



This is the 3rd Affidavit of C. Curran  
made on October 21, 2020

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,  
G. MOROSO & ASSOCIATES INC.

DEFENDANT

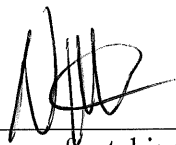
**AFFIDAVIT**

I, Cindy Curran, of 1600-925 West Georgia Street, in the City of Vancouver, in the Province of British Columbia, MAKE OATH AND SAY AS FOLLOWS:

1. I am a legal assistant with the law firm of Lawson Lundell LLP, solicitors for C. Cheveldave & Associates Ltd. (the "**Receiver**"), the Court Appointed Receiver and Manager of all of the assets, undertakings and property of Sather Ranch Ltd., and as such have personal knowledge of the matters herein deposed to.
2. Attached hereto and marked as **Exhibit "A"** is a true copy of an email dated September 23, 2020 from Scott Andersen to Colin Flannigan and to Steve Dvorak, together with a true copy of its attachment being the draft claims process order.
3. Attached hereto and marked as **Exhibit "B"** is a true copy of an email chain between Scott Andersen, Colin Flannigan and Steve Dvorak with the first email being the email attached as Exhibit "A" hereto and the last email being an email from Scott Andersen dated October 16, 2020.



This is **Exhibit “A”** referred to in the  
Affidavit of **C. Curran** made before me on  
October 21, 2020



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A Commissioner for taking Affidavits for  
British Columbia

**Scott Andersen (2546) - 4Flr**

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**From:** Scott Andersen (2546) - 4Flr <scott.andersen@lawsonlundell.com>  
**Sent:** Wednesday, September 23, 2020 10:55 AM  
**To:** Colin Flannigan (CFlannigan@fhplawyers.com); 'Steven Dvorak'  
**Cc:** Cecil Cheveldave (ctcheveldave@telus.net)  
**Subject:** Sather Ranch - Claims Process  
**Attachments:** Draft Claims process order.pdf

Counsel,

As it is now apparent that there will be money to distribute to your respective clients, we now need to turn our minds to how their respective debt claims are to be determined.

To that end, we write to seek your input on a claims process. A draft claims process is attached for your review and comment.

The draft order contemplates two different processes, one for arm's length claims and one for related party claims.

For arm's length claims, we are proposing the "normal" receivership type claims process whereby the Receiver sends out the notices to collect in proofs of claim that it reviews and adjudicates on in the first instance. Having the Receiver adjudicate claims is done to add administrative efficiency and reduce costs.

For related party claims, we are proposing that they be proved by way of a Summary Trial process directly before a judge with a right of cross-examination. This will enable each of you to have standing to oppose and examine each other's clients on their respective claims.

There are a couple reasons motivating the proposed process for related party claims. First, once the arm's length claims are addressed, the only other and main claimants are your respective two groups who are adverse in interest. We see less administrative efficiency for related party claims and acknowledge that it may be more equitable and preferred by the parties to empower your respective clients to participate directly in that hearing process before a judge. Second, the Receiver is actively in litigation against Joe Sather in relation to the grazing lands. We must avoid any appearance of impartiality. Although that litigation would have no bearing on the assessment of Mr. Sather's claim if it was to be adjudicated by the Receiver, the appearance that it has no bearing is equally important.

For the related party claims, the proposed order also gives the parties flexibility to arbitrate those claims. We felt that in light of Covid-19, that flexibility is important so we have built that option into the order.

Finally, it is worth noting that as shareholders your clients will share any proceeds 50/50. Thus their claims as creditors are really only a fight over the quantum of claims that will be shared between them on a different ratio depending upon the quantum of their respective creditor claims ultimately established (i.e. 80/20, 70/30 etc.). There is diminishing return in that fight. The legal costs to sort that out will eventually overtake the potential benefit. I would encourage each of your clients to evaluate this and to see if you can reach some settlement on this issue to avoid the need for any related party claims process. If you can reach agreement, then that can be memorialized in a consent order in the receivership.

Can you please give the above consideration and then respond to me with your client's position and/or comments before 4:00pm on October 2, 2020 so that we can then move forward with an application for a claims process order.

Regards,



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

\*Navigate the legal implications of COVID-19\*

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

**CLAIMS PROCESS ORDER**

BEFORE THE HONOURABLE ) THE DAY  
 )  
JUSTICE ) OF , 2020

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 on , , 2020 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 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 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), 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 on 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 debt provable in bankruptcy within the meaning of the BIA;
- (e) **“Claims Bar Date”** means 4:00p.m. (Pacific Time) on , 2020;
- (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) **“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 July 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;
- (k) "**Filing Date**" means ;
- (l) "**Instruction Letter**" means the letter to Creditors, which letter shall be substantially in the form attached hereto as **Schedule "A"**;
- (m) "**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;
- (n) "**Notice to Creditors**" means the notice substantially in the form attached hereto as **Schedule "B"**;
- (o) "**Person**" has the meaning as defined in the BIA;
- (p) "**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"**;
- (q) "**Sather Ranch**" means Sather Ranch Ltd.;
- (r) "**Receiver**" means C. Cheveldave & Associates Ltd., in its capacity as court-appointed receiver of Sather Ranch;
- (s) "**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..

#### **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, who does not file a Proof of Claim on or before the Claims Bar Date 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 who does not deliver a Notice of Application and supporting Affidavits to the Receiver and to all other Related Party Creditors on or before the Claims Bar Date shall be forever barred from advancing any Claim against Sather Ranch and shall not be entitled to receive any payment from the Receiver.

#### **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 set out all the claims that are agreed to and all the claims that are disputed. The Application Response must also specify which of the applicant's affiants, if any, it wishes to cross examine at the hearing and provide a time estimate for any such cross examinations.
16. 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.

17. Within twenty eight (28) days after the Claims Bar Date, counsel for the Receiver will 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.
18. 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.
19. 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*.

#### **GENERAL PROVISIONS**

20. 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.
21. 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.
22. 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.

