

**IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF EDMONTON**

BETWEEN:

CHARLES H. GRAVES and MERIDEL J. GRAVES

Plaintiffs

- and -

**SHIRE INTERNATIONAL REAL ESTATE INVESTMENTS LTD. and
FORT McMONEY PROPERTIES LTD.**

Defendants

BEFORE MASTER B. WALLER,
IN CHAMBERS, LAW COURTS,
EDMONTON, ALBERTA.

On Tuesday, September 28, 2010.

ORDER FOR SALE

UPON THE APPLICATION of the Plaintiff; AND UPON READING the Supplemental Affidavit of Default and the Affidavits of Value, filed; AND UPON HEARING counsel for the Plaintiff; AND UPON IT APPEARING that the Plaintiffs are mortgagees of the lands in question in this action under and by virtue of a Mortgage dated November 21, 2006; AND UPON noting the Order filed in Court of Queen's Bench of Alberta Action No. 0901-11866 on March 2, 2010 (the "Receivership Order"), which appointed Ernst & Young Inc. (the "Receiver") as receiver and manager of the Lands (as defined herein) as well as certain other lands as identified in the Receivership Order; AND UPON reading the Third Report of the Receiver, dated September 27, 2010;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. The mortgaged premises, namely:

MERIDIAN 4 RANGE 8 TOWNSHIP 88
SECTION 32

ALL THAT PORTION OF THE NORTHEAST QUARTER LYING SOUTH
AND EAST OF THE LEFT

BANK OF THE CLEARWATER RIVER AS SHOWN ON A PLAN OF
SURVEY OF THE SAID
TOWNSHIP DATED MAY 8, 1914, CONTAINING 12.5 HECTARES (31
ACRES) MORE OR LESS.
EXCEPTING THEREOUT ALL MINES AND MINERALS

- and -

MERIDIAN 4 RANGE 8 TOWNSHIP 88
SECTION 32

ALL THAT PORTION OF THE SOUTHEAST QUARTER
LYING SOUTH AND EAST OF THE LEFT BANK OF THE CLEARWATER
RIVER AS SHOWN

ON A PLAN OF SURVEY OF THE SAID TOWNSHIP DATED MAY 8, 1914;
CONTAINING 63.1 HECTARES (156 ACRES) MORE OR LESS
EXCEPTING THEREOUT:

HECTARES (ACRES) MORE OR LESS

A) ALL THAT PORTION WHICH LIES SOUTH OF A LINE DRAWN
PARALLEL WITH THE SOUTH BOUNDARY OF THE SAID SECTION
THROUGH A POINT ON

THE WEST BOUNDARY OF THE SOUTH WEST QUARTER OF SAID
SECTION, 1000 FEET

NORTHERLY FROM THE SOUTH WEST CORNER THEREOF AND WEST
OF A LINE DRAWN

PARALLEL WITH THE SAID WEST BOUNDARY THROUGH A POINT ON
THE SAID SOUTH

BOUNDARY 3367.6 FEET EASTERLY FROM THE SAID SOUTH WEST
CORNER;

CONTAINING 6.76 16.70

B) PLAN 9221618 - ROAD 2.467 6.11

C) PLAN 9823452 - SUBDIVISION 25.01 61.80

EXCEPTING THEREOUT ALL MINES AND MINERALS

(the "Lands"),

shall be offered for sale by way of a listing with a real estate agent licensed to trade in real estate in the Province of Alberta (the "Agent"), according to the terms of this Order and the Judicial Sale Listing which is attached as Schedule "A" to this Order and forms part of this Order (the "Judicial Sale Listing"), for a period of 2 months following the execution of the Judicial Sale Listing;

2. Any persons who wish to serve as the Agent (each, a "Proposed Listing Agent") shall provide the solicitors for the Plaintiffs and the Receiver with information regarding:

- (a) The Proposed Listing Agent's qualifications and credentials for selling the Lands;
 - (b) The Proposed Listing Agent's commission structure for selling the Lands;
 - (c) The Proposed Listing Agent's proposed listing price for the Lands, including information regarding how the proposed listing price was determined; and
 - (d) The Proposed Listing Agent's sales and marketing plans for the Lands
- on or before 4:30 pm on Monday, October 4, 2010 (the "Listing Deadline");
3. The Plaintiffs shall select the Agent after the Listing Deadline and before 4:30 pm on Wednesday, October 6, 2010 (the "Selection Deadline");
 4. The Plaintiffs shall advise the Receiver of the Agent that they select to list the Lands twenty-four hours after the Selection Deadline;
 5. The Plaintiffs' solicitors are authorized and empowered to fill-in the blank space provided for in the Judicial Sale Listing so as to identify the Agent upon the Agent being selected in accordance with the terms of this Order;
 6. Offers received by the Plaintiffs with respect to the Lands may be submitted to this Honourable Court for approval on 2 days notice to the Defendants, the Receiver and subsequent encumbrancers, and no further application to this Court is necessary in respect of any offers received which are not sufficient to result in payout of the Plaintiffs' mortgage in full;
 7. The listing price shall be as determined by the Agent listing the Lands pursuant to the Judicial Sale Listing upon completion of a Comparative Market Analysis of the Lands by the Agent;
 8. Any existing sale listings of the Lands are hereby cancelled;
 9. The Agent shall be entitled to post a "For Sale" sign customarily posted by the listing agent at a conspicuous location on the Lands, which sign shall remain during the

