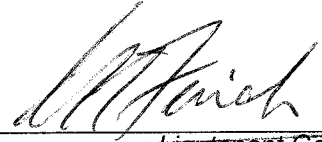


PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

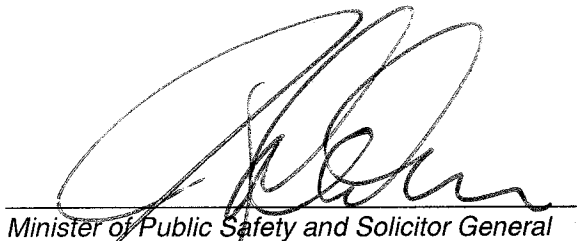
Order in Council No. **414**, Approved and Ordered JUN 13 2006



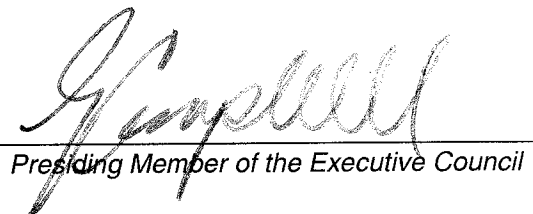
~~Lieutenant Governor~~
~~Administrator~~

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the ~~Lieutenant Governor~~
~~Administrator~~, by and with the advice and consent of the Executive Council, orders that the attached Civil Forfeiture Regulation is made.



Minister of Public Safety and Solicitor General



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: Civil Forfeiture Act, S.B.C. 2005, c. 29, s. 38

Other (specify):

May 18, 2006

CIVIL FORFEITURE REGULATION

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SCHEDULE:

FORM 1 – SECTION 23 (1) NOTICE OF PROCEEDINGS

FORM 2 – SECTIONS 4 AND 23 (2) NOTICE OF PROCEEDINGS

Definitions

- 1 In this regulation, “**Act**” means the *Civil Forfeiture Act*.

PART 1 – PROCEEDS OF UNLAWFUL ACTIVITY

Determination of equivalent value if increase in value

- 2 (1) The purpose of this section is to determine the interest in property that is equivalent in value to an increase in value of the whole or a portion of an interest in property for the purpose of paragraph (b) of the definition of “proceeds of unlawful activity” in the Act.
- (2) If the value of the whole or a portion of an interest in property is increased directly or indirectly as a result of unlawful activity, the interest in property that is equivalent in value to this increase is determined in accordance with the following formula:

$$A = \frac{B}{C}$$

where

A = the whole or the portion of the interest in property that is equivalent in value,

B = the dollar value of a payment or other benefit that increases or causes an increase in the value of the whole or portion of an interest in property, and

C = the fair market value of the property in respect of which a payment or benefit referred to in the numerator was made or given on the date the payment is made or benefit is given.

- (3) In this section, “**fair market value**” includes the increase in value resulting from the payment or benefit referred to in the definition of C in subsection (2).

- (4) If 2 or more payments or 2 or more benefits referred to in subsection (2) increase the value of the whole or a portion of an interest in property, the whole or portion of the interest in property that is proceeds is the sum of each product calculated under subsection (2).

Equivalent value if decrease in debt obligation

- 3 (1) The purpose of this section is to determine the interest in property that is equivalent in value to a decrease in a debt obligation that is secured against the whole or a portion of an interest in property for the purpose of paragraph (c) of the definition of “proceeds of unlawful activity” in the Act.
- (2) If a debt obligation secured against the whole or a portion of an interest in property is decreased directly or indirectly as a result of unlawful activity, the interest in property that is equivalent in value is determined in accordance with the following formula:

$$A = \frac{B}{C}$$

where

A = the whole or the portion of the interest in property that is equivalent in value,

B = the dollar value of a payment that decreases a debt obligation secured against the whole or a portion of an interest in property, whether or not the payment reduces the principal, interest, or principal and interest of the debt obligation, and

C = the fair market value of the property, against which the debt obligation referred to in the numerator is secured, on the date the payment decreases that debt obligation.

- (3) If 2 or more payments reduce a debt obligation referred to in subsection (2), the whole or portion of the interest in property secured by the debt obligation that is proceeds is the sum of each product calculated under subsection (2).

PART 2 – NOTICE OF PROCEEDING

Notification of proceedings

- 4 (1) The director must notify a person who holds a registered interest in property if proceedings commenced under section 3 (1) or (2) of the Act might result in the forfeiture of the whole or a portion of an interest in the property, whether or not the registered interest is the subject of an application for forfeiture.
- (2) Subsection (1) does not apply to a person who holds a right of way, statutory right of way or easement.

Prescribed form of notices

- 5 (1) For the purpose of section 23 (1) of the Act, the prescribed form of notice is Form 1 set out in the Schedule to this regulation.
- (2) For the purpose of sections 4 and 23 (2) of the Act, the prescribed form of notice is Form 2 set out in the Schedule to this regulation.

Manner of notification of proceedings

- 6 The director must notify a person referred to in section 4 of this regulation by delivering to the most recent address shown in the land title office or the personal property registry, as the case may be, a completed Form 2 set out in the Schedule in accordance Rule 11 (6.1) to (10) of the Supreme Court Rules, B.C. Reg. 221/90.

PART 3 – FILING OR REGISTERING NOTICE**Manner of filing or registering**

- 7 (1) For the purposes of section 23 (1) of the Act, the director may file Form 1 set out in the Schedule to this regulation in a land title office in the same manner as a certificate of pending litigation.
- (2) For the purposes of section 23 (2) of the Act, the director may register in the personal property registry a notice that an interest is claimed over personal property in the same manner as a notice that is filed claiming a security interest over personal property.

SCHEDULE

FORM 1

(section 23 (1) of the Act)

No.
..... Registry

In the Supreme Court of British Columbia

Between

, Plaintiff/Petitioner

and

, Defendant/Respondent

SECTION 23 (1) NOTICE OF PROCEEDINGS

TAKE NOTICE that a court proceeding has been commenced under the *Civil Forfeiture Act* and that the legal ownership of property or an interest or portion of interest in property described below may be affected by the proceedings. Further information regarding this matter, or a copy of the document(s) by which the claim is made, may be obtained from the office of the Director of Civil Forfeiture.

DESCRIPTION OF PROPERTY OR INTEREST IN PROPERTY

(1)	[Description of property to include parcel identifier and legal description, if land]
(2)	Address and contact numbers of the Director of Civil Forfeiture Telephone: Fax:

.....
Signature of Director,
or Solicitor or Authorized Agent

No.
..... Registry

In the Supreme Court of British Columbia

Between

, Plaintiff/Petitioner

and

, Defendant/Respondent

CERTIFICATE OF COMMENCEMENT OF PROCEEDINGS

I CERTIFY that in a proceeding commenced in this Court under the *Civil Forfeiture Act* a claim is made relating to land or an interest or portion of interest in land. The particulars are set out in the attached copy of the document by which the claim is made.

Given under my hand and the seal of the court at, British Columbia, this day of, 20.....

.....
REGISTRAR

(sections 4 and 23 (2) of the Civil Forfeiture Act)

..... Registry

, Defendant/Respondent

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