

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

WEIWEI GAO

**Applicants**

– and –

WG VINEYARD NIAGARA INC. and WG DOMAINE NIAGARA INC.

**Respondents**

**FIRST REPORT OF THE LIQUIDATOR**  
**JUNE 15, 2018**

**INTRODUCTION AND PURPOSE**

1. On April 5, 2018, MNP Ltd. (the “**Liquidator**”) was appointed, pursuant to an order made by the Ontario Superior Court of Justice (the “**Appointment Order**”), as Liquidator of all of the assets, undertakings and properties of WG Vineyard Niagara Inc. (“**WG Vineyard**”) and WG Domaine Niagara Inc. (“**WG Domaine**” and together with WG Vineyard, collectively the “**Companies**”), carrying on business at 1123 Four Mile Creek Road, Niagara-on-the-Lake, Ontario (the “**Four Mile Creek Property**”) and 1100 Progressive Avenue, Niagara-on-the-Lake, Ontario. (the “**Progressive Property**”, and together with the Four Mile Creek Property, collectively the “**Properties**”). A copy of the Appointment Order, and related endorsement, dated March 27, 2018 (the “**Endorsement**”), are collectively attached as **Appendix “A”**.

2. The Appointment Order is dated March 27, 2018 and is effective from March 26, 2018 (the “**Effective Date**”). The Endorsement states “Therefore, an independent liquidator shall be appointed to wind up the two subject corporations. I am therefore prepared to sign the draft order attached to this endorsement as Schedule “A”. Before doing so, I would request that both parties confer with each other and email to the Court at [Kitchener.Superior.Court@ontario.ca](mailto:Kitchener.Superior.Court@ontario.ca) to confirm whether or not the order requires any minor amendments.”
3. After the issuance of the Endorsement, the parties made minor revisions to the draft Appointment Order, which order was entered and issued on April 5, 2018. Notwithstanding the Effective Date, the Liquidator commenced its activities on April 5, 2018 after receiving the signed Appointment Order.
4. The Appointment Order together with other court and statutory reports have been posted to the Liquidator’s website, which can be found at: <http://mnpdebt.ca/en/corporate/engagements/wg-vineyard-niagara-inc-and-wg-domaine-niagara-inc>.
5. The purpose of this Report is to provide the Court with information in respect of:
  - a. background information about the Properties;
  - b. the Liquidator’s activities since its appointment;
  - c. information relating to the process that the Liquidator proposes to conduct to market the Four Mile Creek Property for sale;
  - d. information relating to the existing marketing process undertaken by the Companies for the Progressive Property and a sale that the Liquidator recommends be concluded; and
  - e. as a result a request that this Court issue the following orders:
    - i. authorizing and directing the Liquidator to enter into and carry out the terms of the APS (defined below), and vesting title in and to the Progressive

Property in 1074127 Ontario Limited (the “**Purchaser**”), upon the closing of the transaction contemplated by the APS;

- ii. request the approval of the Liquidator’s proposed realization strategy for the Four Mile Creek Property and its intention to enter into a listing agreement with Colliers International Niagara Ltd. in respect of this property, as described in further detail below;
- iii. approving the Liquidator’s fees and disbursements, including the fees and disbursements of Goldman, Sloan, Nash and Haber LLP (“**GSNH**”), the Liquidators’ independent counsel;
- iv. approving an amendment to the Appointment Order to provide that the Liquidator’s Charge shall:
  - 1. for the first \$100,000, rank in priority to all security interests, trusts, liens, charges, encumbrances, statutory or otherwise, in favour of any person; and
  - 2. for amounts greater than \$100,000, the Liquidator’s Charge shall form a first charge on the Properties in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to any valid and enforceable security interests registered against the Properties in favour of Persons not related to, or not dealing at arm’s length with, WG Vineyard and WG Domaine as of the date of this Order;
- ii. approving the conduct and activities of the Liquidator as described in herein; and
- iii. such other relief as the Court deems just.

