

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK  
IN BANKRUPTCY AND INSOLVENCY  
JUDICIAL DISTRICT OF EDMUNDSTON

IN THE MATTER OF THE RECEIVERSHIP OF 655873 N.-B. INC. OPERATING AS RIVIÈRE-VERTE RITE STORE., carrying on business at 6, Industrielle Street, in the Village of Rivière-Verte, in the County of Madawaska and Province of New Brunswick;

PURSUANT TO Section 33 of The *Judicature Act*, R.S.N.B. 1973, Ch. J-2, Rule 41, Rules of Court, New Brunswick and Section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3

BETWEEN: Royal Bank of Canada, a chartered bank,

APPLICANT

**Reçu et Déposé  
Received and Filed  
JAN 26 2016**

- and -

655873 N.-B. INC, OPERATING AS RIVIÈRE-VERTE RITE STORE  
carrying on business in the Village of Rivière-Verte and  
Province of New Brunswick

RESPONDENT

**Cour du Banc de la Reine  
Court of Queen's Bench  
Edmundston, N.B.**

**Report of BDO Canada Limited,  
as Proposed Receiver of 655873 N.-B. Inc, operating as Rivière-Verte Rite Store**

I, JASON BREEZE, of Halifax, Nova Scotia, say as follows:

1. I am a Trustee in Bankruptcy and Vice President of BDO Canada Limited ("BDO Canada") proposed Receiver 655873 N.-B. Inc, operating as Rivière-Verte Rite Store (the "Company"). As such I have personal knowledge of the matters herein, except where otherwise stated.

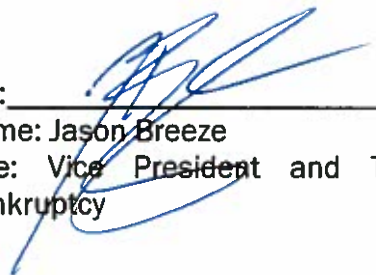
2. BDO Canada understands that Royal Bank of Canada (“RBC”) intends to make an application by way of motion to the New Brunswick Court of Queen’s Bench (In Bankruptcy and Insolvency) for the purpose of appointing BDO as a limited purpose Receiver as set out in the attached draft order marked as Exhibit A.
3. BDO Canada has consented to act as Receiver in these proceedings should this Court issue the Order sought. This report (“Report”) has been drafted and provided to the Court in BDO Canada’s capacity as proposed receiver.
4. The purposes of this report is to detail the involvement to date of BDO Canada with the Company with respect to seeking access to the Company’s real property for the purposes of completing a Phase II Environmental Site Assessment.
5. On or about November 12, 2015, RBC appointed BDO as private receiver (“Receiver”) as limited in a certain Appointment Letter dated as of that date (the “Appointment Letter”), a copy of which is attached hereto as Exhibit B.
6. In furtherance of the execution of the mandate set out in the Appointment Letter, I arranged for and coordinated a site visit at the Company’s business premises, accompanied by Greg Derrah of Fundy Engineering Limited and Elliott Offman of Castle Appraisals Inc., a personal property appraiser. The site visit took place on December 1, 2015.
7. I attended at the site at approximately 9:00 AM on December 1, 2015 with Mr. Derrah and Mr. Offman. Mr. Daniel Johnson, principal of the Company, was not on site and I asked Company staff to contact Mr. Johnson so I could explain the purpose of my attendance and serve him with a copy of the Appointment Letter. Shortly thereafter, at approximately 9:15 AM, I spoke to Mr. Johnson by telephone and explained the purpose of my attendance. I then asked Mr. Johnson for permission to conduct a Phase II Environmental Assessment and personal property appraisal. Mr. Johnson advised me that he would not interfere with the Receiver, the engineer, or the personal property appraiser. I specifically asked Mr. Johnson again for permission to conduct a

Phase II Environmental Assessment and personal property appraisal, to which Mr. Johnson responded again by saying that he would not interfere. I expressed my concern to Mr. Johnson that his intention to not interfere with the proposed actions of the Receiver did not have the same meaning as granting the Receiver permission and for the third time I specifically asked for permission to conduct a Phase II Environment Assessment and personal property appraisal. In response to this question, and despite the attempted delivery of the Appointment Letter and our on-site attendance, Mr. Johnson, on behalf of the Company, refused to allow us access to the site.

8. In developing this Report, BDO Canada has relied upon information supplied by RBC, and independent reviews and investigations detailed herein.
9. I make this Report in good faith, and in connection with the proposed receivership proceedings and for no other purpose.

