



NO. S 1913131
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

MICHAEL NEIL STREET and
MARIELLE JAQUELINE ANGELLA BRULE

PLAINTIFFS

AND:

SATHER RANCH LTD. by its
Court Appointed Receiver and Manager,
C. CHEVELDAVE & ASSOCIATES LTD.

DEFENDANT

NOTICE OF APPLICATION

Name of Applicant: C. Cheveldave & Associates Ltd., in its capacity as Receiver and Manager, without security, of all of the assets, undertakings and property of Sather Ranch Ltd., appointed by the Order of the Honourable Mr. Justice Walker on November 21, 2019.

To: Plaintiffs and to their Counsel

And to: Joseph Sather

TAKE NOTICE that an application will be made by the applicant to the presiding Judge in Chambers at the Courthouse at 800 Smithe Street, in the City of Vancouver, in the Province of British Columbia, on **January 31, 2025**, at **9:45 a.m.** for the orders set out in Part 1 below.

The Applicant estimates that the application will take 15 minutes.



This matter is not within the jurisdiction of an Associate Judge.

PART 1: ORDERS SOUGHT

1. An order substantially in the form attached as **Schedule "A"** approving the Receiver's fees and disbursements for services rendered for the period of January 1, 2023 to December 31 2024, and authorizing an interim distribution to proven creditors of Sather Ranch Ltd. in the aggregate amount of \$100,000.

PART 2: FACTUAL BASIS

Background

2. By an order made on September 17, 2018 (the “**First Receivership Order**”), G. Moroso & Associates Inc. (the “**Prior Receiver**”) was appointed receiver of all the assets, undertakings and properties of the Company.
3. By an order made on November 21, 2019 (the “**Second Receivership Order**”), the Receiver was effectively substituted as the Receiver although the Prior Receiver was not formally discharged and a separate stand alone receivership order was issued.
4. By an order made on October 28, 2020, the Prior Receiver was discharged.
5. The Receiver applied to have its professional fees approved for the period November 21, 2019 to December 31, 2020. The Order was granted by Justice Walker on July 13, 2021 whereby the Court approve the fees and activities of the Receiver for that period of time.
6. The Receiver applied to have its professional fees approved for the period January 1, 2021 to December 31, 2022. The Order was granted by Madam Justice Baker on June 23, 2023, whereby the Court approved the fees and activities of the Receiver for that period of time.
7. The Receiver now applies to have its professional fees approved for the period January 1, 2023 to December 31, 2024.
8. As detailed in Fourt Report and Affidavit #4 of Cecil Cheveldave, most of the time spent was in regard to routine receivership administration matters and the litigation advanced by the Receiver against Joseph Sather.

Receiver’s Fees and Disbursements

9. The Receiver’s fees and administration costs incurred in this matter from January 1, 2023 to December 31, 2024, is \$63,433.50 before disbursements and GST. The Receiver has spent 230.6 hours as detailed in its invoices.
10. The time and disbursements incurred by the Receiver in the course of its duties are fair and reasonable in a receivership of the nature described herein. In the Receiver’s opinion, the cost of this receivership is comparable to receivership assignments of similar scale and complexity.
11. The hourly rates charged by the Receiver are consistent with the average hourly rates billed by the Receiver on its other engagements and, to the Receiver’s

knowledge, consistent with other insolvency firms of comparable size engaged on similar receivership matters.

12. The Receiver requests that the Court summarily approve the Receiver's fees incurred from January 1, 2023, to December 31, 2024.
13. The Receiver engaged Lawson Lundell LLP ("**Lawson**") as its independent legal counsel. As the litigation of the Grazing Lands Action is ongoing, the Receiver does not yet seek approval of the fees of its legal counsel for the period January 1, 2023 to December 31, 2024 as doing so could give rise to a waiver over the solicitor file, which would be inappropriate until that litigation has concluded on its merits.

Proposed Interim Distribution

14. Currently the funds held in Trust by the Receiver total approximately \$380,000.
15. The Receiver proposes to make an interim distribution to the proven creditors of Sather Ranch Ltd. in the aggregate amount of \$100,000. This amount has been determined as surplus based upon the remaining steps to be taken in the receivership and thus the Receiver recommends that those funds be distributed now.

PART 3: LEGAL BASIS

16. The application to approve professional fees is brought pursuant to paragraph 22 of the Receivership Order herein.
17. In *Redcorp Ventures Ltd (Re)*, 2016 BCSC 188 ("**Redcorp**") at ¶28, this Court held that the Receiver should apply from time to time to pass its accounts rather than waiting until the end of a matter. In accordance with that direction, the Receiver applies to pass its account on an interim basis.
18. The factors to be considered by the Court are set out in *Bank of Montreal v. Nican Trading Co. Limited* (1990), 43 B.C.L.R. (2d) 315 (C.A.), which factor support the accounts being taxed as rendered herein.
19. The evidenced tendered in support of the application meets the requirements articulated by this Court in *Redcorp*. The accounts of the Receiver:
 - (a) have been properly incurred;
 - (b) were incurred at the standard rates and charges of the Receiver;
 - (c) are fair and reasonable in the circumstances.

