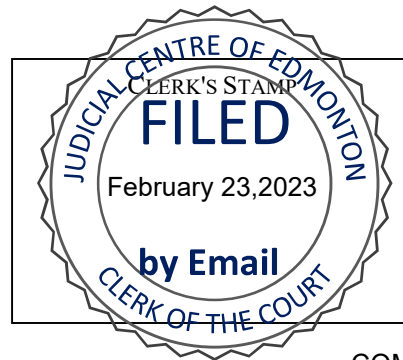


FORM 7
[RULE 3.8]



COURT FILE NUMBER 1503 16803 COM - REW ent
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE EDMONTON
PLAINTIFF/APPLICANT WADE WOOD
DEFENDANTS/RESPONDENTS GERALD BEVAN, SPHERICAL CAPITAL INC., AND SPHERICAL BOND LTD.

DOCUMENT

APPLICATION

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

BENNETT JONES LLP
Barristers and Solicitors
3200, 10020 100 Street
Edmonton, Alberta T5J 0N3

Attention: Mathieu J. LaFleche
Telephone No.: 780-917-5249
Fax No.: 780-421-7951
Client File No.: 74124.1

NOTICE TO THE RESPONDENTS GERALD BEVAN AND LIONHART CAPITAL LTD.

This application is made against you. You are a respondent.
You have the right to state your side of this matter before the Court.

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

Date: March 14, 2023
Time: 10:00 a.m.
Where: Edmonton Law Courts
Before: The Honourable Justice Mah in Commercial Chambers

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

Remedy Claimed or Sought

1. The Plaintiff/Applicant, Wade Wood ("**Mr. Wood**"), seeks an Order:

- (a) granting a receivership order appointment of MNP Ltd. as receiver for Lionhart Capital Ltd. ("**Lionhart**"), without security, over all of the current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (the "**Receivership**");
- (b) permitting the Receiver to liquidate all assets of Lionheart for the purpose of winding up and dissolving Lionheart and granting leave to Mr. Wood for the subsequent application of the proceeds of that liquidation towards satisfaction of the judgment arising from the trial of this action. ;
- (c) compelling Mr. Bevan to:
 - (i) produce all books, records, documentation, and financial statements relating to Lionhart and provide them to Mr. Wood and the Receiver, within 20 days of this Order being granted;
 - (ii) compelling Mr. Bevan to disclose the name and contact information for Lionhart's corporate accountant to Mr. Wood and the Receiver, within 5 days of this Order being granted;
- (d) immediately prohibit the transfer of shares in Lionhart without further Court Order;
- (e) awarding costs of this Application to Mr. Wood on a solicitor-client basis, to be payable forthwith; and
- (f) such further and other relief as counsel may request and this Honourable Court may deem just.

Grounds for Making This Application:

The Judgment

2. This Action relates to a lending agreement in which Mr. Wood lent Mr. Bevan \$1,800,000 for Mr. Bevan to use in his business.

3. The Trial of this Action was held from October 12 to 15, 2021 and November 3, 2021 in which Mr. Wood was successful.
4. The Reasons for Judgment and Judgment were issued on December 10, 2021, wherein the Honourable Justice D.R. Mah granted judgment to Mr. Wood as follows:
 - (a) As against Mr. Bevan as follows:
 - (i) \$1,800,000.00 in damages; and
 - (ii) Pre-judgment interest calculated at a rate of 8.75% from January 1, 2015 to the date of judgment.
 - (b) As against Mr. Bevan and Spherical Bond Ltd., jointly and severally, as follows:
 - (i) \$589,000.00 in damages; and
 - (ii) Pre-judgment interest calculated at a rate of 7.00% from July 5, 2017 to the date of judgment.
 - (c) From the aggregate of the amounts described in paragraphs (a) and (b), above, a credit of \$20,000 shall be applied to the amount owing by Mr. Bevan.
 - (d) Interest pursuant to the *Judgment Interest Act*, R.S.A. 2000, c. J-1.
 - (e) Costs on a solicitor-client basis.

(collectively, the "**Judgment**").
5. On or about January 26, 2022, the solicitor-client costs of Mr. Wood were certified by the Court of King's Bench of Alberta at the assessed amount of \$76,201.47 (the "**Costs**").
6. On or about February 4, 2022, Mr. Wood filed a Writ of Enforcement (the "**Writ**"), pursuant to the *Civil Enforcement Act*, RSA 2000, c-15, against Mr. Bevan for the Judgment in the total amount of \$3,723,635.11, including the Costs and pre- and post-judgment interest (the "**Outstanding Judgment Debt**"). The Writ was subsequently registered at the Personal Property Registry on October 7, 2022.