DATED at Halifax, Nova Scotia, this 4<sup>th</sup> day of January, 2016.

BDO CANADA LIMITED, in its capacity as  
Proposed Receiver of 655783 N.-B. Inc.  
operating as Rivière-Verte Rite Store.

Per:   
Name: Jason Breeze  
Title: Vice President and Trustee in  
Bankruptcy

**Schedule "A"**

Court File No.: \_\_\_\_\_

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK

IN BANKRUPTCY AND INSOLVENCY

JUDICIAL DISTRICT OF EDMUNDSTON

IN THE MATTER OF THE RECEIVERSHIP OF 655873 N.-B. INC. OPERATING AS RIVIÈRE-VERTE RITE STORE, carrying on business at 6 Industrielle Street, in the Village of Rivière-Verte, in the County of Madawaska and Province of New Brunswick;

PURSUANT TO Section 33 of The *Judicature Act*, R.S.N.B. 1973, Ch. J-2, Rule 41, Rules of Court, New Brunswick and Section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3

BETWEEN:

Royal Bank of Canada, a chartered bank,

APPLICANT

- and -

655873 N.-B. INC, OPERATING AS RIVIÈRE-VERTE RITE STORE carrying on business in the Village of Rivière-Verte and Province of New Brunswick,

RESPONDENT

**RECEIVERSHIP ORDER**

THIS APPLICATION, made by the Royal Bank of Canada, the Applicant, for an Order pursuant to Section 33 of the *Judicature Act*, R.S. N.B. 1973, Ch. J-2, (the "Judicature Act"), Rule 41 of the Rules of Court of New Brunswick (the "Rules") and Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") appointing BDO Canada Limited in such capacities, the "Receiver") without security, was heard this day at the Edmundston Courthouse, at Carrefour Assomption, 121 de L'Église Street, in the City of Edmundston, County of Madawaska, Province of New Brunswick.

ON READING the affidavit of Angella White, sworn January 13, 2016, and the exhibits thereto and on hearing the submissions of counsel for the Royal Bank of Canada, and on reading the Report of BDO Canada Limited to act as the Receiver.

IT IS ORDERED THAT:

#### APPOINTMENT

1. Pursuant to section 33 of the *Judicature Act*, Rule 41 of the Rules and section 243(1) of the BIA, the Receiver is hereby appointed receiver, without security, of the assets, undertakings and properties of the Respondent acquired for, or used in relation to a business carried on by the Respondent, including all proceeds thereof (the "Property") for the limited purposes set out herein.

#### RECEIVER'S POWERS

2. The Receiver is hereby empowered and authorized, but not obligated, to inspect, appraise and evaluate the Property and may seek the assistance of such professional appraisers or environmental engineers as the Receiver sees fit for the purpose of allowing RBC to evaluate the manner in which RBC will enforce security it holds over the Property. The Receiver shall not be deemed in possession of the Property and shall have no duties with respect to the Property save as provided for expressly in this order.

#### DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

3. The Respondent, all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to

the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

4. All Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Respondent, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 4 or in paragraph 5 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.
5. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and

providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

#### NO PROCEEDINGS AGAINST THE RECEIVER

6. No proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

#### NO INTERFERENCE WITH THE RECEIVER

7. No Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Respondent, without written consent of the Receiver or leave of this Court.

#### LIMITATION ON ENVIRONMENTAL LIABILITIES

8. Nothing herein contained shall require or obligate the Receiver to occupy or to take control, care, charge, occupation, possession or management (separately and/or collectively, "Possession") of any of the Property that might, or any part thereof, which may be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other legislation, statute, regulation or rule of law or equity respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, *Canadian Environmental Protection Act, 1999* (Canada), the *Clean Water Act* (New Brunswick), the *Clean Environment Act* (New Brunswick), the *Clean Air Act* (New Brunswick), and *Unightly Premises Act* (New Brunswick) (collectively, the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a

result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

#### LIMITATION ON LIABILITY

9. BDO Canada Limited including, without limitation, any director, officer or employee of the Respondent, shall incur no liability or obligation as a result of its appointment as the Receiver or the carrying out the provisions of this Order, or in the case of any party acting as a director, officer or employee of the Receiver so long as acting in such capacity, save and except for any gross negligence or wilful misconduct on the part of such party, or in respect of the Receiver's obligations under sections 81.4(5) and 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

#### GENERAL

10. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
11. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Respondent.
12. The aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States is hereby requested to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the



Receiver in any foreign proceeding, or to assist the Receiver and its agents in carrying out the terms of this Order.

