



FORM 32 (RULE 8-1(4))

No. S2013779
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

RE: WIND-UP OF 304768 B.C. LTD. AND GLENMERRY MARKET LTD.
PURSUANT TO SECTION 324 OF THE BUSINESS CORPORATIONS ACT, S.B.C.
2002, C.57

BETWEEN:

TULLIO VITO FRANCESCO ESPOSITO

Petitioner

AND:

304768 B.C. LTD., GLENMERRY MARKET LTD., and
DEMITRIA LORAINA ESPOSITO

Respondents

NOTICE OF APPLICATION

Name of applicant: MNP Ltd. in its capacity as the Liquidator of 304768 B.C. Ltd. and
Glenmerry Market Ltd. (the "**Liquidator**").

To: The Petitioner, the Respondents and their solicitors

TAKE NOTICE that an application will be made by the applicant to the presiding judge at the
courthouse at 800 Smithe Street, Vancouver, BC V6Z 2E1 on THURSDAY FEBRUARY 9,
2023 at 9:45 a.m., for the order set out in Part 1 below.

Part 1: ORDER SOUGHT

1. An approval and vesting order substantially in the form attached as **Schedule "A"**, or as
the court may otherwise order, approving the sale of the following lands:

PID: 007-706-847
AMENDED LOT 5 (SEE 88784I) DISTRICT LOT 4598
KOOTENAY DISTRICT PLAN 2436

(the “**Lands**”).

Part 2: FACTUAL BASIS

The Lands

1. The Lands have a municipal address of 3192 Highway Drive and is a commercial building located in Trail, B.C.
2. The Lands are currently vacant and unoccupied.
3. The sole registered owner on title to the Lands is the Respondent, Glenmerry Market Ltd. (“**Glenmerry**”).
4. There are no financial encumbrances registered on title to the Lands.

Liquidation History and Liquidation Order

5. On May 20, 2021 Justice Jackson ordered that the Respondents, Glenmerry and 304768 B.C. Ltd. (“**304**”) be liquidated and dissolved pursuant to sections 324 and 227 of the *Business Corporations Act*. S.B.C. 2002, c. 57.
6. On March 22, 2022 Justice Fitzpatrick appointed The Bowra Group Inc. (“**TBGI**”) as the Liquidator of 304 and Glenmerry (the “**Liquidation Order**”).
7. TBGI merged with MNP Ltd. (“**MNP**”) effective December 2, 2022 and pursuant to a Substitution Order granted December 21, 2022, MNP was substituted as Liquidator in place of TBGI.
8. 304 and Glenmerry are owned by the Tullio Esposito (Sr.) Trust, of which there are two beneficiaries, being the Petitioner, Tullio Vito Franceso Esposito (“**Tullio**”), and the Respondent, Demitria Loraine Esposito (“**Demitria**”).
9. The Liquidation Order empowers the Liquidator to act at once in respect of the assets and undertakings of 304 and Glenmerry and granted the Liquidator specific powers to, *inter alia*:

- i) 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 Liquidator considers appropriate;
- ii) Sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business:
 - A) without the approval of this Court in respect of a single transaction for consideration up to \$10,000, provided that the aggregate consideration for all such transactions does not exceed \$100,000; and
 - B) with the approval of this Court in respect of any transaction in which the individual or aggregate purchase price exceeds the limits set out above.
- iii) 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;
- iv) Report to, meet with and discuss with such affected Persons as the Liquidator considers appropriate on all matters relating to the Property and the Liquidatorship, and to share information, subject to confidentiality terms as the Liquidator considers appropriate; and
- v) Take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

Marketing and Interest in the Lands

10. The Liquidator engaged Colliers Macaulay Nicolls Inc. (“**Colliers**”) to market and sell the Lands. Colliers partnered with Mario Berno of RE/MAX All Pro Realty (“**RE/MAX**”) to act as Colliers’ local agent in Trial, B.C. to market and sell the Lands.
11. On May 31, 2022 the Lands were listed for sale at a listing price of \$250,000.

