

CERTIFIED *E. Wheaton*
by the Court Clerk as a true copy of
the document digitally filed on Jul
26, 2024 COURT FILE NO.

1701-04209

Clerk's Stamp

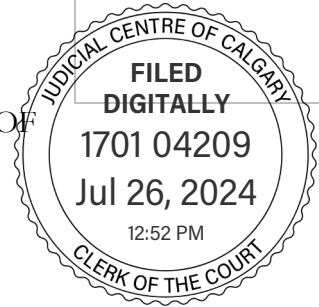
COURT

COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

IN THE MATTER OF THE RECEIVERSHIP OF
DMD III MORTGAGE INVESTMENT
CORPORATION



PLAINTIFF

AXCESS CAPITAL ADVISORS INC.

DEFENDANT'S

DMD MORTGAGE INVESTMENT
CORPORATION, DMD II MORTGAGE
INVESTMENT CORPORATION and DMD III
MORTGAGE INVESTMENT CORPORATION

APPLICANT

MNP LTD. in its capacity as Court-appointed
Receiver and Manager of the assets, undertakings and
properties of DMD III MORTGAGE
INVESTMENT CORPORATION

DOCUMENT

CLAIMS PROCESS ORDER

ADDRESS FOR SERVICE
AND CONTACT
INFORMATION OF
PARTY FILING THIS
DOCUMENT

Torys LLP
4600 Eighth Avenue Place East
525 - Eighth Ave SW
Calgary, AB T2P 1G1

Attention: Kyle Kashuba
Telephone: +1 403.776.3744
Fax: +1 403.776.3800
Email: kkashuba@torys.com
File No. 34004-2004

DATE UPON WHICH ORDER WAS PRONOUNCED:

July 24, 2024

NAME OF JUSTICE WHO MADE THIS ORDER:

Madam Justice B.E.C. Romaine

LOCATION OF HEARING:

Calgary, Alberta

UPON THE APPLICATION by MNP Ltd., in its capacity as Court-appointed receiver and manager (the “**Receiver**”) of the assets, undertakings and properties of DMD III Mortgage Investment Corporation (“**DMD III**”) for a Claims Process Order; **AND UPON HAVING READ** the Application, the Fourth Report of the Receiver filed July 15, 2024 (the “**Fourth**

Report”), the Affidavit of Service of Eunyong Jung, sworn and filed July 18, 2024 (the “**Affidavit of Service**”) and any other material and evidence filed to date in the within proceedings; **AND UPON HEARING** the submissions of counsel for the Receiver, and from any other interested parties who may be present, with no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service; **AND UPON IT APPEARING** that all interested and affected parties have been served with notice of this Application;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. All capitalized terms used herein and not otherwise defined shall have the same meanings as defined in the Receivership Order pronounced herein on April 7, 2017 by the Honourable Justice A.D. Macleod (the “**Receivership Order**”) and/or the Fourth Report.
2. The time for service of the notice of Application for this Order is hereby abridged and service of the Application and supporting materials is deemed good and sufficient.

DEFINITIONS

3. For the purposes of this Order the following terms shall have the following meanings:
 - (a) “**BIA**” means the *Bankruptcy and Insolvency Act* (Canada), as amended;
 - (b) “**Business Day**” means a day, other than a Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Calgary, Alberta, and for clarity, “day” includes each of the 7 days in any given week;
 - (c) “**Company**” means DMD III;
 - (d) “**Claim**” shall exclude an Excluded Claim (as defined herein) but shall include any other right of claim of any Person (as defined herein) against the Company, whether or not asserted, in connection with any indebtedness, liability, or obligation of any kind of the Company owed to such Person, and any interest accrued thereon or costs payable in respect thereon, including any indebtedness, liability or obligation owed to

such Person as a result of any breach of duty (including, without limitation, any legal, statutory, equitable, or fiduciary duty), any right of ownership of or title to property or assets or to a trust or deemed trust against any Property, 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 the 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 which existed prior to the Receivership Date, and any right or claim of any Person against the Company in connection with any indebtedness, liability or obligation of any kind whatsoever owed by the Company to such Person arising out of the restructuring, disclaimer, resiliation, termination or breach on or after the Receivership Date of any contract, lease or other agreement whether written or oral and whether such restructuring, disclaimer, resiliation, termination or breach took place or takes place before or after the date of this Order;

