

**VANCOUVER**  
**JUN 22 2018**  
**COURT OF APPEAL**  
**REGISTRY**

Court of Appeal File No.  
Supreme Court File No.  
Supreme Court Registry

CA45325  
S-174308  
Vancouver

**COURT OF APPEAL**

BETWEEN:

INDUSTRIAL ALLIANCE INSURANCE AND  
FINANCIAL SERVICES INC.

Respondent  
(Plaintiff)

AND:

WEDGEMOUNT POWER LIMITED PARTNERSHIP,  
WEDGEMOUNT POWER (GP) INC. and  
WEDGEMOUNT POWER INC.

Respondents  
(Defendants)

AND:

BRITISH COLUMBIA HYDRO AND POWER  
AUTHORITY

Appellant  
(Applicaton Respondent)

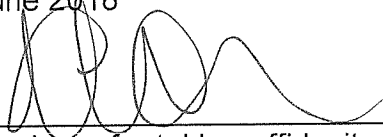
**AFFIDAVIT**

I, May Chong, of 1200, 200 Burrard Street, Vancouver, BC, Legal Administrative  
Assistant, MAKE OATH AND SAY THAT:

1. I am a legal administrative assistant at Borden Ladner Gervais LLP ("**BLG**"),  
counsel to the Appellant in these proceedings British Columbia Hydro and  
Power Authority ("**BC Hydro**") and as such have personal knowledge of the  
matters deposed to in this affidavit, except where stated to be based on  
information and belief, and where so stated, I verily believe those facts to be  
true.

2. Attached and marked as **Exhibit "A"** is a true copy of the Notice of Civil Claim filed by Industrial Alliance Insurance and Financial Services Inc. in the proceedings before the Supreme Court of British Columbia to commence Action No. S-174308 in the Supreme Court of British Columbia (the "**Proceedings Below**").
3. I am advised by Lisa Hiebert, a lawyer with BLG, and verily believe, that on May 23, 2018 she advised Vicki Tickle, the lawyer for Deloitte Restructuring Inc. in these proceedings, that BC Hydro had not determined whether it would be filing an appeal of the decisions made in the Proceedings Below, and that BC Hydro was reserving its rights.
4. I am further advised by Lisa Hiebert, and verily believe, that Justice Butler is not seized of the Proceedings Below.

SWORN BEFORE ME in the City of Vancouver,  
 in the Province of British Columbia, on this 21<sup>st</sup>  
 day of June 2018

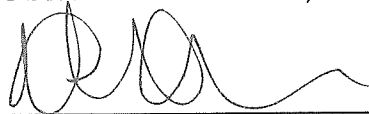


\_\_\_\_\_  
 A commissioner for taking affidavits for British  
 Columbia

May Chong  
 May Chong

**LISA C. HIEBERT**  
*Barrister & Solicitor*  
**BORDEN LADNER GERVAIS LLP**  
 1200 Waterfront Centre, 200 Burrard Street  
 P.O. Box 48800, Vancouver, Canada V7X 1T2  
 604-632-3425

This is **Exhibit "A"** referred to  
in the Affidavit of May Chong  
made before me on June 21, 2018.



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A Commissioner for taking Affidavits  
for British Columbia

**SUPREME COURT  
OF BRITISH COLUMBIA  
VANCOUVER REGISTRY**

**S-174308**

**MAY 09 2017**

**NO.  
VANCOUVER REGISTRY**



**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**BETWEEN:**

**INDUSTRIAL ALLIANCE INSURANCE AND FINANCIAL  
SERVICES INC.**

**PLAINTIFF**

**AND:**

**WEDGEMOUNT POWER LIMITED PARTNERSHIP  
WEDGEMOUNT POWER (GP) INC.  
WEDGEMOUNT POWER INC.  
THE EHRHARDT 2011 FAMILY TRUST  
POINTS WEST HYDRO POWER LIMITED PARTNERSHIP  
by its general partner POINTS WEST HYDRO (GP) INC.  
CALAVIA HOLDINGS LTD.  
SWAHEALY HOLDING LIMITED  
BRENT ALLAN HARDY  
DAVID JOHN EHRHARDT  
28165 YUKON INC.  
PARADISE INVESTMENT TRUST  
SUNNY PARADISE INC.**

