, CANADIAN PROPERTY DIRECT CORPORATION, WESTPOINT MASTER LIMITED PARTNERSHIP, RIVER'S CROSSING LTD., 1897869 ALBERTA LTD., 1780384 ALBERTA LTD., 1897837 ALBERTA LTD. and THE VILLAGE AT PALDI ENT. LTD. (collectively the "Companies" or "WCC et al.")

Capitalized terms not defined herein have the meanings given to them in the Order of the Court of Queen's Bench of Alberta dated November 13, 2019 (the "Claims Procedure Order") or the Claim Statement.

I. PARTICULARS OF CREDITOR

Full Legal Name of Creditor _____

Full Mailing Address of Creditor _____

Telephone Number _____

Email Address _____

Attention (Contact Person) _____

Have you acquired this Claim by assignment?

Yes:

No:

(if yes, attach documents evidencing assignment)

If Yes, Full Legal Name of Original Creditor(s): _____

II. DISPUTE OF CLAIM SET OUT IN CLAIM STATEMENT

The Creditor hereby disputes the classification, amount and/or nature of the Listed Claim set out in the Claim Statement and asserts the Claim(s) as set out in the following table:

| Debtor | Amount of Claim | Nature of Claim |
|--------|--------------------------|--|
| | [Insert amount of Claim] | [Unsecured Claim / Unsecured Priority Claim / Secured Claim] |

III. REASONS FOR DISPUTE

Provide full particulars below as to the basis for the Creditor's dispute of the Listed Claim as set out in the Claim Statement and provide supporting documentation. This includes, without limitation, amounts, description of transaction(s) or agreement(s) giving rise to the Claim, the date and number of all invoices and supporting documentation, and particulars of all credits, discounts, rebates and similar items claimed. The particulars provided must support the value of the Claim as stated by the Creditor in the table above.

Dated at _____ this _____ day of _____, 2019.

Signature of Creditor or its
Authorized Signatory

This Notice of Dispute of Claim Statement MUST be delivered to the Receiver at the below address such that it is received by the Receiver by no later than 5:00 p.m. (Edmonton time) on January 31, 2020 (the "**Claims Bar Date**");

BDO Canada Limited
Attn: Jesse McDonald
616, 10216 124 Street Edmonton AB T5N 4A3
Fax: (780) 424-3222
Email: jemcdonald@bdo.ca

If a completed Notice of Dispute of Claim Statement in respect of the Listed Claim is not received by the Receiver by the Claims Bar Date, the Creditor shall be forever barred from disputing amount or nature of the Listed Claim and any Claim in excess of the amount specified in the Listed Claim shall be forever barred and extinguished.

IF A NOTICE OF DISPUTE OF CLAIM STATEMENT IS NOT RECEIVED BY THE RECEIVER WITHIN THE PRESCRIBED TIME PERIOD, THE CLAIM AS SET OUT IN THE CLAIM STATEMENT WILL BE DEEMED TO BE THE CLAIM OF THE CREDITOR AND WILL BE FINAL AND BINDING ON THE CREDITOR FOR ALL PURPOSES.

APPENDICES

TAB 2



COURT FILE NUMBER 1903-04121
 COURT COURT OF QUEEN'S BENCH OF ALBERTA
 JUDICIAL CENTRE EDMONTON

IN THE MATTER OF THE TRUSTEE ACT, RSA 2000, C T-8
 SECTIONS 43 AND 46

APPLICANTS WESTPOINT INVESTMENT TRUST BY ITS TRUSTEE
 MUNIR VIRANI AND MARNIE KIEL

RESPONDENTS WESTPOINT CAPITAL CORPORATION, WESTPOINT
 CAPITAL MANAGEMENT CORPORATION, WESTPOINT
 CAPITAL SERVICES CORPORATION, WESTPOINT
 SYNDICATED MORTGAGE CORPORATION, CANADIAN
 PROPERTY DIRECT CORPORATION, WESTPOINT
 MASTER LIMITED PARTNERSHIP, RIVER'S CROSSING
 LTD., 1897869 ALBERTA LTD., 1780384 ALBERTA LTD.,
 1897837 ALBERTA LTD. and THE VILLAGE AT PALDI
 ENT. LTD.

