

Richardson Pioneer Limited v Tyler Smith et al

James P. Kroczyński	for Richardson Pioneer Limited
David G. Gerecke, Q.C.,	for Bank of Montreal
Jacey Safnuk	
Jeffrey M. Lee Q.C./Paul D. Olfert	for Deloitte Restructuring, Receiver of Tyler Smith, Pamela Smith, Smith Norther Ranching and 101197829 Saskatchewan Ltd.
Peter V. Abrametz	for Tyler and Pamela Smith
Janine L. Lavoie-Harding	for Farm Credit Corporation
Nicole C. Krupski	for John Deere Financial Inc.
Brooklyn Fiesel	for De Lage Landen Financial Services
Donald J. Klaassen	for Department of Justice (Canada)

FIAT - May 12, 2021 - MESCHISHNICK J.

[1] For convenience and efficiency, I use the defined terms found in Appendix M to the Fourth Report of the Receiver.

[2] In Appendix M the Receiver analyses the use and limitation that can be made of the proceeds of the sale of the Duck Lake Lands. Upon my review of the question of whether the proceeds from the sale of the Duck Lake Lands should be disbursed as suggested I found that I have a few questions that were not addressed in the hearing yesterday.

[3] I am distributing this fiat to get clarification of the Receiver's analysis.

[4] Am I correct in reading Exhibit M as saying that the terms of the mortgages registered against the PA Lands and the Duck Lake Lands secure all indebtedness of the borrowers to FCC to the maximum amount of the principle amounts stated in the mortgages?

[5] If so, it seems that the total of the principle amounts stated in the 2007 Mortgage, the 2016 Mortgage and the 2018 Mortgage is \$860,500. The sale of the PA Lands resulted in \$618,512.63 of net proceeds which paid out the 2016 Mortgage which had a principle amount of \$360,000 and partially paid out the 2018 Mortgage which had a principle amount of \$350,000.

[6] The sale of the Duck Lake Lands generated sufficient funds to pay out the

balance on the 2018 Mortgage and the 2007 Mortgage which had a principle sum of \$150,500, both of which were registered against the Duck Land Lands and 2011 Mortgage which was not registered against the Duck Lake Lands.

[7] However, if the total principle sums of these mortgages is \$810,000 and \$618,512.63 has been paid against the 2016 Mortgage and the 2018 Mortgage (subject possibly to adjustment to the amount that is repayment of principle) why is the remaining amount secured by these mortgages not limited to the difference of \$241,987.59?

[8] In posing this question I interpret the analysis in Appendix M as suggesting that the principle sum of \$350,000 stated in the 2018 Mortgage continues to be included in cap on the amount secured even if some portion is repaid. That is, the principle amount of \$350,000 was included to calculate the total cap of \$500,500 that could be paid from the sale of the Duck Lake Lands even though a portion of that principle amount was repaid from the proceeds of the sale of the PA Lands. Is this a correct reading of the analysis set out in Appendix M? If so, please explain.

[9] In responding to this inquiry please consider the Repayment Agreement which appears to be the approval of the FCC Crop Input Loan "to a limit of \$350,000" which is secured by the 2018 Mortgage and that the Repayment Letter also says "FCC will discharge the mortgage upon full repayment of your FCC Crop Input Loan."

[10] I also see from the Repayment Agreement that the Crop Input Loan Number is 562791000. Is the principle amount of \$127,460.07 shown in Appendix M in the line item "Repayment Agreement" the amount of principle to be repaid on Crop Input Loan Number is 562791000?

[11] I look forward to receipt of a letter from the Receiver addressing these questions. Any other party who wishes to make written submissions is free to do so. I would ask that these submissions be filed no later than Monday May 17 at 4:00 p.m. Any party who cannot accommodate this deadline should ask for an extension and provide a date as to when the submission can be filed. If, upon receipt of these submissions, I see the need to hear from the parties a further hearing by conference call will be arranged.



J.
G.A. MESCHISHNICK