



FORM 32 (RULE 8-1(4))

No. H-200210  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

PROSPERA CREDIT UNION formerly known as  
WESTMINSTER SAVINGS CREDIT UNION

Petitioner

And

0914097 B.C. LTD.  
SADHU DHALIWAL also known as SADHU SINGH  
DHALIWAL  
SURJIT KAUR DHALIWAL  
THE ATTORNEY GENERAL OF BRITISH COLUMBIA  
represented by Her Majesty the Queen in right of the Province of  
British Columbia

Respondents

**NOTICE OF APPLICATION**

**Name of applicant:** **D. Manning & Associates Inc.**, Court Appointed Receiver and Manager (“**Receiver**”) of all of the assets, undertakings and property of 0914097 B.C. Ltd. (the “**Debtor**”) acquired for or used in relation to a business carried on by the Debtor in constructing homes at 1106-1130 West 15<sup>th</sup> Avenue, Vancouver B.C.

To: THE PETITIONER, THE RESPONDENTS AND TO THEIR SOLICITORS

TAKE NOTICE that an application will be made by the Receiver to the presiding JUDGE at the courthouse at 800 Smithe Street, Vancouver, BC, FRIDAY, JULY 9, 2021, at 9:45 a.m. by Microsoft Teams or as the court may direct for the order(s) set out in Part 1 below.

**Part 1: ORDER(S) SOUGHT**

1. An Order in the form of draft Order attached to this Notice of Application as Schedule “A”, approving the Receiver’s activities, summarily passing the Receiver’s accounts and discharging the Receiver.

**Part 2: FACTUAL BASIS**

1. By Order of the Court made October 13, 2020, D. Manning & Associates Inc. (the “**Receiver**”) was appointed as Receiver and Manager of all of the assets, undertakings and property of the Debtor, acquired for, or used in relation to a business carried on by the Debtor in constructing homes at 1106-1130 West 15<sup>th</sup> Avenue (formerly 1106 West 15<sup>th</sup> Avenue), in the City of Vancouver, in the Province of British Columbia having legal descriptions of Strata Lots 1, 2, & 3 each of District Lot 526, Group 1, New Westminster District, Strata Plan EPS5264 including all proceeds (the “**Property**” and the “**Receivership Order**”).
  - The Receivership Order is attached at Appendix “A” to the Receiver’s Second and Final Report.
2. The Receivership Order was made at the application of the Petitioner, as the principal secured creditor of the Debtor.
3. The Debtor’s Property is a residential real estate development located at 1108, 1110 and 1112 West 15<sup>th</sup> Avenue, Vancouver, British Columbia (the “**Properties**”). The Properties previously held the address of 1130 West 15<sup>th</sup> Avenue, but after stratification, the addresses were changed to 1108 West 15<sup>th</sup> Avenue (the “**Infill Home**”), 1110 and 1112 West 15<sup>th</sup> Avenue (the “**Duplex**”).
4. At the time the Receivership Order was granted, construction on the Infill Home had been completed but construction on the Duplex had not been completed.
5. In accordance with the Receivership Order, the Receiver, *inter alia*, monitored the progress of completing the construction on the Properties, correcting deficiencies and obtained a final occupancy permit from the City of Vancouver.
6. At the time the Receivership Order was granted, the Properties had already been listed for sale by the Debtor with Mr. Kevin Hardy of Southeby’s International Realty Canada.
7. The Receivership Order does not contain a term permitting the Receiver to market and sell the Debtor’s Property.

8. 1110 West 15<sup>th</sup> (half of the Duplex) was sold by the Debtor, which sale completed on March 4, 2021. The net proceeds of that sale of \$1,850,756.16 (inclusive of holdbacks) have been paid to the Petitioner.
9. The Infill Home was sold by the Debtor, which sale completed on March 11, 2021. The net proceeds of that sale of \$2,789,633.72 (inclusive of holdbacks) have been paid to the Petitioner.
10. Subsequent to these sales, the Debtor redeemed the Petitioner's mortgage.
11. The Receivership Order provides for the summary passing of its accounts before a Justice of this Court.

Receivership Order at paragraph 22.

**Part 3: LEGAL BASIS**

1. Section 15 of the *Law and Equity Act*, R.S.B.C. 1996, c. 253;
2. The Receivership Order; and
3. Rules 10-2 of the Supreme Court Civil Rules.

**Part 4: MATERIAL TO BE RELIED ON**

1. Affidavit of Alex En Hwa Ng, made June 17, 2021;
2. The Receiver's First Report, dated November 18, 2020;
3. The Receiver's Second Report, dated May 14, 2021;
4. The Receivership Order.

The Receiver estimates that the application will take 5 minutes.

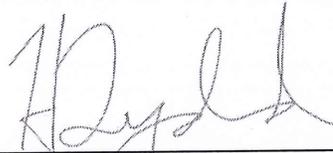
[ ] This matter is within the jurisdiction of a Master.

[X] This matter is not within the jurisdiction of a Master.

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: June 17, 2021



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HEATHER A. FRYDENLUND.  
Signature of lawyer for Receiver

***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  Master

**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

SCHEDULE "A"

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Respondents

ORDER MADE AFTER APPLICATION

(ORDER DISCHARGING RECEIVER)

BEFORE THE HONOURABLE )  
 )  
\_\_\_\_\_ JUSTICE \_\_\_\_\_ ) \_\_\_\_\_, 2021

THE APPLICATION of D. MANNING & ASSOCIATES INC., in its capacity as court-appointed Receiver and Manager (the "Receiver") of all of the assets, undertakings and property of the 0914097 B.C. Ltd. (the "Debtor"), acquired for, or used in relation to a business carried on by the Debtor in constructing homes at 1106-1130 West 15<sup>th</sup> Avenue (formerly 1106 West 15<sup>th</sup> Avenue), in the City of Vancouver, in the Province of British Columbia having legal descriptions of Strata Lots 1, 2, & 3 each of District Lot 526, Group 1, New Westminster District, Strata Plan EPS5264 including all proceeds coming on for hearing at Vancouver British Columbia on the 9<sup>th</sup> day of July, 2021 by MS Teams; AND ON HEARING Heather A. Frydenlund, counsel for the Receiver, and no one else appearing, though duly served; AND

UPON READING the material filed, including the First Report of the Receiver dated November 18, 2020 and the Second and Final Report of the Receiver dated May 14, 2021 (the “**Reports**”);

THIS COURT ORDERS AND DECLARES THAT:

1. The activities of the Receiver, as set out in the Reports, are hereby approved.
2. The fees and disbursements of the Receiver and its counsel, as set out in the Reports, are hereby approved.
3. After payment of the fees and disbursements of the Receiver as herein approved, the Receiver shall be discharged as Receiver of the assets, undertaking and property of the Debtor, provided 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 D. Manning & Associates Inc. in its capacity as Receiver.
4. Notwithstanding any provision herein, this Order shall not affect any person to whom notice of these proceedings was not delivered as required by the *Bankruptcy and Insolvency Act* and regulations thereto, any other applicable enactment or any other Order of this Court.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

\_\_\_\_\_  
Signature of lawyer for the Receiver,  
Heather A. Frydenlund

By the Court.

\_\_\_\_\_  
Registrar

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**ORDER MADE AFTER APPLICATION  
(ORDER DISCHARGING RECEIVER)**

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OWEN BIRD LAW CORPORATION  
P.O. Box 49130  
Three Bentall Centre  
2900 - 595 Burrard Street  
Vancouver, BC V7X 1J5  
Attention: Heather A. Frydenlund  
File No. 23024-0102

No. H-200210  
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