



No. H14727
Salmon Arm Registry

In the Supreme Court of British Columbia

RE: An Indenture of Mortgage Registered
in the Nelson Land Title Office under
Application number CA502119 and a Commercial
Security Agreement registered in the Personal
Property Security Registry for the Province of
British Columbia on the 14th day of July, 2007
under Base Registration No. 797421D

Between

REVELSTOKE CREDIT UNION

Petitioner

and

POWDER SPRINGS INN INC., NEIL JASON ROE, JAMES
BRYDON ROE, CLYDE DAVID NEWSOME, DONNA LOUISE
NEWSOME, JENNY LEANNE NEWSOME, NEWSOME FAMILY
TRUST, THE CROWN IN RIGHT OF CANADA and CANADIAN
IMPERIAL BANK OF COMMERCE

Respondents

NOTICE OF APPLICATION

Name of applicant: FTI Consulting Canada Inc., in its capacity as Receiver and Manager
without security, of all of the assets, undertakings and properties of
Powder Springs Inn Inc. (the "Receiver")

To: All parties on the service list attached as Schedule "A"

TAKE NOTICE that an application will be made by the applicant(s) to the presiding judge or
master at the courthouse at 455 Columbia Street, Kamloops, British Columbia on Monday, 09
Jun 2014 at 9:45 am for the order(s) set out in Part 1 below.

Part 1: ORDER(S) SOUGHT

1. The time for the service of this Notice of Application and supporting material in respect of
this application be abridged such that the application is properly returnable on the day

heard, and further, that any requirement for service of the Application and supporting material upon any interested party, other than the parties on the Appearance List, is hereby dispensed with.

2. For a sales process order substantially in the form attached hereto as Schedule "B".
3. For an Order approving the activities of the Receiver, as set out in the Receiver's First Report to Court.
4. For an Order transferring these proceedings to the Vancouver Registry of this Honourable Court, for all purposes substantially in the form attached hereto as Schedule "C".
5. The Receiver be at liberty to enter the orders made on this application at the Kamloops Registry of this Honourable Court.
6. Such further or other relief as this Court may deem appropriate.

Part 2: FACTUAL BASIS

1. The Receiver was appointed by Order of this Court pronounced February 25, 2014.
2. The Receiver has, since its appointment, operated the business of the debtor, in the ordinary course.
3. The Receiver intends to proceed with a sales process, particulars of which are set out in the Receiver's First Report to the Court.
4. The Receiver, counsel for the Receiver, and counsel for the second mortgagee all reside in Vancouver, and counsel for the Petitioner has consented to a change in venue from the Salmon Arm Registry to the Vancouver Registry, for all purposes. The change in venue is expected to reduce the overall cost of the administration of this proceeding, and to facilitate a more efficient use of the Court's resources.

Part 3: LEGAL BASIS

1. Sections 15, 21 and 39 of the *Law and Equity Act*, R.S.B.C. 1996, c. 253;
2. Rules 13-5 and 8-2 of the Supreme Court Civil Rules;
3. The inherent jurisdiction of this Court;
4. The Receivership Order.

Part 4: MATERIAL TO BE RELIED ON

1. Order of the Honourable Mr. Justice Dley, pronounced February 25, 2014.
2. The Receiver's First Report to the Court, dated May 28, 2014.

3. Affidavit #1 of Cinda Ferguson, sworn May 29, 2014.

The applicant estimates that the application will take 15 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 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).

Bull, Housser & Tupper LLP

per:



Date: 26 May 2014

Signature of

applicant lawyer for applicant

Steven D. Dvorak

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**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

SCHEDULE "A"

SERVICE LIST

Counsel for the Petitioner	Sherryl Dubo Fulton & Company LLP 300 – 350 Lansdowne Street Kamloops, BC V2C 1Y1 tel: (250) 372-5542 fax: (250) 851-2300 e-mail: sdubo@fultonco.com
Counsel for the Respondents Powder Springs Inn Inc., Neil Jason Roe and James Brydon Roe	Christopher D. Filipchuk Farris, Vaughan, Wills & Murphy LLP 1800 – 1631 Dickson Avenue Kelowna, BC V1Y 0B5 tel: (250) 869-3880 fax: (250) 861-8772 e-mail: cfilipchuk@farris.com
Counsel for the Respondents Clyde David Newsome, Donna Louise Newsome, Jenny Leanne Newsom and Newsome Family Trust	Jonathan B. Ross Gowling Lafleur Henderson LLP 2300 – 550 Burrard Street Vancouver, BC V6C 2B5 tel: (604) 891-2778 fax: (604) 683-3558 e-mail: n/a
Counsel for the Crown in Right of Canada	Loretta Chun Department of Justice 900 – 840 Howe Street Vancouver, BC V6Z 2S9 tel: (604) 775-6020 fax: (604) 666-1462 e-mail: n/a
Counsel for Canadian Imperial Bank of Commerce	George H. Richards Richards & Richards 10325 – 150 th Street Surrey, BC V3R 4B1 tel: (604) 588-6844 fax: (604) 588-8800 e-mail: litigation@richardslaw.com

