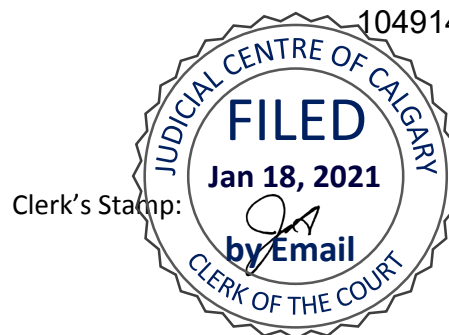




COURT FILE NUMBER	1201-15430
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFFS	STANLEY EISENBERG, BRENDA EISENBERG, JACK EISENBERG, LYNN EISENBERG and EISENBERG'S PROPERTIES LTD.
DEFENDANTS	910234 ALBERTA LTD., RANDY CALMUSKY, THERESA CALMUSKY, KYLE CALMUSKY, CALE HUMENIUK and JORDAN RINTOUL
DOCUMENT	<u>APPROVAL OF SALE AND VESTING 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:	<u>Monday, January 11, 2021</u>
LOCATION WHERE ORDER WAS PRONOUNCED:	<u>Calgary, Alberta</u>
NAME OF JUSTICE WHO MADE THIS ORDER:	<u>Justice J. T. Neufeld</u>

ORDER

UPON THE APPLICATION of Grant Thornton Limited, the Court appointed receiver (the "**Receiver**") of the assets, properties and undertakings of 910234 Alberta Ltd. ("**910**") for an Order approving the sale transaction (the "**Transaction**") contemplated by a residential purchase contract (the "**Contract**") between the Receiver and Mitchell Diaper and Stacey Steinberg (collectively referred to as the "**Purchasers**") dated December 30, 2020 and appended as Confidential Appendix 5 to the Receiver's Seventeenth Report dated January 4, 2021 (the "**Seventeenth Report**") and vesting in the Purchasers (or

its nominee), the Respondent, 910 and Theresa Calmusky's right, title and interest in and to the Lands as defined below;

AND UPON HAVING read the Application submitted for filing by the Receiver on January 5, 2021; AND UPON being referred to the documents outlined in the said Application of the Receiver, including the Seventeenth Report; AND UPON hearing counsel for the Receiver and all other interested parties;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. Service of notice of this application and supporting materials in the manner described in the Affidavit of Service is hereby declared to be good and sufficient, and no other person is required to have been served with notice of this application, and time for service of this application is abridged to that actually given.

APPROVAL OF TRANSACTION

2. The Transaction is hereby approved and execution of the Contract by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for completion of the Transaction and conveyance of the Property to the Purchasers (or its nominee).

VESTING OF PROPERTY

3. Upon delivery of a Receiver's certificate to the Purchaser (or its nominee) substantially in the form set out in Schedule "A" hereto (the "**Receiver's Closing Certificate**"), all of 910 and Theresa Calmusky's right, title and interest in and to the Lands (listed in Schedule "B" hereto) shall vest absolutely in the name of the Purchaser (or its nominee), free and clear of and from any and all caveats, security interests, hypothecs, pledges, mortgages, liens, trusts or deemed trusts, reservations of ownership, royalties, options, rights of pre-emption, privileges, interests, assignments, actions, judgements, executions, levies, taxes, writs of enforcement, charges, or other claims, whether contractual, statutory, financial, monetary or otherwise, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, "**Claims**") including, without limiting the generality of the foregoing:
 - (a) any encumbrances or charges created by the Receivership Order;

- (b) any charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Alberta) or any other personal property registry system;
- (c) any liens or claims of lien under the *Builders' Lien Act* (Alberta); and
- (d) those Claims listed in Schedule "C" hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, caveats, interests, easements, and restrictive covenants listed in Schedule "D" (collectively, "**Permitted Encumbrances**");

and for greater certainty, this Court orders that all Claims including Encumbrances other than Permitted Encumbrances, affecting or relating to the Lands are hereby expunged, discharged and terminated as against the Lands.

4. Upon delivery of the Receiver's Closing Certificate, and upon filing of a certified copy of this Order, together with any applicable registration fees, all governmental authorities including those referred to below in this paragraph (collectively, "**Governmental Authorities**") are hereby authorized, requested and directed to accept delivery of such Receiver's Closing Certificate and certified copy of this Order as though they were originals and to register such transfers, interest authorizations, discharges and discharge statements of conveyance as may be required to convey to the Purchaser or its nominee clear title to the Property subject only to Permitted Encumbrances. Without limiting the foregoing:

- (a) the Registrar of Land Titles ("**Land Titles Registrar**") for the lands defined below shall and is hereby authorized, requested and directed to forthwith:
- (b) cancel existing Certificate of Title No. 171 104 375 for those Lands and premises municipally described as 110 Hawks Landing Drive, Priddis, Alberta and legally described as:

PLAN 0410490
BLOCK 4
LOT 13
EXCEPTING THEREOUT ALL MINES AND MINERALS

(the "**Property**").

