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COURT FILE NUMBER

2003-06728

COURT

COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE

COUNTERCLAIM

EDMONTON

PLAINTIFFS

ROMSPEN MORTGAGE LIMITED PARTNERSHIP A

ROMSPEN INVESTMENT CORPORATION

3443 ZEN GARDEN LIMITED PARTNERSHIP, LOT 11 GP CORT THE CO

Clerk's Stamp

CENTRE OF

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Jan 18, 2024

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LTD., LOT 11 LIMITED PARTNERSHIP, ECO INDUSTRIAL BUSINESS PARK INC., ABSOLUTE ENERGY RESOURCES

DEFENDANTS

BUSINESS PARK INC., ABSOLUTE ENERGY R

INC., ABSOLUTE ENVIRONMENTAL WASTE

MANAGEMENT INC. AND DANIEL ALEXANDER WHITE

3443 ZEN GARDEN LIMITED PARTNERSHIP, LOT 11 GP

PLAINTIFFS BY

LTD., LOT 11 LIMITED PARTNERSHIP, ECO INDUSTRIAL
BUSINESS PARK INC., ABSOLUTE ENERGY RESOURCES

INC., ABSOLUTE ENVIRONMENTAL WASTE

MANAGEMENT INC. AND DANIEL ALEXANDER WHITE

DEFENDANTS BY ROMSPEN MORTGAGE LIMITED PARTNERSHIP,

COUNTERCLAIM

ROMSPEN INVESTMENT CORPORATION, RICHARD

WELDON AND WESLEY ROITMAN

COURT FILE NUMBER 1903-21473

COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE EDMONTON

LOT 11 LIMITED PARTNERSHIP by its general partner LOT

11 GP LTD., ECO-INDUSTRIAL BUSINESS PARK INC.,

APPLICANTS ABSOLUTE ENERGY RESOURCES INC., ABSOLUTE

ENVIRONMENTAL WASTE MANAGEMENT INC. AND

DANIEL ALEXANDER WHITE.

RESPONDENT ROMSPEN INVESTMENT CORPORATION

DOCUMENT ORDER: SUMMARY JUDGMENT

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY

FILING THIS DOCUMENT

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File No. 443063-000012

DATE ON WHICH ORDER WAS PRONOUNCED:

DECEMBER 20, 2023

LOCATION WHERE ORDER WAS PRONOUNCED:

EDMONTON

NAME OF JUSTICE WHO MADE THIS ORDER:

JUSTICE K. FETH

UPON THE THIRD AMENDED APPLICATION of Plaintiffs/Defendants by Counterclaim, Romspen Investment Corporation ("RIC"), Romspen Mortgage Limited Partnership ("RMLP", and together with RIC, "Romspen"), Richard Weldon and Wesley Roitman (all of the foregoing are collectively referred as the "Romspen Parties") (the "Application"),

AND UPON having read the Affidavit of Wesley Roitman, sworn on March 30, 2020 and filed on March 31, 2020, the Supplemental Affidavit of Wesley Roitman, sworn on April 1, 2020 and filed on April 1, 2020, the Affidavit of Wesley Roitman, sworn on April 17, 2020 and filed on April 20, 2020, the Affidavit of Wesley Roitman, sworn on April 17, 2020 and filed on April 22, 2020, the Affidavit of Wesley Roitman, sworn on April 24, 2020 and filed on April 28, 2020, the Affidavit of Wesley Roitman, sworn on June 15, 2020 and filed on June 15, 2020, the Affidavit of Wesley Roitman, sworn on November 16, 2020 and filed on November 16, 2020, the Supplemental Affidavit of Wesley Roitman, sworn on November 18, 2020 and filed on November 19, 2020, the Affidavit of Wesley Roitman, sworn on December 18, 2020 and filed on December 21, 2020, the Affidavit of Wesley Roitman, sworn on October 19, 2021 and filed on October 25, 2021, the Affidavit of Wesley Roitman, sworn on July 29, 2022 and filed on August 2, 2022 (the "Roitman Affidavit"), the Supplemental Affidavit of Wesley Roitman, sworn on August 9, 2022

