



No. VLC-S-H-200252
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

VANCOUVER CITY SAVINGS CREDIT UNION

Petitioner

AND:

371392 B.C. LTD.
371392 B.C. LTD. doing business as DIAMOND HEAD MOTOR
INN and DIAMOND HEAD MOTEL
1134365 B.C. LTD.
H.D.P. HOLDINGS INC.
FARHEEN RAWJI
DIPTI PANCHAL
HITESH PANCHAL
ALL TENANTS AND OCCUPIERS OF THE SUBJECT LANDS

Respondents

IN THE MATTER OF THE RECEIVERSHIP OF

371392 B.C. LTD. dba DIAMOND HEAD MOTOR INN and DIAMOND HEAD MOTEL

**THIRD REPORT OF THE COURT-APPOINTED
RECEIVER AND MANAGER,
D. MANNING & ASSOCIATES INC.**

MAY 7, 2021

D. MANNING & ASSOCIATES INC.
COURT-APPOINTED RECEIVER AND MANAGER OF THE
ASSETS, UNDERTAKINGS AND PROPERTY OF
371392 B.C. LTD. dba DIAMOND HEAD MOTOR INN and DIAMOND HEAD MOTEL
Suite 520 – 625 Howe Street
Vancouver, B.C. V6C 2T6
(604) 683-8030, Fax (604) 683-8327
www.manning-trustee.com

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SCHEDULES

- A. Court Order, pronounced June 24, 2020, appointing D. Manning & Associates Inc. as Receiver and Manager of the Assets, Undertakings and Property of 371392 B.C. Ltd. dba Diamond Head Motor Inn and Diamond Head Motel
- B. Court Order, pronounced November 6, 2020, upgrading the Receiver and Manager's powers
- C. Court Order pronounced January 15, 2021, approving the sale of the Property to 1284012 B.C. Ltd.
- D. Court-Appointed Receiver and Manager's Interim Statement of Cash Receipts and Disbursements for the period June 24, 2020 to May 4, 2021
- E. Summary of Invoices of D. Manning & Associates Inc. for the period June 17, 2020 to April 30, 2021
- F. Summary of Invoices of the Receiver's counsel, Owen Bird Law Corporation, for the period June 24, 2020 to April 30, 2021 and Summary of Invoice of legal counsel, Nordel Law Group LLP, dated September 23, 2020

I. INTRODUCTION

1. D. Manning & Associates Inc. ("**DMA**") was appointed as Receiver and Manager ("**the Receiver**") of the Assets, Undertakings and Property of 371392 B.C. Ltd. dba Diamond Head Motor Inn and Diamond Head Motel ("**the Company**") pursuant to an Order of the Supreme Court of British Columbia pronounced June 24, 2020 under Action No. H-200252 (Vancouver Registry) (**Schedule "A"**).
2. The Receiver submits this Third Report detailing its activities as Receiver and relevant financial information in connection with the Receivership for the period June 24, 2020 (date of Court appointment as Receiver) to May 4, 2021.

II. QUALIFICATIONS AND RESTRICTIONS OF THIS REPORT

3. The Receiver assumes no responsibility or liability for any loss or damage occasioned by any party as a result of the circulation, publication, reproduction or use of this Report. Any use which any party makes of this Report, or any reliance or decisions to be made on this Report, is the sole responsibility of such party.
4. All dollar amounts identified in this Report are expressed in Canadian dollars, unless otherwise specified.

III. BACKGROUND

5. On June 24, 2020, the Receiver was appointed by Order of the Supreme Court of British Columbia, on the application of the principal secured creditor, Vancouver City Savings Credit Union ("**Vancity**"). The application was contested but ultimately a Receivership Order was granted.
6. The Company's principal asset was the Diamond Head Motor Inn, a 40 room Motel on a 1.01 acre lot, located at 32550 Logan Avenue, Mission, British Columbia ("**the Property**").
7. Subsequent to a further Order made on November 6, 2020 (**Schedule "B"**), the Receiver listed and marketed the Property for sale.
8. Pursuant to a further Order made on January 15, 2021 (**Schedule "C"**), the sale of the Property to 1284012 B.C. Ltd. ("**1284012**") was approved, with a completion date of February 2, 2021. The contract was assigned prior to completion, to Redekop Ferrario Properties (Diamond) Corp. ("**Redekop (Diamond)**").
9. The sale of the Property to Redekop (Diamond) completed on February 2, 2021.

IV. PROFESSIONAL FEES AND SUMMARY OF RECEIVERSHIP ACTIVITIES

Professional Fees

10. The Receiver's fees and disbursements from June 17, 2020 to April 30, 2021 amount to **\$242,593.37** (including GST). The detailed invoices, including commentary on the activities of the staff of the Receiver, are attached as **Schedule "E"** to this Report.

11. These Receiver's fees and disbursements, including the detailed invoices, were reviewed by Vancity, which approved all such invoices for payment.

12. The Receiver is of the view that the fees and disbursements of DMA as Receiver are reasonable and that the services provided and activities undertaken were appropriate.

Summary of Professional Activities

13. The Receiver took possession of the assets of the Company on June 25, 2020, following the Receivership appointment.

14. During the Receivership, the Receiver performed the normal Receivership duties, as detailed below:

- (i) The Receiver reviewed Corporation, Land Title and Personal Property Registry searches.
- (ii) The Receiver attended the Property in Mission, British Columbia and met with its principal, Mr. Hitesh Panchal and Mr. Dipti Panchal and toured the Motel.
- (iii) The Receiver prepared statutory notices including the Form 7 and Notice and Statement of Receiver and Manager.
- (iv) The Receiver published the statutory notice in the *Vancouver Province* on July 2, 2020.
- (v) The Receiver informed all utilities of the appointment of the Receiver and setting up new accounts in the name of the Receiver for B.C. Hydro, Fortis B.C., Telus, and Shaw Cable.
- (vi) The Receiver advised the District of Mission of the appointment of the Receiver and requesting statements of property taxes and municipal water/sewer charges owing.
- (vii) The Receiver contacted Intact Insurance and advised them of the appointment of the Receiver and arranged for payment of insurance arrears to Snap Premium Finance and post-dated monthly cheques to October 22, 2020, and added the Receiver as a named insured and adding Vancity as a loss payee.
- (viii) The Receiver set up a WorkSafeBC account in the name of the Receiver.
- (ix) The Receiver set up Canada Revenue Agency ("**CRA**") accounts for source deductions and Goods and Services Tax ("**GST**").

- (x) The Receiver set up an account with the British Columbia Ministry of Finance for Provincial Sales Tax (“PST”).
- (xi) The Receiver informed all employees of the appointment of the Receiver, terminating their employment, informing them of their rights under the *Wage Earner Protection Plan* (WEPP), and rehiring them through the Receiver;
- (xii) The Receiver dealt with enquiries from pre-receivership creditors.
- (xiii) The Receiver prepared periodic (monthly) Interim Statements of Cash Receipts and Disbursements.
- (xiv) The Receiver prepared and filed the Receiver’s Interim Report with the Office of the Superintendent of Bankruptcy.
- (xv) The Receiver prepared and filed quarterly GST returns and made the appropriate remittances.
- (xvi) The Receiver prepared and filed monthly PST returns and made the appropriate remittances.
- (xvii) The Receiver prepared and filed monthly source deduction returns and made the appropriate remittances.
- (xviii) The Receiver prepared and filed quarterly WorkSafeBC returns and made the appropriate remittances.
- (xix) Upon the completion of the sale of the Property, the Receiver arranged for cancellation of utilities, paying all final utility invoices, and cancelling the Receiver’s insurance coverage.
- (xx) Upon the completion of the sale of the Property, the Receiver filed final statutory returns and paid balances due.
- (xxi) The Receiver paid for final invoices for service providers.
- (xxii) The Receiver maintained a cashbook of transactions.
- (xxiii) The Receiver prepared monthly bank reconciliations.