**DEFENDANTS**

**NOTICE OF CIVIL CLAIM**

**This action has been started by the plaintiff for the relief set out in Part 2 below.**

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

#### **Time for response to civil claim**

A response to civil claim must be filed and served on the plaintiff,

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,
- (b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

#### **CLAIM OF THE PLAINTIFF(S)**

##### **Part 1: STATEMENT OF FACTS**

##### **The Parties**

1. The Plaintiff, Industrial Alliance Insurance and Financial Services Inc. (the "**Plaintiff**"), is a Quebec company with an address for service in this proceeding at 2300-550 Burrard Street, Vancouver, BC V6C 2B5.
2. The Defendant, Wedgemount Power Limited Partnership ("**Wedgemount LP**"), is a limited partnership organized pursuant to the laws of British Columbia with its registered office located at 1000 – 840 Howe Street, Vancouver, BC V6Z 2M1.
3. The Defendant, Wedgemount Power (GP) Inc. ("**Wedgemount GP**"), is a company incorporated pursuant to the laws of British Columbia with its registered office located at 400 – 725 Granville Street, PO Box 10325, Vancouver, BC V7Y 1G5.
4. The Defendant, Wedgemount Power Inc. ("**Wedgemount Power**"), is a company incorporated pursuant to the laws of British Columbia with its registered office located at 400 – 725 Granville Street, PO Box 10325, Vancouver, BC V7Y 1G5.

5. The Defendant, Points West Hydro Power Limited Partnership by its general partner Points West Hydro (GP) Inc. (collectively, "**Points West**"), are a limited partnership and company organized pursuant to the laws of Alberta with an address for service located at 2400, 525 – 8 Ave SW, Calgary, AB T2P 161.
6. The Defendant, Calavia Holdings Ltd. ("**Calavia**"), is a company incorporated pursuant to the laws of British Columbia with its registered office located at 2511 Lawson Avenue, West Vancouver, BC V7V 2G1.
7. The Defendant, Swahealy Holding Limited ("**Swahealy**"), is a company incorporated pursuant to the laws of British Columbia with its registered office located at 1266 Burns Road, Gibsons, BC V0N 1V1.
8. The Defendant, Brent Allan Hardy ("**Hardy**"), is an individual with an address in British Columbia at 5455 Buckingham Avenue, Burnaby, BC V5E 1Z9.
9. The Defendant, David John Ehrhardt ("**Ehrhardt**"), is an individual with an address in British Columbia at 5403 Buckingham Avenue, Burnaby, BC V5E 1Z9.
10. Hardy and Ehrhardt are the principals of Wedgemount LP, Wedgemount GP and Wedgemount Power (collectively, the "**Wedgemount Entities**").
11. Wedgemount LP is an independent power producer that, in connection with the other Wedgemount Entities, is developing and constructing the Wedgemount Creek hydroelectric power project (the "**Project**") near Whistler, British Columbia.
12. 28165 Yukon Inc., Paradise Investment Trust and Sunny Paradise Holdings Inc. are parties to a subordination agreement whereby they subordinated their security to the security granted in favour of the Plaintiff's agent, Travelers Capital Corporation (the "**Agent**").

