



No. 48105  
Vernon Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

RAYMOND MARSHAL HANSON AND  
LINDA DIANNE HANSON

AND:

PLAINTIFFS

TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON,  
NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL

DEFENDANTS

NOTICE OF APPLICATION

Name of Applicants: Raymond Marshal Hanson and Linda Dianne Hanson,  
the Plaintiffs

To: Tripple Creek Investments Ltd., Nathan Charles Koebel and Tamryn Lee-  
Anne Koebel, the Defendants

TAKE NOTICE that an application will be made by the applicants to the presiding  
judge at the Courthouse at 3001 - 27th Street, in the City of Vernon, British  
Columbia, on Monday, February 16, 2015 for the orders set out in Part 1 below.

**Part 1: ORDERS SOUGHT**

- 1) that an Injunction be ordered restraining and enjoining the Respondents, Tripple  
Creek Investments Ltd. ("Tripple Creek"), Nathan Charles Koebel and Tamryn  
Lee-Anne Koebel (the "Koebel Defendants") from directly or indirectly selling or  
otherwise disposing of the Retail Store Liquor License and the Food Primary  
License which was held by Tripple Creek relating to the business known as The  
Burner which is operated on the property at 4260 Oxbow Frontage Road,  
Malakwa, British Columbia with a legal description of: P.I.D. 026-817-926, Lot 1,  
Section 4, Township 23, Range 6, W6M, KDYD, Plan NEP82004 (the "Property");

## Part 2: FACTUAL BASIS

## History of the application

- 1) An application for an injunction against disposition of the Retail Store Liquor License was originally set for September 29, 2014 and was adjourned with the Court Clerk over to the first day of trial and was further adjourned when the trial was adjourned by consent.
- 2) The application for an injunction now set for February 16, 2015 seeks broader relief based on additional facts.

## Background

- 3) The Plaintiffs sold the shares of Tripple Creek to the "Defendants", which owned the Property on which the business known as The Burner operates to the Defendants pursuant to a share purchase agreement dated May 22, 2009. Payment was by way of assumption of certain debts, and in addition promissory notes from the Defendants, a General Security Agreement ("GSA") and a vendor take back mortgage (the "Mortgage") were granted as security for the payment of the remaining purchase price.
- 4) The commercial premises situate on the Property are operated commercially as a restaurant and retail liquor store known as The Burner. The Defendants began operating the business in April of 2009.

- 5) The Defendants defaulted, having made no payments under the terms of the promissory notes, the GSA and the Mortgage. The Plaintiffs commenced foreclosure proceedings. By Reasons for Judgment given January 3, 2012 the matter was put on the trial list. Order Nisi with a 6 month redemption period was made April 15, 2014.
- 6) The redemption period expires October 15, 2014 and in the ordinary course of the foreclosure, there would then be an order for conduct of sale and in due course an application for approval of a sale.

#### **Retail Store Liquor License and Food Primary License**

- 7) One of the assets of Tripple Creek Investments Ltd. is the Retail Store Liquor License (the "Retail License"). The Retail License number is: 195399. Another of the assets was a Pub License, which the defendants changed or amended to be a Food Primary License (the "Food License"). The Food License number is 304459.
- 8) Both the Retail License and the Food License have value since the business is operated as a restaurant and retail liquor store. Without those licenses, the business is of little or no value to any purchaser in the foreclosure or otherwise.
- 9) In or about January of 2014 it came to the attention of the Plaintiffs that the Defendants intended to sell or otherwise dispose of the Retail License that Nathan Charles Koebel, one of the Koebel Defendants, had a discussion with a potential buyer of the Retail License. Pursuant to the terms of the GSA Tripple Creek's assets cannot be sold, leased or otherwise disposed of without the written consent of the Plaintiffs.
- 10) During the course of the within action, the lawyer for the Plaintiffs has sent letters to the lawyer for the Defendants Tripple Creek and the Koebel Defendants cautioning

against disposing of the Retail License and has also asked for a response as to the confirmation that the Retail License will not be sold. There was no response to the correspondence.

- 11) Ultimately, on the date of the application which was originally to be heard on September 29, 2014, Tripple Creek and the Koebel Defendants agreed not to dispose of the Retail License until the trial was heard. The application for an injunction against disposing of the Retail License was adjourned over to the first day of trial.
- 12) The trial was adjourned on the basis of payment to an agreed amount and, if payment was not made by a specified date, a judgment by consent was to be entered. Payment was not made and the judgment by consent was entered.
- 13) The Petitioners were granted conduct of sale by the Order of Master McDiarmid made December 16, 2014.
- 14) Both the Retail License and the Food License are of value to any purchaser, or, if the Petitioners or one of them should apply for and be granted Order Absolute, they will be of value to the Petitioners and must not be disposed of given that it necessarily will be of value to a purchaser in the foreclosure proceeding.
- 15) According to information provided by the Liquor Control and Licensing Branch on February 3, 2015, both the Retail License and Food License are no longer in the name of Tripple Creek. Nor are they in the name of the business known as the Burner. Clearly they have already both been transferred to another party, perhaps one or both of the Koebel Defendants. Such a transfer is a breach of the GSA and underlines the lengths to which the Koebel Defendants are willing to go.
- 16) In spite of the provisions of the GSA, in spite of the letters cautioning the Defendants against disposing of the Retail License, and in spite of the Defendants agreeing not to do so before trial, both the Retail License and the Food License were clearly transferred at some point out of Tripple Creek's name.

- 17) The Plaintiffs seek special costs of this application given that the Koebel Defendants have clearly already transferred assets, the Retail License and the Food License out of Tripple Creek's name. They should not be allowed to transfer these licenses further in any manner whatsoever or transfer or dispose of any other assets of Tripple Creek.
- 18) The Retail License and the Food License ought to be transferred into the name of Tripple Creek.

### Part 3: LEGAL BASIS

- 1) The License is an asset which is covered by the GSA. The Retail License and the Restaurant License are clearly of value in the operation of a restaurant and liquor store. The GSA and other security is in default and accordingly the Plaintiffs are in danger of suffering loss of value in the business and the Property if either or both of the Retail License or the Food License are sold or otherwise disposed of.
- 2) The balance of convenience favours ordering an injunction. (*British Columbia Attorney General v Wale*, [1986] B.C.J. No. 2688 (B.C.S.C.))
- 3) There is no arguable competing legal interest that might justify the sale or other disposition of the Retail License or the Food License and an injunction should therefor follow.  
  
*Slocan Forest Products Ltd. v. John Doe*, [2000] B.C.J. No. 1592)
- 4) The Defendants have engaged in reprehensible conduct in transferring the Retail License and Food License out of the name of Tripple Creek. Those licenses were assets of Tripple Creek and the subject of a GSA. Those licenses should be transferred into the name of Tripple Creek and special costs of this application should be awarded.

- 5) The Plaintiffs plead and rely on S. 39 of the *Law and Equity Act*, R.S.B.C. 1996, c. 253, Ruled 10-4 and 14-1 of the *Supreme Court Civil Rules* and the inherent jurisdiction of the Court.

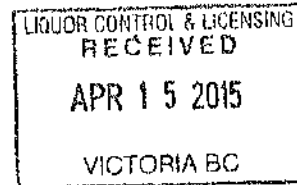
**Part 4: MATERIAL TO BE RELIED ON**

- 1) Affidavit #1 of Ray Hanson sworn June 8, 2011;
- 2) Affidavit #3 of Ray Hanson sworn March 17, 2014
- 3) Affidavit #4 of Ray Hanson sworn September 16, 2014;
- 4) Affidavit #6 of Ray Hanson sworn February 9, 2015;
- 5) Reasons for Judgment of Master McDiarmid given January 3, 2012;
- 6) Order of Mr. Justice Cole pronounced April 14, 2014;
- 7) Order of Master McDiarmid made December 16, 2014.

The applicants estimate that the application will take 30 minutes.  
This matter is not within the jurisdiction of a master.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to the 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) Serve 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



No. 48105  
Vernon Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

RAYMOND MARSHAL HANSON AND  
LINDA DIANNE HANSON

PLAINTIFFS

AND:

TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON,  
NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL

DEFENDANTS

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE  
MADAME JUSTICE FENLON

) Tuesday, the 3<sup>rd</sup> day of  
) March, 2015

ON THE APPLICATION of the Plaintiffs, Raymond Marshal Hanson and Linda Dianne Hanson, coming on for hearing at Kelowna, British Columbia on March 3, 2015 and on hearing Jennifer Harry, lawyer for the Plaintiffs, and on hearing M. Shane Dugas, lawyer for the Defendants Tripple Creek Investments Ltd., Nathan Charles Koebel and Tamryn Lee-Anne Koebel;

THIS COURT ORDERS that:

1. There is an injunction restraining and enjoining the Respondents, Tripple Creek Investments Ltd. ("Tripple Creek"), Nathan Charles Koebel and Tamryn Lee-Anne Koebel (the "Koebel Defendants") from directly or indirectly selling or otherwise disposing of the Retail Store Liquor License and the Food Primary License which was held by Tripple Creek relating to the business known as The Burner which is operated on the property at 4260 Oxbow Frontage Road, Malakwa, British Columbia with a legal description of P.I.D. 026-817-926, Lot 1,

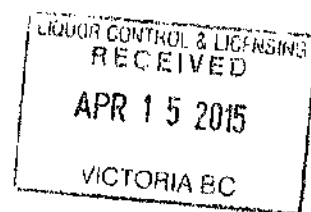
Section 4, Township 23, Range 6, West of the 6<sup>th</sup> Meridian, Kamloops Division  
Yale District, Plan NEP82004;

2. The Koebel Defendants apply to transfer the Liquor Licenses back into the name of the Tripple Creek Defendant forthwith and provide confirmation that the application has been made to the Plaintiffs' lawyer;
3. The Koebel Defendants may apply to set aside the term of this Order set out in paragraph 2 and the deadline to apply is April 6, 2015; and
4. Tripple Creek and the Koebel Defendants pay the costs of this application to the Plaintiffs as costs on Scale B.

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

\_\_\_\_\_  
Signature of Jennifer Harry  
Lawyer for the Plaintiffs

\_\_\_\_\_  
Signature of M. Shane Dugas  
Lawyer for the Defendants, Tripple Creek  
Investments Ltd., Nathan Charles Koebel  
and Tamryn Lee-Anne Koebel



BY THE COURT

\_\_\_\_\_  
DEPUTY DISTRICT REGISTRAR





This is the 3<sup>rd</sup> Affidavit of Raymond Marshal Hanson  
in this case and was made on March 17, 2014.

No. 48105  
Vernon Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA  
RE: AN INDENTURE OF MORTGAGE REGISTERED IN THE KAMLOOPS LAND  
TITLE OFFICE UNDER APPLICATION NUMBER CA1396114

BETWEEN:

RAYMOND MARSHAL HANSON AND  
LINDA DIANNE HANSON

PLAINTIFFS

AND:

TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON,  
NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL

DEFENDANTS

AFFIDAVIT

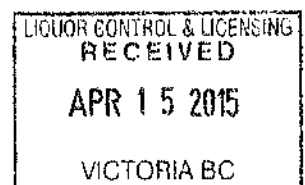
I, Raymond Marshal Hanson, mill owner and operator, of Malakwa, Province of British Columbia,  
SWEAR that:

1. I am one of the Plaintiffs, and as such have personal knowledge of the facts and matters  
hereinafter deposed to, except where the same are stated to be on information and belief and where  
so stated I verily believe the same to be true.

Summary of the proceedings

2. The Defendants Tripple Creek Investments Ltd ("Tripple Creek"), Nathan Charles  
Koebel ("Nathan") and Tamryn Lee-Anne Koebel ("Tamryn") applied for an order that the  
foreclosure proceeding be transferred to the trial list and on January 3, 2013, an order was made  
transferring the proceeding to the trial list.

3. Since that date, lists of documents were exchanged and examinations for discovery



were conducted on March 14 and 15, 2013. None of the Defendants Tripple Creek, Nathan or Tamryn have taken any steps to set the matter for trial. Nor have they responded to outstanding discovery requests. Attached as Exhibit "A" to this my Affidavit are copies of letters from my lawyer to the lawyer to Tripple Creek, Nathan and Tamryn. I am advised that my lawyer has not received a response to these letters.

4. After the discoveries, I understood the Defendants Tripple Creek, Nathan and Tamryn were seeking refinancing to pay out the mortgage, subject to certain set offs to be agreed, but in spite of regular follow up by the Plaintiffs' lawyer, the Defendants have provided no information on the status of any refinancing has been provided.

5. Attached collectively as Exhibit "B" to this my Affidavit are copies of letters dated October, 2013 and January 8, 2014 from my lawyer sent to the lawyer for Tripple Creek, Nathan and Tamryn regarding refinancing. The January 8, 2014 letter also addresses other issues. I am advised by my lawyer that she has not received a response to her letters.

#### No payments made

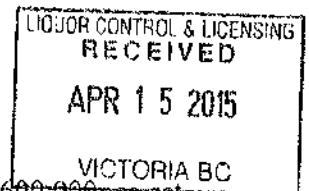
6. The mortgage matures on April 1, 2014. No payments whatsoever have been made to the Plaintiffs on the mortgage.

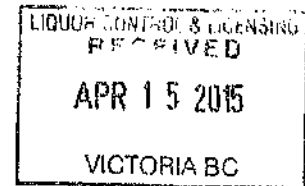
7. Under the four promissory notes, while no payments were due from April 1, 2009 to and including March 31, 2010, payments were to be made starting April 1, 2010 to and including March 1, 2014 with the entire balance then still owing to be paid by April 1, 2014. The individual Defendants have not paid anything to the Plaintiffs under the Promissory Notes.

8. I have worked in physical labouring jobs for most of my life and while I am 70 years old, because I have received no payments whatsoever under the Promissory Notes and the Mortgage, I still have to work.

#### The structure of the deal

9. The purchase price for Tripple Creek Investments Ltd.'s shares was \$600,000, as set out in the definition of "Purchase Price" in paragraph 1.1 (g) of the share purchase agreement dated for reference May 22, 2009 which is attached as Exhibit "A" to my first Affidavit.





10. The Mortgage and promissory notes were for a total of \$500,000. That amount was the vendor financing, the terms of which were set out in paragraph 3.6 of the share purchase agreement.

11. The other \$100,000 of the total \$600,000 purchase price was to be paid by various credits to the total purchase price. As subparagraph 3.5 (a) of the share purchase agreement says, the balance owing to Community Futures was to be assumed by the purchasers and credited to the purchase price. That amount as set out in the agreement was \$78,386.56 at April 1, 2009. \$100,000 less the \$78,386.56 owed to Community Futures left a total of \$21,613.44 owing on the \$100,000 which was, as set out in paragraph 3.5 (c) of the share purchase agreement, "The balance of the Purchase Price, as set out on the Vendor's Statement of Adjustments, shall be settled and adjusted directly between the parties." Attached as Exhibit "C" to this my Affidavit is a copy of the Vendor's Statement of Adjustments.

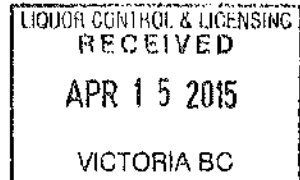
12. The balance to be settled directly is the \$100,000, which as set out above in this affidavit, was the total of \$21,613.44 after Community Futures was paid out. We knew there would be bills coming forward in April for debts incurred in the months before the individual Defendants took over the operations of the Burner on April 1, 2009 and we all knew there were some bills that had not been paid. The \$21,613.44 amount was to cover off the bills we knew the Defendants would have to pay sometime after they took over the operations. That \$21,613.44 amount was part of the \$100,000.

#### Set-offs

13. At my discovery, I said that I did not have an issue with set-offs but I wanted to double check the amount claimed which was part of Exhibit "A" to Tamryn Koebel's Affidavit sworn December 13, 2011. A copy of the chart which is part of that exhibit is for convenience as Exhibit "D" to this Affidavit.

14. What Tamryn Koebel seems to say in Exhibit "B" is that there should have been a credit of \$25,844.47 to the \$100,000 amount, instead of a credit of \$21,613.44 and because of the difference between those two numbers, there should be a further credit of \$4,231.03.

15. Tamryn Koebel also claims set-offs totalling \$13,703.47 in Exhibit "C" to her Affidavit sworn December 13, 2011. A copy of the chart which is part of that exhibit is attached



for convenience to this my Affidavit as Exhibit "E".

16. A brief summary of what Tamryn Koebel says in her Affidavit, and in particular in the two Exhibits which are attached as Exhibits C and D to this Affidavit is that a total of \$4,231.03 plus this additional \$13,703.47, which two amounts total \$17,934.50, should be set off from what is owed under the Mortgage. I do not agree with the numbers, but since those additional credits would bring the credits over the \$100,000 that was to be paid by way of credits to the total \$600,000 purchase price, for the purposes of this proceeding, and in spite of the fact that the shareholder agreement provides there will be no set-offs, I am prepared to agree that \$17,934.60 can be deducted from the amount owing on the Mortgage, General Security Agreement ("GSA") and Promissory Notes.

#### Status of the Mortgage

17. As said above, no payments have been made on the Mortgage at all. The Mortgage matures on April 1, 2014. That is the date that balance is due under the Mortgage.

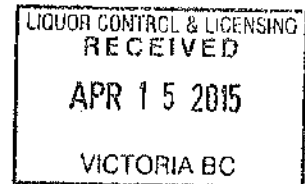
18. I am very concerned because none of Tripple Creek, Nathan or Tamryn has taken any steps in the action since the discoveries were conducted in March of 2013 and because their lawyer does not seem to be responding to the recent letters from my lawyer.