Marketing and Offers

12. The Lands were marketed widely online through various websites including a Multiple Listing Service, Realtor.ca, the Colliers website and my personal website, as outlined in my marketing report.
13. The Lands have also been marketed widely via email to Colliers' investor and developer database which contains over 2,500 recipients.
14. Colliers also created an information brochure which was distributed to all Colliers offices. In total over 50 packages were sent out, over 30 personal phone calls were made to interested parties and over 40 phone calls were received inquiring about the Lands.
15. In addition, the Lands were toured ten (10) times.
16. Since the Lands' listing and as a result of the marketing efforts there have been seven (7) written offers on the Lands, including the Subject Offer (as defined below), as follows:
 - I) Offer for \$80,000 from Ferr-Mart Holdings Ltd. on June 28, 2022, which offer was not accepted;
 - II) Offer for \$150,000 from Bea Holdings Ltd. on July 6, 2022 which offer was not accepted;
 - III) Offer for \$250,000 from Garrit Ciardullo on July 7, 2022. Deposit cheque was never sent and the deal collapsed;
 - IV) Offer for \$220,000 from 116511 BC Ltd. on August 24, 2022, which deal collapsed;

- V) Offer for \$250,000 from Devon Turner on August 8, 2022, subjects were not removed and deal collapsed;
- VI) Offer for \$220,000 from Myers Roofing Inc. (the “**Proposed Purchaser**”) on October 11, 2022, which offer was accepted (the “**Subject Offer**”); and
- VII) Offer for \$80,000 once again from Fer-Mart Holdings Ltd. on November 17,2022, which offer was not accepted.

- 17. The Subject Offer is subject only to approval by the Court. A deposit totalling \$10,000 is held in trust. The completion date contemplated in the Subject Offer is two (2) weeks from Court approval.
- 18. The Liquidator continues to market the Lands and will do so until the Court has approved a sale. The Liquidator will also be carrying out the competitive bid process with respect to the Lands.

Registrations Against title

- 19. The registrations against title to the Lands are as follows:

Type	Registration Number	Registration Date	Registrant
Reservation	V18719	N/A	Cominco Ltd.
Reservation	V18720	N/A	The Columbia and Western Railway Company
Right of Way	15103D	02/04/1928	The East Trail Water Company Limited
Right of Way	56903D	01/13/1961	City of Trail

Undersurface Rights	H2350	02/20/1974	Her Majesty the Queen in Right of the Province of British Columbia
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Part 3: LEGAL BASIS

1. The factors that the court ought to consider in determining whether to approve a sale by a court appointed officer include:
 - a) Whether the court appointed officer made sufficient efforts to obtain the best price and did not act improvidently.
 - b) The interests of all parties and, in particular, the interests of any secured creditors.
 - c) The efficacy and integrity of the process by which offers were obtained.
 - d) Whether there has been unfairness in the process.

Royal Bank v. Soundair Corp. (1991), 7 C.B.R. (3d) 1 (O.N.C.A.) [“*Soundair*”] at para 16

2. In order to protect the integrity of the sale process, the court generally gives deference to a court appointed officer.

Soundair at para 14

Re Regal Constellation Hotel Ltd. (2004), 50 C.B.R. (4th) 258 (O.N.C.A.) at para 23

Corpfinance International Ltd. v. Earth Energy Utility Corp., 2006 BCSC 1994 at para 28

B.C. v. A & A Estates Ltd., 2000 BCCA 317 at para 40

3. The Lands have been extensively marketed and have had a wide exposure being listed for sale by Colliers and RE/MAX at the listing price of \$250,000 since May 31, 2022. The listing period has provided sufficient exposure to the market and opportunity for prospective purchasers to make offers.