DOCUMENT ORDER

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT MILLER THOMSON LLP
 Barristers and Solicitors
 2700, Commerce Place
 10155-102 Street
 Edmonton, AB, Canada T5J 4G8
 Phone: 780.429.1751 Fax: 780.424.5866

Lawyer's Name: Terrence Warner
 Lawyer's Email: twarner@millerthomson.com
 File No.: 240413.1

DATE ON WHICH ORDER WAS PRONOUNCED: April 20, 2022
 PLACE WHERE ORDER WAS PRONOUNCED: Edmonton, Alberta
 NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Justice D. Mah

ORDER

UPON the application of BDO Canada Limited in its capacity as the Court-appointed receiver (the "Receiver") of the Respondents Westpoint Capital Corporation *et al* (collectively the "Corporations") in Virtual Courtroom 86; AND UPON reviewing the Receivership Order issued April 10, 2019 and the Consent Amending and Receivership Order issued May 30, 2019 and the Order granted July 22, 2019 (collectively the "Receivership Order"); AND Upon being advised that parties on the service list with an interest in these proceedings were served with notice of the Application in this matter; AND Upon reviewing the Amended Application of the Receiver, the Seventh Report of the Receiver to the Court filed March 17, 2022, and the Eighth Report of the Receiver to the Court (the "Eighth Report") submitted for filing April 11, 2022; AND UPON HEARING the submissions of counsel for the Receiver;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. The time and method of service of the Amended Notice of Application and the Seventh and Eighth Reports filed herein, is hereby approved, and this motion is properly returnable today, and further service is dispensed with.

2. The Seventh Report and Eighth Reports, and the activities of the Receiver outlined therein, are hereby approved by this Honourable Court.
3. The accounts of the Receiver, and of the Receiver's legal counsel Miller Thomson LLP for its fees and disbursements, as set out in the Eighth Report and the Affidavit of David Lewis are hereby approved without the necessity of a formal assessment of its accounts.
4. The funds held by the Receiver in trust from its liquidation activities, with the exception of \$400,000, are hereby directed to be transferred to the Judicial Trustee for the account of Westpoint Investment Trust ("WIT").
5. The Receiver is hereby directed to distribute \$300,000 of the amount retained by the Receiver on a pro rata basis to creditors who have substantially complied with the Claims Process Order filed in these proceedings on November 15, 2019, and whose Claims have been accepted by the Receiver ("Accepted Claims").
6. It is hereby declared that the claims of creditors which are not Accepted Claims, or who did not deliver a Proof of Claim on or before the Claims Bar date, or who were served with a Notice of Disallowance issued by the Receiver and failed to submit a Notice of Objection and file a Notice of Motion seeking this Court's review of the Notice of Disallowance in accordance with the Claims Process Order, are barred from making or enforcing such Claim against the Debtor, or the Directors or Officers or any of them, and such Claim shall be and is hereby extinguished.
7. This Honourable Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any of its provinces or territories or in any foreign jurisdiction, to act in aid of and to be complimentary to this Court in carrying out the terms of this Order, 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 order and to provide such assistance to the Receiver, as an officer of the Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.
8. Service of this Order shall be deemed good and sufficient by serving the same on the parties attending or represented at the application for this Order and by posting a copy of this Order on the Receiver's website, and service on any other person is hereby dispensed with.
9. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.



Justice of the Court of Queen's Bench of Alberta

APPENDICES

TAB 3

COURT FILE NUMBER 1903 04121

COURT: COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE: EDMONTON

IN THE MATTER OF THE TRUSTEE ACT,
RSA 2000, c. T-8 SECTIONS 43 AND
46

APPLICANT: WESTPOINT INVESTMENT TRUST
BY ITS TRUSTEE MUNIR VIRANI AND
MARNIE KIEL

RESPONDENT: WESTPOINT CAPITAL CORPORATION,
WESTPOINT CAPITAL MANAGEMENT
CORPORATION, WESTPOINT CAPITAL
SERVICES CORPORATION, WESTPOINT
SYNDICATED MORTGAGE
CORPORATION, CANADIAN PROPERTY
DIRECT CORPORATION, WESTPOINT
MASTER LIMITED PARTNERSHIP, RIVER'
S CROSSING LTD., 1897869 ALBERTA
LTD., 1780384 ALBERTA LTD., 1897837
ALBERTA LTD., and THE VILLAGE AT
PALDI ENT. LTD.

DOCUMENT: CONSENT ORDER

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT: **Scott E. B. Harwardt**
Kennedy Agrios Oshry Lawyers
Barristers and Solicitors
1325, 10180 – 101 Street
Edmonton, AB T5J 3S4
Phone: (780)969-6907;
Fax: (780)969-6901
File No. 76009-3 JAA

DATE ON WHICH ORDER WAS PRONOUNCED: December 1, 2022

LOCATION WHERE ORDER WAS PRONOUNCED: Edmonton, Alberta

NAME OF THE JUSTICE WHO MADE ORDER: D. J. Kiss

Clerk.'s Stamp.



