

Affidavit #1 of Rianne Jeeves
Sworn on July 11th, 2023

Bankruptcy Division -03
Court No. B 230317
Estate No. 11-254505
VANCOUVER REGISTRY



IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE BANKRUPTCY OF BEYOND THE GRAPE ON
PREMISE WINEMAKING LTD. DOING BUSINESS AS FRASER MILLS
FERMENTATION.

AFFIDAVIT

I, Rianne Jeeves, of 300 – 350 Lansdowne Street, Kamloops, British Columbia,
MAKE OATH AND SAY THAT:

1. I am a legal assistant with the law firm of Fulton & company LLP, solicitors for the Applicant Creditor, Royal Bank of Canada and as such have personal knowledge of the matters and facts herein deposed to except where stated to be on information and belief and where so stated do verily believe the same to be true.
2. On or about June 7, 2023, I searched Beyond the Grape on Premise Winemaking Ltd. ("**Beyond the Grape**") on Court Services Online.
3. The BC Online Search showed a notice of civil claim filed by the Business Development Bank of Canada ("**BDC**") against Beyond the Grape on Premise Winemaking Ltd. for debts owing in the amount of \$738,780.19.
4. Attached hereto and marked as **Exhibit "A"**, is a filed copy of the above-mentioned notice of civil claim filed by BDC.
5. In attempting to deal with the amounts owed from Beyond the Grape to the Applicant Creditor, our office requested numerous documents from Mr. MacKerricher, director of Beyond the Grape, including Canada Revenue Agency ("**CRA**") statements for Beyond the Grape.
6. On March 8, 2023, our office received email correspondence from Cody Reedman who is legal counsel for Ian MacKerricher.
7. Attached hereto and marked as **Exhibit "B"**, is a copy of the March 8, 2023, email from Mr. Reedman.

8. On March 29, 2023, our office received email correspondence from Mr. Reedman giving estimates of outstanding amounts owed from Beyond the Grape to the CRA as follows:

- a. \$16,000.00 for payroll remittances from the 2022 year;
- b. \$10,000.00 for excises from the 2022 year; and
- c. \$29,000.00 for GST from the 2020 year.

9. ~~Based on the estimates provided by Mr. Reedman, Beyond the Grape owes the CRA approximately \$55,000.00.~~

10. Attached hereto and marked as **Exhibit "C"**, is a copy of the March 29, 2023, email from Mr. Reedman.

11. Our office is yet to receive the requested CRA statements for Beyond the Grape to confirm the amounts owed.

SWORN BEFORE ME at the City of Kamloops, in the Province of British Columbia, this 11th day of July, 2023.



A Commissioner for taking Affidavits
in the Province of British Columbia.

Graham D. Mack
Barrister & Solicitor
FULTON & COMPANY LLP
#300 - 350 LANSDOWNE ST
KAMLOOPS, BC V2C 1Y1



RIANNE JEEVES



Court File No. VLC-S-S-234019
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BUSINESS DEVELOPMENT BANK OF CANADA

PLAINTIFF

AND:

**BEYOND THE GRAPE ON PREMISE WINEMAKING LTD.
FRASER MILLS FERMENTATION COMPANY LTD.
IAN DONALD MACKERRICHER
MICHAEL EDWARD DRUCE
DANIEL JOSEPH PARENT
STEPHEN PAUL SHELDON
WARREN TODD BOYER**

DEFENDANTS

NOTICE OF CIVIL CLAIM

This action has been started by the plaintiff for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must:

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must:

- (c) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (d) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

{00182(45)}

This is Exhibit "A" referred to in the affidavit of Rianne Jeeves sworn before me at Kamloops in the Province of British Columbia, the 11th day of July, 2023


A Commissioner for taking Affidavits
for British Columbia

Time for response to civil claim

A response to civil claim must be filed and served on the plaintiff(s):

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,
 - (b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,
 - (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or
-
- (d) if the time for response to civil claim has been set by order of the court, within that time.

FORM 11 (RULE 4-5(2))
ENDORSEMENT ON ORIGINATING PLEADING OR PETITION
FOR SERVICE OUTSIDE BRITISH COLUMBIA

The Plaintiff claims the right to serve this Notice of Civil Claim on the Defendant(s) outside British Columbia on the ground that the proceeding:

- (a) concerns contractual obligations, and
 - (i) the contractual obligations, to a substantial extent, were to be performed in British Columbia
 - (ii) by its express terms, the contract is governed by the laws of British Columbia

pursuant to Section 10 of the *Court Jurisdiction and Proceedings Transfer Act*, S.B.C. 2003, C. 28 upon which the Plaintiff relies.

