

COURT FILE NUMBER	2401-01216
COURT	COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	ATB FINANCIAL
DEFENDANTS	APEX NUTRI-SOLUTIONS INC. 2175551 ALBERTA LTD. STEVEN HERBERT, DAVID HERBERT, MURRAY HERBERT AND CAROLYN HERBERT
APPLICANT	BDO CANADA LIMITED, in its capacity as receiver and manager or APEX NUTRI-SOLUTIONS INC., 2175551 ALBERTA LTD., and certain property of MURRAY HERBERT AND CAROLYN HERBERT
DOCUMENT	APPLICATION (APPROVAL OF RECEIVER'S FEES AND DISBURSEMENTS, APPROVAL OF RECEIVERS ACTIVITIES AND DISCHARGE)
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	MLT AIKINS LLP Barristers and Solicitors 2100, 222 3 rd Avenue S.W. Calgary, Alberta T2P 0B4 Phone: 403.693.5420 / 306.361.7770 Fax: 403.508.4349 Attention: Ryan Zahara / Paul Olfert File: 0128056.00010

NOTICE TO RESPONDENTS:

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the Judge.

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

Date:	August 25, 2025
Time:	2:00 p.m.
Where:	Via Webex, Calgary Law Courts, Commercial List
Before Whom:	The Honourable Justice C.D. Simard

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

Remedy Claimed or Sought:

- Capitalized terms not otherwise defined herein shall have the meaning given to them in the third report (the "**Third Report**") dated August 14, 2025 of BDO Canada Limited ("**BDO**" or the "**Receiver**") in its capacity as court-appointed interim receiver of the undertaking, property and

assets of Apex Nutri-Solutions Inc. ("**Apex**") pursuant to the Interim Receivership Order dated February 20, 2025 (the "**Apex Interim Receivership**"), court appointed receiver of the undertaking, property and assets of Apex pursuant to the Receivership Order dated April 2, 2025 (the "**Apex Receivership**"), court- appointed receiver of the undertaking, property and assets of 2175551 Alberta Ltd. ("**217 AB**") pursuant to the Receivership Order dated February 20, 2025 (the "**217 AB Receivership**"), and court-appointed receiver of certain property of Murray Herbert and Carolyn Herbert (collectively, the "**Herberts**"; and together with Apex and 217 AB, the "**Debtors**") pursuant to the Receivership Order dated April 2, 2025 (the "**Herbert Receivership**").

2. An abridgement of the time for service of this Application and materials in support thereof, and an Order declaring service of the same to be good and sufficient.
3. An Order substantially in the form of **Schedule "A"** hereto:
 - (a) discharging BDO as court-appointed receiver of the property of the Herberts in the Herbert Receivership;
 - (b) approving the activities of BDO in relation to the Herbert Receivership as described in the Receiver's reports;
 - (c) approving BDO's Statement of Receipts and Disbursements in relation to the Herbert Receivership as described in the Third Report; and
 - (d) approving the professional fees and disbursements of BDO and BDO's legal counsel, MLT Aikins LLP, in relation to the Herbert Receivership as described in the Third Report.
4. An Order substantially in the form of **Schedule "B"** hereto:
 - (a) discharging BDO as court-appointed interim receiver of the undertaking, property, and assets of Apex in the Apex Interim Receivership;
 - (b) approving the activities of BDO in relation to the Apex Interim Receivership as described in the Receiver's reports;
 - (c) approving BDO's Statement of Receipts and Disbursements incurred in relation to the Apex Interim Receivership as described in the Third Report; and
 - (d) approving the professional fees and disbursements of BDO and BDO's legal counsel, MLT Aikins LLP, in relation to the Apex Interim Receivership as described in the Third Report.

