

Court File No.: CV-23-00707205-00CL

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**COMMERCIAL LIST**

THE HONOURABLE	)	WEDNESDAY, THE 27 <sup>th</sup>
	)	
JUSTICE WILTON-SIEGEL	)	DAY OF MARCH, 2024

**B E T W E E N:**

**FARM CREDIT CANADA**

Applicant

- and -

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC., MAISON  
GOURMET INC., TRIAK CAPITAL INC./CAPITAL TRIAK INC., AND  
MARIO SAROLI SALES INC.**

Respondents

**APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY  
ACT, R.S.C. 1985, C. B-3, AS AMENDED; AND SECTION 101 OF THE *COURTS OF  
JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED****

**DISCHARGE AND ANCILLARY RELIEF ORDER**

**THIS MOTION**, made by FTI Consulting Canada Inc. ("**FTI**") in its capacity as the Court-appointed receiver (FTI in such capacity, the "**Receiver**") of the undertaking, property and assets that constitute the FCC Secured Property (as defined in the Order (Appointing Receiver), issued October 6, 2023 in the within proceedings (the "**Receivership Order**")) of Whyte's Foods Inc./Les Aliments Whyte's Inc., Maison Gourmet Inc., Triak Capital Inc./Capital Triak Inc., and Mario Saroli Sales Inc. (collectively, the "**Debtors**") for an order, among other things: (i) authorizing and directing the Receiver to make one or more distributions to 9498-8995 Québec Inc. and 9498-8938 Québec Inc. (together, "**Putters**"); (ii) approving the Second Report of the Receiver dated March 20, 2024 (the "**Second Report**") and the Receiver's conduct and activities described therein; (iii)

discharging FTI as the Receiver of the undertaking property and assets that constitute the FCC Secured Property of the Debtors and releasing FTI and its legal counsel, Bennett Jones LLP ("**Bennett Jones**") from any and all liability, as set out in paragraph 7 of this Order; (iv) approving the fees and disbursements of the Receiver through to March 17, 2024 and the Receiver's estimated fees and disbursements to the completion of these proceedings; and (v) approving the fees and disbursements of Bennett Jones through to February 29, 2024 and Bennett Jones' estimated fees and disbursements to the completion of these proceedings.

**ON READING** the Notice of Motion of the Receiver and the Second Report, filed, and on hearing the submissions of counsel for the Receiver and counsel for those other parties appearing as indicated by the counsel sheet, no one else appearing although properly served, as appears from the affidavit of service of Milan Singh-Cheema sworn and filed:

### **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that all capitalized terms used in this Order and not otherwise defined shall have the meanings ascribed to them in the Second Report.

### **DISTRIBUTIONS**

3. **THIS COURT ORDERS** that the Receiver is hereby authorized, directed and empowered to make one or more cash distributions in an amount equal to the Putters Adjustment Amount (as defined in the Second Report and in the amount stipulated therein) to Putters.

### **APPROVAL OF RECEIVER'S REPORT, ACTIVITIES**

4. **THIS COURT ORDERS** that the Second Report, and the activities of the Receiver described therein are hereby approved; provided that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

## **APPROVAL OF FEES**

5. **THIS COURT ORDERS** that (i) the fees and disbursements of the Receiver from October 30, 2023 to March 17, 2024 totaling \$391,509.62 (inclusive of HST), and its estimate of fees and disbursements from March 17, 2024 to the completion of these receivership proceedings of \$150,000 (inclusive of HST), and (ii) the fees and disbursements of Bennett Jones in its capacity as legal counsel to the Receiver from October 17, 2023 to February 29, 2024 totaling \$187,340.63 (inclusive of HST) and its estimate of fees and disbursements to the completion of these receivership proceedings of \$75,000.00 (inclusive of HST) be and are hereby approved and that no further approval of the fees and disbursements is required.

## **DISCHARGE AND TERMINATION**

6. **THIS COURT ORDERS** that upon the Receiver filing a certificate in the form of Schedule "A" attached hereto (the "**Receiver's Discharge Certificate**"), certifying that it has completed the other activities described in the Second Report, the Receiver shall be unconditionally and absolutely discharged as Receiver of the undertaking, property and assets that constitute the FCC Secured Property of the Debtors and all duties, obligations and responsibilities in connection therewith, provided however that notwithstanding its discharge herein: (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of FTI in its capacity as Receiver.

