IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Sanovest Holdings Ltd. v. Ecoasis Developments LLP,* 2026 BCSC 2109

Date: 20261030
Docket: S243389
Registry: Vancouver

In the Matter of the Receivership of Ecoasis Developments LLP and others

Between:

Sanovest Holdings Ltd.

Petitioner

And

Ecoasis Developments LLP, Ecoasis Bear Mountain Developments Ltd., Ecoasis Resort and Golf LLP, 0884185 B.C. Ltd., 0884188 B.C. Ltd., 0884190 B.C. Ltd., 0884194 B.C. Ltd., BM 81/82 Lands Ltd., BM 83 Lands Ltd., BM 84 Lands Ltd., BM Capella Lands Ltd., BM Highlands Golf Course Ltd., BM Highlands Lands Ltd., BM Mountain Golf Course Ltd. and Bear Mountain Adventures Ltd.

Respondents

Before: The Honourable Madam Justice Fitzpatrick

Reasons for Judgment

(In Chambers)

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Place and Dates of Hearing:	Vancouver, B.C. October 9 and 13-14, 2026

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Place and Date of Judgment: Vancouver, B.C.
October 30, 2026

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Introduction

[1] In this high-conflict dispute between two partners, an issue has arisen as to one partner's right to access and possess copies of partnership books and records in the hands of the court-appointed receiver of the partnerships, Alvarez & Marsal Canada Inc. (the "Receiver").

[2] One partner is 559315 B.C. Ltd. ("559"), represented by its principal, Daniel Matthews (collectively, the "Applicants"); the other partner is Sanovest Holdings Ltd. ("Sanovest"). Another relevant party in this application is Groundplay Developments Ltd. ("Groundplay"). Groundplay is not a partner, but instead purchased the partnership's assets following the partnership's receivership and court-ordered sale.

[3] There are two applications before me in this hearing, filed by the Applicants and Groundplay in separate applications, but both effectively seeking the same relief. They both seek an interim and interlocutory injunction enjoining the Receiver from delivering the books of records of the partnerships to Sanovest.

[4] Sanovest opposes any injunction, as sought in the notices of application and as amended by 599 in the course of the hearing of these applications.

[5] Given the overall context in these proceedings, I want to emphasize at the outset that there is urgency in delivering these reasons and, as I will expound below, in implementing the resulting orders. This need for urgency largely arises because the parties are proceeding to trial in late March 2027. None of the parties want to jeopardize those trial dates.

[6] Nevertheless, while that urgency dictates a degree of brevity with respect to certain aspects of these reasons, I assure the parties that I have fully considered the voluminous evidence and their respective submissions presented to me over the course of this three-day hearing. In my view, the resulting decision fairly balances the parties' interests in light of the exigencies arising from the overall circumstances and will reduce, if not eliminate, any prejudice that might arise.

The Relief Sought

[7] In early April 2026, the Applicants applied for a suite of relief in relation to the books and records in the possession of the Receiver.

[8] At this hearing, the Applicants now seek the following amended relief (with my minor edits):

a) An interim and interlocutory injunction enjoining the Receiver from delivering any records that were copied by Think Communications Inc. (the "Collected Data") to Sanovest until Sanovest delivers a request for specific categories of documents (the "Sanovest Request");

b) 559 and Mr. Matthews shall have 14 days from the receipt of the Sanovest Request to object to any category of documents requested and, if the parties are unable to agree on the request, will apply to Court to have the Request determined; and

c) An order that Sanovest shall be fully liable for and shall indemnify the Partnership and Groundplay for any costs incurred or claims made as a result of its request for inspection of the Collected Data.

[9] In their original notice of application, the Applicants sought an order requiring Sanovest to provide the purpose for each "Sanovest Request". However, that relief is no longer sought, no doubt arising from the decision of *GB/Plasman Investors' Limited Partnership v APP Holdings Limited Partnership*, 2013 ONSC 5412 [*Plasman*] at paras 36-39 to the effect that a partner need not provide its reason for a request to access partnership records.

[10] The Applicant's amended relief, as set out in para 8 above, is essentially a permanent injunction against Sanovest, not an interim or interlocutory injunction. However, given the final nature of the relief they seek, the Applicants invite the Court to impose some terms, being the imposition of a sunset date by which Sanovest's right to access partnership documents will end.

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[11] In the alternative, if the Court dismisses the applications and allows the Receiver to deliver the "Collected Data" (discussed in detail below) to Sanovest, the Applicants seek an order that Sanovest provide to the Receiver all partnership records or data in its possession, and that 599 be allowed to inspect and copy that records and data through a request process similar to what is proposed in the amended relief.

[12] In early April 2026, Groundplay filed its own application. It sought an order enjoining the Receiver from delivering the Collected Data to Sanovest, other than what Sanovest required for the "orderly winding up of the Partnerships". However, at this hearing, Groundplay abandoned its specific request for relief and instead joined with the Applicants in seeking their amended relief.

Background

[13] The material before me on this interlocutory application is voluminous. I will only summarize the relevant background circumstances for this present dispute as is necessary.

a) The Bear Mountain Development

[14] In 2013, two partners, 599 and Sanovest, purchased the Bear Mountain Development. The ownership of this business was organized through various corporations and two limited liability partnerships (collectively, the "Partnerships"). The Partnerships' businesses include land development and resort/golf course operations. The businesses are operated under the "Ecoasis" brand name.

[15] The parent entity managing the Partnerships is "EBMD". Mr. Matthews is the president and chief executive officer of that entity.

[16] The partnership agreement dated September 24, 2013, between 599 and Sanovest (the "Partnership Agreement") provided that EBMD would keep proper, complete and accurate books of account and records for the Partnerships (Section 13.2). In addition, Section 13.3 provided that EBMD would provide the partners with business plans, budgets and projections and any updates.

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[17] In 2022-2023, both partners commenced four separate actions in this Court with respect to a myriad of issues relating to the ownership, financing, development and management of the Partnerships (the "Bear Mountain Litigation").

b) The Receivership

[18] In September 2024, Justice P. Walker granted a receivership order placing the Partnerships' land assets under the control of the Receiver. However, the operations and business of the "Resorts" side of the business was left with EBMD and Mr. Matthews, with the Receiver having access to records as required.

[19] In July 2025, the Receiver's mandate was expanded to empower it to take control of, and manage, the business of the Partnerships, including that of "Resorts". This Court also authorized the Receiver to undertake a sale process in respect of all the Partnerships' assets.

[20] As is typically ordered in a receivership, the Court order required all of the Partnerships' books and records be delivered to the Receiver or that the Receiver be allowed unfettered access to those books and records. However, production to the Receiver excluded any books and records that were subject to a claim of solicitor-client privilege.

