

SUPREME COURT
OF BRITISH COLUMBIA
VANCOUVER REGISTRY

MAR 9 2011

Form 35 (Rules 8-4(1), 13-1(3) and 17-4(2))

No. **H110166**
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

1397225 ONTARIO LIMITED

PETITIONER

AND:

682202 B.C. LTD., KINGSWAY ARMS MANAGEMENT
SERVICES INC., KINGSWAY ARMS HOLDINGS INC.,
KINGSWAY ARMS HOLDINGS B.C. LTD., PATRICK BYRNE
also known as PATRICK CHARLES BYRNE, GRAHAM
PARKER also known as GRAHAM M. PARKER also known as
GRAHAM MELTON PARKER, CHAPLIN VENTURES LTD.,
MICHAEL CHAPLIN also known as MICHAEL R. CHAPLIN,
COLTER INVESTMENTS (GP) LTD., COLTER
INVESTMENTS LP also known as COLTER INVESTMENTS
LIMITED PARTNERSHIP, 0780293 B.C. LTD. and HER
MAJESTY THE QUEEN IN RIGHT OF CANADA

RESPONDENTS

ORDER MADE AFTER APPLICATION

BEFORE

) THE HONOURABLE *Justice S. Gauthier*
) JUSTICE *S. Gauthier*

) 09/Mar/2011
)

ON THE APPLICATION of the Petitioner for an Order pursuant to Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA"), Section 39 of the *Law and Equity Act*, R.S.B.C. 1996 c. 253, as amended (the "LEA") and Rules 10-2 and 13-2(5) of the *Supreme Court Civil Rules* appointing **ALVAREZ & MARSAL CANADA INC.** as Receiver and Manager (in such capacity, the "Receiver") without security, of all of the assets, undertakings and properties of the Respondent, **682202 B.C. LTD.** (the "Debtor"), coming on for hearing at The Law Courts, 800 Smithe Street, Vancouver, British Columbia, V6Z 2E1, on 09/Mar/2011;

AND ON READING the Petition dated 08/Feb/2011, the Affidavit #1 of Mark Katz made 07/Feb/2011, and the Affidavit #1 of Shannon Baker made 08/Feb/2011; AND ON HEARING John C. Fiddick, lawyer for the Petitioner, Glen P. Forrester, lawyer for the Respondents, Kingsway Arms Management Services Inc., Kingsway Arms Holdings Inc., Kingsway Arms Holdings B.C. Ltd. and Patrick Byrne, and John I. McLean, lawyer for the Receiver, no one

appearing for the Respondents, 682202 B.C. Ltd., Graham Parker, Chaplin Ventures Ltd., Colter Investments (GP) Ltd., Colter Investments LP, 0780293 B.C. Ltd. and Her Majesty the Queen in Right of Canada, although duly served, AND ON READING the consent of **ALVAREZ & MARSAL CANADA INC.** to act as the Receiver.

THIS COURT ORDERS that:

TIME FOR SERVICE

1. THIS COURT ORDERS that the time for service of the Petition, any Affidavits in support of the Petition and the Notice of Hearing for a Receiver and Manager in this proceeding be and is hereby abridged and directs that any further service of these documents be dispensed with.

APPOINTMENT

2. THIS COURT ORDERS that **ALVAREZ & MARSAL CANADA INC.** is hereby appointed Receiver, 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**"), including but not limited to the certain lands and premises with a civic address of 32331-7th Avenue, Mission, British Columbia and a legal description of:

P.I.D.: 017-490-146

Lot A Section 20 Township 17 New Westminster District Plan LMP1741

(the "**Lands and Premises**").

RECEIVER'S POWERS

3. 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 other business, or cease to perform and terminate or repudiate 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) purchase or lease machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part thereof;
- (f) 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;
- (g) collect any and all rental income and profits from the Lands and Premises;
- (h) settle, pay, extend or compromise any indebtedness owing to or by or on behalf of the Debtor (including employee related obligations incurred or relating to the period prior to the date of this Order in respect of employees of the Debtor or Kingsway Arms Management (at Cedarbrooke Chateau) Inc. ("Kingsway")) as the Receiver deems necessary or desirable in the ordinary course of business or for carrying out the terms of this Order;
- (i) 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;
- (j) undertake environmental or workers' health and safety assessments of the Property and operations of the Debtor;
- (k) 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;
- (l) market any or all the Property, including 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;
- (m) 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 \$200,000.00, provided that the aggregate consideration for all such transactions does not exceed \$1,000,000.00; 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;

