

Court File No. CV-14-10543-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

8527504 CANADA INC.

Applicant

- and -

LIQUIBRANDS INC.

Respondent

*APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY
ACT, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE COURTS OF JUSTICE
ACT, R.S.O. 1990, c. C. 43, AS AMENDED*

Court File No. CV-13-10331-00CL

BETWEEN:

8527504 CANADA INC.

Applicant

- and -

SUN PAC FOODS LIMITED

Respondent

*APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY
ACT, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE COURTS OF JUSTICE
ACT, R.S.O. 1990, c. C. 43, AS AMENDED*

MOTION RECORD
(returnable Monday, June 22, 2015)

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AND TO: DEPARTMENT OF JUSTICE

Ontario Regional Office
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AND TO: THIS HONOURABLE COURT

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

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R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE COURTS OF JUSTICE ACT,
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BETWEEN:

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TAB 1

Court File No. CV-14-10543-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

8527504 CANADA INC.

Applicant

- and -

LIQUIBRANDS INC.

Respondent

*APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT,
R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE COURTS OF JUSTICE ACT,
R.S.O. 1990, c. C. 43, AS AMENDED*

Court File No. CV-13-10331-00CL

BETWEEN:

8527504 CANADA INC.

Applicant

- and -

SUN PAC FOODS LIMITED

Respondent

*APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT,
R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE COURTS OF JUSTICE ACT,
R.S.O. 1990, c. C. 43, AS AMENDED*

NOTICE OF MOTION

BDO CANADA LIMITED ("BDO" or the "Receiver"), in its capacity as receiver of the assets, undertakings and properties of Sun Pac Foods Limited ("Sun Pac") and Liquibrands Inc. ("Liquibrands") (collectively referred to as the "Debtors") will make a Motion before a Judge

to be heard on **Monday, June 22, 2015**, at 10:00 a.m. or as soon after that time as the Motion can be heard at the Court House, 330 University Avenue, Toronto, Ontario, M5G 1E6.

PROPOSED METHOD FOR HEARING: The Motion is to be heard orally.

THE MOTION IS FOR:

1. If necessary, an Order abridging the time for service and validating service of this Notice of Motion and Motion Record in the manner effected by the Receiver and an Order dispensing with service thereof of any party other than the parties served;
2. an Order approving the Fourth Report of BDO Canada Limited, in its capacity as Court Appointed Receiver of Sun Pac and First Report of BDO Canada Limited, in its capacity as Court Appointed Receiver of Liquibrands (the "**First and Fourth Combined Report**") of the Receiver and the actions of the Receiver described therein;
3. an Order approving the sale transaction (the "**Transaction**") contemplated by an Agreement of Purchase and Sale (the "**Sale Agreement**") between the Receiver and 8527504 Canada Inc. (the "**Purchaser**" or "**852**") dated as of May 15, 2015 and appended to the First and Fourth Combined Report and vesting in the Purchaser all of the Debtors' right, title and interest, if any, in and to the cause of action bearing Court File No. CV-13-00492612 (the "**Action**") free and clear of all claims and encumbrances of any nature and kind whatsoever;
4. an Order approving the professional fees and disbursements of the Receiver and its legal counsel, Lipman, Zener & Waxman LLP ("**LZW**") as set out in the Affidavit of Gary Cerrato sworn June 2, 2015 (the "**Cerrato Affidavit**") and the Affidavit of Jason D. Spetter sworn June 8, 2015 (the "**Spetter**")

Affidavit”) and sealing and treating as Confidential Appendix 1 to the First and Fourth Combined Report until the Transaction has closed or until further order of this Court; and

5. such further and other relief as to the Receiver may request and this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

1. The Receiver was appointed pursuant to the Sun Pac Receivership Order on November 12, 2013;
2. The Receiver was appointed pursuant to Liquibrands Receivership Order on December 4, 2014;
3. Sun Pac and Liquibrands are the Plaintiffs in the Action. 852 and Bridging Capital Inc. are Defendants in the Action;
4. On December 4, 2014, Mr. Justice Newbould granted Orders in both receiverships approving a marketing and sales process in respect of the Action;
5. The Receiver accepted an offer from and entered into an agreement of purchase and sale with 852.
6. The provisions of the *Bankruptcy and Insolvency Act*;
7. The provisions of the *Courts of Justice Act*;
8. The *Rules of Civil Procedure*, including Rule 16.04 and 60.11; and

9. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Motion: *(list all affidavits or other documentary evidence to be relied on).*

1. The First and Fourth Combined Report and appendices attached thereto.
2. Such further and other material as counsel may produce and this Honorable Court may permit

DATED: June 8, 2015

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Lawyers for the Receiver

TAB 2

Court File No. CV-14-10543-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

8527504 Canada Inc.

Applicant

- and -

Liquibrands Inc.

Respondents

APPLICATION UNDER SUBSECTION 243(1) OF *THE BANKRUPTCY AND INSOLVENCY ACT*, R.S.C 1985, c. B-3 AS AMENDED AND SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O 1990, c. C. 43, AS AMENDED

Court File No. CV-13-10331-00CL

B E T W E E N:

8527504 Canada Inc.

Applicant

- and -

Sun Pac Foods Limited

Respondents

APPLICATION UNDER SUBSECTION 243(1) OF *THE BANKRUPTCY AND INSOLVENCY ACT*, R.S.C 1985, c. B-3 AS AMENDED AND SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O 1990, c. C. 43, AS AMENDED

**FOURTH REPORT OF BDO CANADA LIMITED, IN ITS CAPACITY
AS COURT APPOINTED RECEIVER OF SUN PAC FOODS LIMITED
AND
FIRST REPORT OF BDO CANADA LIMITED, IN ITS CAPACITY
AS COURT APPOINTED RECEIVER OF LIQUIBRANDS INC.**

June 2, 2015

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- D Approval and Vesting Order
- E Service List Notification of Sale Opportunity
- F Receiver's Website Screen Print Out
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- H Receiver's Fee Affidavit
- I Fee Affidavit of Lipman Zener & Waxaman LLP
- J Order and Endorsement of Madam Justice Feldman dated March 31, 2015

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INTRODUCTION AND BACKGROUND

Introduction

1. By Order of the Honourable Madam Justice Mesbur of the Ontario Superior Court of Justice (the "Court") dated November 12, 2013 (the "Sun Pac Receivership Order") BDO Canada Limited was appointed as receiver ("BDO" or the "Receiver") of the assets, properties and undertakings of Sun Pac Foods Limited ("Sun Pac") pursuant to the application of 8527504 Canada Inc. ("852"). A copy of the Sun Pac Receivership Order is included hereto as **Appendix A**.
2. By Order of the Honourable Mr. Justice Newbould of the Court dated December 4, 2014, (the "Liquibrands Receivership Order") the Receiver was appointed as receiver of the assets, properties and undertakings of Liquibrands Inc. ("Liquibrands") (Sun Pac and Liquibrands shall collectively be referred to hereinafter as the "Companies") also pursuant to the application of 852. A copy of the Liquibrands Receivership Order and Mr. Justice Newbould's Endorsement are attached hereto as **Appendix B**.
3. Among the powers set out in the Liquibrands Receivership Order, the Receiver was empowered and authorized in Paragraph 2 (j) to carry out a marketing and sale process with respect to the cause of action set out in Court File No. CV-13-00492612 in the Court commenced by the Companies against 852 and Bridging Capital Inc. (the "Action"). Details of the contemplated marketing and sale process in respect of the Action are included as Schedule "A" to the Liquibrands Receivership Order.

4. Pursuant to Paragraph 9 of the Order of the Honourable Mr. Justice Newbould of the Court dated December 4, 2014 (the “**Litigation Marketing Process Order**”), the Court approved a marketing and sale process for the Action that mirrored the marketing and sale process contemplated in the Liquibrands Receivership Order. A copy of the Litigation Marketing Process Order is appended hereto as **Appendix C**.

Purpose of this Report

5. The purposes of this report dated June 2, 2015 (the “**First & Fourth Combined Report**”) are to:

- a) inform the Court and seek its approval of the Receiver’s activities and conduct, in particular with respect to the marketing and sale process conducted by the Receiver for the Action, since: 1) its appointment as Receiver over Liquibrands; and, 2) since the filing of the Third Report dated November 25, 2014 in the Sun Pac receivership proceeding (the “**Third Report**”);
- b) seek the Court’s approval of the agreement of purchase and sale (the “**Sale Agreement**”) entered into between the Receiver and 852 (the “**Purchaser**”) for the purchase of the Action (the “**Transaction**”);
- c) seek approval for the Receiver to execute any further documentation as is required to give effect to the Sale Agreement to complete the Transaction;
- d) pursuant to the Sale Agreement, seek the Court’s approval of the vesting of all right, title and interest of Sun Pac and Liquibrands in the Action in and to the Purchaser in the form of the Approval and Vesting Order attached hereto as **Appendix D**;
- e) request an order sealing **Confidential Appendix 1** to this First & Fourth Combined Report, in order to preserve the integrity of the sale and

marketing process until the Transaction closes, or until further Order of this Honourable Court;

- f) seek the Court's approval of the fees and disbursements, as set out herein, of the Receiver and its counsel, Lipman, Zener & Waxman LLP ("LZW"); and
- g) inform the Court that Csaba Reider has brought a motion seeking, *inter alia*, an order that he is entitled to control the Action under the residual authority of the directors of the Companies.

Disclaimer

6. This First & Fourth Combined Report is prepared solely for the use of the Court, for the purpose of assisting the Court in making a determination whether to approve the sale of the Action, and other relief being sought.

7. Unless otherwise stated, all monetary amounts contained in this First & Fourth Combined Report are expressed in Canadian dollars.

Background

8. Sun Pac is a corporation incorporated pursuant to the *Business Corporations Act* (Ontario). Sun Pac was a privately owned corporation which manufactured juices and sport drinks under the Sun Pac brand and for private label customers. Sun Pac also manufactured croutons and breadcrumbs under the "McDowell Ovens" banner.

9. In November 2011, Sun Pac was acquired by Liquibrands, a private investment firm owned by Csaba Reider, at which time Csaba Reider became President and Chief Executive Officer of Sun Pac.

10. 852 is Sun Pac's senior secured lender and was owed approximately \$3.1 million as at the Sun Pac receivership date. To date, the Receiver has distributed \$390,495.24 to 852 through the Sun Pac receivership proceeding.

11. Liquibrands provided a \$1.0 million corporate guarantee to 852 in respect of Sun Pac's indebtedness. Liquibrands also appears to be a subordinate ranking secured creditor that is owed approximately \$2.7 million by Sun Pac.

ACTIVITIES OF THE RECEIVER

12. Pursuant to both the Liquibrands Receivership Order and the Litigation Marketing Process Order, the following are the activities of the Receiver:

- (a) preparing and issuing the prescribed Notice and Statement of the Receiver pursuant to sections 245 (1) and 246 (1) of the *Bankruptcy and Insolvency Act*, which was forwarded to the Office of the Superintendent of Bankruptcy and Liquibrands' creditors;
- (b) notifying all parties on the Sun Pac and Liquibrands service lists of the opportunity to purchase the Action. A copy of the service list notification is enclosed hereto as Appendix E;
- (c) posting a copy of the Statement of Claim in the Action on its website at www.bdo.ca/sunpac; a screen print out of the Receiver's website page

confirming the posting of the Action, the Receiver's Terms and Conditions of Sale and the Sale Agreement is attached hereto as **Appendix F**;

(d) reviewing with counsel, the general Terms and Conditions of Sale for the Action and the terms and conditions contained in the Sale Agreement; both documents were posted on the Receiver's website copies of which are attached hereto as **Appendix G**;

(e) reviewing the offers received for the Action and accepting the Purchaser's offer and notifying the non successful bidder of the non acceptance of its offer;

(f) reviewing a Notice of Motion commenced by Csaba Reider in his capacity as director of Liquibrands Inc. served on the Receiver by email on May 14, 2015; and

(g) preparing this First & Fourth Combined Report in support of the relief being sought herein.

SALE PROCESS

13. The Receiver's counsel, LZW, notified all parties on the Sun Pac and Liquibrands service list of the opportunity to purchase the Action on April 23, 2015 by email (**Appendix E**). The deadline for the receipt of offers for the Action was May 15, 2015 (the "**Deadline Date**").

14. Prior to the Deadline Date, the Receiver received two offers from the following parties: 1) a cash offer from Liquid Brands Inc. signed by Csaba Reider, and 2) a credit bid offer from 852. Both offers were in the form of the Receiver's Sale Agreement

with a minor modification in 852's offer. The offers are included hereto as **Confidential Appendix 1**.

15. The Receiver reviewed the offers and accepted the credit bid offer from 852, subject to this Honourable Court's approval.

16. Should the Court approve the Transaction as recommended by the Receiver, the contemplated closing of the Transaction will be the eleventh business day following the date on which the Approval and Vesting Order is granted or such later or earlier date as agreed to in writing by the parties (the "Closing").

17. On Closing, the Receiver shall deliver the following, each of which shall be in form and substance satisfactory to the Purchaser, acting reasonably:

- a) a copy of the Approval and Vesting Order vesting title to the Action free and clear of all motions and encumbrances;
- b) an original of the Receiver's Certificate to be delivered to the Purchaser pursuant to the Approval and Vesting Order; and
- c) such further and other documentation as is referred to in the Sale Agreement or as the Purchaser may reasonably require to give effect to the Sale Agreement.

18. Given that 852's credit bid offer was substantially higher than the offer received from Liquid Brands Inc., it is the Receiver's recommendation that this Honourable Court approve 852's offer and the Transaction.

LEAVE TO APPEAL

19. Liquibrands brought motions for leave to appeal the Liquibrands Receivership Order and the Litigation Marketing Process Order. The motion was heard on March 31, 2015. Pursuant to the Order and Endorsement of the Honourable Madam Justice Feldman, copies of which are attached hereto as Appendix J, Liquibrands' motions were dismissed.

CSABA REIDER MOTION

20. Csaba Reider has brought a motion seeking, *inter alia*, an order that he is entitled to control the Action under the residual authority of the directors of the Companies.

21. The Receiver, 852, and Mr. Reider propose that the Receiver's motion for approval of the Transaction and Mr. Reider's motion be heard on the same date as both motions deal with the proposed sale of the Action.

LOSSES FOR TAX PURPOSES

22. Further to paragraphs 43 through 46 of the Receiver's Second Report dated April 10, 2014 (the "Second Report") and paragraphs 10 to 12 of the Third Report, the Receiver has been advised by Bridging Capital (defined in the Second Report) that discussions regarding the sale of the losses for tax purposes are ongoing.

FEES AND DISBURSEMENTS

23. Pursuant to the Sun Pac Receivership Order and the Liquibrands Receivership Order, the Receiver has provided services and incurred disbursements which are more particularly described in the affidavit and detailed invoices attached hereto as **Appendix I.**

24. The detailed time descriptions contained in the invoices provide a fair and accurate description of the services provided and the amounts charged by BDO as Receiver. Included with the invoices is a summary of the time charges of partners and staff, whose services are reflected in the invoices, including the total fees and hours billed.

25. Additionally, the Receiver has incurred legal fees of its counsel, LZW, in respect of these proceedings as per the fee affidavit and exhibits attached hereto as **Appendix J.**

26. The Receiver has reviewed LZW's fee affidavit and believes same to be fair and reasonable in the circumstances.

27. The Receiver requests that the Court approve its interim accounts from November 26, 2014 to June 2, 2015 in the amount of \$21,974.55, inclusive of HST of \$2,528.05.

28. The Receiver also requests that the Court approve the accounts of its legal counsel for the period November 26, 2014 to June 2, 2015 in the amount of \$33,224.86, inclusive of HST of \$3,793.11.

29. Additional time will be required to complete the Receiver's mandate.

SUMMARY AND RECOMMENDATIONS

30. Based on the foregoing, the Receiver recommends that the Court:

- a) approve this First & Fourth Combined Report of the Receiver, and the activities and conduct of the Receiver set out herein;
- b) approve the Sale Agreement and the Transaction contemplated thereby and grant an Approval and Vesting Order in the Action in and to the Purchaser;
- c) seal Confidential Appendix 1 in order to preserve the integrity of the sale and marketing process, until the Transaction closes, or until further Order of this Honourable Court; and
- d) approve the professional fees and disbursements of the Receiver and its counsel, LZW, as set out herein.

All of which is respectfully submitted this 2nd day of June, 2015.

**BDO CANADA LIMITED Court Appointed Receiver of
Sun Pac Foods Limited and Liquibrands Inc.
Per:**

A handwritten signature in black ink, appearing to read 'B. Davidson', written over a horizontal line.

Name: Blair Davidson, CPA, CA, CBV, CIRP
Title: President

APPENDIX "A"

Court File No. CV13-10331-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MADAM)
JUSTICE MESBUR)

TUESDAY, THE 12TH DAY
OF NOVEMBER, 2013

BETWEEN:

8527504 CANADA INC.

Applicant

- and -

SUN PAC FOODS LIMITED

Respondent

APPLICATION UNDER Section 243 of the *Bankruptcy and Insolvency Act*, R.S.C 1985, c. B-3, and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43.

ORDER

THIS MOTION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing BDO Canada Limited as receiver (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of Sun Pac Foods Limited (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Len Kofman sworn November 12, 2013 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant and counsel for the Respondent, and on reading the consent of BDO Canada Limited to act as the Receiver,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, BDO Canada Limited is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "Property").

RECEIVER'S POWERS

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect of the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;

- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtor;
- (j) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (k) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,

- i. without the approval of this Court in respect of any transaction not exceeding \$ _____, provided that the aggregate consideration for all such transactions does not exceed \$ _____; and
- ii. with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, [or section 31 of the Ontario *Mortgages Act*, as the case may be,] shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.

- (m) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and

- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. THIS COURT ORDERS that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.
5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.
6. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give

unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

7. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

8. THIS COURT ORDERS that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

9. THIS COURT ORDERS that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment,

(iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

10. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

11. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

12. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for

herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

13. THIS COURT ORDERS that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

14. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release

or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

16. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

17. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

18. THIS COURT ORDERS that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

19. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

20. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$200,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

21. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

22. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

23. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

GENERAL

24. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

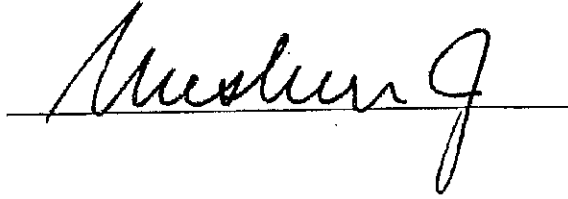
25. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

26. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States 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 orders and to provide such assistance to the Receiver, as an officer of this 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.

27. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

28. THIS COURT ORDERS that the Applicant shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

29. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.



RECEIVED
DECEMBER 12 2013

NOV 12 2013

MB

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that BDO Canada Limited, the receiver (the "Receiver") of the assets, undertakings and properties of Sun Pac Foods Limited acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the ___ day of _____, 20__ (the "Order") made in an action having Court file number ___-CL-_____, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the _____ day of _____, 20__.

BDO CANADA LIMITED, solely in its capacity
as Receiver of the Property, and not in its
personal capacity

Per: _____

Name:

Title:

- 8527504 CANADA INC.

Applicant

and

SUN PAC FOODS LIMITED

Respondent

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceedings commenced at TORONTO

ORDER

CHATONS LLP
5000 Yonge Street, 10th Floor
Toronto, Ontario
M2N 7E9

George Benchetrit (LSUC #34163H)
Tel: 416-218-1141
Fax: 416-218-1841

Lawyers for the Applicant

APPENDIX "B"

Court File No. CV-14-10543-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

THE HONOURABLE MR.)

THURSDAY THE 4TH DAY

JUSTICE NEWBOULD)

OF DECEMBER, 2014



8527504 CANADA INC.

Applicant

- and -

LIQUIBRANDS INC.

Respondent

APPLICATION UNDER Section 243 of the *Bankruptcy and Insolvency Act*, R.S.C 1985, c. B-3, and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43.

ORDER

(appointing Receiver)

THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing BDO Canada Limited as receiver (the "Receiver") without security, of all of the assets, undertakings and properties of Liquibrands Inc. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, was heard on Friday November 28, 2014 at 330 University Avenue, Toronto, Ontario, with an Endorsement released as of the date hereof.

ON READING the affidavit of Natasha Sharpe sworn April 11, 2014 and the Exhibits thereto, the Affidavit of Natasha Sharpe sworn May 13, 2014 and the Exhibits thereto, the

Affidavit of Csaba Reider sworn April 3, 2014 and the Exhibits thereto, the Supplementary Affidavit of Csaba Reider sworn April 15, 2014 and the Exhibits thereto, the Responding and Reply Affidavit of Csaba Reider sworn May 15, 2014 and the Exhibits thereto, and the Affidavit of Michael Petric sworn June 23, 2014 and the Exhibits thereto, and on hearing the submissions of counsel for the Applicant and the Respondent, and on reading the consent of BDO Canada Limited to act as the Receiver,

APPOINTMENT

1. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, BDO Canada Limited is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "**Property**").

RECEIVER'S POWERS

2. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;

- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to carry out the sale process set out in Schedule "A" attached hereto;
- (k) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate,;

- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business, with the approval of this Court, and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.
- (m) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

- (i) and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

3. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

4. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 4 or in paragraph 5 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

5. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully

copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

6. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

7. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

8. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

9. **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

10. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

11. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

12. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

13. **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

14. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all

material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

16. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

17. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless

otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

18. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

19. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

20. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$200,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

21. **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

22. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule "B"** hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

23. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

SERVICE AND NOTICE

24. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL www.bdo.ca/liquibrands.

25. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business

day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

26. **THIS COURT ORDERS** that the Applicant, the Receiver and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Debtor's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

GENERAL

27. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

28. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

29. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States 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 orders and to provide such assistance to the Receiver, as an officer of this 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.

30. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

31. **THIS COURT ORDERS** that the Applicant's costs of this application, up to and including entry and service of this Order, shall be determined by this Court following receipt of any written submissions of the parties as directed by this Court.

32. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

ENTERED IN THE COURT OF ONTARIO
ON
LEVEL

FEB 4 2015

John J. ...

SCHEDULE "A"

The Receiver shall conduct a sale process with respect to the action commenced by Liquibrands Inc. and Sun Pac Foods Limited as plaintiffs in Court File No. CV-13-00492612 (the "Action") as described below:

- a) The Receiver shall notify all parties on the service list in this matter, as well as the service list in the Sun Pac Foods Limited receivership (Court File No.: CV-13-10331-00CL);
- b) the Receiver shall post a copy of the Statement of Claim in the Action on its website at www.bdo.ca/Liquibrands;
- c) offers to be made on the Receiver's form of Agreement of Purchase and Sale (the "APS") to be provided to the prospective purchaser or purchasers;
- d) the Action is being offered for sale subject to the terms and conditions set out in the APS, including, without limitation on a 'as is, where is' basis with no representations, warranties or conditions of any nature or kind whatsoever being made by the Receiver;

e) 8527504 Canada Inc. may be an offeror and may make its offer by way of credit bid

or otherwise [✓] without prejudice to any party, to oppose the ^{NT} right of 8527504 Canada Inc. to make an offer or to oppose any offer made.

f) following the offer deadline, the Receiver will review all offers submitted and may accept a submitted offer by executing the APS, subject to seeking Court approval of the offer and APS; and

g) the sale of the Action shall be conditional upon this Honourable Court's approval of same, which approval is to be sought by the Receiver within three months following the sending of the notice set out in subparagraph (a).

SCHEDULE "B"
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that BDO CANADA LIMITED, the receiver (the "Receiver") of the assets, undertakings and properties Liquibrands Inc., including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the 4th day of December, 2014 (the "Order") made in an application having Court file number CV-14-10543-00CL, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 20__.

BDO CANADA LIMITED, solely in its capacity
as Receiver of the Property, and not in its
personal capacity

Per: _____
Name:
Title:

8517504 CANADA INC.
Applicant

- and -

LIQUIBRANDS INC.
Respondent
Court File No. CV-14-10543-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceedings commenced at TORONTO

**ORDER
(appointing Receiver)**

CHAITONS LLP
5000 Yonge Street, 10th Floor
Toronto, Ontario M2N 7E9

Harvey Chaiton (LSUC #21592F)
Tel: 416-218-1129
Fax: 416-218-1849
E-mail: harvey@chaitons.com

Sam Rappos (LSUC #51399S)
Tel: 416-218-1137
Fax: 416-218-1837
E-mail: samr@chaitons.com

Lawyers for the Applicant

CITATION: 8527504 Canada Inc. v. Liquibrands Inc., 2014 ONSC 7015
COURT FILE NO.: CV-14-10543-00CL
DATE: 20141204

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

BETWEEN:

8527504 CANADA INC.

Applicant

- and -

LIQUIBRANDS INC.

Respondent

Court File No. CV-13-10331-00CL

AND BETWEEN:

8527504 CANADA INC.

Applicant

- and -

SUN PAC FOODS LIMITED

Respondent

APPLICATIONS UNDER Section 243 of the *Bankruptcy and Insolvency Act*, R.S.C 1985, c. B-3, and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43.

BEFORE: Newbould J.

COUNSEL: *Harvey Chaiton and Sam Rappos*, for the Applicant

David E. Wires and Krista Bulmer, for the Respondents Liquibrands Inc. and Sun Pac Foods Limited

Anthony J. O'Brien, for the BDO Canada Limited, receiver of Sun Pac Foods Limited

HEARD: November 28, 2014

ENDORSEMENT

[1] The applicant 8527504 Canada Inc. ("852") applies for the appointment of a receiver of the assets of the respondent Liquibrands Inc. ("Liquibrands") under security granted by Liquibrands to Bridging Canada Inc. ("Bridging") and assigned to 852.

[2] Liquibrands applies for an order lifting a stay of proceedings in the receivership order of Sun Pac Foods Limited ("Sun Pac") to permit an action commenced by Sun Pac and Liquibrands against 852 and Bridging to proceed and to appoint a receiver of the remaining assets of Sun Pac for the purpose of advancing the litigation. Liquibrands is a secured creditor of Sun Pac in second place after 852 and requests an order directing the receiver to pay into court the balance of funds held by the receiver of Sun Pac from the sale of its assets pending the completion of the law suit. The receiver applies for an order to pay the funds it holds to 852.

[3] Sun Pac was a Canadian manufacturer of private label and branded beverage products, and a manufacturer of croutons and bread crumbs and other private label brands (the "Breadcrumbs Division").

[4] Sun Pac was acquired by Liquibrands in November 2011. Liquibrands is the sole shareholder of Sun Pac. Mr. Csaba Reider is the sole shareholder, officer and director of Liquibrands. He was also the sole officer and director of Sun Pac.

[5] Bridging provides middle-market commercial customers with alternative financing solutions to borrowers who are unable to obtain financing from traditional lenders. 852 is a company related to Bridging and took an assignment of the loans and security for loans made by Bridging to Sun Pac.

[6] On October 1, 2012, Bridging advanced a revolving loan of up to \$5 million based on a lending formula under Facility A, \$500,000.00 (before facility fees) on January 18, 2013 under a Facility B term loan on equipment, and the balance of the facility B loan, \$1,182,524.00 (before facility fees), was advanced on January 31, 2013. The loans were secured on the assets of Sun Pac. Liquibrands guaranteed \$1 million of the Sun Pac Facility A loan and provided security over all of its assets to support the guarantee.

[7] Mr. Reider was in discussion with Loblaws to produce private label drinks for Loblaws. However Sun Pac was running short of working capital and in August 2013 was in default of its loan obligations to 852. He decided to sell the Breadcrumbs Division for \$3.1 million and he requested additional funding to continue operating.

[8] On September 11, 2013 852, Sun Pac and Liquibrands signed a Forbearance and Amending Agreement dated September 11, 2013. The Forbearance Agreement was entered into to provide Sun Pac with a temporary bridge loan in the hopes of obtaining equity and debt financing for the anticipated Loblaws contract and to complete a sale of the Breadcrumbs Division to repay the bridge loan. In the Forbearance Agreement, Sun Pac acknowledged that it was in default of the terms of its loans.

[9] Notwithstanding the default, 852 agreed not to take any steps to enforce any of the loans or its security prior to the earlier of December 9, 2013 or the occurrence of an Event of Default.

[10] In the Forbearance Agreement, 852 agreed to extend a temporary bridge loan to Sun Pac in two tranches. Facility C was a demand non-revolving loan in the amount of \$500,000 less fees. Facility C was advanced to Sun Pac in the amount of \$475,000 on or about September 13, 2013.

[11] Facility D was a demand non-revolving loan in the maximum amount of 2 times EBITDA of the Breadcrumbs Division as determined by a report from BDO Canada Limited, less the amount advanced under Facility C. Paragraph 13 of the Forbearance Agreement provided:

Provided that 852 has received and is satisfied with the report to be prepared by BDO at the expense of Sun Pac, 852 shall, promptly following the execution of this Agreement, advance to Sun Pac as a Facility D Loan advance a single advance in an amount equal to 2 times EBITDA of the Breadcrumbs Division (as defined below) (as determined by BDO in its report to Sun Pac and 852 in its sole discretion), less the Facility C Principal Amount...Each advance shall be conditional on there being no Event of Default under this Agreement and the Loan Agreement.

[12] One event of default contained in the Forbearance Agreement was if Sun Pac failed to have a binding agreement for the sale of the Breadcrumbs Division by November 6, 2013 that was acceptable to 852 in its sole and absolute discretion and failed to close it by December 6, 2013.

[13] BDO prepared a report dated September 25, 2013, which it delivered to Sun Pac and 852 on September 30, 2013. Based on the report, the Facility D loan was to be approximately \$1.15 million. 852 took no issue with the amount of the EBITDA as reported by BDO.

[14] 852 did not advance the Facility D loan. There is a dispute among the parties as to whether 852 was in breach of the Forbearance Agreement in failing to advance the loan. I do not intend to get into that issue, although was invited to do so.

[15] On October 4, 2013, 852 informed Mr. Reider that it was not prepared to advance Facility D without certain matters being addressed. According to 852, they were not addressed.

[16] On November 11, 2013, 852's lawyers were informed by Sun Pac's insolvency lawyers that Sun Pac's operations had been shut down on November 7, 2013, at which time all but a few employees were terminated. As a result, 852 commenced an urgent receivership application heard on November 12, 2013. Sun Pac and Liquibrands had counsel attend the hearing but did not oppose the receivership application. BDO was appointed as receiver of Sun Pac on November 12, 2013.

[17] On the morning of November 12, 2013, Liquibrands and Sun Pac commenced an action against 852 and Bridging seeking, *inter alia*, general damages of \$100 million for breach of the Forbearance Agreement by not advancing Facility D in the amount of approximately \$1.15

million. Sun Pac had signed an agreement with Loblaws made as of September 18, 2013 containing terms regarding the sale of drink products by Sun Pac to Loblaws, and the damage claim is for alleged lost profits that would have been earned under that agreement.

Issues and analysis

(a) Need for leave to continue the action by Sun Pac

[18] Sun Pac and Liquibrands say that the receivership order of November 12, 2013 in which BDO was appointed receiver of Sun Pac has stayed the action commenced that day by Liquibrands and Sun Pac against 852 and Bridging, and asks leave to proceed with that action. This request is based on a misreading of the receivership order, which followed the standard form used in the Commercial List and approved by the Commercial List Users Committee.

[19] Mr. Wires said that he reads paragraph 7 of the order as staying the action. However, paragraph 7 deals with actions against the debtor or its property and states that "no proceeding against or in respect of the debtor or its property shall be commenced or continued" without the consent of the receiver or leave of the court. To read a proceeding "in respect of the debtor or its property" as applying to an action commenced by the debtor would be to ignore the heading in the order for paragraph 7 "NO PROCEEDING AGAINST THE DEBTOR OR THE PROPERTY". It would also ignore paragraph 3(j) of the order which gives the receiver the power "to initiate, prosecute and continue the prosecution of any and all proceedings...now pending or hereafter instituted".

[20] The receiver of Sun Pac is quite entitled to continue the action commenced by Sun Pac against 852 and Liquibrands without the necessity of obtaining leave to do so.

(b) Proceeds of the sale of Sun Pac's assets

[21] The receiver has realized on the assets of Sun Pac and has proposed an interim distribution of \$383,381 from the proceeds of Sun Pac's assets to 852 on account of its first

ranking security interest. 852 is owed approximately \$4.0 million and will suffer a substantial shortfall on its loans to Sun Pac.

[22] Liquibrands holds security from its wholly owned subsidiary Sun Pac to secure \$2.54 million loaned to Sun Pac. Its security ranks second after the security held by 852. Liquibrands asserts that the proceeds held by the receiver of Sun Pac should be paid into court pending the determination of the action by Sun Pac and Liquibrands against 852 and Bridging. It claims that based on the claims in the action, there is a serious issue to be tried regarding 852's claim to the fund. It relies on rule 45.02 that provides:

45.02 Where the right of a party to a specific fund is in question, the court may order the fund to be paid into court or otherwise secured on such terms as are just.

[23] I do not see that the rule assists Liquibrands. The test for granting an order preserving a specific fund is threefold: (1) the plaintiff claims a right to the specific fund; (2) there is a serious issue to be tried regarding the plaintiff's claim to the fund; and (3) the balance of convenience favours granting the relief sought. The plaintiff must have a proprietary claim against the specific funds beyond the funds utility to satisfy the plaintiff's claim against the defendant. See *DIRECT TV v. Gillot* (2007), 84 O.R. (3d) 595 at paras. 44 and 59.

[24] Liquibrands cannot meet this test. The money in question results from the proceeds of the sale of the assets of Sun Pac. Liquibrands as a second creditor has security over the assets of Sun Pac second to the security of 852. There is no question that the security of 852 is valid and what Liquibrands is essentially doing is attempting to secure before judgment its claim for damages against 852 and Bridging.

[25] The law suit was started on the morning of November 12, 2013 before the receivership order was made later that day. The court had to be satisfied that the loan to Sun Pac was owed in order to make the receivership order. Sun Pac and Liquibrands were represented in court that day by experienced insolvency counsel and no objection was made to the request for the receivership order. Sun Pac and Liquibrands cannot now contend that the money is not owing to 852 and that Liquibrands has a claim to it. That would amount to a collateral attack on the order.

[26] There is no serious issue to be tried regarding Liquibrands' claim to the proceeds of the sale of Sun Pac's assets held by the receiver. 852 has the right to those proceeds. There may be a serious issue to be tried regarding the claim for damages by Sun Pac and Liquibrands against 852 and Bridging, although I make no such finding, but that is a different matter.

[27] The funds held by the receiver of Sun Pac may be paid out to 852.

(c) Should a receiver of Liquibrands be appointed?

[28] Under the GSA security from Liquibrands to 852, Liquibrands may appoint a receiver over all of the property of Liquibrands upon an event of default. Demand under the guarantee of Liquibrands was made in April, 2014 and no payment was made. Thus there has been an event of default. There is no issue as to the validity of the security.

[29] A receiver may be appointed under section 243(1) of the BIA if it is considered just or convenient to do so. The principles applicable are referred to in *Bank of Montreal v. Carnival National Leasing Ltd.* (2011), 74 C.B.R. (5th) 300.

[30] Liquibrands contends that there should be no receiver appointed pending the outcome of its lawsuit against 852 and Bridging, and relies on *Bank of Montreal v. Wilder*, [1986] 2 S.C.R. 551. In that case the bank breached an agreement not to call the loan for a period of time if guarantees were provided and an injection of capital was made into the customer company, which happened. The guarantors were relieved of liability because of the wrong doing of the Bank. The bank relied on a provision in the guarantee that it could deal with the customer "as the Bank may see fit". It was held that this did provision did not protect the bank. Wilson J. for the Court stated:

The Bank under the umbrella agreement could have decided to make the business decision to stop financing the Company at any time prior to the June agreement. After that agreement this option was closed to it. It agreed with the Company and with the guarantors that it would continue to finance the Company at least until it had completed the Alberta road projects. It failed to do so despite the fact that the Wilders kept their part of the bargain. The Bank's breach not only increased the guarantors' risk in a way which was "not plainly unsubstantial" and impaired their

security; it put the principal debtor out of business and into bankruptcy. Such conduct on the part of the Bank cannot, in my opinion, be viewed as within the purview of the clause in the guarantee contracts permitting the Bank to deal with the Company and the guarantors as it "may see fit". I agree with Lambert J.A. that such a clause must be construed as extending to lawful dealings only.

[31] In this case, however, the guarantee given by Liquibrands was much broader than in *Bank of Montreal v. Wilder*. Section 2 of the guarantee provided:

2. Guarantee Unconditional. The obligations of the guarantor under this guarantee are continuing, unconditional and absolute and...will not be released, discharged, diminished, limited or otherwise affected by (and the Guarantor hereby waives, to the fullest extent permitted by applicable law) *inter alia*:

(e) the existence of any claim, set-off or other rights which the Guarantor may have at any time against the Debtor, the Creditor, or any other person, whether in connection herewith or any unrelated transactions;

(p) any dealing whatsoever with the Debtor or other person or any security, whether negligently or not, or any failure to do so; ...

