



COURT FILE NUMBER BE03-568045

ESTATE NUMBER 24-1568045

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE EDMONTON

APPLICANT IN THE MATTER OF THE BANKRUPTCY AND  
INSOLVENCY ACT, RSC 1985, c B-3, AS AMENDED

AND IN THE MATTER OF THE PROPOSAL OF JOHN  
KENNETH PURDY OTHERWISE KNOWN AS JACK  
PURDY

**DOCUMENT**

**APPLICATION**

ADDRESS FOR SERVICE AND CONTACT  
INFORMATION OF PARTY FILING THIS  
DOCUMENT

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File No.: 529227-7/RCR

**NOTICE TO RESPONDENT(S)**

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

You have the right to state your side of this matter before the master/judge.

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

Date	Friday, July 4, 2014
Time	10:00 a.m.
Where	Law Courts, 1A Sir Winston Churchill Square Edmonton, Alberta
Before Whom	The Honourable Mr. Justice D.R.G. Thomas

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

**Remedy claimed or sought:**

1. An Order in the form of the draft Order attached as Schedule "A" to this Application (or on such further terms as this Honourable Court may direct) directing Ladysmith & District Credit Union (the "Credit Union") to pay all remaining sale proceeds (after payment of the first mortgage to the Credit Union) arising from the sale of the Meshers Road Lands to the Proposal Trustee, subject to further direction of this Honourable Court.

**Grounds for making this application:**

2. Purdy is the registered owner of the Lands legally described as:  
  
Port Alberny Assessment Area  
Parcel Identifier: 008 428 565  
The South ½ Of District Lot 51  
Alberny District  
  
(the "Meshers Road Lands")
3. The Credit Union has a first registered mortgage against title to the Meshers Road Lands.
4. Alvarez & Marsal was named trustee in the Matter of the Proposal of John Kenneth Purdy Otherwise known as Jack Purdy (the "Proposal Trustee").
5. The Proposal Trustee did not object to the Credit Union applying to lift the stay of proceedings imposed by the *Bankruptcy and Insolvency Act* to allow the Credit Union to enforce its mortgage against the Meshers Road Lands.
6. On August 10, 2011, an Order Nisi was granted in the Supreme Court of British Columbia, Action Number S13650 (the "Foreclosure Action") with respect to the Meshers Road Lands and the Credit Union listed the property for sale in January of 2014.
7. An offer to Purchase the Meshers Road Lands has been tendered and the Credit Union has filed a Notice of Application in the Foreclosure Action to approve the offer returnable July 9, 2014.
8. Counsel for the Credit Union has indicated that unless otherwise directed by the Court, it will pay any remaining proceeds from the sale of the Meshers Road Lands into the British Columbia Supreme Court after paying real estate commissions inclusive of GST and its mortgage (the "Surplus Proceeds").
9. Armac Investments Ltd. is the second mortgagee on title.

10. It is reasonable and in the best interest of all interested persons to have the Surplus Proceeds paid to the Proposal Trustee pending further Order of this Honourable Court to facilitate Court approval and implementation of any proposal that may be approved by this Honourable Court.

**Material or evidence to be relied on:**

11. The affidavit of Harkirat Kaur, sworn July 3, 2014.
12. The pleadings and proceedings in this action.
13. Such further and other evidence as counsel may advise and this Honourable Court may allow.

**Applicable Rules:**

14. Section 1, 2 and 3 of Part 6 of the *Alberta Rules of Court*.

**Applicable Acts and Regulations:**

15. *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended.
16. Such further Acts and Regulations as may be advised.

**Any irregularity complained of or objection relied on:**

17. None.

**How the Application is proposed to be heard or considered:**

18. In person before the Honourable Mr. Justice D.R.G. Thomas on a day and time above-referenced in open chambers.

**WARNING**

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

**Schedule "A"**

Clerk's Stamp:

COURT FILE NUMBER	BE03-568045
ESTATE NUMBER	24-1568045
COURT OF QUEEN'S BENCH OF ALBERTA	
JUDICIAL CENTRE	EDMONTON
APPLICANT	IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT, RSC 1985, c B-3, AS AMENDED  AND IN THE MATTER OF THE PROPOSAL OF JOHN KENNETH PURDY OTHERWISE KNOWN AS JACK PURDY
DOCUMENT	<b><u>ORDER</u></b>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Ray C. Rutman Dentons Canada LLP Barristers & Solicitors 2900, 101080 – 101 Street Edmonton, AB T5J 3V5 Ph. (780) 423-7246 Fx. (780) 423-7276 File No.: 529227-7/RCR
<b>DATE ON WHICH ORDER WAS PRONOUNCED:</b>	Friday, July 4, 2014
<b>LOCATION WHERE ORDER WAS PRONOUNCED:</b>	Edmonton, Alberta
<b>NAME OF JUSTICE WHO MADE THIS ORDER:</b>	The Honourable Mr. Justice D.R.G. Thomas

UPON the Application of counsel on behalf of Alvarez & Marsal Canada Inc. in its capacity as proposal trustee (the "Proposal Trustee") of John (Jack) Kenneth Purdy ("Purdy"); AND UPON noting that Ladysmith & District Credit Union (the "Credit Union") has a first registered mortgage against the Meshers Road Lands (as hereinafter defined) having the registration number EP50082 (the "Ladysmith Mortgage"); AND UPON noting that Purdy is the registered owner of the Meshers Road Lands; AND UPON noting that the Proposal Trustee did not object to the Credit Union seeking leave to proceed with an action in the Supreme Court of British Columbia to enforce the Ladysmith Mortgage against the Meshers Road Lands in Court file number S13650 (the "Foreclosure Action"); AND UPON hearing that the Credit Union has

brought an Application in the foreclosure Action to have an offer received with respect to the Meshers Road Lands approved; AND UPON hearing that the Credit Union, unless otherwise ordered by the Court, proposes to pay any remaining sale proceeds after paying real estate commissions inclusive of GST and the full balance due and owing under the Ladysmith Mortgage into the British Columbia Supreme Court (the "Surplus Proceeds"); AND UPON noting that Armac Investments Ltd. has a second registered mortgage against title to the Meshers Road Lands; AND UPON hearing it is commercially reasonable to have the Surplus Proceeds paid to the Proposal Trustee and that no unfairness will result to any interested person; **IT IS HEREBY ORDERED AND DECLARED THAT:**

1. Notice of the application for this Order and any material in support is deemed good and sufficient upon all interested persons, the time for service of the application and any material in support is abridged to the time actually given and all further and other service of the application for this Order and any material in support is dispensed with.

2. The Credit Union shall pay the Surplus Proceeds from the sale of the Lands legally described as:

Port Alberny Assessment Area  
 Parcel Identifier: 008 428 565  
 The South ½ Of District Lot 51  
 Alberny District

(the "Meshers Road Lands")

to the Proposal Trustee subject to further direction of this Honourable Court.

3. This Court hereby requests the aid and recognition of any court or any judicial, regulatory, or administrative body in any province or territory of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province or territory or any court of any judicial, regulatory or administrative body of any nation or state to act in aid of and to be complementary to this Court in carrying out the terms of this Sanction Order and the Plan.
4. Service of this Order may be effected by posting a copy of this Order to the Monitor's website at [www.amcanadadocs.com/purdy](http://www.amcanadadocs.com/purdy). All further and other service of this Order is dispensed with.

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JUSTICE OF THE COURT OF QUEEN'S BENCH  
 OF ALBERTA