[21] In January 2026, the Receiver's sale efforts came to fruition. Under an Asset Purchase Agreement ("APA") between the Receiver and Groundplay, Groundplay agreed to purchase the Partnerships' assets. The assets to be sold and transferred included the "Books and Records" of the Partnerships (defined very broadly) and other assets, such as intellectual property, privileges, rights and interests of the Partnerships used in connection with the business.

[22] Groundplay's investors consist of Mr. Matthews and another investor, unrelated to the Partnerships, Tiga Investments Pte Ltd. ("Tiga").

[23] Emphasizing Mr. Matthews' ongoing knowledge of and attention to the matter of privilege, the APA expressly excluded all documents, records or communications

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of the Debtors (i.e. the Partnerships) that were subject to solicitor-client privilege (defined as one of the "Excluded Assets"). No mention is made of any other person—such as Mr. Matthews or his wife, Michele Stannard—asserting privilege (or ownership) over any documents that were included under the Ecoasis domain name, and which were to be transferred to Groundplay to be used in future business operations.

[24] On January 21, 2026, this Court granted an order approving the sale under the APA to Groundplay (the "Vesting Order"). In the usual fashion, the order granted liberty to the Receiver, the partners, and Groundplay to apply for such further directions or relief as may be necessary or desirable to give effect to the order approving the sale.

[25] On January 23, 2026, Sanovest notified the Receiver that it intended to obtain "copies of certain Partnerships documents in the Receiver's possession".

[26] By early February 2026, the Receiver had received the "Collected Data", being essentially a copy of the Partnerships' electronic documentation on the Partnerships' servers and workstations that had been collected by the Partnerships' third-party IT contractor, Think Communications Inc. ("Think").

[27] The Applicants objected to any disclosure of the Collected Data to Sanovest, citing that it included their privileged and personal materials.

[28] The sale of the Partnerships' assets closed on March 20, 2026.

[29] The issue or dispute regarding Sanovest's right to inspect the Partnerships' books and records came to the fore just after the granting of the Vesting Order, but before the closing. The parties and the Court acknowledged that it was not possible to address the merits of any application in time before the closing took place.

[30] To avoid any adverse effect on the merits arising from the closing of the APA, on March 2, 2026, Walker J. granted an order recognizing Sanovest's rights to inspect the Collected Data (the "Records Order"). The Records Order provided:

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> AND UPON THIS COURT HAVING FOUND THAT Sanovest is, by virtue of its status as a "Partner" of the Developments Partnership, entitled to access, inspect, and copy all property in the possession of the Resorts Partnership, the Developments Partnerships, EBMD, or the Ecoasis Entitles (the "**Partnership Property**");
>
> [Bold emphasis in original.]

[31] However, Sanovest's right to access, inspect and copy the Collected Data was expressly made subject to 599's right to apply for an order preventing disclosure of "*certain* Partnership Property", namely, the specific documents over which 599 and Mr. Matthews claimed privilege.

[32] I have read the transcript of the March 2, 2026 hearing before Walker J. that resulted in the Records Order. He clearly envisaged that 599 would advance objections in respect of certain documents, to which 599's counsel expressed agreement. Nothing in the exchanges at that hearing anticipated a wholesale rejection by 599 of that process to the effect that Sanovest should be deprived of all rights of access to the Collected Data, save for what Sanovest might specifically request from 599 and to which 599 might agree.

[33] In addition, the Records Order provided for the Collected Data to be preserved and the Order expressly included "without prejudice" language in relation to the anticipated closing of the sale to Groundplay:

> 4. Upon the closing of the transaction contemplated by the [APA defined as the "Transaction"], the Receiver is authorized to preserve copies of Partnership Property whether stored or maintained in hard copy, digital or electronic formal or otherwise, on behalf of, and for the benefit of, the Partners ("**Preserved Partnership Records**").
>
> 5. The closing of the Transaction will not in any way affect, impact, or otherwise jeopardize the Partners' rights with respect to the Preserved Partnership Records, which rights shall remain as they were prior to the Transaction closing.
>
> [Bold emphasis in original.]

[34] Therefore, in reading these reasons, it is important to keep front of mind that the parties agreed and the Records Order provided that, in order not to hold up the closing, these issues would be considered as if the closing had not yet occurred.

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c) The Bear Mountain Litigation

[35] This Court has ordered that all four actions within the Bear Mountain Litigation be heard at the same time.

[36] Presently, the trial is scheduled to begin in late March 2027 and continue to May 7, 2027, for the taking of evidence. Hearing dates for arguments are not yet scheduled.

[37] Since 2023, the parties have engaged in significant document discovery in respect of the Bear Mountain Litigation. The Applicants have been assisted in that respect by Think.

[38] I acknowledge that the discovery process has been lengthy and involved.

[39] Think extracted thousands of files, including email records. Ultimately, the parties agreed to a "meet and confer" process by which the parties agreed to certain search terms to be used to identify documents in the records. However, this process was not without controversy, including that:

a) In 2024, Sanovest maintained its right to document production from the entire collection of data; and

b) By December 2024, the Applicants had already flagged that they had certain privacy concerns regarding the documentation and that litigation privilege issues also arose, both of which had to be addressed before any "broader collection" of documents was allowed to Sanovest.

d) The Collected Data

[40] On January 23, 2026, Sanovest's counsel advised that, in its capacity as a partner, it intended to obtain copies of certain of the Partnerships' documents in the Receiver's possession. This communication was quickly followed by another email from Sanovest's counsel dated February 5, 2026, stating that Sanovest intended to obtain a full copy of the server directory. Sanovest's counsel also expressly referred

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to the privilege issue raised by 599 and proposed a process going forward to address that.

[41] In February 2026, Think facilitated the collection of data from Bear Mountain for the Receiver which the Receiver obtained to preserve the Partnerships' books and records. This resulted in the "Collected Data", which is the subject of these applications (which does not include Mr. Matthews' workstation or laptop). On February 5, 2026, the Receiver provided an inventory of the Partnerships' records that it had obtained and which it said comprised the Collected Data.

[42] In mid-February 2026, the Receiver became involved in what was evolving to be a fractious discussion between counsel as to Sanovest's rights to access the Collected Data. On February 12, 2026, Sanovest's counsel confirmed that it was agreeable to segregating records asserted as personal property or subject to privilege and setting up a process to resolve those claims. On that same date, 599's counsel demanded that none of the Collected Data be provided to Sanovest.

[43] On February 14, 2026, the Receiver confirmed its view that Sanovest and 599 had equal rights to review and copy the books and records in the Collected Data and also what it had in hard copies, subject to any exclusions on the basis of privilege.

[44] In reply, the Applicants' response was brusque. They seemingly proposed that Sanovest was not entitled to access the books and records, and that Sanovest was improperly claiming entitlement to the Partnerships' books and records after the closing of the APA to Groundplay. The Applicants' counsel refused to meaningfully engage in a discussion to resolve the personal document and privilege issues, again based on Sanovest's rights as a partner.

