



No. H100866
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN

2090782 ONTARIO INC., CAMTREV INVESTMENTS LTD.,
LAWSON'S NEW WORLD INC., and
ANTHEM SQUAMISH POWER CENTRE LIMITED PARTNERSHIP

PETITIONERS

AND:

SQUAMISH JV LTD., OSTRANDER LODGING GROUP LTD.,
BRIAN JOHN KEITH OSTRANDER, STEELHEAD INDUSTRIES LTD.,
OLYMPIC ROOFING LTD., BLUELINE DRYWALL (WHISTLER IV) LTD.,
ALLMAR DISTRIBUTORS LTD. doing business as ALLMAR INTERNATIONAL,
ALKA POOL CONSTRUCTION LTD., OTIS CANADA INC.,
RONA REVY INC., PIPELINE MECHANICAL INC.,
GRANITE ART MASONRY LTD., 7 STAR SECURITY SERVICES INC.,
COLTER DEVELOPMENTS LTD. doing business as COLTER DEVELOPMENTS,
NORTHWEST SHEET METAL LTD., STUART OLDALE doing business as OLDALE &
SONS, NU FRAME INC., VALLEY TRUSS LTD.,
635913 B.C. LTD. doing business as MUSTANG CONTRACTING CORP.,
GRANT CHEESEMAN, ALPINE PAVING (1978) LTD., GORDON MACKENZIE
ARCHITECT INC., BLACK DIAMOND STEEL PRODUCTS LTD.,
FISHER PAINTING LTD., C&E BUILDING PRODUCTS INC.

RESPONDENTS

NOTICE OF APPLICATION

Name of applicant: Meyers Norris Penny Limited, receiver and manager appointed in Supreme Court of British Columbia Action No. S105562, Vancouver Registry (with such court action hereinafter referred to as "Receivership Action" and with Meyers Norris Penny Limited as such receiver manager hereinafter referred to as the "Receiver")

To: **All Parties identified in Schedule "A" (Application List) to this Notice of Application;**

TAKE NOTICE that an application will be made by the applicant to the presiding judge or master at the Courthouse at 800 Smithe Street, Vancouver, British Columbia on Monday, April 4, 2011 at 9:45 a.m. for the orders set out in Part 1 below.

Part 1 ORDERS SOUGHT

1. Order approving the sale of the property subject of the Receivership Action and of this proceeding to Northland Properties Corporation at the price of \$5,750,000, and providing for the vesting of such property in Northland Properties Corporation, all in the form of Order attached as Schedule "B" to this Notice of Application.

Part 2 FACTUAL BASIS

1. By an order made on November 24, 2010 in the Receivership Action (the "Receiver Order"), Meyers Norris Penny Limited was appointed as receiver and manager of the assets, undertakings and properties of Squamish JV Ltd.
2. The property subject of the receivership is a hotel in Squamish in British Columbia. With respect to the hotel:
 - (a) it is a 3 storey wood construction 95 room facility, including 35 suites;
 - (b) its construction was completed in February of 2010;
 - (c) some work remains to be done with respect to it, including construction of a pool and a water slide;
 - (d) some of the equipment and furnishings is not owned by Squamish JV Ltd. but instead is subject of leases with third parties.
3. Under the Receivership Order the Receiver was, among other matters, authorized to sell the property subject of the receivership, with any sale subject to court approval (subject to some exceptions which do not apply at this time).
4. The Receiver has entered into an agreement to sell the property subject of the Receivership Action and of this proceeding, and seeks Court approval of that sale.

Marketing Information

5. The marketing information is set out in the supporting affidavit of Tom Andrews, a realtor with Colliers.
6. The shareholders of Squamish JV Ltd. had previously retained Colliers Macaulay Nicolls (BC) Ltd. ("Colliers") and CB Richard Ellis Limited. ("CB Richard"), commercial real estate firms, to market the property. That marketing was commenced in September of 2009 and formally continued until approximately February of 2011. After that time, Colliers and CB Richard continued to work with the shareholders. That activity resulted only in a handful of investors who expressed mild interest in the property, but no offers were generated.
7. On or about December 15, 2010 the Receiver retained Colliers and CB Richard to market the property.

