

Vancouver

19-Feb-25

REGISTRY

No. VLC-S-S-248901  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

MICHAEL LARES

PETITIONER

AND:

PETER VAN DER HEYDEN and FLYING "L" RANCH LTD.

RESPONDENTS

**RESPONSE TO PETITION**

**Filed by:** Peter van der Heyden (the "**petition respondent**")

THIS IS A RESPONSE TO the petition filed on 20 December 2024.

The respondent estimates that the application will take 1 (one) day.

**PART 1 ORDERS CONSENTED TO**

The petition respondent consents to the granting of NONE of the orders set out in Part 1 of the petition.

**PART 2 ORDERS OPPOSED**

The petition respondent opposes the granting of the orders set out in ALL paragraphs of Part 1 of the petition.

**PART 3 ORDERS ON WHICH NO POSITION IS TAKEN**

The petition respondent takes no position on the granting of the orders set out in NONE of the paragraphs of Part 1 of the petition.

## **PART 4      FACTUAL BASIS**

### **I.      OVERVIEW OF THE RESPONDENT'S POSITION**

1.            This petition concerns the future of Flying "L" Ranch Ltd. (the "**Company**"), a company incorporated pursuant to the laws of British Columbia.
2.            The Company was founded by two directors and shareholders, Michael Lares and Peter van der Heyden. Per the petition and this petition response, those two shareholders and directors agree the Company must be wound up, though the terms of that windup will need to be determined by the court.
3.            The respondent, Mr. van der Heyden, takes the position that the court ought to order a "shotgun" share sale to ensure this corporate divorce proceeds promptly and without the need for further litigation.
4.            In weighing the equities of this matter – including the lengthy history of oppressive conduct on the part of Mr. Lares and his history of bankruptcies – it would be appropriate to issue a shotgun order with Mr. Lares providing the first offer. If the court is unwilling to make such an order, Mr. van der Heyden takes the position a chartered business valuator ought to be appointed.
5.            The petitioner, Mr. Lares, is very eager to pay Mr. van der Heyden \$2,000,000 in exchange for his shares. So eager, in fact, that he has filed a petition seeking such an order.
6.            The petitioner's proposed remedy, however, provides for a lengthy timeline with minimal provision for consequences in the event Mr. Lares does not comply with the court's order, all while he obtains Mr. van der Heyden's shares within 60 days of the order. If such an order is made, it is foreseeable that the parties will be back before the court, a result that the court should strive to avoid when deciding shareholder disputes. If the court orders relief resembling that sought by Mr. Lares, straightforward changes to the order ought to be made to increase the likelihood that both parties receive the relief ordered by the court.

## II. THE COMPANY TODAY

7. The Company was formed in 2019 as a means of purchasing two properties previously leased by Mr. Lares.

8. The two pieces of land relevant to this petition are:

- (a) District Lot 383 Range 2 Coast District  
PID: 011-225-661  
(the “**160 Acres**”); and
- (b) District Lot 199 Range 2 Coast District  
PID: 011-216-395  
(the “**80 Acres**”).

9. The 160 Acres and the 80 Acres are referred to herein as the “**Lands**”.

10. Today, the Company owns the 160 Acres. Mr. van der Heyden owns the 80 Acres.

*Affidavit of P. van der Heyden at Exs. “A” and “B”*

11. Despite Mr. Lares describing the 80 Acres as “landlocked” at paragraph 15 of his petition, Mr. van der Heyden disagrees with this assertion.

12. The Lands, in general, are surrounded by Aboriginal title lands of the Tsilhqot’in Nation, as declared by the Supreme Court of Canada in *Tsilhqot’in Nation v. British Columbia*, 2014 SCC 44. Mr. van der Heyden is of the view that a driveway could easily be built connecting the 80 Acres to the road, with agreement from the Tsilhqot’in Nation.

13. Mr. van der Heyden understands the Company’s affairs today are as follows:

- (a) the Company has no employees;
- (b) Mr. Lares and his family live on the Lands without paying rent to the Company for the 160 Acres or to Mr. van der Heyden for the 80 Acres;
- (c) the Company posts on social media and receives funds from online donors;

- (d) the Company breeds and sells horses, farms and sells small amounts of hay, and sells online retail merchandise; and
- (e) two cabins located on the Lands are rented out to visitors from time to time.

14. According to the Company's tax filings, it owns approximately \$989,913 in fixed assets, including: \$37,800 in land; \$311,558 in buildings; \$359,155 in machinery, equipment, furniture, and fixtures; \$55,000 in motor vehicles; \$22,200 in computer equipment/software; \$4,200 in furniture and fixtures; and \$200,000 in other tangible capital assets.

*Affidavit of P. van der Heyden at Exs. "C"- "D"*

15. The 160 Acres are registered as farm land for the purposes of taxes. \$37,800 does not accurately reflect the 160 Acres' fair market value.

*Affidavit of P. van der Heyden at Ex. "QQ"*

16. The Company operates a website (<https://flyinglranh.ca/>). That website includes a "Support" link calling for donations to the Company and links to social media accounts, including the Instagram account "@michael\_lares" (the "**Instagram Account**"), which is described as the account of "Michael Lares-Flying "L" Ranch".

*Affidavit of G. Uppal at Exs. "A"- "C"*

### **III. PETER VAN DER HEYDEN**

17. Mr. van der Heyden immigrated to Canada from Holland in 1974 at the age of 22, having stopped in Canada on his way back to Holland after a trip to Mexico. As an outdoors enthusiast, Mr. van der Heyden was so impressed by the natural landscapes of Canada and the opportunities they presented that he decided to immigrate to the country.

18. At the time, Mr. van der Heyden was close to receiving his Bachelor of Sciences in geology from Leiden University in Holland. Between 1974 and 1977, Mr. van der Heyden travelled across Canada, working various jobs (including as a taxi driver, a farmhand, and as a wellsite geologist).

19. In 1977, Mr. van der Heyden returned to Holland to complete his Bachelor of Sciences (“**BSc**”).

20. After completing his BSc, Mr. van der Heyden enrolled at the University of British Columbia (“**UBC**”), where he earned a Master of Science and a doctorate (Ph.D.) in geology in 1984 and 1989, respectively. The focus of Mr. van der Heyden’s research was on the geochronology and tectonic evolution of the Coast Mountains of British Columbia

21. Between 1977 and 1989, concurrent and interspersed with his studies, Mr. van der Heyden also worked part-time as a consulting geologist in the mineral exploration sector. His employment positions during those years included time as a summer student with the Geological Survey of Canada (“**GSC**”), and as a full-time lab manager and geochronologist with the Department of Earth Sciences at UBC.

22. Between 1989 and 2000, Mr. van der Heyden worked as a professional geologist with the GSC and as a consulting geologist in the mineral exploration sector, focusing on the geology, tectonic evolution, and mineral potential of the Coast Mountains of British Columbia. This work exposed him to the beauty and wilderness of the Tsilhqot’in region, fostering a deep appreciation for its remoteness and natural beauty.

23. During his final years with the GSC, Mr. van der Heyden found the work less interesting since he was being directed to take on more managerial capacities.

24. Accordingly, in 2001, Mr. van der Heyden transitioned into the life sciences sector. In 2005, he founded Aurora Bioanalytical Inc., allowing him to continue working more in a science (as compared to management) role. For approximately 11 years, he worked as a pharmaceutical consultant, providing analytical chemistry services to biotech, pharmaceutical, and natural products companies.

25. In 2016, Mr. van der Heyden sold Aurora Bioanalytical Inc. with the intention of retiring. After a brief period spent deciding what he wanted to do next, he

co-founded Psygen Industries Inc. (“**Psygen**”), a Calgary-based pharmaceutical company.

