

IN THE COURT OF APPEAL FOR SASKATCHEWAN
ON APPEAL FROM QUEEN'S BENCH FOR SASKATCHEWAN
JUDICIAL CENTRE OF SASKATOON
Q.B.G. NO. 1175 OF A.D. 2018

BETWEEN:

RANDY KOROLUK

PROPOSED APPELLANT

AND:

**KPMG INC., PRIMEWEST MORTGAGE INVESTMENT CORPORATION, DAN
ANDERSON, TOM ARCHIBALD, FRANCIS BAST, DOUGH FRONDALL, MIKE
HOUGH, WILL OLIVE, TOM ROBINSON, IRENE SEIFERLING, ERNST & YOUNG
INC.**

PROPOSED RESPONDENTS

AND:

**DIRECTOR OF CORPORATIONS, CANADA REVENUE AGENCY, P.I. FINANCIAL,
DONALD ZEALAND, GRANITE ENTERPRISES, DEBBIE GLORIA BURWASH**
NON-PARTIES

**COMPENDIUM OF FILED EVIDENCE RELIED UPON
BY THE PROPOSED RESPONDENT, KPMG, INC.**

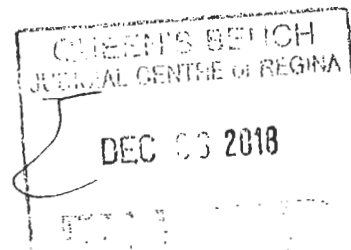
INDEX

Date	Description	Author	Tab
January 1, 2011	Indemnity Agreement		1
December 3, 2018	QBG No. 1727 of 2018 Amended Statement of Claim	E.F. Anthony Merchant, Q.C.	2
October 31, 2019	Order	Honourable Mr. Justice Gabrielson	3
November 25, 2019	Amended and Restated Order	Honourable Mr. Justice Gabrielson	4

January 10, 2020	Claims Process Order	Honourable Mr. Justice Gabrielson	5
January 30, 2020	Appearance Day Notice	E.F. Anthony Merchant, Q.C.	6
July 22, 2020	Motion for Leave to Appeal	E.F. Anthony Merchant, Q.C.	7
July 22, 2020	Draft Notice of Appeal	E.F. Anthony Merchant, Q.C.	8
July 27, 2020 – August 10, 2020	Emails	Melanie A. Baldwin, Q.C.	9
December 20, 2019	Report of the Liquidator	KPMG, Inc.	10

TAB 1

Form 3-9
(Rule 3-9)



COURT FILE NUMBER **QBG NO** 1727 **OF 2018**

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE **REGINA**

PLAINTIFF **RANDY KOROLUK**

DEFENDANT(S) **DAN ANDERSON**
 TOM ARCHIBALD
 FRANCIS BAST
 DOUG FRONDALL
 MIKE HOUGH
 WILL OLIVE
 TOM ROBINSON
 IRENE SEIFERLING
 ERNST & YOUNG INC.

Brought under *The Class Actions Act*

NOTICE TO DEFENDANT

1 The plaintiff may enter judgment in accordance with this Statement of Claim or the judgment that may be granted pursuant to *The Queen's Bench Rules* unless, in accordance with paragraph 2, you:

- (a) serve a Statement of Defence on the plaintiff; and
- (b) file a copy of it in the office of the local registrar of the Court for the judicial centre named above.

2 The Statement of Defence must be served and filed within the following period of days after you are served with the Statement of Claim (excluding the day of service):

- (a) 20 days if you were served in Saskatchewan;
- (b) 30 days if you were served elsewhere in Canada or in the United States of America;
- (c) 40 days if you were served outside Canada and the United States of America.

3 In many cases a defendant may have the trial of the action held at a judicial centre other than the one at which the Statement of Claim is issued. Every defendant should consult a lawyer as to his or her rights.

4 This Statement of Claim is to be served within 6 months from the date on which it is issued.

5 This Statement of Claim is issued at the above-named judicial centre on the 12th of June, 2018.

AMENDED STATEMENT OF CLAIM

THE PARTIES

1.—The Plaintiff, RANDY KOROLUK ("Koroluk") resides in Regina, Saskatchewan, and is an investor and registered shareholder in Prime West.

1.

~~2.—All of the Defendants are current or previous members of the Board of Directors (the "Board") for PRIME WEST MORTGAGE INVESTMENT CORPORATION ("Prime West" or "the Corporation"). Prime West is a publicly traded mortgage Saskatchewan investment company.~~

~~3.~~ 2. The Defendant, DAN ANDERSON Q.C. ("Anderson") resides in Saskatoon, Saskatchewan, and served on the Prime West Board from June, 2009 until May, 2016. Anderson is senior legal counsel in Saskatoon.

~~4.~~ 3. The Defendant, TOM ARCHIBALD ("Archibald") resides in Saskatoon, Saskatchewan, and served on the Prime West Board from May, 2007 until the present. Archibald is the president of Eden Health Solutions, a privately held consulting company specializing in health care and business consulting.

~~5.~~ 4. The Defendant FRANCIS BAST ("Bast") resides in Regina, Saskatchewan, currently serves on the Prime West Board, and is a businessman with many ventures, including real estate sales and development, finance, and investment.

~~6.~~ 5. The Defendant DOUG FRONDALL ("Frondall") resides in Saskatoon, Saskatchewan and served on the Prime West Board from May, 2008 until June, 2017. Frondall is an Accountant and a Partner at Virtus Group. He is the chairman of Sask Works.

~~7.~~ 6. The Defendant, MIKE HOUGH ("Hough") resides in Saskatoon, Saskatchewan, and served on the Prime West Board from May, 2007 until May, 2016. Hough was the General Manager of the Saskatoon Christian Centre.

~~8.~~ 7. The Defendant WILL OLIVE Q.C. ("Olive") currently serves on the Prime West Board. Olive is senior legal counsel and a partner at the law firm Olive Waller Zinkhan & Waller LLP, which has provided legal services to Prime West since 2005.

~~9.~~ 8. The Defendant TOM ROBINSON ("Robinson") resides in Regina, Saskatchewan and presently serves on the Prime West Board. Robinson is the former managing partner of KPMG LLP, which

provides audit, business advisory, and consulting services to both private and public organizations.

9. The Defendant, IRENE SEIFERLING ("Seiferling") resides in Saskatoon Saskatchewan and served on the Prime West Board from May, 2008 until May, 2016. Seiferling owns a corporate governance consultation firm called "Board Dynamics" which specifically specializes in board governance and business planning.

10. All of the above Defendants are current or previous members of the Board of Directors (the "Board of Directors Defendants") for PRIME WEST MORTGAGE INVESTMENT CORPORATION ("Prime West" or "the Corporation"). Prime West is a publicly traded mortgage Saskatchewan investment company.

10.11. The Defendant, ERNST AND YOUNG INC. ("E & Y") is a corporation registered pursuant to the *Canada Business Corporations Act*. They provide professional and accounting services. E & Y carried on business in Saskatchewan and maintains Saskatchewan officers. Their registered office is 100 Adelaide Street West, Suite 3900, Toronto ON M5H 0B3.

THE PROPOSED CLASS

11.12. The Defendants have, by their acts or omissions, caused harm and damages to Members of the Class. The Plaintiff acts as Representative Plaintiffs on behalf of an affected Class of several persons in the Province of Saskatchewan. The Plaintiff institutes this Claim as Representative on behalf of the Class of persons who have suffered harm or damages as a result of the Defendants' acts, omissions, wrongdoings, and breaches of legal duties and obligations, including, but not limited to, breach of trust, breach of fiduciary duty, breach of duty to act with honesty and good faith, negligence and failure to fulfill their statutory or common law duties, or other obligations due to the Plaintiff and Class Members collectively.

12.13. The Plaintiff on behalf of all Class Members claims the following relief, on a joint and several basis, against each of the Defendants, for the following proposed Class:

- a. All persons who invested in Prime West;
- b. All persons who are registered shareholders in Prime West;
- c. All persons who are beneficial shareholders in Prime West;
- d. All family members of the above.

(Collectively "Class Members" or "Class")

BACKGROUND FACTS

14. Prime West has been operating in the Province of Saskatchewan since 2005. Prime West is a public corporation based in Saskatoon, Saskatchewan and operates as a Saskatchewan based mortgage Investment Corporation. The Corporation's Class A common shares are listed for trading on the Canadian Securities Exchange under the symbol PRI.

~~13.~~

~~14.~~ 15. Each of the Board of Directors Defendants was a member of the Board of Directors for Prime West and participated in the Defendants' Wrongful Acts.

~~15.~~ 16. Each of the Board of Directors Defendants' responsibilities as a Board Members and officers of Prime West included, *inter alia*:

- a. Assuming responsibility for the overall stewardship and development of the corporation;
- b. Monitoring the Corporation's business interests;
- c. Identifying the principal risks and opportunities of the Corporation's business and ensuring the implementation of appropriate systems to manage these risks;
- d. Overseeing ethical management and succession planning, including appointing, training, and monitoring senior management and directors,
- e. Overseeing the Corporation's internal financial controls and management information systems;
- f. Implementing and enforcing corporate governance policies; and
- g. Following the code of ethics and written charters of the Corporation.

~~9.~~

17. E & Y was retained by Prime West to do yearly audits of Prime West's financial information for 2014, 2015, and 2016. These audits were done by E & Y and Prime West released it audited financial statements for each year about the end of March of the next year

18. E & Y was appointed as the auditor for Prime West by the shareholders. In undertaking the work for Prime West and in providing audits to Prime West, E & Y knew that members of the investing public, including current and prospective shareholders would rely upon the professionalism, fidelity, and accuracy of E & Y's audited financial statements.

THE DEFENDANTS' WRONGFUL ACTS

~~15.~~ 19. On or about March, 2011, the Board of Directors Defendants and other members of the Board began to employ Don Zealand ("Zealand") as CEO of Prime West.

~~17.20.~~ In 2015-2016, Zealand began to invest in high risk rural and commercial loans, in many instances second position mortgages, subject to the actions of other mortgage interests, contrary to the Corporation's mandate to invest in primarily short-term residential mortgages.

21. Zealand invested in 19 condo units in Regina on a high rise unit that was known or should have been known to be an uncertain and high-risk investment, which the Defendants knew, or ought to have known was contrary to the best interests of Class Members. As a result, a significant amount of financial risk was created for shareholders. The Defendants' knew or ought to have known that Zealand was conducting business of this kind in a way that was outside the parameters set by the Board and failed to adequately supervise his conduct.

~~18.22~~ The 2015 annual financial statements audited by E & Y did not acknowledge, flag, or communicate that high-risk investments had been entered into by Prime West. The nature of the audit process has prevented the Class from ascertaining whether this was a failure of E & Y to preform due dilligence or if it was a willful lack of transparency from the Board of Directors Defendants.

~~19.23.~~ In Spring of 2016, the Board raised nearly two million dollars for the purpose of investment. To this date, the shareholders have not been informed of what has happened to this money, nor has it been returned to them. Instead, the funds raised have been misappropriated for other purposes. This money was raised at the rate of \$10.00 per share.

~~20.24.~~ On or about June 6, 2016, the Defendants dismissed Zealand. At the time, the Defendants, Archibald and Fondall became acting CEO until August, 2016. Neither of these Defendants had the requisite competency to take on this role, which caused further damage and financial risk for the Class.

~~21.25.~~ On or about August, 2016, the Defendants' employed Brad Penno. Penno began to sell properties off for less than they could have retrieved contrary to the interests of the Class.

26. In September of 2016, the Board raised \$1,000,000 in equity for Prime West's operating costs from a third party at an 8% per annum interest rate. This loan began to be paid back in 2017. The Defendants, Bast and Robinson, were shareholders in this third party, and personally profited from the loan. In January of 2017, the Board, including the Board of Directors Defendants took an additional loan of \$500,000 from the same third party at an 8% per annum. As a result of the losses from these loans the dividends to be paid from Class Members were suspended in 2017.

27. Prime West released the audited annual financial statement for 2016 received from E & Y on or about March 31, 2017 as usual. The 2016 Audited Financial Statements prepared by E & Y drew attention to the accumulated deficit of \$3,399,834 and cast doubt on Prime West's ability to continue as a going concern. On or about April 3, 2017 Prime West released a statement that summarized the wrongful acts as follows:

During the year ended December 31, 2016, the Corporation's new management performed a detailed review of its mortgage portfolio. The Corporation determined that certain loss events occurred in prior periods that should have more properly been considered in determining the specific allowance for mortgage losses at December 31, 2015 and 2014. In addition it was determined that the security value assigned to certain mortgages and assets taken in settlement of debt were not appropriate and did not consider the facts and circumstances that existed at December 31, 2015 and 2014. The combination of these events also impacted the collective allowance that should have been recorded as of December 31, 2015 and 2014 and were considered as errors in accordance with IFRS [International Financial Reporting Standards].

28. The error in the 2014 and 2015 audited financial statement was discovered when new management took over Prime West. It was not discovered by E & Y in their role as auditor. E & Y caused, or allowed by inaction, the error to be propagated over several years of audited financial statements. E & Y did not properly probe the information provided to them to ascertain Prime West's true financial position. E & Y failed to take care that errors and omissions did not exist in the documents they prepared. These failures obscured Prime West's true financial positions, maintained shares at an artificial value, and caused investors to purchase shares at a value greater than their actual worth.

29. The Listing Application also released April 3, 2017 lists the Defendants Fondall, Robinson, and Bast as the Audit Committee for Prime West.

30. The Listing Application reduced the Net Asset Value of Prime West to \$6.50 per share. This was a significant reduction from the price of \$10.00 per share that had been in place since spring 2016. At this time, all share dividends and redemptions were suspended.

22.—

23-31 The Board of Directors Defendants did not begin to establish loan loss provisions or adequate corporate governance until 2017-2018. Despite the fact that the Defendant, Sieferling, specializes in consulting boards on developing effective corporate governance practices.

24-32 Over the previous few years, when shareholders and Class Members voiced their concern to the Board, including each of the Board of Directors Defendants, their inquiries have been repeatedly and actively ignored.

~~25-33.~~ The facts pleaded in this section (the "Defendants' Wrongful Acts") apply to each and every cause of action stated in this Statement of Claim, even where not specifically reiterated.

THE PLAINTIFF'S HARMS

~~34.~~ Each of the Defendants have, by their acts or omissions, caused harm and damages to Members of the Class. The Plaintiff institutes this Claim as a Representative on behalf of the Class of persons who have suffered harm or damages as a result of the Defendants' acts, omissions, wrongdoings, and breaches of legal duties and obligations, including, but not limited to, negligence and failure to fulfill their statutory or common law duties, or other obligations due to the Plaintiff and Class Members.

~~26-35.~~ The Class has suffered and continues to suffer loss and damages, which include but are not limited to, loss of share value and loss of dividend income.

VICARIOUS LIABILITY

~~36.~~ As members of the Board, each of the Board of Directors Defendants were at all material times required to manage or supervise the management of the business and affairs of Prime West, including the actions of its agents and employees, pursuant to section 97 of the *Business Corporations Act*, RSS 1978, c. B-10, s. 97 and are all therefore personally liable for the Wrongful Acts, especially those committed by CEOs and CFOs under their supervision.

~~27.~~

~~37.~~ E & Y is a firm of professional accounts with members registered pursuant to *The Accounting Profession Act*, SS 2014, c A-3.1. E & Y is vicariously liable for the Wrongful Acts of its employees, agents, and partners.

BREACH OF TRUST

~~28-38.~~ At all material times, each and every of the Board of Directors Defendants owed duties of trust to Class Members by virtue of their position of trust on the Board.

~~29-39.~~ The Trust required an accounting of funds from business conducted on behalf of Class Members and using capital raised from Class Members through the Board of Directors Defendants' day to day operations, with certain funds to be held in trust by the Board of Directors Defendants for the Class.

~~30-40.~~ The Board of Directors Defendants' Wrongful Acts were dishonest and either fraudulently or

negligently designed to decrease the amounts held in trust for Class Members and ultimately misappropriated.

~~31-41.~~ The Board of Directors Defendants knowingly received funds that were subject to the Trust and engaged the Board of Directors Defendants' Wrongful Acts.

~~32-42.~~ The Board of Directors Defendants' responsibility was to receive funds that were subject to the Trust and this engaged the Board of Directors Defendants' Wrongful acts.

~~33-43.~~ In the alternative, any Board of Directors Defendant who did not directly handle the funds to be held in trust for the Class is liable as a trustee *de son tort* as each took upon themselves to act as trustee and administer funds that were intended to be held in trust for Class Members.

BREACH OF DUTY OF HONESTY AND GOOD FAITH

~~34-44.~~ Pursuant to the common law and section 117 of *The Business Corporations Act*, RSS 1978, C. B-10, s.117, each and every Board of Directors Defendant was required at all material times to act honestly and in good faith and in keeping with the best interests of the corporation, including keeping the Members of the Class in mind to exercise due care, diligence, and skill in the circumstances.

~~35-45.~~ Each of the Board of Directors Defendants has failed to meet the standard of honesty and good faith required of them as Board Member by engaging in the Defendants' Wrongful Acts.

~~36-46.~~ The Board of Directors Defendants' Wrongful Acts were engaged to lie and mislead Class Members.

~~37-47.~~ The Board of Directors Defendants engaged in Wrongful Acts knowing that the said actions were not in good faith or would negatively affect the legitimate business and financial interests of the Class

BREACH OF FIDUCIARY DUTY

~~38-48.~~ All of the Board of Directors Defendants are sophisticated individuals with experience in business and finance, and at all material times were aware of their fiduciary and financial obligations to the Class.

~~39-49.~~ At all material times, each of the Board of Directors Defendants, owed duties of trust to the Class by virtue of their position on the Board. As Board Members, the Board of Directors Defendants, owed a duty of loyalty to the Class, and a fiduciary obligation not to act adversely to Class Members' interests.

~~40-50.~~ The Board of Directors Defendants were entrusted to raise and manage funds acquired for the purposes of investment and required to hold the funds in trust for Class Members among other duties.

~~41-51.~~ The independence of the Board of Directors Defendants, and the level of trust placed in them by Class Members to act honourably and honestly, and with Class Members' interests in mind, which were always to precede and be in priority to their own interests, created in each of the Board of Directors Defendants a fiduciary duty towards the Class which required each Board of Directors Defendant to:

- a. Act with the utmost honesty and good faith;
- b. Follow the established practices and procedures of the corporation;
- c. Raise and manage investment capital with the interests of the Class before their own;
- d. Fully and accurately account for all funds received;
- e. Prioritize Class Members' interests over their own; and
- f. Not use funds raised for investment for any personal or other improper purposes.

~~42-52.~~ The Plaintiff, on behalf of the Class, pleads that each of the Board of Directors Defendants, breached their duty of trust and the fiduciary duties owed to Class Members by, inter alia:

- a. Misdirecting, dissipating, and misappropriating monies accepted on behalf of the Corporation and the Class;
- b. Failing to account to Class Members with respect to monies received in the course of business;
- c. Using monies received on behalf of the Class or for the purposes of investment for their own personal benefit, the personal benefit of the other Defendants, or other persons unknown;
- d. Preferring his or hers own personal interests and gains and completely disregarding the interests of the Plaintiff, which they are duty bound to protect and uphold;
- e. Using client information and other confidential information for his or hers own personal benefit to the detriment of the Plaintiffs;
- f. Soliciting clients and staff members to cancel services or act in a manner contrary to the interests of the Plaintiff;

- g. Abusing their positions on the Board to gain personal benefit;
- h. Such further particulars as may be advised prior to trial.

43-53. As a result of the actions of the Board of Directors Defendants as pleaded herein, Class Members have suffered damages and harm in an amount to be proven at trial and following a full accounting of the Board of Directors Defendants' activities.

WASTE OF CORPORATE ASSETS

44-54. The Plaintiff, on behalf of the Class, pleads and relies upon the allegations contained herein and pleads that the Board of Directors Defendants owed Class Members a duty of care not to waste corporate assets by overpaying for property or employment services. The Board of Directors Defendants breached this duty of care by, *inter alia*:

- a. Employing senior management who they knew or ought to have known were grossly underqualified for their roles;
- b. Grossly overpaying officers of the Corporation by way of unethical bonus structures; and
- c. Borrowing money in an irresponsible and unethical fashion

INTERFERENCE WITH ECONOMIC RELATIONS

45-55. The Board of Directors Defendants have committed injurious acts against the Class, as pleaded herein, which deprived Class Members of the revenue and proceeds from the dividends of their investments.

46-56. The Board of Directors Defendants committed these acts with full knowledge of the harm and effect this would have on the Class.

47-57. The actions of the Board of Directors Defendants have thereby unlawfully interfered with Class Members' economic interests and the Defendants are liable therefor.

48-58. By reason of the foregoing, the Board of Directors Defendants are liable for all losses suffered by Class Members as a result of said unlawful interference.

NEGLIGENCE

~~49-59~~ In the alternative to the intentional wrongs pleaded, the Plaintiff claims that the Board of Directors Defendants are liable for Negligence.

~~50-60~~ The Board of Directors Defendants owed a duty of care to the Plaintiffs to, *inter alia*:

- a. Ensure that their subsidiaries, agents, or affiliates did not engage in the Board of Directors Defendants' Wrongful Acts;
- b. Act in a manner befitting a Board Member with the Corporation;
- c. Act in a manner in accordance with their duties as trustees, fiduciaries, and privileged positions.

~~51-61~~ The Board of Directors Defendants breached the standard of care of reasonable members of a Board and knew or ought to have known that engaging in the Board of Directors Defendants' Wrongful Acts would cause harm to the Class.

~~62~~ As a result of the Board of Directors Defendants' negligence, Class Members have suffered damage.

~~63~~ E & Y was negligent in the preparation of the audited financial statements of 2014, 2015 and 2016. They breached their duty as an expert providing core documents pursuant to The Securities Act, 1988, SS 1988-89, c S-42.2 and their duties as professional accountants to audit with diligence and accuracy.

~~64~~ Alternatively, the information and disclosure provided to E & Y which was used to create the audited annual financial statements was negligently made to E & Y by the Board of Directors Defendants, or other Prime West officers and management. So which in the alternative, the Plaintiff and Class seek recovery from all the Defendants other than E & Y.

~~52-65~~ The negligent conduct of E & Y has caused significant harm to Class members. Class members made investment decisions based on the audited annual financial statements and lost money because of their inaccuracy.

DAMAGES

~~53-66~~ The Defendants' conduct has caused significant harm to Class Members. The Class has suffered and continue to suffer loss and damage, which includes, but is not limited to the amount of the misappropriated funds.

~~54-67~~ As a result of the Defendants' wrongful acts and omissions Class Members are entitled to general damages for their losses in amounts yet to be determined, the particulars of which will be provided prior to trial.

PUNITIVE DAMAGES

~~55-68~~ The Defendants have acted in a high-handed, malicious, and reprehensible fashion, and in wanton and reckless disregard for Class Members' rights, which ought not to be countenanced by this Honourable Court. Accordingly, the Plaintiff is entitled to punitive, aggravated, and exemplary damages, the particulars of which will be provided prior to Trial.

PRAYER FOR RELIEF

~~56-69~~ The Plaintiffs therefore claim against the Defendants:

- a. General Damages in an amount to be proven at trial;
- b. Special damages in an amount to be proven at trial;
- c. Aggravated, exemplary and punitive damages;
- d. An accounting of all funds misappropriated by the Board of Directors Defendants;
- e. An equitable tracing of all funds misappropriated by the Board of Directors Defendants;
- f. Interest pursuant to the *Pre-judgement interest act*;
- g. Costs;
- h. Such further and other relief as this honourable court may allow.

DATED at Regina, Saskatchewan, this 12th day of June, 2018.

— "E.F.A Merchant" —
E. F. Anthony Merchant, Q.C.
Solicitor for the Plaintiff

AMENDED STATEMENT OF CLAIM DATED at Regina, Saskatchewan, this 30 day of December, 2018.



E.F. Anthony Merchant, Q.C.
Solicitor for the Plaintiff

CONTACT INFORMATION AND ADDRESS FOR SERVICE

If prepared by a lawyer for the party:

Name of firm:	MERCHANT LAW GROUP LLP
Name of lawyer in charge of file:	E. F. Anthony Merchant, Q.C.
Address:	2401 SASKATCHEWAN DRIVE, REGINA, SK, S4P 4H8
Telephone number:	(306) 359-7777
Fax number:	(306) 522-3299
E-mail address:	tmerchant@merchantlaw.com

Y:\Wpdata\Class Actions\Prime West\Statement of Claim

TAB 2

COURT FILE NUMBER QB No. 1455 of 2019

DUPLICATE ORIGINAL

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE SASKATOON

IN THE MATTER OF SECTION 204 OF *THE BUSINESS CORPORATIONS ACT*, RSS 1978, c B-10

AND IN THE MATTER OF THE VOLUNTARY LIQUIDATION AND DISSOLUTION OF
PRIMEWEST MORTGAGE INVESTMENT CORPORATION

ORDER

Before the Honourable Mister Justice N.G. Gabrielson in Chambers the 31st day of October, 2019.

Upon the application of Ian A. Sutherland and Craig Frith, counsel for PrimeWest Mortgage Investment Corporation (the "**Corporation**"); and upon having read the Originating Application dated October 9, 2019, Affidavit of Marlene Kaminsky sworn October 9, 2019, Supplemental Affidavit of Marlene Kaminsky sworn October 23, 2019, amended draft Order, and brief of law; all filed; and upon hearing counsel for the Corporation;

The Court Orders:

INTERPRETATION

1. Capitalized terms not otherwise defined in this Order shall have the meanings given to the Liquidation Plan (as that term is defined below).
2. For greater certainty, the definition of "Claim" in the Liquidation Plan and this Order includes but is not limited to:
 - (a) the following Court of Queen's Bench actions in which the Corporation is named as a defendant or defendant-by-counterclaim, as the case may be:
 - (i) QB No. 1559 of 2017;
 - (ii) QB No. 1889 of 2018;
 - (iii) QB No. 1395 of 2018;
 - (b) the Court of Queen's Bench action commenced against certain current and former directors of the Corporation in QBG No. 1727 of 2018.

(the "**Actions**")

SERVICE

3. To the extent required, the time for service of notice of the application for this order is hereby abridged and service thereof is deemed good and sufficient.

APPROVAL OF LIQUIDATION PLAN

4. The voluntary liquidation and dissolution of the Corporation pursuant to the Plan of Liquidation and Dissolution (the "**Liquidation Plan**") attached hereto as Schedule "A", which was approved on September 24, 2019 at an annual and special meeting of the Corporation's shareholders and

implemented by the Corporation's directors effective October 24, 2019, is hereby affirmed and approved, including without limitation the appointment of:

- (a) KPMG Inc. as liquidator (the "**Liquidator**") of the estate of the Corporation without security; and
- (b) Tom Robinson, Wilson Olive, Francis Bast and Tom Archibald as inspectors of the Corporation's liquidation (the "**Inspectors**").

CONTINUANCE OF THE LIQUIDATION UNDER THE SUPERVISION OF THE COURT

- 5. Pursuant to section 204(8) of *The Business Corporations Act*, RSS 1978, c B-10 (the "**SBCA**"), the liquidation of the Corporation shall be continued under the supervision of the Court as provided in Division XVI of the SBCA, and in accordance with the Liquidation Plan and any further orders of the Court.

LIQUIDATOR'S POWERS

- 6. The Liquidator shall have the mandatory obligations and discretionary powers set out in Sections 4.3 and 4.4 of the Liquidation Plan, respectively, the SBCA, and any further orders of the Court.
- 7. The Liquidator shall make an application for Court approval of the Claims Process contemplated by the Liquidation Plan within 75 days of the date of this Order, subject to any extensions of time that may be granted by further order of the Court on a future application.
- 8. The Actions shall be resolved by the Liquidator in accordance with the Claims Process to be implemented by further order of the Court or, alternatively, the terms of any agreed upon settlement, as the case may be.

DISPENSING WITH AUDITED FINANCIAL STATEMENTS AND SHAREHOLDER MEETING

- 9. Subject to any further orders of the Court, the Corporation and the Liquidator:
 - (a) shall be exempt from the requirements in sections 149 and 153 of the SBCA to provide any further audited financial statements to the Corporation's shareholders; and
 - (b) are hereby relieved of any obligation to call or hold a meeting, whether annual or otherwise, of the Corporation's shareholders, until such time as the Liquidator determines such a meeting to be necessary or desirable.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE LIQUIDATOR

- 10. (i) The Corporation, (ii) all of its current and former directors, officers, employees, agents, accountants, 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 (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Liquidator of the existence of any Assets in such Person's possession or control, shall grant immediate and continued access to the Assets to the Liquidator, and shall deliver all such Assets (excluding Assets subject to liens the validity of which is dependent on maintaining possession) to the Liquidator upon the Liquidator's request.
- 11. All Persons shall forthwith advise the Liquidator 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 the Corporation, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and

shall provide to the Liquidator or permit the Liquidator to make, retain and take away copies thereof and grant to the Liquidator unfettered access to and use of accounting, computer, software and physical facilities relating thereto provided, however, that nothing in this paragraph 11 or in paragraph 12 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 Liquidator due to the privilege attaching to solicitor-client communication or documents prepared in contemplation of litigation or due to statutory provisions prohibiting such disclosure.

12. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Liquidator for the purpose of allowing the Liquidator to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Liquidator in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Liquidator. Further, for the purposes of this paragraph, all Persons shall provide the Liquidator with all such assistance in gaining immediate access to the information in the Records as the Liquidator may in its discretion require, including providing the Liquidator with instructions on the use of any computer or other system and providing the Liquidator 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 LIQUIDATOR

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

NO PROCEEDINGS AGAINST DIRECTORS OR OFFICERS

14. No Proceeding shall be commenced or continued against any of the former or current officers of the Corporation with respect to any Claim, except with leave of this Court.

NO PROCEEDINGS AGAINST THE CORPORATION OR THE ASSETS

15. No Proceeding against or in respect of the Corporation or the Assets shall be commenced or continued except with the written consent of the Liquidator or with leave of this Court and any and all Proceedings currently under way against or in respect of the Corporation or the Assets are hereby stayed and suspended pending further Order of this Court, provided, however, that nothing in this Order shall: (i) 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; or (ii) affect a Regulatory Body's investigation in respect of the Corporation or an action, suit or proceeding that is taken in respect of the Corporation by or before the Regulatory Body, other than the enforcement of a payment order by the Regulatory Body or the Court. **"Regulatory Body"** means a person or body that has powers, duties or functions relating to the enforcement or administration of an Act of Parliament or of the legislature of a province.

NO EXERCISE OF RIGHTS OR REMEDIES

16. All rights and remedies (including, without limitation, set-off rights) against the Corporation or the Liquidator, or affecting the Assets are hereby stayed and suspended except with the written consent of the Liquidator or leave of this Court; provided, however, that nothing in this paragraph shall: (i) empower the Liquidator or the Corporation to carry on any business which the Corporation is not lawfully entitled to carry on; (ii) exempt the Liquidator or the Corporation from compliance with statutory or regulatory provisions relating to health, safety or the environment; (iii) prevent the filing of any registration to preserve or perfect a mortgage or security interest; or

(iv) prevent the registration or filing of a lien or claim for lien or the commencement of a Proceeding to protect a lien or other rights that might otherwise be barred or extinguished by the effluxion of time, provided that no further steps shall be taken in respect of such lien, claim for lien or Proceeding except for service of the initiating documentation on the Corporation and the Liquidator.

NO INTERFERENCE WITH THE LIQUIDATOR

17. 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 the Corporation, including, without limitation, insurance coverage, without written consent of the Liquidator or leave of this Court.

CONTINUATION OF SERVICES

18. All Persons having oral or written agreements with the Corporation 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 the Corporation, are hereby 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 Liquidator, and the Liquidator shall be entitled to the continued use of the Corporation'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 Liquidator in accordance with normal payment practices of the Corporation or such other practices as may be agreed upon by the supplier or service provider and the Liquidator, or as may be ordered by this Court.

LIMITATION ON THE LIQUIDATOR'S LIABILITY

19. Except for gross negligence or wilful misconduct, as a result of its appointment or carrying out the provisions of this Order the Liquidator shall incur no liability or obligation that exceeds an amount for which it may obtain full indemnity from the Assets. Nothing in this Order shall derogate from any limitation on liability or other protection afforded to the Liquidator under any applicable law.

LIQUIDATOR'S ACCOUNTS

20. The Liquidator and counsel to the Liquidator shall be paid their reasonable fees and disbursements at their standard rates. Pursuant to Section 216(1) of the SBCA, the Liquidator and counsel to the Liquidator are hereby granted a charge (the "**Liquidator's Charge**") on the Assets as security for such fees and disbursements both before and after the making of this Order in respect of these proceedings, and the Liquidators' Charge shall form a first charge on the Assets in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person.
21. The Liquidator and its legal counsel shall pass their accounts from time to time.
22. Subject to Section 4.6 of the Liquidation Plan, the Liquidator shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, prior to passing its accounts, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by the Inspectors or the Court, as the case may be.

FUNDING OF THE LIQUIDATION

23. Pursuant to section 215(1)(f) of the SBCA, the Liquidator shall be at liberty and is hereby empowered to borrow, by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not at any time exceed \$100,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Liquidator by the Liquidation Plan and this Order, including interim expenditures. The whole of the Assets shall be and is hereby charged by way of a fixed and specific charge (the “**Liquidator's Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Liquidator's Charge.
24. Neither the Liquidator's Borrowings Charge nor any other security granted by the Liquidator in connection with its borrowings under this Order shall be enforced without leave of this Court.
25. The Liquidator is at liberty and authorized to issue certificates substantially in the form annexed as Schedule “B” hereto (the “**Liquidator's Certificates**”) for any amount borrowed by it pursuant to this Order.
26. The monies from time to time borrowed by the Liquidator pursuant to this Order or any further order of this Court and any and all Liquidator's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Liquidator's Certificates.

GENERAL

27. The Liquidator may, from time to time, apply to this Court for advice and directions in the discharge of its powers and duties hereunder, and/or in the event that the Liquidator and the Inspectors are unable to agree on a course of action.
28. Nothing in this Order shall prevent the Liquidator from acting as a trustee in bankruptcy of the Corporation.
29. Unless otherwise ordered by this Court, the Liquidator will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence.
30. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Liquidator and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Liquidator, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Liquidator and its agents in carrying out the terms of this Order.
31. The Liquidator shall be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and for the recognition that the Liquidator 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.

32. Any interested party may apply to this Court to vary or amend this Order on not less than seven days' notice to the Liquidator and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

SERVICE AND NOTICE

33. The Electronic Case Information and Service Protocol attached as Schedule "C" hereto (the "**Protocol**") is approved and adopted for these proceedings. Terms which are capitalized herein but otherwise not defined shall bear the respective meanings ascribed to them in the Protocol. Service of documents made in accordance with the Protocol shall (subject to review by the Court at the time of any application) constitute valid and effective service. A Case Website shall be established in accordance with the Protocol with the following URL: <https://home.kpmg/ca/primewest>. Applications in respect of this matter may be made upon three days' notice.
34. The failure of any Person to forward a Request for Electronic Service or a Request for Facsimile Service to the Service List Keeper shall release the Liquidator and any other interested Person serving court materials in this matter from any requirement to provide further notice in respect of these proceedings to any such Person until such time as a properly completed request for such service is received from such Person by each of the counsel for the Liquidator.

ISSUED at the City of Saskatoon, in the Province of Saskatchewan, this 1st day of November 2019. ^{KB}


DEPUTY LOCAL REGISTRAR

This document was delivered by:

McDougall Gauley LLP, counsel for the applicant, PrimeWest Mortgage Investment Corporation

Name of lawyer in charge of file: Ian A. Sutherland / Craig Frith
Address of legal firm: 500-616 Main Street, Saskatoon, SK S7H 0J6
Telephone / Facsimile: (306) 653-1212 / (306) 652-5432
Email address: isutherland@mcdougallgauley.com
cfrith@mcdougallgauley.com

TO: Local Registrar, Judicial Centre of Saskatoon

AND TO: The recipients listed in the preliminary service list.