8. The marketing efforts included the following:
 - (a) preparation and distribution of a marketing brochure;
 - (b) electronic distribution of marketing materials to Colliers and CB Richard lists of approximately 960 potential hotel investors (corporate and individual) and operators, lenders, and including regional hotel chains;
 - (c) the property was listed on Colliers and CB Richard websites in early January 2011;
 - (d) the property was advertised in the Vancouver Sun two times and in the Calgary Herald two times, in January 2011;
 - (e) the property was posted on "Loop Net", a comprehensive internet website for commercial properties for sale across North America;
 - (f) Colliers and CB Richard personally contacted approximately 40 potential buyers; and
 - (g) an electronic data room was established with information with respect to the property, and access was provided to potential interested purchasers who executed confidentiality agreements.
9. The results of the marketing efforts were as follows:
 - (a) Colliers and CB Richard received approximately 75 expressions of interest. Of these 29 (including 7 agent brokers) executed confidentiality agreements. Of these 29, 4 had looked at the property when it was being marketed by Squamish JV Ltd. shareholders, and 25 were new; and
 - (b) 12 groups of potential buyers toured the property. These groups included operators of hotel properties as well as investors.
10. The Receiver received two offers for the property, as follows:
 - (a) an unconditional offer from Northland Properties Corporation at \$5,750,000; and
 - (b) a conditional offer from a third party, at a lower amount.
11. The Receiver has accepted the offer from Northland Properties Corporation, subject to Court approval.

The Northland Properties Corporation Agreement
12. In the Receiver's view the proposed Northland transaction represents the best recovery. Significant terms of the agreement with Northland Properties Corporation are as follows:

- (a) Purchase price - \$5,750,000;
 - (b) Conditions precedent – court approval;
 - (c) Closing – 10 business days after court approval;
 - (d) Payment of the purchase price – the purchaser will pay the net purchase price to the Receiver’s solicitors on the usual “pending application” basis, but the Receiver’s solicitors will not be able to distribute the monies to the Receiver until after title to the land has been issued in the name of the purchaser. This was a negotiated term of the transaction;
 - (e) Purchase price allocation was negotiated and in the end agreed as follows:
 - (i) Land - 6% of the overall price;
 - (ii) Improvements - 64% of the overall price; and
 - (iii) Personal property - 30% of the overall price.
13. In addition to the marketing, the Receiver had obtained an appraisal report with respect to the property. That reports is not being filed, but the proposed price is better than the appraisal.
14. The Receiver recommends that the Court approve the Northland Properties Corporation agreement and the transaction subject of that agreement.

Additional Information

15. The hotel operation is losing money. The shareholders in the owner company have given no indication of willingness to fund ongoing losing operations.

Part 3 LEGAL BASIS

- 1. Supreme Court Civil Rules: Rules 13-5
- 2. Supreme Court Civil Rules: Rules 22-1
- 3. Order granted in the Receivership Action on November 24, 2010

Part 4 MATERIAL TO BE RELIED ON

- 1. Order granted in the Receivership Action on November 24, 2010;
- 2. Affidavit #1 of Sera Hallett sworn March 22, 2011 and filed, and exhibiting:
 - (a) Interim Receiver’s First Report to the Court in Action No. S105562 dated September 15, 2010;

- (b) Interim Receiver's Second Report to the Court in Action No. S105562 dated October 25, 2010; and
- (c) Interim Receiver's Third Report to the Court in Action No. S105562 dated November 8, 2010.

3. Affidavit #2 of Sera Hallett sworn March 22, 2011 and filed, and exhibiting:

- (a) Receiver's Report in Supreme Court of British Columbia Action S105562 Vancouver Registry – Exhibit "A";
- (b) Title to the lands subject of these proceedings – Exhibit "B"; and
- (c) Personal Property Registry search – Exhibit "C".

4. Affidavit of Tom Andrews of Colliers sworn March 14, 2011 and filed;

The applicant estimates that the application will take 15 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 proceeding, and
- (c) service 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).

Dated: 22-Mar-2011

Vicki Tickle

Signature of Vicki Tickle

Applicant

Lawyer for Applicant

To be completed by the court only:

Order made

in the terms requested in paragraphs of Part 1 of this Notice of Application

with the following variations and additional terms:

.....
.....
.....