26. Psygen is a licensed active pharmaceutical ingredients (“**API**”) manufacturer. Psygen possesses a “Controlled Drugs and Substances Licence” granted by Health Canada permitting it to possess, manufacture, sell, import, export, and otherwise deal with various controlled APIs and precursors. Psygen manufactures pharmaceutical grade neuroplastogens and psychedelic drug substances in accordance with “good manufacturing practices” (GMP) for clinical research and other therapeutic applications.

27. Today, Psygen has 20 employees. It manufactures nine different types of APIs at its manufacturing facilities in Calgary.

28. Starting in 2017, Mr. van der Heyden served as Chief Scientific Officer of Psygen. Mr. van der Heyden retired from active work in 2023. He currently serves on Pysgen’s board of directors.

#### **IV. INTRODUCTION TO MICHAEL LARES**

29. In 2018, Mr. van der Heyden began searching for ranch land in the Tsilhqot’in region with the vision of building a peaceful retreat and cabin where he could spend summers and part of his retirement years. Mr. van der Heyden was drawn to the area based on his years of geological survey work in the region and recalled it as among the most spectacular areas he had visited in his lifetime. He hoped to build a cabin where he, his wife, and their family could spend time in peace and quiet from time to time.

30. In September 2018, Mr. van der Heyden learned from a Williams Lake realtor of a ranch for sale (the Lands) in the Nemiah Valley.

31. The Lands had been leased by Mr. Lares since 2011 with an option to purchase.

*Affidavit of P. van der Heyden at Ex. "E"*  
*Affidavit of M. Lares at para. 3*

32. After expressing interest, Mr. van der Heyden toured the Lands with the realtor on or about 18 September 2018, where he met Mr. Lares for the first time. While he was at the Lands, Mr. Lares stated to Mr. van der Heyden that he intended to exercise his option to purchase the Lands, effectively halting Mr. van der Heyden's pursuit of the Lands. Over the next seven months, Mr. van der Heyden took no further action to pursue the Lands and he had no further communications with Mr. Lares.

33. Around mid-April 2019, Mr. Lares called Mr. van der Heyden. Mr. van der Heyden was not expecting to hear from Mr. Lares.

34. Mr. Lares stated he was financially unable to exercise his option to purchase the Lands. During the phone call, the two men discussed forming a company to hold and own the Lands: Mr. van der Heyden would finance the purchase of the Lands, while Mr. Lares would act as caretaker and manager of the Lands.

35. As of early 2019, Mr. van der Heyden understood that Mr. Lares was employed full-time in a managerial role by the Xení Gwet'in First Nation.

## **V. FORMATION OF THE COMPANY AND PURCHASE OF THE LANDS**

36. In the course of negotiating the formation of the Company, the two men expressly considered the prospect of Mr. van der Heyden obtaining the 80 Acres for the purpose of building a cabin for his family's usage.

37. On 28 April 2019, Mr. Lares responded to a previous email of Mr. van der Heyden's as follows (Mr. Lares' responsive comments in italics):

[Mr. van der Heyden:] We will need to work well together in this unusual situation, and my feeling is that we can, but there's a bit of mystery in this one! I also need to know that while this is a business deal, and with the company holding the land, there won't be any obstacles to me selecting a private spot to put up a cabin and a barn, once I have the time to roll up my sleeves.

[Mr. Lares:] *It will be a pleasure to engage in this process. My thoughts on this is we can divide the ranch into separate deeds held, yours particularly could be the back 80 acres which holds the area in which you favour. I am completely open to this and we can discuss further as we mature this up. Deeded road access through particular parcels to others is also critical, which I am in total favour of.*

[Italics of Mr. Lares in original; underlining added.]

*Affidavit of P. van der Heyden at Ex. "F"*

38. On 29 April 2019, Mr. Lares and Mr. van der Heyden executed a memorandum of understanding (the "**2019 MOU**") concerning the purchase of the Lands. The 2019 MOU included the following terms:

- (a) Mr. van der Heyden would provide the funds to Mr. Lares which would allow Mr. Lares to exercise his option to purchase that he and Nicole Lares held on the Lands;
- (b) Mr. van der Heyden would pay a 25% non-refundable deposit of \$117,250.00 USD to Mr. Lares upon the execution of the MOU;
- (c) Mr. Lares would then use those funds to pay the deposit to the sellers by 01 May 2019 along with a signed contract on the purchase of the ranch with a closing date of no later than 01 July 2019 for a purchase price of \$469,000 USD; and
- (d) Messrs. Lares and van der Heyden would work collectively in the formation of the Company in which they would both be equal controlling and participating members.

*Affidavit of P. van der Heyden at Ex. "G"*

39. On 03 June 2019, the Company was incorporated under the *British Columbia Business Corporations Act*, S.B.C. 2002, c. 57 (the "**BCA**").

*Affidavit of P. van der Heyden at Ex. "H"*

40. Mr. Lares was appointed director of the Company upon incorporation.

*Affidavit of P. van der Heyden at Ex. "I"*

41. Mr. Lares and Mr. van der Heyden each took 100 Class A shares of the Company upon incorporation.

*Affidavit of P. van der Heyden at Ex. "J"*

42. On 07 June 2019, Mr. van der Heyden was added as a director of the Company.

*Affidavit of P. van der Heyden at Ex. "K"*

43. Officers for the Company have never been appointed.

*Affidavit of P. van der Heyden at Ex. "L"*

44. Mr. van der Heyden paid all the funds for the Company's acquisition of the Lands, as contemplated in the 2019 MOU. That transaction unfolded as follows:

- (a) On 29 April 2019, Mr. van der Heyden paid a deposit on the purchase of the Lands by wire payment of \$117,250.00 USD to Mr. Lares.

*Affidavit of P. van der Heyden at Ex. "M"*

- (b) On 01 May 2019, Mr. and Ms. Lares signed the purchase agreement for the Lands.

*Affidavit of P. van der Heyden at Ex. "E"*

- (c) On 21 and 29 May 2019, Mr. van der Heyden arranged for two wire payments totaling \$351,750 USD to Vanderburgh and Company Trust Account (the seller's solicitor) representing the remainder of the purchase price.

*Affidavit of P. van der Heyden at Ex. "N"*

- (d) On 29 May 2019, Mr. van der Heyden arranged for a wire payment to Mr. Lares of \$23,500 USD, representing the GST payable on the purchase of the Lands.

*Affidavit of P. van der Heyden at Ex. "O"*

- (e) The Lands were transferred to the Company on 28 June 2019.

45. After the Company's formation, Mr. Lares and his family continued living on the Lands.

46. The Company has never entered into a lease with Mr. Lares or anyone else permitting them to reside at the Lands.

47. At the time the Company was formed, Mr. van der Heyden's understanding and reasonable expectations of the Company's future was that it would continue holding the Lands and that the minimal business activities that were previously carried out by Mr. Lares would continue under the Company banner; namely, two cabins on the Lands might be rented from time to time; a modest amount of hay would be farmed and sold; and a few horses would be raised and sold (the "**Business Activities**").

48. Mr. van der Heyden acknowledges he did not intend to participate in the day-to-day supervision and operations of the Company. Mr. van der Heyden's understanding was that 50% ownership in the Company, the small amount of revenue expected from the Business Activities, and free rent from the Company, would compensate Mr. Lares for his caretaking and management role.

49. However, Mr. van der Heyden has never resiled from his duties as a director and always intended to maintain a broad supervision of the Company's minimal affairs. He remained of the understanding that, as a director and 50% shareholder, he would remain an "equal controlling and participating [member]" in the Company.

