2024 Hfx No. 531915

SUPREME COURT OF NOVA SCOTIA
IN BANKRUPTCY AND INSOLVENCY

In the Matter of the Receivership of TCAS Holdings Limited, Sustainable Fish Farming (Canada) Limited, Sustainable Blue Inc. and TCAS IP Inc.

Between:

4595756 Nova Scotia Limited

Applicant

and

TCAS Holdings Limited, Sustainable Fish Farming (Canada) Limited, Sustainable Blue Inc. and TCAS IP Inc.

Respondents

Affidavit of Thane Stevens

I, Thane Stevens, make oath and give evidence as follows:

1. I am a director and President of 4595756 Nova Scotia Limited ("**459NSL**"), the Applicant in these proceedings.

2. I am also a director of each of Sustainable Fish Farming (Canada) Limited ("**SFFC**") and Sustainable Blue Inc. ("**Sustainable Blue**"), and a director and President of each of TCAS Holdings Limited ("**TCAS Holdings**") and TCAS IP Inc. ("**TCAS IP**" and collectively with SFFC, Sustainable Blue, and TCAS Holdings, the "**SFFC Group**").

3. I have personal knowledge for the evidence sworn to in this affidavit except where otherwise stated to be based on information and belief.

4. I state in this affidavit the source of any information not based on my own personal knowledge and I state my belief of the source.

5. This affidavit is made in support of the application of 459NSL for an order appointing Deloitte Restructuring Inc. ("**Deloitte**") as receiver and manager over all of the assets,

undertakings and properties of the SFFC Group acquired for, or used in relation to a business carried on by the SFFC Group pursuant to subsection 243(1) of the *Bankruptcy and Insolvency Act* and the equitable jurisdiction of this Court as partially codified by subsection 43(9) of the *Judicature Act*.

CORPORATE STRUCTURE

6. The SFFC Group conduct their business through SFFC, which owns and operates a land-based marine aquaculture facility in Hants County, Nova Scotia (the "**Facility**"), where it grows Atlantic salmon. SFFC's salmon are marketed under the brand name 'Sustainable Blue'. Operations at the Facility are based upon, in part, a proprietary water filtration technology owned by TCAS IP and licenced to SFFC.

7. Each entity comprising the SFFC Group is a Nova Scotia limited company, formed and existing under the laws of the Province of Nova Scotia. Copies of the corporate profiles maintained by the Registry of Joint Stock Companies of each of the SFFC Group are attached as **Exhibits "1" to "4"**.

8. A summary of the registered office and principal business activities of each of the SFFC Group is set out below:

Entity	Registered Office	Principal Business Activity
Sustainable Fish Farming (Canada) Limited	20 Macdonald Avenue, Dartmouth, NS	Primary operating company; owns and operates the Facility.
Sustainable Blue Inc.	20 Macdonald Avenue, Dartmouth, NS	Inactive.
TCAS Holdings Limited	20 Macdonald Avenue, Dartmouth, NS	Holding company; holds shares of TCAS IP for the TCAS Holdings Shareholders (as defined below). Borrower under the Credit Facilities (as hereinafter defined).
TCAS IP Inc.	20 Macdonald Avenue, Dartmouth, NS	Owns proprietary intellectual property used in the business.

9. The shares of TCAS Holdings are held by a group of approximately 36 shareholders (the "**TCAS Holdings Shareholders**").

10. The shares of SFFC are held by:

    (a) the TCAS Holdings Shareholders, whom collectively hold a 32% interest in the shares of SFFC; and

    (b) Bayt Al Qoot UK Ltd. ("**BAQ**"), which holds a 68% interest in the shares.

11. BAQ is a body corporate existing under the laws of the United Kingdom, with its owners residing in Morocco and the Middle East. In 2019, these investors, through BAQ, invested approximately US$28 million in SFFC (comprised of US$23 million in cash and US$5 million in equipment-in-kind) in exchange for a 68% controlling interest in the company. As part of this transaction, BAQ also invested approximately CAD$5 million in TCAS IP in exchange for a 49% interest in the company. Prior to this investment, the TCAS Holdings Shareholders owned and controlled SFFC.

