



No. S-240358
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

NATIONAL BANK OF CANADA

PETITIONER

AND:

1326 MANN FARM INC., K P DRYWALL LTD., 13 MANN FARMS B.C. LTD.,
and DYKE VALLEY BERRY FARMS LTD.

RESPONDENT

NOTICE OF APPLICATION

Name of applicant: FTI Consulting Canada Inc., in its capacity as court appointed receiver (the “**Receiver**”) over 1326 Mann Farm Inc., K P Drywall Ltd., 13 Mann Farms B.C. Ltd., Dyke Valley Berry Farms Ltd., (collectively, the “**Debtors**”) pursuant to the order of Justice Taylor pronounced on March 8, 2024.

To: the Debtors, National Bank of Canada (“**NBC**”), and Farm Credit Canada (“**FCC**”).

TAKE NOTICE that an application will be made by the applicant to the presiding judge or associate judge at the courthouse at 800 Smithe Street, Vancouver, British Columbia, on November 20, 2025, at 9:45 a.m. for the orders set out in Part 1 below.

The applicant estimates that the application will take 60 minutes.

- ☐ This matter is within the jurisdiction of an associate judge.
☒ This matter is not within the jurisdiction of an associate judge.

Part 1: ORDERS SOUGHT

1. The Receiver seeks an order (the “**Distribution and Discharge Order**”) substantially in the form attached hereto as **Schedule “A”**:
 - (a) approving the activities of the Receiver from July 8, 2025, to present;

- (b) approving the fees and disbursements of the Receiver and its legal counsel, Osler, Hoskin and Harcourt LLP (“**Osler**”);
 - (c) authorizing and directing the Receiver to distribute the remaining net receivership proceeds to NBC and FCC in accordance with their relative priorities; and
 - (d) discharging the Receiver in these proceedings.
2. The Receiver seeks such other orders, directions, and declarations as counsel for the Receiver may advise and this Court may deem appropriate in the circumstances.

Part 2: FACTUAL BASIS

A. The Receivership Order

3. Prior to the receivership, the Debtors’ principal business was the planting, growing and sale of duke variety blueberries.

Second Report of the Receiver filed November 6, 2025 (“**Second Report**”), para 3

4. On March 8, 2024 (the “**Receivership Date**”), pursuant to the order of Justice Taylor (the “**Receivership Order**”), the Receiver was appointed as receiver, without security, over all the assets, undertakings, and property of the Debtors, including all proceeds (the “**Property**”), except for:
- (a) a farm property located in Mission, British Columbia (the “**Mission Property**”); and
 - (b) a farm property located in Langley, British Columbia (the “**Langley Property**”, and together with the Mission Property, the “**Excluded Properties**”).

Receivership Order, para 1

5. The Excluded Properties were excluded from the Receivership Order because FCC – the priority creditor in respect of the Excluded Properties – decided to pursue foreclosure of those properties. The Receiver has collected approximately \$544,000 of excess proceeds from the foreclosure of Langley Property (the “**Excess Proceeds**”).

Second Report, paras 2, 23(a)

B. The Property sales

6. The Property includes an approximately 160-acre parcel of land located at 8201 Dyke Road in Abbotsford, British Columbia (the “**Abbotsford Property**”), as well as various farm machinery and equipment (the “**Mobile Equipment**”).

Second Report, para 3

7. On July 21, 2025, this Court approved the sale of the Abbotsford property for \$7,140,000 pursuant to a residential contract of purchase and sale (the “**Purchase Agreement**”) between the Receiver and Coast Cranberries Ltd (the “**Purchaser**”). The transaction closed on July 31, 2025.

Second Report, para 4

Order Made After Application granted July 21, 2025 (“**Sale Approval Order**”)

8. During the receivership, the Mobile Equipment was sold by the Receiver for net proceeds of approximately \$193,000, as permitted by the Receivership Order.