5. An Order substantially in the form of **Schedule “C”** hereto:
 - (a) approving the activities of BDO in relation to the Apex Receivership and 217 AB Receivership as described in the Receiver’s reports;
 - (b) approving BDO’s interim Statement of Receipts and Disbursements incurred in relation to the Apex Receivership and the 217 AB Receivership as described in the Third Report; and
 - (c) approving the professional fees and disbursements of BDO and BDO’s legal counsel, MLT Aikins LLP, in relation to the Apex Receivership and the 217 AB Receivership as described in the Third Report.

Conclusion of Interim Receivership and Herbert Receivership and Discharge of the Receiver

6. Pursuant to the terms of the Interim Receivership Order dated February 20, 2025 in the Apex Interim Receivership, the same was automatically terminated when BDO was appointed as receiver of the undertaking, property, and assets of Apex under the Apex Receivership Order dated April 2, 2025. However, the usual releases and approvals were not sought at that time, nor was a formal discharge in the form of the Alberta Template Discharge Order. In such circumstances, it is appropriate to formally discharge BDO as interim receiver of Apex.
7. BDO has substantially completed its mandate in the Herbert Receivership. Accordingly, an Order discharging BDO as receiver of the Herberts’ property in accordance with the standard practice of the Court in receivership matters is necessary and appropriate.

Approval of the Actions, Activities and Conduct of BDO

8. BDO has completed its mandate in the Apex Interim Receivership, has substantially completed its mandate in the Herbert Receivership, and is nearing completion of its mandates in the Apex Receivership and the 217 AB Receivership.
9. As more particularly described in the Third Report, BDO’s mandates have at all times been carried out with efficiency and integrity and with due regard for the interest of all parties. In accordance with the standard practice of this Court in receivership proceedings, an Order approving the actions, activities and conduct of BDO is necessary and appropriate.

Approval of the Fees and Disbursements of BDO and its Legal Counsel

10. BDO’s mandate has involved the management of three receivership estates (and one interim receivership estate) in which the debtors have taken a very active and aggressive role, resulting in

near-constant communications and negotiations throughout the course of each proceeding. In the circumstances the fees and disbursements of BDO and those of its legal counsel are fair and reasonable and an Order approving the same is appropriate.

Material or Evidence to be Relied on:

11. The Receiver intends to rely on the following materials:
 - (a) February 20, 2025 Interim Receivership Order of the Honourable Justice C.D. Simard (Apex);
 - (b) February 20, 2025 Receivership Order of the Honourable Justice C.D. Simard (217 AB);
 - (c) March 14, 2025 Interim Receivership Extension Order of the Honourable Justice C.D. Simard (Apex);
 - (d) April 2, 2025 Receivership Order of the Honourable Justice C.D. Simard (Apex);
 - (e) April 2, 2025 Receivership Order of the Honourable Justice C.D. Simard (Herberts);
 - (f) May 5, 2025 Approval Order of the Honourable Justice D.R. Mah;
 - (g) First Report of the Interim Receiver dated March 24, 2025;
 - (h) First Report of the Receiver dated April 14, 2025;
 - (i) Second Report of the Receiver dated April 30, 2025;
 - (j) Third Report of the Receiver dated August 14, 2025;
 - (k) Brief of Law of the Receiver (to be filed);
 - (l) Affidavit of Service (to be filed); and
 - (m) such further and other materials as counsel may advise and this Court may permit.

Applicable Rules:

12. The *Alberta Rules of Court*, AR 124/2010.
13. Such further and other rules as counsel may advise and this Honourable Court may permit.

Applicable Acts and Regulations:

14. The *Judicature Act*, RSA 2000, c. J-2, section 13(2); The *Business Corporations Act*, RSA 2000, c. B-9, sections 99(a) and 242; and The *Personal Property Security Act*, RSA 2000, c. P-7, section 65(7).
15. Such further and other Acts and regulations as counsel may advise and this Honourable Court may permit.

