

COURT FILE NUMBER: QBG NO. 1337 OF 2020

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE: SASKATOON

PLAINTIFF (RESPONDENT): BANK OF MONTREAL

**DEFENDANTS (APPLICANTS): TYLER SMITH, PAMELA SMITH, SMITH
NORTHERN RANCHING, AND 101197829
SASKATCHEWAN LTD.**

RESPONDENT: DELOITTE RESTRUCTURING INC.

NOTICE OF APPLICATION

NOTICE TO THE RESPONDENT: BANK OF MONTREAL

This application is made against you. You are the 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,
520 Spadina Crescent East
Saskatoon, Saskatchewan
Date: May 11th, 2021
Time: 1:30 p.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) 953-3200 and provide your telephone number. You must remain available by telephone at that number on that date until your matter is heard.

(Read the Notice at the end of this document to see what else you can do and when you must do it)

Remedy claimed or sought:

1. This application is for:
 - (a) An Order that the Receiver make payment to the Respondent, Bank of Montreal, from funds had and received during the course of its Receivership, to the extent of its liability, with an accounting thereof;

- (b) That the Receiver prepare its final scheme of distribution for sums had and received, and its final accounts for approval;
- (c) An Order that the Receiver be discharged as Receiver of the property, assets and undertakings of Tyler Smith, Pamela Smith, Smith Northern Ranching and 101197829 Saskatchewan Ltd., subject only to those contracts disclaimed with Richardson Pioneer Limited.
- (d) An Order that Farm Credit Canada be paid from the funds held in trust by Peter V. Abrametz, the additional sum of \$251,212.27.
- (e) An Order that the sum of \$86,542.55 held in the trust account of Peter V. Abrametz are exempt proceeds, payable to the Applicants;
- (f) Such further and other Orders as counsel may advise and this Honourable Court may allow.

Grounds for making this application:

- 2.(i) That the Receiver, Deloitte Restructuring Inc., is in receipt of sufficient funds to pay out the indebtedness of the Applicants to the Respondent, Bank of Montreal.
 - (ii) The Receiver has sold all of the Debtors' crop, cattle and custom feed business, and is holding in excess of \$2,000,000.00, and has made no distribution of the same;
 - (iii) The Receiver had disclaimed its interest in the Applicants' machinery, having given leave to the creditors to make application pursuant to the Saskatchewan *Farm Security Act*.
 - (iv) That the Applicants' claim that their farm machinery is exempt;
 - (v) That the Applicants are no longer in possession of significant assets that would justify the continuance of the Receivership;
 - (vi) Such further and other grounds as counsel may advise and this Honourable Court may allow.

Material or evidence to be relied on:

3. The Affidavit of Tyler Smith, which shall disclose:
 - (a) The Receiver has sold the Applicants' custom farming operation, residual feeds and grains of the Applicants, to Horton Land and Cattle, for the sum of \$226,000.00;
 - (b) That the Receiver is now in receipt of in excess of \$2,000,000.00.
 - (c) That the Receiver has disclaimed its interest in the farm machinery of the Applicants and given permission to the creditors to seek remedies pursuant to *The Saskatchewan Farm Security Act*;
 - (d) The Applicants are no longer in possession of significant assets that would justify the continuance of the Receivership;
 - (e) The consent of Creditors had and received.

Applicable Rules, Acts and Regulations

4. *The Bankruptcy and Insolvency Act*, Section 243(5).

DATED at Prince Albert, Saskatchewan, this 4 day of May, 2021.

ABRAMETZ & EGGUM

Per:

Solicitors for the Defendants/Applicants

NOTICE

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want 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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