



SUPERIOR COURT OF JUSTICE

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-24-00720526-00CL & CV-24-00720816-00CL

DATE: May 30, 2024

NO. ON LIST: 5 & 6

TITLE OF PROCEEDING: FARM CREDIT CANADA v. GLOBAL FOOD AND INGREDIENTS INC. et al & SIENA LENDING GROUP CANADA LLC v. GLOBAL FOOD AND INGREDIENTS INC. et al BEFORE: JUSTICE STEELE

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

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For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info
No appearance.	GLOBAL FOOD AND INGREDIENTS INC.	
No appearance.	GFI BRANDS INC.	

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
MEREDITH, HEATHER HANTHO, ELLA ROSENBERG, JEFFREY	FTI CONSULTING CANADIA INC. (Proposed receiver of Farm Credit Canada)	hmeredith@mccarthy.ca ethantho@mccarthy.ca Jeffrey.rosenberg@fticonsulting.com
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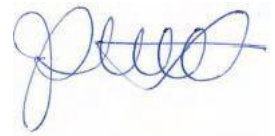
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ENDORSEMENT OF JUSTICE STEELE:

- [1] Two applications for the appointment of a receiver under section 243 of the *Bankruptcy and Insolvency Act* and s. 101 of the *Courts of Justice Act* were heard at the same time on May 30, 2024. Farm Credit Canada (“FCC”) seeks the appointment of FTI Consulting Canada Inc. (“FTI”) as receiver and manager of the Term Loan Priority Capital of Global Food and Ingredients Inc. (“Global Food Canada”) and GFI Brands Inc. (“GFI Brands”). Siena Lending Group Canada LLC (“Siena”) seeks the appointment of Richter Inc. (“Richter”) as receiver over all the assets that constitute the ABL Priority Collateral of Global Food Canada, Global Food and Ingredients Ltd. (“GFI Ltd.”) and GFI Brands.
- [2] No one opposes the relief sought on this motion.
- [3] Siena and FCC entered into an inter-creditor agreement under which each party has first ranking security in respect of certain assets of the debtors. FCC has priority to the debtors’ owned and leased real estate in Saskatchewan, the equipment and fixtures thereon, a life insurance policy on an executive of the GFI Group and the books and records related thereto (the “Term Loan Priority Collateral”). Siena has priority over all collateral covered by the Siena Security that is not Term Loan Priority Collateral (“ABL Priority Collateral”), including, for example accounts receivable and cash.
- [4] Given the different nature of the asset classes, Siena and FCC state that it is appropriate and not uncommon for two receivers to be appointed. Further, Siena and FCC have incorporated into the proposed orders language empowering the receivers to meet and discuss with each other matters relating to the receivership. Siena and FCC referred the Court to the matter of *Whyte’s Foods Inc.* where a similar approach was taken by this Court.
- [5] The proposed orders sought are based on the Commercial List Model Order in all material respects.
- Is it just and convenient to appoint a receiver in the circumstances?*
- [6] Under section 243(1) of the *Bankruptcy and Insolvency Act* on application by a secured creditor, the Court may appoint a receiver where it is “just or convenient” to do so. Similarly, under section 101 of the *Courts of Justice Act* the Court may appoint a receiver where such an appointment is “just or convenient.”
- [7] In deciding whether it is “just and convenient” to appoint a receiver, the Court must consider all of the circumstances of the case, and, in particular, the nature of the property and the rights and interests of all parties in relation to the property: *Bank of Nova Scotia v. Freure Village of Clair Creek*, [1996] OJ No. 5088, at para. 10.
- [8] I am satisfied that it is just and convenient to appoint the receivers for the following reasons:
- a. The debtors are insolvent and have ceased operations. GFI Ltd. announced the orderly wind-down of the debtors’ business on May 7, 2024.

- b. The relevant loan documents authorize each of Siena and FCC to appoint a receiver on default. Where the security documents provide this right, the burden on the applicant seeking to appoint the receiver is lessened: *Elleway Acquisitions Ltd. v. Cruise Professionals Ltd.*, 2013 ONSC 6866, at para. 27.
- c. The debtors have defaulted. Both Siena and FCC sent the debtors demand letters and notices of intention to enforce under Section 244 of the BIA.
- d. The ABL Priority Collateral is at risk of dissipation and deterioration in value. As noted by Siena, the recent revocation of the debtors' grain licenses may impair the ability to sell whatever inventory that has not yet been shipped out of the debtors' facilities.

[9] Orders attached.

A handwritten signature in blue ink, appearing to be "J. P. [unclear]", located in the lower right quadrant of the page.