

COURT FILE NUMBER	1455 of 2019
COURT	COURT OF QUEEN'S BENCH FOR SASKATCHEWAN
JUDICIAL CENTRE	SASKATOON
APPLICANTS	IN THE MATTER OF SECTION 204 OF <i>THE BUSINESS CORPORATIONS ACT</i>, RSS 1978, c B-10 AND IN THE MATTER OF THE VOLUNTARY LIQUIDATION AND DISSOLUTION OF PRIMEWEST MORTGAGE INVESTMENT CORPORATION
DOCUMENT	SECOND SUPPLEMENTAL REPORT OF THE LIQUIDATOR AUGUST 16, 2021
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	LIQUIDATOR KPMG Inc. Suite 3100, Bow Valley Square II 205 - 5th Ave SW Calgary, Alberta T2P 4B9 Neil Honess/Cristina Pimienta Tel: (403) 691-8014/(403) 691-8070 neilhoness@kpmg.ca jsithole@kpmg.ca COUNSEL The W Law Group LLP Suite 300, 110 – 21 st Street East Saskatoon, Saskatchewan S7K 0B6 Mike Russell/Michelle Tobin Tel: (306) 244-2242 mrussell@wlawgroup.com mtobin@wlawgroup.com

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1. INTRODUCTION AND PURPOSE OF REPORT

1. PrimeWest Mortgage Investment Corporation (“**PrimeWest**” or the “**Corporation**”) was incorporated under *The Saskatchewan Business Corporations Act* on March 22, 2005 and commenced operations in October of 2005 as a Mortgage Investment Corporation (“**MIC**”).
2. The Corporation provided lending on security of mortgages on real properties situated in Saskatchewan, Manitoba and Alberta. The mortgages transacted by the Corporation did not generally meet the underwriting criteria of conventional lenders. As a result, the Corporation’s investments were subject to a greater risk and accordingly earned a higher rate of interest than is typical with conventional mortgage lending activities.
3. In June of 2016, the contract of the then-President and CEO of the Corporation, Mr. Don Zealand (“**Zealand**”), was terminated, and an interim CEO was engaged, effective August of 2016. Subsequently, an in-depth review of the Corporation’s portfolio was performed, which included updated appraisals of properties on which the Corporation’s loans were secured (the “**Portfolio Review**”).
4. The Portfolio Review revealed that a number of mortgage loans were under-secured and non-compliant with the Corporation’s lending guidelines and policies. As a result, the Corporation was required to increase its loan loss provision by over \$4 million for the year and suspend payment of dividends to shareholders for the first time in its history.
5. The interim CEO subsequently resigned in May of 2017 and was replaced by the Corporation’s CFO.
6. In response to the Portfolio Review, in October of 2017 the Corporation filed a Statement of Claim against Zealand, claiming a breach of the Corporation’s corporate policy, gross negligence and breach of fiduciary duty while he was President and CEO (the “**Zealand Action**”). Zealand denies all the allegations and has filed a counterclaim against the Corporation for wrongful dismissal. A defence to the counterclaim has been filed by the Corporation’s solicitors.
7. Throughout 2017 and 2018, the Corporation initiated a number of steps to attempt to improve its financial position, including extensive cost cutting, initiation of foreclosure proceedings on non-performing mortgage loans and pursuit of new investments and capital into the Corporation.

8. Such efforts did not result in significant financial improvement and, in June of 2018, the Corporation sought to sell its entire portfolio of assets. No acceptable proposals were received, culminating in the engagement of KPMG Inc. (“**KPMG**”) by the board of directors (the “**Board**”) on or about May 29, 2019, to evaluate potential strategies for the Corporation.
9. Following KPMG’s analysis and recommendations, the Corporation determined that an orderly liquidation pursuant to Section 204 of *The Business Corporations Act*, RSS 1978, c B-10 would be the most effective means of winding up the Corporation.
10. On September 24, 2019, at an annual and special meeting of the shareholders of the Corporation, a detailed liquidation plan was presented to and approved by the shareholders (the “**Liquidation Plan**”).
11. The Liquidation Plan provides a mechanism to:
 - a) Cease operations in an efficient and definitive manner;
 - b) Safeguard the current assets of the Corporation and move to realize them in due course;
 - c) Establish a claims process by which to address all Claims in a timely and cost-effective manner; and
 - d) Make distributions to creditors and, in the event of there being remaining equity, to shareholders in as expedited and equitable a manner as possible.
12. The voluntary liquidation and windup of the Corporation commenced effective October 24, 2019 (the “**Effective Date**”), at 5:00PM CST. At that time, all powers of the Corporation’s directors ceased and the directors were deemed to have resigned. KPMG was appointed as liquidator (the “**Liquidator**”).
13. On October 31, 2019, the Court of Queen’s Bench for Saskatoon (the “**Court**”) issued an order (the “**Order**”) approving the Liquidation Plan and affirming the appointment of KPMG as Liquidator. The Order further appointed former directors of PrimeWest, Tom Robinson, Wilson Olive, Francis Bast and Tom Archibald, as inspectors of the Corporation’s liquidation (collectively, the “**Inspectors**”).
14. On December 18, 2019, the Liquidator filed its first report (the “**First Report**”), which described, among other things:

