

**Form 6-5**  
(Subrule 6-5(1))

**COURT FILE NUMBER KBG-SA-01031-2024**

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

**JUDICIAL CENTRE SASKATOON**

**APPLICANT CANADIAN IMPERIAL BANK OF COMMERCE**

**RESPONDENTS CUSTOM AGRICULTURE INTELLIGENCE  
INCORPORATED, GREEN CHEM CONSULTANTS  
INC., BERMMAN MICRONUTRIENTS  
INCORPORATED AND BERMMAN HAVEN  
INCORPORATED**

**IN THE MATTER OF THE RECEIVERSHIP OF CUSTOM  
AGRICULTURE INTELLIGENCE INCORPORATED, GREEN CHEM  
CONSULTANTS INC., BERMMAN MICRONUTRIENTS INCORPORATED  
AND BERMMAN HAVEN INCORPORATED**

**NOTICE OF APPLICATION**  
(Interim Distribution and Approvals)

**NOTICE TO THE MEMBERS OF THE 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:** Court of King's Bench for Saskatchewan  
Judicial Centre of Saskatoon  
520 Spadina Crescent East  
Saskatoon, SK S7K 3G7

**Date:** August 19, 2025

**Time:** 9:00 a.m.

*(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. The applicant, BDO Canada Limited (the "**Receiver**"), in its capacity as the court-appointed receiver of all the assets, undertakings, and properties of Custom Agriculture Intelligence Incorporated ("**CAII**"), Green Chem Consultants Inc., Bermman Micronutrients Incorporated, and Bermman Haven Incorporated ("**BHI**") (collectively, the "**Debtors**"), seeks an order:

- (a) deeming service of the Receiver's notice of application and supporting materials to be good, timely, and sufficient;
- (b) authorizing the Receiver to make the following distributions from the Trust Funds (as that term is defined in the Third Report of the Receiver dated August 15, 2025 (the "**Third Report**")):
  - (i) \$24,235 to Canada Revenue Agency ("**CRA**") on account its deemed trust claim against CAII for unremitted GST;
  - (ii) \$35,386 to CRA on account of its deemed trust claim against CAII for unremitted source deductions;
  - (iii) \$13,635 to Service Canada on account of its subrogated claim pursuant to section 36(1) of the *Wage Earner Protection Program Act*, SC 2005, c. 47, s. 1 (the "**WEPP Act**");
  - (iv) \$400,000 to CIBC on account of its secured claim against, among others, BHI; and
  - (v) \$8,090 to Cuelenaere LLP ("**Debtors' Counsel**");(collectively, the "**Interim Distributions**")
- (c) directing Debtors' Counsel to pay the Auction Proceeds (as that term is defined in the Third Report) to the Receiver;
- (d) approving the professional fees and disbursements of the Receiver and its legal counsel, as set out in the Third Report without the necessity of a formal assessment of their accounts;

- (e) approving the Third Report, and the Receiver's actions and activities described therein;
- (f) such further and other relief as counsel may advise and this Honourable Court may see fit to grant.

**Grounds for making this application:**

**A. The Interim Distributions**

2. The proposed Interim Distributions to CRA, Service Canada, and CIBC are based on the Receiver's assessment of the competing priorities to the Trust Funds:

- (a) section 222(1) of the *Excise Tax Act*, RSC 1985, c. E-15 (the "*ETA*") gives CRA a deemed trust for unremitted GST that ranks in priority to any *security interest* (as defined in section 123(1) of the *ETA*);
- (b) section 227(4.1) of the *Income Tax Act*, RSC 1985, c. 1 (5<sup>th</sup> Supp.) (the "*ITA*") gives CRA a deemed trust for unremitted source deductions that ranks in priority to any *security interest* (as defined in section 224(1.3) of the *ITA*);
- (c) Service Canada is subrogated to the rights of the employees who received benefits pursuant to the *WEPP Act*, which employees are entitled to a \$2,000 security against the Property that, by virtue of section 81.4 of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3 (the "*BIA*"), ranks above every other claim, right, charge, or security (other than the prescribed exceptions); and
- (d) counsel to the Receiver has provided a security opinion confirming the validity and enforceability of CIBC's security and mortgage interests in the applicable Property, and otherwise determined that CIBC has priority to the balance of the Trust Funds as a result of the combined operation of:
  - (i) section 35(1) of *The Personal Property Security Act, 1993*, SS 1993, c. P-6.2 (the "*PPSA*"); and
  - (ii) section 27 of *The Land Titles Act, 2000*, SS 2000, c. L-5.1 (the "*LTA*").

3. The proposed distribution to Cuelenaere LLP is being sought to settle the firm's invoice for services rendered to the Debtors in relation to these proceedings.

**B. The Approvals**

4. The Receiver and its counsel's fees and disbursements are fair and reasonable in the circumstances, taking into account:

- (a) the nature, extent, and value of the Property; and
- (b) the work performed, which included:
  - (i) working with the Debtors' bookkeeper to update the Debtors' books and records;
  - (ii) running an asset sale invitation process for the Debtors' raw materials, finished goods, and residual personal property and seeking court approval to auction the same;
  - (iii) working with the Debtors' legal counsel, Miller Thomson LLP, to:
    - A. consider the merits of, and ultimately discontinue, CAII's appeal of CRA's denial of its past scientific research and experimental development claim; and
    - B. monetize the BHI Lots (as defined in the Third Report);
  - (iv) taking possession of the Sedley Property and Inland Property and engaging professionals to have them appraised and listed;
  - (v) engaging contractors to test and remove environmental waste from the Sedley Property and Culver Property;
  - (vi) negotiating, seeking court approval, and closing the sale of the Industrial Drive Property;
  - (vii) auctioning residual chattels located at the Inland Property.

5. On the evidence before the Court, the Receiver has carried out its mandate honestly, in good faith, and in compliance with the Receivership Order and the duties imposed upon

the Receiver by section 247 of the *BIA, The King's Bench Act*, SS 2023, c 28 (the "*KB Act*"), and the common law.

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

6. In making this application, the Receiver relies on:
  - (a) the pleadings and proceedings had and taken herein;
  - (b) the Third Report;
  - (c) a proposed form of order;
  - (d) the affidavit of service of Shelby Braun;
  - (e) the Receiver's brief of law; and
  - (f) such further and other materials as counsel may advise and this Honourable Court may allow.

**Applicable Rules:**

7. The Receiver relies on Rule 6-9 and 13-7 in making this application.

**Applicable Acts and Regulations:**

8. The Receiver relies on:
  - (a) section 222(1) of the *ETA*;
  - (b) section 227(4.1) of the *ITA*;
  - (c) section 36(1) of the *WEPP Act* and section 81.4 of the *BIA*;
  - (d) sections 183(f) and 243(1)(c) of the *BIA*;
  - (e) section 35(1) of the *PPSA* and section 27 of the *LTA*; and

(f) section 247 of the *BIA*; and

(g) the *KB Act*.

DATED at Saskatoon, Saskatchewan, this 15<sup>th</sup> day of August, 2025.

**McDOUGALL GAULEY LLP**

Per:

  
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Craig Frith, counsel for the applicant, BDO Canada Limited

**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**

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Lawyers in charge of file:	Craig Frith / Corbin Golding
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