Date:

.....
Signature of Judge Master

The Solicitors for Meyers Norris Penny Limited, the Receiver appointed in Supreme Court of British Columbia Action No. S105562, are Fasken Martineau DuMoulin LLP, whose office address and address for delivery is 2900 - 550 Burrard Street, Vancouver B.C. V6C 0A3 Telephone: 604 631 3131 Facsimile: 604 631 3232. (Reference: 278733.00004/MJP)

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

Schedule "A"

List of Parties to whom notice of the application is given

Application List

Tab	Party Name	Claim Reference	Address for Delivery
1	Squamish JV Ltd.	(Owner)	John McLean and Scott Anderson Gowling Lafleur Henderson LLP Paul J. Pidde Walsh Wilkins Creighton LLP
1A	Concentra Financial Services Association / Servus Credit Union Ltd. (Plaintiff – S105562)	Mortgage BB922399 Assignment of Rents BB922400 Personal Property Registration 803641E	William Roberts Lawson Lundell LLP
2	2090782 Ontario Inc. (Petitioner – H100866)	Mortgage BB922401 Certificate of Pending Litigation BB1170078	Shawn A. Poisson Koffman Kalef LLP
3	Olympic Roofing Ltd.	Claim of Builders Lien BB1454198	David K. Plunkett Whitelaw Twining Law Corporation
4	Blueline Drywall (Whistler IV) Ltd.	Claim of Builders Lien BB1149113	Peter J. Goodwin Goodwin & Mark
5	Allmar Distributors Ltd. dba Allmar International	Claim of Builders Lien CA1489918	Philip Di Tomaso McKechnie & Company
6	Otis Canada Inc.	Claim of Builders Lien BB45667	George A. Jones Burke & Jones
7	Rona Revy Inc.	Claim of Builders Lien BB1457844	David A. McMillan
8	Pipeline Mechanical Inc.	Claim of Builders Lien BB1250465 Certificate of Pending Litigation BB1464172	Perry A. Mazzone DuMoulin Boskovich LLP

Tab	Party Name	Claim Reference	Address for Delivery
9	7 Star Security Services Inc.	Claim of Builders Lien BB1459867 Certificate of Pending Litigation BB1475828	Pir Indar P.S. Sahota Sahota Law Office
10	Colter Developments Ltd. doing business as Colter Developments	Claim of Builders Lien CA1509517	Donald A. Thompson Jenkins Marzban Logan LLP
11	Northwest Sheet Metal Inc.	Claim of Builders Lien CA1512217 Certificate of Pending Litigation BB1742013	Adnan N. Habib Baker Newby LLP
12	Stuart Oldale doing business as Oldale & Sons	Claim of Builders Lien BB48410	Stuart Oldale Oldale & Sons
13	635913 BC Ltd.	Claim of Builders Lien BB1255130	G. Stephen Hamilton Hammerberg Altman Beaton & Maglio LLP
14	Alpine Paving (1978) Ltd.	Claim of Builders Lien BB1462763	Eamonn P. Morris Kane Shannon & Weiler
15	Gordon Mackenzie Architect Inc.	Claim of Builders Lien BB1463101	Benjamin La Borie Heenan Blaikie LLP
16	Black Diamond Steel Products Ltd.	Claim of Builders Lien BB1661144 Certificate of Pending Litigation BB1671079	Robert Doran
17	C & E Building Products Inc.	Claim of Builders Lien CA1649332	Daniel Tim C & E Building Products Inc.
18	Neon Sales and Service, division of Signcorp. Investments Ltd.	PPSA Notice BB41274	Neon Sales and Service, division of Signcorp Investments Ltd.

Schedule "B"

Form of Order Sought

No. H100866
Vancouver Registry

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2090782 ONTARIO INC., CAMTREV INVESTMENTS LTD.,
LAWSON'S NEW WORLD INC., and
ANTHEM SQUAMISH POWER CENTRE LIMITED PARTNERSHIP

PETITIONERS

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ALLMAR DISTRIBUTORS LTD. doing business as ALLMAR INTERNATIONAL,
ALKA POOL CONSTRUCTION LTD., OTIS CANADA INC.,
RONA REVY INC., PIPELINE MECHANICAL INC.,
GRANITE ART MASONRY LTD., 7 STAR SECURITY SERVICES INC.,
COLTER DEVELOPMENTS LTD. doing business as COLTER DEVELOPMENTS,
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ARCHITECT INC., BLACK DIAMOND STEEL PRODUCTS LTD.,
FISHER PAINTING LTD., C&E BUILDING PRODUCTS INC.