- a) The Company's primary assets and liabilities;
 - b) The Receiver's activities to date;
 - c) The Company's interim receipts and disbursements from October 31, 2019, to December 20, 2019, including a discussion of professional fees incurred to date by the Liquidator and its counsel; and
 - d) The Liquidator's proposed claims process for the identification, resolution and barring of claims (the "**Claims Process**").
15. On January 10, 2020, the Court issued an order (the "**Claims Process Order**") approving the Claims Process.
 16. On November 9, 2020, the Liquidator filed its second report (the "**Second Report**"), to provide, among other things, an update to the Court in respect of the Claims Process and resolution of outstanding claims.

Purpose of the report

17. This is the Liquidator's second supplemental report (the "**Second Supplemental Report**" or the "**Report**") to the Court. This Second Supplemental Report has been prepared for the sole purpose of providing an update to the Court in respect of the Burwash Claim and the Granite Claim (as those terms are defined below).
18. Further background and information regarding the Corporation and these liquidation proceedings, including a copy of the Order and the Liquidation Plan, which forms Schedule "A" thereto, can be found on the Liquidator's website at <https://home.kpmg/ca/primewest> (the "**Liquidator's Website**").

19. In preparing this Second Supplemental Report and making the comments herein, the Liquidator has been provided with, and has relied upon certain unaudited, draft and/or internal financial information, Corporation records, Corporation-prepared financial information and projections, discussions with management (“**Management**”) and employees, and information from other third party sources (collectively, the “**Information**”).
20. The Liquidator has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. The Liquidator has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards (“**CAS**”) pursuant to the *Chartered Professional Accountants Handbook*, and accordingly the Liquidator expresses no opinion or other form of assurance in respect of the Information.
21. Some information referred to in this Second Supplemental Report may consist of forecasts and projections, which were prepared based on Management’s estimates and assumptions. Such estimates and assumptions are, by their nature, not ascertainable and as a consequence no assurance can be provided regarding the forecasted or projected results. The reader is cautioned that the actual results will likely vary from the forecasts or projections, even if the assumptions materialize, and the variations could be significant.
22. The information contained in this Second Supplemental Report is not intended to be relied upon by any prospective purchaser or investor in any transaction with the Corporation.
23. Capitalized terms not otherwise defined herein are as defined in the Order, the Liquidation Plan or the First Report. This Second Supplemental Report should be read in conjunction with the materials posted on the Liquidator’s Website, as certain information has not been included herein to avoid unnecessary duplication.

The Granite and Burwash Claims and the Litigation Plan

24. On May 9, 2018, Mr. David Brundige, Q.C. (“**Brundige**”) issued a statement of claim on behalf of Granite Enterprises Inc. (the “**Granite Claim**”) seeking damages in the amount of \$150,000 against PrimeWest and the mortgage broker, P.I. Financial, alleging losses and damages relating to shares purchased by the plaintiff in the Corporation.
25. On June 29, 2018, Mr. Brundige also issued a statement of claim on behalf of Debbie Gloria Burwash (the “**Burwash Claim**”), seeking damages in the amount of \$250,000 against PrimeWest

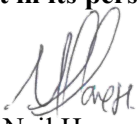
and the mortgage broker, Richardson GMP Limited (“GMP”), alleging losses and damages relating to shares purchased by the plaintiff in the Corporation. GMP, the co-defendant in the Burwash action, has filed a Proof of Claim in respect of its cross-claim against PrimeWest.

