

COURT FILE NO. 2003 08874

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE EDMONTON

PLAINTIFF HELEN JEAN LUKAN

DEFENDANTS JACK LUKAN, 2218405 ALBERTA LTD., 2079260 ALBERTA LTD. and
1596330 ALBERTA LTD.

DOCUMENT **APPLICATION FOR APPROVAL OF THE RECEIVER'S ACTIVITIES,
APPROVAL OF THE ALLOCATION OF COSTS, APPROVAL OF RECEIVER'S
FEES AND DISBURSEMENTS**

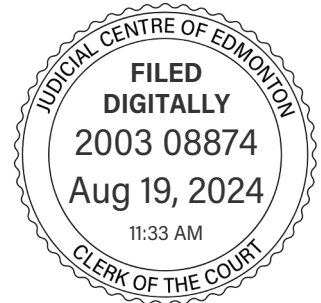
APPLICATION FOR AN ORDER FOR FINAL DISTRIBUTION

APPLICATION FOR DISCHARGE OF RECEIVER

ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION OF
PARTY FILING THIS
DOCUMENT

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File: 208081



NOTICE TO RESPONDENTS

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

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

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

Date: August 27, 2024
Time: 2:00 PM
Where: Via WebEx: <https://albertacourts.webex.com/meet/virtual.courtroom86>
Before Whom: The Honourable Justice K.G. Nielsen, ACJ

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. An Order substantially in the form attached hereto as Schedule "A", including:
 - a. if necessary, an abridgement of the time required to provide notice of this Application to the interested parties, to the time actually given, and an Order deeming service of notice of this Application to be good and sufficient upon all interested parties;
 - b. approving the actions taken by the Receiver as set out in the Receiver's Third Report, filed;
 - c. approving a final distribution of funds;
 - d. approving the passing of accounts for the fees and disbursements of the Receiver and its legal counsel, Duncan Craig LLP, without the necessity of formal taxation;
 - e. discharging the Receiver;
 - f. such further and other relief as may be requested and this Honourable Court deems appropriate.
2. Such Further and other relief as this Honourable Court deems just and appropriate.

Grounds for Making this Application:

3. On application by Helen Jean Lukan, Grant Thornton Limited (the "Receiver") was appointed Receiver of all of the assets, undertakings, and properties of 2079260 Alberta Ltd. ("207") and 1596330 Alberta Ltd. ("159") (hereinafter, and collectively referred to as the "Companies") pursuant to an Order of the Court of King's Bench of Alberta (the "Court") granted on January 13, 2021.
4. The Receivership Order was served on all interested parties, including Canada Revenue Agency ("CRA") on or about March 25, 2021. No party sought to appeal, or set aside, the Receivership Order, or any portion thereof.
5. 159 operated as an oilfield maintenance and service business and was jointly owned by Mr. and Ms. Lukan.
6. 207 was owned by Ms. Lukan, with both Ms. Lukan and Mr. Lukan being directors, and to the Receiver's knowledge, incorporated for the purpose of mining a gold claim in British Columbia and had no operations or assets, and that any equipment utilized by 207 was provided by 159.
7. After the marital separation of Mr. and Ms. Lukan, 159 ceased operations on or about March 2020.
8. The Receivership Order provided, *inter alia*, that:
 - a. the Receiver was empowered and authorized to sell, convey, transfer, lease or assign any of the Companies' property without the approval of this Court in respect of transactions not exceeding \$500,000; and
 - b. the Receiver and its counsel shall be entitled to a Receiver's Charge on the Companies' property not to exceed \$500,000 as security for professional fees and disbursements,

which shall form a first charge on the Property in priority to all security interests, trusts, deemed trusts, liens, charges and encumbrance, statutory or otherwise.