[45] The volume of the Collected Data is very large—some 3 terabytes of compressed data. It includes all email and cloud storage in Ecoasis' Microsoft and Google platforms, as well as backed up data on the servers, data from QuickBooks, and data files from computer workstations.

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[46] Later still, in March 2026, the Applicants' counsel confirmed they planned to only respond to any Sanovest "request" for documents.

[47] On March 31, 2026, Sanovest's counsel reaffirmed its intention to access all of the Partnerships' records pursuant to its right as a partner, although subject to reasonable requests by Mr. Matthews to withhold certain documents that contained personal information or privileged communications.

Allegations re Various Matters

[48] It is necessary to "clear out the underbrush" that arises from the various allegations advanced by both sides which, in my view, are not particularly relevant or are not helpful to resolving the applications before me, given the current state of play and the looming trial date.

[49] Firstly, the Applicants allege that Sanovest has had access to the Partnership financial and accounting records since 2013. They specifically point to Sanovest's access to certain banking and accounting information in 2021. The Applicants also refer to an exchange of information in spring 2022.

[50] On April 11, 2022, Sanovest told the Applicants that it required "immediate, full and unrestricted access to the Partnership's books and records". However, a review of the Applicants' counsel's email of April 29, 2022, reveals that Mr. Matthews imposed significant gatekeeping limits on any such access. Among other things, he asserted that the requests exceeded Tian Kusumoto's rights as a director and Sanovest's rights as a lender. Notably, there was no mention of Sanovest's rights as a partner. When Sanovest responded by asserting and reiterating its rights of access as a partner, the Applicants replied by raising concerns regarding Mr. Kusumoto's conduct.

[51] It is clear that Sanovest's access to the Partnerships' books and records has been restricted by the Applicants. I accept Sanovest's position that these restrictions remain in place.

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[52] Secondly, the Applicants advanced various arguments questioning Sanovest's underlying motivations in seeking access to the Collected Data. However, in effect, this amounted to a further attempt to gatekeep access to the records until Sanovest disclosed its intended use of the documents and, ultimately, satisfied 599 that such use was appropriate. The Applicants further raised issues concerning an arbitration that had been held between the Partnerships and another party, as well as what they described as ongoing communications between Mr. Kusumoto and an individual who had been identified in the arbitration proceeding as having acted against the Partnerships' interests.

[53] The allegations against Mr. Kusumoto will be addressed in the Bear Mountain Litigation. They are not before me with a full evidentiary record, nor does the record even allow me to draw any preliminary conclusions that would support the Applicants' position, so as to question Sanovest's motives in that respect, in terms of hampering its rights as a partner to access the books and records of the Partnerships (as was expressly recognized in the Records Order).

[54] In any event, there is no evidence and only speculation that Sanovest wishes access to the Partnerships' books and records for a non-partnership purpose or that it seeks to use that information for other than legitimate partnership interests: *Plasman* at paras 37-39, citing *Dal Bianco v 593405 Ontario Ltd.*, 2004 CanLII 4347 at paras 32-34, 49 BLR (3d) 80 (ONSC).

[55] In conclusion, without credible evidence of intended wrongdoing, Sanovest is not required to advise the Applicants of their intended use of the documents.

[56] Thirdly, both sides argue that the other side has delayed raising issues in the first place, both in relation to Sanovest's request for access to the books and records, and the Applicants' objections to the Receiver producing them. The Applicants refer to Sanovest's request for all the documents as "recent".

[57] Nevertheless, it is significant that the issues concerning access to books and records of the Partnerships only crystallized after the sale approval and prior to the

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closing. Before that time, it was uncertain which of the partners would emerge as the successful bidder for the Partnerships' assets (which would include the books and records).

[58] As such, Sanovest's request to preserve for itself its own copy of the Partnerships' records is understandable in light of the pending sale to Groundplay. Sanovest would know that the books and records were to be transferred to Groundplay under the APA and, from closing, it would no longer have unfettered access to those books and records after that time since it was in the hands of a third party (while Mr. Mathews/559 would have such access).

[59] Moreover, the Applicants' complaint that Sanovest's request in January 2026 was simply an attempt to sidestep the discovery process is without merit. Their complaint ignores the fact that Sanovest has consistently asserted its rights to access as a partner (including in 2022 and again in 2024) and not as a litigant. By seeking to preserve the complete dataset, Sanovest did not attempt to circumvent the discovery process, but rather to exercise its partnership rights to access information to which it claims entitlement.

[60] Fourthly, the Applicants further submit that, following the closing, Sanovest ceased to be a partner in the Partnerships and, as a result, can no longer claim access to information by virtue of its status as a partner.

[61] In my view, this argument is not persuasive. The Records Order granted Sanovest full access to the Partnerships' records. Although Sanovest is not involved in the business post-closing to Groundplay, that is not relevant to the issue before me given the express "without prejudice" provision in the Records Order. Sanovest is entitled to the records as a partner, particularly given that it is quite evident that other issues relating to its status as a partner very much continue and support access to and use of such records.

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[62] Fifthly, Sanovest contends that the Applicants waived privilege with respect to any books and records containing any such communications. They base this contention on the following:

a) Privilege was not claimed nor asserted to the Receiver under para 9 of the Receivership order when the Receiver took control of the various documents, email accounts, and server records when the receivership began;

b) No privileged or personal records in the Collected Data were identified to Groundplay as “Excluded Assets” under the APA; and

c) Groundplay, a third party, now controls all of the Collected Data, including the Ecoasis email domains, and Tiga’s involvement in Groundplay has resulted in disclosure to a third party sufficient to constitute waiver.

[63] Notably, Sanovest’s application response did not specifically identify or address this waiver argument, which raises issues of fairness in terms of 599 and Mr. Matthews mounting a response.

[64] In any event, I am not convinced that Sanovest has established any waiver on the part of the Applicants or Ms. Stannard. The privilege issue has been raised for some time now (since at least 2024) and the fact that these records were not retrieved from the servers when the Receiver took over is understandable given that the Receiver was no doubt concentrated on running the business, including undertaking the sale efforts, and not combing through the records for other reasons. Further, the sale to Groundplay is not relevant because I must consider these applications as if the sale has not closed. Finally, there is no evidence that Tiga has an ownership interest or other right to access to the Collected Data now held by Groundplay, which might be seen as disclosure to it as a third party.

[65] Finally, the Applicants submit that even if Sanovest receives the Collected Data, it will itself have to undertake a process to filter out and locate documents that it wishes to review. I agree this is what is likely to occur; however, the Applicants

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cannot use this as a basis upon which to justify a restriction on Sanovest's right to access, save as 599 and Mr. Matthews might agree that it is a "proper" request by Sanovest.