19. The Mortgage requires Tripple Creek to provide the Plaintiffs with monthly income statement for the business and annual financial statements. I have never received those financial statements, in spite of my requests and after that, my lawyer's requests on the Plaintiffs' behalf. The letters from my lawyer requesting same are contained in Exhibit "B", referred to in paragraph 5, above. I also have been denied access to the Burner, even as a customer.

20. In addition, Nathan and Tamryn were living on a house they built on the Burner property and running the business. Now I understand they are living in Vernon. I am concerned about whether the Burner business will continue, as the Mortgage, GSA and Promissory Notes must be paid. However, I do understand from people in Malakwa that Nathan and Tamryn go out to the Burner at Malakwa from time to time.

#### Amount owing

21. Because the Purchasers are relatives of mine, the Mortgage is at a rate which was.



generous and very favourable to them, being Salmon Arm Savings Credit Union's prime rate in effect from time to time, which generally works out to a 3% interest rate.

22. As stated earlier in this Affidavit, the Plaintiffs have not received any payments from any of the Defendants. As at March 17, 2014, the amount owed on the Mortgage is \$562,589.20, subject to the additional set-off of \$17,934.60 that I agree to for the purposes only of this application and subject to the addition for property taxes which I paid.

23. Broken down into the three Promissory Notes, what is owed on each of them at March 17, 2014 is:

- a. \$281,294.60 on the \$250,000 Promissory Notes; and
- b. \$140,647.30 on each of the \$125,000 Promissory Notes.

subject to the additional set-off of \$17,934.60 that I agree to for the purposes only of this application and subject to the addition for the property taxes which I paid.

24. As said, I gave the individual Defendants a great benefit by me and Linda Hanson applying the Salmon Arm Savings Credit Union's prime rate. If the interest rate under the Promissory Notes and the Mortgage had been at a commercial lending rate of 8%, there would be \$682,210.10 owing on the Mortgage at March 17, 2014 and there would be \$341,105.04 owing on each of the \$250,000 Promissory Notes and \$170,552.53 owing on each of the \$125,000 Promissory Notes.

**Items disposed of by Tripple Creek and the Koebel Defendants**

25. In spite of the GSA which secures the payments owing, soon after the Koebel Defendants began operating the Burner, they changed the Pub Licence into a Food Primary Liquor Licence with a Lounge Endorsement, which allows for minors on the premises. That so in spite of the Pub Licence being personal property which is secured by the GSA and in spite of the fact that it is very difficult if not impossible to get a Pub Licence. Getting the Pub Licence in the first place took me five years and involved many steps, including a community referendum conducted by the Columbia Shuswap Regional District and a hearing in Victoria by the Licensing Board which I attended. It also as I remember cost over \$100,000 to get the Pub Licence in the first place. It is not difficult to get a Food Primary Liquor Licence at all.

26. The sound equipment and big screen TV which were at the Burner were no longer on the premises the last time Nathan and Tamryn allowed me to enter the Burner as a customer. As I recall, that sound equipment cost around \$10,000 to buy.

27. I had arranged to have a Lotto 649 terminal in the liquor store at the Burner and had pull tabs and Keno in the Burner when I operated it. I had to be in business for two years to even qualify to apply to sell Lotto 649 tickets, pull tabs and Keno. Those items were removed by the Koebels and it would take two years of business to seek the products offered by B.C. Lottery Corporation.

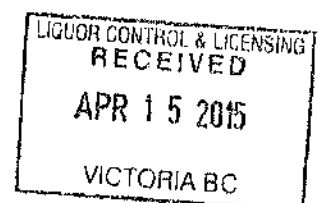
#### Retail Store Liquor Licence

28. I also understand from the owner of the local store in Malakwa that Nathan Koebel has approached him about buying the Retail Store Liquor Licence. That licence is covered by the GSA as well.

29. There is a strict limit on how many Retail Store Liquor Licences will be issued. I had to have the Pub Licence to qualify for the Retail Store Liquor Licence, so together with the Pub Licence for the Burner, both licences cost thousands of dollars and five years to get.

30. Since about 2006 there has been a moratorium on Retail Store Liquor Licences. I understand that moratorium is still in place, which is confirmed by my review of the BC Governments website on the subject. Attached as Exhibit "F" to this my Affidavit is a copy of the relevant page from the website.

31. If Nathan Koebel or anyone else sells that Licence, the Burner will not be able to get a Licence. I have, through my lawyers, put the Defendants on notice that they should not dispose of the Retail Store Liquor Licence. Attached collectively as Exhibit "G" to this my Affidavit are copies of letters dated November 14, 2013 and January 30, 2014 from my lawyer to the lawyer for Tripple Creek and the Koebel Defendants regarding the liquor licence, and in the case of the November 14, 2013 letter, also addressing other issues. I am advised by my lawyer that she received no response to these letters.



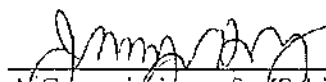
### Relief Sought

32. The Plaintiffs ask for an Order Nisi and, given that the Mortgage will have expired by the time this application is heard, the Plaintiffs also seek a shortened redemption period on one day and immediate conduct of sale.

33. If the Plaintiffs are granted immediate conduct of sale, they would list the Property for sale with a licensed real estate agent on the Multiple Listing System to market the Property diligently and to make his or her best efforts to obtain the best possible price by, among other things, offering the Property for sale by advertisement and exposing the Property to all interested parties, and if a suitable offer is obtained to present that offer to this Court for approval.

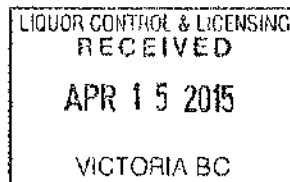
34. Alternatively, the Plaintiffs seek Order Absolute.

SWORN BEFORE ME at the City of Vernon,  
in the Province of British Columbia, March 17,  
2014.

  
A Commissioner for Taking Affidavits  
in the Province of British Columbia

  
RAYMOND MARSHAL HANSON

JENNIFER HARRY  
Barrister and Solicitor  
#301 2706-30 Avenue  
Vernon BC V1T 2B6  
Telephone (250) 542-5353







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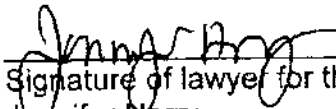
P.I.D. 026-817-926, Lot 1, Section 4, Township 23, Range 6, West of the 6<sup>th</sup>  
Meridian, Kamloops Division Yale District, Plan NEP82004;

2) This Order is of full force and effect until April 7, 2015 at 4 pm;

3) There will be a further hearing at 10 am on Tuesday, April 7, 2015;

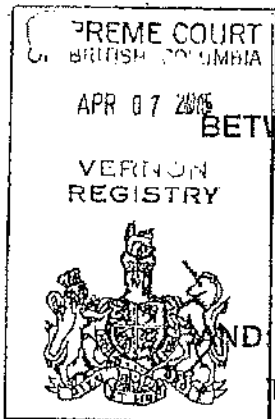
*Apr 7 - extended  
to May 11 by  
May 2 Court  
Order.*

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

  
\_\_\_\_\_  
Signature of lawyer for the Plaintiffs  
Jennifer Harry

BY THE COURT

  
\_\_\_\_\_  
DISTRICT REGISTRAR



No. 48105  
Vernon Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

RAYMOND MARSHAL HANSON AND  
LINDA DIANNE HANSON

PLAINTIFFS

TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON,  
NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL

DEFENDANTS

ORDER MADE AFTER APPLICATION - ORDER ABSOLUTE

BEFORE MASTER ALDIACIO ) Thirday day, the 30<sup>th</sup> day  
of April, 2015

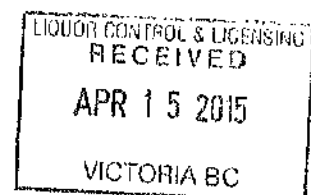
( ON THE APPLICATION of the Petitioners Raymond Marshal Hanson and Linda  
Dianne Hanson, and by consent;

THIS COURT ORDERS AND DECLARES that:

1. The Defendants Tripple Creek Investments Ltd., Nathan Charles Koebel and Tamryn Lee-Anne Koebel, their executors, administrators, successors and assigns and all persons claiming by, through or under them do stand absolutely debarred and foreclosed of and from all the estate, right, title interest and equity of redemption of, in and to the Property with a legal description of:

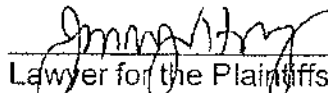
Parcel Identifier No. 026-817-926  
Lot 1, Section 4, Township 23, Range 6,  
West of the 6<sup>th</sup> Meridian, Kamloops Division  
Yale District, Plan NEP82004

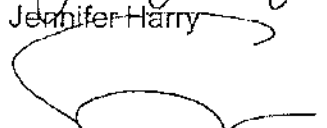
(the "Property")



2. The Defendants and each of them, and all persons claiming by, through or under them, and any person or persons in possession of the Property on their behalf, do immediately deliver vacant possession of the Property to the Plaintiffs upon the granting of this Order;
3. The Defendants forthwith deliver over to the Plaintiffs all keys necessary to gain access to the buildings on the Property or any part thereof;

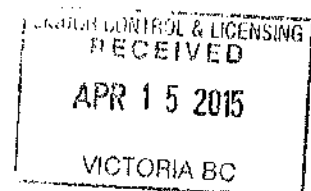
THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

  
 \_\_\_\_\_  
 Lawyer for the Plaintiffs  
 Jennifer Harry

  
 \_\_\_\_\_  
 Lawyer for the Defendants  
 Tripple Creek Investments Ltd.,  
 Nathan Charles Koebel and  
 Tamryn Lee-Anne Koebel  
 Shane Dugas

BY THE COURT

  
 \_\_\_\_\_  
 DEPUTY DISTRICT REGISTRAR





No. 48105  
Vernon Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

RAYMOND MARSHAL HANSON AND  
LINDA DIANNE HANSON

AND:

PLAINTIFFS

TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON,  
NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL

ORDER

DEFENDANTS

Before The Honourable Mr. Justice Cole

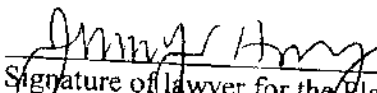
) Monday, the 4th day  
) of May, 2015

ON THE APPLICATION of the Plaintiffs coming on for hearing at Vernon, British Columbia on May 4, 2015 and on reading the materials filed and on hearing Jennifer Harry, lawyer for the Plaintiffs, and on hearing M. Shane Dugas, lawyer for the Defendants Tripple Creek Investments Ltd., Nathan Charles Koebel and Tamryn Lee-Anne Koebel (the "Defendants");

THIS COURT ORDERS that:

1. The terms of paragraph 2 of the Order made April 2, 2015 by The Honourable Mr. Justice Cole (the "Order") be varied to provide that the Order is of full force and effect until May 11, 2015; and
2. By the consent of M. Shane Dugas, the approval as to the form of this Order by M. Shane Dugas, lawyer for the Defendants, is dispensed with.

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

  
Signature of lawyer for the Plaintiffs  
Jennifer Harry

BY THE COURT

  
DISTRICT REGISTRAR

No. 48105  
Vernon Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

RAYMOND MARSHAL HANSON AND  
LINDA DIANNE HANSON

PLAINTIFFS

AND:

TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON,  
NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL

DEFENDANTS

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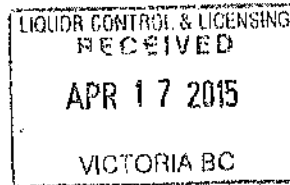
ORDER MADE AFTER APPLICATION

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NIXON WENGER LLP  
#301, 2706 – 30<sup>TH</sup> AVENUE  
VERNON, BC V1T 2B6  
PH: 250-542-5353  
FAX: 250-542-7273



File 36595-001  
JLH:pj



No. 48105  
Vernon Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

RAYMOND MARSHAL HANSON AND  
LINDA DIANNE HANSON

PLAINTIFFS

AND:

TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON,  
NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL

DEFENDANTS

NOTICE OF APPLICATION

Names of Applicants: Raymond Marshal Hanson and Linda Dianne Hanson, the  
Plaintiffs

To: The Defendants, Tripple Creek Investments Ltd., Nathan Charles Koebel  
and Tamryn Lee-Anne Koebel, c/o their lawyer M. Shane Dugas

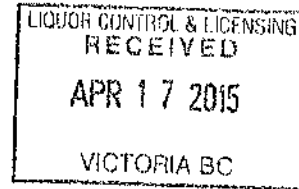
And to: Elephant Storage Centre, Attention Julia and Wade Cantelope

TAKE NOTICE that an application will be made by the applicants to the presiding judge  
at the Courthouse at 3001 – 27<sup>th</sup> Street, Vernon, British Columbia, on April 27, 2015 at  
9:45 a.m. for the order set out in Part 1 below.

Part 1: ORDER(S) SOUGHT

1. To vary and add to the terms of Order of The Honourable Mr. Justice Cole made April 2,  
2015 to extend the injunction restraining and enjoining the Defendants Tripple Creek  
Investments Ltd. ("Tripple Creek Defendant"), Nathan Charles Koebel and Tamryn Lee-  
Anne Koebel (the "Koebel Defendants") from disposing of equipment and other chattels  
and collateral (the "Collateral") to include the Collateral located at the premises of  
Elephant Storage Centre at Vernon, British Columbia and that the said Elephant Storage





Centre disclose forthwith to the lawyer for the Plaintiffs and on any attendance of a bailiff sent on behalf of the Plaintiffs to that bailiff the location and storage bin numbers at its locations or any of its locations that it is now in possession of, having taken delivery of the Collateral from Tripple Creek Defendant, the Koebel Defendants or any of them.

2. If the Tripple Creek Defendant, the Koebel Defendants or any of them have removed any of the Collateral from the storage bins located at Elephant Storage Centre, that they disclose the current location of that Collateral and that none of the Tripple Creek Defendant, the Koebel Defendants or any of them cause any of the Collateral to be moved from its current location without consent of the Plaintiffs or Court Order.

**Part 2: FACTUAL BASIS**

1. This is a foreclosure proceeding. There had been a Consent Order for a judgment to be paid in the amount of \$350,000.00 The Plaintiffs were granted an Order Absolute over the real property on April 7, 2015.
2. The Plaintiffs also have a General Security Agreement granted by the Defendant Tripple Creek Holdings Ltd. Notices have been given of Intention to Enforce Security and of Intention to Seize and Dispose of Collateral.
3. The Plaintiffs have reason to believe that the Tripple Creek Defendant and the Koebel Defendants contracted with Elephant Storage Centre to remove equipment and other chattels (the "Collateral") from the subject Property and to receive and store the Collateral at its storage location in Vernon, British Columbia.

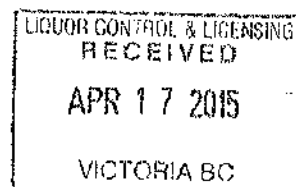
**Part 3: LEGAL BASIS**

1. The Plaintiffs plead and rely on S. 39 of the *Law and Equity Act*, R.S.B.C. 1996, c. 253, Ruled 10-4 and 14-1 of the *Supreme Court Civil Rules* and the inherent jurisdiction of the Court; and the *Personal Property Security Act*, R.S.B.C. 1996, Ch. 359.

2. The Order Absolute merges the judgment of \$350,000 into the Order Absolute. It does not merge the General Security Agreement.

**Part 4: MATERIAL TO BE RELIED ON**

1. Affidavit #9 of Ray Hanson made April 8, 2015;
2. Affidavit #8 of Ray Hanson made April 2, 2015;
3. Affidavit #7 of Ray Hanson made March 19, 2015;
4. Affidavit #6 of Ray Hanson made February 9, 2015;
5. Order of Madam Justice Fenlon made March 3, 2015;
6. Order of Mr. Justice Cole made April 2, 2015;
7. Order of Madam Justice Beames made April 7, 2015;
8. Such further and other materials as may be provided.



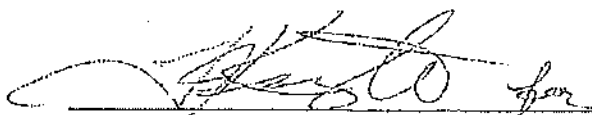
The applicants estimate that the application will take 10 minutes.

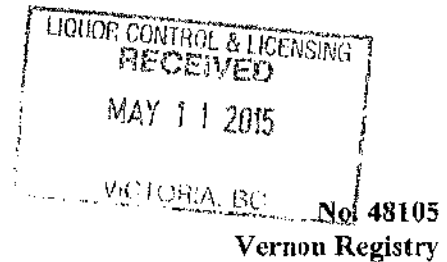
☒ This matter is within the jurisdiction of a Judge.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to the 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) Serve 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).

DATE: April 14, 2015.