9. On October 26, 2021, this Honourable Court granted an Order, *inter alia*, approving the Receiver's actions pursuant to the Receiver's Second Report.
10. The Receiver has, subsequent to its Second Report (October 18, 2021) and in accordance with the Receivership Order, *inter alia*:
 - a. conducted a formal marketing sales process and successfully negotiated and sold certain 159 equipment stored at a gold mine site in Quesnel Forks, BC (the "Mine Site") to Henry Terink o/a Eagle Coast Mining for \$36,000 plus GST and certain 159 equipment located at Valleyview, AB to Century Services Corp. for \$37,000 plus GST;
 - b. coordinated the recovery of a 2006 John Deere 350D excavator from a creek (the "Excavator") by Gallivan Construction;
 - c. negotiated a settlement with Mr. Lukan for a 2006 Ford truck;
 - d. liaised with CRA regarding the deemed trust claim;
 - e. liaised with Ms. Lukan and other stakeholders in relation to these receivership proceedings.
11. By letter dated January 17, 2023, CRA advised the Receiver of a deemed trust claim related to 159 for federal income tax, provincial income tax, CPP and EI deductions, totalling \$26,422.20. At the time said claim was communicated to the Receiver, there were insufficient funds available from the Receivership estate to satisfy the deemed trust claim. In any event, the Receivership Order provides that the Receiver's fees, and that of its legal counsel, rank in priority (up to \$500,000) over, *inter alia*, security interests, trusts and deemed trusts.
12. The Receiver has realized upon all of the known realizable assets of the Companies, and is not aware of any further issues which are the responsibility of the Receiver, and the Receiver is of the opinion that the administration of this Receivership will be completed upon the matters above being approved by the Court, and the anticipated final steps and distributions, as set out in the Receiver's Third Report, are implemented and completed once granted.
13. As of August 15, 2024, there remains only \$1,611.15 of net cash receipts in the Estate before pending disbursements of \$5,000 plus GST for Receiver's counsel's final disbursements, of which the Receiver intends to advance \$3,638.85 to the Receivership Estate itself to cover said shortfall. The anticipated final distributions are just and appropriate in the circumstances.
14. Attached as Appendix 5 to the Receiver's Third Report is a summary of the Receiver's fees and expenses along with the Receiver's time dockets from January 11, 2021 until July 31, 2023. The Receiver believes that the accounts are reasonable taking into consideration the services that were provided, and the Receiver seeks approval and a passing of these accounts in accordance with the terms of the Receivership Order.
15. Attached as Appendix 6 to the Receiver's Third Report is a summary of the Receiver's counsel's fees and disbursements for the period commencing January 14, 2021 up to and including October 29, 2021. The Receiver believes the accounts are reasonable, taking into consideration the services that were provided, and the Receiver seeks approval and a passing of these accounts in accordance with the terms of the Receivership Order.

16. There are no remaining assets of the Companies to realize upon and it is just and convenient for the Receiver to be discharged after making the pending disbursements outlined in the Receiver's Third Report.

17. Such further and other grounds as counsel may advise and this Honourable Court may accept.

Material or Evidence to be Relied On

18. Receivership Order granted in these proceedings on January 13, 2021.

19. Third and Final Report of the Receiver dated August 15, 2024, filed along with the previously filed Reports of the Receiver.

20. The pleadings and proceedings taken in this matter.

21. Such further and other material as legal counsel for the Receiver may advise and this Honourable Court may permit.

Applicable rules:

22. Rules 6.3 and 13.5(2) of the *Alberta Rules of Court*.

23. Such further and other authority as counsel may advise and this Honourable Court may permit.

Applicable Acts and Regulations:

24. *Business Corporations Act*, (Alberta) RSA 2000, c. B-9 and in particular section 99 thereof.

25. *Judicature Act*, RSA 2000, c. J-2, sections 8 and 13(2).

26. *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3, as amended, and in particular sections 81.4(4) and 243 thereof.

27. *Income Tax Act* (Canada), RSC 1985, c. 1, Section 227(4) and/or 227(4.1).

28. Such further Acts and Statutes as counsel may advise.

Any irregularity complained of or objection relied on:

29. N/A

How the application is proposed to be heard or considered:

30. Via WebEx, on the Commercial List before the Honourable Mr. Justice Nielsen.

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” – Proposed Order

COURT FILE NO. 2003 08874

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE EDMONTON

PLAINTIFF HELEN JEAN LUKAN

DEFENDANTS JACK LUKAN, 2218405 ALBERTA LTD., 2079260 ALBERTA LTD. and 1596330 ALBERTA LTD.

