Clerk's stamp:

CLERK OF THE COURT
JAN 20 2011
CALGARY, ALBERTA

COURT FILE NUMBER	1001-03215
COURT OF QUEEN'S BENCH OF ALBERTA	
JUDICIAL CENTRE	CALGARY
PLAINTIFF(S)	**FIRST CALGARY SAVINGS & CREDIT UNION LTD.**
DEFENDANT(S)	**PERERA SHAWNEE LTD., PERERA DEVELOPMENT CORPORATION, DON L. PERERA and SHIRANIE M. PERERA**
DOCUMENT	**BRIEF OF LAW AND ARGUMENT**

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BRIEF OF LAW AND ARGUMENT OF THE CANADIAN ASSOCIATION OF INSOLVENCY AND RESTRUCTURING PROFESSIONALS AND THE ALBERTA ASSOCIATION OF INSOLVENCY AND RESTRUCTURING PROFESSIONALS

For the Application before the Honourable Madam Justice A. Kent on January 24, 2011 at 2:00 p.m.

Prepared by:

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I. INTRODUCTION

1. This brief is submitted on behalf of the proposed intervenors, the Canadian Association of Insolvency and Restructuring Professionals ("**CAIRP**") and the Alberta Association of Insolvency and Restructuring Professionals ("**AAIRP**", CAIRP and AAIRP are collectively the "**Associations**") to provide information and insight from the regional and national professional associations whose collective interests could be affected by, and whose experience could provide invaluable information with respect to, the decision of the Court regarding the Application by Deloitte and Touche Inc., in its capacity as Court-appointed receiver and manager of Perera Development Corporation and Perera Shawnee Ltd. (the "**Receiver**"), for an Order amending the Initial Order in these proceedings to allow the Receiver to report to the Court by filing Reports.

2. The position of the Associations is that the current practice in receivership should continue, namely that receivers continue to file evidence by way of Reports, subject to filing Affidavit materials in limited, identified circumstances.

II. FACTS

3. CAIRP is the Canada wide professional organization which represents members who act as trustees in bankruptcy, receivers, agents, monitors and consultants in insolvency matters. To be a member of CAIRP, a person must either: (i) having been an articling member, have completed the CIRP Qualification Program (CQP) or such other Course of Study as has been designated by the CAIRP Board of Directors, and have passed the National Insolvency Examination or such other examination as has been designated by the CAIRP Board of Directors; or (ii) hold a trustee licence issued by the Superintendent of Bankruptcy. There are 1022 individual trustees registered to practice in Canada and CAIRP currently represents 887 general members and 537 articling, life and corporate category members.

    - Affidavit of Bruce Alger dated January 19, 2011 at para. 2 [Alger Affidavit].

4. CAIRP was established to advance the practice of insolvency administration and the public interest related to it. CAIRP's mission statements are to: (i) educate and support its members in providing insolvency, restructuring and related advisory services in a manner that instils the

highest degree of public trust; and (ii) advocate for a fair, transparent and effective system of insolvency and restructuring administration throughout Canada.

- Alger Affidavit, at paras. 3, 4.

5. AAIRP is the Alberta association for the members of CAIRP. AAIRP's mission statements are: (i) to act as a conduit between debtors and creditors so as to maintain an honest, accountable and effective system in dealing with restructuring and bankruptcy issues facing Albertans; and (ii) to accomplish this within the framework of the Office of the Superintendent of Bankruptcy, the Canadian Association of Insolvency and Restructuring Professionals and other insolvency and restructuring stakeholders.

- Alger Affidavit, at paras. 8-10.

6. The Associations together are mandated to advocate for a fair, transparent and effective system of insolvency and restructuring administration throughout Alberta and Canada. Courts have granted CAIRP intervenor status in three cases, where issues were being decided that could impact the members of CAIRP and AAIRP and their practice going forward.