(r) any other act or omission to act or delay of any kind by the Debtor, the Creditor, or any other person or any other circumstances whatsoever, whether similar or dissimilar to the foregoing, which might, but for the provisions of this Section 2, constitute a legal or equitable discharge, limitation or reduction of the Guarantor's obligations hereunder (other than the payment or extinguishment in full of all of the Obligations).

The foregoing provisions apply (and the foregoing waivers will be effective) even if the effect of any action (or failure to take action) by the Creditor is to destroy or diminish the Guarantor's subrogation rights, the Guarantor's right to proceed against the Debtor for reimbursement, the Guarantor's right to recover contribution from any other guarantor or any other right or remedy.

[32] A party may contract out of an equitable rule regarding guarantees. See *Bauer v. Bank of Montreal*, [1980] 2 S.C.R. 102. Liquibrands was represented by counsel at the time it signed the guarantee and there is no reason why the terms are not enforceable. The terms of the guarantee preclude Liquibrands from contending that the guarantee may be unenforceable if it succeeds in its action against 852.

[33] Moreover, in a Subordination, Assignment, Postponement and Standstill Agreement made by Liquibrands and Sun Pac with Bridging at the same time as the guarantee, Liquibrands agreed not to take any steps whereby the priority or rights of 852 might be delayed, defeated, impaired or diminished and agreed not to challenge, object to, compete with or impede in any manner any act taken or proceeding commenced by 852 in connection with the enforcement of 852's security.

[34] Liquibrands also claims that as second secured creditor of Sun Pac, it should have priority over the security of 852 because of the breach by 852 of the Forbearance Agreement. I am not in a position to say that there has been a breach of that agreement and in any event the Subordination, Assignment, Postponement and Standstill Agreement precludes that contention. It provides that Liquibrands consents to the security granted to Bridging by Sun Pac and acknowledges that notwithstanding any priority provided by any principle of law or equity, the security of Liquibrands is unconditionally subordinated to the security held by Bridging. Liquibrands also agreed in that agreement that it would not take any steps whereby the priority of Bridging might be defeated and that it would not challenge any proceeding to enforce that security. 852 holds those rights as assignee from Bridging.

[35] I find that it is just and convenient that a receiver of Liquibrands be appointed and BDO is appointed as receiver of all of its property, assets and undertakings in the form contained at tab 3 of the Application Record.

(d) Procedure for the litigation

[36] The action by Liquibrands and Sun Pac against 852 and Bridging for breach of the Forbearance Agreement is outstanding. Liquibrands requests an order that a different receiver from BDO be appointed as receiver of "the remaining assets" of Sun Pac for the purposes of advancing the litigation. The reason is that BDO, the receiver of Sun Pac, has indicated that it does not wish to spend money on the law suit.

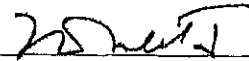
[37] BDO is prepared to market the right to commence the action. There is precedent for such a procedure. In *Central 1 Credit Union v. UM Financial Inc.*, 2012 ONSC 1893 it was held that a

lawsuit by the debtor in receivership constituted collateral that was subject to the existing receivership proceeding. The court appointed receiver subsequently brought a motion seeking court approval to conduct a marketing process for the sale of the claim and that relief was granted by Justice C. Campbell. It seems sensible that now that BDO is the receiver of both Sun Pac and Liquibrands, the two plaintiffs in the action, BDO should be permitted to market the litigation in a marketing process.

[38] No specific marketing process has been proposed. The receiver should propose a marketing process and Sun Pac and Liquibrands can consider whether it is agreeable to the marketing process proposed. If there is agreement to the marketing process, it can be included in the order to be signed reflecting these reasons. If there is no agreement, a further attendance to settle it can be arranged at a 9:30 am conference.

(e) Receiver's motion

[39] The receiver has applied for orders approving the Third Supplement to its First Report, approving its Third Report, approving its fees and disbursements of those of its counsel, approving its statement of receipts and disbursements, and authorizing and directing the receiver to make a distribution to 852 and maintain a holdback in accordance with its Third Report. The relief requested is reasonable and is granted.



Newbould J.

Date: December 4, 2014

APPENDIX "C"



**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE
MR. JUSTICE NEWBOULD

) THURSDAY, THE 4TH DAY OF
)
) DECEMBER, 2014

BETWEEN:

8527504 CANADA INC.

Applicant

- and -

SUN PAC FOODS LIMITED

Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3 AS AMENDED AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C-43, AS AMENDED

ORDER

THIS MOTION, made by BDO Canada Limited in its capacity as the Court-appointed receiver (the "Receiver") of the undertakings, properties and assets of Sun Pac Foods Limited (the "Debtor"), for an Order:

- (a) approving the activities of the Receiver as set out in the Third Supplement to the First Report of the Receiver, dated August 28, 2014 (the "Supplement") and the Third Report of the Receiver, dated November 25, 2014 (the "Third Report");
- (b) approving the fees and disbursements of the Receiver and its counsel, more particularly described in the Third Report;

- (c) approving the Receiver's statement of receipts and disbursements;
- (d) authorizing the Receiver to make an interim distribution with respect to the funds held in connection to the sale of the Debtor's assets, more particularly described in the Third Report;
- (e) approving a sale process with respect to the litigation in which the Debtor and Liquibrands Inc. are parties; and
- (f) such further and other relief as this Honourable Court shall deem just.

ON READING the Supplement, the Third Report and on hearing the submissions of counsel for the Receiver, and such other parties in attendance at the hearing as indicated on the counsel slip.

1. THIS COURT ORDERS that the time for service of the Notice of Motion and Motion Record is hereby abridged so that this motion is properly returnable today and further service thereof is hereby dispensed with.
2. THIS COURT ORDERS that, subject to paragraph 8 below, the Supplement and the activities of the Receiver set out therein be and the same are hereby approved.
3. THIS COURT ORDERS that, subject to paragraph 8 below, the Third Report and the activities of the Receiver set out therein be and the same are hereby approved.
4. THIS COURT ORDERS that the Receiver's statement of receipts and disbursements, attached as Appendix B to the Third Report is hereby approved.
5. THIS COURT ORDERS that the fees and disbursements of the Receiver and its counsel, as set out in the Third Report and the fee affidavits, attached as Appendices E and F of the Third Report, are hereby approved.
6. THIS COURT ORDERS that the Receiver make an interim distribution to 8527504 Canada Inc. in the amount of \$420,495.24.

7. THIS COURT ORDERS that the Receiver retain a reserve in the total sum of \$40,000.00 and the Receiver is hereby authorized to apply the reserve at its discretion to fees and disbursements in this matter and the receivership of Liquibrands Inc. (Court File No. CV-14-10543-OOCL).

8. THIS COURT ORDERS that this Order is without prejudice to the claims of the plaintiffs or any other person or persons that acquires the interests of the plaintiffs in Court File No. CV-13-00492612 (the "Action") pursuant to the sale process set out in paragraph 9 herein and that the plaintiffs or any other person or persons that acquires the interests of the plaintiffs are not estopped from advancing any claims or arguments in the Action.

9. THIS COURT ORDERS that the Receiver conduct a sales process with respect to the Action (more particularly described in paragraphs 48 through 49 of the Second Report of the Receiver dated April 10, 2014) as described below:
 - a) The Receiver shall notify all parties on the service list in this matter, as well as the service list in the Liquibrands Inc. receivership (Court File No.: CV-14-10543-00CL);

 - b) the Receiver shall post a copy of the Statement of Claim in the Action on its website at <http://www.extranets.bdo.ca/SunPac>;

 - c) offers to be made on the Receiver's form of Agreement of Purchase and Sale (the "APS") to be provided to the prospective purchaser or purchasers;

 - d) the Action is being offered for sale subject to the terms and conditions set out in the APS, including, without limitation on a 'as is, where is' basis with no representations, warranties or conditions of any nature or kind whatsoever being made by the Receiver;

e) 8527504 Canada Inc. may be an offeror and may make its offer by way of credit bid

MIT
or otherwise *without prejudice to any party to oppose the rights of 8527504 Canada Inc to make an offer or to oppose any offer made.*

f) following the offer deadline, the Receiver will review all offers submitted and may accept a submitted offer by executing the APS, subject to seeking court approval of the offer and the APS; and

g) the sale of the Action shall be conditional upon this Honourable Court's approval of same, which approval is to be sought by the Receiver within three months following the sending of the notice set out in subparagraph (a).

John T.

RECEIVED
COURT
FEB 4 2015

FEB 4 2015

NB

8527504 CANADA INC.
Applicant

-and-

SUN PAC FOODS LIMITED
Respondent
Court File No. CV13-10331-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
Proceeding commenced at
TORONTO

ORDER

LIPMAN, ZENER & WAXMAN LLP
Barristers and Solicitors
1220 Eglinton Avenue West
Toronto, Ontario
M6C 2E3

JASON D. SPETTER
Law Society Registration No. 46105S

ANTHONY J. O'BRIEN
Law Society Registration No. 27440E
Tel.: (416) 789-0652
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Emails: jspetter@lzwlaw.com;
to'brien@lzwlaw.com

Lawyers for the Receiver

APPENDIX "D"

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE
JUSTICE

)
)
)

MONDAY, THE 22ND
DAY OF JUNE, 2015

BETWEEN:

8527504 CANADA INC.

Applicant

- and -

LIQUIBRANDS INC.

Respondent

**APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND
INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, c. C. 43, AS AMENDED**

BETWEEN:

8527504 CANADA INC.

Applicant

- and -

SUN PAC FOODS LIMITED

Respondent

**APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND
INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, c. C. 43, AS AMENDED**

APPROVAL AND VESTING ORDER

THIS MOTION, made by BDO Canada Limited in its capacity as Court-appointed receiver pursuant to section 243(1) of the *Bankruptcy and Insolvency Act* (the “**Receiver**”) of all of the undertakings, properties and assets of Liquibrands Inc. and Sun Pac Foods Limited (collectively the “**Debtors**”) pursuant to (a) an order of the Honourable Madam Justice Mesbur dated November 12, 2013 (the “**Sun Pac Receivership Order**”) and (b) an order of the Honourable Mr. Justice Newbould dated December 4, 2014 (the “**Liquibrands Receivership Order**”) (collectively, the “**Receivership Orders**”) for an order approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (the “**Sale Agreement**”) between the Receiver and 8527504 Canada Inc. (the “**Purchaser**”) dated May 15, 2015 and appended to the Report of the Receiver dated June 2, 2015 (the “**Report**”), and vesting in the Purchaser the Debtors’ right, title and interest in and to the cause of action bearing Court File No. CV-13-00492612 in the Ontario Superior Court of Justice commenced by the Debtors against 8527504 Canada Inc. and Bridging Capital Inc. (the “**Action**”) free and clear of all claims and encumbrances of any nature and kind whatsoever, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver, and other such parties in attendance at the hearing as indicated on the counsel slip,

1. THIS COURT ORDERS that the timing and method of service of the Notice of Motion and Motion Record be and is hereby abridged and validated and this Motion is properly returnable today.
2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Action to the Purchaser.
3. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver’s certificate to the Purchaser substantially in the form attached as Schedule “A” hereto (the “**Receiver’s Certificate**”), all of the Debtors’ right, title and interest in and to the Action described in the Sale Agreement shall vest absolutely in the Purchaser, free and clear of and from

any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Receivership Orders (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule “B” hereto (all of which are collectively referred to as the “**Encumbrances**”), and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Action are hereby expunged and discharged as against the Action.

4. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Action shall stand in the place and stead of the Action, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Action with the same priority as they had with respect to the Action immediately prior to the sale, as if the Action had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

6. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtors or either of them and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtors or either of them;

the vesting of the Action in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of either 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 settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) 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.

7. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

8. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States 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 orders and to provide such assistance to the Receiver, as an officer of this 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.

9. THIS COURT ORDERS that this order is subject to provisional execution notwithstanding any appeal therefrom.

Schedule A – Form of Receiver’s Certificate

Court File No. CV-14-10543-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

8527504 CANADA INC.

Applicant

- and -

LIQUIBRANDS INC.

Respondent

**APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND
INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, c. C. 43, AS AMENDED**

Court File No. CV-13-10331-00CL

BETWEEN:

8527504 CANADA INC.

Applicant

- and -

SUN PAC FOODS LIMITED

Respondent

**APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND
INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, c. C. 43, AS AMENDED**

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Madam Justice Mesbur of the Ontario Superior Court of Justice (the "Court") dated November 12, 2013, BDO Canada Limited ("BDO") was appointed as the receiver (the "Receiver") of the assets, properties and undertakings of Sun Pac Foods Limited ("Sun Pac").

B. Pursuant to an Order of the Honourable Mr. Justice Newbould of the Court dated December 4, 2014, BDO was appointed as Receiver of the assets, properties and undertakings of Liquibrands Inc. ("Liquibrands").

C. Sun Pac and Liquibrands shall collectively be referred to as the "Debtors".

D. Pursuant to an Order of the Court dated June 2, 2015, the Court approved the agreement of purchase and sale made as of May 15, 2015 (the "Sale Agreement") between the Receiver and 8527504 Canada Inc. (the "Purchaser") and provided for the vesting in the Purchaser of the Debtors' right, title and interest in and to the Action, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Action; (ii) that the conditions to Closing as set out in section 6 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

E. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Action payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in section 6 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.

4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

**BDO CANADA LIMITED, in its capacity as
Receiver of the undertaking, property and
assets of LIQUIBRANDS INC. and SUN PAC
FOODS LIMITED, and not in its personal
capacity.**

Per: _____
Name:
Title:

Schedule B – Encumbrances

8527504 CANADA INC.
Applicant

-and-

LIQUIBRANDS INC.

Respondent

8527504 CANADA INC.
Applicant

-and-

SUN PAC FOODS LIMITED

Respondent

Court File Nos. CV-14-10543-00CL
CV-13-10331-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at TORONTO

APPROVAL AND VESTING ORDER

LIPMAN, ZENER & WAXMAN LLP
Barristers and Solicitors
1220 Eglinton Avenue West
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M6C 2E3

JASON D. SPETTER
Law Society Registration No. 46105S

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Emails: jspetter@lzwlaw.com;
tobrien@lzwlaw.com

Lawyers for the Receiver

APPENDIX "E"



LIPMAN ZENER WAXMAN LLP
BARRISTERS AND SOLICITORS

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Toronto, Ontario M6C 2E3
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Facsimile (416) 789-9015

Jason D. Spetter, B.A., LL.B.
Tel: (416) 789-0652 ext 367
jspetter@lzwlaw.com

Our File No. 63412

April 23, 2015

CHAITONS LLP
5000 Yonge Street, 10th Floor
Toronto, Ontario
M2N 7E9
Attention: George Benchetrit

Lawyers for 8527504 Canada Inc.

Via E-mail: george@chaitons.com

WIRES JOLLEY LLP
90 Adelaide Street West, Suite 200
Toronto, Ontario
M5H 3V9
Attention: David E. Wires
and Krista Bulmer

Lawyers for Liquibrands Inc.

Via E-mail: dewires@wiresjolleyllp.com
Via E-mail: kbulmer@wiresjolleyllp.com

SUN PAC FOODS LIMITED
10 Sun Pac Boulevard
Brampton, Ontario
L6S 4R5
Attention: Csaba Reider

Via E-mail: creider@sunpac.com

MILLER THOMSON LLP
Scotia Plaza
40 King Street West, Suite 5800
Toronto, Ontario
M5H 3S1
Attention: E. Peter Auvinen

Lawyers for Lamican Oy

Via E-mail: pauvinen@millerthomson.com

KRAMER SIMAAN DHILLON LLP
120 Adelaide Street West, Suite 2100
Toronto, Ontario
M5H 1T1
Attention: Jessica Rubin

Lawyers for Menkes GTA Industrial Barristers & Solicitors Holdings Inc.

Via E-mail: jrubin@kramersimaan.com

MINISTRY OF FINANCE

Legal Services Branch
33 King Street West
P.O. Box 627
Oshawa, Ontario
L1H 8H5
Attention: Kevin O'Hara

Via E-mail: kevin.ohara@ontario.ca

DEPARTMENT OF JUSTICE

Ontario Regional Office
The Exchange Tower
130 King Street West, Suite 3400
Toronto, Ontario
M5X 1K6
Attention: Diane Winters

Via E-mail: diane.winters@justice.gc.ca

Dear Sirs:

**Re: In the matter of the Receivership of Sun Pac Foods Limited and Liquibrands Inc.
Court File Nos. CV-13-10331-00CL and CV-14-10543-00CL**

BDO Canada Limited (the "Receiver") is the court-appointed receiver over the assets, properties and undertakings of Sun Pac Foods Limited ("Sun Pac") in Court File No. CV-13-10331-00CL and Liquibrands Inc. ("Liquibrands") in Court File No. CV-14-10543-00CL (collectively, Sun Pac and Liquibrands shall be referred to as the "Debtors"). Both of the aforementioned actions were commenced in the Ontario Superior Court of Justice.

Pursuant to the order of Mr. Justice Newbould dated December 4, 2014, a copy of which is attached, the Receiver has been authorized to sell all of the Debtors' right, title and interest, if any, in and to the cause of action bearing Court File No. CV-13-00492612 in the Ontario Superior Court of Justice commenced by Sun Pac and Liquibrands as against 8527504 Canada Inc. and Bridging Capital.

Details of the sale can be found at the following link: <http://extranets.bdo.ca/sunpac/index.cfm>

Yours very truly,

LIPMAN, ZENER & WAXMAN LLP

"Jason D. Spetter" ✓

Per: Jason D. Spetter
JDS/nm
Encl.

c.c. *Anthony J. O'Brien, Lipman, Zener & Waxman LLP (via e-mail)*
c.c. *Blair Davidson, BDO Canada Limited (via e-mail)*
c.c. *Gary Cerrato, BDO Canada Limited (via e-mail)*



**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE
MR. JUSTICE NEWBOULD

) THURSDAY, THE 4TH DAY OF
)
) DECEMBER, 2014

BETWEEN:

8527504 CANADA INC.

Applicant

- and -

SUN PAC FOODS LIMITED

Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3 AS AMENDED AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C-43, AS AMENDED

ORDER

THIS MOTION, made by BDO Canada Limited in its capacity as the Court-appointed receiver (the "Receiver") of the undertakings, properties and assets of Sun Pac Foods Limited (the "Debtor"), for an Order:

- (a) approving the activities of the Receiver as set out in the Third Supplement to the First Report of the Receiver, dated August 28, 2014 (the "Supplement") and the Third Report of the Receiver, dated November 25, 2014 (the "Third Report");
- (b) approving the fees and disbursements of the Receiver and its counsel, more particularly described in the Third Report;

- (c) approving the Receiver's statement of receipts and disbursements;
- (d) authorizing the Receiver to make an interim distribution with respect to the funds held in connection to the sale of the Debtor's assets, more particularly described in the Third Report;
- (e) approving a sale process with respect to the litigation in which the Debtor and Liquibrands Inc. are parties; and
- (f) such further and other relief as this Honourable Court shall deem just.