The Credit Agreement, Note and Debenture

13. Wedgemount LP is indebted to the Plaintiff pursuant to a credit agreement (the "**Credit Agreement**") dated June 30, 2015 between Wedgemount LP as borrower, the Plaintiff as Lender and the Agent and pursuant to a construction loan note (the "**Note**") dated June 30, 2015.
14. Pursuant to a demand debenture (the "**Debenture**") dated June 30, 2015, the Defendants Wedgemount LP and Wedgemount GP granted the Agent a security interest and charge in all of their present and after-acquired real and personal property securing all of the obligations of Wedgemount LP and Wedgemount GP to the Agent.
15. Notice of the Debenture was perfected by registration in the BC PPR under base registration number 683926I on June 24, 2015.
16. Wedgemount LP is in default under the Credit Agreement as a result of its failure to do, inter alia, the following:
  - a. reimburse funds for matters unrelated to the Project;
  - b. deliver monthly construction reports;
  - c. settle accounts payable with respect to the Project;
  - d. transfer the holdback to the relevant accounts;
  - e. remedy funding shortfalls; and
  - f. make periodic interest payments to the Plaintiff when due under the Credit Agreement(collectively, the "**Specified Events of Default**").
17. On December 6, 2016, the Plaintiff issued demand to Wedgemount LP for payment of all amounts due under the Credit Agreement and the Note, along with

Notice of Intention to Enforce Security pursuant to section 244 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended.

18. In accordance with the terms and conditions of the Credit Agreement, the whole of the principal balance together with interest and all amounts due under the Credit Agreement or the Note are payable in full upon the demands issued by the Agent.
19. Wedgemount LP has failed to pay the amounts due under the Credit Agreement and the Note to the Plaintiff despite the Plaintiff's demand that Wedgemount LP do so.
20. Pursuant to a forbearance agreement (the "**Forbearance Agreement**") dated February 10, 2017 between the Plaintiff, Agent and Wedgemount LP, the Plaintiff and Agent agreed to forbear from exercising their remedies under the Debenture, the Credit Agreement and the Note until April 30, 2017.
21. As at February 10, 2017, Wedgemount LP is indebted to the Plaintiff in the approximate amount of \$21,951,065.79, together with interest accruing thereafter pursuant to the Credit Agreement and Note, plus costs (legal or otherwise) of enforcing the Credit Agreement.
22. Interest on the amounts advanced under the Credit Agreement and the Note accrues at the rate of 25.00% per year.
23. The principal, interest and all other costs, charges and expenses secured and payable by the Debenture are now due and payable and remain unpaid.

#### The Guarantees

24. Pursuant to limited recourse guarantees dated June 30, 2015 (the "**Corporate Guarantees**"), The Ehrhardt 2011 Family Trust, Points West, Calavia, Wedgemount GP, Wedgemount Power and Swahealy (collectively, the "**Corporate Guarantors**") each guaranteed the amounts due to the Plaintiff from Wedgemount LP under the Credit Agreement.



25. Pursuant to personal guarantees (the "**Personal Guarantees**") dated August 4, 2016, Hardy and Ehrhardt (collectively, the "**Personal Guarantors**") each guaranteed the amounts due to the Plaintiff from Wedgemount LP under the Credit Agreement, limited to the amount of \$500,000.00.
26. The obligations of Hardy and each of the Corporate Guarantors are secured by securities pledge agreements (the "**Securities Pledge Agreements**") dated June 30, 2015 between each of the Corporate Guarantors and the Agent.
27. Notice of the Securities Pledge Agreements were registered in the BC PPR under base registration number 6838671 on June 24, 2015.
28. On December 6, 2016, the Plaintiff issued demands to the Corporate and Personal Guarantors for payment of all amounts due under the Corporate and Personal Guarantees along with Notices of Intention to Enforce Security pursuant to section 244 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended.
29. The principal, interest and all other costs, charges and expenses secured and payable by the Security Pledge Agreements are now due and payable and remain unpaid.

#### Current Situation

30. Construction activity at the Project site has been temporarily halted over the winter months due to the snowpack in and around the Project site.
31. Continued monitoring is necessary to allow an appropriate response to site conditions as they develop to ensure construction recommences as soon as practical after site access is achieved.
32. The Wedgemount Entities are insolvent.

33. The appointment of a Receiver is required immediately to ensure risks at the Project site are properly managed and to protect the value of the assets for all the creditors of the Wedgemount Entities.

