

**SUPREME COURT
OF BRITISH COLUMBIA
VANCOUVER REGISTRY**

S1710510

No. _____
Vancouver Registry

NOV 10 2017

IN THE SUPREME COURT OF BRITISH COLUMBIA



**IN THE MATTER OF THE RECEIVERSHIP OF
0744860 B.C. LTD.**

BETWEEN:

**BOALE, WOOD & COMPANY LTD.
in its capacity as TRUSTEE IN BANKRUPTCY OF
MARIA YUEN-MAI KWONG a.k.a. MARIA KWONG**

PETITIONER

AND:

0744860 B.C. LTD.

RESPONDENT

PETITION TO THE COURT

THIS IS THE PETITION OF:

Boale, Wood and Company Ltd.
c/o Watson Goepel LLP
1200 – 1075 West Georgia
Vancouver, BC V6E 3C9

TO: 0744860 B.C. Ltd.
111 W. 3rd Street
North Vancouver, BC V7M 1E7

TO: Gulf & Fraser Fisherman's Credit Union
c/o Harrop Phillips Powell & Gray LLP
400 – 110 Cambie Street
Vancouver, BC V6B 2M8

AND TO: John Combs
c/o John McLean QC
Gowling WLG (Canada) LLP
550 Burrard Street Suite 2300, Bentall 5
Vancouver, British Columbia, V6C 2B5

AND TO:

Chartell Properties Ltd.
c/o John McLean QC
Gowling WLG (Canada) LLP
550 Burrard Street Suite 2300, Bentall 5
Vancouver, British Columbia, V6C 2B5

AND TO:

Thomas Tsang
c/o Axis Law
1500 – 701 West Georgia Street
Vancouver, British Columbia V7Y 1C6

This proceeding has been started by the petitioner for the relief set out in Part 1 below.

If you intend to respond to this petition, you or your lawyer must

- (a) file a response to petition in Form 67 in the above-named registry of this court within the time for response to petition described below, and
- (b) serve on the petitioner
 - (i) 2 copies of the filed response to petition, and
 - (ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.

Time For Response to Petition

A response to petition must be filed and served on the petitioner,

- (a) if you reside anywhere within Canada, within 21 days after the date on which a copy of the filed petition was served on you,
- (b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed petition was served on you,
- (c) if you reside elsewhere, within 49 days after the date on which a copy of the filed petition was served on you, or
- (d) if the time for response has been set by order of the court, within that time.

(1)	The address of the registry is: 800 Smith Street, Vancouver, B.C.
(2)	The ADDRESS FOR SERVICE of the Petitioner is: Jeremy West c/o Watson Goepel LLP Barristers & Solicitors 1200 -1075 West Georgia Street Vancouver, British Columbia, V6E 3C9 Fax number address for service (if any) of the Petitioner: 604-688-8193 E-mail address for service (if any) of the Petitioner: N/A
(3)	The name and office address of the Petitioner's lawyer is: Jeremy West Watson Goepel LLP Barristers & Solicitors 1200 -1075 West Georgia Street Vancouver, British Columbia, V6E 3C9

CLAIM OF THE PETITIONER

Part 1: ORDERS SOUGHT

1. A declaration that in order to facilitate the orderly disposition of the estate of Maria Yuen-Mai Kwong (Bankruptcy Court File No. 11-2266985) it is just, equitable and appropriate to appoint the Petitioner, Boale Wood & Company Ltd. (the "Trustee") as receiver and receiver manager of 0744860 B.C. Ltd. (the "Company");

2. An Order appointing the Trustee as receiver and receiver manager of the assets of the Company substantially in the form attached as Schedule “A” to this Petition, being a blacklined copy of the Model Receivership Order; and
3. Costs of the proceedings.

Part 2: FACTUAL BASIS

The Parties

4. Boale, Wood and Company Ltd. (the “Trustee”) is a company incorporated pursuant to the laws of British Columbia, with an address for service in these proceedings of 1200 – 1075 West Georgia Street, Vancouver, BC V6E 3C9. The Trustee is the trustee of the estate of Maria Yuen-Mai Kwong a.k.a. Maria Kwong in bankruptcy and is currently in the process of administering the estate (the “Estate”).
5. Mrs. Kwong is a pharmacist residing in West Vancouver, British Columbia.
6. 0744860 B.C. Ltd. (the “Company”) is incorporated pursuant to the laws of British Columbia. Mrs. Kwong is the sole director and officer of the Company and at the time of her assignment owned 100% of the issued shares (the “Shares”) in the Company.
7. Gulf & Fraser Fisherman’s Credit Union (“Gulf”) is a financial institution which has mortgage security registered against real property owned by the Company.
8. John Combs is a businessman residing at 5025 Orbitor Drive, Building 4 & 5, Suite 400, Mississauga, Ontario L4V 1W1.
9. Chartell Properties Ltd. (“Chartell”) is a company which has mortgage security registered against real property owned by the Company.
10. Mr. Jeffery Wu of Wu & Company Chartered Accountants is a director of Chartell and has advised that he has previously provided accountancy services for Mr. Combs. Chartell and Mr. Combs are jointly represented by Mr. John McLean QC of Gowling WLG (Canada) LLP.