7. On March 14, 2022, in connection with Mr. Wood's enforcement activities in relation to the Judgment, Mr. Wood was provided with a financial statement of debtor sworn by Mr. Bevan (the "**Financial Statement of Debtor**"). In that document, Mr. Bevan attested to having no material assets. Mr. Bevan further attested to having debts, excluding those owed to Mr. Wood, in excess of \$280,000. Mr. Bevan further attested to having purportedly moved to Mexico in and around the time that the Judgment was issued in December of 2021.
8. To enforce the Judgment, Mr. Bevan underwent an examination in aid on May 3, 2022 to allow Mr. Wood to obtain information about Mr. Bevan's current assets, his recent transfers of assets, and his ability to pay the Judgment (the "**Examination of Aid**").
9. During the Examination in Aid, Mr. Bevan deposed that he did not know where the share certificates and minute books for both Spherical Capital and Spherical Bond were located. Indeed, both Spherical Capital and Spherical Bond have no assets that could satisfy the Judgment.
10. However, Mr. Bevan is the sole Director and owns all shares of Lionhart Capital Ltd. ("**Lionhart**"), but he apparently does not know the location of Lionhart's minute books or share certificates either.
11. In the Examination in Aid, Mr. Bevan deposed that he had separated from his ex-spouse, Suzannah T. Hahrt ("**Ms. Hahrt**") and that they had entered into a separation agreement, dated February 11, 2020 to divide their property and assets (the "**Separation Agreement**"). That Separation Agreement provides that Mr. Bevan transferred the majority of his assets, including the matrimonial home in British Columbia (being the sole asset of any material value), to Ms. Hahrt in exchange for a few personal belongings and the full shares in Lionhart and Spherical.
12. Mr. Wood hired Consolidated Civil Enforcement to enforce the Judgment against Mr. Bevan and accordingly on October 14, 2022, Consolidated Civil Enforcement sent a bailiff to effect seizure of the shares of Lionhart, pursuant to the *Civil Enforcement Act*, RSA 2000, c C-15. However, the bailiff was ultimately unable to seize the shares because

Lionhart's registered office (1022-240 70 Shawville Blvd SE) was a Calgary Pack and Ship Store and Unit 1022 was a mail box.

13. To date, Mr. Bevan has failed and refused to pay any portion of the Outstanding Judgment Debt and this is a debt duly and properly owing by Mr. Bevan to Mr. Wood.

Receivership

14. Mr. Wood is owed approximately \$3,723,635.11 under the Writ.
15. Mr. Wood has real concerns about the *bona fides* of Lionhart such that it is necessary for a receiver to be appointed to determine what, if any, assets Lionhart actually has for the purposes of effecting a liquidation.
16. Given the challenges of enforcing the Judgment against Mr. Bevan, it is just and convenient to grant a receivership order over Lionhart as is authorized pursuant to section 85 of the *Civil Enforcement Act*, RSA 2000, c C-15. It is in the best interest of all parties that a receiver-manager is appointed to realize on Lionhart's assets, undertakings and property in a manner that is efficient, open and transparent.
17. Appointing a receiver would be an effective means of realizing on Lionhart's shares because there are no other practical options to enforce the Writ and it is unlikely that Mr. Bevan can satisfy the amount owing under Writ without resorting to liquidating Lionhart's shares. Moreover, appointing a receiver would not cause undue hardship or prejudice to Mr. Bevan or a third person as Mr. Bevan is the sole shareholder of Lionhart. Finally, the probable benefits to be derived by the appointment of a receiver will outweigh the probable cost of the receivership since the Plaintiff's other enforcement options are limited.
18. MNP Ltd, is qualified and is prepared to act as receiver-manager if so appointed.
19. Mr. Bevan's conduct in evading the Judgment unfairly disregards Mr. Wood's interests as a creditor.

20. Such further and other grounds as counsel may advise and this Honourable Court may deem just.

Material Evidence to be relied on:

21. The pleadings filed in this action;
22. Excerpts from the agreed exhibits tendered at the trial of this action;
23. The Affidavit of Wade Wood, affirmed on February 8, 2023;
24. The Consent to Act of MNP Ltd., dated February 16, 2023; and,
25. Such further and other material as counsel may advise and this Honourable Court may permit.

Applicable Acts and Regulations:

26. Part 6, Division 1, Subdivision 1, of the *Alberta Rules of Court*, Alta Reg 124/201, particularly Rules 6.2, 6.3, 6.9, 6.47, 11.27 and 11.29.
27. *Business Corporations Act*, R.S.A. 2000, c. B-9, section 215, 218, 242.
28. *Civil Enforcement Act*, RSA 2000, c C-15., s. 62(i) & 85.
29. *Personal Property Security Act*, RSA 2000, c P-7, s 65.
30. *Judgment Interest Act*, R.S.A. 2000, c. J-1.

How the application is proposed to be heard or considered:

31. In-person before the presiding Justice.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicants what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicants a reasonable time before the application is to be heard or considered.