

COURT FILE NUMBER

1803-21971

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

EDMONTON



IN THE MATTER OF THE BANKRUPTCY AND
INSOLVENCY OF 1119658 ALBERTA LTD. and
101285461 SASKATCHEWAN LTD.

PLAINTIFF

BUSINESS DEVELOPMENT BANK OF CANADA

DEFENDANTS

1119658 ALBERTA LTD. and 101285461
SASKATCHEWAN LTD.

APPLICANT

HARDIE & KELLY INC. in its capacity as the Court-
appointed Receiver of 1119658 ALBERTA LTD. and
101285461 SASKATCHEWAN LTD.

DOCUMENT

SALE APPROVAL AND VESTING ORDER
(Sale by Receiver)

ADDRESS FOR SERVICE
AND
CONTACT INFORMATION
OF
PARTY FILING THIS
DOCUMENT

MLT AIKINS LLP
Barristers and Solicitors
Suite 2100, 222 – 3 Avenue S.W.
Calgary, Alberta T2P 0B4
Phone: 403.693.4305
Fax: 403.508.4349
Attention: Dean A. Hutchison
Counsel for the Receiver, Hardie & Kelly Inc.

I heraby certify this to be a
true copy of the original.


for Clerk of the Court

DATE ON WHICH ORDER WAS PRONOUNCED: THURSDAY, AUGUST 8, 2019

LOCATION OF HEARING OR TRIAL: EDMONTON, ALBERTA

NAME OF JUDGE WHO MADE THIS ORDER: HONOURABLE MR. JUSTICE J.J. GILL

UPON THE APPLICATION of Hardie & Kelly Inc. in its capacity as the Court-appointed receiver and manager (the "**Receiver**") of all of the current and future assets, undertaking, and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof, of 1119658 Alberta Ltd. ("**1119 AB Ltd.**" or the "**Debtor**") and 101285461 Saskatchewan Ltd. ("**1012 Sask Ltd.**"), for an Order approving the sale transaction (the "**Transaction**") contemplated by an Offer to Purchase (the "**Purchase Agreement**") between the Receiver and Harkiran Ghuman (the "**Purchaser**") dated July 7, 2019 and appended to the Confidential Supplemental to the Receiver's First Report dated July 29, 2019

(the "**Confidential Supplement**") as Appendix "B", and vesting in the Purchaser 1119 AB Ltd.'s right, title and interest in and to certain lands, together with all of the 1119 AB Ltd.'s rights, title and interest in the buildings, fixtures and improvements, including specifically the hotel, located on such lands, which lands are defined below as the Lands, filed July 29, 2019 (the "**Application**");

AND UPON HAVING READ the Application, the Amended Receivership Order granted by the Honourable Mr. Justice S.D. Hillier on December 5, 2018 (the "**Receivership Order**"), filed, the Receiver's First Report dated July 29, 2019 (the "**Receiver's First Report**"), filed, the Confidential Supplement and the Affidavit of Service of Tammy Boyechko sworn August 7, 2019; **AND UPON IT** appearing that all interested and affected parties have been served with notice of the Application; **AND UPON HEARING** the submissions of counsel for the Receiver, counsel for the Business Development Bank of Canada, and all other interested parties present;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. Service of notice of the Application and supporting materials is hereby declared to be good and sufficient, and no other person is required to have been served with notice of the Application, and time for service of the Application is abridged to that actually given.

APPROVAL OF THE TRANSACTION

2. The Transaction is hereby approved, and the execution of the Purchase Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction or for the conveyance of the lands legally described as:

Plan 0720020
Block 151
Lot 8
Excepting Thereout All Mines and Minerals

(collectively, the "**Lands**") to the Purchaser (or its nominee).

