



This is the 3rd Affidavit of Cecil Cheveldave
made on November 29, 2023

NO. KEL-S-S-122417
KELOWNA REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

SATHER RANCH LTD.

PLAINTIFF

AND:

JOSEPH WAYNE PALMER SATHER

DEFENDANT

AFFIDAVIT

I, Cecil Cheveldave, of Suite 600 – I, 235 – First Avenue, Kamloops BC, V2C 3J4, MAKE
OATH AND SAY THAT:

1. I am the President of C. Cheveldave & Associates Ltd. and as such have personal knowledge of the matters and facts herein deposed to except where stated to be on information and belief and where so stated do verily believe the same to be true.
2. Attached hereto and marked as **Exhibit “1”** is a true copy of the Receiver’s Second Report to the Court dated May 11, 2021 and filed on May 12, 2021 (the “**Second Report**”) in Supreme Court of British Columbia Action No. S1913131 (Vancouver Registry) (the “**Receivership Proceedings**”). The facts set out in the Second Report are true.
3. Attached hereto and marked as **Exhibit “2”** is a true copy of the Notice of Application filed in the Receivership Proceedings on July 13, 2023 by Joe Sather and AMX Real Estate Inc., which was the related party claim of those parties.
4. Attached hereto and marked as **Exhibit “3”** is a true copy of the reasons of the Honourable Mr. Justice Brongers reported at 2023 BCSC 1525.

5. Attached hereto and marked as **Exhibit “4”** is a true copy of the Order of the Honourable Justice Brongers made on August 10, 2023 and entered on September 7, 2023 in the Receivership Proceedings.

6. Attached hereto and marked as **Exhibit “5”** is a true copy of the reasons of the Honourable Mr. Justice Brongers reported at 2023 BCSC 1694.

7. Steve Dvorak is legal counsel for Mike Street, Boundary Machine Ltd., Marielle Brule and Profectus Financial Inc. Mr. Dvorak has confirmed that his clients support the Receiver pursuing a constructive trust remedy herein. Attached hereto and marked as **Exhibit “6”** is a true copy of an email from Steve Dvorak dated November 28, 2023.

8. The Receiver has not verified whether there is a gravel deposit on the 160 acres that are the subject of this proceeding. Mr. Sather has not provided any documents or information to the Receiver from a person qualified to make that assessment to confirm or support that there is any such potential gravel resource that could have any economic value. If there is such value, it will be the Receiver’s task to market and sell the lands (assuming the constructive trust remedy is granted) for its fair market value, which would include the value of any such resource.

9. The 160 acre parcel currently has no legal access. To access the lands, you must cross two adjacent properties. The first property that must be crossed is the property referred to as the “Home Ranch” in these proceedings, which has a civic address of 1313 Greyback Mountain Road. The second property is District Lot 1032S, which are the lands were subject to the grazing license originally granted to Palmer Sather (the “**Crown Range Lands**”).

10. The Regional District of Okanagan-Similkameen (“**RDOS**”) purported to expropriate the Home Ranch, and on September 2, 2020, the Receiver (with court approval) entered into an Agreement to Transfer Lands in Settlement of Expropriation Proceedings with RDOS.


11. In light of the change of ownership of the Home Ranch and the lack of ongoing use under the Grazing License, to obtain legal access for the 160 acres, the registered owner will have to go through a number of formal processes and regulatory approvals.

12. I am informed by Lionel Hoffman, AACI and professional appraiser, and verily believe that legal access will impact the realizable value of the 160 acres significantly. He estimated that


the value of the lands with legal access would be worth roughly double what they would be worth without such access. If the remedy sought is granted, the Receiver will investigate the matter further and take steps to maximize the realizable value of the 160 acres for benefit of all stakeholders herein.

13. Our legal counsel has searched the land title registry to identify real property owned by Joe Sather in British Columbia. I am informed by Cindy Curran, a legal assistant at Lawson Lundell, and verily believe that the only property in British Columbia in respect of which Joe Sather is the registered owner are the Grazing Lands.

SWORN BEFORE ME at the City of)
Kamloops, in the Province of British)
Columbia, this 29th day of November, 2023.)



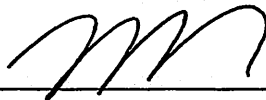
A Commissioner for taking Affidavits for)
British Columbia.)



CECIL CHEVELDAVE

Hal Hicks
Barrister & Solicitor
FULTON & COMPANY LLP
#300 - 350 LANSDOWNE STREET
KAMLOOPS, BC V2C 1Y1

This is **Exhibit “ 1 ”** referred to in the Affidavit of Cecil Cheveldave made before me on November 29, 2023

A handwritten signature in black ink, consisting of stylized, overlapping loops and curves, positioned above a horizontal line.

A Commissioner for taking Affidavits for
British Columbia



**District of British Columbia
Court No. S 1913131
Vancouver Registry**

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN THE MATTER OF THE RECEIVERSHIP OF SATHER RANCH LTD.
RECEIVER'S SECOND REPORT
MAY 11, 2021**

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INTRODUCTION AND PURPOSE OF THE REPORT

Introduction

1. C. Cheveldave & Associates Ltd. was appointed receiver (“**Receiver**”) over all of Sather Ranch Ltd.’s (“**SRL**” or the “**Company**”) assets, undertakings and properties of every nature and kind pursuant to a Court Order dated November 21, 2019.
2. For further information on these receivership proceedings please refer to the Receiver’s website www.cheveldave.ca/engagements .
3. In preparing this report, the Receiver has been provided with, and has relied upon, unaudited and other financial information, books and records (together, the “**Information**”) prepared by the Company and/or their representatives, and discussions with the Company’s management and/or representatives. The Receiver has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided and in consideration of the nature of evidence provided to this Honourable Court. However, the Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards (“**CAS**”) pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance contemplated under the CAS in respect of the Information.
4. All references to monetary amounts in this report are in Canadian dollars unless otherwise specified.

Background

5. SRL was an operating cattle ranch located on the outskirts of Penticton, BC and is owned equally by two shareholders – 0882126 BC Ltd. and AMX Real Estate Inc. The Directors of SRL are Mr. Michael Street and Mr. Joseph Sather.

6. SRL was incorporated in Alberta on March 21, 2013 and extra-provincially registered in BC on March 27, 2013.
7. The ranch lands consisted of one parcel of land owned by SRL comprising approximately 80 acres and access to an additional 160 acres of grazing land by way of a grazing license.
8. At the time of the Receiver's appointment, the majority of the cattle inventory had been sold.
9. The Receiver realized on SRL's remaining cattle inventory, vehicles, equipment, and land as set out in the Receiver's First Report to this Honourable Court.
10. The Receiver's realization efforts resulted in surplus funds being available for distribution to SRL's unsecured creditors.
11. On January 14, 2021, the Court made an order establishing a claims process (the "**Claims Process Order**") for the determination of the claims of Arm's Length Creditors and Related Party Creditors as each of those terms are defined in the Claims Process Order. A copy of the Claims Process Order is attached to this report as **Appendix 1**.

Purpose of the Receiver's Second Report

12. This is the Receiver's second report (the "**Second Report**") and is filed to provide this Honourable Court with the following:
 - a. An update on steps taken by the Receiver with respect to the Claims Process Order.
 - b. Information on the claims received.
 - c. Information to facilitate the scheduling of the hearing of the Related Party notices of application herein.

RECEIVER'S ACTIVITIES CONCERNING THE CLAIMS PROCESS ORDER

13. The Claims Process Order required the Receiver to provide notice of the Claims Process to potential creditors, all as set out in sections 3-7 of the Claims Process Order.
14. On January 20, 2021, the Receiver mailed out Claim Packages via Canada Post to all known creditors, emailed Claim Packages to all known creditors where the Receiver had email addresses, and posted the Notice to Creditors, Claim Package, and list of creditors to the Receiver's website.
15. In addition, the Receiver also arranged for the Notice to Creditors to be published in the Penticton Herald's January 22, 2021 edition.
16. As contemplated by paragraph 22 of the Claims Process Order, the Receiver applied to have the Receivership Order and the Claim Process Order recognized and affirmed by the Alberta Court of Queen's Bench. That application was heard on March 18, 2021 and the Orders were so approved and affirmed by the Honourable Mr. Justice Jeffrey of the Alberta Court of Queen's Bench. A copy of the Order is attached as **Appendix 2**.
17. The application was brought in Alberta Court of Queen's Bench Action No. 1901-01772 in which AMX Real Estate Inc. and Joseph Sather are the plaintiffs and in respect of which various Related Parties, as defined in the Claims Process Order, are defendants (the "**Alberta Action**"). The Alberta Action is referred to in paragraph 22 of the Claims Process Order. As part of the relief sought and obtained from the Court on March 18, 2021, the Receiver also obtained an order making SRL a plaintiff in the Alberta Action and obtained orders requiring AMX Real Estate Inc. and Joseph Sather to deliver particulars of their individual and independent causes of action against the defendants (i.e., particulars of those claims that are not derivative in nature and belonging SRL which will be advanced

or abandoned by the Receiver as appropriate). Those particulars are due no later than 30 days after the determination of the Related Party Claims herein.

18. In light of the potential overlap in the factual foundation to certain Related Party claims herein and the claims belonging to Sather Ranch Ltd. in the Alberta Action, the Receiver intends to defer its decision as to what claims to advance (if any) until after the determination of the Related Party claims herein.

CLAIMS RECEIVED BY THE CLAIMS BAR DATE (MARCH 31, 2021)

Claims From Arm's Length Creditors

19. The Claims Process Order identified each of the persons who were "Related Party Creditors" and defined "Arm's Length Creditor" as a Creditor who is not a Related Party Creditor.

20. On March 31, 2021, two claims were received. Both of these claims are attached to this report as **Appendix 3**. As noted below, although both creditors fall within the definition of "Arm's Length Creditors" in the Claims Process Order, both claimants are relatives of Joseph Sather.

21. The first claim received was from the Estate of the Late Palmer E. Sather (the "**Palmer Claim**") in the amount of \$1,148,617 as broken down as follows:

a. Claim for 80 Acres Fraud	\$605,636
b. Claim for Unpaid Interest Charges	\$144,641
c. Claim for Palmer Sather's Equipment	\$50,340
d. Claim for Missing / Stolen Cattle	\$198,000
e. Claim for Damaged Land (estimated)	\$100,000
f. Claim for Legal Fees (estimated)	<u>\$50,000</u>
Total Claimed	\$1,148,617

22. The second claim received was from the Estate of the Late Oscar Sather (the "**Oscar Claim**") in the amount of \$449,576 as broken down as follows:

a. Claim for 80 Acres Fraud	\$302,364
b. Claim for Unpaid Interest Charges	\$72,212
c. Claim for Damaged Land (estimated)	\$50,000
d. Claim for Legal Fees (estimated)	<u>\$25,000</u>
Total Claimed	\$449,576

23. The land purchased by SRL in 2017 was formerly owned by Palmer Sather (2/3 interest) and Oscar Sather (1/3 interest).
24. Upon review and analysis of the Palmer Claim and the Oscar Claim, the Receiver formally disallowed both claims and delivered Notices of Disallowance to both claimants by email on April 12, 2021. Copies of the Receiver's Notice of Disallowances that include specific details that were issued to the claimants are attached as **Appendix 4**.
25. No appeal was taken from the Notices of Disallowances such that the Receiver's disallowances of both the Palmer Claim and the Oscar Claim are now final and binding as per the terms of the Claims Process Order.

Claims From Related Party Creditors

26. As of the Claims Bar Date, the following claims were received from Related Party Creditors ("**Related Party Claims**"):
 - a. AMX Real Estate Inc. and Joseph Sather for the amounts of:
 - i. Shareholder's loan - \$128,372.30
 - ii. Expenses of Joseph Sather – The claim identifies 10 categories of expenses, but only particularizes the quantum of two of those claims for total expenses of \$40,435 (\$20,935 plus \$19,500).
 - iii. Expenses of AMX Real Estate Inc. - \$129,537.31.
 - b. Boundary Machine Ltd. - \$680,204.86 plus interest and costs.
 - c. Marielle Jacqueline Angella Brule. - \$9,259.00 plus interest and costs
 - d. Profectus Financial Inc. - \$42,532.70 plus interest and costs.
 - e. Michael Neil Street - \$190,300.80 plus interest and costs.

27. The Related Party Creditor Claims were received in the form of unfiled copies of a Notice of Application seeking approval of such claims together with Affidavits supporting the claims as prescribed by the Claims Process Order.
28. Application Response materials received in compliance with the Claims Process Order confirms that the entire amount of each Related Party Claim is opposed. Details of the Application Responses received are set out below:
 - a. An Application Response of Michael Neil Street, Marielle Jacqueline Angella Brule, 0882126 B.C. Ltd., Boundary Machine Ltd. and Profectus Financial Inc. to the March 31, 2021 Notice of Application of AMX Real Estate Inc. and Joseph Sather opposing all of the orders set out in Part 1 of the Notice of Application. This Application Response and supporting Affidavit material was received on April 20, 2021.
 - b. An Application Response of AMX Real Estate Inc. and Joseph Sather to the March 29, 2021 Notices of Application of Boundary Machine Ltd., Profectus Financial Inc., Marielle Jacqueline Angella Brule and Michael Neil Street opposing all of the orders set out in Part 1 of the Notice of Application. This Application Response and supporting Affidavit material was received on April 21, 2021.
29. As anticipated, there are no arm's length claims from third parties that would potentially be prejudiced by the claims process for the determination of the Related Party Claims. Further, all of the Related Party claims are opposed by each of the two "groups" of claimants such that the issues are joined. Based on the foregoing and subject to the Court's direction, the Receiver does not presently plan to have its counsel attend or participate in the hearing of the Related Party Claims.
30. The Receiver has requested input from counsel for the Related Party Claims, which has been received in the email attached hereto as **Appendix 5**.

31. The Related Parties have not agreed to have the Related Party Claims heard by an arbitrator such that the matter will be heard by a judge of the Supreme Court of British Columbia.
32. Counsel for the Related Parties estimate that 10 court days will be required for the hearing of the Related Party Claims. The proposed hearing is to be a summary trial on affidavits, with the following affiants to be cross-examined before the Court:
 - a. Joseph Sather.
 - b. Michael Street.
 - c. Marielle Brule.
 - d. Terry Gosling.
33. Subject to the Court's direction, the Receiver does not propose to participate in the hearing of the Related Party's claims.

RECOMMENDATIONS

34. The Receiver submits its Second Report and respectfully requests this Honourable Court to:

- a. approve the Second Report and the activities of the Receiver described herein.
- b. provide directions to the Receiver as to whether its participation is required in the hearing of the Related Party claims.
- c. schedule the hearing of the Related Party claims herein.

All of which is respectfully submitted this 11th day of May 2021.

C. Cheveldave & Associates Ltd.
Court Appointed Receiver and Manager of
Sather Ranch Ltd., and not in its personal capacity



Per: Cecil Cheveldave
President

Appendix 1

Claims Process Order



NO. S1913131
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

MICHAEL NEIL STREET and
MARIELLE JACQUEILINE ANGELLA BRULE

PLAINTIFFS

AND:

SATHER RANCH LTD. by its Court Appointed Receiver and
Manager, C. Cheveldave & Associates Ltd.

DEFENDANT

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE) THURSDAY THE 14TH DAY
)
JUSTICE WALKER) OF JANUARY, 2021

THE APPLICATION of C. Cheveldave & Associates Ltd., in its capacity as Court-appointed Receiver (the “**Receiver**”) of the assets, undertakings and properties of Sather Ranch Ltd., and, coming on for hearing by telephone on October 28, 2020, October 30, 2020, December 4, 2020 and January 14, 2021 at Vancouver, British Columbia; and on hearing Scott R. Andersen, counsel for the Receiver, Steve Dvorak, counsel for the Plaintiffs, Colin Flannigan, counsel for Joe Sather and AMX Real Estate Inc.; and upon reading the material filed:

DEFINITIONS

1. For purposes of this Order the following terms shall have the following meanings:
 - (a) “**Arm’s Length Creditor**” means a Creditor who is not a Related Party Creditor;
 - (b) “**BIA**” means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended;
 - (c) “**Business Day**” means a day, other than a Saturday or a Sunday on which banks are generally open for business in Vancouver, British Columbia;

- (d) “**Claim**” shall exclude an Excluded Claim but shall include any other right or claim of any Person against Sather Ranch, whether or not asserted, in connection with any indebtedness, liability or obligation of any kind owed by Sather Ranch to such Person, and any interest accrued thereon or costs payable in respect thereof, including any indebtedness, liability or obligation owed to such Person as a result of any breach of duty (including, without limitation, any legal, statutory, equitable or fiduciary duty) by Sather Ranch, any right of ownership of or title to property or assets or to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise) against any property or assets, whether or not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, not matured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including the right or ability of any Person to advance a claim of contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation is based in whole or in part upon facts existing prior to the Filing Date, and any indebtedness, liability or obligation of any kind arising out of the repudiation, restructuring or termination of any contract, lease, employment agreement, or other agreement after the Filing Date. Notwithstanding the foregoing, “Claim” also means any indebtedness, liability or obligation of any kind that, if unsecured, would be a claim provable in bankruptcy within the meaning of the BIA;
- (e) “**Claims Bar Date**” means 4:00 p.m. (Pacific Time) on March 31, 2021;
- (f) “**Claims Package**” means the document package which shall consist of a copy of this Order (without schedules), the Instruction Letter, a form of Proof of Claim, and such other materials as the Receiver considers necessary or appropriate;
- (g) “**Claims Process**” means the procedures outlined in this Order in connection with the assertion of Claims against Sather Ranch;
- (h) “**Court**” means the Supreme Court of British Columbia;
- (i) “**Creditor**” means any Person asserting a Claim other than an Excluded Claim against Sather Ranch;
- (j) “**Equity Claim**” means a claim, right or interest that is in respect of an Equity Interest, including a claim for, among others,
- (i) a dividend or similar payment,

- (ii) a return of capital,
 - (iii) a redemption or retraction obligation,
 - (iv) a monetary loss resulting from the ownership, purchase or sale of an equity interest or from the rescission, or, in Quebec, the annulment, of a purchase or sale of an equity interest, or
 - (v) contribution or indemnity in respect of a claim referred to in any of paragraphs (i) to (iv)
- (k) “**Equity Interest**” means a share in the stock of Sather Ranch as reflected in its records as at the Filing Date.
- (l) “**Excluded Claim**” means the following:
- (i) Receiver’s Charge and the Receiver’s Borrowings Charge created and approved by the Court in the Receivership Order made herein on September 17, 2018;
 - (ii) Receiver’s Charge and the Receiver’s Borrowings Charge created and approved by the Court in the Receivership Order made herein on November 21, 2019; and
 - (iii) An Equity Claim.
- (m) “**Filing Date**” means November 21, 2019;
- (n) “**Instruction Letter**” means the letter to Creditors, which letter shall be substantially in the form attached hereto as **Schedule “A”**;
- (o) “**Known Creditors**” includes all Creditors shown on the books and records of the Sather Ranch as having a Claim against Sather Ranch in excess of \$250 as at the Filing Date;
- (p) “**Notice to Creditors**” means the notice substantially in the form attached hereto as **Schedule “B”**;
- (q) “**Person**” has the meaning as defined in the BIA;
- (r) “**Proof of Claim**” means the form completed and filed by a Creditor setting forth its Claim (if necessary) with supporting documentation, which proof of claim shall be substantially in the form attached hereto as **Schedule “C”**;
- (s) “**Sather Ranch**” means Sather Ranch Ltd.;

- (t) **"Receiver"** means C. Cheveldave & Associates Ltd., in its capacity as court-appointed receiver of Sather Ranch;
- (u) **"Related Party Creditor"** includes the following persons: Joe Sather, AMX Real Estate Inc., Mike Street, 0882126 BC Ltd., Boundary Machine Inc., Marielle Brule, and Profectus Financial Inc. and any party that is an executor, administrator, successor, assign, or heir of any of the persons listed herein.

APPROVAL OF CLAIMS PROCESS

2. The Claims Process is hereby approved.

NOTICE OF CLAIMS PACKAGE

3. On or before the day which is seven (7) days after the date of this Order, the Receiver shall cause a Claims Package to be sent to:
 - (a) all Known Creditors of Sather Ranch, except for Creditors with an Excluded Claim, by ordinary mail, facsimile transmission, email message, or personal delivery, with such mode of delivery being in the Receiver's discretion based upon a reasonable belief that delivery in such mode will come to the notice of the recipient;
 - (b) to the Federal Crown by delivery to the Department of Justice at 900- 840 Howe Street, Vancouver, BC V6Z 2S9; and
 - (c) to the Provincial Crown by delivery to the Ministry of the Attorney General, Legal Services Branch 400, 1675 Douglas Street, Victoria, BC V8W 917.
4. The Receiver shall cause the Notice to Creditors to be placed in the Penticton Herald and on or before ten (10) days after the date of this Order.
5. The Receiver shall cause the Notice to Creditors, the Claims Package and a list of creditors to be posted on the Receiver's website address <https://cheveldave.ca/engagements> on or before seven (7) days after the date of this Order, and such posting shall remain in effect until the Claims Bar Date.
6. The Receiver shall cause a copy of the Claims Package to be sent to any person requesting such material as soon as practicable.
7. If the Receiver becomes aware of further Claims of Persons not included in the initial mailing to Known Creditors after the date of initial distribution, the Receiver shall forthwith distribute copies of the Claims Package to such Persons, but the entitlement of

each Person to receive notice is abridged to the date the Claims Package is distributed to each such Person, subject to further Order of this Court.

8. The delivery of the Claims Package and publication of the Notice to Creditors, in accordance with the foregoing terms of this Order, shall constitute good and sufficient service of such materials and no further notice or service need be given or made and no other document or material need be served.

CLAIMS BAR DATE

9. The process for proving Claims and resolving disputed Claims differs depending upon whether the Claim is from a Related Party or whether it is from an Arm's Length Party. A Related Party must prove its claim through a court application on notice to other Related Parties, who will each have standing to oppose any such Claim in whole or in part. An Arm's Length Creditor must prove its claim to the Receiver by way of Proof of Claim. Both processes are set out in more detail in the sections that follow.
10. An Arm's Length Creditor, other than a Creditor with an Excluded Claim, shall deliver to the Receiver a Proof of Claim on or before the Claims Bar Date, in default of which the Creditor shall be forever barred from advancing any Claim against Sather Ranch and shall not be entitled to receive any payment from the Receiver.
11. A Related Party Creditor having any Claim(s) shall deliver unfiled copies of a Notice of Application seeking approval of such Claim(s), together with Affidavits supporting its Claim(s), to the Receiver and to all other Related Party Creditors on or before the Claims Bar Date, in default of which such Related Party Creditor shall be forever barred from advancing such Claim(s) against Sather Ranch and shall not be entitled to receive any payment in respect of such Claim(s) from the Receiver. A Related Party is at liberty to rely upon as evidence herein any affidavits or documents delivered in response to paragraph 3 of the Receivership Order made on September 17, 2018 in Supreme Court of British Columbia Action No. KEL-S-S-120281 (Kelowna Registry).

ARM'S LENGTH CLAIMS

12. The Receiver shall review each Proof of Claim received by the Claims Bar Date and, thereafter, the Receiver may dispute a Claim in whole or in part by sending the Creditor a Notice of Disallowance in the form attached as **Schedule "D"** ("**Notice of Disallowance**") within fourteen (14) days of receipt of Proof of Claim, by delivering the Notice of Disallowance to the address noted in the subject Proof of Claim, and where an email or facsimile address is provided in the Proof of Claim, delivery in that mode shall be sufficient.

13. Any Creditor who disputes a Notice of Disallowance may appeal that decision and seek a determination of the Court of the validity and value of and particulars of its Claim by filing and serving upon counsel for the Receiver, an application, supported by Affidavit material by 4:00 p.m. on the date that is within twenty one (21) days of receipt of Notice of Disallowance. The hearing of the appeal shall be determined as a true appeal, and not as a trial *de novo*. The appeal must be set for hearing no later than fifteen (15) days after receipt of the Notice of Disallowance, or such other date as the Petitioners' and Receiver's counsel may advise they are available.
14. Any Creditor who fails to file and serve the applicable Notice of Application and Affidavit material by the deadline set forth in paragraph 13 of this Order shall be deemed to accept the amount of its Claim as set forth in the Notice of Disallowance and such amounts set forth in the Notice of Disallowance shall constitute a proven Claim.

RELATED PARTY CLAIMS

15. Any Related Party that opposes another Related Party Claim must, within twenty one (21) days after the Claims Bar Date, deliver to the Receiver and to the applicant an Application Response and any supporting affidavits in regard to that opposition. The Application Response must:
 - (a) specify all the claims that are agreed to and all the claims that are disputed;
 - (b) provide particulars in accordance with the *Supreme Court Civil Rules* identifying the basis of its objection for each itemized component of the claim it disputes;
 - (c) identify which affiants, if any, it wishes to cross examine at the hearing and provide a time estimate for any such cross examinations.
16. If a Related Party applicant wishes to tender a reply affidavit, it must within thirty (30) days after the Claims Bar Date, deliver to the Receiver and to the application respondent a copy of any such reply affidavits.
17. Any Related Party Claims that are agreed to, unopposed or in respect of which no Application Response is delivered, will be deemed to be accepted.
18. Following receipt of the Application Responses referred to above, the Receiver will prepare a Report to the Court summarizing the Claims herein and will schedule a hearing on notice before the Honourable Justice Walker for directions and to address any procedural issues for the hearing of the Notices of Application filed by the Related Parties herein.
19. Following or at the hearing referred to above in paragraph 18 of this Order and subject to any directions or orders made at the hearing contemplated in paragraph 18 above, counsel

for the Receiver will use best efforts to schedule a hearing of all Related Party Applications on the first available date on which the Court and all counsel and parties involved are available. The applications are to be scheduled to be heard by the same judge and will be conducted as a Summary Trial pursuant to Rule 9-7 of the *Rules of Court* with a right of cross-examination on Affidavits in front of the presiding judge.

20. With the agreement of all participants, instead of proceeding through a Summary Trial, the Related Party Creditors may instead submit their claims to be determined by an Arbitrator of their choosing.
21. The right of appeal from a decision of the judge or arbitrator will be governed by the *Court of Appeal Act* and the *Court of Appeal Rules*.
22. For greater certainty and subject to this Order and the Receivership Order made herein on November 19, 2019 both being recognized by the Alberta Court of Queen's Bench, the Claims Process herein does not affect any claims that any Related Party may wish to advance against another Related Party in Alberta Court of Queen's Bench Action No. 1901-01772 (Judicial Centre of Calgary), except to the extent that any damages, compensation, indemnity or contribution is sought against Sather Ranch. All Claims brought against Sather Ranch are subject to and governed by this Order, must be proved in the Claims Process hereby established, failing which they shall be forever barred and the Related Party shall not be entitled to pursue such claims against Sather Ranch or the Receiver, or recover or receive any payment or other compensation or relief in respect thereof, whether from Sather Ranch or the Receiver.

