Leave is hereby granted to have this application heard in the Vancouver Supreme Court, pursuant to SCCR 8-2(4)(b) (DM)

No. VIC-S-H-247963
Victoria Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

BJK HOLDINGS LTD.

PETITIONER

AND:

1270858 B.C. LTD.
TLA GROUP OF HOLDING COMPANIES INC.
CHRISTOPHER BRADLEY
TROY DAVID GRANT
STERLING LIVING LIMITED PARTNERSHIP
TRI SKYEVIEW DEVELOPMENT GROUP LIMITED PARTNERSHIP
ADDY (815 & 824 SELKIRK AVE.) CORP.
TRI-STERLING DEVELOPMENTS LIMITED PARTNERSHIP
COBRAFER CONSTRUCTION LTD.
6 MILES CONTRACTING LTD.
FACTUM CORP.

RESPONDENTS

NOTICE OF APPLICATION

Name of applicant: McEown and Associates Ltd., in its capacity as receiver and manager (the "**Receiver**") of 1270858 B.C. Ltd. (the "**Debtor**")

To: The parties on the Service List attached as **Schedule "A"**

TAKE NOTICE that an application will be made by the applicant to the presiding Judge or Associate Judge at the Courthouse at 800 Smithe Street, Vancouver, British Columbia, on the 24th day of June, 2025, at 9:00 a.m., for the order(s) set out in Part 1 below.

The applicant estimates that the application will take 60 minutes.

[ ] This matter is within the jurisdiction of an associate judge.

[X] This matter is not within the jurisdiction of an associate judge.

Part 1: ORDER(S) SOUGHT

1. An order substantially in the form attached as **Schedule "B"** that:

    a. establishes a sales procedure for the assets of the Debtor;

    b. authorizes the Receiver to execute the Stalking Horse Agreement;

    c. authorizes the Receiver to disclaim the pre-sale contracts entered into by the Debtor prior to the date of the receivership;

    d. increases the authorized Receiver's borrowings from $4,000,000 to $5,250,000; and

    e. approves the Receiver's Activities as set out in the Receiver's First Report to Court.

2. Such further and other relief as this Honourable Court deems to be just and appropriate in the circumstances.

Part 2: FACTUAL BASIS

Background

3. The Debtor is a part of TLA Developments, a private real estate developer based in Edmonton, Alberta. The Debtor is the registered and beneficial owner of a 37-unit residential strata development (the "**Development**") located at 244 Island Highway, Victora, BC (the "**Property**").

4. On or about June 7, 2023, the secured creditor, BJK Holdings Ltd. ("**BJK Holdings**") agreed to provide financing for the Development in the principal amount of $18,617,000 (and subsequently increased to $26,500,000), secured by a first mortgage registered against the Property and a General Security Agreement against the Debtor's present and after-acquired personal property, among other security.

5. The Debtor defaulted on the loan from BJK Holdings and on August 6, 2024, BJK Holdings issued demands and a Notice of Intention to Enforce Security pursuant to s. 244(1) of the *Bankruptcy and Insolvency Act*.

6. As of the filing of this application, BJK Holdings is owed approximately $28.4 million on its secured loan to the Debtor, and an additional approximately $3.3 million in Receiver's borrowings.

7. On application by BJK Holdings, the Receiver was appointed the receiver and manager of the assets, undertakings and property of the Debtor pursuant to an Order of this Court made November 8, 2024 (the "**Receivership Order**").

8. Construction of the Development is approximately 90% complete. The Receiver currently estimates that construction will complete and the Development will be ready for occupancy in July 2025.

9. There is urgency in completing and realizing the proceeds from the Development, which stems primarily from the substantial interest accruing on the debt due by the Debtor to BJK Holdings and the real risk to recovery for creditors of the Debtor.

10. The Debtor has no significant assets apart from the Property. The Receiver estimates that the realization from the sale of the Property will be significantly less than the amount owed to BJK Holdings.

11. Pursuant to section 2 of the Receivership Order, the Receiver has the authority, *inter alia*:

    (a) *to take possession and exercise control over the Property and any and all receipts and disbursements arising out of or from the Property;*

    (c) *to manage, operate and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor*;

    (k) *to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver considers appropriate;*

    (l) *to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business:*

        i. *without the approval of this Court in respect of a single transaction for consideration up to $50,000, provided that the aggregate consideration for all such transactions does not exceed $250,000; and*

ii. with the approval of this Court in respect of any transaction in which the individual or aggregate purchase price exceeds the limits set out in subparagraph (i) above.

(m) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers, free and clear of any liens or encumbrances.

Receiver's Activities

12. The Receiver's activities since the Receivership Order are set out in its First Report to Court dated June 13, 2025, and include:

a. preparing and submitting the Receiver's Report with the Office of the Superintendent of Bankruptcy;

b. filing the receivership notice with BC corporate registry;

c. advertising the appointment of the Receiver in the Vancouver Sun;

d. arranging to close the Debtor's bank account and transferring the funds into the Receiver's trust account;

e. meetings and discussions with the representatives of BJK Holdings, TLA Developments and Blackrete Builders Inc. (the construction manager) with respect to continued construction of the Development;

f. meetings, discussions and correspondence regarding Sierra Lane Lane Construction Ltd. (the interior finishing subcontractor for the Development), and ultimately terminating the Debtor's subcontracts with Sierra Lane Construction Ltd.;

g. funding the ongoing construction costs of the Development through Receiver's Certificates as authorized by the Receivership Order;

h. maintaining accounting records of the receivership costs including construction costs, and filing GST returns to claim back GST on the costs incurred;

i. communicating with Travelers Insurance Company of Canada regarding the home warranty insurance for the Development, and

paying the annual fee to keep home warranty insurance coverage in place;

j. confirming that all purchaser deposits for units in the Development are being held in trust;

k. analyzing the pre-sale contacts for units in the Development to determining whether the pre-sale contacts are at, or below the current market of the units;

l. retaining consultants to assist in estimating projected rental rates and operating costs for operating the Development as a rental building;

m. corresponding with realtors regarding the market value of the Development if sold as individual strata units versus an *en bloc* sale;

n. arranging to replace construction insurance for the Development, which had previously lapsed; and

o. preparing the Receiver's First Report to Court.