  
 Signature of lawyer for Applicants  
 Jennifer Harry



IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

RAYMOND MARSHAL HANSON AND  
LINDA DIANNE HANSON

PLAINTIFFS

AND:

TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON,  
NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL

DEFENDANTS

ORDER

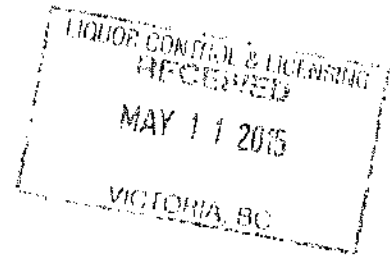
Before The Honourable ) Friday the 8th day  
Mr. Justice Betton ) of May, 2015

ON THE APPLICATIONS of the Plaintiffs and the Applications of the Defendants, both coming on for hearing at Vernon, British Columbia on May 8, 2015 and on reading the materials filed and on hearing Jennifer Harry, lawyer for the Plaintiffs, and on hearing M. Shane Dugas, lawyer for the Defendants Tripple Creek Investments Ltd., Nathan Charles Koebel and Tamryn Lec-Anne Koebel;

THIS COURT ORDERS that:

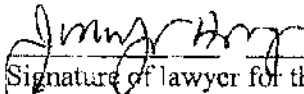
1. The Defendants take all reasonable steps to comply with the Order of Madam Justice Fenlon made March 3, 2015 and counsel for the Defendants confirm in writing to counsel for the Plaintiffs today that the steps to comply with the Order of Madam Justice Fenlon have been taken;
2. The B.C. Liquor Control and Licensing Branch not take steps to terminate Retail Store Licence #195399 for 120 days unless there is a further Order of the Court, with liberty to the B.C. Liquor Control and Licensing Branch to apply to set aside or vary this paragraph of the Order;
3. The two applications of the Plaintiffs are dismissed, with liberty to the Plaintiffs to reapply if the Order Absolute made April 7, 2015 is set aside or varied;

(Excluded)



4. The Defendants applications are dismissed; and
5. No costs of the applications are awarded to either the Plaintiffs or the Defendants.

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

  
 \_\_\_\_\_  
 Signature of lawyer for the Plaintiffs  
 Jennifer Harry

\_\_\_\_\_  
 Signature of lawyer for the Defendants  
 Tripple Creek Investments Ltd.,  
 Nathan Charles Koebel, Tamryn  
 Lee-Anne Koebel

**BY THE COURT**

\_\_\_\_\_  
**DISTRICT REGISTRAR**

CONFIDENTIAL

Stewart, Heather Ann JAG:EX

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s.14



**Stewart, Heather Ann JAG:EX**

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s.21









**CONFIDENTIAL**

**Stewart, Heather Ann JAG:EX**

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s.14



















**Stewart, Heather Ann JAG:EX**

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s.21





s.21

300 – 350 Lansdowne Street, Kamloops  
British Columbia Canada V2C 1Y1  
T: (250) 372-5542  
F: (250) 851-2300  
Web Site: [www.fultonco.com](http://www.fultonco.com)





300 – 350 Lansdowne Street, Kamloops  
British Columbia Canada V2C 1Y1  
T: (250) 372-5542  
F: (250) 851-2300  
Web Site: [www.fultonco.com](http://www.fultonco.com)



s.21

FORM 109 (RULE 22-2(2) AND (7))



This is the 10th affidavit  
of Raymond Marshal Hanson in this case and  
was made on July 17, 2015

No. 48105  
Vernon Registry

BETWEEN

**RAYMOND MARSHAL HANSON AND LINDA DIANNE HANSON**

**PLAINTIFFS**

AND

**TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON, NATHAN  
CHARLES KOEBEL, and TAMRYN LEE-ANNE KOEBEL**

**DEFENDANTS**

**AFFIDAVIT**

I, Raymond Marshal Hanson, retired, of Malakwa, Province of British Columbia, SWEAR  
THAT:

1. I am one of the Plaintiffs in the action herein and as such have personal knowledge of the matters hereinafter deposed to save and except where the same are stated to be based on information and belief and wherever so stated I verily believe it to be true.
2. I sold the shares in Tripple Creek Investments Ltd. ("Tripple Creek") to the Defendants, Nathan and Tamryn Koebel, for \$600,000.00 on May 22, 2009 (the "Agreement"). I funded the Agreement for the Defendants by taking a mortgage, promissory notes, and a general security agreement in relation to all the property and assets held by Tripple Creek (the "Security").
3. The mortgage was registered against property owned by Tripple Creek with an assessed value, not including the assets and liquor licenses, of approximately \$400,000.00 (the



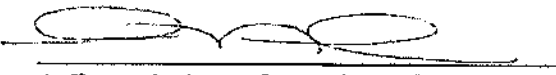
"Property"). There is also an additional mortgage registered against the Property securing approximately \$150,000.00, which has priority over my Security.

4. I have never been paid any amounts due and owing under the Security and the value of the Property on its own is not sufficient for me to recover my losses.
5. I commenced these proceedings on June 10, 2011, and subsequently obtained an Order Nisi of foreclosure on April 15, 2014 and Order Absolute on April 7, 2015.
6. Attached as **Exhibit "A"** to this my affidavit are filed copies of the Petition, the Order Nisi of Foreclosure, the Order of Conduct of Sale, and the Order Absolute in the action herein.
7. With guidance by my solicitors at the time, it was always the intention to recover the shares in Tripple Creek and return myself the position I was in prior to entering into the Agreement with the Defendants. Any final sale or re-possession of the Property would have to include the sale and/or possession of the assets of Tripple Creek, including Retail Liquor License #195339 and Food Primary Liquor Licences #304459 (the "Licenses").
8. At several points during the foreclosure proceedings, the courts granted orders in my favour preserving the aforementioned assets and Licenses pending final outcome of the action. This was in response to numerous attempts by the Defendants to cancel and transfer the Licenses out of Tripple Creek and into their own names or that of third parties.
9. In fact, the Defendants cancelled the Liquor Primary Licences #304459 and replaced it with a Food Primary License. The Defendants also attempted to sell the Retail Liquor License #195339 for approximately \$675,000.00 pursuant to a Liquor License Transfer Agreement dated March 26, 2015, contrary to the court orders described below. Attached as **Exhibit "B"** to this my affidavit is a copy of abovementioned agreement to transfer Retail Liquor License #195339.
10. The aforesaid applications and orders to prevent the transfer of the Licenses were as follows:
  - (a) Application for injunction dated September 17, 2014, preventing the Defendants from selling or disposing of the Licenses;
  - (b) Application for injunction dated February 10, 2015, preventing the Defendants from selling or disposing the Licenses and to transfer the Licenses back to Tripple Creek, granted by the Honourable Justice Fenlon on March 3, 2015;
  - (c) Application for injunction dated April 2, 2015, preventing the Defendants from disposing equipment and other chattel owned by Tripple Creek and operated on the Property, granted by the Honourable Justice Cole on April 2, 2015; and
  - (d) Applications to amend the order dated April 2, 2015, and an application ordering the Defendants to transfer the Licenses to myself, both dated April 14, 2015. The

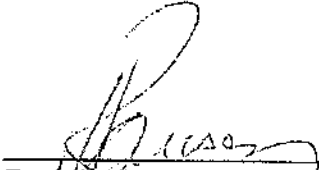
Applications were not granted as sought; however, an order was granted on May 8, 2015, by the Honourable Mr. Justice Betton, ordering the Defendants to comply with the order dated March 3, 2015, and prohibited the Liquor Control and Licensing Branch from terminating the retail liquor license for 120 days.

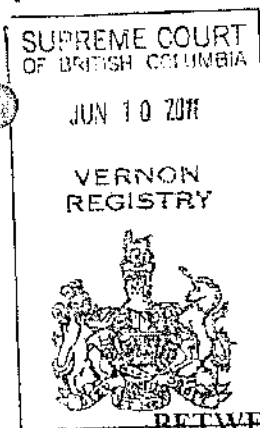
11. Attached as **Exhibit "C"** to this my affidavit are copies of abovementioned applications and corresponding court orders.
12. During the applications and pursuant to the injunctions, it is clear that the intent of the foreclosure proceedings was to recover and/or sell the Property, Licenses, and assets of Tripple Creek. This is the only way in which I will be made whole for my losses.
13. The Defendants have never paid for the Property, the Licenses, or the assets of Tripple Creek, and are now attempting to sell the Licenses for an amount greater than they purchased all of the assets of Tripple Creek under the Agreement.

SWORN (OR AFFIRMED) BEFORE ME )  
at the City of Kamloops, British )  
Columbia, on 17 July, 2015. )

  
A Commissioner for taking Affidavits )  
in the Province of British Columbia. )


Ayla T. Salyn  
Barrister & Solicitor  
FULTON & COMPANY LLP  
#300 - 350 Lansdowne St.  
Kamloops, BC V2C 1Y1

  
Raymond Marshal Hanson



This is Exhibit "A" referred to in the  
affidavit of RAYMOND MARSHAL HANSON  
sworn before me the 17 day of JULY, 2015

No. 48105  
Vernon Registry

  
A Commissioner for taking Affidavits  
in British Columbia  
**IN THE SUPREME COURT OF BRITISH COLUMBIA**  
**RE: AN INDENTURE OF MORTGAGE REGISTERED**  
**IN THE KAMLOOPS LAND TITLE OFFICE**  
**UNDER APPLICATION NUMBER CA1396114**

**BETWEEN:**

**RAYMOND MARSHAL HANSON AND**  
**LINDA DIANNE HANSON**

**PETITIONERS**

**AND:**

**TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON,**  
**NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL**

**RESPONDENTS**

**PETITION TO THE COURT**

This proceeding has been started by the Petitioners for the relief set out in Part I 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 Petitioners,

- (a) if you reside anywhere in 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: Vernon Court Registry 3001 – 27 <sup>th</sup> Street Vernon, British Columbia V1T 4W5
(2)	The ADDRESS FOR SERVICE of the Petitioners is: c/o Nixon Wenger LLP 3201 – 30 <sup>th</sup> Avenue Vernon British Columbia V1T 2C6 Fax number address for service (if any) of the Petitioner: 250-542-7273 E-mail address for service (if any) of the Petitioner: none
(3)	The name and office address of the Petitioners' lawyer is: Jennifer Harry NIXON WENGER LLP, Lawyers 3201 – 30 <sup>th</sup> Avenue Vernon British Columbia V1T 2C6

### CLAIM OF THE PETITIONERS

#### **Part 1: ORDERS SOUGHT**

1. A Declaration that the following are in default and that all monies and chattels secured thereby are due and owing:
  - a. an Indenture of Mortgage dated May 22, 2009, made between the Respondent Tripple Creek Investments Ltd., as Mortgagor and the Petitioners as Mortgagee, and registered in the Kamloops Land Title Office on December 17, 2009, under number CA1396114 (the "Mortgage") charging the following lands:
 

ALL AND SINGULAR that certain parcel or tract of lands and premises situate, lying and being in the Vernon Assessment Area, in the Province of British Columbia, being more particularly known and described as:

Parcel Identifier No. 026-817-926  
 Lot 1, Section 4, Township 23, Range 6, West of the 6<sup>th</sup> Meridian  
 Kamloops Division Yale District, Plan NEP82004

(the "Lands")

- b. a General Security Agreement dated May 22, 2009 between Tripple Creek Investments Ltd., as Debtor and the Petitioners, as the Lenders, registered in the Personal Property Security Registry on December 14, 2009, under Base Registration No.321838F and securing all tangible personal property of the said Debtor (the "General Security Agreement");

and that all monies secured by the General Security Agreement and secured by the Mortgage and charged upon the Lands are due and owing and that the interests of the Petitioners pursuant thereto are in priority to the interests of the Respondents;

2. A Declaration that the monies secured by the Mortgage and the General Security Agreement are due and owing;
3. A Declaration that the amount of money due and owing to the Petitioners pursuant to the provisions of the Mortgage and the General Security Agreement as at June 8, 2011, is \$517,445.72, together with interest accruing after that date at the rate of 2.25% being the Salmon Arm Savings and Credit Union Prime Rate of April 1, 2010, the date of default, (the "SASCU Prime Rate") with a per diem at the rate of \$31.87 to the date of payment, together with the Petitioners' costs of these proceedings on such scale as may be set by this Honourable Court;
4. An Order that the last day for the redemption of the Mortgage be the day which is one day after the date of pronouncement of Order Nisi herein or such other period as this Honourable Court shall determine;
5. An Order that the amount required to redeem the Lands as at June 8, 2011 is \$517,445.72 together with interest at the rate as set out in paragraph 3 herein, which is currently 2.25% per annum having a per diem rate of \$31.87, together with the Petitioners' costs of these proceedings at such scale as may be set by this Court;

6. An Order that the Petitioners do recover judgment against the Respondent Tripple Creek Investments Ltd. pursuant to its covenant for payment contained in the Mortgage, in the amount of \$517,445.72 together with interest accruing after that date at the rate of \$31.87 per diem;
7. An Order that the Petitioners do recover judgment against the Respondents Heath Edward Hanson, Nathan Charles Koebel and Tamryn Lee-Anne Koebel pursuant to their covenants for payment contained in Promissory Notes, in the following amounts:
  - a. Heath Edward Hanson as Promissor, to Raymond Marshal Hanson as Lender for the sum of \$128,392.77 as at June 8, 2011 with a per diem rate of \$7.91 ("Promissory Note #1");
  - b. Heath Edward Hanson as Promissor to Linda Dianne Hanson as Lender for the sum of \$128,341.29 as at June 8, 2011 with a per diem rate of \$7.90 ("Promissory Note #2");
  - c. Nathan Charles Koebel as Promissor to Raymond Marshal Hanson as Lender for the sum of \$64,171.67 as at June 8, 2011 with a per diem rate of \$3.95 ("Promissory Note #3");
  - d. Nathan Charles Koebel as Promissor to Linda Dianne Hanson as Lender for the sum of \$64,195.29 as at June 8, 2011 with a per diem rate of \$3.95 ("Promissory Note #4");
  - e. Tamryn Lee-Anne Koebel as Promissor to Raymond Marshal Hanson as Lender for the sum of \$64,170.65 as at June 8, 2011 with a per diem rate of \$3.95 ("Promissory Note #5");
  - f. Tamryn Lee-Anne Koebel as Promissor to Linda Dianne Hanson as Lender for the sum of \$64,196.31 as at June 8, 2011 with a per diem rate of \$3.95 ("Promissory Note #6");collectively, the "Promissory Notes") ;  
together with interest at the SASCU Prime Rate which at April 1, 2010 (the "date of default") was 2.25%;

8. An Order pursuant to Section 55(6) of the *Personal Property Security Act*, R.S.B.C. 1996, Ch. 359, and amendments thereto, that the Petitioners may enforce their security in respect to both the Land and Personal Property as if the Personal Property secured under the General Security Agreement were land and further that the Petitioners may enforce all their rights, remedies and duties in respect to land, as against the Personal Property;
9. An Order for costs of the Petitioners on a solicitor client basis as provided in the Mortgage, or in the alternative, costs to be assessed at Scale A under Appendix B of the *Supreme Court Civil Rules*, with the question of the scale of costs on any subsequent applications to be determined at the hearing of such subsequent applications;
10. An Order that upon the Respondents, or any of them, paying into Court to the credit of this proceeding at the Court Registry, 3001 – 27<sup>th</sup> Street, City of Vernon, Province of British Columbia V1T 4W5 or paying to the Solicitor of Record for the Petitioners, the amount required to redeem the Lands as aforesaid, together with the Petitioners' costs on or before pronouncement of either Order Absolute of Foreclosure or an Order confirming the sale of the Lands, the Petitioners shall reconvey the Lands free and clear of all encumbrances in favour of it or any person claiming by, through or under it and shall deliver up, upon oath if required, all deeds, titles and documents in its custody, possession or power relating thereto to the Respondents so paying or to whom they shall appoint;
11. An Order that if the Lands not be redeemed, the Petitioners shall be at liberty to apply for an Order Absolute of Foreclosure and upon pronouncement of Order Absolute of Foreclosure, the Respondents and all persons claiming by, through or under them shall henceforth stand absolutely debarred and foreclosed of and from all right, title, interest and equity of redemption in and to the Lands and that thereupon the Petitioners do recover vacant possession of the Lands;

12. An Order that in default of payment as aforesaid, the Petitioners recover possession of the Lands;
13. An Order that occupational rent be fixed;
14. An Order that a Receiver of the profits and rents of the Lands be appointed;
15. An Order that the Petitioners, if necessary, be at liberty through their agents, to conduct any maintenance and services required at the restaurant located on the Lands, known as the "Burner" and all outbuildings ancillary thereto, and that the costs of such maintenance and services be added to the amount owed to the Petitioners, recovered as a protective disbursement and form part of the amount owed to and recoverable by the Petitioners on the sale of the Lands and as part of the judgment against the Respondent Tripple Creek Investments Ltd.;
16. An Order for sale of the Lands with the Petitioners having conduct of such sale;
17. An Order for all necessary accounts, directions and enquiries together with such further or corollary relief as to this Honourable Court may seem just and meet;
18. An Order that the Petitioners be granted liberty to apply to this Court for a further summary of accounting of any amounts which become due to the Petitioners for interest, interest on arrears of interest pursuant to the provisions of the Mortgage, taxes, arrears of taxes, insurance premiums, costs, charges, expenses or otherwise since the date of pronouncement of this Order;
19. A Certificate of Pending Litigation;
20. Costs; and
21. An Order for any further relief that to this Honourable Court may seem just.