## **TERMS OF REFERENCE**

6. In preparing the Report, the Liquidator has relied on information (the “**Information**”) regarding the Properties:
  - a. contained in the Application Record in this proceeding, dated January 24, 2018;
  - b. contained in the Responding Application Record in this proceeding, dated March 6, 2018;
  - c. provided by the Companies and their counsel;
  - d. provided by Di Mu, the son of the Applicant, who previously had been involved in the day to day management of the Companies;
  - e. provided by Remax (as defined below); and
  - f. information otherwise made available or provided to the Liquidator and/or its counsel.
7. Except as described in this Report, the Liquidator has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards of the Chartered Professional Accountants of Canada.

## **BACKGROUND**

8. WG Vineyard and WG Domaine were each incorporated pursuant to the laws of the Province of Ontario on January 20, 2015.
9. The Respondents acquired the Properties on March 9, 2015. The Properties are adjacent properties and separated by a road allowance.
10. The Applicant owns 51% of the shares of the Companies. The other 49% is held by the Estate of Zhendong Wang.

## ***The Properties***

### ***The Four Mile Creek Property***

11. The Four Mile Creek Property is owned by WG Vineyard, and is an income generating agricultural property situated on a 40.5-acre site located at 1123 Four Mile Creek Road, in the Town of Niagara-on-the-Lake, Ontario. The Four Mile Creek Property includes:
  - a. an income producing farm/vineyard;
  - b. a detached bungalow
  - c. an equipment shed;
  - d. a pole barn; and
  - e. a two-storey converted fourplex.

### ***Tenants – Four Mile Creek Property***

#### ***Fourplex***

12. There are three (3) residential tenants occupying three (3) of the four (4) units in the fourplex, each inherited from the former owner and each being on verbal month to month leases, paying the sums of \$650 and \$800 per month depending on the size of the unit occupied.

#### ***Main Residence – Detached Bungalow***

13. Up until May 31, 2018 there was one (1) residential tenant occupying a portion of the main residence. The tenant did not have a formal written lease in place with the owner and the Liquidator only learned of the tenant at the main residence through the tenant himself.

As of the date of this Report, the tenant is no longer living in the portion of the main residence, however, the tenant has made an arrangement with the Liquidator to permit the storage of certain personal property of the tenant on a month to month basis at the main residence during the summer months. The tenant has agreed to remove those belongings

upon receipt of 30 days written notice by the Liquidator. The tenant is paying storage costs of \$150 per month and has agreed to visit the Four Mile Creek Property weekly and landscape, as necessary.

### *Farm/Vineyards*

14. At the date of appointment, the Four Mile Creek Property was subject to a two-paragraph lease (the “**Farm Lease**”) between WG Vineyard and 1340210 Ontario Ltd. (the “**Farm Tenant**”). The Farm Lease is dated March 9, 2018 and appears to be in respect of the 2018 growing season only. Under the terms of the Farm Lease, the Farm Tenant is responsible for providing “total Vineyard Maintenance, harvest and retain the income from the grapes. The grapes will be sold and delivered under the lessee’s (i.e., the Farm Tenant) Grape Grower Number.” A copy of the Farm Lease is attached as **Appendix “B”**.
15. Upon reviewing the Farm Lease and meeting the parties to that lease, the Liquidator determined it advantageous to clarify the terms of the Farm Lease in an amended lease, particularly given there appeared to be a misunderstanding between the parties in respect of the original lease entered into. This amended lease would address the following, *inter alia*:
  - a. clarity around the Rentable Area -The Farm Lease permits the Farm Tenant the right to use of 44 acres of vineyard. WG Vineyard’s total acreage is approximately 40 acres. The Liquidator has been advised by both representatives of WG Vineyard and the Farm Tenant that the 44 acres referred to in the Farm Lease incorporates part of WG Domaine’s property, but WG Domaine was not a party to the Farm Lease. There was also no identification of precisely which parts of the Properties were included in the stated 44 acres to be cultivated;
  - b. clarity around the meaning behind “total Vineyard Maintenance”. The Farm Tenant views some of the maintenance work to be more properly characterized as an improvement that it is not responsible for;
  - c. greater oversight and protection by the Liquidator of the Farm Tenant’s activities;  
and