ENT

UPON THE APPLICATION of the City of Spruce Grove; AND UPON noting consent of counsel for the Judicial Trustee endorsed hereon; IT IS HEREBY ORDERED AND DECLARED THAT:

1. Given the lack of available dates on the Commercial Duty List within 15 days of the date by which the City of Spruce Grove must give its Notice of Objection to the Notice of Disallowance of its claims, that being November 18, 2022, the requirement in paragraph 19 of the Claims Process Order, granted on September 2, 2022, that Spruce Grove file a Notice of Motion returnable within 15 days of delivery of its Notice of Objection is hereby dispensed with.
2. Counsel for the Judicial Trustee and for the City of Spruce Grove are hereby directed to find a mutually acceptable date for the City of Spruce Grove's application to proceed within a reasonable period of time.

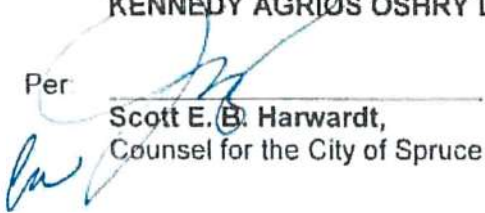


JUSTICE IN CHAMBERS
COURT OF KING'S BENCH OF ALBERTA

CONSENTED TO BY:

KENNEDY AGRIOS OSHRY LAW

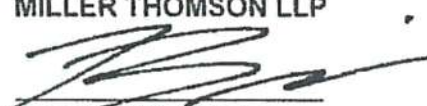
Per



Scott E. Harwardt,
Counsel for the City of Spruce Grove

MILLER THOMSON LLP

For
Per:



Terrence M. Warner,
Counsel for Judicial Trustee

APPENDICES

TAB 4

SCHEDULE ONE

To the Arrangement Agreement made effective
the 4th day of June, 2015 among
Westpoint Capital Performance Mortgage Investment Corporation, Westpoint Capital
Performance GP Ltd., Westpoint Capital Performance Limited Partnership, Westpoint Capital
High Yield Mortgage Investment Corporation, Westpoint Capital High Yield GP Ltd.,
Westpoint Capital High Yield Limited Partnership, Westpoint Investment Trust and Westpoint
Capital Corporation

PLAN OF ARRANGEMENT MADE PURSUANT TO SECTION 193 OF THE *BUSINESS CORPORATIONS ACT (ALBERTA)*

ARTICLE 1 INTERPRETATION

1.1 In this Arrangement, the following words shall have the following meanings:

- (a) "**ABCA**" means the *Business Corporations Act (Alberta)*, R.S.A. 2000, c. B-9, as amended, including the regulations promulgated thereunder;
- (b) "**Amalco**" means the corporation resulting from the amalgamation of HMIC and WCMC pursuant to the Amalgamation Agreement;
- (c) "**Amalgamation Agreement**" means the amalgamation agreement to be entered into between HMIC and WCMC on or about the second day following the date of the Final Order;
- (d) "**Arrangement**", "**herein**", "**hereof**", "**hereto**", "**hereunder**" and similar expressions mean and refer to the arrangement, pursuant to section 193 of the ABCA, on the terms and conditions set forth in this Plan of Arrangement as supplemented, modified or amended, and not to any particular article, section or other portion hereof;
- (e) "**Arrangement Agreement**" means the arrangement agreement made effective June 4, 2015 among PMIC, PMIC GP, PMIC LP, HMIC, HMIC GP, HMIC LP, the Trust and WCC with respect to the Arrangement and all amendments thereto;
- (f) "**Articles of Arrangement**" means the articles of arrangement in respect of the Arrangement required by subsection 193(10) of the ABCA to be filed with the Registrar after the Final Order has been granted to give effect to the Arrangement;
- (g) "**Certificate**" means the certificate or proof of filing to be issued by the Registrar on the Effective Date pursuant to subsection 193(11) or subsection 193(12) of the ABCA giving effect to the Arrangement;
- (h) "**Class A HMIC Shares**" means the Class "A" Principal Preferred Shares in the capital of HMIC;
- (i) "**Class A PMIC Shares**" means the Class "A" Preferred Shares in the capital of PMIC;
- (j) "**Class A Units**" means the Class A Trust Units in the unit capital of the Trust;

