

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 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.

Certified copy of

SALE APPROVAL AND VESTING ORDER

FILED
KING'S BENCH
FEB 14 2024
LAW COURTS
WINNIPEG

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(File No. 61972/3)

THE KING'S BENCH
Winnipeg Centre

THE HONOURABLE) Tuesday the 13th day of February, 2024
)
MR. JUSTICE MARTIN)

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 *KING'S BENCH ACT*, C.C.S.M. c. C280

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Certified copy of

Respondents.

SALE APPROVAL AND VESTING ORDER

THIS MOTION made by MNP Ltd., in its capacity as receiver and manager (the "**Receiver**") of all the assets, undertakings and properties of 5684961 Manitoba Ltd. (the "**Debtor**") for, *inter alia*, an Order approving the sale transaction (the "**Transaction**") contemplated by the asset purchase agreement dated December 21, 2023 (the "**Sale Agreement**") between the Receiver and 4589093 Manitoba Ltd. (the "**Purchaser**"), as referenced in the Third Report of the Receiver dated February 7, 2024 (the "**Third Report**"), and vesting in the Purchaser of all the Debtor's right, title and interest to the assets described in the Sale Agreement (the "**Purchased Assets**") and other ancillary relief, was heard this day at the Law Courts Complex, 408 York Avenue, Winnipeg, Manitoba.

ON READING the First Report of the Receiver, the Confidential Supplement to the First Report of the Receiver, the Second Report of the Receiver and Supplement thereto, the Confidential Supplement to the Second Report of the Receiver and Supplement thereto, the Third Report of the Receiver, the Confidential Supplement to the Third Report of the Receiver, the Affidavits of Sonia Pacheco sworn February 13, 2023 and March 8, 2023, and on hearing the submissions of counsel for the Receiver, the Applicant, the Debtor, and the Respondent K & P Properties Inc., no one appearing for any other person on the Service List, although properly served as appears from the Affidavits of Service of Chantale DeBlois sworn February 12, 2024;

1. THIS COURT ORDERS that time for service of the Notice of Motion and the supporting materials is hereby abridged and validated such that this motion is properly returnable today and hereby dispenses with further service thereof.
2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale 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 and for the conveyance of the Purchased Assets to the Purchaser.
3. THIS COURT ORDERS AND DECLARES that, upon the delivery of a Receiver's Certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "**Receiver's Certificate**"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchaser, 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:

- (a) any encumbrances or charges created by the Order of the Honourable Mr. Justice Martin dated March 17, 2023 (the "**Receivership Order**");
- (b) all charges, security interests or claims evidenced by registrations pursuant to *The Personal Property Security Act* (Manitoba) or any other personal property registry system; and
- (c) those Claims listed on Schedule "C" hereto;

all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed in Schedule "D" hereto (the "**Permitted Encumbrances**"), 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.

4. THIS COURT ORDERS that upon registration in the Winnipeg Land Titles Office ("**WLTO**") of a Transmission in the form prescribed by *The Real Property Act* (Manitoba) duly executed by the Purchaser, and accompanied by a certified true copy of this Order, title to the real property identified in Schedule "B" hereto (the "**Real Property**") shall vest in the Purchaser and the District Registrar is hereby directed to expunge from title all of the Encumbrances listed in Schedule "C" hereto.

5. THIS COURT ORDERS that this Order shall be accepted by the District Registrar notwithstanding that the appeal period in respect of this Order has not elapsed, which appeal period be and is hereby expressly waived.
6. THIS COURT ORDERS that, for the purposes of determining the nature and priority of Claims and Encumbrances, the net proceeds from the sale of the Purchased Assets (the "**Net Proceeds**") shall stand in the place and stead of the Purchased Assets, and that 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.
7. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof to the Purchaser;
8. THIS COURT ORDERS THAT, notwithstanding:
 - (a) the pendency of these proceedings;
 - (b) any applications for a bankruptcy Order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy Order issued pursuant to any such applications; and
 - (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any licensed insolvency trustee that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed a fraudulent preference, assignment, fraudulent conveyance, transfer at

undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada), or any other applicable federal or provincial legislation, or shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

9. THIS COURT ORDERS that the Confidential Supplement to the Third Report of the Receiver shall be sealed, kept confidential and shall not form part of the public record, and shall remain in a sealed envelope and/or be stored electronically with this Court on an encrypted basis, limiting access only to the Registrar of this Court and the Presiding Judge, except:

(a) by further Order of this Court;


(b) upon the date on which the Receiver files with the Court a written notice certifying that the Sale Agreement has closed to the satisfaction of the Receiver;

whichever shall first occur, whereupon the Confidential Supplement to the Third Report of the Receiver shall form part of the public record and shall no longer be sealed.