- d. to address the way the Farm Lease is to be dealt with in the event of the sale of the Properties.
16. Because of the foregoing, the Liquidator negotiated the terms of an amended lease, dated June 6, 2018 (the “**Amended Farm Lease**”), which agreement amends, and where inconsistent, supersedes the terms of the Farm Lease. The salient terms of the Amended Farm Lease include:
- a. the balance of rent due under the lease is to be paid by November 1, 2018;
  - b. identification of the 44 acres subject to the lease;
  - c. addition of WG Domaine to the lease arrangements;
  - d. the expiry of the Amended Farm Lease on the earlier of the: (a) final regular harvesting of the grapes for the 2018 crop year and all applicable winter preparations for the vines on the rented lands; and (ii) December 15, 2018;
  - e. the delineation of responsibilities of the Liquidator and the Farm Tenant under the terms of the lease; and
  - f. the Liquidator’s ensuring the Farm Tenant that the sale of the Properties are subject to the Amended Farm Lease and the Tenant’s agreement to the assignment of the Amended Farm Lease to any new purchaser(s) including if applicable by partial assignment to a purchaser of each of the Properties for the portion of the rented lands on the portion of the Properties being sold.

A copy of the Amended Farm Lease is attached as **Appendix “C”**.

***The Progressive Property***

17. The Progressive Property is owned by WG Domaine, and is an income generating agricultural property situated on an approximately 44.2-acre site located at 1100 Progressive Avenue, in the Town of Niagara-on-the-Lake, Ontario. The Progressive

Property includes an income producing vineyard, a wood framed and metal clad equipment shed and a metal clad barn.

## **CREDITORS**

### *Mortgage*

18. On November 6, 2015, Sunnyways Investments Inc. (“**Sunnyways**”), a private lender, and the Companies entered into a loan agreement, whereby Sunnyways lent the sum of \$2,250,000 (of which \$1,500,000 was advanced against the Four Mile Creek Property and \$750,000 against the Progressive Property) to the Companies to take out the Farm Credit Canada mortgages that were provided when the Companies acquired the Properties. The Sunnyways loan is secured by a first mortgage against each of the Properties. The original loan agreement was for a two-year term. On September 21, 2017, the parties entered into a Loan Extension Agreement by which the term was extended by three months.
19. On March 8, 2018, Sunnyways issued a notice of power of sale under its mortgage and loan. After the Liquidator’s appointment, counsel for the Liquidator communicated with counsel for Sunnyways and obtained confirmation that this sale proceeding is stayed by the terms of the Appointment Order.
20. At this time, the Liquidator’s counsel has not provided an opinion as to the validity and enforceability of the Sunnyways mortgage. The Liquidator will review the Sunnyways loan and security documentation in order to be able to discuss any issues with Sunnyways and, if necessary, seek direction from the Court on such in advance of any final distribution to Sunnyways and discharge of its security.

### *Shareholder Advances*

21. The 2017 externally prepared financial statements for WG Domaine and WG Vineyards reflect balances due to the shareholder in the amount of \$395,315 and \$1,332,816, respectively. The Liquidator understands that the validity and quantum of the shareholder claim is in dispute.



22. The Appointment Order provides for the Liquidator to “conduct a review of all claims by shareholders of Vineyard and Domaine, including those shareholders asserting shareholder loans and report to the Court for a final determination.” At this time, the Liquidator has not carried out this review, and proposes postponing this review pending the sale of the Properties.

### ***Other Creditors***

#### ***Canada Revenue Agency***

23. WG Vineyard and WG Domaine each file annual Harmonized Sales Tax and corporate tax returns and based on the information available to the Liquidator do not appear to be indebted to Canada Revenue Agency.

#### ***Property Taxes***

24. As at May 17, 2018, WG Domaine and WG Vineyard owe the Town of Niagara-on-the-Lake an amount of \$13,087.06 and \$13,249.19, respectively, for unpaid property taxes. The Liquidator is currently reviewing whether the Progressive Property qualifies for the Farm Property Tax Class Rate. Under this program, farm properties satisfying certain eligibility requirements are taxed at 25% of the municipal residential tax rate. If eligible, this may result in a reduction of current and/or future property taxes in respect of the Progressive Property.

#### ***WalterFedy***

25. After acquiring the Properties, the Companies considered establishing winery facilities and retained WalterFedy, a Kitchener-based firm of architects, engineers and construction management professionals, to develop plans for a winery. Based on its books and records, WG Vineyards owes WalterFedy an amount of \$86,288 in respect of the architectural design fees.