Second Report, para 23(d)

Receivership Order, para 3(l)

C. The Receiver’s approved activities

9. The Receiver’s activities from the Receivership Date to July 8, 2025, were approved by this Court pursuant to the order of Justice Veenstra. These activities included, among other things:
 - (a) corresponding and meeting with Gurmeet Mann, director of the Debtors, to advise him of the Receivership Order and obtain information in respect of the Property and the Debtors;
 - (b) visiting the Abbotsford Property, the Mission Property, and the Langley Property (collectively, the “**Farms**”) on several occasions to view the properties and secure and document the assets;

- (c) engaging Accurate Effective Bailiffs Ltd. to assist the Receiver with moving and storing the Mobile Equipment;
- (d) engaging an agricultural consultant to provide the Receiver with an assessment of the Farms and recommendations on the proposed maintenance and/or harvest of crops;
- (e) engaging a contractor to assist with maintenance of the Abbotsford Property;
- (f) engaging Premier Security Inc. to perform security visits every 72 hours at each of the Farms;
- (g) engaging a real estate brokerage to act as listing agent to market the Abbotsford Property for sale, and responding to various offers and inquiries in respect of the marketing efforts;
- (h) attending to insurance matters including correspondence with BFL Canada Risk and Insurance Services Inc. in respect of property and liability insurance coverage for the Farms;
- (i) contacting Mr. Mann and his legal counsel on multiple occasions in respect of previous information requests, including bank details and other books and records;
- (j) corresponding with the Office of the Superintendent of Bankruptcy with respect to obtaining an estate ID;
- (k) arranging for the Debtors' bank accounts at Toronto-Dominion Bank to be frozen and the transfer of approximately \$219,000 in cash to the estate trust account;
- (l) arranging for the issuance of a Receiver Certificate in respect of receiver borrowings provided by NBC;
- (m) retaining Osler to act as independent legal counsel to the Receiver;
- (n) holding multiple discussions with FCC and its counsel in respect of FCC's security over certain properties and the foreclosure proceedings of the Excluded Properties;

- (o) providing periodic updates to NBC and its counsel in NBC's capacity as secured lender to the Debtors;
- (p) attending to various statutory notices and other duties of the Receiver pursuant to the Receivership Order, the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3 ("**BIA**") and other applicable statutes;
- (q) obtaining an appraisal for the Mobile Equipment;
- (r) completing a sale process in respect of the Mobile Equipment;
- (s) reviewing and acting on the opinion of an agricultural consultant who provided the Receiver with an assessment on the status of the Farms' blueberry bushes;
- (t) attending to matters relating to the sale of the Mission Property and the Langley Property through FCC's foreclosure proceedings;
- (u) assigning one of the debtors, 13 Mann Farms BC Ltd., into bankruptcy as permitted under the Receivership Order; and
- (v) preparing the First Report of the Receiver dated July 8, 2025 (the "**First Report**").

First Report, para 12

Sale Approval Order, para 11

D. The Receiver's new activities

10. Since preparing the First Report, the Receiver's additional activities have included, among other things:
- (a) attending to the court approval and closing of the Abbotsford Property sale, including the late appearance of multiple competing bidders at the court approval hearing;
 - (b) applying for and collecting the Excess Proceeds that were paid into Court as a result of the foreclosure of the Langley Property;

- (c) attending to matters relating to illegal dumping (the “**Illegal Dumping**”) of approximately 40 truckloads of soil on the Abbotsford Property in mid-June 2025, including:
 - (i) reporting the incident to the police and Agricultural Land Commission;
 - (ii) implementing additional security measures;
 - (iii) hiring the appropriate contractors to complete environmental testing and reporting to the municipality;
 - (iv) organizing the removal of the soil from the property;
 - (v) communicating with the Purchaser; and
 - (vi) reviewing insurance with respect to avenues of recovery related to the costs associated with the Illegal Dumping; and
- (d) preparing the Second Report.

Second Report, para 12

E. Professional fees of the Receiver and Receiver’s counsel

11. Pursuant to the Receivership Order:

- (a) the Receiver and its counsel are to be paid their reasonable fees and disbursements at their standard rates and charges; and
- (b) the Receiver and its counsel will pass their accounts from time to time, with such accounts referred to a judge of this Court for determination, which may be heard on a summary basis.

Receivership Order, para 22

12. From the Receivership date to October 31, 2025, the professional fees and disbursements of the Receiver (with taxes) total \$394,552.15. This includes 438.6 hours of work billed at an average rate of \$853.13. Details of the Receiver’s fees are set out in the First Affidavit of Tom Powell filed November 6, 2025.