11. Thomas Tsang is the spouse of Mrs. Kwong, has commenced matrimonial proceedings pursuant to the *Family Law Act* against the Bankrupt and the Company and has registered a certificate of pending litigation against real property owned by the Company.

Assignment in Bankruptcy and the Resulting Proceedings

12. On June 26, 2017 Mrs. Kwong filed a Notice of Intention to make a Proposal with the Office of the Superintendent of Bankruptcy under s.50.4 of the *Bankruptcy and Insolvency Act* (the “BIA”) (the “NOI”).
13. Mrs. Kwong failed to submit a proposal within the specified timeframe as a result of which, she was deemed to have made an assignment in bankruptcy on July 26, 2017 pursuant to s. 50.4(8) of the *BIA*, and the Trustee was appointed trustee of the Estate.
14. On August 16, 2017, the Trustee convened the First Meeting of Creditors at which time:
 - (a) the Trustee made an initial report to the creditors (the “Creditors”);
 - (b) the Creditors confirmed the Trustee’s appointment; and
 - (c) Mahamud Jinnah and Alan Frydenlund QC were appointed as inspectors of the Estate.
(the “Inspectors”).
15. The Trustee is in the process of identifying Mrs. Kwong’s liabilities and securing and realizing the assets of the Estate.

The Operations of the Company

16. Mrs. Kwong is the sole shareholder of the Shares.
17. The Trustee has secured the Company minute book and is not aware of any shareholders agreement or restrictions on transfer of the Shares.
18. The Shares comprise part of the Estate as by operation of s. 71 of the *BIA*, on the assignment the Shares of the Company immediately passed to and vest in the Trustee’s name.

19. The Trustee has carried out investigations into the affairs of the Company and based on the information received has determined that:

(a) the Company's primary asset is a piece of real property located at:

111 3rd Street West,
North Vancouver, British Columbia, V7M 1E7

PID:015-131-696

Lot 10, Block 140, District Lot 274, Plan 879

(the "Property")

(b) retail/office space at the Property is presently leased as follows:

Starbucks Coffee Canada, Inc.:	\$5,839.58
Pink magnolia Nails (sic.):	\$1,855.16
Victor Anderson's Pharmacy (1977) Ltd.:	\$1,575.00
Thomas Tsang:	\$0.00

(the "Tenants")

(c) annual rents of approximately \$111,236.88 are being realized from the Property;

(d) Mrs. Kwong is the sole director of Victor Anderson's Pharmacy (1977) Ltd and owns 100% of the issued shares. Those shares have also vested in the Trustee;

(e) the following encumbrances are registered against tile to the Property:

- i. Mortgage, Registration No. CA3401722 in favour of Gulf (the "Gulf Mortgage");
- ii. Assignment of Rents, Registration No. CA3401723 in favour of Gulf;
- iii. Mortgage, Registration No. CA5781118 in favour of Chartell;
- iv. Certificate of Pending Litigation, Registration No. CA5999051 in favour of Mr. Tsang

(collectively, the "Encumbrances")

20. As a result of her assignment Mrs. Kwong is disqualified, by operation of Section 124 of the *Business Corporations Act*, from acting as a director of the Company and it does not have an active director or anyone presently controlling its affairs.
21. The Trustee has been able to access certain bank records for the Company from Mrs. Kwong which suggest a negative variance on the rents collected versus owing of approximately \$35,000.
22. It is also unclear who is dealing with the operating expenses for the Property.
23. The most recent advice received by the Trustee from Gulf is that the Gulf Mortgage is current but the Trustee has been unable to determine who is attending to management and payment of the Company's day-to-day financial obligations. As of July 1, 2017 the amount due and owing on the Gulf Mortgage was \$1,489,698.21.
24. On October 19, 2017 counsel for Mr. Combs and Chartell provided to the Trustee a copy of letter which was sent to the Company making demand for the sum \$1,049,333, together with interest accruing at a rate of 12% per annum and costs, expenses, taxes legal fees and other expenses allegedly owing to Chartell/Mr. Combs. The letter also enclosed a Notice of Intention to Enforce Security issued pursuant to the *Bankruptcy and Insolvency Act* (the "244 Demand").
25. Counsel for Mr. Combs and Chartell has advised that he is in the process of preparing foreclosure proceedings for filing.
26. The Trustee has been advised by the Company's insurance broker that insurance for the Property is current but the Company is in arrears to the broker for that payment and he is demanding payment.
27. The Trustee is not presently aware of:
 - (a) any employment and/or service agreements with the Company; or
 - (b) any partnership, joint venture, profit-sharing agreement, or similar arrangement involving the Company.