20. The actions advanced by the Receiver in 2021-2024 seek to both increase the net realization and recovery for the benefit of stakeholders herein and to create certainty and finality as to how the net realization will be distributed to creditors and then to shareholders herein. Both of those steps significantly advance the receivership towards a conclusion and distribution.
21. The application to approve an interim distribution is brought pursuant to paragraph 12 of the Receivership Order herein. It is submitted that such an order is appropriate and in the interests of the affected stakeholders.

PART 4: MATERIAL TO BE RELIED ON

1. Order appointing Receiver made September 17, 2018;
2. Order appointing Receiver made November 21, 2019;
3. Order made August 10, 2023 regarding Proven Claims herein;
4. Receiver's Second Report dated May 11, 2021 (without appendices);
5. Receiver's Third Report dated April 25, 2023 (without appendices);
6. Receiver's Fourth Report dated January 9, 2025;
7. Affidavit #4 of C. Cheveldave, sworn January 13, 2025; and
8. Such further and other material as counsel may advise and this Honourable Court may consider.

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

Dated at the City of Kelowna, in the Province of British Columbia, this 13th day of January, 2025.



 Scott R. Andersen
 Lawson Lundell LLP
 Solicitor for the Court Appointed
 Receiver

This Notice of Application is filed by the law firm of Lawson Lundell LLP, whose place of business and address for delivery is 1600 – 925 West Georgia Street, Vancouver, British Columbia, V6C 3L2.

To be completed by the court only:

Order made

☐ in the terms requested in paragraphs _____ of Part 1 of this Notice of Application

☐ with the following variations and additional terms:

Date:

 Signature of ☐ Judge ☐ Associate Judge

APPENDIX

The following information is provided for data collection purposes only and is of no legal effect.

THIS APPLICATION INVOLVES THE FOLLOWING:

- ☒ **Other –application by Receiver for interim approval of accounts and authorizing an interim distribution of funds**

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

JUSTICE

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FRIDAY, THE 31ST

DAY OF JANUARY, 2025

The Notice of Application dated January 13, 2025 (the “**Application**”) of C. Cheveldave & Associates Ltd., in its capacity as Court-appointed Receiver and Manager (the “**Receiver**”) of the assets, undertakings and properties of Sather Ranch Ltd., coming on for hearing on January 31, 2025, at Vancouver, British Columbia; and on hearing Scott R. Andersen, counsel for the Receiver, Steve Dvorak, counsel for the Plaintiffs, and Joseph Sather on his own behalf and on behalf of AMX Real Estate Inc., and upon reading the materials filed including the Affidavit #4 of Cecil Cheveldave (the “**Fee Affidavit**”), the Fourth Report of the Receiver dated January 9, 2025 (the “**Report**”), and the Other Materials referred to in the Application;

THIS COURT ORDERS that:

1. The activities of the Receiver, as set out in the Report and the Fee Affidavit, are hereby approved.

2. The fees and disbursements of the Receiver, as set out in the Report and the Fee Affidavit, are hereby approved.
3. This Order is without prejudice to the rights of the stakeholders herein to argue that the cost of the Receivership herein should be allocated differently as between them.
4. The Receiver be and is hereby authorized to make an interim distribution in the aggregate amount of \$100,000 to the proven creditors of Sather Ranch Ltd. to be paid *pro rata* based upon their claims as proven herein as follows:
 - (a) \$19,000 payable to Michael Neil Street;
 - (b) \$65,000 payable to Boundary Machine Ltd.;
 - (c) \$1,000 payable to Marielle Jacqueline Angella Brule;
 - (d) \$5,000 payable to Profectus Financial Inc.; and
 - (e) \$10,000 payable jointly to Joseph Sather and AMX Real Estate Inc.
5. The approval as to the form of this Order by Joseph Sather 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
 Counsel for the Court Appointed Receiver

Steve Dvorak
 Counsel for the Plaintiffs

BY THE COURT

REGISTRAR

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

MICHAEL NEIL STREET and
MARIELLE JAQUELINE ANGELLA BRULE

PLAINTIFFS

AND:

SATHER RANCH LTD. by its Court Appointed Receiver and Manager,
C. CHEVELDAVE & ASSOCIATES LTD..

DEFENDANT

NOTICE OF APPLICATION



Barristers & Solicitors
Suite 1800 Landmark 6
1631 Dickson Avenue
Kelowna, BC V1Y 0B5

Email: scott.andersen@lawsonlundell.com

Attention: Scott R. Andersen