Any Irregularity Complained of or Objection Relied on:

16. There are no irregularities complained of or objections relied on.

How the Application is Proposed to be Heard or Considered:

17. Oral submissions by counsel at an application before the Honourable Justice C.D. Simard by WebEx video conference as scheduled at 2:00 pm on August 25, 2025, on the Commercial List.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant what they want in your absence. You will be bound by an 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.

SCHEDULE "A" – RECEIVERS DISCHARGE ORDER (HERBERTS RECEIVERSHIP)

COURT FILE NUMBER 2401-01216
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF ATB FINANCIAL
DEFENDANTS APEX NUTRI-SOLUTIONS INC. 2175551
ALBERTA LTD. STEVEN HERBERT, DAVID
HERBERT, MURRAY HERBERT AND CAROLYN
HERBERT
APPLICANT BDO CANADA LIMITED, in its capacity as receiver
and manager or APEX NUTRI-SOLUTIONS INC.,
2175551 ALBERTA LTD., and certain property of
MURRAY HERBERT AND CAROLYN HERBERT
DOCUMENT **ORDER (APPROVAL OF RECEIVER'S FEES
AND DISBURSEMENTS, APPROVAL OF
RECEIVER'S ACTIVITIES AND DISCHARGE OF
RECEIVER) (MURRAY AND CAROLYN
HERBERT)**
ADDRESS FOR SERVICE AND **MLT AIKINS LLP**
CONTACT INFORMATION OF 2100, 222 – 3rd Ave. SW
PARTY FILING THIS Calgary, AB T2P 0B4
DOCUMENT Attention: Ryan Zahara / Paul Olfert
Phone: 403-693-5420 / 306-956-6970
Fax: 403-508-4349 / 306-975-7145
File: 0128056.00009

DATE ON WHICH ORDER WAS PRONOUNCED: AUGUST 25, 2025
LOCATION WHERE ORDER WAS PRONOUNCED: CALGARY, ALBERTA
NAME OF THE JUSTICE WHO MADE THIS ORDER: JUSTICE C.D. SIMARD

UPON THE APPLICATION of BDO Canada Limited, in its capacity as the Court-appointed receiver (the “**Receiver**”) of certain property (the “**Herbert Property**”) of Murray Herbert and Carolyn Herbert (the “**Debtors**”) for an Order for the approval of the Receiver’s fees and disbursements, approval of the Receiver’s activities and discharge of the Receiver over certain property of the Debtors; **AND UPON** having read the Receivership Order dated April 2, 2025, the Application, and the Third Report of the Receiver dated August 14, 2025 (the “**Third Report**”); **AND UPON** hearing from counsel for the Receiver,

counsel for the Debtors and any other interested person; **AND UPON** being satisfied that it is appropriate to do so, **IT IS ORDERED THAT:**

Service

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, and no other person is required to have been served with notice of this application, and time for service of this application is abridged to that actually given.

Activities, Fees and Disbursements

2. The Receiver's accounts for fees and disbursements and the accounts of the Receiver's legal counsel, MLT Aikins LLP, for its fees and disbursements, as set out in Appendix E of the Third Report, are hereby approved without the necessity of a formal passing of accounts.
3. The Receiver's activities, as set out in the Third Report and in all of its other reports filed herein, are hereby ratified and approved.
4. The Receiver's Statement of Receipts and Disbursements, as set out in Appendix F of the Third Report, are hereby ratified and approved.
5. The Receiver's Statement of Receipts and Disbursements respecting the \$140,000.00 holdback (the "**Holdback**"), as set out in Appendix G of the Third Report, are hereby ratified and approved.
6. The Receiver is authorized and directed to make the following distributions:
 - (a) To the Debtors, any funds remaining with the Receiver following the payment of all of the fees and disbursements of the Receiver and its legal counsel from the Holdback funds.