- (n) 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;
- (o) 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 this Order, and to share information with such Persons, including the terms of this Order, subject to such terms as to confidentiality as the Receiver deems advisable;
- (p) register a copy of this Order and any other Orders in respect of the Property against title to any of the Property, including but not limited to the Lands and Premises;
- (q) 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;
- (r) 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;
- (s) to assign the Debtor into bankruptcy;
- (t) exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (u) 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

4. THIS COURT ORDERS that the following person or persons (all of which, collectively, being "**Persons**" and each being a "**Person**");

- (a) the Debtor;

- (b) 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;
- (c) Kingsway;
- (d) all of Kingsway's current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf; and
- (e) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order;

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, including but not limited to all Records (as defined below) in the possession or control of Kingsway at any and all locations.

5. 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 tapes, computer disks, or other data storage media containing any such information, but specifically excluding any proprietary accounting software (the foregoing, collectively, the "**Records**") in that Person's possession or control at any or all locations, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof, provided however that nothing in this paragraph 5 or in paragraphs 4 and 6 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.

6. 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 at any or all locations shall provide copies of such Records to the Receiver and shall not alter, erase or destroy any Records without the prior written consent of the Receiver.

NO PROCEEDINGS AGAINST THE RECEIVER

7. 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.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

8. 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.

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 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.

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 the written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

11. THIS COURT ORDERS that all Persons having oral or written agreements with or for the benefit of 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, notwithstanding paragraph 11, Kingsway or the Receiver may terminate all employees or independent contractors of the Debtor or of Kingsway and the Receiver may (whether or not the employees have been terminated) seek to retain the services of some or all such employees or independent contractors, excluding the officers or directors of Kingsway. The Receiver shall not be liable for any employee-related liabilities of the Debtor or of Kingsway, including any successor employer liabilities as provided for in Section 14.06(1.2) of the BIA, other than such amounts the Receiver may specifically agree in writing to pay and amounts in respect of obligations imposed specifically on receivers by applicable legislation. 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 in accordance with the terms and conditions of such employment by the Receiver.

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 first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person (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 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 **\$250,000.00** (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 security interests, trusts, liens,

charges and encumbrances, statutory or otherwise, in favour of any Person, 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 Certificate**") 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 the Petitioner shall have its costs of this motion, up to and including entry and service of this Order as provided for by terms of the Petitioner's security or, if not so provided by the Petitioner's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

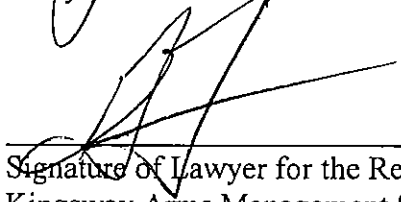
30. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than five (5) clear business days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

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:

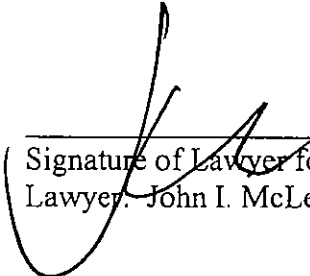


Signature of Lawyer for the Petitioner
Lawyer: John C. Fiddick






Signature of Lawyer for the Respondents,
Kingsway Arms Management Services Inc.,
Kingsway Arms Holdings Inc.,
Kingsway Arms Holdings B.C. Ltd. and Patrick Byrne
Lawyer: Glen P. Forrester



Signature of Lawyer for the Receiver
Lawyer: John I. McLean, Q.C.


BY THE COURT



District Registrar

SCHEDULE "A"
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT _____

1. THIS IS TO CERTIFY that **ALVAREZ & MARSAL CANADA INC.**, the Receiver and Manager (the "**Receiver**") of all of the assets, undertakings and properties of **682202 B.C. LTD.** appointed by Order of the Supreme Court of British Columbia (the "**Court**") dated the _____ day of _____, 20____ (the "**Order**") made in SCBC Action 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 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, 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 day of , 20 .

ALVAREZ & MARSAL CANADA INC.,
solely in its capacity as Receiver of the
Property (as defined in the Order), and not in
its personal capacity

Per:

Name:

Title: