



COURT FILE NUMBER 2301 16114  
COURT COURT OF KING'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE COMPANIES' CREDITORS  
ARRANGEMENT ACT, RSC 1985, c C-36, as amended

NB  
C121191

AND IN THE MATTER OF THE COMPROMISE OR  
ARRANGEMENT OF MANTLE MATERIALS GROUP,  
LTD. and RLF CANADA HOLDINGS LTD.

APPLICANT TRAVELERS CAPITAL CORP.

DOCUMENT **BRIEF IN SUPPORT OF APPLICATION TO COMPEL**

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## I. OVERVIEW

1. This Brief is submitted on behalf of Travelers Capital Corp. (“**Travelers**”) in support of its Application for an Order to compel the Respondent, Mantle Materials Group, Ltd. (“**Mantle**”) to provide responses to certain questions that were improperly objected to and certain undertakings that were taken under advisement or refused (collectively, the “**Refused Questions/Undertakings**”) at the Questioning on Affidavit of Mr. Levkulich, sworn on November 27, 2023 (the “**Affidavit**”), held on December 4, 2023 (the “**Second Cross-Examination**”)
2. The Affidavit was filed by Mantle in support of its application to convert its Notice of Intention to make a proposal pursuant to Division I of Part III of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the “**BIA**”), filed on July 14, 2023 (the “**Proposal Proceedings**”) and an initial order pursuant to the *Companies’ Creditors Arrangement Act*, RSC 1985, C C-36 (the “**CCAA**”) (the “**CCAA Application**”).
3. The Refused Questions/Undertakings relate to Mr. Levkulich’s position as a director of Mantle and other related companies within the RLH Group of Companies (as defined below) and his personal liability under certain environmental protection orders (the “**EPOs**”) that have been issued jointly and severally against, among others, Mantle and Mr. Levkulich and the realization efforts taken by Mantle in the Proposal Proceedings. The EPOs relate to all of the remediation and reclamation obligations for the Aggregate Pits (defined below) that both Mantle and Mr. Levkulich are subject to and which are a significant element of Mantle’s proposed restructuring in the Proposal Proceedings and now the CCAA Application.
4. The Refused Questionings/Undertakings are relevant and material to the CCAA Application and need to be responded to in order for Travelers to be in a position to properly and fully respond to the matters before the Court in the CCAA Application. The refusal to answer these questions relate to both relevant and material information as well as matters that are key issues in this proceeding – the refusal to provide this information is also significantly impairing Travelers ability to properly respond in a timely manner.

## II. FACTUAL BACKGROUND

### A. Corporate Background

5. Mantle is a wholly owned subsidiary of RLF Canada Holdings Limited (“**RLF Canada**”), which in turn is a wholly-owned subsidiary of Resource Land Fund V LP (“**RLF V**”), a Delaware limited partnership and a private equity fund managed by RLH LLP (“**RLH**”, and together with RLF Canada, RLF V, RLF Lender (defined below), the “**RLH Group of Companies**”).<sup>1</sup>
6. Mantle holds rights to gravel and aggregate pits located on public and private land throughout Alberta pursuant to surface material leases issued by the Alberta Environment and Protected Areas (the “**AEP**”) and royalty agreements with private landowners (the “**Aggregate Pits**”).<sup>2</sup>
7. Mr. Levkulich holds senior positions and has significant decision-making authority in the RLH Group of Companies, as follows:
  - a. Mr. Levkulich is the principal of RLH. In that role, he is responsible for sourcing investments, negotiating acquisitions, and overseeing the development of those investments as a director of said investments.<sup>3</sup> RLH is the fund manager and recommends those investments to certain funds, such as RLF V. RLH is the party that advises the funds on where it should invest the monies raised.<sup>4</sup>
  - b. Mr. Levkulich is also a limited partner of RLF V (i.e. he is an investor in the fund).<sup>5</sup>
  - c. Mr. Levkulich is a director of RLF Canada, which is the parent company of Mantle and the investment vehicle for RLF V.<sup>6</sup> There are no other officers or employees in RLF Canada.<sup>7</sup>

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<sup>1</sup> Affidavit of Byron Levkulich, sworn on November 27, 2023 (the “**Fifth Affidavit**”) at para 7.