Discharge

7. On the evidence before the Court, the Receiver has satisfied its obligations under and pursuant to the terms of the Orders granted in the within proceedings up to and including the date hereof. The Receiver is hereby released and discharged from any and all liability that the Receiver now has or may hereafter have, by reason of, or in any way arising out of, the acts or omissions of the Receiver while acting in its capacity as Receiver herein, save and except for any gross negligence or willful misconduct on the

part of the Receiver. Subject to the foregoing, any claims against the Receiver in connection with the performance of its duties are hereby stayed, extinguished and forever barred.

8. No action or other proceedings shall be commenced against the Receiver in any way arising from or related to its capacity or conduct as Receiver over the Herbert Property, except with prior leave of this Court on Notice to the Receiver, and upon such terms as this Court may direct.
9. Upon the Receiver filing with the Clerk of the Court a sworn Affidavit of a licensed Trustee employed by the Receiver confirming that all administrative matters associated with the Herbert Property have been completed, then the Receiver shall be discharged as Receiver of the Herbert Property, provided however, that notwithstanding its discharge herein: (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of the Receiver in its capacity as Receiver.
10. Upon filing of a certified copy of this Order, together with any applicable registration fees, the Registrar of Land Titles is hereby authorized, requested and directed to accept delivery of such certified copy of this Order as though it was an original and to register such interest authorizations, discharges and discharge statements of conveyance as may be required to discharge the Receivership Order – Murray and Carolyn Herbert dated April 2, 2025 registered as Registration Number 252 143 749 on June 3, 2025 against the titles to the Herbert Property. Without limiting the foregoing, the Registrar of Land Titles shall and is hereby authorized, requested and directed to forthwith discharge and expunge the Order registered in favour of BDO Canada Limited as Registration Number 252 143 749 against title to the following lands legally described as:
 - (a) Certificate of Title No. 252 189 441
MERIDIAN 4 RANGE 20 TOWNSHIP 43
SECTION 24
QUARTER NORTH EAST
EXCEPTING THEREOUT ALL MINES AND MINERALS
AREA: 64.7 HECTARES (160 ACRES) MORE OR LESS

(b) Certificate of Title No. 092 110 165

MERIDIAN 4 RANGE 20 TOWNSHIP 43
SECTION 25
QUARTER SOUTH EAST
EXCEPTING THEREOUT ALL MINES AND MINERALS
AREA: 64.7 HECTARES (160 ACRES) MORE OR LESS

(c) Certificate of Title No. 252 189 447

MERIDIAN 4 RANGE 20 TOWNSHIP 43
SECTION 26
QUARTER SOUTH EAST
CONTAINING 64.7 HECTARES (160 ACRES) MORE OR LESS
EXCEPTING THEREOUT:
2.53 HECTARES (6.25 ACRES) MORE OR LESS AS SHOWN ON
RAILWAY PLAN 1983AJ AND BEING TAKEN FOR RIGHT OF WAY
OF THE CANADIAN NORTHERN RAILWAY COMPANY
EXCEPTING THEREOUT ALL MINES AND MINERALS
AND THE RIGHT TO WORK THE SAME

11. This Order shall be served on all parties on the Service List and service may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following the transmission or delivery of such documents.
12. Service of this Order on any party not attending this application is hereby dispensed with.

The Honourable Justice C.D. Simard
Justice of the Court of King's Bench of Alberta

SCHEDULE "B" – INTERIM RECEIVERS DISCHARGE ORDER (APEX INTERIM RECEIVERSHIP)

COURT FILE NUMBER	2401-01216
COURT	COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	ATB FINANCIAL
DEFENDANTS	APEX NUTRI-SOLUTIONS INC. 2175551 ALBERTA LTD. STEVEN HERBERT, DAVID HERBERT, MURRAY HERBERT AND CAROLYN HERBERT
APPLICANT	BDO CANADA LIMITED, in its capacity as receiver and manager or APEX NUTRI-SOLUTIONS INC., 2175551 ALBERTA LTD., and certain property of MURRAY HERBERT AND CAROLYN HERBERT
DOCUMENT	ORDER (APPROVAL OF RECEIVER'S FEES AND DISBURSEMENTS, APPROVAL OF RECEIVERS ACTIVITIES AND DISCHARGE OF INTERIM RECEIVER)
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	MLT AIKINS LLP 2100, 222 – 3 rd Ave. SW Calgary, AB T2P 0B4 Attention: Ryan Zahara / Paul Olfert Phone: 403-693-5420 / 306-956-6970 Fax: 403-508-4349 / 306-975-7145 File: 0128056.00009