4. Colliers assesses the Lands' quality as "very poor" with the second floor being unoccupiable and the ground floor not being much better. It has a leaky roof and is essentially worth land value.
5. The purchase price of \$220,000 exceeds the 2022 B.C. Assessment for land value, which comes in at \$206,000 (building valued at \$19,000).
6. Tullio and Demitria are the only interested parties with respect to the sale of the Lands. Tullio has expressed his agreement with a sale price of \$220,000. Demitria has not provided comment.
7. The Liquidator will continue to market the Lands until the Court has approved a sale. Interested parties will be informed of the opportunity to submit competing bids in accordance with the court implemented bid process.
8. The Liquidator relies on the terms of the Liquidation Order, the *Law and Equity Act*, R.S.B.C. 1996, c. 253, including s. 37, Rules 8-1 and 13-5, section 334 of the *Business Corporations Act*, SBC 2002, c 57 and the inherent jurisdiction of this court.

Part 4: MATERIAL TO BE RELIED ON

1. Affidavit #2 of B. Randall, made December 23, 2022.
2. Affidavit #1 of G. Potts made January 20, 2022.
3. The Liquidator's Second Report to the Court, dated January 20, 2022.
4. Order made by Justice Jackson on May 20, 2021.
5. The Liquidation Order made March 22, 2022.
6. Such further and other materials as counsel may advise.

The Receiver estimates that the application will take 5 minutes.

This matter is within the jurisdiction of a master.

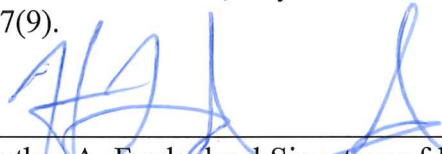
This matter is not within the jurisdiction of a master.

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 proceedings, 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: January 20, 2023.



 Heather A. Frydenlund Signature of lawyer for
 applicant, MNP Ltd., in its capacity as the
 Liquidator of the assets and undertakings of
 304768. B.C. Ltd. and Glenmerry Market Ltd.

<i>To be completed by the court only:</i>	
Order made	
<input type="checkbox"/>	in the terms requested in paragraphs _____ of Part 1 of this notice of application
<input type="checkbox"/>	with the following variations and additional terms:

Date: _____	Signature of <input type="checkbox"/> Judge <input type="checkbox"/> Master

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

SCHEDULE "A"

[APPROVAL AND VESTING ORDER]

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

TULLIO VITO FRANCESO ESPOSITO

PETITIONER

AND:

304768 B.C. LTD., GLENMERRY MARKET LTD., and

DEMITRIA LORAINÉ ESPOSITO

RESPONDENTS

ORDER MADE AFTER APPLICATION

APPROVAL AND VESTING ORDER

BEFORE THE HONOURABLE _____)
JUSTICE _____) 09/02/2023
_____)

THE APPLICATION of MNP Ltd., in its capacity as Court-appointed Liquidator (the “**Liquidator**”) of 304768. B.C. Ltd. and Glenmerry Market Ltd. coming on for hearing at Vancouver, British Columbia, on the 6th day of February, 2023; AND ON HEARING Heather A. Frydenlund, counsel for the Liquidator, and those other counsel listed on Schedule “A” hereto, and no one else appearing, although duly served; AND UPON READING the material filed, including the Report of the Liquidator dated January 20, 2023 (the “**Report**”);

THIS COURT ORDERS AND DECLARES THAT:

1. The sale transaction (the “**Transaction**”) contemplated by the contract of purchase and sale dated October 11, 2022, the addendum dated October 19, 2022 and schedules dated November 8, 2022 and December 5, 2022 (collectively, the “**Sale Agreement**”) between the Liquidator and Meyers Roofing Inc. (the “**Purchaser**”), a copy of which is attached as Appendix “B” to the Report is hereby approved, and the Sale Agreement is commercially reasonable. The execution of the Sale Agreement by the Liquidator is hereby authorized and approved, and the Liquidator 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 and for the conveyance to the Purchaser of the assets described in the Sale Agreement (the “**Purchased Assets**”).

