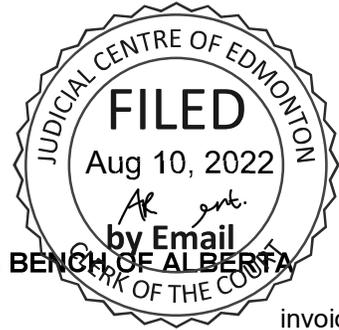


**Form 27**  
[Rules 6.3 and 10.52(1)]



invoice: E81393

**COURT FILE NUMBER**  
**COURT**  
**JUDICIAL CENTRE**

**1903-04121**  
**COURT OF QUEEN'S BENCH OF ALBERTA**  
**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**

**APPLICATION BY BDO CANADA LIMITED in  
its capacity as JUDICIAL TRUSTEE OF  
WESTPOINT INVESTMENT TRUST**

**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**  
**twarner@millerthomson.co  
m**  
**Lawyer's Email:**  
**File No.: 240413.3**

**NOTICE TO RESPONDENT(S)**

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the master/judge.

To do so, you must be in Court when the application is heard as shown below:

Date	<u>Friday, September 2, 2022</u>
Time	<u>10:00 p.m.</u>
Where	<u>VIRTUAL COURTROOM 86, Law Courts, Edmonton AB</u>

---

Before Whom      ACJ Neilsen

---

Go to the end of this document to see what else you can do and when you must do it.

**Remedy claimed or sought:**

1. Abridging and validating, if necessary, the time and method of service of the Notice of Application, so that this motion is properly returnable on the date of the application, and directing that further service is dispensed with;
2. Approving the Second Report to the Court of BDO Canada Limited in its capacity as Judicial Trustee ("BDO" or the "Trustee") the of Westpoint Investment Trust ("WIT" or the "Trust"), submitted for filing August 10, 2022 (the "Second Report") and the activities of the Judicial Trustee outlined therein;
3. An Order directing a Claims Process as outlined in the draft Claims Process Order attached as Schedule "A" to this application;
4. An Order for this Honourable Court's advice and direction regarding the distribution of the proceeds realized by BDO in its capacity as Receiver of *inter alia* Westpoint Capital Corporation;
5. Such further and other relief as the Receiver may advise.

**Grounds for making this application:**

**General**

- 1) On March 8, 2019, the Court of Queen's Bench of Alberta granted an Order (the "Judicial Trustee Order") appointing BDO as the Judicial Trustee in respect of WIT, pursuant to an application made on behalf of WIT, by Murin Virani and Marnie Kiel, ("Former Trustees").
- 2) On March 8, 2019, the Court also granted an Order (the "Order") appointing BDO as Interim Receiver in respect 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"), 1897869 Alberta, Ltd. ("869"), 1780384 Alberta Ltd. ("178"), 1897837 Alberta Ltd. ("837"), (collectively the "Companies").
- 3) On April 10, 2019, the Court granted an Order (the "Receivership Order") appointing BDO as Receiver (the "Receiver") of the companies referred to in the previous paragraph, and on May 30, 2019, the Court granted a further Order, amending the Receivership Order to add The Village at Paldi Ent. Ltd. ("Paldi") as a party in receivership (the companies in receivership are collectively referred to as the "Companies").
- 4) The Receiver is holding approximately \$4.4 million in trust for WIT and is seeking the Court's direction in distributing the proceeds, first to creditors of the Trust and second to investors.

- 5) There are only 2 creditors that the Trustee is currently aware of which have asserted claims against the Trust and the Trustee is of the view that a Claims Process Order is appropriate in order to determine if there are other creditors and to assess the claims of the creditors.
- 6) The Declaration of Trust is a complex document, and Trustee seeks this Honourable Court's direction in terms of priorities of the Investors to the remaining funds after the claims of creditors have been addressed.

**Approval of Trustee's Actions as set out in the Second Report**

- 7) The Trustee seeks the approval of the Court for the activities set out in the Second Report which sets out the activities of the Trustee since the First Report, and set out the Trustee's administration of the Trust.
- 8) All of the activities of the Trustee and its legal counsel in the course of the administration of the receivership of the Companies as described in the Second Report are commercially reasonable, were made in good faith and are appropriate in the circumstances.

**Material or evidence to be relied on:**

- a) The Second Report to the Court of BDO Canada Limited in its capacity as Judicial Trustee of Westpoint Investment Trust;
- b) Other materials filed in these proceedings as the need arises.