- (i) issue a new Certificate of Title for the Lands in the name of the Purchasers (or its nominee;
 - (ii) transfer to the New Certificate of Title the existing instruments listed in Schedule "D", to this Order, and to issue and register against the New Certificate of Title such new caveats, utility rights of ways, easements or other instruments as are listed in Schedule "D"; and
 - (iii) discharge and expunge the Encumbrances listed in Schedule "C" to this Order and discharge and expunge any Claims including Encumbrances (but excluding Permitted Encumbrances) which may be registered after the date of the Sale Agreement against the existing Certificate of Title to the Lands;
- 5. In order to effect the transfers and discharges described above, this Court directs each of the Governmental Authorities to take such steps as are necessary to give effect to the terms of this Order and the Contract. presentment of this Order and the Receiver's Closing Certificate shall be the sole and sufficient authority for the Governmental Authorities to make and register transfers of title or interest and cancel and discharge registrations against any of the Purchased Assets of any Claims including Encumbrances but excluding Permitted Encumbrances.
- 6. No authorization, approval or other action by and no notice to or filing with any governmental authority or regulatory body exercising jurisdiction over the Purchased Assets is required for the due execution, delivery and performance by the Receiver of the Contract.
- 7. Upon delivery of the Receiver's Closing Certificate together with a certified copy of this Order, this Order shall be immediately registered by the Land Titles Registrar notwithstanding the requirements of section 191(1) of the *Land Titles Act*, RSA 2000, c.L-7 and notwithstanding that the appeal period in respect of this Order has not elapsed. The Land Titles Registrar is hereby directed to accept all Affidavits of Corporate Signing Authority submitted by the Receiver in its capacity as Receiver of the Debtor and not in its personal capacity.
- 8. For the purposes of determining the nature and priority of Claims, net proceeds from sale of the Lands (to be held in an interest bearing trust account by the Receiver) shall stand in the place and stead of the Lands from and after delivery of the Receiver's Closing Certificate and all Claims including Encumbrances (but excluding Permitted Encumbrances) shall not attach to, encumber or otherwise form a charge, security interest, lien, or other Claim against the Lands and may be asserted against the net proceeds from sale of the Lands with the same priority as they had with respect to the Lands immediately prior to the sale, as if the Lands had not been sold and

remained in the possession or control of the person having that possession or control immediately prior to the sale. Unless otherwise ordered (whether before or after the date of this Order), the Receiver shall not make any distributions to creditors of net proceeds from sale of the Lands without further order of this Court, provided however the Receiver may apply any part of such net proceeds to repay any amounts the Receiver has borrowed for which it has issued a Receiver's Certificate pursuant to the Receivership Order.

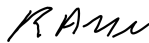
9. Except as expressly provided for in the Contract or by section 5 of the Alberta Employment Standards Code, the Purchaser (or its nominee) shall not, by completion of the Transaction, have liability of any kind whatsoever in respect of any Claims against 910.
10. Upon completion of the Transaction, 910 and all persons who claim by, through or under the 910 in respect of the Lands, and all persons or entities having any Claims of any kind whatsoever in respect of the Lands, save and except for persons entitled to the benefit of the Permitted Encumbrances, shall stand absolutely and forever barred, estopped and foreclosed from and permanently enjoined from pursuing, asserting or claiming any and all right, title, estate, interest, royalty, rental, equity of redemption or other Claim whatsoever in respect of or to the Lands, and to the extent that any such persons or entities remain in the possession or control of any of the Lands, or any artifacts, certificates, instruments or other indicia of title representing or evidencing any right, title, estate, or interest in and to the Lands, they shall forthwith deliver possession thereof to the Purchaser (or its nominee).
11. Theresa Calmusky (and/or any occupant of the Property) shall delivery up possession of the Property to the Purchasers upon closing. If the Property is occupied upon closing, the Receiver is at liberty to request a civil enforcement agency to evict any occupant of the Property.
12. The Purchaser (or its nominee) shall be entitled to enter into and upon, hold and enjoy the Lands for its own use and benefit without any interference of or by 910, or any person claiming by, through or against 910.
13. The proceeds of any sale of appliances currently excluded from the Contract which may be negotiated after the date of this Order shall be retained by the Receiver and applied to any deficiency owing to the Receiver on account of the Mortgage, Settlement Agreement or costs associated therewith. The Receiver may remove the appliances for sale to a third party, with the