10. THIS COURT APPROVES the Third Report, the Confidential Supplement to the Third Report and the activities of the Receiver and its counsel described therein, including the Receiver's Statement of Receipts and Disbursements and the accounts, fees and estimated fees and disbursements of the Receiver and its counsel as reflected in the Third Report, without the necessity of a formal passing of accounts;

11. THIS COURT ORDERS that this Order shall be served by email to all parties on the Service List, and any other party who appeared at the hearing of this motion, and further service is hereby dispensed with.

February 13, 2024


Justice Martin

I, CATHERINE HOWDEN, OF THE FIRM OF PITBLADO LLP HEREBY CERTIFY THAT I HAVE RECEIVED THE CONSENTS AS TO FORM OF THE FOLLOWING PARTIES:

ROSS McFADYEN, THOMPSON DORFMAN SWEATMAN LLP,
COUNSEL FOR THE APPLICANT

GRANT DRIEDGER, SMITH NEUFELD JODOIN LLP, COUNSEL FOR 5684961
MANITOBA LTD. AND K & P PROPERTIES INC.

CERTIFIED A TRUE COPY

DEPUTY REGISTRAR



SCHEDULE "A"
FORM OF RECEIVER'S CERTIFICATE

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 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.

RECEIVER'S CERTIFICATE

RECITALS:

- A. Pursuant to the Order of the Honourable Mr. Justice Martin of the Manitoba Court of King's Bench (the "**Court**") dated March 12, 2023, MNP Ltd. was appointed as the receiver (the "**Receiver**") of the undertaking, property and assets of 5684961 Manitoba Ltd. (the "**Debtor**").
- B. Pursuant to an Order of the Court dated February 13, 2024, the Court approved the Agreement of Purchase and Sale made as of December 21, 2023 (the "**Sale Agreement**") between the Receiver and 4589093 Manitoba Ltd. (the "**Purchaser**") as described in the Third Report of the Receiver dated February 7, 2024 and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, which

vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming:

- i. the payment by the Purchaser of the Purchase Price for the Purchased Assets;
- ii. that the conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
- iii. the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

- 1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
- 2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
- 3. The Transaction has been completed to the satisfaction of the Receiver.
- 4. 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 Kroeger, Senior Vice President

SCHEDULE "B"
DESCRIPTION OF REAL PROPERTY

Title No. 2551809/1

LOTS 8 AND 9 PLAN 313 WLTO (W DIV)
IN RL 73 PARISH OF ST JAMES

SCHEDULE "C"
ENCUMBRANCES TO BE EXPUNGED

- Mortgage No. 4119823/1
- Caveat No. 4119824/1
- PPSN No. 4119825/1
- Amending Agreement No. 4147247/1
- Amending Agreement No. 4214343/1
- Transfer of Mortgage No. 4427771/1
- Assignment of Caveat No. 4427775/1
- Mortgage No. 4852462/1
- Builder's Lien no. 5106419/1
- Transfer of Mortgage No. 5137970/1
- Notice Exercising Power of Sale No. 5150372/1
- Application for Order for Sale No. 5173068/1
- Assignment of Caveat No. 5464077/1
- Application for Order for Sale No. 5464078/1
- Builder's Lien No. 5516941/1

SCHEDULE "D"
PERMITTED ENCUMBRANCES

- Caveat No. 5397709/1 Compliance Order – City of Winnipeg
- Caveat No. 5529739/1 – Compliance Order – City of Winnipeg
- Caveat No. 5529740/1 – Compliance Order – City of Winnipeg