SCHEDULE "B"

No. H14727
Salmon Arm Registry

In the Supreme Court of British Columbia

RE: An Indenture of Mortgage Registered
in the Nelson Land Title Office under
Application number CA502119 and a Commercial
Security Agreement registered in the Personal
Property Security Registry for the Province of
British Columbia on the 14th day of July, 2007
under Base Registration No. 797421D

Between

REVELSTOKE CREDIT UNION

Petitioner

and

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BRYDON ROE, CLYDE DAVID NEWSOME, DONNA LOUISE
NEWSOME, JENNY LEANNE NEWSOME, NEWSOME FAMILY
TRUST, THE CROWN IN RIGHT OF CANADA and CANADIAN
IMPERIAL BANK OF COMMERCE

Respondents

ORDER MADE AFTER APPLICATION

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)
BEFORE) THE HONOURABLE _____) 09 Jun 2014
) JUSTICE _____)
)

ON THE APPLICATION of FTI Consulting Canada Inc. as Receiver and Manager without security, of all of the assets, undertakings and properties of Powder Springs Inn Inc. (the "Receiver"), coming on for hearing at the courthouse at 455 Columbia Street, Kamloops, British Columbia on 09 Jun 2014 at 9:45 a.m., and on hearing Steven D. Dvorak, counsel for the Receiver, and no one else appearing, although duly served;

THIS COURT ORDERS that:

1. The time for the service of this Notice of Application and supporting material in respect of this application be abridged such that the application is properly returnable on the day heard, and further, that any requirement for service of the Application and supporting material upon any interested party, other than the parties on the Appearance List, is hereby dispensed with.
2. The actions, decisions and activities of the Receiver and its counsel to the date hereof, as described in the Receiver's First Report, are approved.
3. The Receiver is authorized to conduct a sales process for assets, undertakings and properties of Powder Springs Inn Inc. substantially in accordance with the marketing strategy set out in paragraphs 55 through 58 inclusive of the Receiver's First Report to the Court.
4. The Receiver, or any party affected by this order, may apply for such further or other directions as may be necessary or desirable to carry out or give effect to this order.
5. Approval of the form of this Order by counsel, other than counsel for the Receiver, is dispensed with.
6. The Receiver may enter this order in the Kamloops Registry of this Honourable Court.

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
 party lawyer for FTI Consulting
Canada Inc., the Receiver
Steven D. Dvorak

By the Court.

Registrar

In the Supreme Court of British Columbia

Between

REVELSTOKE CREDIT UNION

Petitioner

and

POWDER SPRINGS INN INC., NEIL JASON ROE, JAMES
BRYDON ROE, CLYDE DAVID NEWSOME, DONNA LOUISE
NEWSOME, JENNY LEANNE NEWSOME, NEWSOME FAMILY
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Respondents

ORDER MADE AFTER APPLICATION

BULL, HOUSSER & TUPPER LLP
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3000 - 1055 West Georgia Street
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Attention: Steven D. Dvorak

SDD/cef

Matter# 14-2502

SCHEDULE "C"

No. H14727
Salmon Arm Registry

In the Supreme Court of British Columbia

RE: An Indenture of Mortgage Registered
in the Nelson Land Title Office under
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Respondents

ORDER MADE AFTER APPLICATION

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BEFORE) THE HONOURABLE _____) 09 June 2014
) JUSTICE _____)
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ON THE APPLICATION of FTI Consulting Canada Inc. as Receiver and Manager without security, of all of the assets, undertakings and properties of Powder Springs Inn Inc. (the "Receiver"), coming on for hearing at the courthouse at 455 Columbia Street, Kamloops, British Columbia on 09 June 2014 at 9:45 a.m., and on hearing Steven D. Dvorak, counsel for the Receiver and no one else appearing, although duly served;

THIS COURT ORDERS that:

1. The time for the service of this Notice of Application and supporting material in respect of this application be abridged such that the application is properly returnable on the day heard, and further, that any requirement for service of the Application and supporting material upon any interested party, other than the parties on the Appearance List, is hereby dispensed with.
2. Action H14727 of the Salmon Arm Registry between Revelstoke Credit Union as Petitioner and Powder Springs Inn Inc. and Others as Respondents shall be transferred to the Vancouver Registry of the Supreme Court of British Columbia, for all purposes.
3. Approval of the form of this Order by counsel, other than counsel for the Receiver, is dispensed with.
4. The Receiver may enter this order in the Kamloops Registry of this Honourable Court.

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
 party lawyer for FTI Consulting
Canada Inc., the Receiver
Steven D. Dvorak

By the Court.

Registrar

In the Supreme Court of British Columbia

Between

REVELSTOKE CREDIT UNION

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Matter# 14-2502

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NOTICE OF APPLICATION

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