CLAIM OF THE PLAINTIFF

Part 1: STATEMENT OF FACTS

2. The Plaintiff, Business Development Bank of Canada, was incorporated by Special Act of the Parliament of Canada and has its head office at the City of Montreal, in the Province of Quebec, and has a branch office at 505 Burrard Street, Vancouver, British Columbia and an address for service in this matter c/o McMillan Dubo LLP, #401-121 5th Avenue, Kamloops, BC.
3. The Defendant, Beyond the Grape on Premise Winemaking Ltd. ("BTG"), is a British Columbia corporation having its registered and records office at 590 Carlsen Place, Port Moody, BC.

4. The Defendant, Fraser Mills Fermentation Company Ltd. (“Fraser Mills”), is a British Columbia corporation having its registered and records office at 421 Carlsen Place, Port Moody, BC.
 5. BTG and Fraser Mills last carried on business from leased premises located at 3030 St. Johns Street, Port Moody, B.C., which was their principal place of business within the past year. The companies are or were operating a brewery, bistro and brewing supplies store from the St Johns Street premises.
 6. The Defendant, Ian Donald MacKerricher (“Ian”), is a business person last known to reside in Port Moody, BC. At all material times, Ian was a director of BTG and Fraser Mills.
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7. The Defendant, Michael Edward Druce, is a business person last known to reside in Port Moody, BC.
 8. The Defendant, Daniel Joseph Parent, is a business person last known to reside in Port Coquitlam, BC.
 9. The Defendant, Stephen Paul Sheldon, is a business person last known to reside in Port Moody, BC.
 10. The Defendant, Warren Todd Boyer, is a business person last known to reside in Qualicum Beach, BC.

Letter of Offer

11. The Defendant BTG is indebted to the Plaintiff in the amount of \$720,846.65 as at June 1, 2023 under a Letter of Offer (the “**Letter of Offer**”) dated May 7, 2019 in the name of the Defendant BTG, plus interest calculated and payable monthly at the Plaintiff’s Floating Base Rate plus a variance of 2% per annum, with interest on arrears of interest calculated and compounded monthly at the same rate as on the loan principal.
12. Pursuant to the terms of the Letter of Offer, the Plaintiff’s Floating Base Rate is the annual rate of interest announced from time to time as the Plaintiff’s floating rate then in effect for determining floating interest rates for Canadian dollar loans.
13. Pursuant to the terms of the Letter of Offer, the Defendant BTG agreed to pay on demand all fees and expenses incurred by the Plaintiff in connection with the enforcement of the Letter of Offer loan and the security granted in connection with the loan.
14. Pursuant to a General Security Agreement made between the Plaintiff and the Defendant BTG dated June 26, 2019, perfected by registration in the Personal Property Registry for the Province of British Columbia on September 4, 2019 under Base Registration No. 744557L (the “**BTG General Security Agreement**”), the Defendant BTG granted to the Plaintiff a security interest in all of the Defendant’s present and after-acquired personal property and intangibles, save and except for consumer goods.

- 15. The Defendant BTG is in default under the terms of the Letter of Offer and the BTG General Security Agreement in that, among other things, BTG failed to make instalment payments to the Plaintiff as and when due.
- 16. On or about December 7, 2022 the Plaintiff made demand on the Defendant BTG for payment of the indebtedness under the Letter of Offer in the amount of \$663,331.25 as at November 15, 2022 plus interest and costs, however it has failed to pay in response thereto.
- 17. On or about December 7, 2022 the Plaintiff also issued to the Defendant BTG a 10 day statutory notice of intention to enforce security under section 244 of the *Bankruptcy and Insolvency Act*.

- 18. Particulars of the amounts due and owing pursuant to the Letter of Offer or, alternatively, as monies lent, are as follows:

Particulars:

Principal due and owing as at June 1, 2023	\$720,846.65
Plus interest after June 1, 2023 at the Plaintiff's Floating Base Rate plus a variance of 2% per annum	