ON READING the Supplement, the Third Report and on hearing the submissions of counsel for the Receiver, and such other parties in attendance at the hearing as indicated on the counsel slip.

1. THIS COURT ORDERS that the time for service of the Notice of Motion and Motion Record is hereby abridged so that this motion is properly returnable today and further service thereof is hereby dispensed with.
2. THIS COURT ORDERS that, subject to paragraph 8 below, the Supplement and the activities of the Receiver set out therein be and the same are hereby approved.
3. THIS COURT ORDERS that, subject to paragraph 8 below, the Third Report and the activities of the Receiver set out therein be and the same are hereby approved.
4. THIS COURT ORDERS that the Receiver's statement of receipts and disbursements, attached as Appendix B to the Third Report is hereby approved.
5. THIS COURT ORDERS that the fees and disbursements of the Receiver and its counsel, as set out in the Third Report and the fee affidavits, attached as Appendices E and F of the Third Report, are hereby approved.
6. THIS COURT ORDERS that the Receiver make an interim distribution to 8527504 Canada Inc. in the amount of \$420,495.24.

7. THIS COURT ORDERS that the Receiver retain a reserve in the total sum of \$40,000.00 and the Receiver is hereby authorized to apply the reserve at its discretion to fees and disbursements in this matter and the receivership of Liquibrands Inc. (Court File No. CV-14-10543-OOCL).

8. THIS COURT ORDERS that this Order is without prejudice to the claims of the plaintiffs or any other person or persons that acquires the interests of the plaintiffs in Court File No. CV-13-00492612 (the "Action") pursuant to the sale process set out in paragraph 9 herein and that the plaintiffs or any other person or persons that acquires the interests of the plaintiffs are not estopped from advancing any claims or arguments in the Action.

9. THIS COURT ORDERS that the Receiver conduct a sales process with respect to the Action (more particularly described in paragraphs 48 through 49 of the Second Report of the Receiver dated April 10, 2014) as described below:
 - a) The Receiver shall notify all parties on the service list in this matter, as well as the service list in the Liquibrands Inc. receivership (Court File No.: CV-14-10543-OOCL);

 - b) the Receiver shall post a copy of the Statement of Claim in the Action on its website at <http://www.extranets.bdo.ca/SunPac>;

 - c) offers to be made on the Receiver's form of Agreement of Purchase and Sale (the "APS") to be provided to the prospective purchaser or purchasers;

 - d) the Action is being offered for sale subject to the terms and conditions set out in the APS, including, without limitation on a 'as is, where is' basis with no representations, warranties or conditions of any nature or kind whatsoever being made by the Receiver;

e) 8527504 Canada Inc. may be an offeror and may make its offer by way of credit bid

or otherwise, without prejudice to any party to oppose the right of 8527504 Canada Inc. to make an offer or to oppose any offer made.

f) following the offer deadline, the Receiver will review all offers submitted and may accept a submitted offer by executing the APS, subject to seeking court approval of the offer and the APS; and

g) the sale of the Action shall be conditional upon this Honourable Court's approval of same, which approval is to be sought by the Receiver within three months following the sending of the notice set out in subparagraph (a).

John T.

RECEIVED
COURT OF QUEBEC
MONTREAL

FEB 4 2015

NB

8527504 CANADA INC.
Applicant

-and-

SUN PAC FOODS LIMITED
Respondent
Court File No. CV13-10331-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
Proceeding commenced at
TORONTO

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tobrien@lzwlaw.com

Lawyers for the Receiver

APPENDIX "F"

- ▶ Home
- ▶ Court Documents
- ▶ Employee Pension Plan
- ▶ Contact Us

WELCOME

On November 12, 2013 the Ontario Superior Court of Justice (Commercial List) issued an order (the "Order") to appoint BDO Canada Limited as the Receiver of the Assets of Sun Pac Foods Limited ("Sun Pac").

Copies of Orders, Reports and other pertinent public information may be accessed via the sidebar links at any time. Updates, including all relevant orders issued by the Court, have been and will be posted as they become available.

Pursuant to the Order of the Honorable Justice Newbould of the Ontario Superior Court of Justice dated December 4, 2014, the Receiver of SunPac Foods Limited and Liquidbrands Inc. is offering for sale the cause of action set out in Court File No. CV-13-00492612 in the Ontario Superior Court of Justice commenced by SunPac Foods Limited and Liquidbrands Inc. against 8527504 Canada Inc. and Bridging Capital Inc. (the "Bridging Claim"). The Bridging Claim is attached hereto as [Bridging Claim](#).

All offers for the Bridging Claim are due by 4:00 p.m. EST on May 15, 2015.

The Receiver's Terms and Conditions of Sale may be accessed with the following link: [Terms & Conditions of Sale](#).

All offers for the Bridging Claim must be submitted on the Receiver's form of agreement of purchase and sale attached as Schedule "A" to the Terms and Conditions of Sale.

**SUN PAC FOODS
LIMITED**

BDO Canada LLP, a Canadian limited liability partnership, is a member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms.

BDO is the brand name for the BDO network and for each of the BDO Member Firms.

APPENDIX "G"

TERMS AND CONDITIONS OF SALE

Offers submitted pursuant to the litigation marketing process as described in paragraph 9 of the Order of the Honourable Justice Newbould dated December 4, 2014 (the "Litigation Marketing Process") are subject to the following Terms and Conditions of Sale. All interested parties are asked to review these Terms and Conditions of Sales carefully.

1. The vendor is BDO Canada Limited in its capacity as court appointed receiver of the assets, properties and undertakings of Sun Pac Foods Limited and Liquibrands Inc. (the "Vendor").
2. The Vendor is requesting offers to purchase the Vendor's right, title and interest, if any, in the Bridging Claim (as defined in the Agreement of Purchase and Sale) (the "Assets" or the "**Purchased Property**") attached.
3. The description of the Assets for sale or otherwise made available by the Vendor through the Vendor's dataroom or any other means has been prepared solely for the convenience of prospective offerors and is not warranted to be complete or accurate and does not form part of these Terms and Conditions of Sale.
4. Offers marked "**Do Not Open –Offer- Bridging Claim**" shall be sent by courier, e-mail, or fax to the attention of Mr. Gary Cerrato at BDO Canada Limited, 123 Front Street West, Suite 1100, M5J 2M2 or by email at gcerrato@bdo.ca or by facsimile at (416) 865-0904 so as to be received before 4:00 p.m. (Toronto time) on May 15, 2015. Deposits related to offers sent by e-mail or fax are required to be received by the aforementioned deadline.
5. Deposit cheques accompanying offers that are not accepted will be returned to the offeror by prepaid regular mail addressed to the offeror at the address set out in its offer or made available for pick-up not later than ten (10) business days following the date called for offers unless otherwise arranged with the offeror by the Vendor. No interest on any deposit will be paid.
6. If any offer is accepted by the Vendor, then such acceptance shall be communicated to the successful offeror (the "**Purchaser**") within ten (10) business days of the date called for offers by notice in writing by the Vendor to the Purchaser at the address set forth in its offer, such notice to be given by prepaid regular mail, e-mail, facsimile or personal delivery and to be deemed effectively given and received when deposited in the post office or when transmitted by e-mail or facsimile or when personally delivered as the case may be.
7. When an offer is accepted, the terms of the offer, set out in the Receiver's form of an Agreement of Purchase and Sale, and the acceptance thereof, and these Terms and Conditions of Sale shall be read together and constitute an agreement of purchase and sale (the "**Agreement of Purchase and Sale**") between the Purchaser and the Vendor with respect to such parcel(s) unless otherwise agreed in writing by the Vendor. All offers must be submitted on the Receiver's form of agreement of purchase and sale, a copy of which is attached hereto as Schedule "A".

8. The highest or any offer will not necessarily be accepted.
9. Before or after the opening of and acceptance of offers, the Vendor may in its sole discretion negotiate with any offeror for changes in that offeror's offer. The Vendor shall not be obliged to negotiate with any offeror or to give any offeror an opportunity to resubmit an offer, whether or not the Vendor negotiates with another offeror or offerors. Upon receipt by the Vendor of an offer, the offeror submitting the offer shall not be entitled to retract, withdraw, revoke, vary or countermand the offer and such offer shall be irrevocable prior to acceptance or rejection thereof by the Vendor.

Schedule "A"

Agreement of Purchase and Sale

This Agreement is made as of _____, between

BDO CANADA LIMITED in its capacity as court-appointed receiver of SUN PAC FOODS LIMITED and LIQUIBRANDS INC.
(collectively, the "Vendor")

and

_____, a company existing under the laws of Ontario
(the "Purchaser")

RECITALS

- A. Pursuant to the Order of the Honourable Madam Justice Mesbur of the Ontario Superior Court of Justice (the "Court") dated November 12, 2013 (the "Receivership Order"), BDO Canada Limited was appointed as receiver (the "Receiver") of the assets, properties and undertakings of Sun Pac Foods Limited ("Sun Pac");
- B. Pursuant to the Order of the Honourable Mr. Justice Newbould of the Court dated December 4, 2014, the Receiver was appointed as receiver of the assets, properties and undertakings of Liquibrands Inc. ("Liquibrands") (Sun Pac and Liquibrands shall collectively be referred to as the "Companies");
- C. Pursuant to the Order of the Honourable Mr. Justice Newbould of the Court dated December 4, 2014 (the "Litigation Marketing Process Order"), the Court approved a marketing and sales process proposed by the Receiver with respect to the cause of action set out in Court File No. CV-13-00492612 in the Ontario Superior Court of Justice commenced by the Companies against 8527504 Canada Inc. and Bridging Capital Inc. (the "Bridging Claim");
- D. Subject to the approval of the Court, the Vendor wishes to sell and the Purchaser wishes to purchase on an "as is, where is basis" the Bridging Claim pursuant to the terms and conditions of this Agreement; and
- E. The Vendor's execution of this Agreement shall constitute a conditional acceptance of the Purchaser's offer to acquire the Bridging Claim subject to the approval of the Court.

FOR VALUE RECEIVED, the parties agree as follows:

SECTION 1 - INTERPRETATION

1.1 Definitions

In this Agreement:

- (1) *Agreement* means this agreement including any recitals and schedules to this agreement, as amended, supplemented or restated from time to time; provided that this agreement shall constitute an offer, as set out in Section 2.1, until accepted by the Vendor;
- (2) *Approval and Vesting Order* has the meaning given to it in Section 5.3(l)(a);
- (3) *Bridging Claim* has the meaning given to it in Recital C;
- (4) *Business Day* means any day of the year, other than a Saturday, Sunday or any day on which Canadian chartered banks are closed in Toronto, Ontario, Canada;
- (5) *Court* has the meaning given to it in Recital A;
- (6) *Closing* means the completion of the Transaction;
- (7) *Closing Date* means the eleventh Business Day following the date on which the Approval and Vesting Order is granted or such later date as agreed to in writing by the parties;
- (8) *Companies* has the meaning given to it in Recital B;
- (9) *Deposit* has the meaning given to it in Section 3.3(a);
- (10) *Excluded Property* means all assets of the Companies other than the Bridging Claim;
- (11) *Government Authority* means any Canadian federal, provincial, state, municipal or local, or other government, governmental, regulatory or administrative authority, agency or commission or any court, tribunal or judicial or arbitral body;
- (12) *Litigation Marketing Process Order* has the meaning given to it in Recital C;
- (13) *Purchase Price* has the meaning given to it in Section 3.2 hereof;
- (14) *Receiver* has the meaning given to it in Recital A;
- (15) *Receivership Order* has the meaning given to it in Recital A;
- (16) *Taxes* means, other than Transfer Taxes, all taxes, assessments, charges, duties, fees, levies, imposts or other governmental charges, including, without limitation, all federal, state, local foreign and other income, environmental, add-on, minimum, franchise, profits,

capital gains, capital stock, capital structure, transfer, gross receipt, use, *ad valorem*, service, service use, lease, recording, customs, occupation, property, excise, gift, windfall profits, premium, stamp, license, payroll, social security, employment, unemployment, disability, value-added, withholding, and other taxes, assessments, charges, duties, fees, levies, imposts or other governmental charges of any kind whatsoever (whether payable directly or by withholding and whether or not requiring the filing of a return) and all estimated taxes, deficiency assessments, additions to tax, additional amounts imposed by a governmental authority (domestic or foreign), penalties, fines and interest, and shall include any liability for such amounts as a result either of being a member of a combined, consolidated, unitary or affiliated group or of a contractual obligation to indemnify any person, regardless of whether disputed;

- (17) *Time of Closing* means the close of business on the Closing Date;
- (18) *Transaction* means the transaction of purchase and sale contemplated by this Agreement;
- (19) *Transfer of Taxes* means all present and future goods and services taxes, value-added taxes, harmonized sales taxes, land transfer taxes, registration and recording fees, and any other taxes and charges imposed by a Governmental Authority in connection with the sale, transfer or registration of the transfer of the Bridging Claim;

1.2 Headings and References

The division of this Agreement into sections and subsections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms "this Agreement," "hereof," "hereunder" and similar expressions refer to this Agreement and not to any particular section, subsection or other portion hereof and include any agreement supplemental hereto. Unless something in the subject matter or context is inconsistent therewith, references herein to "Sections" are to sections, subsections and further subdivisions of sections of this Agreement.

1.3 Extended Meanings

Unless otherwise specified, words importing the singular include the plural and vice versa and words importing gender include all genders. The term "including" means "including without limitation".

1.4 Statutory References

Each reference to an enactment is deemed to be a reference to that enactment, and to the regulations made under that enactment, as amended or re-enacted from time to time.

SECTION 2 - OFFER

2.1 Offer

This Agreement shall constitute a valid and binding offer to purchase by the Purchaser which may not be revoked or terminated by the Purchaser prior to July 1, 2015 at 11:59 p.m.,

Toronto time. During such period, the Vendor shall seek the Approval and Vesting Order approving the sale of the Bridging Claim to the Purchaser on the terms and conditions set forth in this Agreement.

SECTION 3 - SALE AND PURCHASE

3.1 Sale and Purchase of Bridging Claim

Upon and subject to the terms and conditions of this Agreement including the payment of the Purchase Price, the Vendor shall sell to the Purchaser and the Purchaser shall purchase all of the Vendor's right, title and interest in, if any, and to the Bridging Claim on the Closing Date free of encumbrances. The Purchaser acknowledges that it is not purchasing any other property or assets of the Vendor other than the Bridging Claim.

3.2 Purchase Price

- (1) The purchase price (the "**Purchase Price**") for the Bridging Claim shall be _____ plus applicable Taxes and Transfer Taxes without adjustment of any kind.

3.3 Payment of Purchase Price

(i.) Cash Purchases:

- (a) by paying 15% of the Purchase Price by certified cheque or bank draft payable to the Vendor upon execution by the Purchaser of this Agreement, as a deposit (together with the interest earned thereon from time to time, the "**Deposit**"), which amount will be held by the Vendor and credited toward the Purchase Price on Closing unless otherwise returned to the Purchaser in accordance with Section 5.5; and
- (b) by paying an amount equal to the applicable Taxes and Transfer Taxes, if any, by certified cheque, bank draft, or wire transfer of immediately available funds payable to the Vendor at Closing.

(ii.) Credit Bid:

- (a) effecting a credit bid for _____

3.4 "As is, Where is"

The Purchaser acknowledges that the Vendor is selling the Bridging Claim on an "as is, where is" basis as they shall exist on the Closing Date and no adjustments shall be made for any changes in tile condition of the Bridging Claim. The Purchaser further acknowledges that it has entered into this Agreement on the basis that the Purchaser has conducted such inspections of the condition of and title to the Bridging Claim, as it deemed appropriate and has satisfied itself with regard to these matters. No representations, warranty or conditions is expressed or can be implied as to title, encumbrances, description, fitness for purpose, merchantability, condition, assignability, collectability, quantity, outstanding amount, value or quality or in respect of any other matter or thing whatsoever concerning the Bridging Claim or the right of the Vendor to sell same. Without

limiting the generality of the foregoing: (1) any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act* (Ontario) or similar legislation in any other jurisdiction do not apply hereto and have been waived by the Purchaser and (2) no representation or warranty is made with respect to the accuracy or completeness of any information provided by the Vendor and its respective officers, directors, employees, and agents, to the Purchaser in connection with this transaction. The description of the Bridging Claim contained herein is for the purpose of identification only. No representation, warranty or condition has or will be given by the Vendor concerning completeness or the accuracy of such descriptions.

SECTION 4 - REPRESENTATIONS AND WARRANTIES

4.1 Vendor's Representations.

The Vendor represents and warrants to the Purchaser that:

- (a) to the best of the Vendor's knowledge, no actions or proceedings are pending or have been threatened to restrain or prohibit the completion of the Transaction;
- (b) the Vendor is not, and at the time of Closing will not be, a non-resident of Canada within the meaning of that term as used in the *Income Tax Act* (Canada); and
- (c) the Vendor is registered under Part IX of the *Excise Tax Act* (Canada).

4.2 Purchaser's Representations

The Purchaser represents and warrants to the Vendor that:

- (a) the Purchaser is a corporation existing under the laws of Ontario, and has full corporate power and authority to enter into and carry out this Agreement and the Transaction;
- (b) the entering into of this Agreement and all other documents contemplated hereunder to which the Purchaser is or will be a party and the consummation of the Transaction have been duly authorized by all requisite corporate action;
- (c) other than the Approval and Vesting Order, no approval or consent of and no filing with or application to any Governmental Authority is required for the Purchaser to enter into this Agreement or to complete the Transaction, other than such approvals, consents, filings and applications that have been obtained or made as at the date hereof, copies of which have been provided to the Vendor;
- (d) this Agreement and all other documents contemplated hereunder to which the Purchaser is or will be a party have been or will be, as at the Closing Time, duly and validly executed and delivered by the Purchaser and constitute or will, as at the Closing Time, constitute legal, valid and binding obligations of the Purchaser, as the case may be, enforceable in accordance with the terms hereof or thereof;
- (e) the Purchaser has entered into this Agreement and will be completing the

Transaction on its own account, not as an agent; and

- (f) the Purchaser is registered under Part 1X of the *Excise Tax Act* (Canada).

