

COURT FILE NUMBER Q.B.G. 1337 of 2020  
COURT COURT OF QUEEN'S BENCH FOR SASKATCHEWAN  
JUDICIAL CENTRE SASKATOON  
PLAINTIFF/APPLICANTS **BANK OF MONTREAL**  
DEFENDANTS/RESPONDENTS **TYLER SMITH, PAMELA SMITH, SMITH  
NORTHERN RANCHING, AND 101197829  
SASKATCHEWAN LTD.**  
DOCUMENT **FIFTH REPORT OF DELOITTE RESTRUCTURING  
INC., IN ITS CAPACITY AS COURT APPOINTED  
RECEIVER OF TYLER SMITH, PAMELA SMITH,  
SMITH NORTHERN RANCHING, AND 101197829  
SASKATCHEWAN LTD.**

June 3, 2021

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS  
DOCUMENT

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## INTRODUCTION

1. On November 19, 2020, Bank of Montreal (“**BMO**” or the “**Plaintiff**”) made an application to the Court of Queen’s Bench for Saskatchewan (the “**Court**”) seeking an order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3, as amended (the “**BIA**”), section 65(1) of *The Queen’s Bench Act*, 1998, SS 1998, c Q-1.01, and section 64(8) of the *Personal Property Security Act*, 1993, SS 1993, c P-6.2, to appoint Deloitte Restructuring Inc. (“**Deloitte**”) as receiver (the “**Receiver**”), without security, of all assets, undertakings and properties of Tyler Smith, Pamela Smith, Smith Northern Ranching, and 101197829 Saskatchewan Ltd. (collectively the “**Debtors**” or “**Smith Northern Ranching**”) acquired for or used in relation to the business carried on by the Debtors (the “**Property**”), specifically excluding any real property of the Debtors (the “**Lands**”). On December 1, 2020 (the “**Date of Receivership**”), the Honourable Justice R. S. Smith granted an order (the “**Receivership Order**”) appointing Deloitte as Receiver in respect of the Property. A copy of the Receivership Order and other information regarding the receivership proceedings can be accessed on the Receiver’s website at [www.insolvencies.deloitte.ca/en-ca/smithnorthernranching](http://www.insolvencies.deloitte.ca/en-ca/smithnorthernranching) (the “**Receiver’s Website**”).
2. This report constitutes the fifth report of the Receiver (the “**Fifth Report**”) and is being filed in support of the Receiver’s application to this Honourable Court on June 3, 2021, for advice and direction with respect to the possible discharge of the Receiver, including without limitation, the following:
  - (a) Approval of the reported actions of the Receiver since the filing of the supplement to the fourth report on May 7, 2021 (the “**Supplement to the Fourth Report**”) in respect of administering these receivership proceedings;
  - (b) Approval of the BMO Distribution (as defined below);
  - (c) Approval of the fees and disbursements of the Receiver and its legal counsel; and
  - (d) Approval of the Receiver’s Statement of Receipts and Disbursements for the

period December 1, 2020 to June 2, 2021.

## TERMS OF REFERENCE

3. In preparing this Fifth Report, the Receiver has relied upon unaudited financial information, the books and records of the Debtors, and discussions with Tyler Smith (“**Mr. Smith**”), Pamela Smith (“**Mrs. Smith**”) (collectively the “**Smiths**”) and their financial advisors, interested parties, and the stakeholders of the Debtors.
4. The financial information of the Debtors has not been audited, reviewed or otherwise verified by the Receiver as to its accuracy or completeness, nor has it necessarily been prepared in accordance with generally accepted accounting principles and the reader is cautioned that this Fifth Report may not disclose all significant matters about the Debtors or their financial position. Additionally, none of the Receiver’s procedures were intended to disclose defalcations or other irregularities. If the Receiver were to perform additional procedures or to undertake an audit examination of the financial statements in accordance with generally accepted auditing standards, additional matters may have come to the Receiver’s attention. Accordingly, the Receiver does not express an opinion nor does it provide any other form of assurance on the financial or other information presented herein. The Receiver may refine or alter its observations as further information is obtained or brought to its attention after the date of this Fifth Report.
5. The Receiver assumes no responsibility or liability for any loss or damage occasioned by any party as a result of the circulation, publication, reproduction or use of this Fifth Report. Any use which any party makes of this Fifth Report, or any reliance or decision to be made based on this Fifth Report, is the sole responsibility of such party.
6. Unless otherwise stated, all monetary amounts contained in this Fifth Report are expressed in Canadian dollars.
7. Capitalized terms used in this Fifth Report but not defined herein are as defined in the Receivership Order, the first report of the Receiver dated January 8, 2021 (the “**First Report**”), the second report of the Receiver dated February 1, 2021 (the “**Second Report**”), the third report of the Receiver dated March 29, 2021 (the “**Third Report**”),

the fourth report of the Receiver dated April 22, 2021 (the “**Fourth Report**”), and the Supplement to the Fourth Report.

## **RECEIVER’S NOTICE**

8. In a Fiat dated May 31, 2021, attached hereto as Appendix A (the “**May 31, 2021 Fiat**”), the Honourable Justice G. A. Meschishnick ordered the following in respect of a distribution and the discharge of the Receiver:
  - (a) That the funds in the receivership estate be paid out to BMO; and
  - (b) That the Receiver’s discharge be considered only after (i) all other stakeholders are made aware of the potential realizations from the Debtors’ Equipment (as defined below) and from successfully defending the canola contract disclaimer decision of the Court dated February 18, 2021 (the “**Disclaimer Order**”); and (ii) that the Receiver intends to abandon said potential realizations and be discharged unless an interested party agrees to underwrite the continuing costs of the receivership (collectively the “**Receiver’s Notice**”).
  
9. With respect to the Receiver’s Notice, the May 31, 2021 Fiat provided the Receiver with the following two (2) options (at paragraph 53 thereof):
  - (a) *Survey the stakeholders to see if anyone or more of them are prepared to secure the ongoing costs of this receivership. If it is satisfied it has done so with proper disclosure of the distribution (or proposed distribution, as the case may be) to BMO and the remaining potential realization, and no one is prepared to secure the costs, the Receiver shall so advise and provide me with a draft order for its discharge. In conducting this survey of the stakeholders, the Receiver shall make it clear that it will seek a discharge (providing the terms of a draft discharge order) if no stakeholder comes forward to underwrite the Receiver’s ongoing costs; or*
  - (b) *If it finds it will be more time and cost efficient, it can apply by Notice of Applicant accompanied by proof of service of the Notice of Applicant and the*

*information set out in paragraph 51(a). If the Receiver pursues this option, the time for service of the Notice of Application and supporting material is abridged such that service with two clear days notice shall be good and sufficient service.*

10. The Receiver is providing the Receiver's Notice to all parties on the service list in these proceedings by way of its Notice of Application dated June 3, 2021, which contains, among other things, the following:
  - (a) The Receiver's inquiry as to whether any stakeholder is prepared to secure the ongoing costs of the receivership;
  - (b) The Receiver's proposal to distribute the sum of \$1,911,997 to BMO (the "**BMO Distribution**");
  - (c) An explanation that the remaining two (2) potential sources of recovery to the receivership estate if the receivership continues (which amounts will not be realized if the Receiver is discharged) would be the following:
    - i) The sum of \$500,561.72 due and owing by Richardson Pioneer Limited ("**Richardson Pioneer**") to the Receiver pursuant to the Disclaimer Order, which is subject to appeal by Richardson Pioneer and, if the appeal is successful, will result in no further recovery for the receivership estate; and
    - ii) The Debtors' Equipment to the extent that the Equipment is not exempt from seizure pursuant to provincial law, and is not subject to first-priority claims by lessors and/or parties with perfected security interests;
  - (d) The statement that, if no stakeholder (or group of stakeholders) agrees to underwrite the ongoing costs of the receivership, the Receiver intends to seek its discharge at the June 8, 2021 Court hearing (in accordance with the May 31, 2021 Fiat); and
  - (e) The statement that, if any stakeholder (or group of stakeholders) is prepared to underwrite the ongoing costs of the Receivership, such stakeholder(s) must

deliver, at or before 5:00PM (Mountain Time) on June 7, 2021, the sum of \$350,000.00 (the “**Funds Advanced**”) to the Receiver’s legal counsel, MLT Aikins LLP (“**MLT Aikins**”), with the Funds Advanced to be dealt with and secured as Receiver’s Borrowings pursuant to paragraph 20 of the Receivership Order.

## **REMAINING ASSETS**

11. As detailed in the Supplement to the Fourth Report, the remaining unrealized Property in the receivership proceedings includes the following:
  - (a) Leased equipment (valued at approximately \$2.3 million by the Debtors) and owned equipment (valued at approximately \$0.9 million by the Debtors) (collectively the “**Equipment**”). The value in the Equipment that may be available to the receivership estate cannot be quantified at this time, as it is not clear which, if any, of the Equipment is exempt from seizure pursuant to provincial law. The question of whether and to what extent such exemptions exist will need to be determined by the Court at a future hearing; and
  - (b) Outstanding canola proceeds (valued at approximately \$0.5 million, being the difference between the contracted price and the delivery date opening spot market price) owing by Richardson Pioneer (which is the subject of an appeal by Richardson Pioneer in these proceedings) (the “**Canola Appeal**”).

## **FEES AND DISBURSEMENTS OF THE RECEIVER AND ITS LEGAL COUNSEL**

12. Pursuant to paragraph 18 of the Receivership Order, the Receiver and its legal counsel shall pass their accounts from time to time. The Receiver is of the view that the primary party of interest is BMO given that they hold a priority interest ahead of the other secured and unsecured creditors over all of the Property of the Debtors (subject to a number of prior registrations against specific serial numbered goods and to commercially reasonable assumptions and qualifications). BMO has been served with this Fifth Report and has been provided with all invoices of the Receiver within these proceedings.

13. Attached as Exhibit B is a summary of the invoices of the Receiver for fees and disbursements incurred during the course of the proceedings for the period April 5, 2021 to May 31, 2021. The Receiver's accounts total \$46,095 in fees and disbursements, excluding Goods and Services Tax ("GST"). The Receiver estimates that its fees and disbursements to finalize this Fifth Report, prepare for and attend the June 8, 2021 hearing, and to finalize the Receiver's discharge will approximate \$15,000 (plus GST) (the "**Estimated Receiver Fees**").
14. The fees charged by the Receiver are based on the amount of professional time required at hourly billing rates, which vary depending upon the experience level and location of professionals involved. The average blended hourly rate charged by the Receiver in these proceedings for services rendered to date is \$410 per hour. The rates charged by the Receiver are the normal rates and charges for engagements of this nature, and are comparable to the rates charged for the provision of services by other professional firms providing specialized financial advisory services.
15. The Receiver is of the view that its fees and disbursements are fair and reasonable in the circumstances and have been duly rendered in response to the required and necessary duties of the Receiver in accordance with the provisions of the Receivership Order.
16. Attached as Exhibit C is a summary of the invoices of the Receiver's legal counsel for fees and disbursements incurred during the course of the proceedings for the period April 1, 2021 to May 31, 2021. The accounts total \$49,779 in fees and disbursements excluding Provincial Sales Tax and GST. The Receiver's legal counsel estimates that its fees and disbursements to prepare for and attend the June 8, 2021 hearing and to assist with finalizing the Receiver's discharge will approximate \$15,000 (plus taxes) (the "**Estimated Legal Fees**").
17. The fees charged by MLT Aikins are based on the amount of professional time expended at hourly billing rates, which vary depending upon the experience level of professionals involved. The average blended hourly rate charged by MLT Aikins in the invoices attached to this Fifth Report is \$503 per hour. The rates charged by MLT Aikins are the normal rates and charges for engagements of this nature and are comparable to the rates

charged for the provision of services by other law firms providing legal advice and legal services to insolvency professionals in matters of this nature.

18. The Receiver has reviewed the invoices rendered by its legal counsel and finds them reasonable and validly incurred in accordance with the provisions of the Receivership Order.

