

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MADAM) TUESDAY, THE 13TH DAY
)
JUSTICE CONWAY) OF FEBRUARY, 2024

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

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

ANCILLARY ORDER

THIS MOTION, made by BDO Canada Limited (“**BDO**”), in its capacity as receiver (in such capacity, the “**Receiver**”) over all of the assets, properties and undertakings of Carriage Hills Vacation Owners Association (the “**Applicant**”) and all the lands and premises on which the Applicant operated the Carriage Hills Resort, appointed by Order of the Court with effect as of January 6, 2021, for an Order approving among other things, activities and fees, was heard this day via Zoom judicial video conference.

ON READING the Motion Record of the Receiver dated February 2, 2024 (the “**Motion Record**”), the Ninth Report of the Receiver dated February 1, 2024 (the “**Ninth Report**”), the Report dated January 22, 2024 (the “**Claims Officer’s Report**”) of Tim Duncan, in his capacity as claims officer appointed by the Receiver’s Collection Plan Order made February 16, 2021 (the “**Claims Officer**”) and on hearing the submissions of counsel for the Receiver, counsel for the Claims Officer, counsel for Wyndham Worldwide Corporation, Shell Finco LLC, Carriage Hills Resort Corporation and Carriage Hills Hospitality Inc. and the submissions of Christopher Diana, and no one else appearing for any other parties on the Service List, although duly served as appears from the affidavit of service of Cristian Delfino sworn February 5, 2024, filed,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the notice of motion and the Motion Record be and is hereby abridged so that this motion is properly returnable today and hereby dispenses with further service thereof.

DEFINITIONS

2. **THIS COURT ORDERS** that capitalized terms not defined herein shall have the meanings ascribed thereto in the Ninth Report.

APPROVAL AND AUTHORIZATION

3. **THIS COURT ORDERS** that the Ninth Report and the Receiver's activities set out therein be and are hereby approved; provided, however, that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

4. **THIS COURT ORDERS** that the Receiver's Interim Statement of Receipts and Disbursements for the period ending December 31, 2023 be and is hereby approved.

5. **THIS COURT ORDERS** that the Receiver's decision not to contest the remaining unresolved Claims Decision Appeals is hereby approved.

6. **THIS COURT ORDERS** that the Receiver's acceptance of the unresolved Disputed Claims is hereby approved.

7. **THIS COURT ORDERS** that the professional fees and disbursements of BDO in its capacity as Receiver and receiver of Carriage Ridge Owner's Association ("**Carriage Ridge**") for the period from April 1, 2021 to January 15, 2024, in the amount of \$419,866.00 plus disbursements of \$6,259.90 and HST of \$55,396.37, for a total of \$481,522.27, and its estimated remaining fees and disbursements from January 16, 2024 to completion of the administration of the Receivership and the wind-up of the Applicant and Carriage Ridge (the "**Wind-up**") pursuant to the Wind-up and Discharge Orders made herein on the date of this Order (the "**Wind-up Orders**"), in the amount of \$350,000 (plus HST), as set out in the Affidavit of

Matthew Marchand, sworn January 31, 2024 and attached as Appendix “R” to the Ninth Report, are hereby approved and the Receiver is authorized to pay the Applicant’s 69% share of such fees and disbursements.

8. **THIS COURT ORDERS** that the professional fees and disbursements of Aird & Berlis LLP, counsel to the Receiver and to the receiver of Carriage Ridge for the period from March 27, 2023 to November 30, 2023, in the amount of \$78,149.50 plus disbursements of \$679.25 and HST of \$10,159.61, for a total of \$88,988.36, and its estimated remaining fees and disbursements from December 1, 2023 to completion of the administration of the Receivership and the Wind-up, in the amount of \$75,000 (plus HST) as set out in the Affidavit of Sanjeev Mitra, sworn January 31, 2024 and attached as Appendix “S” to the Ninth Report, are hereby approved and the Receiver is authorized to pay the Applicant’s 69% share of such fees and disbursements.

9. **THIS COURT ORDERS** that the professional fees and disbursements of Thornton Grout Finnigan LLP, special counsel to the Receiver and to the receiver of Carriage Ridge for the period from April 1, 2021 to December 31, 2023, in the amount of \$30,817.50 plus HST of \$4,006.30, for a total of \$34,823.80, and its estimated remaining fees and disbursements from November 1, 2023 to completion of the administration of the Receivership and the Wind-up, in the amount of \$25,000 (plus HST), as set out in the Affidavit of Leanne M. Williams sworn January 30, 2024 and attached as Appendix “T” to the Ninth Report, are hereby approved and the Receiver is authorized to pay the Applicant’s 69% share of such fees and disbursements.

10. **THIS COURT ORDERS** that, to the extent the professional fees and disbursements approved in paragraphs 7, 8 or 9 of this Order are those of BDO in its capacity as liquidator in the Wind-up appointed by the Wind-up Orders (in such capacity, the “**Liquidator**”) or those of the Liquidator’s counsel, those fees and disbursements have been assessed by this Court for purposes of section 247 of the *Corporations Act*, RSO 1990, c C.38, as amended.

11. **THIS COURT ORDERS** that the Claims Officer’s Report and the Claims Officer’s activities set out therein be and are hereby approved; provided, however, that only the Claims Officer and only with respect to his own personal liability and the liability of his firm, Fogler Rubinoff LLP, shall be entitled to rely upon or utilize in any way such approval.

12. **THIS COURT ORDERS** that the professional fees and disbursements of the Claims Officer and his firm, Fogler Rubinoff LLP, for the period from December 20, 2022 to January 26, 2024, in the amount of \$50,702.50 plus disbursements of \$262.44 and HST of \$6,625.44, for a total of \$57,590.38, and the Claims Officer's estimated remaining fees and disbursements from January 27, 2024 to completion of the Claims Officer's mandate, in the amount of \$2,500 (including HST), as set out in the Affidavit of Tim Duncan sworn January 31, 2024 and attached as Appendix "U" to the Ninth Report, are hereby approved.

GENERAL

13. **THIS COURT ORDERS** that the Receiver may, in its discretion, generally or in individual circumstances, waive, in writing, the time limits imposed on any Creditor under this Order if the Receiver deems it advisable to do so (without prejudice to the requirement that all other Creditors comply with this Order) and, in so doing, may extend any related time period applicable to the Receiver by the same period of time.

14. **THIS COURT ORDERS** that, notwithstanding the terms of this Order, the Receiver may apply to this Court from time to time for such further order or orders as it considers necessary or desirable to amend, supplement or replace this Order.

15. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

EFFECT, RECOGNITION AND ASSISTANCE OF OTHER COURTS

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

17. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

18. **THIS COURT ORDERS** that this Order and all of its provisions are effective from the as of 12:01 a.m. Eastern Standard Time on the date of this Order without any need for entry and filing.

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

IN THE MATTER OF SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C43, AS AMENDED

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

Applicant

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

ANCILLARY ORDER

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