FORM 67 (Rule 16-1 (5))

Court File No. S-265325
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

NATIONAL BANK OF CANADA

PETITIONER

AND:

LABTEST CERTIFICATION INC., LABTEST CERTIFICATION ONTARIO INC., 2842878 ONTARIO INC., GOSHU PRODUCTS/SERVICES INC., KAVINDER SINGH DHILLON, AND MUANALYSIS INC.

RESPONDENTS

RESPONSE TO PETITION

Filed by: Labtest Certification Inc., Labtest Certification Ontario Inc., 2842878 Ontario Inc., Goshu Products/Services Inc., Kavinder Singh Dhillon, And Muanalysis Inc. (the "**Petition Respondents**")

THIS IS A RESPONSE TO the Petition filed July 16, 2026.

The Petition Respondents estimate that the Application will take 1 day.

Part 1: ORDERS CONSENTED TO

The Petition Respondent consents to the granting of the Orders set out in the following paragraphs of Part 1 of the Petition: NONE

Part 2: ORDERS OPPOSED

The Petition Respondent opposes the granting of the Orders set out in paragraphs ALL of Part 1 of the Petition.

Part 3: ORDERS ON WHICH NO POSITION IS TAKEN

The Petition Respondent takes no position on the granting of the orders set out in paragraphs NONE of Part 1 of the Petition.

Part 4: FACTUAL BASIS

1. The capitalized terms used in this document have the same meaning as ascribed to them in the Petition and are relied upon by the Respondents for reference purposes only.

2. The Respondent, Kavinder Singh Dhillon (“**Mr. Dhillon**”), is the sole director and officer of Labtest, Labtest Ontario, 284 Ontario, MuAnalysis and Goshu (collectively, the “**Respondent Companies**”).

3. Goshu owns four properties in British Columbia, and they are legally described at paragraph 15 of Part 2 (Factual Basis) of the Petition (the “**BC Properties**”).

4. 284 Ontario owns a property in Ontario, and it is legally described at paragraph 15 of Part 2 (Factual Basis) of the Petition (the “**Ontario Property**”).

5. The Petitioner, National Bank of Canada (“**NBC**” or the “**Bank**”), holds a first-ranking mortgage charge against title to each of the BC Properties pursuant to a loan agreement signed between Canadian Western Bank (“**CWB**”), which later amalgamated with the Bank, and Goshu on May 8, 2024 (the “**Goshu Loan Agreement**”).

6. The Bank also holds a first-ranking mortgage charge against title to the Ontario Property pursuant to a loan agreement signed between the Bank and 284 Ontario on July 24, 2024 (the “**284 Ontario Loan Agreement**”).

7. At around the same time as signing of the Goshu Loan Agreement and 284 Loan Agreement, each of the Respondent companies also signed a general security agreement with CWB (the “**GSA**”).

8. Up until November 2025, the Respondents serviced the Loans in accordance with the terms of the Loan Agreements.

9. Due to the omission, neglect, and/or mismanagement of funds by the Chief Financial Officer (the “**CFO**”) of Labtest, the Respondents omitted to make loan payments for the following three (3) months with respect to the Goshu Loan: November 2025, December 2025, and January 2026 (the “**Missed Loan Payments**”).

10. At no relevant time did 284 Ontario default on its payment obligations pursuant to the 284 Ontario Loan Agreement.

11. Around January 8, 2026, Labtest terminated the employment of its CFO because of his omission or neglect leading to the Missed Loan Payments.

12. In around February 2026, Mr. Dhillon engaged in discussions with the Bank and agreed to make an additional $25,000 payment each month on account of the missed payments until the amount of Missed Loan Payments was cleared. From his correspondence with the bank, Mr. Dhillon understood that the Bank agreed with this arrangement (the "**Repayment Arrangement**").

13. By an email dated February 4, 2026, Mr. Raymond Pai ("**Mr. Pai**"), Senior Director (Special Loans) with the Bank, requested Mr. Dhillon to provide extensive information and document disclosure with respect to the Respondent Companies including updates on payment of property taxes, payroll, accounts receivables, financial statements, details of fiscal forecast scenarios for each company, and copies of lease agreement for BC Properties and Ontario Property.