<sup>2</sup> Fifth Affidavit at paras 10 and 11.

<sup>3</sup> Transcript of Questioning on Affidavits of Byron Levkulich, held on November 27, 2023, attached at Exhibit F of the Affidavit of Crystal Topilko, sworn on December 14, 2023 (the “**First Cross-Examination**”) at 14:1 to 25; Transcript of Questioning on Affidavit of Byron Levkulich, held on December 4, 2023 (the “**Second Cross-Examination**”) at 6:15 to 18.

<sup>4</sup> Second Cross-Examination at 7:8 to 14.

<sup>5</sup> First Cross-Examination at 22:23 to 23:2.

<sup>6</sup> First Cross-Examination at 23:11 to 25; Second Cross-Examination at 9:14 to 21.

<sup>7</sup> First Cross-Examination at 24:3.

- d. Mr. Levkulich is the Chief Executive Officer, president, treasurer, and secretary of RLF Lender, which was created solely to provide funds from RLF V to Mantle.<sup>8</sup>
  - e. Mr. Levkulich is the director of Mantle.<sup>9</sup>
8. Accordingly, and based upon the foregoing all of these companies are related parties.
9. Mantle acquired the rights, and associated liabilities (discussed in further detail below), in respect of the Aggregate Pits in the restructuring of JMB Crushing System (“**JMB**”) and its wholly owned subsidiary, 2161889 Alberta Ltd. (“**216**” and together with JMB, “**JMB/216**”) pursuant to the *Companies’ Creditors Arrangement Act*, RSC 1985, c B-3 (the “**JMB/216 CCAA Proceedings**”) in May of 2021 (the “**Reorganization Transaction**”).<sup>10</sup>
10. JMB/216 is an indirect subsidiary of RLF Canada through Canadian Aggregate Resources Corporation (“**CARC**”).<sup>11</sup> Mr. Levkulich is also a director of CARC.<sup>12</sup>
11. Mantle was formed through an amalgamation with JMB and 216 in the JMB/216 CCAA Proceedings.<sup>13</sup>

## **B. The Environmental Protection Orders**

12. Some or all of the Aggregate Pits are subject to environmental protection orders issued by the AEP, and inherited by Mantle in the Reorganization Transaction, which require Mantle, Mr. Aaron Patsch and Mr. Levkulich, in their capacity as directors of JMB (and now directors of Mantle), to perform certain end-of-life reclamation obligations in respect of the Aggregate Pits (the “**EPOs**”).<sup>14</sup>

## **C. The Travelers’ Security**

13. Pursuant to a Loan and Security Agreement, dated October 8, 2021, and as amended on October 15, 2021, Travelers agreed to advance approximately \$1.7 million to Mantle for the acquisition of certain equipment (the “**Equipment**”). As security for the funds advanced to Mantle, Mantle granted Travelers a purchase money security interest over the

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<sup>8</sup> Second Cross-Examination at 18:24 to 19:11.

<sup>9</sup> First Cross-Examination at 10:7 to 14.

<sup>10</sup> Fifth Affidavit at paras 19 to 25.

<sup>11</sup> Fifth Affidavit at para 20.

<sup>12</sup> First Cross-Examination at 25:21 to 25.

<sup>13</sup> Fifth Affidavit at para 25.

<sup>14</sup> Fifth Affidavit at paras 26 and 27.

Equipment, which was registered at the Alberta Personal Property Registry on October 17, 2021 (the “**Security**”).<sup>15</sup>

#### **D. Procedural Background**

14. On July 14, 2023, Mantle filed a Notice of Intention to make a proposal pursuant to Division 1 of Part III of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the “**BIA**”) bearing Court of King’s Bench of Alberta File No. 2301-10358/25-2965622 (the “**Proposal Proceedings**”).
15. In the Proposal Proceedings, Mantle has filed a number of affidavits, including but not limited to, the following:
  - a. Affidavit of Byron Levkulich, sworn on August 7, 2023;
  - b. Supplemental Affidavit of Byron Levkulich, sworn on August 11, 2023;
  - c. Second Supplemental Affidavit of Byron Levkulich, sworn on August 14, 2023; and
  - d. Affidavit of Byron Levkulich, sworn on November 1, 2023.

