

Form 27
[Rules 6.3 and 10.52(1)]

Clerk's Stamp:

COURT FILE NUMBER	1401-02047
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	ROYAL BANK OF CANADA
DEFENDANT	1050999 ALBERTA LTD.
DOCUMENT	<u>APPLICATION ON BEHALF OF ERNST & YOUNG INC. IN ITS CAPACITY AS RECEIVER OF 1050999 ALBERTA LTD.</u>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	RAY C. RUTMAN AND RYAN F.T. QUINLAN Dentons Canada LLP 2900 Manulife Place 10180 – 101 Street Edmonton, AB T5J 3V5 Ph. (780) 423-7246 Fx. (780) 423-7276 File No.: 533312-2

NOTICE TO THE RESPONDENTS:

This application is made against you. You are a Respondent.

You have the right to state your side of this matter before the Justice or Master.

To do so, you must be in Court when the application is heard as shown below:

Date	May 12, 2014, 2013
Time	4:00 p.m.
Where	Law Courts Building Calgary, Alberta
Before Whom	The Honourable Madame Justice G.A. Campbell

Go to the end of this document to see what you can do and when you must do it.

Remedy claimed or sought:

1. An Order in the form of the draft Order attached as Schedule "A" to this Application or on such further and other terms as this Honourable Court may direct approving CMN Calgary Inc., operating as Colliers International Investment Group ("Colliers") as the Receiver's exclusive selling officer to assist in marketing and selling the units (the "Units") comprising the assets of 1050999 Alberta Ltd. ("105") in the Grande Rockies Resort ("GR Resort"), approving the unit sales process developed by the Receiver and Colliers, approving the payment of referral fees to Shemina Financial Corporation ("SFC"), and amending paragraph 3(l) of the Receivership Order.

Grounds for making this application:

2. A Receivership Order was granted by the Honourable Justice Strekaf in this proceeding on March 12, 2014 (the "Receivership Order").
3. By the Receivership Order, Ernst & Young Inc. as the Receiver and Manager (the "Receiver") of the assets, undertakings and property of 105.
4. By the Receivership Order, the Receiver was authorized, among other things, to:
 - (a) manage, operate and carry on the business of 105, including the power to enter into agreements;
 - (b) engage consultants, agents, experts, counsel and other persons to assist with the exercise of the Receiver's powers and duties;
 - (c) execute or endorse documents in the Receiver's name or in the name of or on behalf of 105;
 - (d) market the "Property" as defined in the Receivership Order) of 105 and negotiating such terms and conditions of sale as the receiver deems appropriate; and
 - (e) sell, convey, transfer, lease or assign the Property (as defined in the Receivership Order) out of the normal course of business without Court approval in respect of any transactions not exceeding \$600,000, provided that the aggregate consideration for all such transactions does not exceed \$1,000,000. Otherwise, sell, convey, lease or assign Property with the approval of the Court.
5. The Receiver determined that it was appropriate and necessary to retain the services of a selling officer to properly market and sell the Units with the goal of achieving maximum realizations for all creditors and stakeholders.
6. The Receiver undertook a thorough and reasonable process to select the appropriate selling officer for the circumstances, which included requests for proposal from seven qualified candidates.
7. The Receiver determined that Colliers proposal was the best and most appropriate in the circumstances. The Receiver entered into an Exclusive Advisory Services Agreement with Colliers, subject to approval by this Honourable Court, which is found at Appendix "C" to the First Report of the Receiver. The Exclusive Advisory Services Agreement contains numerous and clear obligations placed on Colliers. The Receiver believes that Collier's proposal and plan will result in obtaining the maximum value and exposure of the Units, as set out at Appendix "E" to the First Report of the Receiver.
8. The Receiver, with the assistance of Colliers, has developed a thorough, detailed and reasonable proposed marketing and sales process that will strive to see sales of the Units be completed by September 2014.
9. SFC has been retained by the Receiver to assist with certain on-site tasks respecting the Units and the site on which the Units are located, being GR Resort.
10. It is in the best interests of the estate to motivate SFC to refer potential purchasers of Units to Colliers.
11. In order to encourage such referrals the Receiver has committed to pay referral fees to SFC as set out in Appendix "D" to the First Report of the Receiver, subject to the approval of this Honourable Court.

12. The terms of the Exclusive Advisory Services Agreement with Colliers accommodate payment of the referral fees to SFC.
13. In the circumstances, it is reasonable and appropriate to amend paragraph 3(l) of the Receivership Order dispensing with the requirement for judicial approval to allow the Receiver to sell Units where all parties holding secured financial encumbrances against the specific Units being sold through a purchase and sale agreement have consented to the sale.

Material or evidence to be relied on:

14. The First Report of the Receiver, filed.
15. The pleadings and proceedings taken in these proceedings.
16. Such further and other material as counsel may advise and this Honourable Court may permit.

Applicable Legislation:

17. *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended.
18. *Judicature Act*, RSA 2000, c J-2, as amended.
19. *Personal Property Security Act*, RSA 2000, c P-7, as amended.
20. Such further and other legislation and authority as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

21. N/A

How the application is proposed to be heard or considered:

22. In open chambers by way of personal attendance of counsel.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

Schedule "A"

Clerk's Stamp:

COURT FILE NUMBER	1401-02047
COURT OF QUEEN'S BENCH OF ALBERTA	
JUDICIAL CENTRE	CALGARY
PLAINTIFF	ROYAL BANK OF CANADA
DEFENDANT	1050999 ALBERTA LTD.
DOCUMENT	<u>ORDER</u>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Ray C. Rutman and Ryan F.T. Quinlan Dentons Canada LLP 2900 Manulife Place 10180 – 101 Street Edmonton, Alberta T5J 3V5 Ph. (780) 423-7139 Fx. (780) 423-7276 File No.: 533312-2/RCR