**Applicable rules:**

- a) Alberta Rules of Court;
- b) Such further and other authority as counsel may advise and this Honourable Court may permit.

**Applicable Acts and regulations:**

- 9) *Bankruptcy and Insolvency Act*, R.S.A. 1985, c. B-3

**Any irregularity complained of or objection relied on:**

- 10) Not applicable.

**How the application is proposed to be heard or considered:**

6. Before a Justice sitting on the Commercial List in Virtual Courtroom 86. Virtual Courtroom Link:
7. <https://albertacourts.webex.com/meet/virtual.courtroom86>

**WARNING**

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence.

You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

**Schedule "A"**

**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** **CLAIMS PROCESS 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:** September 2, 2022

**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 Judicial Trustee (the "Trustee") of Westpoint Investment Trust ("WIT"); AND UPON reviewing the Judicial Trustee Order issued March 8, 2019 and the Receivership Order issued April 10, 2019 (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 Second Report of the Trustee to the Court; AND UPON HEARING the submissions of counsel for the Trustee;

## IT IS HEREBY ORDERED AND DECLARED THAT:

1. A process for submitting and establishing Claims of Creditors, as such are defined herein, as against WIT, 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 WIT, and the definition of "Claim" herein applies exclusively to Claims against WIT, and excludes any claims of any nature whatsoever as against the Respondent Corporations.
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 WIT ***other than Unitholders***, whether or not asserted, in connection with any indebtedness, liability or obligation of any kind of WIT in existence on the date of the Judicial Trustee Appointment, 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 Judicial Trustee Appointment and any other claims that would have been claims provable in bankruptcy had WIT become bankrupt on the date of the Judicial Trustee Appointment, including for greater certainty any claim against the former Trustees, 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 WIT in connection with any indebtedness, liability or obligation of any kind whatsoever alleged to be owed by WIT to such Person arising out of (A) the disclaimer, resiliation, termination or breach by WIT on or after the date of the Judicial Trustee Appointment 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 date of the Judicial Trustee Appointment,

whether arising by contract, under statute or otherwise (each, a “**Trust Claim**”); and

- (iii) any right or claim of any Person against one or more of the Former Trustees 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 Former Trustee is alleged to be, by statute or otherwise by law or equity, liable to pay in his or her capacity as a Former Trustee (each a “**Former Trustee 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 Trustee may consider appropriate or desirable;
- (e) “**Claim Statement**” means a statement prepared by the Trustee, based upon the Trustee’s review of the books and records of WIT, providing details of the Claim of a Known Creditor, as such is reflected in the books and records of WIT;
- (f) “**Claims Bar Date**” means 5:00 p.m. on October 5, 2022, or such later date as may be ordered by the Court;
- (g) “**Creditor**” means any Person having or asserting a Claim, **other than Unitholders**;
- (h) “**Former Trustee**” means all former trustees (or their estates) of WIT, in such capacity, and “**Former Trustee**” means any one of them;
- (i) “**Date of Judicial Appointment**” means March 8, 2019;
- (j) “**Known Creditors**” means with respect to WIT:
  - (i) those Creditors, **other than Unitholders** that the books and records of WIT disclose were owed monies by one or more of WIT as of the Date of Judicial Appointment, where such monies remain unpaid in full or in part as of the date hereof;
  - (ii) any Person who has commenced a legal proceeding against WIT, **other than Unitholders**, in respect of a Claim, which legal proceeding was commenced and served prior to the Date of Judicial Appointment;

- (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, amended as may be required under the circumstances;
  - (m) **“Unitholders”** means Unitholders as such is defined in the Westpoint Investment Trust Amended and Restated Declaration of Trust, made as of the 3rd day of September, 2015 with retroactive effect to 30th day of June, 2015.
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 Trustee may, from time to time, make non-substantive changes to the forms as the Trustee, in its sole discretion, may consider necessary or desirable.
  4. The Trustee 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 Trustee 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 Trustee.

## NOTICE TO CREDITORS

7. It is hereby ordered that:
  - (a) the Trustee 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 Trustee shall cause to be published on or before September 14, 2022, 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 Trustee shall post a copy of this Claims Procedure Order, the on its website at [www.extranets.bdo.ca](http://www.extranets.bdo.ca) (the “Trustee’s Website”);

- (d) the Trustee 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 Trustee after the Filing Date shall be accompanied by a Claim Document Package and upon becoming aware of any other circumstance giving rise to a Trust Claim, the Trustee shall send a Claim Document Package to the Creditor in respect of such Trust Claim.