14. Over the next few weeks, Mr. Dhillon worked with the Bank to provide it with the requested information but given the extent of information and documents requested, it took Mr. Dhillon some time to gather the same.

15. Despite continued disclosure of documents and information as requested by the Bank, by an email dated March 17, 2026, Mr. Pai advised Mr. Dhillon that for NBC to continue its business relationship with the Respondents, the Bank required engagement of a financial advisor to monitor the Respondent Companies and asked for the Respondents' written consent (as required) by 11 am on March 23, 2026, i.e. 6 days from the date of Mr. Pai's email.

16. On March 30, 2026, the Bank withdrew two (2) payments from the Goshu account: (1) the usual monthly mortgage payment in the amount of $50,337.44; and (2) an additional payment of $24,662.56 which Mr. Dhillon to be in accordance with the Repayment Arrangement.

17. On April 7, 2026, Mr. Pai emailed Mr. Dhillon attaching an engagement letter for Deloitte Restructuring Inc. ("**Deloitte**") to be appointed as the Bank's financial advisor at the expense of the Respondents and without any indication of the amount of professional fees Deloitte would charge for its services.

18. As an expression of its interest in continuing to work with the Bank, Mr. Dhillon signed the Deloitte engagement letter in or around April 13, 2026. Starting May 6, 2026, the Respondents started providing information and documents directly to Deloitte, as requested.

19. On May 19, 2026, counsel for the Bank sent a letter to Labtest requiring disclosure of a list of further information and documents to be disclosed to Deloitte by May 22, 2026, i.e. within three (3) days of the date of the letter.

20. By an email of the same day, i.e. May 19, 2026, Mr. Dhillon explained to Mr. Pai his understanding of the Repayment Agreement between the Bank and the Respondents. Mr. Dhillon further noted that there were sufficient funds in the relevant accounts for NBC to debit payments for the Goshu Loan as well as the 248 Ontario Loan.

21. After the Respondents provided to Deloitte the documents listed in the Bank's letter May 19, 2026, on June 2, 2026, Deloitte reverted with a further list of information and document requests.

22. In around April or May 2026, the Bank stopped withdrawing monthly payments with respect to the Goshu Loan. By emails sent in June and July 2026, Mr. Dhillon advised Mr. Pai that Goshu was ready to make the monthly payment for May in addition to the $25,000 on account of the Missed Loan Payments.

23. While Deloitte continued to request further information and documents from the Respondents, the Bank, by letter from its counsel dated June 2, 2026, demanded repayment of the entire amount due pursuant to the Loan Agreements, amounting to a total of $17,792,687.55 as of June 1, 2026, within 20 days of the letter (the "**Demand Letter**").

24. The Respondents rectified the Goshu Payments Defaults in their entirety by June 26, 2026. On June 29, 2026, the bank withdrew $227,024.64 from the Goshu account as payment towards the arrears outstanding on the Goshu Loan as of that date, including Goshu June Payment Default (the "**June Payment**").

25. By an email dated July 31, 2026, Mr. Dhillon inquired with Mr. Pai about the arrears outstanding with respect to the Goshu Loan, if any, to bring the Goshu account in good standing. Mr. Pai did not respond to Mr. Dhillon's said email.

26. In late August 2026, through their solicitors and litigation counsel, the Respondents requested counsel for the Bank to provide the total amount of arrears with respect to the Goshu Loan and 284 Ontario Loan, indicating that the Respondents wanted to may payment of all outstanding arrears.

27. The Goshu account and the 284 Ontario account have sufficient funds to clear all outstanding arrears with respect to the Goshu Loan and the 284 Ontario Loan, respectively.

28. Mr. Dhillon is making efforts to sell the Business and has signed a Letter of Intent ("**LOI**") with a potential purchaser. The transaction is expected to materialize before the end of this year and once complete, the Respondents will be able to make payment of the Indebtedness in its entirety.

Part 5: LEGAL BASIS

29. The Petition Respondents plead and rely on Rules 1-3, 8-1, 10-2, and 16-1 of the *Supreme Court Civil Rules* and section 39 of the *Law and Equity Act*[1].