- Alger Affidavit, at paras. 4, 9.
- *Re Alternative Granite & Marbre Inc.*, 2009 SCC 49. **[TAB 1]**
- *Re Alternative Granite & Marbre Inc.*, 2007 QCCA 1813. **[TAB 2]**
- *Re Berthelette* (1999), 174 D.L.R. (4th) 577 (Man. C.A.). **[TAB 3]**

7. On January 14, 2011, the Receiver, through its counsel, filed an Application, returnable January 24, 2011, for an Order to amend the Initial Order in these proceedings to allow the Receiver to file its updates to the Court through Reports and not through Affidavits. A decision of the Court on the admissibility of evidence by receivers could impact the practice of the members of CAIRP and AAIRP.

- Application by Deloitte & Touche Inc., dated January 14, 2011.
- Alger Affidavit, at para. 10.

III. ISSUE

8. This Honourable Court has been called upon to decide the following two issues:

   (a) Should CAIRP and AAIRP be granted intervenor status in this application?

   (b) Should the *status quo* of the commercial practice be maintained, wherein:

      (i) It has been the practice in this jurisdiction for a receiver to provide its reports, updates and recommendations to the Court through a receiver's Report, and not through an Affidavit;

      (ii) generally, it has not been necessary for a receiver to be cross examined on its Reports, as its common law fiduciary duties are to all the stakeholders; and

      (iii) as the receiver owes a fiduciary duty to all stakeholders, the practice has been that inquiring parties would send inquiries to the receiver, and the receiver provides timely responses to the inquiry.

IV. LAW AND ARGUMENT

A. CAIRP and AAIRP should be Intervenors in this Application

9. Rule 2.10 of the recently enacted *Alberta Rules of Court* (the "***New Rules***") provides:

> **Intervenor status**
>
> **2.10** On application, a Court may grant status to a person to intervene in an action subject to any terms and conditions and with the rights and privileges specified by the Court.

- *Alberta Rules of Court*, Alta. Reg. 124/2010 at R. 2.10 [*New Rules*]. **[TAB 4]**

10. The Supreme Court of Canada, in *R. v. Morgentaler*, outlined that "[t]he purpose of an intervention is to present the court with submissions which are useful and different from the perspective of a non-party who has a special interest or particular expertise in the subject matter of the appeal."

- *R. v. Morgentaler*, [1993] 1 S.C.R. 462 at para. 1. **[TAB 5]**

11. The Alberta Court of Appeal routinely adopted this principal, and in *Telus Communications Inc. v. T.W.U.*, Fruman J.A. provided the following summary:

> As a general principle, an intervention may be allowed **when the proposed intervener is specially affected by the decision facing the court, or the proposed intervener has some special expertise or insight to bring to bear on the issues facing the court**: *Papaschase Indian Band No. 136 v. Canada (Attorney General)*, 2005 ABCA 320, [2005] A.J. No. 1275 (Alta. C.A.) at para. 2. As explained by the Supreme Court of Canada in *R. v. Morgentaler*, [1993] 1 S.C.R. 462 (S.C.C.) at para. 1, "[t]he purpose of an intervention is to present the court with submissions which are useful and different from the perspective of a non-party who has a special interest or particular expertise in the subject matter of the appeal." Granting intervener status is discretionary and ought to be exercised sparingly: *R. v. N. (L.C.)* (1996), 184 A.R. 359 (Alta. C.A.) at para. 16. (Emphasis added)

- *Telus Communications Inc. v. T.W.U.* 2006 ABCA 297 at para. 4. **[TAB 6]**

12. In *Athabasca Tribal Council v. Alberta (Minister of Environmental Protection)*, the Honourable Mister Justice Medhurst, found as follows:

> Whether or not a party can intervene in an action is a matter that is to be decided at the discretion of the judge hearing the application. While many Canadian jurisdictions have rules which specify conditions in which intervenor status will be granted, Alberta has no such rules and reference must be had to the common law. The test developed in the common law is essentially that a party should only be granted intervenor status if the party will be directly affected by the ultimate decision of the case and/or where the presence of the party is necessary for the Court to properly decide the matter.
>
> ...
>
> In making a determination on this issue, a two step approach is appropriate: "The first step is to characterize the subject-matter or the nature of the proceeding. The second step is to determine what interest the proposed intervenor has in it." (P. Muldoon, *Law of Intervention Status and Practice* (Ontario: Canada Law Books Inc. 1989) at 40.)