## **CLAIM STATEMENT**

- 8. The Trustee may determine to deliver a Claim Statement to a Known Creditor, substantially in the form attached as Schedule "C", 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 WIT (the "Listed Claim").
- 9. The Trustee shall be entitled to rely on the accuracy and completeness of the information obtained from the books and records of WIT regarding the Known Creditors. For greater certainty, the Trustee 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 WIT other than the Listed Claim shall be required to deliver a Notice of Dispute of Claim Statement, substantially in the form attached as Schedule "D" to the Trustee so that it is actually received by the Trustee 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 Trustee determines that it is appropriate to change the amount or nature of the Listed Claim set forth in such Claim Statement, the Trustee 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 Trustee 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 WIT shall set out its aggregate Claim in a Proof of Claim, including supporting documentation, and deliver that Proof of Claim to the Trustee so that it is actually received by the Trustee 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 Trustee on or before the Claims Bar date shall be and is hereby forever barred from making or enforcing such Claim against WIT, and such Claim shall be and is hereby extinguished without any further act or notification.
17. The Trustee will review the submitted proofs of claim by no later than six weeks following the Claims Bar Date. In the event that the Trustee determines not to accept a creditor's Proof of Claim, the Trustee 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 Trustee 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 Trustee, 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 Trustee. 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 Trustee 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 Trustee and the Trustee 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 Trustee acknowledging such assignment or

transfer. After the Trustee has delivered a written confirmation acknowledging the notice of the transfer or assignment of a Claim, the Trustee 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 WIT or the Trustee 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 Trustee 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 Trustee, 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 Trustee 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 Trustee'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 Trustee 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  
 900, 10130 103 Street NW  
 Edmonton, Alberta T5J 3N9  
 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 Trustee shall serve notice of such amendment on the Service List in these proceedings and the Trustee shall post such further Order on the Trustee'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 Trustee 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 Trustee 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 Trustee, as an officer of the Court, as may be necessary or desirable to give effect to this Order or to assist the Trustee 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.

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Justice of the Court of Queen's Bench of Alberta

**SCHEDULE "A"****NOTICE TO CREDITORS OF  
WESTPOINT INVESTMENT TRUST**

RE: Notice of Claims Procedure for the creditors of Westpoint Investment Trust

DEADLINE: **October 5, 2022 (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 September 2, 2022 (the "Claims Procedure Order") the Court has ordered a procedure for the filing of claims by creditors against Westpoint Investment Trust (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 Judicial Trustee ("Trustee") by contacting David Lewis or by phone at 780-441-2159.

Any person who believes that they have a claim against WIT must send a completed Proof of Claim to the Trustee, which must be delivered no later than **5:00 PM (Mountain Standard Time) on October 5, 2022** (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 Trustee.**

**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 Trustee by mail, fax, courier, personal delivery or email as follows:

BDO Canada Limited  
Attn: Jacob Furneaux  
900, 10130 103 Street NW  
Edmonton, Alberta T5J 3N9  
Fax: (780) 424-3222  
Email: [jfurneaux@bdo.ca](mailto:jfurneaux@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 Trustee at the address and contact information indicated herein.

**BDO CANADA LIMITED** in its capacity as Court-Appointed Judicial Trustee.

Per: \_\_\_\_\_  
David Lewis

BDO Canada Limited  
 900, 10130 103 Street NW  
 Edmonton, Alberta T5J 3N9  
 Attention: David Lewis  
 email: dlewis@bdo.ca

### PROOF OF CLAIM

In the matter of the Trustee Act, RSA 2000, C T-8 Sections 43 and 46;

And in the matter of the Appointment of the Judicial Trustee in regard to Westpoint Investment Trust, of the City of Edmonton, in the Province of Alberta

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

\_\_\_\_\_

\_\_\_\_\_

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 Westpoint Investment Trust (or I am \_\_\_\_\_ (position/title) of \_\_\_\_\_ (Creditor), a creditor of Westpoint Investment Trust.
2. That I have knowledge of all the circumstances connected with the claim referred to below.
3. That Westpoint Investment Trust was, at the date of the Appointment of the Judicial Trustee in regard to Westpoint Investment Trust, namely the 8th day of March 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 *Bankruptcy and Insolvency Act*.)

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

Regarding the amount of \$\_\_\_\_\_, I claim a right to a priority under section 136 of the *Bankruptcy and Insolvency 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. 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.)