#### ***Woerthle Vineyard***

26. Woerthle Vineyard had performed the custom farming work for the 2015 season and remains unpaid to the extent of \$20,022. It appears as if WG Vineyard contracted for this service.

***Kestenberg Rabinowicz Partners LLP (“KRP”)***

27. KRP is the external accountant to the Companies. WG Vineyard and WG Domaine owe KRP an amount of \$4,294 and \$1,130, respectively.

***The Farm Tenant***

28. The Farm Tenant has advised the Liquidator of an amount outstanding of \$16,666.37 for maintenance completed to the vineyards and authorized by Mr. Di Mu prior to the appointment of the Liquidator. The Liquidator has not yet determined the validity of the claim, or whether the cost was to be borne by the Companies or the Farm Tenant.

**ACTIVITIES OF THE LIQUIDATOR**

29. Since the date of its appointment, the Liquidator has, *inter alia*:
- a. met with the representative of the Companies to gain background and insight into the financial affairs of the Companies;
  - b. taken possession of the Properties;
  - c. obtained certain of the Companies’ books and records from the Companies’ representative, the Companies’ external accountant and Canadian Imperial Bank of Commerce;
  - d. contacted each of Enbridge and Niagara on the Lake Hydro Inc. to arrange for continued heating and cooling services to the Properties;
  - e. met with the residential tenants residing at the Four Mile Creek Property and served each with notice of its appointment, and advised each of its obligation to remit rent directly to the Liquidator;

- f. Met with the Farm Tenant, and served the Farm Tenant with notice of its appointment and advised the Farm Tenant to remit rent directly to the Liquidator;
- g. As further described below, met with Kathy Tsiantoulas of Remax Niagara (“**Remax**”), and reviewed with her Remax’s marketing efforts in respect of the Properties;
- h. arranged to freeze the Companies’ existing bank accounts and opened new bank accounts in the name of the Liquidator;
- i. arranged for insurance coverage on the Properties, as the Companies policy lapsed sometime in 2017;
- j. arranged for periodic inspections of the Properties to, among other things, monitor the condition of the Properties and to comply with insurance requirements;
- k. monitor the cash flows for the Properties;
- l. On May 5, 2018, published notice of the Liquidator’s appointment in the *Ontario Gazette* and on April 5, 2018, served notice of its appointment to the Ministry of Government and Consumer Services, to the attention of the Director of the *Business Corporations Act*; and
- m. With the assistance of its counsel, arranged for the Appointment Order to be registered against title to the Properties.

## **PROPOSED MARKETING PROCESS**

- 30. The Liquidator commenced activities in respect of developing a marketing strategy for the Properties immediately upon its appointment, but delayed implementation of any strategy until it was able to finalize the terms of the Amended Farm Lease. As noted in paragraph 15(d) above, proceeding in this manner would address the way the Farm Lease is to be dealt with in the event of the sale of the Properties.

## **The Progressive Property**

31. On August 18, 2017, the Progressive Property was listed for sale with Remax, with an asking price of \$1,500,000. That listing expired without WG Domaine having accepted an offer.
32. On October 31, 2017, the Progressive Property was relisted with Remax for a six-month period ending April 27, 2018.
33. On November 3, 2017, WG Domaine received an offer to purchase (the “**November 3<sup>rd</sup> Offer**”) the Progressive Property for \$1,380,000<sup>1</sup>. The November 3<sup>rd</sup> Offer was conditional on, among other things, shareholder approval. The shareholders were unable to obtain approval in respect of acceptance of the November 3<sup>rd</sup> Offer. The Purchaser’s willingness to conclude a transaction was conditional on, *inter alia*: (i) its obtaining satisfactory financing; and (ii) its determining that the Progressive Property is zoned to permit it to develop and use the property for the purpose of a single-family residence. The Purchaser remitted a \$50,000 deposit (the “**Original Deposit**”) to Remax. The Original Deposit continues to be held by Remax.
34. Upon its appointment, the Liquidator was contacted by the proposed purchaser and was informed that it was still interested in acquiring the Progressive Property. The prospective purchaser arranged for an appraisal of the Progressive Property to enable it to obtain its financing and has carried out further due diligence in respect of its ability to build a single-family residence on the Progressive Property in order to be in a position to make an offer to purchase without the conditions previously included.
35. Remax provided the Liquidator with one other offer presented to its in respect of the Progressive Property. This offer, while firm, offered a lower price than the November 3<sup>rd</sup> Offer and provides for several representations and warranties that a Liquidator would not be able to provide.
36. In January 2017, WG Domaine obtained an appraisal of the Progressive Property from Ridley & Associates Appraisal Services Limited. The appraisal reflects the Progressive

