

Clerk's stamp

COURT FILE NUMBER 2401-01216

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF ATB FINANCIAL

DEFENDANTS 2175551 ALBERTA LTD., STEVEN HERBERT,
DAVID HERBERT, MURRAY HERBERT AND
CAROLYN HERBERT

APPLICANT BDO CANADA LIMITED, in its capacity as receiver
and manager of 2175551 ALBERTA LTD.

DOCUMENT **APPLICATION (APPROVAL OF DISTRIBUTIONS,
APPROVAL OF RECEIVER'S FEES AND
DISBURSEMENTS, APPROVAL OF RECEIVER'S
ACTIVITIES AND DISCHARGE OF RECEIVER)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT **MLT AIKINS LLP**
2100, 222 3rd Ave SW
Calgary, Alberta T2P 0B4
Attention: Ryan Zahara/Paul Olfert
Phone: 403.693.5420/306.361.7770
Fax: 403.508.4349
File: 0128056.00009

NOTICE TO RESPONDENTS (SERVICE LIST APPENDED AS SCHEDULE "A"):

This application is made against you. You are the 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 24, 2026
Time: 2:00 p.m.
Where: WebEx - <https://albertacourts.webex.com/meet/virtual.courtroom60>
Before Whom: The Honourable Justice C.D. Simard

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

Remedy Claimed or Sought:

1. Capitalized terms not otherwise defined herein shall have the meaning given to them in the Fifth Report dated August 17, 2025 (the "**Fifth Report**") of BDO Canada Limited, in its capacity as the court-appointed receiver and manager (the "**Receiver**" or "**BDO**") of Apex

Nutri-Solutions Inc. ("**Apex**") and 2175551 Alberta Ltd. ("**217 Alberta**" and, together with Apex, the "**Debtors**").

2. The Receiver respectfully seeks from this Honourable Court an order substantially in the form of Schedule "B" hereto:
 - (a) abridging, if necessary, the time for service of this application (the "**Application**") and supporting materials, and declaring service of the same to be good and sufficient;
 - (b) approving the proposed distribution of proceeds realized from the receivership of Apex (the "**Apex Receivership**") and the receivership of 217 Alberta (the "**217 Alberta Receivership**" and, together with the Apex Receivership, the "**Receiverships**") as outlined in the Fifth Report;
 - (c) approving the Receiver's activities to date, including the fees and disbursements of the Receiver and its legal counsel, as set out in the Fifth Report;
 - (d) approving the Receiver's statement of receipts and disbursements ("**SRD**") to date, as outlined in the Fifth Report;
 - (e) discharging the Receiver as receiver and manager of the Debtors, including releasing BDO from any and all liability that has arisen or may arise with respect to its appointment as the Receiver over the Debtors, save for any gross negligence or willful misconduct; and
 - (f) such further and other relief as the circumstances may require and as this Honourable Court deems appropriate.

Grounds for Making the Application:

Background

3. The Defendant, Apex, is a corporation incorporated pursuant to the laws of the Province of Alberta that previously carried on the business of crushing canola oil and meal, extruding to make a component of animal products, roasting soybean meal for animal feed, and raising broiler chickens.