Schedule "A"

PRIMEWEST MORTGAGE INVESTMENT CORPORATION

PLAN OF LIQUIDATION AND DISSOLUTION

WHEREAS the Board of Directors of PrimeWest Mortgage Investment Corporation (the "**Board**") has concluded that it is in the best interests of PrimeWest Mortgage Investment Corporation (the "**Corporation**") to be liquidated and dissolved voluntarily pursuant to *The Business Corporations Act* (Saskatchewan) in accordance with the terms of this Liquidation Plan;

AND WHEREAS the Board has passed a resolution authorizing the Corporation to seek Shareholder approval for the voluntary liquidation and dissolution of the Corporation pursuant to *The Business Corporations Act* (Saskatchewan) in accordance with the terms of this Liquidation Plan, to be considered and voted upon by the Shareholders at an annual general and special meeting of Shareholders;

NOW THEREFORE THIS Liquidation Plan is adopted by the Board as of the last date set forth below, having the terms and conditions as set out herein.

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Liquidation Plan:

"**Assets**" means all of the property, assets and undertaking of the Corporation;

"**Board**" has the meaning given to it in the recitals of this Liquidation Plan;

"**Business Day**" means a day, other than a Saturday or Sunday, on which banks are generally open for business in Saskatoon, Saskatchewan;

"**Calendar Day**" means any day, including a Saturday, Sunday or statutory holiday in Saskatoon, Saskatchewan;

"**Canadian Dollars**" means dollars denominated in lawful currency of Canada;

"**Claim**" means:

- (a) any right of any Person against the Corporation in connection with any indebtedness, liability or obligation of any kind of the Corporation and any interest accrued thereon or costs payable in respect thereof, whether liquidated, unliquidated, reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any claim made or asserted against the Corporation through any affiliate or associate or any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future with respect to any matter, action, cause or chose in action; and
- (b) any existing or future right of any Person against any one or more of the Directors which arose or arises as a result of such Director's position, supervision, management or involvement as a Director or otherwise in any other capacity in connection with the Corporation, whether such right, or the circumstances giving rise to it, arose before or after the Effective Date and whether enforceable in any civil, administrative or criminal proceeding,

but does not include an Equity Claim;

"Claims Process" means the process established by the Liquidator and approved by the Court for the identification, resolution and barring of Claims, including, among other things, the issuance of a final order of the Court establishing the Claims;

"Clearance Certificates" mean:

- (a) a certificate issued by the Minister pursuant to subsection 159(2) of the *Income Tax Act*, R.S.C. 1952, c. 148 (the "**ITA**"), or any equivalent thereto, certifying that all amounts for which the Corporation is, or can reasonably be expected to become, liable under the ITA up to and including the date of distribution have been paid, or that the Minister has otherwise accepted security for payment;
- (b) a certificate issued by the Minister pursuant to subsection 23(5) of the *Canada Pension Plan*, R.S.C. 1985, c. C-8 (the "**CPP**"), or any equivalent thereto, certifying that all amounts for which the Corporation is liable under the CPP, up to and including the date of distribution, have been paid or that security for the payment thereof has been accepted by the Minister;

- (c) a certificate issued by the Minister pursuant to subsection 86(3) of the *Employment Insurance Act*, S.C. 1996, c. 23 (the “EIA”), or any equivalent thereto, certifying the payment, or acceptance by the Minister of security for payment, of all amounts for which the Corporation is liable under the EIA up to and including the date of distribution;
- (d) a certificate issued by the Minister pursuant to subsection 81(1) of the *Excise Tax Act*, R.S.C. 1985, c. E-15 (the “ETA”), or any equivalent thereto, certifying that no tax, penalty, interest or other sum under the ETA chargeable against or payable by the Liquidator or chargeable against or payable in respect of the Assets remains unpaid or that security for the payment thereof has, in accordance with section 80.1 of the ETA, been accepted by the Minister;
- (e) a certificate issued by the Minister pursuant to subsection 270(3) of the ETA, or any equivalent thereto, certifying that all amounts payable or remittable under Part IX of the ETA by the Corporation in respect of the reporting period during which the distribution is made or any previous reporting period, and all amounts that are, or can reasonably be expected to become, payable or remittable under Part IX of the ETA by the Liquidator in respect of the reporting period during which the distribution is made, has been paid or that security for the payment thereof has been accepted by the Minister; and
- (f) additional certificate(s) required by any Governmental Authority pursuant to any other applicable federal or provincial legislation.

“**Common Shares**” means the common shares in the capital of the Corporation;

“**Corporation**” has the meaning given to it in the recitals of this Liquidation Plan;

“**Court**” means the Court of Queen’s Bench for Saskatchewan;

“**Creditor**” means any Person with a Claim;

“**CSE**” means the marketplace of the Canadian Securities Exchange for venture companies;

“**Director of Corporations**” means the Director of Corporations appointed pursuant to section 279 of the SBCA and includes any Deputy Director appointed pursuant to that section;

“**Directors**” means all individuals who were, on or at any time before the Effective Date, directors or officers of the Corporation, and the term “Director” shall mean any one of them;

“**Dissolution Date**” means the date on which the Corporation is dissolved pursuant to the SBCA by Order of the Court;

“Effective Date” means the date to be established by a resolution of the Board upon which the implementation of the Liquidation Plan shall commence, which date shall be no earlier than the date upon which the certificate of intent to dissolve is issued to the Corporation pursuant to and in accordance with the SBCA;

“Employees” means the employees of the Corporation;

“Equity Claim” means the entitlement to a distribution of a Shareholder in respect of the Shareholder’s Common Shares;

“Governmental Authority” means any nation or government, any province, state or other political subdivision thereof, any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government or any Legal Requirement and any corporation or other entity owned or controlled, through capital stock or otherwise by any of the foregoing;

“Inspectors” has the meaning given to it in Section 6.1;

“Legal Requirement” means any statute, law, treaty, rule, regulation, order, decree, writ, injunction or determination of any arbitrator, court, Governmental Authority or securities exchange and, with respect to any Person, includes all such Legal Requirements applicable or binding upon such Person, its business or the ownership or use of any of its assets;

“Liquidator” means the Person appointed pursuant to Section 4.1 in its capacity as liquidator of the Corporation;

“Liquidation Date” means the date on which the Shareholders pass the Resolution;

“Liquidation Plan” means this plan of liquidation and distribution as it may be amended, modified, supplemented, restated or otherwise modified in accordance with its terms;

“Minister” means the Minister of National Revenue;

“SBCA” means *The Business Corporations Act*, RSC 1978, c B-10;

“SBCA Director” means the Director appointed under Section 279 of the SBCA;

“Person” means any individual, partnership, limited partnership, joint venture, trust, corporation, unincorporated organization, government, agency, regulatory body or instrumentality thereof, legal personal representative or litigation guardian, or any other judicial entity howsoever designated, constituted or domiciled;

“Proven Claim” means a Claim finally determined or accepted in accordance with the provisions of the Claims Process;

“Resolution” means the special resolution of the Shareholders authorizing the voluntary liquidation and dissolution of the Corporation in accordance with the SBCA and approving this Liquidation Plan;

“Shareholders” means all holders of Common Shares shown from time to time in the registers maintained by or on behalf of the Corporation by the Transfer Agent in respect of the Common Shares and, unless otherwise specified, includes all beneficial owners of Common Shares;

“Tax Return” means any report, return or other information required to be supplied to a taxing authority in connection with:

- (a) all taxes, charges, fees, levies and other assessments (whether federal, provincial, local or foreign), including income, gross receipts, excise, property, sales, use, transfer, licence, payroll, franchise, withholding, social security and unemployment taxes, and
- (b) any interest, penalties and additions related to the foregoing;

“Transfer Agent” means Computershare Investor Services Inc., as transfer agent for the Common Shares of the Corporation.

1.2 Certain Rules of Interpretation

In this Liquidation Plan and the Schedules hereto:

- (a) all references to currency are to Canadian Dollars, except as otherwise expressly indicated;
- (b) the division of this Liquidation Plan into articles, sections, subsections and clauses and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Liquidation Plan;
- (c) the terms “this Liquidation Plan,” “hereof,” “hereunder,” “herein” and similar expressions refer to this Liquidation Plan and not to any particular article, section, subsection or clause and include any plan supplemental hereto;
- (d) unless otherwise indicated, any reference in this Liquidation Plan to an article, section, subsection, clause or schedule refers to the specified article, section, subsection, clause or schedule of or to this Liquidation Plan;
- (e) the use of words in the singular or plural, or with a particular gender shall not limit the scope or exclude the application of any provision of this

Liquidation Plan or a schedule hereto to such Person (or Persons) or circumstances as the context otherwise permits;

- (f) the words “includes” and “including” and similar terms of inclusion shall not, unless expressly modified by the words “only” or “solely,” be construed as terms of limitation, but rather shall mean “includes without limitation” and “including without limitation,” so that references to included matters shall be regarded as illustrative without being either characterizing or exhaustive;
- (g) unless otherwise specified, all references to time herein and in any document issued pursuant hereto mean local time in Saskatoon, Saskatchewan, and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m., on such Business Day;
- (h) unless otherwise specified, the time period within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next succeeding Business Day if the last day of the period is not a Business Day. Whenever any payment to be made or action to be taken under this Liquidation Plan is required to be made or to be taken on a day other than a Business Day, such payment shall be made or action taken on the next succeeding Business Day;
- (i) unless otherwise specified, where any reference to an event occurring within any number of “days” appears in this Liquidation Plan, such reference means Calendar Days and not Business Days; and
- (j) unless otherwise specified, any reference to a statute, or other enactment of parliament or a legislature includes all regulations made thereunder, all enactments to or re-enactments of such statute or regulations in force from time to time and, if applicable, any statute or regulation that supplements or supersedes such statute or regulation.

ARTICLE 2

PURPOSE OF THE PLAN

2.1 Purpose

The purpose of this Liquidation Plan is to provide for a plan of liquidation and distribution of the Assets, identification, resolution and barring of Claims and dissolution of the Corporation.

2.2 Commencement of Liquidation

The voluntary liquidation and dissolution of the Corporation shall commence on and as of the Effective Date.

2.3 Affected Persons

This Liquidation Plan will be implemented under the SBCA and, as of the Effective Date, will be binding on the Corporation, the Directors, the Inspectors, the Liquidator and the Shareholders in accordance with its terms. On the Liquidation Date, each Shareholder shall be deemed to have consented and agreed to all of the provisions of this Liquidation Plan in their entirety.

ARTICLE 3 EFFECT OF PLAN

3.1 Share Transfers

If not already otherwise halted and/or delisted, the Common Shares will be delisted and will cease trading on the CSE as soon as is reasonably practicable following the Effective Date. All transfers of Common Shares thereafter shall be void unless made with the explicit sanction of the Liquidator or the Court.

3.2 Corporation to Cease Business

On and as of the Effective Date, the Corporation shall cease to carry on business, except insofar as may be determined to be required for the orderly liquidation of the Corporation in the discretion of the Liquidator, but the Corporation's corporate existence and all its corporate powers, even if otherwise provided by its articles or by-laws, shall continue under the control of the Liquidator until the Dissolution Date.

3.3 Resignation of Directors

On and as of the Effective Date, all of the powers of the Directors shall cease and the Directors shall be deemed to have resigned.

ARTICLE 4 THE LIQUIDATOR

4.1 Appointment of Liquidator

On and as of the Effective Date, KPMG Inc. is hereby appointed as the liquidator of the estate of the Corporation for the purpose of liquidating the Corporation's Assets and distributing the proceeds, after satisfying all Proven Claims, all in accordance with the terms of this Liquidation Plan, the SBCA, and any future orders of the Court. The

Liquidator shall be the agent and attorney-in-fact of the Corporation and shall act for and on behalf of the Corporation with the authority to enter into agreements and execute documents for and on behalf of the Corporation in such capacity pursuant to the powers and obligations of the Liquidator as contained in this Liquidation Plan, the SBCA, and any future orders of the Court.

4.2 Application for Court Supervision

On the Effective Date, the Corporation will instruct the legal firm of McDougall Gauley LLP (“MG”) to file an application with the Court as soon as reasonably possible, seeking an order pursuant to subsection 204(8) of the SBCA that the liquidation of the Corporation and appointment of the Liquidator be continued under the supervision of the Court as provided in Division XVI of the SBCA, at which time the Court may so order and may make any further order it thinks fit. MG shall be paid its reasonable fees and disbursements in respect of the application, which shall be paid by the Corporation or the Liquidator, as the case may be, from the Assets in priority to all other Claims.

4.3 Mandatory Obligations of the Liquidator

The Liquidator is expressly directed, empowered and authorized to, and shall:

- (a) forthwith after the Liquidator’s appointment give notice thereof to the Director of Corporations and to each Creditor known to the Liquidator;
- (b) forthwith publish notice in the Gazette and by insertion once a week for two consecutive weeks in a newspaper published or distributed in the place where the Corporation has its registered office and take reasonable steps to give notice thereof in every jurisdiction where the Corporation carries on business, requiring any Person:
 - (i) indebted to the Corporation, to render an account and pay to the Liquidator at the time and place specified any amount owing;
 - (ii) possessing Assets, to deliver the Assets to the Liquidator at the time and place specified; and
 - (iii) having a Claim, to present particulars thereof in writing to the Liquidator not later than two months after the first publication of the notice;
- (c) take into its custody and control the Assets of the Corporation;
- (d) open and maintain a trust account for the moneys of the Corporation, which trust account shall not be made in the name of the Liquidator individually, but shall be a separate trust account in the Liquidator’s name and capacity as Liquidator of the Corporation, and such money shall be

withdrawn for payment of Proven Claims, taxes, fees and expenses incurred in connection with the implementation of the Liquidation Plan and signed in accordance with such signing authorities as may be determined by the Liquidator in consultation with the Inspectors and/or as directed by the Court;

- (e) keep accounts of the moneys of the Corporation received and paid out by the Liquidator;
- (f) maintain separate lists of the Shareholders, creditors and other Persons having Claims against the Corporation;
- (g) if at any time the Liquidator determines that the Corporation is unable to pay or adequately provide for the discharge of its obligations, apply to the Court for directions;
- (h) deliver to the Court and to the Director of Corporations, at least once in every twelve-month period after the Liquidator's appointment or more often as the Court may require, financial statements of the Corporation in the form required by section 149 of the SBCA or in such other form as the liquidator may think proper or as the Court may require;
- (i) delist the Common Shares from the CSE in the event the same have not already been delisted as of the Effective Date;
- (j) apply to the Financial and Consumer Affairs Authority for Saskatchewan for an order that the Corporation shall cease to be a reporting issuer under applicable securities legislation;
- (k) establish and implement a Claims Process;
- (l) cause to be filed with the appropriate Governmental Authority all Tax Returns required to be filed by the Corporation;
- (m) remit all taxes required to be remitted by the Corporation in accordance with all applicable statutes, all outstanding CPP contributions and EIA premiums, including any associated interest and penalties and obtain the Clearance Certificates;
- (n) cause to be filed with the appropriate Governmental Authority all financial statements and reports required to be filed by the Corporation;
- (o) maintain the continuous disclosure requirements applicable to the Corporation under all applicable securities laws, subject to amendments or exclusions which may be obtained by order of the Court during the liquidation proceedings;

- (p) maintain appropriate liability insurance in place for the Liquidator if necessary;
- (q) pay or otherwise satisfy all Proven Claims from the Assets in accordance with the Claims Process and any orders of the Court;
- (r) after satisfying all Proven Claims and having the Liquidator and its legal counsel's final accounts approved by the Court, distribute any surplus proceeds among the Shareholders according to their respective rights; and
- (s) fulfill the reporting obligations set forth at Section 4.5.

4.4 Discretionary Powers of the Liquidator

The Liquidator is expressly empowered and authorized, but not obligated, to do any of the following:

- (a) retain lawyers, accountants, engineers, appraisers and other professional advisers, if necessary, to assist with the administration and implementation of this Liquidation Plan;
- (a) engage any former employee of the Corporation to assist with the Liquidator's administration and implementation of the Liquidation Plan;
- (b) with the prior approval of the Inspectors, bring, defend or take part in any civil, criminal or administrative action or proceeding in the name and on behalf of the Corporation;
- (c) carry on the business of the Corporation so far as may be required for the liquidation and dissolution of the Corporation;
- (d) sell by public auction or private sale any of the Assets;
- (e) do all acts and execute any documents in the name and on behalf of the Corporation;
- (f) settle or compromise any Claims by or against the Corporation in accordance with the Claims Process and any orders of the Court;
- (g) in accordance with the provisions of the SBCA and any order of the Court, make or cause to be made from time to time, any interim distributions or distributions in kind of portions of the Assets to the registered Shareholders rateably among the registered Shareholders according to

their rights and interests in the Corporation, as considered appropriate and approved by the Court, and while maintaining such reserves as are reasonably necessary to provide for all Claims and the anticipated costs of completing the administration of this Liquidation Plan;

- (h) at any time after the affairs of the Corporation have been fully wound up, make an application to the Court for an order dissolving the Corporation;
- (i) apply to Court for directions and further orders in respect of the performance of the Liquidator's obligations, or anything else necessary for the liquidation and dissolution of the Corporation and distribution of the Assets; and
- (j) do all such things as are reasonably necessary for the liquidation and dissolution of the Corporation and distribution of the Assets in accordance with this Liquidation Plan, the SBCA and any orders of the Court.

4.5 Reporting Obligations

The Liquidator shall report to the Court at such times and intervals as the Liquidator may deem appropriate with respect to matters relating to the Assets, the Corporation and such other matters as may be relevant to this Liquidation Plan, and shall make such reporting available to the Shareholders by posting such reporting on its website at the following URL: <https://home.kpmg/ca/primewest>

4.5 Removal of the Liquidator

The Liquidator may be removed by order of the Court pursuant to an application brought following either:

- (a) a resolution of the majority of the Inspectors;
- (b) a determination by the Liquidator, in its discretion, that it ought to be discharged by the Court; or
- (c) an ordinary resolution of the Shareholders at a meeting called for the purpose of removing the Liquidator;

but only if such order of the Court appoints another liquidator in the Liquidator's stead which successor liquidator shall become the Liquidator under this Liquidation Plan.

4.6 Fees of the Liquidator and Its Counsel

The Liquidator and its legal counsel shall be paid their reasonable fees and disbursements at their standard rates from the Assets as and when the Liquidator or its counsel renders an account to the Corporation and such account is approved by the Inspectors. Pursuant to Section 216(1) of the SBCA, the costs, charges and expenses of the liquidation, including the reasonable fees and disbursements of the Liquidator and its legal counsel, are payable out of the Assets in priority to all other Claims. In the event of a dispute between the Liquidator and Inspectors with respect to the Liquidator's fees and disbursements, including the fees of its counsel, the Liquidator may apply to the Court.

4.7 Indemnity

The Corporation hereby releases, holds harmless and indemnifies (including out of the Assets) the Liquidator from and against all liabilities, claims and costs of any nature arising from the Liquidator's execution of this Liquidation Plan, save and except any such liabilities, claims or costs arising as a result of the Liquidator's fraud, gross negligence or wilful misconduct.

ARTICLE 5 TERMINATION OF EMPLOYEES

5.1 Termination of Employment

All Employees shall be terminated on the Effective Date, other than those Employees who are requested by the Liquidator to remain in service and assist in the implementation of this Liquidation Plan and agree to do so, which Employees shall remain Employees of the Corporation.

5.2 Employment Agreements

In connection with the termination of all Employees, the Corporation shall honour and fully comply with all existing agreements with such Employees.

ARTICLE 6 INSPECTORS

6.1 Appointment of Inspectors

On and as of the Effective Date, Tom Robinson, Wilson Olive, Francis Bast and Tom Archibald are hereby appointed as inspectors of the Corporation's liquidation (the "Inspectors").

6.2 Approval of Inspectors

For any action or inaction which requires the approval of the Inspectors under this Liquidation Plan, by order of the Court or pursuant to the SBCA, such approval shall exist if a majority of the Inspectors approve of the action or inaction by vote at a meeting of Inspectors or otherwise by written resolution signed by a majority of the Inspectors.

6.3 Meeting of Inspectors

The Liquidator or any one of the Inspectors may call a meeting of Inspectors by providing all of the Inspectors with two days written notice of such meeting, which notice may be waived by the Inspectors in their discretion. Such meetings may be held by teleconference. Quorum for any meeting of Inspectors shall be a majority of the Inspectors. Each of the Inspectors shall have one vote at any such meetings. The Liquidator shall have no vote at such meetings but may chair such meetings with the approval of a majority of the Inspectors.

6.4 Removal of Inspectors

An Inspector may be removed by:

- (a) order of the Court; or
- (b) ordinary resolution of the Shareholders at a meeting called for the purpose of removing an Inspector.

6.5 Filling Vacancies of Inspectors

There shall always be at least one Inspector and not more than four Inspectors at any time. Any vacancy in the number of permissible Inspectors may be filled by election by the majority of remaining Inspectors.

6.6 Remuneration of Inspectors

The compensation paid to Inspectors shall be \$10,000.00 per Inspector per year, pro rated for the length of each Inspector's appointment plus \$1,000.00 per Inspector per day on which meetings of Inspectors are held for attendance at such meetings in person or, if attended by conference call, \$500.00 per Inspector per day.

6.7 Indemnity

The Corporation hereby releases, holds harmless and indemnifies (including out of the Assets) the Inspectors from and against all liabilities, claims and costs of any nature arising from the Inspectors' actions under this Liquidation Plan, save and except any such liabilities, claims or costs arising as a result of the Inspectors' fraud, gross negligence or wilful misconduct.

ARTICLE 7

DISTRIBUTIONS

7.1 Delivery of Distribution to Shareholders

Unless otherwise directed, distributions of surplus proceeds to registered Shareholders shall be made by the Liquidator at the addresses set forth in the registers maintained by the Transfer Agent in respect of the Common Shares as at the date of any such distribution, or if applicable, and to the extent differing from the foregoing, at the address of such registered Shareholder's respective legal representatives, in trust for such registered Shareholder. Beneficial holders of Common Shares shall be entitled to receive distributions only through the applicable registered Shareholder on the registers maintained by the Transfer Agent in respect of the Common Shares.

7.2 Undeliverable Distributions to Shareholders

Where the Liquidator is unable to deliver a distribution to a registered Shareholder because such Shareholder is unknown or such Shareholder's whereabouts is unknown, the distribution shall be delivered or conveyed by the Liquidator to the Minister of Finance in accordance with section 220 of the SBCA, to be held in trust for the registered Shareholder, and such delivery or conveyance shall be deemed to be a distribution to that registered Shareholder of his, her or its rateable share for the purpose of this Liquidation Plan.

7.3 Interim Distributions

Any distributions to registered Shareholders (other than any final distribution on the cancellation of the Shares) shall be either as a reduction of stated capital, subject to satisfying the applicable solvency tests in the SBCA, or as a dividend. Subject to applicable law, the determination as to whether or not to make any such interim distribution and whether or not any such interim distribution is made as a reduction of stated capital or as a dividend shall be made by the Liquidator in consultation with the Inspectors.

ARTICLE 8

COMPLETION OF THE LIQUIDATION PLAN

8.1 Discharge of Liquidator

As soon as is practicable following the Dissolution Date, the Liquidator shall apply to the Court for approval of its final account and its discharge and, upon the Court making such order, the Liquidator shall be discharged and shall have no further obligations or responsibilities, except as may otherwise be ordered by the Court.

ARTICLE 9
GENERAL PROVISIONS

9.1 Liquidation Plan Amendment

The Liquidator may, at any time prior to the Dissolution Date, agree to amend, modify and/or supplement this Liquidation Plan without the approval of the Shareholders:

- (a) in order to correct any clerical or typographical error;
- (b) as required to maintain the validity or effectiveness of this Liquidation Plan as a result of any change in any Legal Requirement; or
- (c) in order to make any change that in the opinion of the Liquidator is necessary, provided that it does not materially change the terms of this Liquidation Plan.

9.2 Severability

In the event that any provision in this Liquidation Plan is held by the Court to be invalid, void or unenforceable, the Court shall have the power to alter and interpret such term or provision to make it valid and enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered and interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Liquidation Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation.

9.3 Paramountcy

From and after the Effective Date and, subject always to any orders of the Court, any conflict between: (a) this Liquidation Plan; and (b) any information summary in respect of this Liquidation Plan, or the covenants, warranties, representations, terms, conditions, provisions or obligations, express or implied, of any contract, document or agreement, written or oral, and any and all amendments and supplements thereto existing between the Corporation and any of the Shareholders, Directors and Liquidator as at the Liquidation Date, will be deemed to be governed by the terms, conditions and provisions of this Liquidation Plan, which, subject to any orders of the Court, shall take precedence and priority.

9.4 Notices

Any notice or communication to be delivered hereunder shall be in writing and shall reference this Liquidation Plan and may, subject as hereinafter provided, be made or given by personal delivery, by fax, courier or e-mail addressed to the respective parties as follows:

- (a) if to a Shareholder, at the addresses set forth in the securities register kept at the Transfer Agent;
- (b) if to a Creditor, at the addresses set forth in the books and records of the Corporation or the proofs of claim filed by such Creditor in accordance with the Claims Process;
- (c) if to the Corporation or the Liquidator:

Liquidator:

KPMG Inc.

Contact:

Neil Honess

403-691-8014

neilhoness@kpmg.ca

Cristina Pimienta

403-691-8406

cpimienta@kpmg.ca

Address:

KPMG Inc., Bow Valley Square II, 3100, 205 – 5th Avenue SW, Calgary Alberta
T2P 4B9

- (d) if to the Inspectors:

[To be determined]

or to such other address as any party may from time to time notify the others in accordance with this Section 9.4. All such notices and communications which are delivered shall be deemed to have been received on the date of delivery. Any such notices and communications which are emailed or faxed shall be deemed to be received on the date emailed or faxed if sent before 5:00 p.m. Central Standard Time on a Business Day and otherwise shall be deemed to be received on the Business Day next following the day upon which such email or fax was sent. Any notice or other communication sent by mail shall be deemed to have been received on the fifth Business Day after the date of mailing. The unintentional failure by the Liquidator to give a notice contemplated hereunder shall not invalidate any action taken by any Person pursuant to this Liquidation Plan.

9.5 Governing Law

This Liquidation Plan shall be governed by and construed in accordance with the laws of the Province of Saskatchewan and the federal laws of Canada applicable therein without regard to conflict of laws. All questions as to the interpretation or application of this

Liquidation Plan and all proceedings taken in connection with this Liquidation Plan and its provisions shall be subject to the exclusive jurisdiction of the Court.

The foregoing Liquidation Plan being adopted by the Board as of this 16th day of August 2019.

BY THE ORDER OF THE BOARD

"Tom Robinson"

Name: Tom Robinson

Title: Chair

SCHEDULE "B"

LIQUIDATOR'S CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that KPMG Inc., the liquidator (the "**Liquidator**") of PrimeWest Mortgage Investment Corporation (the "**Corporation**") appointed by Order of the Court of Queen's Bench of Saskatchewan (the "**Court**") issued the ____ day of _____, 2019 (the "**Order**") made in action _____, has received as such Liquidator from the holder of this certificate (the "**Lender**") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Liquidator is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily] [monthly not in advance on the ____ day of each month] after the date hereof at a notional rate per annum equal to the rate of ____ per cent above the prime commercial lending rate of Bank of _____ from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Liquidator pursuant to the Order or to any further order of the Court, a charge upon the whole of the Assets (as defined in the Order), in priority to the security interests of any other person, but subject to the right of the Liquidator to indemnify itself out of such Assets in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at *.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Liquidator to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate so as to permit the Liquidator to deal with the Assets as authorized by the Order and as authorized by any further or other order of the Court.
7. The Liquidator does not undertake any personal liability to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the _____ day of _____, 2019.

KPMG Inc., solely in its capacity as Liquidator of the Corporation, and not in its personal capacity

Per: _____
Name:
Title:

SCHEDULE "C"

ELECTRONIC CASE INFORMATION AND SERVICE PROTOCOL

APPLICATION

1. This Electronic Case Information and Service Protocol shall apply to this proceeding except as otherwise ordered by the Court.

DEFINITIONS

2. For the purposes of this Protocol, the following capitalized terms shall have the meanings ascribed below:
 - (a) "**Case Website**" means the website referenced in paragraph * of the Implementation Order;
 - (b) "**Court**" means the Court of Queen's Bench for Saskatchewan, sitting in bankruptcy if applicable;
 - (c) "**Court Document**" means a document in this proceeding which must be served for the purposes of this proceeding and/or is to be filed, or has been filed or issued in the Court, including:
 - (i) originating applications;
 - (ii) notices of application;
 - (iii) affidavits;
 - (iv) reports of a Court Officer;
 - (v) briefs of law;
 - (vi) books of authorities;
 - (vii) draft orders;
 - (viii) fiats; and
 - (ix) issued orders;
 - (d) "**Court Officer**" means the liquidator appointed by or reporting to the Court in this proceeding;
 - (e) "**Creditor List**" means the list of creditors to be compiled in accordance with the terms of the Implementation Order;
 - (f) "**Email**" means electronic mail transmitted to a specified addressee or addresses;
 - (g) "**Email Address List**" means the Word Format list provided for in paragraph 23 of this Protocol;

- (h) **"Hyperlink"** means an active link located within an Email message or on a website, by which means an interested person can click to be linked to a document or part of a document on the Case Website;
- (i) **"Implementation Order"** means the order of the Court to which this Protocol is scheduled, and by which this Protocol is implemented;
- (j) **"PDF Format"** means the Portable Document Format compatible with a number of programs, including Adobe Acrobat and Acrobat Reader;
- (k) **"Protocol"** means this Electronic Case Information and Service Protocol;
- (l) **"Request for Electronic Service"** or **"RES"** means a request in the form appended to this Protocol as Appendix 1;
- (m) **"Request for Facsimile Service"** or **"RFS"** means a request in the form appended to this Protocol as Appendix 2;
- (n) **"Request for Removal from Service List"** or **"RFR"** means a request in the form appended to this Protocol as Appendix 3;
- (o) **"Service List"** means the list to be created pursuant to paragraphs 16 to 19 of this Protocol;
- (p) **"Service List Keeper"** means the person(s) appointed to keep the Service List pursuant to paragraph 16 of this Protocol;
- (q) **"Supplementary Email Address List"** has the meaning given to it in paragraph 26(b) of this Protocol;
- (r) **"Supplementary Service List"** has the meaning given to it in paragraph 26(a) of this Protocol;
- (s) **"URL"** means a Uniform Resource Locator which acts as an address for a webpage or Hyperlink;
- (t) **"Web Host"** means that person or persons appointed by the Court Officer for the purposes of hosting and maintaining the Case Website and receiving and posting case information to the Case Website as provided for in the Implementation Order and in this Protocol; and
- (u) **"Word Format"** means a format compatible with Microsoft Word

CASE WEBSITE

- 3. The Case Website shall be established in accordance with the Implementation Order.
- 4. The Case Website shall be hosted by the Web Host.
- 5. The Case Website shall be designed to ensure easy public access thereto and to any documents posted thereon. The Case Website shall be specifically devoted to the posting, organization, storage and display of electronic versions of Court Documents and other related documents as provided for herein.
- 6. The Web Host shall post the following categories of documents, as served or to be served:
 - (a) originating applications;

- (b) notices of application;
 - (c) affidavits, including exhibits, and other material filed by a moving or responding party with respect to an application;
 - (d) briefs and written arguments filed by any party with respect to an application;
 - (e) books of authorities (where the Web Host, in its discretion, determines that a book of authorities should be posted);
 - (f) reports filed by the Court Officer;
 - (g) orders, fiats, endorsements and judgments;
 - (h) the current version of the Service List and Email Address List;
 - (i) the name and Email address of each of the Service List Keeper(s) and the Web Host(s); and
 - (j) any document that requires dissemination to interested parties, such as summaries of claims processes, proof of claim forms, notices of creditor meetings, plan disclosure statements, plans of reorganization and voting letters, as requested by a party or the Court Officer.
7. Documents that have been sealed by Court order and documents in respect of which sealing orders have been or are being requested shall not be posted on the Case Website.
 8. The Web Host may post other case-related information to the Case Website in its discretion. Nothing in this Protocol shall affect any requirements set out in any legislation or regulations with respect to the posting of documents to a website by the Court Officer.
 9. To the extent practicable, the Web Host shall post links to foreign proceedings related to this proceeding on the Case Website.
 10. If the Web Host is uncertain whether a document should be posted on the Case Website, the Web Host may seek directions from the Court.
 11. Any party intending to bring an application in this proceeding shall, if reasonably practicable, provide an electronic copy of Court Documents to be served to the Web Host for posting on the Case Website prior to service to facilitate service by use of Hyperlink.
 12. The Web Host shall use its best efforts to post documents provided to it by a party to these proceedings in PDF Format on the Case Website as soon as practicable.
 13. The Web Host shall maintain the Case Website for a period of at least six months after the earlier of the completion of this proceeding or the discharge of the Court Officer.
 14. The Web Host is entitled to charge for the time spent maintaining the Case Website at its usual hourly rates. No additional charges or fees may be claimed with respect to the establishment and maintenance of the Case Website.
 15. The Web Host shall use its best efforts to maintain the Case Website in a current and complete state. In addition to any other protection that may be available to the Web Host by statute or court order the Web Host shall incur no liability or obligation in carrying out the provisions of this Protocol and, in particular, with respect to the creation and maintenance of the Case Website, except as a result of any gross negligence or wilful misconduct on the part of the Web Host.

SERVICE LIST

16. Prior to serving notice of the Implementation Order, the Court Officer shall designate and identify, in conjunction with service thereof, a person or persons who shall be responsible for keeping the Service List in this proceeding (the "**Service List Keeper**").
17. Following service of the Implementation Order, the Service List Keeper shall prepare the initial Service List for this proceeding, which shall include:
 - (a) counsel for the applicant in the proceeding;
 - (b) the Court Officer appointed in the matter and counsel for the Court Officer; and
 - (c) counsel for any party who appeared at the application giving rise to the Implementation Order.
18. Thereafter, the Service List Keeper shall add to the Service List in a timely manner:
 - (a) any person completing and delivering to the Service List Keeper a Request for Electronic Service (or RES) in the form contained in Appendix 1;
 - (b) any person (other than legal counsel, who are required to receive service by Email) completing and delivering to the Service List Keeper a Request for Facsimile Service (or RFS) in the form contained in Appendix 2, in which they certify that they do not have access to Email; and
 - (c) any other person as the Court may order.
19. The Service List shall list names, addresses, Email addresses, facsimile numbers (where permitted pursuant to this Protocol) and telephone numbers (if available) of the persons thereon.
20. Upon adding a person to the Service List, the Service List Keeper shall send an Email (or where permitted, facsimile) message to that person identifying themselves as the Service List Keeper and advising that:
 - (a) the person has been placed upon the Service List,
 - (b) Court Documents will be validly served upon the person by Email (or where permitted, facsimile); and
 - (c) any person on the Service List may serve Court Documents on any other person on the Service List in accordance with this Protocol.
21. Any person on the Service List may request in writing that the Service List Keeper remove that person by delivering a Request for Removal from Service List (or RFR) in the form contained in Appendix 3. Upon receipt of any such request, the Service List Keeper shall comply with the request. Subject to order of the Court, upon removal, any such person will no longer be entitled to service of documents or notice of further proceedings.
22. Those persons who are interested in monitoring a proceeding but are not required to be served with Court Documents are not to be placed on the Service List. Such persons should monitor this proceeding by accessing the Case Website.

23. In addition to the Service List, the Service List Keeper shall create and maintain a document, capable of being copied in Word Format, which contains the up to date Email addresses of all persons on the Service List (the "**Email Address List**"). The purpose of the Email Address List is to allow persons on the Service List to copy and paste the Email addresses of the persons listed on the Service List into Emails for the purpose of serving Court Documents. This process is designed to avoid service of Court Documents using out of date or inaccurate Service Lists, and to discourage the undesirable practice of serving Court Documents by a "reply to all" on a previous Email.
24. The Service List Keeper shall, on a timely and periodic basis, provide an updated copy of the Service List and of the Email Address List to the Web Host for posting on the Case Website.
25. The Service List Keeper shall use its best efforts to maintain the Service List and Email Address List in a current and accurate state. In addition to any other protection that may be available to the Service List Keeper by reason of statute or court order, the Service List Keeper shall incur no liability in carrying out the provisions of this Protocol and, in particular, with respect to the creation or maintenance of the Service List and Email Address List, except for any gross negligence or wilful misconduct on its part.
26. During the course of this proceeding, certain applications may require service of Court Documents on respondents with an interest in that particular application only (for example, service on lien claimants with an interest only in a specific property which is the subject of a proposed sale approval and vesting order). In such circumstances:
 - (a) the party bringing the application shall prepare a service list identifying only the respondents that the applicant is required to serve or otherwise wishes to serve (a "**Supplementary Service List**");
 - (b) the party bringing the application shall prepare an Email address list corresponding to the Supplementary Service List (a "**Supplementary Email Address List**");
 - (c) the body of the original service Email shall note that the entire Service List has not been served;
 - (d) the party bringing the application shall append the Supplementary Service List and Supplementary Email Address List to the original service Email; and
 - (e) the affidavit of service with respect to that application shall include the Supplementary Service List.