DATE ON WHICH ORDER WAS PRONOUNCED:	AUGUST 25, 2025
LOCATION WHERE ORDER WAS PRONOUNCED:	CALGARY, ALBERTA
NAME OF THE JUSTICE WHO MADE THIS ORDER:	JUSTICE C.D. SIMARD

UPON THE APPLICATION of BDO Canada Limited (the “**Interim Receiver**”), in its capacity as the Court-appointed interim receiver of the undertaking, property and assets of Apex Nutri-Solutions Inc. (the “**Debtor**”) pursuant to the Interim Receivership Order dated February 20, 2025 (the “**Interim Receivership**”) for approval of the Interim Receiver’s fees and disbursements, approval of the Receiver’s activities, and discharge as court-appointed interim receiver pursuant to the Interim Receivership; **AND UPON** having read the Interim Receivership Order dated February 20, 2025, the Receivership Order dated April 2, 2025,

the Application, and the Third Report of the Receiver dated August 14, 2025 (the “**Third Report**”); **AND UPON** hearing from counsel for the Interim Receiver, counsel for the Debtor and any other interested person; **AND UPON** being satisfied that it is appropriate to do so, **IT IS ORDERED THAT:**

Service

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, and no other person is required to have been served with notice of this application, and time for service of this application is abridged to that actually given.

Activities, Fees and Disbursements

2. The Interim Receiver’s accounts for fees and disbursements and the accounts of the Interim Receiver’s legal counsel, MLT Aikins LLP, for its fees and disbursements incurred in the Interim Receivership, as set out in Appendix D of the Third Report, are hereby approved without the necessity of a formal passing of accounts.
3. The Interim Receiver’s activities in relation to the Interim Receivership, as set out in the Third Report and in all of its other reports filed herein, are hereby ratified and approved.

Discharge of Interim Receiver

4. On the evidence before the Court, the Interim Receiver has satisfied its obligations under and pursuant to the terms of the Orders granted in the Interim Receivership up to and including the date hereof. The Interim Receiver is hereby released and discharged from any and all liability that the Interim Receiver now has or may hereafter have, by reason of, or in any way arising out of, the acts or omissions of the Interim Receiver while acting in its capacity as Interim Receiver herein, save and except for any gross negligence or willful misconduct on the part of the Interim Receiver. Subject to the foregoing any claims against the Interim Receiver in connection with the performance of its duties as interim receiver of the Debtor are hereby stayed, extinguished and forever barred.
5. No action or other proceedings shall be commenced against the Interim Receiver in any way arising from or related to its capacity or conduct as Interim Receiver of the Debtor,

except with prior leave of this Court on Notice to the Receiver, and upon such terms as this Court may direct.

6. The Interim Receiver shall be discharged as Interim Receiver of the Debtor, provided however, that notwithstanding its discharge herein, (a) the Receiver shall remain interim receiver of the Debtor for performance of such incidental duties as required to complete the administration of the interim receivership (including, without limitation, tasks the Receiver requires to be completed in order to administer the Interim Receiver's Borrowings) and (b) the Interim Receiver shall continue to have the benefit of the provisions of all Orders made in the Interim Receivership, including all approvals, protections and stays of proceedings in favour of the Receiver in its capacity as interim Receiver of the Debtor.
7. The Receiver shall continue as Court-appointed Receiver of the undertaking, property and assets of the Debtor pursuant to the Receivership Order dated April 2, 2025.
8. This Order shall be served on all parties on the Service List and service may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following the transmission or delivery of such documents.
9. Service of this Order on any party not attending this application is hereby dispensed with.