GENERAL PROVISIONS

23. In the event that the day on which any notice or communication required to be delivered pursuant to this Claims Process is not a Business Day then such notice or communication shall be required to be delivered on the next Business Day.
24. In the event of any strike, lock-out or other event which interrupts postal service in any part of Canada, all notices and communications during such interruption may only be delivered by personal delivery, courier, electronic mail or such other method which the Court on application may specify, and any notice or other communication given or made by prepaid mail within the five (5) Business Day period immediately preceding the commencement of such interruption, unless actually received, shall be deemed not to have been delivered. All such notices and communications shall be deemed to have been received, in the case of notice by personal delivery, courier or electronic mail prior to 5:00 p.m. (local time) on a Business Day, when received, if received after 5:00p.m. (local time) on a Business Day or at any time on a non-Business Day, on the next following Business Day, and in the case of a notice mailed as aforesaid, on the fourth Business Day

following the date on which such notice or other communication is mailed.

25. References in this Order to the singular shall include the plural, references to the plural shall include the singular and to any gender shall include the other gender.
26. Any interested party may apply to this Court for advice or directions in regard to the Claims Process established hereby on not less than two (2) clear business day's notice to the Service List herein and to any other party who may be affected by the advice or direction to be sought.
27. 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.
28. Approval as to the form of the Order herein by counsel appearing, other than counsel for the Receiver, be and is hereby 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:



Scott R. Andersen
Solicitor for the Receiver

BY THE COURT

REGISTRAR

SCHEDULE "A"
INSTRUCTION LETTER FOR THE CLAIMS AGAINST SATHER RANCH LTD.

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

MICHAEL NEIL STREET and
 MARIELLE JACQUEILINE ANGELLA BRULE

PLAINTIFFS

AND:

SATHER RANCH LTD. by its Court Appointed Receiver and
 Manager, C. Cheveldave & Associates Ltd.

DEFENDANT

Dear Creditor:

PLEASE REVIEW THE FOLLOWING CAREFULLY AS YOUR LEGAL RIGHTS AND CLAIMS IN THE FOREGOING COMPANIES MAY BE IMPACTED.

By Order of the British Columbia Supreme Court pronounced January 14, 2021 (the "**Claims Process Order**") C. Cheveldave & Associates Ltd. (the "**Receiver**") has been authorized to conduct a claims process for the determination of any and all claims ("**Claims**") against Sather Ranch Ltd. (the "**Claims Process**").

A copy of the Claims Process Order can be obtained from the website of Receiver at <https://cheveldave.ca/engagements>

Under the Claims Process Order, all Known Creditors are to receive the attached "**Claims Package**", that being:

1. This instruction letter;
2. A form of Proof of Claim; and
3. Such other material as the Receiver considers necessary or appropriate.

In addition, the Receiver is required to publish a Notice to Creditors in the Penticton Herald. Subsequently, any other creditors who request a Claims Package will receive one as soon as practicable.

Under the terms of the Claims Process Order, you must file a Proof of Claim, with supporting documentation, in the form attached with the Receiver on or before the claims bar date of 4:00 p.m. (Pacific time) on March 31, 2021 (the “**Claims Bar Date**”) by delivering to the Receiver at its address shown below and preferably by email. Proofs of Claim must be received by the Receiver by 4:00 p.m. on the Claims Bar Date.

If you do NOT file a Proof of Claim on or before the by the Claims Bar Date of MARCH 31, 2021 your rights and recoveries against Sather Ranch Ltd. will be forever compromised, without any further notice.

In particular, a person who does not file a Proof of Claim with supporting documentation on or before the Claims Bar Date shall be forever barred from received any payment from the Receiver and its claim may not be enforced against Sather Ranch Ltd., unless otherwise ordered by the Court.

All enquiries and notices to the Receiver with respect to the Claims Process should be addressed to:

C. Cheveldave & Associates Ltd.
Suite 600-I
235 1st Avenue
Kamloops, BC, V2C 3J4
Telephone: 1-250-819-8614

Attention: Cecil Cheveldave
Email: ctcheveldave@telus.net

SCHEDULE "B"
NOTICE TO CREDITORS

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

MICHAEL NEIL STREET and
MARIELLE JACQUEILINE ANGELLA BRULE

PLAINTIFFS

AND:

SATHER RANCH LTD. by its Court Appointed Receiver and
Manager, C. Cheveldave & Associates Ltd.

DEFENDANT

By Order of the British Columbia Supreme Court pronounced January 14, 2021 (the "**Claims Process Order**") C. Cheveldave & Associates Ltd. (the "**Receiver**") has been authorized to conduct a claims process for the determination of any and all claims ("**Claims**") against Sather Ranch Ltd. (the "**Claims Process**").

In order to participate in distribution from the Receiver, any creditor, having a claim against Sather Ranch Ltd., must file a Proof of Claim on or before March 31, 2021, that being the Claims Bar Date.

If a creditor does not file a Proof of Claim by the Claims Bar Date of MARCH 31, 2021 its claim will be forever barred and it will not be entitled to participate in any way in any distribution or payment from the Receiver.

A Proof of Claim form may be obtained from the Receiver's website at <https://cheveldave.ca/engagements> or by sending a written request (preferably by email) to:

C. Cheveldave & Associates Ltd.
Suite 600-I
235 1st Avenue
Kamloops, BC, V2C 3J4
Telephone: 1-250-819-8614

Attention: Cecil Cheveldave
Email: ctcheveldave@telus.net

SCHEDULE "C"
PROOF OF CLAIM

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

MICHAEL NEIL STREET and
MARIELLE JACQUEILINE ANGELLA BRULE

PLAINTIFFS

AND:

SATHER RANCH LTD. by its Court Appointed Receiver and
Manager, C. Cheveldave & Associates Ltd.

DEFENDANT

Please read the Instruction Letter carefully prior to completing this Proof of Claim. Please print legibly.

1. Full Legal Name of Creditor _____ (the "Creditor").
2. Full Mailing Address of the Creditor (*All notices and correspondence regarding your Claim will be forwarded to this address or to the e-mail address or facsimile address below if appropriate and applicable*):

3. Telephone Number: _____
4. E-mail: _____
5. Facsimile Number: _____
6. Attention: _____

CLAIM DETAILS

Amount of Claim (Canadian Dollars): _____

THE UNDERSIGNED HEREBY CERTIFIES AS FOLLOWS:

1. I am a Creditor of Sather Ranch Ltd.
2. I have knowledge of all the circumstances concerning the Claim hereafter referred to.
3. Attached as Schedules to this Proof of Claim are:
 - (a) documents which establish the validity, amount and particulars of the Claim in Canadian Dollars;
 - (b) a description of the transaction or agreement giving rise or relating to the Claim; and
 - (c) copies of any documents evidencing security held for the Claim.

DATED at _____ this _____ day of _____, 2021.

Per:

 [Name of Creditor- please print]

 Signature of Creditor

Note: all relevant documentation on which you rely in making your claim must be attached to this Proof of Claim, as the validity of your claim will be determined solely on this Proof of Claim and attachments thereto. If the claim is disallowed for any reason, and you file an appeal of that disallowance, the appeal will be heard as a true appeal and your ability to introduce fresh or new evidence in support of your claim will be limited accordingly.

Schedules:
(to be attached to Proof of Claim)

Schedule “A”

A description of the basis on which the Claim arose is as follows (attach separate sheet if necessary):

Schedule “B”

The following documents are attached and support the basis for the Claim as described above, including any claim for interest or other charges:

- (i)
- (ii)
- (iii)
- (iv)
- (v)
- (vi)
- (vii)

Schedule “C”

The following documents are attached and support the basis for my claim that I hold security in respect of this Claim:

- (i)
- (ii)
- (iii)
- (iv)
- (v)
- (vi)
- (vii)

INSTRUCTIONS FOR COMPLETION OF PROOF OF CLAIM

- **Address:** Please ensure that you complete the full name and delivery address, including fax number and email address of the creditor making the claim, as all future notices and correspondence regarding your Claim will be forwarded to this address, or to the e-mail address or facsimile address below if appropriate.
- **Amount of the Claim:** The amount of the Claim must be calculated as of and cannot include any charges or interest incurred thereafter. If your claim is in currency other than Canadian Dollars, you must convert to Canadian Dollars using the conversion rate in effect on .
- **Proper Completion:** The Proof of Claim is incomplete and may not be accepted unless:
 - (a) You have included a statement and description of the Claim,
 - (b) You have attached all supporting documents including statements of accounts and/or invoices in support, showing the dates and values of the claim, in conformance with the amount of the Claim, and all relevant security as required in the Schedules; and
 - (c) It is signed and dated by you.

Failure to properly complete or return your Proof of Claim on or before 4:00pm on , 2021 will result in your Claim being barred and extinguished, without any further entitlement to recover your Claim from the Petitioner.

- **Delivery:** The duly completed Proof of Claim, together with all schedules and accompanying documents, must be delivered to the Receiver (addresses below and preferably by email) on or before the Claims Bar Date of :

C. Cheveldave & Associates Ltd.
 Suite 600-I
 235 1st Avenue
 Kamloops, BC, V2C 3J4
 Telephone: 1-250-819-8614

Attention: Cecil Cheveldave
 Email: ctcheveldave@telus.net

- **Disallowance:** The Receiver is entitled to disallow your Proof of Claim in whole or in part. If your Claim is disputed in whole or in part, by the Receiver, the Receiver will send you a Notice of Disallowance along with particulars as to how you may dispute the

Notice of Disallowance. If you do not receive a Notice of Disallowance by that deadline, the Receiver has accepted your Claim for the purpose of receiving a distribution.

SCHEDULE "D"
NOTICE OF DISALLOWANCE

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

MICHAEL NEIL STREET and
MARIELLE JACQUEILINE ANGELLA BRULE

PLAINTIFFS

AND:

SATHER RANCH LTD. by its Court Appointed Receiver and
Manager, C. Cheveldave & Associates Ltd.

DEFENDANT

To: Name of Creditor: _____

Pursuant to the Claims Process, C. Cheveldave & Associates Ltd. (the "**Receiver**"), in its capacity of court appointed receiver of Sather Ranch Ltd., hereby gives you notice that your Proof of Claim dated _____, 2020 has been reviewed and the Receiver has disallowed, either partially or in full, your Claim for the following reasons:

Subject only to an appeal of this disallowance being successfully brought by you in full compliance with the provisions of the Claims Process Order, including the prescribed time for any appeal to be filed, your claim will be allowed as follows:

Name of Creditor	Amount Claimed	Amount Allowed

DATED at _____, British Columbia, this ____ day of _____, 2021.

The Receiver.

Per:

Authorized Signatory

If you wish to appeal this Notice of Disallowance you must file a Notice of Application and supporting Affidavit by the deadline provided for in the Claims Process Order, A copy of which is available on the Receiver's website at <https://cheveldave.ca/engagements>.

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

MICHAEL NEIL STREET and
MARIELLE JACQUEILINE
ANGELLA BRULE

PLAINTIFFS

AND:

SATHER RANCH LTD. by its
Court Appointed Receiver and
Manager, C. Cheveldave &
Associates Ltd.

DEFENDANT

CLAIMS PROCESS ORDER



Barristers & Solicitors
1600 Cathedral Place
925 West Georgia Street
Vancouver, British Columbia
V6C 3L2

Phone: (604) 685-3456

Attention: Scott R. Andersen

File No. 36622-148976

Appendix 2

**Order of the Alberta Court of Queen's Bench
Recognizing the Receivership Order and Claims
Process Order**

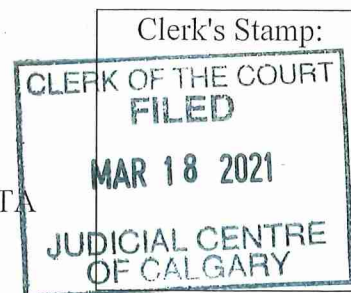
COURT FILE NUMBER 1901-01772

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFFS AMX REAL ESTATE INC. and JOSEPH SATHER

DEFENDANTS MICHAEL STREET, 0882126 B.C. LTD., BOUNDARY MACHINE LTD., MARIELLE BRULE, PROFECTUS FINANCIAL INC. and SATHER RANCH LTD.



DOCUMENT ORDER

I hereby certify this to be a true copy of
the original ORDER

Dated this 18th day of MARCH 2021

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

Lawson Lundell LLP
1100, 225 – 6th Avenue SW
Calgary, AB T2P 1N2
Lawyer: Alexis Teasdale
Phone Number: (403) 218-7564
Fax Number: (403) 269-9494
E-mail Address: ateasdale@lawsonlundell.com

for Clerk of the Court

DATE ON WHICH ORDER WAS PRONOUNCED: March 18, 2021

LOCATION OF HEARING OR TRIAL: Calgary


NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Mr. Justice
P.R. Jeffrey

UPON THE APPLICATION of C. Cheveldave & Associates Ltd., in its capacity as Court-appointed Receiver of Sather Ranch Ltd. (the Receiver), filed March 8, 2021; AND UPON READING the Affidavit of Cecil Cheveldave, sworn on March 8, 2021; AND UPON HEARING from counsel for the Receiver, and from counsel present for any other interested parties, and UPON NOTING THE CONSENT OF COUNSEL,

IT IS HEREBY ORDERED THAT:

- The following orders granted in Action No. S1913131 of the Supreme Court of British Columbia (the Receivership Proceedings) by the Honourable Mr. Justice Walker are hereby recognized and affirmed for the purposes of the within Action:

- (a) Order dated and filed November 21, 2019, attached as Schedule "A" to this Order; and
 - (b) Order Made After Application dated January 14, 2021 (the **Claims Process Order**), attached as Schedule "B" to this Order.
2. Pursuant to rules 1.2, 1.3, and 1.4 of the *Alberta Rules of Court*, Alta Reg 124/2010 (the **Rules**) and s. 8 of the *Judicature Act*, RSA 2000, c J-2, Sather Ranch Ltd. shall be made a plaintiff and removed as a defendant in this Action.
3. Pursuant to rules 1.2 and 1.4 of the *Rules*, the plaintiffs, AMX Real Estate Inc. and Joseph Sather, are directed to provide particulars of their individual and independent causes of action against the defendants, Michael Street, 0882126 B.C. Ltd., Boundary Machine Ltd., Marielle Brule, and Profectus Financial Inc., and the relief sought by the plaintiffs, AMX Real Estate Inc. and Joseph Sather in their individual capacities, by:
 - (a) no later than 30 days after the determination of all Claims that are filed by any of the Related Party Creditors (as such terms are defined in the Claims Process Order) in the Receivership Proceedings; or
 - (b) if no Claims are filed by any of the Related Party Creditors prior to the Claims Bar Date (as such terms are defined in the Claims Process Order) in the Receivership Proceedings, within 30 days of the Claims Bar Date.


Justice of the Court of Queen's Bench of Alberta

Appendix 3

Proofs of Claim from Arms-Length Creditors

PROOF OF CLAIM

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

MICHAEL NEIL STREET and
 MARIELLE JACQUEILINE ANGELLA BRULE

PLAINTIFFS

AND:

SATHER RANCH LTD. by its Court Appointed Receiver and
 Manager, C. Cheveldave & Associates Ltd.

DEFENDANTS

Please read the Instruction Letter carefully prior to completing this Proof of Claim. Please print legibly.

1. Full Legal Name of Creditor **Estate of the Late Palmer E. Sather** __ (the "Creditor").
2. Full Mailing Address of the Creditor (*All notices and correspondence regarding your Claim will be forwarded to this address or to the e-mail address or facsimile address below if appropriate and applicable*):

**c/o Carol Sather-Byman,
 Executor of the Estate of the Late Palmer Sather,
 #37-197 Dauphin Avenue,
 Penticton, B.C. V2A 3S3**

3. Telephone Number: **250-493-7644** _____
4. E-mail: **sneepa_sather@yahoo.ca** _____
5. Facsimile Number: **N/A** _____
6. Attention: **N/A** _____

CLAIM DETAILS

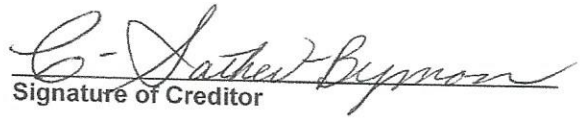
Amount of Claim (Canadian Dollars): \$1,148,617

THE UNDERSIGNED HEREBY CERTIFIES AS FOLLOWS:

- 1. I am a Creditor of **Sather Ranch Ltd.**
- 2. I have knowledge of all the circumstances concerning the Claim hereafter referred to.
- 3. Attached as Schedules to this Proof of Claim are:
 - (a) documents which establish the validity, amount and particulars of the Claim in Canadian Dollars;
 - (b) a description of the transaction or agreement giving rise or relating to the Claim; and
 - (c) copies of any documents evidencing security held for the Claim.

DATED at Penticton, B.C. this 22nd day of March 2021.

Per: **Estate of the Late Palmer Sather c/o Carol Sather-Byman, Executor of the Estate**
[Name of Creditor- please print]


Signature of Creditor

Note: all relevant documentation on which you rely in making your claim must be attached to this Proof of Claim, as the validity of your claim will be determined solely on this Proof of Claim and attachments thereto. If the claim is disallowed for any reason, and you file an appeal of that disallowance, the appeal will be heard as a true appeal and your ability to introduce fresh or new evidence in support of your claim will be limited accordingly.

Schedules:
(to be attached to Proof of Claim)

Schedule "A"

A description of the basis on which the Claim arose is as follows (attach separate sheet if necessary):

In late 2016, Mike Street approached me with an Offer on my Dad's (Palmer Sather) 80 acres of farm land. Mike stressed the smell from the nearby Land Fill site was so strong that nobody would want to buy this property. Mike gave me a copy of a recent Appraisal of the property which put the current market value at \$200,000. After stressing all the negatives about the property, Mike convinced me that the property wasn't worth more than the \$225,000 he was offering. Trusting Mike, I agreed to sell the property to Sather Ranch Ltd. What Mike didn't tell me was that he knew the property was worth several times more than what he was Offering (see email from Appraiser). Only in the past couple of years did I realize that Mike was dishonest and that he took advantage of me because of my age and inexperience with properties. Mike Street "conned" me out of the real market value at the time of the sale. I believe that Mike Street should be charged with fraud for his actions.

In tracing records of livestock owned by my Father, my brother Joe Sather and I, discovered that Mike Street had lied to me about the number of cattle my Dad owned. We estimate that more than 100 head of my Dad's cattle were stolen by Mike Street. My Dad was in his 90's and suffering from mild Dementia at the time of the thefts.

Some of my Dad's Equipment and Tools were on the 80 acre property and on the leased property at the river channel (owned by the Penticton Indian Band) when Mike Street started to manage the cattle operations in April of 2013. Mike Street claims that this equipment and tools belonged to Sather Ranch Ltd. when in fact Mike Street again took advantage of my Dad's Dementia and stole these assets from my Dad. Apparently, the Receiver for Sather Ranch Ltd., believed Mike Street's claim (without receipts or Bills of Sale) that this Equipment, Tools and Supplies belonged to Sather Ranch Ltd. and sold these assets to Mike Street at far less than market value. These assets, valued at more than \$50,000.00 belonged to my Dad, Palmer Sather, and were stored on his property. Mike Street had full access to these assets and stole these assets for his own benefit.

Schedule "B"

The following documents are attached and support the basis for the Claim as described above, including any claim for interest or other charges:

- (i)a Summary of Claim amounts;
- (i) Copy of the original Appraisal of 80 acres dated November 27, 2014, used by Mike Street to support his fraudulent claim;
- (ii) Copy of email dated September 12, 2016 from Appraiser David Bush advising Street on the much higher value of the property;
- (iii) List of Equipment & Supplies belonging to Palmer Sather at date of Land Sale to Sather Ranch Ltd. (value \$50,340);
- (iv) Copy of Calculation of Amount Defrauded by Mike Street and his partner Marielle Brule;
- (v) Copy of Interest Calculation on the money owed to my Dad's Estate;
- (vi) Copy of Equipment & Supplies On Hand at March 31, 2013;
- (vii) Copy of Cattle Herd Inventory (count supplied by Mike Street);
- (viii) Estimated Damages to 80 acres up to February 2nd 2017 and estimated Legal Fees required to represent the Estate of the Late Palmer Sather and to take legal action in this matter.

Schedule "C"

The following documents are attached and support the basis for my claim that I hold security in respect of this Claim:

- (i)
- (ii)
- (iii)
- (iv)
- (v)
- (vi)
- (vii)

Estate of the Late Palmer E. Sather
SUMMARY OF CLAIM - SATHER RANCH LTD. &
MIKE STREET and Marielle Brule
as at March 2021

Claim for 80 Acres Fraud	\$605,636
Claim for Unpaid Interest Charges	\$144,641
Claim for Palmer Sather's Equipment	\$50,340
Claim for Missing/Stolen Cattle	\$198,000
Claim for Damaged Land (estimated)	\$100,000
Claim for Legal Fees (estimated)	<u>\$50,000</u>
Total Claims by the Estate of Palmer E. Sather	<u>\$1,148,617</u>

CALCULATION OF AMOUNT DEFRAUDED

Sather, Estate of Palmer & Estate of Oscar Sather to Sather Ranch Ltd.

Sale/Purchase of 80 acres: PL: 1190 DL:2711 Sub Lot 8

Accepted Offer Date: January 2017

Sale Date: February 2, 2017

Street's Appraised Value:	\$215,000	
Street Offer - Paid	\$225,000	
Estimated Market Value at Purchase Date:	<u>\$1,133,000</u>	
Under Paid	<u>\$908,000</u>	
Estate of the Late Oscar Sather	\$302,364	33.3%
Estate of the Late Palmer Sather	<u>\$605,636</u>	66.7%
Total Under Paid	<u>\$908,000</u>	
Sold Price February 2, 2021	\$1,600,000	
Estimated Annual Increase in Value	\$100,000	2017
	\$100,000	2018
	\$100,000	2019
	\$100,000	2020
	<u>\$67,000</u>	2021
Total Estimated Increase in Value	<u>\$467,000</u>	
Estimated Actual Value February 2, 2017	<u>\$1,133,000</u>	

Estate of the Late Palmer Sather***INTEREST CALCULATION***

Debtor: Sather Ranch Ltd. and/or Mike Street & Marielle Brule

Debt: **\$605,636**

Period: February 2, 2017 to February 2, 2021 (4 years)

Commercial Lending Rate: **5.5%**

	Interest	Accumulated Balance
2017 to 2018	\$33,310	\$638,946
2018 to 2019	\$35,142	\$674,088
2019 to 2020	\$37,075	\$711,163
2020 to 2021	\$39,114	\$750,277
	<u>\$144,641</u>	

Palmer Sather, O/A Sather Ranch

As at March 31, 2013

Equipment & Supplies On Hand

	<u>Estimated Value</u>
1 Stihl Chain Saw, in near new condition (Cost \$650)	\$450
1 Large Multi-Drawer Tool Box (Red)	\$300
5 Water Troughs (1 large round metal \$400, 3 metal \$300, 1 blue plastic \$250)	\$950
1 Large Cow Squeeze (good working condition)	\$3,000
1 Calf Squeeze (excellent working condition)	\$3,500
3 SR Branding Irons	\$300
1 Propane fired Branding Iron Heater with long hose	\$500
4 Propane Tanks (all near new)	\$140
2 Battery Powered Cattle Prods	\$250
2 Medical Kits Tool Boxes containing various med tools	\$300
1 Medical Bin containing 6 Needle Gun Applicators	\$300
Medicines on hand for cows	\$260
3 Ear Tag Applicators and Tools	\$150
2 Nose Controllers (for Bulls)	\$70
2 Calf Pullers with cables	\$120
4 large hemp ropes	\$200
Power Hand Tools: 2 Grinders, 1 Circular Saw, 2 Drills, etc.	\$300
Various hand tools (wrenches, shoevels, picks, augers, etc.)	\$200
4 Steel Storage Barrels (from Grain Shed)	\$100
6 Storage Bins	\$300
2 Moveable Sheds ... Tack Shed, Storage Shed	\$3,000
72 Treated Fence Posts (24 per bundle, 3 bundles)	\$720
20 Large Posts (8"x8" Kreolsole treated - rail ties)	\$400
1 Landini Tractor (paid \$22,000)	\$20,000
Estimated Hay on Hand	\$12,000
Rolls of Pagewire Fencing	\$500
Fencing Barbed Wire and Supplies	\$1,200
Miscellaneous Ranching Supplies	\$830
Estimated Total	<u>\$50,340</u>

LAND APPRAISAL REPORT

File No. 18988A

Property Address **1313 Greyback Mountain Road** Census Tract _____
 City **Penticton** Prov. **BC** Postal Code **V2A 8T3**
 Legal Description **Subsidy Lot 8, Plan KAP1190, DL 2711, LD 54**
 Owner/Occupant **n/a** Map Reference _____
 Sale Price \$ **n/a** Date of Sale **n/a**
 Loan charges/concessions to be paid by seller \$ _____
 R.E. Taxes \$ **25.95** Tax Year **2014** HOA \$/Mo. _____
 Lender/Client **BMO / Sather Ranch Ltd. c/o Mike Street**

LENDER DISCRETIONARY USE
 Sale Price \$ _____
 Date _____
 Mortgage Amount \$ _____
 Mortgage Type _____
 Discount Points and Other Concessions _____
 Paid by Seller \$ _____
 Source _____

LOCATION
 Urban Suburban Rural
 Over 75% 25-75% Under 25%
GROWTH RATE
 Rapid Stable Slow
PROPERTY VALUES
 Increasing Stable Declining
DEMAND/SUPPLY
 Shortage In Balance Over Supply
MARKETING TIME
 Under 3 Mos. 3-6 Mos. Over 6 Mos.