SERVICE OF DOCUMENTS

27. Unless otherwise ordered by the Court, and except as provided herein, Email shall be the required mechanism to serve Court Documents on those persons referenced on the Service List.
28. All Court Documents shall be served by Email by way of a PDF Format file attached to, or by Hyperlink to such Court Document(s) embedded in, a service Email.
29. Any party wishing to serve a Court Document in this proceeding shall serve them upon the recipients listed in the current the Email Address List posted on the Case Website, as well as any recipients listed in the Service List entitled to service other than by e-mail pursuant to this Protocol. If possible, the serving party shall first make enquiries of the Service List Keeper to determine if the Service List Keeper is aware of any person who has filed a request to be added to the Service List or the Email Address List who has not yet been added.

30. Originating Applications, Notices of Application and any other document specified by court order shall be appended in PDF Format to the service Email.
31. All other documents shall, unless it is impracticable to do so by reason of time constraints or otherwise, be served by way of a Hyperlink embedded in the service Email, in accordance with the following:
- (a) Any party filing material with the Court in these proceedings may request that the Web Host post documents (including Court Documents) to the Case Website. Any such document shall be provided in PDF Format. The Web Host shall post such documents as soon as practicable. The Web Host shall retain the discretion to refuse documents which do not appear to comply with the requirements of this Protocol. The Web Host shall inform the party providing documents immediately upon posting, and provide Hyperlink information for each such document.
 - (b) Where a party is serving more than one document by Email by way of Hyperlink, the service Email shall specify each document being served and shall include a separate Hyperlink for each such document being served.
32. A service Email shall:
- (a) clearly state in the subject line of the Email:
 - (i) notification that a Court Document is being served;
 - (ii) a recognizable short form name of this proceeding; and
 - (iii) the nature of this proceeding or the order being served;
 - (b) identify the document(s) being served and:
 - (i) where the document(s) is/are attached, so indicate, with the identified documents attached in PDF Format with identifying filenames;
 - (ii) where the document(s) is/are being served by Hyperlink, so indicate and link the document(s) by Hyperlink to the Case Website. Where a party is serving more than one document in this manner, the service Email shall specify each document being served and shall include a separate Hyperlink for each such document being served;
 - (c) identify the party serving the Court Document; and
 - (d) provide the date of the proceeding and any other specific information with respect to the proceeding such as, for example, a specific commencement time or court location if known, in substantial accordance with format set forth in Appendix 4.
33. Where service by facsimile is authorized:
- (a) the transmission shall contain a copy of the service Email and of any document attached thereto;
 - (b) the facsimile cover sheet shall contain the following notation:

You are being served by fax with court documents, pursuant to the Order of the Court of Queen's Bench for Saskatchewan made <insert date> and in particular, the provisions of paragraphs <insert paragraph numbers> thereof. You may view that Order at the Case

Website, and this transmission and reference to that document constitutes service of that Order upon you.

Particulars of the documents to be served and other information related to the associated Court matter are contained in the message following.

Please note that documents referenced in the following message but which are not attached to this transmission may be viewed at the Case Website located at <insert a list of documents and the URL for each document>.

34. Upon serving documents not already posted on the Case Website, the serving party shall immediately send an electronic copy of each to the Web Host, with a request to post the documents.
35. If a serving party receives notification of an Email or facsimile transmission failure, they shall make reasonable efforts to ensure that successful transmission of the Court Document occurs or that the Court Documents and related information come to the attention of the intended recipient or his or her firm.
36. Even though a Court Document has been served in accordance with this Protocol, a person may show that the Court Document:
 - (a) did not come to the person's notice;
 - (b) came to the person's notice later than when it was served or effectively served; or
 - (c) was incomplete or illegible.
37. Each party serving a Court Document in accordance with this Protocol shall prepare an affidavit of service containing the particulars of the service including the Service List served, the Email addresses to which Court Documents were sent and the time of the Emailing. A copy of the affidavit of service shall be filed with the Court.
38. Where, by the nature of the matter before the Court, it is appropriate to serve persons that are not on the Service List, any Court Document may be served as follows:
 - (a) if the person is listed on the Creditor List, by prepaid ordinary mail, courier, personal delivery, facsimile or other electronic transmission to such person at their respective addresses as last shown on the Creditor List, in which case service shall be deemed to have been effected if sent by personal delivery, on the date of delivery; if sent by courier, facsimile or other electronic transmission, on the next business day following the date of forwarding thereof; or if sent by prepaid ordinary mail, on the seventh day after mailing;
 - (b) if the person is not listed on the Creditor List, by prepaid ordinary mail, courier, personal delivery, facsimile or other electronic transmission to such persons at their respective addresses as last shown on the records of the applicant or the Court Officer or as otherwise publicly available; and
 - (c) otherwise, by service effected in accordance with *The Court of Queen's Bench Rules*.

APPENDIX 1

REQUEST FOR ELECTRONIC SERVICE ("RES")

Please refer to important notes below.

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN	
In the Matter of the ☐ CCAA ☐ Receivership ☐ BIA Proposal ☐ Other _____ of: XYZ Company Ltd (the "Corporation") < Insert URL for Case Website >	
Legal Counsel to Person listed below: (please provide firm name, lawyer's name, address and Email address) Please indicate your preference (by checking applicable box below): ☐ Serve counsel only ☐ Serve counsel & person listed below	Law Firm Name: _____ Lawyer Name: _____ Address: _____ _____ Email address: _____
Name of Person requesting Service: (please provide full legal name, address, Email address and describe legal relationship to the Corporation)	Name: _____ Address: _____ _____ Email address: _____
Date: (insert current date)	Date: _____

I acknowledge having read the Saskatchewan Court of Queen's Bench Electronic Case Information and Service Protocol. I hereby request to be placed on the Service List. By so doing, I agree that the person(s) named above that each accepts service by electronic means in this matter and will be bound by that service:

Name and Position of Person Making Request

PLEASE RETURN SIGNED COPY OF FORM TO *<insert name of Service List Keeper here>*: *<Email address> 1 306-xxx-xxxx*

IMPORTANT NOTES

1. The Service List is intended to provide a timely and efficient method for effecting service in bankruptcy and insolvency in accordance with the Electronic Case Information and Service Protocol, a copy of which has been posted at *.
2. Persons interested solely in monitoring the proceedings should do so by reference to the Case Website noted above and should not request to be placed on the Service List.
3. By filing this RES form, you hereby agree that that you and any other person referenced herein accepts service by facsimile transmsion as the sole means of service and will be bound by that service.
4. Parties residing outside of Saskatchewan should consider whether, based on substantive law, the delivery of an RES constitutes an attornment to the Saskatchewan proceedings.

APPENDIX 2

REQUEST FOR FACSIMILE SERVICE ("RFS")

(only available to parties not having access to Email)

Please refer to important notes below.

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN In Bankruptcy and Insolvency	
In the Matter of the ☐ CCAA ☐ Receivership ☐ BIA Proposal ☐ Other _____ of: XYZ Company Ltd (the "Corporation") < Insert URL for Case Website >	
Name of Person requesting Service: (please provide full legal name, address, Email address and describe legal relationship to the Corporation)	Name: _____ Address: _____ _____ Facsimile number: _____
Date: (insert current date)	Date: _____

I acknowledge having read the Saskatchewan Court of Queen's Bench Electronic Case Information and Service Protocol. I hereby request to be placed on the Service List.

I hereby certify that I do not have access to Email, and that I require to be given notice of and to be served with documents by way of facsimile transmission.

By so doing, I agree that I accept service by facsimile in this matter and will be bound by that service:

Name and Position of Person Making Request

PLEASE RETURN SIGNED COPY OF FORM TO <insert name of Service List Keeper here>: 306-xxx-xxxx

IMPORTANT NOTES:

1. The Service List is intended to provide a timely and efficient method for effecting service in bankruptcy and insolvency in accordance with the Electronic Case Information and Service Protocol, a copy of which has been posted at *.
2. Persons interested solely in monitoring the proceedings should do so by reference to the Case Website noted above and should not request to be placed on the Service List.
3. By filing this RFS form, you hereby agree that you accept service by facsimile transmission as the sole means of service and will be bound by that service.
4. Parties residing outside of Saskatchewan should consider whether, based on substantive law, the delivery of an RFS constitutes an attornment to the Saskatchewan proceedings.

APPENDIX 3

REQUEST FOR REMOVAL FROM SERVICE LIST ("RFR")

Please refer to important notes below.

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN	
In Bankruptcy and Insolvency	
In the Matter of the	
☐ CCAA ☐ Receivership ☐ BIA Proposal ☐ Other _____	
of:	
XYZ Company Ltd (the "Corporation")	
< Insert URL for Case Website >	
Name of Person or Counsel requesting Removal from Service List: (please provide full legal name, address, Email address (or facsimile number))	Name: _____ Address: _____ _____ Email address: _____
Date: (insert current date)	Date: _____

I wish to opt out of all further notice of these proceedings, and hereby request to be removed from the Service List.

I understand and acknowledge that delivery of this request to any party to this proceeding relieves all parties to this proceeding from any requirement to provide further notice of any steps in these proceedings to me.

I hereby represent that I am the person named above or have authority to deliver this request on behalf of such person.

Name and Position of Person Making Request

PLEASE RETURN SIGNED COPY OF FORM TO <insert name of Service List Keeper here> <insert Email address of Service List Keeper here> 306-xxx-xxxx

APPENDIX 4

FORMAT FOR SERVICE EMAILS

TO: <Email addresses of parties to be served>
FROM: <Email address of party serving documents>
SUBJECT: Service of Court Documents - QB No. * of * (<Name of Judicial Centre>) - <Nature of Proceeding or Order Being Served>
ATTACHMENTS: <Documents Attached to Email>

You are hereby served with the Court Documents referenced below by <Name of Counsel> of <Name of Firm>, legal counsel for <Name of Party Represented> <Email address for service of counsel serving>.

The following Court Documents for service are attached to this Email:

<u>Name of Document</u>	<u>Filename</u>
<enumerated list of documents and filenames>	

The following Court Documents for service are posted on the Case Website and can be accessed by way of the links embedded in the filenames below:

<u>Name of Document</u>
<enumerated list of documents with embedded Hyperlinks>

[If required] This matter will be heard on <day>, <date> at <time> before <Justice of the Court if known> at the courthouse at <City>, located at <address>.

This Email is effecting service of court documents pursuant to the Order of the Court of Queen's Bench made <insert date > and in particular, the provisions of paragraphs <insert paragraph numbers> thereof. You may view that Order by clicking <here (with embedded link)>, and this Email constitutes service of that order upon you.

You are receiving this Email because you have filed a request for service of documents in this proceeding with <Name of Service List Keeper>. If you do not wish further notice of these proceedings (which includes service of all court documents) you may contact <Name of Service List Keeper> at <Email address with embedded link>, and ask to be removed.

TAB 3

COURT FILE NUMBER QB No. 1455 of 2019

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE SASKATOON

IN THE MATTER OF SECTION 204 OF *THE BUSINESS CORPORATIONS ACT*, RSS 1978, c B-10

AND IN THE MATTER OF THE VOLUNTARY LIQUIDATION AND DISSOLUTION OF
PRIMEWEST MORTGAGE INVESTMENT CORPORATION

AMENDED AND RESTATED ORDER

Before the Honourable Mr. Justice N.G. Gabrielson in Chambers the 25th day of November, 2019.

Upon the application of Ian A. Sutherland and Craig Frith, counsel for PrimeWest Mortgage Investment Corporation (the "**Corporation**"); and upon having read the Originating Application dated October 9, 2019, Affidavit of Marlene Kaminsky sworn October 9, 2019, Supplemental Affidavit of Marlene Kaminsky sworn October 23, 2019, amended draft Order, and brief of law; all filed; and upon hearing counsel for the Corporation;

The Court Orders:

INTERPRETATION

1. Capitalized terms not otherwise defined in this Order shall have the meanings given to the Liquidation Plan (as that term is defined below).
 2. For greater certainty, the definition of "Claim" in the Liquidation Plan and this Order includes but is not limited to:
 - (a) the following Court of Queen's Bench actions in which the Corporation is named as a defendant or defendant-by-counterclaim, as the case may be:
 - (i) QB No. 1559 of 2017;
 - (ii) QB No. 1889 of 2018;
 - (iii) QB No. 1395 of 2018;
- (the "**Actions**")

SERVICE

3. To the extent required, the time for service of notice of the application for this order is hereby abridged and service thereof is deemed good and sufficient.

APPROVAL OF LIQUIDATION PLAN

4. The voluntary liquidation and dissolution of the Corporation pursuant to the Plan of Liquidation and Dissolution (the "**Liquidation Plan**") attached hereto as Schedule "A", which was approved on September 24, 2019 at an annual and special meeting of the Corporation's shareholders and implemented by the Corporation's directors effective October 24, 2019, is hereby affirmed and approved, including without limitation the appointment of:

- (a) KPMG Inc. as liquidator (the "**Liquidator**") of the estate of the Corporation without security; and
- (b) Tom Robinson, Wilson Olive, Francis Bast and Tom Archibald as inspectors of the Corporation's liquidation (the "**Inspectors**").

CONTINUANCE OF THE LIQUIDATION UNDER THE SUPERVISION OF THE COURT

- 5. Pursuant to section 204(8) of *The Business Corporations Act*, RSS 1978, c B-10 (the "**SBCA**"), the liquidation of the Corporation shall be continued under the supervision of the Court as provided in Division XVI of the SBCA, and in accordance with the Liquidation Plan and any further orders of the Court.

LIQUIDATOR'S POWERS

- 6. The Liquidator shall have the mandatory obligations and discretionary powers set out in Sections 4.3 and 4.4 of the Liquidation Plan, respectively, the SBCA, and any further orders of the Court.
- 7. The Liquidator shall make an application for Court approval of the Claims Process contemplated by the Liquidation Plan within 75 days of the date of this Order, subject to any extensions of time that may be granted by further order of the Court on a future application.
- 8. The Actions shall be resolved by the Liquidator in accordance with the Claims Process to be implemented by further order of the Court or, alternatively, the terms of any agreed upon settlement, as the case may be.

DISPENSING WITH AUDITED FINANCIAL STATEMENTS AND SHAREHOLDER MEETING

- 9. Subject to any further orders of the Court, the Corporation and the Liquidator:
 - (a) shall be exempt from the requirements in sections 149 and 153 of the SBCA to provide any further audited financial statements to the Corporation's shareholders; and
 - (b) are hereby relieved of any obligation to call or hold a meeting, whether annual or otherwise, of the Corporation's shareholders, until such time as the Liquidator determines such a meeting to be necessary or desirable.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE LIQUIDATOR

- 10. (i) The Corporation, (ii) all of its current and former directors, officers, employees, agents, accountants, 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 (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Liquidator of the existence of any Assets in such Person's possession or control, shall grant immediate and continued access to the Assets to the Liquidator, and shall deliver all such Assets (excluding Assets subject to liens the validity of which is dependent on maintaining possession) to the Liquidator upon the Liquidator's request.
- 11. All Persons shall forthwith advise the Liquidator 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 the Corporation, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Liquidator or permit the Liquidator to make, retain and take away copies thereof and grant to the Liquidator unfettered access to and use of accounting, computer, software and physical facilities relating thereto provided, however, that nothing in this paragraph 11 or in

paragraph 12 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 Liquidator due to the privilege attaching to solicitor-client communication or documents prepared in contemplation of litigation or due to statutory provisions prohibiting such disclosure.

12. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Liquidator for the purpose of allowing the Liquidator to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Liquidator in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Liquidator. Further, for the purposes of this paragraph, all Persons shall provide the Liquidator with all such assistance in gaining immediate access to the information in the Records as the Liquidator may in its discretion require, including providing the Liquidator with instructions on the use of any computer or other system and providing the Liquidator 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 LIQUIDATOR

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

NO PROCEEDINGS AGAINST DIRECTORS OR OFFICERS

14. No Proceeding shall be commenced or continued against any of the former or current officers of the Corporation with respect to any Claim, except with leave of this Court.

NO PROCEEDINGS AGAINST THE CORPORATION OR THE ASSETS

15. No Proceeding against or in respect of the Corporation or the Assets shall be commenced or continued except with the written consent of the Liquidator or with leave of this Court and any and all Proceedings currently under way against or in respect of the Corporation or the Assets are hereby stayed and suspended pending further Order of this Court, provided, however, that nothing in this Order shall: (i) 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; or (ii) affect a Regulatory Body's investigation in respect of the Corporation or an action, suit or proceeding that is taken in respect of the Corporation by or before the Regulatory Body, other than the enforcement of a payment order by the Regulatory Body or the Court. "**Regulatory Body**" means a person or body that has powers, duties or functions relating to the enforcement or administration of an Act of Parliament or of the legislature of a province.

NO EXERCISE OF RIGHTS OR REMEDIES

16. All rights and remedies (including, without limitation, set-off rights) against the Corporation or the Liquidator, or affecting the Assets are hereby stayed and suspended except with the written consent of the Liquidator or leave of this Court; provided, however, that nothing in this paragraph shall: (i) empower the Liquidator or the Corporation to carry on any business which the Corporation is not lawfully entitled to carry on; (ii) exempt the Liquidator or the Corporation from compliance with statutory or regulatory provisions relating to health, safety or the environment; (iii) prevent the filing of any registration to preserve or perfect a mortgage or security interest; or (iv) prevent the registration or filing of a lien or claim for lien or the commencement of a Proceeding to protect a lien or other rights that might otherwise be barred or extinguished by the effluxion of time, provided that no further steps shall be taken in respect of such lien, claim for

lien or Proceeding except for service of the initiating documentation on the Corporation and the Liquidator.

NO INTERFERENCE WITH THE LIQUIDATOR

17. 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 the Corporation, including, without limitation, insurance coverage, without written consent of the Liquidator or leave of this Court.

CONTINUATION OF SERVICES

18. All Persons having oral or written agreements with the Corporation 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 the Corporation, are hereby 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 Liquidator, and the Liquidator shall be entitled to the continued use of the Corporation'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 Liquidator in accordance with normal payment practices of the Corporation or such other practices as may be agreed upon by the supplier or service provider and the Liquidator, or as may be ordered by this Court.

LIMITATION ON THE LIQUIDATOR'S LIABILITY

19. Except for gross negligence or wilful misconduct, as a result of its appointment or carrying out the provisions of this Order the Liquidator shall incur no liability or obligation that exceeds an amount for which it may obtain full indemnity from the Assets. Nothing in this Order shall derogate from any limitation on liability or other protection afforded to the Liquidator under any applicable law.

LIQUIDATOR'S ACCOUNTS

20. The Liquidator and counsel to the Liquidator shall be paid their reasonable fees and disbursements at their standard rates. Pursuant to Section 216(1) of the SBCA, the Liquidator and counsel to the Liquidator are hereby granted a charge (the "**Liquidator's Charge**") on the Assets as security for such fees and disbursements both before and after the making of this Order in respect of these proceedings, and the Liquidators' Charge shall form a first charge on the Assets in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person.
21. The Liquidator and its legal counsel shall pass their accounts from time to time.
22. Subject to Section 4.6 of the Liquidation Plan, the Liquidator shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, prior to passing its accounts, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by the Inspectors or the Court, as the case may be.

FUNDING OF THE LIQUIDATION

23. Pursuant to section 215(1)(f) of the SBCA, the Liquidator shall be at liberty and is hereby empowered to borrow, by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not at any time exceed \$100,000.00 (or such greater amount as this Court may by further Order

authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Liquidator by the Liquidation Plan and this Order, including interim expenditures. The whole of the Assets shall be and is hereby charged by way of a fixed and specific charge (the "**Liquidator's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Liquidator's Charge.

24. Neither the Liquidator's Borrowings Charge nor any other security granted by the Liquidator in connection with its borrowings under this Order shall be enforced without leave of this Court.
25. The Liquidator is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "B" hereto (the "**Liquidator's Certificates**") for any amount borrowed by it pursuant to this Order.
26. The monies from time to time borrowed by the Liquidator pursuant to this Order or any further order of this Court and any and all Liquidator's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Liquidator's Certificates.

GENERAL

27. The Liquidator may, from time to time, apply to this Court for advice and directions in the discharge of its powers and duties hereunder, and/or in the event that the Liquidator and the Inspectors are unable to agree on a course of action.
28. Nothing in this Order shall prevent the Liquidator from acting as a trustee in bankruptcy of the Corporation.
29. Unless otherwise ordered by this Court, the Liquidator will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence.
30. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Liquidator and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Liquidator, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Liquidator and its agents in carrying out the terms of this Order.
31. The Liquidator shall be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and for the recognition that the Liquidator 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.
32. Any interested party may apply to this Court to vary or amend this Order on not less than seven days' notice to the Liquidator and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

SERVICE AND NOTICE

33. The Electronic Case Information and Service Protocol attached as Schedule "C" hereto (the "**Protocol**") is approved and adopted for these proceedings. Terms which are capitalized herein

but otherwise not defined shall bear the respective meanings ascribed to them in the Protocol. Service of documents made in accordance with the Protocol shall (subject to review by the Court at the time of any application) constitute valid and effective service. A Case Website shall be established in accordance with the Protocol with the following URL: <https://home.kpmg/ca/primewest>. Applications in respect of this matter may be made upon three days' notice.

34. The failure of any Person to forward a Request for Electronic Service or a Request for Facsimile Service to the Service List Keeper shall release the Liquidator and any other interested Person serving court materials in this matter from any requirement to provide further notice in respect of these proceedings to any such Person until such time as a properly completed request for such service is received from such Person by each of the counsel for the Liquidator.

ISSUED at the City of Saskatoon, in the Province of Saskatchewan, this 28th day of November, 2019.


DEPUTY LOCAL REGISTRAR

This document was delivered by:

McDougall Gauley LLP, counsel for the applicant, PrimeWest Mortgage Investment Corporation

Name of lawyer in charge of file: Ian A. Sutherland / Craig Frith
Address of legal firm: 500-616 Main Street, Saskatoon, SK S7H 0J6
Telephone / Facsimile: (306) 653-1212 / (306) 652-5432
Email address: isutherland@mcdougallgauley.com
cfrith@mcdougallgauley.com

TO: Local Registrar, Judicial Centre of Saskatoon

AND TO: The recipients listed in the preliminary service list.

Schedule "A"

PRIMEWEST MORTGAGE INVESTMENT CORPORATION

PLAN OF LIQUIDATION AND DISSOLUTION

WHEREAS the Board of Directors of PrimeWest Mortgage Investment Corporation (the "**Board**") has concluded that it is in the best interests of PrimeWest Mortgage Investment Corporation (the "**Corporation**") to be liquidated and dissolved voluntarily pursuant to *The Business Corporations Act* (Saskatchewan) in accordance with the terms of this Liquidation Plan;

AND WHEREAS the Board has passed a resolution authorizing the Corporation to seek Shareholder approval for the voluntary liquidation and dissolution of the Corporation pursuant to *The Business Corporations Act* (Saskatchewan) in accordance with the terms of this Liquidation Plan, to be considered and voted upon by the Shareholders at an annual general and special meeting of Shareholders;

NOW THEREFORE THIS Liquidation Plan is adopted by the Board as of the last date set forth below, having the terms and conditions as set out herein.

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Liquidation Plan:

"**Assets**" means all of the property, assets and undertaking of the Corporation;

"**Board**" has the meaning given to it in the recitals of this Liquidation Plan;

"**Business Day**" means a day, other than a Saturday or Sunday, on which banks are generally open for business in Saskatoon, Saskatchewan;

"**Calendar Day**" means any day, including a Saturday, Sunday or statutory holiday in Saskatoon, Saskatchewan;

"**Canadian Dollars**" means dollars denominated in lawful currency of Canada;

"**Claim**" means:

- (a) any right of any Person against the Corporation in connection with any indebtedness, liability or obligation of any kind of the Corporation and any interest accrued thereon or costs payable in respect thereof, whether liquidated, unliquidated, reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any claim made or asserted against the Corporation through any affiliate or associate or any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future with respect to any matter, action, cause or chose in action; and
- (b) any existing or future right of any Person against any one or more of the Directors which arose or arises as a result of such Director's position, supervision, management or involvement as a Director or otherwise in any other capacity in connection with the Corporation, whether such right, or the circumstances giving rise to it, arose before or after the Effective Date and whether enforceable in any civil, administrative or criminal proceeding,

but does not include an Equity Claim;

"Claims Process" means the process established by the Liquidator and approved by the Court for the identification, resolution and barring of Claims, including, among other things, the issuance of a final order of the Court establishing the Claims;

"Clearance Certificates" mean:

- (a) a certificate issued by the Minister pursuant to subsection 159(2) of the *Income Tax Act*, R.S.C. 1952, c. 148 (the "**ITA**"), or any equivalent thereto, certifying that all amounts for which the Corporation is, or can reasonably be expected to become, liable under the ITA up to and including the date of distribution have been paid, or that the Minister has otherwise accepted security for payment;
- (b) a certificate issued by the Minister pursuant to subsection 23(5) of the *Canada Pension Plan*, R.S.C. 1985, c. C-8 (the "**CPP**"), or any equivalent thereto, certifying that all amounts for which the Corporation is liable under the CPP, up to and including the date of distribution, have been paid or that security for the payment thereof has been accepted by the Minister;

- (c) a certificate issued by the Minister pursuant to subsection 86(3) of the *Employment Insurance Act*, S.C. 1996, c. 23 (the “EIA”), or any equivalent thereto, certifying the payment, or acceptance by the Minister of security for payment, of all amounts for which the Corporation is liable under the EIA up to and including the date of distribution;
- (d) a certificate issued by the Minister pursuant to subsection 81(1) of the *Excise Tax Act*, R.S.C. 1985, c. E-15 (the “ETA”), or any equivalent thereto, certifying that no tax, penalty, interest or other sum under the ETA chargeable against or payable by the Liquidator or chargeable against or payable in respect of the Assets remains unpaid or that security for the payment thereof has, in accordance with section 80.1 of the ETA, been accepted by the Minister;
- (e) a certificate issued by the Minister pursuant to subsection 270(3) of the ETA, or any equivalent thereto, certifying that all amounts payable or remittable under Part IX of the ETA by the Corporation in respect of the reporting period during which the distribution is made or any previous reporting period, and all amounts that are, or can reasonably be expected to become, payable or remittable under Part IX of the ETA by the Liquidator in respect of the reporting period during which the distribution is made, has been paid or that security for the payment thereof has been accepted by the Minister; and
- (f) additional certificate(s) required by any Governmental Authority pursuant to any other applicable federal or provincial legislation.

“**Common Shares**” means the common shares in the capital of the Corporation;

“**Corporation**” has the meaning given to it in the recitals of this Liquidation Plan;

“**Court**” means the Court of Queen’s Bench for Saskatchewan;

“**Creditor**” means any Person with a Claim;

“**CSE**” means the marketplace of the Canadian Securities Exchange for venture companies;

“**Director of Corporations**” means the Director of Corporations appointed pursuant to section 279 of the SBCA and includes any Deputy Director appointed pursuant to that section;

“**Directors**” means all individuals who were, on or at any time before the Effective Date, directors or officers of the Corporation, and the term “Director” shall mean any one of them;

“**Dissolution Date**” means the date on which the Corporation is dissolved pursuant to the SBCA by Order of the Court;

“Effective Date” means the date to be established by a resolution of the Board upon which the implementation of the Liquidation Plan shall commence, which date shall be no earlier than the date upon which the certificate of intent to dissolve is issued to the Corporation pursuant to and in accordance with the SBCA;

“Employees” means the employees of the Corporation;

“Equity Claim” means the entitlement to a distribution of a Shareholder in respect of the Shareholder’s Common Shares;

“Governmental Authority” means any nation or government, any province, state or other political subdivision thereof, any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government or any Legal Requirement and any corporation or other entity owned or controlled, through capital stock or otherwise by any of the foregoing;

“Inspectors” has the meaning given to it in Section 6.1;

“Legal Requirement” means any statute, law, treaty, rule, regulation, order, decree, writ, injunction or determination of any arbitrator, court, Governmental Authority or securities exchange and, with respect to any Person, includes all such Legal Requirements applicable or binding upon such Person, its business or the ownership or use of any of its assets;

“Liquidator” means the Person appointed pursuant to Section 4.1 in its capacity as liquidator of the Corporation;

“Liquidation Date” means the date on which the Shareholders pass the Resolution;

“Liquidation Plan” means this plan of liquidation and distribution as it may be amended, modified, supplemented, restated or otherwise modified in accordance with its terms;

“Minister” means the Minister of National Revenue;

“SBCA” means *The Business Corporations Act*, RSS 1978, c B-10;

“SBCA Director” means the Director appointed under Section 279 of the SBCA;

“Person” means any individual, partnership, limited partnership, joint venture, trust, corporation, unincorporated organization, government, agency, regulatory body or instrumentality thereof, legal personal representative or litigation guardian, or any other judicial entity howsoever designated, constituted or domiciled;

“Proven Claim” means a Claim finally determined or accepted in accordance with the provisions of the Claims Process;

“Resolution” means the special resolution of the Shareholders authorizing the voluntary liquidation and dissolution of the Corporation in accordance with the SBCA and approving this Liquidation Plan;

“Shareholders” means all holders of Common Shares shown from time to time in the registers maintained by or on behalf of the Corporation by the Transfer Agent in respect of the Common Shares and, unless otherwise specified, includes all beneficial owners of Common Shares;

“Tax Return” means any report, return or other information required to be supplied to a taxing authority in connection with:

- (a) all taxes, charges, fees, levies and other assessments (whether federal, provincial, local or foreign), including income, gross receipts, excise, property, sales, use, transfer, licence, payroll, franchise, withholding, social security and unemployment taxes, and
- (b) any interest, penalties and additions related to the foregoing;

“Transfer Agent” means Computershare Investor Services Inc., as transfer agent for the Common Shares of the Corporation.

1.2 Certain Rules of Interpretation

In this Liquidation Plan and the Schedules hereto:

- (a) all references to currency are to Canadian Dollars, except as otherwise expressly indicated;
- (b) the division of this Liquidation Plan into articles, sections, subsections and clauses and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Liquidation Plan;
- (c) the terms “this Liquidation Plan,” “hereof,” “hereunder,” “herein” and similar expressions refer to this Liquidation Plan and not to any particular article, section, subsection or clause and include any plan supplemental hereto;
- (d) unless otherwise indicated, any reference in this Liquidation Plan to an article, section, subsection, clause or schedule refers to the specified article, section, subsection, clause or schedule of or to this Liquidation Plan;
- (e) the use of words in the singular or plural, or with a particular gender shall not limit the scope or exclude the application of any provision of this

Liquidation Plan or a schedule hereto to such Person (or Persons) or circumstances as the context otherwise permits;

- (f) the words “includes” and “including” and similar terms of inclusion shall not, unless expressly modified by the words “only” or “solely,” be construed as terms of limitation, but rather shall mean “includes without limitation” and “including without limitation,” so that references to included matters shall be regarded as illustrative without being either characterizing or exhaustive;
- (g) unless otherwise specified, all references to time herein and in any document issued pursuant hereto mean local time in Saskatoon, Saskatchewan, and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m., on such Business Day;
- (h) unless otherwise specified, the time period within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next succeeding Business Day if the last day of the period is not a Business Day. Whenever any payment to be made or action to be taken under this Liquidation Plan is required to be made or to be taken on a day other than a Business Day, such payment shall be made or action taken on the next succeeding Business Day;
- (i) unless otherwise specified, where any reference to an event occurring within any number of “days” appears in this Liquidation Plan, such reference means Calendar Days and not Business Days; and
- (j) unless otherwise specified, any reference to a statute, or other enactment of parliament or a legislature includes all regulations made thereunder, all enactments to or re-enactments of such statute or regulations in force from time to time and, if applicable, any statute or regulation that supplements or supersedes such statute or regulation.

ARTICLE 2

PURPOSE OF THE PLAN

2.1 Purpose

The purpose of this Liquidation Plan is to provide for a plan of liquidation and distribution of the Assets, identification, resolution and barring of Claims and dissolution of the Corporation.

2.2 Commencement of Liquidation

The voluntary liquidation and dissolution of the Corporation shall commence on and as of the Effective Date.

2.3 Affected Persons

This Liquidation Plan will be implemented under the SBCA and, as of the Effective Date, will be binding on the Corporation, the Directors, the Inspectors, the Liquidator and the Shareholders in accordance with its terms. On the Liquidation Date, each Shareholder shall be deemed to have consented and agreed to all of the provisions of this Liquidation Plan in their entirety.

ARTICLE 3 EFFECT OF PLAN

3.1 Share Transfers

If not already otherwise halted and/or delisted, the Common Shares will be delisted and will cease trading on the CSE as soon as is reasonably practicable following the Effective Date. All transfers of Common Shares thereafter shall be void unless made with the explicit sanction of the Liquidator or the Court.

3.2 Corporation to Cease Business

On and as of the Effective Date, the Corporation shall cease to carry on business, except insofar as may be determined to be required for the orderly liquidation of the Corporation in the discretion of the Liquidator, but the Corporation's corporate existence and all its corporate powers, even if otherwise provided by its articles or by-laws, shall continue under the control of the Liquidator until the Dissolution Date.

3.3 Resignation of Directors

On and as of the Effective Date, all of the powers of the Directors shall cease and the Directors shall be deemed to have resigned.

ARTICLE 4 THE LIQUIDATOR

4.1 Appointment of Liquidator

On and as of the Effective Date, KPMG Inc. is hereby appointed as the liquidator of the estate of the Corporation for the purpose of liquidating the Corporation's Assets and distributing the proceeds, after satisfying all Proven Claims, all in accordance with the terms of this Liquidation Plan, the SBCA, and any future orders of the Court. The

Liquidator shall be the agent and attorney-in-fact of the Corporation and shall act for and on behalf of the Corporation with the authority to enter into agreements and execute documents for and on behalf of the Corporation in such capacity pursuant to the powers and obligations of the Liquidator as contained in this Liquidation Plan, the SBCA, and any future orders of the Court.

4.2 Application for Court Supervision

On the Effective Date, the Corporation will instruct the legal firm of McDougall Gauley LLP ("MG") to file an application with the Court as soon as reasonably possible, seeking an order pursuant to subsection 204(8) of the SBCA that the liquidation of the Corporation and appointment of the Liquidator be continued under the supervision of the Court as provided in Division XVI of the SBCA, at which time the Court may so order and may make any further order it thinks fit. MG shall be paid its reasonable fees and disbursements in respect of the application, which shall be paid by the Corporation or the Liquidator, as the case may be, from the Assets in priority to all other Claims.