RESPONDENTS

ORDER MADE AFTER APPLICATION

BEFORE) THE HONOURABLE JUSTICE)
) or)
) A JUDGE OF THE COURT)
) or) / /
) MASTER)
) or)
) A MASTER OF THE COURT)

ON THE APPLICATION OF Meyers Norris Penny Limited, the receiver and manager appointed in Supreme Court of British Columbia Action No. S105562, Vancouver Registry (with such court

action hereinafter referred to as “Receivership Action” and with Meyers Norris Penny Limited as such receiver manager hereinafter referred to as the “Receiver”);

- coming on for hearing at Vancouver on this day and on hearing counsel for the Receiver, and those counsel and persons listed in the attached Schedule “A”, and no one else appearing; and
- and upon evidence having been provided to this Court that Notice of this application was given to Neon Sales and Service, a division of Signcorp Investments Ltd. (the party that filed a *Personal Property Security Act* notice under No. BB41274 against the Lands described below).

THIS COURT ORDERS THAT:

1. The sale to Northland Properties Corporation (“Purchaser”) of those assets defined as the “Purchased Assets” in the agreement dated for reference March 11, 2011, a copy of which agreement is attached as Exhibit “A” to the Receiver’s First Report to the Court (the “Report”) dated _____, 2011, on the terms and conditions as set out in that agreement (the referenced agreement being hereinafter referred to as the “Agreement”) and at the price of \$5,750,000 is hereby approved.
2. Upon registration at the Vancouver/New Westminster Land Title Office a certified copy of this Order together with a letter from Fasken Martineau DuMoulin LLP, solicitors for the Receiver, authorizing the registration of this Order, and subject to the terms of this Order, all of the right, title and interest of Squamish JV Ltd. in and to that certain parcel or tract of lands and premises situated in the District of Squamish and more particularly described as:

Parcel Identifier: 027-769-739
Lot 1, Section 3, Township 15, New Westminster District Plan
BCP39455,

(the “Lands”)

shall be transferred to and vest absolutely in the Purchaser in fee simple, without further instrument of transfer or discharge, free and clear of any estate, right, title, interest, equity of redemption, and other claims of the parties to this proceeding, and free and clear of any and all security interests, mortgages, trusts or deemed trusts, liens, executions, levies, charges or other financial monetary claims, whether contractual, statutory or otherwise, and whether or not they have attached or have been perfected, registered or filed, and whether at law or in equity, including, without limiting the generality of the foregoing:

- (i) *Personal Property Security Act* Notice registered against the title to the Lands under BB41274;

- (ii) any encumbrances or charges created by orders granted in the Receivership Action or in these proceedings, extant or made in the future;
- (iii) any claim of builders lien, or other claim, registered after Certificate of Pending Litigation BB1170078 as registered by the Petitioners in this proceeding; and
- (iii) any liens that may exist as a result of non-payment of any amounts required to be paid or remitted by Squamish JV Ltd. in respect of taxes, employees' wages, employees' deductions and payroll contributions required to be made by an employer in respect of employees' wages which, if not paid, would give rise to a lien against of the Purchased Assets which would remain as a lien against the Purchase Asset after the closing of the transaction subject of the Agreement,

but subject to the reservations, provisos, exceptions, and conditions expressed in the original grants from the Crown.

3. In order to carry out the sale of the Purchased Assets, or any of them, to the extent that the transfer thereof had not previously been effected by this Order, or as may otherwise be required to carry out the purpose and intent of this Order and of the Agreement, the Receiver is authorized to execute, on its own behalf and on behalf of any of the parties to the Receivership Action and to this proceeding, all such documents of transfer, bills of sale, assignments and other documents and instruments, under seal or otherwise, as may be required to effect the sale, transfer and assignment of the Purchased Assets or any of them to the Purchaser pursuant to the Agreement, and upon the execution by the Receiver of such documents of transfer, bills of sale, assignments and other documents and instruments as aforesaid, and upon delivery of the same by the Receiver to the Purchaser, together with a letter confirming such delivery:
- (a) with respect to those Purchased Assets the transfer of which does not require the consent of any third party (meaning a party that is not a party to the Receivership Action or this proceeding), all the right, title and interest of Squamish JV Ltd., in and to the Purchased Assets which are described therein, to the extent that the transfer thereof had not previously been effected by this Order, shall be transferred to and vest in the Purchaser upon such delivery, without further instrument of transfer; and
 - (b) with respect to those Purchased Assets the transfer of which does require the consent of any third party (meaning a party that is not a party to the Receivership Action or this proceeding), all the right, title and interest of Squamish JV Ltd. in and to the Purchased Assets which are described therein shall be transferred to and vest in the Purchaser upon the applicable third party giving such consent, without further instrument of transfer,