First Affidavit of Tom Powell filed November 6, 2025 (“**Powell Affidavit #1**”), paras 4, 7

13. From the Receivership date to October 31, 2025, the professional fees and disbursements of the Receiver’s counsel (with taxes) total \$236,472.95. This includes 363.2 hours of work billed at an average rate of \$562.75. Details of the Receiver’s counsel’s fees are set out in the First Affidavit of Mary Buttery, K.C. filed November 6, 2025.

First Affidavit of Mary Buttery, K.C. filed November 6, 2025 (“**Buttery Affidavit #1**”), paras 6, 8

14. The Receiver has reviewed its invoices and the invoices of its counsel and deposes that the fees charged are fair and reasonable in the circumstances, the time spent was necessary, and the work was delegated to the appropriate professionals within each firm.

Powell Affidavit #1, paras 9-13

15. Assuming this application is not opposed, the Receiver estimates that fees and disbursements for the Receiver and its counsel from October 31, 2025, to the conclusion of these proceedings (the “**Completion Fees**”) will amount to approximately \$50,000, including:
 - (a) preparing application and supporting materials seeking the Distribution and Discharge Order;
 - (b) attending general chambers to seek approval of the Distribution and Discharge Order;
 - (c) making the distributions of proceeds detailed in the Second Report;
 - (d) paying the September 2025 and October 2025 accrued but unpaid professional fee invoices of the Receiver; and
 - (e) attending to final administrative matters in respect of the receivership.

Second Report, para 17

F. Distribution of the Receivership Proceeds

16. As at October 31, 2025, the net cash Property in the receivership was approximately \$7,064,000 (the “**Receivership Proceeds**”).

Second Report, para 22

17. The secured creditors of the Debtors are NBC and FCC. An independent security review conducted by the Receiver’s legal counsel has confirmed the following debt and security interests over the Receivership Proceeds (subject to the standard assumptions and qualifications):
- (a) the primary secured creditor of the Debtors is NBC, which is owed approximately \$13.8 million as at the date of the Receivership Order, plus \$250,000 in respect of Receiver borrowings made pursuant to the Receivership Order (the “**Receiver Borrowings**”), all of which is secured over the Property; and
 - (b) FCC has a first secured claim of approximately \$270,000 strictly against the Excess Proceeds.

Second Report, paras 19-21

18. On this application, the Receiver seeks approval to distribute the Receivership Proceeds (net of the Completion Fees) as detailed in the Second Report (the “**Distributions**”). The approximate values of the Distributions are:
- (a) \$25,000 to the Canada Revenue Agency in respect of unremitted source deductions;
 - (b) \$250,000 to NBC for repayment of the Receiver Borrowings;
 - (c) \$270,000 to FCC relating to its first secured amounts against the Excess Proceeds; and
 - (d) the remaining estimated \$6,444,000 to NBC.

Second Report, paras 24-25

G. Discharge and release

19. Subject to the Receiver paying the Completion Fees and making the Distributions, the Receiver will have completed its duties as set out in the Receivership Order, save and except for minor administrative matters incidental to the proceedings. As such, the Receiver seeks a discharge pursuant to the terms of the Distribution and Discharge Order.

Second Report, para 27

20. As a term of the Distribution & Discharge Order, the Receiver is also seeking a release from the Court in respect of any and all claims and obligations arising as a result of the Receiver acting in its respective capacities on behalf of the Debtors, excepting those claims and obligations arising as a result of gross negligence or willful misconduct.

Part 3: LEGAL BASIS

21. The Receiver relies upon:
- (a) the Receivership Order;
 - (b) Part XI of the *BIA*;
 - (c) Rule 10-2 of the Supreme Court Civil Rules;
 - (d) the inherent and equitable jurisdiction of this Court; and
 - (e) such further and other legal basis as counsel may advise and this Court may allow.

A. Approving the Receiver's new activities

22. The court has inherent jurisdiction to review and approve or disapprove the activities of a court appointed receiver. If the receiver has met the objective test of demonstrating that it has acted reasonably, prudently and not arbitrarily, the court may approve the activities set out in its report to the court.