14. In addition to the duties listed in paragraph 13, the following additional actions were required by the Receiver:

- (i) The Receiver prepared a Monthly Cash Flow Projection for the period August 1, 2020 to January 31, 2021, with notes.
- (ii) The Receiver a Monthly Operating Budget for the period August 1, 2020 to January 1, 2021 (six months), with notes.
- (iii) The Receiver prepared a list of known capital repairs after discussing the state of the Motel with Mr. Hitesh Panchal and including dealing with roof repairs to the Motel.

- (iv) The Receiver later recommended against performing any of the capital repairs unless they reach a state that seriously negatively affected the Motel's operations or were necessary for safety reasons.
- (v) The Receiver operated the Motel for approximately seven (7) months.
- (vi) The Receiver approved and paid Motel operating and Receivership costs.
- (vii) The Receiver approved and paid ongoing repair and maintenance expenses for the Motel.
- (viii) The Receiver determined and paid pre-Receivership wages and holiday pay for Motel employees.
- (ix) With the assistance of Mr. Hitesh Panchal, the Receiver entered into an arrangement with B.C. Housing to rent out 17 rooms for a three month period. 16 of these rooms would house two people each, with one room occupied by a B.C. Housing employee who will supervise the other occupants. This arrangement was later expanded to rent out 19 rooms and extended to October 31, 2020, then to November 30, 2020, then to December 31, 2020, and then to January 31, 2021, and finally for a one day period to February 1, 2021 (the day before completion of the sale of the Motel).
- (x) The Receiver collected \$322.05 relating to pre-Receivership Trade Accounts Receivable. There are no other known Trade Accounts Receivable.
- (xi) Mr. Hitesh Panchal filed a claim for the Canada Emergency Wage Subsidy ("CEWS") for the following periods:
 - March 15, 2020 to April 11, 2020
 - April 12, 2020 to May 9, 2020
 - May 10, 2020 to June 6, 2020
 - June 7, 2020 to July 4, 2020
- (xii) The Receiver determined that the Company was determined to be ineligible for the CEWS for the periods March 15, 2020 to April 11, 2020 and June 7, 2020 to July 4, 2020 due to actual revenues for those periods being higher than those for the same months in 2019.
- (xiii) The Receiver determined that there were two pre-Receivership periods for which the Company may be eligible for CEWS: April 12, 2020 to May 9, 2020 and May 10, 2020 to June 6, 2020. As this would take a considerable amount of the Receiver's time to apply for and are therefore were subeconomic for the Receiver to pursue, the Receiver arranged for Mr. Hitesh Panchal to follow up on these claims without success.
- (xiv) The Receiver dealt with and repaid the Canada Emergency Business Account ("CEBA") loan to Vancity pursuant to Vancity's demand.
- (xv) The Receiver reviewed the Company's potential derivative action against Ms. Farheen Rawji and 1134365 B.C. Ltd. for \$18,000 withdrawn from the Company's

account by her prior to the Receiver's appointment. The Receiver determined that this action was sub-economic by the Receiver, and therefore the action was commenced by Mr. Hitesh Panchal on behalf of the Company. All costs of the litigation will be borne personally by Mr. Panchal.

- (xvi) The Receiver determined that the Company had an outstanding insurance claim #9032783163 for flood damages that occurred on January 16, 2020, prior to our appointment. Twelve (12) rooms had water damage from a burst pipeline. The pipe was frozen and broke between the second and first floors. Areas affected were the flooring on the second floor, ceiling on the first floor, and walls were damaged.
- (xvii) The Receiver signed a copy of a Commercial Work Authorization and 2020 Recovery Contract with FirstOnSite.
- (xviii) The Receiver determined that source deductions of \$6,404.02, for payroll for the period February 16, 2020 to June 23, 2020, should be paid in order to allow CRA to process CEWS claims, and paid same, and it is also a statutory secured claim.
- (xix) The Receiver received a Notice of Assessment from WorkSafeBC for the period ended June 23, 2020, and paid the debt of \$774.01 in order to avoid interest, and it is a statutory secured claim.
- (xx) The Receiver paid the 2020 property taxes to the District of Mission in the amount of \$22,424.86, and the District of Mission municipal water/sewer charges in the amount of \$3,601.90 for the period ended June 30, 2020.
- (xxi) The Receiver determined that there were outstanding pre-Receivership PST and pre-Receivership GST debts, and paid them, in order to avoid penalties and interest, and they are both statutory secured claims.
- (xxii) The Receiver requested that Mr. Hitesh Panchal work on bringing the Company's books up to date from September 1, 2019 to June 23, 2020.
- (xxiii) The Receiver prepared a list of unsecured creditors from information received from the Company and other sources.
- (xxiv) The Receiver determined and paid undisputed unsecured claims of unsecured creditors.
- (xxv) The Receiver engaged Desai and Associates Chartered Accountants to prepare the Notice to Reader unaudited financial statement and T2 Corporation Income Tax Return for the year ended August 31, 2020 and answered their enquiries and provided their requested information.
- (xxvi) The Receiver calculated the tax value of the Company's assets (land, building and chattels) as per the Company's T2 Corporation Income Tax Return for the year ended August 31, 2019, and determined that if and when the Motel is eventually sold, it would trigger a substantial taxable Capital Gain and recapture of Capital Cost Allowance due to the low Adjusted Cost Base.
- (xxvii) The Receiver was informed by Mr. Hitesh Panchal that he was working on a potential refinancing of the Company with a private lender. The Receiver monitored

the progress of Mr. Hitesh Panchal in obtaining such potential refinancing, which did not end up happening.

- (xxviii) The Receiver entered into an Engagement Letter with Lohn Caulder LLP, and gathered information and forwarded it to Lohn Caulder LLP to prepare Notice to Reader unaudited financial statements, provide an estimate of corporate income taxes payable, and a Memorandum and he Receiver reviewed the unaudited financial statements as at April 7, 2021, estimate of corporate income taxes, and Memorandum received from Lohn Caulder LLP and forwarded them and our reporting package and comments to Owen Bird to be forwarded to legal counsel for the two shareholders.
- (xxix) The Receiver prepared T4s and Records of Employment for Motel employees.
- (xxx) The Receiver responded to ongoing enquiries from the two shareholders and their legal counsel.
- (xxxi) The Receiver made ongoing enquiries to its legal counsel, Owen Bird.
- (xxxii) The Receiver prepared the Receiver and Manager's First Report to the Court, dated August 19, 2020.
- (xxxiii) The Receiver prepared the Receiver and Manager's Supplement to First Report to the Court, dated August 20, 2020.
- (xxxiv) The Receiver prepared the Receiver and Manager's Second Report to the Court, dated October 13, 2020, including a calculation of additional borrowings required and recommended by the Receiver.
- (xxxv) The Receiver prepared this Receiver and Manager's Third Report to the Court, including supporting documentation and schedules for passing the Receiver's accounts on a summary basis, and provided instructions to Owen Bird Law Corporation to prepare the necessary Court documents to pass our accounts on an interim basis.

V. DISPOSITION OF PROPERTY

15. The Receiver obtained a quotation from CBRE Limited to perform an updated appraisal on the Motel, and the Receiver commissioned such an appraisal, effective October 1, 2020. The Receiver gathered significant amounts of information to provide to the appraiser. The Receiver compared the resulting CBRE Limited appraisal to another appraisal obtained by one of the shareholders during the period of the Receivership.

16. The Petitioner applied to Court to upgrade the Receiver's powers to include Conduct of Sale over the Motel and to authorize a "catalyst fee" of 1.5% of an accepted purchase price in the event that the mortgage is subsequently redeemed, the Motel is sold to a related party, or the Receiver's Conduct of Sale is revoked by the Court, and to increase the Receiver's borrowing limit to \$250,000.