50. Mr. van der Heyden never conceived Mr. Lares would have unfettered discretion to manage the Company's affairs.

51. Mr. van der Heyden never conceived that the Company would become a vehicle for business activities other than the Business Activities described above.

52. Mr. van der Heyden never conceived that Company information would be denied to him.

**VI. COMPANY HISTORY: 2019-22**

53. From 2019 and throughout 2022, Mr. van der Heyden supervised the Company's affairs only minimally.

54. During this time, Mr. van der Heyden was "locked down" for much of 2020 due to the COVID-19 pandemic. From 2021 through 2023 he split his time between Psygen in Alberta and his home in Halfmoon Bay, British Columbia.

55. Two particular incidents kept Mr. van der Heyden very occupied during this period.

56. Firstly, on a professional level, Mr. van der Heyden was very busy with Psygen. At that time, as the co-founder, he was heavily involved in raising funds from venture capital firms, ultimately raising several millions of dollars prior to 2023. During these years he also held the position of Chief Scientific Officer at Psygen and, with a position as adjunct professor in the Faculty of Pharmacy and Pharmaceutical Sciences at the University of Alberta, he was responsible for overseeing several research projects.

57. Psygen was also building its manufacturing facility in Calgary in 2021 and 2022. Mr. van der Heyden was responsible for supervising the design and construction of Psygen's pharmaceutical research laboratory and GMP manufacturing facility. The research laboratory and manufacturing facility were completed in 2022.

58. Secondly, on a personal level, Mr. van der Heyden's two daughters were both going through marital and mental health crises during the years 2019-2022. Both daughters ultimately became divorced during those years and in both incidences there were times during which police and mental health professionals had to become involved. During this period of time, Mr. van der Heyden had to devote a considerable amount of time to supervising his two granddaughters.

59. As a result of these commitments, Mr. van der Heyden was not closely supervising the affairs of the Company during these years, though he never resiled from his position as director or from his duties to supervise the Company's affairs.

60. Mr. van der Heyden understands Mr. Lares' employment with the Xenigwet'in First Nation ended during the summer of 2020.

61. One major development was that from 2020-22 Mr. van der Heyden gradually advanced considerable funds for the purposes of developing the Lands. Among the items to be addressed with the funds were fencing the Lands, building a tack and tool barn, and obtaining various pieces of heavy equipment.

62. At present, Mr. van der Heyden is unclear how those funds were spent and has commenced a separate action (VLC-S-S-243219) to address the possibility that some of those funds were misappropriated.

63. Mr. van der Heyden seeks no relief in this petition related to any misappropriated funds. In this petition proceeding, he is purely concerned with ensuring the deadlock between the parties is addressed.

## **VII. ATTEMPTED BUYOUT HISTORY**

64. Despite Mr. van der Heyden's heavy burden of personal and professional commitments, he attempted to monitor Company's affairs more closely starting in January 2022.

65. After escalating disagreements between the two men about the Company's financial affairs, in August 2023 Messrs. van der Heyden and Lares started negotiating a share transaction. Mr. van der Heyden initially expressed interest in purchasing Mr. Lares' shares, which Mr. Lares rejected. Eventually, the transaction contemplated was for Mr. van der Heyden to purchase the shares of Mr. Lares. The two shareholders engaged in lengthy, and detailed, negotiations until 18 December 2024.

**A. The 2024 MOU**

66. After some preliminary negotiations, the parties signed a memorandum of understanding dated 07 March 2024 (the “**2024 MOU**”). The 2024 MOU was non-binding but contemplated Mr. Lares purchasing Mr. van der Heyden’s shares in the Company for \$2,000,000 while Mr. van der Heyden would transfer the 80 Acres to the Company after completion of an installment payment.

*Affidavit of P. van der Heyden at Ex. “P”*

67. The 2024 MOU contemplated additional security for the transaction as follows:

6. As security for the Installments and the Promissory Note, on the Closing Date the Company and the Purchaser jointly and severally shall execute and deliver to the Vendor the following security (the “**Security**”):

a) a mortgage on the lands legally described as:

PID 011-225-661  
District Lot 383  
Range 2 Coast District, and

b) a general security agreement providing a security interest in the some or all of the property listed in Schedule A to this Memorandum, with specifics of such property subject to further discussion between the parties prior to executing the Master Purchase Agreement,

with the Vendor retaining the right to initiate foreclosure and enforcement proceedings solely if the Purchaser fails to make full payment of (i) the Installments and all interest accrued and outstanding thereon and (ii) the First Payment, by December 31, 2024. Notwithstanding the foregoing, if the Vendor opts not to initiate foreclosure and enforcement proceedings at that time, the Security will remain in effect until the Purchase Price has been paid in full.

*Affidavit of P. van der Heyden at Ex. “P”*

68. Under article 9 of the 2024 MOU, if any payments to Mr. van der Heyden were late or not paid, Mr. Lares and the Company would deliver to Mr. van der Heyden the Lands and various pieces of equipment enumerated under Schedule “A” of the 2024 MOU.

*Affidavit of P. van der Heyden at Ex. “P”*

69. Today, Mr. van der Heyden remains unsure precisely which pieces of equipment listed under the 2024 MOU's Schedule "A" are Company equipment versus the personal equipment of Mr. Lares (other than the chattels listed in the 2019 purchase and sale agreement).

## **B. The Bankruptcies**

70. As detailed below, shortly after the 2024 MOU was executed, Mr. van der Heyden first became aware that McQuarrie Hunter LLP ("**McQuarrie**") had issued a letter on behalf of the Company. The letter had been posted on the Instagram Account and concerned a defamation matter (the "**Defamation Matter**").

71. That engagement had involved Mr. Lares instructing McQuarrie to issue letters threatening litigation against multiple parties, all without Mr. van der Heyden's knowledge or consent.

72. After becoming aware of the Defamation Matter, Mr. van der Heyden began investigating the Company's affairs and Mr. Lares' background in greater depth.

73. Among the matters Mr. van der Heyden has learned since March 2024 is that Mr. Lares has a history of bankruptcies:

- (a) On or about 19 February 1993, Mr. Lares filed for bankruptcy in the District of South Carolina (Charleston). Mr. Lares' first bankruptcy was discharged on 26 April 1994.

*Affidavit of P. van der Heyden at Ex. "Q"*

- (b) On or about 05 December 2011, Mr. Lares filed for bankruptcy in the Western District of North Carolina. Mr. Lares' second bankruptcy was discharged on 14 March 2013.

*Affidavit of P. van der Heyden at Ex. "R"*

74. Mr. van der Heyden's knowledge of Mr. Lares' bankruptcy history reinforced to him that proper security would be needed for any transaction involving the Company, Mr. Lares, or the Lands.

**C. Late 2024 Negotiations**

75. The share purchase negotiations following the 2024 MOU contemplated a complex transaction that included the exchange of both shares and real estate. Legal counsel for both sides were involved in drafting proposed agreements.

76. Multiple emails and letters were exchanged between McQuarrie and Mr. van der Heyden's counsel (Yvan Guy Larocque) over the course of August through October 2024. In some instances, the parties attached lengthy draft transactional documents.

*Affidavit of M. Lares at exs. "L"- "P"*  
*Affidavit of B. Poth at exs. "A"- "B"*

77. On or about 25 October 2024, Cameron Nicol of McQuarrie took the position, bizarrely, that the parties had entered into a settlement agreement. Mr. Nicol identified three letters from his office (dated August 14, September 11, and September 13) and various emails dated July through September 2024 as constituting the "Settlement Terms". Mr. Nicol's 25 October 2024 letter contained no explanation as to what the "Settlement Terms" meant.

