

**JUDICIAL TRUSTEE'S FIFTH REPORT TO THE INVESTORS  
SEPTEMBER 15, 2021**

**IN THE MATTER OF THE JUDICIAL TRUSTEE APPOINTMENT OF  
WESTPOINT INVESTMENT TRUST**

## Contents

<b>Exhibits .....</b>	<b>3</b>
<b>Introduction.....</b>	<b>4</b>
<b>Disclaimer and Limitations of the Report .....</b>	<b>5</b>
<b>Trustee’s Activities Since its Fourth Report.....</b>	<b>6</b>
<b>Mortgages.....</b>	<b>7</b>
<b>Properties .....</b>	<b>7</b>
<b>Litigation.....</b>	<b>8</b>
<b>Potential Realization.....</b>	<b>9</b>
<b>Receipts and Disbursements .....</b>	<b>9</b>

## **Exhibits**

1. Statement of Receipts and Disbursements for the period March 8, 2019 to September 15, 2021

## Introduction

1. On March 8, 2019, the Court of Queen's Bench of Alberta (the "Court") granted an Order (the "Judicial Trustee Order") appointing BDO Canada Limited as a Judicial Trustee ("BDO" or the "Trustee") in respect of Westpoint Investment Trust, ("WIT" or the "Trust"), pursuant to an application made on behalf of WIT, by Munir Virani and Marnie Kiel, ("Former Trustees").
2. Copies of relevant documents in the Judicial Trustee proceedings are available on the Trustee website at <http://www.extranets.bdo.ca/WestpointInvestmentTrust/>
3. In addition to the above Judicial Trustee Order, the Court also granted an Interim Receiver Order (the "Interim Receiver Order") appointing BDO as Interim Receiver of Westpoint Capital Corporation ("WCC"), Westpoint Capital Management Corporation ("WCMC"), Westpoint Capital Services Corporation ("WCSC"), Westpoint Syndicated Mortgage Corporation ("WSMC"), Canadian Property Direct Corporation ("CPDC"), Westpoint Master Limited Partnership ("WMLP"), River's Crossing Ltd. ("RCL") , 1897849 Alberta, Ltd. ("1897849"), 1780384 Alberta Ltd. ("178 AB"), 1897837 Alberta Ltd. ("1897837"), (collectively the "Companies").
4. On April 10, 2019, the Court of Queen's Bench of Alberta (the "Court") granted an Order (the "Order") appointing BDO Canada Limited as Receiver ("BDO" or the "Receiver") of the Companies.
5. On May 30, 2019, the Court of Queen's Bench of Alberta (the "Court") granted a further Order, consented to by the sole director of The Village at Paldi Ent. Ltd. ("Paldi"), amending the Receivership Order to add Paldi as a party Respondent in these proceedings, and to extend the terms of the Receivership Order to include Paldi as a party in receivership.
6. Copies of relevant documents in the interim receivership and receivership proceedings are available on the Receiver's website at <http://www.extranets.bdo.ca/WCC ET. AL.>

7. BDO felt it was important to communicate essential information regarding the investors' interest in WIT on a semi-annual basis. This is the Fifth Report to the Creditors ("Creditors Report"). This Creditors Report will provide the investors with the following information:
  - a) Trustee's activities since its last report;
  - b) Status of the various investments made by WIT;
  - c) Potential realization; and
  - d) Receipts and disbursements to date.
8. This report should be read in conjunction with all other investors' reports, as well as all information available on <http://www.extranets.bdo.ca/WCC ET. AL>.

## **Disclaimer and Limitations of the Report**

9. This Creditors Report has been prepared by BDO to provide the investors with the information as outlined above. In preparing this Creditors Report, the Trustee necessarily relied upon unaudited financial statements and other information supplied and representations made to the Trustee by various parties. Although the information supplied has been reviewed for reasonableness, we have not independently verified the accuracy or completeness of the information, nor have we conducted an audit and, as a result, we are not providing any form of assurance of the information subject to our review. Our work may not necessarily disclose all significant matters about WIT or any errors, misstatements, irregularities, or illegal acts, if any such exist, on the part of WIT, or its former Trustees, or the officers, directors, employees and advisors of the Companies or in the underlying information. Accordingly, the Trustee may refine or alter its observations as further information is obtained or is brought to its attention after the date of this Creditors' Report.
10. The Trustee assumes no responsibility or liability for any loss or damage incurred by any party because of the circulation, publication, reproduction or use of the

Creditors Report. Any use that any party makes of this report, or any reliance on or decision to be made based on it is the responsibility of such party.

## Trustee's Activities Since its Fourth Report

11. The Trustee has taken several steps to secure the various properties foreclosed on by WCC, deal with several litigation matters, and obtain appraisals on the properties.
12. WIT is a trust, and its investments were made through various corporate entities. Although the companies hold legal title to the various assets, the beneficial interest in those assets remains with WIT.
13. The Companies have three main categories of assets. First, the majority of the assets are mortgages. Second, there are also interests in various properties deriving from mortgage enforcement proceedings. Lastly, there are numerous lawsuits, which have been initiated by WCC, which are not assets per se but could result in generating proceeds if successful.
14. The assets are summarized in the table below, with the estimated recovery amount for each asset. Actual recovery may vary substantially from the estimated amount.