2. Upon delivery by the Liquidator to the Purchaser of a certificate substantially in the form attached as Schedule “B” hereto (the “**Liquidator’s Certificate**”), all of the Glenmerry Market Ltd.’s (“**Glenmerry**”) right, title and interest in and to the Purchased Assets described in the Sale Agreement (and listed on Schedule “C” hereto) shall vest absolutely in the Purchaser in fee simple, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, 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; (i) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* of British Columbia or any other personal property registry system; and (ii) those Claims listed on Schedule “D” hereto (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule “E” hereto), and, for 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.
3. Upon presentation for registration in the Land Title Office for the Land Title District of Nelson of a certified copy of this Order, together with a letter from Owen Bird Law Corporation, solicitors for the Liquidator, authorizing registration of this Order, the British Columbia Registrar of Land Titles is hereby directed to:
 - (a) enter the Purchaser as the owner of the Lands, as identified in Schedule “C” hereto, together with all buildings and other structures, facilities and improvements located thereon and fixtures, systems, interests, licenses, rights, covenants, restrictive covenants, commons, ways, profits, privileges, rights, easements and appurtenances to the said hereditaments belonging, or with the same or any part thereof, held or enjoyed or appurtenant thereto, in fee simple in respect of the Lands, and this Court declares that it has been proved to the satisfaction of the Court on investigation that the title of the Purchaser in and to the Lands is a good, safe holding and marketable title and directs the BC Registrar to register indefeasible title in favour of the Purchaser as aforesaid; and
 - (b) having considered the interest of third parties, to discharge, release, delete and expunge from title to the Lands all of the registered Encumbrances except for those listed in Schedule “E”.
4. For the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and from and after the delivery of the Liquidator’s Certificate all Claims 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 had possession or control immediately prior to the sale.

5. The Liquidator is to file with the Court a copy of the Liquidator's Certificate forthwith after delivery thereof.
6. Subject to the terms of the Sale Agreement, vacant possession of the Purchased Assets, including any real property, shall be delivered by the Liquidator to the Purchaser at 12:00 noon on the Closing Date (as defined in the Sale Agreement), subject to the permitted encumbrances as set out in the Sale Agreement and listed on Schedule "E".
7. The Liquidator, with the consent of the Purchaser, shall be at liberty to extend the Closing Date to such later date as those parties may agree without the necessity of a further Order of this Court.
8. Notwithstanding:
 - (a) these proceedings;
 - (b) any applications for a bankruptcy order in respect of Glenmerry now or hereafter made pursuant to the *Bankruptcy and Insolvency Act* and any bankruptcy order issued pursuant to any such applications; and
 - (c) any assignment in bankruptcy made by or in respect of Glenmerry,the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Glenmerry and shall not be void or voidable by creditors of Glenmerry, nor shall it constitute or be deemed to be a transfer at undervalue, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* 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.
9. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body, wherever located, to give effect to this Order and to assist the Liquidator and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Liquidator, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Liquidator and its agents in carrying out the terms of this Order.
10. The Liquidator or any other party have liberty to apply for such further or other directions or relief as may be necessary or desirable to give effect to 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 Heather A. Frydenlund,
lawyer for MNP Ltd. in its capacity as Liquidator
of 304768 B.C. Ltd. and Glenmerry Market Ltd.

BY THE COURT

REGISTRAR

Schedule A – List of Counsel

COUNSEL	NAME OF PARTY(IES) REPRESENTED

Schedule B – Liquidator’s Certificate

No. S2013779
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

RE: WIND-UP OF 304768 B.C. LTD. AND GLENMERRY MARKET LTD. PURSUANT TO SECTION
324 OF THE BUSINESS CORPORATIONS ACT, S.B.C. 2002, C.57

BETWEEN:

TULLIO VITO FRANCESO ESPOSITO

Petitioner

AND:

304768 B.C. LTD., GLENMERRY MARKET LTD., and DEMITRIA
LORAINE ESPOSITO

Respondents

LIQUIDATOR’S CERTIFICATE

PURSUANT TO THE APPROVAL AND VESTING ORDER pronounced _____, 2023, MNP Ltd.
in its capacity as the Liquidator of 304768 B.C. Ltd and Glenmerry Market Ltd. (the “**Liquidator**”) hereby
certifies as follows:

1. The Liquidator confirms that Meyers Roofing Inc. has paid the purchase price to the Liquidator
and the Transaction has completed.