and filed on August 10, 2022, the Second Supplemental Affidavit of Wesley Roitman, sworn on October 28, 2022 and filed on October 29, 2022, the Third Supplemental Affidavit of Wesley Roitman, sworn on December 14, 2022 and filed on December 15, 2022, the Expert Report of John Kane dated November 15, 2022, the Supplemental Expert Report of John Kane dated April 14, 2023, the Affidavit of Stephanie Poirier, sworn on January 18, 2023 and filed on January 18, 2023, the Affidavit of Lynne Moore, sworn on July 7, 2023 and filed on July 12, 2023, the Supplemental Affidavit of Lynne Moore, sworn on July 27, 2023 and filed on July 28, 2023, the Affidavit of Daniel Alexander White, sworn on April 28, 2020 and filed on April 29, 2020, the Affidavit of Daniel Alexander White, sworn on October 28, 2020 and filed on November 13, 2020, the Affidavit of Daniel Alexander White, sworn on April 8, 2021 and filed on April 23, 2021, the Affidavit of Daniel Alexander White, sworn on November 13, 2022 and filed on November, 16 2022, the Affidavit of Daniel Alexander White, sworn on November 13, 2023 and filed on January 6, 2023, and other pleadings and documents filed in the within Action;

AND UPON hearing counsel for Romspen Parties, counsel for MNP Ltd., the Courtappointed receiver and manager (the "Receiver") of in respect of Lot 11 GP Ltd., Lot 11 Limited Partnership, Eco-Industrial Business Park Inc., Absolute Energy Resources Inc., Absolute Environmental Waste Management Inc. (collectively, the "Alberta Entities") and trustee in bankruptcy of Eco-Industrial Business Park Inc., counsel for the Defendant/Plaintiff by Counterclaim, Daniel Alexander White ("White"), and non-party Respondent, Dan White Family Trust, and non-party Symmetry Asset Management Inc. and any other counsel or other interested parties present;

AND UPON having considered the Rule 7.3 of the Alberta Rules of Court, AR 124/2010 (the "Rules");

AND UPON being satisfied that there is no genuine issue requiring a trial with respect to the Statement of Claim of Romspen and the Counterclaim of the Alberta Entities and White in the within Action;

IT IS ORDERED AND DECLARED THAT:

- 1. The Application is partially granted.
- 2. RMLP is granted partial summary judgment against the Alberta Entities and White, jointly and severally, for the amount of USD \$51,495,021.72 which shall be converted to Canadian dollars using the Bank of Canada's exchange rate of 1:1.3273 as of July 5, 2023 for a total of CAD \$68,349,341.96.
- 3. Pursuant to Rule 7.3(3) of the Rules, Romspen is granted leave to contact the Acting Chief Justice for the appointment of a referee for the calculation of the balance of its debt against the Alberta Entities and White, including the calculation of reasonable solicitor-and-own-client (full indemnity) legal costs, reasonable disbursements, property taxes, DIP loan balance, insurance administration fee, receivership charges, and interest, but excluding the USD \$600,000 settlement payment.
- 4. The amount of the balance of the debt (excluding the USD \$600,000 settlement payment) shall be converted to Canadian dollars as of the date of that judgment.
- Pursuant to Rule 6.46 of the Rules, the referee shall make a report to the Court on the
 assessment of the debt amount and the Acting Chief Justice will determine whether
 receipt of that report shall be assigned to another judge of this Court.
- 6. The Counterclaim filed in the within Action is dismissed.
- 7. The declaratory relief filed in the within Action is dismissed.

8. In the event that the parties are unable to settle the terms of the Formal Judgment, either group of parties have leave to write to the Honourable Mr. Justice K. Feth within 30 days of the Judgment date to settle the terms.

Justice of the Court of King's Bench of Alberta