28. In order to properly maximize the value of the Shares the Trustee:
- (a) needs to be in a position to understand and manage the affairs of the Company;
 - (b) requires access to the records and information of the Company;
 - (c) needs to be in a position to deal with creditors of the Company; and
 - (d) needs to be in a position to deal with and realize the assets of the Company.

Appointment as receiver

29. The Trustee has commissioned a preliminary broker's opinion from CBRE Limited as to the value of the Property which indicates a value of \$4,000,000-\$4,600,000. Cushman Wakefield has also provided a preliminary indication that the Property would be best marketed through a competitive bid process and may secure offers in the \$3,000,000 to mid \$4,000,000 range.
30. As a result of the assignment, ownership of the Shares has vested in the Trustee. The Inspectors have directed the Trustee to take steps to preserve the value of the Shares and assume control of the Company.
31. There is currently no effective management of the Company to:
- (a) attend to the ongoing rental operations and cash flow management;
 - (b) ensure payment of ongoing expenses like insurance;
 - (c) respond to and defend (where appropriate) the foreclosure action intimated by Chartell and Mr. Combs;
 - (d) preserve and realize on the assets of the Company in the best interests of its creditors and the shareholder; and
 - (e) organize an orderly sale of the Company's assets.
32. Based on the information received to date an orderly liquidation of the assets of the Company will result in returns greater than the secured claims presently advanced as

listed herein. As a result of the lack of management, the company is paralyzed and unable to take steps to address the various issues to preserve and protect its assets

33. It is in the best interests of the Company, its creditors and the Estate and the Creditors that the Trustee be appointed so that the assets of the Company are managed in an orderly fashion to secure recovery to all parties involved. This is particularly so in light of the advice that foreclosure proceedings, by Chartell and Mr. Combs, are imminent and based on the information received to date there is significant equity in the Property which will ultimately be available to the Estate if an orderly sale of the Property is achieved.

Part 3:LEGAL BASIS

34. The Trustee relies on:

- (a) the *Law and Equity Act* R.S.B.C. 1997, c.224, as amended (the “*LEA*”), and in particular s. 39 thereof;
- (b) the *Business Corporations Act*, S.B.C. 2002, c.57, as amended (the “*BCA*”), and in particular s. 124, s. 227 and s.324 thereof;
- (c) the *Bankruptcy and Insolvency Act* R.S.C. 1985, c. B-3;
- (d) the *Supreme Court Civil Rules*, B.C. Reg. 168/2009, as amended, and in particular Rules 2-1, 8-1, 8-5, 10-2, 16-1, 22-1 and 22-4 thereof;
- (e) this Honourable Court’s original, auxiliary and ancillary jurisdiction in bankruptcy under s. 183 of the *BIA*; and
- (f) the inherent jurisdiction of this Honourable Court.

35. Section 39 of the *LEA* authorizes the appointment of a receiver where it appears to the Court to be just or convenient to do so.

36. Section 324(1)(b) of the *BCA* confers a broad discretion to order that a company be liquidated and dissolved if the Court considers it just and equitable to do so. If the test

for a liquidation order is satisfied, s.324(3)(b) authorizes the making of any other order available under s. 227(3) of the *BCA*

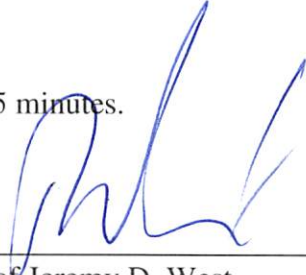
37. Section 227(3) confers a broad discretion to order whatever remedy is appropriate in the circumstances, including the appointment of a receiver.
38. The appointment of a receiver is necessary, just and equitable to preserve, protect and recover on the assets of the Company for the benefit of its creditors and the Estate.

Part 4: MATERIAL TO BE RELIED ON

39. Affidavit of Stephen Boale made on November 9, 2017;
40. Consent to Act as Liquidator; and
41. Such further and other materials as the Petitioner may advise and this Honourable Court may permit.

The Petitioner estimates that the application will take 45 minutes.