The Applicants' Main Allegations

[66] The Applicants submit that they do not oppose providing the Partnerships' records to Sanovest, but that Sanovest should only be given access to records that it requires for "legitimate partnership purposes". They say that information that is privileged, confidential, irrelevant, and personally sensitive is not a "partnership record" and cannot serve a legitimate partnership purpose.

[67] I reiterate at this juncture that Sanovest has an unfettered right of access to the Partnerships' books and record pursuant to the Records Order, subject only to 599 asserting that certain documents should be exempted from that access on a proper basis.

[68] At its core, the dispute arises because the Partnerships' books and records—the Collected Data—also include materials that the Applicants allege are either (1) irrelevant and not true "Partnership" records (such as personal communications or documents) or (2) their privileged communications, both of which should not be delivered to Sanovest.

[69] Both Mr. Matthews and Ms. Stannard provided evidence on this issue. Ms. Stannard is a director and officer of 599, and she is also a lawyer. The materials indicate that she was never employed by the Partnerships.

[70] To summarize their evidence, Mr. Mathews and Ms. Stannard say:

a) In 2009, they created the "Ecoasis" brand for personal and family business opportunities;

b) In 2010, they registered the "Ecoasis.ca" domain name and set up multiple email accounts under the Ecoasis domain name for these purposes;

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c) In 2013, when the Partnerships formed, the Bear Mountain Development operated under the “Ecoasis” brand;

d) They continue to own the “Ecoasis” brand and domains, including their various email addresses, which they consider confidential and private. In addition, they continue to operate those other business ventures under the Ecoasis brand while using these email addresses (although I would emphasize here that no specifics of such other business ventures were provided that might have allowed the Court to assess such bald assertions);

e) Sanovest was aware of these arrangements and that Mr. Matthews had an “implicit agreement” with Mr. Kusumoto that their email accounts were not “Partnership records” that the other was entitled to inspect; and

f) They have used their “Ecoasis” email accounts to communicate with their lawyers and accountants regarding a wide range of matters unrelated to the Partnerships.

[71] The Partnership Agreement between 599 and Sanovest provides (Section 3.9) that any partner could engage in other business activities. However, the Partnership Agreement is silent on whether the partners are allowed to “share” assets, such as the Ecoasis domain name, in terms of conducting those other businesses.

[72] Sanovest has not responded to the above evidence in any manner.

[73] Ms. Stannard’s evidence is to the effect that it would be an insurmountable task to delineate the irrelevant and privileged documents from the Collected Data, given the “haphazard and intertwined nature of how it has been stored over more than 20 years”. She says that privileged, confidential and personal information is “scattered throughout the drives and potentially throughout the email addresses in such as way that it cannot be carved out in an exhaustive manner”.

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[74] As I understand it, Mr. Matthews and Ms. Stannard's main concern is the potential disclosure of information or documentation contained within their respective email addresses under the domain names Ecoasis.ca or Ecoasis.com – although I acknowledge that they also have concerns with respect to other documents that may be found elsewhere in the Collected Data.

[75] Other relevant evidence arises from Mr. Matthews. He asserts that the Partnerships only paid half of the acquisition costs for the Ecoasis domain name since it was not to be exclusively used by the Partnerships. He further asserts that he paid the "majority" of the fees relating to the Ecoasis domain names, however, he has not provided any documentation to support that allegation. To the contrary, Sanovest has provided an invoice from Google regarding the domain name that is addressed to the Partnership and presumably was paid for by the Partnership, which supports that the cost of maintaining the domain names was a cost of the Partnerships.

[76] Including for the reasons discussed below, I do not accept Mr. Matthews' evidence that he and his wife somehow retain some ownership interest in the Ecoasis brand.

[77] Mr. Matthews' evidence is vague and is insufficient to prove any such allegation, particularly when the Partnerships have been using that brand for partnership purposes now since 2013 and incurring the ongoing cost of the domain names. This allegation of ownership only seemingly arose very late in the day and during the Applicants' application before me, as found in Mr. Matthews' Affidavit #1 affirmed in April 2026. This is so despite these books and records—under the Ecoasis brand name—being transferred to the Receiver in 2024 without any such objection or assertion and which are now transferred to Groundplay.

The Relevant Law

[78] Both parties refer to the relevant law, as it relates to partnership law and the appropriate test for the injunctive relief.

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Partnership Law

[79] Partners have a statutory right to access the partnership's books.

[80] Under the *Partnership Act*, RSBC 1996, c 348, the partners' interests in the partnership property and their rights and duties in relation to the partnership are governed by various rules, which include s 27(i) that provides:

> … the partnership books are to be kept at the place of business of the partnership, or the principal place, if there is more than one, and every partner may, when the partner thinks fit, have access to and inspect and copy any of them".

[81] In R.C. l'Anson Banks, *Lindley & Banks on Partnership*, 21st ed (Sweet & Maxwell/Thompson Reuters, 2022) [*Lindley*] at para 22-20, the authors state:

> The meaning of "partnership books" … should not be given an overly prescriptive meaning and will be capable of covering all books and other records which genuinely relate to the affairs of the firm. Where a particular partner or committee (or all the partners) are required to keep specific books and records, they will undoubtedly be comprehended within that expression, as will any documents brought into existence at the cost of the firm. …

[82] In *Lindley* at para 22-21 describes that a partner's right of access is "absolute", and that the right cannot be artificially restricted, other than by prior agreement.

[83] Mr. Matthews asserts he had an "implicit agreement" with Mr. Kusumoto whereby Sanovest agreed to restrict its otherwise unfettered and absolute right to access the Partnerships' assets, with respect to what Mr. Matthews referred to as "our email accounts". However, it is unclear who "our" is referring to.

[84] In any event, Mr. Matthews' vague and unspecified evidence concerning this "implicit agreement" fails to establish that Sanovest agreed to any such restriction. Sanovest's rights to access the Partnerships' assets extends to the domain names used by the Partnerships in its business: *Lindley* at para 18-29. Even if I found such "implicit agreement" existed, it could not operate to amend or derogate from Sanovest's rights and interests as a partner under the terms of Section 7.2 of the Partnership Agreement.

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[85] Further, as emphasized by Sanovest, *Lindley* at para 22-21 also describes that this “absolute” right of access to partnership records is not defeated by claims that those records have been co-mingled with non-partnership records, citing *Re Pickering* (1883) LR 25 Ch D 247 CA, where private letters were also within the partnership’s records.

[86] Finally, what I do accept from Mr. Matthews and Ms. Stannard’s evidence is that the Partnerships’ have an ownership interest in the Ecoasis domain names, which the Receiver now controls. Notwithstanding how these assets originally arose, they have been used by, paid for, and treated as the Partnerships’ assets. These assets are presumed to form part of the “common stock” of the Partnerships: *Lindley* at para 18-21. I find that the Partnerships were the owners of the Ecoasis domain names, as was used in their business operations: *Lindley* at para 18-29.