## **STATEMENT OF RECEIPTS AND DISBURSEMENTS**

19. The Receiver has prepared a Statement of Receipts and Disbursements for the period December 1, 2020 to June 2, 2021 for the Debtors (the “**Final R&D**”), a copy of which is attached hereto as Appendix D. Total receipts were \$2,586,083 and total disbursements were \$721,926, resulting in \$1,864,157 being held in trust by the Receiver as at the date of this Fifth Report.
20. Included with the Final R&D are the following estimated receipts and disbursements (the “**Estimated Disbursements**”) yet to be realized and incurred by the Receiver:
  - (a) Receipt of the residual Lands Sale proceeds of approximately \$86,543, currently being held in trust by the Debtors’ legal counsel (as ordered by the May 31, 2021 Fiat);
  - (b) Final insurance and utility costs of approximately \$5,000;
  - (c) Final amounts owing by the Debtors on account of GST assessments of approximately \$1,302; and
  - (d) Final amounts owing on account of Estimated Receiver Fees and Estimated Legal Fees of approximately \$32,400.
21. As at the date of this Fifth Report, the Receiver has not made any interim distribution(s) to BMO. The Receiver has been provided with a payout statement, inclusive of legal fees, as at May 31, 2021, detailing that the BMO indebtedness approximated \$2,001,814 (the “**BMO Indebtedness**”).

22. The Receiver has been advised by BMO that in order to facilitate the discharge of the Receiver and the conclusion of the receivership proceedings, BMO is prepared to accept the BMO Distribution and not to pursue the shortfall. BMO has clarified that the amounts owing by the Debtors to BMO Transportation Finance for one (1) piece of equipment will remain the ongoing obligation of the Debtors.

#### **ADVICE AND DIRECTION**

23. As at the date of this Fifth Report, the Receiver is not aware of any stakeholder(s) prepared to provide the Funds Advanced to continue the receivership proceedings. Accordingly, the Receiver is seeking the advice and direction of the Court respecting its discharge. The Receiver is prepared to either be discharged or to continue with its mandate under the Receivership Order (the “**Receiver’s Mandate**”), provided adequate provision is made for the ongoing costs of the administration of the proceedings.
24. If no stakeholder(s) is prepared to provide the Funds Advanced in accordance with the Receiver’s Notice to facilitate the realization of the Equipment and the Canola Appeal, the Receiver believes that, other than completing the BMO Distribution and certain administrative matters, the Receiver’s Mandate is substantially complete. Accordingly, for the reasons outlined above, the Receiver would then be in a position to respectfully request that the Court provide an Order:
- (a) Approving all activities, actions, and proposed courses of action of the Receiver (collectively, the “**Actions of the Receiver**”) since the filing of the Supplement to the Fourth Report in relation to the discharge of its duties and the Receiver’s Mandate pursuant to the Orders of this Court in these proceedings, as such actions of the Receiver are more particularly described in this Fifth Report;
  - (b) Approving the fees and disbursements of the Receiver and its legal counsel for the period April 4, 2021 to May 31, 2021, and April 1, 2021 to May 31, 2021, respectively;
  - (c) Approving the Estimated Receiver Fees and Estimated Legal Fees to complete the within application and to finalize the receivership proceedings, without the

requirement of taxation or formal passing of accounts;

- (d) Approving the Receiver's Final R&D and Estimated Disbursements;
- (e) Approving the BMO Distribution;
- (f) Approving payment of any amounts remaining from the Estimated Disbursements to BMO on account of the priority of the BMO security up to the amount of the BMO Indebtedness;
- (g) That the Receiver be discharged as Receiver, provided that notwithstanding such discharge:
  - i) The Receiver remain Receiver for the performance of such routine administrative tasks as may be required to complete the administration of these proceedings; and
  - ii) The Receiver continue to have the benefit of the provisions of all Orders made in these proceedings, including all approvals, protections, and stays of proceedings in favor of Deloitte in its capacity as Receiver; and
- (h) That Deloitte be discharged from any and all liability, save and except for any liability arising out of gross negligence or willful misconduct on the part of the Receiver; and
- (i) Granting such further and other relief that the Court considers just and warranted in the circumstances.

All of which is respectfully submitted at Winnipeg, Manitoba, this 3<sup>rd</sup> day of June 2021.

**DELOITTE RESTRUCTURING INC.**

In its capacity as Receiver of  
Tyler Smith, Pamela Smith, Smith Northern Ranching,  
and 101197829 Saskatchewan Ltd.,  
and not in its personal capacity.



Per: Brent Warga, CPA, CA, CIRP, LIT  
Senior Vice-President

**Appendix A – May 31, 2021 Fiat**

*Bank of Montreal v Tyler Smith et al*

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

FIAT - May 31, 2021 - MESCHISHNICK J.

[1] A number of matters came before me for review and consideration at the hearing on May 11, 2021. They arose out of the proposal to order a distribution to the Bank of Montreal [BMO] and a discharge of the Receiver. That application engaged a number of issues:

- a. What amount from the proceeds of the sale of certain lands, as defined below, should be distributed to Farm Credit Corporation [FCC];
- b. Was Richardson Pioneer Limited [Richardson] entitled to a marshalling of personal property ie proceeds of the sale of grain before a distribution could be made to BMO which in turn raised the question of whether Richardson had a perfected security interest in the grain;
- c. Should the Receiver be discharged when:
  - i. There remained to be realized a payment on the sale of grain to Richardson of approximately \$500,000 which depended on the Receiver successfully defending an appeal of a judgment of this court; and

- ii. When it had not been determined with any certainty if there was any realizable non-exempt equity in the equipment owned or leased by the parties in receivership [collectively “Debtors”].

### **Payment to FCC**

[2] This issue arises because of my determination that the net equity in the land owned by Pamela and Tyler Smith [Smith’s] was an asset within the definition of Property in the Receivership Order made by this court December 1, 2020. Entitlement to that equity would of course require consideration of the claims of secured creditors to that equity.

[3] It is convenient to define certain terms:

- a. “PA Lands” refers to three quarter sections of land sold by the Smith’s in December of 2020;
- b. “Duck Lake Lands” refers to four quarters sections of land sold by the Smith’s in March of 2021 for \$700,000.
- c. “2007 Mortgage” refers to a mortgage granted by the Smith’s to FCC in December of 2007 having a principle amount of \$150,500 which was registered against the Duck Lake Lands, the SE-20-45-03-W3 [SE 20] and the SW-20-45-03-W3 [SW 20];
- d. “2011 Mortgage” refers to a mortgage granted by the Smith’s to FCC in 2011 having a principle amount of \$400,000 which was registered against SW 20;
- e. “2016 Mortgage” refers to a mortgage granted by the Smith’s to FCC in 2016 having a principle amount of \$360,000 which was registered against the PA Lands;
- f. “2018 Mortgage” refers to a mortgage granted by the Smith’s to FCC in April of 2018 having a principle sum of \$350,000 which was registered against both the PA Lands and the Duck Lake Lands.

[4] Net proceeds of the sale of the PA Lands in the amount of \$618,512.41 were paid to FCC to totally discharge the 2016 Mortgage and to discharge the 2018 Mortgage from those lands. The 2018 Mortgage remained registered against the Duck Lake Lands.

[5] The matter of the disposition of the proceeds of the sale of the Duck Lake Lands came before me prior to the completion of that sale. FCC took the position that it was entitled to collect all of those sale proceeds (all amounts include principal, interest and fees):

- a. The amount of the unpaid advance made in conjunction with the granting of the 2007 Mortgage FCC said that amount at March 18, 2021 was \$175,050.33;
- b. The amount of the unpaid advance made in conjunction with the granting of the 2011 Mortgage FCC said that amount at March 18, 2021 was \$292,665.48; and
- c. The remaining amount owing under an agreement with the Smith's [Repayment Agreement] where FCC agreed to forbear enforcement of its creditor rights if certain payments were made on stipulated dates and on the condition that the 2018 Mortgage was granted to secure those payments. FCC said the amount owing at March 18, 2021 was \$128,968.62.

[6] At the time of the sale of the Duck Lake Lands FCC said, then, that the total owing on all loans advanced to the Debtors was \$597,414.65.

[7] Proceeds from the sale of the Duck Lake Lands were partially distributed with the consent of the parties. A payment of \$305,209.97 was made to FCC. The Smith's lawyer holds \$337,754.82 of those sale proceeds. It is entitlement to these funds that is in issue.

[8] The consent order authorizing the partial payment to FCC along with the payment of other closing costs and a retainer to the Debtor's lawyer was made to facilitate and not jeopardize the closing of the sale of the Duck Lake Lands. The sale had a specified closing date and the vendors needed to be able to ensure the delivery of clear title which meant that in order to accept the sale proceeds they had to be sure they could discharge of the 2018 Mortgage. It was not the intention of that order to open FCC to an argument that the discharge would prevent it from continuing to claim that the 2018 Mortgage registered against the Duck Lake Lands secured all outstanding loans to the Debtors.

[9] FCC argues it is entitled to collect the amounts set out in paragraph 6 out of the proceeds of the sale of the Duck Lake Lands. In support of its arguments it relies on the terms of the mortgages and certain provisions of *The Land Titles Act*, 2000, SS 2000, c L-5.1.

[10] It is common ground that each of mortgages in issue contain a prescribed interest rate and the following terms:

**1. DEFINITIONS**

...

**“Loan Agreement”** means any Promissory Note, Loan Approval and Acceptance, Loan or Credit Agreement, Guarantee, Covenant, Indemnity or any similar agreement evidencing a Loan between You and Us to be secured by this Mortgage. It includes any Guarantee signed by You guaranteeing the repayment of a Loan made by Us to a third party, which contingent indebtedness under the Guarantee is secured by this Mortgage.

**“Loan Amount”** means the outstanding balance of any Loan or Guarantee after demand or of any draw under any Loan. This balance could include unpaid principal, defaulted payments, interest on defaulted payments, Other Charges and interest on Other Charges.

**“Loan”** means all loans made by Us to You from time to time and secured by this Mortgage, including the Loan made at the time this Mortgage is signed, and all loans which We have made to others which You have guaranteed or covenanted to pay to Us or for which You have otherwise indemnified Us, and which are secured by this Mortgage. Loans may be agreed to in Loan Agreements. The Specific Mortgage Terms attached set out the maximum Principal Amount of the Loan and the maximum interest rate We will charge You on the Loan.

...

**2. WHAT THIS MORTGAGE DOES**

By signing the Specific Mortgage Terms attached You acknowledge that You are indebted to Us or may become indebted to Us and agree to repay the Principal Sum or the Loan Amount outstanding with interest. You also mortgage all of Your estate and interest in the Property to Us, as additional and collateral security for the repayment of all the Loan Amounts up to the Principal Sum, plus interest and Other Charges. You also represent to Us that Your Loan and all related Loan Agreements have been entered into for primarily business purposes. [Emphasis Added]

[11] The provisions of the *Land Titles Act* relied on by FCC are:

Priority

27(1) Transfers or interests that are registered with respect to or affecting the same title or interest have priority, the one over the other,

according to the time assigned to them at the land titles registry, and not according to:

- (a) the date of execution of the instrument;
  - (b) the date of execution of the application;
  - (c) the time of submission of the application to the land titles registry; or
  - (d) the order in which they appear on title
- (2) The registration of an interest based on a mortgage for a specific principal sum has priority in accordance with subsection (1) for all advances and obligations secured pursuant to the terms of the mortgage, notwithstanding that the advances and obligations are made or incurred after the registration of any other interest.
- (3) The registration of an interest based on a mortgage that provides for readvances of credit up to a specific principal sum has priority in accordance with subsection (1) for all advances, readvances and obligations secured pursuant to the terms of the mortgage notwithstanding that:
- (a) the advances, readvances and obligations are made or incurred after the registration of any other interest; and
  - (b) at any time during the term of the mortgage there may not be any outstanding advances, readvances or obligations to be secured.
- (4) Subsections (2) and (3) do not affect any right acquired pursuant to *The Builders' Lien Act* or *The Personal Property Security Act, 1993*.  
...

[12] FCC has also drawn to my attention some important mortgage law principles citing *Farm Credit Corp. v Nelson* (1993), 6 WWR 518, (Sask QB) where Justice Baynton said:

20 In considering the authorities cited by counsel, it is essential to keep in mind that mortgages are now creatures of statute. Substantive mortgage law is no longer found primarily in the common law, but in the provisions of the legislation that has been enacted in each separate jurisdiction. This is true not only for the current mortgage law in England, but as well for the current mortgage law in Canada. As property and civil rights in Canada are a provincial matter, each province has enacted its own substantive law respecting mortgages.

and each has its own land titles and registration system. Because of this legislative diversity, a court decision in one jurisdiction is not necessarily an authority respecting a mortgage issue in another jurisdiction.

