FORM 32 (RULE 8-1(4))

No. VLC-S-S-257758
Vancouver Registry

In the Supreme Court of British Columbia

Between

PEOPLES TRUST COMPANY/COMPAGNIE DE FIDUCIE PEOPLES

Petitioner

and

PEAK DEVELOPMENTS CORP., PEAK DEVELOPMENTS LIMITED PARTNERSHIP, WESTCASTLE HOLDINGS LTD., WESTCASTLE LAND DEVELOPMENTS CORP., BOULEVARD CONSTRUCTION CORPORATION, RIVERVIEW CUSTOM HOMES LTD., PHIL SALGADO, also known as PHILIP SALGADO, CHRIS YORK, also known as CHRISTOPHER YORK, MACKAY CONTRACTING LTD., KULKON CONSTRUCTION CORP., 1111053 B.C. LTD. DOING BUSINESS AS JJ MECHANICAL, GAUER POWER LTD., IKA BUILDERS INC., 689048 ALBERTA LIMITED, STEVEN DOUGLAS HOWG, also known as STEVEN DOUGLAS HOWG doing business as STP PAINTING, WSP CANADA INC., SOUTH-WAY EQUIPMENT RENTAL LTD., JOHN DOE AND ALL TENANTS OR OCCUPIERS OF THE SUBJECT LANDS AND PREMISES

Respondents

NOTICE OF APPLICATION – SLIP RULE TO CORRECT ORDER NISI

Name of applicant: **Peoples Trust Company/Compagnie De Fiducie Peoples**

To: the respondents and their counsel

TAKE NOTICE that an application will be made by the applicant to the presiding judge at the courthouse at the Law Courts, 800 Smithe Street, Vancouver, B.C. on March 5, 2026, at 9:45 a.m. for the orders set out in Part 1 below.

The applicant estimates that the application will take 5 minutes.

☒   This matter is not within the jurisdiction of an associate judge as the original order was made by a judge.

1395-5098-4474, v. 2

Part 1:   ORDERS SOUGHT

1.   Paragraphs 6 and 12 of the order of Mr. Justice Milman, pronounced herein on January 30, 2026, are hereby amended as follows:

6.   The guarantee and postponement of claim dated December 8, 2022, given by the respondents, PEAK DEVELOPMENTS LIMITED PARTERSHIP, WESTCASTLE HOLDINGS LTD., WESTCASTLE LAND DEVELOPMENTS CORP., BOULEVARD CONSTRUCTION CORPORATION, RIVERVIEW CUSTOM HOMES LTD., PHIL SALGADO, and CHRISTOPHER YORK, as guarantors, (collectively the "Guarantors"), is:

i) an unconditional guarantee of all present and future indebtedness and liabilities, direct and indirect, absolute and contingent of the respondent, PEAK DEVELOPMENTS CORP., to the petitioner; and

ii) an agreement charging all present and future debts, obligations and liabilities owed to the Guarantors, or any of them, by PEAK DEVELOPMENTS CORP., together with all interest therein and fees and other charges payable in connection therewith, and all liens, security interests, charges and other security therefor, (collectively, the "Claims") in favour of the petitioner in priority to the interest therein or claims thereto of the respondents and their respective heirs, executors, administrators, successors and assigns, and any persons claiming by, through or under them,

(the "Guarantee and Postponement").

12.   The petitioner is hereby granted judgment against the respondents, PEAK DEVELOPMENTS CORP., PEAK DEVELOPMENTS LIMITED PARTNERSHIP, WESTCASTLE HOLDINGS LTD., WESTCASTLE LAND DEVELOPMENTS CORP., BOULEVARD CONSTRUCTION CORPORATION, RIVERVIEW CUSTOM HOMES LTD., PHIL SALGADO, also known as PHILIP SALGADO,

CHRIS YORK, also known as CHRISTOPHER YORK, jointly and severally, in the sum of $22,373,943.87, as at January 30, 2026.

