



NO. S-210184
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

**IN THE MATTER OF BRYN GWYRDD HOLDINGS INC. and
MYNDDOEDD HOLDINGS INC.**

PETITIONERS

NOTICE OF APPLICATION

Name of applicant: MNP Ltd., in its capacity as the court-appointed liquidator (in such capacity, the "**Liquidator**") of Bryn Gwyrrd Holdings Inc. ("**BGHI**") and Mynddoedd Holdings Inc. ("**MHI**" and, together with BGHI, the "**Petitioners**")

TO: Farris LLP, as counsel for the Receivers (as defined below)

TAKE NOTICE that an application will be made by the applicant to the presiding judge at the courthouse at 800 Smithe Street, Vancouver, British Columbia on **Wednesday, the 3rd day of August, 2022 at 9:45 a.m.** for the order set out in Part 1 below.

PART 1: ORDER(S) SOUGHT

1. Order substantially in the form attached hereto as **Schedule "A"**, *inter alia*, approving the dissolution of MHI, and discharging the Liquidator.
2. Such further and other relief as counsel may advise and this Court may allow.

PART 2: FACTUAL BASIS

The English Proceedings

3. On or about November 13, 2007, the Crown Court of England and Wales pronounced a confiscation order (the "**Confiscation Order**") against Dr Gerald Martin Smith ("**Smith**") that, *inter alia*, ordered Smith pay £40,956,911.

Second Report of Liquidator to Court, dated July 11, 2022
at para 2 ("**Second Report**")

4. Smith did not comply with the Confiscation Order and, as a result, on April 7, 2008, the High Court of England and Wales (the “**High Court**”) pronounced an order (the “**April 2008 Order**”) appointing Finbarr O’Connell and Jeremy Outen of KPMG LLP (now known as Interpath Advisory in the United Kingdom) as enforcement receivers.

Second Report at para 3

5. On May 29, 2013, the High Court pronounced an order substituting Messrs O’Connell and Outen with David Standish and John Milsom (the “**Receivers**”).

Second Report at para 3

6. In December 2017, the High Court varied the April 2008 Order and extended the Receivers’ appointment over the shares, securities, and membership rights in a number of companies, including the Petitioners.

Second Report at para 4

MHI

7. Immediately prior to the granting of the Liquidation Order (as defined below), MHI’s shares were owned by Litigation Capital Limited (“**LCL**”), a company registered in the Marshall Islands. On March 1, 2021, LCL transferred the MHI shares to PR Realisations 1 Limited (“**PR Realisations**”), a company registered in the British Virgin Islands.

First Report of Liquidator to Court, dated February 14, 2022
at para 7 (“**First Report**”)

8. PR Realisations’ shares are wholly-owned by the Receivers and the Receivers are also directors of MHI.

Second Report at para 7

The Liquidation Proceedings

9. On March 4, 2021, this Court pronounced an order (the “**Liquidation Order**”) that, among other things, the Petitioners be liquidated and dissolved pursuant to section 324 of the *Business Corporations Act*, SBC 2002, c 57 (the “**BCA**”). The Liquidation Order also appointed MNP Ltd as the Liquidator and empowered the Liquidator to, *inter alia*:

- (a) take possession of and exercise control over the assets, property, and undertakings of the Petitioners, including the Petitioners' bank accounts (the "**Property**");
- (b) determine, approve the payment of, or compromise any or all of the Petitioners' liabilities, and determine the adequacy of the Property for discharging such liabilities; and
- (c) in the Liquidator's own discretion, realise the assets of the Petitioners and distribute the proceeds among the Petitioners' creditors and then to the Receivers.

Second Report at paras 1, 8

10. On February 18, 2022, this Court pronounced an order (the "**BGHI Approval Order**") that, *inter alia*, approved:

- (a) the activities of the Liquidator as set out in the First Report;
- (b) the payment of certain invoices on behalf of BGHI (the "**BGHI Claims**");
- (c) the dissolution of BGHI; and
- (d) the discharge of the Liquidator *qua* Liquidator of BGHI.

BGHI Approval Order

The Liquidator's Activities

11. Since the First Report, the Liquidator has:

- (a) paid \$35,474.12 from funds it held in trust for BGHI to BGHI's creditors in respect of the BGHI Claims in accordance with the BGHI Approval Order;
- (b) redeemed the Guaranteed Investment Certificate (the "**GIC**") which previously held the MHI Funds (as defined below) and deposited the principal balance and interest earned from the GIC into a liquidation account maintained on behalf of MHI;
- (c) maintained and updated the Liquidator's website in respect of these liquidation proceedings;

- (d) participated in discussions with an external accountant to BGHI and reviewed historical financial information and tax returns of the Petitioners;
- (e) received and responded to certain creditor inquiries in respect of the BGHI Claims;
- (f) prepared and filed a (NIL) corporate income tax return on behalf of MHI for the fiscal year ending May 31, 2022; and
- (g) had ongoing discussions and correspondence with the Receivers regarding the Petitioners and the liquidation proceedings.

Second Report at paras 14 - 21

MHI's Assets

12. After the pronouncement of the Liquidation Order, the Receivers transferred \$2,807,904.57 to the Liquidator to be held in trust for MHI (the "MHI Funds").

First Report at paras 13, 14

13. The MHI Funds comprise the net sale proceeds from the sale of land owned by MHI and located in Princess Louisa Inlet in British Columbia after the payment of certain expenses of MHI.

