

File No. CI 23-01-39421

THE KING'S BENCH

WINNIPEG CENTRE

IN THE MATTER OF: THE APPOINTMENT OF A RECEIVER PURSUANT TO
SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 55 OF THE
COURT OF KING'S BENCH ACT, C.C.S.M. c. C280

BETWEEN:

FIRST NATIONAL FINANCIAL GP CORPORATION,

Applicant,

- and -

**5684961 MANITOBA LTD., 6315402 MANITOBA LTD.
and K & P PROPERTIES INC.,**

Respondents.

**NOTICE OF MOTION OF THE RECEIVER
BEFORE THE HONOURABLE MR. JUSTICE MARTIN
Tuesday, September 10, 2024 at 9:00 a.m.**

PITBLADO LLP
Barristers and Solicitors
2500 - 360 Main Street
Winnipeg, MB R3C 4H6

CATHERINE E. HOWDEN

Telephone No. (204) 956-0560
Fax No. (204) 957-0227
Email: howden@pitblado.com

(File No. 61972/3)

THE KING'S BENCH

WINNIPEG CENTRE

IN THE MATTER OF: THE APPOINTMENT OF A RECEIVER PURSUANT TO SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 55 OF THE *COURT OF KING'S BENCH ACT*, C.C.S.M. c. C280

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Applicant,

- and -

**5684961 MANITOBA LTD., 6315402 MANITOBA LTD.
and K & P PROPERTIES INC.,**

Respondents.

NOTICE OF MOTION

MNP Ltd., in its capacity as receiver and manager (the "**Receiver**") of all of the assets, undertakings and properties of the Respondent, 5684961 Manitoba Ltd. (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, and any and all beneficial ownership interests as may be held by the Respondent 6315402 Manitoba Ltd. and the Respondent K & P Properties Inc. in such assets, undertakings, and properties, including all proceeds thereof (the "**Property**") will make a Motion before the Honourable Mr. Justice Martin on Tuesday, the 10th day of September, 2024 at 9:00 a.m., or as soon after that time as the Motion can be heard, at The Law Courts, 408 York Avenue, Winnipeg, Manitoba.

THE MOTION IS FOR a Distribution and Discharge Order, substantially in the form attached hereto and marked as Schedule "A" (the "**Distribution and Discharge Order**"), providing for:

1. An order that service of this motion is hereby abridged and validated such that this motion is properly returnable on the stated hearing date with no further service required;
2. An order approving and authorizing distribution and payment to the Applicant First National Financial GP Corporation ("**FNF**") as proposed in the Receiver's Fourth Report dated August 28, 2024 (the "**Fourth Report**");
3. An order approving the Fourth Report and the activities of the Receiver described herein, including approval of the Receiver's Statement of Receipts and Disbursements, the interim accounts of the Receiver and its counsel, and the proposed final fees and disbursements of the Receiver and its counsel, without the necessity of a formal passing of accounts;
4. An order that the Receiver shall be discharged following distribution to FNF and the filing of a Discharge Certificate (as set out in the proposed Distribution and Discharge Order) and as may be authorized by this Honourable Court; and
5. Such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

1. On March 17, 2023, this Court issued an Order (the "**Receivership Order**") appointing MNP Ltd. as the Receiver of the Debtor's Property;
2. On April 28, 2023 this Court issued an Order approving a sale solicitation process;

3. On July 7, 2023, this Court issued an Order approving the Property be listed for sale with Avison Young Commercial Real Estate (Manitoba) Inc.;
4. On February 13, 2024, the Court issued a Sale Approval and Vesting Order (“SAVO”) with respect to the Property;
5. In accordance with the Receivership Order and SAVO, the Receiver closed the sale of the Property and issued and filed a Receiver's Certificate;
6. The Receiver has complied with the Receivership Order and has proposed distribution of the Net Proceeds of the Property to the FNF, pursuant to its first mortgage priority;
7. As set out in paragraph 21 of the Fourth Report, legal counsel for the Receiver has reviewed and opined that FNF has a valid and enforceable first ranking charge against the Property;
8. Subject to approval of the proposed distribution, and further subject to the Receiver completing such authorized distribution, the administration of the receivership will be complete, and it is therefore appropriate to order the discharge of the Receiver and approval of its activities, conduct and professional fees, including the fees of its legal counsel, and its final statement of receipts and disbursements;
9. Paragraphs 3, 16, 17, 18, 19, 24, 25, 26 and 27 of the Receivership Order;
10. Section 95 of *The Corporations Act*, C.C.S.M. c., C225;
11. Court of King's Bench Rules 2.03, 3.02, 16.04, 16.08 and 37;
12. Such further and other grounds as counsel may advise and as this Honourable Court may allow.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of
the Motion:

- (a) Receivership Order pronounced March 17, 2023;
- (b) The Receiver's First Report dated April 25, 2023;
- (c) The Order of the Honourable Justice Martin pronounced April 28, 2023;
- (d) The Receiver's Second Report dated June 9, 2023 and Supplement to the Second Report dated June 29, 2023;
- (e) The Order of the Honourable Justice Martin pronounced July 7, 2023;
- (f) The Receiver's Third Report dated February 7, 2024;
- (g) The Order of the Honourable Justice Martin pronounced February 13, 2024;
- (h) The Receiver's Fourth Report dated August 28, 2024;
- (i) Such further and other evidence as counsel may advise and this Honourable Court may allow.

September 4, 2024

PITBLADO LLP
Barristers and Solicitors
2500 – 360 Main Street
Winnipeg, MB R3C 4H6

Telephone No. 956-3532
Email: howden@pitblado.com
Counsel for the Receiver, MNP Ltd.
Catherine E. Howden

TO: THE ATTACHED SERVICE LIST

Schedule "A"

File No. CI 23-01-39421

THE KING'S BENCH

WINNIPEG CENTRE

IN THE MATTER OF: THE APPOINTMENT OF A RECEIVER PURSUANT TO SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 55 OF *THE COURT OF KING'S BENCH ACT*, C.C.S.M. c. C280

BETWEEN:

FIRST NATIONAL FINANCIAL GP CORPORATION,

Applicant,

- and -

**5684961 MANITOBA LTD., 6315402 MANITOBA LTD.
and K & P PROPERTIES INC.,**

Respondents.

DISTRIBUTION AND DISCHARGE ORDER

PITBLADO LLP
Barristers and Solicitors
2500 - 360 Main Street
Winnipeg, MB R3C 4H6

CATHERINE E. HOWDEN

Telephone No. (204) 956-0560
Fax No. (204) 957-0227
Email: howden@pitblado.com
(File No. 61972/3)

THE KING'S BENCH
WINNIPEG CENTRE

THE HONOURABLE MR.) TUESDAY, THE 10th DAY
)
JUSTICE MARTIN) OF SEPTEMBER, 2024

IN THE MATTER OF: THE APPOINTMENT OF A RECEIVER PURSUANT TO SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 55 OF *THE COURT OF KING'S BENCH ACT*, C.C.S.M. c. C280

BETWEEN:

FIRST NATIONAL FINANCIAL GP CORPORATION,

Applicant,

- and -

**5684961 MANITOBA LTD., 6315402 MANITOBA LTD.
and K & P PROPERTIES INC.,**

Respondents.

DISTRIBUTION AND DISCHARGE ORDER

THIS MOTION, made by MNP Ltd. in its capacity as receiver and manager (the "**Receiver**") of all of the assets, undertaking and properties of the Respondent, 5684961 Manitoba Ltd. (the "**Debtor**") for, *inter alia*, an Order approving the distribution to creditors of the Debtor as proposed in the Receiver's Fourth Report, the Receiver's final statement of receipts and disbursements, the interim and proposed final accounts of the Receiver and its counsel, and providing for the discharge of the Receiver, was heard this day at the Law Courts Building, 408 York Ave, Winnipeg, Manitoba.