- (k) "Class B HMIC Shares" means the Class "B" Bonus Preferred Shares of HMIC;
- (l) "Class B PMIC Shares" means the Class "B" Common Shares in the capital of PMIC;
- (m) "Class B Units" means the Class B Trust Units in the unit capital of the Trust;
- (n) "Class C HMIC Shares" means the Class "C" Common Shares in the capital of HMIC;
- (o) "Class C Units" means the Class C Trust Units in the unit capital of the Trust;
- (p) "Common Share" means a Class C HMIC Share or Class B PMIC Share, as the context requires;
- (q) "Common Shareholder" means a holder of Class C HMIC Shares and/or Class B PMIC Shares;
- (r) "Court" means the Court of Queen's Bench of Alberta;
- (s) "Declaration of Trust" means the declaration of trust of the Trust dated June 1, 2002, as amended, supplemented or restated from time to time;
- (t) "Effective Date" means the date shown on the Certificate, if any, and in the absence of a Certificate, the date upon which the Final Order is granted;
- (u) "Effective Times" means, notwithstanding the Effective Date, the retroactive effective times of the various transactions set out in Article 3;
- (v) "Encumbrance" means any encumbrance, lien, charge, security interest, option, privilege or other restriction or right of any kind or nature, and any right or privilege capable of becoming any of the foregoing;
- (w) "Final Order" means the final order of the Court approving the Arrangement pursuant to paragraph 193(9)(a) of the ABCA, as such order may be affirmed, amended or modified by any court of competent jurisdiction;
- (x) "HMIC" means Westpoint Capital High Yield Mortgage Investment Corporation;
- (y) "HMIC Common Shareholder" means a holder of Class C HMIC Shares;
- (z) "HMIC GP" means Westpoint Capital High Yield GP Ltd., the general partner of HMIC LP;
- (aa) "HMIC LP" means Westpoint Capital High Yield Limited Partnership;
- (bb) "HMIC Meeting" means the special meeting of HMIC Shareholders to be held on Thursday, July 9, 2015 to consider, among other things, the Arrangement, and any adjournment(s) thereof;
- (cc) "HMIC Preferred Shareholder" means a holder of Class A HMIC Shares and, as applicable, Class B HMIC Shares;

- (dd) **"HMIC Preferred Shares"** means the Class A HMIC Shares and the Class B HMIC Shares;
- (ee) **"HMIC Shareholder"** means a holder of HMIC Shares;
- (ff) **"HMIC Shares"** means the Class A HMIC Shares, Class B HMIC Shares and/or the Class C HMIC Shares;
- (gg) **"Income Tax Act"** means the *Income Tax Act* (Canada), including the regulations thereunder, as amended;
- (hh) **"Interim Order"** means the interim order of the Court pursuant to subsection 193(4) of the ABCA containing declarations and directions with respect to this Arrangement, as such order may be affirmed, amended or modified by any court of competent jurisdiction;
- (ii) **"Master LP"** means Westpoint Master Limited Partnership, a limited partnership established pursuant to the Partnership Act;
- (jj) **"Meetings"** means, collectively, the HMIC Meeting and the PMIC Meeting, and **"Meeting"** means either one of them, as the context requires;
- (kk) **"MLP"** means Westpoint Mortgage Limited Partnership, a limited partnership to be established pursuant to the Partnership Act;
- (ll) **"Partnership Act"** means the *Partnership Act* (Alberta), R.S.A. 2000, c. P-3, including the regulations thereunder, as amended;
- (mm) **"Person"** means an individual, partnership, association, body corporate, trust, unincorporated organization, government, regulatory authority or other entity;
- (nn) **"Plan of Arrangement"** means this Plan of Arrangement, as amended, modified or supplemented from time to time;
- (oo) **"PMIC"** means Westpoint Capital Performance Mortgage Investment Corporation;
- (pp) **"PMIC Common Shareholder"** means a holder of Class B PMIC Shares;
- (qq) **"PMIC GP"** means Westpoint Capital Performance GP Ltd., the general partner of PMIC LP;
- (rr) **"PMIC LP"** means Westpoint Capital Performance Limited Partnership;
- (ss) **"PMIC Meeting"** means the special meeting of PMIC Shareholders to be held on Thursday, July 9, 2015 to consider, among other things, the Arrangement, and any adjournment(s) thereof;
- (tt) **"PMIC Preferred Shareholder"** means a holder of Class A PMIC Shares;
- (uu) **"PMIC Preferred Shares"** means the Class A PMIC Shares;
- (vv) **"PMIC Shareholder"** means a holder of PMIC Shares;