4.3 Mandatory Obligations of the Liquidator

The Liquidator is expressly directed, empowered and authorized to, and shall:

- (a) forthwith after the Liquidator's appointment give notice thereof to the Director of Corporations and to each Creditor known to the Liquidator;
- (b) forthwith publish notice in the Gazette and by insertion once a week for two consecutive weeks in a newspaper published or distributed in the place where the Corporation has its registered office and take reasonable steps to give notice thereof in every jurisdiction where the Corporation carries on business, requiring any Person:
 - (i) indebted to the Corporation, to render an account and pay to the Liquidator at the time and place specified any amount owing;
 - (ii) possessing Assets, to deliver the Assets to the Liquidator at the time and place specified; and
 - (iii) having a Claim, to present particulars thereof in writing to the Liquidator not later than two months after the first publication of the notice;
- (c) take into its custody and control the Assets of the Corporation;
- (d) open and maintain a trust account for the moneys of the Corporation, which trust account shall not be made in the name of the Liquidator individually, but shall be a separate trust account in the Liquidator's name and capacity as Liquidator of the Corporation, and such money shall be

withdrawn for payment of Proven Claims, taxes, fees and expenses incurred in connection with the implementation of the Liquidation Plan and signed in accordance with such signing authorities as may be determined by the Liquidator in consultation with the Inspectors and/or as directed by the Court;

- (e) keep accounts of the moneys of the Corporation received and paid out by the Liquidator;
- (f) maintain separate lists of the Shareholders, creditors and other Persons having Claims against the Corporation;
- (g) if at any time the Liquidator determines that the Corporation is unable to pay or adequately provide for the discharge of its obligations, apply to the Court for directions;
- (h) deliver to the Court and to the Director of Corporations, at least once in every twelve-month period after the Liquidator's appointment or more often as the Court may require, financial statements of the Corporation in the form required by section 149 of the SBCA or in such other form as the liquidator may think proper or as the Court may require;
- (i) delist the Common Shares from the CSE in the event the same have not already been delisted as of the Effective Date;
- (j) apply to the Financial and Consumer Affairs Authority for Saskatchewan for an order that the Corporation shall cease to be a reporting issuer under applicable securities legislation;
- (k) establish and implement a Claims Process;
- (l) cause to be filed with the appropriate Governmental Authority all Tax Returns required to be filed by the Corporation;
- (m) remit all taxes required to be remitted by the Corporation in accordance with all applicable statutes, all outstanding CPP contributions and EIA premiums, including any associated interest and penalties and obtain the Clearance Certificates;
- (n) cause to be filed with the appropriate Governmental Authority all financial statements and reports required to be filed by the Corporation;
- (o) maintain the continuous disclosure requirements applicable to the Corporation under all applicable securities laws, subject to amendments or exclusions which may be obtained by order of the Court during the liquidation proceedings;

- (p) maintain appropriate liability insurance in place for the Liquidator if necessary;
- (q) pay or otherwise satisfy all Proven Claims from the Assets in accordance with the Claims Process and any orders of the Court;
- (r) after satisfying all Proven Claims and having the Liquidator and its legal counsel's final accounts approved by the Court, distribute any surplus proceeds among the Shareholders according to their respective rights; and
- (s) fulfill the reporting obligations set forth at Section 4.5.

4.4 Discretionary Powers of the Liquidator

The Liquidator is expressly empowered and authorized, but not obligated, to do any of the following:

- (a) retain lawyers, accountants, engineers, appraisers and other professional advisers, if necessary, to assist with the administration and implementation of this Liquidation Plan;
- (a) engage any former employee of the Corporation to assist with the Liquidator's administration and implementation of the Liquidation Plan;
- (b) with the prior approval of the Inspectors, bring, defend or take part in any civil, criminal or administrative action or proceeding in the name and on behalf of the Corporation;
- (c) carry on the business of the Corporation so far as may be required for the liquidation and dissolution of the Corporation;
- (d) sell by public auction or private sale any of the Assets;
- (e) do all acts and execute any documents in the name and on behalf of the Corporation;
- (f) settle or compromise any Claims by or against the Corporation in accordance with the Claims Process and any orders of the Court;
- (g) in accordance with the provisions of the SBCA and any order of the Court, make or cause to be made from time to time, any interim distributions or distributions in kind of portions of the Assets to the registered Shareholders rateably among the registered Shareholders according to

their rights and interests in the Corporation, as considered appropriate and approved by the Court, and while maintaining such reserves as are reasonably necessary to provide for all Claims and the anticipated costs of completing the administration of this Liquidation Plan;

- (h) at any time after the affairs of the Corporation have been fully wound up, make an application to the Court for an order dissolving the Corporation;
- (i) apply to Court for directions and further orders in respect of the performance of the Liquidator's obligations, or anything else necessary for the liquidation and dissolution of the Corporation and distribution of the Assets; and
- (j) do all such things as are reasonably necessary for the liquidation and dissolution of the Corporation and distribution of the Assets in accordance with this Liquidation Plan, the SBCA and any orders of the Court.

4.5 Reporting Obligations

The Liquidator shall report to the Court at such times and intervals as the Liquidator may deem appropriate with respect to matters relating to the Assets, the Corporation and such other matters as may be relevant to this Liquidation Plan, and shall make such reporting available to the Shareholders by posting such reporting on its website at the following URL: <https://home.kpmg/ca/primewest>

4.5 Removal of the Liquidator

The Liquidator may be removed by order of the Court pursuant to an application brought following either:

- (a) a resolution of the majority of the Inspectors;
- (b) a determination by the Liquidator, in its discretion, that it ought to be discharged by the Court; or
- (c) an ordinary resolution of the Shareholders at a meeting called for the purpose of removing the Liquidator;

but only if such order of the Court appoints another liquidator in the Liquidator's stead which successor liquidator shall become the Liquidator under this Liquidation Plan.

4.6 Fees of the Liquidator and Its Counsel

The Liquidator and its legal counsel shall be paid their reasonable fees and disbursements at their standard rates from the Assets as and when the Liquidator or its counsel renders an account to the Corporation and such account is approved by the Inspectors. Pursuant to Section 216(1) of the SBCA, the costs, charges and expenses of the liquidation, including the reasonable fees and disbursements of the Liquidator and its legal counsel, are payable out of the Assets in priority to all other Claims. In the event of a dispute between the Liquidator and Inspectors with respect to the Liquidator's fees and disbursements, including the fees of its counsel, the Liquidator may apply to the Court.

4.7 Indemnity

The Corporation hereby releases, holds harmless and indemnifies (including out of the Assets) the Liquidator from and against all liabilities, claims and costs of any nature arising from the Liquidator's execution of this Liquidation Plan, save and except any such liabilities, claims or costs arising as a result of the Liquidator's fraud, gross negligence or wilful misconduct.

ARTICLE 5 TERMINATION OF EMPLOYEES

5.1 Termination of Employment

All Employees shall be terminated on the Effective Date, other than those Employees who are requested by the Liquidator to remain in service and assist in the implementation of this Liquidation Plan and agree to do so, which Employees shall remain Employees of the Corporation.

5.2 Employment Agreements

In connection with the termination of all Employees, the Corporation shall honour and fully comply with all existing agreements with such Employees.

ARTICLE 6 INSPECTORS

6.1 Appointment of Inspectors

On and as of the Effective Date, Tom Robinson, Wilson Olive, Francis Bast and Tom Archibald are hereby appointed as inspectors of the Corporation's liquidation (the "Inspectors").

6.2 Approval of Inspectors

For any action or inaction which requires the approval of the Inspectors under this Liquidation Plan, by order of the Court or pursuant to the SBCA, such approval shall exist if a majority of the Inspectors approve of the action or inaction by vote at a meeting of Inspectors or otherwise by written resolution signed by a majority of the Inspectors.

6.3 Meeting of Inspectors

The Liquidator or any one of the Inspectors may call a meeting of Inspectors by providing all of the Inspectors with two days written notice of such meeting, which notice may be waived by the Inspectors in their discretion. Such meetings may be held by teleconference. Quorum for any meeting of Inspectors shall be a majority of the Inspectors. Each of the Inspectors shall have one vote at any such meetings. The Liquidator shall have no vote at such meetings but may chair such meetings with the approval of a majority of the Inspectors.

6.4 Removal of Inspectors

An Inspector may be removed by:

- (a) order of the Court; or
- (b) ordinary resolution of the Shareholders at a meeting called for the purpose of removing an Inspector.

6.5 Filling Vacancies of Inspectors

There shall always be at least one Inspector and not more than four Inspectors at any time. Any vacancy in the number of permissible Inspectors may be filled by election by the majority of remaining Inspectors.

6.6 Remuneration of Inspectors

The compensation paid to Inspectors shall be \$10,000.00 per Inspector per year, pro rated for the length of each Inspector's appointment plus \$1,000.00 per Inspector per day on which meetings of Inspectors are held for attendance at such meetings in person or, if attended by conference call, \$500.00 per Inspector per day.

6.7 Indemnity

The Corporation hereby releases, holds harmless and indemnifies (including out of the Assets) the Inspectors from and against all liabilities, claims and costs of any nature arising from the Inspectors' actions under this Liquidation Plan, save and except any such liabilities, claims or costs arising as a result of the Inspectors' fraud, gross negligence or wilful misconduct.

ARTICLE 7

DISTRIBUTIONS

7.1 Delivery of Distribution to Shareholders

Unless otherwise directed, distributions of surplus proceeds to registered Shareholders shall be made by the Liquidator at the addresses set forth in the registers maintained by the Transfer Agent in respect of the Common Shares as at the date of any such distribution, or if applicable, and to the extent differing from the foregoing, at the address of such registered Shareholder's respective legal representatives, in trust for such registered Shareholder. Beneficial holders of Common Shares shall be entitled to receive distributions only through the applicable registered Shareholder on the registers maintained by the Transfer Agent in respect of the Common Shares.

7.2 Undeliverable Distributions to Shareholders

Where the Liquidator is unable to deliver a distribution to a registered Shareholder because such Shareholder is unknown or such Shareholder's whereabouts is unknown, the distribution shall be delivered or conveyed by the Liquidator to the Minister of Finance in accordance with section 220 of the SBCA, to be held in trust for the registered Shareholder, and such delivery or conveyance shall be deemed to be a distribution to that registered Shareholder of his, her or its rateable share for the purpose of this Liquidation Plan.

7.3 Interim Distributions

Any distributions to registered Shareholders (other than any final distribution on the cancellation of the Shares) shall be either as a reduction of stated capital, subject to satisfying the applicable solvency tests in the SBCA, or as a dividend. Subject to applicable law, the determination as to whether or not to make any such interim distribution and whether or not any such interim distribution is made as a reduction of stated capital or as a dividend shall be made by the Liquidator in consultation with the Inspectors.

ARTICLE 8

COMPLETION OF THE LIQUIDATION PLAN

8.1 Discharge of Liquidator

As soon as is practicable following the Dissolution Date, the Liquidator shall apply to the Court for approval of its final account and its discharge and, upon the Court making such order, the Liquidator shall be discharged and shall have no further obligations or responsibilities, except as may otherwise be ordered by the Court.

ARTICLE 9

GENERAL PROVISIONS

9.1 Liquidation Plan Amendment

The Liquidator may, at any time prior to the Dissolution Date, agree to amend, modify and/or supplement this Liquidation Plan without the approval of the Shareholders:

- (a) in order to correct any clerical or typographical error;
- (b) as required to maintain the validity or effectiveness of this Liquidation Plan as a result of any change in any Legal Requirement; or
- (c) in order to make any change that in the opinion of the Liquidator is necessary, provided that it does not materially change the terms of this Liquidation Plan.

9.2 Severability

In the event that any provision in this Liquidation Plan is held by the Court to be invalid, void or unenforceable, the Court shall have the power to alter and interpret such term or provision to make it valid and enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered and interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Liquidation Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation.

9.3 Paramountcy

From and after the Effective Date and, subject always to any orders of the Court, any conflict between: (a) this Liquidation Plan; and (b) any information summary in respect of this Liquidation Plan, or the covenants, warranties, representations, terms, conditions, provisions or obligations, express or implied, of any contract, document or agreement, written or oral, and any and all amendments and supplements thereto existing between the Corporation and any of the Shareholders, Directors and Liquidator as at the Liquidation Date, will be deemed to be governed by the terms, conditions and provisions of this Liquidation Plan, which, subject to any orders of the Court, shall take precedence and priority.

9.4 Notices

Any notice or communication to be delivered hereunder shall be in writing and shall reference this Liquidation Plan and may, subject as hereinafter provided, be made or given by personal delivery, by fax, courier or e-mail addressed to the respective parties as follows:

- (a) if to a Shareholder, at the addresses set forth in the securities register kept at the Transfer Agent;
- (b) if to a Creditor, at the addresses set forth in the books and records of the Corporation or the proofs of claim filed by such Creditor in accordance with the Claims Process;
- (c) if to the Corporation or the Liquidator:

Liquidator:

KPMG Inc.

Contact:

Neil Honess

403-691-8014

neilhoness@kpmg.ca

Cristina Pimienta

403-691-8406

cpimienta@kpmg.ca

Address:

KPMG Inc., Bow Valley Square II, 3100, 205 – 5th Avenue SW, Calgary Alberta
T2P 4B9

- (d) if to the Inspectors:

[To be determined]

or to such other address as any party may from time to time notify the others in accordance with this Section 9.4. All such notices and communications which are delivered shall be deemed to have been received on the date of delivery. Any such notices and communications which are emailed or faxed shall be deemed to be received on the date emailed or faxed if sent before 5:00 p.m. Central Standard Time on a Business Day and otherwise shall be deemed to be received on the Business Day next following the day upon which such email or fax was sent. Any notice or other communication sent by mail shall be deemed to have been received on the fifth Business Day after the date of mailing. The unintentional failure by the Liquidator to give a notice contemplated hereunder shall not invalidate any action taken by any Person pursuant to this Liquidation Plan.

9.5 Governing Law

This Liquidation Plan shall be governed by and construed in accordance with the laws of the Province of Saskatchewan and the federal laws of Canada applicable therein without regard to conflict of laws. All questions as to the interpretation or application of this

Liquidation Plan and all proceedings taken in connection with this Liquidation Plan and its provisions shall be subject to the exclusive jurisdiction of the Court.

The foregoing Liquidation Plan being adopted by the Board as of this 16th day of August 2019.

BY THE ORDER OF THE BOARD

"Tom Robinson"

Name: Tom Robinson

Title: Chair

SCHEDULE "B"

LIQUIDATOR'S CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that KPMG Inc., the liquidator (the "**Liquidator**") of PrimeWest Mortgage Investment Corporation (the "**Corporation**") appointed by Order of the Court of Queen's Bench of Saskatchewan (the "**Court**") issued the ____ day of _____, 2019 (the "**Order**") made in action _____, has received as such Liquidator from the holder of this certificate (the "**Lender**") the principal sum of \$_____, being part of the total principal sum of \$_____ which the Liquidator is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily] [monthly not in advance on the ____ day of each month] after the date hereof at a notional rate per annum equal to the rate of ____ per cent above the prime commercial lending rate of Bank of _____ from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Liquidator pursuant to the Order or to any further order of the Court, a charge upon the whole of the Assets (as defined in the Order), in priority to the security interests of any other person, but subject to the right of the Liquidator to indemnify itself out of such Assets in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at *.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Liquidator to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate so as to permit the Liquidator to deal with the Assets as authorized by the Order and as authorized by any further or other order of the Court.
7. The Liquidator does not undertake any personal liability to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the _____ day of _____, 2019.

KPMG Inc., solely in its capacity as Liquidator of the Corporation, and not in its personal capacity

Per: _____
Name:
Title:

SCHEDULE "C"

ELECTRONIC CASE INFORMATION AND SERVICE PROTOCOL

APPLICATION

1. This Electronic Case Information and Service Protocol shall apply to this proceeding except as otherwise ordered by the Court.

DEFINITIONS

2. For the purposes of this Protocol, the following capitalized terms shall have the meanings ascribed below:
 - (a) "**Case Website**" means the website referenced in paragraph * of the Implementation Order;
 - (b) "**Court**" means the Court of Queen's Bench for Saskatchewan, sitting in bankruptcy if applicable;
 - (c) "**Court Document**" means a document in this proceeding which must be served for the purposes of this proceeding and/or is to be filed, or has been filed or issued in the Court, including:
 - (i) originating applications;
 - (ii) notices of application;
 - (iii) affidavits;
 - (iv) reports of a Court Officer;
 - (v) briefs of law;
 - (vi) books of authorities;
 - (vii) draft orders;
 - (viii) fiats; and
 - (ix) issued orders;
 - (d) "**Court Officer**" means the liquidator appointed by or reporting to the Court in this proceeding;
 - (e) "**Creditor List**" means the list of creditors to be compiled in accordance with the terms of the Implementation Order;
 - (f) "**Email**" means electronic mail transmitted to a specified addressee or addresses;
 - (g) "**Email Address List**" means the Word Format list provided for in paragraph 23 of this Protocol;

- (h) **"Hyperlink"** means an active link located within an Email message or on a website, by which means an interested person can click to be linked to a document or part of a document on the Case Website;
- (i) **"Implementation Order"** means the order of the Court to which this Protocol is scheduled, and by which this Protocol is implemented;
- (j) **"PDF Format"** means the Portable Document Format compatible with a number of programs, including Adobe Acrobat and Acrobat Reader;
- (k) **"Protocol"** means this Electronic Case Information and Service Protocol;
- (l) **"Request for Electronic Service"** or **"RES"** means a request in the form appended to this Protocol as Appendix 1;
- (m) **"Request for Facsimile Service"** or **"RFS"** means a request in the form appended to this Protocol as Appendix 2;
- (n) **"Request for Removal from Service List"** or **"RFR"** means a request in the form appended to this Protocol as Appendix 3;
- (o) **"Service List"** means the list to be created pursuant to paragraphs 16 to 19 of this Protocol;
- (p) **"Service List Keeper"** means the person(s) appointed to keep the Service List pursuant to paragraph 16 of this Protocol;
- (q) **"Supplementary Email Address List"** has the meaning given to it in paragraph 26(b) of this Protocol;
- (r) **"Supplementary Service List"** has the meaning given to it in paragraph 26(a) of this Protocol;
- (s) **"URL"** means a Uniform Resource Locator which acts as an address for a webpage or Hyperlink;
- (t) **"Web Host"** means that person or persons appointed by the Court Officer for the purposes of hosting and maintaining the Case Website and receiving and posting case information to the Case Website as provided for in the Implementation Order and in this Protocol; and
- (u) **"Word Format"** means a format compatible with Microsoft Word

CASE WEBSITE

- 3. The Case Website shall be established in accordance with the Implementation Order.
- 4. The Case Website shall be hosted by the Web Host.
- 5. The Case Website shall be designed to ensure easy public access thereto and to any documents posted thereon. The Case Website shall be specifically devoted to the posting, organization, storage and display of electronic versions of Court Documents and other related documents as provided for herein.
- 6. The Web Host shall post the following categories of documents, as served or to be served:
 - (a) originating applications;

- (b) notices of application;
 - (c) affidavits, including exhibits, and other material filed by a moving or responding party with respect to an application;
 - (d) briefs and written arguments filed by any party with respect to an application;
 - (e) books of authorities (where the Web Host, in its discretion, determines that a book of authorities should be posted);
 - (f) reports filed by the Court Officer;
 - (g) orders, fiats, endorsements and judgments;
 - (h) the current version of the Service List and Email Address List;
 - (i) the name and Email address of each of the Service List Keeper(s) and the Web Host(s); and
 - (j) any document that requires dissemination to interested parties, such as summaries of claims processes, proof of claim forms, notices of creditor meetings, plan disclosure statements, plans of reorganization and voting letters, as requested by a party or the Court Officer.
7. Documents that have been sealed by Court order and documents in respect of which sealing orders have been or are being requested shall not be posted on the Case Website.
 8. The Web Host may post other case-related information to the Case Website in its discretion. Nothing in this Protocol shall affect any requirements set out in any legislation or regulations with respect to the posting of documents to a website by the Court Officer.
 9. To the extent practicable, the Web Host shall post links to foreign proceedings related to this proceeding on the Case Website.
 10. If the Web Host is uncertain whether a document should be posted on the Case Website, the Web Host may seek directions from the Court.
 11. Any party intending to bring an application in this proceeding shall, if reasonably practicable, provide an electronic copy of Court Documents to be served to the Web Host for posting on the Case Website prior to service to facilitate service by use of Hyperlink.
 12. The Web Host shall use its best efforts to post documents provided to it by a party to these proceedings in PDF Format on the Case Website as soon as practicable.
 13. The Web Host shall maintain the Case Website for a period of at least six months after the earlier of the completion of this proceeding or the discharge of the Court Officer.
 14. The Web Host is entitled to charge for the time spent maintaining the Case Website at its usual hourly rates. No additional charges or fees may be claimed with respect to the establishment and maintenance of the Case Website.
 15. The Web Host shall use its best efforts to maintain the Case Website in a current and complete state. In addition to any other protection that may be available to the Web Host by statute or court order the Web Host shall incur no liability or obligation in carrying out the provisions of this Protocol and, in particular, with respect to the creation and maintenance of the Case Website, except as a result of any gross negligence or wilful misconduct on the part of the Web Host.

SERVICE LIST

16. Prior to serving notice of the Implementation Order, the Court Officer shall designate and identify, in conjunction with service thereof, a person or persons who shall be responsible for keeping the Service List in this proceeding (the "**Service List Keeper**").
17. Following service of the Implementation Order, the Service List Keeper shall prepare the initial Service List for this proceeding, which shall include:
 - (a) counsel for the applicant in the proceeding;
 - (b) the Court Officer appointed in the matter and counsel for the Court Officer; and
 - (c) counsel for any party who appeared at the application giving rise to the Implementation Order.
18. Thereafter, the Service List Keeper shall add to the Service List in a timely manner:
 - (a) any person completing and delivering to the Service List Keeper a Request for Electronic Service (or RES) in the form contained in Appendix 1;
 - (b) any person (other than legal counsel, who are required to receive service by Email) completing and delivering to the Service List Keeper a Request for Facsimile Service (or RFS) in the form contained in Appendix 2, in which they certify that they do not have access to Email; and
 - (c) any other person as the Court may order.
19. The Service List shall list names, addresses, Email addresses, facsimile numbers (where permitted pursuant to this Protocol) and telephone numbers (if available) of the persons thereon.
20. Upon adding a person to the Service List, the Service List Keeper shall send an Email (or where permitted, facsimile) message to that person identifying themselves as the Service List Keeper and advising that:
 - (a) the person has been placed upon the Service List,
 - (b) Court Documents will be validly served upon the person by Email (or where permitted, facsimile); and
 - (c) any person on the Service List may serve Court Documents on any other person on the Service List in accordance with this Protocol.
21. Any person on the Service List may request in writing that the Service List Keeper remove that person by delivering a Request for Removal from Service List (or RFR) in the form contained in Appendix 3. Upon receipt of any such request, the Service List Keeper shall comply with the request. Subject to order of the Court, upon removal, any such person will no longer be entitled to service of documents or notice of further proceedings.
22. Those persons who are interested in monitoring a proceeding but are not required to be served with Court Documents are not to be placed on the Service List. Such persons should monitor this proceeding by accessing the Case Website.

23. In addition to the Service List, the Service List Keeper shall create and maintain a document, capable of being copied in Word Format, which contains the up to date Email addresses of all persons on the Service List (the "**Email Address List**"). The purpose of the Email Address List is to allow persons on the Service List to copy and paste the Email addresses of the persons listed on the Service List into Emails for the purpose of serving Court Documents. This process is designed to avoid service of Court Documents using out of date or inaccurate Service Lists, and to discourage the undesirable practice of serving Court Documents by a "reply to all" on a previous Email.
24. The Service List Keeper shall, on a timely and periodic basis, provide an updated copy of the Service List and of the Email Address List to the Web Host for posting on the Case Website.
25. The Service List Keeper shall use its best efforts to maintain the Service List and Email Address List in a current and accurate state. In addition to any other protection that may be available to the Service List Keeper by reason of statute or court order, the Service List Keeper shall incur no liability in carrying out the provisions of this Protocol and, in particular, with respect to the creation or maintenance of the Service List and Email Address List, except for any gross negligence or wilful misconduct on its part.
26. During the course of this proceeding, certain applications may require service of Court Documents on respondents with an interest in that particular application only (for example, service on lien claimants with an interest only in a specific property which is the subject of a proposed sale approval and vesting order). In such circumstances:
 - (a) the party bringing the application shall prepare a service list identifying only the respondents that the applicant is required to serve or otherwise wishes to serve (a "**Supplementary Service List**");
 - (b) the party bringing the application shall prepare an Email address list corresponding to the Supplementary Service List (a "**Supplementary Email Address List**");
 - (c) the body of the original service Email shall note that the entire Service List has not been served;
 - (d) the party bringing the application shall append the Supplementary Service List and Supplementary Email Address List to the original service Email; and
 - (e) the affidavit of service with respect to that application shall include the Supplementary Service List.

SERVICE OF DOCUMENTS

27. Unless otherwise ordered by the Court, and except as provided herein, Email shall be the required mechanism to serve Court Documents on those persons referenced on the Service List.
28. All Court Documents shall be served by Email by way of a PDF Format file attached to, or by Hyperlink to such Court Document(s) embedded in, a service Email.
29. Any party wishing to serve a Court Document in this proceeding shall serve them upon the recipients listed in the current the Email Address List posted on the Case Website, as well as any recipients listed in the Service List entitled to service other than by e-mail pursuant to this Protocol. If possible, the serving party shall first make enquiries of the Service List Keeper to determine if the Service List Keeper is aware of any person who has filed a request to be added to the Service List or the Email Address List who has not yet been added.

30. Originating Applications, Notices of Application and any other document specified by court order shall be appended in PDF Format to the service Email.
31. All other documents shall, unless it is impracticable to do so by reason of time constraints or otherwise, be served by way of a Hyperlink embedded in the service Email, in accordance with the following:
- (a) Any party filing material with the Court in these proceedings may request that the Web Host post documents (including Court Documents) to the Case Website. Any such document shall be provided in PDF Format. The Web Host shall post such documents as soon as practicable. The Web Host shall retain the discretion to refuse documents which do not appear to comply with the requirements of this Protocol. The Web Host shall inform the party providing documents immediately upon posting, and provide Hyperlink information for each such document.
 - (b) Where a party is serving more than one document by Email by way of Hyperlink, the service Email shall specify each document being served and shall include a separate Hyperlink for each such document being served.
32. A service Email shall:
- (a) clearly state in the subject line of the Email:
 - (i) notification that a Court Document is being served;
 - (ii) a recognizable short form name of this proceeding; and
 - (iii) the nature of this proceeding or the order being served;
 - (b) identify the document(s) being served and:
 - (i) where the document(s) is/are attached, so indicate, with the identified documents attached in PDF Format with identifying filenames;
 - (ii) where the document(s) is/are being served by Hyperlink, so indicate and link the document(s) by Hyperlink to the Case Website. Where a party is serving more than one document in this manner, the service Email shall specify each document being served and shall include a separate Hyperlink for each such document being served;
 - (c) identify the party serving the Court Document; and
 - (d) provide the date of the proceeding and any other specific information with respect to the proceeding such as, for example, a specific commencement time or court location if known, in substantial accordance with format set forth in Appendix 4.
33. Where service by facsimile is authorized:
- (a) the transmission shall contain a copy of the service Email and of any document attached thereto;
 - (b) the facsimile cover sheet shall contain the following notation:

You are being served by fax with court documents, pursuant to the Order of the Court of Queen's Bench for Saskatchewan made <insert date> and in particular, the provisions of paragraphs <insert paragraph numbers> thereof. You may view that Order at the Case

Website, and this transmission and reference to that document constitutes service of that Order upon you.

Particulars of the documents to be served and other information related to the associated Court matter are contained in the message following.

Please note that documents referenced in the following message but which are not attached to this transmission may be viewed at the Case Website located at <insert a list of documents and the URL for each document>.

34. Upon serving documents not already posted on the Case Website, the serving party shall immediately send an electronic copy of each to the Web Host, with a request to post the documents.
35. If a serving party receives notification of an Email or facsimile transmission failure, they shall make reasonable efforts to ensure that successful transmission of the Court Document occurs or that the Court Documents and related information come to the attention of the intended recipient or his or her firm.
36. Even though a Court Document has been served in accordance with this Protocol, a person may show that the Court Document:
 - (a) did not come to the person's notice;
 - (b) came to the person's notice later than when it was served or effectively served; or
 - (c) was incomplete or illegible.
37. Each party serving a Court Document in accordance with this Protocol shall prepare an affidavit of service containing the particulars of the service including the Service List served, the Email addresses to which Court Documents were sent and the time of the Emailing. A copy of the affidavit of service shall be filed with the Court.
38. Where, by the nature of the matter before the Court, it is appropriate to serve persons that are not on the Service List, any Court Document may be served as follows:
 - (a) if the person is listed on the Creditor List, by prepaid ordinary mail, courier, personal delivery, facsimile or other electronic transmission to such person at their respective addresses as last shown on the Creditor List, in which case service shall be deemed to have been effected if sent by personal delivery, on the date of delivery; if sent by courier, facsimile or other electronic transmission, on the next business day following the date of forwarding thereof; or if sent by prepaid ordinary mail, on the seventh day after mailing;
 - (b) if the person is not listed on the Creditor List, by prepaid ordinary mail, courier, personal delivery, facsimile or other electronic transmission to such persons at their respective addresses as last shown on the records of the applicant or the Court Officer or as otherwise publicly available; and
 - (c) otherwise, by service effected in accordance with *The Court of Queen's Bench Rules*.

APPENDIX 1

REQUEST FOR ELECTRONIC SERVICE ("RES")

Please refer to important notes below.

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN	
In the Matter of the ☐ CCAA ☐ Receivership ☐ BIA Proposal ☐ Other _____ of: XYZ Company Ltd (the "Corporation") < Insert URL for Case Website >	
Legal Counsel to Person listed below: (please provide firm name, lawyer's name, address and Email address) Please indicate your preference (by checking applicable box below): ☐ Serve counsel only ☐ Serve counsel & person listed below	Law Firm Name: _____ Lawyer Name: _____ Address: _____ _____ Email address: _____
Name of Person requesting Service: (please provide full legal name, address, Email address and describe legal relationship to the Corporation)	Name: _____ Address: _____ _____ Email address: _____
Date: (insert current date)	Date: _____

I acknowledge having read the Saskatchewan Court of Queen's Bench Electronic Case Information and Service Protocol. I hereby request to be placed on the Service List. By so doing, I agree that the person(s) named above that each accepts service by electronic means in this matter and will be bound by that service:

Name and Position of Person Making Request

PLEASE RETURN SIGNED COPY OF FORM TO *<insert name of Service List Keeper here>*: *<Email address>* 1 306-xxx-xxxx

IMPORTANT NOTES

1. The Service List is intended to provide a timely and efficient method for effecting service in bankruptcy and insolvency in accordance with the Electronic Case Information and Service Protocol, a copy of which has been posted at *.
2. Persons interested solely in monitoring the proceedings should do so by reference to the Case Website noted above and should not request to be placed on the Service List.
3. By filing this RES form, you hereby agree that that you and any other person referenced herein accepts service by facsimile transmsion as the sole means of service and will be bound by that service.
4. Parties residing outside of Saskatchewan should consider whether, based on substantive law, the delivery of an RES constitutes an attornment to the Saskatchewan proceedings.

APPENDIX 2

REQUEST FOR FACSIMILE SERVICE ("RFS")

(only available to parties not having access to Email)

Please refer to important notes below.

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN	
In Bankruptcy and Insolvency	
In the Matter of the	
☐ CCAA ☐ Receivership ☐ BIA Proposal ☐ Other _____	
of:	
XYZ Company Ltd (the "Corporation")	
< Insert URL for Case Website >	
Name of Person requesting Service: (please provide full legal name, address, Email address and describe legal relationship to the Corporation)	Name: _____ Address: _____ _____ Facsimile number: _____
Date: (insert current date)	Date: _____

I acknowledge having read the Saskatchewan Court of Queen's Bench Electronic Case Information and Service Protocol. I hereby request to be placed on the Service List.

I hereby certify that I do not have access to Email, and that I require to be given notice of and to be served with documents by way of facsimile transmission.

By so doing, I agree that I accept service by facsimile in this matter and will be bound by that service:

Name and Position of Person Making Request

PLEASE RETURN SIGNED COPY OF FORM TO <insert name of Service List Keeper here>: 306-
xxx-xxxx

IMPORTANT NOTES:

1. The Service List is intended to provide a timely and efficient method for effecting service in bankruptcy and insolvency in accordance with the Electronic Case Information and Service Protocol, a copy of which has been posted at *.
2. Persons interested solely in monitoring the proceedings should do so by reference to the Case Website noted above and should not request to be placed on the Service List.
3. By filing this RFS form, you hereby agree that you accept service by facsimile transmission as the sole means of service and will be bound by that service.
4. Parties residing outside of Saskatchewan should consider whether, based on substantive law, the delivery of an RFS constitutes an attornment to the Saskatchewan proceedings.

APPENDIX 3

REQUEST FOR REMOVAL FROM SERVICE LIST ("RFR")

Please refer to important notes below.

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN	
In Bankruptcy and Insolvency	
In the Matter of the	
☐ CCAA ☐ Receivership ☐ BIA Proposal ☐ Other _____	
of:	
XYZ Company Ltd (the "Corporation")	
< Insert URL for Case Website >	
Name of Person or Counsel requesting Removal from Service List: (please provide full legal name, address, Email address (or facsimile number))	Name: _____ Address: _____ _____ Email address: _____
Date: (insert current date)	Date: _____

I wish to opt out of all further notice of these proceedings, and hereby request to be removed from the Service List.

I understand and acknowledge that delivery of this request to any party to this proceeding relieves all parties to this proceeding from any requirement to provide further notice of any steps in these proceedings to me.

I hereby represent that I am the person named above or have authority to deliver this request on behalf of such person.

Name and Position of Person Making Request

PLEASE RETURN SIGNED COPY OF FORM TO <insert name of Service List Keeper here> <insert Email address of Service List Keeper here> 306-xxx-xxxx

APPENDIX 4

FORMAT FOR SERVICE EMAILS

TO: <Email addresses of parties to be served>

FROM: <Email address of party serving documents>

SUBJECT: Service of Court Documents - QB No. * of * (<Name of Judicial Centre>) - <Nature of Proceeding or Order Being Served>

ATTACHMENTS: <Documents Attached to Email>

You are hereby served with the Court Documents referenced below by <Name of Counsel> of <Name of Firm>, legal counsel for <Name of Party Represented> <Email address for service of counsel serving>.

The following Court Documents for service are attached to this Email:

<u>Name of Document</u>	<u>Filename</u>
<enumerated list of documents and filenames>	

The following Court Documents for service are posted on the Case Website and can be accessed by way of the links embedded in the filenames below:

<u>Name of Document</u>
<enumerated list of documents with embedded Hyperlinks>

[If required] This matter will be heard on <day>, <date> at <time> before <Justice of the Court if known> at the courthouse at <City>, located at <address>.

This Email is effecting service of court documents pursuant to the Order of the Court of Queen's Bench made <insert date> and in particular, the provisions of paragraphs <insert paragraph numbers> thereof. You may view that Order by clicking <here (with embedded link)>, and this Email constitutes service of that order upon you.

You are receiving this Email because you have filed a request for service of documents in this proceeding with <Name of Service List Keeper>. If you do not wish further notice of these proceedings (which includes service of all court documents) you may contact <Name of Service List Keeper> at <Email address with embedded link>, and ask to be removed.

TAB 4

COURT FILE NUMBER Q.B. No. 1455 of 2019

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE SASKATOON

IN THE MATTER OF SECTION 204 OF *THE BUSINESS CORPORATIONS ACT*, RSS 1978, c B-10

AND IN THE MATTER OF THE VOLUNTARY LIQUIDATION AND DISSOLUTION OF PRIMEWEST
MORTGAGE INVESTMENT CORPORATION

CLAIMS PROCESS ORDER

Before the Honourable Mr. Justice N.G. Gabrielson in Chambers the 10th day of January, 2020.

Upon application by Mike Russell and Michelle Tobin, counsel on behalf of the Applicant, KPMG Inc. (the "**Liquidator**"), and upon hearing Mike Russell, counsel on behalf of the Liquidator, and upon hearing counsel present on behalf of any other interested party, and upon reading the Notice of Application dated December 18, 2019, the First Report of the Liquidator dated December 18, 2019, the Brief of Law on behalf of the Liquidator, and the draft Claims Process Order (collectively, the "**Application Materials**"), all filed with proof of service; and upon reading the pleadings and proceedings herein;

The Court Orders:

SERVICE

1. Service of the Application Materials upon all parties listed on the Service List established in these proceedings (a copy of which is filed herewith) shall be and is hereby deemed to be good, timely and sufficient.