## Part 2: FACTUAL BASIS

22. The Petitioner, Raymond Marshal Hanson, is a mill owner and operator, and resides at Malakwa, Province of British Columbia. The Petitioner, Linda Dianne Hanson, is a postal worker and resides at Malakwa, Province of British Columbia.
23. The Respondent Tripple Creek Investments Ltd. is the registered owner of the Lands.
24. Each of the Respondents Heath Edward Hanson, Nathan Charles Koebel and Tamryn Lee-Anne Koebel reside at Malakwa, Province of British Columbia.
25. The Petitioners granted a loan to the Respondents Heath Edward Hanson, Nathan Charles Koebel and Tamryn Lee-Anne Koebel pursuant to a Share Purchase Agreement dated May 22, 2009, wherein the Petitioners as Vendors agreed to carry Vendor Financing in the principal amount of \$500,000 for the Respondents Heath Edward Hanson and Nathan Charles Koebel and Tamryn Lee-Anne Koebel as Purchasers (the "Loan").
26. As security for the Loan, the Respondents Heath Edward Hanson, Nathan Charles Koebel and Tamryn Lee-Anne Koebel each executed Promissory Notes dated May 22, 2009, between each of the said Respondents, as the Promissors, to the Petitioners, as the Lenders, pursuant to which they agreed to pay to the Petitioners as follows:
- a. Heath Edward Hanson as Promissor, to Raymond Marshal Hanson as Lender for the sum of \$125,025.00 ("Promissory Note #1");
  - b. Heath Edward Hanson as Promissor to Linda Dianne Hanson as Lender for the sum of \$124,975.00 ("Promissory Note #2");
  - c. Nathan Charles Koebel as Promissor to Raymond Marshal Hanson as Lender for the sum of \$62,488.50 ("Promissory Note #3");
  - d. Nathan Charles Koebel as Promissor to Linda Dianne Hanson as Lender for the sum of \$62,511.50 ("Promissory Note #4");

- e. Tamryn Lee-Anne Koebel as Promissor to Raymond Marshal Hanson as Lender for the sum of \$62,487.50 ("Promissory Note #5"); and
  - f. Tamryn Lee-Anne Koebel as Promissor to Linda Dianne Hanson as Lender for the sum of \$62,512.50 ("Promissory Note #6").
- (collectively, the "Promissory Notes")

without interest except in the event of default in payment in which case interest pursuant to the terms of the Promissory Notes shall accrue and be payable on the balance then owing under the Promissory Notes at the prime rate of interest charged by the Salmon Arm Savings and Credit Union ("SASCU Prime Rate"). At the date of default, April 1, 2010, the SASCU Prime Rate was 2.25%.

27. The Respondent Tripple Creek Investments Ltd. guaranteed the obligations of the Respondents Heath Edward Hanson, Nathan Charles Koebel and Tamryn Lee-Anne Koebel pursuant to the terms of a guarantee executed and dated May 22, 2009 (the "Guarantee")
28. As collateral security for its Guarantee and other consideration expressed in a mortgage dated May 22, 2009, the Respondent Tripple Creek Investments Ltd. did grant and mortgage the Lands unto the Petitioners, which Mortgage was duly registered as No. CA1396114 on December 17, 2009, in the Kamloops Land Title Office, Province of British Columbia (the "Mortgage").
29. The Respondent, Tripple Creek Investments Ltd., did for the consideration expressed in the Mortgage, promise to the Petitioners to pay pursuant to the terms of the Mortgage.
30. As further security for the Guarantee, the Respondent Tripple Creek Investments Ltd. executed a General Security Agreement dated May 22, 2009, between the Respondent Tripple Creek Investments Ltd., as Debtor, and the Petitioners, collectively as the Lender, registered in the Personal Property Security Registry on December 14, 2009, under Base Registration No. 321838F and securing all personal property of the Respondent Tripple Creek Investments Ltd. (the "General Security Agreement").

31. The Respondents, Heath Edward Hanson, Nathan Charles Koebel and Tamryn Lee-Anne Koebel, as Promissors, are in default of the payments required to be made pursuant to the terms of the Loan and the Promissory Notes.
32. Pursuant to the terms of the Guarantee, the Respondent Tripple Creek Investments Ltd. is liable for the defaults under the Loan and Promissory Notes.
33. The Respondent Tripple Creek Investments Ltd. is in default pursuant to the terms of the Mortgage. Without limiting the generality of the foregoing the particular defaults of the Respondent Tripple Creek are that:
- a. The said Respondent has failed to provide proof of payment of property taxes and in fact, property taxes were unpaid and the Petitioner Raymond Marshall Hanson has made payment of same; and
  - b. The said Respondent has failed to provide the Petitioners with monthly income statements and annual financial statements.
34. By virtue of the provisions of the Loan, the Guarantee, the Mortgage and the General Security Agreement, upon such default the whole of the amount secured by the Mortgage becomes due and payable at the option of the Petitioners and the same is now due and payable but has not been paid.
35. The principal sum advanced pursuant to the Loan which is secured by the Guarantee, the Mortgage and the General Security Agreement was \$500,000.00 and the principal sum now due under the Loan and the Mortgage and the General Security Agreement as at June 8, 2011 is \$517,445.72 together with interest at the SACU Prime Rate, together with the Petitioners' costs of these proceedings.
36. The interest due under the Mortgage on the said sum of \$517,445.72 at the SASCU Prime Rate, which is presently 2.25% per annum such that the interest presently accrues at the per diem rate of \$31.87 as at June 8, 2011.

37. By reason of the said defaults, the Petitioners have made demand upon the Respondent Tripple Creek Investments Ltd. as Guarantor and Mortgagor to pay the outstanding balance of principal and interest and on the Respondents Heath Edward Hanson, Nathan Charles Koebel and Tamryn Lee-Anne Koebel, as Promissors, to pay the amount owing pursuant to the terms of the Promissory Notes. The said Respondents have neglected or refused to comply with such demand.
38. Concurrently with the referenced demand the Petitioner provided to the Respondent Tripple Creek Investments Ltd. a Notice of Intention to Enforce Security pursuant to the requirements of the *Bankruptcy and Insolvency Act*.
39. The premises situate on the Lands are commercial premises upon which the Respondent Tripple Creek Investments Ltd. does business operating a neighbourhood pub known as The Burner near the Town of Malakwa, British Columbia and there are residential premises constructed on the Lands as well.
40. The Petitioners have not entered into nor taken possession of the Lands.
41. There are no other persons having an interest in the Lands with respect to which the Mortgage of the Petitioners has priority.
42. The claim of the Petitioners includes no claim for a penalty or a bonus.
43. The following Respondents are joined in this action as holders of charges registered against the Lands all of which charges and interests the Petitioners say rank in priority behind the interest of the Petitioners:

Charge Holder	Charge	REG. NO.
Nil		

**Part 3: LEGAL BASIS**

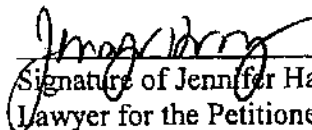
1. Rules 16-1 and 21-7 of the *Supreme Court Civil Rules*.

**Part 4: MATERIALS TO BE RELIED ON**

1. Affidavit #1 of Raymond Marshal Hanson made June 8, 2011; and
2. Such further documents as counsel may advise.

The Petitioners estimate that the hearing of the Petition will take 10 minutes.

Date: 8 June, 2011.

  
 Signature of Jennifer Harry  
 Lawyer for the Petitioners

*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: ..... [dd/mm/yyyy]

Signature of ☐ Judge ☐ Master

No. \_\_\_\_\_

Vernon Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA  
RE: AN INDENTURE OF MORTGAGE REGISTERED  
IN THE KAMLOOPS LAND TITLE OFFICE  
UNDER APPLICATION NUMBER CA1396114**

**BETWEEN:**

**RAYMOND MARSHAL HANSON AND  
LINDA DIANNE HANSON**

**PETITIONERS**

**AND:**

**TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON,  
NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL**

**RESPONDENTS**

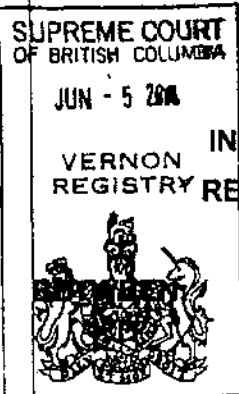
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**PETITION TO THE COURT**

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**NIXON WENGER LLP  
LAWYERS  
3201 – 30<sup>th</sup> AVENUE  
VERNON BC V1T 2C6  
PH: 250-542-5353, FAX 250-542-7273**

*36595-001/JLH  
JLH:pj*



No. 48105  
Vernon Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA  
RE: AN INDENTURE OF MORTGAGE REGISTERED  
IN THE KAMLOOPS LAND TITLE OFFICE  
UNDER APPLICATION NUMBER CA1396114

RAYMOND MARSHAL HANSON AND  
LINDA DIANNE HANSON

PLAINTIFFS

AND:

TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON,  
NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL

DEFENDANTS

ORDER AFTER TRIAL – ORDER NISI

BEFORE THE HONOURABLE  
MR. JUSTICE COLE

)  
)

Tuesday, the 15<sup>th</sup> day  
of April, 2014

THIS ACTION coming on for summary trial at Vernon, British Columbia, on April 15, 2014 and on hearing Jennifer Harry, lawyer for the Plaintiffs, Raymond Marshal Hanson and Linda Dianne Hanson, and on hearing M. Shane Dugas, lawyer for the Defendants, Tripple Creek Investments Ltd., Nathan Charles Koebel and Tamryn Lee-Anne Koebel;

**THIS COURT ORDERS AND DECLARES:**

1. There has been a default under a mortgage dated May 22, 2009, made between the Respondent Tripple Creek Investments Ltd. as Mortgagor, and the Petitioners as Mortgagee, and registered in the Kamloops Land Title Office on December 17, 2009 under number CA1396114 (the "Mortgage")

which charges the following land and premises:

PID: 026-817-926

Legal Description: Lot 1, Section 4, Township 23, Range 6,

West of the 6<sup>th</sup> Meridian, Kamloops Division Yale District,  
Plan NEP82004

(the "Property")

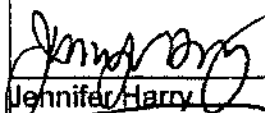
and that all monies secured by the Mortgage and charged upon the Property are now due and owing, subject to the quantification of the amount owing as set out in paragraphs 3 and 4 of this Order;


2. The redemption period shall be six months (the "Redemption Period");
3. The judgment quantum is to be quantified summarily before a Judge at any time following a sale, the end of the Redemption Period or at the expiry of the Redemption Period;
4. In the event the trial is not concluded at the end of the Redemption Period the Plaintiffs are entitled to the full amount owed, subject to the quantification of the Judgment;
5. The Defendants, Tripple Creek Investments Ltd., Nathan Charles Koebel and Tamryn Lee-Anne Koebel, are to respond to the outstanding discovery requests of the Plaintiffs within 60 days of the date of this Order save and except any Revenue Canada matters, which will be 90 days; and



6. Within 60 days, the Plaintiffs are to comply with the requirement to summarize the supporting documents for the beginning of the 2008-2009 taxation year in a form suitable to the Canada Revenue Agency and file the change of ownership.

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

  
\_\_\_\_\_  
Jennifer Harry  
Lawyer for the Plaintiffs

  
\_\_\_\_\_  
M. Shane Dugas  
Lawyer for the Defendants  
Tripple Creek Investments Ltd.  
Nathan Charles Koebel  
Tamryn Lee-Anne Koebel

BY THE COURT

  
\_\_\_\_\_  
DEPUTY DISTRICT REGISTRAR

checked  
ML

No. 48105

Vernon Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA  
RE: AN INDENTURE OF MORTGAGE REGISTERED  
IN THE KAMLOOPS LAND TITLE OFFICE  
UNDER APPLICATION NUMBER CA1396114**

**BETWEEN:**

**RAYMOND MARSHAL HANSON AND  
LINDA DIANNE HANSON**

**PETITIONERS**

**AND:**

**TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON,  
NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL**

**RESPONDENTS**

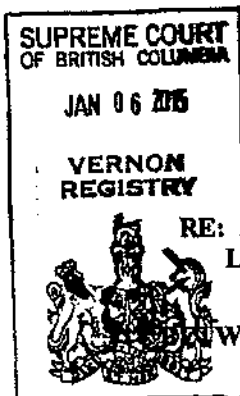
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**ORDER AFTER TRIAL – ORDER NISI**

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**NIXON WENGER LLP  
LAWYERS  
#301, 2706 30<sup>th</sup> AVENUE  
VERNON BC V1T 2B6  
PH: 250-542-5353, FAX 250-542-7273**

36595-001/JLH  
JLH:pj



No. 48105  
Vernon Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**RE: AN INDENTURE OF MORTGAGE REGISTERED IN THE KAMLOOPS  
LAND TITLE OFFICE UNDER APPLICATION NUMBER CA1396114**

**BETWEEN:**

**RAYMOND MARSHAL HANSON AND  
LINDA DIANNE HANSON**

**PLAINTIFFS**

**AND:**

**TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON,  
NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL**

**DEFENDANTS**

**ORDER MADE AFTER APPLICATION - ORDER FOR CONDUCT OF SALE**

**BEFORE MASTER McDIARMID**

) Tuesday, the 16th day of  
) December, 2014

ON THE APPLICATION of the Plaintiffs, Raymond Marshal Hanson and Linda Dianne Hanson, coming on for hearing at Vernon, British Columbia on December 16, 2014 and on hearing Jennifer Harry, lawyer for the Plaintiffs, and on hearing M. Shane Dugas, lawyer for the Defendants Tripple Creek Investments Ltd., Nathan Charles Koebel and Tamryn Lee-Anne Koebel;

**THIS COURT ORDERS that:**

1. The Plaintiffs' application for judgment be and is hereby dismissed;
2. The Plaintiffs be entitled to immediately list the land and premises which form the subject matter of the within proceeding, situate, lying and being in the Vernon Assessment Area, Province of British Columbia, more particularly known and described as:

PID 026-817-926

Legal Description: Lot 1, Section 4, Township 23  
Range 6, West of the 6<sup>th</sup> Meridian, Kamloops Division  
Yale District, Plan NEP82004


(the "Property")

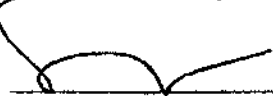
for sale, free and clear of all encumbrances save and except the reservations, provisos, exceptions and conditions contained in the original grant thereof from the Crown, without further Order of this Court;

3. The Plaintiffs have exclusive conduct of the sale and be at liberty to list the Property for sale immediately and shall be at liberty to do all things reasonably incidental thereto including paying to any real estate agent or firm retained by the Plaintiffs pursuant to this Order and that may arrange a sale, a commission of not more than 7% on the first \$100,000.00 of the gross selling price and not more than 2.5% on the balance of the gross selling price, plus GST, that commission to be paid from the proceeds of the sale;
4. Any sale be subject to the approval of this Court;
5. If there are any person or persons in possession of the Property, including any tenant or tenants, they shall on and after December 16, 2014 permit any duly authorized agent of the Plaintiffs to inspect or appraise the Property and the interior thereof and show the Property and the interior thereof to prospective purchasers between the hours of 9:00 a.m. and 9:00 p.m. on any day of the week excluding statutory holidays and to post signs on the Property indicating that the Property is offered for sale;
6. The Plaintiffs or any duly authorized agent of the Plaintiffs be entitled on and after December 16, 2014 to force entry to the Property and the interior thereof and take further steps to secure the Property in the event they are abandoned or vacated; and

7. Each party shall bear their own costs of this application.

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

  
\_\_\_\_\_  
Signature of Jennifer Harry  
Lawyer for the Plaintiffs

  
\_\_\_\_\_  
Signature of M. Shane Dugas  
Lawyer for the Defendants, Tripple Creek  
Investments Ltd., Nathan Charles Koebel  
and Tamryn Lee-Anne Koebel

BY THE COURT

  
\_\_\_\_\_  
DEPUTY DISTRICT REGISTRAR

checked  
mk

No. 48105

Vernon Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA  
RE: AN INDENTURE OF MORTGAGE REGISTERED  
IN THE KAMLOOPS LAND TITLE OFFICE  
UNDER APPLICATION NUMBER CA1396114**

**BETWEEN:**

**RAYMOND MARSHAL HANSON AND  
LINDA DIANNE HANSON**

**PETITIONERS**

**AND:**

**TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON,  
NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL**

**RESPONDENTS**

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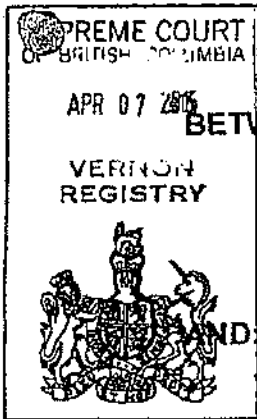
**ORDER MADE AFTER APPLICATION – ORDER FOR CONDUCT OF SALE**

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**NIXON WENGER LLP  
LAWYERS  
#301, 2706 30<sup>th</sup> AVENUE  
VERNON BC V1T 2B6  
PH: 250-542-5353, FAX 250-542-7273**

*36595-001/JLH  
JLH:pj*

**DEC 17 2014**



No. 48105  
Vernon Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

RAYMOND MARSHAL HANSON AND  
LINDA DIANNE HANSON

PLAINTIFFS

AND:  
TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON,  
NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL

DEFENDANTS

ORDER MADE AFTER APPLICATION - ORDER ABSOLUTE

BEFORE MASTER Andersson ) Twenty day, the 30 day  
of April, 2015

ON THE APPLICATION of the Petitioners Raymond Marshal Hanson and Linda Dianne Hanson, and by consent;

THIS COURT ORDERS AND DECLARES that:

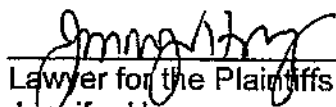
1. The Defendants Tripple Creek Investments Ltd., Nathan Charles Koebel and Tamryn Lee-Anne Koebel, their executors, administrators, successors and assigns and all persons claiming by, through or under them do stand absolutely debarred and foreclosed of and from all the estate, right, title interest and equity of redemption of, in and to the Property with a legal description of:


Parcel Identifier No. 026-817-926  
Lot 1, Section 4, Township 23, Range 6,  
West of the 6<sup>th</sup> Meridian, Kamloops Division  
Yale District, Plan NEP82004

(the "Property")

2. The Defendants and each of them, and all persons claiming by, through or under them, and any person or persons in possession of the Property on their behalf, do immediately deliver vacant possession of the Property to the Plaintiffs upon the granting of this Order;
3. The Defendants forthwith deliver over to the Plaintiffs all keys necessary to gain access to the buildings on the Property or any part thereof;

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

  
\_\_\_\_\_  
Lawyer for the Plaintiffs  
Jennifer Harry

  
\_\_\_\_\_  
Lawyer for the Defendants  
Tripple Creek Investments Ltd.,  
Nathan Charles Koebel and  
Tamryn Lee-Anne Koebel  
Shane Dugas

BY THE COURT

  
\_\_\_\_\_  
DEPUTY DISTRICT REGISTRAR



This is Exhibit A referred to in the affidavit of Patrice Robinson sworn before me the 11 day of March 2015.