- (ww) "PMIC Shares" means the Class A PMIC Shares and/or the Class B PMIC Shares;
 - (xx) "Preferred Shareholder" means a HMIC Preferred Shareholder or PMIC Preferred Shareholder, as the context requires;
 - (yy) "Registrar" means the Registrar of Corporations duly appointed under section 263 of the ABCA;
 - (zz) "Shareholder" means a holder of HMIC Shares and/or PMIC Shares;
 - (aaa) "Shares" means all or any of the issued and outstanding HMIC Shares and/or PMIC Shares, as the context requires;
 - (bbb) "Tax Act" means the Income Tax Act, R.S.C. 1985, c.1, (5th Supp.), and the Income Tax Regulations applicable with respect thereto, as amended from time to time;
 - (ccc) "Trust" means Westpoint Investment Trust, a mutual fund trust within the meaning of the Tax Act, existing under and governed by the laws of the province of Alberta pursuant to the Declaration of Trust;
 - (ddd) "Trust Units" means the trust units of the Trust authorized for issuance by the Trust pursuant to the Declaration of Trust;
 - (eee) "Unitholders" means the holders of Trust Units;
 - (fff) "WCMC" means Westpoint Capital Management Corporation;
- 1.2 The division of this Plan of Arrangement into articles and sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Arrangement.
- 1.3 Unless reference is specifically made to some other document or instrument, all references herein to articles, sections and subsections are to articles, sections and subsections of this Plan of Arrangement.
- 1.4 Unless the context otherwise requires, words importing the singular number shall include the plural and vice versa; and words importing any gender shall include all genders.
- 1.5 References in this Plan of Arrangement to any statute or sections thereof shall include such statute as amended or substituted and any regulations or rules promulgated thereunder from time to time in effect.
- 1.6 Unless otherwise stated, all references in this Plan of Arrangement to sums of money are expressed in lawful money of Canada.

ARTICLE 2 PURPOSE AND EFFECT OF THE ARRANGEMENT

2.1 The following is only intended to be a general statement of the purpose of the Arrangement and is qualified in its entirety by the specific provisions of the Arrangement:

The purpose of the Arrangement is to effect a reorganization and restructuring of the corporate structures of HMIC and PMIC into a single unit trust structure in order to provide for greater operational efficiency, eliminate certain investment restrictions and provide

greater capitalization synergies between mortgage investment and direct real estate investment. The Arrangement will result in the consolidation of the assets of HMIC and PMIC into a single unit trust to which the Shareholders will sell their Shares in HMIC and PMIC in exchange for units of the Trust having substantially similar rights and restrictions as were associated with the Shares. Upon completion of the Arrangement, the Trust will own, directly or indirectly, the same assets that HMIC and PMIC collectively owned immediately prior to the effective time of the Arrangement and the Trust will, directly or indirectly, assume all of the obligations of HMIC and PMIC, which will be amalgamated and wound up, respectively.

- 2.1 The Arrangement shall be binding upon HMIC, PMIC, HMIC LP, HMIC GP, PMIC LP, PMIC GP, WCC and the Trust.
- 2.2 Articles of Arrangement shall be filed with the Registrar with the purpose and intent that none of the provisions of the Arrangement shall become effective unless all of the provisions of the Arrangement shall have become effective. The Certificate shall be conclusive evidence that the Arrangement has become effective and that each of the provisions of Article 3 has become effective on the Effective Date in the sequence set out therein.

ARTICLE 3 ARRANGEMENT

- 3.1 Effective at the Effective Times set out below, each of the events set out below shall occur and shall be deemed to occur without any further authorization, act or formality:
 - (a) any agreements among any of, and the constating documents of the Trust, HMIC, PMIC, HMIC LP, HMIC GP, PMIC LP, PMIC GP and WCC shall be amended to the extent necessary to facilitate the Arrangement and the implementation of the steps and transactions contemplated herein;
 - (b) Sale of Common Shares of HMIC and PMIC by Common Shareholders to WCC
 - (i) On July 1, 2015 at 7:00 a.m., each of the PMIC Common Shareholders and the HMIC Common Shareholders will sell their respective Common Shares of PMIC ("PMIC Common Shares") and HMIC ("HMIC Common Shares") to WCC. As consideration for such sale of shares, the PMIC Common Shareholders and HMIC Common Shareholders will each receive \$1.00 for each PMIC Common Share and HMIC Common Share sold to WCC. The total PMIC Common Shares and HMIC Common Shares to be purchased by WCC will be 200 common shares for two hundred (\$200) dollars.
 - (c) Sale of Preferred Shares of HMIC and PMIC by Preferred Shareholders to the Trust
 - (i) On July 1, 2015 at 8:00 a.m., each of the PMIC Preferred Shareholders will sell all of their PMIC Preferred Shares to the Trust and will receive, as consideration, Class A Trust Units on a 1:1 basis and each of the HMIC Preferred Shareholders will sell all of their HMIC Preferred Shares to the Trust and will receive Class A Trust Units and Class B Trust Units calculated on the basis of (i) 0.8 Class A Trust Units and (ii) 0.2 Class B Trust Units being issued to a HMIC Preferred Shareholder for each Class "A" HMIC Preferred Share held by a HMIC Preferred Shareholder. Any PMIC Preferred Shareholder and any HMIC Preferred Shareholder who has submitted a redemption notice (the "Redemption Notice") pursuant to the Articles of Incorporation of PMIC or HMIC, as the case may be, prior to the date of the

Meetings, and whose shares have not been redeemed, will receive a redemption note of the Trust (the "**Redemption Note**"). Only the relative priority of satisfaction and the calculation of the face value of each Redemption Note will be determined based on the timing of the Redemption Notice and the respective redemption amount and redemption rights associated with the PMIC Preferred Shares and the HMIC Preferred Shares for which the Redemption Notice was given and all other rights and entitlements associated with the Redemption Note will be determined in accordance with the schedule of unit rights to the Declaration of Trust.