#### Other Parties

34. The parties listed below, are the holders of a security interests in the Personal Property, notice of which was registered in the B.C. Personal Property Registry on the following dates under the following base registration numbers:

| Creditor   | Debtor              | Charge                | Registration Date | Base Registration No. |
|--|---------------------|-----------------------|-------------------|-----------------------|
| 28165 Yukon Inc.;<br>Paradise<br>Investment Trust;<br>and Sunny<br>Paradise Holdings<br>Inc. | Wedgemount<br>Power | Security<br>Agreement | 249488H           | March 20,<br>2013     |

35. By a Subordination Agreement (the "**Subordination Agreement**") dated June 30, 2015, 28165 Yukon Inc., Paradise Investment Trust and Sunny Paradise Holdings Inc. subordinated their security to the Debenture of the Agent.

#### Part 2: RELIEF SOUGHT

1. A declaration that the Credit Agreement, Note, Debenture, Guarantees and Securities Pledge Agreements are in default.
2. A declaration that under the Debenture the Agent for the Plaintiff is entitled to a perfected, attached security interest in all of the present and after acquired real and personal property of Wedgemount LP and Wedgemount GP, including, but not limited to the real and personal property listed in the attached **Schedule "A"**.
3. A declaration that under the Securities Pledge Agreements the Agent for the Plaintiff is entitled to a perfected, attached security interest in the personal property of the Corporate Guarantors charged by the Securities Pledge Agreements.

4. Enforcement of the perfected, attached security interests created by the Debenture and Securities Pledge Agreements by foreclosure or sale.
5. Appointment of a receiver or receiver manager over the Wedgemount Entities.
6. A declaration that the Agent's charge under the Debenture ranks in priority to the interests of:
  - a. 28165 Yukon Inc.,
  - b. Paradise Investment Trust, and
  - c. Sunny Paradise Holdings Inc.

and each of their heirs, executors, administrators, successors and assigns and all persons claiming by, through or under them.

7. Judgment against the Defendants, Wedgemount LP and the Corporate Guarantors, and each of them in the amount of \$21,951,065.79, plus interest after February 10, 2017 pursuant to Credit Agreement, the Note and the Corporate Guarantees.
8. Judgment against the Defendants, Hardy and Ehrhardt, and each of them in the amount of \$500,000.00, plus interest after February 10, 2017 pursuant to Personal Guarantees.
9. Judgment against the Defendants, Wedgemount LP, the Corporate Guarantors and the Personal Guarantors, for the amount of the Plaintiff's costs of and in connection with this proceeding; on a solicitor and own client basis as provided for under the Debenture, the Credit Agreement and the Note.
10. An Order that the Plaintiff be granted liberty to apply for a further summary accounting for any changes in interest rate or further amounts of money which may become due to the Plaintiff pursuant to the Debenture and all related agreements.

11. Such further and other relief as this Honourable Court considers just.

**Part 3: LEGAL BASIS**

12. The Defendants, Wedgemount LP, the Corporate Guarantors and the Personal Guarantors are indebted to the Plaintiff on account of the Debenture, the Credit Agreement, the Note, the Corporate Guarantees and the Personal Guarantees and their obligations thereunder are now due and owing.
13. Pursuant to the Debenture, Wedgemount LP and Wedgemount GP granted security to the Plaintiff for their obligations under the Credit Agreement and the Note.
14. Pursuant to the Securities Pledge Agreements, the Corporate Guarantors granted security to the Plaintiff for their obligations under the Corporate Guarantees.
15. The Defendants, Wedgemount LP, the Corporate Guarantors and the Personal Guarantors have failed to pay the amounts owing pursuant to the Credit Agreement, the Note, the Corporate Guarantees and the Personal Guarantees and secured by the Debenture and the Security Pledge Agreements.
16. The Agent's charge under the Debenture ranks in priority to the charge held by 28165 Yukon Inc., Paradise Investment Trust and Sunny Paradise Holdings Inc. pursuant to the Subordination Agreement.
17. The Plaintiff will rely on:
- a. Rules 2-1, 8-1, 10-2, 13-5, 14-1, and 21-7 of the *Rules of Court*;
  - b. Sections 46 and 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended;
  - c. Section 39 of the *Law and Equity Act*, R.S.B.C. 1996 c. 253, as amended;
  - d. Section 66 of the *Personal Property Security Act*, R.S.B.C. 1996, c. 359, as amended.