Leslie & Irene Dube Foundation Inc. v. P218 Enterprises Ltd.,
2014 BCSC 1855 at para 54

*Bank of Montreal v Haro-Thurlow Street Project Limited
Partnership*, 2024 BCSC 1722 at paras 53-55

Target Canada Co. (Re), 2015 ONSC 7574 at paras 22-26

23. The Receiver's activities from the Receivership Date to July 8, 2025, have already been approved by this Court.
24. The Receiver's activities after July 8, 2025, have continued to fall directly within the scope of the Receiver's authority and powers under the Receivership Order and should be approved. The Receiver has carried out a transparent, orderly, and timely receivership process, and acted reasonably to preserve as much value as possible for the Debtor's stakeholders.

B. Approving professional fees

25. The Receivership Order expressly provides that the Receiver's accounts, and the accounts of its legal counsel, be referred to a judge of this Court and that the passage of those accounts may be heard on a summary basis.

Receivership Order, para 22

i. Receiver fees

26. There is no fixed rate or settled scale for determining a receiver's compensation. The governing principle is that a receiver's compensation should be measured by the "fair and reasonable" value of its services. Relevant considerations include:
 - (a) the value of the assets;
 - (b) complications and difficulties encountered by the receiver;
 - (c) the degree of assistance provided by the debtor;
 - (d) time spent by the receiver;
 - (e) receiver's knowledge, experience and skill;
 - (f) diligence and thoroughness;
 - (g) responsibilities assumed;
 - (h) results; and

- (i) cost of comparable services.

Bank of Montreal v. Nican Trading Co., [1990] BCJ No 340 (BCCA) at paras 21-32

0409725 B.C. Ltd. (Bankruptcy of), 2019 BCSC 451 at para 21

HSBC Bank Canada v. Maple Leaf Loading Ltd., 2014 BCSC 2245 at para 11

27. Applying the relevant considerations to the Receiver's fees, the fees should be approved:

- (a) the Receivership Order placed over \$7M of operating farm property and equipment under the scope of the receivership;
- (b) the Receiver faced significant complexity and expended significant time in the receivership due to factors including:
 - (i) dealing with highly uncooperative Debtors;
 - (ii) ongoing agricultural and environmental obligations;
 - (iii) illegal contaminated soil dumping on one of the properties;
 - (iv) property security issues;
 - (v) dealing with complications arising from FCC's foreclosure proceedings over the Excluded Properties; and
 - (vi) having the sale of the Abbotsford Property contested in Court by multiple competing bidders.
- (c) the Receiver obtained a favourable result, securing an estimated \$6.4M of Receivership Proceeds for the Debtor's primary secured creditor; and
- (d) the Receiver's fees were properly incurred, delegated efficiently to professionals of appropriate seniority, and commensurate with fees charged by other insolvency firms of a similar size for work of a similar nature and complexity in British Columbia.

ii. Legal fees

28. Similar considerations apply to assessing the fair and reasonable legal accounts of a receiver's legal fees:
- (a) the time expended;
 - (b) the complexity of the receivership;
 - (c) the degree of responsibility assumed by the lawyers;
 - (d) the amount of money involved, including the amount of proceeds after realization and the payments to the creditors;
 - (e) the degree and skill of the lawyers involved;
 - (f) the results achieved; and
 - (g) the client's expectations as to the fee.

HSBC Bank Canada v. Maple Leaf Loading Ltd., 2014 BCSC 2245
at para 12

Bison Properties Ltd. (Re), 2016 BCSC 793 at paras 169-171

29. In this case, the Receiver's legal fees should also be approved:
- (a) the Receiver's counsel carried out significant responsibilities including:
 - (i) making an application on behalf of the Receiver for approval of the Abbotsford Property sale;
 - (ii) managing multiple contested bids for the Abbotsford Property brought immediately prior to and at the sale approval hearing;
 - (iii) attending to the closing of the Abbotsford Property sale;
 - (iv) responding to complications from FCC's foreclosure proceedings, which required bringing an application to compel information from the Debtors, conducting a bankruptcy examination of a principal of one of the Debtors,

and bringing an application in Abbotsford, British Columbia to secure the release of the Excess Proceeds;

- (v) conducting a thorough security review to determine the competing secured interests of NBC and FCC;
 - (vi) reviewing and revising the Receiver's various reports to Court;
 - (vii) making this application to approve the Distribution and Discharge Order; and
 - (viii) generally advising the Receiver on legal matters relating to the receivership;
- (b) the Receiver's counsel's fees were properly incurred, delegated efficiently to lawyers of appropriate seniority, and commensurate with fees charged by similar firms with the expertise and capacity to serve an insolvency matter of comparable size and complexity; and
- (c) invoices were provided to the Receiver when rendered, and all have been approved by the Receiver.

iii. Completion Fees

30. The Receiver also seeks approval of the Completion Fees, which are reasonable and required in the circumstances to complete the receivership proceedings. Both the Receiver and its counsel will issue invoices for the Completion Fees prior to the filing of a discharge certificate.