12. The shares of TCAS IP are held by:

    (a) TCAS Holdings, which holds a 51% interest in the shares of TCAS IP; and

    (b) BAQ, which holds a 49% interest in the shares of TCAS IP.

13. Sustainable Blue is a wholly-owned subsidiary of SFFC. The company does not carry on any current business operations, nor does it own material assets. Sustainable Blue was previously used to process and sell SFFC's fish products, which is now carried out by a third-party.

14. A copy of the organizational chart of the SFFC Group is attached as **Exhibit "5"**.

SFFC'S BUSINESS & OPERATIONS

Overview of the Business

15. As noted above, SFFC owns and operates a land-based marine aquaculture facility in Hants County, Nova Scotia (the Facility). SFFC grows and sells Atlantic salmon, and has been operating since 2010. SFFC currently employees 32 full-time staff at the Facility.

16. SFFC owns the real property located at 259 Red Bank Road, Centre Burlington, Hants County, Nova Scotia, where the Facility is located. SFFC also leases property at this location from Syscom (UK) Limited.

17. The Facility is designed to mimic the traditional life-cycle of wild Atlantic salmon. As with wild Atlantic salmon, SFFC's fish start their lives in fresh water and then "migrate" to saltwater as part of their natural development.

18. Salmon eggs are imported from a brood stock facility in Iceland every six weeks and introduced into production. The juvenile fish spend approximately ten months in fresh water before being transferred into the salt water grow out modules for a further period of fourteen months. At the end of the growing cycle, fish are harvested at a weight of approximately four kilograms.

19. Once fully grown, SFFC sells all of its fish to a single processor and distributor, Fathom Fish & Seafood Inc. SFFC's fish are transported from its Facility to Fathom Fish & Seafood Inc.'s processing facility near Meteghan, Nova Scotia, where they are processed into various product forms for market. The processed fish products are marketed under the brand name 'Sustainable Blue'.

SFFC's Proprietary Technology

20. The SFFC Facility utilizes a proprietary water filtration technology in order to raise its salmon. This technology is licenced by SFFC from TCAS IP.

21. The proprietary filtration technology has been designed and improved over many years. To date, over $78 million has been invested in SFFC's Facility and the accompanying technology, comprised of $60 million in equity investments and $18 million in shareholder loans. The SFFC Facility is the world's first closed-loop land-based saltwater fishery that re-uses 100% of its water, with zero wastewater emissions.

22. The Facility uses a recirculating aquaculture system, meaning that the water is constantly monitored, filtered, and recycled throughout the Facility. What sets SFFC's system apart from other land-based aquaculture facilities is that, through extensive research and development, the SFFC Group have eliminated the requirement to discharge any fishery waste back into the ocean. Waste solids are instead taken away to generate electricity, and wastewater is cleaned and returned back to the Facility. Nothing is discharged into the environment.

23. Because the SFFC system is fully self-contained, its salmon are free of sea lice and other fish diseases and require zero antibiotics. From incubation to harvest, they are fed only sustainably-sourced marine proteins and oils, without growth hormones, ensuring their life cycle follows that of Atlantic salmon in the wild as closely as possible.

24. A licensing agreement exists between SFFC and TCAS IP which allows SFFC to utilize TCAS IP's intellectual property for an annual licensing fee of $100,000, which is payable only after achieving profitability. No payments have been made to date as the Facility has yet to achieve profitability.

Growth of the Business

25. In late 2021, the shareholders of SFFC sought to expand SFFC's business significantly. SFFC worked with The Bank of Nova Scotia with the goal of raising approximately $250 million to be used to expand SFFC's salmon production by up to five times, and to vertically integrate the business by bringing processing, sales and distribution in-house.

26. Over the next eighteen months, SFFC held discussions with numerous interested potential investors and funds. Ultimately, while potential investors recognized the strategic advantage of the SFFC Group's proprietary filtration system technology, there was a consensus that SFFC needed to reach its full production capabilities at the Facility before further investments would be made.

27. As a result, in Spring 2023, SFFC paused is efforts to raise further investments in order to focus on increasing production at the Facility. At that time, internal production and financial forecasts predicted that SFFC would reach and sustain its designed maximum output in the first quarter of 2024. At maximum production, revenue was forecasted to be approximately $15 million annually and the business was forecasted to be cash-flow positive.

The November 4, 2023 Incident

28. On November 4, 2023, the building at the Facility that holds the largest, most mature fish in SFFC's production cycle experienced a structural collapse in a critical piece of equipment known as the biological filter (the "**November 4th Incident**").

29. The biological filter is a large cylindrical vessel which processes approximately 5,000 metric tonnes of water every hour. One of the key purposes of the biological filter is to remove dissolved carbon dioxide (CO_2) released by the fish during respiration. Dissolved carbon dioxide becomes toxic to fish above a critical level, with the impact on the fish being determined by the amount of dissolved carbon dioxide in the water and the period of exposure for the fish. Symptoms of carbon dioxide exposure in the fish can range from poor appetite response at relatively low levels of dissolved carbon dioxide, to sudden death at extremely high levels of the exposure.

30. When the biological filter experienced a structural collapse, its ability to remove carbon dioxide was instantly compromised. The collapse also caused millions of plastic rings previously contained within the biofilter biological filter to be released into main fish (holding) tanks, reducing the water flow rates within the filtration system dramatically. The combination of reduced efficiency in carbon dioxide removal and significant reduction in water flow rates led to carbon dioxide levels becoming lethal in the main fish tank within a few hours.

31. There were approximately 96,000 fish in the particular building on the date of the November 4th Incident. All the fish were lost within 12 hours. The fish lost represented all of SFFC's fish scheduled to be harvested between November 28, 2023 and July 31, 2024. Due to delays in the repair of the biological filter, I understand that current production forecasts indicate that SFFC will begin to have fish ready for sale on or around September 1, 2024.

32. As the fish lost were SFFC's largest, most mature fish in production, SFFC faced an immediate and significant gap in revenue. While fish housed in other buildings at the Facility were unaffected by the failure of the biological filter, these fish are in earlier stages of production and require further development (i.e. time) before they are market ready.

33. Revised financial forecasts after the November 4th Incident have indicated a need for new funding of approximately $12 million in order to stabilize business operations. Following the November 4th Incident, shareholders have injected approximately $2.3 million of new money into SFFC and, as further described below, it is anticipated that 459NSL will have advanced approximately $1.5 million to SFFC by way of protective disbursements (as of March 31), bringing SFFC's current capital requirements down to approximately $8.6 million (following March 31, 2024).[1]

34. As of March 1, 2024, there were approximately 480,000 fish remaining at the Facility in various stages of development. Growing SFFC's remaining fish to full size and maturity for sale should allow SFFC to resume supplying its customers in September 2024. Until this time, SFFC faces an immediate liquidity crisis. Keeping SFFC's remaining fish healthy and on the standard growth track is critical if the business is expected to survive.

FINANCIAL CIRCUMSTANCES

SFFC's Financial Position

35. The SFFC Group reports their financials on a non-consolidated basis.

36. As of December 31, 2022, SFFC had an operating loss of approximately $6,000,000 for 2022, and a total deficit position of approximately $38.15 million. SFFC has incurred losses since its inception, and has been dependent on additional investments (including loans from its shareholders, as will be described below) in order to sustain operations.

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[1] The initial forecasts following the November 4th Incident were based upon SFFC's remaining fish being ready for sale beginning on August 1, 2024. Revised forecasts have extended this date to September 1, 2024 (due to delays in the repair of the biological filter).