Cost to Complete and Receiver's Borrowings

13. Paragraph 23 of the Receivership Order authorizes the Receiver to borrow a principal amount not exceeding $4,000,000 (or such greater amount as this Court may by further Order authorize) for the purposes of the receivership, which are secured by a Receiver's Borrowing Charge against the Property.

14. Ongoing construction costs during the receivership have been funded by Receiver's borrowings from BJK Holdings via Receiver's Certificates. As of June 13, 2025, the total principal amount advanced via Receiver's Certificates is $3,022,960.01.

15. The Receiver's cash balance as at June 13, 2025 is $168,640.78, and the available Receiver's borrowings that have not been drawn to date is $977,039.99, for total cash available of $1,145,680.77 to complete the receivership.

16. Since the Receivership Order was made, the estimated costs to complete construct the Development have increased as a result of:

a. delays in interior finishing work being completed by a subcontractor, which ultimately resulted in the Receiver terminating the subcontract and retaining an alternative subcontractor; and

b. the Receiver discovering that the Debtor failed to retain certain mandatory holdbacks as required by the *Builders Lien Act*.

17. The Receiver estimates that a further approximately $1.9 million in cash advances will be required to complete construction of the Development.

18. The Receiver recommends and requests that its authorized borrowings under paragraph 23 of the Receivership Order be increased from $4,000,000 to $5,250,000 to allow for further contingencies in completing construction of the Development.

Pre-Sale Contracts

19. The Debtor entered into 31 pre-sale contracts for the proposed strata units in the Development prior to the date of the receivership. 21 of those pre-sale contracts were previously rescinded or terminated.

20. As of the date of receivership, there were pre-sale contracts for 10 of the 37 proposed strata lots (the "**Pre-Sale Contracts**).

21. A further five pre-sale purchasers have requested rescission of their Pre-Sale Contracts. The Receiver has returned or is in the process of arranging for the return of deposits to those purchasers.

22. The remaining Pre-Sale Contracts would need to be disclaimed and terminated to complete the Stalking Horse Agreement (as hereinafter defined).

23. The Receiver has reviewed all Pre-Sale Contracts and the requirements to close on them. The Receiver estimates that closing the Pre-Sale Contracts will require significant work, cost and time.

24. The Receiver has engaged in discussions and obtained opinions from two realtors with experience in the Victoria real estate market to determine the current market value of the proposed strata units which are subject to the Pre-Sale Contracts.

25. Based on those investigations, the Receiver has formed the opinion that:

a. the aggregate value of all Pre-Sale Contracts is approximately $900,000 less than the current market value for the units; and

b. the realization from the sale of the Development, whether by the sale of individual strata units or *en bloc* will be maximized by the Receiver disclaiming and not completing the Pre-Sale Contracts.

26. Pursuant to paragraph 2(b) of the Receivership Order, the Receiver is authorized to cease to perform any contracts of the Debtor.

27. The Receiver recommends and requests that it be specifically authorized to disclaim all Pre-Sale Contracts, and that the deposits paid pursuant to the Pre-Sale Contracts be released to the respective purchasers under those contracts.

Estimated Recovery in Strata Unit Sale

28. The Receiver has held numerous discussions with the Development's construction manager, contractors, and realtors to assess the costs, timing, and recovery of completing a sale of the individual strata units in the Development, including those which are not currently subject to the Pre-Sale Contracts.

29. Based on the Receiver's investigations, the Receiver has determined that a sale of all individual units in the Development:

    a. is likely to recover an average of $725.00 to $750.00 per square foot, which equates to a range of approximately $20,500,000 to $21,200,000 in total for the Development; and

    b. the length of the sale process would likely exceed 12 months from completion of construction of the Development, due to slow real estate market conditions in Victoria.

30. The Receiver anticipates that it would incur the following carrying costs, professional fees, transaction costs, and interest expenses during the marketing period of individual strata units:

    a. interest on BJK Holdings' secured debt at 14.95% per annum, which currently equates to approximately $360,079 per month;

    b. interest on the Receiver's borrowings at 14.95% per annum, which currently equates to approximately $41,656 per month;

    c. real estate commissions at 7% per unit on the first $100,000 for each unit sold, plus 2.5% on the balance of the sale price for each unit;

    d. utility costs of approximately $2,000 per month;

    e. maintenance and repair costs of approximately $4,000 per month;

    f. property taxes of approximately $6,000 per month;

g. strata management fees for unsold units (upon stratification) of approximately $4,000 per month; and

h. professional fees of the Receiver and its legal counsel.