Date: November 9, 2017



Signature of Jeremy D. West
Lawyer for Petitioner

To be completed by the court only:

Order made

in the terms requested in paragraphs _____ of Part 1 of this Petition

with the following variations and additional terms:

Date: _____

Signature of Judge Master

Schedule "A"

No. _____
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE RECEIVERSHIP OF
0744860 B.C. LTD.

BETWEEN:

BOALE, WOOD & COMPANY LTD.
in its capacity as TRUSTEE IN BANKRUPTCY OF
MARIA YUEN-MAI KWONG a.k.a. MARIA KWONG

PETITIONER

AND:

0744860 B.C. LTD.

RESPONDENT

ORDER

BEFORE THE HONOURABLE) _____ DAY, THE ____ DAY
)
_____ JUSTICE _____) OF _____ 201_.
)

ON THE APPLICATION of the Petitioner for an Order pursuant to Section 324 of the Business Corporation Act, S.B.C. 2002, c. 57 as amended (the "BCA") and Section 39 of the Law and Equity Act, R.S.B.C. 1996 c. 253, as amended (the "LEA") appointing Boale, Wood & Company Ltd. ("BWC") as Receiver-Manager (in such capacity, the "Receiver") without security, of all of the assets, undertakings and properties of 0744860 B.C. Ltd. (the "Company") acquired for, or used in relation to a business carried on by the Company, coming on for hearing this day at the Courthouse at 800 Smithe Street, Vancouver, British Columbia.

AND ON READING the Petition dated November 9, 2017, the Affidavit #1 of Stephen Boale sworn November 9, 2017 and the consent of BWC to act as the Receiver; AND ON HEARING Jeremy D. West, Counsel for the Petitioner and other counsel as listed on Schedule "A" hereto, and no one appearing for the Company, although duly served.

THIS COURT ORDERS AND DECLARES that:

1. The time for service of the Petition, any Response to Petition, the Affidavits therein, and all related materials is abridged, if necessary, and any further service of the above documents is dispensed with.

APPOINTMENT

2. Pursuant to Section 324 of the BCA and Section 39 of the LEA Boale, Wood & Company Ltd. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Company of every kind and nature whatsoever, including all proceeds thereof (the “**Property**”).

RECEIVER'S POWERS

3. The Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
 - (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
 - (b) to receive, preserve and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
 - (c) to manage, operate and carry on the business of the Company, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the other business, or cease to perform any contracts of the Company;
 - (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including, without limitation, those conferred by this Order;
 - (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Company or any part or parts thereof;
 - (f) to receive and collect all monies and accounts now owed or hereafter owing to the Company and to exercise all remedies of the Company in collecting such monies, including, without limitation, to enforce any security held by the Company;
 - (g) to settle, extend or compromise any indebtedness owing to the Company;
 - (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Company, for any purpose pursuant to this Order;

- (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Company;
- (j) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Company, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (k) to 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 Receiver in its discretion may deem appropriate;
- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business:
 - (i) without the approval of this Court in respect of any transaction not exceeding \$50,000.00, provided that the aggregate consideration for all such transactions does not exceed \$200,000.00; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause,and in each such case notice under Section 59(10) of the *Personal Property Security Act*, R.S.B.C. 1996, c. 359 shall not be required;
- (m) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (o) to register, or maintain the registration of, a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if considered necessary or appropriate by the Receiver, in the name of the Company;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Company, including, without limitation, the ability to enter into occupation agreements for any property owned or leased by the Company;

- (r) to exercise any shareholder, partnership, joint venture or other rights which the Company may have; and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Company, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. Each of (i) the Company, (ii) all of the Company's current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependent on maintaining possession) to the Receiver upon the Receiver's request.
5. All Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Company, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.
6. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by an independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including, without limitation, providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all

access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

7. No proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE COMPANY OR THE PROPERTY

8. No Proceeding against or in respect of the Company or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Company or the Property are hereby stayed and suspended pending further Order of this Court; provided, however, that nothing in this Order shall prevent any Person from commencing a Proceeding regarding a claim that might otherwise become barred by statute or an existing agreement if such Proceeding is not commenced before the expiration of the stay provided by this paragraph and provided that no further step shall be taken in respect of Proceeding except for service of the initiating documentation on the Company and the Receiver.

NO EXERCISE OF RIGHTS OR REMEDIES

9. All rights and remedies (including, without limitation, set-off rights) against the Company, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that nothing in this Order shall (i) empower the Receiver or the Company to carry on any business which the Company is not lawfully entitled to carry on, (ii) affect the rights of any regulatory body as set forth in section 69.6(2) of the BIA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien. The stay and suspension shall not apply in respect of any "eligible financial contract" as defined in the BIA.