- (e) “**Claimant**” means a Person asserting a Claim against the Company;
- (f) “**Claims Bar Date**” means 5:00 p.m. (Calgary Time) on September 17, 2024;
- (g) “**Claims Package**” means the materials to be provided by the Receiver to Persons that may have a Claim as evidenced by the books and records of the Company, which materials shall include the Notice to Creditor and attached blank Proof of Claim Form with a Proof of Claim instruction letter, and such other materials as the Receiver may consider appropriate or desirable;
- (h) “**Claims Process**” means the procedures outlined in this Order in connection with the assertion of Claims against the Company;

- (i) “**Court**” means the Court of King’s Bench of Alberta;
- (j) “**Creditor**” means any Person having a Claim including a transferee or assignee of a transferred Claim that is recognized as a Creditor in accordance with paragraph 23 hereof or a trustee, executor, liquidator, receiver, receiver and manager, or other person acting on behalf of or through such Person;
- (k) “**Excluded Claim**” means the reasonable fees and expenses incurred by the Receiver, and its counsel, in respect of the within proceedings; and
- (l) “**GST**” means the goods and services sales tax payable pursuant to Part XI of the *Excise Tax Act* (Canada) or any other statute in any other jurisdiction of Canada, as such statutes may be amended, modified or replaced from time to time, including any successor statute;
- (m) “**Notice to Creditor**” means the notice to be sent by the Receiver to Creditors, or to be published, as described herein, as is included in the Claims Package;
- (n) “**Dispute Notice**” means the notice referred to herein, substantially in the form attached as **Appendix “C”** to the Fourth Report, which may be delivered to the Receiver by a Claimant disputing a Disallowance Notice;
- (o) “**Disallowance Notice**” means the notice referred to herein, substantially in the form attached as **Appendix “B”** to the Fourth Report, hereto advising a Claimant that the Company has revised or disallowed all of part of such Claimant’s Claim as set out in its Proof of Claim;
- (p) “**Person**” means any individual, firm, corporation, limited or unlimited liability company, general or limited partnership, association, trust, unincorporated organization, joint venture, government or any agency or instrumentality thereof or any other entity;

- (q) “**Proof of Claim**” means the Proof of Claim referred to herein and submitted to the Receiver by Creditors, substantially in the form included in the Claims Package; and
- (r) “**Receiver’s Website**” means,
<http://mnpdebt.ca/en/corporate/engagements/dmd-iii-mortgage-investment-corporation>.

CLAIMS PROCESS

4. The Claims Process, as set out in described in the Fourth Report of the Receiver, is hereby approved.

NOTICE OF CLAIMS PACKAGE

5. As soon as practicable after the granting of this Order, the Receiver shall send the Claims Package to each Creditor with a Claim as evidenced by the books and records of the Company as of the Receivership Date. The Proof of Claim to be delivered to each such Creditor as part of the Claims Package shall provide general information and instructions in respect of the filing of Claims.
6. The Receiver shall cause a newspaper notice to be advertised in the *Calgary Herald* on or before August 8, 2024.
7. The Receiver shall cause the Claims Package and a copy of this Order to be posted to the Receiver’s Website as soon as practicable after the granting of this Order.
8. To the extent any Creditor requests documents relating to the Claims Process prior to the Claims Bar Date or if the Receiver becomes aware of any further Claims, the Receiver shall forthwith direct the Creditor to the Claims Package posted on the Receiver’s Website or otherwise respond to the request for the Claims Package, as may be appropriate in the circumstances.
9. The forms of Creditor Package, Disallowance Notice and Dispute Notice, attached respectively to the Fourth Report as Appendices “A”, “B” and “C”, are hereby approved.