17. An Affidavit #1 of William Choo was executed on October 13, 2020 in support of the Receiver's application for Conduct of Sale and increased borrowings.

18. On November 6, 2020, the Receiver obtained an Order of the Court on the terms sought, including Conduct of Sale, with an effective date of December 1, 2020 in order to give the parties time to attempt a settlement or refinancing.
19. By December 1, 2020, no settlement or refinancing had occurred, so the November 6, 2020 Order became effective, including the Receiver's power of Conduct of Sale.
20. With the assistance of counsel, the Receiver developed a Court-Approved Competitive Bid Process for the Property, including preparing an e-mail Information Package for interested parties including a Real Estate Commission Agreement and two different Contracts of Purchase and Sale (one for Hotel operators (including the B.C. Housing Agreement), and one for developers without the B.C. Housing Agreement).
21. The Receiver published an advertisement for the sale of the Property in the business display section of the *Vancouver Sun* on December 9, 2020 and December 16, 2020.
22. The Receiver published a notice advertising the sale of the Property on its Web site, (www.manning-trustee.com).
23. The Receiver designed and posted a sign outside the Property advertising it for sale.
24. The Receiver reached out to numerous real estate and developer contacts.
25. The Receiver responded to over 40 parties who had either received the Receiver's communications or seen its advertising, and where appropriate sent them information on the Court-approved sales process and instructions on how to submit competitive bids.
26. On December 3, 2020, the Receiver received an unconditional Offer from Heinrichs Developments Ltd. ("**Heinrichs**") to purchase the Property for \$3,600,000, with a deposit of \$360,000.
27. An Affidavit #2 of William Choo was executed on December 15, 2020, outlining the Receiver's marketing efforts to date including analysis of the Heinrichs Offer.
28. The Receiver made arrangements for two parties to tour the Property, but one cancelled at the last minute so only one party actually toured the Property.
29. An Affidavit #3 of William Choo was executed on January 12, 2020, just prior to the Offer Deadline on the Property, further describing the Receiver's marketing efforts to date.
30. On the Offer Deadline of January 13, 2021, a new unconditional Offer was received from Redekop Ferrario Properties Ltd. ("**Redekop**") for \$4,050,000. Their deposit was received by Owen Bird on January 14, 2020.
31. Heinrichs increased their Offer to \$3,871,710 on January 13, 2021 and also increased their deposit accordingly.
32. Just prior to the Court hearing, the Receiver reviewed correspondence between counsel for the parties that indicated that a negotiated settlement may be possible, but ultimately determined that a negotiated settlement was not forthcoming and that the Court hearing for acceptance of an Offer should go ahead as planned.

33. The Receiver recommended acceptance of the Redekop Offer, which was changed at the last minute to identify the purchaser as 1284012, a subsidiary of Redekop.

34. On January 15, 2021, the Receiver attended the Court hearing by telephone, at which the Court approved the sale of the Property to 1284012, for \$4,050,000, with a closing date of February 2, 2021.

35. Prior to completion, the contract was assigned to Redekop (Diamond), another subsidiary of Redekop. Completion of the sale of the Property to Redekop (Diamond) took place on February 2, 2021 and Vancity was paid out in full on its mortgage, including interest and protective disbursements, in the amount of \$1,730,649.26. The Receiver reviewed and approved the closing documents including verifying adjustments and arranging for Redekop (Diamond) to execute a GST Election Form.

36. The Receiver invested \$1,500,000 of surplus funds in a Guaranteed Investment Certificate (“GIC”) with Peoples Trust Company (“Peoples”) with a current annual interest rate of 1.05%. The current GIC matures on June 26, 2021 at which point it can be renewed.

VI. RECEIPTS AND DISBURSEMENTS

37. Receipts and disbursements of the Receiver for the Court-appointed Receivership are summarized in the Court-Appointed Receiver and Manager’s Interim Statement of Cash Receipts and Disbursements for the period June 24, 2020 to May 4, 2021, which is attached hereto as **Schedule “D”**, showing an adjusted net cash balance as of May 4, 2021 of \$464,113.61, not including the Peoples Trust Company GIC in the amount of \$1,502,712.33.

38. The Receiver’s fees and disbursements from June 17, 2020 to April, 2021 amount to **\$242,593.37** (fees \$227,760.00, disbursements \$3,281.31, GST \$11,552.06). The detailed invoices, including commentary on the activities of the staff of the Receiver, are attached to this Report as **Schedule “E”**. All invoices have been approved by Vancity, the first and petitioning secured creditor.

39. The fees of the Receiver’s counsel, Owen Bird Law Corporation, for the period June 24, 2020 to April 30, 2021 amount to **\$92,276.48** (fees \$81,142.00, disbursements \$1,346.94, PST \$5,679.94, GST \$4,107.60). The detailed invoices are attached to this Report as **Schedule “F”**.

40. The fees of legal counsel, Nordel Law Group LLP, for services rendered September 23, 2020 with respect to Annual Reports for the Company, amount to \$560.00 (fees \$500.00, disbursements \$0.00, PST \$35.00, GST \$25.00). The summary of this invoice is attached to this Report as part of **Schedule “F”**.

VII. CONCLUSION AND RECEIVER’S APPLICATION FOR APPROVALS

41. The Receiver will still be responsible for the preparation and filing of the Company’s T2 and unaudited financial statement for the period ending August 31, 2021 and will still be liable for the payment of any resultant corporate income taxes owing once determined and to be assessed.

42. In preparing the Company's T2 and Financial Statement for the period ending August 31, 2021, the Receiver will be obtaining particulars from the Company, and will also be seeking professional advice as to the filing of same from Lohn Caulder LLP.

43. The Receiver will still be responsible for filing the Company's GST Returns for the quarterly periods until the Receiver's discharge, and will still be liable for the payment of any resultant GST or receipt of any resultant GST refunds.

44. The Receiver will still be responsible for redeeming the Peoples GIC and for distributing funds to unsecured creditors, paying Receiver's payables, paying corporate income taxes payable, with surplus funds paid to the shareholders of the Company with property tax planning and income tax considerations

45. The Receiver provides the information in this Report in support of its proposed application to:

- (i) Approve the Court-Appointed Receiver's Interim Statement of Cash Receipts and Disbursements for the period June 24, 2020 to May 4, 2021;
- (ii) Approve the activities of the Receiver as set out in this Report;
- (iii) Approve the fees and disbursements of DMA for the period June 17, 2020 to April 30, 2021;
- (iv) Approve the legal fees and disbursements of the Receiver's legal counsel, Owen Bird Law Corporation, for the period June 24, 2020 to April 30, 2021;
- (v) Approve the legal fees and disbursements of legal counsel, Nordel Law Group LLP, for the date of September 23, 2020;
- (vi) Declare that all steps taken by and activities of the Receiver and all amounts distributed by the Receiver are hereby approved, and that the Receiver shall have no further liability in respect thereof.

Should you have any questions as to the contents of this Report, kindly contact the undersigned.

Respectfully submitted,

D. MANNING & ASSOCIATES INC.
LICENSED INSOLVENCY TRUSTEE
COURT-APPOINTED RECEIVER AND MANAGER OF
371392 B.C. LTD. dba DIAMOND HEAD MOTOR INN and DIAMOND HEAD MOTEL
(not in its personal capacity)


Per: Alex E. H. Ng, LIT, CIRP, Vice President

Enclosures

SCHEDULE "A"

**COURT ORDER DATED JUNE 24, 2020
APPOINTING THE RECEIVER AND MANAGER**



No. VLC-S-H-200252
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

VANCOUVER CITY SAVINGS CREDIT UNION

Petitioner

AND:

371392 B.C. LTD.
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ALL TENANTS AND OCCUPIERS OF THE SUBJECT
LANDS

Respondents

IN THE MATTER OF THE RECEIVERSHIP OF
371392 B.C. LTD. doing business as DIAMOND HEAD MOTOR INN
and DIAMOND HEAD MOTEL

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE)

MR. JUSTICE WALKER)

) WEDNESDAY THE 24TH DAY OF JUNE
) 2020
)

ON THE APPLICATION of the Petitioner and Applicant for an Order pursuant to Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and Section 39 of the *Law and Equity Act*, R.S.B.C. 1996 c. 253, as amended (the "LEA") appointing **D. Manning & Associates Inc.** as Receiver and Manager (in such capacity, the "Receiver") without security, of all of the assets, undertakings and property of 371392 B.C. LTD. doing business as DIAMOND HEAD MOTOR INN and DIAMOND HEAD MOTEL (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, coming on for hearing this day, by teleconference, at Vancouver, British Columbia.