31. Summarized in the table below is the Receiver's estimate of the recovery if the Pre-Sale Contracts are disclaimed and the individual strata units in the Development are sold by the Receiver (the "**Strata Unit Sale Scenario**"):

	Low[1]	High[2]
Estimated Gross Proceeds	$20,500,000	$21,200,000
Commissions	($679,000)	($696,000)
Estimated Net Proceeds	$19,821,000	$20,504,000
Estimated Secured Debt including Interest	At Aug. 31, 2026	At May 31, 2026
Receiver's Borrowings[3]	$5,912,000	$5,738,000
BJK Holdings[4]	$33,440,000	$32,360,000
Estimated Professional Fees	$400,000	$250,000
	$39,752,000	$38,348,000
Estimated Shortfall on Secured Debt	$19,931,000	$17,844,000

Notes

1. In the low scenario the estimated sale price of the units is $725/sq. ft., and it is assumed that the Receiver will be able to close on all sales and distribute proceeds by August 31, 2026.
2. In the high scenario the estimated sale price of the units is $750/sq. ft., and it is assumed that the Receiver will be able to close on all sales and distribute proceeds by May 31, 2026.
3. Includes current receiver's borrowings of approximately $3.2 million, further cash required to complete construction of approximately $1.9 million, estimated carrying costs of $16,000 per month, and interest on Receiver's borrowings at the current monthly rate of approximately $42,000.

4. Includes BJK Holdings' secured debt of approximately $28,400,000, plus interest currently accruing at approximately $360,000 per month.

32. The Receiver estimates a shortfall between approximately $17.8 million and $20 million to the secured creditor in the Strata Unit Sale Scenario.

Estimated Recovery in an En Bloc Sale

33. The Receiver has also engaged in extensive discussions with realtors and stakeholders, including BJK Holdings, regarding the potential sale of the Development *en bloc* upon completion, as opposed to the stratification and sale of individual units.

34. Based on information and opinions obtained from the Realtors, the Receiver estimates that the market value of the Development (after completion) in an *en bloc* sale is approximately $17.5 million to $18.5 million.

35. As a result of these discussions, BJK Holdings expressed an interest to the Receiver in acquiring the Development, primarily by way of a credit bid of its existing secured debt, for a purchase price higher than the current estimated market value. The Receiver understands that, if it acquires the Development, BJK Holdings intends to operate it as a rental building rather than stratifying and selling the individual units.

36. On June 13, 2025, the Receiver received an offer from BJK Holdings' nominee, 5450 Realty Inc., to purchase the Property (the "Stalking Horse Agreement").

37. The material terms of the Stalking Horse Agreement include:

    a. the purchase price is $18,500,000, to be paid by way of a combination of a credit bid of BJK Holdings' secured debt and cash required to complete the receivership;

    b. 5450 Realty Inc. will acquire the Property by obtaining all of the issued and outstanding shares of the Debtor;

    c. the transaction contemplated by the agreement is subject to Court approval by way of a Reverse Vesting Order pursuant to which the Company continues to hold all of its right, title, and interest to the Property, and all claims and encumbrances against the Company, including all claims and encumbrances against the Company's

interest in the Property are vested into a new entity incorporated for that purpose;

d. the agreement includes a break fee of $200,000; and

e. the closing date is 15 days after Court approval.

38. The Receiver has reached an agreement in principle with Dave Bornhold of Avison Young for listing the Property on the following terms:

a. if the Property is sold to 5450 Realty Inc. pursuant to the Stalking Horse Agreement, Mr. Bornhold will accept a flat commission fee of $20,000; and

b. if the Property is sold pursuant to the Sale Process described below, the listing fee will be 1.75% of the sale price, with 0.75% to be shared with the buyer's realtor.

39. Summarized in the table below is the Receiver's estimated recovery if all pre-sale contracts are terminated and the Receiver conducts a stalking horse sale process and completes the Stalking Horse Agreement (the "**Stalking Horse Agreement Scenario**").

Gross Proceeds	$18,500,000
Commission	($20,000)
Estimated Net Proceeds	$18,480,000
Estimated Secured Debt Including Interest	As at August 31, 2025
Receiver's Borrowings	$5,184,000
BJK Holdings	$29,120,000
Estimated Professional Fees	$100,000
	$34,404,000
Estimated Shortfall	$15,924,000

40. The Receiver estimates a shortfall of approximately $15.9 million to the secured creditor in the Stalking Horse Agreement Scenario.

41. In the Receiver's opinion, the Stalking Horse Agreement Scenario will result in a greater recovery primarily due to avoiding the lengthy marketing process for individual strata units, which would delay the termination of the receivership and significantly erode recovery through interest, professional fees, and carrying costs.

Proposed Sale Process

42. The Receiver is of the view that the purchase price offered by 5450 Realty Inc. in the Stalking Horse Agreement likely represents the market value of the Property in an *en bloc* sale.

43. However, the Receiver is of the opinion that it is in the best interests of stakeholders to test the market by exposing the Property through a sale process, and to give other potential purchasers the opportunity to present competing offers to the Stalking Horse Agreement.

44. The Receiver proposes running a sale process (the "**Sale Process**") whereby:

    a. the Receiver or its real estate agent will market the Property and solicit offers to compete with the Stalking Horse Agreement until July 24, 2025 (the "**Bid Deadline**");

    b. to be considered by the Receiver as a "Qualified Bid", the aggregate consideration in a competing offer must exceed the purchase price in the Stalking Horse Agreement by at least $100,000, after payment of the Break Fee, real estate commission, and all other closing costs in respect to the proposed transaction (among other requirements);

    c. if no Qualified Bid is submitted, the Sale Process will terminate and the Receiver shall as soon as reasonably practicable apply for a Reverse Vesting Order and consummate the Stalking Horse Agreement;

    d. if a Qualified Bid is submitted, then the Receiver will run an auction for the Property including 5450 Realty Ltd. and any other Qualified Bidders;

    e. if the Auction is held, the Receiver shall as soon as reasonably practicable apply for the Reverse Vesting Order and consummate the successful bid.