currency of the Judicial Sale Listing and shall not be interfered with by any person under any circumstances;

10. The Defendants, or any person(s) in possession of the Lands, are directed to co-operate with the Agent in his efforts to sell the Lands, and shall upon 24 hours written notice delivered to the Lands, allow the Agent access for the purpose of showing the Lands to potential purchasers;
11. Any party interested shall be at liberty to apply from time to time to amend or vary this Order;
12. The time for service of the Notice of Motion for this Order is hereby abridged and this application is properly returnable today; and
13. The Plaintiffs shall have costs of this action on a solicitor/client basis, the taxation of which is adjourned *sine die*.



MASTER OF THE COURT OF
QUEEN'S BENCH, IN CHAMBERS

ENTERED on _____, 2010.

CLERK OF THE COURT

SCHEDULE "A"

Action No.: 0803 11873

**IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF EDMONTON**

BETWEEN:

CHARLES H. GRAVES and MERIDEL J. GRAVES

Plaintiffs

- and -

**SHIRE INTERNATIONAL REAL ESTATE INVESTMENTS LTD. and
FORT McMONEY PROPERTIES LTD.**

Defendants

JUDICIAL SALE LISTING

TO: _____ (the "Agent")

1. In accordance with the Order Nisi / Order for Sale granted in the within action on September 28, 2010 (the "Order for Sale"), you are hereby given authority as an Officer of the Court to list for sale the property legally described as:

MERIDIAN 4 RANGE 8 TOWNSHIP 88
SECTION 32
ALL THAT PORTION OF THE NORTHEAST QUARTER LYING SOUTH
AND EAST OF THE LEFT
BANK OF THE CLEARWATER RIVER AS SHOWN ON A PLAN OF
SURVEY OF THE SAID
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(the "Lands")

2. This Judicial Sale Listing is subject to the terms of the Order for Sale and if there are inconsistencies between the terms of any other listing agreement for the Lands and this Judicial Sale Listing and the Order for Sale then the terms of this Judicial Sale Listing shall prevail.
3. The Lands shall be listed for sale at a price determined by the Agent upon completion of a Comparative Market Analysis of the Lands and that listing shall take effect immediately upon the execution of this Judicial Sale Listing and shall continue for a period of 2 months but shall terminate earlier in the event that:
 - (a) the Lands are sold in accordance with the terms of this Judicial Sale Listing;
 - (b) the claims of the Plaintiffs as against the Defendants are fully satisfied; or
 - (c) the within action is discontinued by the Plaintiffs.
4. Title to the Lands shall be offered for sale subject to the reservations and exceptions set forth in the existing Certificate of Title Numbers 072 644 161 and 072 644 161 +1 and the following charges and encumbrances:

- (a) all encumbrances which, by virtue of section 61(1) of the *Land Titles Act*, the Certificate of Title to the Lands is subject to; and
 - (b) All instruments registered prior to the Plaintiff's mortgage, which mortgage is registered as Registration Number 072 256 199.
5. All Offers to purchase the Lands pursuant to this Judicial Sale Listing:
- (a) shall be in writing and signed by the Offeror;
 - (b) shall be subject to the condition precedent that the terms of the Offer shall be subject to the approval and acceptance of this Court;
 - (c) shall be accompanied by a deposit, by certified cheque, bank draft, money order, solicitor's trust cheque, or cash payment, representing not less than 5% of the offered purchase price as a good faith deposit;
 - (d) shall be irrevocable until dealt with by this Court;
 - (e) may be revocable at the option of the Offeror in the event that the Offer is accepted by this Court and the Order confirming acceptance of such Offer is appealed by anyone entitled to do so;
 - (f) shall be on an "as is / where is, without recourse" basis and without any representations, warranties, conditions or collateral agreements whatsoever made by the Plaintiff or by this Court with respect to the Lands and shall include a copy of Schedule "A" hereto;
 - (g) shall be read such that any unsecured chattels now or hereafter located in or upon the Lands do not form a part of the sale transaction;
 - (h) shall be read such that the closing date and adjustment date are to be set by this Court but that such dates shall not be later than 30 days after the date of the Order confirming acceptance of such Offer; and