13. The Receiver is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
14. The Applicant shall have its costs of this Application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Respondent's estate with such priority and at such time as this Court may determine.
15. Any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver, the Applicant and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.
16. Any Person affected by this Order which did not receive notice in advance of the hearing of the initial application may apply to this Court to vary or amend this Order within three (3) days of such Person being served with a copy of this Order. Any such application for the variance or amendment of this Order shall be made on not less than forty eight (48) hours notice to the Receiver, the Applicant and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.
17. In addition to the reports to be filed by the Receiver under the BIA or *New Brunswick Business Corporations Act*, on the application to the Court of any secured creditor, the Receiver shall file a report of its activities with the Court.

**COMPLETION OF RECEIVERSHIP**

18. Upon completion of the appraisals, inspections and evaluations authorized herein to the satisfaction of the Receiver, the Receiver may file a report (the "Report") with the Court, reporting on same and upon the filing thereof and should the Receiver so request in the Report, terminate the within Receivership.

Dated at \_\_\_\_\_, New Brunswick, this \_\_\_\_ day of \_\_\_\_\_, 2016.

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Justice of the Court of Queen's Bench  
of New Brunswick

Schedule "B"



RBC Royal Bank

October 27, 2015

MARK ROSEN  
BDO CANADA LIMITED  
255 Lacewood Drive, Suite 201  
Halifax NS B3M 4G2

Dear Mr. Rosen:

RE: Appointment of Receiver and Agent of 655873 N.-B. Inc. o/a Rivière-Verte Rite Store.  
(the "Borrower")

Royal Bank of Canada (the "Bank") is the holder of various security instruments (the "Instruments") executed by the Business, more particularly described in Schedule "A", attached.

Pursuant to the Instruments, the Bank hereby appoints BDO Canada Limited as Receiver of of the Borrower with the following powers as same are contained in the Instruments:

- a) to enter onto the business premises of the Borrower for the limited purposes of, with the assistance of the appropriate professionals, conducting an inspection of the premises, an appraisal of such real or personal property as is owned or controlled by the Borrower and to cause to be conducted a Phase 1 Environmental Assessment by a qualified engineer;
- b) to comply with all statutory duties imposed on a Receiver.

For greater certainty, you shall not take possession or control of the assets or undertaking of the Borrower and shall not otherwise seize or take control of same.

The Bank reserves the right to supplement such powers as are contained herein and the right to terminate the appointment herein.

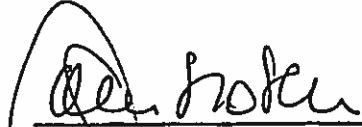
Dated at Toronto, Ontario, this 27 day of OCTOBER, 2015

ROYAL BANK OF CANADA

D.B. HOYT  
MANAGER, SPECIAL LOANS

BDO Canada Limited hereby consents to act as Receiver and Agent of the Borrower in accordance with the terms and conditions above.

Dated at Halifax, Nova Scotia, this 27 day of OCTOBER, 2015

  
\_\_\_\_\_  
Mark Rdsen,  
Senior Vice-President,  
BDO Canada Limited

NOTICE OF APPOINTMENT OF RECEIVER

TO: 655873 N.B. Inc.

TAKE NOTICE that you are in default of the terms of the various security instruments (the "Security") set out in Schedule "A", hereto, granted to us;

AND TAKE NOTICE that you have failed to honour the Demands for payment dated March 24, 2014.

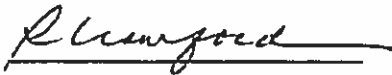
NOW THEREFORE pursuant to the terms of the Security, we have this day appointed BDO Canada Limited as Receiver and Agent with such powers as are contained in the appointment letter to BDO Canada Limited.

DATED at Toronto, Ontario, this 27 day of OCTOBER, 2015.

ROYAL BANK OF CANADA

Per:

  
DB HOYT  
MANAGER, SPECIAL CREDIT



## SCHEDULE A

- a. **General Security Agreement between the Bank and the Debtor, dated April 30, 2012 duly registered in the Personal Property Security Registry for New Brunswick; and**
- b. **A Collateral Mortgage, dated April 16, 2012, duly registered against the property known as 6 Industrielle Street, Route 2, Rivière-Verte, New Brunswick (PIDs 35295526, 35297092, 35297118 and 35297126), more particularly described in the Mortgage.**