23. 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 , 2020 (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 (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 Claims Bar Date 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 1<sup>st</sup> Avenue  
Kamloops, BC, V2C 3J4  
Telephone: 1-250-819-8614

Attention: Cecil Cheveldave  
Email: [ctcheveldave@telus.net](mailto: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 , 2020 (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 , that being the Claims Bar Date.

If a creditor does not file a Proof of Claim by the Claims Bar Date 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 600-1  
235 1<sup>st</sup> Avenue  
Kamloops, BC, V2C 3J4  
Telephone: 1-259-819-8614

Attention: Cecil Cheveldave  
Email: [ctcheveldave@telus.net](mailto: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*):

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- 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 \_\_\_\_\_, 2020.

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 by 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 1<sup>st</sup> Avenue  
Kamloops, BC, V2C 3J4  
Telephone: 1-250-819-8614

Attention: Cecil Cheveldave  
Email: [ctcheveldave@telus.net](mailto: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 \_\_\_\_\_, 2020.

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>.*

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

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**CLAIMS PROCESS ORDER**

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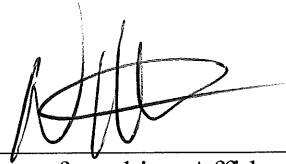


Barristers & Solicitors  
1600 Cathedral Place  
925 West Georgia Street  
Vancouver, British Columbia  
V6C 3L2  
Phone: (604) 685-3456  
Attention: Scott R. Andersen

File No. 36622-148976



This is **Exhibit "B"** referred to in the Affidavit of **C. Curran** made before me on October 21, 2020



---

A Commissioner for taking Affidavits for  
British Columbia

**Scott Andersen (2546) - 4Flr**

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**From:** Scott Andersen (2546) - 4Flr <scott.andersen@lawsonlundell.com>  
**Sent:** Friday, October 16, 2020 3:58 PM  
**To:** 'Colin B. Flannigan'; Steven Dvorak  
**Subject:** RE: Sather Ranch - Claims Process

Colin,

Thank you for those comments.

I would suggest we delete the word "full" and just require particulars. The suggestion that the application and response stand as pleadings would be advanced by having more detail, not less. The requirement for detail assists both the parties and the court to define the issues. I don't agree that it favours any one party.

I will advise Justice Walker that your client doesn't agree to one judge hearing all of the applications. I have already communicated why I think that would be appropriate. Are you able to attend the proposed hearing on October 21<sup>st</sup> at 9am to address this issue?

I will leave the question of where the application is heard to be sorted out by you and Steve. This is as Vancouver Registry file. As of Oct 26<sup>th</sup>, the Vancouver Registry will be hearing chambers applications by videoconference (MS Teams). To that end, it may be possible for your client to be cross examined by video conference from Calgary, such that no travel is necessary.

I would appreciate if you could confirm if you are content to this application proceeding on Wednesday so that I can respond to the email from trial scheduling.

Regards,

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

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**From:** Colin B. Flannigan <CFlannigan@fhplawyers.com>  
**Sent:** Friday, October 16, 2020 3:44 PM  
**To:** Scott Andersen (2546) - 4Flr <scott.andersen@lawsonlundell.com>; Steven Dvorak <SDvorak@davidsonlawyers.ca>  
**Subject:** RE: Sather Ranch - Claims Process

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---

Hi All,

I'm concerned that the term "Full" for particulars is subjective and appears unnecessary. Furthermore, the requirement for particulars in the Application Responses appears to favour Mr. Dvorak's clients in light of the fact that one of his clients prepared the financial statements of the company. This provided access to greater detail and will make it easier for one party to provide particulars over others. The Rules of Court and case law address the level of specificity required for pleadings and applications.

I respectfully do not agree that one Judge should be seized of all applications. We would consent to one insolvency Judge for the claims process and procedural applications under the Receivership, I understand Justice G.P. Weatherill is also familiar with these parties having dealt with the bankruptcy hearing. We would be fine with the Related Party claims being heard together but they should not be restricted to an insolvency Judge unnecessarily. Additionally, our client would have to travel from Calgary if he is cross examined on any affidavit and doesn't fly, accordingly we request that the Related Party Claims be heard in Kelowna to reduce unnecessary travel.

As for the evidence from other proceedings we are fine with evidence from other matters being used but reserve the right to challenge that evidence such as by cross examination of the respective affiant.

Regards,

**COLIN FLANNIGAN,**

400 - 275 Lawrence Avenue  
Kelowna, B.C. V1Y 6L2  
**Tel:** 250.869.6024  
**Fax:** 250.762.8616  
**Website:** <<http://www.fhplawyers.com/>>



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**From:** Steven Dvorak <[SDvorak@davidsonlawyers.ca](mailto:SDvorak@davidsonlawyers.ca)>  
**Sent:** Wednesday, October 14, 2020 9:55 AM  
**To:** [scott.andersen@lawsonlundell.com](mailto:scott.andersen@lawsonlundell.com); Colin B. Flannigan <[CFlannigan@fhplawyers.com](mailto:CFlannigan@fhplawyers.com)>  
**Subject:** RE: Sather Ranch - Claims Process

That looks good to me, Scott.

I have one further point that occurred to me, and that relates to the evidence filed in Kelowna Registry Action No. KEL-S-S-120281 in connection with the Claims Process Order. We filed comprehensive evidence in support of the Plaintiffs' claims, and it would be better not to replicate that if possible. We should include a term permitting evidence filed in that proceeding to be used in this action.

**Steven Dvorak**

Partner  
 Direct: 250-275-4495  
 Email: [SDvorak@davidsonlawyers.ca](mailto:SDvorak@davidsonlawyers.ca)

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**From:** [scott.andersen@lawsonlundell.com](mailto:scott.andersen@lawsonlundell.com) <[scott.andersen@lawsonlundell.com](mailto:scott.andersen@lawsonlundell.com)>  
**Sent:** Wednesday, October 14, 2020 9:37 AM  
**To:** Steven Dvorak <[SDvorak@davidsonlawyers.ca](mailto:SDvorak@davidsonlawyers.ca)>; 'Colin B. Flannigan' <[CFlannigan@fhplawyers.com](mailto:CFlannigan@fhplawyers.com)>  
**Subject:** RE: Sather Ranch - Claims Process

Attached is a redline showing the further revisions to the draft order.

Scott R. Andersen | Partner  
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**From:** Steven Dvorak <[SDvorak@davidsonlawyers.ca](mailto:SDvorak@davidsonlawyers.ca)>  
**Sent:** Wednesday, October 14, 2020 8:33 AM  
**To:** Scott Andersen (2546) - 4Flr <[scott.andersen@lawsonlundell.com](mailto:scott.andersen@lawsonlundell.com)>; 'Colin B. Flannigan' <[CFlannigan@fhplawyers.com](mailto:CFlannigan@fhplawyers.com)>  
**Subject:** RE: Sather Ranch - Claims Process

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I agree that having a single judge is required. I also agree that Justice Walker should be asked to seize himself of the Related Party Claims. In addition to Scott's observations re: access via trial scheduling, the fact he has insolvency

experience will be helpful as judges of the insolvency bench are disposed to making themselves available for shorter applications outside of regular chambers hours.

I am fine with your other comments, Scott, and don't require specific language regarding costs.

**Steven Dvorak**  
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Email: [SDvorak@davidsonlawyers.ca](mailto:SDvorak@davidsonlawyers.ca)

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**From:** [scott.andersen@lawsonlundell.com](mailto:scott.andersen@lawsonlundell.com)  
**Sent:** Wednesday, October 14, 2020 8:15 AM  
**To:** 'Colin B. Flannigan' ; Steven Dvorak  
**Subject:** RE: Sather Ranch - Claims Process

Gentlemen:

Colin, thank you for your comments below regarding the form of order and Steve's earlier comments regarding the proposed form.

Considering if further, I agree with your comments regarding the timeline for reply affidavits re Related Party Claims. We can add a provision setting a deadline for reply affidavits by the applicant, which presently is not specified and would otherwise be governed by the timelines provided for in Rule 9-7, which is Rule 8-1(13) - requiring reply affidavits to be filed and served on the second business day before the hearing. I think it would be preferable to have reply affidavits delivered sooner than two days before the hearing. I would propose we fix the deadline suggested by Steve, namely reply affidavits to be delivered within 7 days of receipt of the Application Response.

I think everyone wants the costs provisions that would normally govern a Rule 9-7 application to apply, which was my intention when the order referred to those applications being governed by that Rule. Is there any additional language required to make that clear? What you have suggested was intended to be caught by the existing language, but if it needs to be made more explicit I don't see any harm in doing so. I understand Colin to agree with those points but to share my understanding that it is already captured in the existing language.

Finally, regarding the use of an insolvency judge. I am agnostic on whether it would be preferable to have an insolvency judge hear the Related Party applications or a non-insolvency judge. I would, however, like to see the same judge seized of all the Related Party applications so that they are heard and determined together. I foresee that some issues or findings could spill over from one claim to another. For consistency and efficiency, one judge should hear all those applications. I was going to invite the Honourable Justice Walker to seize himself of those applications to ensure only one judge hears them. In light of Covid-19 and the difficulty in getting long chambers dates, I think that may actually expedite their hearing rather than delay as we will have a judge we can correspond with through trial scheduling to book dates.

Based on the comments received, I will circulate a further revised draft of the proposed form of order today. Thank you to both of you for your comments and input.

Regards,

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

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**From:** Colin B. Flannigan <CFlannigan@fhplawyers.com>  
**Sent:** Tuesday, October 13, 2020 4:24 PM  
**To:** Scott Andersen (2546) - 4Flr <scott.andersen@lawsonlundell.com>; Steven Dvorak <SDvorak@davidsonlawyers.ca>  
**Subject:** RE: Sather Ranch - Claims Process

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---

Hi Scott and Steve,

I'll start with the first round of suggestions and then second.

I'm fine with points 1 and 3 from the first round. I'm not sure point 2 is necessary to change from 21 days to 14 days. The 28 days under paragraph 17 is to schedule the hearing which works like a close of pleadings that allows for the 7 days for the reply affidavit material under point 3.

As for the second round of suggestions, the Summary Trial process is governed by Rule 9-7 that includes the ability to award costs. I fail to see why an insolvency judge would be necessary for the subsequent Summary Trial applications and would potentially delay hearing availability dates by restricting who could hear those applications. The Summary Trial applications will be for the proving of the Related Party Claims and does not appear to require specialized insolvency skills. For the original Claims Process Order and procedural orders I can see the purpose of an insolvency judge but I would not consent restricting to one particular judge.

Regards,

**COLIN FLANNIGAN,**

400 - 275 Lawrence Avenue  
 Kelowna, B.C. V1Y 6L2  
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 Fax: 250.762.8616  
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**Sent:** Friday, October 9, 2020 8:54 AM  
**To:** 'Steven Dvorak' <[SDvorak@davidsonlawyers.ca](mailto:SDvorak@ davidsonlawyers.ca)>; Colin B. Flannigan <[CFlannigan@fhplawyers.com](mailto:CFlannigan@fhplawyers.com)>  
**Subject:** RE: Sather Ranch - Claims Process

All of those suggestions sound reasonable to me. Colin, any comment?

I would like to finalize and file the application for the claims process early next week.

Scott R. Andersen | Partner  
 Lawson Lundell LLP  
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**From:** Steven Dvorak <[SDvorak@davidsonlawyers.ca](mailto:SDvorak@davidsonlawyers.ca)>  
**Sent:** Friday, October 9, 2020 8:31 AM  
**To:** Scott Andersen (2546) - 4Flr <[scott.andersen@lawsonlundell.com](mailto:scott.andersen@lawsonlundell.com)>; 'Colin B. Flannigan' <[CFlannigan@fhplawyers.com](mailto:CFlannigan@fhplawyers.com)>  
**Subject:** RE: Sather Ranch - Claims Process

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I would like to add one additional feature to the Claims Process, which should not be objectionable, and is likely implicit in the process as outlined.

If a party disputes a Claim, the costs of and incidental to the Claims Process in relation to the disputed Claim(s) should be payable by the unsuccessful party. Further, in making a Costs award, the Court should be entitled to consider any offer to settle made in connection with the Claims Process; there should be a specific reference to Rule 9-1 applying to any Notice of Application filed pursuant to the Claims Process Order.

Finally, we should ask Sue Smolen to appoint an insolvency judge to handle the Claims Process Order and any applications that flow from it. Justice Walker made both Receivership Orders, and was the judge in the *Wheatland* decision that Colin is fond of citing, so if he is available, that would make sense. He is usually amenable to making himself available at 9 am for short applications on procedural issues, which is quite helpful. In that regard, please ensure there is a standard "right to apply for directions on two days' notice" clause in the draft Order.

Thanks;

**Steven Dvorak**

Partner

Direct: 250-275-4495

Email: [SDvorak@davidsonlawyers.ca](mailto:SDvorak@davidsonlawyers.ca)

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**From:** [scott.andersen@lawsonlundell.com](mailto:scott.andersen@lawsonlundell.com) <[scott.andersen@lawsonlundell.com](mailto:scott.andersen@lawsonlundell.com)>  
**Sent:** Thursday, October 8, 2020 1:28 PM  
**To:** 'Colin B. Flannigan' <[CFlannigan@fhplawyers.com](mailto:CFlannigan@fhplawyers.com)>  
**Cc:** Steven Dvorak <[SDvorak@davidsonlawyers.ca](mailto:SDvorak@davidsonlawyers.ca)>  
**Subject:** RE: Sather Ranch - Claims Process

Colin, do you have any issue with the revisions Steve has proposed below?

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**From:** Scott Andersen (2546) - 4Flr <[scott.andersen@lawsonlundell.com](mailto:scott.andersen@lawsonlundell.com)>  
**Sent:** Tuesday, October 6, 2020 4:11 PM  
**To:** 'Steven Dvorak' <[SDvorak@davidsonlawyers.ca](mailto:SDvorak@davidsonlawyers.ca)>; Colin B. Flannigan <[CFlannigan@fhplawyers.com](mailto:CFlannigan@fhplawyers.com)>  
**Subject:** RE: Sather Ranch - Claims Process

I am fine with those proposed changes, Colin any comment from you?

As to your question, the intention is that the Receiver will not participate in the hearing regarding the Related Party claims – that is for your clients to address directly before the Court (rather than to the Receiver). I don't plan to file anything or attend that hearing. The Receiver's interest is simply having those claims determined in a timely way in a process that enables the parties to participate and advocate directly for their respective positions.

Regards,

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

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**From:** Steven Dvorak <[SDvorak@davidsonlawyers.ca](mailto:SDvorak@davidsonlawyers.ca)>  
**Sent:** Tuesday, October 6, 2020 4:07 PM  
**To:** Colin B. Flannigan <[CFlannigan@fhplawyers.com](mailto:CFlannigan@fhplawyers.com)>; Scott Andersen (2546) - 4Flr <[scott.andersen@lawsonlundell.com](mailto:scott.andersen@lawsonlundell.com)>  
**Subject:** RE: Sather Ranch - Claims Process

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I am fine with the proposed from of Claims Process Order, subject to these comments:

1. A Related Party who contests a Related Party Claim should be required to state particulars in the Application Response, identifying the basis of its objection for each itemized component of the Related Party Claim it disputes. I would consider the Application Response to be in the nature of a pleading, and it is important to identify the case one is expected to meet at the summary trial hearing; this is the only way we can ensure there is clarity on the points in issue.
2. The Application Response disputing a Related Party Claim should be filed within 14 days, not 21, to permit the filing of reply material before the hearing itself.
3. A Related Party should be permitted to file affidavit evidence in reply to the Application Response and affidavit(s) filed by a contesting Related Party, within 7 days of the filing of the Application Response.

Also, it's not clear but I would expect there will not be any need for the Receiver to be involved in the determination of disputed Related Party Claims – correct?

**Steven Dvorak**  
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 Direct: 250-275-4495  
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**From:** Colin B. Flannigan <[CFlannigan@fhplawyers.com](mailto:CFlannigan@fhplawyers.com)>  
**Sent:** Friday, October 2, 2020 11:56 AM  
**To:** [scott.andersen@lawsonlundell.com](mailto:scott.andersen@lawsonlundell.com); Steven Dvorak <[SDvorak@davidsonlawyers.ca](mailto:SDvorak@davidsonlawyers.ca)>  
**Subject:** RE: Sather Ranch - Claims Process

Hi Scott,

Thank you for the comments. I believe that you are correct and Rule 9-7(17) would address that situation, which hopefully won't arise.

I believe that the list is complete but wanted to make sure that the spirit of the process captures the appropriate parties.

Regards,

**COLIN FLANNIGAN,**

400 - 275 Lawrence Avenue  
Kelowna, B.C. V1Y 6L2  
**Tel:** 250.869.6024  
**Fax:** 250.762.8616  
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**Sent:** Friday, October 2, 2020 11:47 AM  
**To:** Colin B. Flannigan <[CFlannigan@fhplawyers.com](mailto:CFlannigan@fhplawyers.com)>; 'Steven Dvorak' <[SDvorak@davidsonlawyers.ca](mailto:SDvorak@davidsonlawyers.ca)>  
**Subject:** RE: Sather Ranch - Claims Process

Hi Colin,

Thank you for the below comments.

An order that the related party claims be dealt with in a Summary Trial process does not in my view limit the jurisdiction that the judge hearing such an application could rule it cannot be determined in that fashion. That jurisdiction arises under the Rule. Frankly, that would be an unfortunate outcome, but the order would not (and in my view could not) constrain the summary trial's jurisdiction and authority.

