

COURT FILE NO. 1701-04209

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY



IN THE MATTER OF THE RECEIVERSHIP OF  
DMD MORTGAGE INVESTMENT  
CORPORATION, DMD II MORTGAGE  
INVESTMENT CORPORATION and DMD III  
MORTGAGE INVESTMENT CORPORATION

PLAINTIFF AXCESS CAPITAL ADVISORS INC.

DEFENDANTS DMD MORTGAGE INVESTMENT CORPORATION, DMD II  
(RESPONDENTS) 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 MORTGAGE  
INVESTMENT CORPORATION, DMD II MORTGAGE  
INVESTMENT CORPORATION and DMD III MORTGAGE  
INVESTMENT CORPORATION

DOCUMENT **ORDER** (Approval of Receiver's Fees, Disbursements, and Activities,  
Discharge of Receiver)

ADDRESS FOR SERVICE Torys LLP  
AND CONTACT 4600 Eighth Avenue Place East  
INFORMATION OF PARTY 525 - Eighth Ave SW  
FILING THIS DOCUMENT Calgary, AB T2P 1G1

Attention: Kyle Kashuba  
Telephone: +1 403.776.3744  
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Email: [kkashuba@torys.com](mailto:kkashuba@torys.com)  
File No. 34004-2004

**DATE UPON WHICH ORDER WAS PRONOUNCED:** October 13, 2023

**NAME OF JUSTICE WHO MADE THIS ORDER:** Justice Richard A. Neufeld

**LOCATION OF HEARING:** Calgary, Alberta

**UPON THE APPLICATION** of MNP Ltd., in its capacity as the Court-appointed receiver and manager (the “**Receiver**”) of DMD Mortgage Investment Corporation and DMD II Mortgage Investment Corporation (together, the “**Debtors**”), for an Order for approval of the Receiver’s fees and disbursements, approval of the Receiver’s activities and the discharge of the Receiver; **AND UPON HAVING READ** the Consent Receivership Order dated April 4, 2017, the two Reports of the Receiver, dated October 2, 2023 (the “**Receiver’s Final DMD I and DMD II Reports**”), and the Affidavit of Service of Jamie Welsh (the “**Affidavit of Service**”); **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** being satisfied that it is appropriate to do so:

**IT IS HEREBY ORDERED AND DECLARED THAT:**

**SERVICE**

1. Service of notice of this Application and supporting materials is hereby declared to be good and sufficient, and no other person is required to have been served with notice of this Application, and time for service of this Application is abridged to that actually given.

**DISCHARGE OF THE RECEIVER**

2. The Receiver is hereby authorized to have all of the Debtors’ remaining books and records destroyed.
3. The previously undertaken and go forward actions, conduct and activities of the Receiver and of the Receiver’s counsel as reported in the Receiver’s Final DMD I and DMD II Reports and in all other reports of the Receiver, are hereby authorized and approved.
4. The Receiver’s accounts for fees and disbursements, as set out in the Receiver’s Final DMD I and DMD II Reports and other reports filed herein are hereby approved without the necessity of a formal passing of its accounts.

5. The accounts of the Receiver's legal counsel, Torys LLP, for its fees and disbursements, as set out in the Receiver's Final DMD I and DMD II Reports and other reports filed herein are hereby approved without the necessity of a formal assessment of those accounts.
6. The Receiver is hereby authorized to pay any remaining professional fees up to the discharge of the Receiver, particulars of which are set out in the Receiver's Final DMD I and DMD II Reports.
7. The Receiver's activities as set out in the Receiver's Final DMD I and DMD II Reports and any other reports filed herein, and the Statement of Receipts and Disbursements as attached to the Receiver's Final DMD I and DMD II Reports, are hereby ratified and approved.
8. On the evidence before the Court, the Receiver has satisfied its obligations under and pursuant to the terms of the Orders granted in the within proceedings up to and including the date hereof, and the Receiver shall not be liable for any act or omission on its part including, without limitation, any act or omission pertaining to the discharge of its duties in the within proceedings, save and except for any liability arising out of any fraud, gross negligence or willful misconduct on the part of the Receiver, or with leave of the Court. Subject to the foregoing any claims against the Receiver in connection with the performance of its duties are hereby stayed, extinguished and forever barred.
9. No action or other proceeding shall be commenced against the Receiver in any way arising from or related to its capacity or conduct as Receiver, except with prior leave of this Court on notice to the Receiver, and upon such terms as the Court may direct.
10. Upon the Receiver filing with the Clerk of the Court a sworn Affidavit of a licensed Trustee employed by the Receiver, substantially in the form attached hereto as Schedule "A", confirming that:
  - (a) the matters set out in the Receiver's Final DMD I and DMD II Reports have been completed; and
  - (b) all other minor administrative tasks required of the Receiver have been taken,then the Receiver shall be discharged as Receiver of the Debtors, provided however, that notwithstanding its discharge herein: (a) the Receiver shall remain Receiver for the performance of