4. The Defendant, 217 Alberta, is a corporation incorporated pursuant to the laws of the Province of Alberta and was established for the sole purpose of purchasing and holding the shares of the Defendant, Apex, on behalf of the Herbert family.
5. On February 20, 2025, pursuant to an Order of the Honourable Justice C.D. Simard of the Court of King's Bench of Alberta, BDO was appointed as interim receiver and manager over all of the assets, undertakings and property of Apex (the "**Interim Apex Receivership Order**").
6. Also on February 20, 2025, pursuant to an Order of the Honourable Justice C.D. Simard, BDO was appointed as receiver and manager over all of the assets, undertakings and property of 217 Alberta (the "**217 Alberta Receivership Order**").
7. On March 14, 2025, pursuant to an Order of the Honourable Justice C.D. Simard, the Interim Apex Receivership Order was extended to April 2, 2025.
8. On April 2, 2025, pursuant to an Order of the Honourable Justice C.D. Simard, BDO was appointed as receiver and manager over the undertaking, property and assets of Apex (the "**Apex Receivership Order**").
9. Also on April 2, 2025, pursuant to an Order of the Honourable Justice C.D. Simard (the "**Herbert Receivership Order**"), BDO was appointed as receiver and manager over certain real property owned by the Defendants, Murray Herbert and Carolyn Herbert, as well as over equipment, inventory, crops, fixtures and other property produced from, found upon or used in connection with said real property (collectively, the "**Herbert Property**").
10. Also on August 25, 2025, pursuant to an Order of the Honourable Justice C.D. Simard, BDO's SRD and activities as Interim Receiver of Apex, pursuant to the Interim Receivership Order, were approved and BDO was discharged as the Interim Receiver of Apex. This did not impact BDO's status as Receiver of Apex.
11. Also on August 25, 2025, pursuant to an Order of the Honourable Justice C.D. Simard, BDO's SRD and activities as Receiver of the Herbert Property were approved and BDO was discharged as the Receiver of the Herbert Property.
12. On September 22, 2025, pursuant to an Order of the Honourable Justice J.J. Gill of the Court of King's Bench of Alberta (the "**Approval and Reverse Vesting Order**"), the Court approved a transaction (the "**Transaction**") between the Receiver, as vendor, and

2744789 Alberta Ltd., as purchaser (the “**Purchaser**”), pursuant to a transaction agreement made as of September 11, 2025. Pursuant to the Approval and Reverse Vesting Order: (a) all of Apex’s right, title and interest in and to certain excluded assets, excluded liabilities and excluded contracts transferred to and vested absolutely and exclusively in 217 Alberta, as “ResidualCo”; and (b) all of the Receiver’s right, title and interest in and to the vended assets, the assigned contracts, the assumed liabilities and the shares of Apex transferred to and vested absolutely and exclusively in the Purchaser, in each case effective upon delivery by the Receiver of a certificate confirming satisfaction or waiver of the conditions to closing.

13. On October 9, 2025, the Receiver delivered its Receiver’s Certificate confirming that the Purchaser had paid the purchase price payable on closing, that all conditions to closing had been satisfied or waived, and that the Transaction had been completed to the satisfaction of the Receiver.
14. On September 22, 2025, the Honourable Justice J.J. Gill granted an Order approving the Receiver’s activities in relation to the Receiverships, as described in the Fourth Report and the Confidential Supplement to the Fourth Report of the Receiver dated September 15, 2025.
15. This Application concerns the Receiver’s activities, SRD, and professional fees and disbursements in relation to the Receiverships since the date of the Fourth Report, and BDO’s discharge as receiver of Apex and 217 Alberta.

Approvals and Discharge

16. The Receiver seeks the usual approvals of its activities and conduct to date, its SRDs, and the fees and disbursements of the Receiver and its legal counsel.
17. The Receiver has substantially completed its mandate in the Receiverships. Accordingly, an Order discharging BDO as receiver of Apex and 217 Alberta in accordance with the standard practice of the Court in receivership matters is necessary and appropriate.
18. As more particularly described in the Fifth Report, the Receiver’s mandate has at all times been carried out with efficiency and integrity and with due regard for the interests of all parties.

19. The professional fees and disbursements of the Receiver and its legal counsel are fair and reasonable in light of the work performed by the Receiver in closing the Transaction, settling certain insurance litigation claims, and administering the 217 AB receivership estate since the matter was last before the Court.

Material or Evidence To Be Relied Upon:

20. The Receiver intends to rely on the following materials and evidence in the Application:
- (a) February 20, 2025, Receivership Order of the Honourable Justice C.D. Simard (217 Alberta);
 - (b) April 2, 2025, Receivership Order of the Honourable Justice C.D. Simard (Apex);
 - (c) September 22, 2025 Approval and Reverse Vesting Order of the Honourable Justice J.J. Gill;
 - (d) the Approval and Reverse Vesting Order granted by the Honourable Justice J.J. Gill on September 22, 2025;
 - (e) the Receiver's Certificate filed October 10, 2025;
 - (f) First Report of the Receiver dated April 14, 2025;
 - (g) Second Report of the Receiver dated April 30, 2025;
 - (h) Third Report of the Receiver dated August 14, 2025;
 - (i) Fourth Report of the Receiver dated September 15, 2025;
 - (j) Fifth Report of the Receiver dated August 17, 2025 (to be filed);
 - (k) the Affidavit of Service (to be filed); and
 - (l) such further and other material as counsel may advise and this Honourable Court may permit.

