

NO. L170012
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

HSBC BANK CANADA

PLAINTIFF

AND:

SWIFT ENVIRONMENTAL LTD., HANNIGAN
INVESTMENTS LTD., DASNIER BAY DEVELOPMENTS
LTD. and SEAN D. HANNIGAN

DEFENDANTS

ORDER MADE AFTER APPLICATION

BEFORE MASTEN) THURSDAY, THE 4TH DAY OF
)
MOIR) APRIL, 2019

THE APPLICATION of The Bowra Group Inc., in its capacity as Court-appointed receiver and manager (the “Receiver”) of the assets, undertakings and properties of Swift Environmental Ltd., Hannigan Investments Ltd., Dasnier Bay Developments Ltd. and Sean D. Hannigan coming on for hearing at Vancouver, British Columbia, on the 4th day of April, 2019; AND ON HEARING Kimberley A. Robertson, counsel for the Receiver, and those other counsel listed on *Schedule “A”* hereto, and no one appearing for the remaining parties, although duly served; AND UPON READING the material filed, including the Report of the Receiver dated March 21, 2019 (the “Report”);

AND FURTHER TO PARAGRAPH 3 OF THE ORDER appointing the Receiver, pronounced by the Court of Queen's Bench in Edmonton Registry Action No. 1603-20669 on January 5, 2017, as recognized in the within proceedings as an order of this Court and registered in the Land Title Office under registration No. CA5775483;

THIS COURT ORDERS AND DECLARES THAT:

1. The time for service of this Notice of Application and supporting materials is hereby abridged so that the application is properly returnable today, and the need for further service of the Notice of Application and supporting materials is hereby dispensed with.
2. The sale transaction (the “Transaction”) contemplated by the Offer to Purchase dated February 22, 2019 (the “Sale Agreement”) between the Receiver and 1198593 B.C.

Ltd., (the “**Purchaser**”), a copy of which is attached as Appendix “A” to the Report, is hereby approved, and the Sale Agreement is commercially reasonable. The execution of the Sale Agreement by the Receiver is hereby authorized and approved, and the Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance to the Purchasers of the assets described in the Sale Agreement (the “**Purchased Assets**”).

3. Upon delivery by the Receiver to the Purchasers of a certificate substantially in the form attached as *Schedule “B”* hereto (the “**Receiver’s Certificate**”), all of the Debtor’s right, title and interest in and to the Purchased Assets described in the Sale Agreement and listed on *Schedule “C”* hereto shall vest absolutely in the Purchasers in fee simple, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing:

- (i) any encumbrances or charges created by the Order made on January 5, 2017 in *HSBC Bank Canada v. Swift Environmental Ltd., and others*, Court of Queen’s Bench of Alberta, Edmonton Judicial Centre, File Number 1603- 20669, and registered in the within proceedings on January 13, 2017;

- (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* of British Columbia or any other personal property registry system; and

- (iii) those Claims listed on *Schedule “D”* hereto (all of which are collectively referred to as the “Encumbrances”, which term shall not include the permitted encumbrances, easements and restrictive covenants listed on *Schedule “E”* hereto),

and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. Upon presentation for registration in the Land Title Office for the Land Title District of Kamloops of a certified copy of this Order, together with a letter from Lawson Lundell LLP, solicitors for the Receiver, authorizing registration of this Order, the British Columbia Registrar of Land Titles is hereby directed to;

- (a) enter the Purchaser as the owner of the those lands and premises legally described as:

Parcel Identifier: 011-157-151
District Lot 2920 Kamloops Division Yale District Except
Plans 15450 and 21015

As to an undivided 1/45 interest

(the "**Lands**")

as identified in *Schedule "C"* hereto, together with all buildings and other structures, facilities and improvements located thereon and fixtures, systems, interests, licenses, rights, covenants, restrictive covenants, commons, ways, profits, privileges, rights, easements and appurtenances to the said hereditaments belonging, or with the same or any part thereof, held or enjoyed or appurtenant thereto, in fee simple in respect of the Lands, and this Court declares that it has been proved to the satisfaction of the Court on investigation that the title of the Purchaser in and to the Lands is a good, safe holding and marketable title and directs the BC Registrar to register indefeasible title in favour of the Purchaser as aforesaid; and

- (b) having considered the interest of third parties, to discharge, release, delete and expunge from title to the Lands all of the registered Encumbrances except for those listed in *Schedule "E"*.
5. For the purposes of determining the nature and priority of Claims, including for further certainty any monetary claim of the Dasnier Bay Land Owners Association as against the Debtor, as secured by the Option to Purchase registered under Charge No. KL74942 as against the Lands, as of the Closing Date, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and from and after the delivery of the Receiver's Certificate all Claims shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having had possession or control immediately prior to the sale.
6. The Receiver is to file with the Court a copy of the Receiver's Certificate forthwith after delivery thereof.
7. Subject to the terms of the Sale Agreement, vacant possession of the Purchased Assets, including any real property, shall be delivered by the Receiver to the Purchaser at following payment of the purchase price on the Closing Date (as defined in the Sale Agreement), subject to the permitted encumbrances as set out in the Sale Agreement and listed on *Schedule "E"*.

8. The Receiver, with the consent of the Purchaser, shall be at liberty to extend the Closing Date to such later date as those parties may agree without the necessity of a further Order of this Court, provided that the Closing Date occurs within 30 days of the date of this Order.

