

**COURT FILE NUMBER: QBG NO. 1337 OF 2020**

**COURT OF QUEEN'S BENCH FOR SASKATCHEWAN**

**JUDICIAL CENTRE: SASKATOON**

**PLAINTIFF: BANK OF MONTREAL**

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

**NOTICE OF APPLICATION**

**NOTICE TO THE RESPONDENT: BANK OF MONTREAL**

This application is made against you. You are the Respondent. You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Where: Court of Queen's Bench,  
1800 Central Avenue  
Prince Albert, Saskatchewan  
Date: March 31, 2021  
Time: 1:30 p.m.

Due to the health risks posed by the COVID-19 pandemic, all chambers applications will be heard by telephone unless the presiding judge has decided otherwise. To confirm the telephone number where you can be reached on the date of the application, you must immediately contact the office of the local registrar at (306) 953-3200 and provide your telephone number. You must remain available by telephone at that number on that date until your matter is heard.

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

**Remedy claimed or sought:**

1. This application is for:
  - (a) An Order that the appointment of Deloitte Restructuring Inc., as Receiver, be vacated, and terminated;

(b) An Order that the Receiver be discharged as Receiver of the property, assets and undertakings of Tyler Smith, Pamela Smith, Smith Northern Ranching and 101197829 Saskatchewan Ltd.;

(c) That the Receiver prepare its final accounts for approval;

(d) An Order that the Receiver make payment to the Respondent, Bank of Montreal, of the balance of funds had and received during the course of its Receivership, along with an accounting thereof;

(e) Such further and other Orders as counsel may request and this Honourable Court may permit.

**Grounds for making this application:**

2.(i) The appointment of Deloitte Restructuring Inc., as Receiver by the Plaintiff, Bank of Montreal, is a nullity, the application for such appointment having been made in the Judicial Centre of Saskatoon (rather than Prince Albert) contrary to Section 243(5) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c.B-3, as:

a. The judicial district of the locality of the Debtor is the Judicial Centre of Prince Albert.

b. The Debtors reside, and carry on the business of farming in the District of Duck Lake, which is in the Judicial Centre of Prince Albert.

(ii) The Receiver has sold all of the Debtors' crop and cattle; and is holding in excess of \$1,800,000.00, and has made no distribution of the same;

(iii) The Debtors claim their farm machinery as exempt;

(iv) The Debtors are no longer in possession of sufficient assets that would justify the continuance of the Receivership;

(v) The Receiver failed to see to the exclusion of the land from the Receivership;

(vi) Such further and other grounds as counsel may advise and this Honourable Court may allow.

**Material or evidence to be relied on:**

3.(a) The judicial district of the locality of the Debtor is the Judicial Centre of Prince Albert;

(b) The Debtors reside, and carry on the business of farming in the district of Duck Lake, which is in the Judicial Centre of Prince Albert;

(c) The Plaintiff, Bank of Montreal applied to this Honourable Court for an Order granting Receivership, **in the Judicial Centre of Saskatoon**, which Order was granted the 1<sup>st</sup> day of December, 2020 (the “Receivership Order”), which appointed Deloitte Restructuring Inc. as Receiver;

(d) The Affidavit of Tyler Smith shall be filed in support of the application;

**Applicable Rules, Acts and Regulations**

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

DATED at Prince Albert, Saskatchewan, this 25<sup>th</sup> day of March, 2021

**ABRAMETZ & EGGUM**

Per: \_\_\_\_\_  
Solicitors for the Defendants/Applicants

**NOTICE**

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

CONTACT INFORMATION AND ADDRESS FOR SERVICE

Name of Firm: ABRAMETZ & EGGUM  
Agent for Jason Paulsen: Peter V. Abrametz  
Address: 101, 88 – 13<sup>th</sup> St. East, Prince Albert, SK S6V 1C6  
Telephone number: (306) 763-7441  
Fax number: (306) 764-2882  
Email: [petervabrametz@inet2000.com](mailto:petervabrametz@inet2000.com)  
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