21 Even the basic legal principles of common law mortgages apply to a lesser extent to some jurisdictions than to others. The concepts and principles respecting land and mortgages that had been developed over centuries through the common law in England, had a significant impact on the statutes that were subsequently enacted in the 19th century to govern land registration and mortgage transactions. Many of these common law concepts and principles inherent in the early English legislation were incorporated in varying degrees into the legislation of several Canadian provinces. For example, both Ontario and British Columbia "imported" into their legislation the concept (albeit a notional one) that a mortgage involved the conveyance of the land and a redemption involved the reconveyance of the land.

[13] Justice Baynton also reviewed the issue of the proper approach to the interpretation of mortgage provisions in this province:

43 A statutory mortgage under the Torrens system should be viewed not as a common law mortgage in statutory clothing, but as a new statutory instrument created by the legislation. Victor DiCastrì, *Thom's Canadian Torrens System* (2nd ed.), at p. 491 puts it this way in referring to the Manitoba case of *Smith v. National Trust Co.* (1912), 1 W.W.R. 1122:

The rights and powers of a mortgagee under the Torrens system were reviewed in detail by the Supreme Court of Canada in *Smith v. National Trust Co.* .. The majority opinion viewed the statutory mortgage not as a common-law mortgage in statutory clothing but as a new statutory instrument created by and primarily interpreted by *The Real Property Act*; in approaching the question of whether or not any particular right or power is enforceable or exercisable under such a statutory mortgage *the rule of interpretation is not first to consider the same right or power under a common-law mortgage*, and then to see if it is effected or forbidden by the Act as suggested in the dissenting judgment of Anglin, J. [at p. 665], *but rather to look at the Act to see whether the right or power is given either by express words or by implication, paying particular attention to the "essential difference" between the common law and statutory mortgage*. If the statute does not expressly or by implication give the right or power then it does not exist. [emphasis added; footnotes omitted.]

Duff J. (as he then was) at p. 641 [45 S.C.R. 618] sums it up in this fashion:

... it is a question to be determined upon an examination of the statute as a whole, how far the rights of the parties are to be governed by the rules of law which, apart from the statute, are applicable as between mortgagor and mortgagee.

44 The comment of McGuire, C.J. in *Colonial Investment & Loan Co. v. King* (1902), 5 Terr. L.R. 371 at 379-80, is germane as well to this issue:

But under our Land Titles Act the mortgage does not operate as a transfer of title, but only as security. The mortgagor remains the owner of the legal estate. The mortgagee merely has a lien until payment, and in case of default he can proceed to get an order either to sell the land or to have the title thereto vested in himself. Upon getting a final order vesting the title in him he can obtain from the registrar of land titles a certificate which gives him an absolute title freed from all claim by the mortgagor. Under these circumstances *one must be careful when endeavouring to apply to mortgages here the rules and principles laid down, say in England or Ontario, as governing the rights of parties to a mortgage there.* [emphasis added]

45 Because all registered mortgages under Saskatchewan law are legal mortgages, they ...must be interpreted keeping in mind this fundamental legal distinction between Saskatchewan mortgages and common law mortgages or statutory mortgages in jurisdictions that have incorporated these common law concepts in their legislation.

[14] FCC argues that there is no ambiguity in the terms of the mortgages. Those terms provide that all “Loans” made from “time to time” are secured by the mortgages. It says that the right to take mortgage security for all loans made from time to time is expressly or by implication found in s. 27(3) of the *Land Titles Act* when it recognizes that a mortgage can not only secure “... advances, readvances and obligations secured pursuant to the terms of the mortgage ...” but will also have priority for those amounts notwithstanding that they may be made after the registration of another interest or that at some point in time after the registration of the mortgage there may not have been any amount outstanding.

[15] The Receiver largely supports FCC’s position. It says that the mortgage provisions confirm that the mortgages are collateral in nature and secure all loans made by FCC. The Receiver, though, says that there is a cap to the amount that the mortgages secure and the cap is the “stated amount” contained in the mortgages at the time discharge is sought. That is, since the stated amounts of the 2011 Mortgage and the 2018 Mortgage totalled \$500,500 that is the cap amount that was secured by those mortgages at the time of discharge. It agrees with FCC that the amount that could be collected depended on the amounts outstanding at the time discharge was requested and that the cap amount was not reduced by prior payments which in this case included a

substantial payment against the 2018 Mortgage from the proceeds of the sale of the PA Lands.

[16] In other words, the Receiver is of the opinion that the maximum amount that FCC could collect at the time of the sale of the Duck Lake Lands was \$500,500 plus interest and fees.

[17] Richardson opposes the repayment of the amount advanced in conjunction with the granting of the 2011 Mortgage from the sale proceeds of the Duck Lake Lands. It does not dispute that the mortgages are collateral in nature and in its written submissions dated May 12, 2021 acknowledges that at least the 2011 Mortgage secures all debts owed to FCC. But it points out that the 2011 Mortgage did not take the Duck Lake Lands as security for the indebtedness. In addition, it argues that the cap amount of the 2007 Mortgage and the 2018 Mortgage must be reduced by the payments previously made on the 2018 Mortgage from the sale proceeds of the PA Lands.

[18] There is also an inequity in all of this says Richardson. Using funds from the sale of the Duck Lake Lands which would otherwise be available to creditors like Richardson to retire the amount secured by the 2011 Mortgage will clear the title the SW 20 which it appears is an exempt homestead. If the amount secured by the 2011 Mortgage remains unpaid FCC is not prejudiced as it remains fully secured for that amount by virtue of the 2011 Mortgage. The Smith's end up with clear title to a valuable asset at the expense of their creditors.

#### **Analysis: FCC's Entitlement to Sale Proceeds**

[19] I agree with FCC's position as modified and limited as suggested by the Receiver.

[20] The relevant provisions of the 2007 Mortgage and the 2018 Mortgage clearly show that the mortgages are collateral in nature in relation to the debts that they secure. The debt advanced in conjunction with the granting of the 2011 Mortgage is clearly a "Loan" as defined in those mortgage terms. There is no provision in the rules regarding statutory mortgages as set out in the *Land Titles Act* preventing a mortgage from securing all loans made to a borrower. Indeed, s. 27(3), when it says that the registration of a mortgage with a specified principle sum has priority for "all obligations secured pursuant to the terms of the mortgage ...", implies that a mortgage can secure a variety of obligations which would include debts not directly associated with or advanced at the time the mortgage is granted.

[21] In addition, s. 27(3)(b) infers that the cap amount secured by the 2007 Mortgage and the 2018 Mortgage do not get reduced by repayment of some or all of the debt secured by the mortgages as that subsection provides that the priority of the mortgage

for advances continues, to the “specified principle sum”, even if at some point while the mortgage remains registered there is no debt owing.

[22] I conclude that the 2007 Mortgage and the 2018 Mortgage secures the payment of the loan made to the Smith’s by FCC that is also secured by the 2011 Mortgage. But the amount to be paid to FCC is limited to the “specified principle sum[s]” of those mortgages of \$500,500 plus interest and costs which totalled, at the time the discharge of those two mortgages was sought, \$556,762.41. Deducting from that amount the interim payment of \$305,209.97 that was already made to FCC from the sale proceeds of the Duck Lake Lands FCC is entitled to be paid from the funds held in trust by the Smith’s lawyer the further sum of \$251,212.27. The balance of the funds held by the Smith’s lawyer not required to pay the closing costs and the retainer to the Smith’s lawyer previously ordered shall be remitted to the Receiver. In the most recent version of the draft order (Amending Receivership Order) that amount was said to be \$86,542.55.

[23] The inequity in these circumstances raised by Richardson could have been resolved in its favour if the doctrine of marshalling would have been applied. But, it does not as that doctrine would only apply to force FCC to look to its security under the 2011 Mortgage if there were other registered interests on the Duck Lake Lands, *St. Gregor Credit Union Ltd. v Zimmer*, 2004 SKQB 75 at para 17 and 45(b).

[24] In addition, the inequity referred to by Richardson does not arise from the payout of the loan, made when the 2011 Mortgage was granted, from the proceeds of the sale of the Duck Lake Lands. The inequity, if it is one, arises for the exemption available to the Smith’s. The decision to protect some assets from execution is a policy choice. Fairness is not relevant. It is the purpose and intention of the legislation creating exemptions that governs, *Farm Credit Canada v Gustafson*, 2021 SKCA 38 at paras 75-80.

[25] If it were not for the exemption the claims of creditor’s like Richardson could still be satisfied by enforcement of those claims against the SW 20.

### **Marshalling of Realization on Personal Property**

[26] The Receiver reports that as of May 5, 2021 it realized from the sale of market grains \$1,055,606 and that does not include the possible realization of approximately another approximate \$500,000 if it is successful in defending Richardson’s appeal of the decision of Justice Scherman who allowed the Receiver to disclaim contracts calling for the sale of canola at a price lower than the market price [Disclaimer Decision].

[27] The Receiver has vetted BMO security and finds it to be valid and, subject to secured claims against serial numbered goods, enforceable as a first charge against present and after acquired personal property including grain.

[28] Richardson alleges that it has a valid security interest in grain which secures a debt of \$794,086.41 as of December 31, 2020. There are some outstanding questions as to the perfection and scope of this secured claim. For the purposes of analysis, it will be assumed that Richardson has a valid and enforceable security interest in the grain sold by the Receiver subordinate only to BMO's security.

[29] Richardson says that the marshalling doctrine should require BMO to look to other assets where it has a first charge to satisfy its claim leaving the grain available to Richardson. If that is the case Richardson says that a distribution should not be made to BMO until it is known what other realization proceeds are available to BMO.

### **Analysis: The Marshalling Issue**

[30] Ronald C.C. Cuming, Catherine Walsh & Roderick J. Wood, *Personal Property Security Law*, 2d ed ( Toronto : Irwin Law, 2012) [Cuming Walsh & Wood] at p. 676 report "... Although some courts initially took the view that the doctrine [of marshalling] is in conflict with the priority structure of the PPSA, more recently courts have indicated a willingness to apply the doctrine to PPSA security interests." The authors cite *National Bank of Canada v Malkin Metals Ltd.*, [1994] 4 WWR 707 (Sask CA) and *Surrey Metro Savings Credit Union v Chestnut Hill Homes Inc.*, (1997), 30 BCLR (3d) 92 [*Surrey*] as two of the cases supporting the application of marshalling to PPSA security interests.

[31] Assuming then, as well, that marshalling could apply in these circumstances the restrictions on the application of the doctrine come into play.

[32] Cumming Walsh & Wood also at p. 676 say that "... courts will marshal the securities to ensure that the maximum recovery is obtained without prejudicing the rights of the senior secured party".

[33] *Surrey*, citing and relying at para. 58 on Bruce Macdougall, *Marshalling and the Personal Property Security Act: Doing onto Others*, 28 UBC Law Review at p. 98 holds that the party who seeks marshalling has the onus of proving that the "... senior creditor will not be endangered or delayed and that the senior creditor will not have to litigate more because of the marshalling."

[34] The Receiver reports in the Supplement to the Fourth Court Report that:

- a. As of May 5, 2021, it had total receipts of \$2,586,083;
- b. As of May 5, 2021, it had total disbursements of \$669,668 which did not include Receiver's fees and disbursements after May 3, 2021 and the fees and disbursements of its counsel after April 30, 2021;
- c. As of May 5, 2021, the Receiver had \$1,917,415 available for distribution, but that amount did not include the \$86,542.55 it will receive as a result of this decision;
- d. That at April 23, 2021 the amount needed pay out to BMO was \$1,972,563.

[35] According to these numbers, when the receipts are totalled and the disbursements and proposed distribution to BMO paying out its claims in full is deducted, there remains just over \$30,000 to secure the Receiver's Charge.

[36] This analysis demonstrates that if some of the grain sale proceeds are marshalled to Richardson the Receiver must rely on other assets if BMO is not to be prejudiced.