(collectively, the “**Proposal Affidavits**”).
16. The Court has granted a series of extensions of the time for Mantle to file a proposal to its creditors pursuant to section 50.4 of the *BIA*, the latest of which expires on December 20, 2023.<sup>16</sup>
17. On August 8, 2023, Mantle brought an application in the Proposal Proceedings seeking, among other things, approval of interim financing to be issued by RLF Canada Lender Limited (“**RLF Lender**”) to fund the Reclamation Work (the “**Interim Financing**”) and granting RLF Lender, as lender, a first-ranking priority position ahead of Mantle’s existing secured creditors, including Travelers. RLF Lender did not previously have any security in priority to Travelers over its Equipment.
18. Pursuant to the Order of the Honourable Justice Feasby, granted on August 15, 2023 and amended on August 28, 2023, Justice Feasby approved the priority ranking of various

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<sup>15</sup> Fifth Affidavit at para 56.

<sup>16</sup> [The Order of Justice Dunlop, granted November 15, 2023 in the Proposal Proceedings.](#)

restructuring charges including the Interim Financing and declared that Travelers' Security could only be realized on after the Remediation Work is complete.<sup>17</sup>

19. On November 27, 2023, Mantle filed an originating application in the within Action seeking to convert the Proposal Proceedings to an initial order under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 (the "**CCAA Application**"). Notwithstanding that the CCAA Application is a continuation of the Proposal Proceedings, the Court assigned a new action number to the CCAA Application.
20. On December 4, 2023, Travelers, through its counsel, questioned Mr. Levkulich on the Fifth Affidavit (i.e. the Second Cross-Examination).
21. Travelers understands that Mantle's intended plan, should the Initial Order be granted, is to implement a liquidation of Mantle's business and assets through some form of an "administration process" governed by a to be obtained form of Court order that provides for:
  - a. completing the remediation and reclamation obligations underlying the EPOs (the "**Reclamation Work**");
  - b. selling its assets, including certain of the Active Pits, the Equipment, and inventory; and
  - c. making a distribution to secured creditors upon completion of the Reclamation Work.<sup>18</sup>

**E. The Refused Undertakings**

22. The Undertakings requested during Cross-Examination that were refused or initially taken under advisement and subsequently refused are as follows:

Reference in Transcript	Undertaking Requested
20:6 to 20:9	<u>Undertaking #1:</u> To provide written copies of any reporting on the loans from RLF Canada Lender Limited to RLF V (Refused)

<sup>17</sup> [Re Mantle Materials Group Ltd, 2023 ABKB 488](#) and aff'd on appeal in [Mantle Materials Group Ltd v Travelers Capital Corp, 2023 ABCA 302](#).

<sup>18</sup> Fifth Affidavit at para 108.

21:26 to 22:2	<u>Undertaking #2:</u> To provide copies of RLF Canada Lender’s reporting to RLF V if it has conducted provisioning for any of its loans to Mantle and said provisioning has to be reported to RLF V and is in writing or otherwise. (Refused)
110:27 to 111:27	<u>Undertaking #30:</u> To review records and provide a copy of the process document being prepared between Mantle and FTI regarding the administration process outlined at paragraph 109 (a) to (f) of the Affidavit, in whatever state it happens to be in (Taken Under Advisement)

**F. Questions related to RLH Group’s Investment in Mantle and Associated Reporting Requirements**

23. The Refused Questions include questions relating to the source of funds invested in Mantle by RLF V, through RLF Canada, and RLF Canada Lender, the availability of future funds from those entities, and how the RLH Group has characterized those invested funds in light of the insolvency of Mantle and its predecessor, JMB/216 (the “**Lender Financing Questions**”), as follows:

<b>Reference in Transcript (Page:Line)</b>	<b>Question Objected To</b>
10:8 to 10:9	Turning to RLF V, what are the size of the funds raised by RLF V?
11:5 to 11:7	Are the funds – is RLF V – is it a closed fund now, or is it unable to raise any further funds?
12:26 to 13:1	Are there any funds remaining in RLF V from its investments left to be deployed?
13:4 to 13:7	Can those funds [in RLF V], once deployed, if repaid from investments, be reinvested again? Or once they’re returned, do they have to be returned to limited partners?
14:4 to 14:5	Has RLF V written off its \$40 million investment to JMB?
20:19 to 20:21	When RLF Canada Lender Limited gives out loans to Mantle, does it do any provision on those loans?
21:5 to 21:8	If RLF Canada Lender, on any of its loans to Mantle, has done any provisioning, meaning has it reserved any amount for a loss?



