

COURT FILE NUMBER 2203 13202
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE EDMONTON

Clerk's Stamp

PLAINTIFF MOSKOWITZ CAPITAL MORTGAGE FUND II INC.
DEFENDANTS 1631807 ALBERTA LTD., RADIANT TECHNOLOGIES INC.,
and RADIANT TECHNOLOGIES (CANNABIS) INC.

DOCUMENT **APPROVAL AND VESTING ORDER
(Sale by Receiver)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT McLENNAN ROSS LLP
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File No.: 20230959

DATE ON WHICH ORDER WAS PRONOUNCED: July 19, 2023

LOCATION WHERE ORDER WAS PRONOUNCED: Edmonton, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Mr. Justice K. Feth

UPON THE APPLICATION by [Receiver's Name]MNP Ltd. in its capacity as the Court-appointed [receiver/receiver and manager] (the "Receiver") ~~of the undertakings, property and assets of [Debtor] (the "Debtor")~~ of certain personal property of 1631807 Albert Ltd.-LTD. and Radiant Technologies Inc. -(collectively, the "Debtors") described in Exhibit "L" of the Affidavit of Brian Moskowitz dated March 13, 2023, the asset described in the Consent Order granted June 23, 2023, and Exhibit "A" of the Affidavit of Brian Moskowitz dated July 10, 2023, together with any other personal property of the Debtors as may be agreed upon by the Receiver and the Debtors, including all proceeds thereof, for an order approving the ~~sale transaction~~proposed second auction sale (the "Second Auction Sale")~~(the "Transaction")~~ contemplated by ~~an agreement of purchase and sale (the "Sale Agreement")~~ between the Receiver and [Name of Purchaser] (the "Purchaser") dated [Date] and appended to the Report of the Receiver dated [Date] (the "Report"), Workingman Capital Corp. ("Workingman") in accordance with a Request for Offers to Purchase (the "ROP") for the sale of the purchased assets (the "Purchased

Assets', and vesting ~~in the Purchaser (or its nominee)¹ the Debtor's~~ the Debtors' right, title and interest in and to the ~~assets described in the Sale Agreement (the "Purchased Assets")~~ Purchased Assets to the end purchasers (the "Purchaser" or "Purchasers");

AND UPON the Plaintiff's application to expand the scope of the Receivership Order to include the remaining assets of the Debtors;

AND UPON HAVING READ the Limited Receivership Order dated [Date] March 21, 2023 (the "Receivership Order"), the Receivership Amending Order dated July 19, 2023 (the "Amending Order"), the Receiver's First Report to the Court along with the Confidential Appendices attached thereto, the Receiver's Second Report to the Court and the Affidavit of Service of Lynae Anderson;

AND UPON HEARING the submissions of counsel for the Receiver, the Purchaser [Names of other parties appearing], counsel for the Plaintiff and those in attendance, and no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service, filed;

AND UPON HAVING READ the Sale and Vesting Order granted on May 30, 2023 (the "First Sale and Vesting Order") approving the auction sale of the Receiver, and the Consent Order granted on June -23, 2023 amending the First Sale and Vesting Order;

AND UPON NOTING that the auction sale of the personal property of the Debtors held pursuant to the First Sale and Vesting Order closed on June 27, 2023 and the net sale proceeds are currently being collected by Workingman;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, no other person is required to have been served with notice of this application and time for service of this application is abridged to that actually given.²

APPROVAL OF SECOND TRANSACTION AUCTION SALE

¹ ~~Ensure that there are no legal obstacles to the vesting of assets in a nominee (for example competition and anti-trust law). Should land be transferred and vested in a nominee, the Registrar of Land Titles requires the Purchaser to complete a Certificate of Nomination (which needs to be signed under seal if the Purchaser is a corporation. If the Purchaser is an individual, the signature needs to be witnessed with an affidavit of execution completed.)~~

² ~~Ensure that the application and supporting materials are served on all affected parties including those whose interests will be vested off.~~

2. The ~~Transaction~~Second Auction Sale is hereby approved³ and ~~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, including amending theits Auction Agreement withbetween the Receiver and Workingman as may be necessary or desirable for completion of the ~~Transaction~~Second Auction Sale and conveyance of the Purchased Assets to the Purchaser ~~(or its nominee)~~ or Purchasers.