(d) **Transfer of Preferred Shares by Trust to WCMC**

- (i) On July 1, 2015 at 9:00 a.m., each PMIC Preferred Share and HMIC Preferred Share owned by the Trust shall be transferred, pursuant to subsection 85(1) of the Tax Act, to WCMC (free and clear of any encumbrances) in exchange for (i) a promissory note ("**Transfer Note**") and (ii) 99,800 fully paid and non-assessable class B non-voting Common Shares of WCMC ("**WCMC Shares**"), together having a fair market value equal to the aggregate fair market value of all of the PMIC Preferred Shares and HMIC Preferred Shares transferred to the Trust ("**Aggregate Fair Market Value**"). The Transfer Note will be in a principal amount equal to eighty percent (80%) of the Aggregate Fair Market Value plus the total amount of the non-capital losses carried forward in HMIC at its June 30, 2015 taxation year-end ("**Cumulative Amount**"). The stated capital account maintained for the WCMC Shares will be increased by an amount equal to the Aggregate Fair Market Value less the amount of the Transfer Note, in accordance with subsection 28(3) of the ABCA.

(e) **Transfer of Real Estate Assets and Liabilities by PMIC LP to HMIC LP**

- (i) On July 1, 2015 at 10:00 a.m., all beneficial and equitable title and interest in the real estate assets of PMIC LP ("**PMIC LP Assets**") shall be transferred, assigned and conveyed (the "**PMIC LP Transfer**") to HMIC LP pursuant to subsection 97(2) of the Tax Act and, in consideration therefor, all liabilities of PMIC LP relating to the PMIC LP Assets ("**PMIC LP Liabilities**") shall be assumed (the "**PMIC LP Assumption**") by HMIC LP. Bare legal title to the PMIC LP Assets shall remain in the wholly-owned subsidiaries of WCC and the PMIC LP Transfer and PMIC LP Assumption shall be deemed to:
- (1) transfer, assign and convey to HMIC LP all beneficial and equitable interest in all rights, defenses and counter-claims, of any kind whatsoever, that PMIC LP ever had, now has or may have in the future in connection with the PMIC LP Assets and PMIC LP Liabilities; and
 - (2) operate as a novation by substituting HMIC LP for PMIC LP as beneficial and equitable owner of all rights, benefits and interests in connection with the PMIC LP Assets and PMIC LP Liabilities that PMIC LP ever had, now has or may have in the future;
- (ii) On July 1, 2015 at 10:00 a.m. and as further consideration for the PMIC LP Transfer, HMIC LP will issue fully paid and non-assessable limited partnership units of HMIC LP to PMIC LP ("**HMIC LP Units**"), having a value