The Applicable Legal Principles

30. The Petitioner bears the onus to satisfy this Court that it is "just and convenient" to appoint a receiver in this case.[2] The factors to be considered in determining whether to appoint a receiver were outlined by the Court in *Maple Trade Finance Inc. v CY Oriental*[3] as follows:

(a) whether irreparable harm might be caused if no order were made, although it is not essential for a creditor to establish irreparable harm if a receiver is not appointed, particularly where the appointment of a receiver is authorized by the security documentation;

(b) the risk to the security holder taking into consideration the size of the debtor's equity in the assets and the need for protection or safeguarding of the assets while litigation takes place;

(c) the nature of the property;

(d) the apprehended or actual waste of the debtor's assets;

(e) the preservation and protection of the property pending judicial resolution;

(f) the balance of convenience to the parties;

(g) the fact that the creditor has the right to appoint a receiver under the documentation provided for the loan;

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[1] RSBC 1996, c 253.
[2] *Southern Cone Capital Ltd. v EmVest Food Products (Mauritius) Ltd.*, 2017 BCSC 2385 (CanLII) at para 31 [*Southern Cone*].
[3] 2009 BCSC 1527 (CanLII) [*Maple Trade*].

(h) the enforcement of rights under a security instrument where the security-holder encounters or expects to encounter difficulty with the debtor and others;

(i) the principle that the appointment of a receiver is extraordinary relief which should be granted cautiously and sparingly;

(j) the consideration of whether a court appointment is necessary to enable the receiver to carry out its' duties more efficiently;

(k) the effect of the order upon the parties;

(l) the conduct of the parties;

(m) the length of time that a receiver may be in place;

(n) the cost to the parties;

(o) the likelihood of maximizing return to the parties;

(p) the goal of facilitating the duties of the receiver.[4]

31. These factors are not a checklist but a collection of considerations to be viewed holistically in an assessment as to whether, in all of the circumstances, the appointment of a receiver is just or convenient.[5]

32. When considering the appointment of a receiver over real property, it is also necessary to consider the law regarding foreclosure and the respondents' equity of redemption.[6]

33. The appointment of a receiver is an extraordinary remedy which should be granted cautiously and sparingly.[7] Despite a secured creditor having the contractual ability to appoint a receiver or to seek the appointment of a receiver by the court, this is not a governing factor that disregards all other factors. It is but one factor to be considered.[8]

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[4] *Ibid* at para 25.
[5] *The Bank of Nova Scotia v Sidhu*, 2025 BCSC 1344 (CanLII) at para 9 [*Sidhu*].
[6] *Ibid* at para 10; *Bank of Montreal v Haro-Thurlow Street Project Limited Partnership*, 2024 BCSC 47 (CanLII) at paras 101-103.
[7] *Cascade Divide Enterprises, Inc. v Laliberte*, 2013 BCSC 263 (CanLII) at para 81 [*Cascade Divide*]; *TCC Mortgage Holdings Inc. v Shawn Oaks Holdings Ltd.*, 2025 BCSC 302 (CanLII) at para 11.
[8] *Pacifica Mortgage Investment Corporation v 2490 Marine Drive Ltd.*, 2026 BCSC 506 (CanLII) at para

34. Following the reasoning in *Maple Trade*, among other cases, this Court in *Bank of Montreal v Gian's Business Centre Inc.*[9] opined that:

> … while it is not necessary for a secured creditor to show jeopardy before a receiver is appointed, no such presumption of appointment should be made; rather, the court should review the matter holistically and decide whether on the whole of the circumstances it is, in fact, just and convenient to appoint a receiver.[10]

35. Further, a court should avoid granting receivership if it can fashion an alternative, less intrusive remedy.[11]

36. For a receiver to be appointed under s. 243 of the *Bankruptcy and Insolvency Act*[12], in addition to determining that it would be just or convenient to do so, the Court must find the borrowers to be insolvent.[13]

<u>Application of legal principles to the case at hand</u>

37. The Petitioner relies mainly on the following grounds to argue that appointment of a receiver is "just and convenient" in this case:

   (a) Goshu defaulted on its monthly payment obligations under the Goshu Loan for the following months: November 2025 to January 2026 and from, April 2026 to June 2026;

   (b) the Respondents failed to timely rectify the payment defaults and have not found a solution to their financial problems and have not repaid the Indebtedness to the Bank;

   (c) the Bank is concerned about quality of information provided by the Respondents, their lack of transparency, as well as data & operational integrity issues such that the Bank has lost all confidence in the Respondent Companies; and

   (d) the Bank has the right to appoint a receiver under the Security, including the GSA.

