



No. H-230574
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

ATRIUM MORTGAGE INVESTMENT CORPORATION

PETITIONER

AND:

MARVEL DEVELOPMENTS (LIONS GATE VILLAGE) LTD.
RAHIM FAKHARI
FERESHTEH AMIN

RESPONDENTS

ORDER MADE AFTER APPLICATION
(RECEIVERSHIP ORDER)

BEFORE THE HONOURABLE
JUSTICE **WALKER**

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)
)

October 8, 2024

ON THE APPLICATION of Atrium Mortgage Investment Corporation ("**Atrium**") for an Order pursuant to Section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the "**BIA**") and Section 39 of the *Law and Equity Act*, RSBC 1996 c 253, as amended (the "**LEA**") appointing Ernst & Young Inc. as receiver and manager (in such capacity, the "**Receiver**"), without security, of all of the assets undertakings and property of Marvel Developments (Lions Gate Village) Ltd. ("**Marvel**") acquired for, or used in relation to a business carried on by Marvel, coming on for hearing this day at Vancouver, British Columbia; AND ON READING the Affidavit #1 of Marianne Dobslaw made August 2, 2023, the Affidavit #2 of Azadeh Kharazmi made August 14, 2024 and the Affidavit #1 of Ian Jarvis made September 23, 2024, the consent of Ernst & Young Inc. to act as the Receiver and the other materials filed herein; AND ON HEARING Jonathan Ross, Counsel for Atrium and other counsel as listed on **Schedule "A"** hereto, and no one else appearing, although duly served;

THIS COURT ORDERS AND DECLARES that:

APPOINTMENT

1. Pursuant to Section 243(1) of the *BIA* and Section 39 of the *LEA*, Ernst & Young Inc. is appointed Receiver and Manager, without security, of all of the assets, undertakings, and property of Marvel, including all proceeds and the Lands (as defined in **Schedule "B"** hereto) (collectively, the "**Property**").

RECEIVER'S POWERS

2. The Receiver is empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
- (a) to exercise control over the Property and any and all receipts and disbursements arising out of or from the Property;
 - (b) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
 - (c) to complete the sale and transfer of the Lands pursuant to the terms of an accepted Offer to Purchase (the "**Accepted Offer**") dated August 9, 2024 between Atrium as vendor (pursuant to court-ordered conduct of sale) and 1495746 BC Ltd. as purchaser, and as approved by Order of this Court in this Action made on August 29, 2024 (the "**Asset Transaction**");
 - (d) to negotiate, draft, and with the written consent of Atrium to enter into an agreement (the "**Amended Offer to Purchase**") to replace the Accepted Offer and to restructure the Asset Transaction into an issuance of shares in Marvel (a "**Share Transaction**") to be approved and completed pursuant to a reverse vesting order (an "**RVO**") to be sought from the court;
 - (e) with the written consent of Atrium to make application to the Court for any orders required to complete the Asset Transaction or the Share Transaction, including but not limited to an RVO;
 - (f) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver considers appropriate on all matters relating to the Property and the receivership, and to share information, subject to confidentiality terms as the Receiver considers appropriate;
 - (g) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
 - (h) to assign the Debtor into bankruptcy or to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limitation, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
 - (i) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
 - (j) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

3. Each of (i) Marvel; (ii) all of Marvel current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf; and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (collectively, "**Persons**" and each a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependent on maintaining possession) to the Receiver upon the Receiver's request.
4. All Persons, other than governmental authorities, shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of Marvel, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (collectively, the "**Records**") in that Person's possession or control. Upon request, governmental authorities shall advise the Receiver of the existence of any Records in that Person's possession or control.
5. Upon request, all Persons shall provide to the Receiver or permit the Receiver to make, retain and take away copies of the Records and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities, provided however that nothing in paragraphs 4, 5 or 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to solicitor client privilege or statutory provisions prohibiting such disclosure.
6. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by an independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may require including, without limitation, providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

7. No proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST MARVEL OR THE PROPERTY

8. No Proceeding against or in respect of Marvel or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and with the exception of this Action any and all Proceedings currently under way against or in respect of Marvel or the Property are stayed and suspended pending further Order of this Court; provided, however, that nothing in this Order shall prevent any Person from commencing a Proceeding regarding a claim that might otherwise become barred by statute or an existing agreement if such Proceeding is not commenced before the expiration of the stay provided by this paragraph and provided that no further step shall be taken in respect of the Proceeding except for service of the initiating documentation on Marvel and the Receiver. For the avoidance of doubt nothing in this order shall prevent Atrium from enforcing judgments obtained in this Action against Rahim Fakhari and Fereshteh Amin.
9. Nothing in this order shall prevent Atrium from continuing to receive rents from the Lands pursuant to its assignment of rents.