DEFINITIONS

2. All capitalized terms used and not otherwise defined herein shall have the same meanings as defined in the Liquidation Plan (the "**Liquidation Plan**"), as appended as Schedule "A" to the Order of the Honourable Mr. Justice N.G. Gabrielson dated October 31, 2019, and the Amended and Restated Order of the Honourable Mr. Justice N.G. Gabrielson dated November 25, 2019 (collectively, the "**Liquidation Order**"). Where a capitalized term is defined herein and in the Liquidation Plan, the definition contained herein shall govern the interpretation of this order.
3. For the purposes of this Claims Process Order the following terms shall have the following meanings:
 - (a) "**Case Website**" means the website referenced in paragraph 33 of the Liquidation Order and as defined in the Electronic Case Information and Service Protocol attached as Schedule "C" thereto;
 - (b) "**Claim**" shall have the meaning ascribed to it at Article 1.1 of the Liquidation Plan;
 - (c) "**Claim Amount Notice**" means the Claim Amount Notice referred to herein, forming part of the Claims Package where applicable, substantially in the form attached hereto as Schedule "B";
 - (d) "**Claims Bar Date**" means 4:00 p.m. (Saskatchewan Time) on Tuesday, March 10, 2020;

- (e) **"Claims Package"** means the materials to be provided by the Liquidator, which materials shall include the Notice to Creditor, the Claim Amount Notice (if applicable), a blank Proof of Claim Form with a Proof of Claim instruction letter and such other materials as the Liquidator may consider appropriate or desirable;
- (f) **"Claims Process"** has the meaning ascribed to it at Article 1.1 of the Liquidation Plan, specifically, the process established by the Liquidator and approved by the Court herein for the identification, resolution and barring of Claims;
- (g) **"Claims Process Order"** means this Order;
- (h) **"Court"** means the Court of Queen's Bench for Saskatchewan;
- (i) **"Creditor"** means any Person identified by the Liquidator as having a Claim or any Person otherwise asserting a Claim, including a transferee or assignee of a transferred Claim that is recognized as a Creditor in accordance with paragraph 26 hereof, or a trustee, executor, liquidator, receiver, receiver and manager or other person acting on behalf of or through such Person;
- (j) **"Directors"** has the meaning ascribed to it at Article 1.1 of the Liquidation Plan;
- (k) **"Effective Date"** has the meaning ascribed to it at Article 1.1 of the Liquidation Plan;
- (l) **"Liquidation Plan"** has the meaning ascribed to it at paragraph four of the Liquidation Order;
- (m) **"Liquidation Proceedings"** means the Liquidation proceedings respecting PrimeWest Mortgage Investment Corporation (the **"Corporation"**) before the Court;
- (n) **"Notice to Creditor"** means the notice to be sent by the Liquidator to the Creditors, or to be published, as described herein, substantially in the form attached as Schedule "A" hereto;
- (o) **"Notice of Dispute"** means the notice referred to herein, substantially in the form attached as Schedule "E" hereto, which may be delivered to the Liquidator by a Creditor disputing a Notice of Revision or Disallowance;
- (p) **"Notice of Revision or Disallowance"** means the notice referred to herein, substantially in the form attached as Schedule "D" hereto, advising a Creditor that the Liquidator has revised or disallowed all or part of such Creditor's Claim as set out in its Proof of Claim;
- (q) **"Person"** has the meaning ascribed to it at Article 1.1 of the Liquidation Plan;
- (r) **"Proof of Claim"** means the Proof of Claim referred to herein to be attached to the Claim Amount Notice and filed by certain Creditors substantially in the form attached as Schedule "C" hereto; and
- (s) **"Proven Claim"** has the meaning ascribed to it at Article 1.1 of the Liquidation Plan.

CLAIMS PROCESS

4. The Claims Process as described herein is hereby approved.

NOTICE OF CLAIMS PACKAGE

5. Within five (5) Business Days of the date of this Order, the Liquidator shall send the Claims Package to each Creditor identified from the Liquidator's review of the books and records of the Corporation as of the Effective Date.
6. The Proof of Claim to be delivered to each such Creditor as part of the Claims Package shall provide general information and instructions in respect of the filing of Claims, under a cover letter advising the Creditor:
 - (a) that it has been identified by the Liquidator as a Person having a Claim, such that it is a "Creditor" as that term is defined in the Claims Process Order;
 - (b) of the reason(s) why the Liquidator has identified it as a Creditor; and
 - (c) that it is bound by and must comply with the Claims Process Order.
7. The Liquidator shall cause the Notice to Creditor to be advertised in the *Saskatoon Star Phoenix*, the *Regina Leader-Post* and either *The Globe and Mail* or the *National Post* within five (5) Business Days of the date of this Order, and from time to time as required by the Liquidation Plan.
8. The Liquidator shall cause the Claims Package and a copy of this Order to be posted on the Case Website within five (5) Business Days of the date of this Order.
9. To the extent any Creditor requests documents relating to the Claims Process prior to the Claims Bar Date or if the Liquidator becomes aware of any further Claims, the Liquidator shall forthwith direct the Creditor to the Claims Package posted on the Case Website or otherwise respond to the request for the Claims Package as may be appropriate in the circumstances.
10. The forms of Notice to Creditor, Claim Amount Notice, Proof of Claim, Notice of Revision or Disallowance and Notice of Dispute attached hereto as Schedules "A" to "E", respectively, are hereby approved. Despite the foregoing, the Liquidator may, from time to time, make non-substantive changes to these forms as the Liquidator considers necessary or desirable.
11. The sending to the Creditors and publication of the Claims Package in accordance with this Order, and completion of the other requirements of this Order, shall constitute good and sufficient service and delivery of notice of this Order and the Claims Bar Date on all Persons who may be entitled to receive notice and who may wish to assert a Claim, and no other notice or service need be given or made and no other document or materials need be sent to or served upon any Person in respect of this Order.
12. The delivery of a Claims Package by the Liquidator to a Person shall:
 - (a) bind such Person as a "Creditor", as that term is defined herein, to comply with the terms of this Claims Process Order; and
 - (b) not constitute an admission by the Corporation, the Directors or the Liquidator of any liability.

FILING PROOFS OF CLAIM

13. All Creditors must deliver a Proof of Claim to the Liquidator on or before the Claims Bar Date or such later date as the Liquidator may agree in writing or the Court may otherwise direct. Any Creditor who fails to deliver a Proof of Claim to the Liquidator in accordance with this Order shall:

- (a) be and is hereby forever barred, estopped and enjoined from asserting or enforcing any Claim, and all such Claims shall be forever extinguished; and
- (b) not be entitled to receive further notice with respect to the Claims Process or the Liquidation Proceedings.

This paragraph 13 shall survive any termination of the Liquidation Proceedings.

- 14. A Proof of Claim must be filed in respect of every Claim, regardless of whether or not a legal proceeding in respect of a Claim has been previously commenced, and regardless of whether or not the Person is able to quantify such Claim.
- 15. Each Person shall include any and all Claims in a single Proof of Claim.

DEEMED ACCEPTANCE OF CLAIMS

- 16. Notwithstanding anything else in this Order, the Liquidator may provide a Claim Amount Notice to a Creditor setting out the amount of any Claim that Creditor has against the Corporation according to the books and records of the Corporation. If a Creditor wishes to object to the amount listed on the Claim Amount Notice in respect of its Claim, the Creditor must, on or before the Claims Bar Date, deliver a Proof of Claim to the Liquidator. If a Creditor does not deliver a Proof of Claim in respect of a Claim included in a Claim Amount Notice in accordance with this Order, the amount of that Creditor's Claim as set out in the Claim Amount Notice shall be deemed to have been accepted by the Creditor, without recourse, and the Claim shall be deemed to be such Creditor's Proven Claim without any further act of any such Creditor.
- 17. The Liquidator may revise the amount of a Claim to correct any error, defect or omission in a Claim Amount Notice. If the Liquidator revises the amount of a Claim, then it shall send a revised Claim Amount Notice to the affected Creditor, with an extension to the Claims Bar Date or further instructions, if required.

ADJUDICATION OF CLAIMS

- 18. The Liquidator shall review all Proofs of Claim received on or before the Claims Bar Date and shall accept, revise or reject each Claim by notification to the Creditor in writing. If the Liquidator intends to revise or reject a Claim, the Liquidator shall notify the Creditor who has delivered such Proof of Claim that such Claim as set out therein has been revised or rejected and the reasons therefor, by sending a Notice of Revision or Disallowance to the Creditor:
 - (a) in the case of a Claim against any one or more of the Directors, by no later than 60 Calendar Days after the Claims Bar Date; and
 - (b) in the case of all other Claims, by no later than 90 Calendar Days after the Claims Bar Date.
- 19. Notwithstanding paragraph 18 of this Order, the Liquidator may, before sending a Notice of Revision or Disallowance and in consultation with the Inspectors, attempt to settle by consent with a Creditor any Claim that the Liquidator intends to revise or reject. In all such cases, the settlement amount agreed upon by the Liquidator, in consultation with the Inspectors, shall be that Creditor's Proven Claim.
- 20. Any Creditor who intends to dispute a Notice of Revision or Disallowance shall:

- (a) deliver a completed Notice of Dispute to the Liquidator by the later of 15 Calendar Days after receipt of a Notice of Revision or Disallowance or such other date as may be agreed to by the Liquidator in writing; and
 - (b) within 15 Calendar Days of delivery of the Notice of Dispute, file and serve on counsel for the Liquidator a Notice of Application returnable in the Liquidation Proceedings, along with supporting affidavit materials, seeking a date for review by the Court of the Creditor's Claim that was disallowed or revised by the Liquidator. The Court shall, upon receipt of such Notice of Application, set a hearing date for such application in accordance with the Court's availability and, upon considering any submissions by counsel, the Court may issue a fiat prescribing the evidentiary and procedural parameters for such hearing or make an order prescribing such evidentiary and procedural parameters at such hearing.
21. Where a Creditor that receives a Notice of Revision or Disallowance does not file a completed Notice of Dispute and file and serve the Notice of Application and supporting affidavit(s) by the deadlines set out herein, such Creditor's Claim shall be deemed to be as set out in the Notice of Revision or Disallowance.
22. Where the Liquidator determines that it is unable to accept, revise or reject a Claim summarily, the Liquidator shall file and serve on the Creditor a Notice of Application returnable in the Liquidation Proceedings seeking the direction of the Court.
23. A Claim shall not be a Proven Claim unless and until the Claim has been allowed or otherwise finally determined in accordance with paragraph 16 or paragraphs 18-22.

SET-OFF

24. The Liquidator may set off (whether by way of legal, equitable or contractual set-off) against payments or other distributions to be made to any Creditor any claims of any nature whatsoever that the Corporation or Directors may have against such Creditor; however, neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Corporation or Directors of any such claim that the Corporation or Directors may have against such Creditor.

NOTICE OF TRANSFEREES

25. Leave is hereby granted, from the date of this Order until seven (7) days prior to the Claims Bar Date, to permit a Creditor to provide written notice to the Liquidator of an assignment or transfer of a Claim.
26. Subject to the terms of any subsequent Order of this Court, if, after the Effective Date, the holder of a Claim transfers or assigns the whole of such Claim to another Person, the Liquidator shall not be obligated to give notice to or otherwise deal with the transferee or assignee of such Claim in respect thereof unless and until actual notice of transfer or assignment, together with satisfactory evidence of such transfer or assignment, shall have been delivered in accordance with paragraph 24 hereof and acknowledged by the Liquidator in writing, and thereafter such transferee or assignee shall for the purposes hereof constitute the "Creditor" in respect of such Claim. Any such transferee or assignee of a Claim shall be bound by any notices given or steps taken in respect of such Claim in accordance with this Order prior to receipt and acknowledgement by the Liquidator of satisfactory evidence of such transfer or assignment. A transferee or assignee of a Claim takes the Claim subject to any rights of set-off to which the Corporation or Directors may be entitled with respect to such Claim. For greater certainty, a transferee or assignee of a Claim is not entitled to set-off, apply, merge, consolidate or combine any Claims assigned or transferred to it against or on account or in reduction of any amounts owing by such Person to the Corporation or Directors. Reference to transfer in this Order includes a transfer or assignment whether absolute or intended as security.

SERVICE AND NOTICE

27. The Liquidator may, unless otherwise specified by this Order, serve and deliver the Claims Package, any letters, notices or other documents to Creditors or any other interested Person by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile transmission or email to such Persons at the physical or electronic address, as applicable, last shown on the books and records of the Corporation or set out in such Creditor's Proof of Claim. Any such service and delivery shall be deemed to have been received: (i) if sent by ordinary mail, the fifth Business Day after mailing; (ii) if sent by courier or personal delivery, on the next Business Day following dispatch; and (iii) if delivered by facsimile transmission or by email by 4:00 p.m. on a Business Day, on such Business Day and if delivered after 4:00 p.m. or other than on a Business Day, on the following Business Day.
28. Any notice or communication required to be provided or delivered by a Creditor to the Liquidator under this Order shall be in writing in substantially the form, if any, provided for in this Order and will be sufficiently given only if delivered by prepaid registered mail, courier, personal delivery, facsimile transmission or email addressed to:
1. **The Liquidator, KPMG Inc.**
Bow Valley Square II, 3100, 205 – 5th Avenue SW, Calgary, Alberta, T2P 4B9
Attention: Neil Honess
Email: neilhoness@kpmg.ca
Attention: Cristina Pimienta
Email: cpimienta@kpmg.ca
 2. **The W Law Group LLP, counsel to the Liquidator**
Suite 300, 110 – 21st Street East, Saskatoon, SK, S7K 0B6
Attention: Mike Russell
Email: mrussell@wlawgroup.com
Attention: Michelle Tobin
Email: mtobin@wlawgroup.com
29. Any such notice or communication delivered by a Creditor shall be deemed to be received upon actual receipt thereof by the Liquidator and Counsel to the Liquidator during normal business hours on a Business Day or if delivered outside of normal business hours, the next Business Day.
30. If during any period during which notices or other communications are being given pursuant to this Order a postal strike or postal work stoppage of general application should occur, such notices or other communications sent by ordinary mail and then not received shall not, absent further Order of this Court, be effective and notices and other communications given hereunder during the course of any such postal strike or work stoppage of general application shall only be effective if given by courier, personal delivery, facsimile transmission or email in accordance with this Order.
31. In the event this Order is later amended by further Order of this Court, the Liquidator may post such further Order on the Case Website and such posting shall constitute adequate notice to creditors of such amended Claims Process.

PROTECTIONS FOR LIQUIDATOR

32. In carrying out the terms of this Order, the Liquidator shall have all of the protections given to it by *The Business Corporations Act*, RSS 1978, c B-10, the Liquidation Order and as an officer of this Court, including the stay of proceedings in its favour.

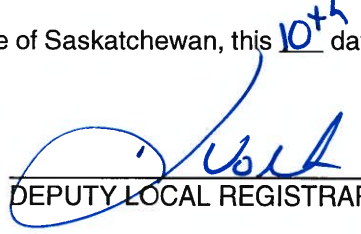
33. The Liquidator shall incur no liability or obligation as a result of the carrying out of the provisions of this Order.
34. The Liquidator shall be entitled to rely on the books and records of the Corporation, and any information provided by the Corporation, all without independent investigation. The Liquidator shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information.

GENERAL PROVISIONS

35. The Corporation and the Directors and their respective employees, agents and representatives and any other Person given notice of this Order shall fully cooperate with the Liquidator in the exercise of its powers and the discharge of its duties and obligations under this Order.
36. Nothing in this Order shall prejudice the rights and remedies of any Directors or other Persons under any applicable insurance policy or prevent or bar any Person from seeking recourse against or payment from the Corporation's insurance and any Director's liability insurance policy or policies that exist to protect or indemnify the Directors or other Persons, whether such recourse or payment is sought directly by the Person asserting a Claim from the insurer or derivatively through the Director or the Corporation; provided, however, that nothing in this Order shall create any rights in favour of such Person under any policies of insurance nor shall anything in this Order limit, remove, modify or alter any defence to such Claim available to the insurer pursuant to the provisions of any insurance policy or at law; and further provided that any Claim or portion thereof for which the Person receives payment directly from, or confirmation that the Person is covered by, the Corporation's insurance or any Director's liability insurance or other liability insurance policy or policies that exist to protect or indemnify the Directors or other Persons shall not be recoverable as against the Corporation or Director as the case may be.
37. The Liquidator is hereby authorized to use reasonable discretion as to the adequacy of compliance with respect to the manner in which any forms delivered hereunder are completed and executed and the time in which they are submitted, and may, where it is satisfied that a Claim has been adequately proven, waive strict compliance with the requirements of this Order, including in respect of the completion, execution and time of delivery of such forms, and may request any further documentation from a Creditor that the Liquidator may require in order to enable it to determine the validity of a Claim.
38. All references as to time herein shall mean local time in Saskatoon, Saskatchewan, Canada ("**Saskatchewan Time**"), and any reference to an event occurring on a Business Day shall mean prior to 4:00 p.m. on such Business Day unless otherwise indicated herein.
39. Any Claim denominated in foreign currency shall be converted to Canadian dollars at the Bank of Canada noon exchange rate in effect at the Effective Date.
40. Notwithstanding any other provisions of this Order, the solicitation by the Liquidator of Proofs of Claim and the filing by any Creditor of any Proof of Claim shall not, for that reason only, grant any Person any standing in these Liquidation Proceedings.
41. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Corporation, the Liquidator and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested:

- (a) to make such orders and to provide such assistance to the Corporation and to the Liquidator, as an officer of this Court, as may be necessary or desirable to give effect to this Order;
 - (b) to grant representative status to the Liquidator in any foreign proceeding; and
 - (c) to assist the Corporation and the Liquidator and their respective agents in carrying out the terms of this Order.
42. The Liquidator shall be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and the Liquidator is authorized and empowered to act as a representative in respect of these proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
43. The Liquidator and any interested Person may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.
44. This Order and all of its provisions are effective as of 12:01 a.m. Saskatchewan Time on the date of the issuance of this Order.

ISSUED at the City of Saskatoon, in the Province of Saskatchewan, this 10th day of January, 2020.


DEPUTY LOCAL REGISTRAR

This Order was delivered by:

Name of firm:	The W Law Group LLP
Name of lawyer in charge of file:	Mike Russell and Michelle Tobin
Address of legal firm:	Suite 300, 110 – 21st Street East, Saskatoon, SK S7K 0B6
Telephone number:	(306) 244-2242
E-mail address:	mrussell@wlawgroup.com / mtobin@wlawgroup.com

TO: ALL RECIPIENTS LISTED ON THE SERVICE LIST

SCHEDULE "A"
(NOTICE TO CREDITOR)
NOTICE TO CREDITOR

[Date]

TO: [NAME AND ADDRESS OF CREDITOR OR INTERESTED PARTY]

RE: IN THE MATTER OF A CLAIMS PROCESS ORDER UNDER THE VOLUNTARY LIQUIDATION
AND DISSOLUTION OF PRIMEWEST MORTGAGE INVESTMENT CORPORATION

On October 24, 2019, **PRIMEWEST MORTGAGE INVESTMENT CORPORATION** (the "**Corporation**") commenced voluntary liquidation under *The Business Corporations Act*, RSS 1978, c B-10 (the "**Liquidation**") and, by Order of the Court of Queen's Bench for Saskatchewan dated October 31, 2019, continued the Liquidation under Court supervision (the "**Liquidation Proceedings**"), with KPMG Inc. appointed as the Liquidator (the "**Liquidator**").

As part of the Liquidation Proceedings, the Court of Queen's Bench for Saskatchewan has ordered that a Claims Process be initiated in order that all claims against the Corporation and its directors and officers can be determined.

Only a creditor who establishes its claim against the Corporation or its directors and officers in accordance with the Claims Process will be entitled to receive a distribution on account of such claim.

The Order establishing the Claims Process granted by the Honourable Mr. Justice N.G. Gabrielson on January 10, 2020, as well as all relevant instructions and documents related to the Claims Process, including the Proof of Claim form, can be obtained from the Liquidator's webpage located at <https://home.kpmg.ca/primewest> or by contacting the Liquidator at:

Bow Valley Square II, 3100, 205 – 5th Avenue SW, Calgary, Alberta, T2P 4B9
Attention: Neil Honess
Email: neilhoness@kpmg.ca
Attention: Cristina Pimienta
Email: cpimienta@kpmg.ca

The deadline for a creditor to submit a Proof of Claim, if required under the Claim Procedure, in respect of any claim it has, or believes it has, against the Corporation or its directors and officers is 4:00 p.m. (Saskatchewan Time) on Tuesday, March 10, 2020 (the "**Claims Bar Date**").

Claims which are not submitted to the Liquidator by way of Proof of Claim, or otherwise acknowledged by a Claim Amount Notice, on or before the Claims Bar Date will be forever barred and Creditors holding such Claims will be forever barred from making or enforcing any Claim against the Corporation or its directors or officers and the Claim shall be forever released and extinguished.

Yours truly,

SCHEDULE "B"

(CLAIM AMOUNT NOTICE)

COURT FILE NUMBER Q.B. No. 1455 of 2019

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE SASKATOON

IN THE MATTER OF SECTION 204 OF *THE BUSINESS CORPORATIONS ACT*, RSS 1978, c B-10

**AND IN THE MATTER OF THE VOLUNTARY LIQUIDATION AND DISSOLUTION OF PRIMEWEST
MORTGAGE INVESTMENT CORPORATION**

CLAIM AMOUNT NOTICE

Full Legal Name of Creditor: _____

Pursuant to the Order of the Honourable Mr. Justice N.G. Gabrielson, pronounced in the above noted proceedings on January 10, 2020, and as may be amended, restated or supplemented from time to time (the "**Claims Process Order**"), **KPMG INC.**, in its capacity as Liquidator of **PrimeWest Mortgage Investment Corporation** (the "**Corporation**"), hereby gives you notice that the Liquidator has determined your Claim as follows:

	SECURED (\$CDN)	UNSECURED (\$CDN)
Total Claim		

If you do not agree with this Claim Amount Notice, please take note of the following:

If you intend to dispute this Claim Amount Notice, you must deliver a Proof of Claim in the form attached hereto, by prepaid registered mail, personal delivery, email (in PDF format) or courier to the address listed below so that such Proof of Claim is received by the Liquidator by 4:00 p.m. (Saskatchewan Time) on Tuesday, March 10, 2020, being the Claims Bar Date, or such other date as provided in the Claims Process Order or as may be agreed by the Liquidator. The form of Proof of Claim is attached to this Notice.

The address to send the Proof of Claim to is:

Bow Valley Square II, 3100, 205 – 5th Avenue SW, Calgary, Alberta, T2P 4B9
Attention: Neil Honess
Email: neilhoness@kpmg.ca
Attention: Cristina Pimienta
Email: cpimienta@kpmg.ca

If you do not deliver a Proof of Claim by the time specified, the nature and amount of your Claim, if any, shall be as set out in this Claim Amount Notice for distribution purposes.

If you fail to take action before the Claims Bar Date, this Claim Amount Notice will be binding upon you.

DATED this _____ day of _____, 20__.

KPMG INC.

In its capacity as Court-appointed Liquidator of the Corporation, and not in its personal or corporate capacity

Per: _____

Name: _____

Title: _____

SCHEDULE "C"

PROOF OF CLAIM

For claims arising before October 25, 2019, relating to PrimeWest Mortgage Investment Corporation.

(See Below for Instructions)

Regarding the claim of _____ (referred to
in this form as "**the creditor**"). (name of creditor)

All notices or correspondence regarding this claim to be forwarded to the creditor at the following address:

Telephone: _____ Fax: _____

I, _____ Residing in the _____
(name of person signing claim) (city, town, etc.)

of _____ In the province of _____
(name of city, town, etc.)

Do hereby certify that:

1. I am the creditor
☐

or

I am _____ of the creditor.
(if an officer or employee of the company, state position or title)

2. I have knowledge of all the circumstances connected with the Claim, as defined in the
Claims Procedure Order, dated _____, referred to in this form.
☐

3. I have a Claim against PrimeWest Mortgage Investment Corporation (the "**Corporation**"), specifically:

☐

(a) a Claim against the Corporation;

☐

(b) a claim against the directors and officers of the Corporation.

4. As at October 25, 2019, the Corporation was and still is indebted to the creditor in the sum of \$_____ CDN as shown by the statement of account attached hereto and marked "Schedule A". Claims should **not** include the value of goods and/or services supplied after October 25, 2019. If a creditor's claim is to be reduced by deducting any counter claims to which the Corporation is entitled and/or amounts associated with the return of equipment and/or assets by the Corporation, please specify. All claims against directors and officers must include full particulars of the claim together with supporting documentation.

5. The statement of account must specify the vouchers or other evidence in support of the claim including the date and location of the delivery of all services and materials. Any claim for interest must be supported by contractual documentation evidencing the entitlement to interest.

6. ☐ A. **Unsecured claim.** \$_____. In respect to the said debt, the creditor does not and has not held any assets as security.

☐ B. **Secured claim.** \$_____. In respect of the said debt, the creditor holds assets valued at \$_____ as security:

Provide full particulars of the security, including the date on which the security was given and the value at which the creditor assesses the security together with the basis of valuation, and attach a copy of the security documents as Schedule "B".

Dated at _____, this ____ day of _____, 2020.

(Insert city)

Witness

(signature of individual completing the form)

Must be signed and witnessed

Instructions for Completing Proof of Claim Forms

In completing the attached form, your attention is directed to the notes on the form and to the following requirements:

Proof of Claim:

1. The form must be completed by an individual and not by a corporation. If you are acting for a corporation or other person, you must state the capacity in which you are acting, such as, "Credit Manager", "Treasurer", "Authorized Agent", etc., and the full legal name of the party you represent.
2. The person signing the form must have knowledge of the circumstances connected with the claim.
3. A Statement of Account containing details of secured and unsecured claims, and if applicable, of the amount due in respect of property claims, must be attached and marked Schedule "A". Claims should **not** include the value of goods and/or services arising after October 25, 2019. It is necessary that all creditors indicate the date and location of the delivery of all goods and/or services. Any amounts claimed as interest should be clearly noted as being for interest.
4. The nature of the claim must be indicated by ticking the type of claim which applies. e.g. –

Ticking (A) indicates the claim is unsecured;

Ticking (B) indicates the claim is secured, such as a mortgage, lease, or other security interest, and the value at which the creditor assesses the security must be inserted, together with the basis of valuation. Details of each item of security held should be attached as Schedule "B" and submitted with a copy of the chattel mortgage, conditional sales contract, security agreement, etc.
5. The person signing the form must insert the place and date in the space provided, and the signature must be witnessed.
6. Additional information regarding PrimeWest Mortgage Investment Corporation and the Liquidation process, as well as copies of claims documents may be obtained at <http://home.kpmg/ca/primewest>. If there are any questions in completing the notice of claim, please write or telephone the office of the Liquidator at:

KPMG Inc., Liquidator of PrimeWest Mortgage Investment Corporation.

By Mail/Courier/Email/Facsimile:

KPMG Inc.
Suite 3100, 205 – 5th Ave SW
Calgary, AB T2P 4B9

Attention: Cristina Pimienta
Email: cpimienta@kpmg.ca
Phone: (403) 691-8406
Fax: (403) 691-8009

Note: Any claim not delivered to the Liquidator at the above noted address by March 10, 2020, will, unless otherwise ordered by the Court of Queen's Bench for Saskatoon, be barred and may not thereafter be advanced against the Corporation.

SCHEDULE "D"

(NOTICE OF REVISION OR DISALLOWANCE)

COURT FILE NUMBER Q.B. No. 1455 of 2019

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE SASKATOON

IN THE MATTER OF SECTION 204 OF *THE BUSINESS CORPORATIONS ACT*, RSS 1978, c B-10

**AND IN THE MATTER OF THE VOLUNTARY LIQUIDATION AND DISSOLUTION OF PRIMEWEST
MORTGAGE INVESTMENT CORPORATION**

NOTICE OF REVISION OR DISALLOWANCE

Name of Creditor: _____

Pursuant to the Claims Process Order made herein on January 10, 2020, **KPMG INC.** (the "**Liquidator**"), the Liquidator of PrimeWest Mortgage Investment Corporation (the "**Corporation**"), hereby gives you notice that your Proof of Claim has been reviewed by the Liquidator and has been revised or disallowed for the following reasons:

If you wish to object to the Notice of Revision or Disallowance, you must, by **[DATE]**, deliver a Notice of Dispute to the address below:

KPMG INC.

Bow Valley Square II, 3100, 205 – 5th Avenue SW, Calgary, Alberta, T2P 4B9

Attention: Neil Honess

Email: neilhoness@kpmg.ca

Attention: Cristina Pimienta

Email: cpimienta@kpmg.ca

DATED this _____ day of _____, 2020.

KPMG INC.

In its capacity as Court-appointed Liquidator
of the Corporation, and not in its personal or corporate capacity.

Per: _____

Name: _____

Title: _____

SCHEDULE "E"

(NOTICE OF DISPUTE)

COURT FILE NUMBER Q.B. No. 1455 of 2019

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE SASKATOON

IN THE MATTER OF SECTION 204 OF *THE BUSINESS CORPORATIONS ACT*, RSS 1978, c B-10

**AND IN THE MATTER OF THE VOLUNTARY LIQUIDATION AND DISSOLUTION OF PRIMEWEST
MORTGAGE INVESTMENT CORPORATION**

NOTICE OF DISPUTE

TO: KPMG INC.

Bow Valley Square II, 3100, 205 – 5th Avenue SW, Calgary, Alberta, T2P 4B9

Attention: Neil Honess

Email: neilhoness@kpmg.ca

Attention: Cristina Pimienta

Email: cpimienta@kpmg.ca

Full Name of Creditor: _____ (the "**Creditor**").

This is to advise that the Creditor is in receipt of the Notice of Revision or Disallowance issued by the Liquidator in these proceedings and that the above noted Creditor disputes such Notice.

DATED THIS _____ DAY OF _____, 2020.

Signature:

(Please Print Name)

TAB 5

INDEMNITY AGREEMENT

THIS AGREEMENT dated as of the 1st day of January, 2011.

BETWEEN:

PrimeWest Mortgage Investment Corporation, a Corporation incorporated under the laws of Saskatchewan (the "Corporation")

-and-

Mike Hough, of Saskatoon, Saskatchewan (the "Indemnified Party")

WHEREAS:

A. The Corporation (i) has requested the Indemnified Party to serve as, or to continue to serve as, a director or officer of the Corporation and/or (ii) may from time to time request the Indemnified Party to act as a director or officer or in a similar capacity for one or more bodies corporate, partnerships, unincorporated associations, unincorporated syndicates, unincorporated organizations, joint ventures, trusts or employee benefit plans (each an "Entity") (the Corporation and each such Entity, collectively called the "Subject Businesses" and, individually, the "Subject Business"); and

B. The Indemnified Party is willing to serve or continue to serve the Subject Businesses on the condition that he or she is indemnified by the Corporation;

NOW, THEREFORE, in consideration of the matters referred to above and the mutual agreements set forth below, the Indemnified Party and the Corporation agree as follows:

1. AGREEMENT TO INDEMNIFY

1.1 Definitions

In this Agreement, the following words shall have the following meanings:

- (a) "Expenses" means all costs, charges and expenses, including (i) an amount paid to settle or dispose of an action or to satisfy a judgment or an award, (ii) all damages, whether punitive, exemplary or otherwise including penalties or fines levied, and (iii) all legal, professional or advisory fees and disbursements; and
- (b) "Proceeding" means any actual or threatened civil, criminal, administrative, regulatory, investigative or other proceeding (including a proceeding by way of an action, claim, suit, arbitration, application, complaint, assessment, reassessment or other process and an action by or on behalf of any Subject Business to procure a

judgment in its favour) in which the Indemnified Party is involved because of his or her association as a director or officer or in a similar capacity with the Subject Businesses.

1.2 Indemnity Undertaking

Except when prohibited by law and subject to the provisions of this Agreement, the Corporation shall indemnify the Indemnified Party against all Expenses reasonably incurred by the Indemnified Party in respect of any Proceeding.

1.3 Indemnification Exceptions

Notwithstanding section 1.2, the Corporation shall not indemnify the Indemnified Party unless:

- (a) the Indemnified Party acted honestly and in good faith with a view to the best interests of the Corporation, or, as the case may be, to the best interests of the other Entity for which the Indemnified Party acted as director or officer or in a similar capacity at the Corporation's request; and
- (b) in the case of any criminal or administrative action or proceeding that is enforced by a monetary penalty, the Indemnified Party had reasonable grounds for believing that his or her conduct was lawful.

1.4 Partial Indemnification

If the Indemnified Party is entitled under any provision of this Agreement to indemnification by the Corporation for some or a portion of the Expenses in respect of a Proceeding, but not for the total amount of such Expenses, the Corporation shall nevertheless indemnify the Indemnified Party for the portion of such Expenses to which the Indemnified Party is entitled.

2. NOTIFICATION AND DEFENCE COSTS

2.1 Notice

The Indemnified Party shall, as soon as reasonably practicable after becoming aware of any Proceeding which may give rise to indemnification under this Agreement, give written notice to the Corporation, directed to its corporate secretary or general counsel; provided however, that failure to give notice in a timely fashion shall not disentitle the Indemnified Party to the right to indemnity under this Agreement except to the extent the Corporation suffers actual prejudice by reason of the delay.

2.2 Defence Costs

- (a) The Corporation shall not be liable for any defence or appeal costs in respect of a Proceeding (including any Expenses to investigate, defend, or monitor any

Proceeding) incurred without its prior written consent, which consent shall not be unreasonably withheld.

- (b) In considering the reasonableness of any request by the Indemnified Party that the Corporation consent to the incurring of defence or appeal costs, the Corporation may consider, without limitation, the proposed choice of defence counsel, the terms of engagement of proposed counsel and the extent to which the defence costs may be controlled or limited through common efforts, including the employment of common counsel, with the Corporation or with other directors and officers of the Corporation, without the creation of actual or perceived conflicts of interest.

2.3 Advance Payment of Defence Costs

- (a) The Corporation shall periodically reimburse or advance the funds necessary for the payment of Expenses reasonably incurred in connection with the investigation, monitoring, defence and appeal of any Proceeding in advance of the final disposition of such Proceeding, within 10 business days of any such request in writing by the Indemnified Party.
- (b) If and to the extent the Corporation determines, acting reasonably, that the Indemnified Party would not be permitted to be indemnified pursuant to section 1.3 of this Agreement, the Corporation shall have no obligation to reimburse or advance any funds to the Indemnified Party pursuant to section 2.3(a) unless the Indemnified Party commences legal proceedings in a court of competent jurisdiction to secure a determination that the Indemnified Party should be indemnified pursuant to this Agreement.
- (c) If the Indemnified Party commences the legal proceedings referred to in section 2.3(b), then the Corporation shall continue to reimburse or advance funds to the Indemnified Party pursuant to section 2.3(a), until such time as the Corporation has secured a final judicial determination establishing that the Indemnified Party is not entitled to be indemnified pursuant to this Agreement.

2.4 Indemnification for Expenses Incurred in Enforcing Rights

The Corporation shall indemnify the Indemnified Party against all Expenses that are incurred by the Indemnified Party in connection with any action brought by the Indemnified Party, the Corporation or a third party to determine whether the Indemnified Party is entitled to:

- (a) be indemnified by or to receive contribution from the Corporation under this Agreement, under any other agreement or under applicable law now or hereafter in effect relating to indemnification of directors and officers; and/or

- (b) recovery under directors' and officers' liability insurance policies maintained by the Corporation;

but only in the event that the Indemnified Party is ultimately determined to be entitled to such indemnification, contribution or insurance recovery, as the case may be. Furthermore, if so requested by the Indemnified Party, the Corporation shall periodically reimburse or advance the funds necessary for the payment of Expenses that are reasonably incurred by the Indemnified Party in connection with the investigation, monitoring, defence and appeal of the foregoing action in advance of the final disposition, within 10 business days of any such request in writing by the Indemnified Party.

2.5 Reimbursement

- (a) If a final judicial determination by a court of competent jurisdiction establishes that the Indemnified Party is not entitled to indemnity pursuant to this Agreement in respect of any amounts advanced or paid by the Corporation or any portion thereof, such amount or any portion thereof shall be reimbursed by the Indemnified Party to the Corporation within 10 business days of a written request for reimbursement. The Indemnified Party's obligation to reimburse the Corporation for any Expenses advanced to the Indemnified Party shall be unsecured and no interest shall be payable thereon.
- (b) If the Indemnified Party subsequently receives indemnification or reimbursement for all or part of any Expenses from a source other than the Corporation, the amounts so advanced and paid by the Corporation shall be reimbursed by the Indemnified Party to the Corporation within 10 business days of a written request for reimbursement, to the extent that the Indemnified Party receives indemnification or reimbursement from such other source.