DOCUMENT **ORDER FOR APPROVAL OF RECEIVER'S ACTIVITIES, APPROVAL OF ALLOCATION OF COSTS, APPROVAL OF RECEIVER'S FEES AND DISBURSEMENTS, ORDER FOR FINAL DISTRIBUTION AND ORDER FOR DISCHARGE OF RECEIVER**

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File: 208081

DATE ORDER WAS PRONOUNCED: August 27, 2024

LOCATION WHERE ORDER WAS PRONOUNCED: Edmonton, Alberta

JUSTICE WHO PRONOUNCED ORDER: Honourable K.G. Nielsen, ACJ

UPON THE APPLICATION of Grant Thornton Limited (the "Receiver"), the Court-appointed Receiver of the current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (the "Property") of 2076260 Alberta Ltd. and 1596330 Alberta Ltd. (collectively the "Debtors") for an Order for the final distribution of proceeds, approval of the Receiver's fees and disbursements, approval of the Receiver's activities and discharge of the Receiver; AND UPON having read the Third and Final Report of the Receiver dated August 15, 2024, filed; AND UPON hearing read the Affidavit of Service of Melissa Janes, filed; AND UPON hearing counsel for the Receiver; AND UPON being satisfied that it is appropriate to do so, IT IS HEREBY ORDERED THAT:

1. Service of notice of this application and supporting materials 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.

2. The Receiver's accounts for fees and disbursements, as set out in the Receiver's Third Report, are hereby approved without the necessity of a formal passing of its accounts.
3. The accounts of the Receiver's counsel, Duncan Craig LLP, for its fees and disbursements, as set out in the Receiver's Third Report are hereby approved and passed without the necessity of a formal assessment of its accounts.
4. The Receiver's activities as set out in the Receiver's Third Report and in all of its other Reports filed herein, and the Statement of Receipts and Disbursements as attached to the Third Report of the Receiver, are hereby ratified and approved.
5. The Receiver is authorized and directed to make the following distributions from the funds held by the Receiver on behalf of the receivership estate:
 - a) After the Receiver advances the sum of \$3,638.85 to the receivership estate, such additional amounts necessary to pay Duncan Craig LLP for its fees, disbursements and GST that remain currently unpaid or are recorded and incurred from and October 29, 2021 (to the maximum of \$5,000 plus GST) in assisting the Receiver in completing the steps required to finalize and complete the Receiver's administration of the receivership estate, including without limitation obtaining this Order, and such fees and disbursements are hereby approved without the necessity of a formal passing of its accounts.
6. On the evidence before the Court, the Receiver has satisfied its obligations under and pursuant to the terms of the Orders granted in the within proceedings up to and including the date hereof, and the Receiver shall not be liable for any act or omission on its part, including, without limitation, any act or omission pertaining to the discharge of its duties in the within proceedings, save and except for any liability arising out of any fraud, gross negligence or wilful misconduct on the part of the Receiver, or with leave of the Court. Subject to the foregoing, any claims against the Receiver in connection with the performance of its duties are hereby stayed, extinguished and forever barred.
7. No action or other proceeding shall be commenced against the Receiver in any way arising from or related to its capacity or conduct as Receiver, except with prior leave of this Court on notice to the Receiver, and upon such terms as this Court may direct.
8. Upon the Receiver filing with the Clerk of the Court a sworn Affidavit of a licensed Trustee employed by the Receiver confirming that:
 - a) All matters set out in paragraph 5 of this Order have been completed, and
 - b) In the opinion of the Receiver, the administration of the Receivership has been completed,then the Receiver shall be discharged as Receiver of the Debtor without further Order, provided however, that notwithstanding its discharge herein (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of the Receiver in its capacity as Receiver.

9. This Order must be served only upon those interested parties served with notice of this application and service may be effected by facsimile, electronic mail, personal delivery, recorded mail or courier. Service is deemed to be effected the next business day following the transmission or delivery of such documents.
10. Service of this Order on any party not attending this application is hereby dispensed with.

Justice of the Court of King's Bench of Alberta