Applicable Rules:

21. The Alberta *Rules of Court*, AR 124/2010.

Applicable Acts and Regulations:

- 22. The *Judicature Act*, RSA 2000, c. J-2, section 13(2);
- 23. The *Business Corporations Act*, RSA 2000, c. B-9, sections 99(a) and 242;
- 24. The *Personal Property Security Act*, RSA 2000, c. P-7, section 65(7); and
- 25. 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:

- 26. None.

How the Application is Proposed to be Heard or Considered:

- 27. Via Webex before the Honourable Justice C.D. Simard.

WARNING TO THE RESPONDENTS:

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.

SCHEDULE "A"

SERVICE LIST

COURT FILE NUMBER	2401-01216
COURT	COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFFS	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	SERVICE LIST
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT:	MLT AIKINS LLP Barristers and Solicitors 2100, 222 3rd Avenue S.W. Calgary, Alberta T2P 0B4 Phone: 403.693.5420 Fax: 403.508.4349 Attention: Ryan Zahara File: 0128056.00009

Updated August 14, 2026

Party & Contact Information	Status	Method of Service
Dentons Canada LLP 15th Floor, 850 - 2nd Street S.W. Calgary, Alberta T2P 0R8 Attention: Derek Pontin Email: derek.pontin@dentons.com	Counsel to Plaintiff, ATB Financial	Email
Apex Nutri-Solutions Inc. 5016 - 52 Street Camrose, AB T4V 1V7	Defendant	In care of Counsel
2175551 Alberta Ltd. 5016 - 52 Street Camrose, AB T4V 1V7	Defendant	In care of Counsel
Steven Herbert PO Box 73 Edberg, AB T0B 1J0	Defendant	In care of Counsel
David Herbert PO Box 94 Edberg, AB T0B 1J0	Defendant	In care of Counsel
Murray Herbert PO Box 88 Edberg, AB T0B 1J0	Defendant	In care of Counsel

Party & Contact Information	Status	Method of Service
Carolyn Herbert PO Box 88 Edberg, AB T0B 1J0	Defendant	In care of Counsel
Snyder & Associates LLP #3500 Manulife Place, 10180 – 101 Street Edmonton, AB, T5J 3S4 Attention: Stephen Snyder Email: ssnyder@snyder.ca	Counsel to Defendants: Apex Nutri-Solutions Inc., 2175551 Alberta Ltd., Steven Herbert, David Herbert, Murray Herbert and Carolyn Herbert	Email
BDO Canada Limited 903 8th Avenue Southwest Suite 620 Calgary, AB T2P 0P7 Attention: Kevin Meyler, Sahib Singh and Breanne Scott Email: kmeyler@bdo.ca sahsingh@bdo.ca bscott@bdo.ca	Receiver to Apex Nutri- Solutions Inc., 2175551 Alberta Ltd., Steven Herbert, David Herbert, Murray Herbert and Carolyn Herbert	Email
Canada Revenue Agency Surrey National Verification and Collections Centre 9755 King George Boulevard Surrey, British Columbia V3T 5E1 Fax: 1 (833) 697-2389	Canada Revenue Agency	Courier / Fax
Doug Herbert 7232 33 Ave NW Edmonton, AB T6K 1K3 COURIER	Mortgagee on 4;20;43;24;NE (Registration number 092 110 163)	Courier

Party & Contact Information	Status	Method of Service
Calidon Financial Services Inc. 10 - 3903 Millar Ave Saskatoon, SK S7P 0C1 COURIER	Secured party registered in PPR against Carolyn Herbert and Murray Herbert	Courier
Canadian Canola Growers Association 600-1661 Portage Ave Winnipeg, MB R3J 3T7 COURIER	Secured party registered in PPR against Murray Herbert	Courier
Alberta Chicken Producers 2518 Ellwood Drive SW Edmonton, AB T6X 0A9 Attention: Geoff Brown, Executive Director Email: gbrown@chicken.ab.ca	Marketing board re: Apex Nutri-Solutions Inc.	E-mail