[37] The Receiver reports that the only remaining assets capable of generating further proceeds are:

- a. From equipment some of which will be subject to perfected security interests other than BMO's. I notice in BMO's Notice of Intention to Take Possession of equipment served under s. 48 of *The Saskatchewan Farm Security Act*, SS 1988-89, c S-17.1 [*SFSA*] now filed with the Debtor's application for a hearing in QB 112 of 2021 in the Judicial Centre of Prince Albert that BMO claims the right to take possession of about 284 pieces of farm equipment. I also see that the Receiver in a variety of correspondence sent to creditors other than BMO who it permitted to initiate their own proceedings to begin the process of seizing the Debtor's farm equipment under the *SFSA*, that the Receiver identified that some of those secured claims may be unperfected and of those that were not there was approximately \$215,000 in equity after the payment of those secured claims. I am also aware that overall, the Debtor's estimated the value of their owed equipment to be 2.3 Million dollars and the value of leased equipment to be .9 Million dollars all of which will be subject to an exemption claim by the Smith's; and
- b. The outstanding canola proceeds to be paid by Richardson if it is unsuccessful in its appeal of the Disclaimer Decision.

[38] It would appear that BMO stands at risk of not being paid in full if BMO or the Receiver whose fees and costs are secured by the Receiver's Charge in priority to BMO, are required to monitor the realization of the equipment by those with perfected security interests to determine if there is any equity available to the Receiver. The same cost problem arises when BMO or the Receiver are required to review the Debtor's exemption claim and, if necessary, contest it.

[39] BMO will be subjected to a similar risk for the legal fees of its counsel and the Receiver's counsel to perfect and argue Richardson's appeal of the Disclaimer Decision.

[40] As alluded to earlier, BMO has taken, with the consent of the Receiver, proceedings to realize on the Debtor's equipment by serving notices under s. 48 of the *SFSA*. The Debtor's have applied for a hearing before this court under s. 50 of the *SFSA* and one has been scheduled for June 9, 2021 at 2:00 p.m. in the Judicial Centre of Prince Albert on court file QB 112 of 2021. No material as of yet has been filed by the Debtor's in support of their application but it is expected that a claim to exemptions will be one, if not the only, issue.

[41] As requested by the parties, I have been able to adjust my schedule to hear that matter if, in light these reasons, it proceeds.

[42] The obvious point to be made is that BMO is having to litigate to realize on equipment. If assets are marshalled in Richardson's favour BMO and the Receiver will also have to monitor and perhaps challenge other security interests claiming priority to BMO. They will also have to participate in the resolution of the Debtor's exemption claim.

[43] But it would appear equally obvious that if BMO is paid out there may well be additional equity in the Debtor's equipment subject to the exemption claim.

[44] Similarly, BMO and the Receiver will have to litigate Richardson's appeal of the Disclaimer Decision to secure additional funds to cover any amount to be marshalled to Richardson.

[45] The Richardson appeal of the Disclaimer Decision has another element to it that mitigates against equitable relief. If Richardson is successful in the appeal, no asset will be available to replace that which would be marshalled to Richardson. Because of the costs associated with the appeal, BMO is clearly at risk of not getting paid in full.

[46] If Richardson is unsuccessful, it will be paying approximately \$500,000 to the Receiver to cover the shortfall to BMO created by the marshalling of assets in Richardson's favour. There is no net gain to Richardson, but BMO and the Receiver would have had to litigate. BMO would be delayed in getting paid.

[47] Applying the principles that BMO ought not to be prejudiced in its efforts to be paid and to have to continue litigation to do so, Richardson has not met the onus of establishing that BMO will not be prejudiced if assets are marshalled in Richardson's favour. Its argument that a distribution should not be made to BMO would be dismissed.

[48] However, I notice that Cumming Walsh & Wood also suggest at pp. 676-677 that there is uncertainty as to how the doctrine of marshalling operates saying that "the more conventional view is that marshalling operates by subrogation" and that "... the caselaw in Canada has generally not recognized marshalling by compulsion". This issue was not explored by the parties in argument and, in turn, the consequences it would have in this proceeding if BMO was paid out and Richardson was to stand in BMO's shoes.

[49] This issue further complicates the continuation of this receivership as the only way to ensure that BMO is not prejudiced by marshalling seems to be paying it in full which leaves the Receiver in the precarious position of having to continue to perform its duties and obligations without the guarantee that there are sufficient assets to secure the Receiver's Charge.

### **Distribution and Discharge**

[50] I see no reason why a distribution should not be made to BMO paying it out in full and I am prepared to make that order. But, the proposal to do that was only one component of the application. The other component was a discharge of the Receiver. It does not appear, in the circumstances, that the distribution to BMO should be made unless the Receiver is also discharged as it may put the Receiver in a position where there are insufficient assets to secure the Receiver's Charge. If I am wrong in this analysis and the Receiver is prepared to make the distribution without a discharge it can advise me so and provide me with a draft order to that effect.

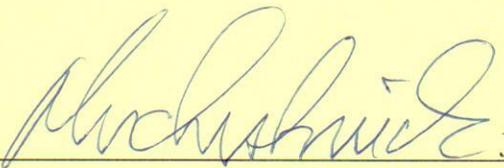
[51] I am not prepared to discharge the Receiver at this time. That order should not be made unless to all creditors and other stakeholders are aware that there remains potential realization from equipment and from successfully defending the Disclaimer Decision, and that the Receiver intends to abandon that realization and be discharged unless an interested party comes forward to underwrite the continuing costs of the Receiver. It may be that a creditor, a group of creditors or for that matter the debtors may be ready, willing and able to do so.

[52] Richardson can consider doing so as well if it wishes to pursue equity in the equipment. Interestingly, this would require Richardson to secure the costs of the Receiver to defend the Disclaimer Decision and, perhaps, to challenge Richardson's claim that it has a secured claim in grain and, then, whether its claim to marshalling through subrogation will be permitted.

[53] Because of the time pressure associated with perfecting the appeal of the Disclaimer Decision I will leave it to the Receiver to pursue one of two courses of action. It can:

- a. Survey the stakeholders to see if anyone or more of them are prepared to secure the ongoing costs of this receivership. If it is satisfied it has done so with proper disclosure of the distribution (or proposed distribution, as the case may be) to BMO and the remaining potential realization, and no one is prepared to secure the costs, the Receiver shall so advise and provide me with a draft order for its discharge. In conducting this survey of the stakeholders, the Receiver shall also make it clear that it will seek a discharge (providing the terms of a draft discharge order) if no stakeholder comes forward to underwrite the Receiver's ongoing costs; or
- b. If it finds it will be more time and cost efficient, it can apply by Notice of Applicant accompanied by proof of service of the Notice of Applicant and the information set out in paragraph 51(a). If the Receiver pursues this option, the time for service of the Notice of Application and supporting material is abridged such that service with two clear days notice shall be good and sufficient service.

[54] I can advise that if the Receiver pursues the second option that I am available to hear the application on Friday, June 4, 2021 at any time on that day. If that day is not available to the Receiver or if it cannot serve material with two clear days notice the application may be made returnable Tuesday June 8, 2021 at 9:00 a.m or such other time and date as may be arranged with the Local Registrar

  
G.A. MESCHISHNICK

## **Appendix B – Fees and Disbursements of the Receiver**

**TYLER SMITH, PAMELA SMITH, SMITH NORTHERN RANCHING, AND 101197829 SASKATCHEWAN LTD.**

**SUMMARY OF RECEIVER FEES AND DISBURSEMENTS**

<b>Date</b>	<b>Invoice #</b>	<b>Fees</b>	<b>Disbursements</b>	<b>GST</b>	<b>Total</b>	<b>Hours</b>
5-May-21	8001793225	\$ 28,582	\$ -	\$ 1,429	\$ 30,011	68.1
1-Jun-21	8001873622	17,513	-	876	18,388	41.4
<b>Total</b>		<b>\$ 46,095</b>	<b>\$ -</b>	<b>\$ 2,305</b>	<b>\$ 48,399</b>	<b>109.5</b>



**Invoice 8001793225**

**Deloitte Restructuring Inc.**

360 Main St  
Suite 2300  
Winnipeg MB R3C 3Z3

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BMO Financial Group  
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201 Portage Ave. 16th Floor  
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Canada

Tel:(204)942-0051  
Fax:(204)947-9390  
www.deloitte.ca

Date: May 05, 2021  
Client No.: 1140625  
WBS#: BAN02626  
Engagement Partner: Brent Warga

GST Registration: 122893605RT0001

**For professional services rendered**

**Fees**

In accordance with the Court Appointed Receivership proceedings of Tyler Smith, Pamela Smith, Smith Northern Ranching, and 101197829 Saskatchewan Ltd. for the period April 5, 2021 to May 3, 2021:

B. Warga - Partner (33.9 hrs): 16,272.00  
J. Fritz - Senior Manager (30.8 hrs): 11,550.00  
T. Dew - Senior Associate (2.8 hrs): 700.00  
A. Keene - Technician (0.6 hrs): 60.00  
Total (68.1 hrs): 28,582.00

**Sales Tax**

GST applicable 28,582.00

GST at 5.00 % 1,429.10

**Total Amount Due (CAD) 30,011.10**

Accounts shall be due and payable when rendered. Interest shall be calculated at a simple daily rate of 0.0493% (equivalent to 18% per annum). Interest shall be charged and payable at this rate on any part of an account which remains unpaid from thirty(30) days after the invoice date to the date on which the entire account is paid.

**TYLER SMITH, PAMELA SMITH, SMITH NOTHERN RANCHING, AND 101197829 SASKATCHEWAN LTD.  
RECEIVERSHIP TIME SUMMARY  
INVOICE NO: 8001793225**