NO INTERFERENCE WITH THE RECEIVER

10. No Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Company, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

11. All Persons having oral or written agreements with the Company or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services of any kind to the Company are hereby restrained until further Order of this Court from

discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Company's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Company or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

12. All funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever including, without limitation, the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post-Receivership Accounts**") and the monies standing to the credit of such Post-Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further order of this Court.

EMPLOYEES

13. Subject to the right of employees to terminate their employment notwithstanding paragraph 11, all employees of the Company shall remain the employees of the Company until such time as the Receiver, on the Company's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities of the Company, including any successor employer liabilities as provided for in Section 14.06(1.2) of the BIA, other than amounts the Receiver may specifically agree in writing to pay and amounts in respect of obligations imposed specifically on receivers by applicable legislation. The Receiver shall be liable for any employee-related liabilities, including wages, severance pay, termination pay, vacation pay, and pension or benefit amounts relating to any employees that the Receiver may hire in accordance with the terms and conditions of such employment by the Receiver.
14. Pursuant to Section 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 or Section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c. 63, the Receiver may disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such

information by the Company, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. Nothing in this Order shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release, or deposit of a substance contrary to any federal, provincial or other law relating to the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, 1999, S.C. 1999, c. 33, the *Fisheries Act*, R.S.C. 1985, c. F-14, the *Environmental Management Act*, R.S.B.C. 1996, c. 118 and the *Fish Protection Act*, S.B.C. 1997, c. 21 and regulations thereunder (collectively "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless the Receiver is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

16. The Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except:
- (a) any gross negligence or wilful misconduct on its part; or
 - (b) amounts in respect of obligations imposed specifically on receivers by applicable legislation.

Nothing in this Order shall derogate from the protections afforded the Receiver by Section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

17. The reasonable fees and disbursements of the Receiver and its legal counsel, in each case at their standard rates and charges, shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to Sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.
18. The Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Supreme Court of British Columbia and may be heard on a summary basis.

19. Prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

20. The Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$200,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as the Receiver deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the **“Receiver’s Borrowings Charge”**) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge and the charges as set out in Sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.
21. Neither the Receiver’s Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.
22. The Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule “A” hereto (the **“Receiver’s Certificates”**) for any amount borrowed by it pursuant to this Order.
23. The monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver’s Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver’s Certificates.

ALLOCATION

24. That any interested party may apply to this Court on notice to any other party likely to be affected, for an order allocating the Receiver’s Charge and Receiver’s Borrowings Charge amongst the various assets comprising the Property.

GENERAL

25. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
26. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Company.

27. This Court requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction, wherever located, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All such courts, tribunals and regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this 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.
28. The Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal or regulatory or administrative body, wherever located, for recognition of this Order and for assistance in carrying out the terms of this Order and the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
29. The Petitioner shall have its costs of this motion, up to and including entry and service of this Order, on a substantial indemnity basis to be paid by the Receiver from the Company's estate with such priority and at such time as this Court may determine.
30. Any interested party may apply to this Court to vary or amend this Order on not less than seven (7) clear business days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.
31. Any report to the Court filed or required to be filed by the Receiver shall be posted on the Receiver's website at _____ and such posting shall constitute good service and delivery to all interested parties, provided that the Receiver has advised each party having filed a Response of the website address.
32. Endorsement of this Order by counsel appearing on this application other than the Petitioner is hereby dispensed.

THE FOLLOWING PARTIES APPROVE OF THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

APPROVED BY:

Jeremy D. West
Counsel for the Petitioner

BY THE COURT

REGISTRAR

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that Boale, Wood & Company Ltd., the Receiver-Manager (the "**Receiver**") of all of the assets, undertakings and properties of 0744860 B.C. Ltd. (the "Company") acquired for, or used in relation to a business carried on by the Company, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Supreme Court of British Columbia ~~and/or the Supreme Court of British Columbia (In Bankruptcy and Insolvency)~~ (the "**Court**") dated the ____ day of _____, 201_ (the "**Order**") made in SCBC Action No. _____ ~~and/or SCBC Action No. _____/Estate No. _____~~ has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$_____, being part of the total principal sum of \$_____ which the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded ~~{daily}~~ **{monthly}** not in advance on the ____ day of each month after the date hereof at a notional rate per annum equal to the rate of ____ per cent above the prime commercial lending rate of Bank _____ from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of the Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Vancouver, British Columbia.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum under this Certificate in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 201__.

Boale, Wood & Company Ltd., solely in its capacity as Receiver of the Property (as defined in the Order), and not in its personal capacity

Per: _____

Name: Stephen Boale

Title: Owner