Guarantees

- 19. Pursuant to a written guarantee dated June 26, 2019 (the "**Fraser Mills Guarantee**"), the Defendant Fraser Mills, as a principal debtor, unconditionally guaranteed performance by BTG of all promises under the Letter of Offer and the BTG General Security Agreement, and payment by BTG of all amounts BTG promised to pay under the Letter of Offer and the BTG General Security Agreement.
- 20. Pursuant to the Fraser Mills Guarantee, Fraser Mills agreed to pay to the Plaintiff all legal fees and disbursements, on a solicitor and client basis, incurred by the Plaintiff in reference to any suit upon the Fraser Mills Guarantee.
- 21. Pursuant to the Fraser Mills Guarantee, Fraser Mills agreed to pay to the Plaintiff the amount guaranteed immediately upon receiving a demand from the Plaintiff.
- 22. Pursuant to a General Security Agreement made between the Plaintiff and the Defendant Fraser Mills dated June 26, 2019, perfected by registration in the Personal Property Registry for the Province of British Columbia on September 4, 2019 under Base Registration No. 744557L (the "**Fraser Mills General Security Agreement**"), the Defendant Fraser Mills granted to the Plaintiff a security interest in all of the Defendant's present and after-acquired personal property and intangibles, save and except for consumer goods.
- 23. The Defendant Fraser Mills is in default under the terms of the Fraser Mills Guarantee and the Fraser Mills General Security Agreement in that, among other things, Fraser Mills failed to make payment to the Plaintiff upon demand.

- 24. On or about December 7, 2022, the Plaintiff made demand on the Defendant Fraser Mills for payment under the Fraser Mills Guarantee in the amount of \$663,331.25 as at November 15, 2022 plus interest and costs, however the Defendant Fraser Mills has failed to pay in response thereto.
- 25. On or about December 7, 2022 the Plaintiff also issued to the Defendant Fraser Mills a 10 day statutory notice of intention to enforce security under section 244 of the *Bankruptcy and Insolvency Act*.
- 26. Particulars of the amounts due and owing pursuant to the Fraser Mills Guarantee are as follows:

Particulars:

Principal due and owing as at June 1, 2023	\$720,846.65
Plus interest after June 1, 2023 at the Plaintiff's Floating Base Rate plus a variance of 2% per annum	

- 27. Pursuant to a written guarantee dated June 26, 2019 (the "**Guarantee**"), the Defendants Ian Donald MacKerricher, Michael Edward Druce, Daniel Joseph Parent, Stephen Paul Sheldon and Warren Todd Boyer (collectively the "**Individual Guarantors**") as principal debtors and on a joint and several basis, unconditionally guaranteed performance by BTG of all promises under the Letter of Offer and the BTG General Security Agreement, and payment by BTG of all amounts BTG promised to pay under the Letter of Offer and the BTG General Security Agreement.
- 28. Pursuant to the Guarantee, the Individual Guarantors agreed to pay to the Plaintiff all legal fees and disbursements, on a solicitor and client basis, incurred by the Plaintiff in reference to any suit upon the Guarantee.
- 29. Pursuant to the Guarantee, the Individual Guarantors agreed to pay to the Plaintiff the amount guaranteed immediately upon receiving a demand from the Plaintiff.
- 30. On or about December 7, 2022, the Plaintiff made demand on the Individual Guarantors for payment under the Guarantee in the amount of \$663,331.25 as at November 15, 2022 plus interest and costs, however the Individual Guarantors have failed to pay in response thereto.
- 31. Particulars of the amounts due and owing pursuant to the Guarantee are as follows:

Particulars:

Principal due and owing as at June 1, 2023	\$720,846.65
Plus interest after June 1, 2023 at the Plaintiff's Floating Base Rate plus a variance of 2% per annum	

32. There have been at all material times to this action debts and liabilities owing by BTG to the Plaintiff pursuant to the Letter of Offer in the amount as set forth above.

Costs

33. Pursuant to the terms of each of the Letter of Offer, the Fraser Mills Guarantee and the Guarantee, the Defendants agreed to pay all of the Plaintiffs legal fees and costs in connection with the Indebtedness. As at May 31, 2023, legal fees and costs incurred by the Plaintiff prior to commencement of this action were \$17,933.54.