AND ON READING the Affidavits #1 and #2 of Frank Seminara sworn June 22, 2020, and Affidavit #1 of Gemma Potts sworn June 19, 2020 and the consent of **D. Manning & Associates Inc.** to act as the Receiver; AND ON HEARING Alan A. Frydenlund QC, Counsel for the Petitioner and other counsel and persons as listed on Schedule "C" hereto, and no one else appearing, although duly served.

THIS COURT ORDERS AND DECLARES that:

APPOINTMENT

1. Pursuant to Section 243(1) of the BIA and Section 39 of the LEA **D. Manning & Associates Inc.** is appointed Receiver, without security, of all of the assets, undertakings and property of the Debtor, including all proceeds (the "**Property**").

RECEIVER'S POWERS

2. The Receiver is empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
 - (a) to take possession of and exercise control over the Property and any and all receipts and disbursements arising out of or from the Property;
 - (b) to receive, preserve and protect the Property, or any part or parts thereof, including, but not limited to, changing locks and security codes, relocation of Property, engaging independent security personnel, taking physical inventories and placing insurance coverage;
 - (c) to manage, operate and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
 - (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including, without limitation, those conferred by this Order;
 - (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
 - (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting these amounts, including, without limitation, enforcement of any security held by the Debtor;
 - (g) to settle, extend or compromise any indebtedness owing to the Debtor;

- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtor;
- (j) to initiate, manage and direct all legal proceedings now pending or hereafter pending (including appeals or applications for judicial review) in respect of the Debtor, the Property or the Receiver, including initiating, prosecuting, continuing, defending, settling or compromising the proceedings, all with the exception of the continued litigation cited in paragraph 8 herein, or any future litigation filed with the written consent of the Receiver or filed with leave of this Court;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business:
 - (i) without the approval of this Court in respect of a single transaction for consideration up to \$10,000, provided that the aggregate consideration for all such transactions does not exceed \$75,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the individual or aggregate purchase price exceeds the limits set out in subparagraph (i) above,and in each such case notice under Section 59(10) of the *Personal Property Security Act*, R.S.B.C. 1996, c. 359 shall not be required;
- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers, free and clear of any liens or encumbrances;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver considers appropriate on all matters relating to the Property and the receivership, and to share information, subject to confidentiality terms as the Receiver considers appropriate;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if considered necessary or appropriate by the Receiver, in the name of the Debtor;
- (p) to enter into agreements with any licensed insolvency trustee appointed in respect of the Debtor, including, without limitation, the ability to enter into occupation agreements for any property owned or leased by the Debtor;

- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

3. Each of (i) the Debtor; (ii) all of the Debtor's current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf; and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (collectively, "Persons" and each a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependent on maintaining possession) to the Receiver upon the Receiver's request.
4. All Persons, other than governmental authorities, shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (collectively, the "Records") in that Person's possession or control. Upon request, governmental authorities shall advise the Receiver of the existence of any Records in that Person's possession or control.
5. Upon request, all Persons shall provide to the Receiver or permit the Receiver to make, retain and take away copies of the Records and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities, provided however that nothing in paragraphs 4, 5 or 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to solicitor client privilege or statutory provisions prohibiting such disclosure.
6. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by an independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may require including,

without limitation, providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

7. No proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

8. No Proceeding, against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are stayed and suspended pending further Order of this Court; provided, however, action number NEW-S-S-227458 of the New Westminster Registry of this Court may be continued and nothing in this Order shall prevent any Person from commencing a Proceeding regarding a claim that might otherwise become barred by statute or an existing agreement if such Proceeding is not commenced before the expiration of the stay provided by this paragraph and provided that no further step shall be taken in respect of the Proceeding except for service of the initiating documentation on the Debtor and the Receiver.

NO EXERCISE OF RIGHTS OR REMEDIES

9. All rights and remedies (including, without limitation, set-off rights) against the Debtor, the Receiver, or affecting the Property, are stayed and suspended (except the litigation or future litigation cited in paragraph 8 herein) and with the written consent of the Receiver or leave of this Court, provided however that nothing in this Order shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) affect the rights of any regulatory body as set forth in section 69.6(2) of the BIA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien. This stay and suspension shall not apply in respect of any "eligible financial contract" as defined in the BIA.

NO INTERFERENCE WITH THE RECEIVER

10. No Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court. Nothing in this Order shall prohibit any party to an eligible financial contract from closing out and terminating such contract in accordance with its terms.

CONTINUATION OF SERVICES

11. All Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all

computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

12. All funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever including, without limitation, the sale of all or any of the Property and the collection of any accounts receivable, in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post-Receivership Accounts") and the monies standing to the credit of such Post-Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further order of this Court.

EMPLOYEES

13. Subject to the employees' right to terminate their employment, all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities of the Debtor, including any successor employer liabilities as referred to in Section 14.06(1.2) of the BIA, other than amounts the Receiver may specifically agree in writing to pay or in respect of obligations imposed specifically on receivers by applicable legislation, including sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*, S.C. 2005, c.47. The Receiver shall be liable for any employee-related liabilities, including wages, severance pay, termination pay, vacation pay, and pension or benefit amounts relating to any employees that the Receiver may hire in accordance with the terms and conditions of such employment by the Receiver.

PERSONAL INFORMATION

14. Pursuant to Section 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 or Section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c. 63, the Receiver may disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information

and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. Nothing in this Order shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release, or deposit of a substance contrary to any federal, provincial or other law relating to the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination (collectively "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation.
16. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless the Receiver is actually in possession.
17. Notwithstanding anything in federal or provincial law, the Receiver is not personally liable in that position for any environmental condition that arises or environmental damage that occurred:
 - (a) before the Receiver's appointment; or,
 - (b) after the Receiver's appointment, unless it is established that the condition arose or the damage occurred as a result of the Receiver's gross negligence or wilful misconduct.
18. Notwithstanding anything in federal or provincial law, but subject to paragraph 17 of this Order, where an order is made which has the effect of requiring the Receiver to remedy any environmental condition or environmental damage affecting the Property, if the Receiver complies with the BIA section 14.06(4), the Receiver is not personally liable for the failure to comply with the order and is not personally liable for any costs that are or would be incurred by any Person in carrying out the terms of the order.

LIMITATION ON THE RECEIVER'S LIABILITY

19. The Receiver shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except:

- (a) any gross negligence or wilful misconduct on its part; or
- (b) amounts in respect of obligations imposed specifically on receivers by applicable legislation.

Nothing in this Order shall derogate from the protections afforded the Receiver by Section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

- 20. The Receiver and its legal counsel, if any, are granted a charge (the "Receiver's Charge") on the Property as security for the payment of their fees and disbursements, in each case at their standard rates, in respect of these proceedings, whether incurred before or after the making of this Order. The Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to Sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.
- 21. The Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are referred to a judge of the Supreme Court of British Columbia and may be heard on a summary basis.
- 22. Prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands;
 - (a) against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court;
 - (b) In payment of any charges for taxes and utilities, or insurance premiums which relate to any of the Property;
 - (c) In repayment of the Receiver's interim advances on its borrowings;
 - (d) In reduction of the amount owing on the Petitioner's mortgage.