4.3 Survival

The representations and warranties of the parties shall not survive Closing.

SECTION 5 - CONDITIONS TO CLOSING

5.1 Conditions - Purchaser

The obligation of the Purchaser to complete the Transaction is subject to the following conditions being fulfilled or performed at or prior to the Time of Closing:

- (a) all representations and warranties of the Vendor contained in this Agreement shall be true as of the time of Closing with the same effect as though made on and as of that date;
- (b) the Vendor shall have performed each of its obligations under this Agreement to the extent required to be performed on or before the Closing Date; and
- (c) the Vendor shall have delivered or caused to be delivered to the Purchaser each of the items listed in Section 6.2.

The foregoing conditions are for the exclusive benefit of the Purchaser.

5.2 Conditions - Vendor

The obligation of the Vendor to complete the Transaction is subject to the following conditions being fulfilled or performed at or prior to the Time of Closing:

- (a) all representations and warranties of the Purchaser contained in this Agreement shall be true as of the Time of Closing with the same effect as though made on and as of that date;
- (b) the Purchaser shall have performed each of its obligations under this Agreement to the extent required to be performed on or before the Closing Date; and
- (c) the Purchaser shall have delivered or caused to be delivered to the Vendor each of the items listed in Section 6.3.

The foregoing conditions are for the exclusive benefit of the Vendor.

5.3 Conditions - Vendor and Purchaser

(1) Neither party shall be obligated to complete the transactions contemplated by this Agreement unless at the Time of Closing:

- (a) an order shall have been made by the Court approving this Agreement and the

Transaction and vesting all the right, title and interest of the Companies, if any, in the Bridging Claim free and clear of all encumbrances, (the "Approval and Vesting Order"); and

- (b) no Governmental Authority shall have enacted, issued, promulgated, enforced or entered any statute, rule, regulation, injunction or other governmental order (whether temporary, preliminary or permanent) which is in effect and has the effect of making the transactions contemplated by this Agreement illegal or otherwise restraining or prohibiting consummation of such transactions or which would otherwise materially adversely affect or interfere with the prosecution of the Bridging Claim following Closing.

The foregoing conditions are for the mutual benefit of both parties.

5.4 Non-Satisfaction of Conditions

(1) If any condition set out in Section 5.1 or Section 5.2 is not satisfied or performed prior to the time specified therefore, the party for whose benefit the condition is inserted may in writing

- (a) waive compliance with the condition in whole or in part in its sole discretion by written notice to the other party and without prejudice to any of its rights of termination in the event of non-fulfilment of any other condition in whole or in part; or
- (b) elect on written notice to the other party to terminate this Agreement before Closing.

(2) If any condition set out in Section 5.3 is not satisfied or performed prior to the time specified therefore, either the Vendor or the Purchaser may elect on written notice to the other party to terminate this Agreement before Closing, unless the parties jointly waive compliance with such condition.

5.5 Termination Obligations

If the Purchaser validly terminates this Agreement in accordance with Section 5.4 other than as a result of the failure by the Purchaser to complete the Transaction in accordance with the terms of this Agreement, then:

- (1) all the obligations of both the Vendor and Purchaser pursuant to this Agreement shall be at an end;
- (2) the Purchaser shall be entitled to have the Deposit returned if termination under Section 5.4 is the result of the Vendor's actions; and
- (3) neither party shall have any right to specific performance or other remedy against, or any right to recover damages or expenses from the other.

5.6 Breach by Purchaser

If the Purchaser fails to complete the Transaction in accordance with the terms of this Agreement, then the Vendor may by notice to the Purchaser elect to treat the Agreement as

having been repudiated by the Purchaser. In that event, the Deposit and any other payments made by the Purchaser shall be forfeited to the Vendor on account of, its liquidated damages, not as a penalty and the Bridging Claim may be resold by the Vendor without prejudice to any claims which the Vendor may have against the Purchaser by reason of such default.

SECTION 6 - CLOSING

6.1 Closing

The completion of the Transaction shall take place at the offices of Lipman, Zener & Waxman LLP, solicitors for the Vendor, in Toronto, Ontario at 2:00 p.m. Toronto time on the Closing Date or as otherwise determined by mutual agreement of the parties in writing.

6.2 Vendor's Deliveries on Closing

At or before the Closing Time, upon fulfillment by the Purchaser of all the conditions herein in favour of the Vendor which have not been waived in writing by the Vendor, the Vendor shall deliver the following, each of which shall be in form and substance satisfactory to the Purchaser, acting reasonably:

- (a) a copy of the Approval and Vesting Order; and
- (b) such further and other documentation as is referred to in this Agreement or as the Purchaser may reasonably require to give effect to this Agreement.

6.3 Purchaser's Deliveries on Closing

At or before the Closing Time, upon fulfilment by the Vendor of all the conditions herein in favour of the Purchaser which have not been waived by the Purchaser, the Purchaser shall execute and deliver the following, each of which shall be in form and substance satisfactory to the Vendor, acting reasonably:

- (a) payment of the Purchase Price pursuant to Section 3.3;
- (b) payment or evidence of the payment of the Taxes and Transfer Taxes, if any; and
- (c) such further and other documentation as is referred to in this Agreement or as the Vendor may reasonably require to give effect to this Agreement.

6.4 Taxes

The parties agree that the Purchaser shall be liable and shall pay any and all Transfer Taxes and shall indemnify or reimburse the Vendor for any amounts for which the Vendor may become liable as a result of any failure by the Purchaser to pay any Transfer Taxes. At Closing, the Purchaser will, as applicable, either pay the foregoing to the Vendor or deliver to the Vendor evidence confirming the Purchaser's payment of all of the foregoing, in form and substance satisfactory to the Vendor, acting reasonably. The Purchaser shall be entitled to provide the Vendor with evidence that the Purchaser is an exempt Purchaser, in whole or in part, for purposes of relevant legislation and, upon provision of such evidence satisfactory to the Vendor, acting

reasonably, the Purchaser shall not be required to pay on Closing such taxes.

6.5 Purchaser's Acknowledgement

The Purchaser acknowledges that the Vendor is selling the Bridging Claim solely pursuant to the Vendor's rights and capacity conferred by the Receivership Order, Litigation Marketing Process Order and the Approval and Vesting Order. The Purchaser agrees to accept a conveyance of the Bridging Claim by way of the Approval and Vesting Order.

6.6 Possession of Bridging Claim

On Closing the Purchaser shall acquire ownership of the Bridging Claim where situate at the Time of Closing provided that in no event shall title to the Bridging Claim pass to the Purchaser until the Approval and Vesting Order is effective.

6.7 Tender

Any tender of documents or money hereunder may be made upon the Vendor or the Purchaser or their respective solicitors on the Closing Date.

SECTION 7 - GENERAL

7.1 Notices

Any demand, notice or other communication to be given in connection with this Agreement shall be given in writing and shall be given by personal delivery (in which case it shall be left with a responsible officer of the recipient) or by electronic communication addressed to the recipients as follows:

in the case of the Vendor:

BDO CANADA LIMITED
123 Front Street West, Suite 1200
Toronto, Ontario M5J 2M2
Attention: Gary Cerrato
Tel: 416-865-0210 x 6058
Fax: 416-865-0904
Email: gcerrato@bdo.ca

with a copy to:

LIPMAN, ZENER & WAXMAN LLP
Barristers & Solicitors
1220 Eglinton Avenue West
Toronto, Ontario M6C 2E3
Attention: Jason D. Spetter

Tel: 416-789-0652
Fax: 416-789-9015
Email: jspetter@lzwlaw.com

in the case of the Purchaser:

**

Attention:
Tel:
Fax:
Email:

with a copy to:

**

Attention:
Tel:
Fax:
Email:

or to such other address, individual or electronic communication number as may be designated by notice given by either party to the other. Any demand, notice or other communication shall be conclusively deemed to have been given, if given by personal delivery, on the day of actual delivery thereof if delivered during normal business hours of the recipient on a Business Day and, if given by electronic communication, on the day following the transmittal thereof if transmitted during normal business hours of the recipient on a Business Day and on the second Business Day following the delivery or transmittal thereof if not so delivered or transmitted.

7.2 Time of Essence

Time shall be of the essence for every provision hereof.

7.3 Expenses

Except as otherwise expressly provided herein, all costs and expenses (including the fees and disbursements of legal counsel, investment advisers and auditors) incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such expenses.

7.4 Third Party Beneficiaries

Each party hereto intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any person other than the parties hereto and their successors and

permitted assigns, and no person, other than the parties hereto and their successors and their permitted assigns shall be entitled to rely on the provisions hereof in any action, suit, proceeding, hearing or other forum.

7.5 Commission

The Purchaser acknowledges that there are no agent's or broker's fees or other commissions payable by the Vendor on the Purchase Price and Purchaser agrees to indemnify and save the Vendor harmless with respect to any claims for compensation or commission by any third party or agent retained by the Purchaser.

7.6 Further Assurances

During the thirty (30) day period after the Closing Date, each party shall from time to time execute and deliver, or cause to be executed and delivered, all such documents and instruments and do, or cause to be done, all such acts and things as the other party may, either before or after the Closing, reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement.

7.7 Entire Agreement

This Agreement constitutes the only agreement between the parties with respect to the subject matter hereof and supersedes any and all prior negotiations, provisions, covenants, agreements, understandings and representations on that subject, all of which have become merged and finally integrated into this Agreement.

7.8 Amendment

This Agreement may only be amended, modified or supplemented by a written agreement signed by the parties.

7.9 Waiver

No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver constitute a waiver or continuing waiver unless otherwise expressly provided in writing duly executed by the party to be bound thereby.

7.10 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and each of the parties hereby irrevocably attorns to the non-exclusive jurisdiction of the courts of the Province of Ontario.

7.11 Benefit of Agreement

This Agreement shall be binding upon and enure to the benefit of the parties hereto and

their respective successors and permitted assigns, provided that the Purchaser shall not assign the benefit of this Agreement without the prior written consent of the Vendor.

7.12 Severability

If any provision of this Agreement or any document delivered in connection with this Agreement is partially or completely invalid or unenforceable, the invalidity or unenforceability of that provision shall not affect the validity or enforceability of any other provision of this Agreement, all of which shall be construed and enforced as if that invalid or unenforceable provision were omitted. The invalidity or unenforceability of any provision in one jurisdiction shall not affect such provision's validity or enforceability in any other jurisdiction.

7.13 Counterparts

This Agreement may be executed and delivered in any number of counterparts, each of which when executed and delivered is an original but all of which taken together constitute one and the same instrument.

7.14 Assignment and Enurement

No party may assign its rights or obligations under this Agreement without the prior written consent of the other party. Notwithstanding the forgoing, the Purchaser shall have the right to assign, in whole or in part, its rights to acquire the Bridging Claim hereunder to any affiliate of the Purchaser provided that such assignment shall not release the Purchaser from its obligations under this Agreement.

DATED at _____ as of the _____ day of _____, 2015.

Per: _____
Name:
Title:

The Vendor accepts the foregoing offer to acquire the Bridging Claim in accordance with its terms.

DATED at _____ as of the _____ day of _____, 2015.

BDO CANADA LIMITED solely in its capacity as court-appointed receiver of Sun Pac Foods Limited and Liquibrands Inc. and not in its corporate or personal capacity.

Per: _____
Name:
Title:

APPENDIX "H"

Court File No. CV-13-10331-OOCL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

8527504 Canada Inc.

Applicant

- and -

Sun Pac Foods Limited

Respondent

**APPLICATION UNDER SUBSECTION 243(1) OF *THE BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C 1985, c. B-3 AS AMENDED AND SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O
1990, c. C. 43, AS AMENDED**

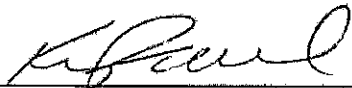
AFFIDAVIT OF GARY CERRATO

I, GARY CERRATO, of the Town of Newmarket, in the Province of Ontario, **MAKE OATH AND SAY** that:

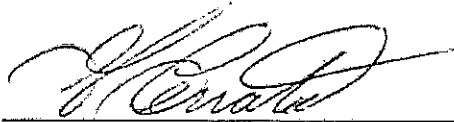
1. I am a Vice President of BDO Canada Limited, and as such have personal knowledge of the matters referred to herein.
2. By Order of the Honourable Madam Justice Mesbur, dated November 12, 2013 (the "Order"), BDO Canada Limited was appointed Receiver (the "Receiver") of Sun Pac Foods Limited.
3. Pursuant to the Order, the Receiver has provided services and incurred disbursements which are more particularly described in the detailed accounts attached hereto and marked as Exhibit "A".

4. The time shown in the detailed accounts attached as Exhibit "A" are a fair and accurate description of the services provided and the amounts charged by the Receiver, which reflect the Receiver's time as billed at its standard billing rates.
5. The Receiver requests that the Court approve its fees and disbursements for the period from 26 November, 2014 to 2 June, 2015 in the amount of \$19,446.50 plus HST of \$2,528.05 for a total of \$21,974.55, for the services set out in Exhibit "A".
6. This affidavit is sworn in support of the Receiver's motion for, among other things, approval of its fees and disbursements and those of its legal representatives and for no other or improper purpose.

SWORN BEFORE ME at the City of Toronto,)
in the Province of Ontario, this)
2nd day of June 2015)



Commissioner for Taking Affidavits, etc)



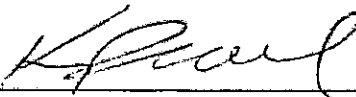
Gary Cerrato, CIRP)

Kenneth Lawrence Pearl, a Commissioner, etc., Province of Ontario, for BDO Canada LLP, Chartered Accountants and Consultants and BDO Canada Limited, Trustee in Bankruptcy, and their subsidiaries, associates and affiliates. Expires March 5, 2016.

This is Exhibit "A" referred to in the affidavit of

Gary Cerrato

Sworn before me this 2nd day of June 2015



A COMMISSIONER FOR TAKING AFFIDAVITS

Kenneth Lawrence Pearl, a Commissioner, etc., Province of Ontario, for BDO Canada LLP, Chartered Accountants and Consultants and BDO Canada Limited, Trustee in Bankruptcy, and their subsidiaries, associates and affiliates. Expires March 5, 2016.



Tel: 416 865 0210
Fax: 416 865 0904
www.bdo.ca

BDO Canada Limited
123 Front Street W, Suite 1100
Toronto ON M5J 2M2 Canada

INVOICE

Sun Pac Foods Limited
10 Sun Pac Blvd.
Brampton, ON
L6S 4R5

<i>Date</i>	<i>Invoice No.</i>
2 June 2015	#88175190

Re Sun Pac Foods Limited

FOR PROFESSIONAL SERVICES RENDERED in connection with the above-noted Receivership Engagement for the period from to 26 November 2014 to 2 June 2015 as per the details below:

Our Fee in All	\$ 19,421.50
Add Disbursements - Couriers	25.00
Sub-Total	19,446.50
HST - 13.0% (#R101518124)	2,528.05
Total Due	\$ 21,974.55

Summary of Time Charges:

	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
B. Davidson, Partner	8.70	510.00	4,437.00
G. Cerrato, Senior Manager	22.20	450.00	9,990.00
C. O'Looney, Manager	16.00	200 / 240	3,684.00
J. Jackson, Sr. Administrator	1.00	185.00	185.00
T. Montesano, Administrator	0.20	183.00	36.60
N. Diaz-Lee, Jr. Administrator	2.70	142.00	383.40
Administrative Support	5.30		705.50
TOTAL	<u>56.10</u>		<u>\$ 19,421.50</u>



Date	Professional	Description	Hrs.
26-Nov-14	Cerrato, Gary	Discussions with J. Spetter re report; amendments to report and forwarding schedules.	2.1
26-Nov-14	O'Looney, Cathal	Call from ex employee N. Jones re severance payment and WEPPA explanation.	0.2
27-Nov-14	O'Looney, Cathal	Call from J Moore (Canadian Adhesive Equip) re outstanding unsecured creditor and inform the status.	0.2
28-Nov-14	O'Looney, Cathal	Correspond with Ministry of Finance re EHT notice of assessment.	0.2
1-Dec-14	O'Looney, Cathal	File Nov HST return; call with I. Yuan (CRA) re remittance charges on the RP0002 account; call with S Gerkins (Ministry of Finance) re EHT; correspond with N Diaz Lee re invoices from Iron mountain re offsite storage of books and records.	0.7
2-Dec-14	Cerrato, Gary	Call with J. Spetter to obtain update on the November 28, motion.	0.3
2-Dec-14	Diaz-Lee, Nigel	Telephone calls, e-mails to and from Iron Mountain representative (M. Cechhi), discussion with C. O'Looney re invoice for pre storage fees and destruction of inventory for Sun Pac.	0.8
3-Dec-14	Diaz-Lee, Nigel	Liaise with Iron Mountain representative and C. O'Looney re invoices: phone calls and e-mails.	0.3
4-Dec-14	Diaz-Lee, Nigel	Invoice re destruction and storage fees; calls and e-mails to and from Iron Mountain representative and C. O'Looney; work on details of invoice.	0.4
4-Dec-14	O'Looney, Cathal	Discuss book and records invoices with N. Diaz Lee.	0.1
5-Dec-14	Cerrato, Gary	Review endorsement and other correspondence; discussion with B. Davidson re engagement and discuss sale process for lawsuit.	0.5
5-Dec-14	Davidson, Blair	Telephone call with H. Chaiton; review J. Newbould endorsement; discuss sale procedures with G. Cerrato.	1.5
5-Dec-14	O'Looney, Cathal	Correspond with K. Choe (CRA) re remittances for RP0001; correspond with General Credit Services (representative for Lindorff) re outstanding creditor; upload legal documents, motion, endorsement to website.	0.4
8-Dec-14	Cerrato, Gary	Reviewing order and email of litigation sales process precedent.	0.3