ON READING the First Report of the Receiver, the Second Report of the Receiver and Supplement thereto, the Third Report of the Receiver, the Fourth Report of the Receiver, and on hearing the submissions of counsel for the Receiver, the Applicant and the Respondents appearing in person, no one appearing for any other person on the Service List, although properly served as appears from the Affidavit of Service of Chantale DeBlois, sworn September ____, 2024;

1. THIS COURT ORDERS that service of this motion is hereby abridged and validated such that this motion is properly returnable today and no further service is required;
2. THIS COURT ORDERS that the Receiver is hereby authorized and directed to make a distribution to the Applicant, First National Financial GP Corporation in accordance with the proposed distribution as set out in paragraphs 22 through 25 of the Receiver's Fourth Report and as illustrated in the SR&D in paragraph 13 thereto;
3. THIS COURT APPROVES the Receiver's Fourth Report and the activities of the Receiver and its counsel described therein, including the Receiver's SR&D, the interim accounts of the Receiver and its counsel as reflected in the Receiver's Fourth Report, and the proposed final fees and disbursements as set out in paragraphs 17 - 20 and Appendix A of the Receiver's Fourth Report, without the necessity of a formal passing of accounts;
4. THIS COURT ORDERS that upon the Receiver filing with this Court a Discharge Certificate substantially in the form attached as Schedule "A" hereto (the "**Discharge Certificate**"), certifying that it has completed the distribution as authorized by this Court pursuant to paragraph 2 of this Order, the Receiver shall be discharged as provided, however that notwithstanding its discharge herein (a) the Receiver shall remain the Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceeding in favour of the Receiver in its capacity as Receiver herein.

5. THIS COURT ORDERS AND DECLARES that upon the filing of the Discharge Certificate as referenced in paragraph 4 of this Order, the Receiver is hereby released and discharged from any and all liability that the Receiver now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of the Receiver while acting in its capacity as Receiver herein, save and except from any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, the Receiver is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's part.

Date: September , 2024

J. Martin

I, CATHERINE E. HOWDEN OF THE FIRM PITBLADO LLP. HEREBY CERTIFY THAT I HAVE RECEIVED CONSENTS AS TO THE FORM OF THIS ORDER FROM COUNSEL FOR THE FOLLOWING PARTIES: THE APPLICANT, AS DIRECTED BY THE HONOURABLE MR. JUSTICE MARTIN

SCHEDULE "A"

File No. CI 23-01-39421

THE KING'S BENCH
WINNIPEG CENTRE

IN THE MATTER OF: THE APPOINTMENT OF A RECEIVER PURSUANT TO
SECTION 243 OF THE *BANKRUPTCY AND*
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AND SECTION 55 OF *THE COURT OF KING'S BENCH*
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BETWEEN:

FIRST NATIONAL FINANCIAL GP CORPORATION,

Applicant,

- and -

5684961 MANITOBA LTD., 6315402 MANITOBA LTD.
and K & P PROPERTIES INC.,

Respondents.

DISCHARGE CERTIFICATE

RECITALS:

A. Pursuant to an Order of the Honourable Mr. Justice Martin of the Manitoba Court of King's Bench (the "**Court**") dated March 17, 2023, MNP Ltd. was appointed as the receiver and manager (the "**Receiver**") of all of the assets, undertakings and properties of the Respondent, 5684961 Manitoba Ltd. (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, and any and all beneficial ownership interests as may be held by the Respondent 6315402 Manitoba Ltd. and the Respondent K & P Properties Inc. in such assets, undertakings, and properties, including all proceeds thereof (the "**Property**").

B. Pursuant to an Order of the Court dated September 10, 2024 (the "**Distribution and Discharge Order**"), the court ordered that upon the Receiver filing with this Court a certificate certifying that it has completed the distribution as authorized by the Court pursuant to the said Distribution and Discharge Order, the Receiver shall be discharged as the Receiver.

THE RECEIVER CERTIFIES the following:

1. The Receiver has completed the distribution as authorized by the Court pursuant to the Distribution and Discharge Order;
2. The Receiver has completed the administration of the receivership herein;
3. This Certificate was delivered by the Receiver at the City of Winnipeg, in Manitoba, on the ____ day of _____, 2024.

MNP LTD., in its capacity as Receiver
and not in its personal capacity

Per: _____
Victor P. Kroeger, CIRP, LIT, CPA, CA, CFE
Senior Vice-President

THE KING'S BENCH

WINNIPEG CENTRE

IN THE MATTER OF: THE APPOINTMENT OF A RECEIVER PURSUANT TO SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 55 OF *THE COURT OF KING'S BENCH ACT*, C.C.S.M. c. C280

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- and -

5684961 MANITOBA LTD., 6315402 MANITOBA LTD.
and K & P PROPERTIES INC.,

Respondents.