Despite the foregoing, the Receiver may, from time to time, make such minor changes to these forms as the Receiver consider necessary or desirable.

10. The sending to the Creditors and publication of the Claims Package in accordance with this Order, and completion of the other requirements of this Order, shall constitute good and sufficient service and delivery of notice of this Order and the Claims Bar Date on all Persons who may be entitled to receive notice and who may wish to assert a Claim, and no other notice or service need be given or made and no other document or material need be sent to or served upon any Person in respect of this Order.

DELIVERY OF PROOFS OF CLAIM

11. Any Person who wishes to assert a Claim shall deliver a Proof of Claim to the Receiver in the manner set out in this Order so that the Proof of Claim is received by the Receiver by no later than the Claims Bar Date. Any Person who fails to deliver a Proof of Claim to the Receiver shall:
 - (a) be and is hereby forever barred, estopped and enjoined from asserting or enforcing any Claim against the Company and all such Claims shall be forever extinguished;
 - (b) not be entitled to receive further notice with respect to the Claims Process or these proceedings; and
 - (c) not be permitted to participate in any distribution made by the Receiver to Creditors of the Company.

ADJUDICATION OF CLAIMS

12. The Receiver shall review all Proofs of Claim received on or before the Claims Bar Date and shall accept, revise or reject each Claim. If the Receiver intends to revise or reject a Claim, the Receiver shall notify the Claimant who has delivered such Proof of Claim that such Claim as set out therein has been revised or rejected and the reasons therefore, by sending a Disallowance Notice to the Claimant by no later than October 1, 2024. Where the Receiver

does not send a Disallowance Notice to a Claimant by such date, the Receiver shall be deemed to have accepted such Claimant's Claim in the amount set out in that Claimant's Proof of Claim.

13. Any Claimant who intends to dispute a Disallowance Notice they have received shall:
 - (a) deliver a completed Dispute Notice to the Receiver within 10 days after the receipt of a Disallowance Notice or such other date as may be agreed to by the Receiver; and
 - (b) within 10 days of delivery of the Dispute Notice, shall file and serve on counsel for the Receiver a Notice of Application returnable in the within proceedings along with supporting affidavit materials seeking to determine the validity of that portion of the Claimant's Claim that was disallowed by the Receiver, the hearing of such application to be on a date agreed upon by the parties to the application and subject to the Court's availability.
14. Where a Claimant that receives a Disallowance Notice does not deliver a completed Dispute Notice or file and serve the Notice of Application and supporting affidavit(s) by the time set out herein, such Claimant's Claim shall be deemed to be as set out in the Disallowance Notice.

SET-OFF

15. The Receiver, on behalf of the Company, may set-off (whether by way of legal, equitable or contractual set-off) against payments or other distributions to be made pursuant to any plan to any Claimant, any claims of any nature whatsoever that the Company may have against such Claimant, however, neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Company of any such claim that the Company may have against such Claimant.

NOTICE OF TRANSFEREES

16. Subject to the terms of any subsequent Order of this Court, if, after the Receivership Date, the holder of a Claim transfers or assigns the whole of such Claim to another Person, neither the Receiver nor the Company shall be obligated to give notice or otherwise deal with the transferee or assignee of such Claim in respect thereof unless and until actual notice of transfer or assignment, together with satisfactory evidence of such transfer or assignment, shall have been received and acknowledged by the Receiver in writing and thereafter such transferee or assignee shall for the purposes hereof constitute the "Claimant" in respect of such Claim. 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 Order prior to receipt and acknowledgement by the Receiver of satisfactory evidence of such transfer or assignment. A transferee or assignee of a Claim takes the Claim subject to any rights of set-off to which the Company may be entitled with respect to such Claim. 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 Company. Reference to transfer in this Order includes a transfer or assignment whether absolute or intended as security.

SERVICE AND NOTICE

17. The Receiver may, unless otherwise specified by this Order, serve and deliver the Claims 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 at the physical or electronic address, as applicable, last shown on the books and records of the Company or set out in such Claimant's Proof of Claim. Any such service and delivery shall be deemed to have been received: (i) if sent by ordinary mail, the fifth Business Day after mailing; (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.

18. Any notice or communication required to be provided or delivered by a Creditor or Claimant to the Company or the Receiver under this Order shall be in writing in substantially the form, if any, provided for in this Order and will be sufficiently given only if delivered by prepaid registered mail, courier, personal delivery, or email addressed to:

MNP Ltd.
2000, 112 - 4th Avenue SW
Calgary, AB
T2P 0H3

Attention: Rick Anderson
Phone: +1 403.537.8424
Email: rick.anderson@mnp.ca

19. Any such notice or communication delivered by a Creditor shall be deemed to be received upon actual receipt thereof by the Receiver during normal business hours on a Business Day or if delivered outside of normal business hours, the next Business Day.
20. If during any period during which notices or other communications are being given pursuant to this Order a postal strike or postal work stoppage of general application should occur, such notices or other communications sent by ordinary mail and then not received shall not, absent further Order of this Court, be effective and notices and other communications given hereunder during the course of any such postal strike or work stoppage of general application shall only be effective if given by courier, personal delivery, facsimile transmission or email in accordance with this Order.
21. In the event this Order is later amended by further Order of the Court, the Receiver may post such further Order on the Receiver's Website and such posting shall constitute adequate notice to Creditor of such amended claim process.


APPROVAL OF ACTIONS, CONDUCT ACTIVITIES AND FEES

22. The portion of the Application that relates to the actions, activities and conduct of the Receiver as reported in the Fourth Report, and the fees and disbursements of the Receiver and its counsel as reported in the Fourth Report, is hereby adjourned.

GENERAL PROVISIONS

23. All references as to time herein shall mean local time in Calgary, Alberta, Canada, 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.
24. The Receiver is hereby authorized to use reasonable discretion as to the adequacy of compliance with respect to the manner in which any forms delivered hereunder are completed and executed and the time in which they are submitted, and may, where they are satisfied that a Claim has been adequately proven, waive strict compliance with the requirements of this Order, including in respect of the completion, execution and time of delivery of such forms, and may request any further documentation from a Claimant that the Company or the Receiver may require in order to enable them to determine the validity of a Claim.
25. Any Claim denominated in a foreign currency shall be converted to Canadian dollars at the Bank of Canada noon exchange rate in effect at the Receivership Date.
26. Notwithstanding any other provisions of this Order, the solicitation by the Receiver or the Company of Proofs of Claim, and the filing by any Claimant of any Proof of Claim shall not, for that reason only, grant any person any standing in these proceedings or rights under any proposed plan of compromise or arrangement.
27. Nothing in this Order shall constitute or be deemed to constitute an allocation or assignment of Claims or Excluded Claims by the Company into particular affected or unaffected classes for the purpose of a plan of compromise or arrangement.

28. This Court requests the aid and recognition of any court or any judicial, regulatory or administrative body in any province or territory of Canada and the Federal Court of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province and any court or any judicial regulatory body of the United States and the states or other subdivisions of the United States, and of any other nation or state, to act in aid of and to be complementary to this Court in carrying out the terms of this Order.
29. Service of this Order shall be deemed good and sufficient by:
- (a) Serving the same on:
 - (i) the persons listed on the service list created in these proceedings;
 - (ii) any other person served with notice of the Application for this Order;
 - (iii) any other parties attending or represented at the Application for this Order; and
 - (b) Posting a copy of this Order on the Receiver's Website,
- and service on any other person is hereby dispensed with.
30. 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.



Justice of the Court of King's Bench of Alberta