18. The Plaintiff will also rely on the inherent jurisdiction of this Honourable Court.
19. The Plaintiff may also rely on such further legal bases as counsel may advise and this Honourable Court may permit.

Plaintiff's(s') address for service: c/o Colin D. Brousson  
Gowling WLG (Canada) LLP  
Suite 2300 - 550 Burrard Street  
Vancouver, BC V6C 2B5

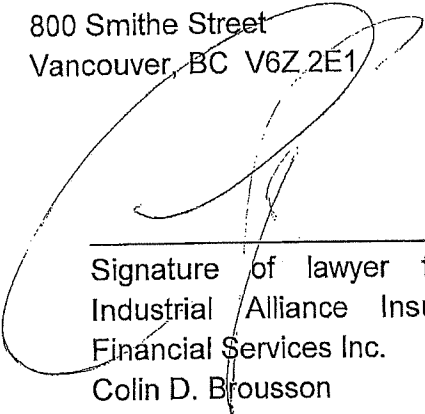
Fax number address for service (if any): 604 683 3558

E-mail address for service (if any): colin.brousson@gowlingwlg.com

Place of trial: Vancouver, B.C.

The address of the registry is: 800 Smithe Street  
Vancouver, BC V6Z 2E1

Date: May 01, 2017

  
\_\_\_\_\_  
Signature of lawyer for Plaintiff,  
Industrial Alliance Insurance and  
Financial Services Inc.  
Colin D. Brousson

Rule 7-1 (1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
  - (a) prepare a list of documents in Form 22 that lists
    - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
    - (ii) all other documents to which the party intends to refer at trial, and
  - (b) serve the list on all parties of record.

## APPENDIX

**Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:**

Claim for unpaid debt and enforcement of security interests.

**Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:**

A personal injury arising out of:

- a motor vehicle accident
- medical malpractice
- another cause

A dispute concerning:

- contaminated sites
- construction defects
- real property (real estate)
- personal property
- the provision of goods or services or other general commercial matters
- investment losses
- the lending of money
- an employment relationship
- a will or other issues concerning the probate of an estate
- a matter not listed here

**Part 3: THIS CLAIM INVOLVES:**

- a class action
- maritime law
- aboriginal law
- constitutional law
- conflict of laws
- none of the above
- do not know

**Part 4:**

1. *Law and Equity Act*, R.S.B.C. 1996, c. 253.
2. *Personal Property Security Act*, R.S.B.C. 1996, c.359
3. *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended.