*Affidavit of B. Poth at ex. "C"*

78. Despite suggesting the parties had reached a settlement agreement, on 30 October 2024, Mr. Nicol delivered a written offer with "tracked changes" to Mr. Larocque. The 30 October 2024 offer removed a provision allowing Mr. van der Heyden to obtain the 160 Acres in the event of breach and removed the Company's obligation to provide a general security agreement.

*Affidavit of B. Poth at ex. "D"*

79. On 31 October 2024, Mr. Nicol sent Mr. Larocque a letter enclosing various signed documents. Mr. Nicol's enclosures did not include any share purchase agreement. Instead, he enclosed executed copies of various corporate documents related to such a transaction, being: a directors' resolution; share issuance documents;

a shareholders resolution; an indemnification agreement; and two releases.

*Affidavit of B. Poth at Exs. "F"-“G”*

80. In early November 2024, the parties' counsel continued exchanging emails about the terms of a potential share purchase agreement.

*Affidavit of P. van der Heyden at Exs. "S"-“U”*

81. When it became apparent no agreement would be reached, on 09 December 2024 Mr. Larocque sent Royal Morton of McQuarrie a letter calling for a directors' meeting, with the proposed resolutions detailed below. Mr. Larocque specifically suggested mediation as a means of resolution, writing:

In respect of the potential mediation, if agreed to, we would recommend engaging either Simon Margolis of Cornish Margolis Boyd Mediation and Arbitration, George MacIntosh of McEwan Partners, or Jim Titerle of Miller Titerle + Company. However, we are receptive to another acceptable independent mediator you may recommend.

*Affidavit of P. van der Heyden at Ex. "V”*

82. On 09 December 2024, Mr. Morton responded by stating Mr. Lares would be filing petition materials by 20 December 2024. He advised he would seek instructions regarding a mediation but indicated he would be agreeable with either Simon Margolis or Jim Titerle acting as mediator.

*Affidavit of P. van der Heyden at Ex. "RR”*

83. On 19 December 2024, Mr. Larocque responded, stating:

Can you get instructions so we can look into scheduling [a mediation] with [Simon] Margolis and [Jim] Titerle? I think it's in everyone's interests to get the ball rolling on mediation. The parties' efforts are better spent on mediation than wasted on unnecessary litigation.

We're of the view that a directors' meeting is necessary. Your office and Mr. Lares keep threatening litigation without putting anything to a meeting of the board. This seems to be putting the cart before the horse, so to speak.

Pursuant to Section 70 and 71(c) of the Company's bylaws, Peter is hereby calling an extraordinary meeting of the directors to be held by video teleconference on January 3rd, 2025 at 9:00 a.m. PDT (details to follow). Please confirm whether we should send this notice directly to Mr. Lares or not.

*Affidavit of P. van der Heyden at Ex. "RR"*

84. Mr. Morton responded later that day, advising his client refused to attend a directors' meeting and writing:

Once your client is served and we have his response material, I am instructed that my client would then be open to mediation at that point. However, at this stage I would think that unnecessary, as the sole problem here is that Mr. Van Der Heyden oddly has twice now taken steps to frustrate my client's effort to give him \$2 million for his shares and 80 acres.

If Mr. Van Der Heyden would stop putting up roadblocks to completing the sale of his interests in the company and ranch land, he would have \$2 million from my client for that. Directors' meetings, production of financial records etc. would then be pointless.

*Affidavit of P. van der Heyden at Ex. "RR"*

#### **D. The Petition**

85. On 20 December 2024, Mr. Lares commenced this litigation seeking a winding up of the Company. He seeks an order that: Mr. van der Heyden will deliver his shares to Mr. Lares within 60 days; Mr. van der Heyden will be entitled to mortgage the 160 Acres owned by the Company; Mr. Lares will pay Mr. van der Heyden \$2,000,000 over the course of 300 days; and Mr. van der Heyden will transfer the 80 Acres to the Company within 300 days of the order.

*Petition at Part 1*

86. The petition, like Mr. Nicol's letter of 25 October 2024, asserts that a settlement was reached based on various pieces of correspondence from August and September 2024.

*Petition, Part 2 at para. 34*

87. Today, Mr. van der Heyden remains willing to sell his shares in the Company to Mr. Lares for \$2,000,000. Considering Mr. Lares' history of bankruptcies, however, Mr. van der Heyden is, justifiably, highly concerned with such a transaction if it is not properly secured.

88. Mr. van der Heyden is opposed to the order proposed by Mr. Lares. He is concerned about the court ordering him to transfer his shares in the Company within 60 days of the order, with the vast majority of funds to be received 300 days after the court order.

89. Mr. van der Heyden is of the view that a prompt corporate divorce should be prioritized. He no longer trusts Mr. Lares and, as described below, is concerned about the Company's potential exposure to regulatory or civil litigation.

90. Mr. van der Heyden is also interested in obtaining the shares of Mr. Lares and taking over the Company's affairs, in the event Mr. Lares cannot purchase Mr. van der Heyden's shares.

### **VIII. OPPRESSIVE CONDUCT OF MR. LARES**

91. As discussed above, Mr. van der Heyden became increasingly concerned about the Company's affairs in March 2024, upon learning of the Defamation Matter. As of today, Mr. van der Heyden is aware of a number of troubling details concerning the Company, as detailed below, organized by subject matter.

#### **A. The Defamation Matter**

92. The petition refers to allegedly defamatory material being posted on social media in the fall of 2023.

*Petition at paras. 23-24*

93. Mr. Lares has produced a retainer letter dated 15 January 2024 issued to the Company by McQuarrie and executed by Mr. Lares on 18 January 2024.

*Affidavit of P. van der Heyden at Ex. "W"*

94. McQuarrie took instructions from Mr. Lares on behalf of the Company on the basis of a directors' resolution dated 18 January 2024, prepared by McQuarrie. That directors' resolution shows "N/A" written above the name of Mr. van der Heyden.

*Affidavit of P. van der Heyden at Ex. "X"*

95. Mr. Lares pleads that, when he retained McQuarrie regarding the Defamation Matter, he "expected his buy-out of [Mr. van der Heyden's] shares and the transfer of the 80 Acres to the Company to be completed soon".

*Petition at para. 24*

96. On 07 February 2024, the Company's VISA – which is paid using Company funds – paid \$2,500 to McQuarrie.

*Affidavit of P. van der Heyden at Ex. "ZZ" and "AAA"*

97. Between 16 and 26 February 2024, McQuarrie issued six letters (the "**McQuarrie Letters**") to individuals concerning social media posts related to the Company. While the McQuarrie Letters differed slightly, they all contained the following language:

We are legal counsel for Mr. Lares and Flying "L" Ranch Ltd. concerning the above matter.

...

You are hereby put on notice that you must cease and desist from making any further statements about either Mr. Lares or Flying "L" Ranch Ltd. which in any way impugn their reputation. Should you continue to do so, that will only increase our clients' damages claim. By implication, Mr. Lares' family is also being maligned. We are instructed to initiate legal proceedings against you to recover damages and seek injunctive relief and recovery of legal costs.

Damages in defamation cases can run in the hundreds of thousands of dollars, or possibly even millions of dollars, for widespread, malicious, and ongoing defamatory publications. Many of the vulgar statements you have made about Mr. Lares assert that he has engaged in either criminal or violent conduct or other unlawful behaviour. These statements are false. The outrageous nature of some of your publications supports that you are

motivated by malice. Public statements about our clients which were made maliciously will add to our clients' damages claim, including aggravated and punitive damages.