SERVICE LIST
As at September 4, 2024

PITBLADO LLP
Barristers and Solicitors
2500 - 360 Main Street
Winnipeg, MB R3C 4H6

CATHERINE E. HOWDEN

Telephone No. (204) 956-0560
Fax No. (204) 957-0227

(File No. 61972.3)

SERVICE LIST

Party/Counsel	Telephone	Facsimile	Party Represented
<p>THOMPSON DORFMAN SWEATMAN LLP 1700-242 Hargrave Street Winnipeg, Manitoba, R3C 0V1</p> <p>ROSS A. MCFADYEN Email: RAM@tdslaw.com</p> <p>MEL M. LABOSSIERE Email: MML@tdslaw.com</p>	<p>(204) 934-2378</p> <p>(204) 934-2508</p>	<p>(204) 934-0538</p> <p>(204) 934-0570</p>	<p>Counsel for First National Financial GP Corporation</p>
<p>MNP LTD. 1700-242 Hargrave Street Winnipeg, Manitoba, R3C 0T8</p> <p>VICTOR KROEGER Email: victor.kroeger@mnp.ca</p> <p>RICK ANDERSON Email: rick.anderson@mnp.ca</p>	<p>(204) 927-2912</p> <p>(403) 537-8437</p>		<p>Receiver</p>
<p>PITBLADO LLP 2500 – 360 Main Street Winnipeg, Manitoba, R3C 4H6</p> <p>CATHERINE HOWDEN Email: howden@pitblado.com</p>	<p>(204) 956-3532</p>	<p>(204) 957-0227</p>	<p>Counsel for the Receiver</p>
<p>MANITOBA JUSTICE – CIVIL LEGAL SERVICES 730 - 405 Broadway Winnipeg, Manitoba, R3C 3L6</p> <p>SHELLEY HANER Email: shelley.haner@gov.mb.ca</p>	<p>(204) 792-6471</p>	<p>(204) 948-2826</p>	<p>Counsel for Manitoba Taxation</p>

<p>PACIFIC INSOLVENCY INTAKE CENTRE Surrey National Verification and Collection Centre Canada Revenue Agency 9755 King George Boulevard Surrey, British Columbia, V3T 5E1</p>	1-866-891-7403	1-833-697-2389	Canada Revenue Agency
<p>5684961 MANITOBA LTD., 6315402 MANITOBA LTD. and K&P PROPERTIES INC. c/o Patrick Penner Box 285 Winnipeg, Manitoba, R3M 3Z2</p> <p>PATRICK PENNER Email: pkharpenn@shaw.ca</p>	(204) 797-6742		Debtor Companies
<p>JAMES W. HEDLEY LAW OFFICE 193 Henlow Bay Winnipeg, Manitoba, R3Y 1G4</p> <p>JAMES W. HEDLEY Email: jwh@hedleylaw.ca</p>	(204) 999-8671		Counsel / Agent for Pro Auto Ltd.
<p>D'ARCY & DEACON LLP 2200-One Lombard Place Winnipeg, Manitoba, R3B 0X7</p> <p>JONATHAN L. GOLDENBERG Email: jgoldenberg@darcydeacon.com</p>	(204) 925-5371		Counsel / Attorney for Service for GFL Environmental Inc. (formerly, Omar's Environmental Ltd.)
<p>CITY OF WINNIPEG – LEGAL SERVICES 3-185 King Street Winnipeg, Manitoba, R3B 1J1</p> <p>ROBERT COX Email: rcox@winnipeg.ca</p>	(204) 915-5473		Counsel for the City of Winnipeg

6315402 MANITOBA LTD. c/o Doug Thiessen 14 Breland Bay Winnipeg, Manitoba, R3X 2B9			
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E-mail List

RAM@tdslaw.com; MML@tdslaw.com; victor.kroeger@mnp.ca ; howden@pitblado.com;
shelley.haner@gov.mb.ca; jwh@hedleylaw.com; jgoldenberg@darcydeacon.com;
pkharpenn@shaw.ca; rick.anderson@mnp.ca; rcox@winnipeg.ca