FUNDING OF THE RECEIVERSHIP

- 23. The Receiver is authorized and empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$150,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as the Receiver deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and

charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in Sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

24. Neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.
25. The Receiver is authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.
26. The monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

ALLOCATION

27. Any interested party may apply to this Court on notice to any other party likely to be affected for an order allocating the Receiver's Charge and Receiver's Borrowings Charge amongst the Property.

SERVICE AND NOTICE OF MATERIALS

28. The Receiver shall establish and maintain a website in respect of these proceedings at: www.manning-trustee.com (the "Website") and shall post there as soon as practicable:
 - (a) all materials prescribed by statute or regulation to be made publicly available, including pursuant to Rule 10-2 of the *Supreme Court Civil Rules*; and,
 - (b) all applications, reports, affidavits, orders and other materials filed in these proceedings by or on behalf of the Receiver, except such materials as are confidential and the subject of a sealing order or pending application for a sealing order.
29. Any Person who is served with a copy of this Order and that wishes to be served with any future application or other materials in these proceedings must provide to counsel for each of the Receiver and the Applicant a demand for notice in the form attached as Schedule B (the "Demand for Notice"). The Receiver and the Applicant need only provide further notice in respect of these proceedings to Persons that have delivered a properly completed Demand for Notice. The failure of any Person to provide a properly completed Demand for Notice releases the Receiver and the Applicant from any requirement to provide further notice in respect of these proceedings until such Person delivers a properly completed Demand for Notice.

30. The Receiver shall maintain a service list identifying all parties that have delivered a properly completed Demand for Notice (the "Service List"). The Receiver shall post and maintain an up-to-date form of the Service List on the Website.
31. Any interested party, including the Receiver, may serve any court materials in these proceedings by facsimile or by emailing a PDF or other electronic copy of such materials to the numbers or addresses, as applicable, as may be obtained. Any interested party, including the Receiver, may serve any court materials in these proceedings by mail to any party on the Service List that has not provided a facsimile number or email address, and materials delivered by mail shall be deemed received five (5) days after mailing.
32. Notwithstanding paragraph 31 of this Order, service of the Notice of Application and any affidavits filed in support shall be made on the Federal and British Columbia Crowns in accordance with the *Crown Liability and Proceedings Act*, R.S.C. 1985, c.C-50 and its regulations for the Federal Crown and the *Crown Proceedings Act*, R.S.B.C. 1996 c.89 in respect of the British Columbia Crown.
33. The Receiver and its counsel are authorised to serve or distribute this Order, any other orders and any other materials as may be reasonably required in these proceedings, including any notices or other correspondence, by forwarding copies by facsimile or by email to the Debtor's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of any legal or juridical obligation and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*.

GENERAL

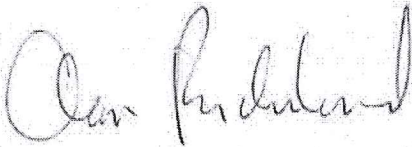
34. Any interested party may apply to this Court to vary or amend this Order on not less than seven (7) clear business days' notice to the Service List and to any other party who may be affected by the variation or amendment, or upon such other notice, if any, as this Court may order.
35. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
36. Nothing in this Order shall prevent the Receiver from acting as a Licensed Insolvency Trustee of the Debtor.
37. This Court requests the aid, recognition and assistance of any court, tribunal, regulatory or administrative body having jurisdiction, wherever located, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All such courts, tribunals and regulatory and administrative bodies are respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this 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.
38. The Receiver is authorized and empowered to apply to any court, tribunal or regulatory or administrative body, wherever located, for recognition of this Order and for assistance in

carrying out the terms of this Order and the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

39. The Applicant shall have its costs of this motion, up to and including entry and service of this Order, as provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.
40. Endorsement of this Order by counsel appearing on this application other than the Applicant is dispensed with, provided however that in addition to circulating the form of Order to counsel appearing at the Hearing of this application the Applicant shall deliver a copy of the proposed form of Order to the Respondent Dipti Panchel by e-mail (at an e-mail address to be provided to Mr. Frydenlund by Mr. Donohoe appearing today) and if not objected to by 3:00pm today, June 24, 2020 by Dipti Panchel the form of Order may be submitted for expedited entry: however if the form of Order is objected to before 3:00pm as aforesaid, the settlement of the Form of Order shall be heard by Mr. Justice Walker today or so soon thereafter as may be practical.

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

APPROVED BY:



Signature of Alan A. Frydenlund QC,
lawyer for Applicant

BY THE COURT

Digitally signed by
Lau, Tania

REGISTRAR

SCHEDULE "A"

RECEIVER AND MANAGER'S CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that D. Manning & Associates Inc., the Receiver and Manager (the "Receiver") of all of the assets, undertakings and property of 371392 B.C. LTD. doing business as Diamond Head Motor Inn and Diamond Head Motel acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Property") appointed by Order of the Supreme Court of British Columbia dated the _____ day of _____, 2020 (the "Order") made in SCBC Action No. _____ has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily] [monthly] not in advance on the _____ day of each month after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of _____ from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of the Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at _____.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum under this Certificate in respect of which it may issue certificates under the terms of the Order.

DATED the _____ day of _____, 202__.

D. Manning & Associates Inc. solely in its capacity as Receiver and Manager of the assets, undertaking and property of 371392 B.C. Ltd. doing business as Diamond Head Motor Inn and Diamond Head Motel, and not in its personal capacity

Per: _____
Name:
Title:

Schedule "B"

Demand for Notice

TO: [Name of Applicant]
c/o [Name of Counsel to the Applicant]
Attention:
Email:

AND TO: D. Manning & Associates Inc.
c/o Owen Bird Law Corporation
Attention: Alan A. Frydenlund QC
Email: afrydenlund@owenbird.com

Re: In the matter of the Receivership of 371392 B.C. LTD. doing business as Diamond Head Motor Inn and Diamond Head Motel

I hereby request that notice of all further proceedings in the above Receivership be sent to me in the following manner:

1. By email, at the following address (or addresses):

OR

2. By facsimile, at the following facsimile number (or numbers):

OR

3. By mail, at the following address:

Name of Creditor: _____

Name of Counsel (if any): _____

Creditor's Contact Address: _____

Creditor's Contact Phone Number: _____

Schedule "C"

Counsel Appearing

David Donohoe for the Respondents: Hitesh Panchal, and H.D.P. Holdings Inc.

Paul Kent-Snowsell for the Respondents: 1134365 B.C. Ltd. and Farheen Rawji

Dipti Panchal on her own behalf

Action No. _____
Vancouver Registry

IN THE SUPREME COURT OF BRITISH
COLUMBIA

BETWEEN:

VANCOUVER CITY
SAVINGS CREDIT
UNION

Petitioner

AND:

371392 B.C. LTD.
371392 B.C. LTD. doing business as DIAMOND
HEAD MOTOR INN and DIAMOND HEAD MOTEL
1134365 B.C. LTD.
H.D.P. HOLDINGS INC.
FARHEEN RAWJI
DIPTI PANCHAL
HITESH PANCHAL
ALL TENANTS AND OCCUPIERS OF THE
SUBJECT LANDS

Respondents

IN THE MATTER OF THE RECEIVERSHIP OF
371392 B.C. LTD. doing business as DIAMOND
HEAD MOTOR INN and DIAMOND HEAD MOTEL

B.C. MODEL RECEIVERSHIP ORDER VERSION
NO. 3, _____, 2015

SCHEDULE "B"

**COURT ORDER DATED NOVEMBER 6, 2020
UPGRADING THE RECEIVER AND MANAGER'S POWERS**



No. H-200252
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

Between:

VANCOUVER CITY SAVINGS CREDIT UNION

Petitioner

And:

371392 B.C. LTD.
371392 B.C. LTD. doing business as DIAMOND HEAD MOTOR
INN and DIAMOND HEAD MOTEL
1134365 B.C. LTD.
H.D.P. HOLDINGS INC.
FARHEEN RAWJI
DIPTI PANCHAL
HITESH PANCHAL
ALL TENANTS AND OCCUPIERS OF THE SUBJECT
LANDS

Respondents

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE) FRIDAY, THE 6TH DAY OF
)
MADAM JUSTICE WILKINSON) NOVEMBER, 2020

ON THE APPLICATION of D. Manning & Associates Inc. as Receiver and Manager (the "Receiver"), of all of the assets, undertakings and property of 371392 B.C. LTD. for an Order pursuant to Section 37 of the *Law and Equity Act*, R.S.B.C. 1996 c. 253, as amended Sections 243(1) and 249 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3 as amended and Rule 13-5 of the Rules of Court coming on for hearing, by teleconference, this day at Vancouver, British Columbia.