- *Athabasca Tribal Council v. Alberta (Minister of Environmental Protection)* (1998), 67 Alta. L.R. (3d) 232 (Alta. Q.B.) at para. 4, 6 [*Athabasca*]. **[TAB 7]**

13. The Honourable Mister Justice Medhurst further examined the circumstances where an organization would be granted intervenor status. He provided:

> It is true that the decision regarding the matter as between the ATC and Rio Alto will not have a direct affect on the legal rights of the corporate entity known as

> CAPP. CAPP does not itself engage in oil and gas exploration in Northern Alberta. **It is a organization that is designed to protect and advance the interests of its members who are oil and gas exploration companies and, regardless of any orders granted in the matter between the ATC and Rio Alto, CAPP will continue to exist and operate just as before. Its constituent members however, may not be able to continue to operate as they did before. They may be adversely affected. Given that the members of CAPP have an interest in the litigation, and given that CAPP is a body designed to protect and advance the interests of its members, it appears logical to find that CAPP has an interest sufficient to grant it intervenor status.** Comments made in the decision of the Ontario Court of Appeal in *Schofield v. Ontario (Minister of Consumer & Commercial Relations)* (1980), 112 D.L.R. (3d) 132 (Ont. C.A.) at 141 apply to this point:
>
> > As an example of one such situation, one can envisage an applicant with no interest in the outcome of an appeal in any such direct sense but with an interest, because of the particular concerns which the applicant has or represents, such that the applicant is in an especially advantageous and perhaps even unique position to illuminate some aspect or facet of the appeal which ought to be considered by the Court in reaching its decision but which, but for the applicant's intervention, might not receive any attention or prominence, given the quite different interests of the immediate parties to the appeal.
>
> (Emphasis added.)

- *Athabasca, supra* at para. 9. **[TAB 7]**

14. As outlined above, intervenor status will be granted if the proposed intervenor is specially or directly affected by the decision facing the court, or the proposed intervener has some special expertise or insight to bring to bear on the issues facing the court. As the Honourable Mister Justice Medhurst outlined, this is a two step process: first, the court must characterize the subject-matter or the nature of the application; then second, determine what interest the proposed intervenor has in it.

15. The Associations respectfully submit that the nature of the application is for the court to determine the correct method for insolvency professionals, acting as receivers and receiver and managers, to submit information and recommendations to the court. The Associations have previously been granted intervenor status in similar insolvency proceedings. The Associations submit that their members will be specifically and directly affected by a decision of this court – indeed in appointing a receiver under the *Bankruptcy and Insolvency Act* and the *Civil*

Enforcement Act, that person must be a licensed trustee in bankruptcy. Therefore, CAIRP and AAIRP should be granted intervenor status to both advocate for their interests and provide the court with their special expertise as a national advocate for insolvency professionals.

- *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, s. 243(4) [*BIA*]. **[TAB 8]**
- *Civil Enforcement Regulations*, Alta. Reg. 276/1995 s. 32. **[TAB 9]**

16. The proposed application could have precedential effect on the overall insolvency practice in both Alberta and Canada. Though the Associations as entities will continue to operate as they did before this Application, they submit that like in *Athabasca*, the constituents of these professional associations would be adversely affected to any change to their procedural practice. Further, it is the mandate of the Associations that advocate for a fair, transparent and effective system of insolvency and restructuring administration throughout Canada. Respectfully, the Associations have an interest in the litigation, and they are mandated to advocate for their members in this matter. Therefore, based on the foregoing, it is respectfully submitted that the Associations should be granted intervenor status in these applications.