[87] Mr. Matthews and Ms. Stannard purposefully chose to use these email addresses and domain names, depositing information and documentation on servers that they well knew was the Partnerships’ assets. Again, as stated in *Lindley* at para 22-24, 599 as a partner:

> … cannot deprive his co-partners [here, Sanovest] of their right of inspection by keeping records in a private book concerning other materials which is said to be of no concern to them.

Test for the Injunction

[88] The Applicants rely on the law governing injunctions to prevent the unrestricted disclosure of the Collected Data to Sanovest. The three-part *RJR* test for an injunction is well-known and is as follows:

1. Is there a serious question to be tried?
2. Has the applicant demonstrated that it will suffer irreparable harm if an interim injunction is not granted?
3. Does the balance of convenience favour granting an injunction?

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See *RJR-Macdonald Inc. v Canada (Attorney General)*, 1994 CanLII 117 (SCC), [1994] 1 SCR 311.

[89] The Applicants assert they meet this test and that the injunction sought is in the interests of justice.

[90] First, they submit that there is a serious question to be tried as to whether the disclosure of the Collected Data will result in the dissemination of privileged and confidential material. They emphasize the importance of protecting privileged materials, citing *Alberta (Information and Privacy Commissioner) v University of Calgary*, 2016 SCC 53 at para 34.

[91] Second, they submit that, once the Collected Data is disclosed, the privilege and confidentiality that otherwise attaches to the material is irretrievably lost, which constitutes irreparable harm.

[92] Third, they submit that the balance of convenience favours the Applicants, as the only countervailing inconvenience suffered by Sanovest is that it will need to follow the usual document production procedures for disclosure of any portions of the Collected Data that it requires.

[93] Notwithstanding the above, there is an issue as to whether this injunction test is even appropriate in the circumstances. Put otherwise, it is questionable whether this three-part injunction test, typically applied to interlocutory injunctions, applies to the injunction sought here given that the relief requested is effectively final in nature.

[94] There is no extant action which raises any issue as to any partner's rights of access to the Partnerships' books and records by within which either party seeks a final determination of that issue. Here, the injunction sought is not "interlocutory" given that it is untethered to any existing litigation in which that issue is raised.

[95] In that regard, Sanovest refers to the requirement where a final injunction is sought. It is a requirement that the party seeking final injunctive relief establish its

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legal rights to obtain that relief: *Cambie Surgeries Corp. v British Columbia (Medical Services Commission)*, 2010 BCCA 396 at paras 27-28.

[96] In my view, it is not necessary on this application to apply either test strictly, although as I discuss below, this issue can be considered with view to the balance of convenience and whether there is irreparable harm. Such a practical approach can be founded in this Court's supervisory jurisdiction over its receiver, a court-appointed officer, with respect to the assets under its control: *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, s 243(1)(c) [*BIA*].

[97] As discussed below, I agree with the Applicants that they should be afforded a brief opportunity to establish their claim of privilege and personal confidentiality before the Receiver provides Sanovest with the Collected Data, thereby avoiding disclosure of such materials.

The Parties' Options

[98] At this hearing, the parties submitted that there are three principal options available to the Court with respect to the process by which disclosure of the Collected Data should proceed.

[99] In very brief terms, these options are as follows:

a) **Option #1:** Full disclosure of the Collected Data to Sanovest with Sanovest promising to destroy any privileged/irrelevant documents it receives.

b) **Option #2:** Partial disclosure of the Collected Data based on an extraction process designed by Think to carve out irrelevant and privileged documents before the remaining materials are disclosed to Sanovest.

c) **Option #3:** No disclosure of the Collected Data unless and until Sanovest specifically requests each document sought and demonstrates why its disclosure is necessary and subject to challenge by 599.

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[100] As I have described above, by March 2026, the issue between the parties had devolved into a dispute about who should bear the burden of identifying the information that they want (Sanovest) or want to be extracted (599 and Mr. Matthews):

a) Sanovest wants all of the documents, subject to it agreeing not to use any materials for non-Partnership purposes and to destroy any privileged materials that it may come across (Option #1); and

b) The Applicants want to refuse Sanovest any wholesale access, save pursuant to specific requests for documents. They say that this approach is the easiest and more cost effective way to proceed (Option #3);

[101] Option #2 is an expensive and lengthy extraction process by Think.

[102] For the reasons discussed below, I am not satisfied that any of these options, as currently delineated, is appropriate in the circumstances. Option #1 could well result in Sanovest obtaining documentation that it should not. Option #2 appears to be prohibitively expensive and will result in considerable delay. Option #3 leaves the dispute in the hands of the parties, which history has shown to be unworkable.

Option #1

[103] Under this option, Sanovest would obtain access to all Collected Data subject to its promise to not use any disclosed information for non-Partnership purposes and to destroy anything privileged or irrelevant that it comes across. Sanovest frames this approach as the simpler method to protect its rights, while also safeguarding any privilege or privacy concerns and minimizing ongoing legal fees and the use of judicial resources.

[104] Sanovest's proposes specific protections to be included in the Court order as follows:

a) Sanovest and Tian Kusumoto will abide by the implied undertaking rule regarding all information contained within the Partnership records, such that Sanovest agrees to not use information contained within the records for any non-Partnership purpose beyond those arising in the ongoing

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> Bear Mountain litigation, the Receivership proceeding, and any steps necessary to settle accounts and wind-up the Partnership;
>
> b) Sanovest and Tian Kusumoto will agree that in the event they become aware of any record or communication in the Partnership records that is, or may be, subject to solicitor-client privilege, Sanovest's counsel will notify 599's counsel immediately upon such discovery, to confirm whether privilege is claimed over the record and, if so, to confirm that all copies of the record will be destroyed or, if necessary, to apply to the Court for further direction.

[105] The Applicants refute the appropriateness of such an approach and they emphasize that prejudice will result by Sanovest being in possession of their personal or privileged documentation, despite the above promises. Again, they also claim that it is not possible to reasonably extract the irrelevant and privileged materials.

[106] In my view, neither party's arguments are completely convincing concerning Option #1.

[107] I consider that Sanovest's overarching position is consistent with the import of the Records Order—that it should have full access to the Collected Data except for documents that the Applicants can establish should not be accessed by Sanovest.

[108] However, providing Sanovest with unfettered access to all the Collected Data, including at least some of the Applicant's privileged information, and then relying on Sanovest's promise to disregard any privileged materials it encounters would not, in my view, cure any resulting prejudice.

[109] Once privilege information has been disclosed, the prejudice cannot be undone. It is therefore preferable to prevent such disclosure from occurring rather than attempt to remediate its consequences afterward (for the latter situation, see *Fording Coal v United Steel Workers and Virk*, 2003 BCSC 977 at paras 51-55).

[110] As such, I believe the Applicants should be afforded an opportunity to identify and remove the privileged materials before they are disclosed to Sanovest.