7. **THIS COURT ORDERS AND DECLARES** that upon the filing of the Receiver's Discharge Certificate FTI is hereby released and discharged from any and all liability that FTI now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of FTI while acting in its capacity as Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, upon the filing of the Receiver's Discharge Certificate FTI is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's part.

8. **THIS COURT ORDERS** that upon the filing of the Receiver's Discharge Certificate, these proceedings shall be terminated without the need for any further authorization or approval.

**GENERAL**

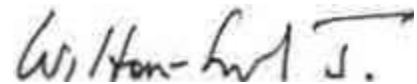
9. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

10. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

11. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Receiver and its agents in carrying out the terms of this Order.

12. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

13. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Toronto Time on the date of this Order and are enforceable without the need for entry and filing.



---

Wilton-Siegel J.

Court File No.: CV-23-00707205-00CL

**Schedule "A" - Form of Receiver's Discharge Certificate**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N

**FARM CREDIT CANADA**

Applicant

- and -

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC., MAISON  
GOURMET INC., TRIAK CAPITAL INC./CAPITAL TRIAK INC., AND  
MARIO SAROLI SALES INC.**

**RECEIVER'S DISCHARGE CERTIFICATE**

**RECITALS**

- A. Pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") made on October 6, 2023 (the "**Receivership Order**"), FTI Consulting Canada Inc. ("**FTI**") was appointed receiver and manager (in such capacity, the "**Receiver**") of the FCC Secured Property (as defined therein) of Whyte's Foods Inc./ Les Aliments Whyte's Inc, Maison Gourmet Inc., Triak Capital Inc./Capital Triak Inc. and Mario Saroli Sales Inc (collectively, the "**Debtors**").
- B. Pursuant to an Order of the Court dated March [●], 2024 (the "**Distribution and Discharge Order**"), FTI was discharged as Receiver of the Debtors, effective upon the filing by the Receiver with the Court of a certificate confirming that it has completed the remaining activities described in the Second Report of the Receiver dated March [●], 2024 (the "**Second Report**"), provided, however, that notwithstanding its discharge: (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of this receivership proceeding; and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this

proceeding, including all approvals, protections and stays of proceedings in favour of FTI in its capacity as Receiver.

- C. Unless otherwise indicated herein, capitalized terms shall have the meanings set out in the Distribution and Discharge Order.

**THE RECEIVER CERTIFIES** the following:

1. All matters to be completed by the Receiver in connection with this receivership proceeding described in the Second Report have been completed to the satisfaction of the Receiver; and
2. This Certificate was filed by the Receiver on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**FTI Consulting Canada Inc.,**

solely in its capacity as Court-appointed Receiver of certain property of Whyte's Foods Inc./Aliments Whyte's Inc., Triak Capital Inc./Capital Triak Inc., Maison Gourmet Inc., and Mario Saroli Sales Inc., and not in its personal or corporate capacity

---

Jeffrey Rosenberg  
Senior Managing Director

**FARM CREDIT CANADA**

and

**WHYTE'S FOODS INC./LES ALIMENTS WHYTE'S INC.,  
MAISON GOURMET INC., TRIAK CAPITAL INC./CAPITAL  
TRIAK INC., AND MARIO SAROLI SALES INC.**

Applicant

Respondents

Court File No.: CV-23-00707205-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

Proceedings commenced in Toronto

**DISCHARGE AND ANCILLARY RELIEF  
ORDER**

**BENNETT JONES LLP**

One First Canadian Place, Suite 3400  
P.O. Box 130  
Toronto, ON M5X 1A4

**Sean Zweig** (LSO# 57307I)

Tel: (416) 777-6254

Email: [zweigs@bennettjones.com](mailto:zweigs@bennettjones.com)

**Jesse Mighton** (LSO# 62291J)

Tel: (416) 777-6255

Email: [mightonj@bennettjones.com](mailto:mightonj@bennettjones.com)

**Milan Singh-Cheema** (LSO# 88258Q)

Tel: (416) 777-5527

Email: [singhcheemam@bennettjones.com](mailto:singhcheemam@bennettjones.com)

Lawyers for FTI Canada Consulting Inc.