A Commissioner for taking Affidavits  
in British Columbia

# LIQUOR LICENCE TRANSFER

This is Exhibit A referred to in the affidavit of Patrice Robinson sworn before me at Vernon this 14 day of May 2015.

Jimmy Dwyer  
A Commissioner for taking Affidavits  
in British Columbia

This counter offer is dated for reference the 26th day of March 2015.

BETWEEN

Mr. Charles Nathan Koebel an address at 4260 Oxbow Frontage Road Malakwa B.C. V0E 2J0

(the Vendor)

AND

1030476 BC Ltd a company incorporated in the Province of British Columbia with an office at 19<sup>th</sup> Floor, 885 West Georgia Street, Vancouver, B.C. V6C 3H4

(the Purchaser)

## RECITALS:

- A. Whereas the Purchaser wishes to make an offer dated as of the 17th day of March 2015 (the Offer) to the Vendor;
- B. Whereas Karen Matty is an authorized signatory for the Purchaser and approves the transactions contemplated in this Offer;
- C. Whereas the Purchaser intends to complete, execute and file at its sole cost and expense (the Licence Transfer Expenses) with the applicable liquor licensing authority all applications and other documents reasonably necessary to transfer (the Licence Transfer) the Vendor's existing Licensee Retail Store liquor license #195398 (the Licence) to the Purchaser;
- D. Whereas a current copy of the licence was provided to the Purchaser in good faith and as there is a copy of the licence attached to this Offer as Schedule "A";
- E. The Vendor and the Purchaser intend to enter into an agreement to confirm the terms and conditions of the Licence Transfer.

IN CONSIDERATION OF THE FOREGOING and the mutual promises and covenants contained in this Offer and in consideration of payment of the Purchase Price (as defined in this Offer) by the Purchaser to the Vendor (the receipt and adequacy of which are acknowledged save for the Purchase Price and the Deposit as defined in this Offer which have yet to be paid) the parties agree as follows:

## Section 1 Purchase and Sale

1.1 Upon the terms and subject to the terms and conditions of this Offer, on the Closing Date (as defined herein), the Purchaser shall purchase and acquire from the Vendor and the Vendor shall sell, convey, assign, transfer and deliver to the Purchaser all right, title and interest of the Vendor in, to and under and the full benefit and advantage of the Licence.

1.2 For greater certainty, the Purchaser is not obligated to purchase any inventory of the Vendor or assume any other contracts entered into by the Vendor with any supplier, distributor, landlord or other person save for that required to make the Licence Transfer effective.

1.3 The purchase price of the Liquor Licence is Six Hundred Seventy Five Thousand Dollars (\$675,000) (the "Purchase Price") of which the Purchaser shall provide a deposit of Ten Thousand Dollars (\$10,000) (the "Deposit") payable to the Purchaser's agent in trust, within 24 hours of acceptance of the contract. In the event that the Purchaser's Conditions Precedent as outlined in Article 7.2 of this Offer are not removed or waived in writing by the Purchaser on or before the prescribe date, the deposit shall be refunded to the Purchaser, otherwise it shall be applied towards the purchase price upon closing.

1.4 On the Closing Date, the balance of the Purchase Price shall be payable by the Purchaser.

## Section 2 Closing Date

2.1 The closing date is currently set at May 29, 2015 or such other date as agreed to by the parties (the "Closing Date").

## Section 3 Expenses

3.1 Save for the Licence Transfer Expenses, each party agrees to pay all costs, expenses and fees incurred by such party in relation to the performance of its obligations under this Offer and any agreement made pursuant to it, including all legal and consulting fees incurred by such party.

3.2 For greater certainty, all costs, expenses and fees payable to the Liquor Control and Licensing Branch (LCLB) or other regulatory authority having jurisdiction with respect to the Licence or the usage of it in relation to the Licence Transfer shall be paid by the Purchaser.

## Section 4 Covenants of the Vendor

4.1 The Vendor hereby covenants to the Purchaser that upon acceptance of this Offer it shall, until the Closing Date:

- (a) keep the Licence current and in good standing with the LCLB;



- (b) continue its usual liquor operations under the Licence at its 4260 Oxbow Frontage Road, Malakwa, B.C. normal location (the "Liquor Premises"). Notwithstanding, in the event that the Vendor sells the Property (4260 Oxbow Frontage Road, Malakwa, B.C.), the Licence shall be placed into dormancy with a two (2) year leaseback at that location.
- (c) pay all current costs associated with the Licence, including all license, renewal and administrative fees required to maintain the Licence in good standing with the LCLB, as such costs become due.
- (d) comply with the *British Columbia Liquor Control and Licensing Act*, the Regulations thereunder and all applicable policies and directives issued by the LCLB and not do or permit to be done anything which would jeopardize the Licence or cause the rights and privileges thereunder to be diminished or terminated.
- (e) appropriately and immediately at its own cost deal with any new enforcement or other action taken by LCLB unknown to the Purchaser and promptly advise the Purchaser in writing of any such enforcement actions and the steps taken by the Vendor to resolve the enforcement or other action as well as the outcome of such steps.
- (f) promptly provide to the Purchaser copies of all written communications to or from LCLB in respect of the Licence.
- (g) if any such new enforcement action is taken or threatened by any regulatory authority that could result in termination of the Licence or a suspension of the Licence that may not be fully served by the end of the term specified for the purposes of this Offer, then the Vendor will defend the enforcement action and if any enforcement action is taken (including a suspension, fine or any other sanction) by the LCLB, then the Vendor will fully serve the suspension as soon as practicable and pay any fine levied within 30 days of such levy.
- (h) in order to preserve the existence and good standing of the Licence, the Vendor shall maintain the interest in the real property associated with the Licence prior to any relocation of the Licence that may subsequently be agreed between the Vendor and the Purchaser.
- (i) cooperate with the Purchaser as reasonably required by the Purchaser or its agents and legal counsel to ensure that the Purchaser is duly authorized by the LCLB to become the owner and operator of the Licence.
- (j) take all necessary and reasonable steps and proceedings to permit good title to the Licence to be duly and validly transferred and assigned to the Purchaser at the Closing Date free of all liens and encumbrances, including, without limitation obtaining any required consents from the LCLB or any other relevant regulatory body on the condition that the Vendor shall not be liable to the Purchaser in any way should any legislation or regulation of the Province of British Columbia and/or regulation, policy or rule of the LCLB prevent the Licence transfer.
- (k) not directly or indirectly solicit, initiate or encourage any inquiries or proposals from, discuss or negotiate with, provide any non-public information

W

to, or consider the merits of any inquiries or proposals from any person (other than the Purchaser) relating to any transaction involving the sale of the Licence; and

- (ii) shall on the waiver or removal of any conditions and subjects referred to in this Offer cooperate with the Purchaser in making an application for the relocation of the Licence from its normal location to a location nominated by the Purchaser (the "Relocation Application").

### Section 6 Covenants of the Purchaser

5.1 The Purchaser hereby covenants to the Vendor that it shall upon acceptance of this Offer until the Closing Date:

- (a) at its own cost, take all commercially reasonable steps to cooperate with the Relocation Application and give effect to the Licence Transfer and eventual solicitor for the purposes of this Offer;
- (b) Refrain from negotiating on any other LRS licences for transfer to the proposed location which is deemed to be on or adjacent to 1884 McCallum Road, Abbotsford B.C.
- (c) Submit the complete and proper documentation and paperwork as required by the LCLB by March 28, 2015 in order to qualify for the April 1, 2015 liquor licence relocation lottery.

### Section 6 Representations and Warranties of the Vendor

6.1 The Vendor represents and warrants to the Purchaser as follows:

- (a) the Vendor has performed in all material respects all of the obligations required to be performed by it pursuant to, and is not in default of the terms and conditions of the Licence that is in full force and effect and there exists no giving of notice, lapse of time or the happening of any other event or condition which would become a default or event of default thereunder other than any requirements to obtain the consent of the LCLB to the Licence transfer;
- (b) the Liquor Licence will be in good standing at the date of this Offer and in full force and effect and no new notice of cancellation or termination or notice of respect to the Licence;
- (c) the Vendor has all necessary authority and capacity to make this Offer and make effective the Licence Transfer and all other agreements, documents and instruments herein required to be executed and delivered by the Vendor and to perform its obligations hereunder. The obligations hereunder do not violate the constating documents or by-laws of the Vendor and do not and will not constitute a default under any indenture, mortgage, deed of trust, agreement,

16w 32



contract instrument, order or decree to which the Vendor is a party or by which it is bound.

- (b) the Vendor is the sole legal and beneficial owner of the licence and has good and marketable title thereto, free and clear of all encumbrances, and the Vendor has good right, full power and absolute authority to sell and assign the licence to the Purchaser pursuant to this Offer;
- (c) there is no suit, action, litigation, arbitration, proceeding, governmental proceeding, including appeals and application for review in progress, pending or threatened against or involving the licence nor any judgment, decree, injunction, rule or order of any court, governmental department, commission, agency, instrumentality or arbitrator which would prevent the closing of the transactions set forth herein;
- (f) at the date of this Offer, no person other than the Purchaser has any agreement or option or any right capable of becoming an agreement or option to purchase the licence from the Vendor.

#### Section 7 Representations and Warranties of the Purchaser

7.1 The Purchaser represents and warrants to the Vendor as follows:

- (a) the acceptance of this Offer and the execution and delivery of any agreement, the purchase of the licence, and the consummation of the transaction contemplated by this Offer have been or will be by the Closing Date, duly authorized by all necessary corporate action on the part of the Purchaser.

#### Conditions Precedent

- (b) The obligation of the Purchaser to complete the purchase of the licence pursuant to this Offer is subject to the following conditions precedent (the "Purchaser's Conditions") being satisfied or waived in writing by the Purchaser by the earlier of five (5) business days following the results of the liquor licence relocation lottery on April 15, 2015 (the "Removal/Waiver Date");
- (c) the Purchaser being satisfied in its sole discretion with the results of its inspection of the licence;
- (d) the Purchaser and Vendor agreeing to terms or proposed strategy for the licence after the closing date, specifically, if it will be placed into dormancy, operated by way of a tri-partite agreement or a lease-back;
- (e) the Purchaser being able to obtain approval to transfer the licence to the proposed location at 1884 McCallum Road, Abbotsford B.C.



In the event that the Purchaser has submitted the proper documentation as required by the LCLB for the transfer of the licence to 1884 McCallum Road, but has yet to hear back from the LCLB, the Purchaser at its sole option may elect to extend Purchaser's Condition Precedent C for up to two (2) further months, by way of paying Ten Thousand Dollars (\$10,000) non-refundable deposit for each additional month directly to the Vendor. In the event that the sale is completed, such additional deposit(s) shall be applied towards the purchase price.

### Closing Conditions

7.2 The obligations of the Purchaser and the Vendor to complete the licence Transfer pursuant to this Offer as already catered for in sections 4 Covenants of the Vendor and section 5 Covenants of the Purchaser will remain in force prior to the Closing Date.

7.3 The Vendor agrees not to revoke this Offer once accepted while this Offer remains subject to the Purchaser's Conditions. The Purchaser's Conditions are for the Purchaser's sole benefit and may be waived unilaterally by the Purchaser at the Purchaser's election. If the Purchaser's Conditions are not satisfied or waived in writing by Removal/Waiver Date, this Offer as accepted and any agreements thereto will terminate. The parties will have no further obligations to or rights against each other with respect to the licence transfer or this Offer and provided that it occurs on the terms of this Offer as agreed, the Deposit will be returned to the Purchaser with the exception of any non-refundable deposit(s).

### Confidentiality

7.4 The Purchaser and the Vendor shall each keep confidential all documents and information (unless readily available from public or published information or sources) and the terms and conditions of this Offer. The parties will keep confidential all information and matters relating to the purchase and sale transaction set forth herein and the parties will not disclose such information to anyone other than to the respective representatives and advisors of the parties who have a need to know or as may be required by law to be disclosed. Except as required by law, neither of the parties shall make any public announcement, press release or any other similar communication regarding the purchase and sale transactions set forth herein without the consent in writing of the other party, such consent not to be unreasonably withheld.

### Section 8: Dispute Resolution

8.1 Differences between the parties to this Offer or any agreement made pursuant to it as to the interpretation, application or administration of the same or any failure to agree where agreement between the parties is called for herein, which cannot be resolved by amicable negotiation between the parties, shall be referred to a single arbitrator to be resolved by binding arbitration under the rules of the British Columbia Mediation and Arbitration Institute. The arbitrator shall be chosen by mutual agreement between the parties. If the parties cannot reach an agreement on an arbitrator, they shall request the British Columbia Mediation and Arbitration Institute to appoint an arbitrator.

### Section 9: Further Assurances



9. The parties shall from time to time do all such acts and things and execute and deliver all such transfers, assignments and instruments as may be reasonably required to carry out the intent of this Offer.

#### Section 10 Indemnification

- 10.1 Notwithstanding any investigation made at any time by or on behalf of the Purchaser or any information the Purchaser may have, if the transactions contemplated by this Offer are consummated, then the Vendor covenants and agrees to indemnify the Purchaser and its affiliates for and hold the Purchaser and its affiliates harmless against any loss, damage, claim, liability, cost or expense whatsoever (including, but not limited to, legal fees and other costs and expenses incident to proceedings or investigations or the defence of any claim) arising out of, resulting from, or related to:

- (a) any material inaccuracy in a representation or the material breach of any warranty or covenant of the Vendor under this Offer; or
- (b) any failure of the Vendor to duly perform or observe any material term, provision, covenant or agreement to be performed or observed by the Vendor pursuant to this Offer.

- 10.2 The Purchaser shall indemnify and save the Vendor harmless from any and all harm, costs, expenses and damages, including without limiting the generality of the foregoing, all legal costs, incurred directly or indirectly by the Vendor in connection with the non-observance or non-performance by the Purchaser of any of its duties, obligations or liabilities under this Offer.

- 10.3 The Vendor shall indemnify and save the Purchaser harmless from any and all harm, costs, expenses, save for the Licence Transfer Expenses, and damages incurred in relation to the Licence prior to the Closing Date.

#### Section 11 General

##### 11.1 Gender and Number

In this Offer, words importing the singular include the plural and vice versa and words importing gender include all genders.

##### 11.2 Entire Agreement

If accepted, the Offer constitutes the entire agreement between the parties pertaining to the subject matter of this Offer. No supplement, modification or amendment to this Offer and no waiver of any provision of this Offer shall be binding on any party unless executed by such party in writing. No waiver of any of the provisions of this Offer shall be deemed or shall constitute a waiver of any other provision (whether or not similar) nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

*[Handwritten signature]*  
36



11.3 Offer to Lease by Vendor

In the event that the OLB requires the licence transfer application to be submitted by the Vendor and not the Purchaser and as such the Vendor would be required to have an interest in the new location, the Vendor agrees to execute a conditional offer to lease for such property that can be terminated in the event that either the licence transfer is not approved or the transaction contemplated herein is not completed. All expenses associated with preparation of such shall be at the cost of the Purchaser.

11.4 Currency

Unless otherwise indicated, all dollar amounts referred to in this Offer are in the lawful currency of Canada.

Statutory Instruments

Unless otherwise specifically provided in this Offer, any reference to any law, by-law, rule, regulation, order, act or statute of any government, governmental body or other regulatory body shall be construed as a reference to those as amended or re-enacted from time to time or as a reference to any successor to those.

11.5 Notices

Any notices to be delivered to a party pursuant to this Offer shall be delivered to the address for such party referred to in this Offer.

11.6 Severability

Whenever possible, each provision of this Offer will be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Offer is held to be prohibited by applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Offer.

11.7 Captions and Interpretation

The captions used in this Offer are for convenience of reference only and do not constitute a part of this Offer and will not be deemed to limit, characterize or in any way affect any provision of this Offer and all provisions of this Offer will be enforced and construed as if no caption had been used in this Offer.

11.8 Governing Law

This Offer shall be governed by and construed in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein without reference to conflicts of laws.

11.9 Assignment

This Agreement and the rights, interests or obligations hereunder may be assigned by the Purchaser with the prior written consent of the Vendor.



#### 11.10 Time of the Essence

Time shall be of the essence in this Agreement.

#### 11.11 Enurement

This Agreement enures to the benefit of and is binding on the respective heirs, successors and permitted assigns of all of the parties hereto.

#### 11.12 Vendor's Conditions Precedent

The obligation of the Vendor to complete the purchase of the Licence pursuant to this Offer is subject to the following conditions precedent (the "Vendor's Conditions") being satisfied or waived in writing by the Purchaser by March 27, 2015 (the "Removal/Waiver Date"):

- (a) the Vendor's Solicitor being satisfied in its sole discretion with the offer to lease document that may be required as per Article 11.3;
- (b) the Vendor and Purchaser agreeing upon the proposed strategy for the license after the closing date. Specifically, it will be placed into dormancy, operated by way of a tri-partite agreement or a lease-back.

#### 11.13 Agency

The Vendor has an agency agreement with Cushman & Wakefield Ltd. and Adam Frizzell as designated agent, who is solely representing the Vendor in relation to this Offer and the Vendor does not have any such agency representation at the date of this Offer. The Purchaser has an agency agreement with Fom Realty Advisors and Denck Fluker as designated agent, who is solely representing the Purchaser in relation to this Offer.