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[111] Accordingly, I do not consider Option #1, which would require full disclosure at the outset, to be compatible with this view.

[112] I am not persuaded by the Applicants' submissions that this irrelevant and privileged data cannot be extracted from the Collected Data in a reasonable manner.

[113] First, with Sanovest's agreement, certain records have already been excluded. This includes Mr. Matthews' daughter's emails and documents related to the "Saintsbury" business. Clearly some overtly privileged and irrelevant materials can be carved out from disclosure.

[114] Second, notwithstanding the Records Order ordering production some months ago, the Applicants have apparently made no attempt to even identify which documents should be excluded from production, in direct contradiction to the express requirements of that order.

[115] In large part, the overarching question in this matter is, who should bear the burden of making the request for exclusion or inclusion?

[116] In that regard, I am mindful that, through the substantial production process already undertaken over the last few years, the Applicants were clearly aware of the personal and privilege issues and must already have a good appreciation of what is included in the Collected Data and what they allege fits within these categories.

[117] In fact, Ms. Stannard herself says that former counsel to the Applicants reviewed all data in mstannard@ecoasis.ca and her Dropbox folder in late 2024. I presume such review would have highlighted any irrelevant or privileged materials.

[118] Mr. Matthews, in his Affidavit #12 dated April 24, 2026, refers to the Applicants' Fourth Amended List of Documents, which was delivered on that date to Sanovest. Part 4 of that List includes a "Privilege List", which he says is 234 pages long and lists approximately 7,700 documents, which are relevant to the issues but privileged. Yet, Mr. Matthews states that Part 4 does not include irrelevant documents which are privileged.

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[119] Mr. Matthews does not explain why the Applicants, in creating Part 4, did not flag or identify the irrelevant and privileged documents which Sanovest had earlier proposed as a means to address that issue.

[120] What I take from this evidence is that Mr. Matthews and Ms. Stannard have for many years been acutely aware of the issues they now raise and would inevitably have (or should have) a firm grasp on exactly what materials they are referring to in respect of their personal or privileged communications.

[121] I do not accept their vague references to this alleged irrelevant and/or privileged materials to the extent that they are using it to support their claim that an extraction process of such materials is impractical, if not impossible.

[122] I am also unconcerned about the potential disclosure of personal information found in the Partnerships' employees' email accounts on the servers. This potential was initially raised by the Applicants as, in their view, further justification for restricting disclosure to Sanovest. However, the Applicants have since withdrawn this argument, and for good reason. Employees who choose to, in the course of their employment, input personal and private information and documentation into their work emails and consequently their employers' servers, make choice and they must bear the consequences. Such concerns do not justify exclusion with respect to Sanovest.

Option #2

[123] This option puts the onus on Think to devise a process to systematically extract irrelevant and privileged documents from the Collected Data before disclosure to Sanovest. Option #2 is described in a document created by Think in April 2026, seemingly arising from Ms. Stannard's discussions with Dwayne Robinson, Think's chief information security officer

[124] While this approach would address my concern that the prejudice arising from the disclosure of privileged information cannot be undone once that information has

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been disclosed, the evidence makes clear that Option #2 would be prohibitively expensive and results in considerable delay, contrary to the wishes of both parties.

[125] When Think was asked to consider Option #2, it stated it would be a “massive undertaking” to remove “out of scope information” from the Collected Data. Mr. Robinson noted the process would require a bespoke “processing tool”, requiring substantial cost (thousands of dollars), substantial human effort and, of course, delay. He refers instead to using words and phrases to identify relevant information to be included in the “in scope” information, such as is proposed by the Applicants here under Option #3.

[126] For obvious reasons, neither the Applicants nor Sanovest consider Option #2 to be a realistic or desirable option. Both sides recognize that the inevitable result of Think’s proposed process is to spend an inordinate amount of funds to remove the “out of scope” information that would, significantly, put the March 2027 trial in jeopardy. This process would also inevitably require input and agreement from both partners, which, if history is any indication, is a road leading to conflict and delay.

[127] I agree with the parties that Option #2 is not an appropriate way to proceed.

Option #3

[128] Under this option, the starting presumption would be against disclosure, and Sanovest would effectively bear the burden of demonstrating why each document it seeks should be disclosed by the Applicants. As the Applicants put it, the injunction should be granted to prevent Sanovest from receiving the Collected Data, provided that they are prepared to respond to specific requests for documents by Sanovest to which they might object.

[129] The Applicants frame this option as the only practical and proportional way to deal with the Collected Data and ensure that only “proper” documents are received by Sanovest.

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[130] It will be immediately apparent that this approach effectively hinges on the parties' ability to work together cooperatively. I have no hesitation concluding that such a document production process is doomed to fail. It is an understatement that the relationship between the parties is marred by significant antipathy and distrust, resulting in a very fractious and litigious outlook by both sides. Disagreements appear to have arisen at almost every turn.

[131] The Applicants counter that this same "cooperative" process has been undertaken in the Bear Mountain Litigation. They submit that Sanovest has in the past identified what it requires by way of documentation and why, and the Applicants assert that they have "fulfilled these requests".

[132] Nothing could be further from the truth. The record is replete with instances of positions and counter positions and little advance in resolving issues through communications between counsel. In many cases, the Applicants have flatly denied Sanovest access to the requested documents.

[133] One very recent example will suffice to make the point. On March 2, 2026, Walker J. authorized the Receiver to provide Sanovest with the accounting records included within the Partnerships' Property (defined as the "Accounting Records"). The day after, Sanovest told 599's counsel what accounting records it expected to receive.

[134] After further discussions between counsel and the Receiver, on March 24, 2026, 599 confirmed its agreement that certain records and information would be made available to Sanovest. However, as of three months later, on June 18, 2026, 599 had yet to provide the Accounting Records. 599 maintained that a review of the remaining documents was still "ongoing". 599 agreed to other documents being provided, but within limits or outright refusal.

[135] This delay occurred despite the March 2, 2026 which expressly granted Sanovest access to the "Accounting Records".

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[136] By the eve of this hearing—seven months after the March 2026 order—599's "review" of even the materials they expressly agreed to provide had only just been completed to allow Sanovest access to them. Even more concerning, the Receiver stated that its access to the Accounting Records, which they needed to facilitate Sanovest's access, had been hampered by Think's failure to provide timely assistance to it. Only on the eve of this application has Sanovest received the Accounting Records which were ordered to be produced by 599 nine months ago.

[137] In addition to the Bear Mountain Litigation, on January 20, 2026, the parties and the Receiver entered into a settlement agreement (the "Settlement Agreement"). The Settlement Agreement provided that the Receiver would undertake a claims process by which persons related to Ecoasis—such as 599, Mr. Matthews, Mr. Kusumoto and Sanovest—would submit proofs of claim. All such persons were entitled to dispute or contest any other proof of claim.