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<sup>1</sup> The November 3<sup>rd</sup> Offer was amended from time to time to extend the period available to the shareholders to accept the offer and resulted in a reduction of the purchase price to \$1,370,000.

Property as having a market value of \$1,100,000. This appraisal was previously filed with the Court in the proceedings leading up to the Appointment Order, so the Liquidator is not now seeking to seal it or redact references to the appraised amount.

37. Remax has advised the Liquidator that it is unlikely that a sale price of more than \$1,370,000 for the Progressive Property is achievable, and that if achievable might take a great deal of time to obtain.
38. The Liquidator has since negotiated an Agreement of Purchase and Sale dated June 6, 2018 (the “**APS**”), a copy of which is attached as **Appendix “D”** with the Purchaser based on the November 3<sup>rd</sup> Offer, as amended. The salient terms of the APS include:
  - a. a deposit equal to \$100,000 to be paid to the Liquidator. The Original Deposit is held by Remax. The other \$50,000 deposit is held by the Liquidator, in trust;
  - b. the transaction will close on the fifth business day following the date on which the approval and vesting order is granted, or such other date as agreed to by the Parties;
  - c. the Progressive Property is being acquired on an “as is, where is” and “without recourse” basis;
  - d. the Purchaser’s agreement that the Lands, as defined in the APS, are subject to the Farm Lease, the terms of which require clarification, and that the clarification of the Farm Lease may take place following the date of the APS, but that the Purchase wishes to enter into the APS nonetheless, and agrees to be bound by the Farm Lease, as amended; and
  - e. The APS is subject to the Court: (i) approving the transaction contemplated by the APS; and (ii) vesting the Progressive Property in the purchaser free and clear of encumbrances, except for Permitted Encumbrances.

39. The Purchaser requested the Original Deposit be directed by Remax to the Liquidator. Remax proposed that the Liquidator and the Purchaser sign a form of mutual release in connection with the redirection of the Original Deposit. Given the terms of the APS are largely based on the November 3<sup>rd</sup> Offer, the Liquidator intends on signing the mutual release with the consent of the shareholders or the authorization by the Court.
40. The Liquidator recommends the approval of the APS for the following reasons:
- a. it is an offer from a purchaser at arms' length to the Companies;
  - b. that the purchase price under the November 3<sup>rd</sup> Offer is commercially reasonable and is achievable without much greater time or expense to the Companies;
  - c. the Progressive Property has previously been marketed by Remax;
  - d. the proposed purchase price is greater than the value of the Progressive Property as appraised; and
  - e. the shareholders of WG Domaine support its acceptance.
41. Attached at **Appendix "E"** is a copy of the parcel abstract for the Progressive Property.

### **1123 Four Mile Creek**

42. WG Vineyard first listed the Four Mile Creek Property for sale with Remax on August 18, 2017, with an asking price of \$3,000,000. The listing expired on October 27, 2017, without WG Vineyards being presented with an offer.
43. The Four Mile Creek Property was relisted for sale with Remax on October 30, 2017 with an asking price of \$2,950,000. The listing was initially scheduled to expire on January 15, 2018 but was extended to April 27, 2018.
44. On February 4, 2018, WG Vineyard received an offer (the "**February 4<sup>th</sup> Offer**") that was conditional on, *inter alia*:
- a. shareholder approval;