Part 2: RELIEF SOUGHT

-
1. A declaration that the Defendant BTG is in default under the BTG General Security Agreement granted to the Plaintiff and that the BTG General Security Agreement creates a charge on all present and after-acquired personal property of BTG, ranking in priority to the interests of the Defendants;
 2. A declaration that the Defendant Fraser Mills is in default under the Fraser Mills General Security Agreement granted to the Plaintiff and that the Fraser Mills General Security Agreement creates a charge on all present and after-acquired personal property of Fraser Mills, ranking in priority to the interests of the Defendants;
 3. An order for the appointment of a receiver or receiver-manager over all or any portion of the assets and undertaking of the Defendants BTG and Fraser Mills or either of them;
 4. An order for sale, giving the Plaintiff conduct of the sale of the assets of the Defendants BTG and Fraser Mills or either of them, or alternatively empowering the receiver to sell the assets;
 5. An order for any necessary accounts, directions and enquiries of any amounts due to the Plaintiff for interest, arrears of interest, interest on payments, insurance premiums, legal costs, charges and expenses or otherwise; to be determined on a summary basis;
 6. Judgment against the Defendant BTG in the amount of \$720,846.65 calculated as at June 1, 2023, plus interest on that amount calculated at the Plaintiff's Floating Base Rate plus a variance of 6.6% per annum from June 2, 2023 to date of Judgment;
 7. Judgment against the Defendant Fraser Mills in the amount of \$720,846.65 calculated as at June 1, 2023, plus interest on that amount calculated at the Plaintiff's Floating Base Rate plus a variance of 6.6% per annum from June 2, 2023 to date of Judgment;
 8. Judgment against the Defendant Individual Guarantors, jointly and severally, in the amount of \$720,846.65 calculated as at June 1, 2023, plus interest on that amount calculated at the Plaintiff's Floating Base Rate plus a variance of 6.6% per annum from June 2, 2023 to date of Judgment;
 9. Judgment against each of the Defendants in the amount of \$17,933.54 calculated as at May 31, 2023;

10. Alternately, an order for interest pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c.79 and amendments thereto;
11. An order that the Plaintiff is entitled to recover its costs of this action on a full indemnity basis, and alternatively as party and party costs;
12. Such further or other relief as to this Honourable Court may seem meet.

Part 3: LEGAL BASIS

1. The Plaintiff's claim against the Defendants is for unpaid debt which is due and owing.

2. The Defendant BTG borrowed money from the Plaintiff, which has not been repaid in full.
3. The Defendants Fraser Mills and the Guarantors each guaranteed repayment of the money to the Plaintiff.
4. The Plaintiff relies on its contractual entitlements under the terms of the Letter of Offer, the Fraser Mills Guarantee, and the Guarantee from the Individual Guarantors.
5. The Plaintiff is a secured creditor of the Defendants BTG and Fraser Mills pursuant to general security agreements granted by those Defendants.
6. Under the terms of the Plaintiff's security, it is contractually entitled to the appointment of a receiver or receiver-manager in the event of default.
7. The Defendants are in default under the loan and security agreements with the Plaintiff.
8. The Plaintiff has demanded payment of the indebtedness as set out in Part 2 herein, or alternatively, the said amounts are due and owing, but notwithstanding such demand, the Defendants have refused or neglected to pay and the amounts claimed by the Plaintiff remain due and owing.
9. The Plaintiff is entitled to judgment against each of the Defendants for the unpaid amounts outstanding plus interest and costs, in accordance with the agreements between the parties.
10. The Plaintiff relies on section 243(1) of the *Bankruptcy and Insolvency Act*, section 39 of the *Law and Equity Act*, the inherent jurisdiction of the Court and the B.C. Civil Rules of Court.
11. This cause of action wholly arose within the jurisdiction of this Honourable Court.

Plaintiff's address for service:

McMillan Dubo LLP
#401-121 5th Avenue
Kamloops, BC V2C 0M1
(Attention: Sherryl Dubo)

Fax number address for service (if any): 250-434-9485

E-mail address for service (if any): Service by email will not be accepted.

Place of trial: Kamloops, BC

The address of the registry is: 455 Columbia Street, Kamloops, BC V2C 6K4

Date: June 1 / 23



Signature of SHERRYL DUBO
 plaintiff lawyer for plaintiff

Rule 7-1 (1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
 - (a) prepare a list of documents in Form 22 that lists
 - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
 - (ii) all other documents to which the party intends to refer at trial, and
 - (b) serve the list on all parties of record.
-

APPENDIX

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

- 1. Debt claim.