45. In the Receiver's opinion, the use of a stalking horse bid is appropriate because:

a. the bidding process will provide a public and transparent process under which potential purchasers will be identified and the Property will be marketed;

b. the process has been designed to obtain the highest price in the shortest possible time;

c. the proposed Stalking Horse Agreement sets a floor price that is at least sufficient to provide greater recovery than the estimated recovery under the Strata Unit Sale Scenario;

d. there is urgency to the process given the interest on the secured debt of the Company and Receiver's borrowings, and there is risk of a greater shortfall to creditors in a protracted receivership, should the sales process result in low offers or no qualified bids;

e. the process is designed to generate a result efficiently and effectively, while ensuring that bids will not be below the floor price as set out in the Stalking Horse Agreement; and

f. there is no discernable unfairness or prejudice to any potential participant in the proposed Sale Process.

Part 3: LEGAL BASIS

46. The Receiver relies generally on the Receivership Order pronounced in these proceedings, the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3, as amended, and the inherent jurisdiction of this Court.

Sales Procedure and Stalking Horse Bid

47. The Receiver is of the view that the Sale Process, including the use of a stalking horse bid, is fair and will result in the highest potential recovery to stakeholders.

48. The use of stalking horse bids to set a baseline for a bidding process in receivership has been recognized by Canadian courts as a legitimate means of maximizing recovery in a bankruptcy or receivership sales process.

***Leslie & Irene Dube Foundation Inc. v. P218 Enterprises Ltd.*,**
2014 BCSC 1855 ["*Leslie & Irene Dube Foundation*"] at para. 20

49. It is appropriate (and necessary) for a receiver to seek Court approval of a stalking horse bid process prior to undertaking such a process.

***Farm Credit Canada v. Gidda*, 2015 BCSC 2188, at para. 37**

50. The factors to be considered when determining the reasonableness of a stalking horse bid include:

    a. whether the receiver has made a sufficient effort to get the best price and has not acted improvidently;

    b. the efficacy and integrity of the receiver's sales process by which offers were obtained;

    c. whether there has been unfairness in the working out of the process; and

    d. the interests of all parties.

***Leslie & Irene Dube Foundation*, at para. 21, citing *Royal Bank of Canada v. Soundair Corp.*, 1991 CanLII 2727 (ON CA)**

51. In this proceeding, the Receiver's opinion is that the use of a stalking horse bid is appropriate because:

    a. the bidding process will provide a public and transparent process under which potential purchasers will be identified and the Property will be marketed;

    b. the process has been designed to obtain the highest price in the shortest possible time;

    c. the proposed Stalking Horse Agreement sets a floor price that is at least sufficient to provide greater recover than the estimated recovery under the Complete Pre-Sale Scenario;

    d. there is urgency to the process given the interest on the secured debt of the Debtor, and there is risk of a greater shortfall to BJK Holdings in a protracted receivership, should the sales process result in low offers or no qualified bids;

    e. the process is designed to generate a result efficiently and effectively, while ensuring that bids will not be below the floor price s set out in the Stalking Horse Agreement; and

f. there is no discernable unfairness or prejudice to any potential participant in the proposed Sale Procedure.

Disclaimer of Pre-Sale Contracts

52. The Receiver is required to disclaim the Pre-Sale Contracts to complete the Stalking Horse Agreement.

53. The Receiver is of the opinion that disclaimer of the Pre-Sale Contracts will result in greater recovery compared to completing the Pre-Sale Contracts, and that the Stalking Horse Agreement will produce a higher recovery than any other sales process.

54. As noted above, the Receiver is authorized by the Receivership Order to cease to perform any contracts of the Debtor.

55. The relevant principles the Court should consider when deciding whether or not disclaiming a contract is appropriate are set out in *Forjay Management Ltd. v 0981478 B.C. Ltd.*, 2018 BCSC 527 ["***Forjay Management***"], and were summarized by Madam Justice Fitzpatrick in *Peoples Trust Company v Censorio Group (Hastings & Carleton) Holdings Ltd.*, 2020 BCSC 1013 ["***Peoples Trust***"], as follows:

> [24] The relevant law is not in dispute. In fact, that law was reviewed by me in *Forjay Management Ltd. v. 0981478 B.C. Ltd.*, 2018 BCSC 527, aff'd *Forjay Management Ltd. v. Peeverconn Properties Inc.*, 2018 BCCA 251 in similar circumstances.
>
> [25] At paras. 35-43 of *Forjay Management*, I discussed the relevant principles, including that:
>
> a) A receiver has a duty to maximize recovery of assets under its administration;
>
> b) One tool of realization is to affirm or disclaim contracts;
>
> c) Typically, the court order will empower the receiver to act in respect of contracts and often, a receiver will seek specific directions if circumstances dictate that level of oversight; and

d) Any disclaimer of contracts must arise from a receiver's proper exercise of discretion, including a consideration of its duties and also, all equitable interests involved.

[26] At para. 44 of *Forjay* Management, I considered whether disclaimer was appropriate within the following framework of issues:

a) Firstly, what are the respective legal priority positions as between the competing interests?

b) Secondly, would a disclaimer enhance the value of the assets? If so, would a failure to disclaim the contract amount to a preference in favour of one party? and

c) Thirdly, if a preference would arise, has the party seeking to avoid a disclaimer and complete the contract established that the equities support that result rather than a disclaimer?

Legal Priorities

56. BJK Holdings is a priority secured lender. The interests of pre-sale purchasers under the Pre-Sale Contracts do not stand in priority to the legal interest and priority of secured creditors.