9. Notwithstanding:

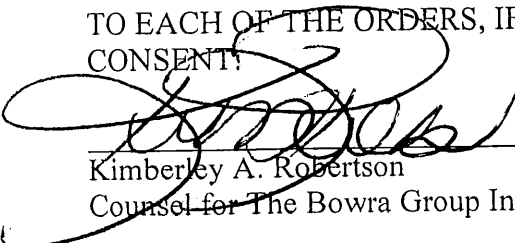
- (a) these proceedings;
- (b) any applications for a bankruptcy order in respect of the Debtor now or hereafter made pursuant to the *Bankruptcy and Insolvency Act* and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made by or in respect of the Debtor,

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute or be deemed to be a transfer at undervalue, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

10. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body, wherever located, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, 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.

11. The Receiver or any other party have liberty to apply for such further or other directions or relief as may be necessary or desirable to give effect to this Order.

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:



Kimberley A. Robertson
Counsel for The Bowra Group Inc.

BY THE COURT



REGISTRAR

SCHEDULE "A"

LIST OF APPEARING PARTIES

<p>Counsel for the Receiver, The Bowra Group Inc. Applicant</p>	<p>Kimberley A. Robertson Lawson Lundell LLP Suite 1600 Cathedral Place 925 West Georgia Street Vancouver, BC V6C 3L2 Telephone: (604) 685-3456 Fax: (604) 669-1620 E-mail: krobertson@lawsonlundell.com</p>
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SCHEDULE "B"

FORM OF RECEIVER'S CERTIFICATE

NO. L170012
VANCOUVER REGISTRY

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BETWEEN:

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PLAINTIFF

AND:

SWIFT ENVIRONMENTAL LTD., HANNIGAN
INVESTMENTS LTD., DASNIER BAY DEVELOPMENTS
LTD. and SEAN D. HANNIGAN

DEFENDANTS

RECEIVER'S CERTIFICATE

- A. Pursuant to an Order of the Honourable Madam Justice Veit made in *HSBC Bank Canada v. Swift Environmental Ltd., and others*, Court of Queen's Bench of Alberta, Edmonton Judicial Centre, File Number 1603-20669, and registered in the within proceedings on January 13, 2017, The Bowra Group Inc. was appointed as the receiver (the "Receiver") of the undertaking, property and assets of Swift Environmental Ltd., Hannigan Investments Ltd., Dasnier Bay Developments Ltd. (the "Debtor") and Sean D. Hannigan.
- B. Pursuant to an Order of the Court dated April 4, 2019, the Court approved the agreement of purchase and sale made as of February 22, 2019 (the "**Sale Agreement**") between the Receiver and 1198593 B.C. Ltd. (the "**Purchaser**") and provided for the vesting in the Purchasers of the Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchasers of a certificate confirming (i) the payment by the Purchasers of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the

Purchasers; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser (or its nominee); and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at Vancouver, British Columbia on _____, 2019.

The Bowra Group Inc., in its capacity as Receiver of the undertakings, property and assets of Dasnier Bay Developments Ltd., and not in its personal capacity.

Per; _____

Name:

Title:

Schedule "C"

Purchased Assets

Definitions

"Lands" means those lands and premises in the City of Seymour Arm, in the Province of British Columbia legally described as PID: 011-157-151, District Lot 2920 Kamloops Division Yale District Except Plans 15450 and 21015.

"Sites" means those sites located on the Lands and known as Sites 10, 11, 14, 17, 21 and 28, as shown on the site plans attached hereto as Schedule C being a:

- a. 18/45 undivided interest in and to the Lands with respect to Site 28;
- b. 1/45 undivided interest in and to the Lands with respect to Site 10;
- c. 1/45 undivided interest in and to the Lands with respect to Site 11;
- d. 1/45 undivided interest in and to the Lands with respect to Site 14;
- e. 1/45 undivided interest in and to the Lands with respect to Site 17; and
- f. 1/45 undivided interest in and to the Lands with respect to Site 21

"Personal Property" means all fixtures, appliances and other tangible personal property of every nature and kind which are owned by the Debtor and incorporated in, situate upon and/or used in connection with the Property if any.

"Purchased Assets" means:

1. the Debtor's undivided interest in and to Site 14, being an undivided 1/45 interest in the Lands (the **"Property"**) and to any buildings or improvements located on the Property, together with all rights, easements and other real property rights appurtenant to the Property (as shown on title no. LA108544)
2. the Debtor's interest in and to the Property; and
3. the Personal Property on the Property if any.

Schedule "D"

Encumbrances to be Deleted/Expunged from Title to Lands

Nature of Charge	Registration No.
Injunction HSBC Bank Canada	CA5775483

and any and all charges, liens, encumbrances and interests registered subsequent to Injunction No. CA5775483 in favour of HSBC Bank Canada

Schedule "E"

Permitted Encumbrances

The reservations, limitations, provisos and conditions expressed in the original grant thereof from the Crown and:

Nature of Charge	Registration No.
Option to Purchase Dasnier Bay Land Owners Association	KL74942
Option to Purchase Dasnier Bay Land Owners Association as to an undivided 1/45 interest	CA3067040
Option to Purchase Dasnier Bay Land Owners Association as to an undivided 1/45 interest	CA3074610
Mortgage HSBC Bank Canada	CA2465654
Assignment of Rents HSBC Bank Canada	CA2465655

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LTD. and SEAN D. HANNIGAN

DEFENDANTS

B.C. MODEL APPROVAL AND VESTING ORDER



Barristers & Solicitors
1600 Cathedral Place
925 West Georgia Street
Vancouver, British Columbia
V6C 3L2
Phone: (604) 631-9145
Attention: Kimberley A. Robertson

WCTB