Date	Professional	Description	Hrs.
8-Dec-14	Montesano, Tony	Process cheques.	0.2
8-Dec-14	O'Looney, Cathal	Review 2 proofs of claims from Ministry of Ontario.	0.2
9-Dec-14	Davidson, Blair	Telephone call with Legal counsel re sales process.	0.5
10-Dec-14	O'Looney, Cathal	Read Liquibrands endorsement and Draft Notice of Receiver for Liquibrands.	0.6
15-Dec-14	Cerrato, Gary	Review of appeal materials filed by Liquibrands; various calls and correspondence with J. Spetter re same; email to L. Koffman.	1.5
2-Jan-15	O'Looney, Cathal	File Sun Pac December HST return and process payment for Iron mountain records storage.	0.6
5-Jan-15	O'Looney, Cathal	Follow up with P. Ta re the notice of objection regarding V. McEwan, send letter back to CRA for onward forwarding.	0.5
6-Jan-15	Davidson, Blair	Review order and terms & conditions of sale; discuss with G. Cerrato.	1.0
13-Jan-15	O'Looney, Cathal	Correspond with creditor, Linde Canada, re outstanding amount.	0.2
27-Jan-15	O'Looney, Cathal	Cheque requisitions.	0.2
29-Jan-15	O'Looney, Cathal	Complete election form in the matter of the proposal of Manufact Logistics Ltd, elect to accept amount re Macpherson & Associates; forward gross distribution/contribution details to requesting parties; discussion with R. Goldsilver re World famous interest; review Medikes requirements; correspond with Tilley; converse with Stonecalibre re further queries; discussion with J. Fietje who indicated submission of proposal; correspond with trespass and Novacap and Jolina Capital re process; discussion with Herschel Supply; correspond with M. Levin re Canada Goose.	0.2
2-Feb-15	O'Looney, Cathal	File January HST return; correspond with G. Cerrato re 2011 T4 employee complaint and CRA correspondence.	0.5
3-Feb-15	Cerrato, Gary	Working on costs submission invoice for court; reviewing proposed sales process and reviewing Liquibrands draft order and related correspondence.	2.5
5-Feb-15	Cerrato, Gary	Reviewing sales order; discussions with counsel re same.	1.5



Date	Professional	Description	Hrs.
10-Feb-15	O'Looney, Cathal	Call with R Moonwan (CRA) to confirm full payment and closure of the RP002 account.	0.3
18-Feb-15	Cerrato, Gary	Reviewing recent court orders; message to counsel re distribution of funds.	0.5
19-Feb-15	O'Looney, Cathal	Arrange for website to be setup with appropriate attachments uploaded re Liquibrands.	0.5
19-Feb-15	O'Looney, Cathal	Arrange for relevant documents to be uploaded on the Sun Pac website.	0.2
20-Feb-15	Cerrato, Gary	Call re sales process.	0.5
23-Feb-15	O'Looney, Cathal	Arrange uploading of remaining court documents to Sun Pac and Liquibrands websites.	0.4
2-Mar-15	O'Looney, Cathal	File February HST return.	0.3
4-Mar-15	O'Looney, Cathal	Converse with CRA re unsecured outstanding amount and address file issues with G Cerrato	0.5
10-Mar-15	O'Looney, Cathal	Converse with H. Singh Mangat re outstanding wages having worked through Excel Employment International Ltd.	0.5
11-Mar-15	O'Looney, Cathal	Discuss items with G. Cerrato re outstanding tax returns, unsecured source deductions and employee request for wages; correspond with CRA re RP001 account.	1.2
18-Mar-15	O'Looney, Cathal	Converse with N. Diaz-Lee re Iron mountain invoice outstanding.	0.2
23-Mar-15	O'Looney, Cathal	Correspond with N. Jones (former employee) re unsecured payment and outstanding amounts.	0.4
26-Mar-15	O'Looney, Cathal	Discussion with M. Collins re Sun Pac receivership re use of equipment and plant.	0.3
1-Apr-15	O'Looney, Cathal	Discuss books and records storage with N. Diaz-Lee.	0.3
2-Apr-15	Cerrato, Gary	Review of correspondence from counsel re leave to appeal; call with J. Spetter.	0.5
2-Apr-15	Davidson, Blair	Review correspondence re results of leave to appeal; update sales process document.	0.5
2-Apr-15	O'Looney, Cathal	Correspond with the Canadian Food Inspection Agency re claim.	0.3



Date	Professional	Description	Hrs.
6-Apr-15	O'Looney, Cathal	Respond to employee query re pension plan.	0.2
9-Apr-15	O'Looney, Cathal	Have Court of appeal decision re Liquibrands posted to website for public viewing.	0.2
10-Apr-15	O'Looney, Cathal	Correspond with N Diaz-Lee re books and records and Iron mountain invoice.	0.3
13-Apr-15	O'Looney, Cathal	File March HST return.	0.2
15-Apr-15	O'Looney, Cathal	Discuss and request books and records invoice with N. Diaz-Lee.	0.1
20-Apr-15	Cerrato, Gary	Review of APS for sale of litigation; discuss amendments with counsel; review of court order re approved sale process.	1.5
21-Apr-15	Cerrato, Gary	Review of updated APS for sale of litigation.	0.5
22-Apr-15	Jackson, Joshua	Meeting with G. Cerrato over tasks; call with G. Cerrato and J. Spetter (Lipman, Zener & Waxman LLP) over sale of litigation; work on extranet site.	1.0
27-Apr-15	Davidson, Blair	Review form of APA and terms and conditions re sale of litigation.	1.0
29-Apr-15	O'Looney, Cathal	Review Iron mountain account/invoice re directors records; Correspond with Bell re access to historic Sun Pac emails and accounts and well as discussion around invoices for fees to date.	1.4
1-May-15	O'Looney, Cathal	File April HST return.	0.3
5-May-15	Cerrato, Gary	Reviewing file for quality assurance issues.	1.0
6-May-15	Diaz-Lee, Nigel	Prepare billing for BDO storage fees.	1.2
6-May-15	O'Looney, Cathal	Discuss final storage billings with N. Diaz-Lee.	0.3
11-May-15	O'Looney, Cathal	Complete Interim report; control forms updates.	1.3
12-May-15	O'Looney, Cathal	Create reporting files; complete report complete sheet, discuss with G. Cerrato - Quality Review.	1.5
13-May-15	Cerrato, Gary	Reviewing file for quality assurance issues.	1.5
15-May-15	Cerrato, Gary	Review of court materials filed by C. Reider together with his offer for the litigation; discussion re same with B. Davidson; call to S. Rappos.	0.5



Date	Professional	Description	Hrs.
15-May-15	Davidson, Blair	Review offers re Bridging Claim; meet N. Sharpe to receive offer; various emails re status of sales process with counsel; telephone call with H. Chaiton re acceptance of the credit bid.	2.0
19-May-15	Cerrato, Gary	Draft letter re non acceptance of bid from Liquid Brands Inc.; discussion with J. Spetter re court report for approval of sale of litigation claim.	1.0
21-May-15	Cerrato, Gary	Draft fourth report to court.	3.5
21-May-15	Davidson, Blair	Review draft report re sale approval; distribution to counsel and follow up on court date.	1.2
25-May-15	Davidson, Blair	Telephone call with H. Chaiton re report comments; discuss report changes with G. Cerrato.	1.0
2-June-15	Cerrato, Gary	Review amendments to report and make further amendments; review of invoice for professional fees.	2.5

APPENDIX "I"

Court File No. CV-14-10543-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

8527504 CANADA INC.

Applicant

- and -

LIQUIBRANDS INC.

Respondent

*APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT,
R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE COURTS OF JUSTICE ACT,
R.S.O. 1990, c. C. 43, AS AMENDED*

Court File No. CV-13-10331-00CL

BETWEEN:

8527504 CANADA INC.

Applicant

- and -

SUN PAC FOODS LIMITED

Respondent

*APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT,
R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE COURTS OF JUSTICE ACT,
R.S.O. 1990, c. C. 43, AS AMENDED*

AFFIDAVIT OF JASON D. SPETTER

I, **JASON D. SPETTER**, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY AS FOLLOWS:

1. I am solicitor with the law firm of Lipman, Zener & Waxman LLP (“**LZW**”) lawyers for BDO Canada Limited (“**BDO**”) in its capacity as receiver of the assets, undertakings and

properties of the Respondents in this proceeding and as such have knowledge of the matters to which I hereinafter depose.

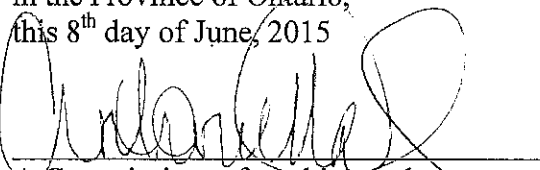
2. Now produced and shown to me and marked as **Exhibit "A"** to this my Affidavit is a true copy of an account issued by Lipman to BDO for the period between November 26, 2014 to December 31, 2014.

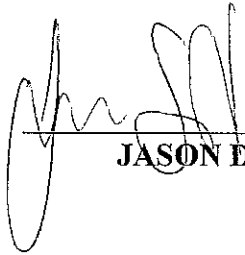
3. Now produced and shown to me and marked as **Exhibit "B"** to this my Affidavit is a true copy of an account issued by Lipman to BDO for the period between January 1, 2015 and June 2, 2015.

4. I confirm that the accounts described above accurately reflect the services provided by Lipman in this matter and the fees and disbursements claimed by it during the period described above.

5. Additionally, attached hereto and marked as **Exhibit "C"** to this my Affidavit is a summary of additional information with respect to the aforementioned account indicating all members of Lipman who worked on this matter during the period described above, including their year of call to the bar and I hereby confirm that this represents an accurate account of such information.

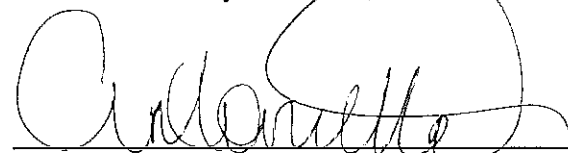
6. This Affidavit is sworn in support of the Receiver's motion in connection to the Receiver's Third Report, and for no other or improper purpose.

SWORN BEFORE ME
at the City of Toronto,
in the Province of Ontario,
this 8th day of June, 2015

A Commissioner for taking oaths, etc.

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)
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JASON D. SPETTER

This is Exhibit "A" referred to in the
Affidavit of **JASON D. SPETTER**
sworn before me, this 8th
day of **JUNE**, 2015


A COMMISSIONER FOR TAKING AFFIDAVITS

Antonietta Apa, a Commissioner, etc.,
Province of Ontario, for Lipman, Zener & Waxman LLP,
Barristers and Solicitors.
Expires November 17, 2017.

IN ACCOUNT WITH
LIPMAN, ZENER & WAXMAN LLP
Barristers and Solicitors
1220 Eglinton Avenue West
Toronto, Ontario
M6C 2E3
(416) 789-0652

Our File No. 63412

HST # R119437119

December 31, 2014

BDO Canada Limited
123 Front Street West, Suite 1200
Toronto, Ontario
M5J 2M2

Attention: Blair Davidson

Re: Sun Pac Foods Limited Receivership

FOR PROFESSIONAL SERVICES RENDERED with respect to providing ongoing advice to BDO Canada Limited with respect to the receivership of Sun Pac Foods Limited since our previous account of November 25, 2014, including:

Attending to ongoing correspondence and communications re: November 28, 2014 Motion;
Attending to reviewing Endorsement of Justice Newbould re: November 28, 2014 Motion;
Attending to preparing draft Bill of Sale of litigation package;
Attending to correspondence with counsel for debtor;
Attending to reviewing Liquibrands' Notice of Motion for Leave to Appeal;
Attending to correspondence with counsel for Bridging and Liquibrands;
Attending to preparing draft proposal for marketing process of litigation commenced by Sun Pac and Liquibrands;
Attending to all correspondence and communications with Receiver;
Attending to preparing draft Orders and to reviewing proposed Order and to discussions with the Receiver regarding a sale process and the Receivership of Liquibrands;
Attending to following up on draft Orders and to discussions regarding the sale process and Order;
Attending to review of Orders and communications in regard to the proceeding and to discussions regarding costs, approval and entry of Orders and to discussion with the Receiver regarding the Receivership of Liquibrands and the sale process;
Attending to discussions regarding the Orders and the process;
Attending to discussions regarding the various proposed Orders and the Counterclaim action;
Attending to following up on the Orders and to discussions with counsel for the secured creditor and the Receiver;
Attending to review of appeal materials and to providing comments and direction;
Attending to further review of appeal materials;
Attending to review of draft Order and to discussions regarding the cost elements and any and all discussions with the Receiver;

Attending to any and all professional services rendered but not herein enumerated.

OUR FEE: **\$9,280.00**

Anthony J. O'Brien: 6.3 hours x \$400.00 = \$2,520.00

Jason D. Spetter: 16.9 hours x \$400.00 per hour = \$6,760.00

TAXABLE DISBURSEMENTS:

Photocopies	\$179.50	
Mileage/Parking	\$42.00	
<i>Profile Legal Services</i>		
re: File Motion Record	<u>\$45.00</u>	
Total Taxable Disbursements:	\$266.50	\$266.50
Total Fee and Disbursements:		\$ 9,546.50
13.0% H.S.T.:		<u>\$ 1,241.05</u>
Total Fees, Disbursements & H.S.T.:		\$10,787.55

NON-TAXABLE DISBURSEMENTS:

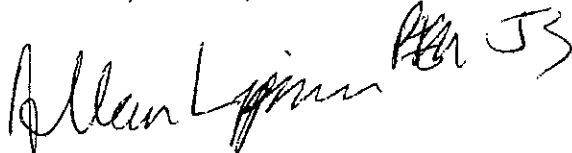
Minister of Finance

re: fee to file Motion Record	<u>\$127.00</u>	\$127.00
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BALANCE DUE AND OWING: **\$10,914.55**

THIS IS OUR ACCOUNT HEREIN

LIPMAN, ZENER, & WAXMAN LLP



Per: Allan L. Lipman
ALL/ra
E.& O.E.

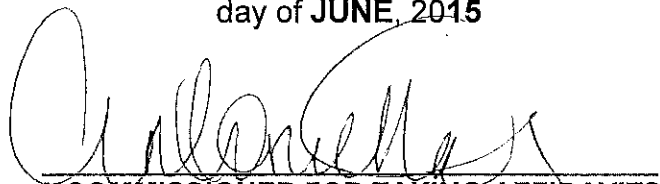
NOTE: This account bears interest from one month after delivery in accordance with the rate prescribed by Section 128 of the Courts of Justice Act.

This is Exhibit "B" referred to in the

Affidavit of **JASON D. SPETTER**

sworn before me, this 8th

day of **JUNE, 2015**



A COMMISSIONER FOR TAKING AFFIDAVITS

Antonietta Apa, a Commissioner, etc.,
Province of Ontario, for Lipman, Zener & Waxman LLP,
Barristers and Solicitors,
Expires November 17, 2017.

IN ACCOUNT WITH
LIPMAN, ZENER & WAXMAN LLP
Barristers and Solicitors
1220 Eglinton Avenue West
Toronto, Ontario
M6C 2E3
(416) 789-0652

Our File No. 63412

HST # R119437119

June 2, 2015

BDO Canada Limited
123 Front Street West, Suite 1200
Toronto, Ontario
M5J 2M2

Attention: Blair Davidson

Dear Sirs,

Re: Sun Pac Foods Limited Receivership

FOR PROFESSIONAL SERVICES RENDERED with respect to providing ongoing advice to BDO Canada Limited with respect to the receivership of Sun Pac Foods Limited since our previous account of December 31, 2014, including:

attending to correspondence and communications with client re: sale process;
attending to reviewing cost submissions from 852 and Liquibrands;
attending to reviewing order re: November 28, 2014 motion;
attending to correspondence with solicitors for 852 and Liquibrands;
attending to conference call with counsel for Liquibrands and 852 re: ongoing issues on draft order;
attending to preparing cost outline re: November 28, 2014 motion;
attending to reviewing and revising draft orders re: November 28, 2014 motion;
attending to preparing for and attending at 9:30 a.m. Commercial Court appointment re: settling order from November 28, 2014;
attending to conference call with client;
attending to reviewing Liquibrands materials re: leave to appeal;
attending to preparing APS re: sale process
attending to correspondence with all parties re: Lamican Oy's motion;
attending to correspondence and communications with the receiver;
attending to correspondence with counsel for 852;
attending to correspondence with client and counsel for 852;
attending to preparing APS re: sale of Bridging Action;
attending to revising APS;
attending to correspondence and communications with receiver re: sale process for Bridging Action;
attending to correspondence to service list;
attending to correspondence with solicitors for Bridging;

attending to reviewing bids re: litigation with receiver;
attending to reviewing motion record submitted by Mr. Reider;
attending to correspondence with Receiver re: bid process;
attending to preparing motion record re: sale approval motion;
attending to correspondence with counsel re: motion scheduling;
attending to preparing vesting order re: sale of litigation;
attending to preparing motion record re: sale of litigation;
attending to reviewing receiver's fourth report re Sun Pac and First Report re Liquibrands;
attending to ongoing correspondence and communications with client re: sale approval motion;
attending to reviewing revised fourth report re: Sun Pac/first report of re: Liquibrands;
attending to finalizing and serving motion record;
attending to correspondence with receiver and counsel for Bridging;
attending to review and correspondence regarding the sale process;
attending to review and communications and correspondence between Liquibrands and 852;
attending to reviewing and approving draft Orders;
attending to reviewing motions for leave to appeal;
attending to reviewing responding material;
attendance at motion for leave to appeal;
attending to correspondence and discussions regarding the sale process;
attending to review of Sun Pac Motion Record;
attending to reviewing the Cost Outline of the creditor and to providing the Cost Outline in regard to the Receiver's Counsel;
attending to reviewing the 9:30 appointment schedule and to providing dates and availability;
attending to reviewing the draft order and providing suggested changes;
attending to discussions regarding the sale process;
attending to reviewing Motion Records, Facta and Books of Authorities and to briefing the Receiver;
attending to reviewing the sale process and to discussions regarding the bids;
attending to preparation for and attendance at the 9:30 appointment and to advising the Receiver and to initial research in regard to the issue of the Order, the issue of property and assets available for sale; and
attending to any and all professional services rendered but not herein enumerated.

OUR FEE: **\$19,440.00**

Anthony J. O'Brien: 13.5 hours x \$400.00 per hour = \$5,400.00

Jason D. Spetter: 35.1 hours x \$400.00 per hour = \$14,040.00

TAXABLE DISBURSEMENTS:

Jason D. Spetter	\$ 28.00	
re: mileage/parking		
Anthony J. O'Brien	38.00	
re: mileage/parking		
Photocopies	<u>125.25</u>	
Total Taxable Disbursements:		<u>\$ 191.25</u>

Total Fees and Disbursements:		\$19,631.25
H.S.T. (13%)		<u>\$ 2,552.06</u>
SUB-TOTAL:		\$22,183.31

NON-TAXABLE DISBURSEMENTS:

Minister of Finance re: Motion Record	\$127.00	<u>\$ 127.00</u>
Total Fees, Disbursements and H.S.T.:		\$22,310.31
BALANCE DUE AND OWING:		<u>\$22,310.31</u>

THIS IS OUR ACCOUNT HEREIN

LIPMAN, ZENER, & WAXMAN LLP

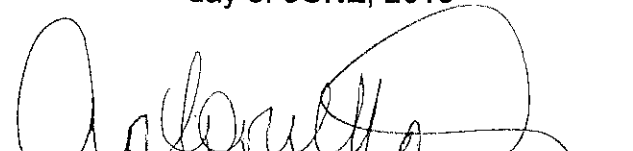
Per: Allan L. Lipman
ALL/nm
E.& O.E.