Given that you are self-represented, we confirm that we exclusively represent the interests of our clients, Michael Lares and Flying "L" Ranch Ltd., and do not represent your interests. We urge you to obtain independent legal representation. If you have retained counsel, please provide them with this letter. [Emphasis added.]

*Affidavit of P. van der Heyden at Exs. "Y"-“DD”*

98. On 16 February 2024, Mr. Morton also issued a letter addressed “To whom it may concern” which today remains the first (“pinned”) post on the Instagram Account. It identifies McQuarrie as the Company’s counsel and warns users against reposting allegedly defamatory material. That letter states “...our clients intend to pursue those authors to the fullest extent possible, including seeking damages and possibly injunctive relief.”

*Affidavit of G. Uppal at Ex. “D”*

99. On 20 February 2024, the Company VISA paid \$1,500 to McQuarrie.

*Affidavit of P. van der Heyden at Ex. “AAA”*

100. On 04 March 2024 the VISA card made an additional payment of \$604.80 to McQuarrie.

*Affidavit of P. van der Heyden at Ex. “AAA”*

101. As of 04 March 2024, Mr. van der Heyden had no knowledge of:

- (a) the Company retaining McQuarrie for the purposes of obtaining defamation advice;
- (b) the Company paying retainer fees to McQuarrie; or
- (c) the Company instructing McQuarrie to “initiate legal proceedings against [various parties] to recover damages and seek injunctive relief and recovery of legal costs”.

102. Mr. van der Heyden only became aware of the Defamation Matter in March 2024 because of the letter posted to the Company Instagram account.

103. On 06 June 2024, Mr. Lares advised Mr. van der Heyden the following regarding the Defamation Matter:

It was a strong move on my end to extinguish a juvenile hate campaign from some disgruntled folks wanting a piece of us they didn't earn or deserve. That's the brief description and they were hardly on a professional level. My response to it was far above the threat and handled to shut it down. Which it did. No corporate funds were used in the effort.

...[a] standard hate campaign going on all over [Instagram] with many of the horse aid operations... Ours was a bit more intimate as the main driver of the hate was excommunicated from our operations due to their inability to bring to the table what they promised. Most mature people can simply go their own way, but they couldn't stand the rejection so went on the offensive. The hate campaign was found to have no credibility of evidence or truth to any of the accusations by both the RCMP and Animal Control... My announcement and posted letter although expensive and aggressive, was a stand against that kind of hatred and it was effective.

*Affidavit of P. van der Heyden at Ex. "EE"*

104. On 26 July 2024, McQuarrie provided Mr. van der Heyden part of its file for the Defamation Matter.

*Affidavit of M. Lares at Ex. "K"*

105. McQuarrie's defamation file contains a number of social media postings alleging impropriety in regard to Company fundraising activities.

106. Upon reviewing the Defamation Matter materials disclosed by McQuarrie, Mr. van der Heyden's concerns increased further regarding potentially inappropriate and irresponsible conduct on the part of Mr. Lares involving the Company.

107. Mr. van der Heyden had no involvement in the publication of any materials in McQuarrie's file concerning the Defamation Matter.

108. After Mr. Lares commenced this petition containing pleadings related to the Defamation Matter, on 23 January 2025, counsel for Mr. van der Heyden requested additional materials related to McQuarrie's engagement by the Company in the Defamation Matter.

*Affidavit of P. van der Heyden at Ex. "SS"*

109. On 29 January 2025, counsel for Lares responded by providing the Company's engagement letter and partially redacted reporting letters. McQuarrie stated that Mr. Lares had advised them that the directors' resolution engaging them in the defamation matter "was not signed by Mr. van der Heyden, based on advice from Mr. Lares that Mr. van der Heyden was in the process of completing the sale of his shares and being removed as a director."

*Affidavit of P. van der Heyden at Ex. "TT"*

110. Mr. Lares refused to disclose invoices rendered to the Company on the basis that he believed Mr. van der Heyden's interests were not aligned with the Company's. A reporting letter dated 16 April 2024 was enclosed, indicating retainer funds would be transferred to a new matter.

*Affidavit of P. van der Heyden at Ex. "TT"*

111. On 06 February 2025, Mr. van der Heyden's counsel responded, seeking information about the Defamation Matter and McQuarrie's prior representation of the Company. Counsel raised that Company funds had been paid to McQuarrie in February 2024 and sought clarification as to how Mr. van der Heyden was acting contrary to the Company's interests.

*Affidavit of P. van der Heyden at Ex. "UU"*

112. On 07 February 2025, Mr. Lares' counsel responded, advising that Mr. van der Heyden's "conduct in necessitating [this] proceeding, including the evidence in support of the petition, justify" their position that Mr. van der Heyden was acting contrary

to the Company's interests.

*Affidavit of P. van der Heyden at ex. "VV"*

113. Mr. Lares' counsel also disclosed that the \$4,000 paid by the Company in February 2024 was not paid towards the Defamation Matter. Rather, they were paid towards a solicitor matter titled "Purchase of Shares in Flying L Ranch Ltd. from Peter van der Heyden".

*Affidavit of P. van der Heyden at ex. "VV"*

114. Mr. Lares alleged that these payments of \$4,000 had been repaid to the Company, pointing to two \$2,000 payments on 15 October and 25 November 2024. In both cases, bank records indicate such a payment was made by Mr. Lares into the Company's bank account, with \$2,000 subsequently paid out later that day to pay down the Company VISA.

*Affidavit of P. van der Heyden at ex. "VV" and "AAA"*

## **B. Social Media Fundraising Campaigns**

115. After being alerted to the Defamation Matter in or around March 2024, Mr. van der Heyden began conducting a more in-depth review of how the Company portrayed itself on social media as a charitable endeavor, particularly in its solicitation of donations from its followers.

116. While Mr. van der Heyden was aware as of around March 2023 that the Company had a social media presence, he had no insight into the existence, nature, and scale of the donation campaigns being run by Mr. Lares on behalf of the Company. Until March 2024, he did not know the Company received any revenues from social media.

117. By way of example, among the Company's voluminous postings on social media are the following:

- (a) On or about 16 January 2022, Mr. Lares set up a page on Patreon to solicit donations to purchase hay and other supplies (the “**Patreon Page**”).

*Affidavit of G. Uppal at Ex. “E”*

- (b) On or about 18 June 2022, Mr. Lares posted on the Instagram Account announcing the Challenger Fund Challenge (the “**Challenger Fund Challenge Post**”). The challenge invited followers to become primary donors by donating over \$100 and the winner with the highest total donation would be awarded a fully paid trip to the Ranch.

*Affidavit of G. Uppal at Ex. “F”*

- (c) On or about 19 July 2022, Mr. Lares posted on the Instagram Account announcing that people could become platinum sponsors of the Company by donating a minimum of \$150 (the “**Platinum Sponsor Post**”).

*Affidavit of G. Uppal at Ex. “G”*

- (d) On or about 21 December 2022, Mr. Lares posted on the Instagram Account announcing that individuals could “adopt” one of the Company’s horses as a Christmas present by donating \$35 via PayPal (the “**Horse Adoption Post**”).

*Affidavit of G. Uppal at Ex. “H”*

- (e) On or about 15 March 2023, Mr. Lares posted on the Instagram Account advising that they set up a GoFundMe page for the “Weiser Fund”. This post suggested the funds would be used for improving veterinary care for horses at the Lands (the “**Weiser Post**”).

*Affidavit of G. Uppal at Exs. “I” and “J”*

- (f) On or about 12 and 13 July 2023, Mr. Lares posted on the Instagram account soliciting donations for the vet care of a horse named Second Chances (the “**Second Chances Posts**”). The Second Chances Posts included a link to a PayPal donation page.

