



FORM 32 (RULE 8-1(4))

No. KEL-S-S-127397
Kelowna Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

ALBERT WEISSTOCK

PETITIONER

AND:

**WALTER WEISSTOCK, ANTONY WEISSTOCK, SILVIA RITA
GERARD, WITMAR HOLDINGS LTD., DONALD JAMES
RAMSAY (ADMINISTRATOR OF THE ESTATE OF MARIA
CONCETTA WEISSTOCK), 1100748 B.C. LTD., ANTONY
WEISSTOCK (TRUSTEE OF THE WILLY AND MARIA
CONCETTA WEISSTOCK TRUST), and ISLANDVIEW
COUNTRY ESTATES LTD.**

RESPONDENTS

NOTICE OF APPLICATION

Name of applicant: C. Cheveldave & Associates Ltd., Liquidator

To: The Respondents

TAKE NOTICE that an application will be made by the applicant to the presiding judge at the courthouse at 1355 Water Street, Kelowna, British Columbia on April 28, 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 within the jurisdiction of an associate judge.
- ☒ This matter is not within the jurisdiction of an associate judge.

Part 1: ORDERS SOUGHT

1. An order to amend the Order appointing the Liquidator in the terms of the attached form of order by increasing the Liquidator's authorized borrowing limit from \$250,000 to \$1,000,000.

Part 2: FACTUAL BASIS

1. Pursuant to an Order pronounced by The Honourable Mr. Justice Betton on the 26th day of January, 2024 (the “**Order**”), C. Cheveldave & Associates Ltd. was appointed Liquidator, without security, of Witmar Holdings Ltd. (“**Witmar**”).
2. Since receipt of the entered Order on March 6, 2024, the Liquidator has operated the assets of Witmar, which include 176 apartment units, 10 residential homes and 2 hotels with a combined 99 units (the “**Property**”).
3. The Liquidator’s cash flow projections indicates that it may be necessary to borrow an additional \$750,000 over the next twelve months in addition to the \$250,000 borrowing that was authorized in the Order. As of February 28, 2025, the Liquidator has borrowed \$85,609.24 of the authorized \$250,000. The cash flow projection includes transactions that flow through the Liquidator’s trust accounts as well as the Company’s operating bank accounts that the Liquidator has control over.
4. In compiling the cash flow projection, the Liquidator has relied on information from the previous fiscal year as well as utilizing the assumptions that are set out in the cash flow projection. Given the nature of the Company’s on-going businesses and the administration of the Liquidation, the Liquidator anticipates making disbursements for the following expenses:
 - (a) Wages & Benefits – amounts based on required staffing levels to operate the Recreation Inn, the Dilworth Inn, the Palisade Apartments and the rental houses.
 - (b) RBC Mortgage Payment – the monthly RBC mortgage matures in May of 2025 and the new mortgage term is expected to have a significantly higher interest rate compared to the interest rate of the expiring term.
 - (c) Statutory Priority Creditors – amounts would be for the monthly Receiver General payroll remittances, Provincial Sales Tax, Municipal and Regional District Tax, Employer Health Tax, WorkSafe, GST, etc.
 - (d) Accounts Payable – amounts for the routine accounts payable payments for the routine materials, supplies, repairs and maintenance, operating costs and credit card payments.
 - (e) On-line Travel Agency Fees – amounts based on the commission rates charged by the participating on-line booking services for hotel reservations.
 - (f) Property Taxes – anticipated amounts for the 2025 property taxes.
 - (g) Utilities – anticipated amounts for municipal utilities, hydro, natural gas, telephone and internet.

- (h) Insurance – anticipated amounts for the 2025 insurance premiums.
 - (i) Professional Fees – anticipated amounts for professional fees for the Liquidator and the Liquidator’s legal counsel.
 - (j) Bank Charges / Interest / Credit Card Fees – anticipated amounts for monthly bank charges, credit card processing fees, and interest on the Liquidator’s borrowings.
5. At this time, there is no definitive timeline as to when the Company assets will be sold as discussions and negotiations among the shareholders are on-going. The sale of assets and resultant receipt of net sale proceeds will reduce the need for short-term borrowing.

Part 3:LEGAL BASIS

1. Rule 8-1, of the *Rules of Court*;
2. Subsection 334(1) of the B.C. *Business Corporations Act*, which reads, in part, as follows:

Powers of liquidators

334 (1)Subject to section 320 (1), if a liquidator is appointed under this Act,

(a) the liquidator has the powers to manage or supervise the management of the business and affairs of the company that were, before the appointment, held by the directors and officers of the company, and the powers of the directors and officers cease, except so far as the liquidator approves the continuation of them,

(b) the liquidator may exercise the powers of the company that are not required by this Act to be exercised by shareholders of the company, and

(c) the liquidator may, without limiting paragraphs (a) and (b) of this subsection,

(i) retain lawyers, accountants, engineers, appraisers and other professional advisers,

(ii) bring, defend or take part in any legal proceeding in the name of and on behalf of the company,

(iii) carry on the business of the company if and to the extent that the liquidator considers it necessary or advisable to do so for the liquidation,

(iv) sell by public auction or private sale any assets of the company,

(v) do all acts and sign any records in the name of and on behalf of the company,

(vi) borrow money on the security of the assets of the company,

(vii) settle or compromise any claims by or against the company,

(viii) do all other things necessary for the liquidation and distribution of the company's assets, and

(ix) change one or both of the mailing address and delivery address of one or both of the company's registered office and records office by filing with the registrar a notice of change of address in the form established by the registrar, and section 35 (3) applies.

3. Paragraph 24 of the Order, which indicates that the authorizing borrowing of the Liquidator may be increased by further Court order; and
4. The inherent jurisdiction of this Honourable Court.

Part 4: MATERIAL TO BE RELIED ON

1. Order Made After Application granted January 26, 2024; and
2. Affidavit #2 of Cecil Cheveldave.

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 this 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).

Date: April 9, 2025



Signature of Hal Hicks

☐ applicant ☒ lawyer for applicant

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

THIS APPLICATION INVOLVES THE FOLLOWING:

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ other matters concerning document discovery
- ☐ extend oral discovery
- ☐ other matter concerning oral discovery
- ☐ amend pleadings
- ☐ add/change parties
- ☐ summary judgment
- ☐ summary trial
- ☐ service
- ☐ mediation
- ☐ adjournments
- ☐ proceedings at trial
- ☐ case plan orders: amend
- ☐ case plan orders: other
- ☐ experts
- ☒ none of the above.

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PETITIONER

AND:

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RESPONDENTS

ORDER MADE AFTER APPLICATION

BEFORE ~ THE HONOURABLE JUSTICE ~ MONDAY, THE 28th DAY
 ~ ~ OF APRIL, 2025
 ~ ~

ON THE APPLICATION of C. Cheveldave & Associates Ltd., (the “**Liquidator**”) as Liquidator of Witmar Holdings Ltd. (“**Witmar**”) coming on for hearing at Kelowna, BC on April 28, 2025 and on hearing Hal Hicks on behalf of the Liquidator and upon reading the material provided in Affidavit #2 of Cecil Cheveldave; and on hearing _____; and no one else appearing;

THIS COURT ORDERS and DECLARES that:

1. Paragraph 24 of the Liquidation order made January 26, 2024 in this proceeding is hereby amended by replacing the existing reference \$250,000.00 to \$1,000,000.00.

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 Hal Hicks

☐ party ☒ lawyer for the Liquidator, C.
Cheveldave & Associates Ltd.

By the Court

Registrar

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ORDER MADE AFTER APPLICATION

FILE NO. 077284-0002

HRH/dns

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