DATED at the City of Vancouver, in the Province of British Columbia, this ___ day of _____, 2023.

MNP LTD. in its capacity as court appointed
Receiver of 304768 B.C. LTD. AND
GLEMNERRY MARKET LTD., and not in its
personal capacity

By: _____

Name:

Position:

Schedule C – List of Purchased Assets

Real property located in Trail, B.C. legally described as follows:

1. PID: 007-706-847
Amended Lot 5 (See 88784I) District Lot 4598
Kootenay District Plan 2436

Schedule D – Claims to be Deleted/Expunged from Title to Lands

CLAIMS TO BE DELETED/EXPUNGED FROM TITLE TO REAL PROPERTY:

For the lands legally described as:

PID: 007-706-847
Amended Lot 5 (See 88784I) District Lot 4598
Kootenay District Plan 2436

the Charges, Liens and Interests to be deleted are as follows:

1. NIL

Schedule E – Permitted Encumbrances

ENCUMBRANCES PERMITTED TO REMAIN ON TITLE TO REAL PROPERTY:

For the lands legally described as:

PID: 007-706-847
Amended Lot 5 (See 88784I) District Lot 4598
Kootenay District Plan 2436

the encumbrances to remain on title are as follows:

1. Nature: Reservation
Registration Number: V18719
Registration Date: N/A
Registered Owner: Cominco Ltd.

2. Nature: Reservation
Registration Number: V18720
Registration Date: N/A
Registered Owner: The Columbia and Western Railway Company

3. Nature: Right of Way
Registration Number: 15103D
Registration Date: 02/04/1928
Registered Owner: The East Trail Water Company Limited

4. Nature: Right of Way
Registration Number: 56903D
Registration Date: 01/13/1961
Registered Owner: City of Trail

5. Nature: Undersurface Rights

Registration Number: H2350

Registration Date: 02/20/1974

Registered Owner: Her Majesty the Queen in Right of the Province of British Columbia

Action No. S2013779

IN THE SUPREME COURT OF BRITISH
COLUMBIA

RE: WIND-UP OF 304768 B.C. LTD. AND
GLENMERRY MARKET LTD. PURSUANT TO
SECTION 324 OF THE BUSINESS CORPORATIONS
ACT, S.B.C. 2002, C.57

BETWEEN:

TULLIO VITO FRANCESO ESPOSITO
Petitioner

- and -

304768 B.C. LTD., GLENMERRY MARKET LTD.,
and DEMITRIA LORAINÉ ESPOSITO

Respondents

ORDER MADE AFTER APPLICATION
(APPROVAL AND VESTING ORDER)

MODEL APPROVAL AND VESTING ORDER

[current to August 1, 2015]

No. S2013779

Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

TULLIO VITO FRANCESCO ESPOSITO, ~~PLAINTIFF(S)/PETITIONER(S)~~

~~PLAINTIFFS~~ ~~PETITIONERS~~

AND:

304768 B.C. LTD., GLENMERRY MARKET LTD., and

DEMITRIA LORAIN ESPOSITO, ~~DEFENDANT(S)/RESPONDENT(S)~~

~~DEFENDANTS~~ ~~RESPONDENTS~~

Action No. _____

Estate No. _____

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE RECEIVERSHIP OF
[NAME OF DEBTOR(S)]

ORDER MADE AFTER APPLICATION

APPROVAL AND VESTING ORDER

BEFORE THE HONOURABLE _____)
JUSTICE _____)