2.6 Burden of Proof

In connection with any action brought to determine whether the Indemnified Party is not entitled to be indemnified or to receive contribution pursuant to this Agreement or otherwise, the burden of proof shall be on the Corporation to establish that the Indemnified Party is not so entitled.

3. INDEMNIFICATION PROCEDURES

3.1 Settlement of Proceedings

The Corporation shall not be liable for any amounts paid in settlement of any Proceeding which has been entered into without the prior written consent of the Corporation. For greater clarity, and without limiting the generality of the foregoing, if the Indemnified Party enters into any such settlement without the prior written consent of the Corporation, the Corporation shall not be responsible for indemnifying the Indemnified Party for any compensation or other payment to be made under the settlement or for the costs of negotiating or implementing the settlement. Subject to the prior written consent of the

Indemnified Party, the Corporation may enter into a settlement or other agreement to compromise a Proceeding. Neither the Corporation nor the Indemnified Party will unreasonably withhold its consent to any proposed settlement.

3.2 **Approvals**

Where any indemnification sought pursuant to section 1.2 is, pursuant to applicable law, subject to or conditional upon the approval or consent of any court or of any governmental body or regulatory authority, the Corporation agrees to make or cause to be made all necessary applications and to use its reasonable best efforts to obtain or assist in obtaining or facilitating the obtaining of such approval or consent, at its expense.

3.3 **Presumptions**

For the purposes of this Agreement, the termination of any Proceeding by judgment, order, settlement (whether with or without court approval) or conviction shall not, of itself, create a presumption that the Indemnified Party did not meet any particular standard of conduct or have any particular belief or that a court has determined that indemnification is not permitted by applicable law.

3.4 **Indemnification Payment**

Subject to the other provisions of this Agreement, all amounts payable pursuant to section 1.2 shall be paid within 10 business days after written demand is presented by the Indemnified Party to the Corporation. If the Corporation makes a payment to the Indemnified Party in respect of an amount previously paid by the Indemnified Party, the Corporation shall, in addition, pay interest on such amount for the period from the date of payment by the Indemnified Party to the date of payment by the Corporation at a rate equal to the prime rate of the Corporation's principal Canadian bankers plus 2%, compounded monthly.

3.5 **Further Assurances**

Each of the Indemnified Party and the Corporation shall diligently attend to, and assist in the conduct of, the defence of any Proceeding, shall assist in enforcing any right of contribution or indemnity against any person or organization and shall (or in the case of the Corporation, shall cause its appropriate officers, directors, advisors or personnel to) attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses.

4. **CONTRIBUTION**

4.1 **Contribution Payment**

To the extent the indemnification provided for under any provision of this Agreement is determined not to be permitted under applicable law, the Corporation, in lieu of indemnifying the Indemnified Party, shall, unless prohibited by law, contribute to the

amount of any Expenses incurred or paid by the Indemnified Party for which such indemnification is not permitted. The amount the Corporation contributes shall be in such proportion as is appropriate to reflect the relative fault of the Indemnified Party, on the one hand, and of the Subject Business and any and all other parties (including officers and directors of the Subject Business other than the Indemnified Party) who may be at fault (collectively, including the Subject Business, the "Third Parties"), on the other hand.

4.2 Relative Fault

The relative fault of the Third Parties and the Indemnified Party shall be determined by reference to the relative fault of the Indemnified Party as determined by a court or other tribunal or, to the extent such court or other tribunal does not apportion relative fault, by another party acceptable to the Indemnified Party and the Corporation after giving effect to, among other things, the relative intent, knowledge, access to information and opportunity to prevent or correct the relevant events, of each party, and other relevant equitable considerations. The Corporation and the Indemnified Party agree that it would not be just and equitable if contribution were determined by pro rata allocation or by any other method of allocation that does not take account of the equitable considerations referred to in this section 4.2.

5. GENERAL PROVISIONS

5.1 Retroactivity

This Agreement shall be deemed to have been in effect during all periods that the Indemnified Party was a director or officer or acted in a similar capacity of any Subject Business, regardless of the date of this Agreement.

5.2 Subrogation

In the event of payment under this Agreement, the Corporation shall be subrogated to the extent of such payment to all of the rights of recovery of the Indemnified Party. All actions of the Indemnified Party to assist the Corporation in securing and enforcing its subrogation rights shall themselves be subject to the terms of this Agreement.

5.3 No Duplication of Payments

The Corporation shall not be liable under this Agreement to make any payment in connection with any Proceeding to the extent the Indemnified Party has otherwise received payment (under any insurance policy or otherwise) of the amounts otherwise indemnified hereunder.

5.4 Insurance

At least 60 days prior to the expiry of any director's and officer's insurance policy maintained by the Corporation, the Corporation will notify the Indemnified Party in

writing whether or not it proposes to renew the insurance and whether or not it has any reason to believe the issuer of the insurance may not be prepared to renew the insurance. The Corporation shall promptly notify in writing the Indemnified Party if at any time the insurance referred to above is not renewed or it is cancelled or adversely changed or materially affected by prior claims or if the Corporation receives any communication (whether oral or written) from the issuer of the insurance or any agent or other person acting on its behalf that the insurance will or may be cancelled or adversely changed or materially affected by prior claims.

5.5 Right to Resign and Survival

Nothing in this Agreement shall prevent the Indemnified Party from resigning as a director or officer or from some other similar role of any of the Subject Businesses at any time. This Agreement shall survive any such resignation or any other circumstance by reason of which the Indemnified Party shall cease to be a director or officer or cease to serve in some other similar capacity of any of the Subject Businesses.

5.6 Non-Exclusivity

The rights of the Indemnified Party under this Agreement shall be in addition to any other rights the Indemnified Party may have under the Corporation's Bylaws or Articles, applicable law, or otherwise. To the extent that a change in applicable law (whether by statute or judicial decision) permits greater indemnification by agreement than would be afforded currently under this Agreement or under the Corporation's Bylaws or Articles, it is the intent of the parties hereto that the Indemnified Party may enjoy by this Agreement the greater benefits so afforded by that change. The Indemnified Party's rights under this Agreement shall not be diminished by any present or future provision of the Corporation's Bylaws or Articles and shall not diminish any other rights that the Indemnified Party now or in the future has against the Corporation.

5.7 Severability

If any part of this Agreement or the application of such part to any circumstance shall, to any extent, be invalid or unenforceable, such part or the application of such part shall be interpreted and applied to such extent so as to be valid and enforceable in the circumstances, and the remainder of this Agreement, or the application of such part to any other circumstance, shall not be affected thereby and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

5.8 Governing Law

This Agreement shall be governed by and construed and enforced in accordance with the laws of the Province of Saskatchewan and the laws of Canada applicable to contracts made and to be performed in such Province, without giving effect to the principles of conflicts of laws. Furthermore, the parties attorn to the non-exclusive jurisdiction of the courts of the Province of Saskatchewan in respect of any court action arising under this Agreement.

5.9 Enurement and Successors

The duties and obligations of the Corporation under this Agreement shall be binding upon the Corporation and its successors and assigns, and shall be enforceable by the Indemnified Party and the Indemnified Party's heirs and legal representatives.

5.10 Counterpart Execution

This Agreement may be executed in two counterparts and may be executed by facsimile, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument.

IN WITNESS WHEREOF the parties have executed this Agreement on the date first above mentioned.

PRIMEWEST MORTGAGE
INVESTMENT CORPORATION

By: _____

Name: _____

By: _____

Name: _____

MIKE HOUGH

TAB 6

FORM 6-24

(Subrule 6-24(2))

COURT FILE NUMBER: Q.B.G. No. 1455 of 2019

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE: SASKATOON

IN THE MATTER OF SECTION 204 OF *THE BUSINESS CORPORATIONS*

ACT, RSS 1978, C b-10

**AND IN THE MATTER OF THE VOLUNTARY LIQUIDATION AND
DISSOLUTION OF PRIMEWEST MORTGAGE INVESTMENT CORPORATION**

APPEARANCE DAY NOTICE

Notice to Respondents

TAKE NOTICE that an application is being made in this proceeding.

The application is proposed to be heard by telephone conference by Mr. Justice Gabrielson at a time to be proposed by the Court.

Order or direction claimed or sought:

1. Pursuant to the Order of Mr. Justice Gabrielson issued on November 1, 2019, and pursuant to the Amended and Restated Order of Mr. Justice Gabrielson issued on November 28, 2019, an order is sought providing further direction that the claim issued under QBG 1727 of 2018 (the "**Action**") is excluded from the within liquidation proceedings.

Reasons for making this application:

2. On October 31, 2019 the Court heard submissions from E.F. Anthony Merchant, Q.C., the lawyer on record for the plaintiffs of the Action, that the Action should be excluded from the liquidation proceedings.
3. Counsel for Primewest Mortgage Investment Corporation ("**Primewest**") did not dispute such submissions.
4. This Court granted the order proposed by counsel for Primewest approving the liquidation plan after amending it to exclude the Action from the liquidation proceedings. Paragraph 14 of the proposed order was amended to exclude references to directors.
5. On November 28, 2019, the Amended and Restated Order was issued by this Court. Such order removed the reference to the Action in the definition of "Claim" at paragraph 2 of the Order.
6. On about January 15, 2020, E.F. Anthony Merchant, Q.C. received a letter from KPMG, the appointed liquidator of Primewest (the "**Liquidator**"), which provided that Randy Koroluk, the putative representative plaintiff in the Action, had been identified as a creditor for purposes of the liquidation. According to that letter, the Liquidator did not exclude the Action from the liquidation process.
7. This application can be heard and determined in less than 30 minutes.

Material to be relied on:

8. The oral submissions of E.F. Anthony Merchant, Q.C. of October 31, 2019 (**Enclosure "A"**).

9. The book of authorities submitted to Court in support of the submissions of E.F. Anthony Merchant, Q.C. on October 31, 2019 (**Enclosure “B”**).
10. The Order of Mr. Justice Gabrielson, issued on November 1, 2019 (**Enclosure “C”**).
11. The letter from counsel on behalf of Primewest to the Local Registrar of the Court of Queen’s Bench (Saskatoon), dated November 19, 2019, and the attached redline version of the amended and restated order (**Enclosure “D”**).
12. The Amended and Restated Order of Mr. Justice Gabrielson, issued on November 28, 2019 (**Enclosure “E”**).
13. The letter from the Liquidator, dated January 15, 2020 (**Enclosure “F”**).

Applicable rules:

14. Rule 6-24.

Applicable Acts and Regulations

15. *The Queen's Bench Act*, 1998, SS 1998, c Q-1.01, s 9.
16. *The Queen's Bench Act*, 1998, SS 1998, c Q-1.01, s 11.
17. *The Business Corporations Act*, RSS 1978, c B-10, s 204(8).

DATED at Regina, Saskatchewan, this 30th day of January 2020.

MERCHANT LAW GROUP LLP

Per: Merchant

Solicitor for the Plaintiffs under
QBG 1727 of 2018

NOTICE

A party may make representations at the hearing about facts that are not contested. No party will provide an affidavit or testimony at the hearing. The judge will only act on facts that cannot be contested, as told to the judge by the parties or their lawyers. You have the right to be present and speak at the hearing. You must be as brief as possible. If you or your lawyer do not attend, the judge may grant an order without further notice to you.

CONTACT INFORMATION AND ADDRESS FOR SERVICE

If prepared by a lawyer for the party:

Name of firm:	Merchant Law Group LLP
Name of lawyer in charge of file:	E.F. Anthony Merchant, Q.C.
Address of legal firm:	2401 Saskatchewan Drive, Regina, SK S4P 4H8
Telephone number:	306-359-7777
Fax number:	306-522-3299
E-mail address:	tmerchant@merchantlaw.com
File:	77000646

TAB 7



2401 Saskatchewan Drive
Regina, Saskatchewan
S4P 4H8

E.F.A Merchant Q.C.
tmerchant@merchantlaw.com
(306) 539-7777

July 22, 2020

Court of Appeal for Saskatchewan
2425 Victoria Avenue
REGINA SK S4P 4W6

Attention: Registrar

Dear Madam:

RE: APPEAL of Q.B. No. 1455 of 2019 - In the Matter of the Voluntary Liquidation
and Dissolution of Primewest Mortgage Investment Corporation
Our File # 77000646

I enclose a motion, although in our submission the issue is clear. This may be a case where you would provide counsel with your view. I either completely misunderstand the cases cited or this is a poor use of judicial resources to have the matter go to Chambers.

Yours truly,

MERCHANT LAW GROUP LLP

Per:

A handwritten signature in blue ink, appearing to read 'E.F. Anthony Merchant', is written over the printed name.

E.F. Anthony Merchant, Q.C.

EFAM/lc

cc. All Counsel

Y:\Wpdata\Class Actions\PrimeWest\Correspondence\2020 06 16 Ltr to CA.wpd

CANADA
PROVINCE OF SASKATCHEWAN

CACV _____

BETWEEN:

RANDY KOROLUK

APPELLANT

and

KPMG INC., PRIMEWEST MORTGAGE INVESTMENT CORPORATION, DAN
ANDERSON, TOM ARCHIBALD, FRANCIS BAST, DOUGH FRONDALL, MIKE
HOUGH, WILL OLIVE, TOM ROBINSON, IRENE SEIFERLING, ERNST &
YOUNG INC.

RESPONDENTS

and

DIRECTOR OF CORPORATIONS, CANADA REVENUE AGENCY, P.I.
FINANCIAL, DONALD ZEALAND, GRANITE ENTERPRISES, DEBBIE GLORIA
BURWASH

NON-PARTIES

IN THE MATTER OF SECTION 204 OF *THE BUSINESS CORPORATIONS*
ACT, RSS 1978, c B-10

AND IN THE MATTER OF THE VOLUNTARY LIQUIDATION AND
DISSOLUTION OF PRIMEWEST MORTGAGE INVESTMENT CORPORATION

NOTICE OF MOTION

TAKE NOTICE:

1. THAT the appellant intends to apply to the presiding judge in chambers, at the court house, 2425 Victoria Avenue, Regina, Saskatchewan, on Wednesday, the 12th day of August, 2020, at 10:00 o'clock in the forenoon, or so soon thereafter as counsel may be heard, for the following relief:

- a. a determination that leave to appeal is unnecessary notwithstanding that KPMG, the liquidator, through their counsel, advance that leave to appeal is required;
- b. in the alternative, if the Appellant is not correct and that leave is required, leave to appeal be ordered flowing from the Fiat of the Honourable Mr. Justice Gabrielson of July 7, 2020;
- c. an order declaring or determining that leave is not required to appeal from the Order/Fiat of Mr. Justice Gabrielson of July 7, 2020; or
- d. an order declaring or determining that the Appellant does not require leave to appeal pursuant to exercising his right to appeal under *The Business Corporations Act*, RSS 1978, c B-10, s 242; or
- e. an order declaring or determining that *The Business Corporations Act*, RSS 1978, c B-10, s 242 confers an unlimited right of appeal; or
- f. an order granting leave to appeal pursuant to Rule 49 if necessary.

2. AND THAT the application is made on the following grounds:

- a. pursuant to *The Court of Appeal Act, 2000*, s 5(1)(b) the judges of this Court have the authority to hear and determine all applications that may properly be made to a judge of this Court sitting in chambers;
- b. this Court has inherent jurisdiction as a superior court of record;
- c. therefore, pursuant to *The Queen's Bench Act, 1998*, SS 1998, c Q-1.01, s 11, this Court has the authority to make binding declarations of right, whether or not any consequential relief is claimed, and no matter is open to objection on the ground that a mere declaratory judgment or order is sought;
- d. pursuant to *The Queen's Bench Rules*, r 1-4(1) this Court has general authority to provide remedies, including giving any relief or remedy described or referred to in *The Queen's Bench Act, 1998*, and give any relief or remedy described or referred to in or under *The Queen's Bench Rules* or any enactment;
- e. pursuant to *The Court of Appeal Act, 2000*, s 7(2)(a) the Appellant's right of appeal lies from the Order/Fiat of Mr. Justice Gabrielson of July 7, 2020, in that the Fiat constitutes a decision of the Court of Queen's Bench or a judge of that Court;
- f. the Fiat does not constitute an interlocutory decision pursuant to *The Court of Appeal Act, 2000*, SS 2000, c C-42.1, s 8;
- g. KPMG, the liquidator, through their counsel, advances that leave to appeal is required: letter attached;

h. pursuant to the law stated in *Alexander Hamilton Institutes v Chambers*, [1921] 3 WWR 520 (Sask CA) the Order, if it is allowed to stand, finally disposes of the rights of the Plaintiff and Proposed Class in the action filed under QBG 1767 of 2018. The argument was in chambers, the decision is interlocutory in relation to the liquidation, but it is final;

i. pursuant to the law stated in *Saskatchewan Medical Association v Anstead*, 2016 SKCA 143, para 56, the Order, if it is allowed to stand, finally disposes a substantive issue in that the proceedings filed under QBG 1727 of 2018 and QBG 1455 of 2019. A final ruling on a substantive issue can not be interlocutory;

j. pursuant to *The Business Corporations Act*, RSS 1978, c B-10, s 242, the Appellant's appeal lies to this Court in that the Fiat was made under the said *Act*;

k. the right of appeal conferred by *The Business Corporations Act*, s 242, is not subject to obtaining leave to appeal, and is therefore an unlimited right of appeal which has been filed;

l. pursuant to the law stated in *Rimmer v Adshead*, 2002 SKCA 12, this Court has the authority, in its inherent jurisdiction, to grant leave to appeal *nunc pro tunc*;

m. pursuant to the law stated in *Cowessess First Nation v Phillips Legal Professional Corporation*, 2018 SKCA 101 there has been no delay in filing the Notice of Appeal, in that it has been filed within 15 days of the Fiat being issued;

n. pursuant to the law stated in *Poffenroth Agri Ltd. v Brown*, 2020 SKCA 68 the Appellant acted reasonably in not seeking leave;

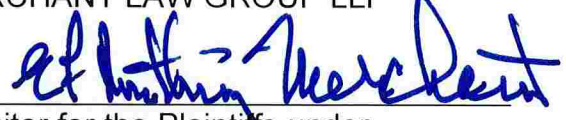
- o. pursuant to the *Rothmans* criteria, the Appeal has both merit and importance;
 - p. the Appellant in the underlying proceeding requested relief from the Court pursuant to *The Queen's Bench Rules*, Sask QB Rules 2013, r 10-11. *Goertz v The Owners Condominium Plan No. 98SA12401*, 2018 SKCA 41 shows that leave to appeal is not required from a determination pursuant to r 10-11;
 - q. the Appellant relied on *The Queen's Bench Act, 1998*, s 11 in the underlying proceedings. *PCL Construction Management Inc. v Saskatoon (City)*, 2020 SKCA 12 shows that appeals from such determinations do not require leave;
 - r. the Appellant requested relief from the Court pursuant to *The Queen's Bench Act, 1998*, s 9 in the underlying proceedings. *McNairn v U.A., Local 179*, 2004 SKCA 57 shows that leave from such determinations is not required.
 - s. in a comparable requests for advice and directions, as filed by the counsel on behalf of the Respondent KPMG Inc. in the underlying proceedings, such as *Stone Estate, Re*, [1920] CarswellSask 13 and *Principal Savings & Trust Co. v Principal Group Ltd. (Trustee of)*, [1993] CarswellAlta 430 leave to appeal from such determinations were not necessary.
3. THAT the following material will be filed in support of this application:
- a. This notice of motion with proof of service;
 - b. The filed Notice of Appeal;

c. The Fiat of the Honourable Mr. Justice Gabrielson of July 7, 2020, upon which the order is based; and

d. The letter received from counsel on behalf of KMPG, Inc., dated July 20, 2020.

DATED at Regina, Saskatchewan, this 22nd day of July 2020.

MERCHANT LAW GROUP LLP

Per: 
Solicitor for the Plaintiffs under
QBG 1727 of 2018

TO: The Respondent, KPMG Inc.
Address for service:
The W Law Group
300 110 21st St E
Saskatoon, SK S7K 0B6

Attention: Michelle M. Tobin, counsel for KPMG Inc.
Tel: (306) 244-2242
Fax: (306) 652-0332
Email: mtobin@wlawgroup.com

Attention: Mike Russell, counsel for KPMG, Inc.
Tel: (306) 665-9507
Fax: (306) 652-0332
Email: mrussell@wlawgroup.com

AND TO: The Respondents, Dan Anderson, Tom Archibald, Francis Bast, Doug Frondal, Mike Hough, Will Olive, Tom Robinson, Irene Seifering
Address for service:
1500 1881 Scarth St
Regina, SK S4P 4K9

Attention: Amanda Quayle
McDougall Gauley LLP
Tel: (306) 565-5100
Fax: (306) 359-0785
Email: aquayle@mcdougallgauley.com

AND TO: The Respondents, Ernst & Young Inc.
409 3 Ave S #900
Saskatoon, SK S7K 5R5

Attention: Donald Hanna
Tel: (416) 943 3248
Email: donald.hanna@ca.ey.com

AND TO: The Respondent, PrimeWest Mortgage Investment Corporation
Address for service:
500 616 Main Street
Saskatoon, SK S7H 0J6

Attention: Ian A. Sutherland
Tel: (306) 665-5417
Fax: (306) 664-4431
Email: isutherland@mcdougallgauley.com

Attention: Craig Frith
Tel: (306) 665-5432
Fax: (306) 664-4431
Email: cfrith@mcdougallgauley.com

AND TO: Director of Corporations
Address for service:
Office of Public Registry Administration
Ministry of Justice and Attorney General
920 1801 Hamilton St
Regina, SK S4P 4B4

Attention: Sheri Hupp
Tel: (306) 798-1203
Fax: (306) 787-4732
Email: sheri.hupp@gov.sk.ca; publicregistryadmin@gov.sk.ca

AND TO: Canada Revenue Agency
Surrey National Verification and Collection Centre
Canada Revenue Agency
9755 King George Blvd
Surrey, BC V3T 5E1

Fax: 1-866-219-0311

AND TO: Granite Enterprises
Address for service:
Willows Wellsch Orr & Brundige LLP
401 1916 Dewdney Ave
Regina, SK S4R 1G9

Attention: Sean Watson
Tel: (306) 525-2191
Fax: (306) 757-8138
Email: swatson@wwobllp.com

AND TO: P.I. Financial
Address for service:
MLT Aikins LLP
1500 1874 Scarth St
Regina, SK S4P 4E9

Attention: Tristan N. Culham
Tel: (306) 347-8423
Fax: (306) 352-5250
Email: tculham@mltaikins.com

AND TO: Donald Zealand
Address for service:
Miller Thomson LLP
300 15 23rd St E
Saskatoon SK S7K 0H6

Attention: Scott R. Spencer
Tel: (306) 665-7844
Fax: (306) 652-1586
Email: sspencer@millerthomson.com

AND TO: Debbie Gloria Burwash
Address for service:
401 1916 Dewdney Ave
Regina, SK S4R 1G9

Attention: David J. Brundige, Q.C.
Tel: (306) 525-2191
Fax: (306) 757-8138
Email: dbrundige@wwobllp.com

CONTACT INFORMATION AND ADDRESS FOR SERVICE

If prepared by a lawyer for the party:

Name of firm:	Merchant Law Group LLP
Name of lawyer in charge of file:	E.F. Anthony Merchant, Q.C.
Address of legal firm:	2401 Saskatchewan Drive, Regina, SK S4P 4H8
Telephone number:	306-359-7777
Fax number:	306-522-3299
E-mail address:	tmerchant@merchantlaw.com
File:	77000646

TAB 8

CANADA
PROVINCE OF SASKATCHEWAN

CACV _____

IN THE COURT OF APPEAL FOR SASKATCHEWAN

BETWEEN:

RANDY KOROLUK

APPELLANT

and

KPMG INC., PRIMEWEST MORTGAGE INVESTMENT CORPORATION, DAN
ANDERSON, TOM ARCHIBALD, FRANCIS BAST, DOUGH FRONDALL, MIKE
HOUGH, WILL OLIVE, TOM ROBINSON, IRENE SEIFERLING, ERNST &
YOUNG INC.

RESPONDENTS

and

DIRECTOR OF CORPORATIONS, CANADA REVENUE AGENCY, P.I.
FINANCIAL, DONALD ZEALAND, GRANITE ENTERPRISES, DEBBIE GLORIA
BURWASH

NON-PARTIES

IN THE MATTER OF SECTION 204 OF *THE BUSINESS CORPORATIONS*
ACT, RSS 1978, c B-10

AND IN THE MATTER OF THE VOLUNTARY LIQUIDATION AND
DISSOLUTION OF PRIMEWEST MORTGAGE INVESTMENT CORPORATION

NOTICE OF APPEAL

TAKE NOTICE:

1. THAT Randy Koroluk, the above mentioned Appellant, hereby appeals to the Court of Appeal from the Order of the Honourable Mr. Justice Gabrielson deliver on the 7th day of July, 2020;
2. THAT the whole of the Order is being appealed;
3. THAT the source of the Appellant's right of appeal and the Court's jurisdiction to entertain the appeal is:
 - a. *The Court of Appeal Act, 2000*, SS 2000, c C-42.1, s 7(2)(a);
 - b. *The Business Corporations Act*, RSS 1978, c B-10, s 242.
4. THAT the appeal is taken upon the grounds that:
 - a. The learned Chambers Judge erred in that he determined that the action filed under QBG 1727 of 2018 should be included in the liquidation proceedings;
 - b. The learned Chambers Judge erred in that he failed to consider or apply the law relating to exceptions to the rule in *Foss v Harbottle*;
 - c. The learned Chambers Judge erred in that he failed to correctly interpret his own order pursuant to settled law;
 - d. The learned Chambers Judge erred in that he overturned his own judgment regarding the exclusion of the class action when the law prohibited such amendment;

e. The learned Chambers judge erred in that his determination arbitrarily amends the provisions of the Defendant directors' indemnity agreements;

f. The learned Chambers judge erred in that he failed to consider that the Primewest Mortgage Investment Corporation ("Primewest") is under no obligation to indemnify the Defendant directors if the Directors failed to act honestly and in good faith with a view to the best interests of Primewest, which is a cause of action in the action filed under QBG 1767 of 2018;

g. The learned Chambers judge erred in that he failed to consider that a court of competent jurisdiction has not approved the Defendant directors' indemnities, or that there is no privity of contract between the Plaintiff and Proposed Class in the action filed under QBG 1767 of 2016, and that the Plaintiff and Proposed Class can therefore not be subjected to any consequences of the indemnities;

h. The learned Chambers Judge erred in that he, contrary to the law in *Bram Enterprises Ltd. v A.I. Enterprises Ltd.*, 2014 SCC 12, sacrificed legal certainty in commercial law for individual idiosyncrasies;

i. The learned Chambers Judge erred in that he held that action filed under QBG 1767 of 2018 must be deemed to have been abandoned against Ernst & Young when the issue had not been argued and there was an order extending the time for service on Ernst & Young until March 6, 2020 and orders after the expiration are permitted and intended, all being conjoined to some directors avoiding service;

j. The learned Chambers Judge erred in that he failed to consider or apply *The Queen's Bench Rules*, Sask QB Rules 2013, r 10-11;

k. The learned Chambers Judge erred in that he failed to hold that the Liquidator was bound to the exclusion of QBG 1727 of 2018 by the *Procyshyn* principles or estoppel *in pais*;

l. The learned Chambers Judge erred in that he failed to hold that the Liquidator's attempt to re-litigate the issue was an abuse of process;

m. That the learned Chambers Judge erred in that he failed to consider or hold that the Liquidator was estopped by *res judicata* or barred by issue estoppel from re-litigating the issue of the exclusion of the class action; and

n. The learned Chambers Judge erred in that he failed to consider or determine that the Liquidator is in breach of its obligations.

5. THAT the Appellant requests the following relief:

a. That the appeal is allowed and a determination that the action filed QBG 1727 of 2018 is excluded from the liquidation proceedings;

b. Further or alternative relief;

c. Costs to be spoken to.

6. That the Appellant's address for service is:

2401 Saskatchewan Dr,

Regina, SK

S4P 4H8

Tel: (306) 359-7777

Fax: (306) 522-3299

7. THAT the Appellant requests that this appeal be heard at Regina, Saskatchewan.

DATED at Regina, Saskatchewan, this 22nd day of July 2020.

MERCHANT LAW GROUP LLP

Per: 

Solicitor for the Plaintiffs under
QBG 1727 of 2018

TO: The Respondent, KPMG Inc.

Address for service:

The W Law Group
300 110 21st St E
Saskatoon, SK
S7K 0B6

Michelle M. Tobin, counsel for KPMG Inc.

Tel: (306) 244-2242

Fax: (306) 652-0332

Email: mtobin@wlawgroup.com

Mike Russell, counsel for KPMG, Inc.

Tel: (306) 665-9507

Fax: (306) 652-0332

Email: mrussell@wlawgroup.com

AND TO: The Respondents, Dan Anderson, Tom Archibald, Francis Bast,
Doug Frondal, Mike Hough, Will Olive, Tom Robinson, Irene
Seifering

Address for service:

1500 1881 Scarth St
Regina, SK
S4P 4K9

Amanda Quayle

McDougall Gauley LLP

Tel: (306) 565-5100

Fax: (306) 359-0785

Email: aquayle@mcdougallgauley.com

AND TO: Ernst & Young Inc.
409 3 Ave S #900
Saskatoon, SK S7K 5R5

Attention: Donald Hanna

Tel: (416) 943 3248

Email: donald.hanna@ca.ey.com

AND TO: Director of Corporations
Address for service:
Office of Public Registry Administration
Ministry of Justice and Attorney General
920 1801 Hamilton St
Regina, SK S4P 4B4

Attention: Sheri Hupp

Tel: (306) 798-1203

Fax: (306) 787-4732

Email: sheri.hupp@gov.sk.ca; publicregistryadmin@gov.sk.ca

AND TO: Canada Revenue Agency
Surrey National Verification and Collection Centre
Canada Revenue Agency
9755 King George Blvd
Surrey, BC V3T 5E1
Fax: 1-866-219-0311

AND TO: Granite Enterprises
Address for service:
Willows Wellsch Orr & Brundige LLP
401 1916 Dewdney Ave
Regina, SK S4R 1G9

Attention: Sean Watson
Tel: (306) 525-2191
Fax: (306) 757-8138
Email: swatson@wwobllp.com

AND TO: P.I. Financial
Address for service:
MLT Aikins LLP
1500 1874 Scarth St
Regina, SK S4P 4E9

Attention: Tristan N. Culham
Tel: (306) 347-8423
Fax: (306) 352-5250

Email: tculham@mltaikins.com

AND TO: Donald Zealand
Address for service:
Miller Thomson LLP
300 15 23rd St E
Saskatoon SK S7K 0H6

Attention: Scott R. Spencer
Tel: (306) 665-7844
Fax: (306) 652-1586
Email: sspencer@millerthomson.com

AND TO: Debbie Gloria Burwash
Address for service:
401 1916 Dewdney Ave
Regina, SK S4R 1G9

Attention: David J. Brundige, Q.C.
Tel: (306) 525-2191
Fax: (306) 757-8138
Email: dbrundige@wwobllp.com

CONTACT INFORMATION AND ADDRESS FOR SERVICE

If prepared by a lawyer for the party:

Name of firm:	Merchant Law Group LLP
Name of lawyer in charge of file:	E.F. Anthony Merchant, Q.C.
Address of legal firm:	2401 Saskatchewan Drive, Regina, SK S4P 4H8
Telephone number:	306-359-7777
Fax number:	306-522-3299
E-mail address:	tmerchant@merchantlaw.com
File:	77000646

TAB 9

From: Baldwin, Melanie <mbaldwin@sasklawcourts.ca>
Sent: August 10, 2020 10:21 AM
To: Tony Merchant <tmerchant@merchantlaw.com>
Cc: 'Michael Russell' <mrussell@wlawgroup.com>; nconlon@wlawgroup.com;
'aquayle@mcdougallgauley.com' <aquayle@mcdougallgauley.com>; donald.hanna@ca.ey.com;
Vollman, Lori <lvollman@sasklawcourts.ca>; Grassick, Sandi <sgrassick@sasklawcourts.ca>
Subject: CACV3680 Randy Koroluk v KPMG Inc. et al.

Mr. Merchant,

Your application for leave to appeal was filed on Friday, August 7, 2020 and is returnable on Wednesday, August 12, 2020. Under *The Court of Appeal Rules*, an application must be filed at least three clear days before the return date.

We have a long chambers list filling two days this week and this, coupled with the late filing, means that the chambers judge is not prepared to hear the application.

Please select a new return date, ideally after consulting with counsel for the other parties to the application. Our next several upcoming chambers dates in Regina are Wednesday, August 26, Wednesday, September 9 and Wednesday, September 23, 2020. Once you have selected a new chambers date, please let us know.

You should also likely serve and file a memorandum of law in support of the application at least three clear days before the new chambers return date.

Victoria Avenue Court House	Direct: 306.787.5258
2425 Victoria Avenue	Email: mbaldwin@sasklawcourts.ca
Regina SK S4P 4W6	www.sasklawcourts.ca

Melanie A. Baldwin, Q.C.

Registrar

Court of Appeal for Saskatchewan

Victoria Avenue Court House	Direct: 306.787.5258
2425 Victoria Avenue	Email: mbaldwin@sasklawcourts.ca
Regina SK S4P 4W6	www.sasklawcourts.ca

From: Baldwin, Melanie <mbaldwin@sasklawcourts.ca>

Sent: August 5, 2020 4:40 PM

To: Tony Merchant <tmerchant@merchantlaw.com>

Cc: mrussell@wlawgroup.com; mtobin@wlawgroup.com; nconlon@wlawgroup.com; 'aquayle@mcdougallgauley.com' <aquayle@mcdougallgauley.com>; donald.hanna@ca.ey.com; Haniak, Daina <dhaniak@sasklawcourts.ca>; Vollman, Lori <lvollman@sasklawcourts.ca>; Grassick, Sandi <sgrassick@sasklawcourts.ca>

Subject: Primewest Mortgage Investment Corporation Material

Mr. Merchant,

Please advise how you intend to proceed on this matter.

Victoria Avenue Court House Direct: 306.787.5258
2425 Victoria Avenue Email: mbaldwin@sasklawcourts.ca
Regina SK S4P 4W6 www.sasklawcourts.ca

From: Baldwin, Melanie
Sent: Monday, July 27, 2020 8:48 AM
To: Tony Merchant <tmerchant@merchantlaw.com>
Cc: mrussell@wlawgroup.com; mtobin@wlawgroup.com; nconlon@wlawgroup.com;
'aquayle@mcdougallgauley.com' <aquayle@mcdougallgauley.com>; donald.hanna@ca.ey.com;
Haniak, Daina <dhaniak@sasklawcourts.ca>; Grassick, Sandi <sgrassick@sasklawcourts.ca>
Subject: Primewest Mortgage Investment Corporation Material

Mr. Merchant,

I have your letter of July 22, 2020. It appears that you have served a Notice of Appeal and wish to file that Notice of Appeal (you have provided proof of service effective July 22, 2020, a copy of the decision that you wish to appeal and payment of the \$200 filing fee).

It also appears that you have served a Notice of Motion for Leave to Appeal returnable August 12, 2020, although you have not provided payment to file that document.

Neither the Notice of Appeal nor the Notice of Motion for Leave to Appeal has been efiled.

As is evident from the conflicting opinions of counsel in this case, the issue of whether leave is required is often quite complex. Unless I am aware of case law that is directly on point that I can refer counsel to, I cannot assist with the determination of whether leave is required. I am not aware of such case law in this instance.

If you wish to file the Notice of Motion for Leave to Appeal, you should efile it and pay the \$25 filing fee. The Notice of Appeal would then be treated as a draft notice of appeal and we would return or hold your cheque for \$200 pending determination of the issue of leave. If you do not intend to seek leave, please confirm this and we will upload the Notice of Appeal and process your payment.

Victoria Avenue Court House Direct: 306.787.5258
2425 Victoria Avenue Email: mbaldwin@sasklawcourts.ca
Regina SK S4P 4W6 www.sasklawcourts.ca

Melanie A. Baldwin, Q.C.