VESTING OF PROPERTY

3. ~~[Subject only to approval by the Alberta Energy Regulator (“Energy Regulator”) of transfer of any applicable licenses, permits and approvals pursuant to section 24 of the Oil and Gas Conservation Act (Alberta) and section 18 of the Pipeline Act (Alberta)]⁴ upon Upon delivery of a Receiver’s certificate to ~~the Purchaser (or its nominee)~~Workingman substantially in the form set out in **Schedule “A”** hereto (the “Receiver’s Closing Certificate”), all of the ~~Debtor’s Debtors’~~ right, title and interest in and to the Purchased Assets [listed in **Schedule “B”**⁵ hereto] shall vest absolutely in the name of the Purchasers (or its their nominees), free and clear of and from any and all caveats, security interests, hypothecs, pledges, mortgages, liens, trusts or deemed trusts, reservations of ownership, royalties, options, rights of pre-emption, privileges, interests, assignments, actions, judgements, executions, levies, taxes, writs of enforcement, charges, or other claims, whether contractual, statutory, financial, monetary or otherwise, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, “Claims”)⁶ including, without limiting the generality of the foregoing:~~

³ ~~In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding. If supported by evidence, the following sentence could be added at the beginning of paragraph 2: “The Transaction and Sale Agreement are commercially reasonable and in the best interest of the Debtor and its stakeholders.”~~

⁴ ~~This bracketed clause, paragraph 4(b) and the bracketed words at the end of paragraph 6 are included when the Purchased Assets include mineral interests in land.~~

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 B.~~

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 may, in some cases, continue as against the net proceeds from sale of the claimed assets. In other cases, the ownership claimant may object to its ownership interest being vested out of the claimed assets. For example, it not clear that vesting orders can vest out overriding royalties or restrictive covenants which are interests in land. (In *Third Eye Capital Corp. v Dianor Resources Inc.*, 2018 ONCA 253 at paragraphs 108-130 the Ont. C.A. requested further argument regarding whether an overriding royalty which is an interest in land may nevertheless be vested out.)~~

- (a) any encumbrances or charges created by the Receivership Order;
- (b) any charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Alberta) or any other personal property registry system;
- ~~(c) any liens or claims of lien under the *Builders' Lien Act* (Alberta); and~~
- ~~(d) those Claims listed in Schedule "C" hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, caveats, interests, easements, and restrictive covenants listed in Schedule "D" (collectively, "Permitted Encumbrances"))~~

and for greater certainty, this Court orders that all Claims ~~including Encumbrances other than Permitted Encumbrances~~, affecting or relating to the Purchased Assets are hereby expunged, discharged and terminated as against the Purchased Assets.

4. Upon delivery of the Receiver's Closing Certificate, and upon filing of a certified copy of this Order, together with any applicable registration fees, all governmental authorities including those referred to below in this paragraph (collectively, "Governmental Authorities") are hereby authorized, requested and directed to accept delivery of such Receiver's Closing Certificate and certified copy of this Order as though they were originals and to register such transfers, interest authorizations, discharges and discharge statements of conveyance as may be required to convey to the Purchaser or its nominee clear title to the Purchased Assets subject only to Permitted Encumbrances. Without limiting the foregoing:

~~(a)⁷ the Registrar of Land Titles ("Land Titles Registrar") for the lands defined below shall and is hereby authorized, requested and directed to forthwith:~~

- ~~(i) cancel existing Certificates of Title No. * for those lands and premises municipally described as *, and legally described as:~~

~~_____*~~
~~_____ (the "Lands")~~

- ~~(ii) issue a new Certificate of Title for the Lands in the name of the Purchaser (or its nominee), namely, *;~~

~~Similarly, other claimed rights, titles or interests may potentially be vested out if the Court is advised what rights are being affected and the affected persons are served. The Committee agrees with the view of the Ontario Committee that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.~~