[138] Mr. Matthews has submitted various proofs of claim with the Receiver by which he asserts a right to recover approximately $800,000 for alleged unpaid management fees he says are owed to him.

[139] Sanovest intends to contest Mr. Matthews' claims. They do so in part by reference to Mr. Matthews evidence (Affidavit #1) that refers to certain withdrawals to pay for his management fees and that the payments arose via his instructions to the accounting staff.

[140] Sanovest's requests for access to the Accounting Records included requesting access to the workstations of certain accounting staff. 599 objected and refused such access, citing that these staff members also worked for Mr. Mathews on his personal matters.

[141] Accordingly, I accept Sanovest's assertion that it is hamstrung in disputing Mr. Matthews' proofs of claim without access to the emails between Mr. Matthews and the accounting staff, which are now included, or commingled within the Collected Data.

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[142] What emerges from all of this is that the parties are simply unable or unwilling to agree to a process that works. I have absolutely no doubt that disagreements, conflict, delay and substantial costs will arise under Option #3. In that case, all roads will lead back to this Court and inevitably a request that a judge review massive amounts of data to confirm or deny the Applicants' refusal to provide the Partnerships' books and records on the basis that it includes irrelevant or privileged materials or perhaps based on other arguments.

[143] There is no clear path to an expeditious resolution to these disclosure issues if left in the hands of the parties.

[144] Lastly, I accept that Option #3 is unworkable simply because Sanovest does not know what precise records exist—the Receiver has only provided a high-level inventory listing referring to certain folders. I agree that it is unfair and prejudicial to Sanovest to require it to specify the Partnerships' books and records to which it has an absolute right of access and inspection. 599's significant gatekeeping strategies are not justified in the circumstances.

Resolution and Orders

[145] Both parties have urged me to adopt a "practical" way forward. Not surprisingly, however, they disagree as to what is the most "practical" course of action.

[146] Nevertheless, in the exigencies of the situation, I agree that a practical solution is needed to fairly balance the interests and concerns of both sides, to the extent possible.

[147] However, I am not satisfied that any of the three options presented are appropriate in the circumstances. Option #1 would risk prejudice and Option #3 would leave the dispute in the hands of the parties, which I have concluded is unworkable. Option #2 would be prohibitively expensive and result in considerable delay.

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[148] It remains the case that anyone asserting privilege or seeking to exclude their personal documents, such as the Applicants and Ms. Stannard, bears the burden of proving such claims on a balance of probabilities: *Huang v. Silvercorp Metals Inc.*, 2017 BCSC 795 at paras 94-95. There is no reason here to relieve the Applicants and Ms. Stannard of that burden, which is yet to be met.

[149] The Applicants and Ms. Stannard consciously intermingled their personal communications within the Partnerships' books and records. As *Lindley* described, having done so, they cannot then turn around and use that intermingling as a shield to block access to those records and records to a partner and avoid their burden of disclosure here.

[150] As Sanovest's counsel points out, certain key words or phrases can be provided to identify the privileged or irrelevant materials in question. For instance, that could include the names of lawyers and law firms who provided legal advice to Mr. Matthews and Ms. Stannard. Further, Ms. Stannard and Mr. Matthews already appear to have some idea as to what personal materials are contained within the Partnerships' records. Mr. Matthews' vague reference to other "business ventures" using the Ecoasis brand, assuming that such ventures exist, would also presumably allow such records to be readily searched.

[151] In my view, in these circumstances, it is absolutely necessary to have an independent and impartial third party implement the overall process. This party would have the task of undertaking that process to separate out what the Applicants allege are privileged and irrelevant materials from the Collected Data, and then review at least some of those excluded materials to determine whether those claims are valid.

[152] The appropriate person to undertake that role is the Receiver, who independent of the parties, already involved in these matters and is familiar with the overall circumstances.

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[153] Before addressing the specifics of this process and my resulting orders, I want to first acknowledge that the timelines I set out below are ambitious, if not demanding. In my view, these are necessary timelines given the impending trial date and the need to finally resolve this issue once and for all, after what has been significant delay.

[154] Accordingly, I am dismissing both applications. I am also exercising my discretion under my supervisory jurisdiction under the *BIA* to balance the interests at play by granting the following orders:

1) The Applicants will have two weeks following the release of these reasons to provide the Receiver with keywords or phrases to be used to identify the irrelevant/personal or privileged materials that allegedly exist within the Collected Data. The Applicants may also identify specific emails or documents they want excluded directly provided that appropriate search terms are provided to identify them.

   As part of providing these keywords, phrases, or specific documents, the Applicants are further required to provide brief reasons explaining why the documents themselves or the documents associated with those search terms should not be disclosed to Sanovest.

   I want to emphasize that overly broad terms or phrases, such as “Ecoasis email addresses”, will not be acceptable. The keywords and phrases provided must be specific, unambiguous, and supported. It will also not be acceptable to simply refer to documents within a certain date range.

   Following the receipt of these keywords/phrases/documents, the Receiver will then exercise its discretion to determine whether what has been provided to it is sufficiently specified to allow a proper search of the Collected Data to be completed.

   I want to further add that during this two-week period, the Applicants may continue reviewing the Partnerships’ books and records within their

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possession and control (via Groundplay). If, during that review, they identify any specific emails or documents that they contend fit within either of the two categories described above, they may bring those materials to the attention of the Receiver for consideration. However, any such concerns must be raised within the two-week timeframe.

2) Assuming the Applicants provide these keywords or phrases (or identify specific emails or documents) within the specified timeframe that can be found within the Collected Data, the Receiver is authorized to separate or identify these materials in the Collected Data that include the same. In doing so, the Receiver is authorized to retain such other professional services or use such technology as might be available for that purpose.

3) Upon completing its extraction of these specifically identified materials, the Receiver will provide the results to both the Applicants and Sanovest for review. The Receiver is authorized to immediately deliver to Sanovest the Collected Data, save for the materials that are identified as being potentially included within the category of irrelevant/personal or privileged materials.

4) Following the Receiver providing the results of its review to the Applicants and Sanovest, the Applicants will then have two weeks to review the materials extracted by the Receiver and identify them either as irrelevant/personal materials or privileged materials, and the Applicants will notify the Receiver and Sanovest of the results within that timeframe.

5) Upon completion of the Applicants' review and notification of their review:

    a. The materials identified as irrelevant/personal will be reviewed by the Receiver who will form its position as to whether they are properly considered as part of the Partnerships' books and records or not.

    Further:

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i. Any materials found by the Receiver to be part of the Partnerships' books and records will be immediately released to Sanovest upon notice to the Applicants of that determination; and

ii. Any materials that are found by the Receiver to be irrelevant/personal and not part of the Partnerships' books and records will not be released to Sanovest, and the Receiver will provide notice to Sanovest of that determination.

b. The Applicants will, within one week, list the privileged materials in a form similar to that found in Part 4 of a list of documents, in order to provide sufficient information to allow the Receiver and Sanovest to preliminarily consider the claim of privilege.

c. If either the Receiver or Sanovest objects to any privilege claim, that matter will be brought by the Receiver or Sanovest to the Court for consideration and a determination as to whether or not the materials are privileged.