Date	Name	Hours	Total	Description
4/5/2021	Fritz, John	1.3	487.50	SGI insurance policy review; confirmation of loss payees; call with insurance broker; secured creditor request review and draft response to counsel.
4/6/2021	Fritz, John	0.4	150.00	Secured creditor correspondence edits from counsel; correspondence with principal's counsel re: call scheduling and enquiries re: SFSA; insurance broker correspondence re: SGI policies.
4/6/2021	Warga, Brent	0.5	240.00	Review of e-mail correspondence re: conference call with the Debtors; billing matters; review and signing of cheques.
4/7/2021	Fritz, John	3.4	1,275.00	Preparation for and attendance on call with Receiver's counsel, principal and counsel; creditor enquiry and correspondence re: lease; review of Fiat; call and correspondence with insurer re: auto insurance; R&D update and update to primary secured creditor.
4/7/2021	Warga, Brent	3.0	1,440.00	Review of various e-mail correspondence from Smiths' counsel; draft e-mail correspondence to BMO; updates to R&D; call with J. Fritz re: file matters; call with Smiths / counsel re: custom cattle operations and file matters; review of Court decision.
4/8/2021	Dew, Todd	1.0	250.00	Trust accounting.
4/8/2021	Fritz, John	1.3	487.50	Call with counsel re: Court decision, receivership go forward matters, and reporting; correspondence to principal and counsel re: outstanding information and custom cattle billing.
4/8/2021	Warga, Brent	1.1	528.00	Review of April 7, 2021 Fiat; call with MLT Aikins re: Fiat, Receivership Order, land sale proceeds, and various file matters.
4/9/2021	Conorton, Laura	0.2	20.00	Trust accounting.
4/9/2021	Fritz, John	0.6	225.00	Review and commentary on correspondence between Receiver's counsel and counsel(s) to the principal, FCC, and Richardson Pioneer.
4/9/2021	Warga, Brent	1.1	528.00	Review of letter correspondence from P. Abrametz; review and edits to letter correspondence from MLT Aikins to P. Abrametz and J. Harding.
4/12/2021	Fritz, John	1.3	487.50	Review of canola pricing correspondence and recalculation; correspondence with counsel re: various matters; correspondence to Horton Land & Cattle re: outstanding accounts receivable; call and correspondence with Appraiser.
4/12/2021	Warga, Brent	1.6	768.00	Review/edits to draft amendments to the Receivership Order; review pricing information provided by Richardson Pioneer re: canola; downloading of daily spot market prices to vet information from Richardson Pioneer; review of legal correspondence.
4/13/2021	Fritz, John	0.9	337.50	Correspondence from principals' counsel; correspondence and call with the Receiver's counsel and provision of supporting documentation.
4/13/2021	Warga, Brent	1.3	624.00	Review of letter correspondence from P. Abrametz; review of responding letter correspondence from MLT Aikins; call with MLT Aikins re: same.
4/14/2021	Fritz, John	2.1	787.50	Call and correspondence with counsel re: pending Court matters; land sale commentary; Receiver's reporting; attempted call with principal and counsel and follow-up correspondence re: outstanding information and GST records request.
4/14/2021	Warga, Brent	1.2	576.00	Call with J. Fritz re: file matters in preparation of call with P. Abrametz and T. Smith; call with MLT Aikins re: file matters and Court hearing.
4/15/2021	Dew, Todd	0.5	125.00	Processing of payables; review incoming mail.
4/15/2021	Fritz, John	1.5	562.50	Review of correspondence to/from principal's counsel and Receiver's counsel; custom cattle receivables matters; creditor enquiry re: status of proceedings.
4/15/2021	Warga, Brent	5.4	2,592.00	Drafting of Fourth Report; review of various correspondence to/from legal counsel.
4/16/2021	Fritz, John	2.3	862.50	Call and correspondence with principal re: custom cattle operation, feed, remaining owned cattle, and a proposal to purchase the Receiver's interest in same; correspondence with the Receiver's counsel re: pending Court application, and equipment lessors.
4/16/2021	Warga, Brent	4.2	2,016.00	Call with T. Smith; drafting of Fourth Report; various e-mail correspondence with MLT Aikins.
4/17/2021	Warga, Brent	2.4	1,152.00	Review of MLT Aikins security opinion and edits to same; updates to Fourth Report to incorporate security opinion conclusions.
4/18/2021	Fritz, John	1.9	712.50	Updates and edits to Fourth Report and schedules.
4/19/2021	Fritz, John	0.5	187.50	Correspondence to principal re: custom cattle matters; insurance broker correspondence.
4/19/2021	Warga, Brent	0.6	288.00	Updates to Fourth Report; e-mail correspondence with MLT Aikins re: same.
4/20/2021	Fritz, John	2.6	975.00	Calls and correspondence with counsel re: land sales; edits to Fourth Report; review of security opinion and commentary.
4/20/2021	Warga, Brent	3.6	1,728.00	Call with MLT Aikins re: Fourth Report; review and edits to MLT Aikins' correspondence re: Lands sale proceeds; revision to Fourth Report.
4/21/2021	Fritz, John	1.9	712.50	Fourth Report finalization; correspondence with counsel; review of principal's counsel's correspondence.
4/21/2021	Warga, Brent	1.2	576.00	Review and finalization of Fourth Report.
4/22/2021	Fritz, John	1.7	637.50	Call and correspondence with principal re: custom cattle, feed, and owned cattle; finalize Receiver's Court reporting and notice materials; website updates.
4/22/2021	Warga, Brent	0.5	240.00	Finalization of Fourth Report; e-mail correspondence to/from D. Gerecke and MLT Aikins.
4/23/2021	Keene, Ashley	0.4	40.00	Website updates.
4/23/2021	Fritz, John	2.1	787.50	Call with principal re: Horton Land & Cattle Co. Ltd. receivable and potential asset purchase; review of correspondence from the principal's counsel and call with the Receiver's counsel; drafting of correspondence and sales documentation re: asset sale.
4/23/2021	Warga, Brent	2.4	1,152.00	Review of e-mail correspondence from MLT Aikins; review of letter correspondence from P. Abrametz; call with MLT Aikins; call with T. Smith re: custom cattle; review of proforma invoices and correspondence.
4/26/2021	Fritz, John	0.4	150.00	Correspondence with counsel re: secured creditors and Court hearing matters; correspondence to principal re: custom cattle billing.
4/27/2021	Fritz, John	1.7	637.50	Call with counsel re: proceeding matters; correspondence to prospective purchaser; correspondence and call with principal re: custom cattle billings.
4/27/2021	Warga, Brent	1.1	528.00	Attendance at Court hearing; review of Horton Co. correspondence; review of correspondence from MLT Aikins.
4/28/2021	Warga, Brent	0.9	432.00	Review of appeal materials from Richardson Pioneer.
4/29/2021	Fritz, John	1.6	600.00	Correspondence with prospective purchaser; draft R&D and correspondence re: Receivership status and response to counsel re: principal's counsel enquiry.
4/29/2021	Warga, Brent	0.7	336.00	Review and updates to R&D; review of e-mail correspondence to/from MLT Aikins; e-mail correspondence with D. Gerecke.

TYLER SMITH, PAMELA SMITH, SMITH NOTHERN RANCHING, AND 101197829 SASKATCHEWAN LTD.  
**RECEIVERSHIP TIME SUMMARY**  
**INVOICE NO: 8001793225**

<b>Date</b>	<b>Name</b>	<b>Hours</b>	<b>Total</b>	<b>Description</b>
4/30/2021	Fritz, John	0.7	262.50	Call and correspondence with principal, compilation and request for cheques; correspondence with counsel.
4/30/2021	Warga, Brent	0.5	240.00	Discussion with J. Fritz and call with T. Smith re: closing of custom cattle and feed sale.
5/3/2021	Dew, Todd	1.3	325.00	Processing of payables.
5/3/2021	Fritz, John	0.6	225.00	Correspondence with counsel re: input into correspondence with the principal's counsel; interested party enquiry.
5/3/2021	Warga, Brent	0.6	288.00	Call with MLT Aikins re: custom cattle operations and pending sale; review and edits to MLT Aikins letter correspondence.
<b>Total</b>		<b>68.1</b>	<b>\$ 28,582.00</b>	



**Invoice 8001873622**

**Deloitte LLP**  
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Canada

Tel: (204) 942-0051  
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Date: June 02, 2021  
Client No.: 1140625  
WBS#: BAN02626  
Engagement Partner: Brent Warga  
GST Registration: 133245290RT0001

**For professional services rendered**

**Fees**

In accordance with the Court Appointed Receivership proceedings of Tyler Smith, Pamela Smith, Smith Northern Ranching, and 101197829 Saskatchewan Ltd. for the period May 4, 2021 to May 31, 2021:

B. Warga - Partner (24.0 hrs): 11,520.00  
J. Fritz - Senior Manager (14.1 hrs): 5,287.50  
T. Dew - Senior Associate (2.5 hrs): 625.00  
A. Keene - Technician (0.8 hrs): 80.00  
Total (41.4 hrs): 17,512.50

**Sales Tax**

GST applicable 17,512.50

GST at 5.00 % 875.63

**Total Amount Due (CAD) 18,388.13**

Accounts shall be due and payable when rendered. Interest shall be calculated at a simple daily rate of 0.0493% (equivalent to 18% per annum). Interest shall be charged and payable at this rate on any part of an account which remains unpaid from thirty(30) days after the invoice date to the date on which the entire account is paid.

**TYLER SMITH, PAMELA SMITH, SMITH NOTHERN RANCHING, AND 101197829 SASKATCHEWAN LTD.  
RECEIVERSHIP TIME SUMMARY  
INVOICE NO: 8001873622**

Date	Name	Hours	Total	Description
5/4/2021	Fritz, John	2.1	787.50	Review of the Supplement to the Fourth Report of the Receiver; review of Court materials filed by creditors and the principals re: May 11, 2021 hearing; correspondence with the principals.
5/4/2021	Warga, Brent	5.2	2,496.00	Drafting of Supplement to the Fourth Report; review of various briefs of law re: May 11, 2021 Court hearing.
5/5/2021	Keene, Ashley	0.5	50.00	Website updates.
5/5/2021	Fritz, John	1.1	412.50	Correspondence with Counsel re: grain delivery timing; call and correspondence with B. Warga re: distribution and reporting.
5/5/2021	Warga, Brent	3.3	1,584.00	Updates to Supplemental Report; updates to R&D; e-mail correspondence with BMO; call with MLT Aikins re: security opinion and ownership of grains; discussion of same with J. Fritz.
5/6/2021	Keene, Ashley	0.2	20.00	Website updates.
5/6/2021	Fritz, John	0.5	187.50	Review of Court hearing materials; review of correspondence from secured creditors and counsel.
5/6/2021	Warga, Brent	1.2	576.00	Finalization of Supplemental Report; e-mail correspondence with BMO re: same; review of e-mail correspondence from MLT Aikins re: Richardson Pioneer appeal.
5/7/2021	Fritz, John	0.6	225.00	Correspondence with the Receiver's counsel re: pending Court application, draft orders, and application materials.
5/7/2021	Warga, Brent	2.6	1,248.00	Various calls with MLT Aikins re: discharge of the Receiver; updates to Pro Forma R&D; review and edits to draft discharge order; review of various e-mail correspondence.
5/10/2021	Warga, Brent	0.5	240.00	Review of various e-mail correspondence from MLT Aikins and Miller Thomson re: draft Order and Court hearing.
5/11/2021	Fritz, John	1.1	412.50	Call and correspondence with counsel re: equipment and distribution matters; email to principal re: operational matters.
5/11/2021	Warga, Brent	2.2	1,056.00	Attendance at Court hearing; call with MLT Aikins re: materials to be provided to the Court.
5/12/2021	Fritz, John	0.6	225.00	Correspondence with counsel re: interim distribution matters and calculations related to same.
5/12/2021	Warga, Brent	1.1	528.00	Review of correspondence from J. Kroczyński, J. Harding, and Justice Meschishnick re: land sale proceeds; call with J. Fritz re: file matters and call with T. Smith.
5/13/2021	Fritz, John	2.6	975.00	Review of submissions from creditors' counsels; review of Fiat; correspondence with the Receiver's counsel re: May 11, 2021 Court hearing matters; call with insurer re: cost allocation.
5/13/2021	Warga, Brent	1.4	672.00	Review of various legal correspondence re: land proceeds and marshalling; e-mail correspondence with MLT Aikins re: Receiver's responding correspondence to the Court; call with J. Fritz re: file matters.
5/14/2021	Keene, Ashley	0.1	10.00	Website update.
5/14/2021	Fritz, John	0.4	150.00	Review of materials filed by creditors' counsel.
5/17/2021	Fritz, John	1.1	412.50	Correspondence to principal re: accounts and GST; review of FCC's court materials.
5/17/2021	Warga, Brent	0.6	288.00	Review of letter correspondence from J. Harding (FCC); e-mail correspondence to/from MLT; review of e-mail correspondence to T. Smith.
5/18/2021	Fritz, John	0.9	337.50	Call and correspondence with principal re: operational matters; correspondence with counsel.
5/18/2021	Warga, Brent	1.1	528.00	Call with T. Smith re: hydro accounts, insurance, CIBC account, and GST filing; review and responding to e-mail correspondence from MLT Aikins re: equipment; discussions of file matters with J. Fritz.
5/19/2021	Dew, Todd	0.2	50.00	Trust accounting.
5/19/2021	Fritz, John	0.8	300.00	Correspondence with Principal, review of creditor's correspondence re: SFSA proceedings and consolidation with the Receivership proceedings.
5/19/2021	Warga, Brent	0.3	144.00	Review of e-mail correspondence to/from T. Smith.
5/20/2021	Dew, Todd	1.5	375.00	Review Saskpower invoices; telephone call and email to SaskPower re: closing of accounts; trust accounting.
5/20/2021	Fritz, John	0.4	150.00	Direction to T. Dew re: utility accounts; receipt of correspondence re: Court materials; email to principal re: utility account.
5/20/2021	Warga, Brent	0.3	144.00	Review of various e-mail correspondence from legal counsels.
5/21/2021	Warga, Brent	0.4	192.00	Review of e-mail correspondence from legal counsel; review and signing of cheques.
5/26/2021	Dew, Todd	0.5	125.00	Phone calls to Saskpower re: closing account; correspondence with T. Smith re: meter readings.
5/26/2021	Warga, Brent	0.3	144.00	Review of various e-mail correspondence re: o/s SK Power accounts.
5/27/2021	Dew, Todd	0.3	75.00	Trust accounting.
5/28/2021	Warga, Brent	1.2	576.00	E-mail correspondence to/from MLT Aikins re: file matters; call with BMO re: file matters; review and signing of cheques.
5/31/2021	Fritz, John	1.9	712.50	Review of Fiat; call with counsel re: Fiat and next steps; updated Draft proforma R&D for discussion purposes.
5/31/2021	Warga, Brent	2.3	1,104.00	Updates to pro forma R&D; review of May 31, 2021 Fiat; call with J. Fritz re: same; call with MLT Aikins re: same.
<b>Total</b>		<b>41.4</b>	<b>\$ 17,512.50</b>	