- b. financing;
  - c. inspection by a home inspector;
  - d. a qualified septic inspection;
  - e. satisfactory insurance being obtained; and
  - f. a favourable inspection report on the irrigation systems, wind machines, pumps, drainage, tiles, and weeping tiles.<sup>2</sup>
45. The shareholders of WG Vineyard have not approved the acceptance of the February 4<sup>th</sup> Offer. The Liquidator has reviewed the terms of the February 4<sup>th</sup> Offer and determined that it would not conclude that agreement but would entertain an offer from that same potential purchaser through a sales process it conducts.
46. The purchaser in the February 4<sup>th</sup> Offer requested the return of the deposit it paid to Remax in the amount of \$80,000. Remax represented both the Vendor and the Purchaser in negotiating the February 4<sup>th</sup> Offer. Remax proposed a form of mutual release be signed by the Vendor and Purchaser in connection with the return of the deposit.
47. The Liquidator, after consulting its counsel, determined that there may be merit to entering into this release because it would prevent any claims against the WG Vineyard in respect of the February 4<sup>th</sup> Offer. While it would also prevent any claims against the Purchaser, the Liquidator has assessed any claim to be of little value to the estate. In accordance with paragraph 2(i) of the Appointment Order, the Liquidator, through its counsel, sought and obtained the consent of the shareholders to its entering into the mutual release. The Liquidator has since entered into the mutual release in connection with the return of the deposit.

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<sup>2</sup> The February 4<sup>th</sup> Offer also provides for WG Vineyard warranting that the irrigation systems, wind machines, pumps, drainage tiles and weeping tiles are in good operational condition as at the date of completion, and that there are no outstanding work orders, no notices of expropriation, and no liens against the property, but also provides for provision of training regarding farm management and requires the Vendor to issue notices to terminate the current contracts and vacate the property.

48. The Liquidator believes that it would be most effective and efficient to retain a national real estate brokerage firm to market the Four Mile Creek Property to ensure that the Four Mile Creek Property is given further exposure to the marketplace.
49. The Liquidator has obtained listing proposals from two well-known national real estate brokerages: Colliers and Sotheby’s (the “**Realtors**”). A summary of these proposals from the Realtors is attached as Confidential Appendix “A”.
50. The Liquidator is of the view that the proposal submitted by Colliers provides the best opportunity to maximize realization on the Four Mile Creek Property, particularly given Colliers’ experience in the marketing of agricultural properties. A copy of Colliers’ proposal, which includes a description of its proposed sales process in respect of the Four Mile Creek Property (the “**Marketing Process**”), is attached as Confidential Appendix “B”. Accordingly, the Marketing Process being sought for approval by this Court contemplates the Liquidator engaging Colliers to conduct the Marketing Process, as outlined below and in the confidential appendix.
51. The Marketing Process contemplated by Colliers employs a traditional “list and sell” approach, which is summarized as follows:

<b>SALE PROGRAM</b>	
<b>Pre-Marketing Stage</b> (approximately 14 days)	<ul style="list-style-type: none"> <li>• Preparation of marketing materials, including confidential information memorandum, flyers, etc.</li> <li>• Execution of a listing agreement</li> </ul>
<b>Marketing of the Property</b>	<ul style="list-style-type: none"> <li>• Email blast and mailing to network and brokers</li> <li>• Targeted campaign to potential purchasers, including local vineyard growers, local winery groups and out of town buyers/investors and national winery groups</li> <li>• Colliers’ social media campaign</li> <li>• Property tours</li> <li>• Commence MLS listing</li> <li>• Advertisement of sale in national newspaper and other publication</li> </ul>



	<b>SALE PROGRAM</b>
<b>Offers</b>	<ul style="list-style-type: none"> <li>• Review bids,</li> <li>• Negotiate agreement of purchase and sale</li> </ul>

52. Under the proposed listing agreements with Colliers, the commission rates will be as follows:
- a. 4% of the sale price; or
  - b. if a Colliers listing team also represents the buyer, the commission will be reduced to 3% of the sale price; and
  - c. Colliers is also authorized to co-operate with any other registered real estate brokerage (co-operating brokerage), and to offer to pay the co-operating brokerage a commission of 2% of the sale price out of the commission payable to the Colliers listing team.
53. At Colliers' recommendation, it is contemplated that the Liquidator would offer the Four Mile Creek Property for sale with a suggested asking price range of \$2,500,000 to \$2,750,000, utilizing the Multiple Listing Service.
54. The Liquidator, with Colliers' assistance, will review and assess the bids received during the Marketing Process.
55. The Liquidator will then look to enter into a binding agreement of purchase and sale for the Four Mile Creek Property, which it will present to this Court for approval, along with a reporting of the results of the Marketing Process.
56. Given the sensitive nature of the information in the Confidential Appendices, the Liquidator respectfully recommends that this material be sealed pending completion of a sale transaction for the Four Mile Creek Property.