NEIGHBOURHOOD ANALYSIS

	Good	Avg.	Fair	Poor
Employment Stability	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Convenience to Employment	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Convenience to Shopping	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Convenience to Schools	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Adequacy of Public Transportation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Recreation Facilities	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Adequacy of Facilities	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Property Compatibility	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Protection from Desirmental Cond.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Police & Fire Protection	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
General Appearance of Properties	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Appeal to Market	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

PRESENT LAND USE %
 Single Family **20%**
 2-4 Family _____
 Multi-Family _____
 Commercial _____
 Industrial **5%**
 Vacant **75%**

LAND USE CHANGE
 Not Likely
 Likely
 In process
 To: _____

PREDOMINANT OCCUPANCY
 Owner
 Tenant
 Vacant (0-5%)
 Vacant (over 5%)

SINGLEFAMILYHOUSING
 PRICE **150** AGE **new**
 (\$000) (yrs)
1,000 High **70**
 Predominant
400 - 25 yrs

Note: Race or the racial composition of the neighbourhood are not considered reliable appraisal factors.

COMMENTS: See Attached Addendum

SITE
 Dimensions **Rectangular in configuration**
 Site Area **80 Sq.Ft.** Corner Lot **no**
 Zoning Classification **RA - Resource Area** Zoning Compliance **yes**
 HIGHEST & BEST USE: Present Use **yes** Other Use **n/a**

UTILITIES
 Electricity Public _____ Other _____
 Gas _____
 Water Drilled well _____
 Sanitary Sewer Septic required _____
 Storm Sewer _____

SITE IMPROVEMENTS Type _____
 Street Paved _____
 Curb/Gutter _____
 Sidewalk _____
 Street Lights _____
 Alley _____

Topography **Generally sloping**
Size **80.3 acres**
Shape **Irregular**
Drainage **Appears typical**
View **Partial lakeview**
Landscaping **None**
Driveway **Gravel access**
Apparent Easements **See Plan**

Comments (Apparent adverse easements, encroachments, special assessments, slide areas, etc.): **See Attached Addendum**

The undersigned has recited three recent sales of properties most similar and proximate to subject and has considered these in the market analysis. The description includes a dollar adjustment, reflecting market reaction to those items of significant variation between the subject and comparable properties. If a significant item in the comparable property is superior to, or more favorable than, the subject property, a minus (-) adjustment is made, thus reducing the indicated value of subject; if a significant item in the comparable is inferior to, or less favorable than, the subject property, a plus (+) adjustment is made, thus increasing the indicated value of the subject.

ITEM	SUBJECT	COMPARABLE NO. 1	COMPARABLE NO. 2	COMPARABLE NO. 3
Address	1313 Greyback Mtn Rd Penticton	102 Twin Lakes Road Kaleden/Okanagan Falls	Dewitte Rd & Mt. Baldy Rd. Rock Crk. & Area	DL 4086S Bridesville/Rock Cr. Osyoos/Rock Creek area
Proximity to Subject			100± kms east	100± kms east
Sales Price	\$ n/a	\$ 115,000	\$ 140,000	\$ 100,000
Price/	\$ n/a	\$ 115,000	\$ 140,000	\$ 100,000
Data Source	Inspection	MLS® 150649	MLS® 141957	MLS 137200
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	DESCRIPTION	DESCRIPTION
Sales or Financing		n/a	n/a	n/a
Concessions		n/a	n/a	n/a
Date of Sale/Time	n/a	Aug 13/14	Mar 3/14	Mar 19/13
Location	Rural	Rural	Rural	rural
Site/View	Partial lakeview	Valley view/golf view	level usable	Valley view
Site size	80.3 acres	20.03 acres	41.00 acres	30.90 acres
Topography	Mixed/sloping	Similar	Superior/usable	Mixed
Services/improvements	well/power	Similar/960sf shop	at lot line	500sf cabin, stg.
Adj. sale price/acre		\$4,500/acre (rnd)	\$3,400/acre (rnd)	\$2,500/acre (rnd)
Net Adj. (total)		<input type="checkbox"/> + <input checked="" type="checkbox"/> - \$ 25,000	<input checked="" type="checkbox"/> + <input type="checkbox"/> - \$ 0	<input type="checkbox"/> + <input checked="" type="checkbox"/> - \$ 25,000
Indicated Value of Subject		Gross: 21.7 Net: -21.7 \$ 90,000	Gross: 0.0 Net: 0.0 \$ 140,000	Gross: 25.0 Net: -25.0 \$ 75,000

Comments of Sales Comparison: **See Attached Addendum**

Comments and Conditions of Appraisal: The purpose and scope of this appraisal is to estimate current market value for the subject site as of the effective date of this appraisal report.

Final Reconciliation: The Direct Comparison Approach is the most reliable method of estimating market value, typically used by buyers and sellers of properties such as the subject. Final estimate is based on the Direct Comparison Approach only and utilizes a unit of comparison, price per acre.

I (WE) ESTIMATE THE MARKET VALUE, AS DEFINED, OF THE SUBJECT PROPERTY AS OF **November 27, 2014** to be \$ **200,000**

I (We) certify: that to the best of my (our) knowledge and belief, the facts and data used herein are true and correct; that I (we) personally inspected the subject property and inspected all comparable sales cited in this report; and that I (we) have no undisclosed interest, present or prospective therein.

Appraiser(s) **Keith MacPhail, AIC Candidate Appraiser** Review Appraiser **Don Stasuik, CRA**
 Did Not Inspect Property Did Inspect Property

LAND APPRAISAL REPORT

Form No. 18988A

The undersigned has recited three recent sales of properties most similar and proximate to subject and has considered these in the market analysis. The description includes a dollar adjustment, reflecting market reaction to those items of significant variation between the subject and comparable properties. If a significant item in the comparable property is superior to, or more favorable than, the subject property, a minus (-) adjustment is made, thus reducing the indicated value of subject; if a significant item in the comparable is inferior to, or less favorable than, the subject property, a plus (+) adjustment is made, thus increasing the indicated value of the subject.

SALES COMPARISON ANALYSIS

ITEM	SUBJECT	COMPARABLE NO. 4		COMPARABLE NO. 5		COMPARABLE NO. 6	
Address	1313 Greyback Mtn Rd Penticton	Lot 2 Kelly Road Osoyoos		Lot 1 Sheep Creek Road Kaleden/Okanagan Falls Rural		Lot 2 Sheep Creek Road Kaleden/Okanagan Falls Rural	
Proximity to Subject		100± kms east		100± kms east		100± kms east	
Sales Price	\$ n/a	\$ 138,000		\$ 175,000		\$ 225,000	
Price/	\$ n/a	\$ 138,000		\$ 175,000		\$ 225,000	
Date Source	Inspection	MLS 136879		MLS® 149650		MLS® 149651	
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	+(-)\$ Adjustment	DESCRIPTION	+(-)\$ Adjustment	DESCRIPTION	+(-)\$ Adjustment
Sales or Financing		n/a		n/a		n/a	
Concessions		n/a		n/a		n/a	
Date of Sale/Time	n/a	Aug 27/12		Active Listing		Active Listing	
Location	Rural	Rural		Rural		Rural	
Site/View	Partial lakeview	Valley view		Valley view		Valley view	
Site size	80.3 acres	80 acres		80.00 acres		50.00 acres	
Topography	Mixed/sloping	Mixed/sloping		Mixed/sloping		Mixed/sloping	
Services/improvements	well/power	at lot line		none		none	
Adj. sale price/acre		\$1,700/acre (rnd)		\$2,200/acre (rnd)		\$4,500/acre (rnd)	
Net Adj. (total)		[X] + [] - \$ 0		[X] + [] - \$ 0		[X] + [] - \$ 0	
Indicated Value of Subject		Gross: 0.0		Gross: 0.0		Gross: 0.0	
		Net: 0.0	\$ 138,000	Net: 0.0	\$ 175,000	Net: 0.0	\$ 225,000

ADDITIONAL COMMENTS

The above active listings are located in the Kaleden area and would be considered to be direct competition if the subject were to be listed on the MLS system. As no sale price has been established, no adjustments have been made; the active listings are included for information on the local listings market. Lot 1 Sheep Creek Road is a listing where it is reported that the seller is motivated and the property has been priced accordingly.

Borrower: Mike Street	File No.: 18988A
Property Address: 1313 Greyback Mountain Road	Case No.:
City: Penticton	Province: BC
Lender: BMO / Sather Ranch Ltd. c/o Mike Street	Postal Code: V2A 8T3

Neighbourhood Comments

Rural residential neighbourhood located just northeast of downtown Penticton along the eastern benches overlooking Okanagan Lake. The subject is located beyond the city limits approximately 5.5 km north of Penticton. The neighbourhood is characterized by good lake and valley views to the west. The abandoned Kettle Valley Railway (KVR) right-of-way, now part of the Trans Canada Trail, traverses the neighbourhood from north to south. The area consists of single family residences, hobby farms, orchards, and vineyards and the Campbell Mountain Landfill. The overall neighbourhood enjoys a good market acceptance.

Site Comments

The subject site is accessed by Greyback Mountain Road. The road access located on the southern portion of the site also bisects the property in an east-west direction parallel to the southern boundary along with a powerline. The subject lot is 80.3 acres in size and is rectangular in configuration. Approximately 50 acres are forested hillside and the remaining 30 acres is open rolling native grass land and homesite. Under current zoning the subject property is not able to be subdivided.

The subject is located directly east of the Campbell Mountain Landfill; at the time of the inspection the site was affected by odors from the landfill composting and by equipment noise also emanating from the landfill operations. The proximity to the landfill will result in purchaser resistance.

Topography is generally moderate to gentle upward sloping hillside from Greyback Mountain Road. The site also slopes downwards along the western boundary offering some views of Okanagan Lake. There is a leveled graded building site and a fenced and cross fenced area for livestock, this area is also improved with a manufactured home.

For the purpose of this land valuation the improvements are not considered in the estimated market value found below. The majority of the site is considered to have mild to moderate slopes which reduce the usable area of the site. Services located at the lot line include hydro. A septic system will be required. The site offers partial views of Okanagan Lake and the surrounding valley. Lot size is typical for the immediate area and the subject conforms to neighbouring properties.

Comments on Sales Comparison

An extensive search for comparables, offering similar characteristics as the subject in regards to size and highest and best use, resulted in a limited number of sales to select from; none of which were located in the subject's immediate neighbourhood. Therefore, sales from neighbourhoods similar to the subject have had to be selected for comparison purposes. The 4 comparables available are deemed to best reflect an estimated market value for the subject. Two active listings were also included for information purposes. A per acre unit of comparison has been selected to establish an estimated fair market value for the subject site.

"Units of comparison are used to adjust for differences in size by reducing a sale to a unit basis, so it can be compared with other similar sales and the subject. A useful unit is one that represents market behaviour, and this can sometimes vary from one market or submarket to another" (Basics of Real Estate Appraising Fourth Edition). Often when purchasers are considering rural large acre parcels a sale price per acre is considered, as is the case in this report. When considering a sale price per acre, one must also consider a Law of Diminishing Return which indicates the larger the unit, the lower the unit cost may be. This is typical for acreage type parcels of land, which is further supported by the Direct Comparison Approach.

The area real estate market within this submarket has remained relatively stable over the period between the comparable sale dates and the effective date of this appraisal report, therefore, no time adjustments are required.

Comparable #1, a 20.03-acre parcel improved with access, a detached 960sf workshop, carport and an old trailer indicates an adjusted sale price per acre of \$4,500 (rounded).

Comparable #2, a 41.0-acre parcel is reported to have no site improvements; it indicates an adjusted sale price per acre of \$3,400 (rounded).

Comparable #3, a 30.9-acre parcel improved with access and what is reported as a 500sf hunters cabin and a 20-foot shipping container indicates an adjusted sale price per acre of \$2,500 (rounded).

Comparable #4, an 80-acre parcel is reported to have no established access and no site improvements indicates an adjusted sale price per acre of \$1,700 (rounded).

The above sales when applied to the subject site results in a range of values as follows:

Comparable #1 \$4,500 per/acre @ 80 Acres = \$ 360,000
 Comparable #2 \$3,400 per/acre @ 80 Acres = \$ 272,000
 Comparable #3 \$2,500 per/acre @ 80 Acres = \$ 200,000
 Comparable #4 \$1,700 per/acre @ 80 Acres = \$ 136,000

Comparable #1 at 20 acres represents a smaller parcel with superior site influences. Due to subdivision costs smaller sites will reflect in a higher per acre selling price. As such Comparable #1 is considered to be superior to the subject site and sets the upper range of value. Comparable #2 represents a 40 acre site of lightly treed usable land with no adverse site influences. Given the smaller size and the superior site influences this sale is also considered to be superior. Comparable #3 offers similar terrain to that of the subject site with a mix of grassland and forest and hillside to level bench. This sale is impacted by an abandoned railway line but offers very good valley views. Comparable #4 is similar in size to that of the subject at 80 acres and offers similar topography and good views. It is recognized that this sale is a dated sale. An analysis of market data within the submarket indicates that although Comparable #4 is a dated sale property values have been relatively stable. Therefore, no adjustment for sale date was deemed to be required. Comparable #4 is a court ordered "forced sale" and as such it is considered to represent the lowest range of values for the subject site. The subject site has a superior location to that of Comparable #4 given the close proximity to Penticton. The subject also has superior lake views. However, between the lake view and the subject is the negative impact of the Campbell Mountain Landfill. In summary, given the site influences of the subject site it is considered to be superior to the per acre sale price of Comparable #4.

Borrower: Mike Street	File No.: 18988A	
Property Address: 1313 Greyback Mountain Road	Case No.:	
City: Penticton	Province: BC	Postal Code: V2A 8T3
Lender: BMO / Sather Ranch Ltd. c/o Mike Street		

The active listings provided in the comparables sales grid as Comparable #5 and #6 would be considered direct competition to the subject site if the subject were to be listed for sale on the MLS system. They have been included for information on the local listings market. Lot 1 Sheep Creek Road represents a listing where it has been reported that the seller is motivated and the property has been priced accordingly. This site offers a non-serviced 80 acres of land with similar topography. Due to servicing costs, the subject site is considered to be superior to Comparable #5 which is being offered at \$2,200 per/acre.

The comparables available reflect an adjusted range of values from a low of \$1,700/acre to a high of \$4,500/acre. Given subjects good proximity to the City of Penticton and the negative impact of the landfill, a lower range value of \$2,500 per acre has been selected to best represent the subject's estimated market value.

Final estimate of market value: 80.0 acres @ \$2,500 per acre = \$200,000 (rounded)

RESIDENTIAL APPRAISAL REPORT

REFERENCE:

FILE NO.: 18988A

SALES HISTORY
ANALYSIS OF KNOWN CURRENT AGREEMENTS FOR SALE, OPTIONS, LISTINGS OR MARKETING OF THE SUBJECT: (minimum of one year) An MLS search shows no listing or sales in the last 3 years. BC Assessment records show no transfers in the last three years.

ANALYSIS OF SALE TRANSFER HISTORY: (minimum of three years) No transfers of the subject in 3 years according to BC Assessment records.

EXPOSURE TIME
ANALYSIS OF REASONABLE EXPOSURE TIME: Reasonable exposure time is 30 to 90 days if listed correctly.

RECONCILIATION AND FINAL ESTIMATE OF VALUE
RECONCILIATION AND FINAL ESTIMATE OF VALUE: The Direct Comparison Approach is the most reliable method of estimating market value, typically used by buyers and sellers of properties such as the subject. Final estimate is based on the Direct Comparison Approach only and utilizes a unit of comparison, price per acre.

UPON REVIEWING AND RECONCILING THE DATA, ANALYSES AND CONCLUSIONS OF EACH VALUATION APPROACH, THE MARKET VALUE OF THE INTEREST IN THE SUBJECT PROPERTY AS AT 11/27/2014 (Effective Date of the Appraisal) IS ESTIMATED TO BE \$ 200,000
THIS REPORT WAS COMPLETED ON: 12/08/2014

DEFINITIONS
DEFINITION OF MARKET VALUE: The most probable price which a property should bring in a competitive and open market as of the specified date under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus.
Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: buyer and seller are typically motivated; both parties are well informed or well advised, and acting in what they consider their own best interests; a reasonable time is allowed for exposure in the open market; payment is made in terms of cash in Canadian dollars or in terms of financial arrangements comparable thereto; and the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.
(Source: Canadian Uniform Standards of Professional Appraisal Practice) Note: If other than market value is being appraised, see additional comments.
DEFINITION OF HIGHEST AND BEST USE: The reasonably probable and legal use of the property, that is physically possible, appropriately supported, and financially feasible, and that results in the highest value.

SCOPE
The scope of the appraisal encompasses the due diligence undertaken by the appraiser (consistent with the terms of reference from the client, the purpose and intended use of the report) and the necessary research and analysis to prepare a report in accordance with the Canadian Uniform Standards of Professional Appraisal Practice (CUSPAP) of the Appraisal Institute of Canada. The following comments describe the extent of the process of collecting, confirming and reporting data and its analysis, describe relevant procedures and reasoning details supporting the analysis, and provide the reason for the exclusion of any usual valuation procedures.
The appraisal issue that is the focus of this engagement has been discussed and defined with the client, the work required to solve the issue planned, and the necessary market data acquired, analyzed and reconciled into an estimate of market value in a manner typically expected in a "form" report.
The specific tasks and items necessary to complete this assignment include a summary of the following:
1. assembly and analysis of relevant information pertaining to the property being appraised, including listing and acquisition particulars if acquired within three years prior to the effective date of the appraisal;
2. an inspection of the subject property and the surrounding area;
3. assembly and analysis of pertinent economic and market data;
4. an analysis of land use controls pertaining to the subject property;
5. a summary discussion and statement of "Highest and Best Use", or most probable use;
6. a discussion of the appraisal methodologies and procedures employed in arriving at the indications of value;
7. inclusion of photographs, maps, graphics and addendum/exhibits when deemed appropriate; and
8. reconciliation of the collected data into an estimate of market value or market value range as at the effective date of the appraisal.
All data considered appropriate for inclusion in the appraisal is, to the best of our knowledge, factual. Due to the type of property being appraised and the nature of the appraisal issue, the findings have been conveyed in this "form" format.
Other: Unless otherwise stated, the subject property was inspected externally by the undersigned. Data contained within this report has been collected from various sources including but not limited to: the City of Penticton, the South Okanagan Real Estate Board, the Regional District and the British Columbia Assessment Authority. Additional data has been obtained through local realtors, contractors and appraisal files held at our office. Market data has been verified from information provided by the local real estate board and if not, a party associated with the transaction. A title search was not completed on the subject property. The final estimate of value assumes that there are no negative impacts to the subject property resulting from any right-of-ways or easements not visible or evident by the site visit.

RESIDENTIAL APPRAISAL REPORT

REFERENCE:

FILE NO.: 18988A

ASSUMPTIONS AND LIMITING CONDITIONS AND EXTRAORDINARY ITEMS

ORDINARY ASSUMPTIONS & LIMITING CONDITIONS

- The certification that appears in this appraisal report is subject to compliance with the Personal Information and Electronics Documents Act (PIPEDA) and the following conditions:
- This report is prepared at the request of the client and for the specific use referred to herein. It is not reasonable for any other party to rely on this appraisal without first obtaining written authorization from the client, the author and any supervisory appraiser, subject to the qualification in paragraph 11 below. Liability is expressly denied to any person other than the client and those who obtain written consent and, accordingly, no responsibility is accepted for any damage suffered by any such person as a result of decisions made or actions based on this report. Diligence by all intended users is assumed.
 - Because market conditions, including economic, social and political factors change rapidly and, on occasion, without warning, the market value estimate expressed as of the date of this appraisal cannot be relied upon as of any other date except with further advice from the appraiser and confirmed in writing.
 - The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. No registry office search has been performed and the appraiser assumes that the title is good and marketable and free and clear of all encumbrances including leases, unless otherwise noted in this report. The property is appraised on the basis of it being under responsible ownership.
 - The subject property is presumed to comply with government regulations including zoning, building codes and health regulations and, if it doesn't comply, its non-compliance may affect market value.
 - No survey of the property has been made. Any sketch in the appraisal report shows approximate dimensions and is included only to assist the reader of the report in visualizing the property.
 - This report is completed on the basis that testimony or appearance in court concerning this appraisal is not required unless specific arrangements to do so have been made beforehand. Such arrangements will include, but not necessarily be limited to, adequate time to review the appraisal report and data related thereto and the provision of appropriate compensation.
 - Unless otherwise stated in this report, the appraiser has no knowledge of any hidden or unapparent conditions of the property (including, but not limited to, its soils, physical structure, mechanical or other operating systems, its foundation, etc.) or adverse environmental conditions (on it or a neighbouring property, including the presence of hazardous wastes, toxic substances, etc.) that would make the property more or less valuable. It has been assumed that there are no such conditions unless they were observed at the time of inspection or became apparent during the normal research involved in completing the appraisal. This report should not be construed as an environmental audit or detailed property condition report, as such reporting is beyond the scope of this report and/or the qualifications of the appraiser. The author makes no guarantees or warranties, express or implied, regarding the condition of the property, and will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. The bearing capacity of the soil is assumed to be adequate.
 - The appraiser is not qualified to comment on environmental issues that may affect the market value of the property appraised, including but not limited to pollution or contamination of land, buildings, water, groundwater or air. Unless expressly stated, the property is assumed to be free and clear of pollutants and contaminants, including but not limited to moulds or mildews or the conditions that might give rise to either, and in compliance with all regulatory environmental requirements, government or otherwise, and free of any environmental condition, past, present or future, that might affect the market value of the property appraised. If the party relying on this report requires information about environmental issues then that party is cautioned to retain an expert qualified in such issues. We expressly deny any legal liability relating to the effect of environmental issues on the market value of the subject property.
 - The analysis set out in this report relied on written and verbal information obtained from a variety of sources we considered reliable. Unless otherwise stated herein, we did not verify client-supplied information, which we believed to be correct.
 - The opinions of value and other conclusions contained herein assume satisfactory completion of any work remaining to be completed in a good and workmanlike manner. Further inspection may be required to confirm completion of such work.
 - The contents of this report are confidential and will not be disclosed by the author to any party except as provided for by the provisions of the Canadian Uniform Standards of Professional Appraisal Practice (The Standards) and/or when properly entered into evidence of a duly qualified judicial or quasi-judicial body. The appraiser acknowledges that the information collected herein is personal and confidential and shall not use or disclose the contents of this report except as provided for in the provisions of the Canadian Uniform Standards of Professional Appraisal Practice (The Standards) and in accordance with the appraiser's privacy policy. The client agrees that in accepting this report, it shall maintain the confidentiality and privacy of any personal information contained herein and shall comply in all material respects with the contents of the appraiser's privacy policy and in accordance with the Personal Information Protection and Electronic Documents Act (PIPEDA).
 - The appraiser has agreed to enter into the assignment as requested by the client named in the report for the use specified by the client, which is stated in the report. The client has agreed that the performance of this appraisal and the report format are appropriate for the intended use.
 - Written consent from the author and supervisory appraiser, if applicable, must be obtained before any part of the appraisal report can be used for any purpose by anyone except the client and other intended users identified in the report. Where the client is the mortgagee and the loan is insured, liability is extended to the mortgage insurer. Liability to any other party or for any other use is expressly denied regardless of who pays the appraisal fee. Written consent and approval must also be obtained before the appraisal (or any part of it) can be altered or conveyed to other parties, including mortgages (other than the client) and the public through prospectus, offering memoranda, advertising, public relations, news, sales or other media.
 - This report form is the property of the Appraisal Institute of Canada (AIC) and for use only by AIC members in good standing. Use by any other person is a violation of AIC copyright. This appraisal report, its content and all attachments/addendums and their content are the property of the author who has signed this report (the author). The client, intended users and any appraisal facilitator are strictly forbidden and no permission is expressly or implicitly granted or deemed to be granted, to modify, alter, merge, publish (in whole or in part) screen scrape, database scrape, exploit, reproduce, decompile, reassemble or participate in any other activity intended to separate, collect, store, reorganize, scan, copy, manipulate electronically, digitally, manually or by any other means whatsoever this appraisal report, addendum, all attachments and the data contained within for any commercial, or other, use.
 - If transmitted electronically, this report will have been digitally signed and secured with personal passwords to lock the appraisal file. Due to the possibility of digital modification, only originally signed reports and those reports sent directly by the appraiser, can be relied upon without fault.
 - Where the intended use of this report is for financing or mortgage lending, and in accordance with the Office of the Superintendent of Financial Institutions Canada (OSFI) Residential Mortgage Underwriting Practices and Procedures B-20 (June 2012), it is the intended user's responsibility to grant mortgage loans on the basis of the borrower's demonstrated willingness and capacity to services his/her debt obligations.

I certify that, to the best of my knowledge and belief that:

- The statements of fact contained in this report are true and correct;
- The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions and are my impartial and unbiased professional analyses, opinions and conclusions;
- I have no past, present or prospective interest in the property that is the subject of this report and no personal and/or professional interest or conflict of with respect to the parties involved with this assignment;
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment;
- My engagement in and compensation for this assignment were not contingent upon developing or reporting predetermined results, the amount of value estimate, or a conclusion favouring the client;
- My analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the Canadian Uniform Standards of Professional Appraisal Practice (CUSPAP);
- I have the knowledge and experience to complete this assignment competently, and where applicable this report is co-signed in compliance with the Canadian Uniform Standards of Professional Appraisal Practice;
- Except as herein disclosed, no one has provided significant professional assistance to the person(s) signing this report;
- As of the date of this report the undersigned has fulfilled the requirements of the Appraisal Institute of Canada Continuing Professional Development Program for members;
- The undersigned is (are all) members in good standing of the Appraisal Institute of Canada.


CO-SIGNING AIC APPRAISER'S CERTIFICATION If an AIC appraiser has co-signed this appraisal report, he or she certifies and agrees that "I directly supervised the appraiser who prepared this appraisal report and, having reviewed the report, agree with the statements and conclusions of the appraiser, agree to be bound by the appraiser's certification and am taking full responsibility for the appraisal and the appraisal report."

PROPERTY IDENTIFICATION

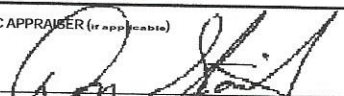
ADDRESS: 1313 Greyback Mountain Road CITY: Penticton PROVINCE: BC POSTAL CODE: V2A 8T3
 LEGAL DESCRIPTION: Subsidy Lot 8, Plan KAP1190, DL 2711, LD 54

BASED UPON THE DATA, ANALYSES AND CONCLUSIONS CONTAINED HEREIN, THE MARKET VALUE OF THE INTEREST IN THE PROPERTY DESCRIBED,
 AS AT 11/27/2014 (Effective date of the appraisal) IS ESTIMATED TO BE \$ 200,000

APPRAISER

SIGNATURE: 
 NAME: Keith MacPhail
 AIC DESIGNATION (or Member Status): AIC Candidate Appraiser
 DATE SIGNED: 12/08/2014
 PERSONALLY INSPECTED THE SUBJECT PROPERTY: YES NO
 DATE OF INSPECTION: 11/27/2014
 LICENSE INFO: (where applicable) _____

CO-SIGNING AIC APPRAISER (if applicable)

SIGNATURE: 
 NAME: Don Stasuiik, CRA
 AIC DESIGNATION: CRA
 DATE SIGNED: 12/08/2014
 PERSONALLY INSPECTED THE SUBJECT PROPERTY: YES NO
 DATE OF INSPECTION: Did not inspect
 LICENSE INFO: (where applicable) _____

NOTE: For this appraisal to be valid, an original or a password protected digital signature is required.