**Appendix C – Fees and Disbursements of the Receiver’s Legal Counsel**

**TYLER SMITH, PAMELA SMITH, SMITH NORTHERN RANCHING, AND 101197829 SASKATCHEWAN LTD.**

**SUMMARY OF LEGAL FEES AND DISBURSEMENTS  
MLT AIKINS LLP**

<b>Date</b>	<b>Invoice #</b>	<b>Fees</b>	<b>Disbursements</b>	<b>GST</b>	<b>PST</b>	<b>Total</b>	<b>Hours</b>
30-Apr-21	6202770	\$ 23,604	\$ 939	\$ 1,226	\$ 1,416	\$ 27,185	50.6
31-May-21	6209356	24,981	255	1,260	1,499	27,994	45.9
<b>Total</b>		<b>\$ 48,585</b>	<b>\$ 1,194</b>	<b>\$ 2,486</b>	<b>\$ 2,915</b>	<b>\$ 55,180</b>	<b>96.5</b>

April 30, 2021  
Invoice #6202770**INVOICE****Deloitte Restructuring Inc.**  
**2300, 360 Main Street**  
**Winnipeg, MB R3C 3Z3**  
**Brent Warga****TO PROFESSIONAL SERVICES RENDERED TO AND INCLUDING 04/30/21 AS FOLLOWS****RE: Tyler Smith & Pamela Smith**  
**FILE: 0056074-00016**

<b>Date</b>	<b>Initials</b>	<b>Hours</b>	<b>Narrative</b>
Apr 01/2021	PDO	0.10	Correspondence with counsel for John Deere; reviewing correspondence from Debtors' counsel; reviewing correspondence with J. Fritz
Apr 01/2021	MC	0.40	Reviewing correspondence and attachments from J. Fritz regarding letters to equipment lessors; reviewing and revising letter to counsel for John Deere
Apr 01/2021	JML	0.10	Reviewing correspondence from Wells Fargo Equipment Finance and prepare follow up correspondence to B. Warga and J. Fritz
Apr 01/2021	JML	0.10	Reviewing correspondence from P. Abrametz and J. Fritz regarding scheduling conference call and prepare reply correspondence
Apr 02/2021	PDO	0.20	Correspondence with J. Fritz; revising and executing correspondence to counsel for John Deere Financial
Apr 05/2021	MC	0.80	Reviewing correspondence and documents from J. Fritz regarding draft letters to equipment lessors and issues for same; telephone attendance with counsel for John Deere regarding the service of notices and enforcement of security
Apr 05/2021	PDO	0.70	Correspondence with and telephone attendance on counsel for John Deere; correspondence with J. Fritz
Apr 06/2021	PDO	0.30	Correspondence with debtors' counsel; correspondence to counsel for CNH; correspondence to DLL
Apr 06/2021	JML	0.10	Reviewing correspondence from P. Abrametz regarding proposed meeting and prepare follow up correspondence to J. Fritz

<b>Date</b>	<b>Initials</b>	<b>Hours</b>	<b>Narrative</b>
Apr 06/2021	MC	1.50	Reviewing personal property security issues for CNH and DLL leases; reviewing and revising draft letter to counsel for CNH; reviewing and revising draft letter to DLL
Apr 07/2021	PDO	2.00	Telephone attendance on and correspondence with B. Warga and J. Fritz; telephone attendance on P. Abrametz, T. Smith, B. Warga, and J. Fritz
Apr 07/2021	MC	0.10	Reviewing fiat of Meschishnick J.
Apr 07/2021	JML	0.30	Reviewing decision of Mr. Justice Meschishnick and prepare follow up correspondence to B. Warga and J. Fritz
Apr 08/2021	PDO	1.40	Videoconference with B. Warga and J. Fritz; telephone attendance on counsel for Farm Credit Canada
Apr 08/2021	MC	0.80	Telephone attendance on B. Warga and J. Fritz regarding issues for land sale proceeds, proposed revisions to receivership order, and equipment lessors
Apr 08/2021	JML	0.80	Telephone attendance on B. Warga and J. Fritz regarding April 7 decision of Justice Meschishnick and follow up tasks and potential edits to Receivership Order resulting from same
Apr 09/2021	PDO	1.20	Correspondence with borrowers' counsel; correspondence to counsel for FCC
Apr 09/2021	MC	0.80	Reviewing draft correspondence to counsel for FCC and T. Smith; reviewing and compiling equipment leases and Personal Property Registry search results; drafting correspondence to counsel for T. Smith regarding service of equipment leases
Apr 11/2021	PDO	1.00	Drafting Order amending Receivership Order and including other relief as directed by Fiat of Meschishnick J.
Apr 12/2021	PDO	0.10	Reviewing correspondence from counsel for Farm Credit Canada; revising draft Order amending Receivership Order
Apr 12/2021	MC	1.30	Reviewing Affidavit of M. Kumar and BMO security documents appended thereto; drafting BMO security opinion
Apr 12/2021	JML	0.20	Reviewing proposed form of Order arising out of decision of Mr. Justice Meschishnick
Apr 13/2021	PDO	1.60	Revising form of Order amending Receivership Order; correspondence to counsel for other parties; correspondence with debtors' counsel; correspondence and videoconference with B. Warga and J. Fritz;

<b>Date</b>	<b>Initials</b>	<b>Hours</b>	<b>Narrative</b>
			correspondence with counsel for Richardson Pioneer
Apr 13/2021	JML	0.20	Reviewing correspondence from P. Abrametz regarding demand for return of funds and giving instructions to prepare reply correspondence
Apr 13/2021	JML	0.80	Reviewing correspondence from P. Abrametz and revising draft correspondence to P. Abrametz demanding compliance with receivership order
Apr 13/2021	JML	0.40	Meeting with B. Warga and J. Fritz regarding proposed letter to P. Abrametz
Apr 13/2021	JML	0.30	Attending to finalize, sign and send out letter to P. Abrametz demanding compliance with Receivership Order
Apr 14/2021	PDO	1.40	Telephone attendance on and correspondence with B. Warga and J. Fritz; correspondence with counsel for Richardson Pioneer; correspondence with Debtors' counsel; correspondence with counsel for BMO
Apr 14/2021	MC	3.50	Attending to due diligence searches for security opinion; reviewing BMO security documents; reviewing due diligence searches regarding BMO security; drafting security opinion on BMO security
Apr 14/2021	JML	0.10	Reviewing correspondence from P. Abrametz regarding proposed form of Court Order flowing from decision of Justice Meschishnick arising out of March 31 court application
Apr 14/2021	RFC	1.60	Searching SK Corporate Registry (x2), PPR, Judgment Registry, Bankruptcy and Insolvency Registry, and Bank Act (x4 each)
Apr 15/2021	JML	0.10	Reviewing correspondence from J. Fritz to P. Abrametz and T. Smith regarding demand for outstanding information
Apr 15/2021	PDO	3.50	Reviewing correspondence and Notice of Appeal from Debtors' counsel; correspondence with B. Warga and J. Fritz; correspondence to Debtors' counsel; correspondence with counsel for Richardson Pioneer; reviewing FCC loan and security documentation and drafting recommendation regarding treatment of land sale proceeds; correspondence with counsel for FCC
Apr 15/2021	MC	1.50	Reviewing Bank Act searches; reviewing issues regarding the granting of security in the assets of a partnership; reviewing and revising BMO security opinion
Apr 15/2021	JML	0.10	Reviewing and providing comment on draft letter to P. Abrametz regarding proposed appeal

<b>Date</b>	<b>Initials</b>	<b>Hours</b>	<b>Narrative</b>
Apr 15/2021	JML	0.20	Correspondence to Registrar G. Metivier to request date for hearing of Receiver's applications
Apr 16/2021	PDO	2.80	Preparing analysis of distribution of land sale proceeds; telephone attendance on and correspondence with B. Warga and J. Fritz; reviewing and revising Bank of Montreal security opinion; correspondence with Wells Fargo; reviewing correspondence from Debtors' counsel and new Notice of Appeal
Apr 16/2021	MC	0.60	Reviewing and revising BMO security opinion and revising Personal Property Registry searches on same
Apr 16/2021	JML	0.10	Reviewing correspondence from G. Metivier regarding proposed May 27 hearing and prepare follow up correspondence to B. Warga and J. Fritz
Apr 16/2021	RFC	1.20	Performing historical title searches (10) and obtaining Interest Register from ISC (x1)
Apr 16/2021	JML	0.20	Reviewing correspondence from B. Warga regarding April 27 hearing date and prepare follow up correspondence regarding same to Registrar G. Metivier
Apr 16/2021	JML	0.40	Reviewing and approving draft security review opinion letter
Apr 18/2021	PDO	0.50	Reviewing correspondence from B. Warga; revising BMO security opinion
Apr 19/2021	PDO	1.50	Telephone attendance on counsel for Farm Credit Canada; correspondence with B. Warga and J. Fritz; revising draft Fourth Report of the Receiver; revising draft BMO security opinion
Apr 19/2021	JML	0.80	Revising draft security opinion regarding secured claim of Bank of Montreal
Apr 19/2021	JML	0.10	Reviewing correspondence from G. Metivier regarding April 27 court hearing scheduling and prepare reply correspondence
Apr 19/2021	JML	0.70	Revising Draft Fourth Report of the Receiver
Apr 19/2021	JML	0.30	Revising and circulating revised draft security opinion letter
Apr 20/2021	PDO	2.30	Telephone attendance on and correspondence with B. Warga and J. Fritz; revising BMO security opinion; revising Fourth Report of the Receiver; revising and executing correspondence with analysis of land sale proceeds
Apr 20/2021	JML	0.30	Revising Fourth Report of the Receiver

<b>Date</b>	<b>Initials</b>	<b>Hours</b>	<b>Narrative</b>
Apr 20/2021	JML	0.40	Meeting with B. Warga and J. Fritz regarding Draft Fourth Report
Apr 20/2021	JML	0.10	Reviewing revised and updated version of Fourth Report
Apr 20/2021	JML	0.10	Reviewing draft letter setting out Receiver's position on distribution of land sale proceeds
Apr 20/2021	MC	0.20	Reviewing correspondence from counsel for FCC regarding indebtedness of T. Smith; reviewing Personal Property Registry and Judgment Registry search results regarding FCC registrations
Apr 20/2021	JML	0.20	Reviewing revised and updated letter from Receiver's counsel to stakeholders regarding proposed application of land sale proceeds
Apr 21/2021	JML	0.30	Revising, finalizing and signing security opinion letter and giving instructions to deliver same
Apr 21/2021	JML	0.20	Reviewing and provide final comments on Draft Fourth Report of the Receiver
Apr 21/2021	PDO	1.40	Correspondence with borrowers' counsel; reviewing correspondence from B. Warga; drafting Notice of Application and form of Order for interim distribution and other relief
Apr 21/2021	JML	0.10	Reviewing status of April 27 court application and giving instructions to prepare court application materials
Apr 22/2021	JML	0.30	Revising court application materials for April 27 court application by the Receiver
Apr 22/2021	PDO	0.50	Revising Notice of Application and Draft Order to be filed in support of application for interim distribution and ancillary relief; correspondence with B. Warga and J. Fritz; correspondence with counsel for CCGA; attending to service matters
Apr 22/2021	JML	0.10	Reviewing correspondence from D. Gerecke to B. Warga regarding status of receivership
Apr 23/2021	PDO	1.90	Attending to filing matters; correspondence with Debtors' counsel; telephone attendance on and correspondence with B. Warga and J. Fritz; correspondence with Court of Queen's Bench Local Registrar
Apr 23/2021	JML	0.20	Reviewing correspondence from P. Abrametz regarding request for adjournment of April 27 court application and review proposed response
Apr 23/2021	JML	0.20	Telephone attendance on B. Warga and J. Fritz regarding proposed response to adjournment request from P. Abrametz