That, to the best of my knowledge, the above-named creditor is not related to Westpoint Investment Trust within the meaning of the section 4 of the *Bankruptcy and Insolvency Act*, and has not dealt with Westpoint Investment Trust in a non-arm's length manner.

Dated at \_\_\_\_\_, \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
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: Subsection 201(1) of the *Bankruptcy and Insolvency 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 INVESTMENT TRUST**

**Notice To Creditors of Westpoint Investment Trust (“WIT”)**

**RE: NOTICE OF CLAIMS PROCEDURE FOR WIT 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 September 2, 2022 (the “**Claims Procedure Order**”) establishing a procedure for determining the amount of Claims (as defined in the Order) against WIT. The Court has ordered that the Trustee send Proof of Claim forms to the known creditors of WIT. Any person who has not received a Proof of Claim form and who believes that they have a claim against WIT should send a completed Proof of Claim to the Trustee to be received by **5:00 p.m. (Mountain Standard Time) on October 5, 2022** (the “**Claims Bar Date**”).

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

- a) Creditors who have not received a Proof of Claim from the Trustee 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 Trustee of WIT to obtain a Proof of Claim package.

**DATED** at Edmonton, this 12<sup>th</sup> day of September 2022

**BDO CANADA LIMITED**  
900, 10130 103 Street NW  
Edmonton, Alberta T5J 3N9  
Attention: David Lewis  
Email: [dlewis@bdo.ca](mailto:dlewis@bdo.ca)  
Phone: 780-441-2159  
Fax: 780-424-3222



**SCHEDULE "C"**

**CLAIM STATEMENT**

**WESTPOINT INVESTMENT TRUST ("WIT")**

**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 WIT, pursuant to the Order of the Court of Queen's Bench of Alberta dated September 2, 2022 (the "Claims Procedure Order") in proceedings in respect of WIT. Pursuant to the Claims Procedure Order, the Court-appointed Trustee of WIT, BDO Canada Limited (the "Trustee"), 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 WIT in the possession of the Trustee, the Claim of the Creditor is set out in the table below (the "Listed Claim"):

<b>Amount of Claim<sup>1,2</sup></b>	<b>Name of Debtor</b>	<b>Nature of Claim</b>
[Insert amount of Claim]	Westpoint Investment Trust	[Unsecured Claim / Unsecured Priority Claim / Secured Claim]

If the Listed Claim accurately reflects the Claim that the Creditor has in respect of WIT you are not required to take any further action or to file a Proof of Claim with the Trustee.

**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 WIT other than the Listed Claim, the Creditor must complete a Notice of Dispute of Claim Statement** and deliver it to the Trustee such that it is received by the Trustee by no later than 5:00 p.m. (Edmonton time) on October 5, 2022 (the "Claims Bar Date").

If a completed Notice of Dispute of Claim Statement in respect of the Listed Claim is not received by the Trustee 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.

**IF A NOTICE OF DISPUTE OF CLAIM STATEMENT IS NOT RECEIVED BY THE TRUSTEE 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 Trustee at the following address:

BDO Canada Limited  
Attn: David Lewis  
616, 10216 124 Street Edmonton AB T5N 4A3  
Fax: (780) 424-3222  
Email: [dlewis@bdo.ca](mailto:dlewis@bdo.ca)

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

(a) \_\_\_\_\_

<sup>1</sup> 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 CDN\$1.2277 / USD\$1.00.

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

**SCHEDULE "D"**

**NOTICE OF DISPUTE OF CLAIM STATEMENT**

**WESTPOINT INVESTMENT TRUST ("WIT")**

Capitalized terms not defined herein have the meanings given to them in the Order of the Court of Queen's Bench of Alberta dated September 2, 2022 (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:

<b>Debtor</b>	<b>Amount of Claim</b>	<b>Nature of Claim</b>
	[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.

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Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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Signature of Creditor or its  
Authorized Signatory

This Notice of Dispute of Claim Statement MUST be delivered to the Trustee at the below address such that it is received by the Trustee by no later than 5:00 p.m. (Edmonton time) on October 5, 2022 (the “**Claims Bar Date**”):

BDO Canada Limited  
Attn: David Lewis  
616, 10216 124 Street Edmonton AB T5N 4A3  
Fax: (780) 424-3222  
Email: [dlewis@bdo.ca](mailto:dlewis@bdo.ca)

If a completed Notice of Dispute of Claim Statement in respect of the Listed Claim is not received by the Trustee 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 TRUSTEE 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.**