NOTE: For this appraisal to be valid, an original or a password protected digital signature is required.

- SOURCE OF DIGITAL SIGNATURE SECURITY: _____
- ATTACHMENTS AND ADDENDA: ADDITIONAL SALES EXTRAORDINARY ITEMS NARRATIVE PHOTOGRAPHS BUILDING SKETCH
 MAPS COST APPROACH INCOME APPROACH Comp. Map Comp. Photos

RESIDENTIAL APPRAISAL REPORT - ADDENDUM

REFERENCE:

FILE NO.: 18988A

CLIENT	CLIENT:	BMO / Sather Ranch Ltd. c/o Mike Street	APPRAISER	APPRAISER:	Keith MacPhail	 Appraisal Institute of Canada
	ATTENTION:	Mike Street		COMPANY:	Schoenne Appraisals Ltd.	
	ADDRESS:	Penticton, B.C. V2A 8T3		ADDRESS:	101-144 Front Street Penticton, B.C. V2A 1H1	
	E-MAIL:	boundarymachine@shawbiz.ca		E-MAIL:	keith@schoenne.com	
	PHONE:	FAX:		PHONE:	250-492-5151 FAX: 250-492-5156	

EXTRAORDINARY ASSUMPTIONS & LIMITING CONDITIONS

An extraordinary assumption is a hypothesis, either supposed or unconfirmed, which, if not true, could alter the appraiser's opinions and conclusions (e.g. an absence of contamination where such contamination is possible, the presence of a municipal sanitary sewer where unknown or uncertain). An extraordinary limiting condition is a necessary modification or exclusion of a Standard Rule which must be explained and justified by the appraiser (e.g. exclusion of one or more valuation approaches). The appraiser must conclude before accepting the assignment which involves invoking an Extraordinary Limiting Condition that the scope of the work applied will result in opinions and conclusions which are credible. Both must accompany statements of each opinion/conclusion so affected.

As per your instructions the final estimate of value contained in this report is based on land only; no value has been given to outbuildings, equipment or the single family residence.

EXTRAORDINARY ITEMS ADDENDUM

HYPOTHETICAL CONDITIONS

Hypothetical conditions may be used when they are required for legal purpose, for purposes of reasonable analysis or for purposes of comparison. Common hypothetical conditions include proposed improvements and prospective appraisals. For every Hypothetical Condition, an Extraordinary Assumption is required (see above). An analysis based on a hypothetical condition must not result in an appraisal report that is misleading or that relies on actions or events that would be illegal or improbable within the context of the assignment. Following is a description of each hypothetical condition applied to this report, the rationale for its use and its effect on the result of the assignment.

none

JURISDICTIONAL EXCEPTION

The Jurisdictional Exception permits the appraiser to disregard a part or parts of the Standards determined to be contrary to law or public policy in a given jurisdiction and only that part shall be void and of no force or effect in that jurisdiction. The following comments identify the part or parts disregarded, if any, and the legal authority justifying these actions.

none

PLOTMAP

Borrower: Mike Street	File No.: 18988A
Property Address: 1313 Greyback Mountain Road	Case No.:
City: Penticton	Prov.: BC
Lender: BMO / Sather Ranch Ltd. c/o Mike Street	P.C.: V2A 8T3



Subject: Fw: Schoenne Appraisals File #18988A-4/Sather Ranch Ltd./1313 Grayback Mountain Road, Penticton
From: Boundary Machine (boundarymachine@shawbiz.ca)
To: joesather_realtor@yahoo.ca;
Date: Monday, September 12, 2016 1:13 PM



Hi Joe,

I was thinking it might be worth getting a second appraisal so I called Inland Appraisers, here is his reply.

Mike

From: [David Bush](#)
Sent: Monday, September 12, 2016 11:49 AM
To: 'Boundary Machine'
Subject: RE: Schoenne Appraisals File #18988A-4/Sather Ranch Ltd./1313 Grayback Mountain Road, Penticton

Hi Mike,

Thank you for forwarding me the December 2014 appraisal.

Given the intended use of the appraisal there are a number of issues that need appropriate consideration and investigation including in particular the highest and best use. It is a relatively unique property in terms of proximity to the City and therefore the research involved would be more than for a "typical" appraisal.

The fee would be \$1500 plus disbursements and GST. The disbursements would include a copy of the Title and any charges on Title that require investigation, and would likely run from \$20 to \$80. The fee would be payable at the time of the inspection.

I could not do the inspection until next week sometime, or possibly not until the last week of September. It would take anywhere from one to three weeks to complete the report.

Lastly, I have not conducted any review of the December 2014 report, however, my initial thought on reading the estimated market value is that it is highly likely that the estimated value from my report could be vastly higher. This of course cannot be determined without doing the appraisal. I only mention it because I anticipate you may be surprised by the difference between the two estimated values.

Please let me know if there are any questions, or if you would like me to proceed on the above basis.

Regards,

David E.W. Bush, AACI, P.App

Inland Appraisers Ltd.

208 Main Street

Penticton, BC V2A 5B2

250-493-6734 (Main)

250-493-7144 (Fax)

From: Boundary Machine [mailto:boundarymachine@shawbiz.ca]

Sent: Monday, September 12, 2016 10:50 AM

To: david@inlandappraisers.com

Subject: Fw: Schoenne Appraisals File #18988A-4/Sather Ranch Ltd./1313 Grayback Mountain Road, Penticton

Hi David,

Here is a copy of the appraisal we had done in December 2014. I can meet with you anytime for the on site inspection, or any other questions you may have.

Thank you.

Mike Street

Sather Ranch Ltd.

1335 Commercial Way

Penticton B.C.

V2A 3H4

Cell 250-462-0051

From: [Kim Hourston](#)

Sent: Monday, December 8, 2014 2:37 PM

To: boundarymachine@shawbiz.ca

Subject: Schoenne Appraisals File #18988A-4/Sather Ranch Ltd./1313 Grayback Mountain Road, Penticton

Hi Mike,

Please find the above noted report attached as a pdf file.

Kind regards,

Kim Hourston
Schoenne Appraisals Ltd.
101-144 Front Street
Penticton, BC V2A 1H1
250-492-5151

Visit our website: <http://www.schoenne.com>

Like us on Facebook: <http://www.facebook.com/schoenneappraisals>

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Whether your appraisal needs are residential or commercial, industrial or agricultural, depreciation reports or replacement cost estimates, Schoenne Appraisals Ltd has qualified appraisers on staff that can service all your appraisal needs.

We appreciate your business and your referrals

No virus found in this message.

Checked by AVG - www.avg.com

Version: 2014.0.4794 / Virus Database: 4235/8717 - Release Date: 12/11/14

PROOF OF CLAIM

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

MICHAEL NEIL STREET and
MARIELLE JACQUEILINE ANGELLA BRULE

PLAINTIFFS

AND:

SATHER RANCH LTD. by its Court Appointed Receiver and
Manager, C. Cheveldave & Associates Ltd.

DEFENDANTS

Please read the Instruction Letter carefully prior to completing this Proof of Claim. Please print legibly.

- 1. Full Legal Name of Creditor **Estate of the Late Oscar Sather** _____ (the "Creditor").
- 2. Full Mailing Address of the Creditor (*All notices and correspondence regarding your Claim will be forwarded to this address or to the e-mail address or facsimile address below if appropriate and applicable*):

**c/o Arlene Moser,
 Executor of the Estates of the Late Oscar & Connie Sather,
 14305 Prairie Valley Road,
 Summerland, B.C. V0H 1Z8**

- 3. Telephone Number: **c. 250-488-1278 r. 250-494-0450** _____
- 4. E-mail: **ronsduworkin@gmail.com** _____
- 5. Facsimile Number: **N/A** _____
- 6. Attention: **N/A** _____

CLAIM DETAILS

Amount of Claim (Canadian Dollars): \$449,576

THE UNDERSIGNED HEREBY CERTIFIES AS FOLLOWS:

1. I am a Creditor of Sather Ranch Ltd.
2. I have knowledge of all the circumstances concerning the Claim hereafter referred to.
3. Attached as Schedules to this Proof of Claim are:
 - (a) documents which establish the validity, amount and particulars of the Claim in Canadian Dollars;
 - (b) a description of the transaction or agreement giving rise or relating to the Claim; and
 - (c) copies of any documents evidencing security held for the Claim.

DATED at Summerland, B.C. this **29th** day of **March** **2021**.

Per: **Estate of the Late Oscar Sather, Executor of the Estate**
[Name of Creditor- please print]

Arlene Moser
Signature of Creditor

Note: all relevant documentation on which you rely in making your claim must be attached to this Proof of Claim, as the validity of your claim will be determined solely on this Proof of Claim and attachments thereto. If the claim is disallowed for any reason, and you file an appeal of that disallowance, the appeal will be heard as a true appeal and your ability to introduce fresh or new evidence in support of your claim will be limited accordingly.

Schedules:
(to be attached to Proof of Claim)

Schedule "A"

A description of the basis on which the Claim arose is as follows (attach separate sheet if necessary):

In late 2016, Mike Street approached my Mother (Connie Sather) and I with an Offer on the 1/3rd portion of the 80 acres at 1313 Greyback Mountain Road, Penticton, BC, owned by the Estate of the Late Oscar Sather, administered by my Mother (Connie) and I (Arlene Moser, daughter of Oscar and Connie Sather). In our meeting with Mike Street, he stressed that the smell from the nearby Land Fill site was so strong that nobody would want to buy this property. Mike Street gave me a copy of a recent Appraisal of the property which put the current market value at \$200,000. After stressing all the negatives about the property, Mike Street convinced my Mom and I that the property wasn't worth more than the \$225,000 the was offering of which \$75,000 would be paid to my Father's Estate. Trusting Mike Street, I agreed to sell the property to Mike Street and/or Sather Ranch Ltd. What Mike Street didn't tell me was that he knew the property was worth several times more than what he was Offering (see email attached from his Appraiser). Only recently did I realize that Mike Street was dishonest and that he took advantage of my elderly Mother and I because of her age and inexperience with this type of property (farm land). Mike Street "conned" my Mother and my Father's Estate out of thousands of dollars, knowing the real market value at the time of the sale was many times more than what he claimed. This is a deliberate fraud by Mike Street and I believe that he should be charged with fraud for his actions.

Schedule "B"

The following documents are attached and support the basis for the Claim as described above, including any claim for interest or other charges:

- (i) Summary of Claim (amounts);
- (ii) Copy of the original Appraisal of 80 acres dated November 27, 2014, used by Mike Street to support his fraudulent claim;
- (iii) Copy of email dated September 12, 2016 from Appraiser David Bush advising Street on the much higher value of the property;
- (iv) Copy of Calculation of Amount Defrauded by Mike Street and his partner Marielle Brule;
- (v) Copy of Interest Calculation on the money owed by Mike Street and/or Sather Ranch Ltd. to my Dad's Estate;
- (vi) Estimated Damages to 80 acres up to February 2nd 2017 and estimated Legal Fees required to represent the Estate of the Late Oscar Sather in any court action against Mike Street, Marielle Brule and Sather Ranch Ltd.

Schedule "C"

The following documents are attached and support the basis for my claim that I hold security in respect of this Claim:

- (i)
- (ii)
- (iii)
- (iv)
- (v)
- (vi)
- (vii)

Estate of the Late Oscar & Connie Sather
SUMMARY OF CLAIM - SATHER RANCH LTD. &
MIKE STREET and Marielle Brule
as at March 2021

Claim for 80 Acres defraud from Estate	\$302,364
Claim for Unpaid Interest Charges	\$72,212
Claim for Damaged Land (estimated)	\$50,000
Claim for Legal Fees (estimated)	<u>\$25,000</u>
Total Claims by the Estate of Oscar & Connie Sather	<u>\$449,576</u>

LAND APPRAISAL REPORT

File No. 18988A

Property Address 1313 Greyback Mountain Road
 City Penticton Prov. BC Postal Code V2A 8T3
 Legal Description Subsidy Lot 8, Plan KAP1190, DL 2711, LD 54
 Owner/Occupant n/a
 Sale Price \$ n/a Date of Sale n/a
 Loan charges/concessions to be paid by seller \$
 R.E. Taxes \$ 25.95 Tax Year 2014 HOA \$/Mo.
 Lender/Client BMO / Sather Ranch Ltd. c/o Mike Street

LENDER DISCRETIONARY USE
 Sale Price \$
 Date
 Mortgage Amount \$
 Mortgage Type
 Discount Points and Other Concessions
 Paid by Seller \$
 Source

PROPERTY RIGHTS APPRAISED
 Fee Simple
 Leasehold
 Condominium (HUD/VA)
 PUD

LOCATION
 Urban Suburban Rural
 Over 75% 25-75% Under 25%
 GROWTH RATE
 Rapid Stable Slow
 PROPERTY VALUES
 Increasing Stable Declining
 DEMAND/SUPPLY
 Shortage In Balance Over Supply
 MARKETING TIME
 Under 3 Mos. 3-6 Mos. Over 6 Mos.

NEIGHBOURHOOD ANALYSIS
 Employment Stability
 Convenience to Employment
 Convenience to Shopping
 Convenience to Schools
 Adequacy of Public Transportation
 Recreation Facilities
 Adequacy of Facilities
 Property Compatibility
 Protection from Detrimental Cond.
 Police & Fire Protection
 General Appearance of Properties
 Appeal to Market

Note: Race or the racial composition of the neighbourhood are not considered reliable appraisal factors.
 COMMENTS: See Attached Addendum

Dimensions Rectangular in configuration
 Site Area 80 Sq.Ft. Corner Lot no
 Zoning Classification RA - Resource Area Zoning Compliance yes
 HIGHEST & BEST USE: Present Use yes Other Use n/a

UTILITIES
 Electricity Public Other
 Gas
 Water Drilled well
 Sanitary Sewer Septic required
 Storm Sewer

SITE IMPROVEMENTS Type Public Private
 Street Paved
 Curb/Gutter
 Sidewalk
 Street Lights
 Alley

Topography Generally sloping
 Size 80.3 acres
 Shape Irregular
 Drainage Appears typical
 View Partial lakeview
 Landscaping None
 Driveway Gravel access
 Apparent Easements See Plan

Comments (Apparent adverse easements, encroachments, special assessments, slide areas, etc.): See Attached Addendum

The undersigned has recited three recent sales of properties most similar and proximate to subject and has considered these in the market analysis. The description includes a dollar adjustment, reflecting market reaction to those items of significant variation between the subject and comparable properties. If a significant item in the comparable property is superior to, or more favorable than, the subject property, a minus (-) adjustment is made, thus reducing the indicated value of subject; if a significant item in the comparable is inferior to, or less favorable than, the subject property, a plus (+) adjustment is made, thus increasing the indicated value of the subject.

ITEM	SUBJECT	COMPARABLE NO. 1	COMPARABLE NO. 2	COMPARABLE NO. 3
Address	1313 Greyback Mtn Rd Penticton	102 Twin Lakes Road Kaleden/Okanagan Falls	Dewitte Rd & Mt. Baldy Rd. Rock Crk. & Area	DL 4086S Bridesville/Rock Cr. Osoyoos/Rock Creek area
Proximity to Subject			100± kms east	100± kms east
Sales Price	\$ n/a	\$ 115,000	\$ 140,000	\$ 100,000
Price/	\$ n/a	\$ 115,000	\$ 140,000	\$ 100,000
Data Source	Inspection	MLS® 150649	MLS® 141957	MLS 137200
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	DESCRIPTION	DESCRIPTION
Sales or Financing		n/a	n/a	n/a
Concessions		n/a	n/a	n/a
Date of Sale/Time	n/a	Aug 13/14	Mar 3/14	Mar 19/13
Location	Rural	Rural	Rural	rural
Site/View	Partial lakeview	Valley view/golf view	level usable	Valley view
Site size	80.3 acres	20.03 acres	41.00 acres	30.90 acres
Topography	Mixed/sloping	Similar	Superior/usable	Mixed
Services/Improvements	well/power	Similar/960sf shop	at lot line	500sf cabin, stg.
Adj. sale price/acre		\$4,500/acre (rnd)	\$3,400/acre (rnd)	\$2,500/acre (rnd)
Net Adj. (total)		\$ 25,000	\$ 0	\$ 25,000
Indicated Value of Subject		Gross: 21.7 Net: -21.7 \$ 90,000	Gross: 0.0 Net: 0.0 \$ 140,000	Gross: 25.0 Net: -25.0 \$ 75,000

Comments of Sales Comparison: See Attached Addendum

Comments and Conditions of Appraisal: The purpose and scope of this appraisal is to estimate current market value for the subject site as of the effective date of this appraisal report.

Final Reconciliation: The Direct Comparison Approach is the most reliable method of estimating market value, typically used by buyers and sellers of properties such as the subject. Final estimate is based on the Direct Comparison Approach only and utilizes a unit of comparison, price per acre.

I (WE) ESTIMATE THE MARKET VALUE, AS DEFINED, OF THE SUBJECT PROPERTY AS OF November 27, 2014 to be \$ 200,000

I (We) certify: that to the best of my (our) knowledge and belief, the facts and data used herein are true and correct; that I (we) personally inspected the subject property and inspected all comparable sales cited in this report; and that I (we) have no undisclosed interest, present or prospective therein.

Appraiser(s) Keith MacPhail, AIC Candidate Appraiser Review Appraiser Don Stasuiik, CRA Did Not Inspect Property Did Inspect Property

Borrower: Mike Street	File No.: 18988A
Property Address: 1313 Greyback Mountain Road	Case No.:
City: Penticton	Province: BC
Lender: BMO / Sather Ranch Ltd. c/o Mike Street	Postal Code: V2A 8T3

Neighbourhood Comments

Rural residential neighbourhood located just northeast of downtown Penticton along the eastern benches overlooking Okanagan Lake. The subject is located beyond the city limits approximately 5.5 km north of Penticton. The neighbourhood is characterized by good lake and valley views to the west. The abandoned Kettle Valley Railway (KVR) right-of-way, now part of the Trans Canada Trail, traverses the neighbourhood from north to south. The area consists of single family residences, hobby farms, orchards, and vineyards and the Campbell Mountain Landfill. The overall neighbourhood enjoys a good market acceptance.

Site Comments

The subject site is accessed by Greyback Mountain Road. The road access located on the southern portion of the site also bisects the property in an east-west direction parallel to the southern boundary along with a powerline. The subject lot is 80.3 acres in size and is rectangular in configuration. Approximately 50 acres are forested hillside and the remaining 30 acres is open rolling native grass land and homesite. Under current zoning the subject property is not able to be subdivided.

The subject is located directly east of the Campbell Mountain Landfill; at the time of the inspection the site was affected by odors from the landfill composting and by equipment noise also emanating from the landfill operations. The proximity to the landfill will result in purchaser resistance.

Topography is generally moderate to gentle upward sloping hillside from Greyback Mountain Road. The site also slopes downwards along the western boundary offering some views of Okanagan Lake. There is a leveled graded building site and a fenced and cross fenced area for livestock, this area is also improved with a manufactured home.

For the purpose of this land valuation the improvements are not considered in the estimated market value found below. The majority of the site is considered to have mild to moderate slopes which reduce the usable area of the site. Services located at the lot line include hydro. A septic system will be required. The site offers partial views of Okanagan Lake and the surrounding valley. Lot size is typical for the immediate area and the subject conforms to neighbouring properties.

Comments on Sales Comparison

An extensive search for comparables, offering similar characteristics as the subject in regards to size and highest and best use, resulted in a limited number of sales to select from; none of which were located in the subject's immediate neighbourhood. Therefore, sales from neighbourhoods similar to the subject have had to be selected for comparison purposes. The 4 comparables available are deemed to best reflect an estimated market value for the subject. Two active listings were also included for information purposes. A per acre unit of comparison has been selected to establish an estimated fair market value for the subject site.

"Units of comparison are used to adjust for differences in size by reducing a sale to a unit basis, so it can be compared with other similar sales and the subject. A useful unit is one that represents market behaviour, and this can sometimes vary from one market or submarket to another" (Basics of Real Estate Appraising Fourth Edition). Often when purchasers are considering rural large acre parcels a sale price per acre is considered, as is the case in this report. When considering a sale price per acre, one must also consider a Law of Diminishing Return which indicates the larger the unit, the lower the unit cost may be. This is typical for acreage type parcels of land, which is further supported by the Direct Comparison Approach.

The area real estate market within this submarket has remained relatively stable over the period between the comparable sale dates and the effective date of this appraisal report, therefore, no time adjustments are required.

Comparable #1, a 20.03-acre parcel improved with access, a detached 960sf workshop, carport and an old trailer indicates an adjusted sale price per acre of \$4,500 (rounded).

Comparable #2, a 41.0-acre parcel is reported to have no site improvements; it indicates an adjusted sale price per acre of \$3,400 (rounded).

Comparable #3, a 30.9-acre parcel improved with access and what is reported as a 500sf hunters cabin and a 20-foot shipping container indicates an adjusted sale price per acre of \$2,500 (rounded).

Comparable #4, an 80-acre parcel is reported to have no established access and no site improvements indicates an adjusted sale price per acre of \$1,700 (rounded).

The above sales when applied to the subject site results in a range of values as follows:

Comparable #1 \$4,500 per/acre @ 80 Acres = \$ 360,000
 Comparable #2 \$3,400 per/acre @ 80 Acres = \$ 272,000
 Comparable #3 \$2,500 per/acre @ 80 Acres = \$ 200,000
 Comparable #4 \$1,700 per/acre @ 80 Acres = \$ 136,000

Comparable #1 at 20 acres represents a smaller parcel with superior site influences. Due to subdivision costs smaller sites will reflect in a higher per acre selling price. As such Comparable #1 is considered to be superior to the subject site and sets the upper range of value. Comparable #2 represents a 40 acre site of lightly treed usable land with no adverse site influences. Given the smaller size and the superior site influences this sale is also considered to be superior. Comparable #3 offers similar terrain to that of the subject site with a mix of grassland and forest and hillside to level bench. This sale is impacted by an abandoned railway line but offers very good valley views. Comparable #4 is similar in size to that of the subject at 80 acres and offers similar topography and good views. It is recognized that this sale is a dated sale. An analysis of market data within the submarket indicates that although Comparable #4 is a dated sale property values have been relatively stable. Therefore, no adjustment for sale date was deemed to be required. Comparable #4 is a court ordered "forced sale" and as such it is considered to represent the lowest range of values for the subject site. The subject site has a superior location to that of Comparable #4 given the close proximity to Penticton. The subject also has superior lake views. However, between the lake view and the subject is the negative impact of the Campbell Mountain Landfill. In summary, given the site influences of the subject site it is considered to be superior to the per acre sale price of Comparable #4.

Borrower: Mike Street	File No.: 18988A	
Property Address: 1313 Greyback Mountain Road	Case No.:	
City: Penticton	Province: BC	Postal Code: V2A 8T3
Lender: BMO / Sather Ranch Ltd. c/o Mike Street		

The active listings provided in the comparables sales grid as Comparable #5 and #6 would be considered direct competition to the subject site if the subject were to be listed for sale on the MLS system. They have been included for information on the local listings market. Lot 1 Sheep Creek Road represents a listing where it has been reported that the seller is motivated and the property has been priced accordingly. This site offers a non-serviced 80 acres of land with similar topography. Due to servicing costs, the subject site is considered to be superior to Comparable #5 which is being offered at \$2,200 per/acre.

The comparables available reflect an adjusted range of values from a low of \$1,700/acre to a high of \$4,500/acre. Given subjects good proximity to the City of Penticton and the negative impact of the landfill, a lower range value of \$2,500 per acre has been selected to best represent the subject's estimated market value.

Final estimate of market value: 80.0 acres @ \$2,500 per acre = \$200,000 (rounded)

RESIDENTIAL APPRAISAL REPORT

REFERENCE:

FILE NO.: 18988A

SALES HISTORY ANALYSIS OF KNOWN CURRENT AGREEMENTS FOR SALE, OPTIONS, LISTINGS OR MARKETING OF THE SUBJECT: (minimum of one year) An MLS search shows no listing or sales in the last 3 years. BC Assessment records show no transfers in the last three years.

ANALYSIS OF SALE TRANSFER HISTORY: (minimum of three years) No transfers of the subject in 3 years according to BC Assessment records.

EXPOSURE TIME ANALYSIS OF REASONABLE EXPOSURE TIME: Reasonable exposure time is 30 to 90 days if listed correctly.

RECONCILIATION AND FINAL ESTIMATE OF VALUE RECONCILIATION AND FINAL ESTIMATE OF VALUE: The Direct Comparison Approach is the most reliable method of estimating market value, typically used by buyers and sellers of properties such as the subject. Final estimate is based on the Direct Comparison Approach only and utilizes a unit of comparison, price per acre.

UPON REVIEWING AND RECONCILING THE DATA, ANALYSES AND CONCLUSIONS OF EACH VALUATION APPROACH, THE MARKET VALUE OF THE INTEREST IN THE SUBJECT PROPERTY AS AT 11/27/2014 (Effective Date of the Appraisal) IS ESTIMATED TO BE \$ 200,000

THIS REPORT WAS COMPLETED ON: 12/08/2014

DEFINITIONS

DEFINITION OF MARKET VALUE: The most probable price which a property should bring in a competitive and open market as of the specified date under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus.

Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: buyer and seller are typically motivated; both parties are well informed or well advised, and acting in what they consider their own best interests; a reasonable time is allowed for exposure in the open market; payment is made in terms of cash in Canadian dollars or in terms of financial arrangements comparable thereto; and the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

(Source: Canadian Uniform Standards of Professional Appraisal Practice) *Note: If other than market value is being appraised, see additional comments.*

DEFINITION OF HIGHEST AND BEST USE: The reasonably probable and legal use of the property, that is physically possible, appropriately supported, and financially feasible, and that results in the highest value.

SCOPE

The scope of the appraisal encompasses the due diligence undertaken by the appraiser (consistent with the terms of reference from the client, the purpose and intended use of the report) and the necessary research and analysis to prepare a report in accordance with the Canadian Uniform Standards of Professional Appraisal Practice (CUSPAP) of the Appraisal Institute of Canada. The following comments describe the extent of the process of collecting, confirming and reporting data and its analysis, describe relevant procedures and reasoning details supporting the analysis, and provide the reason for the exclusion of any usual valuation procedures.

