



No. H-200452  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

VANCOUVER CITY SAVINGS CREDIT UNION

Petitioner

AND:

1188322 B.C. LTD.  
MILE'S END MOTORS LTD.  
DAVID CHRISTIAN BENTIL  
WESTBANK HOLDINGS LTD.  
MANN MORTGAGE INVESTMENT CORPORATION  
NEXTGEAR CAPITAL CORPORATION  
ROYAL BANK OF CANADA  
ALL TENANTS AND OCCUPIERS OF THE SUBJECT  
LANDS

Respondents

**NOTICE OF APPLICATION**

**Name(s) of applicant(s):** VANCOUVER CITY SAVINGS CREDIT UNION

To: The Respondents and their Solicitors

TAKE NOTICE that an application will be made by the applicant(s) to the presiding Master at the courthouse at 800 Smithe Street, Vancouver, B.C. on WEDNESDAY, AUGUST 4, 2021 at 9:45 a.m. by Microsoft Teams for the order(s) set out in Part 1 below.

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

1. An Order in the form attached as Schedule "A" hereto, granting judgment against the Respondents, 1188322 B.C. LTD., MILE'S END MOTORS LTD. and DAVID CHRISTIAN BENTIL, jointly and severally, in the amount of \$4,909,675.92 as of JULY 26, 2021 subsequent to which post judgment interest will accrue; and

2. Costs of this proceeding on a special costs basis or, alternatively, a party and party costs basis pursuant to Scale B or such other scale as may be appropriate.

**Part 2: FACTUAL BASIS**

1. All capitalized terms have the same definition as set out in the Order Nisi of Foreclosure pronounced in this proceeding on January 22, 2021.
2. The subject of this proceeding is the foreclosure of a first mortgage held by the Petitioner against the lands and premises which are referred to in the Petition as the Lands.
3. By an Order Nisi of Foreclosure pronounced on January 22, 2021, the Petitioner was granted an Order Nisi of Foreclosure providing for a one day redemption period expiring January 23, 2021.
4. The Order Nisi also ordered and declared, *inter alia*, that:
  - a) The Security is valid;
  - b) The Respondents, 1188322 B.C. Ltd., Mile's End Motors Ltd., and David Christian Bentil had made defaults under the Security; and
  - c) The amounts due under the Security, and in particular the amounts pursuant to each of 1188322 Loan #1, 1188322 Loan #2, Mile's End Loan #1, Mile's End Loan #2, and Mile's End Loan #3 are due and owing.
5. The redemption amount owing to the Petitioner was a total of \$4,843,519.17 as of January 22, 2021 plus costs of the Petitioner and per diem interest. The per diem interest owed to the Petitioner are five (5) different rates, in relation to five (5) different loans that were made by the Petitioner, as follows as of January 22, 2021:
  - a) With respect to 1188322 Loan #1, per diem interest of \$295.22, calculated monthly, not in advance based on the interest rate of 3.13%;
  - b) With respect to 1188322 Loan #2, per diem interest of \$90.67, calculated monthly, not in advance, based on the interest rate of 4.45%;