in each case free and clear of any estate, right, title, interest, equity of redemption, and other claims of the parties to this proceeding, and free and clear of any and all security interests, mortgages, trusts or deemed trusts, liens, executions, levies, charges or other financial monetary claims, whether contractual, statutory or otherwise, and whether or not they have attached or have been perfected, registered or filed, and whether at law or in equity, including, without limiting the generality of the foregoing:

- (i) any encumbrances or charges created by orders granted in the Receivership Action or in these proceedings, extant or made in the future;
- (ii) any encumbrances or charges in favour of Servus Credit Union Ltd.;
- (iii) any liens that may exist as a result of non-payment of any amounts required to be paid or remitted by Squamish JV Ltd. in respect of taxes, employees' wages, employees' deductions and payroll contributions required to be made by an employer in respect of employees' wages which, if not paid, would give rise to a lien against of the Purchased Assets which would remain as a lien against the Purchase Asset after the closing of the transaction subject of the Agreement.

4. The Receiver is authorized to execute:

- (a) on behalf of any of the parties to the Receivership Action and/or to this proceeding financing change statements, releases, and such other documents, instruments and discharges, and to effect on behalf of such parties the registration of such financing change statements, releases and other documents and instruments and discharges, at the Personal Property Registry and any other registry or office as may be required in order to cancel any registration at such registry or registries in relation to any of the Purchased Assets; and
- (b) on behalf of Neon Sales and Service, a division of Signcorp Investments Ltd., of a release and discharge of Personal Property Security Act Notice registered under No. BB41274 against the Lands.

5. The Receiver is hereby authorized to agree with the Purchaser to an extension of up to 14 days of the time for the closing of the transaction subject of the Agreement, and in such case all references in this Order to the Agreement shall be deemed to be references to the Agreement as so amended.

6. The Receiver is hereby authorized to pay from the proceeds of the sale:

- (a) all items subject to adjustment in respect of the sale, including outstanding property taxes and utilities, and any penalties or interest on any such charges, if not otherwise adjusted for with the Purchaser;
- (b) commission payable to the realtors that have been engaged by the Receiver with respect to the sale of the Purchase Assets; and
- (c) any borrowings previously made by the Receiver,

and after the making of such payments the balance of the proceeds received by the Receiver shall be dealt with in accordance with any existing or further Order of this Court.

7. The sale proceeds from the sale of each asset included in the Purchased Assets shall stand in the place and stead of the asset sold and, notwithstanding the Concentra Financial Services Association providing a discharge of mortgage and assignment of rents registered against the Lands under numbers BB922399 and BB922400 (collectively the "Concentra

Security”) and the registration of such discharge, all liens, claims, encumbrances and other interests that are attached to an asset prior to its sale (including without limitation the lien, claim and encumbrance as a result of the Concentra Security) shall, to the extent that they are not paid from the sale proceeds or otherwise, upon the closing of the sale of the Purchased Assets (and in case of the Concentra Security upon the registration of the discharge of that security) cease to be attached to or encumber or otherwise form a lien or a claim against the Purchased Assets and shall attach to the sale proceeds with the same validity, priority and in the same amounts, and subject to the same defences, that existed when the liens, claims, encumbrances and other interests were attached to the sold asset.

8. The Receiver and the Purchaser shall be at liberty to apply for such further and other directions as may be necessary to carry out the terms of this Order.

Signature of

Lawyer for Meyers Norris Penny Limited

BY THE COURT

REGISTRAR

SCHEDULE "A"

List of Counsel

Counsel

Represented Party

No. H100866
Vancouver Registry

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COLUMBIA**

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PARTNERSHIP**

PETITIONERS

AND:

SQUAMISH JV LTD., and OTHERS

RESPONDENTS

ORDER MADE AFTER APPLICATION

FASKEN MARTINEAU DuMOULIN LLP
Barristers & Solicitors
2900 - 550 Burrard Street
Vancouver, B.C., V6C 0A3
604 631 3131

Counsel: Marcel J. Peerson
Matter No: 278733.00004