Forjay Management at paras. 67 - 72

57. BJK Holdings supports the disclaimer of the Pre-Sale Contracts in the circumstances.

58. The Pre-Sale Contracts are in a standard form, and like the contracts at issue in *Forjay Management* and *Peoples Trust*, they only create contractual rights and not any interest in land. The Pre-Sale Contracts all contain the follow clause at Schedule "A":

> ***14. No interest in Land.*** *Neither this Agreement nor any interest in the Property created hereunder will be registered in the applicable Land Title Office except for the Form A Transfer of the Property on the Completion Date. This Agreement creates contractual rights only between the Buyer and the Seller and not an interest in land.*

59. Counterparties to the Pre-Sale Contracts are in no position to seek what is essentially an order of specific performance against the Receiver to force completion of the contracts.

***Peoples Trust*, at para. 36**

60. As a general rule, specific performance is not a remedy available where ongoing supervision of the court through a court-appointed receiver will be required.

***Forjay Management* at para. 74, citing *bcIMC Construction Fund Corporation v. Chandler Homer Street Ventures Ltd.*, 2008 BCSC 897**

Value of the Assets and Preferences

61. In the Receiver's analysis, it is clear that the value of the Property would be enhanced by the disclaimer of the Pre-Sale Contracts.

62. At least some of the Pre-Sale Contracts are below market value, the equity upon completion would constitute a windfall for the purchaser, when the costs to complete have to be borne by the creditors. To require performance of the Pre-Sale Contracts would be a preference in favour of the counterparties to the Pre-Sale Contracts.

The Equities

63. The assessment of competing equities in this case are as between the pre-sale counterparties and the senior secured creditor.

***Forjay Management*, at para. 117**

64. The equities in favour of the counterparties to the Pre-Sale Contracts must be such that they would justify overriding the legal priority of the Debtor's secured creditor.

***Forjay Management*, at para. 131**

65. The Receiver is aware of no equities at issue for the counterparties to the Pre-Sale Contracts that would give rise to such a justification.

66. The Receiver further notes that the counterparties will recover their deposits and any accrued interest on these deposits.

Receiver's Activities

67. The Receiver has acted with good faith throughout these proceedings and has complied with the statutory requirements of Receivers as set out in the *Bankruptcy and Insolvency Act* ("***BIA***") and the Receivership Order. The activities as set out in the Receiver's First Report to Court were undertaken with the objective of maximizing recovery for stakeholders.

Part 4: MATERIAL TO BE RELIED ON

68. Receiver's First Report to Court dated June 13, 2025.

69. Affidavit #1 of Russ Zemp, made on September 11, 2024.

70. Affidavit #2 of Russ Zemp, made on October 23, 2024.

71. The pleadings filed and Orders made in these proceedings.

72. Such further materials as counsel may advise and this Court may permit.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application:

(a) file an application response in Form 33;

(b) file the original of every affidavit, and of every other document, that:

  (i) you intend to refer to at the hearing of this application, and

  (ii) has not already been filed in the proceeding, and

(c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:

  (i) a copy of the filed application response;

  (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;

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

Date: June 13, 2025

Signature of Jeremy D. West
Counsel for McEown and Associates Ltd., in its capacity as Court-appointed Receiver of 1270858 B.C. Ltd.

To be completed by the court only:

Order made

[ ] in the terms requested in paragraphs _____. of Part 1 of this notice of application

[ ] with the following variations and additional terms:

_____
_____
_____
_____

Date: _____

Signature of [ ] Judge [ ] Associate Judge

APPENDIX

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

THIS APPLICATION INVOLVES THE FOLLOWING:

[ ] discovery: comply with demand for documents

[ ] discovery: production of additional documents

[ ] 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

[X] none of the above

SCHEDULE "A"

Service List

No. H247963
Victoria Registry

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COBRAFER CONSTRUCTION LTD.
6 MILES CONTRACTING LTD.
FACTUM CORP.

RESPONDENTS

SERVICE LIST
(as at June 13, 2025)

1270858 B.C. Ltd. **TLA Group of Holding Companies Inc.** **Sterling Living Limited Partnership** 210 – 10464 Mayfield Road NW Edmonton, AB T5P 4P4 **Christopher Bradley** Email: Chris.Bradley@tladev.ca **Troy David Grant** Email: Troy.Grant@tladev.ca	**Tri Skyeview Development Group Limited Partnership** c/o 201 – 2377 Bevan Ave Sidney, BC V8L 4M9

Addy (815 & 824 Selkirk Ave.) Corp. **Tri-Sterling Developments Limited Partnership** c/o McEwan Partners 980 Howe Street – Suite 900 Vancouver, BC V6Z 0C8 **William E. Stransky** Email: wstransky@mcewanpartners.com **Mila Ghorayeb** Email: mghorayeb@mcewanpartners.com	**Cobrafer Construction Ltd.** c/o Suite 2300, Bentall 5 550 Burrard Street Vancouver, BC V6C 2B5
6 Mile Island Contracting Limited c/o 406-715 Treanor Avenue Langford, BC V9B 0X6	**Factum Corp.** c/o Virk Viyas & Associate Lawyers 208 – 15240 Hwy 10 Surrey, BC V3S 5K7 **Jagmeet Virk** Email: jvirk@vslaw.ca / dboyarchuk@vslaw.ca
Christine Dinham-Jones P.O. Box 1203, 8947 Hadden St. Fort Langley, B.C. V1M 2S5 Email: Christine.dinhamjones@shaw.ca Telephone: 778-233-1925	**The REINVESTORS** c/o Steve Arneson Email: steve@thereinvestors.ca Telephone: 250.812.8666
BJK Holdings Ltd. c/o WeirFoulds LLP 4100-66 Wellington St. W. PO Box 35, TD Bank Tower Toronto, ON M5K 1B7 **Wojtek Jaskiwicz** Email: wjaskiewicz@weirfoulds.com **Megan Mossip** Email: mmossip@weirfoulds.com	**1248827 B.C. Ltd.** c/o Clark Wilson LLP 900-885 West Georgia Street, Vancouver, BC V6C 3H1 Email: Asekunova@cwilson.com Telephone: 604.891.7790