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9 2016 BCSC 2348 (CanLII) [*Gian's Business*].
10 *Ibid* at para 23; *Computershare Trust Company of Canada v Meadows Development Ltd.*, 2019 BCSC 1945 (CanLII) at para 19 [*Computershare Trust*].
11 *Schmidt v Balcom*, 2016 BCSC 2438 (CanLII) at para 75 [*Schmidt*]; *Mirage Trading Corporation v Ghahroud*, 2025 BCSC 588 (CanLII) at para 95 [*Mirage Trading*].
12 RSC 1985, c B-3 [*BIA*].
13 *TCC Mortgage Holdings Inc. v Shawn Oaks Holdings Ltd.*, 2025 BCSC 302 (CanLII) at para 10.

The Missed Loan Payments

38. The Respondents submit that the Missed Loan Payments were a result of neglect, omission, and/or mismanagement of funds by Labtest's CFO, whose employment was terminated after his omissions were discovered.

39. After termination of the CFO's employment, it took some time for Mr. Dhillon to regain control of the Respondent Companies' finances, but he continued to cooperate with the Bank to provide it with all relevant information and documents as requested. In his numerous emails with the Bank after the Missed Loan Payments, on behalf of the Respondent Companies, Mr. Dhillon worked with the Bank in coming up with a plan to rectify the defaults and subsequently made significant payments to cure defaults with respect to the Goshu Loan.

40. Since late June 2026, Mr. Dhillon has been requesting the Bank to provide him with the total amount of arrears outstanding for the Respondents to bring the Goshu account in good standing.

41. After sending the Respondents the Demand Letter dated June 2, 2026, the Bank ceased withdrawing monthly payments from the Goshu account and 248 Ontario account.

42. Mr. Dhillon is in the process of finalizing the sale of the Business to a third-party purchaser. This transaction is expected to complete before the end of this year and if it materializes, it will enable the Respondents to repay the Indebtedness in its entirety.

43. In addition to placing an immense costs burden on the Respondents, an appointment of a receiver over the property, assets, and undertakings of the Respondent Companies will likely jeopardize the intended sale of the Business and put at risk the Bank's security and intended repayment of the Indebtedness.

The Bank's concerns regarding transparency, data & operational integrity issues

44. The Bank says that it is concerned that the Respondent Companies' financial reporting is not reliable, there is lack of transparency, and that the Respondent Companies' data and operational integrity issues are so severe that "there is no other option for recovering the Indebtedness than to seek the appointment of a receiver over the property, assets, and undertakings of the Company"[14].

[14] Petition to the Court filed on July 16, 2026, Part 2 (Factual Basis) at para 63.

45. In support of its above noted assertions, the Bank relies upon hearsay evidence provided in Mr. Pai's affidavit wherein he outlines the information provided to him Mr. Butt[15], Manager (Strategy, Risk, and Transactions Group) at Deloitte, based on which he goes on to conclude that:

(a) the Company's management lacks the capacity, sophistication, and strategy to operate the Business as a going concern and to execute on the sale of the Business and its assets;[16] and

(b) the Company's accounting personnel lack the capability to prepare cashflow forecasts, perform financial analysis, or articulate accounting policies.[17]

46. It is well established that hearsay evidence is deemed inadmissible in a proceeding where the nature of the orders sought is final.[18]

47. Deloitte was chosen by the Bank as its Financial Advisor specifically for the purpose of assessing the financial strength of the Respondent Companies. It was open to the Bank to obtain and provide direct evidence from Deloitte substantiating the Bank's transparency, operational, and management concerns but the Bank chose instead to rely on inadmissible hearsay evidence provided by Mr. Pai.

48. The Respondents submit that the conclusions drawn by Mr. Pai in his affidavit are inaccurate and unwarranted. Further, the Bank's conclusions with respect to the Company's management and accounting capabilities are based entirely on inadmissible hearsay evidence and therefore must not be relied upon in assessing whether it is 'just and convenient' to appoint a receiver in this case.