*NOTE: This account bears interest from one month after delivery in accordance
with the rate prescribed by Section 128 of the Courts of Justice Act.*

This is Exhibit "C" referred to in the
Affidavit of **JASON D. SPETTER**

sworn before me, this 8th

day of **JUNE**, 2015



A COMMISSIONER FOR TAKING AFFIDAVITS

Antonietta Apa, a Commissioner, etc.,
Province of Ontario, for Lipman, Zener & Waxman LLP,
Barristers and Solicitors.
Expires November 17, 2017.

SUMMARY OF ADDITIONAL INFORMATION
Re: Accounts of December 31, 2014 and June 2, 2015

<u>Lawyers:</u>		<u>Year of Call:</u>
Anthony J. O'Brien	-	1986
Jason D. Spetter	-	2002

APPENDIX "J"

COURT OF APPEAL FOR ONTARIO

DATE: 20150402
DOCKET: M44532
M44533

Feldman J.A. (Chambers)

APPLICATION UNDER Section 243 of the *Bankruptcy and Insolvency Act*, R.S.C 1985, c. B-3, and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43.

DOCKET: M44532

BETWEEN

8527504 Canada Inc.

Responding Party (Applicant)

and

Sun Pac Foods Limited

Respondent

DOCKET: M44533

AND BETWEEN

8527504 Canada Inc.

Responding Party (Applicant)

and

Liquibrands Inc.

Moving Party (Respondent)

David E. Wires and Krista Bulmer, for the moving party, Liquibrands Inc.

Harvey Chaiton and Sam Rappos, for the responding party, 8527504 Canada Inc.

Anthony O'Brien, for the responding party, BDO Canada Limited, Court-Appointed Receiver

Heard: March 31, 2015

On appeal from the order of Justice Newbould of the Superior Court of Justice, dated December 4, 2014, with reasons reported at 2014 ONSC 7015.

ENDORSEMENT

[1] This is a motion by Liquibrands Inc. ("Liquibrands") for leave to appeal the decision of Newbould J., dated December 4, 2014, wherein he made three orders on motions brought by Liquibrands, 8527504 Canada Inc. ("852") and BDO Canada Limited ("BDO"), the receiver for Sun Pac Foods Limited ("Sun Pac") appointed by the court under s. 243 of the *Bankruptcy and Insolvency Act* R.S.C. 1985, c. B-3.

[2] For the reasons that follow, leave to appeal is denied.

Background

[3] The factual background was succinctly explained by the motion judge, at paras. 3-17 of his reasons:

[3] Sun Pac was a Canadian manufacturer of private label and branded beverage products, and a

manufacturer of croutons and bread crumbs and other private label brands (the "Breadcrumbs Division").

[4] Sun Pac was acquired by Liquibrands in November 2011. Liquibrands is the sole shareholder of Sun Pac. Mr. Csaba Reider is the sole shareholder, officer and director of Liquibrands. He was also the sole officer and director of Sun Pac.

[5] [Bridging Canada Inc. ("Bridging")] provides middle-market commercial customers with alternative financing solutions to borrowers who are unable to obtain financing from traditional lenders. 852 is a company related to Bridging and took an assignment of the loans and security for loans made by Bridging to Sun Pac.

[6] On October 1, 2012, Bridging advanced a revolving loan of up to \$5 million based on a lending formula under Facility A, \$500,000.00 (before facility fees) on January 18, 2013 under a Facility B term loan on equipment, and the balance of the facility B loan, \$1,182,524.00 (before facility fees), was advanced on January 31, 2013. The loans were secured on the assets of Sun Pac. Liquibrands guaranteed \$1 million of the Sun Pac Facility A loan and provided security over all of its assets to support the guarantee.

[7] Mr. Reider was in discussion with Loblaws to produce private label drinks for Loblaws. However Sun Pac was running short of working capital and in August 2013 was in default of its loan obligations to 852. He decided to sell the Breadcrumbs Division for \$3.1 million and he requested additional funding to continue operating.

[8] On September 11, 2013 852, Sun Pac and Liquibrands signed a Forbearance and Amending Agreement dated September 11, 2013. The Forbearance Agreement was entered into to provide Sun Pac with a temporary bridge loan in the hopes of obtaining equity and debt financing for the anticipated Loblaws contract and to complete a sale of the Breadcrumbs Division to repay the bridge loan. In the

Forbearance Agreement, Sun Pac acknowledged that it was in default of the terms of its loans.

[9] Notwithstanding the default, 852 agreed not to take any steps to enforce any of the loans or its security prior to the earlier of December 9, 2013 or the occurrence of an Event of Default.

[10] In the Forbearance Agreement, 852 agreed to extend a temporary bridge loan to Sun Pac in two tranches. Facility C was a demand non-revolving loan in the amount of \$500,000 less fees. Facility C was advanced to Sun Pac in the amount of \$475,000 on or about September 13, 2013.

[11] Facility D was a demand non-revolving loan in the maximum amount of 2 times EBITDA of the Breadcrumbs Division as determined by a report from BDO Canada Limited, less the amount advanced under Facility C. Paragraph 13 of the Forbearance Agreement provided:

Provided that 852 has received and is satisfied with the report to be prepared by BDO at the expense of Sun Pac, 852 shall, promptly following the execution of this Agreement, advance to Sun Pac as a Facility D Loan advance a single advance in an amount equal to 2 times EBITDA of the Breadcrumbs Division (as defined below) (as determined by BDO in its report to Sun Pac and 852 in its sole discretion), less the Facility C Principal Amount ... Each advance shall be conditional on there being no Event of Default under this Agreement and the Loan Agreement.

[12] One event of default contained in the Forbearance Agreement was if Sun Pac failed to have a binding agreement for the sale of the Breadcrumbs Division by November 6, 2013 that was acceptable to 852 in its sole and absolute discretion and failed to close it by December 6, 2013.

[13] BDO prepared a report dated September 25, 2013, which it delivered to Sun Pac and 852 on September 30, 2013. Based on the report, the Facility D loan was to be approximately \$1.15 million. 852 took no issue with the amount of the EBITDA as reported by BDO.

[14] 852 did not advance the Facility D loan. There is a dispute among the parties as to whether 852 was in breach of the Forbearance Agreement in failing to advance the loan. I do not intend to get into that issue, although was invited to do so.

[15] On October 4, 2013, 852 informed Mr. Reider that it was not prepared to advance Facility D without certain matters being addressed. According to 852, they were not addressed.

[16] On November 11, 2013, 852's lawyers were informed by Sun Pac's insolvency lawyers that Sun Pac's operations had been shut down on November 7, 2013, at which time all but a few employees were terminated. As a result, 852 commenced an urgent receivership application heard on November 12, 2013. Sun Pac and Liquibrands had counsel attend the hearing but did not oppose the receivership application. BDO was appointed as receiver of Sun Pac on November 12, 2013.

[17] On the morning of November 12, 2013, Liquibrands and Sun Pac commenced an action against 852 and Bridging seeking, *inter alia*, general damages of \$100 million for breach of the Forbearance Agreement by not advancing Facility D in the amount of approximately \$1.15 million. Sun Pac had signed an agreement with Loblaws made as of September 18, 2013 containing terms regarding the sale of drink products by Sun Pac to Loblaws, and the damage claim is for alleged lost profits that would have been earned under that agreement.

Decision Below

[4] The first motion before Newbould J. was a request by the receiver, BDO, for an order approving its reports and permitting it to pay the amount realized on the assets of Sun Pac to 852. Liquibrands, as second secured creditor, asked that those funds be paid into court pending the determination by a trial of the issues raised in the lawsuit brought by Sun Pac and Liquibrands against 852 for alleged wrongdoing that caused Sun Pac to fail. Pursuant to rule 45.02 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, Liquibrands framed its claim as a right to a specified fund.

[5] The motion judge granted the receiver's motion. He held that rule 45.02 did not assist Liquibrands. As 852 had valid security that ranked ahead of Liquibrands' security, Liquibrands was essentially attempting to secure judgment on its claim for damages against 852. Furthermore, Liquibrands' action against 852 was commenced hours before the Sun Pac receivership order was made. Both Sun Pac and Liquibrands were represented at the receivership proceeding by experienced insolvency counsel who did not object to the receivership order being made. The motion judge concluded that the debtors could not now contend that the money was not owing to 852, as that would amount to a collateral attack on the receivership order.

[6] It followed that there was no serious issue to be tried regarding 852's entitlement to the funds. The fact that there may be a serious issue to be tried in the lawsuit against 852 did not affect its entitlement, over any alleged entitlement of Liquibrands, to the realized assets of Sun Pac.

[7] The second motion was brought by 852 for an order appointing BDO as receiver of Liquibrands. Demand was made under Liquibrands' guarantee in April 2014 and no payment was received. There was therefore an event of default in respect of valid security.

[8] Liquibrands submitted that no receiver should be appointed pending the outcome of its action against 852. It argued that, following the decision in *Bank of Montreal v. Wilder*, [1986] 2 S.C.R. 551, it might be relieved of liability under its guarantee if the lawsuit were successful based on wrongdoing by the lender.

[9] The motion judge rejected that argument. He found that Liquibrands had contracted out of its equitable rights by the wording of paragraph 2 of the guarantee: *Bauer v. Bank of Montreal*, [1980] 2 S.C.R. 102. Moreover, in the Subordination, Assignment, Postponement and Standstill Agreement, Liquibrands had agreed to not to take steps to challenge or impede 852's enforcement of its security.

[10] As Liquibrands was therefore precluded from asserting priority over 852, the motion judge found it just and equitable to appoint BDO as receiver of Liquibrands.

[11] The third issue involved the procedure for dealing with the lawsuit against 852, which was considered by the receiver as an asset of the Sun Pac receivership (and of the Liquibrands receivership once ordered). Liquibrands requested the appointment of a separate receiver to pursue the litigation on the grounds that the current receiver, BDO, did not intend to spend money on the litigation. The motion judge, following the procedure endorsed in *Central 1 Credit Union v. UM Financial Inc.*, 2012 ONSC 1893, directed the receiver to conduct a marketing process for the sale of the action, the terms of which were contained in the ultimate order.

Analysis

[12] The exercise of granting leave to appeal under s. 193 of the *Bankruptcy and Insolvency Act* is discretionary, flexible and contextual. In the recent case *Business Development Bank of Canada v. Pine Tree Resorts Inc.*, 2013 ONCA 282, 115 O.R. (3d) 617, at para. 29, this court stated that the three “prevailing considerations” are whether the proposed appeal (1) raises an issue of general importance to bankruptcy law or the administration of justice that this court

should address; (2) is *prima facie* meritorious; and (3) would not unduly hinder the progress of the proceedings.

[13] Liquibrands asserts that the issue of importance for this appeal is whether the lender should be entitled to profit from its breach of the Forebearance Agreement by creating a *fait accompli* of the receivership and the disposal of the litigation against it. The motion judge determined that he did not need to address the merits of the proposed litigation in order to determine the three issues before him. That is disputed by Liquibrands. It wants to see the litigation continued and concluded before the rights of the debtors and the lender to the proceeds of the receivership are finally determined.

[14] Mr. Wires, on behalf of Liquibrands, has presented this issue in a very interesting and compelling way. However, to proceed as he suggests would essentially turn the process inside out. It would effectively allow the debtors, through a funded receiver, to use the funds realized in the receivership to fund their litigation, rather than to pay the lender, 852. That is not to say that the motion judge could not have made the orders sought by Liquibrands had he determined that such orders were warranted in the circumstances. However, his decisions not to do so and to make the orders he did were grounded in law and reason and were based on the facts and the documents presented. They are owed deference by this court.

[15] Before concluding these reasons, I add the following. On the motion as argued, I did not understand Liquibrands to be objecting to the procedure for the marketing of the lawsuit, in the event that its request that a separate receiver be appointed to pursue the lawsuit was rejected. I raised some issues in oral argument regarding the propriety of that procedure, particularly with respect to who should be permitted to bid and how to fairly determine the value of the lawsuit. Counsel for the receiver advised the court that all issues regarding the propriety of any proposed sale of the action could be raised at the approval hearing. In the circumstances of this case, the denial of leave to appeal is not to be taken as an endorsement of all aspects of the procedure for marketing the lawsuit against the creditor.

Conclusion

[16] In my view, leave to appeal should not be granted, particularly on the ground that the appeal is not *prima facie* meritorious. The motion for leave to appeal is therefore dismissed with costs to 852 fixed at \$15,000 inclusive of disbursements and HST.

L. Feltman J.A.

TAB 3

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE
JUSTICE

)
)
)

MONDAY, THE 22ND
DAY OF JUNE, 2015

B E T W E E N:

8527504 CANADA INC.

Applicant

- and -

LIQUIBRANDS INC.

Respondent

**APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND
INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, c. C. 43, AS AMENDED**

B E T W E E N:

8527504 CANADA INC.

Applicant

- and -

SUN PAC FOODS LIMITED

Respondent

**APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND
INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, c. C. 43, AS AMENDED**

APPROVAL AND VESTING ORDER

THIS MOTION, made by BDO Canada Limited in its capacity as Court-appointed receiver pursuant to section 243(1) of the *Bankruptcy and Insolvency Act* (the “**Receiver**”) of all of the undertakings, properties and assets of Liquibrands Inc. and Sun Pac Foods Limited (collectively the “**Debtors**”) pursuant to (a) an order of the Honourable Madam Justice Mesbur dated November 12, 2013 (the “**Sun Pac Receivership Order**”) and (b) an order of the Honourable Mr. Justice Newbould dated December 4, 2014 (the “**Liquibrands Receivership Order**”) (collectively, the “**Receivership Orders**”) for an order approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (the “**Sale Agreement**”) between the Receiver and 8527504 Canada Inc. (the “**Purchaser**”) dated May 15, 2015 and appended to the Report of the Receiver dated June 2, 2015 (the “**Report**”), and vesting in the Purchaser the Debtors’ right, title and interest in and to the cause of action bearing Court File No. CV-13-00492612 in the Ontario Superior Court of Justice commenced by the Debtors against 8527504 Canada Inc. and Bridging Capital Inc. (the “**Action**”) free and clear of all claims and encumbrances of any nature and kind whatsoever, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver, and other such parties in attendance at the hearing as indicated on the counsel slip,

1. THIS COURT ORDERS that the timing and method of service of the Notice of Motion and Motion Record be and is hereby abridged and validated and this Motion is properly returnable today.
2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Action to the Purchaser.
3. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver’s certificate to the Purchaser substantially in the form attached as Schedule “A” hereto (the “**Receiver’s Certificate**”), all of the Debtors’ right, title and interest in and to the Action described in the Sale Agreement shall vest absolutely in the Purchaser, free and clear of and from

any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Receivership Orders (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule “B” hereto (all of which are collectively referred to as the “**Encumbrances**”), and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Action are hereby expunged and discharged as against the Action.

4. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Action shall stand in the place and stead of the Action, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Action with the same priority as they had with respect to the Action immediately prior to the sale, as if the Action had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

6. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtors or either of them and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtors or either of them;

the vesting of the Action in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of either 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 settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) 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.

7. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

8. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States 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 orders and to provide such assistance to the Receiver, as an officer of this 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.

9. THIS COURT ORDERS that this order is subject to provisional execution notwithstanding any appeal therefrom.

Schedule A – Form of Receiver’s Certificate

Court File No. CV-14-10543-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

8527504 CANADA INC.

Applicant

- and -

LIQUIBRANDS INC.

Respondent

**APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND
INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, c. C. 43, AS AMENDED**

Court File No. CV-13-10331-00CL

BETWEEN:

8527504 CANADA INC.

Applicant

- and -

SUN PAC FOODS LIMITED

Respondent

**APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND
INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, c. C. 43, AS AMENDED**

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Madam Justice Mesbur of the Ontario Superior Court of Justice (the "Court") dated November 12, 2013, BDO Canada Limited ("BDO") was appointed as the receiver (the "Receiver") of the assets, properties and undertakings of Sun Pac Foods Limited ("Sun Pac").

B. Pursuant to an Order of the Honourable Mr. Justice Newbould of the Court dated December 4, 2014, BDO was appointed as Receiver of the assets, properties and undertakings of Liquibrands Inc. ("Liquibrands").

C. Sun Pac and Liquibrands shall collectively be referred to as the "Debtors".

D. Pursuant to an Order of the Court dated June 2, 2015, the Court approved the agreement of purchase and sale made as of May 15, 2015 (the "Sale Agreement") between the Receiver and 8527504 Canada Inc. (the "Purchaser") and provided for the vesting in the Purchaser of the Debtors' right, title and interest in and to the Action, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Action; (ii) that the conditions to Closing as set out in section 6 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

E. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Action payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in section 6 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.

4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

**BDO CANADA LIMITED, in its capacity as
Receiver of the undertaking, property and
assets of LIQUIBRANDS INC. and SUN PAC
FOODS LIMITED, and not in its personal
capacity.**

Per: _____

Name:

Title:

Schedule B – Encumbrances

RUN NUMBER : 154
RUN DATE : 2015/06/03
ID : 20150603153621.10

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : P5SR060
PAGE : 1
(4142)

THIS IS TO CERTIFY THAT A SEARCH HAS BEEN MADE IN THE RECORDS OF THE CENTRAL OFFICE
OF THE PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM IN RESPECT OF THE FOLLOWING:

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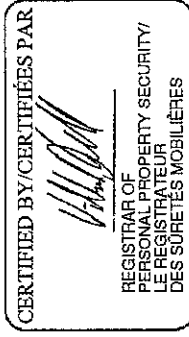
SEARCH CONDUCTED ON : SUN PAC FOODS LIMITED

FILE CURRENCY : 02JUN 2015

ENQUIRY NUMBER 20150603153621.10 CONTAINS 6 PAGE(S), 3 FAMILY(IES).