C. Distribution of the Receivership Proceeds

31. The Receivership Order provides that all proceeds of the receivership "shall be held by the Receiver to be paid in accordance with the terms of this Order or any further order of this Court".

Receivership Order, para 13

32. Canadian insolvency courts routinely grant orders authorizing distributions in insolvency proceedings and receiverships. The power to authorize a receiver to make a distribution to

creditors is implicit in the *BIA*, and has been recognized as being “practically necessary for the accomplishment of the objectives of the legislation”.

Forjay Management Ltd. v 625536 B.C. Ltd., 2019 BCCA 368 at paras 26, 31

33. In this case, the Distributions proposed by the Receiver in the Second Report are appropriate and should be approved:
- (a) the Distributions properly prioritize payments from the Receivership Proceeds to the CRA and to the Receiver’s legal and professional fees pursuant to statutory requirements and the terms of the Receivership Order; and
 - (b) the Distributions allocate the remaining Receivership Proceeds amongst the Debtor’s secured creditors based on an independent third-party security review conducted by counsel to the Receiver.

Royal Bank of Canada v Galmar Electrical Contracting Inc. et al,
2015 ONSC 5561 at para 9

Receivership Order, para 21

D. Discharge and release

34. Upon the completion of its mandate, including the sale of all realizable assets, a court-appointed receiver will typically seek a discharge from the Court.

Ed Mirvish Enterprises Limited v. Stinson Hospitality Inc., 2009
CanLII 55113 (ONSC) at paras 7-9

35. Upon payment of the Completion Fees and the Distributions, the administration of the receivership will be substantially complete. As such, it is appropriate to grant a discharge pursuant to the terms of the Distribution and Discharge Order.
36. The release sought by the Receiver in the Distribution and Discharge Order includes the language in the British Columbia model discharge order, modified to include the carve outs for any claims arising from gross negligence or willful misconduct on the part of the Receiver. The release sought is also consistent with the terms of the Receivership Order.

Ed Mirvish Enterprises Limited v. Stinson Hospitality Inc., 2009
CanLII 55113 (ONSC) at para 14

Part 4: MATERIAL TO BE RELIED ON

1. Receivership Order granted March 8, 2024;
2. Order Made After Application granted October 11, 2024;
3. Order Made After Application granted July 21, 2025;
4. First Report of the Receiver dated July 8, 2025;
5. Second Report of the Receiver filed November 6, 2025;
6. First Affidavit of Tom Powell filed November 6, 2025;
7. First Affidavit of Mary Buttery, K.C. filed November 6, 2025; and
8. such further materials as counsel may advise and this Honourable Court may permit.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding, and
- (c) serve on the Applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed application response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;

(iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7 (9).

Dated: November 6, 2025

A handwritten signature in blue ink, appearing to read 'Christian Garton', written over a horizontal line.

Signature of lawyer for the Applicant, Christian
Garton

To be completed by the court only:

Order made

☐ in the terms requested in paragraphs of Part 1 of this notice of application

☐ with the following variations and additional terms:

.....
.....
.....

Date:[dd/mmm/yyyy].....

.....
Signature of ☐ Judge ☐ Master

Appendix

THIS APPLICATION INVOLVES THE FOLLOWING:

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ other matters concerning document discovery
- ☐ extend oral discovery
- ☐ other matter concerning oral discovery
- ☐ amend pleadings
- ☐ add/change parties
- ☐ summary judgment
- ☐ summary trial
- ☐ service
- ☐ mediation
- ☐ adjournments
- ☐ proceedings at trial
- ☐ case plan orders: amend
- ☐ case plan orders: other
- ☐ experts
- ☒ none of the above

SCHEDULE “A”

(see attached)