~~⁷ Paragraph 4(a) is included when the Purchased Assets include titled lands.~~

~~(iii) — transfer to the New Certificate of Title the existing instruments listed in Schedule “D”, to this Order, and to issue and register against the New Certificate of Title such new caveats, utility rights of ways, easements or other instruments as are listed in Schedule “D”; and~~

~~(iv) — discharge and expunge the Encumbrances listed in Schedule “C” to this Order and discharge and expunge any Claims including Encumbrances (but excluding Permitted Encumbrances) which may be registered after the date of the Sale Agreement against the existing Certificate of Title to the Lands;~~

~~(b)⁸ — Alberta Energy (“Energy Ministry”) shall and is hereby authorized, requested and directed to forthwith:~~

~~(v) — cancel and discharge those Claims including builders’ liens, security notices, assignments under section 426 (formerly section 177) of the Bank Act (Canada) and other Encumbrances (but excluding Permitted Encumbrances) registered (whether before or after the date of this Order) against the estate or interest of the Debtor in and to any of the Purchased Assets located in the Province of Alberta; and~~

~~(vi) — transfer all Crown leases listed in Schedule “E” to this Order standing in the name of the Debtor, to the Purchaser (or its nominee) free and clear of all Claims including Encumbrances but excluding Permitted Encumbrances;~~

(a) the Registrar of the Alberta Personal Property Registry (the “PPR Registrar”) shall and is hereby directed to forthwith cancel and discharge any registrations at the Alberta Personal Property Registry (whether made before or after the date of this Order) claiming security interests ~~(other than Permitted Encumbrances)~~ in the estate or interest of the Debtors in any of the Purchased Assets which are of a kind prescribed by applicable regulations as serial-number goods.

5. In order to effect the transfers and discharges described above, this Court directs each of the Governmental Authorities to take such steps as are necessary to give effect to the terms of this Order and the Sale Auction Agreement. Presentment of this Order and the Receiver’s Closing Certificate shall be the sole and sufficient authority for the Governmental Authorities to make and register transfers of title or interest and cancel and discharge registrations against any of the Purchased Assets of any Claims ~~including Encumbrances but excluding Permitted Encumbrances.~~

⁸ ~~Paragraph 4(b) is included when the Purchased Assets include mineral interests in land.~~

6. No authorization, approval or other action by and no notice to or filing with any governmental authority or regulatory body exercising jurisdiction over the Purchased Assets is required for the due execution, delivery and performance by the Receiver of the ~~Sale Agreement, [other than any required approval by the Energy Regulator referenced in paragraph 3 above.]~~⁹ Second Auction Sale and the Auction Agreement, as amended.
- ~~7. Upon delivery of the Receiver's Closing Certificate together with a certified copy of this Order, this Order shall be immediately registered by the Land Titles Registrar notwithstanding the requirements of section 191(1) of the Land Titles Act, RSA 2000, c.L-7 and notwithstanding that the appeal period in respect of this Order has not elapsed. The Land Titles Registrar is hereby directed to accept all Affidavits of Corporate Signing Authority submitted by the Receiver in its capacity as Receiver of the Debtor and not in its personal capacity.~~
- ~~8.7.~~ For the purposes of determining the nature and priority of Claims, net proceeds¹⁰ from 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 from and after delivery of the Receiver's Closing Certificate and all Claims ~~including Encumbrances (but excluding Permitted Encumbrances)~~ shall not attach to, encumber or otherwise form a charge, security interest, lien, or other Claim against the Purchased Assets and may be asserted against the net proceeds from 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. Unless otherwise ordered (whether before or after the date of this Order), the Receiver shall not make any distributions to creditors of net proceeds from sale of the Purchased Assets without further order of this Court, provided however the Receiver may apply any part of such net proceeds to repay any amounts the Receiver has borrowed for which it has issued a Receiver's Certificate pursuant to the Receivership Order.
- ~~9.8.~~ ~~Except as expressly provided for in the Sale Agreement or by section 5 of the Alberta Employment Standards Code, the Purchaser (or its nominee)~~Workingman and the Purchasers

⁹ ~~The bracketed words in this paragraph are included when the Purchased Assets include mineral interests in land.~~

¹⁰ ~~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".~~

shall not, by completion of the ~~Transaction~~Second Auction Sale, have liability of any kind whatsoever in respect of any Claims against the Debtor.¹¹