- c) With respect to Miles End Loan #1, per diem interest of \$3.99, calculated monthly, not in advance, based on the interest rate of 3.50%;
  - d) With respect to Miles End Loan #2, per diem interest of \$25.18, calculated monthly, not in advance, based on the interest rate of 4.60%; and
  - e) With respect to Miles End Loan #3, per diem interest of \$37.11, calculated monthly, not in advance, based on the interest rate of 4.67%.
6. 1188322 Loan #1 and #2 were made between the Respondent, 1188322 B.C. Ltd. and the Petitioner.
  7. Mile's End Loan #1, #2 and #3 were made between the Respondent, Mile's End Motors Ltd. and the Petitioner.
  8. The Respondent, Miles End Motors Ltd., unconditionally guaranteed all of the present and future indebtedness and liabilities, direct and indirect, absolute and contingent of the Respondent, 1188322 B.C. Ltd., to the Petitioner.
  9. The Respondent, 1188322 B.C. Ltd., unconditionally guaranteed all of the present and future indebtedness and liabilities, direct and indirect, absolute and contingent of the Respondent, Mile's End Motors Ltd., to the Petitioner.
  10. The Respondent, David Christian Bentil, unconditionally guaranteed all of the present and future indebtedness and liabilities, direct and indirect, absolute and contingent of the Respondents, 1188322 B.C. Ltd. and Mile's End Motors Ltd., to the Petitioner.
  11. Judgment against the Respondents, 1188322 B.C. Ltd., Mile's End Motors Ltd. and David Christian Bentil, was adjourned on the basis that interest would continue to accrue at the mortgage rate.
  12. D. Manning & Associates Inc. was appointed the Receiver of both 1188322 B.C. Ltd. and Mile's End Motors Ltd. by way of Court Order (the "**Receiver**") on January 22, 2021.

13. The Security has not been redeemed and the Petitioner is concerned that they may suffer a shortfall as the Receiver has the subject Property listed for sale at \$4,698,000 and there is little or no value to the remaining assets controlled by the Receiver.
14. As of July 26, 2021, the total amount due and owing to the Petitioner as calculated from the amounts set out in the Order Nisi is \$4,909,675.92.

**Part 3: LEGAL BASIS**

1. On the facts set out in Part 2 above, the Petitioner has established that:
  - a) The Security is valid and enforceable as against 1188322 B.C. Ltd., Mile's End Motors Ltd. and David Christian Bentil; and
  - b) The Respondents, 1188322 B.C. Ltd., Miles End Motors Ltd. and David Christian Bentil are jointly and severally liable to the Petitioner in the amount of \$4,909,675.92 as at July 26, 2021.
2. Pursuant to the terms of the Security and the Order Nisi granted herein, the Petitioner is entitled to the relief sought in Part 1 above.
3. Rules 14-1, 16-1, 21-7(5) and 21-7(7) of the Supreme Court Civil Rules; and
4. Such other provisions as may be relevant based on any response materials filed.

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

1. Petition to the Court and supporting affidavits;
2. Order Nisi of Foreclosure;
3. Receivership Orders; and
4. Affidavit #3 of F. Seminara.

The applicant(s) estimates that the application will take 5 minutes.


This matter is within the jurisdiction of a master.

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: July 19, 2021

  
\_\_\_\_\_  
Heather A. Frydenlund, Signature of lawyer for  
applicant(s), VANCOUVER CITY SAVINGS  
CREDIT UNION

*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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**ORDER MADE AFTER APPLICATION**

BEFORE ) MASTER \_\_\_\_\_ ) WEDNESDAY, THE 28TH  
          ) ) DAY OF JULY, 2021

THE APPLICATION of the Petitioner, VANCOUVER CITY SAVINGS CREDIT UNION, coming on for hearing on this day at Vancouver, British Columbia, by Microsoft Teams, and upon hearing HEATHER A. FRYDENLUND, Counsel for the Petitioner, and no-one else appearing, although given notice in accordance with the Rules of the Court, and on reading the material filed:

THIS COURT ORDERS THAT:

1. Judgment against the Respondents, 1188322 B.C. LTD., MILE'S END MOTORS LTD. and DAVID CHRISTIAN BENTIL, jointly and severally, in the amount of \$4,909,675.92 as at July 26, 2021 subsequent to which post judgment interest will accrue.
2. The Petitioner is awarded costs of this proceeding at Scale A and the scale of any further costs ordered shall be determined by the 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.

\_\_\_\_\_  
Solicitor for the Petitioner, VANCOUVER CITY  
SAVINGS CREDIT UNION  
Heather A. Frydenlund

BY THE COURT

\_\_\_\_\_  
Registrar



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**ORDER MADE AFTER APPLICATION**

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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. 22868-0117

No. H-200452  
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