AND ON READING the Affidavit #1 of William Choo, the First Report of the Receiver dated August 19, 2020 and as Supplemented dated August 20, 2020, the Second Report of the Receiver dated October 13, 2020, the Affidavits #1 and #2 of Hitesh Panchal, the Affidavit #1 of Farheen Rawji and the Order of Mr. Justice Walker pronounced June 24, 2020; AND ON HEARING Alan A. Frydenlund QC, Counsel for the Receiver, P.G. Kent-Snowsell, Counsel for the Respondents, 1134365 B.C. Ltd. and Farheen Rawji, David Donohoe, Counsel for the Respondents, H.D.P. Holdings Ltd., Dipti Panchal and Hitesh Panchal and no one else appearing, although duly served.

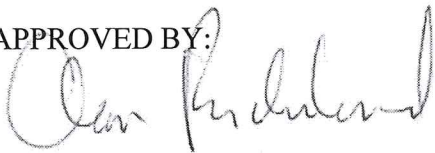
THIS COURT ORDERS AND DECLARES that:

1. Effective December 1, 2020, the Receiver be at liberty to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts

thereof and negotiating such terms and conditions of the sale as the Receiver considers appropriate.

2. Effective December 1, 2020, the Receiver be at liberty to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof on 11 business days' notice to the parties, and negotiating such terms and conditions that the Receiver considers appropriate.
3. Effective December 1, 2020, the Receiver is empowered and authorized, but not obligated, to enter into a listing agreement to sell the assets, the subject matter of the Receivership and committing to pay:
 - a. a commission, in the event of the completion of a sale approved by the Court, of up to 3% (plus GST) of the gross selling price;
 - b. a fee of up to 1.5% of the higher of the agreed selling price or the price approved by the Court (all plus GST) to a listing agent if,
 - i. the Receiver accepts an unconditional offer (other than for Court Approval) to purchase the assets presented by the listing agent, and
 - ii. either before the Receiver presents the offer to Court for approval, or before the Court approved offer completes, the sale does not proceed on account of a redemption or assignment of the Petitioner's security or a sale to a related party, or
 - iii. the Receiver no longer has Conduct of Sale of the assets and the listing agreement coming to an end.
2. Other than as to commission pursuant to a listing agreement entered into by the Receiver pursuant to this Order, all Orders to approve any sales are subject to the further discretion of the Court.
3. The Receiver's borrowings be and the same are increased from \$150,000.00 to \$250,000.00.
4. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
5. Endorsement of this Order by counsel appearing on this application other than the Receiver is dispensed with.

APPROVED BY:



Alan A. Frydenlund QC,
Counsel for the Receiver and Manager

BY THE COURT

Digitally signed by
Wilkinson, J

Digitally signed by
Ng, Jasmine

REGISTRAR

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

VANCOUVER CITY SAVINGS CREDIT UNION

Petitioner

AND:

371392 B.C. LTD.
371392 B.C. LTD. doing business as DIAMOND HEAD MOTOR INN and
DIAMOND HEAD MOTEL
1134365 B.C. LTD.
H.D.P. HOLDINGS INC.
FARHEEN RAWJI
DIPTI PANCHAL
HITESH PANCHAL
ALL TENANTS AND OCCUPIERS OF THE SUBJECT
LANDS

Respondents

SUPPLEMENTAL RECEIVER ORDER

OWEN BIRD LAW CORPORATION
P.O. Box 49130
Three Bentall Centre
2900 - 595 Burrard Street
Vancouver, BC V7X 1J5
Attention: Alan A. Frydenlund, Q.C.
604-691-7511
File No. 23024-0095

SCHEDULE "C"

**COURT ORDER DATED JANUARY 15, 2021
APPROVING THE SALE OF THE PROPERTY
TO 1284012 B.C. LTD.**

SEAL
19-Jan-21

Vancouver
REGISTRY



No. H 200252
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

VANCOUVER CITY SAVINGS CREDIT UNION

Petitioner

AND:

**371392 B.C. LTD.
371392 B.C. LTD. doing business as DIAMOND HEAD MOTOR INN
and DIAMOND HEAD MOTEL
1134365 B.C. LTD.
H.D.P. HOLDINGS INC.
FARHEEN RAWJI
DIPTI PANCHAL
HITESH PANCHAL
ALL TENANTS AND OCCUPIERS OF THE SUBJECT
LANDS**

Respondents

**ORDER MADE AFTER APPLICATION
(ORDER APPROVING SALE)**

BEFORE))
) MASTER VOS))
))) FRIDAY, THE 15TH DAY OF
))) JANUARY, 2021
)))

ON THE APPLICATION of D. MANNING & ASSOCIATES INC. (the "Receiver") coming on for hearing on this day at Vancouver, British Columbia, and on hearing ALAN A. FRYDENLUND, QC, counsel for the Receiver, and Mr. Paul Kent-Snowsell appearing on behalf of 1134365 B.C. Ltd. and Farheen Rawji, and Mr. Hitesh Panchal appearing on behalf of himself and H.D.P Holdings Inc., and no-one else appearing, although given notice in accordance with the Rules of the Court, and on reading the materials filed herein:

THIS COURT ORDERS THAT:

1. The sale of the following the lands and premises:

District of Mission

Parcel Identifier: 003-439-411

Lot 114 Except: Part Road on Plan 87258, District Lot 165 Group 3

New Westminster District Plan 64278

(the "Lands")

To 1284012 B.C. LTD., Inc. No. BC1284012, of Suite 2300, Bentall 5, 550 Burrard Street, Vancouver BC, V6C 2B5, or if amended or assigned by the purchaser and agreed to by the Receiver, as set out in a letter from the solicitors for the Receiver, on the terms and conditions set out in the Contract of Purchase and Sale dated January 13, 2021 for the sum of \$4,050,000.00 is hereby approved.

2. Upon filing a certified copy of this Order in the New Westminster Land Title Office together with a letter from the Receiver's solicitor authorizing such registration and subject to the terms of this Order, the Lands be conveyed to and vest in the purchaser, 1284012 B.C. LTD., in fee simple, free and clear of any estate, right, title, interest, equity of redemption, and other claims of the parties, except the reservations, provisos, exceptions, and conditions expressed in the original grant(s) thereof from the Crown.

3. The dates for completion, adjustment and possession be set at February 2, 2021 or so soon before or so soon thereafter as the Receiver and the purchaser shall agree.

4. The net purchase price after adjustments shall be paid to OWEN BIRD LAW CORPORATION, in trust, and shall be paid out in accordance with the following priorities without further order:

- a) in payment of any outstanding property taxes, water and sewer rates;
- b) in payment of real estate commission and GST, if payable;
- c) GST, if payable;
- d) to the Receiver to the credit of this proceeding.