## STATEMENT OF RECEIPTS AND DISBURSEMENTS

57. The SRD reflects the Liquidator's activities in the administration of the liquidation and reflects receipts over disbursements of \$50,654<sup>3</sup> (the "**Excess Funds**").

## PROFESSIONAL FEES AND DISBURSEMENTS

### *Liquidator's Fees and Disbursements*

58. The Liquidator has issued an invoice covering its fees and disbursements for the period from March 28, 2018 to June 12, 2018, totalling \$68,827.37 inclusive of HST. Attached as **Appendix "F"** is the affidavit of Matthew Lem sworn June 14, 2018 describing the fees and disbursements of the Liquidator.

### *Legal Fees and Disbursements*

59. GSNH has issued two invoices covering its fees and disbursements for the period April 6, 2018 to June 10, 2018 totalling \$16,341.95, inclusive of HST. Attached as **Appendix "G"** is the affidavit of Brendan Bissell sworn June 14, 2018 describing the fees and disbursements of GSNH.
60. It is the Liquidator's opinion that the fees and disbursements of GSNH as described in the affidavit of Mr. Bissell are fair and reasonable and justified in the circumstances, and accurately reflect the work done on behalf of the Liquidator by GSNH.

### *Liquidator Charge*

61. In order to protect the fees and expenses of the Liquidator, the Liquidator seeks to amend the Liquidator's Charge, as set out in paragraph 15 of the Appointment Order, in to secure payment of the reasonable fees and expenses of the Liquidator.
62. The Appointment Order provided for the following Charges in favour of the Liquidator:

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<sup>3</sup> The Excess Funds includes the \$50,000 received in respect of the Progressive Property.

- a. MNP and counsel to MNP shall be entitled to and are hereby granted a charge (the "**Liquidator's Charge**") on the Properties as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Liquidator's Charge shall form a first charge on the Properties in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to any valid and enforceable security interests registered against the Properties in favour of Persons not related to, or not dealing at arm's length with, WG Vineyard and WG Domaine as of the date of this Order; and
  - b. MNP 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 does not exceed \$500,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it 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 MNP 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 "**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: (i) any valid and enforceable security interests registered against the Property in favour of Persons not related to, or not dealing at arm's length with, Vineyard and Domaine as of the date of this Order; and (ii) the Liquidator's Charge
63. The Liquidator has incurred, and will continue to incur out-of-pocket expenses related to the operation of the Properties, including insurance, utilities, maintenance, etc. The rent remaining under the Amended Farm Lease and the ongoing rents collected from the various residential tenants is not sufficient to discharge these obligations.


64. The Liquidator is requesting the Court amend the Liquidator's Charge to provide that the first \$100,000 be granted a first charge ranking in priority to the claims of all secured and all unsecured creditors. Any claim more than \$100,000 would still form a charge on the Properties in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to any valid and enforceable security interests registered against the Properties in favour of Persons not related to, or not dealing at arm's length with, WG Vineyard and WG Domaine as of the date of the Appointment Order.
65. The Liquidator recommends the amendment to the Liquidator's Charge be approved for the following reasons:
- a) Each of the professionals whose fees are to be secured by the Liquidator's Charge has played and will continue to play a critical role in the wind up of the Companies;
  - b) The amendment will provide the Liquidator with comfort that its expenditures to maintain and preserve the Properties will be recovered; and
  - c) The secured creditor that is affected by the amended Liquidator's Charge have been notified of the Liquidator's request. The Liquidator is advised that the secured creditor does not oppose the request.

## CONCLUSION AND RECOMMENDATION

66. Based on the foregoing, the Liquidator respectfully recommends that the Court make an order granting the relief detailed in paragraph 5(e) of this Report.

All of which is respectfully submitted this 15<sup>th</sup> day of June, 2018.

**MNP LTD.,**  
*in its capacity as the*  
*Liquidator of WG Vineyard Niagara Inc. and WG Domaine Niagara Inc.*

Per:   
\_\_\_\_\_  
Sheldon Title  
Senior Vice President