

COURT FILE  
NUMBER

915 ✓  
QB 934 of 2019

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN  
IN BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE SASKATOON

IN THE MATTER OF THE RECEIVERSHIP OF BECKERLAND FARMS INC.

**ORIGINATING APPLICATION  
(Receivership Order)**

**NOTICE TO RECIPIENTS LISTED IN THE PRELIMINARY SERVICE LIST**

This application is made against you. You are a 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: 520 Spadina Crescent East, Saskatoon, SK

Date: Wednesday, July 3, 2019

Time: 10:00 a.m.

Go to the end of this document to see what you can do and when you must do it.

**PARTICULARS OF APPLICATION**

**1. The applicant seeks the following remedy or order:**

- (a) an Order validating service of this Originating Application and supporting materials;
- (b) an Order pursuant to section 243 of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (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 appointing MNP Ltd. as receiver (the "**Receiver**"), without security, of all of the assets, undertakings, and properties (collectively, the "**Property**") of the debtor, Beckerland Farms Inc. ("**Beckerland**"); and
- (c) such further and other relief as counsel may advise and this Honourable Court may allow.

**2. The applicant's grounds for making this application are:**

- (a) the Applicant, Business Development Bank of Canada (“**BDC**”), is a secured creditor of Beckerland and has a security interest in all, or substantially all, of the Property;
- (b) BDC has served Beckerland with the required statutory notices of intention to enforce its security against the Property pursuant to the BIA, the *Farm Debt Mediation Act*, SC 1997, c 21, and *The Saskatchewan Farm Security Act*, SS, 1988-89, C S-17.1 (the “**SFSA**”);
- (c) BDC has obtained an Order of the Saskatchewan Court of Queen’s Bench that section 9(1)(d) of the SFSA does not apply and BDC is no longer precluded from commencing an action against the lands owned by Beckerland; and
- (d) the Affidavits of Gabrysh and Koh filed in support of the within application provide sufficient evidence to establish that it is just and convenient to appoint a receiver over the Property in the circumstances given:
  - (i) the location and nature of the Property;
  - (ii) the need to investigate and locate missing equipment;
  - (iii) BDC’s right to appoint a receiver under the mortgages, security agreements, and forbearance agreement; and
  - (iv) Beckerland’s overall conduct since default.

**3. The applicant's summary of the material facts is as follows:**

- (a) Beckerland operates a grain-drying operation with business locations in or around Canora and Wroxton, Saskatchewan;
- (b) Beckerland entered into an agreement with BDC (the “**Loan Agreement**”), whereby BDC advanced funds to Beckerland (the “**Loan**”) on certain terms and conditions;
- (c) to secure the repayment of the Indebtedness, Beckerland agreed to grant BDC security in the Property (the “**Security**”), and the provisions of the underlying agreements entitle BDC to appoint a receiver in the event of default;
- (d) in 2016, Beckerland defaulted on its obligations pursuant to the Loan Agreement and BDC demanded repayment of the Indebtedness, which Beckerland failed to do;

- (e) Beckerland and BDC entered into a series of forbearance agreements (collectively, the “**Forbearance Agreements**”), pursuant to which Beckerland consented to, among other things, the appointment of a receiver over the Property;
- (f) Beckerland chose not to renew the Forbearance Agreements in June of 2018 and subsequently exhausted its available remedies available under the SFSA;
- (g) BDC has been unable to locate a significant amount of Beckerland’s personal property, which the corporation’s principal claims to have sold without BDC’s knowledge or consent, and requires the assistance of a court-appointed receiver with the requisite powers to investigate further; and
- (h) the professional advice received by BDC indicates that the land, fixtures, and certain personal property would best be sold *en bloc*, which further recommends the appointment of a court-appointed receiver to market the Property, negotiate with prospective purchasers, and apply to Court for a vesting order to transfer title free and clear of encumbrances.

**4. In support of this application, the applicant relies on the following material or evidence:**

- (a) this Originating Application, with proof of service;
- (b) the Affidavit of Jennifer Koh sworn June 27, 2019;
- (c) the Affidavit of John Gabrysh sworn June 27, 2019;
- (d) Consent to the Appointment of MNP Ltd. as Receiver;
- (e) a Brief of Law; and
- (f) such further and other materials as counsel may advise and this Honourable Court may allow.

DATED at Saskatoon, Saskatchewan, this 27 day of June, 2019.

**McDOUGALL GAULEY LLP**

Per:



Solicitors for the Applicant,  
Business Development Bank of Canada



This notice is issued at the above-noted judicial centre on the 27<sup>th</sup> day of June, 2019.

**K. Radom**  
Deputy Local Registrar  
(Deputy) Local Registrar

**NOTICE**

You are named as a respondent because you have made or are expected to make an adverse claim with respect to this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant(s) and against all persons claiming under the applicant(s). You will be bound by any order the Court makes. If you want to take part in the application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form.

The rules require that a party moving or opposing an originating application must serve any brief of written argument on each of the other parties and file it at least 3 days before the date scheduled for hearing the originating application.

If you intend to rely on an affidavit or other evidence when the originating application is heard or considered, you must serve a copy of the affidavit and other evidence on the originating applicant at least 10 days before the originating application is to be heard or considered.

**CONTACT INFORMATION AND ADDRESS FOR SERVICE**

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