B. The *Status Quo* Ought to be Maintained

1. The Role of a Receiver

17. The role of receiver is not new. It has existed, in various forms, since prior to Confederation. Although there are many types of receivers, the common thread amongst them is that the role of receiver is "custodial" in nature - the receiver possesses certain identified property pending some outcome. It may be that the receiver holds the property because the owner is incapable of doing so, because there is a competition as to who is entitled to the property, or because the property must be liquidated.

- Muir Hunter, *Kerr & Hunter on Receivers and Administrators*, 18th ed. (London: Sweet & Maxwell, 2005) at 174 at para. 1-2, 1-3, 7-1. **[TAB 10]**

18. A court-appointed receiver is an officer of the court whose mandate, powers and obligations are set by the Order which appoints it. A court-appointed receiver is appointed for the general

benefit of the estate and owes fiduciary duties to all the stakeholders, including the Court, the creditors and the debtor company.

- Frank Bennett, Bennett on Receiverships, 2nd Ed., (Toronto, Carswell, 1999), at 25 citing *Parsons et. al. Sovereign Bank of Canada*, [1913] A.C. 160, at para. 167 and *Ostrander v. Niagara Helicopters Ltd. et. al.* (1973), 1 O.R. (2d) 281 at 286 [Bennett]. **[TAB 11]**
- *Panamericana de Bienesy Servicios SA v. Northern Badger Oil & Gas Ltd.*, 81 D.L.R. (4th) 280 (Alta. C.A.), at para. 38. **[TAB 12]**
- *Re Regal Constellation Hotel Ltd.*, 242 D.L.R. (4th) 689 (Ont. C.A.), at para. 26 [*Regal*]. **[TAB 13]**

19. A receiver is not a litigant in the judicial proceeding. A receiver is an independent party to the court process, mandated to oversee and manage the subject matter of its appointment for all parties.

- Bennett, *supra* at 25. **[TAB 11]**

20. A receiver owes a duty to the court and all of the stakeholders of the estate. In this regard, a receiver is the "eyes and ears" of the court. As such, a receiver is required to report and make recommendations to the court about the subject matter of the receiver's appointment.

- *Regal, supra*. **[TAB 13]**

2. Reporting of the Receiver

21. A receiver is required to report its updates on the receivership and its recommendations to both the Court and, at times, to certain stakeholders. Indeed, in certain instances it is mandated by legislation that a receiver file Reports.

- *BIA, supra*, s. 246(2). **[TAB 14]**
- *Business Corporations Act*, R.S.A. 2000, c. B-9, as amended, s. 100. **[TAB 15]**

22. Reporting by a receiver must be in keeping with its mandate. Generally speaking, such reporting must be:

(a) **Broad** – to provide the entire context under which a receiver is operating;

(b) **Independent** – to report fairly on contentious or undetermined circumstances surrounding a receiver's mandate;

(c) **Timely** – to accommodate and address the real time issues that will affect the property under a receiver's mandate;

(d) **Prospective** – to present a number of recommendations to the court to consider.

23. These requirements of reporting are not evidential in nature and cannot be efficiently implemented through conventional means of adversarial litigation. Moreover, the time and cost involved in preparing of conventional Affidavits to cover this material would result in all of these objectives being compromised and, in addition, the overall costs of the process would escalate owing to the increased work in preparation of such material.

3. Reasonableness of Reporting through Reports

24. As outlined, the receiver and its reporting are independent. With the current process of filing Reports, there exists a series of checks and balances which maintain the efficacy and integrity of the process.

25. Presently, a receiver drafts and files its Report for the court and the stakeholders to review. Where an interested party requires more information from the receiver, the receiver must respond to reasonable inquiries in a timely manner.