First Report at para 27

14. Other than the MHI Funds, the Liquidator has not identified and is not aware of any other assets of MHI.

First Report at para 28

MHI's Liabilities

Crown Claims

15. MHI does not have active payroll tax accounts registered with the Canada Revenue Agency ("CRA") and there are no amounts owing to CRA in respect of unremitted payroll source deductions.

First Report at para 33

16. In addition, MHI does not owe any amounts for unremitted Goods and Service Tax (“GST”) and MHI’s GST account was closed on December 31, 2015.

First Report at para 34

17. The Liquidator prepared and filed NIL corporate income tax returns for MHI for the years ending May 31, 2015 through May 31, 2021 inclusive. The Liquidator has received notices of assessment from CRA for each the tax periods up to and including May 31, 2021 confirming that there is no balance owing to CRA. The Liquidator has also filed a (NIL) corporate tax return for the fiscal year ending May 31, 2022.

First Report at para 35

Second Report at para 19

Payments and Distributions to the Shareholder

18. The Liquidator conducted a review of MHI’s records and the Liquidator is unaware of any creditors of MHI. In addition, the Liquidator did not receive any written notices from any claimants within the two-month period (or at all) after the Liquidator published notices to creditors in the gazette.

Second Report at paras 27, 28

19. Accordingly, the Liquidator distributed the balance of funds held in trust to PR Realisations, prepared the final accounts of MHI, and, on July 6, 2022, issued the notice to shareholders of final accounts pursuant to section 341 of the *BCA*.

Second Report at para 29 and Appendices “C”, “D”

PART 3: LEGAL BASIS

Accounts of the Liquidator and its Counsel

1. The Liquidation Order provides that:

8. Unless the Petitioners otherwise consent, the Liquidator and its legal counsel shall pass their accounts from time to time, and for this purpose, the accounts of the Liquidator and its legal counsel are referred to a judge of the Supreme Court of British Columbia and may be heard on a summary basis.

Liquidation Order at para 8

2. The Receivers have consented to the Liquidator and its legal counsel dispensing with the passing of their accounts. Accordingly, the Liquidator is not seeking approval of the accounts of the Liquidator and its legal counsel before this Court.

Second Report at para 23

Dissolution of MHI and Discharge of the Liquidator

3. The Liquidator's administration of MHI has been substantially completed with the exception of the preparation and filing of MHI's final corporation income tax return to dissolution.

4. The Liquidation Order further provides that:

11. The Liquidator remains at liberty to apply for orders or directions in the course of the liquidation and dissolution of the Petitioners.

Liquidation Order at para 11

5. Section 341 of the *BCA* further provides that:

Completion of liquidation

341 (1) Within 3 months after making the distribution to shareholders required by section 330 (m), a liquidator must

- (a) prepare the final accounts of the liquidation showing how it has been conducted and how the assets of the company have been disposed of,

- (b) deposit those final accounts in the liquidation records office, and

- (c) send to each shareholder of the company a notice

- (i) setting out the mailing address and the delivery address of the liquidation records office,

- (ii) stating that the final accounts have been prepared and deposited in the liquidation records office,

(iii) stating that the final accounts will be open for inspection at the liquidation records office during statutory business hours for a period of at least 3 months after the date of the notice, and

(iv) stating that a shareholder of the company is entitled, on making a request within the 3 month period and without charge, to receive a copy of the final accounts from the liquidator.

(2) A liquidator must ensure that the final accounts referred to in subsection (1) (a) of this section are retained at the liquidation records office for at least 3 months after the date of the notice and must, without charge,

(a) permit each shareholder to inspect the final accounts during statutory business hours within the 3 month period, and

(b) send, to each shareholder who requests it within the 3 month period, promptly after the liquidator's receipt of the request, a copy of the final accounts.

(3) The liquidator must not apply for dissolution of the company under section 343 until the expiry of the 3 month period referred to in subsection (2) of this section.

[...]

BCA, s 341

6. In addition to complying with the obligations set out in section 341 of the *BCA*, the Liquidator must apply for an order of this Court approving the dissolution and, on such an application, this Court "may make any order it considers appropriate", including an order:

(a) approving the dissolution,

(b) respecting the custody or disposal of records referred to in section 351 (1) (a), and

(c) that the liquidator be discharged effective on the dissolution of the company, or at any other time ordered by the court, and, if the liquidator is discharged under this paragraph, section 350 (3) and (4) applies.

BCA, ss 341, 342

7. Accordingly, the Liquidator is seeking an order of this Court approving the dissolution of MHI and authorising the Liquidator, after the expiry of the 3 month period set out in section 341(2) of the *BCA*, to file an application with the registrar for dissolution of MHI.

PART 4: MATERIAL TO BE RELIED ON

1. First Report of the Liquidator to the Court, dated February 14, 2022.
2. Second Report of the Liquidator to the Court, dated July 11, 2022.
3. Such further and other materials as counsel may advise and this Court may permit.

The applicant estimates that the application will take 15 minutes.


This matter is 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).

DATED: July 20, 2022


Counsel for MNP Ltd., in its capacity as
the court-appointed liquidator of Bryn
Gwyrdd Holdings Inc. and Mynddoedd
Holdings Inc.
McCarthy Tétrault LLP
(H. Lance Williams / Forrest Finn)

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:

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

DATED: _____
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
- none of the above