



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, Liquidator

To: The Respondents

TAKE NOTICE that an application will be made by the Petitioner to the presiding judge or associate judge at the courthouse at 1355 Water Street, Kelowna, British Columbia on September 23, 2026 at 9:45 a.m. for the order(s) 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. See attached draft Order Approving Sale of 1891 Parkinson Way, Kelowna, British Columbia and 1864 Harvey Ave, Kelowna, British Columbia.
2. The sale of the lands and premises, which are the subject matter of this action, more particularly known and described as:

Parcel Identifier: 003-826-465

LOT 1 SECTION 20 TOWNSHIP 26 OSOYOOS DIVISION YALE DISTRICT
PLAN 30909

Civic Address: 1891 Parkinson Way, Kelowna, British Columbia
(**"Parkinson Way"**)

Parcel Identifier: 001-864-076

LOT 1 SECTION 20 TOWNSHIP 26 OSOYOOS DIVISION YALE DISTRICT
PLAN 23634 EXCEPT PLAN KAP89971

Civic Address: 1864 Harvey Avenue, Kelowna, British Columbia (**"Harvey Ave"**)

(hereinafter referred together to as the **"Lands"**)

Parkinson Way be sold to Parkinson Way Apartments Kelowna Ltd. for the sum of \$6,355,000.00 and Harvey Ave be sold to Harvey Ave Commercial Kelowna Ltd. for \$3,400,000.00 with the date for adjustment, possession and completion to be sixty (60) days after court approval on the terms and conditions of the Offer to Purchase and Contract of Purchase and Sale Agreements dated March 12, 2026. The Liquidator is at liberty to extend the dates for adjustment, possession and completion for up to thirty (30) days without further order of the Court.

3. The Respondents and any other person who may be in the actual possession of the Lands be directed to deliver up vacant possession to the Lands to the proposed purchaser on the completion date. If any person fails to deliver vacant possession, the Liquidator shall be at liberty to apply for a Writ of Possession under Rule 13-2(13) by desk order and without further Order.
4. Upon filing a certified copy of the Order made herein with the Registrar of Titles, Kamloops Land Title Office, the Lands legally described as Parcel Identifiers: 003-826-465, LOT 1 SECTION 20 TOWNSHIP 26 OSOYOOS DIVISION YALE DISTRICT PLAN 30909 and 001-864-076, LOT 1 SECTION 20 TOWNSHIP 26 OSOYOOS DIVISION YALE DISTRICT PLAN 23634 EXCEPT PLAN KAP89971 and all right, title, interest and equity of redemption of the Liquidator and the Respondents, and their respective heirs, executors, administrators and assigns and all other persons claiming by, through or under them, shall be conveyed to and do vest in fee simple in the said purchaser but subject to the reservations, provisos, exceptions and conditions expressed in the original grant therefore from the Crown, without further instrument of transfer free and clear of all encumbrances except:

Parkinson Way:

- (a) Statutory Right of Way T42354;

Harvey Ave:

- (b) NIL.

5. The solicitor for the applicant do approve any Vendor's Statement of Adjustments including adjustments for taxes, water and sewer to the date of adjustment and that the purchasers obtain title to the Lands free and clear of all charges, liens and encumbrances except those set out in paragraph 4 hereof.
6. The solicitor for the proposed purchasers herein pay from the proceeds of sale the amount owing for taxes, penalties, arrears of taxes and interest on arrears of taxes, utilities, arrears of utilities and interest on arrears of utilities in respect of the Lands, and the amount owing for real estate commission, and that the solicitor for the purchasers then pay to Fulton & Company LLP, solicitors for the Liquidator, the net proceeds of sale.
7. Fulton & Company LLP pay the net sale proceeds to the Liquidator.
8. The parties may apply for such further direction as may be necessary to carry out this Order.

Part 2: FACTUAL BASIS

1. Order Made After Application to appoint a Liquidator was granted by the Honourable Justice Betton on January 26, 2024, in this proceeding (the "**Liquidation Order**").
2. Order for Conduct of Sale granted by Associate Judge Schwartz on June 18, 2025 in this foreclosure proceeding (the "**Sale Process Order**").
3. An appraisal update of Parkinson Way indicates a value of \$5,770,000.
4. An appraisal updated of Harvey Ave indicates a value of \$2,800,000.
5. The subject property was marketed for sale in October 2025 jointly by William Wright and CBRE (the "**Real Estate Agents**"). Interested parties were encouraged to submit offers in February 2026.
6. An Offer in the amount of \$6,350,000.00 was received for Parkinson Way and has been accepted by the Liquidator. Pursuant to the Third Amendment to Contracts of Purchase and Sale dated September 4, 2026, the purchase price was increased to \$6,355,000.00.
7. An Offer in the amount of \$3,400,000.00 was received for Harvey Ave and has been accepted by the Liquidator.

