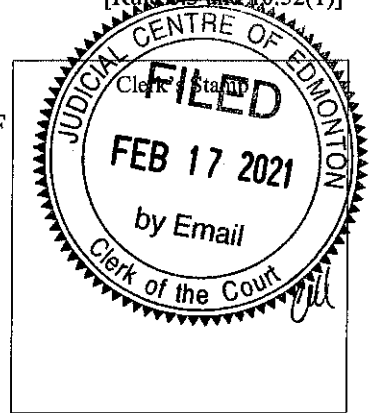


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by CM

Form 27
[Rule 6.3 and 10.52(1)]

COURT FILE NUMBER: 1903 20042
COURT: COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE: EDMONTON
PLAINTIFF: MLS PROPERTY GROUP LTD.
DEFENDANTS: 1235962 ALBERTA LTD. f/k/a PERFORMANCE AG GROUP EVANSBURG LTD. f/k/a HAR-DE AGRI SERVICES INC., PERFORMANCE AG GROUP CALMAR LTD. f/k/a HAR-DE AGRI SERVICES CALMAR LTD. and HAR-DE AGRI SERVICES LTD.



Inv# 054145
COM

DOCUMENT: **APPLICATION**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT: **PARLEE McLAWS LLP**
Barristers & Solicitors
Patent & Trade-Mark Agents
1700 Enbridge Centre
10175 - 101 Street NW
Edmonton, Alberta T5J 0H3
Attention: Steven A. Rohatyn
Phone: 780-423-8177
Fax: 780-423-2870
File No: 75782-7/SRO

NOTICE TO RESPONDENTS

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the justice.

To do so, you must be in Court when the application is heard as shown below:

Date: March 18, 2021
Time: 2:00 p.m.
Where: Law Courts, 1A Sir Winston Churchill Square, Edmonton
Before Whom: The Honourable Justice M. Lema, sitting on the Commercial List

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1. The Bowra Group Inc. ("**Bowra**" or "**the Receiver**"), in its capacity as receiver or receiver and manager appointed pursuant to the Order of the Honourable Madam Justice J.H. Goss dated October 16, 2019 (the "**Receivership Order**"), seeks an Order substantially in the form attached hereto as **Schedule "A"**, granting, among other things, the following relief:
 - (a) validating service of notice of this Application and the Fourth Report of the Receiver (the "**Fourth Report**"), if necessary, and dispensing with service upon any person other than those listed in the service list attached hereto as **Schedule "B"**;
 - (b) approving those of the Receiver's actions, conduct and activities as are outlined in the Fourth Report;
 - (c) approving the Receiver's final statement of receipts and disbursements, as appended to the Fourth Report;
 - (d) authorizing and directing the Receiver to make a final distribution in redemption of the BMO Security, as described in the Fourth Report;
 - (e) approving the accounts of the Receiver and its legal counsel as described in the Fourth Report, including the costs of this Application and those estimated to be required to complete final administrative tasks;
 - (f) declaring that the Receiver has duly and properly discharged its duties, responsibilities and obligations as receiver;
 - (g) discharging and releasing Bowra from any and all further obligations as the Receiver and any and all liability in respect of any act done by Bowra in these proceedings, and in its conduct as the Receiver pursuant to its appointment in accordance with the Receivership Order, or otherwise, save and except for claims based on gross negligence;
 - (h) declaring that service of any order or orders arising from the Application by email, facsimile, registered mail, courier, regular mail, or personal delivery to the persons listed on the service list shall constitute good and sufficient service of such orders and that no persons other than those on the service list are entitled to be served with a copy of such orders;
2. A direction concerning the distribution of the Residual Receipts, as that term is defined in the Fourth Report.
3. Such further and other relief as this Honorable Court deems just and appropriate.

Grounds for making this application:

4. Bowra was appointed as the Trustee in Bankruptcy of the estates of the Defendants by Orders pronounced July 24, 2019.
5. MLS Property Group Ltd. (“MLS”) is a secured creditor of the Defendants.
6. On the application of MLS, and pursuant to security held by it and referenced as the BMO Security in the Third Report, Bowra was appointed as the Receiver of all of the current and future assets, undertakings and properties, including all proceeds thereof, of the Defendants pursuant to the Receivership Order.
7. The Receiver’s counsel has reviewed the security of MLS pursuant to which it was appointed and has concluded that it is valid and enforceable and ranks in priority to all other secured and unsecured claims.
8. Pursuant to the Receivership Order, the Receiver has sold the assets of the Defendants and realized upon available accounts receivable. The Receiver recommends that a final distribution be made to MLS in satisfaction of the indebtedness owing to it under the BMO Security, with directions as to payment of any sums remaining.
9. The proposed distribution is fair and reasonable.
10. As noted in the Fourth Report, the Preference Claim, as defined therein, has been concluded such that Bowra’s mandate as Receiver has been performed subject to the completion of miscellaneous post-discharge administrative matter.
11. The Receiver is of the opinion that its final account, as well as that of its counsel, are fair and reasonable under the circumstances, and that they have been validly incurred in connection with the discharge of the Receiver’s mandate.
12. Such further and other grounds as counsel for the Receiver may advise.

Material or evidence to be relied on:

13. Receivership Order, filed;
14. Fourth Report of the Receiver, filed;
15. Such further and other materials as counsel may advise and this Honourable Court may permit.

Applicable rules:

16. Part 1, Part 6 and Rule 11.27 of the *Alberta Rules of Court*; and
17. Such further rules as counsel may advise.

Applicable Acts and regulations:

18. *Bankruptcy and Insolvency Act*, RSC 1985, c B-3; and

Any irregularity complained of or objection relied on:

17. None.

How the application is proposed to be heard or considered:

19. Before an Honourable Justice of this Court sitting on the Commercial List, with the interested parties appearing remotely by videoconference.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.