096 / 012 / 2023

dd/mm/yyyy

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THE APPLICATION of The Bowra Group Inc./MNP Ltd. [RECEIVER'S NAME], in its capacity as Court-appointed Liquidator (the "Liquidator") of 304768. B.C. Ltd. and Glenmerry Market Ltd. [Receiver or Receiver and Manager] (the "Receiver") of the assets, undertakings and properties of [Name of Debtor] coming on for hearing at Vancouver, British Columbia, on the ___ day of January, 2023; AND ON HEARING Heather A. Frydenlund, counsel for the Liquidator/Receiver, and those other counsel listed on Schedule "AA" hereto, and no one else appearing for, although duly served; AND UPON READING the material filed, including the Report of the Liquidator/Receiver dated December/January 20, 2023 (the "Report") [H];

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THIS COURT ORDERS AND DECLARES THAT:

- The sale transaction (the "Transaction") contemplated by the contract of purchase and sale [Asset Purchase Agreement] dated October 11, 2022 the addendum dated October 19, 2022 and schedules dated November 8, 2022 and December 5, 2022, (collectively, the "Sale Agreement") between the Liquidator/Receiver and Meyers Roofing Inc. (the "Purchaser") [2], a copy of which is attached as Appendix "___" to the Report is hereby approved, and the Sale Agreement is commercially reasonable. [3] The execution of the Sale Agreement by the Liquidator/Receiver [4] is hereby authorized and approved, and the Liquidator/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 and for the conveyance to the Purchaser of the assets described in the Sale Agreement (the "Purchased Assets").
- Upon delivery by the Liquidator/Receiver to the Purchaser of a certificate substantially in the form attached as Schedule "BB" hereto (the "Liquidator's/Receiver's Certificate"), all of the Glenmerry Market Ltd's ("Glenmerry") Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement (and listed on Schedule "C" hereto) [and listed on Schedule "C" hereto] [5] shall vest absolutely in the Purchaser in fee simple, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, 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" [6] including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of this Court dated [Date]; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* of British Columbia or any other personal property registry system; and (iii) those Claims listed on Schedule "DD" hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule "EE" hereto), and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby extinguished and discharged as against the Purchased Assets. [7]

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3. Upon presentation for registration in the Land Title Office for the Land Title District of Nelson of a certified copy of this Order, together with a letter from Owen Bird Law Corporation [Receiver's counsel], solicitors for the Liquidator Receiver, authorizing registration of this Order, the British Columbia Registrar of Land Titles is hereby directed to:

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(a) enter the Purchaser as the owner of the Lands, as identified in Schedule "FF" hereto, together with all buildings and other structures, facilities and improvements located thereon and fixtures, systems, interests, licenses, rights, covenants, restrictive covenants, commons, ways, profits, privileges, rights, easements and appurtenances to the said hereditaments belonging, or with the same or any part thereof, held or enjoyed or appurtenant thereto, in fee simple in respect of the Lands, and this Court declares that it has been proved to the satisfaction of the Court on investigation that the title of the Purchaser in and to the Lands is a good, safe holding and marketable title and directs the BC Registrar to register indefeasible title in favour of the Purchaser as aforesaid; and

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(b) having considered the interest of third parties, to discharge, release, delete and expunge from title to the Lands all of the registered Encumbrances except for those listed in Schedule "EE".

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4. For the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and from and after the delivery of the LiquidatorReceiver's Certificate all Claims 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 had possession or control immediately prior to the sale.

5. The Liquidator Receiver is to file with the Court a copy of the LiquidatorReceiver's Certificate forthwith after delivery thereof.

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6. Pursuant to Section 7(3)(e) of the Canada Personal Information Protection and Electronic Documents Act or Section 18(10)(e) of the Personal Information Protection Act of British Columbia, the Receiver is hereby authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the company's records pertaining to the Debtor's past and current employees, including personal information of those employees listed in Schedule " " to the Sale Agreement. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

7.6. Subject to the terms of the Sale Agreement, vacant possession of the Purchased Assets, including any real property, shall be delivered by the Liquidator Receiver to the Purchaser at 12:00 noon on the Closing Date (as defined in the Sale Agreement), subject to the permitted encumbrances as set out in the Sale Agreement and listed on Schedule "EE".