26. In *Mortgage Insurance Co. v. Innisfil Landfill Corp.*, the Honourable Mister Justice Farley found the following:

> I do not understand that a Receiver, being an officer of the Court and being appointed by Court Order is required to give his reports by affidavit. I note that there is a jurisprudence to the effect that it would have to be at least unusual circumstances for there to be any ability of other parties to examine (cross-examine in effect) the Receiver on any report. However, I do acknowledge that in, perhaps what some might characterize as a tearing down of an institution in the rush of counsel "to get to the truth of the matter" (at least as perceived by counsel), Receivers have sometimes obliged by making themselves available for such examination. Perhaps the watchword should be the three Cs of the Commercial List — cooperation, communication and common sense. Certainly, I have not seen any great need for (cross-) examination when the Receiver is willing to clarify or amplify his material when such is truly needed.

- *Mortgage Insurance Co. of Canada v. Innisfil Landfill Corp.* (1995), 3 O.T.C. 23 (Ont. Gen. Div.), at para. 5. **[TAB 16]**

27. In Alberta, in *Re Big Sky Living Inc.*, the Honourable Mister Justice Lee commented:

> Cross-examination of a Receiver, who is an officer of the Court, is an exceptional circumstance, and **Receivers should not be subject to harassment for doing their job, particularly given that most Receivers in doing their jobs usually offend the parties against who the receivership is ordered. This is particularly so if the parties against whom the receivership is ordered against are using the examination of the Receiver as a fishing expedition**, or to allow them to establish the basis of potential lawsuits against the Receiver, at the cost of the petitioning party in this case the Hong Kong Bank who instituted the receivership. (Emphasis added.)

- *Re Big Sky Living Inc.*, 2007 ABQB 249, at para. 4. **[TAB 17]**

28. Though often cited to prevent the cross-examination of a Receiver, these cases also stand for the principal that if the court is satisfied that based on the circumstances the receiver ought to be cross examined, the parties will be afforded that opportunity. This principle of accountability maintains the integrity of the current reporting system.

29. It is respectfully submitted that, in light of the reporting requirements and the current accountability procedures, it has proven to be far more reasonable, efficient and cost-effective to have a receiver report to the court through Reports and not through Affidavits.

4. Authority for the Court to Accept Reports as Evidence

30. In light of the foregoing background and policy considerations for a receiver to file Reports, the Associations respectfully submit that this Honourable Court has the authority to accept Reports as evidence.

31. The general principal with respect to the admissibility of evidence is that all relevant and material evidence is admissible except where its probative value is outweighed by its potential for prejudice.

- *R. v. Collins*, [2001] O.J. No. 3894 (Ont. C.A.), at para. 18. **[TAB 18]**

32. The *New Rules* deal with the practice and procedures of the Court of Queen's Bench. Rule 6.11 of the *New Rules* provides:

Evidence at application hearings

6.11(1) When making a decision about an application the Court may consider only the following evidence:

(a) affidavit evidence, including an affidavit by an expert;
(b) a transcript of questioning under this Part;
(c) the written or oral answers, or both, to questions under Part 5 that may be used under rule 5.31;
(d) an admissible record disclosed in an affidavit of records under rule 5.6;
(e) **anything permitted by any other rule or by an enactment;**
(f) evidence taken in any other action, but only if the party proposing to submit the evidence gives every other party written notice of that party's intention 5 days or more before the application is scheduled to be heard or considered and obtains the Court's permission to submit the evidence;
(g) with the Court's permission, oral evidence, which, if permitted, must be given in the same manner as at trial.

(2) An affidavit or other evidence that is used or referred to at a hearing and that has not previously been filed in the action must be filed as soon as practicable after the hearing.

(Emphasis added.)

- The *New Rules*, R. 6.11. **[TAB 19]**

33. Certain receivers are specifically mandated to provide Reports pursuant to the following enactments:

(a) Section 246 of the *Bankruptcy and Insolvency Act* and section 126 of the *Bankruptcy and Insolvency General Rules* require a court-appointed receiver to provide Reports on an interim basis on: (i) the interim statement of receipts and disbursements, in prescribed form; (ii) the statement of all property of which the receiver has taken possession or control that has not yet been sold or realized; and (iii) information about the anticipated completion of the receivership.