such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver 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 the Receiver in its capacity as Receiver.

11. For certainty, the Receiver is not discharged as Receiver over the assets, undertakings and properties of DMD III Mortgage Investment Corporation.

#### **MISCELLANEOUS**

12. The Receiver is at liberty to apply or reapply to this or any court or administrative body in any province of Canada for further advice, assistance and direction as may be necessary to give full force and effect to, and in carrying out the terms of, this Order.
13. 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.
14. Service of this Order on any party not attending this Application is hereby dispensed with.

  
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Justice of the Court of King's Bench of Alberta

**Schedule "A"**

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COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

Clerk's Stamp

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

PLAINTIFF AXCESS CAPITAL ADVISORS INC.

DEFENDANTS (RESPONDENTS) DMD MORTGAGE INVESTMENT CORPORATION, DMD II  
MORTGAGE INVESTMENT CORPORATION and DMD III  
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APPLICANT MNP Ltd. in its capacity as Court-appointed Receiver and Manager of the  
assets, undertakings and properties of DMD MORTGAGE  
INVESTMENT CORPORATION, DMD II MORTGAGE  
INVESTMENT CORPORATION and DMD III MORTGAGE  
INVESTMENT CORPORATION

DOCUMENT **AFFIDAVIT** (Confirming Discharge of Receiver)

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](mailto:kkashuba@torys.com)  
File No. 34004-2004

**AFFIDAVIT OF VICTOR P. KROEGER**

**Sworn on [■], 2023**

I, Victor P. Kroeger, of the City of Calgary, in the Province of Alberta, SWEAR AND SAY THAT:

1. I am a Licenced Insolvency Trustee, and a Senior Vice President with MNP Ltd., which is the Court-appointed receiver and manager (the “**Receiver**”) of the assets, undertakings and properties of DMD Mortgage Investment Corporation and DMD II Mortgage Investment Corporation (together, the “**Debtors**”).
2. Pursuant to the Order granted by the Honourable Justice A.D. MacLeod of the Court of King’s Bench of Alberta (the “**Court**”) dated April 4, 2017, MNP Ltd. was appointed as the Receiver over the assets, undertakings and properties of the Debtors.
3. Pursuant to an Order (Approval of Receiver’s Fees, Disbursements, and Activities and Discharge of Receiver) granted by Justice Richard A. Neufeld dated October 13, 2023 (the “**Discharge Order**”), the Court approved the discharge of the Receiver, subject to the filing an Affidavit in the within form confirming that the Receiver had completed certain other administrative activities required to complete its administration of the Debtors’ receivership proceedings in relation to the assets, undertakings, and properties of the Debtors.
4. This will confirm that the Receiver has completed all other activities required to complete its administration of the Debtors’ receivership proceedings, including, without limitation, all matters set out in the Receiver’s Final DMD I and DMD II Reports.
5. I make this Affidavit further to the requirements of the Discharge Order, and understand that upon the filing of this Affidavit, MNP Ltd. will be fully and finally discharged from its capacity as the Receiver of the Debtors, but not as Receiver of DMD III Mortgage Investment Corporation.
6. I make this Affidavit for no other or improper purpose.

SWORN before me at the City of  
Calgary, in the Province of Alberta,  
this \_\_\_\_ day of \_\_\_\_\_, 2023

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A Commissioner for Oaths in and  
for the Province of Alberta

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Name: Victor P. Kroeger, LIT