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~~8-7.~~ The Liquidator Receiver, with the consent of the Purchaser, shall be at liberty to extend the Closing Date to such later date as those parties may agree without the necessity of a further Order of this Court, ~~[provided that the Closing Date occurs by _____ or within _____ days of the date of this Order].~~

9-8. Notwithstanding:

- (a) these proceedings;
- (b) any applications for a bankruptcy order in respect of Glenmerry the Debtor now or hereafter made pursuant to the *Bankruptcy and Insolvency Act* and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made by or in respect of Glenmerry the Debtor,

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Glenmerry the Debtor and shall not be void or voidable by creditors of Glenmerry the Debtor, nor shall it constitute or be deemed to be a transfer at undervalue, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* 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.

~~10-9.~~ THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body, wherever located, to give effect to this Order and to assist the Liquidator Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Liquidator Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Liquidator Receiver and its agents in carrying out the terms of this Order.

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~~11-10.~~ The Liquidator Receiver or any other party have liberty to apply for such further or other directions or relief as may be necessary or desirable to give effect to this Order.

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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 Heather A. Frydenlund,
lawyer for The Bowra Group Inc. in its capacity as
Liquidator of 304768 B.C. Ltd. and Glenmerry
Market Ltd. Signature of
 Party Lawyer for the Petitioners

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Signature of
 Party Lawyer for <name of party(ies)>

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<Print Name>

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BY THE COURT

REGISTRAR

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Schedule A – List of Counsel

<u>COUNSEL</u>	<u>NAME OF PARTY(IES) REPRESENTED</u>

Schedule A – Purchased Assets

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[Note: Specifically list legal titles if Real Property]

Schedule B – Liquidator’s Certificate

No. S2013779
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

RE: WIND-UP OF 304768 B.C. LTD. AND GLENMERRY MARKET LTD. PURSUANT TO SECTION
324 OF THE BUSINESS CORPORATIONS ACT, S.B.C. 2002, C.57

BETWEEN:

TULLIO VITO FRANCESO ESPOSITO

Petitioner

AND:

304768 B.C. LTD., GLENMERRY MARKET LTD., and DEMITRIA
LORAINE ESPOSITO

Respondents

LIQUIDATOR’S CERTIFICATE

PURSUANT TO THE APPROVAL AND VESTING ORDER pronounced _____, 2023, The Bowra
Group Inc. in its capacity as the Liquidator of 304768 B.C. Ltd and Glenmerry Market Ltd. (the
“Liquidator”) hereby certifies as follows:

- I. The Liquidator confirms that Meyers Roofing Inc. has paid the purchase price to the Liquidator
and the Transaction has completed.

DATED at the City of Vancouver, in the Province of British Columbia, this ____ day of _____, 2023.

THE BOWRA GROUP INC. in its capacity as
court appointed Receiver of 304768 B.C. LTD.
AND GLEMNERRY MARKET LTD., and not in
its personal capacity

By: _____
Name:
Position:

Schedule B – Claims to be deleted/expunged from title to Real Property

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Schedule C – List of Purchased Assets

Real property located in Trail, B.C. legally described as follows:

1. PID: 007-706-847
Amended Lot 5 (See 887841) District Lot 4598
Kootenay District Plan 2436

Schedule C – Permitted Encumbrances, Easements and Restrictive Covenants
related to Real Property

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1. ~~The reservations, limitations, provisos and conditions expressed in the original grant thereof from the Crown.~~
2. <*>

Schedule D – Claims to be Deleted/Expunged from Title to Lands

CLAIMS TO BE DELETED/EXPUNGED FROM TITLE TO REAL PROPERTY:

For the lands legally described as:

PID: 007-706-847
Amended Lot 5 (See 887841) District Lot 4598
Kootenay District Plan 2436

the Charges, Liens and Interests to be deleted are as follows:

1. NIL

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Schedule E – Permitted Encumbrances

ENCUMBRANCES PERMITTED TO REMAIN ON TITLE TO REAL PROPERTY:

For the lands legally described as:

PID: 007-706-847
Amended Lot 5 (See 88784I) District Lot 4598
Kootenay District Plan 2436

the encumbrances to remain on title are as follows:

1. Nature: Reservation

Registration Number: V18719

Registration Date: N/A

Registered Owner: Cominco Ltd.

