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6, 2025

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 of APEX NUTRI-SOLUTIONS INC.,
2175551 ALBERTA LTD., and certain property of
MURRAY HERBERT AND CAROLYN HERBERT

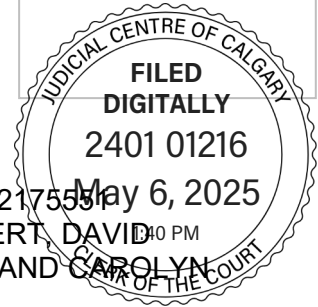
DOCUMENT

**APPROVAL ORDER
(Sale of Lands)**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

MLT AIKINS LLP
Barristers and Solicitors
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Calgary, Alberta T2P 0B4
Phone: 403.693.5420 / 306.361.7770
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Attention: Ryan Zahara / Paul Olfert
File: 0128056.00001

Clerk's Stamp



DATE ON WHICH ORDER WAS PRONOUNCED:

MAY 5, 2025

LOCATION WHERE ORDER WAS PRONOUNCED:

EDMONTON, ALBERTA

NAME OF JUSTICE WHO MADE THIS ORDER:

HONOURABLE JUSTICE D.R. MAH

UPON THE APPLICATION of BDO Canada Limited., filed on May 1, 2025 (the "**Application**") in its capacity as the Court-appointed receiver (the "**Receiver**") of the current and future assets, undertakings, and properties of every nature and kind whatsoever, and wherever situate, including the proceeds thereof, of Apex Nutri-Solutions Inc., 2175551 Alberta Ltd., and certain property of Murray Herbert, and Carolyn Herbert (collectively, the "**Debtors**"), for an Order: (i) approving the sale by Murray and Carolyn Herbert (the "**Herberts**") of certain lands which are subject to the Receivership Order granted on April 2, 2025 (the "**Receivership Order**"); (ii)

approving the Agreement Respecting Sale between the Receiver and the Debtors dated April 28, 2025; and (iii) approving the actions of the Receiver as described in the First Report of the Receiver, Supplement to the First Report of the Receiver, and Second Report of the Receiver; **AND UPON HAVING READ** the Application, the Receivership Order granted on April 2, 2025 (the "**Receivership Order**"), the Second Report of the Receiver and the Affidavit of Service of Regie Agcaoili sworn on May 5, 2025; **AND UPON IT** appearing that all interested and affected parties have been served with notice of the Application; **AND UPON HEARING** the submissions of counsel for the Receiver and all other interested parties present;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

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

APPROVAL OF AGREEMENT RESPECTING SALE

2. The Agreement Respecting Sale ("**ARS**") between the Receiver and the Debtors, dated April 28, 2025, and the Agricultural Purchase Contract incorporated therein (the "**Sale Agreement**"), respecting the lands described in the Second Report as the "**Initial Herbert Lands**" or "Parcel #1" and "Parcel #2", namely:

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

and

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

, as described in the Second Report of the Receiver, are hereby authorized and approved, with such minor amendments and modifications the Receiver may deem necessary.

3. The Debtors are hereby authorized and directed to complete the transaction of purchase and sale contemplated in the Sale Agreement (the "**Sale Transaction**"), on the terms and conditions described therein and as set out in the ARS unless modified with the consent of the Receiver in accordance with this Order.
4. The Receiver is hereby authorized to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the transaction of purchase and sale contemplated in the Sale Transaction.
5. The ARS, the Sale Agreement, and the Sale Transaction are hereby approved and ratified and it is hereby declared that they are commercially reasonable.
6. For greater certainty:
 - (a) the Receiver is not authorized or required to convey clear title, or to convey title at all, to any purchasers pursuant to the Sale Agreement;
 - (b) this Order does not serve to discharge any interests from title to the Initial Herbert Lands.
7. The Receiver shall hold all funds received pursuant to section 3 of the ARS in trust pending further order of this Honourable Court. For greater certainty, nothing in this Order shall serve to discharge either (a) the Receiver's Charge or (b) any claim that ATB Financial may have, from any proceeds from the sale of the Initial Herbert Lands which are received pursuant to paragraph 3 of the ARS.
8. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act* (Canada) and section 20(e) of the *Alberta Personal Information Protection Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser(s) (or its nominee) all human resources and payroll information in the Debtors' records pertaining to the Debtors' past and current employees. The Purchaser(s) (or its nominee) shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use (of such information) to which the Debtors were entitled.

9. Notwithstanding:

- (a) the pendency of these proceedings and any declaration of insolvency made herein;
- (b) the pendency of any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended (the "**BIA**"), in respect of the Debtors, and any bankruptcy order issued pursuant to any such applications;
- (c) any assignment in bankruptcy made in respect of the Debtors; and
- (d) the provisions of any federal or provincial statute:

the sale and transfer of the Initial Herbert Lands to any purchasers pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a transfer at undervalue, settlement, fraudulent preference, assignment, fraudulent conveyance, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

APPROVAL OF RECEIVER'S ACTIONS

- 10. The actions taken by the Receiver, as described in the Second Report of the Receiver, are hereby approved.

MISCELLANEOUS MATTERS

- 11. The Receiver, the Herberts, and ATB Financial shall each be at liberty to apply for further advice, assistance and direction as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Sale Transaction.
- 12. This Honourable Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any of its provinces or territories or in any foreign jurisdiction, to act in aid of and to be complimentary to this Court in carrying out the terms of this Order, 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 order

and to provide such assistance to the Receiver, as an officer of the Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

13. Service of this Order shall be deemed good and sufficient by:


(a) Serving the same on:

- (i) the persons listed on the service list created in these proceedings;
- (ii) any other person served with notice of the application for this Order;
- (iii) any other parties attending or represented at the application for this Order;
and

(b) Posting a copy of this Order on the Receiver's website at: www.bdo.ca;

and service on any other person is hereby dispensed with.

14. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.



The Honourable Justice D.R. Mah
Justice of the Court of King's Bench of Alberta