VESTING OF PROPERTY

3. Upon the delivery of a Receiver's certificate to the Purchaser (or its nominee) substantially in the form set out in **Schedule "A"** hereto (the "**Receiver's Certificate**"), all of the Debtor's rights, title and interest in and to the Lands, together with all of the Debtor's rights, title and interest in the buildings, fixtures and improvements, including specifically the hotel, located on the Lands, as described in the Purchase Agreement (collectively, the "**Purchased Assets**"), shall vest absolutely in the name of the Purchaser (or its nominee), free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, caveats, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing:
 - (a) any encumbrances or charges created by the Receivership Order;
 - (b) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Alberta), the *Land Titles Act* (Alberta), or any other personal property registry system or real property registry system (all of which are collectively referred to as, the "**Encumbrances**", which term shall not include the Permitted Encumbrances as defined and set out in **Schedule "B"** hereto); andfor greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.
4. The Transaction is hereby approved and ratified and it is hereby declared that the Transaction is commercially reasonable.
5. Upon the delivery of the Receiver's Certificate, and upon the filing of a certified copy of this Order, together with any applicable registration fees, the Registrar of Land Titles of Alberta (the "**Registrar**") is hereby authorized, requested and directed to proceed in accordance with the directions set out in **Schedule "B"** hereto.

6. Upon the Registrar completing the steps identified in this Order, the Registrar shall forthwith make available to the Purchaser's counsel a certified copy of the new Certificate of Title concerning the Lands in accordance with the direction set out in **Schedule "B"** hereto.
7. This Order shall be registered by the Registrar notwithstanding the requirements of section 191(1) of the *Land Titles Act*, R.S.A. 2000, c. L-7 and notwithstanding that the appeal period in respect of this Order has not elapsed, which appeal period is expressly waived.
8. For the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets (to be held in an interest bearing trust account by the Receiver) shall stand in the place and stead of the Purchased Assets, and from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.
9. The Purchaser (and its nominee, if any) shall, by virtue of the completion of the Transaction, have no liability of any kind whatsoever in respect of any Claims against 1119 AB Ltd., other than the Permitted Encumbrances.
10. 1119 AB Ltd., and all persons who claim by, through or under 1119 AB Ltd. in respect of the Purchased Assets, save and except for the persons entitled to the benefit of the Permitted Encumbrances, shall stand absolutely barred and foreclosed from all estate, right, title, interest, royalty, rental and equity of redemption of the Purchased Assets and, to the extent that any such persons remains in possession or control of any of the Purchased Assets, they shall forthwith deliver possession of same to the Purchaser (or its nominee).
11. The Purchaser (or its nominee) shall be entitled to enter into and upon, hold and enjoy the Lands for its own use and benefit without any interference of or by 1119 AB Ltd., or any person claiming by or through or against 1119 AB Ltd..
12. The Receiver is to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof to the Purchaser (or its nominee).

13. Notwithstanding:

- (a) the pendency of these proceedings;
- (b) any bankruptcy order issued pursuant to *the Bankruptcy and Insolvency Act*, R.S.C. 1985, C. B-3 (the "BIA") in respect of 1119 AB Ltd.; and
- (c) any assignment in bankruptcy made in respect of 1119 AB Ltd.;

the vesting of the Purchased Assets in the Purchaser (or its nominee) pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of 1119 AB Ltd. and shall not be void or voidable by creditors of 1119 AB Ltd., nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

14. The Receiver, the Purchaser (or its nominee), and any other interested party, shall be at liberty to apply for further advice, assistance and directions as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.

MISCELLANEOUS MATTERS

15. This Honourable Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body in any province of Canada, the Federal Court of Canada, or other court constituted pursuant to the Parliament of Canada or any of its provinces or territories and any federal or state court or administrative body or any other foreign courts to act in aid of and to be complimentary to this Honourable Court in carrying out the terms of this Order.

16. This Order must be served only upon the Purchaser (or its nominee) and those interested parties attending or represented at the within Application and service may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the same business day as the transmission or delivery of such documents.

17. Service of this Order on any party not attending the Application, other than the Purchaser (or its nominee), is hereby dispensed with.