*Affidavit of G. Uppal at Exs. “K” and “L”*

- (g) On or about 05 May 2024, Mr. Lares posted on the Instagram Account soliciting donations to care for a horse, Oakley, who apparently had

choked on something (the “**Oakley Post**”). Mr. Lares posted that the fundraising goal was \$17,000.

*Affidavit of G. Uppal at Ex. “M”*

- (h) On or about 10 June 2024, Mr. Lares posted on the Instagram Account advising that they had created a fundraiser with a goal of \$10,000 with a goal to purchase more pumps, hoses, and fuel for the purposes of irrigation on the Lands (the “**Equipment Fundraising Post**”).

*Affidavit of G. Uppal at Ex. “N”*

- (i) On or about 14 June 2024, Mr. Lares posted on the Instagram Account that he was starting a fundraiser to raise money to locate and supervise a wild stallion they had named Gus (the “**Gus Post**”).

*Affidavit of G. Uppal at Ex. “O”*

- (j) On or about 17 July 2024, Mr. Lares posted several Instagram stories on the Instagram Account advising that their horse Momma was having health problems and soliciting donations for her veterinary care (the “**Momma Posts**”).

*Affidavit of G. Uppal at Exs. “P”-“S”*

- (k) On or about 24 August 2024, Mr. Lares posted on the Instagram Account that he was attempting to raise \$10,000 which would allow him to own 50% of former Chief Benny William’s herd (the “**Herd Co-Ownership Post**”).

*Affidavit of G. Uppal at Exs. “T” and “U”*

- (l) On or about 26 September 2024, Mr. Lares posted on the Instagram Account soliciting donations to raise \$7,400 to allow Dr. Ginger, a veterinarian, to come visit the ranch and provide veterinary care (the “**Vet Services Post**”).

*Affidavit of G. Uppal at Ex. “V” and “W”*

118. The Company’s bank account appears to show income being routinely received related to social media postings. For example:

- (a) After setting up the Patreon Page on 16 January 2022, three payments totaling \$505.51 were made from PayPal to the Company's bank account on 17 and 18 January 2022.
- (b) In the following three days after posting the Challenger Fund Challenge Post on 18 June 2022, four payments totaling \$563.99 were made from PayPal to the Company's bank account.
- (c) In the following three days after posting the Platinum Sponsor Post on 19 July 2022, 22 payments totaling \$3,453.73 were made from PayPal to the Company's bank account.
- (d) After posting the Horse Adoption Post on 21 December 2022, 17 payments totaling \$2,213.99 were made from PayPal to the Company's bank account from 21 to 23 December 2022.
- (e) On 22 March 2024, one week after posting the Weiser Post on 15 March 2023, a payment of \$15,004.51 was made to the Company's bank account.
- (f) Throughout the remainder of May 2024 after the Oakley Post on 05 May 2024, 46 payments totaling \$20,343.52 were made from PayPal to the Company's bank account.
- (g) In the following three days after the Equipment Fundraising Post 10 June 2024, 17 payments totaling \$3,283.86 were made from PayPal to the Company's bank account.
- (h) In the following two weeks after the Gus Post on 14 June 2024, 37 payments totaling \$11,417.86 were made from PayPal to the Company's bank account.
- (i) In the following weeks after the Momma Posts on 17 July 2024, 43 payments totaling \$7,421.59 were made from PayPal to the Company's bank account.
- (j) In the following week after the Herd Co-Ownership Post on 24 August 2024, eight payments totaling \$4,384.53 were made from PayPal to the Company's bank account.
- (k) On the 26 and 27 September 2024, after the Vet Services Post 26 September 2024, \$3,144.85 was paid from PayPal to the Company's bank account.

119. Mr. van der Heyden understands the Company has run several other fundraising campaigns other than those referred to in this petition.

120. Mr. van der Heyden has never had any knowledge of these fundraising campaigns before they were launched. Mr. van der Heyden is unaware of how any funds obtained through donations have been handled and spent. He is concerned about the Company presenting itself as a charitable endeavour, especially when he has not seen evidence about how donated funds are being spent. He is concerned about potential litigation, regulatory, and tax implications of such conduct.

121. Mr. van der Heyden has attempted to follow the Company's social media on multiple occasions but his username on Instagram (@p\_vdheyden) has been blocked by Mr. Lares on every occasion.

122. As a result of his Instagram account being blocked, Mr. van der Heyden has been unable to monitor the Company's social media activity, including its fundraising campaigns.

**C. Unauthorized Raffles**

123. Mr. van der Heyden has also observed the Company running an apparently unlawful raffle on social media.

124. Mr. van der Heyden recalls that in or around June 2024 the Instagram Account included a post about holding a raffle (the "**Raffle**") with tickets costing \$25 each.

125. On or about 01 July 2024, the Instagram Account announced the winner of the Raffle.

*Affidavit of G. Uppal at Ex. "X"*

126. On or about 01 July 2024, Mr. van der Heyden emailed Mr. Lares asking whether Mr. Lares had held a raffle on behalf of the Company without consulting him

and whether the Company had obtained a licence to conduct a raffle.

*Affidavit of P. van der Heyden at Ex. "FF"*

127. On or about 02 July 2024, Mr. van der Heyden emailed Mr. Lares again advising of his concern for potential liability as co-director if the Company was hosting a raffle without a licence, and again asked whether Mr. Lares had obtained a licence to conduct the Raffle

*Affidavit of P. van der Heyden at Ex. "GG"*

128. As of today:

- (a) Mr. van der Heyden understands the Company never received a licence from the British Columbia Gaming Policy and Enforcement Branch for the Raffle; and
- (b) Mr. van der Heyden has never received a communication from Mr. Lares explaining the Raffle.

**D. Use of Company Funds for Personal Expenses**

129. The Company's bank and VISA statements suggest Mr. Lares is using the Company's bank account for personal expenses without any regard to the Company's separate corporate identity or interests.

130. The bank statements of the Company include the following examples of Mr. Lares making purchases that appear to be for personal purposes:

- (a) Payments in the amounts of \$443.40, \$239.80, and \$179.50 on or about 23 November 2022, 25 August 2023, and 28 August 2023, respectively, from the Company bank account to Cariboo Dental Clinic.
- (b) On or about 31 March 2022, a \$156.71 Interac purchase was made from the Company's bank account for a purchase at Winners.
- (c) On or about 16 November 2023, a \$149.11 Interac purchase was made from the Company's bank account for a purchase at Zara.

- (d) There are repeated expenditures at fast food and coffee chains, including but not limited to: A&W (02 December 2022; 04 June 2024; 13 June 2024); Tim Horton's (07 November 2022; 02 July 2024; 19 July 2024); Starbucks (02 July 2024); and Subway (05 December 2022).

*Affidavit of P. van der Heyden at Ex. "ZZ"*

131. The Company's VISA – which is paid using Company funds – further suggests that Mr. Lares is using the Company's VISA card for personal expenses. For example:

- (a) On or about 24 January 2022 and 07 February 2024, payments of \$192.50 and \$276.32 were made to Nancy Matz, an individual representing herself as a "psychic medium" and "spiritual minister".

*Affidavit of G. Uppal at Ex. "Y"*

- (b) On or about 14 September 2022, there was a \$2,571.64 charge from Cariboo Dental Clinic to the Company's credit card.
- (c) On or about 31 August 2024, there was a \$186.16 charge at Allstarhealth.com (a vitamin and supplement website) on the Company's credit card.
- (d) On or about 26 June 2023, 20 November 2023, and 07 February 2024, there were expenditures at liquor stores.
- (e) There are repeated expenditures at fast food and coffee chains, including but not limited to: A&W (26 June 2023; 08 February 2024); Tim Horton's (26 June 2023; 07 February 2024); Arby's (21 November 2023); and Subway (26 June 2023).

