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MAY - 9 2014

CALGARY, ALBERTA

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

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
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File No. 56679-3**NOTICE TO RESPONDENT**

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

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

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

DATE	<u>Tuesday, May 13, 2014</u>
TIME	<u>10:00 a.m. – Commercial List</u>
WHERE	<u>Court House, Calgary, Alberta</u>
BEFORE WHOM	<u>Madam Justice G. A. Campbell</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:
 - (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 settlement agreement between the Receiver and the Defendants, Randy Calmusky, Cale Humeniuk, Kyle Calmusky and Jordan Rintoul (referred to as the "**Defendants**"), releasing any claim by the Receiver with respect to 41 Everglens Crescent S.W., Calgary, AB, legally described as Plan 0613282. Block 26, Lot 10 (the "**Property**"), Alberta, in exchange for a cash payment.
- (c) An Order extending the Ex-Parte Attachment Order granted by the Honourable Justice K. D. Yamauchi on December 6, 2012 (the "**Attachment Order**"), for an additional six months from the date of this Order, on the same terms and conditions set out therein, as amended by the Order granted by the Honourable Mr. Justice Stevens on December 21, 2012 (the "**December 21, 2012 Order**"), the Orders granted by the Honourable Madam Justice K. M. Horner on January 14, 2013, (the "**January 15, 2013 Order**"), February 19, 2013 (the "**February 19, 2013 Order**") and April 5, 2013 (the "**April 5, 2013 Order**"), the Order granted by the Honourable Madam Justice B. E. C. Romaine on September 4, 2013 (the "**September 4, 2013 Order**"), the Order granted by the Honourable Madam Justice K. M. Horner on November 21, 2013 (the "**November 21, 2014 Order**") and the Order granted by the Honourable Justice K. M. Eidsvik on February 13, 2014, as amended (the "**February 13, 2014 Order**").
- (d) Such further and other relief as counsel may advise and this Honourable Court deem fit.

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 has entered into an agreement with the Defendants to release the Receiver's interest in the Property in exchange for a cash payment, subject to Court approval, payment and appropriate documentation.

5. The Attachment Order expires on May 13, 2014. There has been no change in circumstances or evidence with respect to the Attachment Order, save for the above and that certain amounts have now been declared to be due and owing by Randy Calmusky and Theresa Calmusky. It is just and convenient for the Attachment Order to be extended.
6. Such further and other materials as counsel may advise and this Honourable Court deem fit.

Material or evidence to be relied on:

1. The Receivership Order;
2. The Attachment Order, as amended;
3. The Receiver's Second Report – January 9, 2013, the Receiver's Third Report – February 13, 2013, the Receiver's Fourth Report – March 26, 2013, the Receiver's Sixth Report – August 27, 2013, the Receiver's Supplemental Report – September 26, 2013, the Receiver's Seventh Report – November 15, 2013, the Receiver's Eighth Report – February 6, 2014, the Receiver's Ninth Report – February 24, 2014 and the Receiver's Tenth Report – April 8, 2014;
4. The Receiver's Eleventh Report dated May 8, 2014, 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:

7. Rules 1.3, 6.2, 6.3, 6.4(b), 6.9(1), 6.28, 10.55 and 13.5(2) of the *Alberta Rules of Court*; and
8. Such further and other rules as counsel may advise.

Applicable Acts and Regulations:

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

Any irregularity complained of or objection relied on:

13. N/A

How the Application is proposed to be heard or considered:

14. 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.