Registrar

Court of Appeal for Saskatchewan

Victoria Avenue Court House Direct: 306.787.5258

2425 Victoria Avenue Email: mbaldwin@sasklawcourts.ca

Regina SK S4P 4W6 www.sasklawcourts.ca

TAB 10

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	FIRST SUPPLEMENTAL REPORT OF THE LIQUIDATOR FOR THE COURT OF APPEAL AUGUST 21, 2020
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/Joe Sithole 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

Table of Contents

1. INTRODUCTION AND PURPOSE OF REPORT	1
---	---

Listing of Appendices

Appendix “A” - PROOFS OF CLAIM FILED BY MERCHANT

Appendix “B” - LIQUIDATOR’S LETTER OF AUGUST 21, 2020 TO MERCHANT

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 counter-claim against the Corporation for wrongful dismissal. A defence to the counter-claim 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 expeditious 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 25, 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. Merchant Law Group LLP ("**Merchant**") is counsel for a putative class action lawsuit against the Company and its directors and officers (the "**Merchant Action**").
17. Merchant was notified via mail of the requirement to submit a claim in the proceedings pursuant to the Claims Process Order. Merchant was served with notice and all materials in respect of the Claims Process Order application.

Purpose of the Liquidator's Supplemental Report to the Court of appeal

18. This is the Liquidator's supplemental report to the Saskatchewan Court of Appeal (the "**First Supplemental Report**") and has been prepared for the sole purpose of providing background and supporting documents received and sent in relation to the Merchant Action. The First Supplemental Report is not intended as an update regarding the progress of the Liquidation Proceedings or addendum to the First Report of the Liquidator.
19. On January 31, 2020, the Liquidator received an Appearance Day Notice from Merchant for an application to be heard at a date to be determined. Subsequently, a hearing on this matter was scheduled for March 19, 2020 at 10AM. The Court was then closed because of the COVID-19 Pandemic.
20. On May 22, 2020, the Liquidator's counsel brought an application for the advice and directions of the Court as to how the matters and issues in regards to the class action were to be determined in the liquidation proceedings pursuant to the Claims Process Order.

21. On July 7, 2020, a fiat was issued by the Court of Queen's Bench for Saskatchewan which stated that Randy Koroluk, the representative plaintiff in the class action represented by Merchant was required by the terms of the Claims Process Order to file with the Liquidator a proof of claim within 30 days and the Claims bar was extended to August 7, 2020.
22. On August 6, 2020, Merchant filed two proofs of claim attached hereto as **Appendix "A"**.
23. The Liquidator reviewed the two proofs of Claim filed by Merchant and determined that it meets the definition of a Claim as defined in article 1.1 of the Liquidation Plan. On August 21, 2020 the Liquidator sent a letter in response to the proofs of claim filed by Merchant attached hereto as **Appendix "B"**.
24. 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**").

This Report is respectfully submitted this 21st day of August, 2020.

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”

PROOFS OF CLAIM FILED BY MERCHANT



2401 Saskatchewan Drive
Regina, Saskatchewan
S4P 4H8

E.F. Anthony Merchant, Q.C.
tmerchant@merchantlaw.com
(306) 539-7777

August 6, 2020

KPMG Inc.
Suite 3100, 205 - 5th Ave SW
Calgary, AB T2P 4B9

Via Email cpimienta@kpmg.ca

Attention: Cristina Pimienta

Dear Ms. Pimienta:

**RE: Q.B. No. 1455 of 2019 - In the Matter of the Voluntary Liquidation and
Dissolution of Primewest Mortgage Investment Corporation
Statement of Account - Schedule "A"
Our File # 77000646**

We represent Randy Koroluk, the representative plaintiff and the class in the action filed under QBG 1455 of 2018 against the directors of PrimeWest Mortgage Investment Corporation ("PrimeWest"). A copy of the Amended Statement of Claim is enclosed.

The class consists of two sub-groups: 1- Those who invested and should have been warned that the Net Asset Value was much lower than the directors, the company and Ernst & Young first indicated; and 2- the larger group, all the shareholders.

Hence we are filing two proofs of claim.

The general principle of damages is to place the class in the position they would have been in had they not suffered the wrong: *Dodd Properties (Kent) Ltd. v Canterbury City Council*, [1980] 1 WLR 433 (Eng QB); *Cyr v Kopp*, 2016 BCSC 679.

Damages are to be assessed at the time of loss: *Jens v Mannix Co.*, 1986] 5 WWR 563 (BCCA), para 11. This is not a fixed rule. Courts can set a date for assessing damages: *Neher v Marathon Homes Inc.*, 2011 CarswellAlta 197 (Alta QB).

The Court is not concerned with the mathematically measurable damages, but with reasonable damages: *Abraham v Wingate Properties*, 1985 CarswellMan 215 (Man CA).

Difficulty in assessment is neither a bar nor a justification for nominal damages: *Campobello Fisheries Ltd. v Jackson Brothers Ltd.*, [1992] 132 NBR (2d) 91 (NBQB); *Hyman v Kinkel*, 1939 CarswellOnt 103 (SCC).

In the absence of an actuarial assessment, a lump sum may be awarded: *Nicholson v Nova Scotia (Attorney General)*, [1991] 110 NSR (2d) 181 (NSTD) (affirmed on appeal).

Without evidence of a clear and certain quantum, the quantum may be little more than a guess: *Penvidic Contracting Co. v International Nickel Co. of Canada Ltd.*, 1975 CarswellOnt 299 (SCC).

Most of our causes of action relate to breach of duty. Hence, most translate as negligence. In so far as we plead breach of statutory duty, pursuant to the Canadian Encyclopedic Digest, *Damages* IV.22, para 576 such breach is considered in the context of the law of negligence.

In *321665 Alberta Ltd. v Mobil Oil Canada Ltd.*, 2013 ABCA 221 the Court held:

Damages "at large" is an approach that arises when the nature of the tort has made it impossible for the plaintiff to prove damages with precision...But the outcome must still reasonably approximate actual or foreseeable loss, or else it becomes disconnected from its foundational rationale.

I first discuss the second group.

The Proof of Claim requests the amount by which the Debtor is indebted to the creditors as at October 25, 2019. The closest preceding value to that date available through the Canada Securities Exchange ("CSE") is October 19, 2019 at \$1.31/share.

Our claim pertains to mismanagement and waste that is evident from the CSE's charts. From July 2, 2016 until September 10, 2016 the share price remained stable at \$9.60 per share.

The date of the class' claim is approximately the date of issue of the statement of claim, i.e. June 12, 2018. The closest preceding value to that date available through the CSE is March 31, 2018 at \$1.63/share.

Pursuant to the *Condensed Interim Financial Statements (Unaudited)*, three and six months ended June 30, 2018, available through the CSE, paragraph 8(b) stipulates that there were 1,890,729 shares in issue around June 12, 2018.

Pursuant to the *Condensed Interim Financial Statements (Unaudited)*, three and six months ended September 30, 2016, available through the CSE, paragraph 8(b) stipulates that there were 1,890,729 shares in issue around September 10, 2019.

The number of shares in issue remained unchanged.

PrimeWest's market capitalization according to CSE values was \$18,150,998.40 on September 10, 2016, calculated as the product of the number of shares in issue and their traded value.

The market capitalization according to CSE values was \$3,081,888.27 on June 12, 2016, calculated the same way.

The difference is \$15,069,110.13. This is the amount of realistic losses, i.e. based on values an investor would have received if trading those shares on the open market.

I now discuss the second group. The Net Asset Value of PrimeWest was \$10.00/share since the spring of 2016, and was reduced to \$6.50/share by the Listing Application. Our Amended Statement of Claim addresses this:

29. The Listing Application also released April 3, 2017 lists the Defendants Fondall, Robinson, and Bast as the Audit Committee for Prime West.

30. The Listing Application reduced the Net Asset Value of Prime West to \$6.50 per share. This was a significant reduction from the price of \$10.00 per share that had been in place since spring 2016. At this time, all share dividends and redemptions were suspended.

Pursuant to the *Condensed Interim Financial Statements (Unaudited)*, three months ended March 31, 2017, paragraph 9(b), the number of issued shares remained unchanged. At a \$3.50 discount on the Net Asset Value, loss is equal to \$6,617,551.50.

Pursuant to the fiat of Mr. Justice Gabrielson on July 7, 2020 these claims are included in this liquidation.

Yours truly,

MERCHANT LAW GROUP LLP

Per:



E.F. Anthony Merchant, Q.C.

CC - Mike Russell, The W Law Group

NOTICE TO CREDITOR

January 16, 2019

RE: IN THE MATTER OF A CLAIMS PROCESS ORDER UNDER THE VOLUNTARY LIQUIDATION AND DISSOLUTION OF PRIMEWEST MORTGAGE INVESTMENT CORPORATION

On October 24, 2019, **PRIMEWEST MORTGAGE INVESTMENT CORPORATION** (the "**Company**") commenced voluntary liquidation under *The Business Corporations Act*, RSS 1978, c B-10 (the "**Liquidation**") and, by Order of the Court of Queen's Bench for Saskatchewan dated October 31, 2019, continued the Liquidation under Court supervision (the "**Liquidation Proceedings**"), with KPMG Inc. appointed as the Liquidator (the "**Liquidator**").

As part of the Liquidation Proceedings, the Court of Queen's Bench for Saskatchewan has ordered that a Claims Process be initiated in order that all claims against the Company and its directors and officers can be determined.

Only a creditor who establishes its claim against the Company or its directors and officers in accordance with the Claims Process will be entitled to receive a distribution on account of such claim.

The Order establishing the Claims Process granted by the Honourable Mr. Justice N.G. Gabrielson on January 10, 2020, as well as all relevant instructions and documents related to the Claims Process, including the Proof of Claim form, can be obtained from the Liquidator's webpage located at <https://home.kpmg/ca/primewest> or by contacting the Liquidator at:

Bow Valley Square II, 3100, 205 – 5th Avenue SW, Calgary, Alberta, T2P 4B9
Attention: Neil Honess
Email: neilhoness@kpmg.ca
Attention: Cristina Pimienta
Email: cpimienta@kpmg.ca

The deadline for a creditor to submit a Proof of Claim, if required under the Claim Procedure, in respect of any claim it has, or believes it has, against the Company or its directors and officers is 4:00 p.m. (Saskatchewan Time) on Tuesday, March 10, 2020 (the "**Claims Bar Date**").

Claims which are not submitted to the Liquidator by way of Proof of Claim, or otherwise acknowledged by a Claim Amount Notice, on or before the Claims Bar Date will be forever barred and Creditors holding such Claims will be forever barred from making or enforcing any Claim against the Company or its directors or officers and the Claim shall be forever released and extinguished.

Yours truly,

KPMG Inc., in its capacity as liquidator
Of PrimeWest Mortgage Investment Corporation
And not in its personal or corporate capacity



Neil Honess, Senior Vice President

PROOF OF CLAIM (CLAIMS PROCEDURE)

For claims arising before October 25, 2019 relating to PrimeWest Mortgage Investment Corporation.

(See Reverse for Instructions)

Randy Koroluk, the representative plaintiff in the Class Action
Regarding the claim of QBG 1727 of 2018, and the members of the Class he represents. (referred to
in this form as "**the creditor**"). (name of creditor)

All notices or correspondence regarding this claim to be forwarded to the creditor at the following address:

E.F. Anthony Merchant, Q.C., Merchant Law Group LLP, 2401 Saskatchewan Dr, Regina

SK S4P 4H8

Telephone: 306-359-7777

Fax: 306-522-3299

E.F. Anthony Merchant, Q.C. on behalf of Randy

I, Koroluk and said class members

Residing in the _____ city

(name of person signing claim)

(city, town, etc.)

of Regina

In the province of Saskatchewan

(name of city, town, etc.)

Do hereby certify that:

☐ 1. I am the creditor

or

☒ I am _____ counsel for _____ of the ~~creditor~~ creditors.
(if an officer or employee of the company, state position or title)

☒ 2. I have knowledge of all the circumstances connected with the Claim, as defined in the Claims Procedure Order, dated 2020.1.10, referred to in this form.

3. I have a Claim against PrimeWest Mortgage Investment Corporation (the "**Debtor**"), specifically:

☐ (a) a Claim against the Debtor; [Claim against the Debtor through defendant Ernst & Young's indemnity]

☐ (b) an Equity Claim, as defined in the Liquidation Plan; or

☒ (c) a claim against the directors and officers of the Debtor.

4. As at October 25, 2019, the Debtor was and still is indebted to the creditor in the sum of \$ 15,069,110.13 CDN as shown by the statement of account attached hereto and marked

"Schedule A". Claims should **not** include the value of goods and/or services supplied after October 25, 2019. If a creditor's claim is to be reduced by deducting any counter claims to which the Debtor is entitled and/or amounts associated with the return of equipment and/or assets by the Debtor, please specify. All Equity Claims and claims against directors and officers must include full particulars of the claim together with supporting documentation.

5. The statement of account must specify the vouchers or other evidence in support of the claim including the date and location of the delivery of all services and materials. Any claim for interest must be supported by contractual documentation evidencing the entitlement to interest.

6. ☒ A. **Unsecured claim.** \$ 15,069,110.13. In respect to the said debt, the creditor does not and has not held any assets as security.

- ☐ B. **Secured claim.** \$_____. In respect of the said debt, the creditor holds assets valued at \$_____ as security:

Provide full particulars of the security, including the date on which the security was given and the value at which the creditor assesses the security together with the basis of valuation, and attach a copy of the security documents as Schedule "B".

Dated at Regina, this 6th day of August, 2020.
(Insert city)

Witness

(signature of individual completing the form)

Must be signed and witnessed

Instructions for Completing Proof of Claim Forms

In completing the attached form, your attention is directed to the notes on the form and to the following requirements:

Proof of Claim:

1. The form must be completed by an individual and not by a corporation. If you are acting for a corporation or other person, you must state the capacity in which you are acting, such as, "Credit Manager", "Treasurer", "Authorized Agent", etc., and the full legal name of the party you represent.
2. The person signing the form must have knowledge of the circumstances connected with the claim.
3. A Statement of Account containing details of secured and unsecured claims, and if applicable, of the amount due in respect of property claims, must be attached and marked Schedule "A". Claims should **not** include the value of goods and/or services arising after October 25, 2019. It is necessary that all creditors indicate the date and location of the delivery of all goods and/or services. Any amounts claimed as interest should be clearly noted as being for interest.
4. The nature of the claim must be indicated by ticking the type of claim which applies. e.g. –

Ticking (A) indicates the claim is unsecured;

Ticking (B) indicates the claim is secured, such as a mortgage, lease, or other security interest, and the value at which the creditor assesses the security must be inserted, together with the basis of valuation. Details of each item of security held should be attached as Schedule "B" and submitted with a copy of the chattel mortgage, conditional sales contract, security agreement, etc.
5. The person signing the form must insert the place and date in the space provided, and the signature must be witnessed.
6. Additional information regarding PrimeWest Mortgage Investment Corporation and the Liquidation process, as well as copies of claims documents may be obtained at <http://home.kpmg/ca/primewest>. If there are any questions in completing the notice of claim, please write or telephone the office of the Liquidator at:

KPMG Inc., Liquidator of PrimeWest Mortgage Investment Corporation.

By Mail/Courier/Email/Facsimile:

KPMG Inc.
Suite 3100, 205 – 5th Ave SW
Calgary, AB T2P 4B9

Attention: Cristina Pimienta
Email: cpimienta@kpmg.ca
Phone: (403) 691-8406
Fax: (403) 691-8009

Note: Any claim not delivered to the Liquidator at the above noted address by March 10, 2020, will, unless otherwise ordered by the Court of Queen's Bench for Saskatoon, be barred and may not thereafter be advanced against the Debtor.

NOTICE TO CREDITOR

January 16, 2019

RE: IN THE MATTER OF A CLAIMS PROCESS ORDER UNDER THE VOLUNTARY LIQUIDATION AND DISSOLUTION OF PRIMEWEST MORTGAGE INVESTMENT CORPORATION

On October 24, 2019, **PRIMEWEST MORTGAGE INVESTMENT CORPORATION** (the "**Company**") commenced voluntary liquidation under *The Business Corporations Act*, RSS 1978, c B-10 (the "**Liquidation**") and, by Order of the Court of Queen's Bench for Saskatchewan dated October 31, 2019, continued the Liquidation under Court supervision (the "**Liquidation Proceedings**"), with KPMG Inc. appointed as the Liquidator (the "**Liquidator**").

As part of the Liquidation Proceedings, the Court of Queen's Bench for Saskatchewan has ordered that a Claims Process be initiated in order that all claims against the Company and its directors and officers can be determined.

Only a creditor who establishes its claim against the Company or its directors and officers in accordance with the Claims Process will be entitled to receive a distribution on account of such claim.

The Order establishing the Claims Process granted by the Honourable Mr. Justice N.G. Gabrielson on January 10, 2020, as well as all relevant instructions and documents related to the Claims Process, including the Proof of Claim form, can be obtained from the Liquidator's webpage located at <https://home.kpmg.ca/primewest> or by contacting the Liquidator at:

Bow Valley Square II, 3100, 205 – 5th Avenue SW, Calgary, Alberta, T2P 4B9
Attention: Neil Honess
Email: neilhoness@kpmg.ca
Attention: Cristina Pimienta
Email: cpimienta@kpmg.ca

The deadline for a creditor to submit a Proof of Claim, if required under the Claim Procedure, in respect of any claim it has, or believes it has, against the Company or its directors and officers is 4:00 p.m. (Saskatchewan Time) on Tuesday, March 10, 2020 (the "**Claims Bar Date**").

Claims which are not submitted to the Liquidator by way of Proof of Claim, or otherwise acknowledged by a Claim Amount Notice, on or before the Claims Bar Date will be forever barred and Creditors holding such Claims will be forever barred from making or enforcing any Claim against the Company or its directors or officers and the Claim shall be forever released and extinguished.

Yours truly,

KPMG Inc., in its capacity as liquidator
Of PrimeWest Mortgage Investment Corporation
And not in its personal or corporate capacity



Neil Honess, Senior Vice President

PROOF OF CLAIM (CLAIMS PROCEDURE)

For claims arising before October 25, 2019 relating to PrimeWest Mortgage Investment Corporation.

(See Reverse for Instructions)

Randy Koroluk, the representative plaintiff in the Class Action
Regarding the claim of QBG 1727 of 2018, and the members of the Class he represents. (referred to
in this form as "**the creditor**"). (name of creditor)

All notices or correspondence regarding this claim to be forwarded to the creditor at the following address:

E.F. Anthony Merchant, Q.C., Merchant Law Group LLP, 2401 Saskatchewan Dr, Regina

SK S4P 4H8

Telephone: 306-359-7777

Fax: 306-522-3299

E.F. Anthony Merchant, Q.C. on behalf of Randy
I, Koroluk and said class members

Residing in the _____ city

(name of person signing claim)

(city, town, etc.)

of Regina

In the province of Saskatchewan

(name of city, town, etc.)

Do hereby certify that:

☐ 1. I am the creditor

or

☒ I am _____ counsel for _____ of the ~~creditor~~ creditors
(if an officer or employee of the company, state position or title)

☒ 2. I have knowledge of all the circumstances connected with the Claim, as defined in the Claims Procedure Order, dated 2020.1.10, referred to in this form.

3. I have a Claim against PrimeWest Mortgage Investment Corporation (the "**Debtor**"), specifically:

☒ (a) a Claim against the Debtor; [Claim against the Debtor through defendant Ernst & Young's indemnity]

☐ (b) an Equity Claim, as defined in the Liquidation Plan; or

☒ (c) a claim against the directors and officers of the Debtor.

4. As at October 25, 2019, the Debtor was and still is indebted to the creditor in the sum of
\$ 6,617,551.50 CDN as shown by the statement of account attached hereto and marked

"Schedule A". Claims should **not** include the value of goods and/or services supplied after October 25, 2019. If a creditor's claim is to be reduced by deducting any counter claims to which the Debtor is entitled and/or amounts associated with the return of equipment and/or assets by the Debtor, please specify. All Equity Claims and claims against directors and officers must include full particulars of the claim together with supporting documentation.

5. The statement of account must specify the vouchers or other evidence in support of the claim including the date and location of the delivery of all services and materials. Any claim for interest must be supported by contractual documentation evidencing the entitlement to interest.

6. ☒ A. **Unsecured claim.** \$ 6,617,551.50. In respect to the said debt, the creditor does not and has not held any assets as security.

☐ B. **Secured claim.** \$ _____. In respect of the said debt, the creditor holds assets valued at \$ _____ as security:

Provide full particulars of the security, including the date on which the security was given and the value at which the creditor assesses the security together with the basis of valuation, and attach a copy of the security documents as Schedule "B".

Dated at Regina, this 6th day of August, 2020.
(Insert city)

Witness

(signature of individual completing the form)

Must be signed and witnessed

Instructions for Completing Proof of Claim Forms

In completing the attached form, your attention is directed to the notes on the form and to the following requirements:

Proof of Claim:

1. The form must be completed by an individual and not by a corporation. If you are acting for a corporation or other person, you must state the capacity in which you are acting, such as, "Credit Manager", "Treasurer", "Authorized Agent", etc., and the full legal name of the party you represent.
2. The person signing the form must have knowledge of the circumstances connected with the claim.
3. A Statement of Account containing details of secured and unsecured claims, and if applicable, of the amount due in respect of property claims, must be attached and marked Schedule "A". Claims should **not** include the value of goods and/or services arising after October 25, 2019. It is necessary that all creditors indicate the date and location of the delivery of all goods and/or services. Any amounts claimed as interest should be clearly noted as being for interest.
4. The nature of the claim must be indicated by ticking the type of claim which applies. e.g. –

Ticking (A) indicates the claim is unsecured;

Ticking (B) indicates the claim is secured, such as a mortgage, lease, or other security interest, and the value at which the creditor assesses the security must be inserted, together with the basis of valuation. Details of each item of security held should be attached as Schedule "B" and submitted with a copy of the chattel mortgage, conditional sales contract, security agreement, etc.
5. The person signing the form must insert the place and date in the space provided, and the signature must be witnessed.
6. Additional information regarding PrimeWest Mortgage Investment Corporation and the Liquidation process, as well as copies of claims documents may be obtained at <http://home.kpmg/ca/primewest>. If there are any questions in completing the notice of claim, please write or telephone the office of the Liquidator at:

KPMG Inc., Liquidator of PrimeWest Mortgage Investment Corporation.

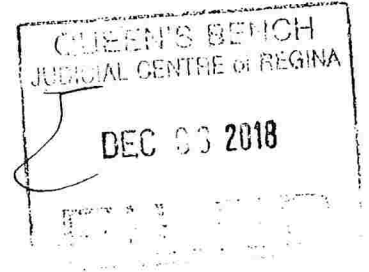
By Mail/Courier/Email/Facsimile:

KPMG Inc.
Suite 3100, 205 – 5th Ave SW
Calgary, AB T2P 4B9

Attention: Cristina Pimienta
Email: cpimienta@kpmg.ca
Phone: (403) 691-8406
Fax: (403) 691-8009

Note: Any claim not delivered to the Liquidator at the above noted address by **March 10, 2020**, will, unless otherwise ordered by the Court of Queen's Bench for Saskatoon, be barred and may not thereafter be advanced against the Debtor.

Form 3-9
(Rule 3-9)



COURT FILE NUMBER QBG NO 1727 OF 2018

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE REGINA

PLAINTIFF RANDY KOROLUK

DEFENDANT(S) DAN ANDERSON
TOM ARCHIBALD
FRANCIS BAST
DOUG FRONDALL
MIKE HOUGH
WILL OLIVE
TOM ROBINSON
IRENE SEIFERLING
ERNST & YOUNG INC.

Brought under *The Class Actions Act*

NOTICE TO DEFENDANT

1 The plaintiff may enter judgment in accordance with this Statement of Claim or the judgment that may be granted pursuant to *The Queen's Bench Rules* unless, in accordance with paragraph 2, you:

- (a) serve a Statement of Defence on the plaintiff; and
- (b) file a copy of it in the office of the local registrar of the Court for the judicial centre named above.

2 The Statement of Defence must be served and filed within the following period of days after you are served with the Statement of Claim (excluding the day of service):

- (a) 20 days if you were served in Saskatchewan;
- (b) 30 days if you were served elsewhere in Canada or in the United States of America;
- (c) 40 days if you were served outside Canada and the United States of America.

3 In many cases a defendant may have the trial of the action held at a judicial centre other than the one at which the Statement of Claim is issued. Every defendant should consult a lawyer as to his or her rights.

4 This Statement of Claim is to be served within 6 months from the date on which it is issued.

5 This Statement of Claim is issued at the above-named judicial centre on the 12th of June, 2018.

6 This Amended Statement of Claim is issued at the above-named judicial centre on the 3rd day of December, 2018.

—W. – Seed—

Dy. Local Registrar

Local Registrar

AMENDED STATEMENT OF CLAIM

THE PARTIES

1.—The Plaintiff, RANDY KOROLUK ("Koroluk") resides in Regina, Saskatchewan, and is an investor and registered shareholder in Prime West.

1.

2.—All of the Defendants are current or previous members of the Board of Directors (the "Board") for PRIME WEST MORTGAGE INVESTMENT CORPORATION ("Prime West" or "the Corporation"). Prime West is a publicly traded mortgage Saskatchewan investment company.

3.—2. The Defendant, DAN ANDERSON Q.C. ("Anderson") resides in Saskatoon, Saskatchewan, and served on the Prime West Board from June, 2009 until May, 2016. Anderson is senior legal counsel in Saskatoon.

4.—3. The Defendant, TOM ARCHIBALD ("Archibald") resides in Saskatoon, Saskatchewan, and served on the Prime West Board from May, 2007 until the present. Archibald is the president of Eden Health Solutions, a privately held consulting company specializing in health care and business consulting.

5.—4. The Defendant FRANCIS BAST ("Bast") resides in Regina, Saskatchewan, currently serves on the Prime West Board, and is a businessman with many ventures, including real estate sales and development, finance, and investment.

6.—5. The Defendant DOUG FRONDALL ("Fron dall") resides in Saskatoon, Saskatchewan and served on the Prime West Board from May, 2008 until June, 2017. Frondall is an Accountant and a Partner at Virtus Group. He is the chairman of Sask Works.

7.—6. The Defendant, MIKE HOUGH ("Hough") resides in Saskatoon, Saskatchewan, and served on the Prime West Board from May, 2007 until May, 2016. Hough was the General Manager of the Saskatoon Christian Centre.

8.—7. The Defendant WILL OLIVE Q.C. ("Olive") currently serves on the Prime West Board. Olive is senior legal counsel and a partner at the law firm Olive Waller Zinkhan & Waller LLP, which has provided legal services to Prime West since 2005.

9.—8. The Defendant TOM ROBINSON ("Robinson") resides in Regina, Saskatchewan and presently serves on the Prime West Board. Robinson is the former managing partner of KPMG LLP, which

provides audit, business advisory, and consulting services to both private and public organizations.

9. The Defendant, IRENE SEIFERLING ("Seiferling") resides in Saskatoon Saskatchewan and served on the Prime West Board from May, 2008 until May, 2016. Seiferling owns a corporate governance consultation firm called "Board Dynamics" which specifically specializes in board governance and business planning.

10. All of the above Defendants are current or previous members of the Board of Directors (the "Board of Directors Defendants") for PRIME WEST MORTGAGE INVESTMENT CORPORATION ("Prime West" or "the Corporation"). Prime West is a publicly traded mortgage Saskatchewan investment company.

10.11. The Defendant, ERNST AND YOUNG INC. ("E & Y") is a corporation registered pursuant to the *Canada Business Corporations Act*. They provide professional and accounting services. E & Y carried on business in Saskatchewan and maintains Saskatchewan officers. Their registered office is 100 Adelaide Street West, Suite 3900, Toronto ON M5H 0B3.

THE PROPOSED CLASS

11.12. The Defendants have, by their acts or omissions, caused harm and damages to Members of the Class. The Plaintiff acts as Representative Plaintiffs on behalf of an affected Class of several persons in the Province of Saskatchewan. The Plaintiff institutes this Claim as Representative on behalf of the Class of persons who have suffered harm or damages as a result of the Defendants' acts, omissions, wrongdoings, and breaches of legal duties and obligations, including, but not limited to, breach of trust, breach of fiduciary duty, breach of duty to act with honesty and good faith, negligence and failure to fulfill their statutory or common law duties, or other obligations due to the Plaintiff and Class Members collectively.

12.13. The Plaintiff on behalf of all Class Members claims the following relief, on a joint and several basis, against each of the Defendants, for the following proposed Class:

- a. All persons who invested in Prime West;
 - b. All persons who are registered shareholders in Prime West;
 - c. All persons who are beneficial shareholders in Prime West;
 - d. All family members of the above.
- (Collectively "Class Members" or "Class")

BACKGROUND FACTS

14. Prime West has been operating in the Province of Saskatchewan since 2005. Prime West is a public corporation based in Saskatoon, Saskatchewan and operates as a Saskatchewan based mortgage Investment Corporation. The Corporation's Class A common shares are listed for trading on the Canadian Securities Exchange under the symbol PRI.

~~13.~~

~~14.~~ 15. Each of the Board of Directors Defendants was a member of the Board of Directors for Prime West and participated in the Defendants' Wrongful Acts.

~~15.~~ 16. Each of the Board of Directors Defendants' responsibilities as a Board Members and officers of Prime West included, *inter alia*:

- a. Assuming responsibility for the overall stewardship and development of the corporation;
- b. Monitoring the Corporation's business interests;
- c. Identifying the principal risks and opportunities of the Corporation's business and ensuring the implementation of appropriate systems to manage these risks;
- d. Overseeing ethical management and succession planning, including appointing, training, and monitoring senior management and directors,
- e. Overseeing the Corporation's internal financial controls and management information systems;
- f. Implementing and enforcing corporate governance policies; and
- g. Following the code of ethics and written charters of the Corporation.

~~9.~~

17. E & Y was retained by Prime West to do yearly audits of Prime West's financial information for 2014, 2015, and 2016. These audits were done by E & Y and Prime West released it audited financial statements for each year about the end of March of the next year

18. E & Y was appointed as the auditor for Prime West by the shareholders. In undertaking the work for Prime West and in providing audits to Prime West, E & Y knew that members of the investing public, including current and prospective shareholders would rely upon the professionalism, fidelity, and accuracy of E & Y's audited financial statements.

THE DEFENDANTS' WRONGFUL ACTS

~~16.~~ 19. On or about March, 2011, the Board of Directors Defendants and other members of the Board began to employ Don Zealand ("Zealand") as CEO of Prime West.

~~17-20.~~ In 2015-2016, Zealand began to invest in high risk rural and commercial loans, in many instances second position mortgages, subject to the actions of other mortgage interests, contrary to the Corporation's mandate to invest in primarily short-term residential mortgages.

21. Zealand invested in 19 condo units in Regina on a high rise unit that was known or should have been known to be an uncertain and high-risk investment, which the Defendants knew, or ought to have known was contrary to the best interests of Class Members. As a result, a significant amount of financial risk was created for shareholders. The Defendants' knew or ought to have known that Zealand was conducting business of this kind in a way that was outside the parameters set by the Board and failed to adequately supervise his conduct.

~~18-22.~~ The 2015 annual financial statements audited by E & Y did not acknowledge, flag, or communicate that high-risk investments had been entered into by Prime West. The nature of the audit process has prevented the Class from ascertaining whether this was a failure of E & Y to preform due diligence or if it was a willful lack of transparency from the Board of Directors Defendants.

~~19-23.~~ In Spring of 2016, the Board raised nearly two million dollars for the purpose of investment. To this date, the shareholders have not been informed of what has happened to this money, nor has it been returned to them. Instead, the funds raised have been misappropriated for other purposes. This money was raised at the rate of \$10.00 per share.

~~20-24.~~ On or about June 6, 2016, the Defendants dismissed Zealand. At the time, the Defendants, Archibald and Fondall became acting CEO until August, 2016. Neither of these Defendants had the requisite competency to take on this role, which caused further damage and financial risk for the Class.

~~21-25.~~ On or about August, 2016, the Defendants' employed Brad Penno. Penno began to sell properties off for less than they could have retrieved contrary to the interests of the Class.

26. In September of 2016, the Board raised \$1,000,000 in equity for Prime West's operating costs from a third party at an 8% per annum interest rate. This loan began to be paid back in 2017. The Defendants, Bast and Robinson, were shareholders in this third party, and personally profited from the loan. In January of 2017, the Board, including the Board of Directors Defendants took an additional loan of \$500,000 from the same third party at an 8% per annum. As a result of the losses from these loans the dividends to be paid from Class Members were suspended in 2017.

27. Prime West released the audited annual financial statement for 2016 received from E & Y on or about March 31, 2017 as usual. The 2016 Audited Financial Statements prepared by E & Y drew attention to the accumulated deficit of \$3,399,834 and cast doubt on Prime West's ability to continue as a going concern. On or about April 3, 2017 Prime West released a statement that summarized the wrongful acts as follows:

During the year ended December 31, 2016, the Corporation's new management performed a detailed review of its mortgage portfolio. The Corporation determined that certain loss events occurred in prior periods that should have more properly been considered in determining the specific allowance for mortgage losses at December 31, 2015 and 2014. In addition it was determined that the security value assigned to certain mortgages and assets taken in settlement of debt were not appropriate and did not consider the facts and circumstances that existed at December 31, 2015 and 2014. The combination of these events also impacted the collective allowance that should have been recorded as of December 31, 2015 and 2014 and were considered as errors in accordance with IFRS [International Financial Reporting Standards].

28. The error in the 2014 and 2015 audited financial statement was discovered when new management took over Prime West. It was not discovered by E & Y in their role as auditor. E & Y caused, or allowed by inaction, the error to be propagated over several years of audited financial statements. E & Y did not properly probe the information provided to them to ascertain Prime West's true financial position. E & Y failed to take care that errors and omissions did not exist in the documents they prepared. These failures obscured Prime West's true financial positions, maintained shares at an artificial value, and caused investors to purchase shares at a value greater than their actual worth.

29. The Listing Application also released April 3, 2017 lists the Defendants Fondall, Robinson, and Bast as the Audit Committee for Prime West.

30. The Listing Application reduced the Net Asset Value of Prime West to \$6.50 per share. This was a significant reduction from the price of \$10.00 per share that had been in place since spring 2016. At this time, all share dividends and redemptions were suspended.

22.

23-31. The Board of Directors Defendants did not begin to establish loan loss provisions or adequate corporate governance until 2017-2018. Despite the fact that the Defendant, Sieferling, specializes in consulting boards on developing effective corporate governance practices.

24-32. Over the previous few years, when shareholders and Class Members voiced their concern to the Board, including each of the Board of Directors Defendants, their inquiries have been repeatedly and actively ignored.

~~25-33.~~ The facts pleaded in this section (the "Defendants' Wrongful Acts") apply to each and every cause of action stated in this Statement of Claim, even where not specifically reiterated.

THE PLAINTIFF'S HARMS

~~34.~~ Each of the Defendants have, by their acts or omissions, caused harm and damages to Members of the Class. The Plaintiff institutes this Claim as a Representative on behalf of the Class of persons who have suffered harm or damages as a result of the Defendants' acts, omissions, wrongdoings, and breaches of legal duties and obligations, including, but not limited to, negligence and failure to fulfill their statutory or common law duties, or other obligations due to the Plaintiff and Class Members.

~~26-35.~~ The Class has suffered and continues to suffer loss and damages, which include but are not limited to, loss of share value and loss of dividend income.

VICARIOUS LIABILITY

~~36.~~ As members of the Board, each of the Board of Directors Defendants were at all material times required to manage or supervise the management of the business and affairs of Prime West, including the actions of its agents and employees, pursuant to section 97 of the *Business Corporations Act*, RSS 1978, c. B-10, s. 97 and are all therefore personally liable for the Wrongful Acts, especially those committed by CEOs and CFOs under their supervision.

~~27.~~

~~37.~~ E & Y is a firm of professional accounts with members registered pursuant to *The Accounting Profession Act*, SS 2014, c A-3.1. E & Y is vicariously liable for the Wrongful Acts of its employees, agents, and partners.

BREACH OF TRUST

~~28-38.~~ At all material times, each and every of the Board of Directors Defendants owed duties of trust to Class Members by virtue of their position of trust on the Board.