As for the other point, I would rather simply define all of those related parties. Are there affiliates that I am missing? Successors or assigns would be fine to include, but I am not aware that any such claim has been assigned.

Regards,

Scott R. Andersen | Partner  
Lawson Lundell LLP  
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**From:** Colin B. Flannigan <[CFlannigan@fhplawyers.com](mailto:CFlannigan@fhplawyers.com)>  
**Sent:** Friday, October 2, 2020 11:37 AM  
**To:** Scott Andersen (2546) - 4Flr <[scott.andersen@lawsonlundell.com](mailto:scott.andersen@lawsonlundell.com)>; 'Steven Dvorak' <[SDvorak@davidsonlawyers.ca](mailto:SDvorak@davidsonlawyers.ca)>  
**Subject:** RE: Sather Ranch - Claims Process

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Hi Scott,

For the most part the process makes sense as proposed.

My preference would be to have any opposed Related Party Claims be determined by Summary Trial but I don't want to tie the hands of the presiding Judge if there are concerns on suitability for Summary Trial. Should we include a provision that a contemplated Summary Trial can be converted into a conventional action if the presiding Judge rules that it is not suitable?

Can we also include in the definition of Related Party Creditor to include affiliates or assigns of those listed, thanks.

Regards,

COLIN FLANNIGAN,

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**From:** [scott.andersen@lawsonlundell.com](mailto:scott.andersen@lawsonlundell.com) <[scott.andersen@lawsonlundell.com](mailto:scott.andersen@lawsonlundell.com)>  
**Sent:** Wednesday, September 23, 2020 10:55 AM  
**To:** Colin B. Flannigan <[CFlannigan@fhplawyers.com](mailto:CFlannigan@fhplawyers.com)>; 'Steven Dvorak' <[SDvorak@davidsonlawyers.ca](mailto:SDvorak@davidsonlawyers.ca)>  
**Cc:** Cecil Cheveldave (<[ctcheveldave@telus.net](mailto:ctcheveldave@telus.net)>) <[ctcheveldave@telus.net](mailto:ctcheveldave@telus.net)>  
**Subject:** Sather Ranch - Claims Process

Counsel,

As it is now apparent that there will be money to distribute to your respective clients, we now need to turn our minds to how their respective debt claims are to be determined.

To that end, we write to seek your input on a claims process. A draft claims process is attached for your review and comment.

The draft order contemplates two different processes, one for arm's length claims and one for related party claims.

For arm's length claims, we are proposing the "normal" receivership type claims process whereby the Receiver sends out the notices to collect in proofs of claim that it reviews and adjudicates on in the first instance. Having the Receiver adjudicate claims is done to add administrative efficiency and reduce costs.

For related party claims, we are proposing that they be proved by way of a Summary Trial process directly before a judge with a right of cross-examination. This will enable each of you to have standing to oppose and examine each other's clients on their respective claims.

There are a couple reasons motivating the proposed process for related party claims. First, once the arm's length claims are addressed, the only other and main claimants are your respective two groups who are adverse in interest. We see less administrative efficiency for related party claims and acknowledge that it may be more equitable and preferred by the parties to empower your respective clients to participate directly in that hearing process before a judge. Second, the Receiver is actively in litigation against Joe Sather in relation to the grazing lands. We must avoid any appearance of impartiality. Although that litigation would have no bearing on the assessment of Mr. Sather's claim if it was to be adjudicated by the Receiver, the appearance that it has no bearing is equally important.

For the related party claims, the proposed order also gives the parties flexibility to arbitrate those claims. We felt that in light of Covid-19, that flexibility is important so we have built that option into the order.

Finally, it is worth noting that as shareholders your clients will share any proceeds 50/50. Thus their claims as creditors are really only a fight over the quantum of claims that will be shared between them on a different ratio depending upon the quantum of their respective creditor claims ultimately established (i.e. 80/20, 70/30 etc.). There is diminishing return in that fight. The legal costs to sort that out will eventually overtake the potential benefit. I would encourage each of your clients to evaluate this and to see if you can reach some settlement on this issue to avoid the need for any related party claims process. If you can reach agreement, then that can be memorialized in a consent order in the receivership.

Can you please give the above consideration and then respond to me with your client's position and/or comments before 4:00pm on October 2, 2020 so that we can then move forward with an application for a claims process order.

Regards,



**Scott R. Andersen** | Partner

D 250.979.8546 | M 250.300.7720 | F 604.641.2801 | E [scott.andersen@lawsonlundell.com](mailto:scott.andersen@lawsonlundell.com)

LAWSON LUNDELL LLP Suite 403, 460 Doyle Avenue, Kelowna, BC V1Y 0C2

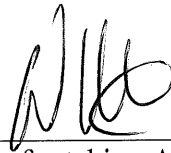
Vancouver | Calgary | Yellowknife | Kelowna

[\\*Navigate the legal implications of COVID-19\\*](#)

## Disclaimer

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This is **Exhibit “ C ”** referred to in the  
Affidavit of **C. Curran** made before me on  
October 21, 2020



---

A Commissioner for taking Affidavits for  
British Columbia

**From:** Steven Dvorak  
**Sent:** Tuesday, September 18, 2018 6:54 AM  
**To:** 'Doug Flannigan' <DFlannigan@fhplawyers.com>  
**Subject:** Determination of Shareholder Contributions - AMX Real Estate Inc. ("AMX")

Doug;

Attached is a summary (the "Summary") prepared by Joe Sather in respect of the contributions he asserts have been made to SRL (the "Contributed Items"). These have been reflected in the financial records of SRL as a Shareholder Loan by AMX in the sum of \$101,250. There is an additional claim of \$436.50 reflected on the books, in connection with incorporation costs paid by Mr. Sather, and a \$50 debit related to the purchase of shares by AMX, for a claims total of \$101,636.50. The \$436.50 for incorporation expenses is supported by an invoice, and is accepted by my clients. A copy of the company's general ledger entry for AMX's loans, including supporting documentation, is attached.