2. Nature: Reservation

Registration Number: V18720

Registration Date: N/A

Registered Owner: The Columbia and Western Railway Company

3. Nature: Right of Way

Registration Number: 15103D

Registration Date: 02/04/1928

Registered Owner: The East Trail Water Company Limited

4. Nature: Right of Way

Registration Number: 56903D

Registration Date: 01/13/1961

Registered Owner: City of Trail

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5. Nature: Undersurface Rights

Registration Number: H2350

Registration Date: 02/20/1974

Registered Owner: Her Majesty the Queen in Right of the Province of British Columbia

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BRITISH COLUMBIA MODEL APPROVAL AND VESTING ORDER

EXPLANATORY NOTES

B.C. Model Insolvency Order Committee
Vancouver, British Columbia

These Notes are to be read together with the new Model Approval and Vesting Order developed by the B.C. Model Insolvency Order Committee (as described below).

[1] — This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. In the past, the Land Title Office has been unwilling to vest off interests without proof that certain parties have been served. Accordingly, it is recommended that the Order itself reflect service on all parties whose interests are to be removed from title.

[2] — If the Purchased Assets include real property, counsel will need to describe the Purchaser in accordance with how it wishes to be described on title — including Purchaser's full name, Incorporation details if applicable, address, joint tenancy, etc.

[3] — Section 247 of the *Bankruptcy and Insolvency Act*, section 68(2) of the *British Columbia Personal Property Security Act* and the relevant case authorities provide that the Receiver has a duty to ensure that any sale of assets is commercially reasonable. Accordingly, it has become the practice of Receivers and their counsel to seek a declaration of the Court that a particular asset sale is commercially reasonable. The Receiver and its counsel should ensure that there is

sufficient evidence to enable the Court to make a finding that the transaction to be approved is commercially reasonable, including without limitation evidence as to marketing and any appraisals.

[4]—In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.

[5]—To allow this Order to be free-standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a schedule. Some judges prefer to have the Sale Agreement itself appended as a schedule to the Order.

[6]—The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the BCMIOC's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.

[7]—The Order is not intended to relieve the Debtor, the Receiver or any Purchaser of any applicable statutory or regulatory requirements arising on the transfer of the Purchased Assets (for example, complying with *Forest Act* requirements in respect of the transfer of a license such as a Forest License).

[8]—This provision is required if the Purchased Assets include real property. In addition, in some cases, it is appropriate to provide that the Petitioner or Plaintiff provide a release of its Certificate of Pending Litigation.

[9]—The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds". In some cases, it may be appropriate to direct the Receiver to pay certain claims, such as, for example, to secured creditors where there is no issue as to priority.

[10]—This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.

[11]—The Receiver and Purchaser should take care to act under this provision with respect to the Purchased Assets only.

Action No. S20137

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IN THE SUPREME COURT OF BRITISH
COLUMBIA

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RE: WIND-UP OF 304768 B.C. LTD. AND
GLENMERRY MARKET LTD. PURSUANT TO
SECTION 324 OF THE BUSINESS CORPORATIONS
ACT, S.B.C. 2002, C.57

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BETWEEN:

TULLIO VITO FRANCESCO ESPOSITO
[PLAINTIFF(S)/PETITIONER(S)]

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Plaintiff(s)/Petitioner(s)

- and -

304768 B.C. LTD., GLENMERRY MARKET LTD.,
and DEMITRIA LORAINE ESPOSITO
[DEFENDANT(S)/RESPONDENT(S)]

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Defendant(s)/Respondent(s)

ORDER MADE AFTER APPLICATION
(APPROVAL AND VESTING ORDER)

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AND:

Action No. _____

Estate No. _____

IN THE SUPREME COURT OF BRITISH
COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE RECEIVERSHIP OF
[THE DEBTOR(S)]

B.C. MODEL APPROVAL AND VESTING ORDER

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