~~29-39.~~ The Trust required an accounting of funds from business conducted on behalf of Class Members and using capital raised from Class Members through the Board of Directors Defendants' day to day operations, with certain funds to be held in trust by the Board of Directors Defendants for the Class.

~~30-40.~~ The Board of Directors Defendants' Wrongful Acts were dishonest and either fraudulently or

negligently designed to decrease the amounts held in trust for Class Members and ultimately misappropriated.

31-41. The Board of Directors Defendants knowingly received funds that were subject to the Trust and engaged the Board of Directors Defendants' Wrongful Acts.

32-42. The Board of Directors Defendants' responsibility was to receive funds that were subject to the Trust and this engaged the Board of Directors Defendants' Wrongful acts.

33-43. In the alternative, any Board of Directors Defendant who did not directly handle the funds to be held in trust for the Class is liable as a trustee *de son tort* as each took upon themselves to act as trustee and administer funds that were intended to be held in trust for Class Members.

BREACH OF DUTY OF HONESTY AND GOOD FAITH

34-44. Pursuant to the common law and section 117 of *The Business Corporations Act*, RSS 1978, C. B-10, s.117, each and every Board of Directors Defendant was required at all material times to act honestly and in good faith and in keeping with the best interests of the corporation, including keeping the Members of the Class in mind to exercise due care, diligence, and skill in the circumstances.

35-45. Each of the Board of Directors Defendants has failed to meet the standard of honesty and good faith required of them as Board Member by engaging in the Defendants' Wrongful Acts.

36-46. The Board of Directors Defendants' Wrongful Acts were engaged to lie and mislead Class Members.

37-47. The Board of Directors Defendants engaged in Wrongful Acts knowing that the said actions were not in good faith or would negatively affect the legitimate business and financial interests of the Class

BREACH OF FIDUCIARY DUTY

38-48. All of the Board of Directors Defendants are sophisticated individuals with experience in business and finance, and at all material times were aware of their fiduciary and financial obligations to the Class.

~~39-49.~~ At all material times, each of the Board of Directors Defendants, owed duties of trust to the Class by virtue of their position on the Board. As Board Members, the Board of Directors Defendants, owed a duty of loyalty to the Class, and a fiduciary obligation not to act adversely to Class Members' interests.

~~40-50.~~ The Board of Directors Defendants were entrusted to raise and manage funds acquired for the purposes of investment and required to hold the funds in trust for Class Members among other duties.

~~41-51.~~ The independence of the Board of Directors Defendants, and the level of trust placed in them by Class Members to act honourably and honestly, and with Class Members' interests in mind, which were always to precede and be in priority to their own interests, created in each of the Board of Directors Defendants a fiduciary duty towards the Class which required each Board of Directors Defendant to:

- a. Act with the utmost honesty and good faith;
- b. Follow the established practices and procedures of the corporation;
- c. Raise and manage investment capital with the interests of the Class before their own;
- d. Fully and accurately account for all funds received;
- e. Prioritize Class Members' interests over their own; and
- f. Not use funds raised for investment for any personal or other improper purposes.

~~42-52.~~ The Plaintiff, on behalf of the Class, pleads that each of the Board of Directors Defendants, breached their duty of trust and the fiduciary duties owed to Class Members by, inter alia:

- a. Misdirecting, dissipating, and misappropriating monies accepted on behalf of the Corporation and the Class;
- b. Failing to account to Class Members with respect to monies received in the course of business;
- c. Using monies received on behalf of the Class or for the purposes of investment for their own personal benefit, the personal benefit of the other Defendants, or other persons unknown;
- d. Preferring his or hers own personal interests and gains and completely disregarding the interests of the Plaintiff, which they are duty bound to protect and uphold;
- e. Using client information and other confidential information for his or hers own personal benefit to the detriment of the Plaintiffs;
- f. Soliciting clients and staff members to cancel services or act in a manner contrary to the interests of the Plaintiff;

- g. Abusing their positions on the Board to gain personal benefit;
- h. Such further particulars as may be advised prior to trial.

43-53. As a result of the actions of the Board of Directors Defendants as pleaded herein, Class Members have suffered damages and harm in an amount to be proven at trial and following a full accounting of the Board of Directors Defendants' activities.

WASTE OF CORPORATE ASSETS

44-54. The Plaintiff, on behalf of the Class, pleads and relies upon the allegations contained herein and pleads that the Board of Directors Defendants owed Class Members a duty of care not to waste corporate assets by overpaying for property or employment services. The Board of Directors Defendants breached this duty of care by, *inter alia*:

- a. Employing senior management who they knew or ought to have known were grossly underqualified for their roles;
- b. Grossly overpaying officers of the Corporation by way of unethical bonus structures; and
- c. Borrowing money in an irresponsible and unethical fashion

INTERFERENCE WITH ECONOMIC RELATIONS

45-55. The Board of Directors Defendants have committed injurious acts against the Class, as pleaded herein, which deprived Class Members of the revenue and proceeds from the dividends of their investments.

46-56. The Board of Directors Defendants committed these acts with full knowledge of the harm and effect this would have on the Class.

47-57. The actions of the Board of Directors Defendants have thereby unlawfully interfered with Class Members' economic interests and the Defendants are liable therefor.

48-58. By reason of the foregoing, the Board of Directors Defendants are liable for all losses suffered by Class Members as a result of said unlawful interference.

NEGLIGENCE

~~49-59~~ In the alternative to the intentional wrongs pleaded, the Plaintiff claims that the Board of Directors Defendants are liable for Negligence.

~~50-60~~ The Board of Directors Defendants owed a duty of care to the Plaintiffs to, *inter alia*:

- a. Ensure that their subsidiaries, agents, or affiliates did not engage in the Board of Directors Defendants' Wrongful Acts;
- b. Act in a manner befitting a Board Member with the Corporation;
- c. Act in a manner in accordance with their duties as trustees, fiduciaries, and privileged positions.

~~51-61~~ The Board of Directors Defendants breached the standard of care of reasonable members of a Board and knew or ought to have known that engaging in the Board of Directors Defendants' Wrongful Acts would cause harm to the Class.

62. As a result of the Board of Directors Defendants' negligence, Class Members have suffered damage.

63. E & Y was negligent in the preparation of the audited financial statements of 2014, 2015 and 2016. They breached their duty as an expert providing core documents pursuant to The Securities Act, 1988, SS 1988-89, c S-42.2 and their duties as professional accountants to audit with diligence and accuracy.

64. Alternatively, the information and disclosure provided to E & Y which was used to create the audited annual financial statements was negligently made to E & Y by the Board of Directors Defendants, or other Prime West officers and management. So which in the alternative, the Plaintiff and Class seek recovery from all the Defendants other than E & Y.

~~52-65~~ The negligent conduct of E & Y has caused significant harm to Class members. Class members made investment decisions based on the audited annual financial statements and lost money because of their inaccuracy.

DAMAGES

~~53-66~~ The Defendants' conduct has caused significant harm to Class Members. The Class has suffered and continue to suffer loss and damage, which includes, but is not limited to the amount of the misappropriated funds.

~~54-67~~ As a result of the Defendants' wrongful acts and omissions Class Members are entitled to general damages for their losses in amounts yet to be determined, the particulars of which will be provided prior to trial.

PUNITIVE DAMAGES

~~55-68~~ The Defendants have acted in a high-handed, malicious, and reprehensible fashion, and in wanton and reckless disregard for Class Members' rights, which ought not to be countenanced by this Honourable Court. Accordingly, the Plaintiff is entitled to punitive, aggravated, and exemplary damages, the particulars of which will be provided prior to Trial.

PRAYER FOR RELIEF

~~56-69~~ The Plaintiffs therefore claim against the Defendants:

- a. General Damages in an amount to be proven at trial;
- b. Special damages in an amount to be proven at trial;
- c. Aggravated, exemplary and punitive damages;
- d. An accounting of all funds misappropriated by the Board of Directors Defendants;
- e. An equitable tracing of all funds misappropriated by the Board of Directors Defendants;
- f. Interest pursuant to the *Pre-judgement interest act*;
- g. Costs;
- h. Such further and other relief as this honourable court may allow.

DATED at Regina, Saskatchewan, this 12th day of June, 2018.

— "E.F.A Merchant" —
E. F. Anthony Merchant, Q.C.
Solicitor for the Plaintiff

AMENDED STATEMENT OF CLAIM DATED at Regina, Saskatchewan, this 30 day of December, 2018.



E.F. Anthony Merchant, Q.C.
Solicitor for the Plaintiff

CONTACT INFORMATION AND ADDRESS FOR SERVICE

If prepared by a lawyer for the party:

Name of firm:	MERCHANT LAW GROUP LLP
Name of lawyer in charge of file:	E. F. Anthony Merchant, Q.C.
Address:	2401 SASKATCHEWAN DRIVE, REGINA, SK, S4P 4H8
Telephone number:	(306) 359-7777
Fax number:	(306) 522-3299
E-mail address:	tmerchant@merchantlaw.com

Y:\Wpdata\Class Actions\Prime West\Statement of Claim

QUEEN'S BENCH FOR SASKATCHEWAN

Date: 2020 07 07
Docket: QBG 1455 of 2019
Judicial Centre: Saskatoon

IN THE MATTER OF SECTION 204 OF *THE BUSINESS CORPORATIONS ACT*, RSS 1978, c B-10

AND IN THE MATTER OF THE VOLUNTARY LIQUIDATION AND DISSOLUTION OF
PRIMEWEST MORTGAGE INVESTMENT CORPORATION

Counsel:

Michael J. Russell, Nicholas P. Conlon and Michelle M.A. Tobin	for the applicant, KPMG Inc. in its capacity as and liquidator of PrimeWest Mortgage Investment Corporation
E.F. Anthony (Tony) Merchant, Q.C.	for the representative plaintiff, Randy Koroluk and the putative class in QBG 1727 of 2018
Donald D. Hanna	for the defendant, Ernst & Young LLP
Amanda M. Quayle, Q.C.	for the former directors of PrimeWest Mortgage Investment Corporation, Dan Anderson, Tom Archibald, Francis Bast, Doug Frondall, Mike Hough, Wilson Olive, Tom Robinson and Irene Seiferling

FIAT
July 7, 2020

GABRIELSON J.

Introduction

[1] There are currently two applications before the Court:

- (a) an application by way of appearance day notice, brought by the representative plaintiff, Randy Koroluk, for an order that the claim issued under QBG 1727 of 2018 [class action] is excluded from the

liquidation proceedings in QBG 1455 of 2019;

- (b) an application by the liquidator, KPMG Inc.[KPMG], for an order:
 - (i) providing the liquidator with advice and directions of the Court in the discharge of its powers pursuant to the liquidation order and the Claims Process Order [Claims Process Order] and providing the liquidator with assistance in carrying out the terms of the liquidation order and the Claims Process Order; and
 - (ii) declaring that the allegations against Dan Anderson, Tom Archibald, Francis Bast, *et al*, in QBG 1727 of 2018 constitute a claim pursuant to and subject to the Claims Process Order, and that all matters and issues in regard to the action shall be determined in the liquidation proceedings in such manner and procedure as prescribed by further order of this Honourable Court.

Background

[2] PrimeWest Mortgage Investment Corporation [PrimeWest] is a mortgage investment corporation incorporated pursuant to *The Business Corporations Act*, RSS 1978, c B-10 [*Act*], on March 22, 2005. PrimeWest is in the business of investing in and managing a diversified portfolio of commercial and residential mortgages.

[3] On October 9, 2019, PrimeWest applied pursuant to an originating application for an order approving a plan of liquidation and dissolution pursuant to ss. 204(8), 210, 215 and 216 of the *Act* [PrimeWest application].

[4] Pursuant to a directors' resolution dated October 23, 2019, the liquidation plan was to take effect on October 24, 2019.

[5] A hearing was held on October 31, 2019 in respect to the PrimeWest application. In attendance were Ian Sutherland and Craig Firth as counsel for PrimeWest, Scott Spencer as counsel for Donald Zealand, a former CEO of PrimeWest, and Tony Merchant, Q.C. and Evatt Merchant as counsel for Randy Koroluk, the representative plaintiff in the class action. After discussion with counsel, the Court approved of the liquidation plan, including the appointment of KPMG as liquidator and the appointment of Tom Robinson, Wilson Olive, Francis Bast and Tom Archibald as inspectors of the corporation's liquidation.

[6] The draft order which had been submitted with the original application had included a reference to proceedings against directors or officers in Article 14. It read:

No Proceedings Against Directors or Officers

14. No Proceeding shall be commenced or continued against any of the former or current directors or officers of the Corporation with respect to any Claim except with leave of the Court.

[7] Mr. Merchant, on behalf of the representative plaintiff in the class action, objected to the wording of Article 14. The article was therefore changed by agreement of counsel to delete reference to the directors in Article 14 and was thereafter issued by the Court on October 31, 2019 as follows:

No Proceedings Against the Directors or Officers

14. No Proceeding shall be commenced or continued against any of the former or current officers of the Corporation with respect to any Claim, except with leave of this Court.

[8] Mr. Merchant then sent an email dated November 4, 2019 to Mr. Sutherland, suggesting that they should jointly return to court for rectification of the order of October 31, 2019 under the “slip rule” as the order “leaves the liquidation plan lame, contradictory, and embarrassing”. He suggested that the action known as QBG 1727 of 2018, which had been referred to in the definition of “claim”, should be excluded from the liquidation order.

[9] The order as issued read:

INTERPRETATION

...

2. For greater certainty, the definition of “Claim” in the Liquidation Plan and this Order includes but is not limited to:
 - (a) the following court of Queen’s Bench actions in which the Corporation is named as a defendant or defendant-by-counterclaim, as the case may be:
 - (i) QB No. 1559 of 2017;
 - (ii) QB No. 1889 of 2018;
 - (iii) QB No. 1395 of 2018
 - (b) the Court of Queen’s Bench action commenced against certain current and former directors of the Corporation in QBG No. 1727 of 2018.
- (the “**Actions**”).

[10] On November 6, 2019, Mr. Sutherland responded to Mr. Merchant’s correspondence consenting to the proposed amendment but rejecting Mr. Merchant’s characterization of the form of the order as follows:

I am not going to comment further on your characterization of the current form of the Order as referenced in your most recent letter other than to state that we reject it in its entirety. Having said that, it is very much the goal of PrimeWest Mortgage Investment Corporation to focus its remaining resources on an orderly liquidation in as

expeditious and efficient manner as possible and so my instructions are to accommodate your request as it does not appear to be actively harmful to the process.

[11] Counsel, therefore, filed a consent order removing paragraph 2(b) from the order of October 31, 2019. The amended and restated order of the Court, which was issued November 25, 2019, therefore, read:

INTERPRETATION

...

2. For greater certainty, the definition of “Claim” in the Liquidation Plan and this Order includes but is not limited to:

(a) the following court of Queen’s Bench actions in which the Corporation is named as a defendant or defendant-by-counterclaim, as the case may be:

(i) QB No. 1559 of 2017;

(ii) QB No. 1889 of 2018;

(iii) QB No. 1395 of 2018

(the “Actions”).

[12] Mr. Merchant did not request any amendment to the definition of “claim” as contained in the Plan of Liquidation and Dissolution, which was attached as Schedule A to the Order and the Amended and Restated Order. The Plan of Liquidation and Dissolution reads as follows:

1.1 Definitions

In this Liquidation Plan:

...

“**Claim**” means:

(a) any right of any Person against the Corporation in connection with any indebtedness, liability or obligation of any kind of the Corporation and any interest accrued thereon or costs payable in respect thereof, whether

liquidated, unliquidated, reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any claim made or asserted against the Corporation through any affiliate or associate or any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future with respect to any matter, action, cause or chose in action; and

- (b) any existing or future right of any Person against any one or more of the Directors which arose or arises as a result of such Director's position, supervision, management or involvement as a Director or otherwise in any other capacity in connection with the Corporation, whether such right, or the circumstances giving rise to it, arose before or after the Effective Date and whether enforceable in any civil, administrative or criminal proceeding,

but does not include an Equity Claim; ...

[Emphasis added]

[13] On December 19, 2019, Mr. Russell, counsel for KPMG, filed the first report of the liquidator dated December 18, 2019 and a notice of application also dated December 18, 2019, wherein he sought an order *inter alia* approving a Claim's Process Order. The application was served upon all parties referred to in the service order. On January 10, 2020, I approved the Claims Process Order as filed. The Claims Process Order did not specifically refer to QBG 1727 of 2018 and more specifically, it did not remove QBG 1727 of 2018 from the Claims Process Order or the need to file a proof of claim in respect to it.

[14] On January 15, 2020, KPMG wrote a letter to Mr. Merchant stating that "Randy Koroluk had been identified by the liquidator as a creditor" of PrimeWest and must file a proof of claim on or before the claims bar date (March 10, 2020 as set out

in the Claims Process Order). If he did not do so, his claim would be forever barred, estopped, enjoined and extinguished.

[15] Mr. Merchant then brought an appearance day notice seeking an order that the claim of Randy Koroluk issued in QBG 1727 of 2018 be excluded from the liquidation proceedings.

[16] The W Group, counsel for KPMG, took issue with the appearance day notice and suggested that a formal hearing was required in respect to Mr. Merchant's appearance day notice.

[17] The court was then closed because of the COVID-19 pandemic.

[18] On May 22, 2020, counsel for KPMG brought an application for the advice and directions of the Court as to how the matters and issues in regard to the class action were to be determined in the liquidation proceedings pursuant to the Claims Process Order.

QBG 1727 of 2018

[19] QBG 1727 of 2018 is a claim brought pursuant to *The Class Actions Act*, SS 2001, c C-12.01, by Randy Koroluk on behalf of himself and other members of a class, being shareholders of PrimeWest, against the defendants, who were or are members of the board of directors for PrimeWest, as well as Ernst & Young Inc. [Ernst & Young] as auditor of PrimeWest. Some, but not all, of the defendant directors have been served with a copy of the statement of claim in the said class action. Ernst & Young has not been served with a copy of the statement of claim. While PrimeWest is not named in the said statement of claim, all of the said defendants in QBG 1727 of 2018 have filed proofs of claim with the liquidator against PrimeWest in respect to an

indemnity agreement they had with PrimeWest. As liquidator, KPMG gave notice to the said defendants that it had reviewed the said proofs of claim and that they would be notified in due course of the status of the claims.

Positions of the Parties

Position of Randy Koroluk

[20] Mr. Merchant, on behalf of the representative plaintiff in QBG 1727 of 2018, Randy Koroluk, submits that it is important to recognize that this action is against the directors and auditor of PrimeWest and not against the corporation itself. Mr. Merchant submits that at the original hearing for the liquidation order, which was held on October 31, 2019, representations were made on behalf of the representative plaintiff that the word “directors” be removed from paragraph 14 of the draft order to ensure that the plaintiff’s claim against the directors could proceed without reference to the liquidation proceedings. Mr. Merchant further submits that after issuance of the original order for liquidation his attention had been drawn to paragraph 2(b) of the order, which still referred to QBG 1727 of 2018 as being included in the definition of a claim. He, therefore, contacted counsel for PrimeWest suggesting that paragraph 2(b) needs to be deleted because it unwittingly “leaves the liquidation plan lame, contradictory, and embarrassing.” Mr. Merchant submits that counsel for PrimeWest consented to the removal of clause 2(b) from the definition of “claim” and that PrimeWest is therefore estopped from relitigating this issue. Neither PrimeWest or the liquidator appealed the exclusion matter. Furthermore, as the removal of QBG 1727 of 2018 from the order of November 25, 2019 was by way of a consent signed by counsel for PrimeWest and himself, as counsel for the representative plaintiff, the order cannot now be changed. Finally, Mr. Merchant submits that the representative plaintiff and the members of the class would have priority to any claim of indemnity brought by the

directors and/or the auditor against the assets of the corporation.

Position of the Liquidator

[21] Counsel for the liquidator submitted that the liquidator is an officer of the court and is appointed by court order. It is integral to the mandate of the liquidator that all claims impacting the assets of PrimeWest be determined expeditiously and with the least expense in accordance with the liquidation proceedings. Proof of claims have been filed by the directors and auditor of PrimeWest claiming indemnity from PrimeWest regarding the class action. The liquidator has a duty to consider the claim of the representative plaintiff as well as the claims of the directors and auditor in meeting the terms of the Claims Process Order. Finally, the liquidation order was amended by way of consent and can only be changed if it arose as a result of a mutual mistake, whether it was fraud or the equivalent of fraud on the part of the party resisting rectification and that the Claims Process Order did not bar QBG 1727 of 2018 from consideration in the liquidation.

Position of the Directors

[22] The position of the directors is that they are not a named party to the liquidation order or the amended order. Some of the directors have never been served with the statement of claim issued in respect to the class action. Counsel submits that the amended order did not exclude a claim of indemnification by the directors arising out of the class action. Liquidation proceedings cannot, therefore, be concluded until the indemnity issue is decided.

Position of Ernst & Young Inc.

[23] Ernst & Young has never been served with the statement of claim in QBG

1727 of 2018. It only became aware of the claim when it was contacted by the liquidator in January 2020. A claim against Ernst & Young as auditor of PrimeWest may only be made by the company, not the shareholders. The time for service of this claim expired in 2019 and the claim must be therefore deemed to have been abandoned against Ernst & Young. To protect its position, Ernst & Young has filed a contingent proof of claim pursuant to the Claims Process Order. The proof of claim cannot be determined until the underlying action has been heard. It makes sense to have both actions heard together.

Issues

[24] The issues are:

1. What is the purpose of the liquidation and the role of the liquidator?
2. What are the duties of the liquidator?
3. Was the class action included in the Claims Process Order?
4. What is the effect of the removal of the word “directors” from paragraph 14 of the liquidation plan?
5. What is the effect of the removal of paragraph 2(b) from the definition of “claim” in the liquidation plan referred to the Amended and Restated Order of November 25, 2019?

1. *What is the purpose of the liquation and the role of the liquidator?*

[25] The primary purpose of the liquidation is to convert the assets of the corporation to cash, to pay off the debts of the corporation, and to distribute the residual

property to the shareholders and other persons entitled to it. (Kevin P. McGuinness, *Canadian Business Corporations Law*, 3d ed, vol 3 (Toronto: LexisNexis Canada, 2017) at §25.25.

[26] As was stated by Professor McGuinness, the purpose of the liquidation also guides the liquidator's role. When the Court appoints a liquidator, the liquidator is bound to wind up the corporation and to act in the place of the directors.

§25.27 ... The liquidator acts as a receiver and manager of the corporation (as well as of its assets) for the purpose of closing up the corporation's business, realizing its assets and making the proceeds obtained among the creditors and shareholders of the corporation.

...

§25.46 ... The effect of a court-ordered winding-up, is to place the corporation under the custodianship of a court-appointed liquidator. It must be understood that the role of this officer is not simply to take over the management of the corporation while some dispute or other matter relating to the corporation is decided by the court (as would be the case with the appointment of a court appointed receiver-manager). Instead, it is implicit in the winding-up process that the business and affairs of the corporation are to be liquidated. A court-appointed liquidator has been described as being the statutory representative of the corporation for the purposes of the winding up. In *Coopérants, Mutual Life Insurance Society (Liquidator of) v Dubois* [[1996] 1 SCR 900], Gonthier J. stated:

34 From the perspective of the legal winding-up scheme, therefore, the liquidator is an officer of the court whose function it is to close up the company's business and distribute its assets to its creditors. The liquidator is not a third party in relation to the insolvent company, but is the person designated by the court to act in place of the directors of the company being wound up. ...

[27] In this case, the directors of PrimeWest at an annual and special meeting of shareholders held on September 24, 2019, presented a plan of liquidation and dissolution pursuant to s. 204(1) of the *Act*. Once the liquidation plan was approved by

the shareholders, PrimeWest applied for court approval of the liquidation plan pursuant to ss. 204(8) and 210 of the *Act*. Pursuant to these sections, the Court has the authority to make any orders it sees fit in respect to the liquidation, including the power to appoint a liquidator.

[28] Sections 204(8) and 210 of the *Act* provide:

204(8) ... any interested person may, at any time during the liquidation of a corporation, apply to a court for an order that the liquidation be continued under the supervision of the court as provided in this Division, and upon such application the court may so order and make any further order it thinks fit.

...

210 In connection with ... the liquidation ..., the court may, if it is satisfied that the corporation is able to pay or adequately provide for the discharge of all its obligations, make any order it thinks fit including, without limiting the generality of the foregoing:

(a) an order to liquidate;

(b) an order appointing a liquidator, with or without security, fixing his remuneration ...

...

2. *What are the duties of the liquidator?*

[29] The duties and powers of the liquidator are set out in ss. 214 and 215 of the *Act*. The general nature of the duties of a liquidator were described in the case of *Re Home and Colonial Insurance Company*, [1930] 1 Ch 102 at 124-125 as follows:

The statutory duties cast upon him involve the getting in of the property and applying such property in satisfaction of the liabilities *pari passu*, and subject thereto the distribution of the balance among the members. ... I think there can be no doubt that, in the circumstances of the case, a high standard of care and diligence is required from a liquidator. ... He is, of course paid for his services, he is able to obtain wherever it is expedient the assistance of solicitors

and counsel; and, which is a most important consideration, he is entitled, in every case of serious doubt or difficulty in relation to the performance of his statutory duties, to submit the matter to the Court, and to obtain its guidance.

[30] The liquidator has the power to apply to the Court, as it did in the present case, to obtain guidance in carrying out its duties and to fulfill its mandate of winding up the corporation.

[31] One of the powers set out in s. 215 of the *Act* is the power to settle or compromise. Section 215(1)(g) provides as follows:

215(1) A liquidator may:

...

(g) settle or compromise any claims by or against the corporation.

[32] In this case, once it was appointed as liquidator, and following the Claims Process Order, which had been ordered by the Court on January 10, 2020, KPMG determined that the claim brought by the representative plaintiff against the directors of the corporation was included in the definition of “claim” included in Article 1.1 of the liquidation plan. KPMG also determined the representative plaintiff and the class of shareholders he represents may be creditors of the corporation bound under para. 12 of the Claims Process Order. The liquidator, therefore, wrote a letter to Mr. Merchant, who was the solicitor for Mr. Koroluk, the representative plaintiff, requesting that Mr. Koroluk file a proof of claim on or before the claims bar date and suggested that if he did not do so, “the claim will be forever barred, estopped, enjoined, and extinguished.”

[33] Furthermore, proofs of claim have also been filed by the former directors of PrimeWest claiming indemnity from and against the corporation regarding the class

action. A proof of claim has also been filed by Ernst & Young, a co-defendant in the class action. The liquidator had the power and the duty to consider the claim brought against the directors and PrimeWest in carrying out the liquidator's duties.

[34] I am satisfied therefore that the liquidator had a duty to apply to the Court for direction in respect to the liquidation plan and the Claims Process Order. Neither the orders, nor the plan of liquidation specifically stated that the class action would not be included in the Claims Process Order.

3. *Was the class action included in the Claims Process Order?*

[35] The liquidation plan, which was attached to the Amended and Restated Order of November 25, 2019 as Schedule "A" includes a definition in Article 1.1 of a claim. It provides:

1.1 In this Liquidation Plan:

...

"Claim" means:

- (a) any right of any Person against the Corporation in connection with any indebtedness, liability or obligation of any kind of the Corporation and any interest accrued thereon or costs payable in respect thereof, whether liquidated, unliquidated, reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any claim made or asserted against the Corporation through any affiliate or associate or any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future with respect to any matter, action, cause or chose in action; and

- (b) any existing or future right of any Person against any one or more of the Directors which arose or arises as a result of such Director's position, supervision, management or involvement as a Director or otherwise in any other capacity in connection with the Corporation, whether such right, or the circumstances giving rise to it, arose before or after the Effective Date and whether enforceable in any civil, administrative or criminal proceeding.

but does not include an Equity Claim; ...

[Emphasis added]

[36] As indicated previously, the liquidator is bound to follow the Liquidation Plan and the Claims Process Order. As was stated in §25.147 of *Canadian Business Corporations Law*, 3d ed:

§25.147 ... However appointed, the liquidator of a corporation is a fiduciary *vis-à-vis* the corporation and those who are concerned in it. He or she must administer the property of the corporation as a general fund for the benefit of those persons in accordance with their respective rights. The duties of the liquidator are owed to the persons concerned in the corporation generally (whether as creditors, shareholders or contributories), not to any of them individually, no matter how great or small their respective claims may be. ...

[37] I find therefore that the class action QBG 1727 is included in the Liquidation Plan pursuant to Article 1.1(b) and the Claims Process Order.

4. *What is the effect of the removal of the word "directors" from paragraph 14 of the liquidation plan?*

[38] At the time of the hearing at which the original order for the liquidation of PrimeWest was granted on October 31, 2019, Mr. Merchant objected to the original order which read:

No Proceedings Against Directors or Officers

14. No Proceeding shall be commenced or continued against any of

the former or current officers of the Corporation with respect to any Claim except with leave of this Court.

[39] Mr. Merchant objected to having the word “directors” included in para. 14 which he submitted would prevent him from continuing with the class action which he had brought on behalf of Mr. Koroluk in QBG 1727 of 2018, Judicial Centre of Regina. Mr. Merchant suggested that the class action was not brought against PrimeWest and that any reference to the class action should be removed from the liquidation order.

[40] The Court proposed to the parties that the order be amended to remove the word “directors” from para. 14 and all parties at the hearing advised that the order could then issue. The order excluded the reference to a proceeding against the directors being barred. That would not mean that the planned liquidation would not take place.

5. *What is the effect of the removal of paragraph 2(b) from the definition of “claim” in the liquidation plan referred to the Amended and Restated Order of November 25, 2019?*

[41] Counsel for PrimeWest and Randy Koroluk, on behalf of the class action, submitted to the Court a consent order referred to as the Amended and Restated Order, which the Court issued on November 25, 2019. It removed a reference to the class action from para. 2(b) of the liquidation plan:

2 ...

(b) the Court of Queen’s Bench action commenced against certain current and former directors of the Corporation in QBG No. 1727 of 2018.

[42] Mr. Merchant, on behalf of the class action, and Mr. Sutherland, on behalf of PrimeWest, disputed then and still dispute, their rationale for signing the consent

order, but there is no doubt that the consent order removed the reference to QBG 1727 of 2018. Mr. Merchant suggests that re-litigation of the exclusion is barred by issue estoppel and referred the Court to *Sherwood v Burston* (1995), 127 Sask R 71 (QB). However, as stated in that case, in order to find an issue estoppel, three conditions must be fulfilled: (1) the same matter was decided in both proceedings; (2) the judicial decision was final; and (3) the parties were the same.

[43] I am not satisfied that issue estoppel applies in the circumstances of this case. It is not clear why the reference to the class action was removed from the amended and restated order. Also the parties to the consent order were not the same as the parties in this action. KPMG, the liquidator appointed by the Court, did not appear as a party in the liquidation plan or the order which confirmed the liquidation plan; neither did the directors of PrimeWest or Ernst & Young. Furthermore, KPMG is bound to follow the Claims Process Order dated January 10, 2020 and the definitions that are found within the Claims Process Order. Neither Mr. Merchant or PrimeWest objected to or appealed the Claims Process Order.

[44] The Claims Process Order makes it clear that a proof of claim must be filed in respect to every claim that is identified by the liquidator. In this case, the liquidator has identified the class action as well as the claim for contribution and indemnity by the directors in respect to the class action as potential claims against the assets of PrimeWest. The liquidation order would be meaningless as far as determining the issues necessary for the winding up of PrimeWest if it could be held up until final adjudication on the class action. The statement of claim in the class action has not even been served on all the named defendants. Furthermore, a review of the class action file does not indicate any steps have been taken towards certification even though the action was commenced in 2018. Finally, the class action could take years to proceed to any judgment. The question of priority as between any judgment or settlement in the class

action and the directors or the auditor can be determined by the liquidator or by court order at a later date.

Conclusion

[45] I therefore find:

- (a) The representative plaintiff in the class action QBG 1727 of 2018, Randy Koroluk and the members of the class action he represents, are not excluded from the liquidation proceedings in QBG 1455 of 2019.
- (b) Randy Koroluk, the representative plaintiff in the class action, is required by the terms of the Claims Process Order to file with KPMG a proof of claim within 30 days of the date of this order. The claims bar date found in the Claims Process Order is extended to August 7, 2020.
- (c) The claim of the representative plaintiff, Randy Koroluk, as well as the claims of the directors and the auditor, Ernst & Young, for contribution and indemnity may be considered by KPMG in its role of liquidator and its recommendations to the Court in respect to the liquidation of PrimeWest.
- (d) There will be no order as to costs of the applications.

 J.
N.G. GABRIELSON

APPENDIX “B”

LIQUIDATOR’S LETTER OF AUGUST 21, 2020 TO MERCHANT



KPMG Inc.
DA – Restructuring & Turnaround
205 5th Avenue SW
Suite 3100
Calgary, AB T2P 4B9
Tel 403-691-8000
Fax 403-691-8008
www.kpmg.ca

E. F. Anthony Merchant, Q.C.

Merchant Law Group LLP
2401 Saskatchewan Drive
Regina, Saskatchewan
S4P 4H8

August 20, 2020

Dear Sir:

Re: PrimeWest Mortgage Investment Corporation – In Liquidation

NOTICE OF STATUS OF CLAIMS

On October 24, 2019, **PRIMEWEST MORTGAGE INVESTMENT CORPORATION** (the “**Corporation**”) commenced voluntary liquidation under *The Business Corporations Act*, RSS 1978, c B-10 (the “**Liquidation**”) and, by Amended and Restated Order of the Court of Queen’s Bench for Saskatchewan dated November 25, 2019, continued the Liquidation under Court supervision (the “**Liquidation Proceedings**”), with KPMG Inc. appointed as the Liquidator (the “**Liquidator**”).

As part of the Liquidation Proceedings, the Court of Queen’s Bench for Saskatchewan ordered that a Claims Process be initiated in order that all Claims against the Corporation and its directors and officers can be determined. A copy of the Claims Process Order of the Honourable Mr. Justice N.G. Gabrielson dated January 10, 2020, is enclosed. All terms not otherwise defined in this letter shall have the meanings ascribed to them in the Claims Process Order.

You are receiving this letter for the following reasons:

- 1) You have filed two Proofs of Claim against the Directors.
- 2) The term “Claim” is defined at Article 1.1 of the Liquidation Plan attached as Schedule “A” to the Order of the Honourable Justice N.G. Gabrielson dated November 25, 2019, which Liquidation Plan was approved by such Order. The definition of “Claim” in the Order dated November 25, 2019, was adopted in the Claims Process Order. A Claim includes “...any right of any Person against the Corporation in connection with any indebtedness, liability or obligation of any kind of the Corporation and any interest accrued thereon or costs payable in respect thereof, whether liquidated, unliquidated, reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed,



legal, equitable, secured, unsecured, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any claim made or asserted against the Corporation through any affiliate or associate or any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future with respect to any matter, action, cause or chose in action; and any existing or future right of any Person against any one or more of the Directors which arose or arises as a result of such Director's position, supervision, management or involvement as a Director or otherwise in any other capacity in connection with the Corporation, whether such right, or the circumstances giving rise to it, arose before or after the Effective Date and whether enforceable in any civil, administrative or criminal proceeding".

- 3) The Liquidator has reviewed the two Proofs of Claim filed by your office, and has determined that it meets the definition of a "Claim" against the Directors.
- 4) The Liquidator has further determined that it is unable to accept, revise or reject the Claim summarily and, therefore, pursuant to paragraph 22 of the Claims Process Order, the Liquidator is required, in due course, to file and serve upon your office a Notice of Application returnable in the Liquidation Proceedings seeking the direction of the Court.
- 5) This letter constitutes written notice to the Claimant by the Liquidator that it will serve the Notice of Application upon your office at the earliest possible opportunity.
- 6) **No further action is required by or on behalf of you in regard to this claim at this time.**

Should you have any questions or concerns regarding the foregoing, please contact Cristina Pimienta at 403-691-8406, or cpimienta@kpmg.ca.

Yours faithfully,

KPMG Inc., in its capacity as liquidator
of PrimeWest Mortgage Investment Corporation,
and not in its personal or corporate capacity

A handwritten signature in black ink, appearing to read "Neil Honess", written over a light blue horizontal line.

Neil Honess, Senior Vice President
Enclosure