37. As of December 31, 2023, SFFC had current assets of approximately $11.4 million versus current liabilities of approximately $2 million. However, of this $11.4 million of current assets (as of December 31, 2023), approximately $10.2 million was inventory (i.e. fish in various stages of the grow-out process) and equipment, and only $840,000 (approximately) was cash or other receivables.

38. As described above, the November 4th Incident has had an immediate and significant impact on SFFC's operations and revenue. With much of its revenue producing product lost, SFFC has depleted its cash reserves in order to maintain operations.

39. While the other companies comprising the SFFC Group do not carry on an active business, there are various inter-company loans between the SFFC Group.

Issues with Shareholder Funding

40. SFFC's operations have been dependant, in part, on capital injections from its shareholders (by way of both equity investments and shareholder loans). Up until December 31, 2022, shareholder capital injections have generally been made on a *pro rata* basis. However, beginning in January 2023 the TCAS Holdings Shareholders, who are the minority shareholders of SFFC, have provided a disproportionately large share of shareholder funding of SFFC. From January 2023 to March 6, 2024, shareholder advances from the TCAS Holdings Shareholders have totaled approximately $4.5 million, while advances from BAQ have totaled approximately $2.6 million.

41. Without a current revenue stream, SFFC has been reliant on emergency loans made by shareholders in order to fund continuing operations. Since the November 4th Incident, TCAS Holdings Shareholders have provided the majority of the emergency operating funds to SFFC, again despite being the minority shareholders. In particular, since the November 4th Incident, emergency funds have been provided primarily by myself and Jim Lawley by way of loans to SFFC and direct payments to the company's creditors. Such loans and payments have totaled over $1.3 million (up to March 7, 2024). However, without any form of security for additional advances, we, and the TCAS Holdings Shareholders as a whole, are not prepared to continue to fund the operations of SFFC by making shareholder loans to the company.

42. As more particularly described below, on March 8, 2024, 459NSL acquired the SFFC Group's outstanding senior-secured credit facilities (originally made available by The Bank of Nova Scotia). Since that time, 459NSL has funded the operations of SFFC by way of protective disbursements made to SFFC under its credit facilities and security. As more particularly set out below, such funding by way of protective disbursements is intended to be a temporary measure to keep SFFC's business afloat until a re-capitalization or sale of the business is completed.

43. SFFC holds various insurance policies in respect of its operations, and is in the process of making a claim with its insurers in respect of the November 4th Incident. The quantum and timing of payment of such insurance claim(s) are yet to be determined. While the proceeds of SFFC's insurance claim(s) will assist SFFC's recovery from the November 4th Incident, immediate funding is nonetheless required. In addition, 459NSL holds an assignment of the proceeds of such policies pursuant to the Assignment of Debt and Security (as defined below).

CREDIT FACILITIES AND SECURITY

<u>459NSL Credit Facilities</u>

44. The Applicant (459NSL) is the SFFC Group's primary secured creditor, pursuant to an assignment of debt and security dated March 8, 2024 (the "**Assignment of Debt and Security**"). Under the Assignment of Debt and Security, The Bank of Nova Scotia ("**BNS**") assigned all of its right, title and interest in a third amended and restated credit agreement dated June 27, 2023 (the "**Credit Agreement**") among TCAS Holdings, as borrower, TCAS IP, SFFC, and Sustainable Blue, as guarantors, and BNS, as lender, the credit facilities and the outstanding balance of the indebtedness owing thereunder, and all guarantees and security held in connection with the Credit Agreement to 459NSL. A copy of the Assignment of Debt and Security is attached as **Exhibit "6"**.

45. The Credit Agreement provides for a two non-revolving term loan facilities in the principal amounts of $17.5 million and $4 million (collectively, the "**Credit Facilities**"). The term loans are subject to interest at BNS' prime rate plus 1.50% per annum and BNS' prime rate plus 1.70% per annum, respectively (other than loans drawn by way of bankers' acceptances). Interest-only payments were required until the maturity date of the Credit

Facilities, which was March 8, 2024. A copy of the Credit Agreement (with the schedules to the Credit Agreement removed) is attached as **Exhibit "7"**.

46. The Credit Agreement was entered into for the purpose of providing construction funding for the Facility and operational funding to SFFC, and all loan proceeds have been loaned to SFFC for this purpose.

47. As security for TCAS Holdings' obligations in respect of the Credit Agreement, the SFFC Group entered into and provided the following security agreements in favour of BNS (collectively, the "**BNS Security**"):

(a) Debenture dated March 5, 2021 granted by SFFC charging the real property located at 259 Red Bank Road, Centre Burlington, Nova Scotia (attached as **Exhibit "8"**);

(b) General Security Agreement dated March 9, 2021 granted by TCAS Holdings (attached as **Exhibit "9"**);

(c) General Security Agreement dated March 9, 2021 granted by TCAS IP (attached as **Exhibit "10"**);

(d) General Security Agreement dated March 9, 2021 granted by SFFC (attached as **Exhibit "11"**);

(e) General Security Agreement dated October 19, 2021 granted by Sustainable Blue (attached as **Exhibit "12"**);

(f) Share Pledge Agreement (Special Hypothecation) dated October 19, 2021 granted by SFFC (attached as **Exhibit "13"**);

(g) Share Pledge Agreement (Special Hypothecation) dated March 9, 2021 granted by TCAS Holdings (attached as **Exhibit "14"**);

(h) Assignment of Insurance dated March 9, 2021 granted by SFFC (attached as **Exhibit "15"**);

(i) Assignment of Material Contracts dated March 9, 2021 granted by SFFC (attached as **Exhibit “16”**);

(j) Assignment of Material Contracts dated March 9, 2021 granted by TCAS IP (attached as **Exhibit “17”**);

(k) Omnibus Guarantee dated March 9, 2021 granted by TCAS Holdings, SFFC and TCAS IP (attached as **Exhibit “18”**);

(l) Guarantee dated October 19, 2021 granted by Sustainable Blue (attached as **Exhibit “19”**);

(m) Postponement and Subordination Undertaking dated March 9, 2021 granted by TCAS Holdings (attached as **Exhibit “20”**); and

(n) Postponement and Subordination Undertaking dated March 9, 2021 granted by TCAS Holdings and BAQ (attached as **Exhibit “21”**).

48. In addition to the above-noted security, 459NSL also holds (by way of the Assignment of Debt and Security) limited recourse guarantees and share pledge agreements from certain shareholders of the SFFC Group. 459NSL has not issued demands to these shareholders and does not intend to enforce such security at this time (however, it reserves its right to do so at a later date).

Other Creditors

49. In addition to the Applicant (459NSL), the secured creditors of SFFC include Linde Canada Inc. and Atlantic Compressed Air Ltd. in respect of specific equipment.

50. SFFC has also received unsecured loans from the Atlantic Canada Opportunities Agency (“**ACOA**”) and the Atlantic Fisheries Fund, a contribution program funded by the federal and provincial governments. As of December 31, 2023, the balance owing by SFFC to ACOA was approximately $1.38 million, and the balance owing by SFFC in respect of the Atlantic Fisheries Fund was approximately $4 million.

51. With respect to trade creditors, as of March 13, 2024, SFFC had accounts payable in excess of $2 million (which does not take into account payments made directly to creditors by Jim Lawley and myself).

PROPOSED RECEIVERSHIP

Assignment of Credit Facilities & Interim Funding

52. BNS had been kept aware of all developments in respect of SFFC's business and operations since the November 4th Incident. The existing loan facilities under the Credit Agreement matured and were repayable in full on March 8, 2024, and BNS made it clear to the SFFC Group that they required a credible funding plan from shareholders and additional and immediate shareholder advances before it would consider extending the maturity date of the Credit Facilities. TCAS Holdings was also in default of certain terms of the Credit Agreement prior to the maturity date as a result of the November 4th Incident.

53. Given the imminent maturity date and inability of the TCAS Holdings Shareholders and BAQ to provide the necessary funds to SFFC if it was to survive, Jim Lawley and myself (via 459NSL) felt we had no other option but to acquire the Credit Agreement and associated Credit Facilities in order to protect the SFFC Group from BNS realizing on its security and in order to ensure that SFFC could maintain operations until a long-term funding solution could be implemented.

54. I am advised by counsel to 459NSL that they understand that BAQ was also provided an opportunity to purchase the Credit Facilities and BNS Security, but declined to do so.

55. While 459NSL's acquisition of the Credit Facilities provided some temporary relief for the SFFC Group, SFFC still faces an immediate and acute liquidity crisis as a result of the November 4th Incident. Additional investments are required in order to provide working capital to SFFC so that it may sustain its operations and grow its remaining fish to maturity, re-starting the company's revenue stream. Without additional funding, SFFC will be forced to euthanize its remaining fish.

56. Since acquiring the Credit Agreement and BNS Security on March 8, 2024, 459NSL has continued to advance funds to SFFC as protective disbursements under the Credit Agreement and BNS Security. These protective disbursements have totaled approximately $640,000 as of March 11, 2024. It is anticipated that 459NSL will have advanced approximately $1.5 million to SFFC as protective disbursements by March 31, 2024, in order to allow SFFC to maintain operations.

57. The protective disbursements and advances to date have been made to suppliers and other contractors whose supplies and services are critical to keeping SFFC's remaining fish alive. Immediate threats to the operation include:

(a) Deliveries of emergency bulk oxygen may be withheld; without oxygen the fish will perish within 15 minutes.

(b) Deliveries of fish feed may be withheld; without feed, the fish will stop growing which will further extend SFFC's projected $8.6 million cash flow gap. Underfeeding the fish will causes stressors within the fish and renders them susceptible to disease and other welfare issues. Eventually, the fish will die without sufficient feed.

(c) Power to the Facility may be cut-off; without adequate electricity, the life support systems for the fish cannot operate (and the fish will die). While SFFC has back-up generators, these are for emergencies only and are not a long-term solution.

(d) Other critical maintenance services for the Facility may be denied, increasing the risk of failure of key life support systems and equipment.

(e) Maintaining current payroll and staff is critical to ensure the survival of the remaining fish on site.

58. Following the November 4th Incident, SFFC engaged BlueTech Systems Limited ("**BlueTech NS**") to repair the damaged biological filter. I (via holding companies) am a minority shareholder of BlueTech NS while Dr. Jeremy Lee, being one of the original founders of SFFC and a developer of the proprietary technology, is the majority shareholder. Dr. Jeremy Lee is also the principal of BlueTech Systems International Ltd., which manufacturers certain specialized equipment used in the SFFC Group's proprietary technology (and in the Facility), and Dr. Jeremy Lee holds shares in SFFC and TCAS Holdings via BlueTech Systems Ltd., a UK company.

59. Payments have been made to BlueTech NS so that repair work on the biological filter may continue. If the biological filter is not repaired, SFFC will unable to utilize the associated fish holding tanks to house its remaining fish. This in turn will put these remaining fish at risk as they continue to grow as overcrowding will become an issue. As a result, in the event that the biological filter is not repaired SFFC will need to consider euthanizing some of its remaining fish in order to provide suitable conditions for the balance of the remaining fish. There is no other supplier (other than BlueTech NS) that can complete this work in the timeframe required by SFFC.

60. Despite these advances, SFFC still owes significant amounts to trade creditors.

<u>SISP & Continued Funding During the Receivership</u>

61. 459NSL intends to continue funding the working capital needs of SFFC during the course of the proposed receivership. Such amounts will be funded to Deloitte, as the proposed receiver, and be subject to the receiver's borrowing charge and receiver's certificates. However, while 459NSL's advances (protective disbursements) to SFFC to date have assisted (and its continued funding during the course of the proposed receivership will assist) SFFC to stabilize its operations in the near term, this is not a long-term solution. As discussed above, the emergency loans and other funding to SFFC have been made primarily by minority shareholders of the SFFC Group, which is not a sustainable long-term solution. The ownership and business of the SFFC Group need to be restructured such that the SFFC Group has an ownership structure that is able and willing to provide the necessary working capital for the business.