21:16 to 21:18	If RLF Canada Lender has conducted provisioning for any of these loans, who would conduct that provisioning?
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24. The Refused Questions include questions relating to the RLF Group’s obligations to report on the status of their investments including any exposure to risk in respect of same, environmental liabilities associated with their investments, advances (whether secured loans or unsecured capital injections) made to wholly owned subsidiaries in respect of the acquisition or subsequent to the acquisition to each respective corporation’s parent company, and/or their investors (the “**Financial Reporting Questions**”), as follows:

Reference in Transcript (Page:Line)	Question Objected To
13:16 to 13:19	Does Mr. Levkulich, as the principal of that fund, RLF V, have to provide financial reporting in respect of the status of investments by RLF V to the limited partners?
13:23 to 14:1	If RLF V does provide financial reporting in respect of the status of its investments to Mantle, has any reporting been provided with respect to its investment in JMB, so \$40 million that was invested at the start to those partners?
14:8 to 14:10	Has RLF V reported on its investment in Mantle as an ongoing investment, or has it written that off as well?
15:25 to 16:1	And has RLF V, in respect to those funds, advanced to Mantle, advised its limited partners with respect to whether or not there is any prospect of recovery of those funds?
19:18 to 19:19	Does RLF Canada Lender Limited have to provide reporting on its loans to RLF V?
20:2 to 20:3	If RLF Canada has to report on RLF V, what form does that reporting come in?
21:21 to 21:23	If there has been any provisioning on those loans, would that provisioning have to be reported to RLF V?

**G. Questions related to Director Liability, Indemnification and Reporting in respect of the EPOs**

25. The Refused Questions include the following questions relating to Mr. Levkulich and Mr. Patsch’s personal exposure to liability in their capacity as directors of Mantle and any indemnities or rights of recovery they have against the RLF Group (or any individual corporation therein) in respect of same (collectively, the “**Indemnification Questions**”):

<b>Reference in Transcript (Page:Line)</b>	<b>Question Objected To</b>
9:22 to 10:4	In [Mr. Levkulich’s] capacity as a director of RLF Canada Holdings Limited, has he been provided an indemnity by the company, being RLF Canada Holdings Limited, for any obligations he incurs personally as a director?
16:16 to 16:18	In your capacity as a principal of RLH LLC, does RLF V provide any indemnity for you as principal for acting in that role?
16:21 to 16:24	In your capacity as a director of Mantle Materials Group, Ltd., are you provided an indemnity by the company, Mantle, for your acting as its director?
17:10 to 17:14	In your capacity as a director of Mantle Materials Group, do you have an indemnity from either RLF Canada Holdings Company or RLF V for any personal liability you might incur as a director of Mantle?
22:12 to 22:14	If Mantle has given you an indemnity as a director for any personal liabilities incurred in that capacity?
61:1 to 61:3	If you are personally liable under those EPOs, would you have an indemnity for that from Mantle?
61:11 to 61:14	If Mantle is unable to complete the EPOs and then you’re required to pay funds personally, is there any ability for you to recover those funds in your capacities [with Mantle, RLF Canada Lender, RLF V or RLH LLC]?
61:19 to 61:22	If [Aaron Patsch] is personally liable under [the EPOs] would he have the ability to be indemnified for those liabilities from either Mantle, RLF Canada Lender, RLF V or RLH LLC?

26. The Refused Questions include questions relating to the reporting obligations, if any, of Mantle’s directors to Mantle’s parent companies or to governmental/regulatory bodies in the case of their personal liability in respect of the EPOs (the “**EPO Reporting Questions**”), as follows:

