



COURT FILE NUMBER 1201 15430

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF STANLEY EISENBERG, BRENDA EISENBERG, JACK EISENBERG, LYNN EISENBERG and EISENBERG'S PROPERTIES LTD.

DEFENDANT 910234 ALBERTA LTD., RANDY CALMUSKY, THERESA CALMUSKY, KYLE CALMUSKY, CALE HUMENIUK and JORDAN RINTOUL

DOCUMENT **APPLICATION**

Field LLP
400 – 444 – 7 Avenue SW
Calgary AB T2P 0X8
Lawyer: Douglas S. Nishimura
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Email Address: dnishimura@fieldlaw.com
File No. 56679-3

NOTICE TO RESPONDENT: THERESA CALMUSKY

This Application is made against you. You are a Respondent.

You have the right to state your side of this matter before the Judge.

To do so, you must be in Court when the application is heard as shown below:

DATE	<u>Wednesday, April 8, 2020</u>
TIME	<u>DESK APPLICATION - Commercial List</u>
WHERE	<u>Court House, Calgary, Alberta</u>
BEFORE WHOM	<u>Justice Neufeld</u>

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1. The Applicant, Grant Thornton Limited, Receiver of 910234 Alberta Ltd. (the "**Receiver**"), respectfully seeks an Order, substantially in the form attached as Schedule "A", for the following relief:

- (a) Abridging the time for service of this Application and the supporting materials, as necessary, and deeming service thereof to be good and sufficient.
- (b) Approving the Receiver's "**Interim Statement of Receipt and Disbursements**" attached as Appendix 2 to the Receiver's Fifteenth Report dated March 30, 2020 (the "**Fifteenth Report**").
- (c) Approving the Receiver's and the Receiver's legal counsel's fees and costs, as outlined on the "**Professional Fee Summary**" attached as Appendix 3 to the Fifteenth Report.
- (d) Approving the actions of the Receiver as outlined in the Fifteenth Report.
- (e) Approving the "**Proposed Distribution**" of \$350,000 as outlined in the Fifteenth Report.
- (f) Such further and other relief as this Honourable Court deems necessary; and
- (g) Costs of this application.

Grounds of the Application:

- 2. The Receiver was appointed as receiver and manager of the assets, properties and undertakings of 910 pursuant to the Receivership Order granted on December 10, 2012, by the Honourable Mr. Justice S. J. LoVecchio, as amended and restated on January 14, 2013, by the Honourable Madam Justice K. M. Horner (collectively referred to as the "**Receivership Order**").
- 3. The Receiver is empowered and authorized to sell 910's current and future assets, undertakings and properties of every nature and kind whatsoever pursuant to the Receivership Order. It is further authorized to settle debts owed to 910.
- 4. The Receiver intends to perform the Proposed Distribution of \$350,000 from funds realized to date with respect to the Estate of 910, which funds arise from the payment of mortgages and other accounts receivable accruing to 910. The Proposed Distribution is detailed in the Fifteenth Report. The Proposed Distribution will leave sufficient funds necessary to continue efforts to realize on the remaining assets of the company, and/or complete or conclude the administration.

5. Such further and other grounds as counsel may advise.

Material or evidence to be relied on:

1. Receivership Order granted December 12, 2012;
2. Amended and Restated Receivership Order granted January 14, 2013;
3. Order granted December 17, 2019;
4. The Receiver's Fifteenth Report dated March 30, 2020, filed concurrently with this Application;
5. The pleadings filed in this proceeding; and
6. Such further and other material as counsel may advise and this Honourable Court may permit.

Applicable Rules:

1. Such rules as counsel may advise.

Applicable Acts and Regulations:

1. *The Bankruptcy and Insolvency Act*, R.S.C. 1985, c B-3;
2. Sections 17 and 22 of the *Civil Enforcement Act*, R.S.A. 2000, c. C-15;
3. The inherent jurisdiction of this Honourable Court; and
4. Such further and other Acts and regulations as counsel may advise.

Any irregularity complained of or objection relied on:

1. N/A

How the Application is proposed to be heard or considered:

1. This Application is proposed to be heard in Justice Chambers.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the Applicant what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the Applicant.

SCHEDULE "A"

Clerk's Stamp:

COURT FILE NUMBER	1201-15430
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFFS	STANLEY EISENBERG, BRENDA EISENBERG, JACK EISENBERG, LYNN EISENBERG and EISENBERG'S PROPERTIES LTD.
DEFENDANTS	910234 ALBERTA LTD., RANDY CALMUSKY, THERESA CALMUSKY, KYLE CALMUSKY, CALE HUMENIUK and JORDAN RINTOUL
DOCUMENT	<u>ORDER</u>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Field LLP 400 – 444 – 7 Avenue SW Calgary AB T2P 0X8 Lawyer: Douglas S. Nishimura Phone Number: (403) 260-8548 Fax Number: (403) 264-7084 Email Address: dnishimura@fieldlaw.com File No. 56679-3
DATE ON WHICH ORDER WAS PRONOUNCED:	_____
LOCATION WHERE ORDER WAS PRONOUNCED:	<u>Calgary, Alberta</u>
NAME OF JUSTICE WHO MADE THIS ORDER:	<u>The Honourable Justice Neufeld</u>

ORDER

UPON THE DESK APPLICATION of Grant Thornton Limited, Receiver of 910234 Alberta Ltd. (the "Receiver"); AND UPON HAVING read the Application filed by the Receiver on _____, 2020, the Receiver's Fifteenth Report dated March 30, 2020 (the "Fifteenth Report") and the Affidavit of Service of Elvina Hussein sworn _____, 2020; AND UPON hearing counsel for the Receiver;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. The time for service of the Application and all materials in support is hereby deemed good and sufficient.
2. The Receiver's Interim Statement of Receipts and Disbursements outlined in the Fifteenth Report is hereby approved.

3. The Receiver's and the Receiver's legal counsel's fees and costs as outlined in the Fifteenth Report are hereby approved.
4. The actions of the Receiver as outlined in the Fifteenth Report is hereby approved.
5. The Proposed Distribution of \$350,000 outlined in the Fifteenth Report of the Receiver is hereby approved.

J.C.C.Q.B.A.