DATE ON WHICH ORDER WAS PRONOUNCED:	May 12, 2014
LOCATION WHERE ORDER WAS PRONOUNCED:	Law Courts Building, Calgary
NAME OF MASTER WHO MADE THIS ORDER:	The Honourable Madame Justice G.A. Campbell

UPON THE APPLICATION of Ernst & Young in its capacity as the Court appointed Receiver and Manager ("Receiver") of 1050999 Alberta Ltd. ("105"); AND UPON HAVING READ the Receivership Order granted by the Honourable Justice Strekaf on March 12, 2014 in these proceedings (the "Receivership Order"); AND UPON HAVING READ the pleadings and proceedings had and taken herein; AND UPON HAVING READ the First Report of the Receiver, filed (the "First Report"); AND UPON IT APPEARING that the Receiver's conduct as reported in the First Report is reasonable and appropriate in the circumstances; AND UPON IT APPEARING reasonable and appropriate for the Receiver to retain and engage CMN Calgary Inc., operating as Colliers International Investment Group ("Colliers") as the Receiver's exclusive selling officer to assist in marketing and selling the units (the "Units") comprising the assets of 105 in the Grande Rockies Resort; AND UPON the Unit sales process developed by the Receiver and Colliers appearing to be reasonable and appropriate; AND UPON IT APPEARING appropriate to amend the Receivership Order as requested by the Receiver; AND UPON hearing from counsel for the Receiver; IT IS HEREBY ORDERED THAT:

1. The time for service of the notice of application for this Order is hereby abridged and service thereof is deemed good and sufficient on all interested persons.
2. The appointment of Colliers as the Receiver's Selling Officer and the Exclusive Advisory Services Agreement entered into by the Receiver and Colliers and dated May 6, 2014, which is attached to the First Report as Appendix "C," is hereby approved and the Receiver is authorized to pay any commission payable in accordance with that Agreement.
3. The "Unit Sales Process" described at paragraph 59 of the First Report is hereby approved.
4. The Receiver is hereby given approval and authorization to pay any referral fees with respect to the sale of Units to Shemina Financial Corporation ("SFC"):
 - (a) in accordance with the terms specified in Appendix "D" of the First Report; or
 - (b) in accordance with any other agreement entered into by the Receiver with SFC, on terms which the Receiver considered reasonable and appropriate in its absolute discretion, when such agreement is consented to by Colliers and SFC.
5. Paragraph 3(l) of the Receivership Order is hereby amended to read as follows:
 - (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 \$600,000.00, provided that the aggregate consideration for all such transactions does not exceed \$1,000,000 (excluding in each event transactions authorized by paragraph 3(l)(ii));
 - (ii) without the approval of this Court in respect of any transaction in which all persons holding secured financial encumbrances against title to the specific Units being sold have consented to the sale or other disposition; and
 - (iii) 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 paragraph 3(l)(i) and is not authorized by paragraph 3(l)(ii),and in each such case notice under subsection 60(8) of the *Personal Property Security Act*, R.S.A. 2000, c. P-7 shall not be required.
6. The Receiver is hereby authorized, but not directed, to discharge in its own name the Vendor's Lien registered in the Land Titles Office as instrument number 111 020 324 in favour of 105 (the "Vendor's Lien") and the Registrar of Land Titles is hereby directed to accept any discharge of the Vendor's Lien executed by the Receiver in the Receiver's name.
7. The Registrar of Titles is directed to register a copy of this Order in the Land Titles Office against Title to any land which the Vendor's Lien is registered against notwithstanding the requirements of Subsection 191(1) of the *Land Titles Act* R.S.A. 2000 c L-4.
8. The proceeds of the sale of the Units (and any corresponding personalty) completed pursuant to paragraph 3(l)(i) or (ii) of the Receivership Order, as amended herein, shall stand in the place and stead of the Units and such personalty and all security, claims and interests against the Units and personalty existing immediately prior to any sale shall, irrespective of whether such claims or interests have been removed, vacated, discharged or partially discharged from any registry in order to facilitate a sale, be deemed to apply to the proceeds of the sale of the Units and personalty, and all priorities with respect to such security, claims or interests which existed against the Units and personalty immediately prior to their sale shall apply, *mutatis mutandis* to

proceeds of the sale of the Units and personalty pursuant to paragraph 3(l)(i) or (ii) of the Receivership Order, as amended herein.

9. The Receiver is hereby authorized, but not directed, to utilize the proceeds of sale of any Units to pay property taxes, condominium fees or condominium assessments levied against or owing in respect of the Units sold pursuant to paragraph 3(l)(i) or (ii) of the Receivership Order, as amended herein.
10. Service this Order and any others applications, Affidavits or other documents in these proceedings may be effected upon:
 - (a) Royal Bank of Canada by way of e-mail transmission to its solicitor Adam C. Maerov at adam.maerov@mcmillian.ca; and
 - (b) 105, SFC and Aman Building Corporation by way of e-mail transmission to their solicitor Darren R. Bieganeck, Q.C. at dbieganeck@dcllp.com;
 - (c) Colliers by way of e-mail transmission to Richard Schwann at dick.schwann@colliers.com;
 - (d) Condominium Corporation 0912188 by way of facsimile transmission to Firstservice Residential Alberta Ltd., Attention: Linda Grey Martin at 403-299-1810 and email transmission to Beverley S. Anderson at b.anderson@melnky.com.

and such service shall be deemed good and sufficient and further service of this Order is hereby dispensed with.

JUSTICE OF THE COURT OF QUEEN'S BENCH OF
ALBERTA