(Kw)

wic



14.14 Counterparts and Facsimile

This Offer and any document or instrument to be executed and delivered by the parties hereunder or in connection herewith may be executed and delivered in separate counterparts and delivered by any party to the other parties by facsimile, each of which when so executed and delivered shall be deemed to be an original and all such counterparts shall together constitute one and the same agreement.

This counter offer is open for acceptance until 5:00 pm on March 26, 2015.

IN WITNESS WHEREOF, the parties hereto have executed this Offer as dated below.

Signed this 25 day of March 2015.

Mr. Charles Nathan Koebel

  
Signature of the Vendor

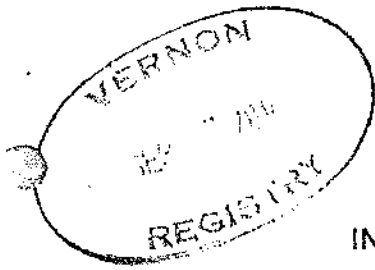
Signed this 26 day of March 2015.

1030476 BC Ltd

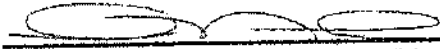
(The Purchaser)

  
Karen Maty





This is Exhibit " C " referred to in the  
affidavit of RAYMOND MARSHAL HANSON  
sworn before me the 17 day of JULY 2015

  
A Commissioner for taking Affidavits  
In British Columbia

IN THE SUPREME COURT OF BRITISH COLUMBIA

No. 48105  
Vernon Registry

BETWEEN:

RAYMOND MARSHAL HANSON AND  
LINDA DIANNE HANSON

PLAINTIFFS

AND:

TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON,  
NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL

DEFENDANTS

### NOTICE OF APPLICATION

Name of Applicants: Raymond Marshal Hanson and Linda Dianne Hanson,  
the Plaintiffs

To: Tripple Creek Investments Ltd., Nathan Charles Koebel and Tamryn Lee-  
Anne Koebel, the Defendants

TAKE NOTICE that an application will be made by the applicants, to the presiding  
judge at the Courthouse at 3001 - 27th Street, in the City of Vernon, British  
Columbia, on September 29, 2014 at 9:45 a.m. for the orders set out in Part 1 below.

#### Part 1: ORDERS SOUGHT

- 1) that a pre-trial injunction restraining and enjoining the Respondents, Tripple Creek Investments Ltd. ("Tripple Creek"), Nathan Charles Koebel and Tamryn Lee-Anne Koebel (the "Koebel Defendants") from directly or indirectly selling or otherwise disposing of the Retail Store Liquor Licence held by Tripple Creek relating to the business known as The Burner which is operated on the property at 4260 Oxbow Frontage Road, Malakwa, British Columbia with a legal description of: P.I.D. 026-

817-926, Lot 1, Section 4, Township 23, Range 6, W6M, KDYD, Plan NEP82004 (the "Property");

- 2) that the said Respondents pay the costs of this application to the Plaintiffs; and
- 3) such further Order as this Court may deem just.

## **Part 2: FACTUAL BASIS**

### **Background**

- 1) The Plaintiffs sold the shares of Tripple Creek to the "Defendants", which owned the Property on which the business known as The Burner operates to the Defendants pursuant to a share purchase agreement dated May 22, 2009. Payment was by way of assumption of certain debts, and in addition promissory notes from the Defendants, a General Security Agreement ("GSA") and a vendor take back mortgage (the "Mortgage") were granted as security for the payment of the remaining purchase price.
- 2) The commercial premises situate on the Property are operated commercially as a restaurant and retail liquor store known as The Burner. The Defendants began operating the business in April of 2009.
- 3) The Defendants defaulted, having made no payments under the terms of the promissory notes, the GSA and the Mortgage. The Plaintiffs commenced foreclosure proceedings. By Reasons for Judgment given January 3, 2012 the matter was put on the trial list. Order Nisi with a 6 month redemption period was made April 15, 2014.

### **Retail Store Liquor Licence**

- 4) One of the assets of Tripple Creek Investments Ltd. is the Retail Store Liquor Licence (the "Licence").
- 5) It came to the attention of the Plaintiffs that the Defendants intended to sell or otherwise dispose of the Licence and as recently as January of 2014, Nathan Charles Koebel, one of the Koebel Defendants, had a discussion with a potential buyer. Pursuant to the terms of the GSA Tripple Creek's assets cannot be sold, leased or otherwise disposed of without the written consent of the Plaintiffs.
- 6) During the course of the within action, the lawyer for the Plaintiffs has sent letters to the lawyer for the Defendants Tripple Creek and the Koebel Defendants cautioning against disposing of the Licence and has also asked for a response as to the confirmation that the Licence will not be sold. There has been no response to the correspondence.

### **Part 3: LEGAL BASIS**

- 1) The Licence is an asset which is covered by the GSA. The Licence is clearly of value in the operation of a restaurant and liquor store. The GSA and other security is in default and accordingly the Plaintiffs are in danger of suffering loss of value in the business and the Property if the Licence is sold or otherwise disposed of.
- 2) The balance of convenience favours ordering an injunction. (*British Columbia Attorney General v Wale*, [1986] B.C.J. No. 2688 (B.C.S.C.))
- 3) There is no arguable competing legal interest that might justify the sale or other disposition of the Retail Liquor Licence and an injunction should therefor follow.  
*Slocan Forest Products Ltd. v. John Doe*, [2000] B.C.J. No. 1592)

- 4) The Plaintiffs plead and rely on S. 39 of the *Law and Equity Act*, R.S.B.C. 1996, c. 253, Rule 10-4 of the *Supreme Court Civil Rules* and the inherent jurisdiction of the Court.

**Part 4: MATERIAL TO BE RELIED ON**

- 1) Petition filed June 10, 2011
- 2) Affidavit #1 of Ray Hanson sworn June 8, 2011;
- 3) Affidavit #4 of Ray Hanson sworn September 16, 2014;
- 4) Reasons for Judgment of Master McDiarmid given January 3, 2012;
- 5) Order of Mr. Justice Cole pronounced April 14, 2014.

The applicants estimate that the application will take 30 minutes.

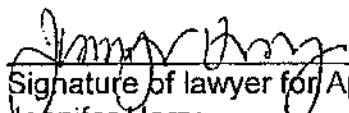
This matter is not within the jurisdiction of a master.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to the 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) Serve 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).

Date: 17<sup>th</sup> September, 2014

  
 Signature of lawyer for Applicants  
 Jennifer Harry

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

## APPENDIX

*[The following information is provided for data collection purposes only and is of no legal effect.]*

### THIS APPLICATION INVOLVES THE FOLLOWING:

*[Check the box(es) below for the application type(s) included in this application.]*

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ 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
- ☒ Other – injunctive relief



No. 48105

Vernon Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA  
RE: AN INDENTURE OF MORTGAGE REGISTERED  
IN THE KAMLOOPS LAND TITLE OFFICE  
UNDER APPLICATION NUMBER CA1396114

BETWEEN:

RAYMOND MARSHAL HANSON AND  
LINDA DIANNE HANSON

PETITIONERS

AND:

TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON,  
NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL

RESPONDENTS

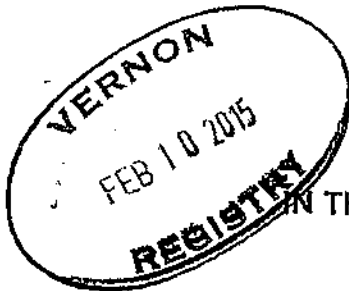
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NOTICE OF APPLICATION

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NIXON WENGER LLP  
LAWYERS  
#301, 2706 30<sup>th</sup> AVENUE  
VERNON BC V1T 2B6  
PH: 250-542-5353, FAX 250-542-7273

36595-001/JLH  
JLH:pj



No. 48105  
Vernon Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

RAYMOND MARSHAL HANSON AND  
LINDA DIANNE HANSON

PLAINTIFFS

AND:

TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON,  
NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL

DEFENDANTS

NOTICE OF APPLICATION

Name of Applicants: Raymond Marshal Hanson and Linda Dianne Hanson,  
the Plaintiffs

To: Tripple Creek Investments Ltd., Nathan Charles Koebel and Tamryn Lee-  
Anne Koebel, the Defendants

TAKE NOTICE that an application will be made by the applicants to the presiding judge at the Courthouse at 3001 - 27th Street, in the City of Vernon, British Columbia, on Monday, February 16, 2015 for the orders set out in Part 1 below.

**Part 1: ORDERS SOUGHT**

- 1) that an injunction be ordered restraining and enjoining the Respondents, Tripple Creek Investments Ltd. ("Tripple Creek"), Nathan Charles Koebel and Tamryn Lee-Anne Koebel (the "Koebel Defendants") from directly or indirectly selling or otherwise disposing of the Retail Store Liquor License and the Food Primary License which was held by Tripple Creek relating to the business known as The Burner which is operated on the property at 4260 Oxbow Frontage Road, Malakwa, British Columbia with a legal description of: P.I.D. 026-817-926, Lot 1, Section 4, Township 23, Range 6, W6M, KDYD, Plan NEP82004 (the "Property");

- 2) that the said Respondents pay the costs of this application to the Plaintiffs as special costs; and
- 3) such further Order as this Court may deem just.

## **Part 2: FACTUAL BASIS**

### **History of the application**

- 1) An application for an injunction against disposition of the Retail Store Liquor License was originally set for September 29, 2014 and was adjourned with the Court Clerk over to the first day of trial and was further adjourned when the trial was adjourned by consent.
- 2) The application for an injunction now set for February 16, 2015 seeks broader relief based on additional facts.

### **Background**

- 3) The Plaintiffs sold the shares of Tripple Creek to the "Defendants", which owned the Property on which the business known as The Burner operates to the Defendants pursuant to a share purchase agreement dated May 22, 2009. Payment was by way of assumption of certain debts, and in addition promissory notes from the Defendants, a General Security Agreement ("GSA") and a vendor take back mortgage (the "Mortgage") were granted as security for the payment of the remaining purchase price.
- 4) The commercial premises situate on the Property are operated commercially as a restaurant and retail liquor store known as The Burner. The Defendants began operating the business in April of 2009.

- 5) The Defendants defaulted, having made no payments under the terms of the promissory notes, the GSA and the Mortgage. The Plaintiffs commenced foreclosure proceedings. By Reasons for Judgment given January 3, 2012 the matter was put on the trial list. Order Nisi with a 6 month redemption period was made April 15, 2014.
- 6) The redemption period expires October 15, 2014 and in the ordinary course of the foreclosure, there would then be an order for conduct of sale and in due course an application for approval of a sale.

#### **Retail Store Liquor License and Food Primary License**

- 7) One of the assets of Tripple Creek Investments Ltd. is the Retail Store Liquor License (the "Retail License"). The Retail License number is: 195399. Another of the assets was a Pub License, which the defendants changed or amended to be a Food Primary License (the "Food License"). The Food License number is 304459.
- 8) Both the Retail License and the Food License have value since the business is operated as a restaurant and retail liquor store. Without those licenses, the business is of little or no value to any purchaser in the foreclosure or otherwise.
- 9) In or about January of 2014 it came to the attention of the Plaintiffs that the Defendants intended to sell or otherwise dispose of the Retail License that Nathan Charles Koebel, one of the Koebel Defendants, had a discussion with a potential buyer of the Retail License. Pursuant to the terms of the GSA Tripple Creek's assets cannot be sold, leased or otherwise disposed of without the written consent of the Plaintiffs.
- 10) During the course of the within action, the lawyer for the Plaintiffs has sent letters to the lawyer for the Defendants Tripple Creek and the Koebel Defendants cautioning

against disposing of the Retail License and has also asked for a response as to the confirmation that the Retail License will not be sold. There was no response to the correspondence.

- 11) Ultimately, on the date of the application which was originally to be heard on September 29, 2014, Tripple Creek and the Koebel Defendants agreed not to dispose of the Retail License until the trial was heard. The application for an injunction against disposing of the Retail License was adjourned over to the first day of trial.
- 12) The trial was adjourned on the basis of payment to an agreed amount and, if payment was not made by a specified date, a judgment by consent was to be entered. Payment was not made and the judgment by consent was entered.
- 13) The Petitioners were granted conduct of sale by the Order of Master McDiarmid made December 16, 2014.
- 14) Both the Retail License and the Food License are of value to any purchaser, or, if the Petitioners or one of them should apply for and be granted Order Absolute, they will be of value to the Petitioners and must not be disposed of given that it necessarily will be of value to a purchaser in the foreclosure proceeding.
- 15) According to information provided by the Liquor Control and Licensing Branch on February 3, 2015, both the Retail License and Food License are no longer in the name of Tripple Creek. Nor are they in the name of the business known as the Burner. Clearly they have already both been transferred to another party, perhaps one or both of the Koebel Defendants. Such a transfer is a breach of the GSA and underlines the lengths to which the Koebel Defendants are willing to go.
- 16) In spite of the provisions of the GSA, in spite of the letters cautioning the Defendants against disposing of the Retail License, and in spite of the Defendants agreeing not to do so before trial, both the Retail License and the Food License were clearly transferred at some point out of Tripple Creek's name.

- 17) The Plaintiffs seek special costs of this application given that the Koebel Defendants have clearly already transferred assets, the Retail License and the Food License out of Tripple Creek's name. They should not be allowed to transfer these licenses further in any manner whatsoever or transfer or dispose of any other assets of Tripple Creek.
- 18) The Retail License and the Food License ought to be transferred into the name of Tripple Creek.

### Part 3: LEGAL BASIS

- 1) The License is an asset which is covered by the GSA. The Retail License and the Restaurant License are clearly of value in the operation of a restaurant and liquor store. The GSA and other security is in default and accordingly the Plaintiffs are in danger of suffering loss of value in the business and the Property if either or both of the Retail License or the Food License are sold or otherwise disposed of.
- 2) The balance of convenience favours ordering an injunction. (*British Columbia Attorney General v Wale*, [1986] B.C.J. No. 2688 (B.C.S.C.))
- 3) There is no arguable competing legal interest that might justify the sale or other disposition of the Retail License or the Food License and an injunction should therefor follow.

*Slocan Forest Products Ltd. v. John Doe*, [2000] B.C.J. No. 1592)

- 4) The Defendants have engaged in reprehensible conduct in transferring the Retail License and Food License out of the name of Tripple Creek. Those licenses were assets of Tripple Creek and the subject of a GSA. Those licenses should be transferred into the name of Tripple Creek and special costs of this application should be awarded.

- 5) The Plaintiffs plead and rely on S. 39 of the *Law and Equity Act*, R.S.B.C. 1996, c. 253, Ruled 10-4 and 14-1 of the *Supreme Court Civil Rules* and the inherent jurisdiction of the Court.

**Part 4: MATERIAL TO BE RELIED ON**

- 1) Affidavit #1 of Ray Hanson sworn June 8, 2011;
- 2) Affidavit #3 of Ray Hanson sworn March 17, 2014
- 3) Affidavit #4 of Ray Hanson sworn September 16, 2014;
- 4) Affidavit #6 of Ray Hanson sworn February 9, 2015;
- 5) Reasons for Judgment of Master McDiarmid given January 3, 2012;
- 6) Order of Mr. Justice Cole pronounced April 14, 2014;
- 7) Order of Master McDiarmid made December 16, 2014.

The applicants estimate that the application will take 30 minutes.

This matter is not within the jurisdiction of a master.

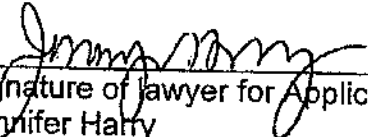
TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to the application you must within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application:

- (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) Serve 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).

Date: February 10, 2015

  
 Signature of lawyer for Applicants  
 Jennifer Harry

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

## APPENDIX

*[The following information is provided for data collection purposes only and is of no legal effect.]*

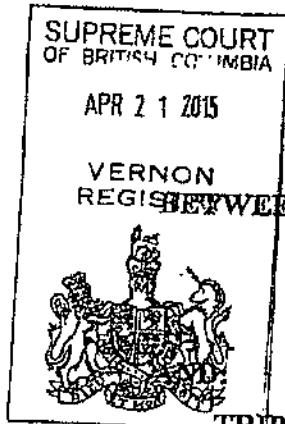
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*[Check the box(es) below for the application type(s) included in this application.]*

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ 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
- ☒ Other – injunctive relief



No. 48105  
Vernon Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

VERNON  
REGISTRY  
BETWEEN:

RAYMOND MARSHAL HANSON AND  
LINDA DIANNE HANSON

PLAINTIFFS

TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON,  
NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL

DEFENDANTS

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE  
MADAME JUSTICE FENLON

) Tuesday, the 3<sup>rd</sup> day of  
) March, 2015

ON THE APPLICATION of the Plaintiffs, Raymond Marshal Hanson and Linda Dianne Hanson, coming on for hearing at Kelowna, British Columbia on March 3, 2015 and on hearing Jennifer Harry, lawyer for the Plaintiffs, and on hearing M. Shane Dugas, lawyer for the Defendants Tripple Creek Investments Ltd., Nathan Charles Koebel and Tamryn Lee-Anne Koebel;

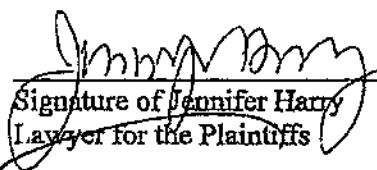
THIS COURT ORDERS that:


1. There is an injunction restraining and enjoining the Respondents, Tripple Creek Investments Ltd. ("Tripple Creek"), Nathan Charles Koebel and Tamryn Lee-Anne Koebel (the "Koebel Defendants") from directly or indirectly selling or otherwise disposing of the Retail Store Liquor License and the Food Primary License which was held by Tripple Creek relating to the business known as The Burner which is operated on the property at 4260 Oxbow Frontage Road, Malakwa, British Columbia with a legal description of P.L.D. 026-817-926, Lot 1,

Section 4, Township 23, Range 6, West of the 6<sup>th</sup> Meridian, Kamloops Division  
Yale District, Plan NEP82004;

2. The Koebel Defendants apply to transfer the Liquor Licenses back into the name of the Tripple Creek Defendant forthwith and provide confirmation that the application has been made to the Plaintiffs' lawyer;
3. The Koebel Defendants may apply to set aside the term of this Order set out in paragraph 2 and the deadline to apply is April 6, 2015; and
4. Tripple Creek and the Koebel Defendants pay the costs of this application to the Plaintiffs as costs on Scale B.