## SCHEDULE "A"

### 1. Under the Debenture:

- (a) all of the Debtor's property, assets and undertakings, movable and immovable, real and personal, tangible and intangible, whether now owned or hereafter acquired, including, without limitation, all such present and after acquired property, assets and undertakings which now or hereafter constitute the interest of the Debtor in the Project, the Project Authorizations, the Rights of Access and Occupation, the Accounts, the Proceeds, the Project Revenues and the Project Documents (as each is defined in the Debenture), and, without limiting the generality of the foregoing, the Debtor hereby:
- (i) demises, sub-leases and mortgages as and by way of a fixed and specific mortgage and charge to and in favour of Travellers Capital Corporation (the "**Agent**") all of the present and future estate, right, title and interest of the Debtor in and to all leases, agreements to lease, offers to lease, letters of intent to lease, licences, rights of use or occupancy, tenancy agreements and other similar agreements (including any option to renew or purchase and option or right of first refusal to lease or purchase that may be contained therein) which the Debtor may be possessed of, entitled to, or acquire, now or hereafter (as amended, varied, supplemented, restated, renewed or replaced at any time and from time to time, collectively, the "**Tenant Leases**") with respect to lands, premises, seabeds, waterlots and other real and immovable property, including:
- (A) all Improvements thereto;
- (B) Licence of Occupation No. 242603 under File No. 2408708 – Agreement dated for reference April 14, 2014 between the Crown and Wedgemount Power Inc., as assigned to the Partnership by Assignment/Assumption of Licence No. 242603 between the Crown and the Partnership dated for reference November 15, 2014, pertaining to the lands described in, or shown outlined by bold line on, the schedule attached to the Licence of Occupation and legally described as That Parcel Or Tract Of Land In The Vicinity Of Wedgemount Creek, Together With Unsurveyed Foreshore Or Land Covered By Water Being Part Of The Bed Of Wedgemount Creek, Group 1, New Westminster District, Containing 57.29 Hectares, More Or Less;
- (C) all present and future estate, right, title and interest of the Debtor in and to the Lands, premises and other real property interests which are the subject matter of such Tenant Leases; and
- (D) all related and attendant benefits, easements, franchises, immunities, licenses, privileges, rights, rights-of-way, undersurface rights, servitudes and other interests appertaining thereto or connected therewith;
- (collectively, the "**Leasehold Property**")
- (ii) assigns, grants, transfers and sets over to and in favour of the Agent, as and by way of a fixed and specific mortgage and charge, all the estate, right, title and interest of the Debtor in and to:

- (A) any and all existing or future leases, subleases, agreements to lease or sublease or other tenancy or occupancy agreements relating to the whole or any part or parts of the Lands and Improvements thereto and all existing or future licenses or concessions whereby any Person is given the right by the Debtor to use or occupy the whole or any part or parts of the Lands and Improvements thereto and all extensions, amendments, renewals or substitutions thereof or therefor which may hereafter be effected or entered into (collectively the "**Landlord Leases**"), and all benefits, powers and advantages of the Debtor to be derived therefrom and all covenants, obligations and agreements of the tenants thereunder;
  - (B) all rents and other moneys now due and payable or accruing due or hereafter to become due and payable to the Debtor (collectively, the "**Rents**") under the Landlord Leases, and each guarantee of or indemnity in respect of the obligations of the tenants thereunder, with full power to demand, sue for recovery, receive and give receipts for all such rents and other moneys and otherwise to enforce the rights of the Debtor thereto in the name of the Debtor; and
  - (C) all claims, book debts, accounts receivable and any other amounts or property, except for Rents, now due and payable or accruing due or hereafter to become due and payable to the Debtor in connection with the Project, including the Lands and Improvements thereto, and arising under, and the benefit, power and advantage of the Debtor to be derived from, and the estate, right, title and interest of the Debtor in and to, all performance bonds, labour and material bonds, agreements of purchase and sale, options to purchase and mortgage, loan or other financing commitments, contracts, licenses, permits, plans and specifications, letters of credit, letters of guarantee or other documents or instruments affecting or relating to the Project, including the Lands and Improvements thereto or any part or parts thereof and all extensions, amendments, renewals or substitutions thereof or therefor which may hereafter be effected or entered into;
- (iii) grants, mortgages and charges, as and by way of a fixed and specific mortgage, charge and assignment, to and in favour of the Agent all of the estate, right, title and interest of the Debtor in and to any of the following agreements:
- (A) Conditional Water Licence C131218
  - (B) Statutory Right of Way under registration number CA3110108 in favour of Wedgemount Power Inc., as assigned to the Partnership by an assignment dated as of November 10, 2014 under registration number CA4113545, pertaining to the lands legally described as Parcel Identifier: 028-307-461, Strata Lot 12 District Lot 2247 Group 1 NWD Strata Plan BCS3916, and Parcel Identifier: 027-752-330, Lot A District Lot 2247 Group 1 New Westminster District Plan BCP39086 Except Phase One Strata Plan BCS3916
  - (C) Consent for the Partnership use of Right of Way under registration number B177188 pursuant to a letter from British Columbia Hydro & Power Authority dated February 19, 2015 pertaining to, *inter alia*, the lands legally described as Parcel Identifier: 027-752-330, Lot A District