Murt Baturay 1167 River Rock Pl. Victoria, BC V9B 6R6 Email: mertbaturay@hotmail.com	**Nives Janja Kliska** 1854 Lavel Ave. Victoria, BC V8N 1N2 Email: niveskliska@gmail.com
Sarah Chow **Ross Chow** 2494 Park Ridge Pl. Victoria, BC Email: sarahlynnchow@gmail.com chows@shaw.ca *Via registered mail*	**Tommy Dang** 4329 Northridge Cr. Victoria, BC V8Z 4Z4 Email: tommydang03@hotmail.com
JCS Enterprises Inc. 665 Blacktail Rd. Victoria, BC V9B 6G2 Email: steve@jshengineering.com **Dianne Hoel** Email: dhoel@telus.net	**Hailey Vanessa Hunt** 806 Fairway Drive North Vancouver, BC Email: dmiachika@blg.com
Jose Antonio Gavidia Alas **Mackenzie Erica Gavidia Alas** 601-1450 Glentana Road, Victoria, BC, V9A 0H6 Email: kenziecarne@gmail.com Email: Joe.Alas@icloud.com *Via registered mail*	**Christian KE Knapp** 415 – 831 Dunsmuir Rd. Victoria, BC V9A 5B9 Email: knapp.christian@gmail.com

Ehab Fadhel 3400 Johnston Rd. Duncan, BC V9L 5Z3 Email: ehab.fadhel@gmail.com	

Schedule "B"

Draft Order

No. VIC-S-H-247963
Victoria Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

BJK HOLDINGS LTD.

PETITIONER

AND:

1270858 B.C. LTD.
TLA GROUP OF HOLDING COMPANIES INC.
CHRISTOPHER BRADLEY
TROY DAVID GRANT
STERLING LIVING LIMITED PARTNERSHIP
TRI SKYEVIEW DEVELOPMENT GROUP LIMITED PARTNERSHIP
ADDY (815 & 824 SELKIRK AVE.) CORP.
TRI-STERLING DEVELOPMENTS LIMITED PARTNERSHIP
COBRAFER CONSTRUCTION LTD.
6 MILES CONTRACTING LTD.
FACTUM CORP.

RESPONDENTS

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE JUSTICE	))))

ON THE APPLICATION of McEown and Associates Ltd., in its capacity as Receiver of 1270858 B.C. LTD. (the "**Receiver**") coming on for hearing at 800 Smithe Street, Vancouver, British Columbia, on June 13, 2025 and on hearing Jeremy D. West, counsel for the Receiver and those other counsel listed on **Schedule "A"** hereto;

THIS COURT ORDERS that:

1. Capitalized terms not defined herein shall have the meanings set out in the Sale Process attached hereto as **Schedule "B"**.

2. The time for service of the Notice of Application for this order and the supporting materials therefore, including the Receiver's First Report to Court dated June 13, 2025 (the "**First Report**") is hereby abridged so that this application is properly returnable today and hereby dispenses with further service thereof.

PRE-SALE CONTRACTS DISCLAIMER

3. The Receiver may, on notice to the affected parties (the "**Pre-Sale Contracts Counterparties**"), disclaim any or all of the pre-sale contracts attached as Appendix "D" to the First Report.

4. On the condition that all deposits made by the Pre-Sale Contracts Counterparties together with any interest thereon are returned to the Pre-Sale Contracts Counterparties in accordance with their respective pre-sale contracts, the Pre-Sale Contracts Counterparties shall be and are hereby permanently enjoined from registering charges on title to the Property relating to any such disclaimer by the Receiver.

SALE PROCESS

5. The Sale Process substantially in the form attached as **Schedule "B"** hereto is hereby approved.

6. The Receiver is hereby authorized to carry out the Sale Process and to take such steps and execute such documentation as may be necessary or incidental to the Sale Process.

7. Pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver may disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete a sale of the Property (the "**Sale**"). Each prospective purchaser or bidder to whom personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver.

STALKING HORSE AGREEMENT

8. The execution by the Receiver of the Stalking Horse Agreement substantially in the form attached hereto as **Schedule "C"** is hereby authorized, provided that nothing herein approves the sale of the Property as defined in the Stalking Horse Agreement on the terms set out in the Stalking Horse Agreement, and that the approval of any sale of the Property by the Court will be subject to a Vesting Order anticipated to be granted in accordance with the Sale Process, subject to further order of the Court.

APPROVAL OF RECEIVER'S REPORT

9. The First Report and the activities of the Receiver described therein are hereby approved.

RECEIVER'S BORROWINGS

10. The amount that the Receiver is authorized and empowered to borrow under paragraph 23 of the Receivership Order pronounced herein on November 8, 2024 is hereby increased from $4,000,000 to $5,250,000.

GENERAL

11. The Receiver may apply from time to time to this Court for advice and directions in the discharge of its powers and duties hereunder.

12. Endorsement of this Order by counsel appearing on this application other than counsel for the Receiver 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:

_____

Signature of Jeremy D. West
Counsel for McEown and Associates Ltd., in its capacity as Court-appointed Receiver of 1270858 B.C. Ltd.