The appraisal issue that is the focus of this engagement has been discussed and defined with the client, the work required to solve the issue planned, and the necessary market data acquired, analyzed and reconciled into an estimate of market value in a manner typically expected in a "form" report.

The specific tasks and items necessary to complete this assignment include a summary of the following:

1. assembly and analysis of relevant information pertaining to the property being appraised, including listing and acquisition particulars if acquired within three years prior to the effective date of the appraisal;
2. an inspection of the subject property and the surrounding area;
3. assembly and analysis of pertinent economic and market data;
4. an analysis of land use controls pertaining to the subject property;
5. a summary discussion and statement of "Highest and Best Use", or most probable use;
6. a discussion of the appraisal methodologies and procedures employed in arriving at the indications of value;
7. inclusion of photographs, maps, graphics and addendum/exhibits when deemed appropriate; and
8. reconciliation of the collected data into an estimate of market value or market value range as at the effective date of the appraisal.

All data considered appropriate for inclusion in the appraisal is, to the best of our knowledge, factual. Due to the type of property being appraised and the nature of the appraisal issue, the findings have been conveyed in this "form" format.

Other: Unless otherwise stated, the subject property was inspected externally by the undersigned. Data contained within this report has been collected from various sources including but not limited to: the City of Penticton, the South Okanagan Real Estate Board, the Regional District and the British Columbia Assessment Authority. Additional data has been obtained through local realtors, contractors and appraisal files held at our office. Market data has been verified from information provided by the local real estate board and if not, a party associated with the transaction. A title search was not completed on the subject property. The final estimate of value assumes that there are no negative impacts to the subject property resulting from any right-of-ways or easements not visible or evident by the site visit.

RESIDENTIAL APPRAISAL REPORT

REFERENCE:

FILE NO.: 18988A

ASSUMPTIONS AND LIMITING CONDITIONS AND EXTRAORDINARY ITEMS

ORDINARY ASSUMPTIONS & LIMITING CONDITIONS

- The certification that appears in this appraisal report is subject to compliance with the Personal Information and Electronic Documents Act (PIPEDA) and the following conditions:
- This report is prepared at the request of the client and for the specific use referred to herein. It is not reasonable for any other party to rely on this appraisal without first obtaining written authorization from the client, the author and any supervisory appraiser, subject to the qualification in paragraph 11 below. Liability is expressly denied to any person other than the client and those who obtain written consent and, accordingly, no responsibility is accepted for any damage suffered by any such person as a result of decisions made or actions based on this report. Diligence by all intended users is assumed.
 - Because market conditions, including economic, social and political factors change rapidly and, on occasion, without warning, the market value estimate expressed as of the date of this appraisal cannot be relied upon as of any other date except with further advice from the appraiser and confirmed in writing.
 - The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. No registry office search has been performed and the appraiser assumes that the title is good and marketable and free and clear of all encumbrances including leases, unless otherwise noted in this report. The property is appraised on the basis of it being under responsible ownership.
 - The subject property is presumed to comply with government regulations including zoning, building codes and health regulations and, if it doesn't comply, its non-compliance may affect market value.
 - No survey of the property has been made. Any sketch in the appraisal report shows approximate dimensions and is included only to assist the reader of the report in visualizing the property.
 - This report is completed on the basis that testimony or appearance in court concerning this appraisal is not required unless specific arrangements to do so have been made beforehand. Such arrangements will include, but not necessarily be limited to, adequate time to review the appraisal report and data related thereto and the provision of appropriate compensation.
 - Unless otherwise stated in this report, the appraiser has no knowledge of any hidden or unapparent conditions of the property (including, but not limited to, its soils, physical structure, mechanical or other operating systems, its foundation, etc.) or adverse environmental conditions (on it or a neighbouring property, including the presence of hazardous wastes, toxic substances, etc.) that would make the property more or less valuable. It has been assumed that there are no such conditions unless they were observed at the time of inspection or became apparent during the normal research involved in completing the appraisal. This report should not be construed as an environmental audit or detailed property condition report, as such reporting is beyond the scope of this report and/or the qualifications of the appraiser. The author makes no guarantees or warranties, express or implied, regarding the condition of the property, and will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. The bearing capacity of the soil is assumed to be adequate.
 - The appraiser is not qualified to comment on environmental issues that may affect the market value of the property appraised, including but not limited to pollution or contamination of land, buildings, water, groundwater or air. Unless expressly stated, the property is assumed to be free and clear of pollutants and contaminants, including but not limited to moulds or mildews or the conditions that might give rise to either, and in compliance with all regulatory environmental requirements, government or otherwise, and free of any environmental condition, past, present or future, that might affect the market value of the property appraised. If the party relying on this report requires information about environmental issues then that party is cautioned to retain an expert qualified in such issues. We expressly deny any legal liability relating to the effect of environmental issues on the market value of the subject property.
 - The analysis set out in this report relied on written and verbal information obtained from a variety of sources we considered reliable. Unless otherwise stated herein, we did not verify client-supplied information, which we believed to be correct.
 - The opinions of value and other conclusions contained herein assume satisfactory completion of any work remaining to be completed in a good and workmanlike manner. Further inspection may be required to confirm completion of such work.
 - The contents of this report are confidential and will not be disclosed by the author to any party except as provided for by the provisions of the Canadian Uniform Standards of Professional Appraisal Practice (The Standards) and/or when property entered into evidence of a duly qualified judicial or quasi-judicial body. The appraiser acknowledges that the information collected herein is personal and confidential and shall not use or disclose the contents of this report except as provided for in the provisions of the Canadian Uniform Standards of Professional Appraisal Practice (the Standards) and in accordance with the appraiser's privacy policy. The client agrees that in accepting this report, it shall maintain the confidentiality and privacy of any personal information contained herein and shall comply in all material respects with the contents of the appraiser's privacy policy and in accordance with the Personal Information Protection and Electronic Documents Act (PIPEDA).
 - The appraiser has agreed to enter into the assignment as requested by the client named in the report for the use specified by the client, which is stated in the report. The client has agreed that the performance of this appraisal and the report format are appropriate for the intended use.
 - Written consent from the author and supervisory appraiser, if applicable, must be obtained before any part of the appraisal report can be used for any purpose by anyone except the client and other intended users identified in the report. Where the client is the mortgagee and the loan is insured, liability is extended to the mortgage insurer. Liability to any other party or for any other use is expressly denied regardless of who pays the appraisal fee. Written consent and approval must also be obtained before the appraisal (or any part of it) can be altered or conveyed to other parties, including mortgagees (other than the client) and the public through prospectus, offering memoranda, advertising, public relations, news, sales or other media.
 - This report form is the property of the Appraisal Institute of Canada (AIC) and for use only by AIC members in good standing. Use by any other person is a violation of AIC copyright. This appraisal report, its content and all attachments/addendums and their content are the property of the author who has signed this report (the author). The client, intended users and any appraisal facilitator are strictly forbidden and no permission is expressly or implicitly granted or deemed to be granted, to modify, alter, merge, publish (in whole or in part) screen scrape, database scrape, exploit, reproduce, decompile, reassemble or participate in any other activity intended to separate, collect, store, reorganize, scan, copy, manipulate electronically, digitally, manually or by any other means whatsoever this appraisal report, addendum, all attachments and the data contained within for any commercial, or other, use.
 - If transmitted electronically, this report will have been digitally signed and secured with personal passwords to lock the appraisal file. Due to the possibility of digital modification, only originally signed reports and those reports sent directly by the appraiser, can be relied upon without fault.
 - Where the intended use of this report is for financing or mortgage lending, and in accordance with the Office of the Superintendent of Financial Institutions Canada (OSFI) Residential Mortgage Underwriting Practices and Procedures B-20 (June 2012), it is the intended user's responsibility to grant mortgage loans on the basis of the borrower's demonstrated willingness and capacity to services his/her debt obligations.

I certify that, to the best of my knowledge and belief that:

- The statements of fact contained in this report are true and correct;
- The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions and are my impartial and unbiased professional analyses, opinions and conclusions;
- I have no past, present or prospective interest in the property that is the subject of this report and no personal and/or professional interest or conflict of interest with respect to the parties involved with this assignment;
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment;
- My engagement in and compensation for this assignment were not contingent upon developing or reporting predetermined results, the amount of value estimate, or a conclusion favouring the client;
- My analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the Canadian Uniform Standards of Professional Appraisal Practice (CUSPAP);
- I have the knowledge and experience to complete this assignment competently, and where applicable this report is prepared in compliance with the Canadian Uniform Standards of Professional Appraisal Practice;
- Except as herein disclosed, no one has provided significant professional assistance to the person(s) signing this report;
- As of the date of this report the undersigned has fulfilled the requirements of the Appraisal Institute of Canada Continuing Professional Development Program for members;
- The undersigned is (are all) members in good standing of the Appraisal Institute of Canada.

CO-SIGNING AIC APPRAISER'S CERTIFICATION If an AIC appraiser has co-signed this appraisal report, he or she certifies and agrees that "I directly supervised the appraiser who prepared this appraisal report and, having reviewed the report, agree with the statements and conclusions of the appraiser, agree to be bound by the appraiser's certification and am taking full responsibility for the appraisal and the appraisal report."


PROPERTY IDENTIFICATION

ADDRESS: 1313 Greyback Mountain Road CITY: Penticton PROVINCE: BC POSTAL CODE: V2A 8T3
 LEGAL DESCRIPTION: Subsidy Lot 8, Plan KAP1190, DL 2711, LD 54

BASED UPON THE DATA, ANALYSES AND CONCLUSIONS CONTAINED HEREIN, THE MARKET VALUE OF THE INTEREST IN THE PROPERTY DESCRIBED,

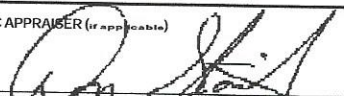
AS AT 11/27/2014 (Effective date of the appraisal) IS ESTIMATED TO BE \$ 200,000

APPRAISER

SIGNATURE: 
 NAME: Keith MacPhail
 AIC DESIGNATION (or Member Status): AIC Candidate Appraiser
 DATE SIGNED: 12/08/2014
 PERSONALLY INSPECTED THE SUBJECT PROPERTY: YES NO
 DATE OF INSPECTION: 11/27/2014
 LICENSE INFO: (where applicable) _____

NOTE: For this appraisal to be valid, an original or a password protected digital signature is required.

SOURCE OF DIGITAL SIGNATURE SECURITY: _____

CO-SIGNING AIC APPRAISER (if applicable) 
 SIGNATURE: _____
 NAME: Don Stasuk, CRA
 AIC DESIGNATION: CRA
 DATE SIGNED: 12/08/2014
 PERSONALLY INSPECTED THE SUBJECT PROPERTY: YES NO
 DATE OF INSPECTION: Did not inspect
 LICENSE INFO: (where applicable) _____

NOTE: For this appraisal to be valid, an original or a password protected digital signature is required.

- ATTACHMENTS AND ADDENDA: ADDITIONAL SALES EXTRAORDINARY ITEMS NARRATIVE PHOTOGRAPHS BUILDING SKETCH
 MAPS COST APPROACH INCOME APPROACH Comp. Map Comp. Photos

RESIDENTIAL APPRAISAL REPORT - ADDENDUM

REFERENCE:

FILE NO.: 18988A

CLIENT	CLIENT:	BMO / Sather Ranch Ltd. c/o Mike Street	APPRAISER	APPRAISER:	Keith MacPhail
	ATTENTION:	Mike Street		COMPANY:	Schoenne Appraisals Ltd.
	ADDRESS:	Penticton, B.C. V2A 8T3		ADDRESS:	101-144 Front Street Penticton, B.C. V2A 1H1
	E-MAIL:	boundarymachine@shawbiz.ca		E-MAIL:	keith@schoenne.com
	PHONE:	FAX:		PHONE:	250-492-5151 FAX: 250-492-5156



Appraisal Institute of Canada

EXTRAORDINARY ASSUMPTIONS & LIMITING CONDITIONS

An extraordinary assumption is a hypothesis, either supposed or unconfirmed, which, if not true, could alter the appraiser's opinions and conclusions (e.g. an absence of contamination where such contamination is possible, the presence of a municipal sanitary sewer where unknown or uncertain). An extraordinary limiting condition is a necessary modification or exclusion of a Standard Rule which must be explained and justified by the appraiser (e.g. exclusion of one or more valuation approaches). The appraiser must conclude before accepting the assignment which involves invoking an Extraordinary Limiting Condition that the scope of the work applied will result in opinions and conclusions which are credible. Both must accompany statements of each opinion/conclusion so affected.

As per your instructions the final estimate of value contained in this report is based on land only; no value has been given to outbuildings, equipment or the single family residence.

EXTRAORDINARY ITEMS ADDENDUM

HYPOTHETICAL CONDITIONS

Hypothetical conditions may be used when they are required for legal purpose, for purposes of reasonable analysis or for purposes of comparison. Common hypothetical conditions include proposed improvements and prospective appraisals. For every Hypothetical Condition, an Extraordinary Assumption is required (see above). An analysis based on a hypothetical condition must not result in an appraisal report that is misleading or that relies on actions or events that would be illegal or improbable within the context of the assignment. Following is a description of each hypothetical condition applied to this report, the rationale for its use and its effect on the result of the assignment.

none

JURISDICTIONAL EXCEPTION

The Jurisdictional Exception permits the appraiser to disregard a part or parts of the Standards determined to be contrary to law or public policy in a given jurisdiction and only that part shall be void and of no force or effect in that jurisdiction. The following comments identify the part or parts disregarded, if any, and the legal authority justifying these actions.

none

PLOT MAP

Borrower: Mike Street
Property Address: 1313 Greyback Mountain Road
City: Penticton
Lender: BMO / Sather Ranch Ltd. c/o Mike Street
File No.: 18988A
Case No.:
Prov.: BC
P.C.: V2A 8T3



Subject: Fw: Schoenne Appraisals File #18988A-4/Sather Ranch Ltd./1313 Grayback Mountain Road, Penticton
From: Boundary Machine (boundarymachine@shawbiz.ca)
To: joesather_realtor@yahoo.ca;
Date: Monday, September 12, 2016 1:13 PM

SR
APPRAISAL

Hi Joe,

I was thinking it might be worth getting a second appraisal so I called Inland Appraisers, here is his reply.

Mike

From: [David Bush](#)
Sent: Monday, September 12, 2016 11:49 AM
To: 'Boundary Machine'
Subject: RE: Schoenne Appraisals File #18988A-4/Sather Ranch Ltd./1313 Grayback Mountain Road, Penticton

Hi Mike,

Thank you for forwarding me the December 2014 appraisal.

Given the intended use of the appraisal there are a number of issues that need appropriate consideration and investigation including in particular the highest and best use. It is a relatively unique property in terms of proximity to the City and therefore the research involved would be more than for a "typical" appraisal.

The fee would be \$1500 plus disbursements and GST. The disbursements would include a copy of the Title and any charges on Title that require investigation, and would likely run from \$20 to \$80. The fee would be payable at the time of the inspection.

I could not do the inspection until next week sometime, or possibly not until the last week of September. It would take anywhere from one to three weeks to complete the report.

Lastly, I have not conducted any review of the December 2014 report, however, my initial thought on reading the estimated market value is that it is highly likely that the estimated value from my report could be vastly higher. This of course cannot be determined without doing the appraisal. I only mention it because I anticipate you may be surprised by the difference between the two estimated values.

Please let me know if there are any questions, or if you would like me to proceed on the above basis.

Regards,

David E.W. Bush, AACI, P.App

Inland Appraisers Ltd.

208 Main Street

Penticton, BC V2A 5B2

250-493-6734 (Main)

250-493-7144 (Fax)

From: Boundary Machine [mailto:boundarymachine@shawbiz.ca]

Sent: Monday, September 12, 2016 10:50 AM

To: david@inlandappraisers.com

Subject: Fw: Schoenne Appraisals File #18988A-4/Sather Ranch Ltd./1313 Grayback Mountain Road, Penticton

Hi David,

Here is a copy of the appraisal we had done in December 2014. I can meet with you anytime for the on site inspection, or any other questions you may have.

Thank you.

Mike Street

Sather Ranch Ltd.

1335 Commercial Way

Penticton B.C.

V2A 3H4

Cell 250-462-0051

From: [Kim Hourston](#)

Sent: Monday, December 8, 2014 2:37 PM

To: boundarymachine@shawbiz.ca

Subject: Schoenne Appraisals File #18988A-4/Sather Ranch Ltd./1313 Grayback Mountain Road, Penticton

Hi Mike,

Please find the above noted report attached as a pdf file.

Kind regards,

Kim Hourston

Schoenne Appraisals Ltd.

101-144 Front Street

Penticton, BC V2A 1H1

250-492-5151

Visit our website: <http://www.schoenne.com>

Like us on Facebook: <http://www.facebook.com/schoenneappraisals>

Follow us on Twitter: <http://www.twitter.com/schoenneapp>

Whether your appraisal needs are residential or commercial, industrial or agricultural, depreciation reports or replacement cost estimates, Schoenne Appraisals Ltd has qualified appraisers on staff that can service all your appraisal needs.

We appreciate your business and your referrals

No virus found in this message.

Checked by AVG - www.avg.com

Version: 2014.0.4794 / Virus Database: 4235/8717 - Release Date: 12/11/14

CALCULATION OF AMOUNT DEFRAUDED

Sather, Estate of Palmer & Estate of Oscar Sather to Sather Ranch Ltd.

Sale/Purchase of 80 acres: PL: 1190 DL:2711 Sub Lot 8

Accepted Offer Date: January 2017

Sale Date: February 2, 2017

Street's Appraised Value:	\$215,000
Street Offer - Paid	\$225,000
Estimated Market Value at Purchase Date:	<u>\$1,133,000</u>
Under Paid	<u>\$908,000</u>
Estate of the Late Oscar Sather	\$302,364 33.3%
Estate of the Late Palmer Sather	<u>\$605,636 66.7%</u>
Total Under Paid	<u>\$908,000</u>
Sold Price February 2, 2021	\$1,600,000
Estimated Annual Increase in Value	\$100,000 2017
	\$100,000 2018
	\$100,000 2019
	\$100,000 2020
	<u>\$67,000 2021</u>
Total Estimated Increase in Value	<u>\$467,000</u>
Estimated Actual Value February 2, 2017	<u>\$1,133,000</u>

Estate of the Late Oscar Sather***INTEREST CALCULATION***

Debtor: Sather Ranch Ltd. and/or Mike Street & Marielle Brule

Debt: **\$302,364**

Period: February 2, 2017 to February 2, 2021 (4 years)

Commercial Lending Rate: **5.5%**

	Interest	Accumulated Balance
2017 to 2018	\$16,630	\$318,994
2018 to 2019	\$17,545	\$336,539
2019 to 2020	\$18,510	\$355,048
2020 to 2021	\$19,528	\$374,576
	<u>\$72,212</u>	

Appendix 4

Receiver's Notices of Disallowance of Claims

NOTICE OF DISALLOWANCE

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

MICHAEL NEIL STREET and
MARIELLE JACQUEILINE ANGELLA BRULE

PLAINTIFFS

AND:

SATHER RANCH LTD. by its Court Appointed Receiver and
Manager, C. Cheveldave & Associates Ltd.

DEFENDANT

.

To: The Estate of the Late Palmer E. Sather (the “**Claimant**”)

Pursuant to the Claims Process, C. Cheveldave & Associates Ltd. (the “**Receiver**”), in its capacity of court appointed receiver of Sather Ranch Ltd., hereby gives you notice that your Proof of Claim dated March 29, 2020 has been reviewed and the Receiver has disallowed your Claim for the following reasons.

There has been no information provided that demonstrates that there is a debtor-creditor relationship between Sather Ranch Ltd. (“**SRL**”) and the Claimant.

Based on the information set out in the Schedules to the Proof of Claim (the “**Claim Details**”) provided to the Receiver, the underlying basis of the Claim is an alleged fraud by one of the Plaintiffs – Michael Neil Street (“**Street**”) in connection with the purchase of lands located at 1313 Greyback Mountain Road in Penticton, BC (the “**Ranch**”) by SRL. In addition, the Claim Details allege that Street committed theft with respect to certain equipment and cattle. Furthermore, the Claimant also claims amounts for interest, legal fees and “damage to land”.

SRL was beneficially owned 50% each by Street and Joseph Sather (“**Joe**”), Palmer Sather’s son. At all relevant times, both Joe and Street were directors of SRL. It is further understood that Joe and his sister Carol Sather-Byman each held powers of attorney for Palmer Sather and as such owed Palmer Sather (“**Palmer**”) a duty of care, including the duty to act honestly and in good faith and to act in the best interest of Palmer.

It is the Receiver's understanding that, based upon the information in the Proof of Claim, neither the allegation of fraud nor the allegation of theft have been reported to the applicable law enforcement agencies, no criminal charges have been laid, and neither allegation has been proven in court.

The Claim Details assert the allegations of fraud and theft against Street (not SRL). If those allegations are only made against Street (and not SRL), then the Claim must be disallowed as the Claims Process herein only involves the determination of claims against SRL.

To the extent the Receiver is to consider those claims as against SRL (i.e. that Street acted in his capacity as a director of SRL), then the Claimant fails to address Joe's involvement or the duties Joe owed to Palmer. The Claimant does not allege that Joe participated or acquiesced to the alleged fraud and theft. The Claimant fails to reconcile Joe's duties to his father and his duties to the SRL. If the allegations are properly advanced against SRL, then those allegations necessarily impugn the conduct of Joe as a director of SRL. The Claimant, however, makes no criticism of Joe's conduct herein. That omission calls into question the merits of the Claim.

SRL purchased the Ranch pursuant to the terms of a contract of purchase and sale dated November 4, 2016 between Palmer Sather, the Estate of Oscar Sather, and Constance Sather as vendors and SRL as purchaser (the "**Contract**"). Pursuant to the Contract, the sale was to complete on January 3, 2017. The Receiver understands the sale did complete and that SRL operated the cattle ranch business on the property from January 3, 2017.

Palmer was a party to the Contract and Palmer, or his attorneys Carol and Joe, were aware of the ranching operations by SRL on the property after the Ranch was acquired.

The claims appear to be statute barred by the *Limitation Act*. As noted, SRL purchased or otherwise acquired the subject assets on or about January 3, 2017 and operated the ranching operations therefrom thereafter. Palmer, through his attorney, was a party to the transaction and thus his estate was aware of its terms. Accordingly, any claim arising from the transfer would be statute barred if it was not commenced after January 3, 2019 (i.e. more than 2 years after the transaction completed). The claims are thus statute barred.

Claim for 80 Acres Fraud:

The claim asserted is not recognized or recoverable at law. Even if it was, as noted above, the claim is statute barred and not supported by evidence.

Palmer sold his interest in the Ranch pursuant to the terms of the Contract he entered with SRL.

The claim asserts that SRL did not pay fair market value for the Ranch. There is no obligation recognized at law that requires a purchaser to pay fair market value. The parties are free to negotiate and agree upon any amount of consideration. SRL paid the purchase price in the Contract, and thus wholly discharged its obligations under the Contract.

In negotiations, there is no duty of care owed by a prospective purchaser to accurately represent to the seller the fair market value of the subject property. Each party has a duty to take care of their own interest and cannot rely upon the counterparty to do so.

If Street (on behalf of SRL) did in fact make a representation as to the value of the Ranch before Palmer (or his attorney) entered into the Contract, then Palmer (or his attorney) could not rely reasonably on any such representation. In negotiations, a vendor cannot reasonably rely upon representations as to value made by the prospective purchaser.

Finally, as it pertains to the allegation that the sale was below fair market value, there is no admissible evidence or expert evidence establishing what the fair market value was at the time of the transaction. The information contained on the schedule titled “Calculation of Amount Defrauded” (amount of \$605,636) is unsubstantiated. There is no supporting information that substantiates the calculation of the alleged “underpayment”. No information was provided to support the amounts claimed as “Estimated Annual Increase In Value”. The amounts claimed as “Estimated Annual Increase In Value” are arbitrary but in any event would require expert evidence as to the value, which evidence has not been provided. Consequently, even if the Claimant had established an enforceable cause of action, it has not established any damages that would be payable in connection with that claim.

Claim for Unpaid Interest Charges:

The claim asserted is not recognized or recoverable at law. The Claimant has not identified any contractual, statutory or other basis by which the Claimant is entitled to interest at the rate claimed or at any rate. The amount claimed of \$144,641 is unsubstantiated and not supported by any evidence or documents.

Claim for Palmer’s Equipment

The Claimant alleges that Street stole certain equipment belonging to Palmer. To the extent the Receiver is to consider those claims as against Street in his capacity as a director of SRL and thus properly advanced against SRL, the Claimant has not established this claim on its merits.

First, as noted above, any such claim became statute barred in or about January 2019.

Second, the fact that Joe (Palmer's son and his power of attorney) never objected to the SRL's use of those assets prior to the receivership herein supports the inference that SRL had the right and entitlement to that property. SRL's financial statements and capital asset ledger information provide that SRL owned various equipment pieces, tools, supplies, etc. The SRL financial statements and financial transactions were approved annually by the shareholders. There is no indication that any of the directors or shareholders objected to the financial statements or financial transactions.

Third, the amount claimed of \$50,340 is not supported by evidence to establish that was the market value of each item as at the date of the alleged theft. The claim for damages is thus not substantiated or supported by evidence.

Fourth, the objective documentary evidence supports the inference that SRL purchased those assets and was lawfully entitled to be in possession of, use and eventually sell them. The Contract specifically included: storage sheds, pumphouse, wells, power poles, fencing, and miscellaneous equipment. This supports that the equipment in question was included in the purchase of the Ranch. The failure of the Claimant to disclose and distinguish the personal property acquired pursuant to the terms of the Contract from those subject to its Claim herein is a serious impediment to the claim.

Claim for Missing/Stolen Cattle

The Claimant alleges that Street stole cattle belonging to Palmer. To the extent the Receiver is to consider those claims as against Street in his capacity as a director of SRL and thus properly advanced against SRL, the Claimant has not established this claim on its merits.

As noted above, any such claim became statute barred in or about January 2019.

In addition, the evidentiary foundation to establish this claim would require tracing the livestock records of Palmer and of SRL. While the Claim Details refer to "tracing records of livestock owned by [Palmer], no such records were provided in support of the claim. There were no detailed inventory records, cattle tag records, or any other documentation or evidence provided to substantiate the cattle count information alleged in the Claim Details.

