

No. H091522
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

COAST CAPITAL SAVINGS CREDIT UNION

Petitioner

**THE SYMPHONY DEVELOPMENT CORPORATION, GURMEL SINGH KAINTH,
SHMINDER JOHAL, 497308 B.C. LTD., 0769932 B.C. LTD., EMCO CORPORATION,
PACIFIC UTILITY CONTRACTING LTD., UNLIMITED EXCAVATING &
LANDSCAPING LTD., JACK CEWE LTD., C&C TRUCKING (1988) LTD., OCEAN
CONSTRUCTION SUPPLIES LIMITED, NORA ROSALIE MARVIN, BASSI
BROTHERS FRAMING LTD., UNITED RENTALS OF CANADA INC., MCRAE'S
ENVIRONMENTAL SERVICES LTD., GRAESTONE READY MIX INC., VALLEY
GEOTECHNICAL ENGINEERING SERVICES LTD., D.K. BOWINS & ASSOCIATES
INC., VANCOUVER CITY SAVINGS CREDIT UNION**

Respondents

ORDER

BEFORE THE HONOURABLE)	TUESDAY, THE 12 TH DAY
)	
MR. JUSTICE WALKER)	OF JANUARY 2010
)	

THE APPLICATION of the Respondent MALKIT SINGH JOHAL ("Johal") and GURMEL SINGH KAINTH ("Kainth"), the sole directors of the Respondent the Symphony Development Corporation, for an Order pursuant to Section 39 of the *Law and Equity Act*, R.S.B.C. 1996 c. 253, as amended (the "LEA") appointing PricewaterhouseCoopers Inc. as Receiver and Manager (in such capacity, the "Receiver") without security, of all of the assets, undertakings and properties of the Respondent The Symphony Development Corporation (the "Debtor") coming on for hearing this day at the Courthouse, 800 Smithe Street, Vancouver, British Columbia.

AND ON READING the Amended Notice of Motion dated November 27, 2009 and Affidavit #1 of Malkit Singh Johal sworn November 23, 2009 and Affidavit #1 of Sherri Evans sworn November 27, 2009; AND ON HEARING Alan H. Brown, counsel for Johal, Kibben Jackson, counsel for Kainth, and no one appearing for the Petitioner and the other Respondents, although duly served, and on reading the consent of PricewaterhouseCoopers Inc. to act as the Receiver.

APPOINTMENT

1. THIS COURT ORDERS that pursuant to Section 39 of the LEA PricewaterhouseCoopers Inc. is hereby appointed Receiver and Manager, without security, of all of the Debtor's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (the "Property") until June 18, 2010, at which time, subject to further order of this Court, the Receiver shall be discharged of its duties hereunder and any stay of proceedings arising pursuant to the terms of this Order shall be terminated.

RECEIVER'S POWERS

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

- (h) initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding, provided that nothing in this Order shall authorize the Receiver to defend or settle the action(s) in which this Order is made unless otherwise directed by this Court;
- (i) market any or all the Property, including engaging a realtor(s), advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (j) sell, convey, transfer, lease, assign or otherwise dispose of the Property or any part or parts thereof out of the ordinary course of business:
 - (i) without the approval of this Court in respect of any transaction not exceeding \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$100,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amounts set out in the preceding clause,and in each such case notice under Section 59(10) of the *Personal Property Security Act*, R.S.B.C. 1996, c. 359 shall not be required;
- (k) apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (l) report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information with such Persons, subject to such terms as to confidentiality as the Receiver deems advisable;
- (m) register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (n) apply for any permits, licences, approvals or permissions and any renewals thereof as may be required by any governmental authority for and on behalf of and, if considered necessary or appropriate by the Receiver, in the name of the Debtor;

(o) enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limitation, the ability to enter into occupation agreements for any Property owned or leased by the Debtor; and

(p) take any steps reasonably incidental to the exercise of these powers,

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

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

3. THIS COURT ORDERS that (i) the Debtor, (ii) all of the Debtor's current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to such Property to the Receiver, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependant on maintaining possession) to the Receiver upon the Receiver's request.
4. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 4 or in paragraph 5 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or documents prepared in contemplation of litigation or due to statutory provisions prohibiting such disclosure.
5. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by an independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information

contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including, without limitation, providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

6. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court, provided that the Petitioner is at liberty to apply in this proceeding for orders for conduct of sale and for sale of the Property following the expiry of the redemption period ordered by this Court on December 9, 2009.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

7. THIS COURT ORDERS that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court, provided, however, that nothing in this Order shall prevent any Person from commencing a Proceeding regarding a claim that might otherwise become barred by statute or an existing agreement if such Proceeding is not commenced before the expiration of the stay provided by this paragraph provided that the Petitioner is at liberty to apply in this proceeding for orders for conduct of sale and for sale of the Property following the expiry of the redemption period ordered by this Court on December 9, 2009.
8. Notwithstanding paragraphs 6 and 7 of this Order, Malkit Singh Johal shall be at liberty to proceed with British Columbia Supreme Court Action No. S-099401, Vancouver Registry as against Kainth, and Kainth shall be at liberty to proceed with any counterclaim against Johal in such action, and such proceedings shall not be considered proceedings against or in respect of the Debtor or the Property. The Receiver shall provide to Johal and/or Gainth, as applicable, copies of all requested documentation relating to Symphony's affairs, including but not limited to its financial affairs, as soon as reasonably possible upon receipt of a written demand for such documentation from Johal and/or Kainth.