26. The Liquidator has delivered a response to the Granite Claim and Burwash Claim above stating that their respective Proofs of Claim cannot be determined summarily by the Liquidator and will ultimately be placed before the Court for determination.
27. Settlement discussions in regard to both the Granite and Burwash Claim proved unsuccessful and as discussed above, the Liquidator’s counsel has now applied to Court to set a timeline for the continued litigation of these claims in accordance with the litigation plan attached as **Appendix “A”** hereto (the “**Litigation Plan**”).
28. The various parties to the Granite Claim and the Burwash Claim have all agreed to the Litigation Plan, other than P.I. Financial, represented by Tristan Culham of MLT Aikins.
29. The Liquidator has reviewed the Litigation Plan and respectfully recommends that it be approved by the Court.

This Report is respectfully submitted this 16th day of August, 2021.

KPMG Inc.

**In its capacity as Liquidator of
PrimeWest Mortgage Investment Corporation
And not in its personal or Corporate Capacity.**


Per: Neil Honess
Senior Vice President

APPENDIX "A"
LITIGATION PLAN



Scharfstein | Gibbings | Walen | Fisher LLP
BARRISTERS & SOLICITORS

Reply to: Samuel W. Edmondson
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Assistant: Chelsey Kuspira
E-mail: ckuspira@scharfsteinlaw.com

August 5, 2021

Via Email

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Regina, SK S4R 1G9

MLT Aikins LLP
1500, 1874 Scarth Street
Regina, SK S4P 4E9

Attn: David J. Brundige, Q.C.

Attn: Tristan N. Culham

Dear Sirs:

**Re: Granite Enterprises v Primewest Mortgage Investment Corporation
and P.I. Financial
Q.B. No. 1395 of 2018, Judicial Centre of Regina
Our File No: 20,703.2**

Colleagues,

I write to advise that Ms. Rohrke has left our firm to pursue other opportunities. With her departure I have taken over carriage of this file. I regret that it has taken this long for me to advise of this change, and that I will require additional time to come up to speed.

In mid-June there had been discussion respecting a litigation plan, for Court approval. By the enclosed letter dated June 1, 2021 Mr. Brundige had proposed a litigation plan with proposed timelines for mediation, document disclosure and production, questioning and replies to undertakings and pre-trial motions. Ms. Rohrke responded by the enclosed letter dated June 14, 2021 with alternate dates proposed. I understand Mr. Brundige to have been agreeable to Ms. Rohrke's proposed timelines. By electronic mail dated June 14, 2021 Mr. Culham indicated that he would not agree to timelines, on the basis of delay in advancing the claim and disagreeing that case management and deadlines are not required.

I note that as a result of insolvency proceedings involving Primewest Mortgage Investment Corporation this action may not proceed without the approval of the Court in the insolvency proceeding.

I note as well that although *Queen's Bench Rules*, rule 4-46 requires that a Notice of Intent to Proceed be filed, as had been referenced by Mr. Culham, that it is clear that effective notice has been given to the Defendants that they are

James M. Scharfstein, Q.C.
(retired)

Robert J. Gibbings, Q.C.
(retired)

Grant J. Scharfstein, Q.C.

Gregory G. Walen, Q.C.

Dennis J. Fisher, Q.C.

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Bonnie D. Cherewyk

Lauren E. Scharfstein

James D. Hataley

Courtney J. Fisher
(maternity leave)

Christine K. Libner

Valerie J. Warwick

Michelle E. Zabos
(student-at-law)

pursuing the action. As such it is my view that insistence on this formality would be dispensed with by the Court.

In any event, it is evident that we will be unable to obtain Court approval and achieve the timelines set out in Ms. Rohrke's letter. I appreciate that Ms. Burwash is anxious to move this litigation forward, and I therefore propose a litigation plan as follows:

- 1) Affidavits of Documents to be exchanged by September 30, 2021;
- 2) Questioning to be held within 90 days after Mediation;
- 3) Replies to Undertakings to be completed 90 days after the receipt of Questioning Transcripts; and
- 4) Pre-Trial motions to be heard thereafter should same be necessary.

I recognize that these timelines are later than the Plaintiff might like, however I cannot in good conscience propose dates which are not achievable with my present schedule and workload.

As was suggested by Ms. Rohrke, it is my understanding that a consent order should be drafted for the Court's approval under the liquidation matter.

Should you wish to discuss, please contact me at your convenience.

Yours truly,

SCHARFSTEIN GIBBINGS WALEN FISHER LLP

PER:



SAMUEL W. EDMONDSON

SWE/cm
Enclosures

cc: W Law Group LLP
Attention: Nicholas P. Conlon and Michael J. Russell via email