<b>Date</b>	<b>Initials</b>	<b>Hours</b>	<b>Narrative</b>
Apr 23/2021	JML	0.10	Attending to finalizing and signing letter to P. Abrametz regarding adjournment request
Apr 23/2021	JML	0.10	Reviewing correspondence from B. Warga regarding status of dialogue with T. Smith regarding custom cattle operation and prepare reply correspondence
Apr 23/2021	JML	0.10	Reviewing correspondence from G. Metivier regarding status of request to re-schedule April 27 hearing of Receiver's application
Apr 24/2021	PDO	0.20	Correspondence with J. Fritz; reviewing draft documentation in respect of proposed sale of custom cattle operation assets
Apr 26/2021	PDO	0.20	Correspondence with counsel for Richardson Pioneer; correspondence to B. Warga and J. Fritz; correspondence with counsel for John Deere Financial; preparing for scheduling hearing
Apr 26/2021	JML	0.10	Reviewing correspondence from Local Registrar regarding April 27 conference call to discuss adjourned date for hearing
Apr 26/2021	JML	0.10	Reviewing proposed transaction with Hortons regarding custom cattle feeding operation and related assets
Apr 27/2021	PDO	0.30	Preparing for and attending conference call with Court of Queen's Bench; preparing for adjourned hearing date
Apr 27/2021	JML	0.20	Court appearance before Mr. Justice Meschishnick regarding scheduling of adjourned application
Apr 27/2021	PDO	0.50	Telephone attendance on J. Fritz; correspondence with counsel for BMO
Apr 28/2021	JML	0.10	Reviewing correspondence from Court of Appeal Registrar to P. Abrametz regarding prosecution of appeal
Apr 29/2021	PDO	0.40	Correspondence with B. Warga and J. Fritz; telephone attendance on debtors' counsel
Apr 29/2021	JML	0.10	Reviewing correspondence from G. Metivier regarding scheduling conflict on May 10 and requesting availability on alternative dates and prepare follow up correspondence to client working group
Apr 29/2021	JML	0.10	Correspondence to Registrar G. Metivier regarding potential dates for re-scheduling hearing
Apr 29/2021	JML	0.10	Reviewing correspondence from G. Metivier regarding re-scheduled hearing and prepare follow-up correspondence to B. Warga and J. Fritz
Apr 30/2021	JML	0.10	Reviewing status of debtor company request for discharge of receiver

Date	Initials	Hours	Narrative
Apr 30/2021	JML	0.10	Reviewing correspondence from J. Fritz regarding status of Receipts and Disbursements in receivership estate
Apr 30/2021	PDO	0.10	Correspondence with and reviewing information from Debtors' counsel; correspondence with counsel for Kubota; correspondence with B. Warga and J. Fritz

**Total Fees: 23,603.50**

**SUMMARY OF PROFESSIONAL SERVICES**

	HOURS	HOURLY RATE	AMOUNT
Rebecca Cobbe	2.80	205.00	574.00
Marek Coutu	11.50	285.00	3,277.50
Paul D. Olfert	26.10	450.00	11,745.00
Jeffrey M. Lee	10.20	785.00	8,007.00
	<u>50.60</u>		<u>23,603.50</u>

**DISBURSEMENTS AND OTHER CHARGES**

Deliveries	46.10
Imaging Services	232.25
Corporate Registry - Saskatoon	12.00
Online Bank of Canada	32.00
Computerized Legal Research - WestlaweCarswell	335.00
ISC/Land Titles	180.00
PPR Online - Regina	20.00
PPR Online - Saskatoon	30.00
Bankruptcy Search	32.00
	<b>Total Taxable 919.35</b>
SK Provincial-Court of Queen's Bench	20.00
	<b>Total Non-Taxable 20.00</b>
	<b>Sub-Total Disbursements: 939.35</b>

## **BILL SUMMARY**

Total Fees	23,603.50
GST	1,180.18
SK PST	1,416.21
Total Disbursements	939.35
GST	45.97
Subtotal	<u>27,185.20</u>
<b>TOTAL AMOUNT DUE CDN DOLLARS:</b>	<b>\$ <u>27,185.20</u></b>

JML/ CRB

### **MLT Aikins LLP**

To the extent possible, we have made every effort to include fees and disbursements for the current billing period. In the event further fees or disbursements are incurred on your behalf, a subsequent account will be forwarded.

"Other Charges" are based on rates established by MLT AIKINS LLP and may change from time to time. A schedule of those rates is available on request.

### **TERMS: DUE UPON RECEIPT**

Interest at the rate of 14% per annum is added to all amounts overdue by 30 days or more.

**INVOICE**

**Deloitte Restructuring Inc.**  
**2300, 360 Main Street**  
**Winnipeg, MB R3C 3Z3**  
**Brent Warga**

**TO PROFESSIONAL SERVICES RENDERED TO AND INCLUDING 05/31/21 AS FOLLOWS**

**RE: Tyler Smith & Pamela Smith**  
**FILE: 0056074-00016**

<b>Date</b>	<b>Initials</b>	<b>Hours</b>	<b>Narrative</b>
May 01/2021	PDO	2.70	Reviewing factum filed in Court of Appeal on behalf of Richardson Pioneer Limited; drafting factum in response to appeal by Richardson Pioneer; correspondence with B. Warga and J. Fritz
May 02/2021	MC	0.10	Reviewing draft factum and correspondence on same
May 03/2021	JML	0.10	Reviewing Factum of Richardson Pioneer filed in Court of Appeal For Saskatchewan
May 03/2021	PDO	0.80	Telephone attendance on and correspondence with B. Warga and J. Fritz; telephone attendance on and correspondence with debtors' counsel; correspondence with Court of Queen's Bench Local Registrar; telephone attendance on Court of Appeal registry office; correspondence with counsel for Kubota; correspondence to counsel for Richardson Pioneer;
May 03/2021	JML	0.10	Correspondence to P. Abrametz regarding filing deadline for May 11 hearing of Receiver's application
May 03/2021	JML	0.10	Correspondence to B. Warga regarding proposed letter to P. Abrametz regarding filing deadlines and review reply correspondence from B. Warga
May 03/2021	JML	0.30	Telephone attendance on P. Abrametz regarding unconditional nature of Horton transaction and regarding May 11 hearing of Receiver's application
May 03/2021	JML	0.20	Attending to finalize and sign letter to P. Abrametz and giving instructions to send letter

<b>Date</b>	<b>Initials</b>	<b>Hours</b>	<b>Narrative</b>
May 04/2021	MC	0.50	Reviewing factum filed by counsel for Richardson Pioneer; reviewing issues for same and research required on the disclaimer of contracts
May 04/2021	PDO	0.80	Correspondence with B. Warga and J. Fritz; correspondence with counsel for BMO; correspondence with counsel for Richardson Pioneer; reviewing briefs and other application materials filed by each of Richardson Pioneer, FCC, and the Debtors
May 04/2021	JML	0.40	Reviewing court application materials filed by counsel for T. Smith and P. Smith and by counsel for Farm Credit Canada
May 04/2021	JML	0.10	Reviewing Brief of Law filed by counsel for Richardson Pioneer
May 05/2021	PDO	2.00	Reviewing correspondence with counsel for CCGA and counsel for BMO; drafting factum in Richardson Pioneer appeal; telephone attendance on B. Warga; advising regarding perfection and priority matters; reviewing correspondence with counsel for Agriculture and Agri-Food Canada
May 05/2021	JML	0.30	Reviewing correspondence from D. Klaassen regarding AAFC request for copy of security review opinion and prepare draft response and follow up correspondence to B. Warga and J. Fritz
May 05/2021	JML	2.40	Reviewing Supplement to Fourth Report of the Receiver and prepare draft correspondence to D. Klaassen, counsel for AAFC and telephone B. Warga to discuss same and prepare detailed revised correspondence to D. Klaassen, counsel to AAFC
May 05/2021	JML	0.20	Correspondence to B. Warga and J. Fritz regarding proposed edits to Draft Supplement to Fourth Report of the Receiver
May 05/2021	MC	1.80	Reviewing factum of Richardson Pioneer, decision of Scherman J. on contract disclaimer, and brief of law on contract disclaimer; reviewing authorities cited in same; preparing summary of issues identified
May 06/2021	MC	3.50	Researching contract disclaimer authorities for preparation of factum; reviewing factum of Richardson Pioneer and issues for responding to same; preparing summary of arguments on three-part contract disclaimer test
May 06/2021	PDO	1.60	Drafting factum in Richardson Pioneer appeal; reviewing correspondence from counsel for Western Grain Elevators Association; correspondence with counsel for BMO; reviewing correspondence with counsel for Agriculture and Agri-Food Canada
May 06/2021	JML	0.30	Correspondence to D. Klaassen regarding response to inquiry regarding ownership of grain and request for copy of legal opinion

<b>Date</b>	<b>Initials</b>	<b>Hours</b>	<b>Narrative</b>
May 06/2021	JML	0.10	Reviewing correspondence from D. Gerecke regarding May 11 court applications
May 06/2021	JML	0.10	Reviewing correspondence from D. Klaassen regarding position of AAFC on May 11 applications and prepare reply correspondence and follow up correspondence to B. Warga and J. Fritz
May 06/2021	JML	0.10	Reviewing correspondence from counsel to proposed Intervenor regarding intervention application
May 06/2021	JML	0.10	Reviewing correspondence from counsel for John Deere regarding service of statutory notices
May 06/2021	SMB	0.40	Reviewing Richardson Pioneer factum; receiving instructions regarding research assignment
May 07/2021	PDO	2.30	Telephone attendance on and correspondence with B. Warga and J. Fritz; drafting form of Distribution and Discharge Order; revising form of Order amending Receivership Order and distributing sale proceeds; attending to service and filing matters
May 07/2021	JML	0.30	Telephone attendance on B. Warga regarding potential outcomes of May 11 court applications and request instructions regarding same
May 07/2021	JML	0.10	Correspondence to D. Gerecke regarding request for calculation of BMO secured debt amount
May 07/2021	SMB	2.40	Researching estoppel issues
May 07/2021	JML	0.40	Telephone attendance on D. Gerecke regarding potential next steps regarding May 11 court applications and next steps in receivership
May 07/2021	JML	0.60	Telephone attendance on P. Abrametz, J. Kroczyński and B. Warga regarding potential Consent Orders to resolve outstanding issues and conclude receivership
May 07/2021	JML	0.10	Reviewing correspondence from B. Warga regarding revised Pro Forma R & D Statement and prepare reply correspondence
May 07/2021	JML	0.10	Reviewing correspondence from B. Warga regarding instructions to circulate revised Pro Forma R & D Statement and prepare reply correspondence
May 07/2021	JML	0.20	Reviewing Draft Distribution and Discharge Order
May 07/2021	JML	0.10	Telephone attendance on P. Abrametz regarding status of May 11 application and proposed Consent Order

<b>Date</b>	<b>Initials</b>	<b>Hours</b>	<b>Narrative</b>
May 07/2021	JML	0.10	Telephone attendance on J. Lavoie Harding regarding proposed Consent Order
May 07/2021	JML	0.50	Correspondence to counsel for all stakeholders regarding proposed Consent Orders to resolve May 11 court applications
May 07/2021	JML	0.10	Telephone attendance on P. Abrametz regarding Statement of Receipts and Disbursements
May 07/2021	JML	0.10	Telephone attendance on P. Abrametz regarding Consent Order
May 07/2021	JML	0.10	Correspondence to D. Gerecke and J. Lavoie Harding regarding status of Consent Order
May 07/2021	JML	0.20	Telephone attendance on B. Warga and P. Abrametz regarding R & D Statement reconciliation
May 08/2021	PDO	0.20	Preparing factum in Richardson Pioneer appeal
May 10/2021	PDO	1.00	Reviewing correspondence with counsel for Richardson Pioneer; reviewing correspondence with debtors' counsel; reviewing correspondence with counsel for FCC; reviewing correspondence with counsel for BMO; revising Draft Order discharging Receiver; reviewing correspondence with B. Warga; preparing for Court hearing regarding application to discharge the Receiver and other matters
May 10/2021	JML	0.10	Reviewing correspondence from Court of Queen's Bench Registrar requesting electronic copy of Supplement to Fourth Report of the Receiver and prepare reply correspondence
May 10/2021	JML	0.10	Reviewing correspondence from J. Lavoie Harding regarding FCC endorsement of Orders for May 11 hearing and prepare reply correspondence
May 10/2021	JML	0.20	Reviewing correspondence from D. Gerecke regarding edits required to proposed Consent Order and giving instructions to implement edits
May 10/2021	JML	0.10	Reviewing correspondence from J. Lavoie Harding regarding endorsed Orders for May 11 hearing and prepare reply correspondence
May 10/2021	JML	0.20	Correspondence to D. Gerecke regarding revised Distribution and Discharge Order for May 11 hearing
May 10/2021	JML	0.50	Reviewing correspondence from D. Gerecke regarding revised Consent Order and prepare reply correspondence and telephone P. Abrametz to discuss revised Consent Order and prepare follow up correspondence to P. Abrametz and other counsel

