

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

NATIONAL BANK OF CANADA

PETITIONER

AND:

1239583 B.C. LTD.

RESPONDENT

**RESPONSE TO PETITION**

**Filed by:** The Respondent, 1239583 B.C. Ltd. (the "Petition Respondent")

THIS IS A RESPONSE TO the Petition filed on July 26, 2023.

**Part 1: ORDERS CONSENTED TO**

The Petition Respondent consents to the granting of the orders set out in the following paragraphs:

N/A

**Part 2: ORDERS OPPOSED**

The Petition Respondent opposes the granting of the orders set out in the following paragraphs of Part 1:

**1 and 2.**

**Part 3: ORDERS ON WHICH NO POSITION IS TAKEN**

The Petition Respondent takes no position on the granting of the orders set out in the following paragraphs of Part 1:

N/A

**Part 4: FACTUAL BASIS**

1. In exercising its discretion to appoint a receiver, this Court is requested to take into account the following facts:

- a. a February 2023 appraisal of the subject property of \$8,9200,000 shows that there is considerable equity in the property and the Petitioner's security is not in jeopardy;
  - b. there has been a stay of proceedings pursuant to the *Farm Debt Mediation Act* from April 18, 2023 to June 6, 2023 and accordingly the Respondent has not had sufficient opportunity in order to make alternative arrangements in order to fully redeem the Petitioner's mortgage;
  - c. there are currently farm operations being conducted at the subject property which are likely to yield significant revenue in January 2024 which will enable the Respondent to clear all of the indebtedness to the Petitioner; and
  - d. the Respondent is taking diligent steps to obtain alternative financing to fully redeem the Petitioner's mortgage and such steps are likely to yield to the completion of a refinancing within the next 3 to 4 months.
2. For all of these reasons, the Respondent states that the appointment of a receiver is premature and not warranted.

#### **Part 5: LEGAL BASIS**

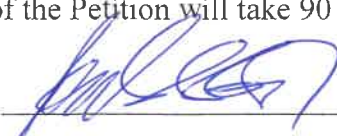
1. Section 39 of the *Law and Equity Act*, RSBC 1996, c.253.
2. Rule 10-2 of the *Supreme Court Civil Rules*.
3. *Prospera Credit Union v Port Living Farms (3624 Parkview) Investments Inc.* 2021 BCJ No. 2707 which states that the "modern approach for a appointment of a receiver is that there is no presumption in favour of appointment of a receiver where there is a contractual provision for such an appointment".
4. The Respondent will also rely upon *Maple Trade Financing Inc. v CY Oriental Holdings Ltd.* 2009 BCSC 1527.

#### **Part 6: MATERIAL TO BE RELIED ON**

1. Affidavit of S. Bath sworn September 5, 2023 with Exhibits.

The Petition Respondent estimates that the hearing of the Petition will take 90 minutes.

Date: September 5, 2023

  
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Signature of [ ] petition respondent  
[X] lawyer for the petition respondent  
RAJDEEP S. DEOL

Petition Respondent's address for service: c/o Deol Lawyers, 200, 8338 – 120<sup>th</sup> Street, Surrey, BC, Surrey, BC V3W 3N4

Fax number address for service (if any): N/A

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Name of the petition respondent's lawyer: Rajdeep S. Deol