SCHEDULE "B"

PROPOSED FORM OF ORDER

COURT FILE NUMBER	2401-01216
COURT	COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	ATB FINANCIAL
DEFENDANTS	2175551 ALBERTA LTD., STEVEN HERBERT, DAVID HERBERT, MURRAY HERBERT AND CAROLYN HERBERT
APPLICANT	BDO CANADA LIMITED, in its capacity as receiver and manager of 2175551 ALBERTA LTD.
DOCUMENT	APPLICATION (APPROVAL OF DISTRIBUTIONS, APPROVAL OF RECEIVER'S FEES AND DISBURSEMENTS, APPROVAL OF RECEIVER'S ACTIVITIES AND DISCHARGE OF RECEIVER)
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	MLT AIKINS LLP 2100, 222 3 rd Ave SW Calgary, Alberta T2P 0B4 Attention: Ryan Zahara/Paul Olfert Phone: 403.693.5420/306.361.7770 Fax: 403.508.4349 File: 0128056.00009

DATE ON WHICH ORDER WAS PRONOUNCED:	AUGUST 24, 2026
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 and manager (the "**Receiver**") of Apex Nutri-Solutions Inc. ("**Apex**") and 2175551 Alberta Ltd. ("**217 Alberta**" and, together with Apex, the "**Debtors**") for an Order for the distribution of proceeds, approval of the Receiver's fees and disbursements, approval of the

Receiver's activities and discharge of the Receiver as court-appointed receiver of the Debtors (the "**Receiverships**"); **AND UPON** having read the Receivership Order of the Honourable Justice C.D. Simard dated February 20, 2025, the Receivership Order of the Honourable Justice C.D. Simard dated April 2, 2025, and the Fifth Report of the Receiver dated August 17, 2025 (the "**Fifth Report**"); **AND UPON** hearing from counsel for the Receiver, counsel for Apex, counsel for 217 Alberta, and any other interested person; **AND UPON** being satisfied that it is appropriate to do so, **IT IS ORDERED THAT:**

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. 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 accrued in the Receiverships, as set out in the Fifth Report, are hereby approved without the necessity of a formal passing of accounts.
3. The accounts of the Receiver's legal counsel, MLT Aikins LLP, for its fees and disbursements accrued in the Receiverships, as set out in the Fifth's Report are hereby approved without the necessity of a formal assessment of its accounts.
4. The Receiver's activities in relation to the Receiverships, as set out in the Fifth Report and in all of its other reports filed herein, and the Statement of Receipts and Disbursements as attached to the Fifth Report, are hereby ratified and approved.
5. The Receiver is authorized and directed to make the following distributions:
 - (a) to ATB Financial, all amounts not otherwise required for the administration of the receivership estate as described in the Fifth Report.
6. On the evidence before the Court, the Receiver has satisfied its obligations under and pursuant to the terms of the Orders granted in the Receiverships 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 as receiver of the Debtors are hereby stayed, extinguished and forever barred.

7. 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 of the Debtors, except with prior leave of this Court on Notice to the Receiver, and upon such terms as this Court may direct.
8. Upon the Receiver filing with the Clerk of the Court a sworn Affidavit of a licensed Trustee employed by the Receiver confirming that all matters set out in paragraph 5 of this Order have been completed, the Receiver shall be discharged as Receiver of the Debtors, provided however, that notwithstanding its discharge herein, (a) the Receiver shall remain receiver of the Debtors for performance of such incidental duties as required to complete the administration of the Receiverships (including, without limitation, tasks the Receiver requires to be completed in order to administer the Receiver's Borrowings) and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in the Receiverships, including all approvals, protections and stays of proceedings in favour of the Receiver in its capacity as Receiver of the Debtors.
9. This Order must be served only upon those interested parties attending or represented at the within application 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.
10. 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