Lot 2247 Group 1 New Westminster District Plan BCP39086 Except Phase One Strata Plan BCS3916

- (D) Impact Benefits Agreement, dated August 1, 2014 between Wedgemount Power Inc., Lil'wat Nation and Squamish Nation., and assignment to the Partnership consented to by Lil'wat Nation and Squamish Nation on November 25, 2014
- (E) Road Use and Logging Cost Agreement between 28165 Yukon Inc. and Cheakamus Community Forest Society ("CCFS") dated September 12, 2012 and assigned to Wedgemount Power Limited Partnership pursuant to an agreement dated for reference February 20, 2015

(collectively, the "**Other Property Rights Agreements**")

conferring rights with respect to the Project and the Lands (including any option to renew or purchase and option or right of first refusal to lease or purchase that may be contained therein), including, without limitation:

- (A) all Improvements thereto;
- (B) all present and future estate, right, title and interest of the Debtor in and to the Project, the Lands, and any other premises and any other real and personal property interests which are the subject matter of such Other Property Rights Agreements; and
- (C) all related and attendant benefits, easements, franchises, immunities, licenses, privileges, rights, rights-of-way, undersurface rights, servitudes and other interests appertaining thereto or connected therewith;

(collectively, the "**Other Property**");

- (iv) assigns, transfers, sets over, and grants a security interest in, to and in favour of the Agent, all rights, claims and entitlements which the Debtor may have or acquire, now or hereafter, to the proceeds of any insurance relating to the Charged Property and to the compensation arising out of or relating to the expropriation, requisition of title, requisition of use, compulsory acquisition, or other seizure and sale of or interference with, the Charged Property by any Person acting under colour of governmental authority;
- (v) grants to and in favour of the Agent, as and by way of a fixed and specific mortgage, transfer, grant, conveyance, security and charge, all presently owned and hereafter acquired personal property, assets and undertaking of the Debtor, including Accounts, Chattel Paper, Documents of Title, Goods, Instruments, Intangibles, Money and Investment Property (each as defined in the *Personal Property Security Act*) of whatsoever nature and kind, and all proceeds thereof and therefrom, renewals thereof, accessions thereto and substitutions therefor; and
- (vi) mortgages, pledges and charges as and by way of a floating charge to and in favour of the Agent all of its assets, effects, property and undertaking, real and personal, whether presently owned or held or hereafter acquired or held or to which it is now or hereafter becomes otherwise possessed of or entitled to, of whatsoever nature and kind and wheresoever situate, whether in fee or of a

lesser estate and all benefits, easements, franchises, immunities, licenses, privileges, rights, rights of way and servitudes appertaining thereto or connected therewith, whether separately owned or held and all of its present and future apparatus, buildings, chattels, erections, fixtures, fixed equipment, improvements and plant and all of its present and future contracts, franchises, leases, mortgages, negotiable and non-negotiable instruments, patents, trademarks, choses in action, goodwill, judgments, bonds, securities, shares and stocks, other than any asset, effect, property or undertaking that is effectively and validly subject to any Charges granted to the Agent pursuant to subsections (a), (b), (c), (d) or (e) of this Section 2.1 of the Debenture.

Court of Appeal File No.  
Supreme Court File No.  
Supreme Court Registry

CA45325  
S-174308  
Vancouver

**COURT OF APPEAL**

BETWEEN:

INDUSTRIAL ALLIANCE INSURANCE  
AND FINANCIAL SERVICES INC.

Respondent  
(Plaintiff)

AND:

WEDGEMOUNT POWER LIMITED  
PARTNERSHIP and others

Respondents  
(Defendants)

AND:

BRITISH COLUMBIA HYDRO AND  
POWER AUTHORITY

Appellant  
(Applicaton Respondent)

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**AFFIDAVIT**

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BORDEN LADNER GERVAIS LLP  
1200 - 200 Burrard Street  
Vancouver, British Columbia V7X 1T2  
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Attn: Robert Deane/Lisa Hiebert