proceeds applied to any deficiency owing to the Receiver as set forth above. In the event that the Receiver does not wish to remove the appliances, Theresa Calmusky shall be entitled to remove the appliances at her own cost by a professional firm and shall account to the Receiver for any damages associated therewith. In the event Theresa Calmsuky does not wish to remove the appliances, the Receiver shall be entitled to leave the appliances on the premises in accordance with the Contract.

14. In the event that Receiver does not wish to remove the appliances the Receiver shall be entitled to leave on the premises in accordance with the Real Estate Purchase Contract.
15. Immediately upon closing of the Transaction, holders of Permitted Encumbrances shall have no claim whatsoever against the Receiver.
16. The Receiver is directed to file with the Court a copy of the Receiver's Closing Certificate forthwith after delivery thereof to the Purchaser (or its nominee).
17. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act* (Canada) and section 20(e) of the *Alberta Personal Information Protection Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser (or its nominee) all human resources and payroll information in 910's records pertaining to 910's past and current employees. The Purchaser (or its nominee) shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use (of such information) to which 910 was entitled.
18. The Receiver, the Purchaser (or its nominee) and any other interested party, shall be at liberty to apply for further advice, assistance and direction as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.
19. This Honourable Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any of its provinces or territories or in any foreign jurisdiction, to act in aid of and to be complimentary to this Court in carrying out the terms of this Order, 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 respectfully requested to make such order and to provide such assistance to the Receiver, as an officer of the 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.

20. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.
21. Service of this order and all subsequent documents in this action may be effected upon Calmusky by email at the address tcalmusky@hotmail.com and rcalmusky@telus.net; and by delivering a copy by courier to the Property.



Justice of the Court of Queen's Bench

APPROVED AS TO FORM AND CONTENT:

BISHOP & MCKENZIE LLP

Per: 

Anthony L. Dekens,
Counsel for Theresa Calmusky

SCHEDULE "A"

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>RECEIVER'S CERTIFICATE</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

RECITALS

- A. Pursuant to a 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**"), Grant Thornton Limited was appointed as the receiver (the "**Receiver**") of the undertakings, property and assets of 910234 Alberta Ltd. (the "**910**").
- B. Pursuant to an Order of the Court dated _____, 2021, the Court approved the agreement of purchase and sale made as of December 30, 2020 (the "**Contract**") between the Receiver and Mitchell Diaper and Stacey Steinberg (the "**Purchaser**") and provided for the vesting in the Purchaser (or its nominee) of 910's and Theresa Calmusk's right, title and interest in and to the Lands, which vesting is to be effective with respect to the Lands upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Lands; (ii) that the conditions to Closing as set out in section * of the Contract have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.
- C. Unless otherwise indicated herein, capitalized terms have the meanings set out in the Contract.

THE RECEIVER CERTIFIES the following:

1. The Purchaser (or its nominee) has paid and the Receiver has received the Purchase Price for the Lands payable on the Closing Date pursuant to the Contract;
2. The conditions to Closing as set out in section * of the Contract have been satisfied or waived by the Receiver and the Purchaser (or its nominee); and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at [Time] on [Date].

**GRANT THORNTON LIMITED, in its capacity as
Receiver/Manager of the assets and
undertakings of 910234 Alberta Ltd. and not in
its personal capacity**

Per: _____

SCHEDULE "B"
(the Lands)

PLAN 0410490

BLOCK 4

LOT 13

EXCEPTING THEREOUT ALL MINES AND MINERALS

SCHEDULE "C"
(Encumbrances)

Instrument No. 071 285 701 – Caveat – Purchaser's Interest – Priddis Creek Development Ltd.;
Instrument No. 091 143 909 – Mortgage – The Toronto Dominion Bank;
Instrument No. 161 000 796 – Release of Dower Rights – Randy Calmusky
Instrument No. 161 000 797 – Mortgage – Grant Thornton Limited
Instrument No. 161 058 472 – Certificate of Lis Pendens – Alberta Securities Commission

SCHEDULE "D"
(Permitted Encumbrances)

Instrument No. 931 148 784 – Utility Right of Way

Instrument No. 041 059 939 – Caveat re: Development Agreement

Instrument No. 041 128 338 – Restrictive Covenant