

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MADAM)
)
JUSTICE CONWAY)
) TUESDAY, THE 13TH DAY
) 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**

WIND-UP AND DISCHARGE 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 (the “**Receivership Order**”), for an Order approving *inter alia*, the wind-up of the Applicant, the discharge of the Receiver and the discharge of the claims officer appointed by the Receiver’s Collection Plan Order made February 16, 2021 (the “**Claims Officer**”), 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**”), and on hearing the submissions of counsel for the Receiver, counsel to 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.

WIND-UP

3. **THIS COURT ORDERS** that, pursuant to section 246 of the *Corporations Act*, RSO 1990, c C.38, as amended (the “*Corporations Act*”), BDO is hereby appointed liquidator (in such capacity, the “**Liquidator**”) of the estate and effects of the Applicant for the purpose of winding up the Applicant’s affairs and distributing its property, provide, for greater certainty, that such duties of the Liquidator will not reduce or replace the Receiver’s duties or powers as set out herein or in other Orders of this Court.

4. **THIS COURT ORDERS** that the Liquidator shall have all benefit and protection of the stay of proceedings in paragraphs 9 and 11 of the Receivership Order.

5. **THIS COURT ORDERS** that BDO shall incur no liability or obligation as a result of its appointment as Liquidator or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part.

6. **THIS COURT ORDERS** that, pursuant to subsection 255 of the *Corporations Act*, the Liquidator and its counsel shall be paid their reasonable fees and disbursements, in each at their standard rates and charges, and the Liquidator and its counsel are entitled to and shall have the benefit of the Receiver’s Charge granted by the Receivership Order.

DISCHARGE OF RECEIVER AND LIQUIDATOR

7. **THIS COURT ORDERS** upon BDO filing a certificate in substantially the form attached as **Schedule “A”** to this Order certifying that it has completed the Remaining Matters

and its duties as Liquidator (the “**Receiver’s Discharge Certificate**”), BDO shall be discharged as Receiver and Liquidator of the undertaking, property and assets of the Applicant, provided however that notwithstanding its discharge herein (a) BDO shall remain Receiver and Liquidator for the performance of such incidental duties as may be required to complete the administration of the receivership and wind-up herein, and (b) BDO shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of BDO in its capacity as Receiver or Liquidator.

8. **THIS COURT ORDERS** that BDO is hereby released and discharged from any and all liability that BDO now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of BDO while acting in its capacity as Receiver and Liquidator herein, save and except for any gross negligence or wilful misconduct on the Receiver's or Liquidator’s part. Without limiting the generality of the foregoing, BDO is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership and wind-up proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's or Liquidator’s part.

DISCHARGE OF CLAIMS OFFICER

9. **THIS COURT ORDERS** that, upon the Claims Officer delivering to the Receiver, and the Receiver filing with the Court, a certificate in substantially the form attached as **Schedule “B”** to this Order certifying that the Claims Officer has completed his duties as Claims Officer (the “**Claims Officer’s Discharge Certificate**”), Tim Duncan of Fogler Rubinoff LLP shall be discharged as Claims Officer, provided however that notwithstanding its discharge herein (a) the Claims Officer shall remain Claims Officer for the performance of such incidental duties as may be required to complete the Claims Officer duties herein, and (b) the Claims Officer shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of Tim Duncan and Fogler Rubinoff LLP in his capacity as Claims Officer.

10. **THIS COURT ORDERS** that Tim Duncan and Fogler Rubinoff LLP are hereby released and discharged from any and all liability that Tim Duncan now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of Tim Duncan while

acting in his capacity as Claims Officer herein, save and except for any gross negligence or wilful misconduct on the Claim Officer's part. Without limiting the generality of the foregoing, Tim Duncan and Fogler Rubinoff LLP are hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings, save and except for any gross negligence or wilful misconduct on the Claims Officer's part.

GENERAL

11. **THIS COURT ORDERS** that, notwithstanding the terms of this Order, the Receiver and Liquidator 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.

12. **THIS COURT ORDERS** that the Receiver and Liquidator 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

13. **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.

14. **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.

15. **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.



**Schedule “A” to Wind-Up and Discharge Order
Form of Receiver’s Discharge Certificate**

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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**

RECEIVER’S DISCHARGE CERTIFICATE

RECITALS

- A. Pursuant to the Amended and Restated Appointment Order of the Honourable Justice Conway of the Ontario Superior Court of Justice (the “**Court**”) dated December 11, 2020, BDO Canada Limited (“**BDO**”) was appointed as the receiver and manager (the “**Receiver**”), without security, of all of the assets, undertakings and properties of Carriage Hills Vacation Owners Association (the “**Applicant**”) and all the lands and premises on which the Applicant operated the Carriage Hills Resort.
- B. Pursuant to an Order of the Court dated February 13, 2024 (the “**Wind-up and Discharge Order**”), BDO was appointed as liquidator of the Applicant (the “**Liquidator**”) for purposes of the *Corporations Act*, RSO 1990, c C.38, as amended (the “*Corporations Act*”).
- C. Pursuant to the Wind-up and Discharge Order, BDO was discharged as Receiver and Liquidator effective upon the filing by the Receiver with the Court of a certificate confirming

that the Receiver has completed the Remaining Matters to the satisfaction of the Receiver and that the Liquidator has completed its duties.

D. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Wind-up and Discharge Order.

THE RECEIVER CERTIFIES that the Remaining Matters have been completed and the Liquidator has completed its duties under the Wind-up and Discharge Order and the *Corporations Act*, all to the satisfaction of the Receiver.

BDO CANADA LIMITED, solely in its capacities as court-appointed receiver and liquidator of Carriage Hills Vacation Owners Association, and not in its personal or corporate capacity

Per: _____
Name:
Title:

**Schedule “B” to Wind-Up and Discharge Order
Form of Claims Officer’s Discharge Certificate**

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

**ONTARIO
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IN THE MATTER OF THE *COURTS OF JUSTICE ACT*, R.S.O.
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CLAIMS OFFICER’S DISCHARGE CERTIFICATE

RECITALS

- A. Pursuant to the Receiver’s Collection Plan Order of the Honourable Justice Conway of the Ontario Superior Court of Justice (the “**Court**”) dated February 16, 2021, Tim Duncan of Fogler Rubinoff LLP was appointed as claims officer herein (the “**Claims Officer**”)
- B. Pursuant to an Order of the Court dated February 13, 2024 (the “**Wind-up and Discharge Order**”), Tim Duncan was discharged as Claims Officer effective upon the Claims Officer delivering to the Receiver, and the Receiver filing with the Court, a certificate certifying that the Claims Officer has completed his duties as Claims Officer.
- C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Wind-up and Discharge Order.

THE CLAIMS OFFICER CERTIFIES that the Claims Officer has completed his duties to the satisfaction of the Claims Officer.

Tim Duncan, in his capacity as Court-appointed Claims Officer in the receivership proceedings of Carriage Hills Vacation Owners Association

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

WIND-UP AND DISCHARGE ORDER

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*Lawyers for BDO Canada Limited in its capacity as
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