~~10.9.~~ Upon completion of the ~~Transaction~~Second Auction Sale, the Debtors and all persons who claim by, through or under the Debtors in respect of the Purchased Assets, and all persons or entities having any Claims of any kind whatsoever in respect of the Purchased Assets, ~~save and except for persons entitled to the benefit of the Permitted Encumbrances~~, shall stand absolutely and forever barred, estopped and foreclosed from and permanently enjoined from pursuing, asserting or claiming any and all right, title, estate, interest, royalty, rental, equity of redemption or other Claim whatsoever in respect of or to the Purchased Assets, and to the extent that any such persons or entities remain in the possession or control of any of the Purchased Assets, or any artifacts, certificates, instruments or other indicia of title representing or evidencing any right, title, estate, or interest in and to the Purchased Assets, they shall forthwith deliver possession thereof to the Purchasers (or ~~its~~their nominees).¹²

~~11.10.~~ The Purchasers (or ~~its~~their nominees) shall be entitled to enter into and upon, hold and enjoy the Purchased Assets for its own use and benefit without any interference of or by the Debtors, or any person claiming by, through or against the Debtors.

~~12.~~ ~~Immediately upon closing of the Transaction, holders of Permitted Encumbrances shall have no claim whatsoever against the Receiver.~~¹³

~~13.11.~~ The Receiver is directed to file with the Court a copy of the Receiver's Closing Certificate forthwith after delivery thereof to ~~the Purchaser (or its nominee).~~Workingman.

~~14.~~ ~~Pursuant to clause 7(3)(c) of the Personal Information Protection and Electronic Documents Act (Canada) and section 20(e) of the Alberta Personal Information Protection Act, the Receiver is authorized and permitted to disclose and transfer to the Purchaser (or its nominee) all human resources and payroll information in the Debtor's records pertaining to the Debtor's past and~~

¹¹ ~~Successor employer liability is governed by section 5 of the Employment Standards Code, RSA 2000 c. E-9 as amended. Inclusion of the words "or by statute" in paragraph 9 ensures that paragraph 9 does not purport to abrogate statutory successor employee liability.~~

¹² ~~Not all sale agreements require, nor do the terms of the Debtor's possession of human resources and payroll information always permit, disclosure and transfer of such information to the Purchaser. If disclosure and transfer of such information to the Purchaser is not required or permitted, then Section 10 of this Order should be deleted.~~

¹³ ~~The terms of the Permitted Encumbrance and Sale Agreement should be reviewed to determine whether an encumbrance also constitutes a charge against other assets not being sold (in addition to the Purchased Assets.) In that circumstance, absent agreement of the encumbrancer to the contrary, the Debtor may not be fully discharged so the encumbrancer does not lose its charge over the other assets it holds as security. Do not add the words "or the Debtor" to the end of paragraph 12 if an encumbrancer's claim against the Debtor should be reserved.~~

~~current employees. The Purchaser (or its nominee) 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) to which the Debtor was entitled.~~

MISCELLANEOUS MATTERS

~~15.12.~~ Notwithstanding:

- (a) the pendency of these proceedings and any declaration of insolvency made herein;
- (b) the pendency of any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended (the "BIA"), in respect of the Debtors, and any bankruptcy order issued pursuant to any such applications;
- (c) any assignment in bankruptcy made in respect of the Debtors; and
- (d) the provisions of any federal or provincial statute:

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 the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a transfer at undervalue, settlement, fraudulent preference, assignment, fraudulent conveyance, 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.

~~13.~~ The Receiver, Workingman, the Purchasers (or ~~its~~ their nominees) and any other interested party, shall be at liberty to apply for further advice, assistance and direction 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~~ Second Auction Sale.

~~The Receiver's activities are hereby ratified and approved.~~

~~16.14.~~ This Honourable Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any of its provinces or territories or in any foreign jurisdiction, to act in aid of and to be complimentary to this Court in carrying out the terms of this Order, to give effect to this Order and to assist the 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 order and to provide such assistance to the Receiver, as an officer of the Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

15. The Receiver's activities as set out in the Receiver's Reports are hereby ratified and approved.

16. The Receiver's Charge included at paragraph 19 of the Limited Receivership Order is increased from \$50,000 to \$100,000 in the aggregate.