NO EXERCISE OF RIGHTS OR REMEDIES

10. All rights and remedies (including, without limitation, set-off rights) against Marvel, the Receiver, or affecting the Property, are stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that nothing in this Order shall (i) empower the Receiver or Marvel to carry on any business which Marvel are not lawfully entitled to carry on, (ii) affect the rights of any regulatory body as set forth in section 69.6(2) of the *B/A*, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien. This stay and suspension shall not apply in respect of any "eligible financial contract" as defined in the *B/A*.

NO INTERFERENCE WITH THE RECEIVER

11. No Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by Marvel, without written consent of the Receiver or leave of this Court. Nothing in this Order shall prohibit any party to an eligible financial contract from closing out and terminating such contract in accordance with its terms.

CONTINUATION OF SERVICES

12. All Persons having oral or written agreements with Marvel or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to Marvel are restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and the Receiver shall be entitled to the continued use of Marvel's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of Marvel or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

13. All funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever including, without limitation, the sale of all or any of the Property and the collection of any accounts receivable, in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post-Receivership Accounts**") and the monies standing to the credit of such Post-Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further order of this Court.

PERSONAL INFORMATION

14. Pursuant to Section 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, SC 2000, c 5 or Section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c. 63, the Receiver may disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by Marvel, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. Nothing in this Order shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release, or deposit of a substance contrary to any federal, provincial or other law relating to the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination (collectively "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation.
16. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless the Receiver is actually in possession.
17. Notwithstanding anything in federal or provincial law, the Receiver is not personally liable in that position for any environmental condition that arises or environmental damage that occurred:
 - (a) before the Receiver's appointment; or,
 - (b) after the Receiver's appointment, unless it is established that the condition arose or the damage occurred as a result of the Receiver's gross negligence or wilful misconduct.
18. Notwithstanding anything in federal or provincial law, but subject to paragraph 17 of this Order, where an order is made which has the effect of requiring the Receiver to remedy any environmental condition or environmental damage affecting the Property, if the Receiver complies with the *BIA* section 14.06(4), the Receiver is not personally liable for the failure to comply with the order and is not personally liable for any costs that are or would be incurred by any Person in carrying out the terms of the order.

LIMITATION ON THE RECEIVER'S LIABILITY

19. The Receiver shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except:
 - (a) any gross negligence or wilful misconduct on its part; or
 - (b) amounts in respect of obligations imposed specifically on receivers by applicable legislation.

Nothing in this Order shall derogate from the protections afforded the Receiver by Section 14.06 of the *BIA* or by any other applicable legislation.

RECEIVER'S ACCOUNTS

20. The Receiver and its legal counsel, if any, are granted a charge (the "**Receiver's Charge**") on the retainer of \$150,000 to be paid to the Receiver in trust (the "**Retainer**"), which charge shall not exceed an aggregate amount of \$150,000, as security for the payment of their fees and disbursements, in each case at their standard rates, in respect of these proceedings, whether incurred before or after the making of this Order. The Receiver's Charge shall form a first charge on the Retainer in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to Sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.
21. The Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are referred to a judge of the Supreme Court of British Columbia and may be heard on a summary basis.
22. Prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the Retainer, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

SERVICE AND NOTICE OF MATERIALS

23. The Receiver shall establish and maintain a website in respect of these proceedings at: www.ey.com/ca/marvel (the "**Website**") and shall post there as soon as practicable:
 - (a) all materials prescribed by statute or regulation to be made publicly available, including pursuant to Rule 10-2 of the *Supreme Court Civil Rules*; and,
 - (b) all applications, reports, affidavits, orders and other materials filed in these proceedings by or on behalf of the Receiver, except such materials as are confidential and the subject of a sealing order or pending application for a sealing order.
24. Any Person who is served with a copy of this Order and that wishes to be served with any future application or other materials in these proceedings and who has not already filed a Response to Petition in these proceedings must provide to counsel for each of the Receiver and Atrium a demand for notice in the form attached as **Schedule "C"** (the "**Demand for Notice**"). The Receiver and Atrium need only provide further notice in respect of these proceedings to Persons that have delivered a properly completed Demand for Notice or Response to Petition. The failure of any Person to provide a properly completed Demand for Notice or Response to Petition releases the Receiver and Atrium from any requirement to provide further notice in respect of these proceedings until such Person delivers a properly completed Demand for Notice or Response to Petition.