Further, as noted above, the shareholders approved the financial statements (which includes cattle inventory). Prior to the receivership, there is no information that indicates that Joe objected to the financial statements or financial transactions. As noted, Joe is both Palmer's son and one of his attorneys. Where Palmer's estate makes no allegation of wrongdoing against Joe,

the Receiver reasonably expects that Joe would have objected to and identified any cattle, or their proceeds, that belonged to his father and not to SRL.

Finally, the amount claimed of \$198,000 is unsubstantiated. There is no supporting information or evidence to substantiate the average price of \$1,800 per head that is used in the calculation.

Based on the information and documents provided and assuming the claim is not statute barred, there is no basis upon which to conclude that any of Palmer's cattle were converted by SRL, nor is there any evidentiary basis to conclude what the value of any such cattle would be.

Claim for Damaged Land

The claim asserted is not recognized or recoverable at law. The Claimant has not identified any contractual, statutory or other basis by which the Claimant is entitled to compensation for any such alleged damage. The Claim is vague. The Claimant fails to identify both the affected property and the alleged damage.

The amount claimed of \$100,000 is unsubstantiated. There is no information provided concerning damage incurred and the cost of damage.

Claim for Legal Fees

The claim asserted is not recognized or recoverable at law. The claimant has not identified any contractual, statutory or other basis by which SRL is required to compensate the Claimant for legal fees. Further there is no evidence or documents establishing that the Claimant incurred \$50,000 in legal fees.

* * * * *

Subject only to an appeal of this disallowance being successfully brought by you in full compliance with the provisions of the Claims Process Order, including the prescribed time for any appeal to be filed, your claim will be allowed as follows:

Name of Creditor	Amount Claimed	Amount Allowed
The Estate of the Late Palmer E. Sather	\$1,148,617	\$0

DATED at Kamloops, British Columbia, this 12th day of April, 2021.

C. Cheveldave & Associates Ltd.
Receiver and Manager of Sather Ranch
Ltd., and not in its personal capacity

Per:



Authorized Signatory

If you wish to appeal this Notice of Disallowance you must file a Notice of Application and supporting Affidavit by the deadline provided for in the Claims Process Order, A copy of which is available on the Receiver's website at <https://cheveldave.ca/engagements>.

NOTICE OF DISALLOWANCE

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

MICHAEL NEIL STREET and
MARIELLE JACQUEILINE ANGELLA BRULE

PLAINTIFFS

AND:

SATHER RANCH LTD. by its Court Appointed Receiver and
Manager, C. Cheveldave & Associates Ltd.

DEFENDANT

.

To: The Estate of the Late Oscar Sather (the “**Claimant**”)

Pursuant to the Claims Process, C. Cheveldave & Associates Ltd. (the “**Receiver**”), in its capacity of court appointed receiver of Sather Ranch Ltd., hereby gives you notice that your Proof of Claim dated March 29, 2020 has been reviewed and the Receiver has disallowed your Claim for the following reasons:

The Claim was submitted by Arlene Moser, in her capacity as the Executor of the Estate of her father Oscar Sather. The proof of claim must be signed by the Creditor who upon signing certifies the information specified in the proof of claim form and the Claim the Details. Ms. Moser did not sign the Proof of Claim as required thereby rendering the certificate of the facts defective. Had the Receiver been inclined to accept a part of the Claim, it would have requested this defect to be remedied. The Receiver has considered and adjudicated the Claim as if the Claim was signed and thus properly submitted to it. For the reasons set out herein, the Claim has been disallowed.

There has been no information provided that demonstrates that there is a debtor-creditor relationship between Sather Ranch Ltd. (“**SRL**”) and the Claimant.

Based on the information set out in the Schedules to the Proof of Claim (the “**Claim Details**”) provided to the Receiver, the underlying basis of the Claim is an alleged fraudulent misrepresentation or fraud by one of the Plaintiffs – Michael Neil Street (“**Street**”) in connection

with the purchase of lands located at 1313 Greyback Mountain Road in Penticton, BC (the “**Ranch**”) by SRL.

It is the Receiver’s understanding that, based upon the information in the Proof of Claim, the allegation of fraudulent misrepresentation or fraud was not reported to the applicable law enforcement agencies, no criminal charges have been laid, and the allegations have not been proven in court.

The Claim Details assert the allegations of fraudulent misrepresentation against Street (not SRL). If those allegations are only made against Street (and not SRL), then the Claim must be disallowed as the Claims Process herein only involves the determination of claims against SRL.

SRL purchased the Ranch pursuant to the terms of a contract of purchase and sale dated November 4, 2016 between Palmer Sather, the Estate of Oscar Sather, and Constance Sather as vendors and SRL as purchaser (the “**Contract**”). Pursuant to the Contract, the sale was to complete on January 3, 2017. The Receiver understands the sale did complete and that SRL operated the cattle ranch business on the property from January 3, 2017.

The Claimant was a party to the Contract.

The claim appears to be statute barred by the *Limitation Act*. As noted, SRL purchased the Ranch on or about January 3, 2017. The Claimant, through his attorney, was a party to the transaction and thus his estate was aware of its terms. Accordingly, any claim arising from the transfer would be statute barred if it was not commenced after January 3, 2019 (i.e. more than 2 years after the transaction completed). The claim is thus statute barred.

Claim for 80 Acres Defrauded from Estate:

The claim asserted is not recognized or recoverable at law. Even if it was, as noted above, the claim is statute barred and not supported by evidence.

The Claimant sold his interest in the Ranch pursuant to the terms of the Contract he entered with SRL.

The claim asserts that SRL did not pay fair market value for the Ranch. There is no obligation recognized at law that requires a purchaser to pay fair market value. The parties are free to negotiate and agree upon any amount of consideration. SRL paid the purchase price in the Contract, and thus wholly discharged its obligations under the Contract.

In negotiations, there is no duty of care owed by a prospective purchaser to accurately represent to the seller the fair market value of the subject property. Each party has a duty to take care of their own interest and cannot rely upon the counterparty to do so.

If Street (on behalf of SRL) did in fact make a representation as to the value of the Ranch before the Claimant (or his attorney) entered into the Contract, then the Claimant (or his attorney) could not rely reasonably on any such representation. In negotiations, a vendor cannot reasonably rely upon representations as to value made by the prospective purchaser.

Finally, as it pertains to the allegation that the sale was below fair market value, there is no admissible evidence or expert evidence establishing what the fair market value was at the time of the transaction. The information contained on the schedule titled "Calculation of Amount Defrauded" (amount of \$302,364) is unsubstantiated. There is no supporting information that substantiates the calculation of the alleged "underpayment". No information was provided to support the amounts claimed as "Estimated Annual Increase In Value". The amounts claimed as "Estimated Annual Increase In Value" are arbitrary but in any event would require expert evidence as to the value, which evidence has not been provided. Consequently, even if the Claimant had established an enforceable cause of action, it has not established any damages that would be payable in connection with that claim.

Claim for Unpaid Interest Charges:

The claim asserted is not recognized or recoverable at law. The Claimant has not identified any contractual, statutory or other basis by which the Claimant is entitled to interest at the rate claimed or at any rate. The amount claimed of \$72,212 is unsubstantiated and not supported by any evidence or documents.

Claim for Damaged Land

The claim asserted is not recognized or recoverable at law. The Claimant has not identified any contractual, statutory or other basis by which the Claimant is entitled to compensation for any such alleged damage. The Claim is vague. The Claimant fails to identify both the affected property and the alleged damage.

The amount claimed of \$50,000 is unsubstantiated. There is no information provided concerning damage incurred and the cost of damage.

Claim for Legal Fees

The claim asserted is not recognized or recoverable at law. The claimant has not identified any contractual, statutory or other basis by which SRL is required to compensate the Claimant for legal fees. Further there is no evidence or documents establishing that the Claimant incurred \$25,000 in legal fees.

* * * * *

Subject only to an appeal of this disallowance being successfully brought by you in full compliance with the provisions of the Claims Process Order, including the prescribed time for any appeal to be filed, your claim will be allowed as follows:

Name of Creditor	Amount Claimed	Amount Allowed
The Estate of the Late Oscar Sather	\$449,576	\$0

DATED at Kamloops, British Columbia, this 12th day of April, 2021.

C. Cheveldave & Associates Ltd.
Receiver and Manager of Sather Ranch
Ltd., and not in its personal capacity

Per:



Authorized Signatory

If you wish to appeal this Notice of Disallowance you must file a Notice of Application and supporting Affidavit by the deadline provided for in the Claims Process Order, A copy of which is available on the Receiver's website at <https://cheveldave.ca/engagements>.

Appendix 5

**Email from Counsel for Related Party Claims Regarding
Process and Time Estimate**

Scott Andersen (2546) - 4Flr

From: Steven Dvorak <SDvorak@davidsonlawyers.ca>
Sent: Tuesday, May 4, 2021 9:23 AM
To: Johnson, Daniel; Scott Andersen (2546) - 4Flr
Cc: Cecil Cheveldave (ctcheveldave@telus.net)
Subject: RE: Sather Ranch - Hearing of Related Party Claims [BLG-DOCUMENTS.FID7792800]

[THIS MESSAGE ORIGINATED FROM OUTSIDE OUR FIRM]

I have to disagree with the suggestion that the applicants not make preliminary oral submissions in support of their respective claims, or provide concluding oral submissions. That is a fundamental right and not one we are prepared to waive. Moreover, the Notices of Application were not prepared with that truncated process in mind, and therefore don't adequately frame the issues to be addressed.

Making submissions will add 1.5 days to this estimate; I suggest we book 10 days in total.

Steven Dvorak

Partner
 Direct: 250-275-4495
 Email: SDvorak@davidsonlawyers.ca

DAVIDSON
LAWYERS LLP

3009 28th Street, Vancouver BC V1T 4Z7
 Office 250-542-1177 | Fax 250-542-1105

davidsonlawyers.ca

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Our public office hours are 8:30 AM to 4 PM, daily, though our staff and lawyers will continue to be available through email or by phone in the usual manner. Contact details for all lawyers are available on our website www.davidsonlawyers.ca. Our staff can be reached by calling 250-542-1177 and by then following the prompts. Thank you.

From: Johnson, Daniel <DaJohnson@blg.com>
Sent: Tuesday, May 4, 2021 9:14 AM
To: scott.andersen@lawsonlundell.com; Steven Dvorak <SDvorak@davidsonlawyers.ca>

Cc: Cecil Cheveldave (ctcheveldave@telus.net) <ctcheveldave@telus.net>

Subject: RE: Sather Ranch - Hearing of Related Party Claims [BLG-DOCUMENTS.FID7792800]

Scott and Steven,

Following on your respective notes below, Mr. Sather's preference is that this matter be heard by the Court.

With respect to process, given that the parties' positions and the particulars of the claims are already set out in the various notices of application and replies, I don't see the need for more than cross-examination on the affidavits, followed by argument. With respect to cross-examination, we expect to require 4 days total for cross-examination of Mr. Street, Ms. Brule, and Ms. Gosling. As with Mr. Dvorak, we may need a half-day for re-direct, pending further direction.

For argument, we propose written argument to be filed shortly after the conclusion of the evidentiary portion of the hearing, possibly with an attendance before the presiding judge to answer any questions. I expect the latter could be accomplished in one half-day.

To summarize, the process would unfold roughly as follows:

- a) Street cross-examination of Mr. Sather – 2 days
- b) Re-Direct of Mr. Sather – ½ day
- c) Sather cross-examination of Street group – 4 days
- d) Re-Direct of Street Group affiants – ½ day
- e) Questions on Argument – 1/2 day

Based on the above, 7 1/2 days would be required to complete the process.

Best,
Dan J.

Daniel B.R. Johnson (he/him)

Partner

T 403.232.9507 | dajohnson@blg.com

Centennial Place, East Tower, 1900, 520 – 3rd Ave. SW, Calgary, AB, Canada T2P 0R3

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Borden Ladner Gervais LLP

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From: scott.andersen@lawsonlundell.com <scott.andersen@lawsonlundell.com>

Sent: Thursday, April 29, 2021 9:51 AM

To: 'Steven Dvorak' <SDvorak@davidsonlawyers.ca>; Johnson, Daniel <DaJohnson@blg.com>

Cc: Cecil Cheveldave (ctcheveldave@telus.net) <ctcheveldave@telus.net>

Subject: RE: Sather Ranch - Hearing of Related Party Claims

[External / Externe]

Steve,

Thank you for the email below.

I will wait to hear from Dan as to Mr. Sather's position on mode and timing.

In response to your question, the Receiver did receive two arm's length claims, but both have been disallowed. They will be addressed in the Receiver's Report that will be finalized once we have heard from Dan as to his clients' position on process and timing.

Regards,

Scott R. Andersen | Partner
Lawson Lundell LLP
D 250.979.8546 | 604.631.9220 | M 250.300.7720 | F 604.641.2801

From: Steven Dvorak <SDvorak@davidsonlawyers.ca>
Sent: Wednesday, April 28, 2021 4:55 PM
To: Scott Andersen (2546) - 4Flr <scott.andersen@lawsonlundell.com>; Johnson, Daniel <DJohnson@blg.com>
Cc: Cecil Cheveldave (ctcheveldave@telus.net) <ctcheveldave@telus.net>
Subject: RE: Sather Ranch - Hearing of Related Party Claims

[THIS MESSAGE ORIGINATED FROM OUTSIDE OUR FIRM]

Scott and Dan;

- A. First, our clients would prefer to have the Related Party Claims determined through arbitration, conducted by a sole arbitrator pursuant to the Vancouver Arbitration Centre Domestic Arbitration Rules (the "**Rules**"). We would propose that:
1. the commencement date be May 3, 2021, and the parties (i.e. the Street group and the Sather group) each pay ½ of the fees;
 2. the Notices of Application stand as the Notices to Arbitrate, and the Responses stand as the Response to Notice to Arbitrate;
 3. the Arbitrator be appointed pursuant to Rule 8;
 4. the Affidavits stand as direct evidence in the Arbitration, subject to directions from the Arbitrator; and
 5. the Arbitration process be conducted substantially in accordance with the process contemplated under the Claims Process Order, as supplemented by any directions provided by the Arbitrator.
- B. If those terms are not acceptable, and if we cannot agree upon alternative terms for arbitration of the Claims, the following will clarify our time estimates for the court applications:
1. The presentation of all claims made by the Street group will require 2 days.
 2. The cross examination of Mr. Sather will, we expect, consist of two parts, but should proceed concurrently. First, Mr. Sather will be cross examined on his various affidavits sworn to date in response to the claims made by the Street group. Second, Mr. Sather will be cross examined

on his various affidavits sworn in support of his claims and those of AMX. We anticipate that Mr. Sather will be under cross examination for a total of two days.

3. Depending upon the decider's rules for the process, we may require up to half a day for re-direct.
4. I would expect that a further half day will be required for closing submissions on behalf of the Street group.
5. In total, we should allow 5 days for the Street group's processes.

Finally, can you confirm that no claims, other than Related Party Claims, were submitted by the Claims Bar Date?

Thanks;

Steven Dvorak

Partner

Direct: 250-275-4495

Email: SDvorak@davidsonlawyers.ca

DAVIDSON
LAWYERS LLP

3009 28th Street, Vernon BC V1T 4Z7

Office 250-542-1177 | Fax 250-542-1105

davidsonlawyers.ca

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Our public office hours are 8:30 AM to 4 PM, daily, though our staff and lawyers will continue to be available through email or by phone in the usual manner. Contact details for all lawyers are available on our website www.davidsonlawyers.ca. Our staff can be reached by calling 250-542-1177 and by then following the prompts. Thank you.

From: scott.andersen@lawsonlundell.com <scott.andersen@lawsonlundell.com>

Sent: Tuesday, April 27, 2021 8:09 AM

To: Steven Dvorak <SDvorak@davidsonlawyers.ca>; Johnson, Daniel <DaJohnson@blg.com>

Cc: Cecil Cheveldave (<ctcheveldave@telus.net>) <ctcheveldave@telus.net>

Subject: Sather Ranch - Hearing of Related Party Claims

Counsel,

As required by paragraph 18 of the claims process order, the Receiver is preparing a report to the court regarding the claims received and to seek directions, address any procedural issues (including whether the Receiver needs to participate in the hearing) and finally to assist in the scheduling of the hearing of the Related Party Claims.

I am writing to you to ask that you confirm your client's preference as to the adjudicator (judge or arbitrator) and to confirm how much time you think will be required for the hearing assuming all of the Related Party Claims are heard together by the same decision maker.

Paragraph 20 of the claims process order enables the applicants and respondents to agree to have the claims determined by an arbitrator of their choosing. Is that something you wish to consider? Or alternatively, please confirm if your client's preference is that the Related Party Claim be heard by the Court.

As to the time required, I would appreciate your input as to the amount of time we should reserve for the hearing of these applications. The following time estimates have been provided in the Notices of Application and Application Responses.

Application of Boundary Machine Ltd.

- Applicant's time estimate: 2 days
- Respondents' time estimate: 3 days
- Witnesses to be Cross Examined:
 - o Mike Street (8 hours)
 - o Marielle Brule (4 hours)
 - o Terry Gosling (2 hours)

Application of Marielle Brule

- Applicant's time estimate: 2 days
- Respondents' time estimate: 3 days
- Witnesses to be Cross Examined:
 - o Mike Street (8 hours)
 - o Marielle Brule (4 hours)
 - o Terry Gosling (2 hours)

Application of Profectus Financial Inc.

- Applicant's time estimate: 2 days
- Respondents' time estimate: 3 days
- Witnesses to be Cross Examined:
 - o Mike Street (8 hours)
 - o Marielle Brule (4 hours)
 - o Terry Gosling (2 hours)

Application of Mike Street

- Applicant's time estimate: 2 days
- Respondents' time estimate: 3 days
- Witnesses to be Cross Examined:
 - o Mike Street (8 hours)
 - o Marielle Brule (4 hours)
 - o Terry Gosling (2 hours)

Application of AMX Real Estate Inc. and Joseph Sather.

- Applicant's time estimate: 1 hour
- Respondents' time estimate: 3 days
- Witnesses to be Cross Examined: Joseph Sather

- Witnesses to be Cross Examined:
 - o Mike Street (8 hours)
 - o Marielle Brule (4 hours)
 - o Terry Gosling (2 hours)

Adding the above estimates up would require 15 court days. I assume that they are to be heard together such that your intent may have been that 3 days is required. I suspect that estimate, however, may be low. For that reason, I am writing to ask that you consider further the amount of court time required as if we were scheduling a trial and to set out exactly what you anticipate you would need for your submissions (as applicant and respondent) and for cross examinations you wish to conduct so that we can get a better time estimate for the hearing as a whole.

I look forward to hearing from you at your earliest convenience.

Thank you,



SCOTT R. ANDERSEN | Partner
D 250.979.8546 | 604.631.9220 | M 250.300.7720 | F 604.641.2801 | E scott.andersen@lawsonlundell.com
LAWSON LUNDELL LLP Suite 403, 460 Doyle Avenue, Kelowna, BC V1Y 0C2
Vancouver | Calgary | Yellowknife | Kelowna

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This is **Exhibit “ 2 ”** referred to in the
Affidavit of Cecil Cheveldave made before me
on November 29, 2023

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above a horizontal line.

A Commissioner for taking Affidavits for
British Columbia



NO. S1913131
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

MICHAEL NEIL STREET and
MARIELLE JACQUEILINE ANGELLA BRULE

PLAINTIFFS

AND:

SATHER RANCH LTD. by its Court Appointed Receiver and
Manager, C. Cheveldave & Associates Ltd.

DEFENDANT

NOTICE OF APPLICATION
(APPROVAL OF A RELATED PARTY CLAIM)

NAME OF APPLICANTS: AMX Real Estate Inc. and Joseph Sather
(collectively, the "**Applicants**")

ON NOTICE TO: The Receiver, C. Cheveldave & Associates Ltd.

AND ON NOTICE TO: All Other Related Party Creditors
(Creditors List attached hereto as **Schedule "A"**)

TAKE NOTICE that an application will be made by the Applicants to the presiding judge or master at the courthouse at 800 Smithe Street, Vancouver, British Columbia, on July 31, 2023, at 9:45 a.m. for the Orders set out in Part 1 below.

PART 1: ORDERS SOUGHT

1. An order approving the related party claims in receivership set out herein.
2. Such further or other relief as this Court may deem just and approximate.

PART 2: FACTUAL BASIS

Parties

1. Sather Ranch Ltd. (“**SRL**”) was incorporated under the laws of the province of Alberta on March 21, 2013 by one of the Applicants, Joseph Sather (“**Mr. Sather**”). The shareholders of SRL are AMX Real Estate Inc. (“**AMX**”) and 0882126 BC Ltd. (“**088**”), with each holding 50% of the shares in the capital of SRL. The directors of SRL are Mr. Sather and one of the Respondents, Michael Street (“**Mr. Street**”).
2. 088 is a corporation incorporated pursuant to the laws of the Province of British Columbia and is owned by Mr. Street.
3. AMX is a corporation incorporated pursuant to the laws of the Province of Alberta and carries on business in Alberta. Mr. Sather is the sole director and shareholder of AMX.
4. Boundary Machine Ltd. (“**Boundary**”) is a corporation incorporated pursuant to the laws of the Province of British Columbia. Mr. Street is the sole director and shareholder of Boundary. Boundary and 088 share the same registered office.
5. Profectus Financial Inc. (“**Profectus**”) is a corporation incorporated pursuant to the laws of the Province of British Columbia. Marielle Brule (“**Ms. Brule**”) is the sole director and shareholder of Profectus. Ms. Brule is an individual resident in British Columbia. Ms. Brule is a Chartered Professional Accountant, and is Mr. Street’s spouse.
6. G. Moroso & Associates Inc. was previously appointed as receiver of SRL, but has since been discharged. On or about October 28, 2020, C. Cheveldave & Associates Ltd. was appointed and is now the receiver of SRL (the “**Receiver**”).
7. On or about January 14, 2021, The Honourable Justice Walker granted a Claims Process Order setting out a process for making claims in the receivership of SRL.

History of Sather Ranch

8. Palmer E. Sather (“**Palmer**”), the father of Mr. Sather, started Sather Ranch in 1939 as an unincorporated cattle ranch.

9. The primary asset of Sather Ranch when it started was the cattle. In the early 1950s, Palmer purchased an 80 acre parcel of land. The civic or street address of this property is 1313 Greyback Road, Penticton, BC (the "**Ranch Lands**"). The Ranch Lands were sold by the Receiver in November 2020.
10. Mr. Sather has personally been involved in assisting in the management of Sather Ranch since 1955.
11. In or around 1995, or thereafter, Mr. Street began volunteering as an unpaid helper, to assist Palmer handling cattle. Mr. Street volunteered because he wanted to learn about cows and how to operate a cattle ranch. Over the years since Street began to volunteer at Sather Ranch, his knowledge of cattle and ranching grew and it became his ambition to own a cattle ranch.
12. In or around 2009, Mr. Street sought permission from Palmer to park his modular home on the Ranch Lands. Palmer ultimately did allow Street to move his modular home onto the Ranch Lands in exchange for Mr. Street assisting with managing and handling the cattle. A Lease Agreement dated August 28, 2009 was drawn up and entered into whereby Mr. Street agreed to pay \$1.00 rent per annum, install a septic system and electrical hookup at his own cost, and perform part-time unpaid services for the benefit of the ranching business.
13. On or about March 31, 2013, the Lease Agreement with Mr. Street was terminated at the request of Palmer.
14. In 2013, as a result of Palmer's aging and health issues, Mr. Sather's sister, Carol Sather-Byman, and Mr. Sather, decided to either liquidate the ranch assets or ask Mr. Street to manage the cattle. Up to that point in time, Sather Ranch had essentially operated on a "break even" basis, with the sale of cattle and calves basically covering all operating costs. As of 2013, Sather Ranch assets consisted of a cattle herd, the Ranch Lands, and various farm equipment, tools and supplies.
15. Mr. Sather did not have the time nor inclination to continue to manage and fund the ranch's operations. Mr. Sather verbally told Mr. Street that while Mr. Sather could simply sell the Ranch Lands and liquidate the cattle and other assets, Mr. Sather would be prepared to enter into an arrangement whereby

Mr. Street would continue to manage the cattle belonging to Sather Ranch and, eventually, Mr. Street could buy Mr. Sather's interest in Sather Ranch.

16. In 2013, a verbal agreement was reached between Mr. Sather and Mr. Street on the following terms, *inter alia*:

- (a) the assets of the ranch would be rolled into a company to be incorporated as "Sather Ranch Ltd.", with 50% of the shares of SRL being issued to each of Mr. Sather's holding company, AMX, and 50% of the shares issued to Mr. Street's holding company, 088;
- (b) as consideration for 088 receiving a 50% interest in the capital of SRL, Mr. Street would continue to manage the day to day operations of the cattle ranch;
- (c) Mr. Sather agreed that he would not invest additional funds in SRL thereby reducing the amount Mr. Street would have to pay to purchase AMX's 50% of SRL. Mr. Street and Mr. Sather agreed that Mr. Sather would not be required to contribute to the funding of the operations of SRL, on the understanding and expectation that the ranching business would continue to operate basically on a "break even" basis;
- (d) Mr. Sather and Mr. Street would each be appointed a director of SRL;
- (e) Mr. Street would purchase AMX's 50% interest in SRL at fair market value within a few years following the Agreement (as defined below), or as soon as Mr. Street was in a position to do so. Mr. Sather offered to finance, over a period of 10 years, at a nominal interest rate, most of the cost of Mr. Street's acquisition of SRL;
- (f) until such time as AMX's 50% interest in SRL was purchased and the Ranch Lands were purchased from Palmer and the Estate of Oscar Sather, no major improvements or expenditures would be undertaken unless
 - i. they were done at Mr. Street's or 088's cost, in which case they would be for their own account and benefit; or
 - ii. they were undertaken with the prior, express and informed consent of Mr. Sather and AMX.

(collectively, the “**Agreement**”)

17. Since 2013, Mr. Sather has regularly assisted with the operations of SRL while in Alberta by, among other things, locating and purchasing cattle, hay, feed, and various supplies in Alberta, for the cattle and arranging trucking and hauling of hay and cattle from Alberta to the ranch operations in Penticton.

18. In about 2014, Mr. Street hired Ms. Brule (at that time a partner at the accounting firm of White Kennedy LLP) to perform accounting, tax and business advisory services for SRL. Ms. Brule and the firm White Kennedy LLP prepared year-end financial statements and corporate tax returns for SRL. At some time after Ms. Brule was engaged to perform accounting services for SRL, Ms. Brule and Mr. Street became romantically involved.

