



Clerk's stamp:

COURT FILE NO. 1301-01600

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED

PLAINTIFF AGRICULTURE FINANCIAL SERVICES
CORPORATION AND FARM CREDIT CANADA

DEFENDANT WESTERN BIODIESEL INC.

DOCUMENT **APPLICATION**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT BLAKE, CASSELS & GRAYDON LLP
3500, 855 – 2nd Street S.W.
Calgary, AB T2P 4J8
Attn: Ryan Zahara
Telephone/Facsimile: 403-260-9628/403-260-9700
E-mail: ryan.zahara@blakes.com
File.: 88370/8

NOTICE TO RESPONDENT

This application is made against you. You are a respondent.
You have the right to state your side of this matter before the judge.
To do so, you must be in Court when the application is heard as shown below:

Date May 27, 2014
Time 12:00 p.m.
Where Calgary Courts Centre, 601 - 5th Street S.W.,
Calgary, AB, T2P 5P7
Before Whom The Honourable Justice P. Jeffrey

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

Remedy claimed or sought:

1. Hardie & Kelly Inc., (the “**Receiver**”), in its capacity as court-appointed receiver and manager of Western Biodiesel Inc. (“**Western**”) is seeking an Order, substantially in the form attached hereto as Schedule “A”:
 - (a) abridging the time for service of this Application and the second report of the Receiver dated May 16, 2014 (the “**Second Report**”), if necessary, and declaring that service is good and sufficient and that no other persons are entitled to service of the Application or Second Report;
 - (b) approving the disbursement of Residual Funds as set out and defined in the Second Report and the Statements of Receipts and Disbursements attached thereto;
 - (c) discharging the Receiver with respect to the Property (as such term is defined in the Receivership Order) and declaring that the Receiver shall thereafter have no further liability, obligations, responsibilities or duties in respect of same;
 - (d) approving the actions and conduct of the Receiver and acknowledging the Receiver has satisfied all its duties and obligations as receiver of the Property in these receivership proceedings;
 - (e) authorizing the destruction of the corporate records of Western 30 days after service of this Order on the remaining directors of Western; and
 - (f) such further and other relief, advice and directions as counsel may request and this Honourable Court may deem just and appropriate in the circumstances.

Grounds for making this application:

2. The grounds upon which the Receiver relies in making the within Application are as follows:
 - (a) the Receiver was appointed by Order of the Court granted on February 26, 2013 (the “**Receivership Order**”);
 - (b) the Receiver sought and obtained an Order of the Court on February 20, 2014 approving the sale of substantially all of Western’s physical assets;
 - (c) the administration of the Receivership proceedings is substantially complete; and
 - (d) such further or other grounds as counsel may advise.

Material or evidence to be relied on:

3. The Receiver intends to rely upon the following materials:
 - (a) the pleadings and proceedings filed in the within action;
 - (b) the Second Report of the Receiver, filed with this Application;
 - (c) all other reports filed in these proceedings to date; and
 - (d) such further and other material as counsel for the Receiver may advise and this Honourable Court may permit.

Applicable rules:

4. Rule 6.3 and 6.9 of the Alberta *Rules of Court*.

Applicable Acts and regulations:

5. The Receiver will rely upon and refer to:
 - (a) *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 as amended;
 - (b) the inherent jurisdiction of this Honourable Court; and
 - (c) such further and other Acts and Regulations as counsel may advise.

How the application is proposed to be heard or considered:

6. Oral submissions by counsel at an application in Justice Chambers as scheduled.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

Schedule "A"

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COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
IN THE MATTER OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED
PLAINTIFF AGRICULTURE FINANCIAL SERVICES
CORPORATION AND FARM CREDIT CANADA
DEFENDANT WESTERN BIODIESEL INC.
DOCUMENT **ORDER - DISCHARGE OF RECEIVER**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT BLAKE, CASSELS & GRAYDON LLP
3500, 855 – 2nd Street S.W.
Calgary, AB T2P 4J8
Attn: Ryan Zahara
Telephone/Facsimile: 403-260-9628/403-260-9700
E-mail: ryan.zahara@blakes.com
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DATE ON WHICH ORDER WAS PRONOUNCED: May 27, 2014

LOCATION WHERE ORDER WAS PRONOUNCED: Justice Chambers

NAME OF JUSTICE WHO MADE THIS ORDER: Honourable Justice P. Jeffrey

UPON the application of Hardie & Kelly Inc. ("**H&K**") in its capacity as court-appointed receiver and manager (the "**Receiver**") of Western Biodiesel Inc. (the "**Debtor**"); AND UPON reading the Receiver's Second Report dated May 16, 2014 (the "**Second Report**"), filed; and, the Affidavit of Service of Carol Benish sworn May [●], 2014, filed; AND UPON hearing counsel for the Receiver, counsel for the Plaintiffs, and counsel for other interested parties;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. The time for service of the Application and materials in support thereof be and is hereby abridged to the date of actual service and service be and is hereby approved, the Application is properly returnable today, all parties entitled to notice of this Application

have been properly served, and no other persons are entitled to service of the Application or the Second Report.

2. Capitalized terms not otherwise defined herein shall have the meaning given to them in the Second Report.
3. The Receiver is hereby authorized and directed to disburse the Residual Funds as set out in Second Report and the Statements of Receipts and Disbursements attached thereto.
4. Hardie & Kelly Inc. is hereby discharged as the Receiver of the Property (as such term is defined in the Receivership Order) and shall have no further liabilities, obligations, responsibilities or duties with respect to the Property including, without limitation, any duties arising under the *Bankruptcy and Insolvency Act* (Canada) ("BIA"), Receivership Order, or any other Order issued in these proceedings;
5. The fees and disbursements of the Receiver and its legal counsel, as summarized in paragraphs 12 through 15 of the Second Report, be and are hereby approved.
6. From and including the date of the Second Report and based on the evidence that is currently before this Honourable Court:
 - (a) the Receiver has exercised its powers and performed its duties and functions, including but not limited to those under the BIA, the Receivership Order and all other orders issued in the within proceedings, honestly, in good faith, and in a commercially reasonable manner;
 - (b) the actions and conduct of the Receiver are approved and the Receiver has satisfied all of its duties and obligations as receiver of the Property;
 - (c) the Receiver shall not be liable for any act or omission including, without limitation, any act or omission pertaining to the discharge of the Receiver's duties as receiver of the Property, save and except for any liability arising out of fraud or wilful misconduct on the part of the Receiver; and
 - (d) any and all claims against the Receiver arising from, relating to or in connection with the performance of the Receiver's duties and obligations as receiver of the

Property, save and except for claims based on fraud or gross negligence or wilful misconduct on the part of the Receiver, shall be forever barred and extinguished.

7. No action or proceeding arising from, relating to, or in connection with the performance of the Receiver's duties and obligations in respect of the Debtor or the Property may be commenced or continued without the prior leave of this Honourable Court, on notice to the Receiver and on such terms as this Honourable Court may direct.
8. The Receiver is authorized to destroy the corporate records of the Debtor 30 days after this service of this Order on the remaining directors of the Debtor.
9. Service of this Order by way of facsimile or electronic transmission to the persons listed on the service list shall constitute good and sufficient service of this Order on all parties entitled to notice of same and no persons other than those listed on the service list are entitled to be served with a copy of this Order.

J.C.C.Q.B.A.