Part 3: LEGAL BASIS

1. The court should consider the following factors when determining to approve a sale in the context of an application to approve a sale by a court appointed officer:

- (a) whether the party conducting the sale made sufficient efforts to obtain the best price and did not act improvidently;
- (b) the interests of all parties;
- (c) the efficacy and integrity of the process by which the offers were obtained; and
- (d) whether there has been any unfairness in the working out of the process.

Royal Bank of Canada v. Soundair Corp., 4 O.R. (3d) 1, 1991 CanLII 2727 (C.A.)

Regal Constellation Hotel Ltd., Re, 2004 CanLII 206 (ON CA)

- 2. The property has been fully marketed and the current offer of \$6,350,000.00, reasonably reflects the market for this type of property and it is the applicant's submission this is a provident sale.
- 3. The Liquidation Order and the Sale Process Order.
- 4. The Business Corporations Act, S.B.C. 2002 c. 57, including section 334(1)(c)(iv) and the Law and Equity Act, R.S.B.C. 1996 C. 253, including section 37.
- 5. Rule 13-5(4) of the Rules of Court which reads:

Directions for sale

(4) The court may give directions for the purpose of effecting a sale, including directions

- (a) appointing the person who is to have conduct of the sale,
- (b) fixing the manner of sale, whether by contract conditional on the approval of the court, private negotiation, public auction, sheriff's sale, tender or some other manner,
- (c) fixing a reserve or minimum price,
- (d) defining the rights of a person to bid, make offers or meet bids,
- (e) requiring payment of the purchase price into court or to trustees or to other persons,
- (f) settling the particulars or conditions of sale,
- (g) obtaining evidence of the value of the property,

(h) fixing the remuneration to be paid to the person having conduct of the sale and any commission, costs or expenses resulting from the sale,

(i) that any conveyance or other document necessary to complete the sale be executed on behalf of any person by a person designated by the court, and

(j) authorizing a person to enter on any land or building.

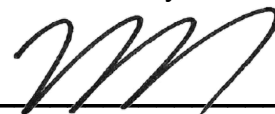
Part 4: MATERIAL TO BE RELIED ON

1. Affidavit #2 of Nicole Pelcher;
2. Affidavit #2 of Jeff Hancock;
3. Order Made After Application granted January 26, 2024; and
4. Order Made After Application for Conduct of Sale.

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: September 9, 2026



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: [dd/mmm/yyyy] . _____
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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AND:

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RESPONDENTS

ORDER MADE AFTER APPLICATION

BEFORE

ASSOCIATE JUDGE _____

WEDNESDAY, THE 23rd
DAY OF SEPTEMBER, 2026

ON THE APPLICATION of C. Cheveldave & Associates Ltd., (the “**Liquidator**”) as Liquidator of Witmar Holdings Ltd. coming on for hearing at Kelowna, British Columbia on September 23, 2026 and on hearing Hal Hicks as counsel for the Liquidator; and on hearing; and no one else appearing;

THIS COURT ORDERS that:

1. The sale of the lands and premises, which are the subject matter of this action, more particularly known and described as:

Parcel Identifier: 003-826-465

LOT 1 SECTION 20 TOWNSHIP 26 OSOYOOS DIVISION YALE DISTRICT PLAN
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5. The solicitor for the proposed purchasers herein pay from the proceeds of sale the amount owing for taxes, penalties, arrears of taxes and interest on arrears of taxes, utilities, arrears of utilities and interest on arrears of utilities in respect of the Lands, and the amount owing for real estate commission, and that the solicitor for the purchasers then pay to Fulton & Company LLP, solicitors for the Liquidator, the net proceeds of sale.
6. Fulton & Company LLP pay the net sale proceeds to the Liquidator.

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

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

By the Court

Registrar

No. KEL-S-S-127397
Kelowna Registry

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ISLANDVIEW COUNTRY ESTATES LTD.**

RESPONDENTS

**ORDER APPROVING SALE
(PARKINSON WAY AND HARVEY)**

FILE NO. 077284-0002

HRH/dns

FULTON & COMPANY LLP
Lawyers & Trade-mark Agents
300 – 350 Lansdowne Street
Kamloops, B.C.
V2C 1Y1
Phone: (250) 372-5542

No. KEL-S-S-127397

Kelowna Registry

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**NOTICE OF APPLICATION
(PARKINSON AND HARVEY)**

FILE NO. 077284-0002

HRH/dns

Revised: Sep 09/26 09:36

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