6) The parties and the Receiver may seek directions regarding the above orders, which are to be brought on an expedited basis. Any such application will not affect the deadlines outlined above, subject to further court order.

7) If, despite the above process set in paras #1-6 above, any irrelevant/personal information or documentation or privileged communications remains within the Collected Data, and which is received by Sanovest:

a. Sanovest and Tian Kusumoto will abide by the implied undertaking rule regarding all such irrelevant/personal documentation and information contained within the Partnerships' records, such that Sanovest agrees to not use such irrelevant/personal documentation and information

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contained within the records for any non-Partnership purpose beyond those arising in the ongoing Bear Mountain Litigation, the Receivership proceeding, and any steps necessary to settle accounts and wind-up the Partnership; and

b. Sanovest and Tian Kusumoto will agree that, in the event they become aware of any record or communication in the Partnerships' records that is, or may be, subject to solicitor-client privilege, Sanovest's counsel will notify 599's counsel immediately upon such discovery, to confirm whether privilege is claimed over the record and, if so, Sanovest will destroy all copies of the record or return such materials to 599, or if necessary, apply to the Court for further direction.

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[155] Lastly, I decline to accede to the Applicants' request that symmetry demands that they be equally entitled to access Sanovest's email accounts since Mr. Kusumoto apparently used them from time to time regarding Partnership matters.

[156] In my view, Sanovest's email accounts stand in stark contrast to those used by the Partnerships, which are Partnership assets. Sanovest has already produced the emails used by Mr. Kusumoto that it considers relevant. I consider that this issue is better addressed under the usual document production process under R 7-1 of the *Supreme Court Civil Rules* that is already underway. If the Applicants consider that second stage production under R 7-1 is appropriate in respect of such emails, that can be followed in the usual fashion.

Costs re Groundplay

[157] Sanovest seeks an order for special costs against Groundplay.

[158] On April 7, 2026, Groundplay filed its notice of application following the granting of the Records Order. As before, Groundplay sought an order preventing Sanovest from receiving the Collected Data, other than what Sanovest required for the "orderly winding up of the Partnerships". The legal basis for Groundplay's application was the "liberty to apply" provision in the Vesting Order from January 2,

2026, and this Court's discretion to direct its court-appointed receiver to take such action as is "advisable".

[159] However, at bottom, Groundplay's application was founded on the proposition that it had some legal interest in the books and records in order to restrict a partner's access to them—all despite expressly acknowledging that it only had contractual rights under the APA and that the closing had not yet (at least notionally) occurred.

[160] In my view, Groundplay's application was ill-founded since it had no legal rights in the books and records pre-closing. In that regard, the "liberty to apply" provision had nothing to do with the transaction under the APA, and I fail to see why this Court would direct the Receiver to act otherwise than in accordance with it, as was approved in January 2026.

[161] I would make the same comment in respect of the Applicants' assertion that this provision of the Court order allows the Court to grant the injunction.

[162] In its application, Groundplay also seemed to be concerned about the cost it would bear of culling the Collected Data if Sanovest was entitled to it; however, that prospect was very much a live issue when the APA was approved by the Vesting Order. Mr. Matthews in his various roles (including for Groundplay) was clearly aware of it, and he cannot now per Groundplay complain about a scenario that he very well knew existed, as he states in his Affidavit #11 sworn April 7, 2026.

[163] In my view, Groundplay's allegations regarding Sanovest were nothing more than a further avenue of attack by the Applicants in an attempt to shore up their position. This was made quite clear by Groundplay simply supporting the Applicants' position in the end.

[164] More concerning from Sanovest's point of view, Groundplay advanced serious allegations of wrongdoing against Sanovest, stating that Sanovest was seeking rights to the books and records in a:

> … transparent attempt by the unsuccessful bidder to obtain information to use against the successful bidder in its future operations of the business, as

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> Ms. Kusumoto has done with information he obtained while involved with the Partnerships in the past.

[165] As before, the allegations regarding Mr. Kusumoto are simply allegations. In any event, Sanovest's motivations to obtain the records are based on pure speculation and are therefore irrelevant to displace Sanovest's rights as a partner to partnership records: *Plasman* at para 39.

[166] On this application, both the Applicants and Groundplay resiled from their position that it was necessary for Sanovest, as a partner, to articulate the purpose for which document access was sought. In addition, I rejected the Applicants' and Groundplay's arguments that Sanovest's request for access was motivated by any improper purpose.

[167] An award of special costs is an extraordinary one based on "reprehensible conduct" during the litigation and is one that invites punishment, not compensation: *Garcia v Crestbrook Forest Industries Ltd.*, 1994 CanLII 2570 at para 17, 9 BCLR (3d) 242 (BCCA).

[168] Sanovest refers to *Hung v Gardiner*, 2003 BCSC 285 at para 16, where Justice Joyce confirmed that an award of special costs is justified where the allegations of misconduct were not just rejected, but also found to be "obviously unfounded, reckless or made out of malice".

[169] My conclusion is that Groundplay had no real separate interest to advance and that it's and the Applicants' arguments as to Sanovest's motivations were ill-advised and unpersuasive. However, I am not convinced that Groundplay's application was obviously doomed to fail or made recklessly or brought out of malice. I am also not convinced that its application was an abuse of the Court's processes.

[170] I have concluded that an award of special costs is not justified in all the circumstances. Sanovest is entitled to usual Scale B costs against Groundplay in respect of its application, which are payable forthwith after assessment.

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Costs

[171] Finally, there is the matter of costs, which will of course include the costs of the Receiver in the above process.

[172] In their application, the Applicants seek an order that Sanovest be liable to indemnify the Partnerships and Groundplay for any costs incurred or claims made as a result of its request for inspection of the Collected Data.

[173] In addressing this dispute to date, no doubt the Receiver has incurred costs from January 2026. I am not sure whether such costs can be easily identified or if any partner seeks a costs sharing order that would be other than an equal sharing of those costs as would normally be the case in the receivership (given that costs are a charge against the Partnerships' "Property" generally per the court orders such that each partner would bear an equal share).

[174] The partners have of course already incurred costs in addressing this issue and will no doubt continue to do so into the future.

[175] Given the uncertainty as to what will arise through the above process, I consider that the costs incurred (including relating to the applications and this hearing) and to be incurred should be remitted to supervising judge in this receivership or perhaps the trial judge who will hear the matter next spring 2027.

[176] I will leave that to the parties to consider those costs issues and bring the issue forward in the most expeditious manner for a determination.

"Fitzpatrick J."

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