Part 2: FACTUAL BASIS

1. These are foreclosure proceedings. The petition herein was filed in the Cranbrook registry of the British Columbia Supreme Court and then the matter was transferred to the Vancouver Registry.

2. As at October 6, 2025, all parties had been served with the petition except Mr. Salgado. On that date, Associate Judge Kiem granted an order permitting alternative service on Mr. Salgado.

3. Alternative service took place and an affidavit was made to that effect, which was filed herein on January 28, 2026.

4. On January 30, 2026, the petition herein was heard by Mr. Justice Milman, who is seized of a related receivership proceeding. He is not seized of these foreclosure proceedings.

5. The plaintiff made submissions to Mr. Justice Milman on January 30 with regard to alternative service on Mr. Salgado. The application record included the October 6, 2025 order of Associate Judge Kiem and the affidavit of Alternative Service. The statement of relief sought was filed on January 23, 2026, and it explicitly sought judgment against Mr. Salgado. Mr. Justice Milman granted order nisi on the terms set out in the statement of relief sought. However, a clerical error resulted in the filed order nisi failing to include Mr. Salgado's name.

6. Accordingly, the petitioner seeks to have the order nisi corrected on the terms set out above.

Part 3: LEGAL BASIS

1. The Court has jurisdiction to correct an error arising from an accidental slip pursuant to Rule 13-1(17).

2. The slip rule is, *inter alia,* used where a clerical mistake results in a filed order that does not reflect the true intentions of the court.

3. Even with respect to an order nisi which is a final order, Courts have used the slip rule to, *inter alia*:

    a) Correct to amend a registration and to grant personal judgments against mortgagors, applying interest from the original judgment date.

    Nanaimo Mtge. Corp. v. Gill, 1986 CanLII 1078 (BC CA) at para 14-18.

4. In *Gill* the mortgage registration was incorrectly named in the order nisi in the Vancouver Land Title registry. Additionally, personal judgment was not taken against the mortgagors. The Court held that it was appropriate to use the slip rule to correct the inadvertent slip with respect to the incorrect registration on the order nisi, as well as to grant personal judgment against the mortgagors.

5. In *Gill,* the slip rule was used to correct a significantly more substantive error in the order nisi than in the case at hand. In this case, the only inadvertence was to not reference Mr. Salgado's name in the order nisi despite explicit submissions made to Mr. Justice Milman at the hearing in reference to judgment against him. The error was a clerical error

6. The requested change to the Order Nisi reflects the intention of the court to grant judgment against the borrower and guarantors.

Part 4:   MATERIAL TO BE RELIED ON

1. Order nisi, which was filed herein on February 2, 2026.

2. Affidavit #6 of Kim MacDonald, filed February 11, 2026.

3. Order for alternative service, filed herein on October 30, 2025.

4. Affidavit of alternative service, filed herein on January 28, 2026.

5. Statement of relief sought, filed herein on January 23, 2026.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

    a)   file an application response in Form 33,

    b)   file the original of every affidavit, and of every other document, that

        i)   you intend to refer to at the hearing of this application, and

        ii)   has not already been filed in the proceedings, and

    c)   serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:

        i)   a copy of the filed application response;

        ii)   a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;

        iii)   if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Date: _____February 11, 2026_____

_____(signature)_____
Signature of lawyer for applicant
Jonathan L. Williams

To be completed by the court only:

Order made

☐ in the terms requested in paragraphs _____ of Part 1 of this notice of application

☐ with the following variations and additional terms:

_____

_____

_____

Date:_____   _____
                                     Signature of [ ] Judge
                                       [ ] Associate Judge

APPENDIX

THIS APPLICATION INVOLVES THE FOLLOWING:

☐   discovery: comply with demand for documents

☐   discovery: production of additional documents
☐   other matters concerning document discovery
☐   extend oral discovery
☐   other matter concerning oral discovery
☐   amend pleadings
☐   add/change parties
☐   summary judgment
☐   summary trial
☐   service
☐   mediation
☐   adjournments
☐   proceedings at trial
☐   case plan orders: amend
☐   case plan orders: other
☐   experts
☒   none of the above