The Summary indicates that certain of the Contributed Items were, in fact, contributed by Joe Palmer to Palmer Sather, in some cases more than a decade prior to the incorporation of SRL on March 21, 2013.

In accordance with paragraph 3(d) of the Receivership Order pronounced on September 17, 2018, we would ask that AMX provide the following specific documentation and information in connection with its claims against SRL:

1. Confirmation that the items and amounts listed in the Summary, together with the incorporation costs, totalling a net amount of \$101,636.50, constitute the whole of the claims of AMX as against SRL.
2. All documents in the possession or under the control of AMX pertaining to the purchase or other acquisition of the Contributed Items, including information as to the vendor, the purchaser, and the purchase price.
3. All documents in the possession or under the control of AMX pertaining to the date(s) on which such Contributed Items were contributed to SRL.
4. All documents in the possession or under the control of AMX pertaining to the fair market value of the Contributed Items as at March 21, 2013.
5. To the extent that AMX asserts claims for advances or other contributions not listed in the Summary, a detailed list of such advances or contributions, including a full description thereof, the date(s) on which the contribution was made, the fair market value on the date of contribution to SRL, and all documents in the possession or under the control of AMX pertaining to such matters.

We look forward to receipt of the requested documentation and information by September 27, 2018.

Steven Dvorak \*  
 Associate Counsel

\*Practicing as a professional law corporation

Phone: 250 469 6461  
 Fax: 250 868 2659  
 Email: sdvorak@rihlaw.com

RUSH IHAS  
 HARDWICK LLP  
 LITIGATION LAWYERS



Web: [rihlaw.com](http://rihlaw.com)

**Rush Ihas Hardwick LLP**

#200 - 591 Bernard Avenue | Kelowna, BC | V1Y 6N9

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The information in this email is intended only for the named recipient and contains confidential information that may be subject to solicitor-client privilege. If you are not the intended recipient, please notify us immediately and do not copy, distribute or take action based on this email.

**Sather Ranch Ltd.**  
**Transactions by Account**  
**Due to Joe Sather**

Type	Date	Debit	Credit	Balance	Interest calculation - simple 5% interest to July 5, 2018						TOTAL
					2013	2014	2015	2016	2017	2018	
General Journal	03/21/2013	50.00		-50.00	\$ (1.95)	\$ (2.50)	\$ (2.50)	\$ (2.50)	\$ (2.50)	\$ (1.27)	
General Journal	03/21/2013		436.50	386.50	\$ 17.04	\$ 21.83	\$ 21.83	\$ 21.83	\$ 21.83	\$ 11.12	
General Journal	03/31/2013		25,000.00	25,386.50	\$ 941.78	\$ 1,250.00	\$ 1,250.00	\$ 1,250.00	\$ 1,250.00	\$ 636.99	
General Journal	04/01/2013		76,250.00	101,636.50	\$ 2,861.99	\$ 3,812.50	\$ 3,812.50	\$ 3,812.50	\$ 3,812.50	\$ 1,942.81	
<b>TOTAL</b>		50.00	101,686.50	101,636.50	\$ 3,818.86	\$ 5,081.83	\$ 5,081.83	\$ 5,081.83	\$ 5,081.83	\$ 2,589.64	<b>\$ 128,372.30</b>

Message sent to Outlook Mail Shareholder's Loan

Mike S

Boundary added to the message list

Joe Sather <joesather\_realtor@yahoo.ca>

Wed 2015-01-21 10:02 PM

To: Mike Street <street42@hotmail.ca>

Hi Mike,

Not easy to go back for several years to see how much I put into the ranch but here's what my records show:

Livestock: Cows, Bulls, Calves purchased (bulls since 2009 but started buying bulls in 2002 or 2003) \$52,750

Tractor: \$25,000

Hay: \$10,000 (loaned \$20k to my Dad to buy hay from Alberta about 8 years ago; got repaid \$10k only)

1987 F250 4x4: Gave to the ranch in 2002; market value at the time \$3,500

UFA Supplies: salt/mineral blocks, meds, tags, tools, etc. On average, I spend from \$1,500 to \$2,000 per year on this stuff but lets say \$10k for now.

That totals \$101,250.

Doesn't include other contributions to the ranch - horses, tack, salt blocks, med's I'm sure I'll find more when I get to the records Mike but it can be changed later. Hope this helps Mike.

Joe

**Joe Sather, CGA-Broker**

Sather Real Estate Pro Brokers Ltd.

#11 - 4412 Manilla Road S.E., Calgary, AB T2G 4B7

Bus. 403-265-8887

Cell 403-836-8887

I-Fax 403-592-6606

[joesather\\_realtor@yahoo.ca](mailto:joesather_realtor@yahoo.ca)

42

INVOICE

MoJo's License & Reg Serv Inc.  
#3, 6020 1a Street S.W.  
Calgary, Alberta  
T2H 0G3

Phone: (403)252-3333

(403)252-3363

Fax : (403)252-3218

Invoice #: 808327-00

Account : mojo0204

Date : 21 MAR 2013

Service To:

Sather Real Estate Pro Brokers

4620 Manilla RD SE

Calgary, Alberta

fax# 403-266-6610

T2G4B7

<u>Description</u>	<u>File Reference</u>	<u>Reference Number</u>	<u>Qty</u>	<u>Net</u>	<u>GST</u>	<u>Total</u>
Incorporate Alberta Corporation	SATHER RANCH LTD.	19431618	1	350.00	5.00	355.00
NUANS Report - Provincial	SATHER RANCH LTD.		1	47.62	2.38	50.00
Misc. Corporate Service	BC NAME SATHER RANCH		1	30.00	1.50	31.50

Total: 436.50

ACCT 436.50

Change: 0.00

GST Number: 136846151RT

Total GST 8.88

Your Clerk Was: BR

*SATHER RANCH*

**Sather Real Estate Pro Brokers Ltd. - AR**

11-4412 Manilla Road S.E.,  
 Calgary, AB T2G 4B7

**Statement**

Date
------

2018-01-31

Invoice To
Sather Ranch Ltd.