NO EXERCISE OF RIGHTS OF REMEDIES

9. THIS COURT ORDERS that all rights and remedies (including, without limitation, set-off rights) against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that: (a) nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien; and (b) the Petitioner is at liberty to apply in this proceeding for orders for conduct of sale and for sale of the Property following the expiry of the redemption period ordered by this Court on December 9, 2009.

NO INTERFERENCE WITH THE RECEIVER

10. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court. Nothing in this Order shall prohibit any party to an "eligible financial contract" (as defined in Section 65.1 of the BIA) with the Debtor from terminating such contract or exercising any rights of set-off, in accordance with its terms.

CONTINUATION OF SERVICES

11. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services of any kind to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

12. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever including, without limitation, the sale or disposition of all or any of the Property and the collection of any

accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post-Receivership Accounts") and the monies standing to the credit of Post-Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further order of this Court.

EMPLOYEES

13. THIS COURT ORDERS that, subject to the right of employees to terminate their employment notwithstanding paragraph 10, all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall be liable for any employee-related liabilities, including wages, severance pay, termination pay, vacation pay, and pension or benefit amounts relating to any employees that the Receiver may hire.
14. THIS COURT ORDERS that pursuant to Section 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 or Section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c. 63, the Receiver may disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales or dispositions of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete the Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. THIS COURT ORDERS that nothing in this Order shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release, or deposit of a substance contrary to any federal, provincial or other law relating to the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, 1999, S.C. 1999, c. 33, the *Fisheries Act*, R.S.C. 1985, c. F-14, the *Environmental Management Act*,

R.S.B.C. 1996, c. 118 and the *Fish Protection Act*, S.B.C. 1997, c. 21 and regulations thereunder (collectively "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be construed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless the Receiver is actually in Possession.

LIMITATION ON THE RECEIVER'S LIABILITY

16. THIS COURT ORDER that the Receiver shall incur no personal liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Receiver by Section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

17. THIS COURT ORDERS that any expenditure or liability which shall properly be made or incurred by the Receiver, including the fees of the Receiver and the fees and disbursements of its legal counsel, incurred at the standard rates and charges of the Receiver and its counsel, shall be allowed to it in passing its accounts and shall form a charge on the Property, which charge shall, to the extent of \$100,000, or such greater amount as may be ordered by this Court or agreed to in writing among the Receiver, Johal, Kainth, Pacific Utility Contracting Ltd. and Bassi Brothers Framing Ltd. (collectively, the "Attending Parties"), rank in priority to all mortgages, security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person except those in favour of the Petitioner, and, to the extent of any amount in excess of \$100,000, rank immediately behind all mortgages, security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, and in all cases ahead of any and all unsecured claims against Symphony (the "Receiver's Charge").
18. THIS COURT ORDERS that the Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Supreme Court of British Columbia and may be heard on a summary basis.
19. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

20. THIS COURT ORDERS that, provided the Receiver has first obtained the written consent of the Attending Parties and the Petitioner, the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount of such borrowing does not exceed \$100,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as the Receiver deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all mortgages, security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person except those in favour of the Petitioner, but subordinate in priority to the Receiver's Charge.
21. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.
22. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.
23. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

ALLOCATION

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

GENERAL

25. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
26. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

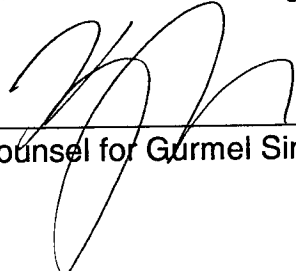
27. THIS COURT REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction, wherever located, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order.
28. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal or regulatory or administrative body, wherever located, for recognition of this Order and for assistance in carrying out the terms of this Order and all such courts, tribunals and regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.
29. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than two (2) clear business days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

BY THE COURT


DISTRICT REGISTRAR

APPROVED BY:


Counsel for Malkit Singh Johal


Counsel for Gurmeh Singh Kainth

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT

\$ _____

1. THIS IS TO CERTIFY that [RECEIVER'S NAME], the [Interim Receiver and/or Receiver and Manager] (the "Receiver") of all of the assets, undertakings and properties of [DEBTOR'S NAME] appointed by Order of the Supreme Court of British Columbia and/or the Supreme Court of British Columbia (In Bankruptcy and Insolvency) (the "Court") dated the _____ day of _____, 200____ (the "Order") made in SCBC Action No. _____ and/or SCBC Action No. _____/Estate No. _____ has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$_____, being part of the total principal sum of \$_____ which the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily] [monthly] not in advance on the _____ day of each month after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank _____ from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property (as defined in the Order), in priority to the security interests of any other person except those of the Petitioner, Coast Capital Savings Credit Union, but subject to the priority of the charges set out in the Order, and the right of the Receiver to indemnify itself out of the Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at _____, British Columbia.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

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

DATED the [REDACTED] day of [REDACTED], 200[REDACTED].

[RECEIVER'S NAME], solely in its capacity as Receiver of the Property (as defined in the Order), and not in its personal capacity

Per:
Name:
Title: