

COURT FILE NUMBER QBG No 1038 of 2021

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN
IN BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE SASKATOON

IN THE MATTER OF THE INTERIM RECEIVERSHIP OF
NORMAN PRIOR NODWELL

NOTICE OF APPLICATION

NOTICE TO RESPONDENTS: All parties listed on the Service List

This application is made against you. You are a respondent. You have the right to state your side of this matter before the Court. To do so, you must be in Court when the application is heard as shown below:

Where: Court of Queen's Bench for Saskatchewan
Judicial Centre of Saskatoon
520 Spadina Crescent East
Saskatoon, SK S7K 3G7

Date: December 10, 2021

Time: 9:00 a.m.

Due to the health risks posed by the COVID-19 pandemic, all chambers applications will be heard by telephone unless the presiding judge has decided otherwise. To confirm the telephone number where you can be reached on the date of the application, you must immediately contact the office of the local registrar at (306) 933-5135 and provide your telephone number. You must remain available by telephone at that number on that date until your matter is heard.

Go to the end of this document to see what you can do and when you must do it.

Remedy claimed or sought:

1. The applicant, Deloitte Restructuring Inc. (the "**Interim Receiver**"), interim receiver of the respondent, Norman Prior Nodwell (the "**Debtor**"), seeks an order:

- (a) declaring that:
 - (i) service of this notice of application and supporting materials was good, timely, and sufficient;
 - (ii) no other person was required to have been served with notice of this application; and
 - (iii) the time for service of this application be abridged to the time actually given;
- (b) approving the professional fees and disbursements of the Interim Receiver and the Interim Receiver's legal counsel, as set out in the Second Report of the Interim Receiver (the "**Second Report**") (including the fees and disbursements necessary to finalize the interim receivership) without the necessity of a formal passing of their accounts;
- (c) approving and confirming all activities, actions, and proposed courses of action of the Interim Receiver (collectively, the "**Actions of the Interim Receiver**") to date in relation to the discharge of its duties and mandate as interim receiver of the Property (as that term is defined in the Amended and Restated Interim Receivership Order) pursuant to the Orders of this Honourable Court in these proceedings (collectively, the "**Interim Receiver's Mandate**"), as such Actions of the Interim Receiver are more particularly described in the First Report of the Interim Receiver dated November 8, 2021 (the "**First Report**") and the Second Report, as well as the statement of receipts and disbursements contained in the Second Report;
- (d) authorizing the Interim Receiver to maintain a holdback in an amount to be determined on account of further fees and disbursements of the Interim Receiver and its legal counsel, and to apply from time to time the amounts so held back against such further fees and disbursements (without the requirement of taxation or passing of accounts);
- (e) adjudging and declaring that based upon the evidence that is currently before this Honourable Court in regard to the Actions of the Interim Receiver:
 - (i) the Interim Receiver has acted honestly and in good faith, and has dealt with the Property and carried out the Interim Receiver's Mandate in a commercially reasonable manner;
 - (ii) the Interim Receiver has satisfied all of its duties and obligations pursuant to the Interim Receiver's Mandate;

- (iii) the Interim Receiver shall not be liable for any act or omission arising from, relating to, or in connection with its discharge of the Interim Receiver's Mandate, save and except for any liability arising out of fraud, gross negligence, or willful misconduct on the part of the Interim Receiver;
- (iv) the Interim Receiver has never had and shall not in the future have any liability in regard to any act or omission of the Debtor, including, without limitation, in relation to the business of the Debtor, payment of and/or accounting for any taxes (including, without limitation, goods and services tax) on revenues earned, or any indebtedness or obligations whatsoever or howsoever incurred by the Debtor; and
- (v) no person shall commence an action or proceeding asserting a claim against the Interim Receiver arising from, relating to, or in connection with its discharge of the Interim Receiver's Mandate without first obtaining an Order of this Honourable Court (on notice to the Interim Receiver) granting such person leave to commence such action or proceeding, and any such action or proceeding commenced without such leave being obtained is a nullity;
- (f) staying, extinguishing, and forever barring any claims against the Interim Receiver in connection with the Interim Receiver's Mandate; and
- (g) such further and other relief as counsel for the Interim Receiver may request and this Honourable Court may allow.

Grounds for making this application:

2. The Interim Receiver was appointed on October 14, 2021, since which time it has, among other things, worked with the Debtor to:

- (a) comply with the Corrective Action Orders (the “CAOs”) issued by Animal Protection Services of Saskatchewan; and
- (b) liquidate the Debtor's cattle and bison herds.

3. As detailed in the forthcoming Second Report, the Interim Receiver has not taken possession or control of the Property due to the CAOs and the Debtor's ongoing cooperation and involvement with the liquidation.

4. In the circumstances, the Interim Receiver has supervised the Debtor's sales of his bison and cattle herds and collected the proceeds. While the liquidation of the animals has yet to be completed and approximately 50 bison remain, the Interim Receiver estimates that the proceeds that could be generated by engaging in further liquidation efforts will not exceed the ongoing costs of administration.

5. The Debtor's senior secured creditor, Bank of Montreal, is therefore not proposing to extend the interim receivership proceedings further and the Interim Receiver will be automatically discharged at 11:59 p.m. on December 13, 2021 pursuant to paragraph 2A of the Amended and Restated Interim Receivership Order

6. For these reasons, the Interim Receiver is seeking the approval of the Actions of the Interim Receiver and its professional fees (including those of its legal counsel), and a declaration providing the Interim Receiver with the post-discharge protections set out in the form of draft Order filed, the language of which is based on the Saskatchewan template Distribution and Discharge Order for receivership proceedings.

Material or evidence to be relied on:

7. In making this application, the Interim Receiver relies on:

- (a) this notice of application and proof of service;
- (b) the First and Second Reports;
- (c) the proposed form of draft order;
- (d) a redline of the proposed form of draft order with the changes tracked to Saskatchewan's template Distribution and Discharge of Receiver order; and
- (e) such further and other materials as counsel may advise and this Honourable Court may allow.

Applicable rules:

8. The Interim Receiver is not relying on any specific Rules in making this application.

Applicable Acts and regulations:

9. The relief sought herein engages the provisions of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3.

DATED at Saskatoon, Saskatchewan, this 7th day of December, 2021.

McDOUGALL GAULEY LLP

Per: 

Craig Frith, counsel for the applicant,
Deloitte Restructuring Inc.

NOTICE

If you do not come to Court either in person or by your lawyer, the Court may give the applicant what it wants in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

CONTACT INFORMATION AND ADDRESS FOR SERVICE:

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|-----------------------------------|--|
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| Name of lawyer in charge of file: | Craig Frith |
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| Telephone / Fax number: | (306) 665-5432 / (306) 652-1323 |
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