Reference in Transcript (Page:Line)	Question Objected To
8:20 to 22	Have you ever had them [the Army Corps of Engineers, who is the regulator in the United States in respect of the wetland mitigation industry] issue any environmental protection orders vis-à-vis RLH, LLC or any of its other investments?
61:25 to 62:1	If you are held liable under those EPOs or had a sanction against you, would you have to report that to either RLF V as the investment vehicle?
62:4 to 62:7	If you were personally liable under those EPOs or charged criminally, would you have to report that to any of the government contracts in the US that you worked on?
62:17 to 62:19	Would [Mr. Levkulich] have to report that if he was found liable or had a charge under an environmental protection order in Canada to that regulator [the Army Corps of Engineers] in the US?
63:17 to 63:22	If Mantle fails to complete its work under the EPOs or is otherwise convicted of any violation of the <i>EPEA</i> for failing to complete those, would Mantle have to report this to its investors?
63:26 to 64:4	If Mantle is convicted of a violation under the <i>EPEA</i> or similar legislation for failing to complete the 2021 EPOs or requirements thereunder, would this be a violation of the investment agreement between RLF V and its limited partners?
64:7 to 10	Would it be in a violation or a breach of any agreement between RLH and RLF V to fail to complete the 2021 EPOs or requirements thereunder?

### III. ISSUES

27. The primary issue for this Court to determine on the within Application is whether the Refused Questions/Undertakings are relevant and material to the CCAA Application and, as such, ought to be answered by Mantle.

#### IV. LAW AND ANALYSIS

##### A. Order to Compel Responses to Refused Questions/Undertakings

28. The scope of cross-examination on Affidavit is framed by the application before the Court;<sup>19</sup> however, where the Affidavit puts forward any other matter expressly deposed to or exhibited to the Affidavit, cross-examination can extend to it “even if the matter deposed to is irrelevant to the relief claimed.”<sup>20</sup>
29. Pursuant to Rule 5.2 of the Alberta *Rules of Court*, AR 124/2010 (the “**Rules of Court**”), a question will be “relevant and material” if the answer to the question could reasonably be expected to significantly help determine one or more of the issues raised in the pleadings, or to ascertain evidence that could reasonably be expected to significantly help determine one or more of the issues raised in the pleadings.<sup>21</sup>
30. Mantle has submitted the Affidavit in support of the extraordinary relief sought by it in the CCAA Application. Given the significant implications of these proceedings to Mantle’s creditors, and the real-time nature of insolvency proceedings, it is appropriate to consider the relevance and materiality of the Refused Questionings/Undertakings within that context.
31. The issues raised by Mantle in the CCAA Application include, among other things:
- a. Whether the Court should permit Mantle to continue its Proposal Proceedings under the CCAA;
    - i. As a corollary, whether the proposed continuation is consistent with the purposes of the CCAA;
  - b. Whether the Court should confirm and continue the Administration Charge, the Interim Financing Charge, and the D&O Charge (as those terms are defined in the Fifth Affidavit), taking into account the following factors (among others):

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<sup>19</sup> [Edmonton \(City\) v Gosinel, 2020 ABQB 546](#) at para 17; [Alberta \(Attorney General\) v Alberta Power \(2000\) Ltd, 2017 ABQB 195](#) (“**Alberta Power**”) at para 26.

<sup>20</sup> [Marathon Canada Ltd v Enron Canada Corp, 2006 ABQB 651](#) at para 6; cited with approval in *Alberta Power* at para 26.

<sup>21</sup> [Rules of Court, AR 124/2010, Rule 5.2.](#)

- i. how the company's business and financial affairs are to be managed during the proceedings;
  - ii. whether the company's management has the confidence of its major creditors;
  - iii. whether the loan would enhance the prospects of a viable compromise or arrangement being made in respect of the company; and
  - iv. whether any creditor would be materially prejudiced as a result of the security or the charge.<sup>22</sup>
32. The Refused Questions/Undertakings directly relate to the foregoing issues before the Court in the CCAA Application. In particular:
  - a. The Refused Questions/Undertakings speak to whether the relief sought in the CCAA Application is in fact consistent with the purposes of the CCAA, including, among other things, maximizing creditor recovery.
  - b. The Refused Questions/Undertakings, and in particular, the Indemnification Questions and the EPO Reporting Questions, address the rationale for Mantle's decision to proceed with expensive debtor-led restructuring measures, as opposed to, for example, a receivership or a bankruptcy, in light of Mantle's ongoing and consistent intention to liquidate its business and assets in order to address its environmental remediation obligations.
  - c. The Refused Questions/Undertakings address the factors that the Court must consider in determining whether the Interim Financing charge ought to be maintained in the CCAA proceedings, including, but not limited to, whether company's management has the confidence of its major creditors and whether the loan would enhance the prospects of a viable plan of arrangement
33. Travelers should be entitled to ask questions of Mantle which address:
  - a. the appropriateness of the requested relief in the CCAA Application and to ascertain whether it has confidence in Mantle's management to continue to have