- equal to the difference between the fair market value of the PMIC LP Liabilities and the PMIC LP Assets;
- (iii) Following the PMIC LP Transfer, WCC (and/or its applicable wholly-owned subsidiaries) will acknowledge its continued obligations as trustee for HMIC LP and HMIC LP will appoint WCC as bare legal trustee of the PMIC LP Assets;
- (f) Transfer of PMIC Common Shares and PMIC GP Shares by WCC to WCMC
- (i) On July 1, 2015 at 11:00 a.m., 100 Class "B" Common Shares of PMIC and 100 Class "A" Common Shares of PMIC GP owned by WCC will be transferred to WCMC by WCC, and in consideration therefore, WCMC shall pay to WCC one hundred (\$100) dollars for the 100 Class "B" Common Shares of PMIC and a further one hundred (\$100) dollars for the 100 Class "A" Common Shares of PMIC GP.
- (g) Subscription for Class C Trust Units by the Common Shareholders
- (i) On July 1, 2015 at 11:15 a.m., each of the individuals previously holding HMIC Common Shares and PMIC Common Shares will subscribe for 1 Class C Unit of the Trust for a subscription price of \$1.00 per Class C Unit.
- (h) Transfer of PMIC Preferred Shares and PMIC GP Shares by WCMC to HMIC
- (i) On July 1, 2015 at 11:30 a.m., all of the PMIC Preferred Shares then outstanding and the 100 Class "A" Common Shares of PMIC GP owned by WCMC shall be transferred from WCMC, pursuant to subsection 85(1) of the Tax Act, to HMIC (free and clear of any encumbrances) in exchange for fully paid and non-assessable Class C HMIC Shares (the "HMIC Transfer Shares") having a fair market value equal to the PMIC Preferred Shares and 100 Class "A" Common Shares of PMIC GP so transferred.
 - (ii) On July 1, 2015 at 11:30 a.m. and upon the issuance of the HMIC Transfer Shares, there shall be added to the stated capital account maintained for the HMIC Transfer Shares, in accordance with subsection 28(3) of the ABCA, an amount equal to the fair market value equal to the PMIC Preferred Shares and 100 Class "A" Common shares of PMIC GP so transferred.
- (i) Wind-up of PMIC GP into HMIC
- (i) On July 1, 2015 at 12:00 p.m., all assets of PMIC GP shall be transferred to HMIC pursuant to subsection 88(1) of the Tax Act, all liabilities of PMIC GP shall be assumed by HMIC and PMIC GP shall be wound up and dissolved into HMIC.
- (j) Reduction in Stated Capital of PMIC Shares
- (i) On July 1, 2015 at 12:00 p.m., the stated capital account of the 100 Class "B" PMIC Common Shares shall be, and shall be deemed to be, reduced to \$1.00, without any payment to the PMIC Common Shareholder. Further, the stated capital account of the outstanding PMIC Preferred Shares shall be,

and shall be deemed to be, reduced to \$1.00, without any payment to the holder of the PMIC Preferred Shares;

- (k) Assumption of PMIC LP Remaining Liabilities by HMIC
 - (i) On July 1, 2015 at 12:30 p.m., HMIC will assume all of the remaining liabilities of PMIC LP ("**PMIC LP Remaining Liabilities**") and as consideration therefor, HMIC shall increase its general partner capital account in PMIC LP by an amount equal to the fair market value of the PMIC LP Remaining Liabilities assumed. This assumption shall be deemed to:
 - (1) transfer, assign and convey to HMIC all beneficial and equitable interest in all rights, defenses and counter-claims, of any kind whatsoever, that PMIC LP ever had, now has or may have in the future in connection with the PMIC LP Remaining Liabilities; and
 - (2) operate as a novation by substituting HMIC for PMIC LP as beneficial and equitable owner of all rights, benefits and interests in connection with the PMIC LP Remaining Liabilities that PMIC LP ever had, now has or may have in the future;
 - (l) Wind-up of PMIC into HMIC
 - (i) On July 1, 2015 at 12:45 p.m., all assets of PMIC will be transferred to HMIC pursuant to subsection 88(1) of the Tax Act, all liabilities of PMIC will be assumed by HMIC and PMIC will be wound up and dissolved into HMIC.
 - (m) Wind-up of PMIC LP into HMIC
 - (i) On July 1, 2015 at 12:45 p.m., PMIC LP will dissolve according to the Partnership Act and all beneficial and equitable title and interest in the remaining assets of PMIC LP ("**PMIC LP Remaining Assets**") shall be transferred, assigned and conveyed (the "**PMIC LP Remaining Transfer**") to HMIC on a tax-deferred basis pursuant to subsection 98(5) of the Tax Act. Bare legal title to the PMIC LP Remaining Assets shall remain in WCC and the PMIC LP Remaining Transfer shall be deemed to:
 - (1) transfer, assign and convey to HMIC all beneficial and equitable interest in all rights, defenses and counter-claims, of any kind whatsoever, that PMIC LP ever had, now has or may have in the future in connection with the PMIC LP Remaining Assets; and
 - (2) operate as a novation by substituting HMIC for PMIC LP as beneficial and equitable owner of all rights, benefits and interests in connection with the PMIC LP Remaining Assets that PMIC LP ever had, now has or may have in the future;
 - (ii) Following the PMIC LP Remaining Transfer, WCC will acknowledge its continued obligations as trustee for HMIC and HMIC will appoint WCC as bare legal trustee of the PMIC LP Remaining Assets.
 - (n) Transfer of Mortgage Assets and Liabilities from HMIC to MLP