<b>Date</b>	<b>Initials</b>	<b>Hours</b>	<b>Narrative</b>
May 10/2021	JML	0.10	Reviewing correspondence from P. Abrametz regarding endorsed Order Amending Receivership Order
May 10/2021	JML	0.20	Reviewing correspondence from J. Kroczyński to P. Abrametz regarding Consent to Judgment and prepare follow up correspondence to B. Warga and J. Fritz
May 10/2021	JML	0.10	Reviewing correspondence from B. Warga and prepare reply correspondence regarding status of Consent Orders for May 11 hearing and prepare reply correspondence
May 10/2021	JML	0.10	Correspondence to J. Lavoie Harding regarding request to approve Revised Consent Order
May 10/2021	JML	0.10	Correspondence to P. Abrametz requesting written confirmation of intention to withdraw Notice of Appeal dated April 14, 2021
May 10/2021	JML	0.80	Attending to finalize, assemble and circulate Consent Distribution and Discharge Order and Order (amending Receivership Order)
May 10/2021	JML	0.30	Reviewing proposed submissions to Court in regard to May 11 hearing
May 11/2021	PDO	2.60	Attending Court on hearing of application to discharge the Receiver and to deal with other matters; revising form of Order; correspondence with Court of Queen's Bench Local Registrar; correspondence with B. Warga and J. Fritz; drafting correspondence to counsel for Richardson Pioneer
May 11/2021	JML	0.10	Reviewing correspondence from P. Abrametz regarding creditors consenting to Discharge of Receiver and prepare follow up correspondence to B. Warga
May 11/2021	JML	0.70	Preparing oral submissions for May 11, 2021 hearing
May 11/2021	JML	1.70	Court appearance before Mr. Justice Meschishnick on Debtors' application to discharge Receiver
May 11/2021	JML	0.20	Telephone attendance on B. Warga and J. Fritz regarding next steps to comply with May 11 direction of Court
May 12/2021	JML	0.20	Telephone attendance on D. Gerecke regarding outcome of May 11 hearing before Mr. Justice Meschishnick
May 12/2021	JML	0.10	Reviewing correspondence from Receiver's counsel to secured creditors quantifying value of equipment and potential equity
May 12/2021	JML	0.10	Reviewing correspondence from D. Gerecke and prepare reply correspondence

<b>Date</b>	<b>Initials</b>	<b>Hours</b>	<b>Narrative</b>
May 12/2021	PDO	0.50	Correspondence to counsel for Richardson Pioneer; correspondence to B. Warga and J. Fritz; reviewing materials from counsel for FCC, counsel for Richardson Pioneer, and Chambers Judge
May 12/2021	JML	0.40	Reviewing proposed interim distribution to Bank of Montreal
May 13/2021	PDO	2.50	Drafting and attending to filing of letter submissions in response to judicial Fiat; correspondence with B. Warga
May 13/2021	JML	0.40	Preparing detailed correspondence to counsel for stakeholders proposing item distribution to Bank of Montreal
May 13/2021	JML	0.30	Reviewing and provide comments on draft submission to Mr. Justice Meschishnick arising out of May 12 Fiat
May 13/2021	JML	0.10	Reviewing correspondence from J. Kroczyński regarding acceptance of proposed interim distribution to Bank of Montreal
May 13/2021	JML	0.10	Reviewing correspondence from D. Gerecke regarding position of Bank of Montreal on proposed interim distribution and prepare reply correspondence
May 13/2021	JML	0.20	Reviewing correspondence from counsel to Bank of Montreal to Court of Queen's Bench regarding applicability of the doctrine of marshalling
May 14/2021	PDO	0.10	Reviewing submissions from counsel for Richardson Pioneer; correspondence to B. Warga and J. Fritz
May 17/2021	PDO	0.10	Reviewing submissions by counsel for FCC; correspondence with B. Warga
May 17/2021	JML	0.10	Reviewing correspondence from counsel for FCC regarding position of FCC on distribution of land sale proceeds
May 18/2021	PDO	0.20	Correspondence with counsel for BMO; correspondence with B. Warga and J. Fritz
May 18/2021	JML	0.10	Reviewing correspondence from D. Gerecke regarding Part IV SFSA hearing application by Debtors
May 19/2021	PDO	0.10	Correspondence with counsel for BMO
May 20/2021	JML	0.10	Reviewing correspondence from P. Abrametz regarding logistics for hearing of Part IV SFSA applications
May 20/2021	JML	0.10	Reviewing correspondence from P. Abrametz regarding reconsideration of position on Presiding Justice to hear and decide Part IV SFSA Application

Date	Initials	Hours	Narrative
May 21/2021	JML	0.10	Reviewing correspondence from D. Gerecke to Court of Queen's Bench regarding logistics of Part IV SFSA hearings
May 21/2021	JML	0.20	Correspondence to counsel for the Debtors and counsel for FCC regarding request for consent to proposed interim distribution to Bank of Montreal
May 21/2021	PDO	0.10	Correspondence with counsel for De Lage Landen; correspondence with B. Warga and J. Fritz
May 28/2021	PDO	0.30	Correspondence with B. Warga
May 28/2021	JML	0.20	Reviewing correspondence from J. Lavoie Harding regarding position of FCC on proposed interim distribution and prepare follow up correspondence to debtor counsel requesting clarification of position of debtors regarding interim distribution
May 31/2021	JML	0.10	Telephone attendance on P. Abrametz regarding consent to interim distribution order
May 31/2021	PDO	1.60	Reviewing judicial Fiat; telephone attendance on and correspondence with B. Warga and J. Fritz; correspondence with BMO and counsel for BMO
May 31/2021	JML	0.40	Reviewing May 31, 2020 Fiat of Mr. Justice Meschishnick
May 31/2021	JML	0.10	Reviewing potential next steps arising out of May 31 Fiat of Mr. Justice Meschishnick
May 31/2021	JML	0.10	Telephone attendance on P. Abrametz regarding May 31 Fiat of Mr. Justice Meschishnick
May 31/2021	JML	0.60	Telephone attendance on B. Warga and J. Fritz regarding May 31 decision of Mr. Justice Meschishnick and seek instructions regarding next steps
May 31/2021	JML	0.10	Reviewing Draft Statement of Receipts and Disbursements in receivership estate to May 31, 2021

**Total Fees: 24,981.00**

**SUMMARY OF PROFESSIONAL SERVICES**

	HOURS	HOURLY RATE	AMOUNT
Shay Brehm	2.80	225.00	630.00
Marek Coutu	5.90	285.00	1,681.50

## SUMMARY OF PROFESSIONAL SERVICES

	HOURS	HOURLY RATE	AMOUNT
Paul D. Olfert	19.50	450.00	8,775.00
Jeffrey M. Lee	17.70	785.00	13,894.50
	<u>45.90</u>		<u>24,981.00</u>

## DISBURSEMENTS AND OTHER CHARGES

Imaging Services	153.25
Postage Meter	51.56
PPR Online - Saskatoon	10.00
	Total Taxable 214.81
SK Provincial-Court of Queen's Bench	40.00
	Total Non-Taxable 40.00
	<b>Sub-Total Disbursements: 254.81</b>

## BILL SUMMARY

Total Fees	24,981.00
GST	1,249.05
SK PST	1,498.86
Total Disbursements	254.81
GST	10.74
Subtotal	<u>27,994.46</u>
<b>TOTAL AMOUNT DUE CDN DOLLARS:</b>	<b>\$ <u>27,994.46</u></b>

JML/ CRB

### **MLT Aikins LLP**

To the extent possible, we have made every effort to include fees and disbursements for the current billing period. In the event further fees or disbursements are incurred on your behalf, a subsequent account will be forwarded.

"Other Charges" are based on rates established by MLT AIKINS LLP and may change from time to time. A schedule of those rates is available on request.

### **TERMS: DUE UPON RECEIPT**

Interest at the rate of 14% per annum is added to all amounts overdue by 30 days or more.

**Appendix D – Statement of Receipts and Disbursements for the Period December 1, 2020 to June 2, 2021**

**TYLER SMITH, PAMELA SMITH, SMITH NORTHERN RANCHING, 101197829 SASKATCHEWAN LTD.  
IN RECEIVERSHIP**

**PRO FORMA STATEMENT OF RECEIPTS AND DISBURSEMENTS**  
For the Period December 1, 2020 to June 2, 2021

	<u>Amount</u>	<u>Notes</u>
<b>Receipts</b>		
Advance from Secured Creditor	\$ 100,000	
Accounts receivable	409,151	(1)
Cash on hand	66,826	(2)
Cattle sales (calves and bulls)	619,576	
Custom cattle revenue	234,924	(3)
Feed inventory	100,000	
Sale of market grains (Richardson Pioneer)	1,055,606	(4)
<b>Total Receipts</b>	<b>2,586,083</b>	
<b>Disbursements</b>		
Agent fees and disbursements	5,642	
Appraisal fees	2,367	
Bank fees	35	
Cattle sale costs (commissions, brand inspection, etc.)	30,616	
Contract workers	145,692	
Equipment repairs and maintenance	9,991	
Filing fees	143	
Fuel	33,161	
Grain check off fees	1,622	
GST paid on disbursements	4,663	
GST paid on legal fees and disbursements	6,153	
GST paid on Receiver fees and disbursements	9,889	
Insurance	25,266	
Interest	372	
Legal fees and disbursements	123,485	
Livestock supplies	10,247	
Miscellaneous	327	
PST paid on disbursements	802	
PST paid on legal fees and disbursements	7,258	
Receiver fees and disbursements	197,789	
Repayment of Receiver's Borrowing Certificate	100,000	
Utilities	6,406	
<b>Total Disbursements</b>	<b>721,926</b>	
<b>Excess of Receipts over Disbursements - funds held in trust as at June 2, 2021</b>	<b>\$ 1,864,157</b>	
<b>Estimated Receipts</b>		
Residual Lands sale proceeds	86,543	
<b>Subtotal</b>	<b>86,543</b>	
<b>Estimated Disbursements</b>		
Operating costs (insurance and utilities)	5,000	
GST assessment	1,302	
Estimated legal fees to finalize the Receiver's discharge (application materials, Court attendance, etc.)	16,650	
Estimated Receiver fees to finalize the Receiver's discharge (reporting, Court attendance, distribution)	15,750	
<b>Subtotal</b>	<b>38,702</b>	
<b>Estimated Receipts over Disbursements</b>	<b>\$ 1,911,997</b>	
BMO indebtedness (inclusive of legal fees) as at May 31, 2021	2,001,814	
<b>Estimated (Shortfall) / Surplus to BMO</b>	<b>\$ (89,817)</b>	

**Notes:**

- (1) Collections from Richardson Pioneer with respect to unsettled shipments of canola (\$198K), oats (\$122K), and barley (\$89K) delivered prior to the date of receivership.
- (2) Primarily comprised of custom cattle receipts for the month of November 2020.
- (3) Includes custom cattle revenue for the months of December 2020, January, February, and March 2021.
- (4) The Receiver has received \$845,560.57 related to the sale of canola to Richardson Pioneer, based on contract pricing. The difference between the "date of delivery opening spot market price" and the "contract price" (approximately \$500K) is subject to appeal by Richardson Pioneer and will be determined in due course.