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<sup>22</sup> [Companies' Creditors Arrangement Act, RSC 1985, c C-36, section 11.2\(4\).](#)

control of the proposed liquidation, particularly given the potential lack of objectivity of its controlling executives who are faced with significant personal exposure in these proceedings;

- b. the underlying rationale and necessity of interim financing from the RLH Group of Companies, who are non-arms' length parties and a secured creditor, through RLF Lender, in these proceedings. The Lender Financing Questions speak directly to that point, including the availability of funding from the interim lender and whether it anticipates getting repaid in these proceedings; and
  - c. the appropriateness of the requested conversion in order to satisfy itself, as a major secured creditor of Mantle, that an alternative mechanism is not a more appropriate avenue to achieve the goal of maximizing creditor recovery.
34. Travelers believes that the driving force behind Mantle filing for insolvency protection under the BIA was that it required access to other creditors security in order to help fund the cost of the remediation and reclamation obligations. The principal, director and partner of RLF V, who is the ultimate owner of Mantle, each have personally exposure for the liability associated with the EPOs. Questions regarding whether that liability will be satisfied by an indemnity from RLF V or any of the other related party companies is a wholly-relevant and material line of questioning.
35. Additionally, questions regarding RLF V's ability to fund any of the indemnification obligations, if they exist, or fund any additional amounts to Mantle is also a very relevant and material question that is central to the outcome of these proceedings. If RLF V would have independent obligations or motivations to provide this funding, Travelers believes this is a critical piece of evidence that should be responded to.\
36. As well, questions regarding the internal financial reporting and/or status of investments of Mantle, RLF Lender, RLF Holdings and RLF V on the amounts advanced by RLF V through the various entities, either by way of equity or loan, to Mantle and whether or not those entities believe any of those funds are recoverable (or not) is again highly relevant and material information and evidence that Travelers believes would be probative to the application to continue the Proposal Proceedings into the CCAA.

37. Finally, the effect or repercussions on RLF V's other investments if Mantle is not able to satisfy the EPOs and Mantle, Mr. Levkulich or Mr. Patsch are either jointly or severally charged or become personal liable under those EPOs is also a relevant and material piece of evidence that Mr. Levkulich refused to provide answers in respect of at questioning. Travelers believes this evidence would be necessary in order to properly understand why Mantle continues to advance a costly and expensive restructuring proceeding when there is no entity left to be restructured and it does not intend on continuing Mantle's business.
38. Without answers to the Refused Questions, Travelers, and the Court, cannot adequately address the issues in the CCAA Application or consider the appropriateness of the relief sought in the CCAA Application.
39. Mantle has no legal basis to withhold answers to the Objected Questions.

**V. RELIEF SOUGHT**

40. In light of the foregoing, Travelers seeks an Order from this Honourable Court compelling Mantle to provide responses to the Refused Questions/Undertakings forthwith.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 14<sup>th</sup> DAY OF DECEMBER, 2023.

MLT AIKINS LLP



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Per: Ryan Zahara/Molly McIntosh,  
Counsel for the Applicant, Travelers Capital Corp.

## TABLE OF AUTHORITIES

### A. Legislation and Regulations:

1. [Rules of Court, AR 124/2010, Rule 5.2.](#)
2. [Companies' Creditors Arrangement Act, RSC 1985, c C-36, section 11.2\(4\).](#)

### B. Case Law:

1. [Re Mantle Materials Group Ltd, 2023 ABKB 488](#)
2. [Mantle Materials Group Ltd v Travelers Capital Corp, 2023 ABCA 302.](#)
3. [Edmonton \(City\) v Gosinel, 2020 ABQB 546](#)
4. [Alberta \(Attorney General\) v Alberta Power \(2000\) Ltd, 2017 ABQB 195](#)
5. [Marathon Canada Ltd v Enron Canada Corp, 2006 ABQB 651](#)