Amount Due	Amount Enc.
\$295.01	

Date	Description	Amount	Balance		
2017-12-31	Balance forward		213.51		
2018-01-18	INV #5212.	81.50	295.01		
			<i>Year Ends</i>		
Current	1-30 Days Past Due	31-60 Days Past Due	61-90 Days Past Due	Over 90 Days Past Due	Amount Due
0.00	81.50	0.00	0.00	213.51	\$295.01

44

# Sather Real Estate Pro Brokers Ltd. - AR

11-4412 Manilla Road S.E.,  
Calgary, AB T2G 4B7

# Invoice

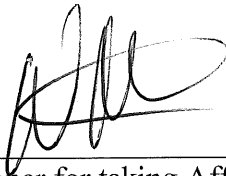
Date	Invoice #
2018-01-18	5212

Invoice To
Sather Ranch Ltd.

P.O. No.	Terms	Project

Description	Qty	Rate	Amount
MoJo's- Annual Returns- Inv# 1079875-00 Ref# 28338020-2017	1	80.00	80.00
GST On Sales		5.00%	1.50
<b>Total</b>			\$81.50
<b>Payments/Credits</b>			\$0.00
<b>Balance Due</b>			\$81.50

This is **Exhibit “ D ”** referred to in the Affidavit of **C. Curran** made before me on October 21, 2020



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A Commissioner for taking Affidavits for  
British Columbia

46

# FH&P

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## LAWYERS LLP

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400-275 Lawrence Avenue  
Kelowna, BC V1Y 6L2  
250.762.4222  
www.fhplawyers.com  
www.okanaganelderlaw.com

---

Email: [dflannigan@fhplawyers.com](mailto:dflannigan@fhplawyers.com) Direct: (250) 869-6048 Fax: (250) 762.8616

OUR FILE: 10887-79333

September 27, 2018

VIA EMAIL  
[sdvorak@rihlaw.com](mailto:sdvorak@rihlaw.com)

**Rush Ihas Hardwick LLP**  
200 -591 Bernard Avenue  
Kelowna, BC V1Y 6N9

**Attention: Steven D. Dvorak**

Dear Sir:

Re: Michael Street et al v Sather Ranch Ltd., SCBC Action 120281  
Re: B.C. Model Receivership Order

---

In accordance with paragraph 3(d) of the Receivership Order pronounced on September 17, 2018, AMX Real Estate Inc. (AMX), our client instructs us to respond as follows to the requests, and using the same numbering system as in your email dated September 18, 2018:

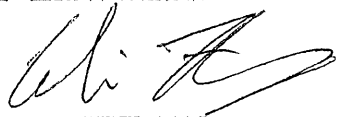
- 1) The amounts owing to AMX and/or Joe Sather exceed the amount of \$101,636.50, indicated as the Share Holder Loan to AMX and Incorporation costs. AMX and/or Joe Sather have additional contributions for hosting events, paying for veterinary bills and/or medications, cattle and bulls belonging to Joe Sather and/or his father, Palmer Sather, farm equipment, including but not limited to a tractor, providing services in negotiating the purchase of real property and any entitlement for amounts owing from Mike Street for rent and the placement of his modular home to our client and/or Sather Ranch Ltd.
- 2) All available original documents were already provided to your clients and/or their bookkeeper by our client, and our client encloses copies of invoices our client has been able to locate.
- 3) All available original documents were already provided to your clients and/or their bookkeeper by our client, and our client encloses copies of invoices our client has been able to locate.
- 4) All available original documents were already provided to your clients and/or their bookkeeper by our client, and our client encloses copies of invoices our client has been able to locate.



5) All available original documents were already provided to your clients by our client, and our client has been unable to locate any copies.

Yours truly,

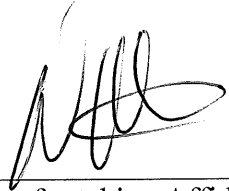
**FH&P LAWYERS LLP**

Per: 

For **DOUG FLANNIGAN**  
CBF/jam

cc: client

This is **Exhibit “ E ”** referred to in the Affidavit of **C. Curran** made before me on October 21, 2020



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A Commissioner for taking Affidavits for  
British Columbia

RUSH THAS  
HARDWICK LLP  
LITIGATION LAWYERS

200 - 591 Bernard Avenue  
Kelowna, BC Canada V1Y 6N9  
T 250-868-2313  
F 250-868-2659

www.rthlaw.com

October 9, 2018

File No. SDD-32972

*Via Email (dflannigan@fhplawyers.com)*

FH & P Lawyers LLP  
400 – 275 Lawrence Avenue  
Kelowna, BC V1Y 6L2

Attention: Doug Flannigan

Dear Sir:

Re: Sather Ranch Ltd. (“SRL”), in Receivership; Claims of AMX Real Estate Inc. (“AMX”)

In accordance with paragraph 3(f) of the Receivership Order, the Plaintiffs advise that they take issue with the following claims of AMX, for the reasons noted:

1. Claim: Shareholder’s Initial Contribution to SRL (\$101,250). According to Mr. Sather’s email correspondence to Mr. Street on January 21, 2015, Mr. Sather asserts that he and/or AMX contributed items valued at \$101,250 to SRL upon incorporation in 2013. In general, the Plaintiffs take the position that this claim is inflated, includes amounts properly claimed as against the Estate of Palmer Sather, and is not supported by any documentation.

a. Cows, Bulls and Calves

Mr. Sather asserts that Cows, Bulls and Calves valued at \$52,750 were contributed to SRL. It is the position of the Plaintiffs that the Cows, Bulls and Calves were in fact contributed to Palmer Sather, not SLR, in years prior to incorporation of SLR, and were in turn purchased from Palmer Sather by SRL (via the assumption of indebtedness to the Bank of Montreal).

