

IN THE COURT OF APPEAL

BETWEEN:

LINCOLN WOLFE and 5606269 MANITOBA LTD.,

(Applicants) Respondents,

– and –

DUANNE TAYLOR and 5608067 MANITOBA LTD.,

(Respondents) Appellants,

– and –

TAYLOR BROS. FARM LTD. and EDWIN POTATO GROWERS LTD.,

(Respondents).

APPLICATION UNDER section 207 of *The Corporations Act*, C.C.S.M. c. C225

NOTICE OF APPEAL

FAST TRIPPIER CLUNIE WITTMAN SANTOS LLP

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File No. 15,110-0-150-150

FILED
COURT OF APPEAL

OCT 18 2010

LAW COURTS
WINNIPEG

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NOTICE OF APPEAL

TAKE NOTICE that a motion will be made on behalf of these (Respondents) Appellants, Duanne Taylor and 5608067 Manitoba Ltd., by way of appeal from the judgment of the Honourable Mr. Justice Toews of the Court of Queen's Bench, Winnipeg Centre, pronounced on the 31st day of August, 2018 and filed on the 27th day of September 2018, in Queen's Bench File No. CI15-01-97066, whereby the Learned Motions Judge did:

- 1) grant the Order that the reported actions of the Liquidator to date be approved to date;
- 2) grant the Order approving the Fourth Report of the Liquidator;
- 3) grant the Order approving the Supplement to the Forth Report; and

- 4) grant an Order approving the distribution schedule attached to the said Order (the “**Approved Distribution Schedule**”).

On appeal, this Honourable Court will be asked to:

- 1) set aside the said judgment of the Learned Motions Judge; and
- 2) such other and further relief as counsel may advise and this Honourable Court may allow;

on the following grounds:

- 1) the Learned Motions Judge erred in approving the Approved Distribution Schedule;
- 2) the Learned Motions Judge erred in approving the actions of the Liquidator to date;
- 3) the Learned Motions Judge erred in approving the Fourth Report of the Liquidator;
- 4) the Learned Motions Judge erred in approving the Supplement to the Fourth Report of the Liquidator;
- 5) the Learned Motions Judge failed to observe the rules of natural justice and procedural fairness; and
- 6) the Learned Motions Judge failed to rely on proper principles and apply properly the law of marshalling in approving the Approved Distribution Schedule, and his decision is clearly wrong; and
- 7) if the Learned Motions Judge’s order were allowed to stand, it would result in an injustice, or in the alternative, an unreasonable result; and
- 8) such further and other grounds as counsel may advise and this Honourable Court may allow.

Has a transcript of the evidence with respect to the judgment appealed from been ordered from transcription services? [X] Yes [] No [] Not required

Dated this 18th day of October, 2018

FAST TRIPPIER CLUNIE WITTMAN SANTOS LLP
Barristers & Solicitors
10 Donald Street
Winnipeg, Manitoba R3C 1L5

Per: 

Faron J. Trippier/ Irina Vakurova
Counsel for the (Respondents) Appellants,
Duanne Taylor and 5608067 Manitoba Ltd.

TO: The Registrar of the Court of Appeal
Law Courts Building
100E – 408 York Avenue
Winnipeg, Manitoba R3C 0P9

AND TO: MLT Aikins
30th Floor – 360 Main Street
Winnipeg, Manitoba R3C 4G1

Attention: Jeffrey M. Lee/J.J. Burnell
Counsel for the Liquidator

AND TO: Thompson Dorfman Sweatman LLP
2200 – 201 Portage Avenue
Winnipeg, Manitoba R3B 3L3

Attention: Ross A. McFadyen
Counsel for the (Applicants) Respondents.

SCHEDULE C

FORM 1
(Rule 112)

IN THE COURT OF APPEAL

Notice of Intent to Exercise Language Right

The attached document begins a proceeding in the Court of Appeal. Your rights may be affected in the course of the proceeding. You have a right to use either the English or the French language even where the attached document is in the other language, but in order to exercise your right you are required within 21 days of service of this document on you to file with the registrar of the court a notice of your intention to do so and to leave with the registrar an address for service. If you file such a notice, you will be notified, in the language indicated in your notice, of further stages in the proceeding by registered mail addressed to your address for service. If you do not file a notice of your intention to exercise your right, the appeal will continue in the language of the attached document. The time limited for your filing of a notice may be enlarged or abridged at any time by order of a judge made on application in either English or French.

Registrar
Manitoba Court of Appeal
Room 205 Law Courts Building
408 York Avenue
Winnipeg, Manitoba
R3C 0P9

ANNEXE C

FORMULE 1
(Règle 112)

COUR D'APPEL

Avis relatif au droit d'utilisation d'une langue

Le document ci-joint constitue un document introductif d'instance devant la Cour d'appel. Les procédures dans l'instance pourront porter atteinte à vos droits. Vous avez le droit d'utiliser l'anglais ou le français aux différentes étapes de l'instance même lorsque le document ci-joint est rédigé dans l'autre langue. Si vous désirez exercer votre droit d'utiliser l'une ou l'autre langue, vous devez, dans les 21 jours de la signification qui vous est faite de ce document, déposer auprès du registraire de la Cour d'appel un avis à cette fin et lui indiquer un domicile élu aux fins de signification. Si vous déposez cet avis, vous serez avisé(e) des procédures subséquentes par lettre recommandée envoyée à votre domicile élu aux fins de signification, dans la langue que vous aurez indiquée dans l'avis. Si vous ne déposez pas un avis de votre intention d'exercer votre droit, toutes les procédures subséquentes en appel se dérouleront dans la même langue que celle du document ci-joint. Suite à une demande présentée en anglais ou en français, le juge peut, en tout temps, par ordonnance, proroger ou abréger le délai prescrit pour le dépôt de l'avis.

Registraire
Cour d'appel du Manitoba
Palais de justice
408, avenue York, pièce 205
Winnipeg, Manitoba
R3C 0P9