BY THE COURT

_____

REGISTRAR

SCHEDULE "A"

List of Counsel

Counsel's Name	Party Representing

SCHEDULE "B"

Sale Process

1. Pursuant to an Order (as may be amended from time to time, the "**Receivership Order**") of the Honourable Justice Wolfe of the Supreme Court of British Columbia (the "**Court**") dated November 8, 2024, McEown and Associates Ltd. was appointed as Receiver (in such capacity, the "**Receiver**") without security, over all the assets, undertakings and property of 1270858 B.C. Ltd. (the "**Debtor**"), acquired for or used in relation to the construction, by the Debtor, of a residential strata development located at 244 Island Highway, Victoria, BC and legally described as PID: 031-302-777, Lot 1 Section 3 Esquimalt District Plan EPP108365 (collectively, the "**Property**").

2. On June 24, 2025, the Court made an order (the "**Bidding Procedures Order**") which, among other things (a) approved the Receiver's entry into a certain purchase agreement for the purchase and sale of the shares of the Debtor between the Receiver and 5450 Realty Inc., (as party to the agreement, the "**Stalking Horse Bidder**") dated June 13, 2025 (the "**Stalking Horse Agreement**") so as to set a minimum price in respect of the Property, and (b) approved this sale process (the "**Sale Process**") for the Property, subject to Court approval by way of a Reverse Vesting Order or Asset Vesting Order. As a result, interested parties will have an opportunity to submit offers to purchase the Property.

3. All references to currency in this Sale Process are references to Canadian Dollars unless otherwise stated. In this Sale Process, "**Business Day**" means any day other than a Saturday, Sunday, or statutory holiday in the Province of British Columbia.

4. The Property will be sold on an "as is, where is" basis, without representations or warranties of any kind by the Receiver, the Debtor, or any of their respective agents or estates.

Marketing

5. The Receiver or its real estate agent will solicit offers for the Property and market the Property as they see fit, including but not limited to the following:

    a. preparing a teaser document (the "**Teaser**") that outlines the Property for sale and this Sale Process;

b. sending the Teaser to a list of potential interested parties as soon as the Sale Process is approved by the Court; and

c. responding as appropriate at any time prior to the Bid Deadline to various questions and queries from interested parties with the assistance of the Debtor's management.

Sale Process and Timelines

6. All offers to purchase the Property must be submitted in accordance with the terms of this Sale Process and in compliance with the deadlines set out in this Sale Process, subject to the discretion of the Receiver in adjusting deadlines as provided in this Sale Process.

Letter of Interest and Non-Disclosure Agreement

7. In order to participate in the Sale Process, an interested party (a "**Participant**") must deliver the following documents to the Receiver:

   a. a letter setting out: (i) the identity of the Participant, (ii) the contact information of the Participant and its legal counsel, if any, and (iii) full disclosure of the principals and ultimate parent of the Participant;

   b. an executed Non-Disclosure Agreement in form and substance satisfactory to the Receiver; and

   c. written evidence upon which the Receiver may reasonably conclude that the Participant has the necessary financial ability to close the contemplated transaction

   (collectively, the "**Participant Requirements**").

8. The Receiver will review all Participant Requirements received as soon as practicable after receipt and if the Participant Requirements are deemed satisfactory by the Receiver in its reasonable discretion then the person shall be deemed a Participant in this Sale Process.

Due Diligence

9. The Receiver will assemble and prepare an electronic data room including information regarding the Property to the extent that it is available to the Receiver (the "**Due Diligence Materials**").

10. Only those persons deemed to be a Participant in this Sale Process will be permitted to access the Due Diligence Materials. Participants will be permitted access to the Due Diligence Materials as soon as practicable after being deemed Participants.

11. The Receiver may at its discretion furnish, but shall not be obligated to furnish, any due diligence information other than the Due Diligence Materials. The Receiver is not responsible for, and will bear no liability with respect to, any information obtained by any party in connection with the sale of the Property.

Submissions of Qualified Bids

12. In order to be considered a qualified bid by the Receiver (a "**Qualified Bid**"), a bid must satisfy each of the following conditions:

    a. a Qualified Bid must be submitted in the form of an executed mark-up of the Stalking Horse Agreement reflecting the Participant's proposed changes to the Stalking Horse Agreement;

    b. a Qualified Bid must be open for acceptance and irrevocable until July 31, 2025;

    c. a Qualified Bid must not be conditional on obtaining financing or any internal approval or on the outcome or review of due diligence. Any other contingencies associated with a Qualified Bid may not, in aggregate, be more burdensome than those set forth in the Stalking Horse Agreement;

    d. a Qualified Bid must be accompanied by written evidence of a commitment for financing or other evidence of the ability to consummate the transaction satisfactory to the Receiver and appropriate contact information for such financing sources must be provided;

    e. a Qualified Bid, other than the Stalking Horse Agreement, may not request or entitle the bidder to any break-up fee, expense reimbursement or similar type of payment;

    f. each Qualified Bid must be accompanied by a cash deposit equal to five percent (5%) of the total purchase price contemplated under the Qualified Bid, which shall be paid to the Receiver by certified cheque or banker's

draft, to be held by the Receiver in trust in accordance with this Sale Process;

g. the aggregate consideration in a Qualified Bid must realize net sale proceeds at least $100,000 greater than the Stalking Horse Agreement, after payment of the Break Fee, real estate commission, and all other closing costs in respect to the proposed transaction.

h. a Qualified Bid must be delivered to the Receiver at or prior to 10:00 a.m. Pacific Time on July 24, 2025 (the "**Bid Deadline**").

13. Notwithstanding the above requirements, the Stalking Horse Agreement is deemed to be a Qualified Bid for all purposes of this Sale Process.

If no Qualified Bid other than the Stalking Horse Agreement

14. If no Qualified Bid other than the Stalking Horse Agreement is received by the Bid Deadline, then the Sale Process shall be terminated and the Stalking Horse Bidder shall be declared the successful bidder at the price set out in the Stalking Horse Agreement. The Receiver shall then as soon as reasonably practicable apply for the Reverse Vesting Order as defined in the Stalking Horse Agreement and consummate the Stalking Horse Agreement.