*Affidavit of P. van der Heyden at Ex. "AAA"*

132. The bank statements of the Company suggest that Mr. Lares is repeatedly transferring funds from the Company's bank accounts to himself and his family members. For example:

- (a) On or about 14 January 2022, a \$1,100 e-transfer was made to Mr. Lares from the Company's bank account
- (b) On or about 27 September 2022, a \$100 e-transfer and \$300 e-transfer were made to Lara Lares from the Company's bank account

- (c) On or about 14 November 2022, a \$700 e-transfer was made to Dylan Lares from the Company's bank account
- (d) On or about 05 September 2023, a \$1,000 e-transfer was made to Lara Lares from the Company's bank account
- (e) On or about 05 February 2024, a \$3,897 e-transfer was made to Lara Lares from the Company's bank account
- (f) On or about 11 March 2024, a \$2,500 e-transfer was made to Mr. Lares from the Company's bank account

*Affidavit of P. van der Heyden at Ex. "ZZ"*

133. By way of further example: in the month of 31 October to 30 November 2022, 20 e-transfers (totaling \$6,961.42) from the Company bank account were issued to one of Mr. Lares, Lara Lares, or Dylan Lares; and, in the month of 28 June to 31 July 2024, 24 e-transfers (totaling \$7,137.81) from the Company bank account were issued to one of Mr. Lares, Lara Lares, or Dylan Lares.

*Affidavit of P. van der Heyden at Ex. "ZZ"*

134. Mr. van der Heyden has calculated Company debits and credits into its bank account from 31 December 2019 forwards. On a year-to-year basis, the amounts are strikingly similar, with Company expenditures almost precisely paralleling Company revenues. The totals suggest considerable amounts of Company funds are being paid out.

*Affidavit of P. van der Heyden at Ex. "WW"*

135. Mr. van der Heyden has never received any monies from the Company, whether in the form of dividends, salary, or any other form of compensation. He is highly concerned about the pattern of payments from the Company to Mr. Lares and his family members.

**E. The CEBA Loan**

136. On or about 20 April 2020, Mr. Lares took out a Canada Emergency Business Account loan (the “**CEBA Loan**”) for the Company. The CEBA Loan is in the name of the Company and Mr. van der Heyden.

*Affidavit of P. van der Heyden at Ex. “HH”*

137. Mr. Lares unilaterally took out the CEBA loan for the Company without informing or consulting Mr. van der Heyden, despite the CEBA Loan being in Mr. van der Heyden’s name.

138. Repayment of the CEBA Loan was due on 31 December 2023.

139. Mr. Lares has advised that, on or about 11 December 2024, he paid down the CEBA Loan.

*Affidavit of P. van der Heyden at Ex. “II”*

**F. Financial Disclosure**

140. Mr. van der Heyden has attempted to obtain the Company’s accounting records on a number occasions:

(a) On 13 March 2024, Mr. van der Heyden emailed Mr. Lares urging that the Company get audited financial statements and engage a consultant to conduct a corporate gap analysis.

*Affidavit of P. van der Heyden at Ex. “JJ”*

(b) On 27 May 2024, Mr. van der Heyden’s counsel sent a letter to Mr. Lares requesting the Company’s accounting and corporate records by 07 June 2024.

*Affidavit of P. van der Heyden at Ex. “KK”*

(c) On 06 June 2024, Mr. van der Heyden texted Mr. Lares asking whether he would be receiving the financial records and bookkeeping.

*Affidavit of P. van der Heyden at Ex. “LL”*

- (d) On 03 July 2024, Mr. van der Heyden's counsel sent a letter to Mr. Morton, counsel for Mr. Lares, reiterating their demand for all accounting and financial records by 12 July 2024.

*Affidavit of P. van der Heyden at Ex. "MM"*

141. Mr. van der Heyden received some Company accounting records on 26 July 2024. Bookkeeping records were not included.

*Affidavit of P. van der Heyden at Ex. "NN"*

142. Mr. van der Heyden has attempted to speak with the Company's accountant, Debbie Wiens of PMT Chartered Professional Accountants LLP ("**PMT**"), about the Company's accounting and bookkeeping. He called her office several times:

- (a) on 18 July 2024, Mr. van der Heyden called Ms. Wiens' office, inquiring about her availability and requesting a callback;
- (b) on 09 August 2024, Mr. van der Heyden spoke with the receptionist at PMT and requested a callback;
- (c) on 07 October 2024, Mr. van der Heyden spoke with the receptionist at PMT and requested a callback;
- (d) on 14 November 2024, Mr. van der Heyden spoke with the receptionist at PMT and enquired about Ms. Wiens' availability and also asked if he could speak with anyone else who may have worked on the Company's financial statements; and
- (e) on 15 November 2024, Mr. van der Heyden spoke with the receptionist and again requested a callback from Ms. Wiens.

143. Mr. van der Heyden also tried to contact Ms. Wiens by email dated 09 October 2024, in which he requested a copy of the Company's filed T2 and copies of the supporting bookkeeping records for 2023.

*Affidavit of P. van der Heyden at Ex. "OO"*

144. Ms. Wiens still has not communicated with Mr. van der Heyden about the Company's accounting and bookkeeping.

145. As of today, Mr. van der Heyden has still never received the Company's bookkeeping records.

**G. Mr. Lares' Refusal to Attend Board Meeting**

146. Given the breakdown in trust between the directors, on 09 December 2024 Mr. van der Heyden called a directors' meeting to be held in early January 2025.

147. Mr. van der Heyden's proposed resolutions included:

- (a) Mr. Lares must disclose all financial and accounting records of the Company dated 01 January 2022 to present;
- (b) Mr. Lares must disclose an asset listing with supporting purchase documents for all asset additions and dispositions made by the Company from 01 January 2022 to the present;
- (c) Mr. Lares must instruct the Company's accountants to communicate with Mr. van der Heyden and provide any information in their possession to him upon request;
- (d) Any director is authorized to engage an auditor for the Company, and such auditor would be approved by special shareholder resolution;
- (e) The Company will use any cash not required for operations to repay the CEBA Loan and Visa Debt;
- (f) The directors of the Company authorize the engagement of an independent mediator to assist in the resolution of the ongoing disputes. The mediation is to take place no later than January 30, 2025 and the Company must pay all costs associated with engaging the mediator;
- (g) All future raising of capital, including solicitations of donations and fundraising campaigns, requires the approval of both directors;
- (h) All future Company expenses in excess of \$1,000.00 require the approval of both directors; and
- (i) Mr. Lares must cease preventing Mr. van der Heyden's Instagram account from following the Company's Instagram account listed as "michael\_lares".

*Affidavit of P. van der Heyden at Ex. "PP"*

148. Per his affidavit of 19 December 2024, Mr. Lares has refused to participate in the proposed board meeting.

## **PART 5      LEGAL BASIS**

### **I.              INTRODUCTION**

149.            The parties agree an order under s. 324(1) of the BCA must be issued. There are four broad sets of circumstances in which courts have commonly ordered liquidation, being: (a) loss of substratum; (b) justifiable lack of confidence; (c) deadlock; and (d) the partnership analogy. The latter three conditions are all met. Mr. van der Heyden justifiably no longer trusts Mr. Lares; there is deadlock on a number of items; and the trust between the parties (effectively, two partners) cannot be rebuilt.

*Weisstock v. Weisstock*, 2023 BCCA 352 at para. 47  
*Petersen v. Hawley*, 2022 BCCA 169 at para. 28

150.            If a court concludes that it is just and equitable to dissolve a company under s. 324(1)(b), it can either order the company liquidated or otherwise make any order available under the BCA's oppression provision (s. 227), with a mind to resolving each case justly.