- (i) shall provide that vacant possession of the Lands is to be delivered to the Purchaser 30 days after the date of the Order confirming acceptance of such Offer or on a date to be set by this Court.
- 6. In order to assist and facilitate the sale of the Lands, the Agent shall be entitled to enter upon and show the Lands to prospective purchasers at reasonable hours of the day or night, however, if the Agent is unable to gain entry to the Lands, then the Plaintiffs' solicitors may apply for further directions and relief from this Court upon 2 clear days notice to the residents of the Lands.
- 7. Within 3 days of receiving an Offer to purchase the Lands that is in accordance with the terms hereof the Agent shall forward a true copy of the Offer to the Plaintiffs' solicitors and to the Receiver. The Plaintiffs' solicitors, upon receipt of the such Offer, if the Offer is sufficient to payout the Plaintiffs' claim in full, including reasonable anticipated interest and costs, or if the Offer is otherwise acceptable to the Plaintiffs, shall apply to this Court, within 15 days and with notice to all interested parties, for the acceptance or rejection of the said Offer and with such notice, the Plaintiffs' solicitors shall provide a copy of such offer, accompanied by an indication of the Plaintiffs' intention to support either rejection or acceptance of such Offer.
- 8. If no offers to purchase are received during the listing period the Agent shall advise the solicitors for the Plaintiffs in writing immediately following the expiry of the listing period.
- 9. If an Offer to Purchase is produced by the Agent as aforesaid, such Offer is accepted by this Court, and the transaction is completed and title is transferred to the Purchaser, then the Agent shall be entitled to receive a commission, to be payable from the sale proceeds, in the amount stipulated in a written agreement between the Agent and the Plaintiffs pertaining to the listing of the Lands, (the "Agency Agreement"), provided that the aggregate sum of commission payable to the Agent pursuant to the Agency Agreement does not exceed 3% of sale price, plus GST. The Agent shall have a first charge against the sale proceeds in the amount of any commission payable. Should this Court accept an Offer to Purchase but the Purchaser fails to complete the transaction, then, unless this

Court orders relief from forfeiture with respect to the deposit, the Agent will be at liberty to retain, as compensation for services rendered, 50% of the deposit, provided that such 50% does not exceed the commission that would otherwise have been payable to the Agent pursuant to the Agency Agreement had the transaction been completed as originally contemplated and the balance of any forfeited deposit shall be paid by the Agent to the Plaintiffs' solicitors.

10. If the Defendants, or anyone else entitled to do so, redeems the Mortgage at any time during the currency of the Listing Agreement, or if the Court shall cancel this Judicial Sale Listing by further Order, then the Agent may be reimbursed for their reasonable expenses which have been incurred as a result of their acceptance of this Judicial Sale Listing and their subsequent listing of the Lands and may also be entitled to compensation for their time and efforts as the Court may award in its discretion and the party who redeems shall be responsible for the payment of such.
11. This Judicial Sale Listing shall not:
 - (a) affect the Defendants', or anyone else's, right to redemption of the Lands;
 - (b) affect the Plaintiffs' right to make a proposal to purchase the Lands or to otherwise acquire title to the Lands after the expiry of the Judicial Sale Listing and in such event no commission shall be paid whatsoever to the Agent, whether pursuant to the Agency Agreement or otherwise;
 - (c) affect the right of the Plaintiffs to enter into a settlement agreement; or
 - (d) create or impose any liability on the Plaintiffs, the Defendants, any subsequent encumbrancer, other party or on this Court for the payment of any real estate commission or compensation except as expressly stated herein.
12. Prior to the Closing Date directed by this Court, the Offeror shall be entitled to inspect the Lands and in the event that in the period of time between the date of the Offeror's Offer and the date of the pre-closing inspection the Lands have been substantially damaged, then the Offeror shall have the option of either revoking the Offer or requesting

the Plaintiffs to repair the damage and should the Offeror elect to have the Plaintiffs repair the damage then the Plaintiffs shall have a corresponding option of either repairing the damage and proceeding with the closing or terminating the transaction.

13. In the event of any inconsistency between the terms of the Agency Agreement and this Judicial Sale Listing, the terms of this Judicial Sale Listing shall prevail.
14. The Court may, at any time and upon application by any interested party, vary the terms of this Judicial Sale Listing.

The conditions of this Judicial Sale Listing
are hereby approved on Tuesday,
September 28, 2010.

MASTER OF THE COURT OF
QUEEN'S BENCH, IN CHAMBERS

The conditions of this Judicial Sale Listing
are hereby accepted on _____,
201__ by _____, an
agent licensed pursuant to the *Real Estate
Act* of Alberta.