- *BIA*, *supra*, s. 246(2) and *Bankruptcy and Insolvency General Rules*, C.R.C., c. 368, s. 126. **[TAB 20]**

(b) Section 100 of the Alberta *Business Corporations Act* requires receivers to prepare, at least once in every six month period, a Report on the receiver's financial statements and the administration of the estate.

- *Business Corporations Act*, R.S.A. 2000, c. B-9, as amended, s. 100. **[TAB 15]**

(c) Section 65 of the *Personal Property Security Act* requires a receiver to prepare and provide financial statements with respect to the receiver's administration.

- *Personal Property Security Act*, R.S.A. 2000, c. P-7, s. 65. **[TAB 21]**

34. Where a receiver is not appointed pursuant to any other enactment, but is appointed pursuant to the general powers outlined in the *Judicature Act*, the *New Rules* have addressed the issue that court-appointed receivers operate outside of the regular scope of the *New Rules* in Rule 6.47.

> **Court-appointed receiver**
>
> 6.47 If a Court appoints a receiver other than under an enactment, the Court may, in addition to a procedural order,
>
> (a) prescribe the compensation payable to the receiver and who is to pay it;
> (b) require the receiver to provide security;
> (c) require the receiver to file financial accounts and reports with the court clerk at the times and subject to the scrutiny ordered by the Court;
> (d) order payment to or disallow all or part of a payment to the receiver;
> (e) order a hearing to be held with respect to any matter for which the receiver was appointed or is responsible;
> (f) **make any other order or direction that the circumstances require.**
>
> (Emphasis added.)

- The *New Rules*, R. 6.47. **[TAB 22]**

35. It would be inconsistent to allow receivers appointed pursuant to enactments to file Reports, but to maintain that non-enactment receivers are to file evidence by Affidavit. For this principal, Rule 6.47(f) affords the Court the ability to allow receivers to provide evidence to this Court through Reports.

36. It is important to be mindful that rule 6.11 cannot be read without the context of all the *New Rules*. The purpose of the *New Rules*, as outlined in Rule 1.2, "is to provide a means by which claims can be fairly and justly resolved in or by a court process in a timely and cost effective way." Rule 1.4 gives the Court the authority to make orders to implement and advance the

purpose of the New Rules. Finally, pursuant to Rule 1.6, where the New Rules require amendment, the judges of the Court of Queen's Bench and the Court of Appeal have the jurisdiction to make these changes or make additional rules.

- *New Rules*, *supra*, Rule 1.2, 1.4 and 1.6. **[TAB 23]**

37. Further, the Court must be guided by the words of the Supreme Court of Canada on the admissibility of evidence. The Honourable Madam Justice L'Heureau Dube addressed this *R. v. Levogiannis*, where she stated:

> One must recall that rules of evidence are not cast in stone, nor are they enacted in a vacuum. They evolve with time. ... the recent trend in courts has been to remove barriers to the truth-seeking process ... Recent Supreme Court of Canada decisions ..., by relaxing certain rules of evidence, such as the hearsay rules, the use of videotaped evidence and out of court statements, have been a genuine attempt to bring the relevant and probative evidence before the trier of fact in order to foster the search for truth.

- *R. v. Levogiannis*, [1993] 4 S.C.R. 475 at para. 23. **[TAB 24]**

38. Based on the foregoing, the Associations respectfully submit that receiver's Reports continue to be admissible evidence. Further, they submit the *New Rules* provide the Court the jurisdiction to allow these Reports to be admitted in both cases where the receiver is appointed by enactment and where they are appointed pursuant to the jurisdiction of the Court.

5. Similar Appointments allow for the filing of Reports

39. Receivers are one of many types of court-appointed officers. An examination of similar court-appointed officer's mandates reveals that:

(a) Monitors appointed under the *Companies' Creditors Arrangement Act* are officers of the Court and are mandated by the CCAA to report to the Court by filing Reports; and

- *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, s. 11.7 and 23. **[TAB 25]**

(b) Trustees under the *Bankruptcy and Insolvency Act* are required to report, and at times, these Reports are in regulated forms.