Auction

15. Only if at least two Qualified Bids (inclusive of the Stalking Horse Agreement) are submitted in the Sale Process shall the Receiver conduct an auction for the Property (the "**Auction**") at the offices of Watson Goepel LLP at 1200 – 1075 West Georgia Street, Vancouver, BC (the "**Auction Location**") beginning at 10:00 a.m. on July 29, 2025 (the "**Auction Date**"), or at such later time or other place as the Receiver may advise.

16. The Auction shall be conducted in accordance with the following procedures:

a. At least two days prior to the Auction Date, the Receiver will inform the Qualified Bidders which Qualified Bid the Receiver considers to be the highest offer for the Property (the "**Starting Bid**"). Other than the purchase price, no changes to the Starting Bid selected by the Receiver will be permitted.

b. Only the Receiver, the Qualified Bidders and the advisors of each of the foregoing shall be entitled to attend the Auction, and each Qualified Bidder must have at least one individual representative with authority to

bind such Qualified Bidder present at the Auction. Qualified Bidders and their advisors may attend the Auction via videoconference or in person.

c. The Qualified Bidders will be placed in separate meeting rooms at the Auction Location, or in separate breakout rooms if attending the Auction by videoconference.

d. All proceedings at the Auction shall be overseen and documented by the Receiver and its legal counsel.

e. The Auction will be conducted through a series of "rounds of bidding" (each a "**Round**"). In each Round:

   i. the Receiver will present the highest Qualified Bid from the preceding Round (the "**Floor Bid**") to the Qualified Bidders. In the first Round, the Starting Bid will be the Floor Bid;

   ii. the Qualified Bidders will be given an opportunity within a set period of time to improve their Qualified Bid such that the total consideration offered for the Property is no less than the sum of (A) the total consideration offered in the Floor Bid, plus (B) $50,000, plus (C) the amount of the Break Fee in the Stalking Horse Agreement (the "**Auction Minimum Bid Increment**") (each, an "**Improved Bid**"); and

   iii. the Receiver will consider the Floor Bid and each Improved Bid to determine, in its reasonable business judgment, which is the highest offer for the Property.

f. The Rounds will continue until such time as no Improved Bids are received within the time limit set by the Receiver in its sole discretion, or until the Receiver determines, in its reasonable business judgement, that no Improved Bid is higher than the Floor Bid. The Floor Bid in the last Round of the Auction will be the "**Successful Bid**".

g. Improved Bids in each Round will be presented to the Receiver and will be fully disclosed to the other Qualified Bidders so that they may submit an improved bid if they choose, within the time limit set by the Receiver in its sole discretion.

h. The Receiver may, in its sole discretion, amend the Auction Minimum Bid Increment for each Round and will disclose the new Auction Minimum

Bid Increment to the Qualified Bidders at the commencement of the Round.

i. The Receiver may introduce such other procedural rules as the Receiver considers to be fair and reasonable in the circumstances, provided that such rules as disclosed to the Qualified Bidders are not inconsistent with the Sale Process or the Bidding Procedures Order; and that no such rules may change the requirement that all Improved Bids shall be made and received in one room, within a defined period, on an open basis, and all other Qualified Bidders (that have not failed to make an Improved Bid in a prior Round of bidding) shall be entitled to be present for all bidding with the understanding that the true identity of each Qualified Bidder shall be fully disclosed to all other Qualified Bidders and that all material terms of the then highest and/or best Improved Bid at the end of each Round of bidding will be fully disclosed to all other Qualified Bidders.

17. Following completion of the Auction, the Receiver shall as soon as reasonably practicable apply for the Reverse Vesting Order as defined in the Successful Bid and consummate the Successful Bid.

Break Fee

18. If a transaction is completed pursuant to the Successful Bid with a party that is not the Stalking Horse Bidder, the break fee in the Stalking Horse Agreement shall be payable to the Stalking Horse Bidder in accordance with the terms of the Stalking Horse Agreement.

Failure to Complete a Transaction

19. If the transaction contemplated by the Successful Bid fails to close as a result of a breach by the prospective purchaser, its deposit shall be absolutely forfeited to the Receiver as liquidated damages, without prejudice to the Receiver's additional rights and remedies against such prospective purchaser whether at law or in equity. In particular, the Receiver specifically reserves the right to seek all available damages from such party in addition to the retention of the deposit.

Return of Deposits

20. The deposit provided in connection with the Successful Bid will be retained by the Receiver until a transaction is completed pursuant to the Successful Bid. The deposit provided in connection with all other Qualified Bids will be promptly

returned after the Auction has concluded provided that they are not retained under the paragraph entitled "Failure to Complete a Transaction" above.

Notice

21. All documents and correspondence to be delivered by a party in connection with this Sale Process shall be delivered by courier or email:

    To the Receiver at:

    McEown and Associates Ltd., in its capacity
    as court-appointed Receiver of 1270858 B.C. Ltd.
    110 - 744 West Hastings St.
    Vancouver, BC
    V6C 1A5

    Attention: John McEown
    Email: jm@mceownassociates.ca

Modifications

22. This Sale Process may be modified or amended by the Receiver provided that if such modification or amendment materially deviates from this Sale Process, such modification or amendment may only be made by order of the Court.

23. The Receiver may (a) determine, in its reasonable business judgment, which Qualified Bid is the highest or otherwise best offer, or (b) reject a Qualified Bid that is (i) inadequate or insufficient, (ii) not in conformity with the requirements of this Sale Process, or (iii) contrary to the best interests of the Receivership estate.

SCHEDULE "C"

Stalking Horse Agreement