SCHEDULE "A"

BUYERS:

SELLER: THE COURT OF QUEEN'S BENCH OF ALBERTA

PROPERTY: Pt. SE-32-88-8-W4 & Pt. NE-32-88-8-W4

THE FOLLOWING TERMS AND CONDITIONS SHALL APPLY TO AND SHALL FORM PART OF ANY AGREEMENT OF PURCHASE AND SALE TO WHICH THIS SCHEDULE IS ATTACHED.

1. Where there is any conflict or discrepancy between the terms and conditions in this schedule, and the terms and conditions in the Agreement of Purchase and Sale attached, the terms and conditions in this schedule shall supersede and apply in place of such other conflicting terms and conditions.
2. Other than being required to provide a registerable Transfer of Land the Vendor shall not be required to produce, and the Purchaser shall not call for the production of, any other documents of any kind and without in any way restricting the generality of this, the Vendor shall not be obliged to provide a Survey, Real Property Report, Compliance Certificate or Condominium documentation.
3. The Purchaser shall not receive, from or on behalf of the Vendor, a Certificate of Exempt Supply of Real Property or any similar assurances with respect to the Goods and Tax relating to the property. Any Goods and Services Tax shall be paid by the Purchaser over and above the purchase price shown in the agreement of purchase and sale. The purchase price shown in the agreement of purchase and sale does not include any taxes payable. Should the Vendor fail to connect G.S.T. from the Purchaser, it shall not be construed by the Purchaser as a certificate by the Vendor that no G.S.T. is payable by the Purchaser and the Purchaser shall remain liable for any G.S.T. that may be payable with respect to this transaction.
4. The Purchaser acknowledges that no representations or warranties whatsoever have been made or are made or given by the Vendor or anyone on its behalf to the Purchaser. In particular but without limiting the generality of the foregoing, no representations or warranties are given or made as to:
 - a. The condition of the property being conveyed to the Purchaser, or of any buildings or improvements that may be located thereon.
 - b. The absence of environmental concerns relating to the property,
 - c. The absence of health concerns or safety hazards relating to the property,
 - d. The zoning of the property
 - e. The suitability of the property for any purpose
 - f. The absence of Urea Formaldehyde Foam Insulation in the property
 - g. The location or compliance or any buildings situate on the property or otherwise
 - h. Whether the property or any improvements thereon comply with any existing land use or zoning bylaws or regulations or municipal development agreements or plans or building codes or fire codes or regulations

- i. Whether any improvements on the property encroach onto neighbouring lands or over an easement or right of way
 - j. Whether any improvements on any neighbouring lands encroach over the property
 - k. The size or dimensions of the property or any improvements thereon
 - l. Whether the property is contaminated with any hazardous substances
 - m. If the property is a condominium, the adequacy of any reserve fund, the possibility of any special assessments that may be levied, the existence of any legal actions affecting the condominium corporation or anything relating to the common property.
 - n. The Purchaser acknowledges that the Purchaser has inspected the property and the property shall be conveyed to the Purchaser on a totally "as is/where is" basis. The Purchaser shall not call for compliance with or satisfaction of any work orders, deficiency notices or orders to comply. The Purchaser shall also assume without adjustment, and be solely responsible for, all local improvement charges, telephone private line charges, tax levies, gas liens, rural electrification liens, condominium special assessments or levies, if any, and any costs relating to clean up of the property if there are any hazardous substances thereon.
5. The Purchaser acknowledges that no chattels are being sold, transferred or conveyed hereunder. The Vendor does not transfer any interest in or title to any chattels and does not warrant title to the same. Further the Purchaser acknowledges that the Vendor is not responsible for the removal from the property of any chattels thereon.
6. If this is a sale by the Court of Queen's Bench, the offeror agrees that a copy of our offer may be included in evidence before the Court of Queen's Bench and that such evidence may be made known to all interested parties notwithstanding any statutory provision respecting privacy of information or rules adopted by RECA.

DATED at _____, Alberta on _____, _____, 2010.

Witness

Purchaser

Witness

Purchaser

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GRAVES**

Plaintiffs

- and -

**SHIRE INTERNATIONAL REAL
ESTATE INVESTMENTS LTD. and
FORT McMONEY PROPERTIES LTD.**

Defendants

JUDICIAL SALE LISTING

WITTEN LLP
Barristers & Solicitors
#2500, 10303 – Jasper Avenue
Edmonton, Alberta
T5J 3N6

ATTN: R. W. (Bud) Steen
Phone No.: 780-428-0501
Fax No.: 780-429-2559

File No.: 104065 RWS

**IN THE COURT OF QUEEN'S BENCH OF
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Defendants

ORDER FOR SALE

WITTEN LLP
Barristers & Solicitors
#2500, 10303 – Jasper Avenue
Edmonton, Alberta
T5J 3N6

ATTN: R. W. (Bud) Steen
Phone No.: 780-428-0501
Fax No.: 780-429-2559

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