49. In addition, as was the case in *Computershare Trust*[19] the Bank's concerns with lack of disclosure of information and documents can be properly addressed by means of a court order mandating the Respondent Companies to disclose all necessary documentation within a stipulated timeline. This will amount to an alternative and less intrusive remedy as endorsed by the Court in *Schmidt* and *Mirage Trading*.

<u>There is no risk to the Bank's security</u>

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[15] Affidavit #1 of Raymond Pai made on July 16, 2026 at paras 42-43, 45-46, 50-51, 60, 69, 73-76
[16] *Ibid* at para 75.
[17] *Ibid*.
[18] *Elite Mortgage Corp. v Derewenko*, 2019 BCCA 125 (CanLII) at para 28; *GC Capital Inc. v Westfield Business Centre Ltd.*, 2024 BCSC 2396 (CanLII) at para 8.
[19] *Supra* note 10 at paras 22-29.

50. The appraised values of the two (2) units comprising the Ontario Property as of October 24, 2025 was as follows:

(a) 2520 Bristol Circle, Oakville: **$7,225,000.00**

(b) 2528 Bristol Circle, Oakville: **$5,225,000.00**

51. The appraised value of the BC Properties, as of March 10, 2023, was as follows:

(a) 3128 – 20800 Westminster Highway, Richmond: **$1,565,000.00**

(b) 204/205/206 – 8291 92 Street, Delta: **$7,450,000.00**

52. Given the total amount of Indebtedness, the Respondents submit that it is sufficiently secured against the BC Properties and the Ontario Property and there is no evidence of any jeopardy to the Bank's security.

53. Further, there is no evidence of wastage of assets by the Respondent Companies and therefore an order allowing a receiver to manage the Respondent Companies, or an order allowing a receiver to take over the BC Properties and the Ontario Property, is unwarranted at this stage.[20]

An immediate appointment of receiver is not 'just and convenient'

54. The Respondents submit that appointment of a receiver in this case is not just and convenient because:

(a) the defaults with respect to the Goshu Loan and 248 Ontario Loan, including the Goshu June Payment Default, have either been cured, or will be cured by the hearing of this Petition;

(b) the Indebtedness is likely to be paid in its entirety upon materialization of the intended sale of the Business, which is expected to occur in a few months' time;

(c) there is no evidence of jeopardy to the Bank's security or wastage of assets by the Respondents; and

(d) the Bank's stated concerns with respect to transparency, management, and operational issues are unwarranted and based on inadmissible hearsay evidence.

[20] *Ibid* at para 51.

55. This Court has previously recognized that the costs of appointment of a receiver, which are ultimately borne by the debtor(s), can be substantive.[21] Given that there is no evidence of real risk to the Bank's security and there is further no evidence of wastage of assets by the Respondents, and considering the impending sale of the Business, an immediate appointment of a receiver with wide ranging powers is neither just nor convenient.

56. The Respondents are willing and have offered to make payment of all outstanding arrears and, in addition, have offered to pay a sizable lumpsum amount towards the Indebtedness. This militates against immediate appointment of a receiver.[22]

57. Further, as the relief sought by the Bank includes an order for sale of the Ontario Property and the BC Properties, the Respondents' equity of redemption is engaged and an order for appointment of receiver, if warranted, should be delayed by a period of at least four (4) months from the date of the order. A similar conclusion was reached by this Court in *The Bank of Nova Scotia v Sidhu*[23].

58. If the Court is convinced that appointment of a receiver is warranted in this case, as was the case in *Sidhu*[24], a less intrusive order is both available and appropriate.

Part 6: MATERIAL TO BE RELIED ON

1. Affidavit #1 of Kavinder Dhillon made August 31, 2026.

Date: August 31, 2026

Raminderpal Singh

Signature of Lawyer for Petition Respondents
Raminder Arora

Petition Respondent's address for service: c/o Raminder Arora
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Name of the Petition Respondent's lawyer, if any: Raminder Arora

21 *Ibid* at para 52.
22 *Maple Trade*, *supra* note 3 at para 27.
23 *Supra* note 5 at paras 40-49.
24 *Ibid* at paras 50-62.