25. The Receiver shall maintain a service list identifying all parties that have delivered a properly completed Demand for Notice or Response to Petition (the "**Service List**"). The Receiver shall post and maintain an up-to-date form of the Service List on the Website.
26. Any interested party, including the Receiver, may serve any court materials in these proceedings by facsimile or by emailing a PDF or other electronic copy of such materials to the numbers or addresses, as applicable, set out on the Service List. Any interested party, including the Receiver, may serve any court materials in these proceedings by mail to any party on the Service List that has not provided a facsimile number or email address, and materials delivered by mail shall be deemed received five (5) days after mailing.
27. Notwithstanding paragraph 31 of this Order, service of the Notice of Application for this order and any affidavits filed in support shall be made on the Federal and British Columbia Crowns in accordance with the *Crown Liability and Proceedings Act*, RSC 1985, c C-50 and its regulations for the Federal Crown and the *Crown Proceedings Act*, RSBC 1996 c 89 in respect of the British Columbia Crown.
28. The Receiver and its counsel are authorised to serve or distribute this Order, any other orders and any other materials as may be reasonably required in these proceedings, including any notices or other correspondence, by forwarding copies by facsimile or by email to Marvel's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of any legal or juridical obligation and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*.

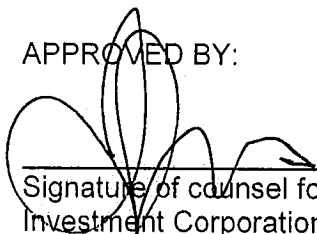
GENERAL

29. Any interested party may apply to this Court to vary or amend this Order on not less than seven (7) clear business days' notice to the Service List and to any other party who may be affected by the variation or amendment, or upon such other notice, if any, as this Court may order.
30. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
31. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of Marvel.
32. This Court requests the aid, recognition and assistance of any court, tribunal, regulatory or administrative body having jurisdiction, wherever located, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All such courts, tribunals and regulatory and administrative bodies are respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

33. The Receiver is authorized and empowered to apply to any court, tribunal or regulatory or administrative body, wherever located, for recognition of this Order and for assistance in carrying out the terms of this Order and the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
34. Atrium shall have their costs of this motion, up to and including entry and service of this Order, as provided for by the terms of Atrium's security or, if not so provided by Atrium's security, then on a substantial indemnity basis to be paid by the Receiver from Marvel's estates with such priority and at such time as this Court may determine.
35. Endorsement of this Order by counsel appearing on this application other than counsel for Atrium is dispensed with.

THE FOLLOWING PARTIES APPROVE OF THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

APPROVED BY:



Signature of counsel for Atrium Mortgage
Investment Corporation
Jonathan B. Ross
Gowling WLG (Canada) LLP

BY THE COURT



~~DISTRICT~~ REGISTRAR

FORM
CHECKED
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SCHEDULE "A"

LIST OF COUNSEL

Name	Party
Jeffrey Bradshaw DLA Piper (Canada) LLP	Counsel for the Receiver
William E.J. Skelly MLT Aikins LLP	Counsel for 1495746 B.C. Ltd. (the Purchaser)
Kornfeld LLP	Counsel for Michael Geller & Associates Ltd.

SCHEDULE "B"

The Lands shall include the lands and premises legally described as:

1. Parcel Identifier: 009-283-862
Lot 2, Block 15, District Lot 764, Plan 10846
2. Parcel Identifier: 005-260-809
Lot 1, Block 15, District Lot 764, Plan 10846
3. Parcel Identifier: 004-811-054
Lot 1 of Lot 1, Block 15, District Lot 764, Plan 14885
4. Parcel Identifier: 005-260-817
Lot 3, Block 15, District Lot 764, Plan 10846

SCHEDULE "C"
DEMAND FOR NOTICE

TO: **Atrium Mortgage Investment Corporation**
 c/o Gowling WLG (Canada) LLP
 Attention: Jonathan Ross
 Email: jonathan.ross@gowlingwlg.com

AND TO: **Ernst & Young Inc.**
 c/o DLA Piper LLP
 Attention: Jeffrey Bradshaw
 Email: jeffrey.bradshaw@dlapiper.com

Re: In the Matter of the Receivership of Marvel Developments (Lions Gate Village) Ltd.

I hereby request that notice of all further proceedings in the above Receivership be sent to me in the following manner:

1. By email, at the following address (or addresses):

OR

2. By facsimile, at the following facsimile number (or numbers):

OR

3. By mail, at the following address:

Name of Creditor: _____

Name of Counsel (if any): _____

Creditor's Contact Address: _____

Creditor's Contact Phone Number: _____

No. H-230574
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IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

ATRIUM MORTGAGE INVESTMENT CORPORATION

PETITIONER

AND:

MARVEL DEVELOPMENTS (LIONS GATE VILLAGE) LTD.

RAHIM FAKHARI
FERESHTEH AMIN

RESPONDENTS

**ORDER
(RECEIVERSHIP)**

GOWLING WLG (CANADA) LLP

Barristers & Solicitors
Bentall 5, Suite 2300,
550 Burrard Street
Vancouver, BC V6C 2B5

Attention: Jonathan B. Ross

Tel: 604.683.6498

Fax: 604.683.3558

File No. V59637

JBR/MD/msh