- BIA, *supra*, ss. 27, 170. **[TAB26]**

40. In some cases, the same trustee may be concurrently appointed as the monitor, the receiver and/or the trustee. In fact, it is now a requirement that a court-appointed receiver and a court-appointed monitor must be a licensed trustee to be appointed. It would be inconsistent with the purpose of the *New Rules* to allow the accountant or trustee to report to the court in a Report or form, but require that same person acting as the receiver to report by Affidavit.

- *BIA*, *supra*, s. 243(4). **[TAB 8]**
- *Civil Enforcement Regulations*, *supra*, s. 32. **[TAB 9]**

V. CONCLUSION

41. As outlined above, a receiver is a court-appointed officer carrying out its mandate as directed by the Order which appoints the receiver. Receivers are independent. They provide broad, unbiased evidence to the court through Reports. A change to a receiver's reporting from Reports to Affidavits will have no useful or actual purpose and will in fact have an adverse effect on the effective administration of receivership proceedings, for all the reasons outlined above.

42. Based on the foregoing, it is respectfully submitted that: (i) the Associations should be granted intervenor status in this Affidavit; (Ii) receivers should not be required to report to the Court through Affidavits; and (iii) the *status quo*, of filing Reports, should be maintained.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

FRASER MILNER CASGRAIN LLP, Solicitors for the Canadian Association of Insolvency and Restructuring Professionals and the Alberta Association Of Restructuring Professionals

Per: _____
David W. Mann / Rebecca L. Lewis

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1.	*Re Alternative Granite & Marbre Inc., 2009 SCC 49.*
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4.	*Alberta Rules of Court*, Alta. Reg. 124/2010 at R. 2.10.
5.	*R. v. Morgentaler*, [1993] 1 S.C.R. 462 at para. 1.
6.	*Telus Communications Inc. v. T.W.U.* 2006 ABCA 297 at para. 4.
7.	*Athabasca Tribal Council v. Alberta (Minister of Environmental Protection)* (1998), 67 Alta. L.R. (3d) 232 (Alta. Q.B.) at para. 4, 6.
8.	*Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, s. 243(4).
9.	*Civil Enforcement Regulations*, Alta. Reg. 276/1995 s. 32.
10.	Muir Hunter, *Kerr & Hunter on Receivers and Administrators*, 18th ed. (London: Sweet & Maxwell, 2005) at 174 at para. 1-2, 1-3, 7-1.
11.	Frank Bennett, Bennett on Receiverships, 2nd Ed., (Toronto, Carswell, 1999), at 25 citing *Parsons et. al. Sovereign Bank of Canada*, [1913] A.C. 160, at para. 167 and *Ostrander v. Niagara Helicopters Ltd. et. al.* (1973), 1 O.R. (2d) 281 at 286.
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14.	*Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, s. 246(2).
15.	*Business Corporations Act*, R.S.A. 2000, c. B-9, as amended, s. 100.
16.	*Mortgage Insurance Co. of Canada v. Innisfil Landfill Corp.* (1995), 3 O.T.C. 23 (Ont. Gen. Div.), at para. 5.
17.	*Re Big Sky Living Inc.*, 2007 ABQB 249, at para. 4.
18.	*R. v. Collins*, [2001] O.J. No. 3894 (Ont. C.A.), at para. 18.
19.	*Alberta Rules of Court*, Alta. Reg. 124/2010, Rule 6.11.
20.	*Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, s. 246(2) and *Bankruptcy and Insolvency General Rules*, C.R.C., c. 368, s. 126.
21.	*Personal Property Security Act*, R.S.A. 2000, c. P-7, s. 65.
22.	*Alberta Rules of Court*, Alta. Reg. 124/2010, Rule 6.47.
23.	*Alberta Rules of Court*, Alta. Reg. 124/2010, Rule 1.2, 1.4 and 1.6.
24.	*R. v. Levogiannis*, [1993] 4 S.C.R. 475 at para. 23.
25.	*Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, s. 11.7 and 23.
26.	*Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, at s. 27, 170.