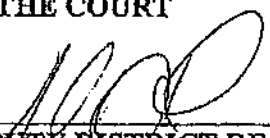
THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND  
CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE  
AS BEING BY CONSENT:

  
\_\_\_\_\_  
Signature of Jennifer Harry  
Lawyer for the Plaintiffs

  
\_\_\_\_\_  
Signature of M. Shane Dugas  
Lawyer for the Defendants, Tripple Creek  
Investments Ltd., Nathan Charles Koebel  
and Tamryn Lee-Anne Koebel

*checked  
me*

BY THE COURT

  
\_\_\_\_\_  
DEPUTY DISTRICT REGISTRAR

No. 48105  
Vernon Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

RAYMOND MARSHAL HANSON AND  
LINDA DIANNE HANSON



PLAINTIFFS

AND:

TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON,  
NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL

DEFENDANTS

---

ORDER MADE AFTER APPLICATION

---

NIXON WENGER LLP  
#301, 2706 – 30<sup>TH</sup> AVENUE  
VERNON, BC V1T 2B6  
PH: 250-542-5353  
FAX: 250-542-7273

File 36595-001  
JLH:pj



No. 48105

Vernon Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA  
 RE: AN INDENTURE OF MORTGAGE REGISTERED  
 IN THE KAMLOOPS LAND TITLE OFFICE  
 UNDER APPLICATION NUMBER CA1396114

BETWEEN:

RAYMOND MARSHAL HANSON AND  
 LINDA DIANNE HANSON

PLAINTIFFS

AND:

TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON,  
 NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL

DEFENDANTS

### NOTICE OF APPLICATION

[WITHOUT NOTICE]

Names of Applicants: Raymond Marshal Hanson and Linda Dianne Hanson,  
 Plaintiffs

To: The Defendants, Tripple Creek Investments Ltd., Nathan Charles Koebel  
 and Tamryn Lee-Anne Koebel

TAKE NOTICE that an application will be made by the applicants to the presiding judge  
 at the Courthouse at 3001 – 27<sup>th</sup> Street, Vernon, British Columbia, on April 2, 2015 at 12  
 o'clock noon, for the order set out in Part 1 below.

**Part 1: ORDER(S) SOUGHT**

1. An injunction be granted in the form of Order attached.

**Part 2: FACTUAL BASIS**

1. This is a foreclosure proceeding.

2. The Plaintiffs also have a General Security Agreement granted by the Defendant Tripple Creek Holdings Ltd. Notices been given of Intention to Enforce Security and of Intention to Seize and Dispose of Collateral.
3. The Plaintiffs have reason to believe that the Defendants Tripple Creek Investments Ltd. and Nathan Charles Koebel and Tamryn Lee are removing equipment and other chattels from the subject Property in breach of the General Security Agreement.

**Part 3: LEGAL BASIS**

1. The Plaintiffs plead and rely on S. 39 of the *Law and Equity Act*, R.S.B.C. 1996, c. 253, Ruled 10-4 and 14-1 of the *Supreme Court Civil Rules* and the inherent jurisdiction of the Court.
2. *Personal Property Security Act*, R.S.B.C. 1996, Ch. 359.

**Part 4: MATERIAL TO BE RELIED ON**

1. Affidavit #8 of Ray Hanson made April 2, 2015;
2. Affidavit #6 of Ray Hanson; and
3. Such further and other materials as may be provided.

The applicants estimate that the application will take 15 minutes.

☒ [X] This matter is within the jurisdiction of a Judge.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to receive notice of the time and date of the hearing or to respond to the application, you must

- (a) file an application response in Form 33 within 5 days after the date of service of this notice of application or, if the application is brought under Rule 9-7 of the Supreme Court Civil Rules, within 11 days after the dates of service of this notice of application, and
- (b) at least 2 days before the date set for the hearing of the application, serve on the applicant 2 copies, and on every other party one copy, of a filed copy of the

application response and the other documents referred to in Rule 9-7 (12) of the Supreme Court Civil Rules.

DATE: April 2, 2015.

  
 JENNIFER HARRY  
 Lawyer for the Plaintiffs

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:.....[dd/mm/yy].....

Signature of ☐ Judge ☐ Master

## APPENDIX

### THIS APPLICATION INVOLVES THE FOLLOWING:

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents;
- ☐ other matters concerning documents discovery
- ☐ extend oral discovery
- ☐ other matters 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



IN THE SUPREME COURT OF BRITISH COLUMBIA

**BETWEEN:**

RAYMOND MARSHAL HANSON AND  
LINDA DIANNE HANSON

**PLAINTIFFS**

AND:

TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON,  
NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL

**DEFENDANTS**

## ORDER

Before The Honourable Mr. Justice Cole )Thursday, the 2nd day  
 )April, 2015

ON THE APPLICATION of the Plaintiffs without notice coming on for hearing at Vernon, British Columbia on April 2, 2015 and on reading the materials filed and on hearing Jennifer Harry, lawyer for the Plaintiffs;

**THIS COURT ORDERS that:**

- 1) The Defendants Tripple Creek Investments Ltd., and Nathan Charles Koebel and Tamryn Lee-Anne Koebel be restrained and enjoined until further order of this Court from:
- a) Disposing of equipment and other chattels and collateral located at the business known as The Burner which is operated on the property at 4260 Oxbow Frontage Road, Malakwa, British Columbia with a legal description of



P.I.D. 026-817-926, Lot 1, Section 4, Township 23, Range 6, West of the 6<sup>th</sup>  
Meridian, Kamloops Division Yale District, Plan NEP82004;

- 2) any person affected by this Order has liberty to apply to set aside this Order on two clear days' notice.
- 3) Costs be awarded to the Plaintiffs payable by the Defendants Tripple Creek Investments Ltd., Nathan Koebel and Tamryn Koebel at Scale \_\_\_\_

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

\_\_\_\_\_  
Signature of lawyer for the Plaintiffs  
Jennifer Harry

BY THE COURT

\_\_\_\_\_  
DISTRICT REGISTRAR

IN THE SUPREME COURT OF BRITISH COLUMBIA  
MORTGAGE OF MORTGAGE REGISTERED IN THE KAMLOOPS LAND TITLE  
OFFICE UNDER APPLICATION NUMBER CA1396114

RAYMOND MARSHAL HANSON AND  
LINDA DIANNE HANSON

**PLAINTIFFS**

TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON,  
NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL

**DEFENDANTS**

## ORDER

[illegible]

ON THE APPLICATION of the Plaintiffs without notice coming on for hearing at Vernon, British Columbia on April 2, 2015 and on reading the materials filed and on hearing Jennifer Harry, lawyer for the Plaintiffs;

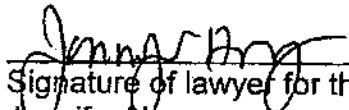
**THIS COURT ORDERS that:**

- 1) The Defendants Tripple Creek Investments Ltd., and Nathan Charles Koebel and Tamryn Lee-Anne Koebel be restrained and enjoined until further order of this Court from:
- a) Disposing of equipment and other chattels and collateral located at the business known as The Burner which is operated on the property at 4260 Oxbow Frontage Road, Malakwa, British Columbia with a legal description of

P.I.D. 026-817-926, Lot 1, Section 4, Township 23, Range 6, West of the 6<sup>th</sup>  
Meridian, Kamloops Division Yale District, Plan NEP82004;

- 2) This Order is of full force and effect until April 7, 2015 at 4 pm;
- 3) There will be a further hearing at 10 am on Tuesday, April 7, 2015.

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

  
Signature of lawyer for the Plaintiffs  
Jennifer Harry

BY THE COURT

  
DISTRICT-REGISTRAR



No. 48105  
Vernon Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**BETWEEN:**

**RAYMOND MARSHAL HANSON AND  
LINDA DIANNE HANSON**

**PLAINTIFFS**

**AND:**

**TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON,  
NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL**

**DEFENDANTS**

**NOTICE OF APPLICATION**

**Names of Applicants: Raymond Marshal Hanson and Linda Dianne Hanson, the Plaintiffs**

**To: The Defendants, Tripple Creek Investments Ltd., Nathan Charles Koebel and Tamryn Lee-Anne Koebel, c/o their lawyer M. Shane Dugas**

**And to: Elephant Storage Centre, Attention Julia and Wade Cantelope**

**TAKE NOTICE** that an application will be made by the applicants to the presiding judge at the Courthouse at 3001 – 27<sup>th</sup> Street, Vernon, British Columbia, on April 27, 2015 at 9:45 a.m. for the order set out in Part 1 below.

**Part 1: ORDER(S) SOUGHT**

1. To vary and add to the terms of Order of The Honourable Mr. Justice Cole made April 2, 2015 to extend the injunction restraining and enjoining the Defendants Tripple Creek Investments Ltd. ("Tripple Creek Defendant"), Nathan Charles Koebel and Tamryn Lee-Anne Koebel (the "Koebel Defendants") from disposing of equipment and other chattels and collateral (the "Collateral") to include the Collateral located at the premises of Elephant Storage Centre at Vernon, British Columbia and that the said Elephant Storage

Centre disclose forthwith to the lawyer for the Plaintiffs and on any attendance of a bailiff sent on behalf of the Plaintiffs to that bailiff the location and storage bin numbers at its locations or any of its locations that it is now in possession of, having taken delivery of the Collateral from Tripple Creek Defendant, the Koebel Defendants or any of them.

2. If the Tripple Creek Defendant, the Koebel Defendants or any of them have removed any of the Collateral from the storage bins located at Elephant Storage Centre, that they disclose the current location of that Collateral and that none of the Tripple Creek Defendant, the Koebel Defendants or any of them cause any of the Collateral to be moved from its current location without consent of the Plaintiffs or Court Order.

**Part 2: FACTUAL BASIS**

1. This is a foreclosure proceeding. There had been a Consent Order for a judgment to be paid in the amount of \$350,000.00 The Plaintiffs were granted an Order Absolute over the real property on April 7, 2015.
2. The Plaintiffs also have a General Security Agreement granted by the Defendant Tripple Creek Holdings Ltd. Notices have been given of Intention to Enforce Security and of Intention to Seize and Dispose of Collateral.
3. The Plaintiffs have reason to believe that the Tripple Creek Defendant and the Koebel Defendants contracted with Elephant Storage Centre to remove equipment and other chattels (the "Collateral") from the subject Property and to receive and store the Collateral at its storage location in Vernon, British Columbia.

**Part 3: LEGAL BASIS**

1. The Plaintiffs plead and rely on S. 39 of the *Law and Equity Act*, R.S.B.C. 1996, c. 253, Ruled 10-4 and 14-1 of the *Supreme Court Civil Rules* and the inherent jurisdiction of the Court; and the *Personal Property Security Act*, R.S.B.C. 1996, Ch. 359.

2. The Order Absolute merges the judgment of \$350,000 into the Order Absolute. It does not merge the General Security Agreement.

**Part 4: MATERIAL TO BE RELIED ON**

1. Affidavit #9 of Ray Hanson made April 8, 2015;
2. Affidavit #8 of Ray Hanson made April 2, 2015;
3. Affidavit #7 of Ray Hanson made March 19, 2015;
4. Affidavit #6 of Ray Hanson made February 9, 2015;
5. Order of Madam Justice Fenlon made March 3, 2015;
6. Order of Mr. Justice Cole made April 2, 2015;
7. Order of Madam Justice Beames made April 7, 2015;
8. Such further and other materials as may be provided.

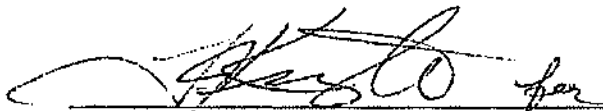
The applicants estimate that the application will take 10 minutes.

[X] This matter is within the jurisdiction of a Judge.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to the 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) Serve 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).

DATE: April 14, 2015.



Signature of lawyer for Applicants  
Jennifer Harry

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:.....[dd/mmm/yyyy].....

Signature of ☐ Judge ☐ Master

## APPENDIX

### THIS APPLICATION INVOLVES THE FOLLOWING:

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents;
- ☐ other matters concerning documents discovery
- ☐ extend oral discovery
- ☐ other matters 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
- ☒ other – injunctive relief



No. 48105  
Vernon Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

RAYMOND MARSHAL HANSON AND  
LINDA DIANNE HANSON

PLAINTIFFS

AND:

TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON,  
NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL

DEFENDANTS

---

NOTICE OF APPLICATION

---

NIXON WENGER LLP  
#301, 2706 – 30<sup>TH</sup> AVENUE  
VERNON, BC V1T 2B6  
PH: 250-542-5353  
FAX: 250-542-7273

File 36595-001  
JLH:pj



64

No. 48105  
Vernon Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

RAYMOND MARSHAL HANSON AND  
LINDA DIANNE HANSON

PLAINTIFFS

AND:

TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON,  
NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL

DEFENDANTS

NOTICE OF APPLICATION

Name of Applicants: Raymond Marshal Hanson and Linda Dianne Hanson,  
the Plaintiffs

To: Tripple Creek Investments Ltd., Nathan Charles Koebel and Tamryn Lee-  
Anne Koebel, the Defendants, c/o their lawyer M. Shane Dugas

To: B.C. Liquor Control and Licensing Branch

TAKE NOTICE that an application will be made by the applicants to the presiding  
judge at the Courthouse at 3001 - 27th Street, in the City of Vernon, British  
Columbia, on Monday, April 27, 2015 for the orders set out in Part 1 below.

Part 1: ORDERS SOUGHT

- 1) The B.C. Liquor Control and Licensing Branch transfer Retail Store Liquor  
License number 195399 into the name of Raymond Marshal Hanson without the  
requirement of consent or approval of the current holder of Retail Store Liquor  
License number 195399;
- 2) that the Koebel Respondents pay the costs of this application to the Plaintiffs as  
special costs; and

- 3) such further Order as this Court may deem just.

## **Part 2: FACTUAL BASIS**

### **History of the application**

- 1) An application for an injunction against disposition of the Retail License was originally set for September 29, 2014 and was adjourned with the Court Clerk over to the first day of trial and was further adjourned when the trial was adjourned by consent.
- 2) The application for an injunction which was set for February 16, 2015 sought broader relief based on additional facts.
- 3) The application was ultimately adjourned over to be heard on March 3, 2015 and was heard by Madam Justice Fenton on that date.

### **Background**

- 4) The Plaintiffs sold the shares of Tripple Creek to the "Defendants", which owned the Property on which the business known as The Burner operates to the Defendants pursuant to a share purchase agreement dated May 22, 2009. Payment was by way of assumption of certain debts, and in addition promissory notes from the Defendants, a General Security Agreement ("GSA") and a vendor take back mortgage (the "Mortgage") were granted as security for the payment of the remaining purchase price.
- 5) The commercial premises situate on the Property are operated commercially as a restaurant and retail liquor store known as The Burner. The Defendants began operating the business in April of 2009.

- 6) The Defendants defaulted, having made no payments under the terms of the promissory notes, the GSA and the Mortgage. The Plaintiffs commenced foreclosure proceedings. By Reasons for Judgment given January 3, 2012 the matter was put on the trial list. Order Nisi with a 6 month redemption period was made April 15, 2014.
- 7) The redemption period expired October 15, 2014 and on April 7, 2015 an Order Absolute was granted by Master McDiarmid.

**Retail Store Liquor License and Food Primary License**

- 8) One of the assets of Tripple Creek Investments Ltd. is the Retail Store Liquor License (the "Retail License"). The Retail License number is: 195399. Another of the assets was a Pub License, which the defendants changed or amended to be a Food Primary License (the "Food License"). The Food License number is 304459.
- 9) Both the Retail License and the Food License have value since the business is operated as a restaurant and retail liquor store. Without those licenses, but in particular without the Retail License, the business is of little or no value to the new owners pursuant to the Order Absolute made April 7, 2015.
- 10) In or about January of 2014 it came to the attention of the Plaintiffs that the Defendants intended to sell or otherwise dispose of the Retail License that Nathan Charles Koebel, one of the Koebel Defendants, had a discussion with a potential buyer of the Retail License. Pursuant to the terms of the GSA Tripple Creek's assets cannot be sold, leased or otherwise disposed of without the written consent of the Plaintiffs.
- 11) During the course of the within action, the lawyer for the Plaintiffs has sent letters to the lawyer for the Defendants Tripple Creek and the Koebel Defendants cautioning

against disposing of the Retail License and has also asked for a response as to the confirmation that the Retail License will not be sold.

12) Ultimately, on the date of the application which was originally to be heard on September 29, 2014, Tripple Creek and the Koebel Defendants agreed not to dispose of the Retail License until the trial was heard. The application for an injunction against disposing of the Retail License was adjourned over to the first day of trial.