"J. J. Gill"

The Honourable Mr. Justice J.J. Gill,
Justice of the Court of Queen's Bench of Alberta

SCHEDULE "A"

Form of Receiver's Certificate

COURT FILE NUMBER	1803-21971
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	EDMONTON
	IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY OF 1119658 ALBERTA LTD. and 101285461 SASKATCHEWAN LTD.
PLAINTIFF	BUSINESS DEVELOPMENT BANK OF CANADA
DEFENDANTS	1119658 ALBERTA LTD. and 101285461 SASKATCHEWAN LTD.
APPLICANT	HARDIE & KELLY INC. in its capacity as the Court- appointed Receiver of 1119658 ALBERTA LTD. and 101285461 SASKATCHEWAN LTD.
DOCUMENT	RECEIVER'S CERTIFICATE
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	MLT AIKINS LLP Barristers and Solicitors Suite 2100, 222 – 3 Avenue S.W. Calgary, Alberta T2P 0R3 Phone: 403.693.4305 Fax: 403.508.4349 Attention: Dean A. Hutchison Counsel for the Receiver, Hardie & Kelly Inc.

RECITALS

- A. Pursuant to an Amended Receivership Order of the Honourable Mr. Justice S.D. Hillier of the Court of Queen's Bench of Alberta (the "**Court**") dated December 5, 2019, Hardie & Kelly Inc. was appointed as the receiver and manager (the "**Receiver**") of all of the current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof, of 1119658 Alberta Ltd. ("**1119 AB Ltd.**" or the "**Debtor**") and 101285461 Saskatchewan Ltd.
- B. Pursuant to an Order of the Honourable Mr. Justice J.J. Gill of the Court dated August 8, 2019 (the "**Sale Approval and Vesting Order**"), the Court approved the Offer to Purchase made July 7, 2019 (the "**Purchase Agreement**") between the Receiver and Harkiran Ghuman (the

"Purchaser") and provided for the vesting in the Purchaser (or its nominee) of the Debtor's right, title and interest in and to the Purchased Assets (as such term is defined in the Sale Approval and Vesting Order), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser (or its nominee) of a certificate confirming: (i) the payment by the Purchaser (or its nominee) of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in the Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser (or its nominee) (as applicable); and (iii) the Transaction (as such term is defined in the Sale Approval and Vesting Order) has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, capitalized terms have the meanings set out in the Purchase Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser (or its nominee) has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the date of closing of the Transaction pursuant to the Purchase Agreement;
2. The conditions to closing as set out in the Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser (or its nominee) (as applicable); and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ on the ____ day of _____, 2019.

HARDIE & KELLY INC., in its capacity as Court-appointed Receiver of 1119658 Alberta Ltd. and 101285461 Saskatchewan Ltd., and not in its personal capacity.

Per: _____

Name:

Title:

SCHEDULE "B"

DIRECTIONS TO THE REGISTRAR OF LAND TITLES ALBERTA

Upon receipt of a transfer of land from Hardie & Kelly Inc., in its capacity as the Court-appointed receiver and manager of 1119658 Alberta Ltd. and 101285461 Saskatchewan Ltd. (the "**Transfer of Land**"), the Registrar of Land Titles of Alberta (the "**Registrar**") shall immediately do the following with respect to the lands legally described as:

Plan 0720020
Block 151
Lot 8
Excepting Thereout All Mines and Minerals

(the "**Lands**):

1. Immediately discharge the following encumbrances, liens and interests from the Lands:
 - (a) Registration Number 152 256 556
(Mortgage – Business Development Bank of Canada)
 - (b) Registration Number 152 339 577
(Mortgage – 1621804 Alberta Ltd.)
2. Maintain the following encumbrances, liens and interest in the Lands (the "**Permitted Encumbrances**):
 - (a) Registration Number 882 228 085
(Utility Right of Way – ARC Resources Ltd.)
 - (b) Registration Number 072 004 378
(Utility Right of Way – The Town of Drayton Valley)
 - (c) Registration Number 112 393 797
(Restrictive Covenant)
3. Accept and register the Transfer of Land, cancel the existing Certificate of Title No. 072 004 376 and issue a new Certificate of Title for the Lands in the name of Harkiran Ghuman (or his nominee) as described in the Transfer of Land.