The Honourable Justice C.D. Simard
Justice of the Court of King's Bench of Alberta

SCHEDULE "C" – APPROVAL ORDER (APEX RECEIVERSHIP AND 217 AB RECEIVERSHIP)

COURT FILE NUMBER 2401-01216
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF ATB FINANCIAL
DEFENDANTS APEX NUTRI-SOLUTIONS INC. 2175551
ALBERTA LTD. STEVEN HERBERT, DAVID
HERBERT, MURRAY HERBERT AND CAROLYN
HERBERT
APPLICANT BDO CANADA LIMITED, in its capacity as receiver
and manager or APEX NUTRI-SOLUTIONS INC.,
2175551 ALBERTA LTD., and certain property of
MURRAY HERBERT AND CAROLYN HERBERT
DOCUMENT **ORDER (APPROVAL OF RECEIVER'S FEES
AND DISBURSEMENTS, APPROVAL OF
RECEIVER'S ACTIVITIES)**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT **MLT AIKINS LLP**
2100, 222 – 3rd Ave. SW
Calgary, AB T2P 0B4
Attention: Ryan Zahara / Paul Olfert
Phone: 403-693-5420 / 306-956-6970
Fax: 403-508-4349 / 306-975-7145
File: 0128056.00009

DATE ON WHICH ORDER WAS PRONOUNCED: AUGUST 25, 2025
LOCATION WHERE ORDER WAS PRONOUNCED: CALGARY, ALBERTA
NAME OF THE JUSTICE WHO MADE THIS ORDER: JUSTICE C.D. SIMARD

UPON THE APPLICATION of BDO Canada Limited (the "**Receiver**"), in its capacity as the Court-appointed receiver of the undertaking, property and assets of 2175551 Alberta Ltd. ("**217 AB**") pursuant to the Receivership Order dated February 20, 2025 (the "**217 AB Receivership**") and in its capacity as the Court-appointed receiver of Apex Nutri-Solutions Inc. ("**Apex**"; together with 217 AB, the "**Debtors**") pursuant to the Receivership Order dated April 2, 2025 (the "**Apex Receivership**"; together with the 217 AB Receivership, the "**Receiverships**") for approval of the Receiver's fees and disbursements and approval of the

Receiver's activities; **AND UPON** having read the Receivership Order dated February 20, 2025 in the 217 AB Receivership and the Receivership Order dated April 2, 2025 in the Apex Receivership, the Application, and the Third Report of the Receiver dated August 14, 2025 (the "**Third Report**"); **AND UPON** hearing from counsel for the Receiver, counsel for the Debtors and any other interested person; **AND UPON** being satisfied that it is appropriate to do so, **IT IS ORDERED THAT:**

Service

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, and no other person is required to have been served with notice of this application, and time for service of this application is abridged to that actually given.
2. This Order shall be served on all parties on the Service List and service may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following the transmission or delivery of such documents.
3. Service of this Order on any party not attending this application is hereby dispensed with.

Activities, Fees and Disbursements

4. The Receiver's accounts for fees and disbursements in relation to the Receiverships and the accounts of the Receiver's legal counsel, MLT Aikins LLP, for its fees and disbursements in relation to the Receiverships, as set out in Appendix H of the Third Report, are hereby approved without the necessity of a formal passing of accounts.
5. The Receiver's activities in relation to the Receiverships, as set out in the Third Report, are hereby ratified and approved.
6. The Receiver's interim Statement of Receipts and Disbursements in relation to the Receiverships, as set out in Appendix I of the Third Report, are hereby ratified and approved.

The Honourable Justice C.D. Simard
Justice of the Court of King's Bench of Alberta