Unreimbursed expenses incurred by AMX and/or Joe Sather for the benefit of SRL

a. Shareholder’s Loan of AMX

19. In or around January 2015, Mr. Street requested that Mr. Sather provide a list of expenses Mr. Sather had incurred for or provided to SRL and Mr. Sather did.

20. Mr. Street and Ms. Brule accepted these figures and recorded them as a shareholder’s loan in the amount of \$128,372.30 owing to AMX in 2015 (the “**Shareholder’s Loan**”).

21. SRL has not to date repaid the amounts it owes to AMX pursuant to the Shareholder’s Loan.

b. Expenses of Joseph Sather

22. In addition to the Shareholder’s Loan and underlying expenses, Mr. Sather incurred personal expenses (the “**Additional Personal Expenses**”) for the benefit of SRL. Pursuant to the Agreement, it had been agreed between Mr. Street and Mr. Sather that Mr. Sather would be reimbursed for any expenses incurred by him for the benefit of SRL. Such expenses include, without limitation:

- (a) hosting events for \$20,935.00 and associated expenses;
- (b) paying for veterinary bills and/or medications;
- (c) cattle and bulls belonging to Joe Sather;
- (d) farm equipment, including but not limited to a tractor, branding and round up;
- (e) Use of personal tractor for \$19,500;

- (f) Horses;
 - (g) Tack;
 - (h) Salt blocks;
 - (i) Medication and veterinary expense; and
 - (j) Incorporation costs.
23. Mr. Sather submitted receipts for the Additional Personal Expenses, but Mr. Sather has not been reimbursed for the Additional Personal Expenses and they remain due and owing.

c. Expenses of AMX

24. In addition to the Shareholder's Loan and underlying expenses, and the Additional Personal Expenses, AMX incurred expenses in the approximate amount of \$129,537.57.31 (the "**Additional AMX Expenses**") for the benefit of SRL. Pursuant to the Agreement, it was agreed between Mr. Street and Mr. Sather that AMX would be reimbursed for any expenses incurred by him for the benefit of SRL.
25. AMX has not been reimbursed for the Additional AMX Expenses and they remain due and owing.

PART 3: LEGAL BASIS

1. The Applicants rely on:
- (a) *Supreme Court Civil Rules*;
 - (b) the inherent jurisdiction of this Honourable Court; and
 - (c) such further and other legal basis as counsel may advise and this Honourable Court may allow.

PART 4: MATERIAL TO BE RELIED ON

- 1. Claim Process Order pronounced on January 14, 2021;
- 2. Affidavit #1 of Joseph Sather, sworn March 30, 2021; and
- 3. Such further and other materials as counsel may advise and this Court may permit.


The Applicants estimate that the application will take 1 hour.

- This matter is within the jurisdiction of a Master.
- This matter is not within the jurisdiction of the 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 proceeding, 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).

Dated: March 31, 2021



 AMX Real Estate Inc. and Joseph Sather on
 their own behalf

<i>To be completed by the court only:</i>	
Order made	
<input type="checkbox"/>	in the terms requested in paragraphs _____ of Part 1 of this notice of application
<input type="checkbox"/>	with the following variations and additional terms: _____ _____ _____
Date: _____	_____
Signature of <input type="checkbox"/> Judge <input type="checkbox"/> 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 matters 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
- other

Schedule "A"

LIST OF CREDITORS

Mike Street c/o Boundary Machine Inc. 1335 Commercial Way Penticton, BC V2A 3H4	Marielle Brule 201 – 99 Padmore Avenue W. Penticton, BC V2A 7H7
Boundary Machine Inc. 1335 Commercial Way Penticton, BC V2A 3H4	0882126 BC Ltd. c/o Boundary Machine Inc. 1335 Commercial Way Penticton, BC V2A 3H4
Profectus Financial Inc. 201 – 99 Padmore Avenue W. Penticton, BC V2A 7H7	CRA c/o Department of Justice 900 – 840 Howe Street Vancouver, BC V6Z 2S9
Province of BC c/o Ministry of Attorney General Legal Services Branch 400 – 1675 Douglas Street Victoria, BC V8W 9L7	Penticton Indian Band c/o Arbutus Law Group LLP 132 – 328 Wale Road Victoria, BC V9B 0J8
Ethel Kruger c/o Penticton Indian Band 841 Westhills Drive Penticton, BC V2A 0E8	

NO. S1913131
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

MICHAEL NEIL STREET and
MARIELLE JACQUELINE ANGELLA BRULE

PLAINTIFFS

AND:

SATHER RANCH LTD. by its Court Appointed Receiver and
Manager, C. Cheveldave & Associates Ltd.

DEFENDANT

**NOTICE OF APPLICATION
(APPROVAL OF A RELATED PARTY CLAIM)**

BORDEN LADNER GERVAIS LLP
1200 Waterfront Centre
200 Burrard Street
P.O. Box 48600
Vancouver, BC V7X 1T2
Telephone: (604) 632-3425
Attn: Daniel B.R. Johnson
Email: dajohnson@blg.com
File: 446496.000001

This is **Exhibit “ 3 ”** referred to in the
Affidavit of Cecil Cheveldave made before me
on November 29, 2023



A Commissioner for taking Affidavits for
British Columbia

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Street v. Sather Ranch Ltd.*,
2023 BCSC 1525

Date: 20230810
Docket: S1913131
Registry: Vancouver

Between:

Michael Neil Street and Marielle Jacqueline Angella Brule
Plaintiffs

And:

**Sather Ranch Ltd. by its Court Appointed Receiver and Manager,
C. Cheveldave & Associates Ltd.**
Defendant

Before: The Honourable Justice Brongers

Oral Reasons for Judgment

In Chambers

Counsel for the Plaintiffs: S.D. Dvorak

Counsel for the Defendant: N.S. Mann

Joseph Sather appearing on his own
behalf and as agent for AMX Real Estate
Inc.: J. Sather

Place and Date of Hearing: Vancouver, B.C.
July 31 – August 3, 2023

Place and Date of Judgment: Vancouver, B.C.
August 10, 2023

THE COURT:**Introduction**

[1] This is a summary trial proceeding. Its purpose is to determine the validity of claims made by six parties against Sather Ranch Limited ("SRL"), a corporation that is in receivership. The six parties are:

- 1) Michael Street ("Mike");
- 2) Boundary Machine Limited ("Boundary");
- 3) Marielle Brule ("Marielle");
- 4) Profectus Financial Inc. ("Profectus");
- 5) Joseph Sather ("Joe"); and
- 6) AMX Real Estate Inc. ("AMX").

[2] I am referencing the individual parties by their first names for clarity, and mean no disrespect in doing so.

[3] Mike and Marielle are spouses. Boundary is Mike's company. Profectus is Marielle's company. They are all represented by the same counsel. When appropriate, I will reference these four parties collectively as the "Street Claimants".

[4] AMX is Joe's company. Joe, who is not a lawyer, represents both himself and AMX. When appropriate, I will reference these two parties collectively as the "Sather Claimants".

Factual Background

[5] This proceeding takes place against the backdrop of an unfortunate feud that has arisen between Joe and Mike. It is unfortunate because they were once so close that Joe described Mike as his "adopted son." Many of the details are recounted by Justice Elwood in his recent June 1, 2023 judgment indexed as *Sather Ranch Limited v. Sather*, 2023 BCSC 926 (the "Elwood Judgment"). I will not restate all of these details here. I will simply set out the key facts that are particularly relevant to understanding the parties' present claims against SRL.

[6] Joe's father was Palmer Sather ("Palmer"). Palmer died on October 20, 2017.

[7] In the late 1930s, Palmer founded a cattle ranch near Penticton known as Sather Ranch. Palmer was a railwayman by trade, and the ranch was originally run more as a hobby than a business. Joe grew up in Penticton but did not want to become a rancher. Instead, Joe moved to Calgary, Alberta, where he works as an accountant and a realtor. That said, Joe would regularly return to Sather Ranch to see his family and participate in some ranch activities. Notably, Joe would attend in the spring for cattle branding and in the fall for cattle roundup.

[8] In the mid 1990s, Mike began working at Sather Ranch as an unpaid volunteer. Mike did so because he was interested in cattle ranching and wanted to learn the business. Palmer mentored Mike, and they became friends. Over time, Palmer came to rely on Mike's help in running the ranch, particularly as Palmer's physical and mental health began to deteriorate. Joe was also grateful for Mike's assistance to Palmer, and Mike and Joe developed a close friendship as well.

[9] By the early 2000s, Palmer had granted powers of attorney to Joe and Joe's sister, Carol Sather-Byman ("Carol"). As the decade went on, Mike became primarily responsible for the day-to-day operations of Sather Ranch, and Joe came to take care of its finances.

[10] In 2009, Palmer granted Mike a lease to live on a portion of the "Home Ranch," an 80-acre parcel of land owned two-thirds by Palmer and one-third by Palmer's brother, Oscar Sather ("Oscar"). Mike installed a modular home on the property and lived there for the next 11 years.

[11] Also in 2009, Palmer was diagnosed with dementia. By 2013, Palmer could no longer manage his affairs, and he moved to a care facility.

[12] Spurred by Palmer's health issues, Joe and Mike discussed the future of Sather Ranch. As a result of this discussion, SRL was incorporated on March 21, 2013 under the Alberta *Business Corporations Act*, RSA 2000, c B-9 [ABCA]. SRL is also extra-provincially registered in British Columbia. SRL's shareholders are AMX (the company owned by Joe that is a claimant in this proceeding) and 08821126 BC Ltd. (a numbered company owned by Mike). AMX and Mike's numbered company each have a 50% shareholding in SRL. Joe and Mike are SRL's only directors.

[13] Joe and Mike's specific intentions for SRL are disputed. It is nevertheless clear that SRL's primary purpose was to provide a corporate vehicle for operating the Sather Ranch cattle business. Livestock, motor vehicles, equipment, and other non-land assets were rolled into SRL by Joe and Mike. In addition, land leases used by the ranch were put in SRL's name. Those assets and rights that were owned by Palmer were transferred to SRL using Joe and Carol's powers of attorney.

[14] In early 2014, Joe and Mike became aware that the Penticton Indian Band was going to stop leasing out its land that had been used to winter the Sather Ranch cattle. Joe and Mike then discussed plans for improving the Home Ranch land so that the cattle could be permanently wintered on the Home Ranch instead. Once again, however, the specifics of what was discussed and agreed upon by Joe and Mike are disputed.

[15] In any event, the land lease with the Penticton Indian Band ceased in 2016. In or around March 2016, work began on improving the Home Ranch land under Mike's direction. The work included clearing trees, levelling the land site, fencing, improving the access road, electrical service and water service, and installing shelters. The work was largely completed by early 2017.

[16] On November 4, 2016, SRL purchased the Home Ranch land from Palmer and Oscar's estate. Palmer's agreement to the sale was effected through Carol's power of attorney, and that of Oscar's estate through his widow, Constance Sather ("Connie").

[17] The events that resulted in the falling-out between Joe and Mike took place in 2017. In April of that year, SRL made an offer to purchase a 160-acre parcel of land owned by Palmer known as the "Grazing Lands." It is adjacent to the Home Ranch lands. The offer was prepared by Mike and presented by Joe to Carol in her capacity as Palmer's power of attorney. It was not accepted. On July 8, 2017, Joe informed Mike of his decision to buy the Grazing Lands himself in Joe's own name. On August 25, 2017, Carol executed the necessary documentation to permit the transfer of the Grazing Lands to Joe. The agreed-upon transfer price was for the same amount of money that SRL had offered to pay a few months earlier.

[18] Mike was angered by this transaction, which he viewed as an act of betrayal by Joe. It also became the primary focus of the proceedings which led to the Elwood Judgment. In his reasons, Justice Elwood concluded that Joe owed a fiduciary duty to SRL, which Joe breached when he purchased the Grazing Lands for himself.

[19] As was also noted in the Elwood Judgment at para. 69, the dispute over the Grazing Lands irreparably damaged the relationship between Joe and Mike. They largely stopped providing financial support to the ranch's operation, and SRL ceased functioning as a viable business. SRL was placed into receivership by order of Justice Walker dated September 17, 2018.

Procedural Background

[20] On January 14, 2021, Justice Walker issued a claims process order ("CPO") in respect of SRL. The CPO provides that any "Related Party Creditor" of SRL is to prepare a notice of application seeking approval of their claims together with supporting affidavits. This material is to be delivered to the Receiver and all of the other Related Party Creditors. Should a Related Party Creditor oppose one or more of these claims, they are to prepare an application response along with any affidavits in opposition. Arrangements are then to be made for the Court to adjudicate the validity of the opposed claims by way of a summary trial. The CPO contemplates a hybrid trial procedure whereby evidence is tendered through affidavits and cross-examination of affiants before the Court.

[21] The CPO also defines a Related Party Creditor as including all of the specific Street Claimants and Sather Claimants whose claims are in issue in this proceeding. Their pleadings and supporting evidence were filed in early July 2023. That evidence consists of five affidavits from Mike, one affidavit from Marielle, two affidavits from Joe, and five non-party affidavits.

[22] The claims hearing took place before me over three and a half days from July 31 to August 3, 2023. Joe, Mike, and Marielle were all subject to cross-examination before the Court. The other affiants were not.

The Street Claimants' Position

[23] The Street Claimants' position is that SRL is indebted to them in respect of funds that were effectively advanced to SRL by Mike, Boundary, Marielle, and Profectus.

[24] According to counsel for the Street Claimants, the advances fall within three categories. They can essentially be summarized as follows:

- a) payments made to improve the Home Ranch lands in order to establish an operational winter pasture for SRL and to facilitate the growth of SRL's ranching business ("Home Ranch Improvement Expenses");
- b) payments made to third parties to cover SRL's operational expenses ("SRL Operational Expenses"); and
- c) loans advanced to SRL to fund its operations ("SRL Operational Loans").

[25] With respect to the Home Ranch Improvement Expenses, the Street Claimants say that they were funded through cash contributions made by Mike and Boundary. In addition, Boundary was engaged by SRL to provide equipment and labour, and Boundary charged SRL for its services. These charges and contributions were recorded by SRL's bookkeeper, and SRL has yet to pay Mike and Boundary the amounts owing.

[26] With respect to the SRL Operational Expenses, the Street Claimants say that Profectus once paid a third party to supply hay for SRL's cattle. This payment was recorded by SRL's bookkeeper, and SRL has yet to repay Profectus.

[27] With respect to the SRL Operational Loans, the Street Claimants say that Mike and Marielle advanced money to SRL for operational purposes. The advances were recorded by SRL's bookkeeper, and SRL has yet to repay Mike and Marielle.

[28] The Street Claimants submit that the Home Improvement Expenses, the SRL Operational Expenses, and the SRL Operational Loans were all *bona fide* and made with the knowledge and approval of both of SRL's directors, Mike and Joe.

[29] Accordingly, the Street Claimants seek orders approving all aspects of the debt claims made against SRL by Mike, Boundary, Marielle, and Profectus. As for

quantum, the Street Claimants say the amounts claimed are all set out in the affidavit of SRL's bookkeeper and have not been challenged by the Sather Claimants.

[30] Turning to the Sather Claimants' claims against SRL, the Street Claimants only concede that two aspects ought to be approved. They are the value of contributions made to SRL by Joe and AMX in respect of cattle and a tractor. The Street Claimants do not accept that any other aspect of the Sather Claimants' claims were made for SRL's benefit or were approved by both of SRL's directors, Mike and Joe.

[31] In sum, the Street Claimants propose that an order be issued approving their claims in the following amounts (which include both the principal debt and claims for a portion of prejudgment interest allegedly owing):

- 1) Mike: \$190,300.80;
- 2) Boundary: \$680,204.86;
- 3) Marielle: \$9,259.00; and
- 4) Profectus: \$42,532.07.

[32] In addition, the Street Claimants concede that an order may be issued approving Joe and AMX's claim in the amount of \$77,750.00 (\$52,750.00 for cattle plus \$25,000.00 for the tractor).

The Sather Claimants' Position

[33] According to their notice of application and supporting affidavits, the Sather Claimants assert that SRL is indebted to them in respect of assets and funds provided to SRL by Joe and AMX. This material essentially classifies the Sather Claimants' claims under three categories, as follows:

- a) contributions of livestock, motor vehicles, hay, and equipment to SRL that constitute a shareholder's loan owing by SRL to AMX ("AMX Shareholder's Loan");
- b) personal expenses incurred by Joe for the benefit of SRL in respect of matters that include hosting events, veterinary bills, livestock, equipment, and incorporation costs ("Joe's Personal Expenses"); and

- c) corporate expenses incurred by AMX for the benefit of SRL in respect of matters that include hosting events, tractor rent, and incorporation costs (“AMX Corporate Expenses”).

[34] The amounts claimed by the Sather Claimants under these three categories are set out in their notice of application as follows:

- 1) AMX Shareholder’s Loan: \$128,372.30;
- 2) Joe's Personal Expenses: \$20,935 for hosting events, plus \$19,500 for use of a tractor, plus an unspecified amount for other personal expenses; and
- 3) AMX Corporate Expenses: \$129,537.57.31 [*sic*].

[35] During Joe's opening statement, however, Joe said that he was unsure whether he and AMX were actually claiming these particular amounts. Joe seemed to indicate that the amounts in the notice of application were just suggested to him at a time when the Sather Claimants were represented by counsel. Joe was asked several times over the course of the hearing to clarify the Sather Claimants' position for the benefit of the Street Claimants and the Court. But Joe never did.

[36] Instead, Joe presented a written closing submission document on the last day of the trial. Joe said he was content to rely on these written submissions without presenting an oral closing since he wanted to urgently return to Calgary in order to attend to some personal business. However, Joe's written closing submission makes no mention of any amounts claimed by Joe or AMX in this proceeding. Rather, it just asks the Court to dismiss the Street Claimants’ claims as follows:

We ask this Court to award judgment against Street and Brule and cease [*sic*] any funds and assets claimed by Street and Brule, together with interest and costs.

[37] This situation notwithstanding, I will nevertheless consider the Sather Claimants' claims as pleaded in their notice of application and supported by their affidavit material.

[38] From these documents, I understand that the Sather Claimants take the position that the loans they made and the expenses they incurred are *bona fide*,

and were effectively approved by both Mike and Joe in their capacity as SRL's directors. At the same time, the Sather Claimants submit that this is not the case for any of the claims made by the Street Claimants.

Analysis: Validity of the Claims Against SRL

[39] As has been noted, SRL only has two directors, Mike and Joe. There is documentation that identifies Mike as the "president" of SRL and Joe as the "secretary/treasurer" of SRL. As directors, they are both presumptively entitled to enter into contractual agreements on behalf of SRL. Furthermore, by virtue of the business judgment rule, it is presumed that in making business decisions, they did so on an informed basis, in good faith, and with an honest belief that the transactions they agreed to were in the best interests of the company: *Carlson Family Trust v. MPL Communications Inc.*, 2009 ABQB 77, at para. 17. There is also no suggestion that the transactions that gave rise to the parties' claims were not approved by at least one of SRL's directors. These elements will be kept in mind as the validity of the parties' claims are considered in light of the grounds advanced to oppose those claims as set out in the application responses.

The Street Claimants' Claims

[40] I will begin with the issue of the validity of the Street Claimants' claims against SRL.

[41] The specific grounds for the Sather Claimants' opposition to the Street Claimants' claims as set out in their application response are essentially fourfold. In particular, the Sather claimants say that the transactions giving rise to the Street Claimants' claims:

- a) were not approved by Joe, contrary to SRL's General Bylaw;
- b) were undertaken by Mike personally for Mike's own benefit and account, and were of no benefit to SRL;
- c) did not reflect fair market value for the goods and services SRL received; and
- d) were part of a scheme to "debt load" SRL to its detriment in order to facilitate a "credit bid" by Mike.

[42] Having considered the affidavits filed, as well as the testimony provided before me by Joe, Mike, and Marielle, I am of the view that none of these grounds for opposing the Street Claimants' claims are well-founded. I will address each in turn.

Directors' Approval of the Underlying Transactions

[43] First, I do not agree that the claims in question are invalid because of an absence of formal approval of the underlying transactions by Joe. To the contrary, I find that they were all made in good faith for the benefit of SRL, were consistent with SRL's corporate objectives, and that Joe was effectively aware and implicitly approved of them.

[44] In reaching this conclusion, I note that SRL did not have a unanimous shareholder agreement and that the "General Bylaws" referenced by the Sather Claimants in their pleadings were not entered into evidence. Therefore, I do not accept that there was any formal requirement that both Joe and Mike had to expressly approve all SRL transactions in order for them to be valid. The question is whether there was any verbal agreement to that effect. I find that there was none, for these reasons.

[45] Joe stated in his affidavit that he and Mike agreed in early 2013 that no major improvements or expenditures would be undertaken by SRL unless done at Mike's cost for his own benefit, or else with Joe's express and informed consent. Joe also denied consenting to SRL making any improvements to the Home Ranch, except to pay for fencing up to \$10,000 and to buy a water pump. However, Mike's evidence is that SRL was run informally with Mike being responsible for daily operations as he was on site while Joe resided in Calgary. There were no directors' or shareholders' meetings. Specific decisions were not recorded in resolutions, although *pro forma* annual resolutions were prepared and signed by both Joe and Mike indicating approval of the directors' acts and agreements over the previous year. Accordingly, there was no expectation that express approval would be sought and obtained from both of SRL's directors for all operational expenditures. As for the improvements to the Home Ranch, Mike's evidence is that these were discussed with and approved by Joe.

[46] In attempting to address this conflicting evidence, I find myself in a similar situation to that of Justice Elwood who also adjudicated a hybrid summary trial involving Mike and Joe. This is the proceeding regarding the Grazing Lands that resulted in the Elwood Judgment referenced earlier in these reasons. At paragraph 85 of the Elwood Judgment, he wrote:

[85] Joe was not a credible witness generally. Joe's affidavit contained argument and statements that could not be reconciled with the email and text correspondence. Under cross-examination, Joe was argumentative and evasive. He resisted making any admission that he perceived to be against his interests, even going so far as to suggest, without evidence, that emails or text messages might not be authentic.

[47] Ultimately, Justice Elwood preferred Mike's evidence to that of Joe when they differed, resolving conflicts largely by reference to the parties' emails and texts (see, for example, paragraphs 22 to 29 of the Elwood Judgment).

[48] I am obviously not bound by Justice Elwood's credibility assessment, and must conduct this task independently based on the evidence before me. That said, I am also of the view that the parties' contemporaneous written communication provides helpful evidence of their intentions and understanding of both SRL's corporate governance generally, and their plans for the Home Ranch Improvement specifically. Like Justice Elwood, I rely on this evidence to resolve conflicts in the parties' affidavit and testimonial evidence when necessary.

[49] With respect to corporate governance, I find that the parties were in general agreement that Mike would have the post-incorporation authority to contract for SRL's operational expenses without first obtaining Joe's express consent. This is consistent with Joe's pre-incorporation 2012 emails to Mike indicating that: "Sather Ranch does not operate any more without you...you are the key person", that "there is no 'ranch' without you Mike", and Joe's statement to Mike that "if it were not for you running the ranch, I'd sell everything". Furthermore, I agree with counsel for the Street Claimants' assertion that the absence of evidence that Mike and Joe were in constant communication regarding regular operational expenses also indicates that there was no agreement that all SRL transactions required express formal approval from both directors.

[50] With respect to the Home Ranch Improvement, I find that Joe was aware and approved of proceeding with the project under Mike's direction. This was

done both to address the prospect of losing access to the Penticton Indian Band land for wintering the cattle, and to expand the ranch's operations. This is demonstrated in particular by the following emails between Joe and Mike:

[January 23, 2014 – email from Joe to Mike]

JOE: ...You're absolutely right Mike ... we really should be running a lot more cows as it is just about the same amount of work whether you feed 50 head or 500 head. I think our original goal was to have 500 head within 10 years. So, let's get it up to at least 250 head within a year. ...

[March 21, 2014 – emails exchanged further to Mike sending Joe a link to a news article titled: "Penticton Indian Band Gets Funding for Bridge"]

JOE: Thanks Mike ... we'd better start fencing the 80 acres this summer.

MIKE: Yes I think so, we can probably stay down there for one more year that will be it.

JOE: Ya, maybe one more year but I think it would be better to fence and build ... we'll need a bull dozer to build a road so that hay trucks can access the property unless they can drive up the road and turn around??? It would be a lot more convenient up there too ... no hauling cattle except to the sale. ...

[August 3, 2014 – email from Joe to Mike]

JOE: Ya, I had already heard about the bridge going ahead. We knew this was likely to come so its no surprise to me. I think some of our options are:

1. Fence and cross fence the 80 acres for wintering cattle (may require some bulldozing land, widening or changing the access road, building some shelters, runways, chutes, water, troughs, etc., at least enough to get us by). ...

[February 20, 2016 – email from Joe to Mike]

JOE: ... Also I know what a mess we're in with the cattle in all that mud and crap. We're just going to have to set up on the Teechy place [*i.e., the Home Ranch*] ASAP. ...

[February 21, 2016 – email from Mike to Joe]

MIKE: ...we need lots of improvements here at the house to winter the cattle next winter. ... Things will add up fast here with the improvements, we will need to replace the pump and pressure tank, maybe a holding tank? Buy 3 or 4 waters, fencing, shelters, etc. ...

[February 22, 2016 – email from Joe to Mike]

JOE: Ya, I know we'll have to spend some money to fix up the Teechy Place [*i.e., the Home Ranch*] so we can use it next winter ... paddocks for feeding out, calving pens, shuts [*sic*] for branding, hospital pens, etc. and yes, would be nice to have a portable barns with pens for shelter.

[51] While under cross-examination, Joe attempted to minimize the significance of these emails as being simply "chitchat." I do not accept such a characterization, particularly since there is no clear evidence that Joe expressed to Mike any disapproval of the Home Ranch Improvement project after Joe personally witnessed and photographed the work being done in April 2016. Instead, I find that these emails support Mike's affidavit evidence to the effect that both Mike and Joe approved the Home Ranch Improvement Expenses, evidence that was not undermined by Joe during his cross-examination of Mike.

[52] In conclusion, the Sather Claimants' objection to the Street Claimants' claims based on the alleged lack of approval from Joe is rejected.

The Beneficiaries of the Transactions

[53] Second, I do not accept the Sather Claimants' position that the underlying transactions were only effected for Mike's benefit. Instead, the evidence demonstrates that they were necessary and intended primarily to benefit SRL as a corporation whose purpose was to operate a cattle business - not Mike or Joe as individuals. This is particularly the case for the Home Ranch Improvement Expenses, as shown by the email exchanges between Joe and Mike quoted above.

