



Court File No. CL-26-00000358-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

AND IN THE MATTER OF A RECEIVERSHIP ORDER OF THE HONOURABLE MR.
JUSTICE BLACK DATED AUGUST 14, 2026, AS AMENDED

B E T W E E N:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

- and -

**MARINA COMMODITIES INC., AUSICAN COMMODITIES LTD. AND
MARINA COMMODITIES (AUSTRALIA) PTY LTD.**

Respondents

ORDER

THIS MOTION, made by KPMG Inc. in its capacity in these proceedings as receiver and manager (in such capacities, the “**Receiver**”) without security, for an Order, among other things, approving a protocol for the production and disclosure of certain documents and records, was heard this day at 330 University Ave., Toronto, Ontario.

ON READING the materials of the moving party, the Receiver, including its Notice of Motion and Motion Record, filed, and reviewing the consent of all affected parties, none of which is a party under a disability,

1. **THIS COURT ORDERS** that unless otherwise defined in this Order, words and phrases shall have the meanings ascribed to them in the Production Protocol attached hereto as Schedule “A” (the “**Production Protocol**”), which is addressing the dealings by the Receiver with all records and information of any kind that are related to the business or affairs of any responding party and that are stored on, contained in or accessible through any computer or other electronic system of information storage in the possession or control of any director, officer or employee of

any responding party (the foregoing records and information, collectively, the “**Electronic Records**”).

2. **THIS COURT ORDERS** that the Production Protocol is hereby approved and the Receiver is authorized and directed to take such steps as are necessary or desirable to implement the Production Protocol.

3. **THIS COURT ORDERS** that, in the event that the Receiver obtains personal information relating to any director, officer or employee of any responding party in accordance with the Production Protocol, this Order shall constitute an order compelling production of such information within the meaning and for the purposes of paragraph 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, SC 2000, c 5, as amended.

4. **THIS COURT ORDERS** that the production of any document or information pursuant to this Order or under the Production Protocol will not constitute waiver of privilege over the document or information. If any document or information that is subject to any applicable legal privilege (“**Privilege Claim Record**”) is disclosed to the Receiver as part of the Electronic Records, without the consent in writing from any party with a possible claim of legal privilege over the Privilege Claim Document, then the party that discovers the Privilege Claim Record shall provide written notice of the Privilege Claim Record as soon as reasonably possible to the Receiver. Upon receipt of the Receiver shall maintain the Privilege Claim Record in confidence and shall not disclose it to any other person pending consent to disclosure from any person with an interest in the Privilege Claim Record or an Order of this Court authorizing disclosure. The provision of such notice shall be without prejudice to any party’s right to contest a claim of privilege over any of the Electronic Records.

5. **THIS COURT ORDERS** that the Receiver shall have no liability to any person arising from acts taken in accordance with the Production Protocol or the terms of this Order, save and except for liability arising from gross negligence or wilful misconduct by the Receiver.

6. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or elsewhere to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts,

tribunals, regulatory and administrative bodies are hereby requested respectfully to make such orders and provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

Jana
Steele

Digitally signed
by Jana Steele
Date: 2026.10.21
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SCHEDULE “A”

PRODUCTION PROTOCOL

WHEREAS the Ontario Superior Court of Justice has made an Order dated August 14, 2026 (the “**Appointment Order**”), appointing KPMG Inc. as receiver and manager (in such capacities, the “**Receiver**”) without security of all of the assets, undertakings and properties of Marina Commodities Inc., Ausican Commodities Ltd., and Marina Commodities (Australia) Pty Ltd. (collectively, the “**Debtors**”) acquired for, or used in relation to a business carried on by the Debtors.

AND WHEREAS the Appointment Order mandates among other things that the Debtors and each of their directors, officers and employees (collectively, “**Persons**”) forthwith advise the Receiver of the existence of any records and information of any kind related to the business or affairs of any Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Electronic Records**”) in that Person’s possession or control.

AND WHEREAS the Appointment Order empowers and authorizes the Receiver to make, retain and take away copies of any Electronic Records in any Person’s possession or control, and mandates that all Persons provide to the Receiver or permit the Receiver to make, retain and take away such copies, provided however that nothing in the Appointment Order requires the delivery of Electronic Records, or the granting of access to Electronic Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

AND WHEREAS the Appointment Order mandates that if any Electronic Records are contained on a computer or other electronic system of information storage, all Persons in possession or control of such Electronic Records must forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein, and shall not alter, erase or destroy any Electronic Records without the prior written consent of the Receiver.

AND WHEREAS the Appointment Order mandates that all Persons assist the Receiver to gain immediate access to the information in the Electronic Records the Receiver requires, including by providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

1. This Protocol sets out the measures applicable to the Receiver’s dealings with the Electronic Records.
2. For the avoidance of doubt, Electronic Records as defined for the purposes of this Protocol includes personal electronic devices and data owned by individual directors, officers and employees of any of the Debtors.
3. The Receiver shall make good faith efforts to identify Electronic Records which may relate to the business and affairs of the Debtors (“**Company Records**”).

4. Counsel for the Receiver shall make all reasonable efforts to identify documents within the Electronic Records containing non-privileged personal information of any Person or other person that does not relate to Company Records, including but not limited to telephone numbers, social insurance numbers, credit card information, banking information, personal health information, personal addresses, passports, other travel information, other information about identifiable individuals, private correspondence, and digital audiovisual media (the foregoing, collectively, “**Personal Records**”). Subject to paragraph 5 below, Personal Records shall not be included as Company Records.
5. With respect to Personal Records that include Company Records or that are included in Company Records, the Receiver shall redact such Personal Records, but not the Company Records, before disclosing or otherwise using any such Personal Records.
6. Counsel for the Receiver and any third parties who may be retained to host or store the Electronic Records, shall make all reasonable efforts to identify documents or information within the Electronic Records over which, acting reasonably, any party including, for certainty, any Person, might assert a claim to any applicable legal privilege, such that the document or information’s production would be subject to the consent of any other party (“**Privilege Claim Records**”). These efforts shall include requesting from the Persons a list of individual counsel and law firms with whom each of those Persons corresponded so that counsel for the Receiver and any relevant third parties can search for such lawyers for purposes of segregating those documents as described in this protocol. Counsel for the Receiver shall “tag” all Privilege Claim Records in a manner that differentiates them from the Company Records and such that the Receiver and any person asserting a claim of legal privilege over a Privilege Claim Record is able to identify that Privilege Claim Record. Subject to paragraph 7 below, Privilege Claim Records shall not be included as Company Records.
7. With respect to Privilege Claim Records, counsel to the Receiver shall maintain all Privilege Claim Records in confidence and shall not disclose them to any person, pending consent to disclosure from any person with an interest in the Privilege Claim Record or an Order of the court authorizing disclosure. If such consent is given or Court order granted, a Privilege Claim Record may thereafter be used as agreed to or as ordered.

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PROCEEDING COMMENCED AT TORONTO

ORDER

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