*Esposito v. Esposito*, 2021 BCSC 961, aff'd 2022 BCCA 51 at para. 10

151.            Mr. van der Heyden seeks a shotgun order so this corporate divorce can proceed quickly and with less chance of the parties appearing before the court again.

### **II.             OPPRESSION**

152.            Oppression remedies are intended to provide claimants a remedy for wrongs done by a company or resulting from conduct of the company's affairs in a manner that is oppressive or unfairly prejudicial to them as shareholders.

*1043325 Ontario Ltd. v. CSA Building Sciences Western Ltd.*, 2016 BCCA 258 at paras. 50 and 54

153.            In assessing the oppression remedy, the court must first assess the claimant's reasonable expectations. Then, if a breach of them is established, the court must consider if the conduct amounts to oppression.

*BCE Inc. v. 1976 Debentureholders*, 2008 SCC 69 at para. 89

154. Mr. van der Heyden's reasonable expectations are embodied in, *inter alia*:

- (a) the common law, statutory, and fiduciary duties of directors, pursuant to which Mr. Lares owes duties to the Company to act honestly, in good faith, and in the best interests of the Company; treat all stakeholders in a fair manner; and not to advance his own personal interests or the interests of non-arm's length third parties at the expense of the Company;
- (b) the Company's articles
- (c) the 2019 MOU; and
- (d) the circumstances of the founding of, and his contributions to, the Company.

155. Mr. van der Heyden's reasonable expectations have been breached by Mr. Lares' conduct and his use of his position to favour his own personal interests, including but not limited to:

- (a) continuing to withhold records, documents, and information from Mr. van der Heyden as a director, including with respect to bookkeeping and the Defamation Matter;
- (b) obstructing Mr. van der Heyden's efforts to monitor the Company;
- (c) excluding Mr. van der Heyden from participation in management and treating the Company as if it is a sole proprietorship;
- (d) using Company funds for personal expenses;
- (e) paying Company funds to family members; and
- (f) denying Mr. van der Heyden's entitlement to share in any Company profits.

### **III. REMEDIES**

#### **A. Shotgun**

156. A goal of the court in shareholder proceedings is to resolve the problem finally to as great an extent as possible, rather than to rely upon a remedy that may lead to further disputes in the future.

157. Section 227(3)(h) allows the court to order that a shareholder purchase the securities of a security holder.

158. “Shotgun” buyouts are frequently granted in cases of shareholder deadlock and loss of trust and confidence between two shareholders in a closely held company. The courts of British Columbia have recognized such a remedy as being an efficient means of arriving at a fair sales price in the event of a deadlock. This relief is appropriately granted here.

*Sonderhoff v. Ellesmere Farm Corporation*, 2021 BCSC 2311 at para. 8

159. In *Safarik v. Ocean Fisheries Ltd.*, 1996 CanLII 10202 (BC CA), Madam Justice Southin commented on the fairness of the shotgun process as follows:

I know of no better way to have a man put a fair value on what he owns, he knowing all the facts about its worth, than to require him to say what he will sell it for.

160. A court may order a “shotgun” buyout even where one party does not agree to it. The overriding consideration is to prevent the deadlock from causing further loss to the parties and the corporation by making an order that is fair to both parties. The court should consider the costs and delays associated with appointing professionals such as receivers, auditors, valuers, and their lawyers.

*Kang v. Sachdev*, 2008 BCSC 1032 at paras. 17-20

161. Normally, the party who is in the best position to assess the value of the business is ordered to make the initial offer.

*Kinzie v. The Dells Holdings Ltd.*, 2010 BCSC 1360 at para. 31  
*Lee v. Lee*, 2003 BCCA 330 at paras.13-14

162. Mr. van der Heyden has been denied access to bookkeeping records and cannot properly value the Company. If the court orders Mr. van der Heyden to make the first offer, Mr. Lares’ past conduct suggests he may not be forthright in disclosing the financial information which would be necessary to prepare the same.

163. Mr. van der Heyden seeks a court ordered shotgun buyout as follows:

- (a) the petitioner, Mr. Lares shall, within 14 days from the date of this order or within such further time as the parties may agree, deliver to the

respondent's solicitor a written, unconditional offer to sell his shares in the Company at a price fixed by Mr. Lares;

- (b) Mr. van der Heyden will then have 14 days from delivery of the offer to unconditionally accept the offer;
- (c) if Mr. van der Heyden does not accept the offer, Mr. Lares shall purchase all the shares held by Mr. Lares for the same price per share and terms for which he offered to sell his shares;
- (d) if Mr. van der Heyden does not respond as provided in subsection (b) within the 14-day period therein specified, he shall be deemed to have automatically accepted the shotgun offer;
- (e) the purchasing shareholder shall deliver the requisite funds to the opposing shareholder's solicitor no later than 30 days after Mr. van der Heyden's election in regard to the share transaction; and
- (f) Mr. Lares and the Company shall disclose all requested Company information and documents to Mr. van der Heyden until this shotgun sale process is completed.

**B. Chartered Business Valuator**

164. If the court rejects the issuance of a shotgun order, Mr. van der Heyden alternatively seeks an order that:

- (a) a Chartered Business Valuator shall be appointed at the Company's expense to determine the value of Mr. van der Heyden's shares in Flying "L" Ranch;
- (b) the valuation date of the shares will be 31 December 2023 or, alternatively, the date of the 2024 MOU, being 07 March 2024; and
- (c) Mr. Lares shall purchase the shares of Mr. van der Heyden for a value as determined by the valuator.

**C. Mr. Lares' Proposed Order**

165. Mr. Lares' proposed order seeks an order for specific performance of a contract, rather than an order remedying corporate deadlock.

166. Mr. van der Heyden objects to the order proposed by Mr. Lares. It contemplates Mr. van der Heyden giving up his shares within 60 days of the order. His sole security would be a mortgage on the 160 Acres. Given Mr. Lares' history of

bankruptcies, there would be a real possibility that issuing such an order would simply result in further litigation.

167. Mr. van der Heyden, the oppressed party, objects to the order sought by Mr. Lares. Where oppression is established, it is generally not appropriate to make an order to which the oppressed party objects.

*Collins Barrow Vancouver v. Collins Barrow National Cooperative Inc.*,  
2015 BCSC 510 at para. 271, aff'd 2016 BCCA 60

168. In the event the court issues the orders sought by Mr. Lares, that order ought to be revised to ensure the equities of the case are properly addressed by ensuring the transfer of shares and the 80 Acres do not occur until Mr. Lares delivers \$2,000,000 to Mr. van der Heyden.

**PART 6 MATERIAL TO BE RELIED ON**

169. The respondent relies on:

- (a) Affidavit no. 1 of P. van der Heyden made 18 February 2025;
- (b) Affidavit no. 1 of G. Uppal made 18 February 2025;
- (c) the pleadings and proceedings taken herein; and
- (d) such other materials as counsel may advise and the Honourable Court may permit.

Date: 19 February 2025



---

Drummond Lambert  
EYFORD PARTNERS LLP  
Solicitors for the Respondents

Respondents address for service:

EYFORD PARTNERS LLP  
1744 – 1055 Dunsmuir Street  
Vancouver, BC V7X 1L2

Fax number for service (if any):

none

E-mail address for service (if any):

[service@eyfordpartners.com](mailto:service@eyfordpartners.com) with a  
copy to  
[dlambert@eyfordpartners.com](mailto:dlambert@eyfordpartners.com)

Name of the Respondents lawyers, if any:

Drummond Lambert