- (i) On July 1, 2015 at 1:00 p.m., all beneficial and equitable title and interest in the mortgage assets of HMIC ("HMIC Mortgage Assets") shall be transferred, assigned and conveyed (the "HMIC Mortgage Transfer") to MLP pursuant to subsection 97(2) of the Tax Act and, as consideration therefor, all liabilities of HMIC in respect of the HMIC Mortgage Assets ("HMIC Mortgage Liabilities") shall be assumed (the "HMIC Mortgage Assumption") by MLP. Bare legal title to the HMIC Mortgage Assets shall remain in WCC, or in any other third-party trustee in which legal title was previously vested, and the HMIC Mortgage Transfer and HMIC Mortgage Assumption shall be deemed to:
 - (1) transfer, assign and convey to MLP all beneficial and equitable interest in all rights, defenses and counter-claims, of any kind whatsoever, that HMIC ever had, now has or may have in the future in connection with the HMIC Mortgage Assets and HMIC Mortgage Remaining Liabilities; and
 - (2) operate as a novation by substituting MLP for HMIC as beneficial and equitable owner of all rights, benefits and interests in connection with the HMIC Mortgage Assets and HMIC Mortgage Liabilities that HMIC ever had, now has or may have in the future;
- (ii) On July 1, 2015 at 1:00 p.m. and as further consideration for the HMIC Mortgage Transfer, MLP will issue fully paid and non-assessable limited partnership units of MLP to HMIC ("MLP LP Units") having a fair market value equal to the difference between the fair market value of the HMIC Mortgage Assets and the HMIC Mortgage Liabilities and the fair market value of the MLP LP Units will be added to the capital account of HMIC.
- (o) Sale of Common Shares of HMIC GP by WCC to WCMC
 - (i) On July 1, 2015 at 1:30 p.m., WCC will sell its 100 Class "A" HMIC GP Common Shares to WCMC. As consideration for such sale of shares, WCC will receive \$1.00 for each Class "A" HMIC GP Common Share sold to WCMC.
- (p) Transfer of HMIC LP Units and MLP Units by HMIC to Master LP
 - (i) On July 1, 2015 at 2:00 p.m., all MLP LP Units and HMIC LP units owned by HMIC shall be transferred from HMIC to Master LP pursuant to subsection 97(2) of the Tax Act, and in consideration therefor, Master LP will:
 - (1) issue a one (\$1.00) dollar credit to the limited partner capital account for HMIC;
 - (2) issue a promissory note having a principal amount of eighty (80%) percent of the Cumulative Amount to HMIC ("Master LP Debt"); and
 - (3) issue a further promissory note having a principal amount equal to twenty (20%) of the Cumulative Amount less one (\$1.00) dollar to HMIC ("Subscription Debt").

ARTICLE 4 PROCESS

- 4.1 Each of the transactions and events set out in Article 3 shall be deemed to occur in the order and at the Effective Times prescribed therein.
- 4.2 With respect to each Share to which Section 3.1(b) and Section 3.1(c) applies, at the applicable Effective Times:
- (a) the Shareholder thereof shall cease to be a holder of such Share and such Shareholder's name shall be removed from the share register with respect to such Shares; and
 - (b) The Trust shall be, and be deemed to be, the transferee of such Shares (free and clear of any Encumbrances) and shall be entered in the share register as the shareholder thereof.

ARTICLE 5 AMENDMENTS

- 5.1 The Trust, HMIC, PMIC, HMIC LP, HMIC GP, PMIC LP, PMIC GP and WCC reserve the right to amend, modify and/or supplement this Plan of Arrangement at any time and from time to time prior to the Effective Date provided that any such amendment, modification or supplement must be contained in a written document that is: (a) filed with the Court and, if made following the Meetings, approved by the Court; and (b) communicated to the Shareholders and/or Unitholders, as the case may be, in the manner required by the Court (if so required).
- 5.2 Any amendment, modification or supplement to this Plan of Arrangement may be proposed by the Trust, HMIC, PMIC, HMIC LP, HMIC GP, PMIC LP, PMIC GP and WCC at any time and from time to time prior to or at the Meetings with or without any other prior notice or communication, and if so proposed and accepted by the Persons voting at the Meetings (other than as may be required under the Interim Order), shall become part of this Plan of Arrangement for all purposes.
- 5.3 Any amendment, modification or supplement to this Plan of Arrangement which is approved by the Court following the Meetings shall be effective only: (a) if it is consented to by the Trust, HMIC, PMIC, HMIC LP, HMIC GP, PMIC LP, PMIC GP and WCC; and (b) if required by the Court or applicable law, it is consented to by the Shareholders and/or Unitholders, as the case may be.

ARTICLE 6 FURTHER ASSURANCES

Notwithstanding that the transactions and events set out herein shall occur and be deemed to occur in the order set out in this Plan of Arrangement and specifically at the Effective Times associated with each transaction and event, without any further act or formality, each of the parties to the Arrangement Agreement shall make, do and execute, or cause to be made, done and executed, all such further acts, deeds, agreements, transfers, assurances, instruments or documents as may reasonably be required by any of them in order further to document or evidence any of the transactions or events set out herein.