THE SEARCH RESULTS MAY INDICATE THAT THERE ARE SOME REGISTRATIONS WHICH SET OUT A BUSINESS DEBTOR NAME
WHICH IS SIMILAR TO THE NAME IN WHICH YOUR ENQUIRY WAS MADE. IF YOU DETERMINE THAT THERE ARE OTHER
SIMILAR BUSINESS DEBTOR NAMES, YOU MAY REQUEST THAT ADDITIONAL ENQUIRIES BE MADE AGAINST THOSE NAMES.

JASON D. SPETTER
LIPMAN, ZENER & WAXMAN LLP
1220 EGLINTON AVENUE WEST
TORONTO ON M6C 2E3



CONTINUED...



PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

TYPE OF SEARCH : BUSINESS DEBTOR
SEARCH CONDUCTED ON : SUN PAC FOODS LIMITED
FILE CURRENCY : 02JUN 2015

FOR THE FINANCING STATEMENT / CLAIM FOR LEASE

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04 ADDRESS : 10 SUN PAC BOULEVARD BRAMPTON ON L6S 4R5

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06 NAME : [REDACTED] BUSINESS NAME : [REDACTED] ONTARIO CORPORATION NO. [REDACTED]
07 ADDRESS : [REDACTED]

08 SECURED PARTY : [REDACTED] MENKES GTA INDUSTRIAL HOLDINGS INC. TORONTO ON M2N 7E4
09 LENA CHALMAN [REDACTED] ADDRESS : 4711 YONGE STREET, SUITE 1400

10 COMMERCIAL CLASSIFICATION : [REDACTED] MOTOR VEHICLE AMOUNT : [REDACTED] DATE OF NO. FILED : [REDACTED]
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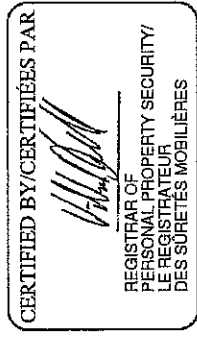
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14 COLLATERAL : [REDACTED]
15 DESCRIPTION : [REDACTED]

16 REGISTERING : [REDACTED] LITOWITZ PETTLE & SILVER LLP (H. LITOWITZ)
17 AGENT : [REDACTED] 100 MURAL STREET, SUITE 200 RICHMOND HILL ON L4B 1J3

*** FOR FURTHER INFORMATION CONTACT THE SECURED PARTY ***

CONTINUED ... 3



PROVINCE OF ONTARIO
 MINISTRY OF GOVERNMENT SERVICES
 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
 ENQUIRY RESPONSE
 CERTIFICATE

RUN NUMBER : 154
 RUN DATE : 2015/06/03
 ID : 20150603153621.10

TYPE OF SEARCH : BUSINESS DEBTOR
 SEARCH CONDUCTED ON : SUN PAC FOODS LIMITED
 FILE CURRENCY : 02JUN 2015

FOR THE FINANCING STATEMENT CLAIM FOR PART

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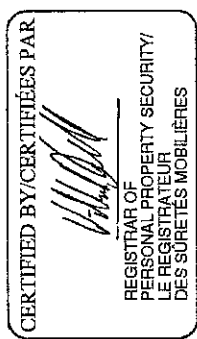
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 03 BUSINESS NAME [REDACTED] SUN PAC FOODS LIMITED BRAMPTON ON L6S 4R5
 04 ADDRESS [REDACTED] 10 SUN PAC BLVD.

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 DATE OF BIRTH [REDACTED] STREET GIVEN NAME [REDACTED] SURNAME [REDACTED]
 06 BUSINESS NAME [REDACTED] BRIDGING CAPITAL INC. ONTARIO CORPORATION NO. [REDACTED]
 07 ADDRESS [REDACTED] 95 WELLINGTON STREET WEST, SUITE 915 TORONTO ON M5J 2N7

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 10 [REDACTED]

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 12 [REDACTED]
 13 GENERAL [REDACTED]
 14 COLLATERAL [REDACTED]
 15 DESCRIPTION [REDACTED]
 16 REGISTERING [REDACTED] CHALTONS LLP (DB/48398)
 17 ASSET [REDACTED] ADDRESS [REDACTED] 5000 YONGE STREET, 10TH FLOOR TORONTO ON M2N 7E9

*** FOR FURTHER INFORMATION CONTACT THE SECURED PARTY ***
 CONTINUED ... 4



PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

RUN NUMBER : 154
RUN DATE : 2015/06/03
ID : 20150603153621.10

TYPE OF SEARCH : BUSINESS DEBTOR
SEARCH CONDUCTED ON : SUN PAC FOODS LIMITED
FILE CURRENCY : 02JUN 2015

FORM 26 - ADVANCING CHANGE STATEMENT / CHANGE STATEMENT

CAUTION: THIS DOCUMENT CONTAINS INFORMATION THAT IS UNCLASSIFIED
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22 FIRST GIVEN NAME SURNAME INITIAL SURNAME
BUSINESS NAME SUN PAC FOODS LIMITED

23 OTHER CHANGE SUBORDINATION
24 REASON LIQUORANDS INC. HAS SUBORDINATED ITS SECURITY INTEREST IN THE
27 DESCRIPTION ASSETS OF THE DEBTOR IN FAVOUR OF BRIDGING CAPITAL INC.

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02/ 05 BUSINESS NAME INITIAL SURNAME
03/ 06 ADDRESS

04/07 ONTARIO CORPORATION NO.

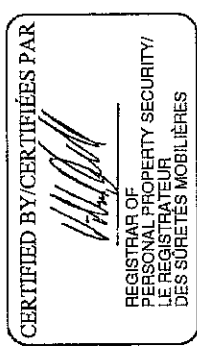
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08 09 COLLATERAL CLASSIFICATION ADDRESS
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10 YEAR MAKE MODEL V.I.N. AMOUNT MATURITY OR MATURITY DATE

11 MOTOR CHATONS LLP (DB/48398) TORONTO M2N 7E9
12 VEHICLE 5000 YONGE STREET, 10TH FLOOR
13 GENERAL

14 DEBTOR CHATONS LLP (DB/48398)
15 DESCRIPTION 5000 YONGE STREET, 10TH FLOOR
16 SECURED PARTY / LIEN CLAIMANT ADDRESS

17 *** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***
CONTINUED ... 6



PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : (4147)

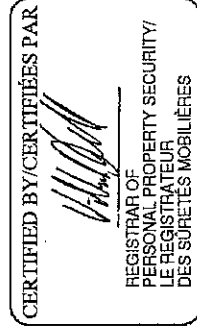
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ID : 20150603153621.10

TYPE OF SEARCH : BUSINESS DEBTOR
SEARCH CONDUCTED ON : SUN PAC FOODS LIMITED
FILE CURRENCY : 02JUN 2015

INFORMATION RELATING TO THE REGISTRATIONS LISTED BELOW IS ATTACHED HERETO.

FILE NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER
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	20121010	1456	1590 8981

4 REGISTRATIONS(S) ARE REPORTED IN THIS ENQUIRY RESPONSE.





PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

RUN NUMBER : 154
RUN DATE : 2015/06/03
ID : 20150603153850.94

REPORT : PSSR060
PAGE : 1
(4148)

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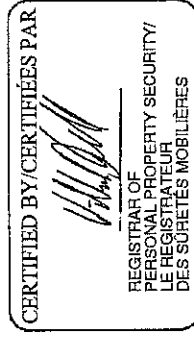
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FILE CURRENCY : 02JUN 2015

ENQUIRY NUMBER 20150603153850.94 CONTAINS 6 PAGE(S), 2 FAMILY(IES).

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JASON D. SPETTER
LIPMAN, ZENER & WAXMAN LLP
1220 EGLINTON AVENUE WEST
TORONTO ON M6C 2E3



CONTINUED... 2



PROVINCE OF ONTARIO
 MINISTRY OF GOVERNMENT SERVICES
 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
 ENQUIRY RESPONSE
 CERTIFICATE

REPORT : PSSR060
 PAGE : 2
 (4149)

RUN NUMBER : 154
 RUN DATE : 2015/06/03
 ID : 20150603153850.94

TYPE OF SEARCH : BUSINESS DEBTOR
 SEARCH CONDUCTED ON : LIQUIBRANDS INC.
 FILE CURRENCY : 02JUN 2015

FORM 10 FINANCING STATEMENT / CLAIM FOR LIENS

FILE NUMBER
 582118667

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 04 ADDRESS 10 SUN PAC BLVD.

05 DEBTOR DATE OF BIRTH FIRST GIVEN NAME SURNAME ONTARIO CORPORATION NO.
 06 NAME BUSINESS NAME BRIDGING CAPITAL INC. TORONTO M5J 2N7
 07 ADDRESS 95 WELLINGTON STREET WEST, SUITE 915

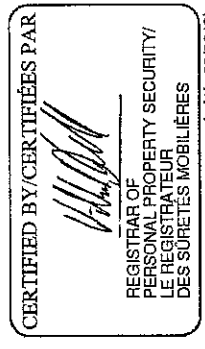
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 09 DEBTOR / CONSUMER INVENTORY ACCOUNTS OTHER ENCLOSED MATURITY OR MATURED DATE
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11 MOTOR YEAR MAKE MODEL COUNTRY
 12 VEHICLE

13 GENERAL CONTACTS
 14 CONTACTS
 15 DESCRIPTION

16 REGISTERING CHAITONS LLP (DB/48398) TORONTO M2N 7E9
 17 ADDRESS 5000 YONGE STREET, 10TH FLOOR

FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY.
 CONTINUED... 3



PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

RUN NUMBER : 154
RUN DATE : 2015/06/03
ID : 20150603153850.94

SEARCH COMMENCED ON
FILE GENERATED
02JUN 2015

BUSINESS DEBTOR
LIQUIBRANDS INC.
02JUN 2015

FORM TO FINANCING STATEMENT / CLAIM FOR BENEFIT

00 [REDACTED] 581454458

01 CAUTION PAGE LOCAL MOTOR VEHICLE REGISTRATION REGISTERED PERIOD
FILING NO. OF PAGES SCHEDULE NUMBER ENDER PERIOD
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03 [REDACTED] BUSINESS NAME LIQUIBRANDS INC. ONTARIO CORPORATION NO. M5H 2V1
04 [REDACTED] ADDRESS 365 BAY STREET, SUITE 800 TORONTO

05 [REDACTED] DATE OF BIRTH [REDACTED] SURNAME [REDACTED]
06 [REDACTED] BUSINESS NAME [REDACTED] ONTARIO CORPORATION NO. [REDACTED]
07 [REDACTED] ADDRESS [REDACTED]

08 [REDACTED] SECURED PARTY BRIDGING CAPITAL INC. ON M5J 2N7
09 [REDACTED] ADDRESS 95 WELLINGTON STREET WEST, SUITE 915 TORONTO

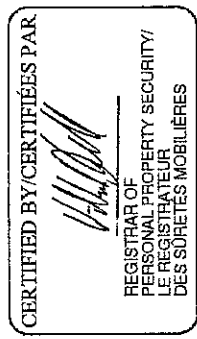
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14 [REDACTED] COLLATERAL [REDACTED]
15 [REDACTED] DESCRIPTION [REDACTED]

16 [REDACTED] REGISTERING CHALTONS LLP (DB/48398) TORONTO
17 [REDACTED] ADDRESS 5000 YONGE STREET, 10TH FLOOR ON M2N 7E9

[REDACTED] FOR FURTHER INFORMATION CONTACT THE SECURED PARTY ***
CONTINUED... 4



PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

RUN NUMBER : 154
RUN DATE : 2015/06/03
ID : 20150603153850.94

BUSINESS DEBTOR
LIQUIBRANDS INC.
02JUN 2015

TYPE OF SEARCH
SEARCH CONDUCTED ON
FILE CURRENCY

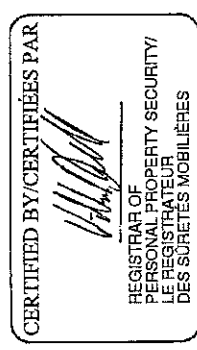
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22 RECORDS FILE NUMBER NO. SPECIFIC PAGE AMENDED CHANGE REQUIRED RENEWAL CORRECTED
23 REFERENCE PAGE AMENDED NO. SPECIFIC PAGE AMENDED A AMENDMENT YEARS PERIODS
24 BUSINESS NAME FIRST GIVEN NAME INITIAL SURNAME
LIQUIBRANDS INC. LIQUIBRANDS INC. LIQUIBRANDS INC.
25 TO AMEND BUSINESS DEBTOR ADDRESS.
26 REASON/ TO AMEND BUSINESS DEBTOR ADDRESS.
27 DESCRIPTION
28 / DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME
05 DEBTOR/ LIQUIBRANDS INC.
03 / FRANCHISEE LIQUIBRANDS INC.
06 ADDRESS 10 SUN PAC BLVD. BRAMPTON ONTARIO CORPORATION NO. L6S 4R5
04/07

29 ASSIGNOR SECURED PARTY/LENDER/CLAIMANT/ASSIGNEE
08 ADDRESS
09 COLLATERAL CLASSIFICATION ADDRESS

10 GOODS INVENTORY FOR PRESENT ACCOUNTS OF THE INCLUSIVE MOTOR VEHICLE DATE OF NO. FIXED
YEAR MAKE MODEL V I N
11 MOTOR VEHICLE
12 VEHICLE
13 GENERAL CHALTONS LLP (DB/48398) TORONTO ON M2N 7E9
14 COLLATERAL
15 DESCRIPTION
16 FINANCING AGENT OR CHALTONS LLP (DB/48398) TORONTO ON M2N 7E9
17 SECURED PARTY/ LENDER/ CLAIMANT ADDRESS

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***
CONTINUED...



PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 6
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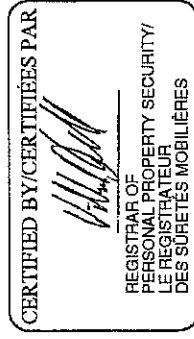
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RUN DATE : 2015/06/03
ID : 20150603153850.94

TYPE OF SEARCH : BUSINESS DEBTOR
SEARCH CONDUCTED ON : LIQUIBRANDS INC.
FILE CURRENCY : 02JUN 2015

INFORMATION RELATING TO THE REGISTRATIONS LISTED BELOW IS ATTACHED HERETO.

FILE NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER
682118667	20121012 1340 1590 9147		
681454458	20120914 1319 1590 7594	20120925 1520 1590 8075	20121012 1348 1590 9154

4 REGISTRATIONS(S) ARE REPORTED IN THIS ENQUIRY RESPONSE.



8527504 CANADA INC.
Applicant

-and-

LIQUIBRANDS INC.
Respondent

8527504 CANADA INC.
Applicant

-and-

SUN PAC FOODS LIMITED
Respondent

Court File Nos. CV-14-10543-00CL
CV-13-10331-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at TORONTO

APPROVAL AND VESTING ORDER

LIPMAN, ZENER & WAXMAN LLP
Barristers and Solicitors
1220 Eglinton Avenue West
Toronto, Ontario
M6C 2E3

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Lawyers for the Receiver

TAB 4

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) MONDAY, THE 22nd DAY OF
JUSTICE) JUNE, 2015

BETWEEN:

8527504 CANADA INC. Applicant

- and -

LIQUIBRANDS INC. Respondent

*APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT,
R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE COURTS OF JUSTICE ACT,
R.S.O. 1990, c. C. 43, AS AMENDED*

BETWEEN:

8527504 CANADA INC. Applicant

- and -

SUN PAC FOODS LIMITED Respondent

*APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT,
R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE COURTS OF JUSTICE ACT,
R.S.O. 1990, c. C. 43, AS AMENDED*

ORDER

THIS MOTION, made by BDO Canada Limited in its capacity as Court-appointed receiver pursuant to section 243(1) of the *Bankruptcy and Insolvency Act* (the “**Receiver**”) of all of the undertakings, properties and assets of Liquibrands Inc. and Sun Pac Foods Limited (collectively the “**Debtors**”) pursuant to (a) an order of the Honourable Madam Justice Mesbur dated November 12, 2013 (the “**Sun Pac Receivership Order**”) and (b) an order of the Honourable Mr. Justice Newbould dated December 4, 2014 (the “**Liquibrands Receivership Order**”) (collectively, the “**Receivership Orders**”) for an order:

- (a) approving the First and Fourth Combined Report and the actions of the Receiver described therein;
- (b) approving the fees and disbursements of the Receiver and its counsel, more particularly described in the First and Fourth Combined Report;
- (c) sealing Confidential Appendix 1 to the First and Fourth Combined Report until the completion of the Transaction or until further order of this Court;
- (d) such further and other relief as this Honourable Court shall deem just;

was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the First and Fourth Combined Report and upon hearing submissions of counsel for the Receiver, and such other parties in attendance at the hearing as indicated on the counsel slip:

Service

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion is hereby abridged so that this Motion is properly returnable this day and hereby dispenses with further service thereof.

Sealing Order

2. THIS COURT ORDERS that the Confidential Appendix 1 referred to in the First and Fourth Combined Report be sealed until the Transaction is completed or until further order of this Court.

Approval of Activities and Fees

3. THIS COURT ORDERS that the First and Fourth Combined Report and the activities of the Receiver as set out in the First and Fourth Combined Report be and are hereby approved.

4. THIS COURT ORDERS that the professional fees and disbursements of the Receiver for the period up to and including June 2, 2015, as described in the First and Fourth Combined Report and Affidavit of Gary Cerrato sworn June 2, 2015 be and are hereby approved.

5. THIS COURT ORDERS that the professional fees and disbursements of Lipman, Zener & Waxman LLP for the period up to and including June 2, 2015, as described in the First and Fourth Combined Report and Affidavit of Jason Spetter sworn June 8, 2015 be and are hereby approved.

8527504 CANADA INC.
Applicant

-and-

LIQUIBRANDS INC.
Respondent

8527504 CANADA INC.
Applicant

-and-

SUN PAC FOODS LIMITED
Respondent

Court File Nos. CV-14-10543-00CL
CV-13-10331-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at TORONTO

ORDER

LIPMAN, ZENER & WAXMAN LLP
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Lawyers for the Receiver

8527504 CANADA INC.
Applicant

-and-

LIQUIBRANDS INC.
Respondent

8527504 CANADA INC.
Applicant

-and-

SUN PAC FOODS LIMITED
Respondent

Court File Nos. CV-14-10543-00CL
CV-13-10331-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at
TORONTO

MOTION RECORD
(returnable Monday, June 22, 2015)

LIPMAN, ZENER & WAXMAN LLP
Barristers and Solicitors
1220 Eglinton Avenue West
Toronto, Ontario M6C 2E3

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ANTHONY J. O'BRIEN
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Lawyers for the Receiver