[54] I have reached this conclusion notwithstanding the fact that the transactions in question involve related parties. I accept Mike's evidence that he effectively disclosed his personal transactions with SRL, as well as those of Boundary, Marielle, and Profectus, by having them recorded through SRL's bookkeeper on financial statements that were made accessible to both Joe and Mike. It is also apparent that Joe, a chartered professional accountant, was generally aware of these transactions and knew that they involved parties related to Mike.

[55] I also note parenthetically that the Sather Claimants have not pleaded that there was non-compliance with s. 120 of the *ABCA*. This provision requires directors to disclose related-party transactions, and empowers the Alberta Court of King's Bench to set aside such transactions for non-compliance on application by the corporation or any of its shareholders. Counsel for the Street Claimants nevertheless presented argument as to why this legislation does not provide a basis for rejecting the Street Claimants' claims. Given that the Sather Claimants

have not invoked s. 120 of the ABCA themselves, I see no need to address the argument here.

[56] Therefore, the Sather Claimants' objection to the Street Claimants' claims based on their alleged lack of benefit to SRL is also rejected.

Fairness of the Value of the Goods and Services Received

[57] Third, I do not agree with the Sather Claimants that the claims of the Street Claimants should be disallowed because they did not reflect fair market value for the goods and services SRL received.

[58] While the Sather Claimants argue that the Home Ranch Improvement work was done at inflated rates, the Street Claimants counter that Boundary charged reduced rates and that Mike did not charge anything for his personal time. However, neither party led evidence with respect to what the fair market value of this work actually was.

[59] In any event, on my review of the evidence, I am unable to conclude that any of the amounts charged by the Street Claimants were unreasonable, unnecessary, or departed from fair market prices to the detriment of SRL.

[60] This ground for objecting to the Street Claimants' claims is rejected too.

The Street Claimants' Motivations

[61] Fourth, I do not accept the Sather Claimants' allegation that the Street Claimants brought their claims against SRL for the improper purpose of "debt loading" SRL in order to facilitate a "credit bid" by the Street Claimants for SRL and its assets.

[62] The specific evidence that the Sather Claimants rely upon in support of this allegation is twofold.

[63] First, there is Mike's statement in paragraph 9 of his November 20, 2018 affidavit that:

I intend to use the value of the [Street Claimants'] claims in my acquisition of SRL's assets, as part of a credit bid...

[64] Second, there is Joe's statement in paragraph 9 of his April 21, 2021 affidavit in which he says that he found a handwritten note in the kitchen of Mike's home which contains a list of questions such as "can 2/3 owner force sale of property". Joe also deposes to his belief that these are questions that Mike intended to ask Marielle about a scheme to force Connie to sell the one-third share of the Home Ranch land owned by Oscar's estate. The handwritten note is attached as an exhibit to Joe's affidavit.

[65] This note was also the subject of cross-examination questions posed to Joe and Marielle. Joe testified that he found the note on a picnic table located on Mike's deck (as opposed to Mike's kitchen, as Joe stated in his affidavit). Joe also confirmed that he did not know who wrote the note. However, Marielle then testified that she is, in fact, the author of the note. Marielle recalls writing it in July 2016 at a cafe in Calgary around the time of the Calgary Stampede. She did so in the presence of Joe, Mike, and her friend who - like Marielle and Joe - is also an accountant. Marielle explained that the four of them were discussing the matter of SRL's planned purchase of the Home Ranch land, including how to deal with the one-third interest controlled by Connie. The handwritten piece of paper simply contains the notes that Marielle made of this discussion.

[66] Having considered this evidence, I prefer and accept Marielle's clear recollection of the circumstances surrounding the creation of the note and the meaning of the words she wrote. I also reject Joe's speculative opinion that it is reflective of a conspiracy by Mike to "debt load" SRL. Instead, I find that it confirms that Joe, Mike, and Marielle were discussing in July 2016 a plan for SRL to buy the Home Ranch land. This is a plan that came to fruition later that fall with the approval and support of both Joe and Mike.

[67] Furthermore, I do not find that there is any other persuasive evidence in the record to substantiate the Sather Claimants' allegation that the Street Claimants were engaged in "debt loading," which I understand to mean the practice of improperly taking on unnecessary additional debt in anticipation of an impending bankruptcy. I am also not persuaded that Mike's expression of interest in making a "credit bid" constitutes evidence of bad faith.

[68] This ground for objecting to the Street Claimants' claims is also unfounded.

Conclusion Regarding the Validity of the Street Claimants' Claims

[69] In sum, I conclude that the Street Claimants' claims as set out in the notices of application filed by Mike, Boundary, Marielle, and Profectus on July 5, 2023, are valid. I will address the matter of the quantum of their claims below.

The Sather Claimants' Claims

[70] I turn now to the validity of the Sather Claimants' claims against SRL.

[71] As a preliminary matter, I restate the concession made by counsel for the Street Claimants during his closing submissions. That concession is that his clients are no longer disputing the Sather Claimants' claim in respect of cattle and a tractor that were contributed to SRL in 2013.

[72] That said, I also note that the Street Claimants maintain their opposition in respect of the balance of the Sather Claimants' claims, as set out in their application response. The main grounds for that opposition are:

- a) the inadequate supporting documentation to support the claimed value of the AMX Shareholder's Loan in respect of assets allegedly contributed to SRL at the time of its incorporation in 2013 (other than the cattle and the tractor);
- b) the inadequate supporting documentation to support the claims in respect of Joe's personal expenses and AMX's corporate expenses;
- c) the lack of agreement that SRL would pay for Joe's expenses for travelling to and visiting the Sather Ranch, activities that were personal in nature and not for the benefit of SRL; and
- d) the impropriety of a claim for rent in respect of the same tractor that was contributed to SRL at the time of incorporation.

[73] On my review of the affidavits tendered and the testimony provided on cross-examination, I am of the view that the Street Claimants' opposition to the Sather Claimants' claims is well-founded.

[74] In particular, I accept the unchallenged evidence of SRL's bookkeeper that, unlike the case for the Street Claimants, the Sather Claimants did not provide any

specific information or documentation regarding claim contributions to SRL, including event hosting, veterinary bills, medications, or travel expenses. This was the case notwithstanding the bookkeeper's regular request for such information and documentation.

[75] While Joe did attach some documentation to his March 30, 2021 affidavit, he did not explain to the Court how it substantiates the Sather Claimants' claims as pleaded in their notice of application. In the absence of such an explanation, and Joe's apparent abandonment of these claims at the hearing, I am not satisfied that they have been proven on a balance of probabilities in the absence of the Street Claimants' consent.

[76] Accordingly, with the exception of their 2013 contribution of cattle and a tractor to SRL, I conclude that the Sather Claimants' claims as set out in their notice of application filed July 13, 2023, are not valid.

Analysis: Quantum of the Claims

[77] With respect to the Street Claimants' claims, I accept their counsel's assertion that the uncontested affidavit evidence of SRL's bookkeeper provides reliable evidence of the amounts to which SRL is indebted.

[78] Exclusive of interest, this evidence indicates that the quantum of the Street Claimants' proven claims owing by SRL is:

- Mike: \$143,201.22;
- Boundary: \$515,712.83;
- Marielle: \$8,000.00; and
- Profectus, \$36,158.00.

[79] Turning to the Sather Claimants' claims, with the consent of the Street Claimants, I find that the quantum of the Sather Claimants' proven claims owing by SRL is:

- Joe and AMX: \$77,750.00.

[80] As for prejudgment interest, I agree with counsel for the Street Claimants' submissions that this is a case in which the agreements with SRL did not include

any provisions for interest. Pursuant to s. 1 of the *Court Order Interest Act*, R.S.B.C. 1996 c. 79, and s. 3 of the *Interest Act*, RSC 1985, c I-15, prejudgment interest will therefore be awarded at 5 percent per annum, calculated from the date on which the cause of action arose.

[81] Given the nature of the parties' claims, the date on which their respective causes of action arose is not self-evident. In particular, there is no clear indication of the exact date on which their debt claims against SRL became enforceable. However, counsel for the Street Claimants notes that his clients did file a notice of civil claim against SRL seeking judgments in respect of SRL's unpaid debts on August 7, 2018. In my view, this is an appropriate start date for the calculation of prejudgment interest in respect of all proven claims against SRL, including those made by the Sather claimants.

Conclusion and Disposition

[82] For the reasons set out above, the Court orders as follows:

- 1) The claim of Michael Neil Street, submitted in accordance with the Claims Process Order pronounced in this proceeding on January 14, 2021, is approved in the sum of \$143,201.22, together with interest calculated as simple interest at the rate of 5% per annum from and after August 7, 2018, to the date of this order.
- 2) The claim of Boundary Machine Ltd., submitted in accordance with the Claims Process Order pronounced in this proceeding on January 14, 2021, is approved in the sum of \$515,712.83, together with interest calculated as simple interest at the rate of 5% per annum from and after August 7, 2018, to the date of this order.
- 3) The claim of Marielle Jacqueline Angella Brule, submitted in accordance with the Claims Process Order pronounced in this proceeding on January 14, 2021, is approved in the sum of \$8,000.00 together with interest calculated as simple interest at the rate of 5% per annum from and after August 7, 2018, to the date of this order.
- 4) The claim of Profectus Financial Inc., submitted in accordance with the Claims Process Order pronounced in this proceeding on January 14, 2021,

is approved in the sum of \$36,158.00, together with interest calculated at simple interest at the rate of 5% per annum from and after August 7, 2018, to the date of this order.

- 5) The claim of Joseph Sather and AMX Real Estate Inc., submitted in accordance with the Claims Process Order pronounced in this proceeding on January 14, 2021, is approved in the sum of \$77,750.00, together with interest calculated as simple interest at the rate of 5% per annum from and after August 7, 2018, to the date of this order.

[83] Would the parties like to make any submissions on costs?

(SUBMISSIONS ON COSTS)

[84] THE COURT: I am going to order that the Street Claimants are given liberty to produce written submissions with respect to costs that must be filed and served on the Sather Claimants by August 24, 2023. The Sather Claimants are given liberty to produce a response, which must be filed and served on the Street Claimants by September 7, 2023. If necessary, the Street Claimants shall have until September 14, 2023 to file and serve a reply on the Sather Claimants.

“Brongers, J.”

This is **Exhibit “ 4 ”** referred to in the
Affidavit of Cecil Cheveldave made before me
on November 29, 2023



A Commissioner for taking Affidavits for
British Columbia



No. S1913131
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

**MICHAEL NEIL STREET and
MARIELLE JACQUELINE ANGELLA BRULE**

PLAINTIFFS

AND:

**SATHER RANCH LTD. by its Court Appointed Receiver
and Manager, C. Cheveldave & Associates Ltd.**

DEFENDANT

ORDER MADE AFTER APPLICATION

BEFORE } THE HONOURABLE MR. JUSTICE BRONGERS } 10/AUG/2023

ON THE APPLICATIONS of Michael Neil Street, Boundary Machine Ltd., Marielle Jacqueline Angella Brule, Profectus Financial Inc., Joseph Sather, and AMX Real Estate Inc., coming on for hearing at Vancouver, British Columbia on July 31, August 1, August 2, and August 3, 2023, and on hearing Steven D. Dvorak, counsel for Michael Neil Street, Boundary Machine Ltd., Marielle Jacqueline Angella Brule, and Profectus Financial Inc., and on hearing Joseph Sather, on his own behalf and as agent for AMX Real Estate Inc.;

And judgment having been reserved to this date;

THIS COURT ORDERS that:

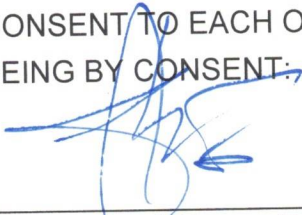
1. The claim of Michael Neil Street, submitted in accordance with the Claims Process Order pronounced in this proceeding on January 14, 2021 (the "**Claims Process Order**"), is approved in the sum of \$143,201.22, together with interest

calculated as simple interest at the rate of 5% *per annum* from and after August 7, 2018 to the date of this Order.

2. The claim of Boundary Machine Ltd., submitted in accordance with the Claims Process Order, is approved in the sum of \$515,712.83, together with interest calculated as simple interest at the rate of 5% per annum from and after August 7, 2018 to the date of this Order.
3. The claim of Marielle Jacqueline Angella Brule, submitted in accordance with the Claims Process Order, is approved in the sum of \$8,000.00, together with interest calculated as simple interest at the rate of 5% per annum from and after August 7, 2018 to the date of this Order.
4. The claim of Profectus Financial Inc., submitted in accordance with the Claims Process Order, is approved in the sum of \$36,158.00, together with interest calculated as simple interest at the rate of 5% per annum from and after August 7, 2018 to the date of this Order.
5. The claim of Joseph Sather and AMX Real Estate Inc., submitted in accordance with the Claims Process Order, is approved in the sum of \$77,750.00, together with interest calculated as simple interest at the rate of 5% per annum from and after August 7, 2018 to the date of this Order.
6. Michael Neil Street, Boundary Machine Ltd., Marielle Jacqueline Angella Brule, and Profectus Financial Inc. shall file and serve written submissions on the issue of costs on or before August 24, 2023.
7. Joseph Sather and AMX Real Estate Inc. shall file and serve their written submissions in response on the issue of costs on or before September 7, 2023.
8. Michael Neil Street, Boundary Machine Ltd., Marielle Jacqueline Angella Brule, and Profectus Financial Inc. shall file and serve their reply submissions, if any, on or before September 14, 2023.

- 9. Approval as to the form of this Order by Joseph Sather and AMX Real Estate Inc. 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:

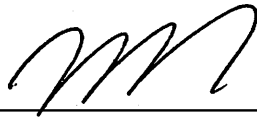


Signature of Steven D. Dvorak
Lawyer for Michael Neil Street,
Boundary Machine Ltd., Marielle
Jacqueline Angella Brule, and
Profectus Financial Inc.

BY THE COURT

REGISTRAR

This is **Exhibit “ 5 ”** referred to in the
Affidavit of Cecil Cheveldave made before me
on November 29, 2023



A Commissioner for taking Affidavits for
British Columbia

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Street v. Sather Ranch Ltd.*,
2023 BCSC 1694

Date: 20230927
Docket: S1913131
Registry: Vancouver

Between:

Michael Neil Street and Marielle Jacqueline Angella Brule
Plaintiffs

And

**Sather Ranch Ltd. by its Court Appointed Receiver and Manager,
C. Cheveldave & Associates Ltd.**
Defendant

Before: The Honourable Mr. Justice Brongers

Reasons for Judgment on Costs

Counsel for the Plaintiffs S.D. Dvorak

No other appearances

Place and Date of Hearing: Vancouver, B.C.
Written Submissions Received
August 23, 2023

Place and Date of Judgment: Vancouver, B.C.
September 27, 2023

Introduction

[1] This is my decision on costs arising from my reasons for an oral judgment pronounced August 10, 2023 and indexed as *Street v. Sather Ranch Ltd., 2023 BCSC 1525* (“Reasons”). They were issued further to a summary trial proceeding whose purpose was to determine the validity of certain claims made against Sather Ranch Limited (“SRL”), a corporation that is in receivership. It was adjudicated in accordance with a process mandated by claims process order issued by Justice Walker on January 14, 2021 (the “CPO”).

[2] As noted at paragraphs 1 to 4 of the Reasons, there are six parties to the proceeding. Four of them – Michael Street (“Mike”), Boundary Machine Limited (“Boundary”), Marielle Brule (“Marielle”), and Profectus Financial Inc. (“Profectus”) – were referenced as the “Street Claimants”. Two of them – Joseph Sather (“Joe”) and AMX Real Estate Inc. (“AMX”) – were referenced as the “Sather Claimants”. I will continue to use these shorthands going forward.

[3] In my Reasons, I effectively allowed all of the Street Claimants’ claims. I also dismissed all of the Sather Claimants’ claims, except for one aspect to which the Street Claimants had consented.

[4] At the request of counsel for the Street Claimants, I have permitted the parties to make written submissions with respect to costs. The Street Claimants produced such submissions on August 23, 2023. The deadline for the Sather Claimants to provide responding submissions was September 7, 2023. None were received. Accordingly, the only submissions before me are those of the Street Claimants. My consideration of them is set out here.

The Street Claimants’ Position

[5] The Street Claimants seek an award of special costs.

[6] They say such an award is warranted because the Sather Claimants:

1. made unfounded allegations of serious misconduct against Mike and Marielle (theft, falsifying accounting records, and conspiracy to defraud SLR and the Sather Claimants);
2. provided false evidence in support of their allegations of misconduct; and
3. filed a claim that was both ill-conceived and unsubstantiated.

[7] With respect to the scope of the relief sought, the Street Claimants ask for “an order that they be awarded their special costs of and incidental to this proceeding” (para. 1 of the Street Claimants’ submissions). In other words, they “are seeking special costs in connection with this proceeding generally, and alternatively in relation to the Claims Process specifically” (para. 15 of the Street Claimants’ submissions).

Analysis

[8] The Court’s authority to issue an award of special costs in respect of all or part of a proceeding is provided for by Rule 14-1(1)(b) of the *Supreme Court Civil Rules*, BC Reg. 168/2009 [*Rules*].

[9] Such a discretionary award may be made if there has been “reprehensible conduct” by a party in relation to the litigation. A helpful discussion of the principles to be applied by the Court when exercising this discretion can be found in *De Cotiis v. Hothi*, 2020 BCSC 1545; aff’d 2021 BCCA 60:

[7] This court has the jurisdiction to make an award of special costs pursuant to its inherent jurisdiction and Rule 14-1(1) of the *Supreme Court Civil Rules*.

[8] The Court of Appeal reaffirmed in *Smithies Holdings Inc. v. RCV Holdings Ltd.*, 2017 BCCA 177 that an order for special costs requires some form of “reprehensible conduct”, which can include “scandalous or outrageous conduct as well as milder forms of misconduct deserving of reproof or rebuke”: at paras. 57, 132.

[9] The Court of Appeal went on to say, at para. 134: “*Special costs should be reserved to punish and deter reprehensible conduct in the course of litigation.*” [Emphasis added.] The purpose of an award of special costs is to chastise a litigant. Such awards are meant to punish and deter bad behavior, as well as to distance the court from the conduct at issue.

[10] The question is whether reprehensible conduct occurred in the course of this litigation. Have exceptional circumstances been demonstrated to justify an award of special costs? That is the focus of the inquiry that must be undertaken.

[11] In *Garcia v. Crestbrook Forest Industries Ltd.*, 1994 CanLII 2570 (BC CA), 9 B.C.L.R. (3d) 242, [1994] B.C.J. No. 2486 (C.A.) at para. 17, Lambert J.A. identified “reprehensibility” as the standard for special costs, the meaning of which is broad in scope:

...the word reprehensible is a word of wide meaning. It encompasses scandalous or outrageous conduct but it also encompasses milder forms of misconduct deserving of reproof or rebuke. Accordingly, the standard represented by the word reprehensible, taken in that sense, must represent a general and all encompassing expression of the applicable standard for the award of special costs.

[12] Reprehensible conduct is found, per *Westsea Construction Ltd. v. 0759553 B.C. Ltd.*, 2013 BCSC 1352 [*Westsea*] at para. 73:

...in circumstances where there is evidence of improper motive, abuse of the court’s process, misleading the court and persistent breaches of the rules of professional conduct and the rules of court that prejudice the applicant[.]

[13] Standing alone, failure to disclose critical documents is conduct deserving of rebuke:

...

[14] Special costs may also be awarded where a party shows a “lack of concern for the truth” by swearing false and contradictory affidavits in an effort to advance their interests, or has otherwise deliberately provided untruthful evidence: *Mee Hoi Bros. Company Ltd. v. Borving Investments (Canada) Ltd.*, 2017 BCSC 1910 at para. 371.

[15] Special costs have been awarded especially when:

...evidence was presented by the respondents that was “calculated to mislead the trial judge and jury” and...[where] the lack of candour demonstrated by [a witness] in giving his evidence “cannot be condoned”: *Fullerton v Matsqui (District)*, 1992 CanLII 5985 (BC CA), 74 B.C.L.R. (2d) 305, [1992] B.C.J. No. 2969 (C.A.) at para. 17.

[16] The line is drawn between evidence which is merely rejected by the court, not warranting an award of special costs, and evidence which is intended or designed to mislead, or is otherwise put forth for an improper motive, which does warrant the court's rebuke.

[17] Finally, in *Westsea*, Gropper J. summarized the principles for awarding special costs at para. 73:

- a) the court must exercise restraint in awarding special costs;
- b) the party seeking special costs must demonstrate exceptional circumstances to justify a special costs order;

- c) simply because the legal concept of “reprehensibility” captures different kinds of misconduct does not mean that all forms of misconduct are encompassed by this term;
- d) reprehensibility will likely be found in circumstances where there is evidence of improper motive, abuse of the court’s process, misleading the court and persistent breaches of the rules of professional conduct and the rules of court that prejudice the applicant;
- e) special costs can be ordered against parties and non-parties alike; and
- f) the successful litigant is entitled to costs in accordance with the general rule that costs follow the event. Special costs are not awarded to a successful party as a “bonus” or further compensation for that success.

[10] On my assessment of the claims process litigation, I agree with the Street Claimants that there has been reprehensible conduct by the Sather Claimants that is deserving of rebuke in the form a special costs award.

[11] In particular, the Sather Claimants made serious allegations of misconduct by the Street Claimants generally, and by Mike and Marielle in particular. These allegations were contained in both the Sather Claimant’s application response and in affidavits sworn by Joe and tendered into evidence. The allegations are summarized at paragraphs 19 and 21 of the Street Claimants’ submissions, reproduced here:

[19] The Application Response filed by the [Sather Claimants] sets out numerous allegations of misconduct, but the primary assertions are:

- a. That the costs of the Improvements to the Home Ranch were “wrongfully and intentionally incurred, without [Joe’s] approval, for the purpose of ‘debt loading’ SRL” in furtherance of a plot by the [Street Claimants] to acquire its assets [Application Response para. 26]; and
- b. That [Mike] caused SRL to engage Boundary’s services and charged “unreasonably high rates...for unreasonably long periods, without any justification” and directed Boundary’s employees to carry out work on the Home Ranch “...to the detriment of SRL.” [Application Response paras. 28, 36, 44 and 51].

...

[21] In support of these allegations, [Joe] deposed to the following false statements:

- a. That the [Street Claimants] created the “...wrongful indebtedness so as to acquire the entirety of the equity in the ranch without any payment to or value being realized by myself and AMX.” [Joe’s affidavit #1, para. 27]

- b. [Mike and Marielle] "...sought to accomplish this goal by retaining the services of their related companies and incurring inflated and fictitious costs and debts..." [Joe's affidavit #1, para. 28]
- c. [Mike and Marielle] "...conspired and acted jointly to create false and misleading financial statements and other corporate records purportedly documenting the indebtedness of SRL to themselves and their related entities..." [Joe's affidavit #1, para. 29]
- d. "The work carried out by Boundary at [Mike's] request did not reflect the fair market value of the work. For example, [Mike] rented equipment and used his own backhoe, charging unreasonably high rates via Boundary and for unreasonably long periods..." [Joe's affidavit #1, para. 36]
- e. The purpose of the arrangement with Boundary "...was to drain SRL of funds and divert the funds to a company owned by [Mike]." [Joe's affidavit #1, para. 38]
- f. [Mike] "...directed SRL to purchase fuel and equipment, which were then misappropriated by [Mike], [Marielle], and/or Boundary rather than being used by SRL." [Joe's affidavit #1, para. 39]
- g. [Mike] "...has concealed, relocated, and misidentified certain material assets of SRL." [Joe's affidavit #1, para. 40]
- h. Under [Mike's] care "...the size of the herd owned by and branded for SRL has mysteriously declined, while [Mike's] own personal herd has correspondingly increased in number...[Mike] absconded with approximately 110 head of cattle that belonged to Palmer Sather and about 30 head of cattle that belonged to [Joe] personally." [Joe's affidavit #1, para. 41]
- i. [Mike] "...altered the record-keeping associated with the herd of cattle, including the physical branding on the cattle." [Joe's affidavit #1, para. 43]
- j. Palmer Sather's assets "...were wrongfully converted by [Mike] and or SRL." [Joe's affidavit #1, para. 50]

[12] In addition, Joe made an affidavit and provided cross-examination testimony purportedly in support to his allegation that Mike was attempting to "debt load" SRL. They included an assertion by Joe that he found a document outlining Mike's alleged plan to wrongfully obtain SRL's assets (para. 23 of the Street Claimants' submissions).

[13] As noted by counsel for the Street Claimants, these allegations were made without any foundation, were not withdrawn, and were entirely rejected by the Court. For example, Joe's speculative allegations with respect to the document he found

were entirely refuted by the testimony of Marielle, as explained at paragraphs 61 to 68 of the Reasons.

[14] It is self-evident that alleging fraud, theft, and breaches of fiduciary duty in a court proceeding is a serious matter that can have a damaging impact on individual reputations. That is what has been done in this case by the Sather Claimants. On my review of the evidence, the allegations were entirely baseless and ought not to have been made. As such, I find that this is litigation conduct deserving of rebuke by way of an award of special costs.

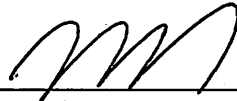
[15] With respect to the scope of this award, however, it will be limited to just the specific claims proceeding that I adjudicated by means of a summary trial. I do not agree with counsel for the Street Claimants' request that his clients be awarded costs "incidental" to this specific proceeding. I am not satisfied that I have the jurisdiction to make such an award and, in any case, I lack a proper evidentiary foundation to decide whether one would be warranted in this matter.

Disposition

[16] For all of these reasons, the Sather Claimants are jointly and severally ordered to pay the Street Claimants their costs of the SRL claims proceeding commenced pursuant to the CPO, such costs to be assessed as special costs.

"Brongers J."

This is **Exhibit “ 6 ”** referred to in the
Affidavit of Cecil Cheveldave made before me
on November 29, 2023



A Commissioner for taking Affidavits for
British Columbia

Scott Andersen (2546) - 4Flr

From: Steven Dvorak <sdd@vernonlaw.ca>
Sent: Tuesday, November 28, 2023 11:05 AM
To: Scott Andersen (2546) - 4Flr
Cc: Cecil Cheveldave
Subject: Sather Ranch Ltd.

[THIS MESSAGE ORIGINATED FROM OUTSIDE OUR FIRM]

As legal counsel for Michael Street, Boundary Machine Ltd., Marielle Brule, and Profectus Financial Inc., I write to confirm that my clients support the Receiver, C. Cheveldave & Associates Ltd., pursuing a constructive trust claim remedy in Kelowna Registry Action No. S-122417.

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