5. For the purpose of issuing title and in respect of the Lands, the following charges, liens, encumbrances, caveats, mortgages, and certificates of pending litigation be cancelled insofar as they apply to the Lands:

RESPONDENTS	NATURE OF INTERESTS	REGISTRATION NUMBERS
VANCOUVER CITY	Mortgage	CA7036289
SAVINGS CREDIT UNION	Assignment of Rents	CA7036290
	Certificate of Pending Litigation	CA8261858

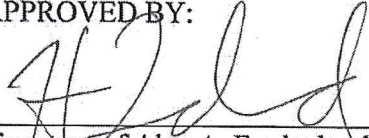
together with any other charges, liens, encumbrances, caveats, mortgages, or certificates of pending litigation registered against the Lands subsequent to the petitioner's certificate of pending litigation Nos. CA8261858.

6. The parties may apply for such further direction as may be necessary to carry out this Order.

7. Endorsement of this Order by Mr. Hitesh Panchal appearing on this application is dispensed with.

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:

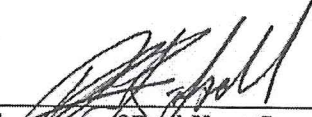
APPROVED BY:


for Signature of Alan A. Frydenlund, QC
lawyer for Receiver and Manager,
D. MANNING & ASSOCIATES INC.

BY THE COURT

Digitally signed by
Carion, Ondina

REGISTRAR


Signature of Paul Kent-Snowsell
lawyer for 1134365 B.C. LTD. and
Farheen Rawji

No. H-200252
Vancouver Registry

**IN THE SUPREME COURT OF
BRITISH COLUMBIA**

BETWEEN:

VANCOUVER CITY SAVINGS CREDIT UNION

Petitioner

AND:

**371392 B.C. LTD.
371392 B.C. LTD. doing business as DIAMOND HEAD MOTOR INN
and DIAMOND HEAD MOTEL
1134365 B.C. LTD.
H.D.P. HOLDINGS INC.
FARHEEN RAWJI
DIPTI PANCHAL
HITESH PANCHAL
ALL TENANTS AND OCCUPIERS OF THE SUBJECT
LANDS**

Respondents

**ORDER MADE AFTER APPLICATION
(ORDER APPROVING SALE)**

**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. 23024-0095**

SCHEDULE "D"

**COURT-APPOINTED RECEIVER AND MANAGER'S
INTERIM STATEMENT OF CASH RECEIPTS AND
DISBURSEMENTS FOR THE PERIOD
JUNE 24, 2020 TO MAY 4, 2021**

371392 B.C. Ltd. dba DIAMOND HEAD MOTOR INN

RECEIVER and MANAGER'S
INTERIM STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD JUNE 24, 2020 TO MAY 4, 2021

	\$	\$	\$
RECEIPTS			
Cash in Bank			677.48
Collection of Accounts Receivable			322.05
Receiver and Manager's Borrowing			85,000.00
GST Collected			15,707.25
GST Refund			5,717.30
PST Collected			24,192.07
Pre-Receiver'ship PST Refund			309.79
Insurance Claim Proceeds			4,238.75
Interest Earned			2,718.39
Revenues:			
Other	10,490.55		
Film Crew	4,000.00		
Rooms (Note 1)	<u>337,231.74</u>	351,722.29	
Sale of Assets:			
Land	3,830,000.00		
Building	200,000.00		
Furnishings and Equipment	<u>20,000.00</u>	<u>4,050,000.00</u>	
TOTAL RECEIPTS			4,540,605.37
DISBURSEMENTS			
Accounting			15,010.00
Advertising			2,284.41
Appraisal			7,000.00
Bank Charges:			
Bank Service Charges	683.20		
Credit Cards Fees	<u>902.05</u>	1,585.25	
Contracted Services			470.00
Commissions			117.99
Commission re: Sale of Assets			121,500.00
Filing Fees			90.00
GST Paid			30,230.49
GST Remitted			482.65
Insurance			20,921.59
Interest on Receiver and Manager's Borrowing			2,392.16
Legal Fees and Disbursements			88,703.88
Licence & Dues			148.00
Lock and Security			579.17
Management Fees			19,050.00
Office			28.50
Payment to VanCity			1,730,649.26
Payroll Expenses:			
Source Deductions re: CPP	4,726.62		
Source Deductions re: EI	1,955.23		
Source Deductions re: Income Taxes	4,842.22		
Wages and Source Deductions (Pre-receivership)	8,147.91		
Wages and vacation pay	41,795.97		
Worksafe BC	<u>1,092.36</u>	62,560.31	
Photocopies			1,606.00
Postage and Courier			121.53
Pre-receivership Expenses			
Corporate Income Taxes Owing	113.86		
GST Remitted	7,750.40		
PST Remitted	6,086.27		
Repayment of CEBA Loan	40,000.00		
WorkSafe BC	774.01		
Utilities	<u>1,536.62</u>	56,261.16	
Property Taxes			24,860.91
PST Remitted			24,192.07
Purchase of GIC			1,502,712.33
Receiver and Manager's Fees			227,760.00
Repairs and Maintenance			13,546.78
Repayment of Receiver and Manager's Borrowing			85,000.00
Signage			642.00
Supplies:			
Cleaning	2,645.62		
Guest Amenities	1,087.84		
Printing & Stationery	<u>337.41</u>	4,070.87	
Telephone & Facsimile			1,611.84
Utilities:			
Cable	4,397.36		
Gas and Hydro	11,863.00		
Telephone	1,686.84		
Waste Disposal	3,188.13		
Water and Sewer (District of Mission)	<u>9,167.28</u>	30,302.61	
TOTAL DISBURSEMENTS			4,076,491.76
EXCESS OF RECEIPTS OVER DISBURSEMENTS			464,113.61
Represented by: Receiver and Manager's Trust Account Balance as at May 4, 2021 (Notes 1 to 7)			464,113.61

Note 1: Does not include post-receivership GST refund for the quarter ended April 30, 2021 applied for of \$10,271.03.

Note 2: Does not include Receiver and Manager's accounts payable.

Note 3: Before Receiver and Manager's fees and disbursements for the period May 1, 2021 to completion.

Note 4: Before Receiver and Manager's legal fees and disbursements for the period May 1, 2021 to completion.

Note 5: Before corporate income taxes payable to be determined.

Note 6: Before payment of certain unsecured creditor claims.

Note 7: GIC has been purchased at Peoples Trust Company in the amount of \$1,502,712.33 at 1.05% interest per annum for 60 day period (maturing on June 26, 2021) which can be renewed.

SCHEDULE "E"

**SUMMARY OF INVOICES OF
D. MANNING & ASSOCIATES INC.
FOR THE PERIOD JUNE 17, 2020 TO APRIL 30, 2021**

**RECEIVER AND MANAGER OF THE ASSETS, UNDERTAKINGS AND PROPERTY OF
371392 B.C. LTD. DBA DIAMOND HEAD MOTOR INN AND DIAMOND HEAD MOTEL
RE: PROPERTY AT 32550 LOGAN AVENUE, MISSION, BC V2V 1C6**

SUMMARY OF RECEIVER AND MANAGER'S BILLING FOR THE PERIOD JUNE 17, 2020 TO APRIL 30, 2021

INVOICE NO.	BILLING PERIOD	DATE OF INVOICE	TOTAL BILLING (\$)	FEE (\$)	DISBURSEMENTS (\$)	GST (\$)
10739	June 17, 2020 to July 31, 2020	06-Aug-20	34,136.42	32,093.75	417.13	1,625.54
10758	August 1, 2020 to August 31, 2020	03-Sep-20	24,674.83	22,955.50	544.34	1,174.99
10772	September 1, 2020 to September 30, 2020	5-Oct-20	17,118.24	16,076.25	226.84	815.15
10794	October 1, 2020 to October 31, 2020	03-Nov-20	25,497.36	23,898.75	384.45	1,214.16
10808	November 1, 2020 to November 30, 2020	03-Dec-20	27,749.09	26,073.75	353.95	1,321.39
10826	December 1, 2020 to December 31, 2020	04-Jan-21	31,447.26	29,648.75	301.02	1,497.49
10846	January 1, 2021 to January 31, 2021	05-Feb-21	38,357.21	36,139.50	391.18	1,826.53
10871	February 1, 2021 to February 28, 2021	01-Mar-21	20,187.20	18,896.00	329.90	961.30
10889	March 1, 2021 to March 28, 2021	29-Mar-21	14,826.63	13,868.50	252.10	706.03
10902	March 29, 2021 to April 30, 2021	30-Apr-21	8,599.13	8,109.25	80.40	409.48
TOTAL			242,593.37	227,760.00	3,281.31	11,552.06

