Court File No.: VLC-S-S-265911
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN

BDO CANADA LIMITED,
in its capacity as the Trustee of the Bankruptcy Estates of CRAIG ALLEN SMITH and ROBERT KYLE SMITH

PETITIONER

AND

BASTIAN HOLDINGS LTD., KRYSTLE HOLDINGS LTD., 1226745 B.C. LTD., SKAW PROPERTIES LTD., 207 – 53 WEST HASTINGS STREET HOLDINGS LTD., 1226734 B.C. LTD., 27222 LOUGHEED HIGHWAY LTD., and WHITEWATER STEELERS REINFORCING LTD.

RESPONDENTS

RESPONSE TO PETITION

Filed by: Business Development Bank of Canada ("**BDC**" or "**Petition Respondent**")

THIS IS A RESPONSE TO the Petition filed August 7, 2026.

The Petition Respondent estimates that the application will take: Unknown

PART 1: ORDERS CONSENTED TO

The Petition Respondent consents to the granting of the orders set out in the following paragraphs of Part 1 of the Petition:

a) Nil

PART 2: ORDERS OPPOSED

The Petition Respondent opposes the granting of the orders set out in Part 1 of the Petition.

a) All

PART 3: ORDERS ON WHICH NO POSITION IS TAKEN

The Petition Respondent at this time takes no position on the granting of the orders set out in Part 1 of the Petition as it relates to the Respondents, Bastian Holdings Ltd., Krystle Holdings Inc., 1226745 B.C. Ltd., 207-53 West Hastings Street Holdings Ltd., 1226734 B.C. Ltd. and Whitewater Steelers Reinforcing Ltd.

FACTUAL BASIS

1. The Petition Respondent ("**BDC**") is a financial institution wholly owned by the government of Canada and operating pursuant to the *Business Development Bank of Canada Act,* S.C. 1995, c.28 and has an address for delivery for the purpose of this proceeding of 1100-505 Burrard Street, Vancouver, British Columbia.

2. Pursuant to a letter of offer to the Respondents, 27222 Lougheed Highway Holdings Ltd. ("**Lougheed**") and Skaw Properties Ltd. ("**Skaw**") dated August 23, 2019 and accepted by the Respondents Lougheed and Skaw on August 26, 2019 (the "**Letter of Offer**"), BDC agreed, subject to the conditions precedent set out therein, to advance (and subsequently did advance) the sum of $15,000,000.00 to the Respondents Lougheed and Skaw by way of loan (the "**Loan**") at its request, upon terms and conditions whereby the Respondents Lougheed and Skaw agreed to repay to BDC the sum of $15,000,000.00, and agreed to pay interest thereon at a rate per annum calculated in accordance with BDC's Floating Base Rate minus a variance of 0.75% per year, calculated and compounded monthly, not in advance.

3. The terms and conditions of the Loan included, among other things, six (6) Guarantees, six (6) General Security Agreements, mortgages over two (2) properties and an equitable mortgage agreement by the Respondents Lougheed and Skaw charging all of the beneficial owner's interest in real property and personal property located at 27222 Lougheed Highway, Maple Ridge BC, referred to as "Lougheed Lands" as set out below.

4. The BDC mortgages were registered against the following two properties:

   a) PID 023-895-128
   Lot 3, District Lot 67, Group 1, New Westminster District, Plan LMP 35071,

being property and buildings located at 145 Golden Drive, Coquitlam, BC (the "Golden Lands") and

b) PID: 024-337-285
Parcel 1, District Lot 433, Group 1, New Westminster District Plan LMP 39524
being property and buildings located at 27222 Lougheed Highway, Maple Ridge, BC (the "Lougheed Lands").

5. The Respondent Lougheed is the registered owner of the Lougheed Lands as trustee for the beneficial owner, being the Respondent Skaw.

6. One of the guarantors of the Loan, being 145 Golden Drive Ltd. ("**Golden**") was the owner of the Golden Lands.

7. Pursuant to a letter of offer dated August 23, 2019 to Golden and accepted by Golden and Lougheed and Skaw, among others, as guarantors on August 26, 2019, BDC agreed, subject to the conditions precedent set out therein, to advance (and subsequently did advance) the sum of $12,000,000.00 to the Golden by way of loan ("**Second Loan**") at its request, upon terms and conditions whereby Golden and the Respondents Lougheed and Skaw as guarantors, among others, agreed to repay BDC the sum of $12,000,000, and all agreed to pay interest thereon at a rate per annum calculated in accordance with BDC's Floating Base Rate minus a variance of 0.75% per year, calculated and compounded monthly, not in advance.

8. The terms and conditions of the Second Loan included, among other things, seven (7) Guarantees, six (6) General Security Agreements, mortgages over the Golden Lands and the Lougheed Lands, and a beneficial charge agreement charging all Skaw's beneficial interest in the Lougheed Lands.

9. Pursuant to a letter of offer dated July 15, 2022 to Whitewater Concrete Ltd. ("**Whitewater**") and accepted by Whitewater and Lougheed, Skaw and Golden, among others, as guarantors on July 20, 2022. BDC agreed, subject to the conditions precedent set out therein, to advance (and subsequently did advance) the sum of $3,367,200 to Whitewater by way of loan ("**Third Loan**") at its request, upon terms and conditions whereby Whitewater and the Respondents Lougheed and Skaw as guarantors, and Golden

as guarantor, among others, agreed to repay BDC the sum of $3,367,200, and all agreed to pay interest thereon at a rate per annum calculated in accordance with BDC's Floating Base Rate minus a variance of 1.5% per year, calculated and compounded monthly, not in advance.