13) The trial was adjourned on the basis of payment to an agreed amount and, if payment was not made by a specified date, a judgment by consent was to be entered. Payment was not made and the judgment by consent was entered.

14) Both the Retail License and the Food License are of value to the owners of the real property and in particular the Retail License is of value as there is a moratorium on the issuance of new Retail Store Liquor Licenses until July 1, 2022.

15) According to information provided by the Liquor Control and Licensing Branch on February 3, 2015, both the Retail License and Food License are no longer in the name of Tripple Creek. Nor are they in the name of the business known as the Burner. Clearly they have already both been transferred to another party, perhaps one or both of the Koebel Defendants. Such a transfer is a breach of the GSA and underlines the lengths to which the Koebel Defendants are willing to go.

16) In spite of the provisions of the GSA, in spite of the letters cautioning the Defendants against disposing of the Retail License, and in spite of the Defendants agreeing not to do so before trial, both the Retail License and the Food License were clearly transferred at some point out of Tripple Creek's name.

17) The Plaintiffs seek special costs of this application given that the Koebel Defendants have clearly already transferred assets, the Retail License and the

Food License out of Tripple Creek's name and have not complied with the terms of Madam Justice Fenlon's Order made March 3, 2015.

**Part 3: LEGAL BASIS**

- 1) The License is an asset which is covered by the GSA. The Retail License and the Restaurant License are clearly of value in the operation of a restaurant and liquor store and particularly the Retail License given that there is a moratorium on the issuance of new Retail Store Liquor Licenses. The GSA and other security is in default and accordingly the Plaintiffs are in danger of suffering loss of value in the business and the Property if in particular the Retail License is sold or otherwise disposed of.
- 2) An injunction has already been issued by Madam Justice Fenlon in relation to both licenses.
- 3) A Retail Store Liquor License requires that the licensee have an interest in the property where the license is.
- 4) The Defendants have not complied with the terms of Madam Justice Fenlon's Order. There is no indication that they will comply with the terms of Madam Justice Fenlon's Order. Accordingly the relief sought is that the Liquor Control and Licensing Branch transfer the Retail Store Liquor License into the name of Raymond Hanson, who is one of parties who now has an interest in the real property to which the Retail License was attached, pursuant to the Order Absolute granted by Master McDiarmid on April 7, 2015.
- 5) The Defendants have engaged in reprehensible conduct in transferring the Retail License and Food License out of the name of Tripple Creek and then in not complying with the terms of Madam Justice Fenlon's Order and special costs of this application should be awarded.

- 6) The Plaintiffs plead and rely on S. 39 of the *Law and Equity Act*, R.S.B.C. 1996, c. 253, Ruled 10-4 and 14-1 of the *Supreme Court Civil Rules* and the inherent jurisdiction of the Court.

**Part 4: MATERIAL TO BE RELIED ON**

- 1) Affidavit #3 of Ray Hanson sworn March 17, 2014;
- 2) Affidavit #6 of Ray Hanson sworn February 9, 2015;
- 3) Affidavit #9 of Ray Hanson sworn April 8, 2015;
- 4) Affidavit #5 of Patrice Johnston sworn April 10, 2015;
- 5) Order of Madam Justice Fenlon made March 3, 2015;
- 6) Order of Master McDiarmid made April 7, 2015.

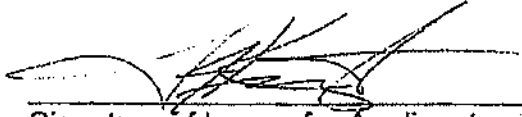
The applicants estimate that the application will take 30 minutes.

This matter is not within the jurisdiction of a master.

**TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION:** If you wish to respond to the 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) Serve 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).

Date: April 14, 2015

  
\_\_\_\_\_  
Signature of lawyer for Applicants  
for Jennifer Harry

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

### APPENDIX

*[The following information is provided for data collection purposes only and is of no legal effect.]*

### THIS APPLICATION INVOLVES THE FOLLOWING:

*[Check the box(es) below for the application type(s) included in this application.]*

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ 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
- ☒ Other



71

No. 48105  
Vernon Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

RAYMOND MARSHAL HANSON AND  
LINDA DIANNE HANSON

PLAINTIFFS

AND:

TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON,  
NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL

DEFENDANTS

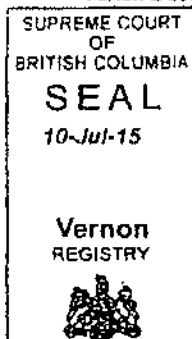
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NOTICE OF APPLICATION

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NIXON WENGER LLP  
#301, 2706 – 30<sup>TH</sup> AVENUE  
VERNON, BC V1T 2B6  
PH: 250-542-5353  
FAX: 250-542-7273

File 36595-001  
JLH:pj



No. 48105  
Vernon Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**BETWEEN:**

**RAYMOND MARSHAL HANSON AND  
LINDA DIANNE HANSON**

**PLAINTIFFS**

**AND:**

**TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON,  
NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL**

**DEFENDANTS**

**ORDER**

**Before The Honourable  
Mr. Justice Betton**

) **Friday the 8th day**  
) **of May, 2015**

**ON THE APPLICATIONS of the Plaintiffs and the Applications of the Defendants, both coming on for hearing at Vernon, British Columbia on May 8, 2015 and on reading the materials filed and on hearing Jennifer Harry, lawyer for the Plaintiffs, and on hearing M. Shane Dugas, lawyer for the Defendants Tripple Creek Investments Ltd., Nathan Charles Koebel and Tamryn Lee-Anne Koebel;**

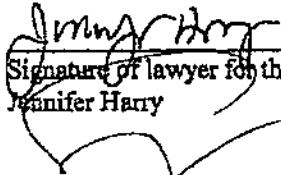
**THIS COURT ORDERS that:**

1. **The Defendants take all reasonable steps to comply with the Order of Madam Justice Fennell made March 3, 2015 and counsel for the Defendants confirm in writing to counsel for the Plaintiffs today that the steps to comply with the Order of Madam Justice Fennell have been taken;**
2. **The B.C. Liquor Control and Licensing Branch not take steps to terminate Retail Store Licence #195399 for 120 days unless there is a further Order of the Court, with liberty to the B.C. Liquor Control and Licensing Branch to apply to set aside or vary this paragraph of the Order;**
3. **The two applications of the Plaintiffs are dismissed, with liberty to the Plaintiffs to reapply if the Order Absolute made April 7, 2015 is set aside or varied;**

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4. The Defendants applications are dismissed; and
5. No costs of the applications are awarded to either the Plaintiffs or the Defendants.

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

  
Signature of lawyer for the Plaintiffs  
Jennifer Harry

Signature of lawyer for the Defendants  
Tripple Creek Investments Ltd.,  
Nathan Charles Koebel, Tamryn  
Lee-Anne Koebel

BY THE COURT

Digitally signed by  
Marshall, Sheree

DISTRICT REGISTRAR



FORM 32 (RULE 8-1(4))

No. 48105  
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BETWEEN

**RAYMOND MARSHALL HANSON and  
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PLAINTIFFS

AND

**TRIPPLE CREEK INVESTMENTS LTD., HEATH EDWARD HANSON,  
NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL**

DEFENDANTS

### NOTICE OF APPLICATION

**Names of applicants:** Raymond Marshall Hanson and Linda Dianne Hanson, the Plaintiffs

To: Tripple Creek Investments Ltd., Nathan Charles Koebel and Tamryn Lee-Anne Koebel, the Defendants, and the Liquor Control and Licensing Branch of the Province of British Columbia.

TAKE NOTICE that an application will be made by the applicant(s) to the presiding judge or master at the courthouse at 3001-27th Street, in the City of Vernon, British Columbia on the 28th day of July, 2015 at 10:00 a.m. for the order(s) set out in Part 1 below.

#### **Part 1: ORDER(S) SOUGHT**

1. A declaration that the Order Absolute granted to the Plaintiffs by Master McDiarmid in this action on April 7, 2015 (the "Order Absolute"), be set aside.
2. An order for conduct of sale in favour of the Plaintiff for the sale of Retail Store Liquor License #195399 and Food Primary License #304459 (the "Licenses"), as well as all

remaining assets and chattel secured by the General Security Agreement granted by the Defendants to the Plaintiff on May 22, 2009 (the "GSA").

3. An order for accounting following disposition of the Property and the Licenses.
4. In the alternative, an order that the Order Absolute be amended to include possession by the Plaintiffs of all assets, chattel, and the Licenses.
5. In the further alternative, a declaration that the Plaintiffs may proceed under the GSA, in addition to the Order Absolute.
6. An order that the Liquor Control and Licensing Branch (the "LCLB") be restrained from approving or otherwise transferring the Licenses unless ordered by this court upon final resolution of the Plaintiffs claim and confirmation of payment of any judgment amounts.
7. In the alternative, an order that the Betton Order (as defined herein) be amended to prohibit the LCLB from cancelling or otherwise transferring the Licenses unless order by the court upon final resolution of the Plaintiffs claims and confirmation of payment of any judgement amounts.
8. An injunction be ordered restraining and enjoining the Defendants, Tripple Creek Investments Ltd. ("Tripple Creek"), Nathan Charles Koebel and Tamryn Lee-Anne Koebel from directly or indirectly selling or otherwise disposing of the Licenses until ordered by this court upon final resolution of the Plaintiffs claim and confirmation of payment of any judgment amounts.
9. That all orders granted by this honourable court in this application be dispensed with as to form (as defined in paragraph 14).
10. That the said Defendants pay the costs of this application to the Plaintiffs as special costs; and
11. Such further Order as this Court may deem just.

## **Part 2: FACTUAL BASIS**

### **Petition and Foreclosure Proceedings**

1. The Plaintiffs sold the shares of Tripple Creek, which owned property relating to the business known as The Burner located at 4260 Oxbow Frontage Rd, Malakwa, British Columbia, legally described as: P.I.D. 026-817-926, Lot 1, Section 4, Township 23, Range 6, W6M, KDYD, Plan NEP82004 (the "Property"), to the Defendants pursuant to a share purchase agreement dated May 22, 2009. Payment was by way of security in the form of an assumption of certain debts, promissory notes, the GSA and a vendor take back mortgage registered under charge number CA1396114 (the "Mortgage") (collectively referred to as the "Security").
2. The Defendants defaulted on the Security having made no payments under the terms of the Security.

3. The Plaintiffs filed the petition in these proceedings on June 10, 2011, seeking judgement against the Defendants pursuant to both the GSA and the Mortgage.
4. The Plaintiffs commenced foreclosure proceedings against the Property and obtained an Order Nisi with a six month redemption period on April 15, 2014, an Order for Conduct of Sale on December 16, 2014 (the "Conduct of Sale"), and eventually obtained the Order Absolute on April 7, 2015 (the "Foreclosure Proceedings").

#### **Preservation of the Licenses**

5. The Property is operated commercially as a restaurant and retail liquor store known as The Burner and the Licenses form a substantial portion of assets of the Property, secured by the GSA.
6. The Plaintiffs applied for and obtained the Conduct of Sale in order to sell both the Property and the Licenses to recover any judgement amounts owing by the Defendants to the Plaintiffs under the Mortgage.
7. Given the limited equity in the Property it is necessary for the Licenses to be sold with the Property in order to recover any judgment amounts.
8. During the Foreclosure Proceedings, there were concerns that the Defendants were attempting to transfer the Licenses from Tripple Creek to a separate entity. In breach of the GSA, the Defendants had in fact cancelled the pub license and replaced it with the Food Primary License #304459 and had transferred both Licenses into the Defendants personal name..
9. The Plaintiffs made three separate applications to restrain the Defendants from transferring, disposing, or cancelling the Licenses as follows:
  - (a) Application for injunction dated September 29, 2014, preventing the Defendants from selling or disposing of the Licenses, subsequently adjourned by consent;
  - (b) Application for injunction dated February 10, 2015, preventing the Defendants from selling or disposing the Licenses and to transfer the Licenses back to Tripple Creek, granted by the Honourable Justice Fenlon on March 3, 2015 (the "Fenlon Injunction");
  - (c) Application for injunction dated April 2, 2015, preventing the Defendants from disposing equipment and other chattel owned by Tripple Creek and operated on the Property, granted by the Honourable Justice Cole on April 2, 2015 (the "Cole Injunction").
10. During the Fenlon Injunction, the Plaintiffs clearly stated that should there be an order absolute it was their intention to preserve the Licenses in order to recover adequate value from the Property to satisfy any judgment amounts.

11. In response to the Fenlon Injunction, the Defendants refused and/or neglected to transfer Retail Store Liquor License #195399 back to Tripple Creek until June 3, 2015, did not advise the Plaintiffs solicitor that the transfer was completed until July 2, 2015.
12. On April 7, 2015, the Plaintiffs obtained the Order Absolute. The Order Absolute has not been registered and the Property remains registered in the name of Tripple Creek.
13. On April 14, 2015, the Plaintiffs applied to this court to modify the Cole Injunction and to request an order that the LCLB transfer the Licenses into the name of the Plaintiff, Raymond Marshal Hanson. The Plaintiffs obtained an order from the Honourable Justice Betton dated May 8, 2015, dismissing the Plaintiffs' application but ordering the Defendants to comply with the Fenlon Injunction and prohibiting the LCLB from terminating the Licenses for 120 days (the "Betton Order"). The Betton Order further contemplated that the Plaintiffs could reapply for an order transferring the Licenses if the Order Absolute is set aside or varied.
14. The Defendants have failed to return correspondence from the Plaintiffs whereby the Plaintiffs' lawyers requested that the Defendants comply with the Fenlon Injunction. The Defendants have failed to confirm that it is not their intention to sell the Licenses prior to final resolution of the claim.
15. Pursuant to both the Conduct of Sale and the Order Absolute it was the intention of the Plaintiffs that the Licenses would be preserved and sold with the Property in order to recover any judgement amounts. This is also the substance of the Betton Order, which was granted subsequent to the Order Absolute.
16. In response to the foregoing, there is continued, real, and substantial risk that the Defendants will or have attempted to transfer or cancel the Licenses thereby preventing the Plaintiff from recovering any judgement amounts under the Security.
17. The Plaintiffs are also entitled to recover against all assets secured by the GSA, including seizure and sale of the Licenses, notwithstanding the existence of the Order Absolute in relation to the Mortgage
18. Any excess amounts recovered by the Plaintiffs will be addressed by a subsequent order for accounting.

### **Part 3: LEGAL BASIS**

#### **Realizing the Assets**

1. The Plaintiffs plead and rely on s.39 of the *Law and Equity Act*, R.S.B.C. 1996, c. 253, Rules 10-4 and 14-1 of the *Supreme Court Civil Rules* and the inherent jurisdiction of the Court.
2. The Defendants granted the Plaintiff a valid and enforceable GSA.

3. The Licenses are assets covered by the GSA and are of substantial value in the commercial business operated at the Property.
4. The Plaintiffs are entitled to realize separately on both the Mortgage and the GSA (*Aros. Invest v. Picchi et al.*, 2003 BCSC 78).

#### **Injunction**

5. The balance of convenience favours ordering an injunction (*British Columbia Attorney General v. Wale*, [1986] B.C.J. No. 2688 (B.C.S.C.)).
6. There is no competing legal interest that might justify the sale or other disposition of the Licenses until final resolution of the Plaintiffs claim and an injunction should therefore follow (*Slocan Forest Products Ltd. v. John Doe*, [2000] B.C.J. No. 1592).
7. The Defendants have engaged in reprehensible conduct in failing to sign and comply with the Betton Order and Special costs of this application should be awarded.

#### **Part 4: MATERIAL TO BE RELIED ON**

1. Affidavit No. 10 of Raymond Hanson, sworn July 17, 2015.
2. Affidavit No. 1 of Celina Rode, sworn July 17, 2015.
3. Affidavit No. 1 of Raymon Hanson in this action sworn June 8, 2011.
4. Affidavit No. 2 of Raymon Hanson in this action sworn December 8, 2011.
5. Affidavit No. 3 of Raymon Hanson in this action sworn March 17, 2014.
6. Affidavit No. 4 of Raymon Hanson in this action sworn September 16, 2014.
7. Affidavit No. 5 of Raymon Hanson in this action sworn November 29, 2014.
8. Affidavit No. 6 of Raymon Hanson in this action sworn February 9, 2015.
9. Affidavit No. 7 of Raymon Hanson in this action sworn March 19, 2015.
10. Affidavit No. 8 of Raymon Hanson in this action sworn April 2, 2015.
11. Affidavit No. 9 of Raymon Hanson in this action sworn April 8, 2015.

The applicant(s) estimate(s) that the application will take 30 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 this proceeding, and
- (c) serve 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).

Date: July 17, 2015



Signature of

☐ applicant ☒ lawyer for applicant(s)

Ayla T. Salyn

***To be completed by the court only:***

Order made

☐ in the terms requested in paragraphs \_\_\_\_\_ of Part I of this notice of application

☐ with the following variations and additional terms:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: [dd/mmm/yyyy]

Signature of ☐ Judge ☐ Master

## 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.

NO. 48105

VERNON REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

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NATHAN CHARLES KOEBEL and TAMRYN LEE-ANNE KOEBEL

DEFENDANTS

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**NOTICE OF APPLICATION**

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FILE NO. 70783-1

ATS/cmr

**FULTON & COMPANY LLP**  
Lawyers & Trade-mark Agents  
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Kamloops, B.C.  
V2C 1Y1  
Phone: (250) 372-5542

**CONFIDENTIAL**

**Stewart, Heather Ann JAG:EX**

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s.14



**Stewart, Heather Ann JAG:EX**

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s.21



**CONFIDENTIAL**

**Stewart, Heather Ann JAG:EX**

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s.14