17. Service of this Order shall be deemed good and sufficient by:

(a) Serving the same on:

- (i) the persons listed on the service list created in these proceedings;
- (ii) any other person served with notice of the application for this Order; and
- (iii) any other parties attending or represented at the application for this Order;
- ~~(iv) the Purchaser or the Purchaser's solicitors; and~~

(b) Posting a copy of this Order on the Receiver's website at:

~~<https://mnpdebt.ca/en/corporate/corporate-engagements/radiant-technologies-inc>~~

and service on any other person is hereby dispensed with.

18. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.

Schedule "A"

Form of Receiver's Certificate

COURT FILE NUMBER	<u>2203 13202</u>	Clerk's Stamp
COURT	COURT OF QUEEN'S BENCH OF ALBERTA	
JUDICIAL CENTRE	<u>EDMONTON</u>	
PLAINTIFF	<u>MOSKOWITZ CAPITAL MORTGAGE FUND II INC.</u>	
DEFENDANT	<u>1631807 ALBERTA LTD., RADIANT TECHNOLOGIES INC., and RADIANT TECHNOLOGIES (CANNABIS) INC.</u>	
DOCUMENT	RECEIVER'S CERTIFICATE	
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	<u>McLENNAN ROSS LLP</u> <u>#600 McLennan Ross Building</u> <u>12220 Stony Plain Road</u> <u>Edmonton, AB T5N 3Y4</u> <u>Lawyer: Ryan Trainer</u> <u>Telephone: 780.482.9153</u> <u>Fax: 780.733.9716</u> <u>Email: ryan.trainer@mross.com</u> <u>File No.: 20230959</u>	

RECITALS

- A. Pursuant to an Order of the Honourable Justice [Name]D.R. Mah of the Court of Queen's Bench of Alberta, Judicial District of Edmonton (the "Court") dated [Date of Order]March 21, 2023, [Name of Receiver]MNP Ltd. was appointed as the receiver (the "Receiver") of the undertakings, property and assets of [Debtor] of certain personal property of 1631807 ALBERTA LTD. and RADIANT TECHNOLOGIES INC (the "Debtors").
- ~~B. Pursuant to an Order of the Court dated [Date], the Court approved the agreement of purchase and sale made as of [Date of Agreement] (the "Sale Agreement") between the Receiver and [Name of Purchaser] (the "Purchaser") 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 section * of 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.~~

- B. Pursuant to an Order of the Court dated July 19, 2023 (the "Sale Approval and Vesting Order"), the Court approved the second auction sale proposed by Workingman Capital Corp. ("Workingman") and the related auction sale (the "Second Auction Sale") of the assets of the Debtors (the "Purchased Assets") and provided for the vesting in the Purchased Assets to the end purchasers ("Purchaser" or "Purchasers") after Workingman completes the proposed Auction Sale of the Debtors' 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 Workingman of a certificate confirming (i) the payment by the Purchasers of the purchase price (the "Purchase Price") for the Purchased Assets; and (ii) the Auction Sale has been completed to the satisfaction of the Receiver.
- C. Unless otherwise indicated herein, capitalized terms have the meanings set out in the Sale Auction Agreement.

THE RECEIVER CERTIFIES the following:

1. ~~The Purchaser (or its nominee)~~ Workingman has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Second Sale Auction Agreement;
2. The conditions to Closing as set out in ~~section * of the Sale~~ the Auction Agreement have been satisfied or waived by the Receiver and the Purchaser (or its nominee); ~~and~~
3. The ~~Transaction~~ Second Auction Sale has been completed to the satisfaction of the Receiver. and
4. This Certificate was delivered by the Receiver at [Time] _____ on [Date] _____, 2023.

[Name of Receiver] MNP LTD., in its capacity as Receiver of the undertakings, property and assets of [Debtor] personal property of 1631807 ALBERTA LTD. and RADIANT TECHNOLOGIES INC. as described in the Limited Receivership Order, and not in its personal capacity.

Per; _____

Name: Kristin Gray

Title: Senior Vice President