10. The terms and conditions of the Third Loan included, among other things, seven (7) Guarantees, six (6) General Security Agreements, mortgages over the Golden Lands and the Lougheed Lands, and a beneficial charge agreement charging all Skaw's beneficial interest in the Lougheed Lands.

11. BDC registered its mortgage against the Lougheed Lands in the New Westminster Land Title Office on September 30, 2018 under Nos. CA7778099 and CA7778100.

12. The Loan, Second Loan and Third Loan are in default and BDC issued demands and a Notice of Intention to Enforce Security on September 9, 2024 and July 10, 2026. The deadline passed and the Loan, Second Loan and Third Loan were not repaid.

13. On or about July 2, 2024, a receiver was appointed over the property, assets and undertakings of certain parties, including Whitewater and Golden. The receiver sold the Golden Lands and distributed payment to BDC to pay out the Second Loan and the Third Loan and a portion of the Loan.

14. As at July 5, 2026, the amount of $5,257,111.04, plus accruing interest and legal fees, are outstanding in respect to the Loan.

15. On or about October 27, 2025, the second mortgagees in respect to the Lougheed Lands obtained an Order Nisi in BCSC Action No. VLC-S-H250918, Vancouver Registry. They obtained an Order for conduct of sale of the Lougheed Lands on or about May 28, 2026.

16. There is an accepted contract of purchase and sale (subject to conditions) for the Lougheed Lands in an amount which more than exceeds the outstanding amount of the Loan.

17. On or about December 23, 2025, Golden was adjudged bankrupt and BDO Canada Limited was appointed trustee of the estate of Golden (the "**Trustee**").

18. On or about January 27, 2026, the Trustee commenced BCSC Action No. VLC-S-S-260580, Vancouver Registry ("**Golden Action**"), seeking, among other things, an equitable mortgage against the Lougheed Lands and a partial or full assignment of BDC's security against the debtors, including BDC's mortgage over the Lougheed Lands.

19. BDC filed a Response to Civil Claim on March 3, 2026 in the Golden Action opposing the Trustee's claim. Since then, the Trustee has taken no further steps in the Golden Action.

20. The Petitioner's application for an appointment of a receiver in respect to the property, assets and undertakings of Lougheed and Skaw in respect to the Lougheed Lands only is prejudicial to BDC in that:

a) it may interfere with and unnecessarily complicate the existing accepted contract of purchase and sale (subject to conditions) on the Lougheed Lands, which will, if the sale completes, entirely satisfy the obligations under the Loan;

b) it is not appropriate for the receiver appointed on the application of the Petitioner to receive any priority and a first charge for its fees and borrowings against the Lougheed Lands when the receiver has not taken any role in selling the Lougheed Lands, there is an existing Order for conduct of sale of the property in the Supreme Court of British Columbia Action No. VLC-S-H250918, there is an accepted offer on the property (subject to conditions), and BDC has a valid first mortgage registered against the Lougheed Lands; and

c) BDC intends to file a Petition to, among other things, seek the appointment of a receiver of rents in regards to the Lougheed Lands. To date, BDC has collected the rents for July and August 2026 and has paid for the Fortis, hydro and insurance charges. The appointment of a receiver will assist with the payment of the required taxes and other charges. The overlap between the work of this proposed receiver and the work of the receiver sought by the Petitioner herein is not significant. Having two receivers may cause unnecessary and duplicative work, and thus increased costs. It is expected that BDC's appointed receiver can work with the receiver sought to be appointed by the Petitioner herein with respect to the Lougheed Lands until the property is sold. Further, this receiver's fees and borrowings ought to have priority and a first charge over the Lougheed Lands and not that of the receiver sought by the Petitioner herein.

21. For the sake of clarity, BDC opposes the application of the Petitioner for the appointment of a receiver in respect to the Lougheed Lands over which BDC has existing first mortgage security, which mortgage will be fully paid and the Loan satisfied if the accepted contract of purchase and sale of the Lougheed Lands completes in accordance with the terms of that contract.

PART 4: LEGAL BASIS

1. The Petition Respondent takes no issue with the test for the appointment of a receiver.

2. When considering a receivership order, the court must consider the interests of other persons who have been described as "social stakeholders" which includes employees, directors, shareholders, **creditors** and other parties doing business with the alleged insolvent company (emphasis added).

Vancouver Coastal Health Authority v Seymoure Health Centre Inc., 2023 BCSC 1158 at para. 68

3. A receivership order is extraordinary relief which should be granted cautiously and sparingly. If the court can fashion a remedy that avoids a receivership, it should be considered.

Cameron Stephens Mortgage Capital Ltd. v Square Nine King George Development Ltd., 2024 BCSC 20404 at paras. 26-27

4. In relation to the just and convenient considerations, justice and convenience can only be established by considering and balancing the position of both parties. The onus is on the petitioner.

Textron Financial Canada Limited v Chetwynd Motels Ltd, 2010 BCSC 477 at para. 53 citing *BG International Ltd. v Canadian Superior Energy Inc.,* 2009 ABCA 127 at para. 17

5. It is not just and convenient for the Petitioner to prejudice BDC's first mortgage security position and the proposed sale of the Lougheed Lands, which net sale proceeds will be used to fully satisfy the debtors' obligations under BDC's mortgage and the Loan if the accepted contract of purchase and sale for this property completes in accordance with the terms of the contract. Nor is it just and convenient that the proposed receiver's fees and receiver's borrowings should have priority and be charged against the Lougheed Lands in these circumstances. BDC has a first mortgage security and the Petitioner does not.

PART 5: MATERIAL TO BE RELIED ON

1. Affidavit #1 of Valerie Lock sworn August 20, 2026; and
2. Such further and other material as counsel may advise.

Dated: August 24, 2026.

Signature of Lawyer for Business Development Bank of Canada
Douglas B. Hyndman
Kornfeld LLP

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