Further, and alternatively, the Cows, Bulls and Calves did not have a market value of \$52,750, at any material time.

b. Tractor

Mr. Sather asserts that a Tractor having a market value of \$25,000 was contributed to SRL. The Plaintiffs acknowledge that a tractor was contributed to SRL by Mr. Sather, but dispute the claimed value in relation to this tractor, and assert that the figure of \$25,000 is grossly inflated.

c. Hay

Mr. Sather asserts that he loaned Palmer Sather \$20,000 to purchase hay in or about 2007, but that his father only repaid him \$10,000, and therefore he claims a credit of \$10,000 as against SRL. This claim is not supported by any documentary evidence, and in any event would constitute a claim against the estate of Palmer Sather, not SRL.

d. 1987 F250 Pickup Truck

Mr. Sather asserts that this item was given to his father in or about 2002, and that it had a value at the time of \$3500. This claim is not supported by any documentary evidence, and in any event would constitute a claim against the estate of Palmer Sather, not SRL.

e. UFA Supplies

Mr. Sather asserts that "on average, I spend from \$1500 to \$2000 per year on this stuff but let's say \$10K..." These items were contributed in years prior to SRL's incorporation. This claim is not supported by any documentary evidence, and in any event would constitute a claim against the estate of Palmer Sather, not SRL.

2. In paragraph 1 of your correspondence dated September 27, 2018, there is a general reference to "providing services in negotiating the purchase of real property". Our clients have no documents or other particulars in connection with such a claim, including the amount alleged to be owing, or the legal or factual basis upon which such a claim might arise, and therefore reject any such claim in its entirety.
3. In paragraph 1 of your correspondence dated September 27, 2018, there is a general reference to an "entitlement for amounts owing from Mike Street for rent and the placement of his modular home." Our clients have no documents or other particulars in connection with such a claim in favour of AMX, including the amount alleged to be owing, or the legal or factual basis upon which such a claim might arise, and therefore reject any such claim in its entirety.
4. AMX has submitted recently prepared invoices in connection with the 2013 – 2018 branding events. These claims are wholly without legal or factual foundation, and are rejected in their entirety.
5. AMX has submitted recently prepared invoices in connection with the 2013 - 2017 roundup

events. These claims are wholly without legal or factual foundation, and are rejected in their entirety.

6. AMX has submitted a recently prepared invoice in connection with the alleged rental of a tractor for the period 2013 – 2018. The Plaintiffs understand that this is the same tractor that Mr. Sather asserts was contributed to SRL upon incorporation (as referred to in item 1.b, above). This claim for rental charges is contrary to Mr. Sather's prior characterization of the transaction, and is wholly unsupported by any documentation. In the result, this claim is rejected in its entirety.

Yours truly,

RUSH IHAS HARDWICK LLP

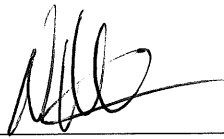
Per:



STEVEN D. DVORAK  
(PRACTICING AS A PROFESSIONAL LAW CORPORATION)

SDD/so

This is **Exhibit “ E ”** referred to in the Affidavit of **C. Curran** made before me on October 21, 2020



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A Commissioner for taking Affidavits for  
British Columbia

# FH&P

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## LAWYERS LLP

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400-275 Lawrence Avenue  
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[www.okanaganelderlaw.com](http://www.okanaganelderlaw.com)

**Email:** [cflannigan@fhplawyers.com](mailto:cflannigan@fhplawyers.com)      **Direct:** (250) 869-6024      **Fax:** (250) 762.8616

OUR FILE: 10887-79333

October 9, 2018

VIA EMAIL  
[sdvorak@rihlaw.com](mailto:sdvorak@rihlaw.com)

**Rush Ihas Hardwick LLP**  
200 -591 Bernard Avenue  
Kelowna, BC V1Y 6N9

**Attention: Steven D. Dvorak**

Dear Sir:

Re: Michael Street et al v Sather Ranch Ltd., SCBC Action 120281  
Re: B.C. Model Receivership Order

---

In accordance with paragraph 3(c) of the Receivership Order pronounced on September 17, 2018, AMX Real Estate Inc. (AMX), our client disputes the following:

1. All claims as set out in the Notice of Civil Claim filed August 7, 2018, for the action noted above;
2. All amounts owing to Mike Street and/or Boundary Machine Ltd.;
3. All amounts paid by Sather Ranch Ltd. ("SRL") for personal items for Mike Street including but not limited to, a team penning horse for \$15,000 and 2 two seater Quads and any other personal expenses paid by SRL on behalf of Mike Street or Marielle Brule;
4. All wages paid to Mike Street and his Boundary Machine Ltd. staff;
5. All fencing costs in excess of \$10,000 (reported to cost \$216,056);
6. All costs of construction for clearing land and installing/trenching water and electrical lines;
7. All water development costs regarding the natural pond;
8. All the hay yard development costs;
9. All costs of purchasing a portable building and all costs regarding building of pens, gates, panels and shelters;
10. All costs related to Mike Street living on the 80 acres, including but not limited to, household utility costs (electricity, heating, etc.), building roads, hay for his horses, property taxes, etc.;
11. All amounts owed to Marielle Brule and/or Profectus Financial Inc.;

12. All costs related to Greyback Consulting;
13. All cost of hay purchases;
14. All payroll expenses;
15. All professional fees paid to Marielle Brule and/or her accounting firm;
16. All repair and maintenance expenses;
17. All small tools and equipment expenses;
18. All utility costs;
19. All veterinary costs;
20. All cost of WCB expenses;
21. Any claims of interest on any amounts owing or claimed to be owing; and
22. Any claim against the 160 acres.

Yours truly,

**FH&P LAWYERS LLP**

Per:



**COLIN FLANNIGAN**

CBF/jam

cc: client



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,  
G. MOROSO & ASSOCIATES INC.

DEFENDANT

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**AFFIDAVIT**

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Barristers & Solicitors  
Barristers & Solicitors  
Suite 403 - 460 Doyle Avenue  
Kelowna, B.C. V1Y 0C2  
Phone: 250.979.8546  
Attention: Scott R. Andersen