**RECEIVER AND MANAGER OF THE ASSETS, UNDERTAKINGS AND PROPERTY OF
371392 B.C. LTD. DBA DIAMOND HEAD MOTOR INN AND DIAMOND HEAD MOTEL
RE: PROPERTY AT 32550 LOGAN AVENUE, MISSION, BC V2V 1C6**

SUMMARY OF RECEIVER AND MANAGER'S DISBURSEMENTS FOR THE PERIOD JUNE 17, 2020 TO APRIL 30, 2021

INVOICE NO.	BILLING PERIOD	DATE OF INVOICE	Postage and Courier (\$)	Photocopies (\$)	Telephone and Facsimile (\$)	TOTAL (\$)
10739	June 17, 2020 to July 31, 2020	06-Aug-20	16.13	228.50	172.50	417.13
10758	August 1, 2020 to August 31, 2020	03-Sep-20	5.34	251.50	287.50	544.34
10772	September 1, 2020 to September 30, 2020	05-Oct-20	5.34	112.50	109.00	226.84
10794	October 1, 2020 to October 31, 2020	03-Nov-20	4.45	197.00	183.00	384.45
10808	November 1, 2020 to November 30, 2020	03-Dec-20	4.45	189.00	160.50	353.95
10826	December 1, 2020 to December 31, 2020	04-Jan-21	8.90	103.50	188.62	301.02
10846	January 1, 2021 to January 31, 2021	05-Feb-21	8.96	187.00	195.22	391.18
10871	February 1, 2021 to February 28, 2021	01-Mar-21	5.40	203.50	121.00	329.90
10889	March 1, 2021 to March 28, 2021	29-Mar-21	3.60	106.00	142.50	252.10
10902	March 29, 2021 to April 30, 2021	30-Apr-21	0.90	27.50	52.00	80.40
TOTAL			63.47	1,606.00	1,611.84	3,281.31

RECEIVER AND MANAGER OF THE ASSETS, UNDERTAKINGS AND PROPERTY OF
 371392 B.C. LTD. DBA DIAMOND HEAD MOTOR INN AND DIAMOND HEAD MOTEL
 RE: PROPERTY AT 32550 LOGAN AVENUE, MISSION, BC V2V 1C6

SUMMARY OF RECEIVER AND MANAGER'S FEES FOR THE PERIOD JUNE 17, 2020 TO APRIL 30, 2021

INVOICE NO.	BILLING PERIOD	DATE OF INVOICE	William Choo Principal Hours	Alex Ng Vice-President and Trustee Hours	Morris Choo Senior Associate Hours	Morris Choo Senior Associate Hours	Gordon Chatry Senior Associate Hours	Mia Law Senior Associate Hours	Mia Law Senior Associate Hours	Ruth Chang Senior Associate Hours	Ruth Chang Senior Associate Hours	April Szeto Associate Hours	April Szeto Associate Hours	TOTAL
10739	June 17, 2020 to July 31, 2020	06-Aug-20	36.75	4.50		7.50	20.00		14.70		7.80		12.50	103.75
10758	August 1, 2020 to August 31, 2020	03-Sep-20	19.50	12.50		1.25	14.25		14.50		6.65		6.95	75.60
10772	September 1, 2020 to September 30, 2020	05-Oct-20	17.50	1.25		2.00	9.50		6.20		12.55		5.50	54.50
10794	October 1, 2020 to October 31, 2020	03-Nov-20	27.00	8.75		0.75	10.00		6.00		12.85		8.00	73.35
10808	November 1, 2020 to November 30, 2020	03-Dec-20	32.25	2.50		0.25	17.50		14.55		7.30		8.50	82.85
10826	December 1, 2020 to December 31, 2020	04-Jan-21	28.75	17.00		1.15	13.75		12.95		9.25		8.75	91.60
10846	January 1, 2021 to January 31, 2021	05-Feb-21	34.50	20.50	8.25		8.00	17.30		9.25		9.25		
10871	February 1, 2021 to February 28, 2021	01-Mar-21	16.75	4.50	2.00		5.50	17.50		10.65		7.50		
10889	March 1, 2021 to March 28, 2021	29-Mar-21	13.75	0.25	1.25			13.00		14.65		4.50		
10902	March 29, 2021 to April 30, 2021	30-Apr-21	11.00	0.50	0.75			2.80		4.40		4.75		
TOTAL HOURS			237.75	72.25	12.25	12.90	98.50	50.60	68.90	38.95	56.40	26.00	50.20	481.65
HOURLY RATE			495.00	395.00	275.00	250.00	200.00	215.00	200.00	215.00	200.00	150.00	140.00	
TOTAL FEES			117,686.25	28,538.75	3,368.75	3,225.00	19,700.00	10,879.00	13,780.00	8,374.25	11,280.00	3,900.00	7,028.00	227,760.00

SCHEDULE "F"

**SUMMARY OF INVOICES OF OWEN BIRD LAW
CORPORATION FOR THE PERIOD
JUNE 24, 2020 AND APRIL 30, 2021
AND SUMMARY OF INVOICE OF NORDEL LAW GROUP LLP
DATED SEPTEMBER 23, 2020**

**RECEIVER AND MANAGER OF THE ASSETS, UNDERTAKINGS AND PROPERTY OF
371392 B.C. LTD. DBA DIAMOND HEAD MOTOR INN AND DIAMOND HEAD MOTEL
RE: PROPERTY AT 32550 LOGAN AVENUE, MISSION, BC V2V 1C6**

**SUMMARY OF OWEN BIRD LAW CORPORATION LEGAL INVOICES
FOR THE PERIOD JUNE 24, 2020 TO APRIL 30, 2021**

INVOICE NO.	BILLING PERIOD	DATE OF INVOICE	TOTAL BILLING (\$)	FEES (\$)	DISBURSEMENTS (\$)	GST (\$)	PST (\$)
227214	for the period ending August 26, 2020	26-Aug-20	5,103.00	4,550.00	7.00	227.50	318.50
229323	for the period ending November 19, 2020	19-Nov-20	28,875.52	25,500.00	305.30	1,285.22	1,785.00
230198	for the period ending December 16, 2020	16-Dec-20	23,084.33	20,500.00	118.40	1,030.93	1,435.00
232095	for the period ending February 19, 2021	19-Feb-21	31,819.45	27,584.00	892.19	1,412.38	1,930.88
234119	for the period ending April 30, 2021	30-Apr-21	3,394.18	3,008.00	24.05	151.57	210.56
TOTAL			92,276.48	81,142.00	1,346.94	4,107.60	5,679.94

**RECEIVER AND MANAGER OF THE ASSETS, UNDERTAKINGS AND PROPERTY OF
371392 B.C. LTD. DBA DIAMOND HEAD MOTOR INN AND DIAMOND HEAD MOTEL
RE: PROPERTY AT 32550 LOGAN AVENUE, MISSION, BC V2V 1C6**

SUMMARY OF NORDEL LAW GROUP LLP LEGAL INVOICE

INVOICE NO.	BILLING PERIOD	DATE OF INVOICE	TOTAL BILLING (\$)	FEES (\$)	DISBURSEMENTS (\$)	GST (\$)	PST (\$)
9438	Annual Report 2019 and 2020	23-Sep-20	560.00	500.00	0.00	25.00	35.00
TOTAL			560.00	500.00	0.00		35.00