62. Accordingly, 459NSL seeks to enforce its security in order to restructure the ownership and business of the SFFC Group. In particular, 459NSL's intention is that Deloitte will implement a sale and investment solicitation process in respect of the SFFC Group, in order to properly capitalize SFFC or complete a sale of the SFFC Group (or their business) as a going concern. 459NSL intends to submit a stalking-horse offer as part of the proposed sale and investment solicitation process.

63. As noted above, financial forecasts after the November 4th Incident have indicated a need for new funding of approximately $8.6 million (following March 31, 2024) in order to stabilize business operations until SFFC's remaining fish can be supplied to customers in September 2024. SFFC's management have estimated that SFFC will require approximately $1.525 million of additional funding in 30 days following March 31 in order to stabilize and maintain operations. Such amount will be used for, among other things:

(a) Labour and employee costs (including executive and administrative staff salaries).

(b) The costs of feed, chemicals, oxygen, and other inputs necessary to keep the remaining fish alive and healthy.

(c) Rent, utilities, insurance, and other ongoing expenses.

(d) Estimated professional fees.

(e) The costs of repairs of the biological filter.

(f) Capital expenditures and other essential upgrades to the Facility that have been pending since the November 4th Incident.

64. A chart summarizing the proposed expenditures is attached as **Exhibit "22"**.

65. While 459NSL's protective disbursements to date have been limited to those suppliers and other creditors which are critical to keeping SFFC's remaining fish alive, 459NSL, in conjunction with Deloitte, may also begin to pay down amounts owing to other suppliers and creditors during the course of the receivership.

66. The management group of the SFFC Group believes that SFFC's operations can be viable both in the medium (following the maturation of SFFC's current fish and the re-starting of its revenue stream) and long term. As set out previously in this affidavit, prior to the November 4th Incident, management projected that SFFC's operations would be cash-flow positive in the first quarter of 2024. As shareholder loans to SFFC are no longer a viable option, should the receivership be granted, the proposed sale and investment solicitation process offers the best chance for SFFC's business to continue long-term.

Demand by 459NSL & Appointment of a Receiver

67. As noted above, the Credit Facilities matured on March 8, 2024. The SFFC Group was unable to repay its obligations to 459NSL pursuant to the Credit Agreement, as assigned by the Assignment of Debt and Security (in addition to certain other defaults under the Credit Agreement).

68. On March 12, 2024, 459NSL issued demand letters and Notices of Intention to Enforce a Security to each of the SFFC Group, copies of which are attached as **Exhibits "23" – "26"**. As of the date of demand, the total indebtedness owing by the SFFC Group to 459NSL was $21,577,198.63.

69. As noted above, 459NSL did not issue demands to the other guarantors of the Credit Agreement (being certain shareholders of the SFFC Group), but reserves the right to do so in the future.

70. Since the demands were issued on March 12, 2024, the SFFC Group remains in default under the Credit Facilities. Due in part to the November 4th Incident, the SFFC Group is unable to repay their obligations in connection with the Credit Agreement and Credit Facilities.

71. Deloitte has agreed to act as receiver and manager over all of the assets, property and undertakings of the SFFC Group acquired for, or used in connection with the business carried on by the SFFC Group. A copy of the Consent to Act signed by a representative of Deloitte is attached at **Exhibit "27"**.

72. I make this affidavit in support of 459NSL's application for the appointment of Deloitte as receiver and manager, and for no other purpose.

SWORN before me at Halifax, Nova Scotia
this 26th day of March, 2024.

A Barrister of the Supreme Court of Nova Scotia

David Wedlake

Thane Stevens

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