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

- a motor vehicle accident
 - medical malpractice
 - another cause
-

A dispute concerning:

- contaminated sites
- construction defects
- real property (real estate)
- personal property
- the provision of goods or services or other general commercial matters
- investment losses
- the lending of money
- an employment relationship
- a will or other issues concerning the probate of an estate
- a matter not listed here

Part 3: THIS CLAIM INVOLVES:

- a class action
- maritime law
- aboriginal law
- constitutional law
- conflict of laws
- none of the above
- do not know

No. _____
KAMLOOPS REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

**BUSINESS DEVELOPMENT BANK
OF CANADA**

PLAINTIFF

AND:

**BEYOND THE GRAPE ON PREMISE
WINEMAKING LTD.
FRASER MILLS FERMENTATION
COMPANY LTD.
IAN DONALD MACKERRICHER
MICHAEL EDWARD DRUCE
DANIEL JOSEPH PARENT
STEPHEN PAUL SHELDON
WARREN TODD BOYER**

DEFENDANTS

NOTICE OF CIVIL CLAIM

FILE NO. 1201-147

SAD/lt

MCMILLAN DUBO LLP
#401-121 5th Avenue
Kamloops, BC V2C 0M1
Phone: 778-765-1701

Rianne Jeeves Bunting

Subject: RBC v. Beyond the Grape, Court File No. KAM-S-S-61840

From: Cody Reedman <CReedman@reedmanlaw.com>
Sent: Wednesday, March 8, 2023 4:28 PM
To: Hal Hicks <hhicks@balfonso.com>
Cc: Andrea Wong <AWong@reedmanlaw.com>; Finn Merritt-Neill <Finn@reedmanlaw.com>
Subject: RBC v. Beyond the Grape, Court File No. KAM-S-S-61840

Dear Mr. Hicks:

Our firm has been engaged as counsel for Mr. Mackerricher. Kindly address correspondence to me and not the company. Also, please advise of your instruction to seek default judgment if given and we will seek an extension of time to provide a Response to Civil Claim.

I am in receipt of your letter dated March 7, 2023 stating that the RBC accounts have been moved to deposit only. I would like to have some discussions to reverse this decision, since this is a functioning business and a business will need accounts to make ongoing payments in the ordinary course of business.

I am leaving for Victoria this afternoon and available for a call to discuss on my mobile (604-318-1311) tomorrow.


Best,

Cody Reedman (pronouns he/him/his)
Barrister and Solicitor, TEP (Society of Trust and Estate Practitioners)
T: 604-570-0005 | F: 604-688-1619
E: creedman@reedmanlaw.com

Reedman Law
#800a-1030 West Georgia Street
Vancouver, BC V6E 2Y3
Reedmanlaw.com

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This is Exhibit "B" referred to in the affidavit of Rianne Jeeves sworn before me at Kamloops in the Province of British Columbia, the 11th day of July, 2023



A Commissioner for taking Affidavits
for British Columbia

Rianne Jeeves Bunting

Subject: RE: RBC v. Beyond the Grape, Court File No. KAM-S-S-61840

From: Cody Reedman <CReedman@reedmanlaw.com>
Sent: Wednesday, March 29, 2023 2:53 PM
To: Graham Mack <GMack@fultonco.com>; Hal Hicks <HHicks@fultonco.com>
Cc: Andrea Wong <AWong@reedmanlaw.com>; Finn Merritt-Neill <Finn@reedmanlaw.com>; Rianne Jeeves Bunting <RJeeves@fultonco.com>
Subject: RE: RBC v. Beyond the Grape, Court File No. KAM-S-S-61840

Hi Graham;

As far as I am aware the company is continuing to operate. Can you provide any details that the company is has ceased operations?

@Hal, I am advised here are the estimates for the amount outstanding to CRA:

Income tax: \$0
Payroll remittances: \$15,000 (from 2022)
Excise: \$10,000 (from 2022)
GST: \$29,000 (from 2020)

Best,

Cody Reedman (pronouns he/him/his)
Barrister and Solicitor, TEP
T: 604-570-0005 | F: 604-688-1619
E: creedman@reedmanlaw.com

Reedman Law
#800a-1030 West Georgia Street
Vancouver, BC V6E 2Y3
Reedmanlaw.com

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This is Exhibit "C" referred to in the affidavit of Rianne Jeeves sworn before me at Kamloops in the Province of British Columbia, the 11th day of July, 2023



A Commissioner for taking Affidavits
for British Columbia

Bankruptcy Division
Court No. _____
Estate No. _____
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE BANKRUPTCY OF BEYOND
THE GRAPE ON PREMISE WINEMAKING LTD. DOING
BUSINESS AS FRASER MILLS FERMENTATION.**

AFFIDAVIT

FILE NO. 67095-61

HRH/amk

FULTON & COMPANY LLP
Lawyers & Trade-mark Agents
300 – 350 Lansdownie Street
Kamloops, B.C.
V2C 1Y1
Phone: (250) 372-5542