Type of asset (mortgage, land, lawsuit)	Location	Recovery as Estimated by WIT's Former Trustees	Recovery to date
Mortgage	Calgary	\$224,573	\$19,000
Mortgage	Beaumont	56,073	65,800
Mortgage	Edmonton	1,250,000	55,000
Mortgage	Edmonton	200,960	6,000
Mortgage	Salmon Arm	7,584,934	Ongoing
Mortgage	Penticton	300,000	336,000
Property	Cranbrook - 240 Shadow	159,000	50,000
Property	Cranbrook - 112 Purcell	250,000	128,000
Property	Cranbrook - River's Crossing Land	1,946,473	nil
Property	Drumheller	875,000	182,000
Property	Bruderheim	3,336,888	3,410,000
Property	Wandering River	2,000,000	825,000

Property	Village at Paldi	500,000	354,500
Litigation	Alberta	1,400,000	Ongoing
Litigation - Paldi	British Columbia	Unknown	Settled
Litigation -	British Columbia	Unknown	Ceased
Total		20,083,901	\$5,431,300

15. Please note that the former Trustees provided the foregoing estimated recovery numbers to the Trustee, and the Trustee has not independently verified the accuracy or the reasonableness of these estimates. Notwithstanding anything contained in this Report, the Trustee is not suggesting that these numbers represent the expected recoveries, and the Trustee makes no representations regarding any amounts that may be realized on any of the assets.

## Mortgages

### Mortgage - Edmonton, AB

16. On May 19, 2021, KV Capital Inc. applied to foreclose on the property. The Court granted this order, resulting in the WCC's mortgages being removed from the title(s). As such, the Receiver will recover no additional funds from this mortgage.

### Mortgage - Beach Grove Properties

17. After attempting to settle the matter, the Receiver is now proceeding with the foreclosure action on the property.

## Properties

### Drumheller, AB

18. The Receiver has sold all of the vacant lots.

### Bruderheim, AB

19. The previous offer on the property was unable to close, as conditions by the potential purchase were not removed. As such, the property was available for sale. Shortly after relisting the property, the Receiver received a cash offer to purchase the

property. At the advice of the realtor, the Receiver waited before accepting the offer. Another party made an offer that was unconditional and a cash sale of \$3.5 million.

20. The Receiver obtained court approval for the sale, and the property closed effectively on June 30, 2021.

### **Wandering River, AB**

21. The property contains a mixture of residential and commercial lots. These lots are in Athabasca County, AB, as following:

- e) Lots 2 through 8, Block 1, Plan 1021304;
- f) Lots 6 through 14, Block 2, Plan 1021304;
- g) Lot 16, Block 2, Plan 1021304; and
- h) Lots 18 through 23, Block 2, Plan 1021304.

22. The Receiver has sold all commercial and residential lots.

## **Litigation**

### **Berry Homes Ltd. and Performance Paving Services Inc.**

23. There is approximately \$1.5 million in Court, and three parties are claiming an interest in these funds. First, Berry Homes is claiming an interest in the entire amount. Second, Performance Paving Services Inc. claims a portion of the amount, approximately \$300,000, for unpaid work on the project. Finally, the Trustee is claiming an interest in the entire amount.

24. In August 2021, counsel for Berry Homes Ltd. performed questioning of the former CEO of WCC. Based on the questioning, a number of undertakings were requested to be completed on a best efforts approach. The Receiver has started the process of reviewing the records to complete the undertakings. The Receiver plans to have this completed by the end of September.

25. Given the foregoing, it is uncertain what, if any, recovery will be made concerning this matter.

## **Receipts and Disbursements**

26. The statement of receipts and disbursements from March 8, 2019, to September 15, 2021 is attached as Exhibit 1. The Receiver currently has \$3,046,068 of funds on hand to deal with ongoing holding costs for the properties.

## **Potential Realization**

27. The Receiver has been requested by one of the Investors to provide an estimate for recovery. The Receiver estimates a recovery, which would be available for distribution, of \$2,000,000 to \$4,000,000. Note that actual recovery may vary substantially from the estimated amount.
28. The Receiver estimates that this matter should be concluded in late 2022. However, this is subject to change due to the ongoing litigation.

**BDO Canada Limited**  
**Statement of Receipts and Disbursements For**  
**Westpoint Capital Corporation et al.**  
**For the period of March 8, 2019 to September 15, 2021**

<b>Receipts</b>	
Sale of land	\$ 11,736,400
Settlement	725,000
Loan	500,000
Cash on hand	116,137
Mortgage repayment	76,262
Rental income	52,692
GST refund	51,518
GST collected	38,202
Sewer Hauling contract	31,750
Sale of vehicle	10,010
Investments	5,337
Insurance refund	3,846
Interest Income	3,462
Refund	974
Sale of office furniture	500
	13,352,091

**Disbursements**

Payment to secured creditor	5,584,853
Legal fees	1,070,262
Receiver fees	1,008,700
Real property taxes	587,358
Repayment of loan	500,000
Transfer to Westpoint Investment Trust	250,000
Strata fees	222,816
Consulting fees	202,131
Wages	173,201
GST/PST paid	141,187
Loan payments	135,305
Commission	115,315
Insurance	83,570
Appraisal fees	68,935
Construction	60,756
Payroll deductions	20,193
Utilities	19,024
Repairs and maintenance	11,765
Miscellaneous	9,636
Stock taking and possession	9,804
Advertising	9,032
WEPPA Remittance	5,990
Occupation rent	4,000
Deemed trust claim	3,479
Site clean up	1,665
Office expenses	1,469
Redirection of mail	1,300
Bank Fees	581
Storage	567
Filing fees paid to the Official Receiver	70
Photocopies	34
Search fee	10
Computer services	3,015
	10,306,023
	\$ 3,046,068