



No. S-230255
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

**WAYGAR CAPITAL INC., as agent for
NINEPOINT CANADIAN SENIOR DEBT MASTER FUND L.P.**

PETITIONER

AND:

**THE VERY GOOD FOOD COMPANY INC., 1218158 B.C. LTD., 1218169 B.C. LTD.,
THE CULTURED NUT INC., THE VERY GOOD BUTCHERS INC., LLOYD-JAMES
MARKETING GROUP INC., and VGFC HOLDINGS LLC**

RESPONDENTS

NOTICE OF APPLICATION

Name of applicant: BDO Canada Limited, Receiver/Manager of the Respondents (the
"Receiver")

To: The Service List attached hereto as Schedule "A";

TAKE NOTICE that an application will be made by the applicant to the Honourable Justice Walker at the courthouse at 800 Smith Street, Vancouver, BC, on Wednesday, March 22, 2023, at 9:00 am, for the orders set out in Part 1 below.

Part 1: ORDER(S) SOUGHT

1. An order substantially in the form attached hereto as Schedule "B";
 - (a) Abridging the time for service of this Notice of Application such that the Notice of Application is properly returnable on the date set forth above and service hereof upon any interested party other than those parties on the Service List maintained by the Receiver in the proceeding is dispensed with;
 - (b) that the words "in accordance with the Sales Process, as described herein" be deleted from paragraph 3(k) of the order of the Honourable Mr. Justice Walker made herein on January 19, 2023 (the "Receivership Order"); and,

(c) that the following be added as paragraph 3(t) of the Receivership Order;

t. to cause the Debtors, or any of them, to make an assignment in bankruptcy pursuant to the terms of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended;

2. The necessity of counsel other than counsel for the Receiver approving the form of this order is hereby dispensed with.
3. Such further and other relief as this Honourable Court deems just and equitable.

Part 2: FACTUAL BASIS

1. Capitalized terms used but not otherwise defined in this Notice of Application shall have the meanings given to them in the Receiver's Second Report to the Court dated March 9, 2023.
2. BDO Canada Limited was appointed as Receiver-Manager ("**Receiver**") of the assets, undertakings and properties of The Very Good Food Company Inc., 1218158 B.C. Ltd., 1218169 B.C. Ltd., The Cultured Nut Inc., The Very Good Butchers Inc., Lloyd-James Marketing Group Inc. and VGFC Holdings LLC. (the "**Companies**") pursuant to an Order made by the Supreme Court of British Columbia made January 16, 2023 (the "**Receivership Order**"). Pursuant to the Receivership Order, the Receiver was authorized and directed to commence a sales and solicitation process ("**SISP**"). The terms of the SISP formed part of the Receivership Order.
3. The Receiver commenced the SISP on January 18, 2023.
4. On January 25, 2023, the Receiver moved up the LOI Deadline from February 17, 2023 to February 10, 2023.
5. During the SISP, the Receiver:
 - (a) Was in contact with 60 prospective purchasers identified by management of the Companies and the Receiver to notify them of the SISP and sent them a non-disclosure agreement ("**NDA**");

- (b) Received 17 executed NDA's and provided access to the data room for the 17 prospective purchasers;
 - (c) Advertised the SISP in the Globe & Mail newspaper on January 30, 2023.
6. On the LOI deadline of February 10, 2023, the Receiver had received 3 LOI's from two different parties, outlined as follows:
- (a) An offer to purchase all of the assets ("**Offer A**");
 - (b) An offer to purchase all of the assets ("**Offer B**")
 - (c) An offer to purchase all of the shares and assume all of the liabilities of the Companies ("**Offer C**").
7. Offer A was accompanied by proof of funds to complete the purchase and sale as outlined in the LOI. Offer B and Offer C were not accompanied by proof of funds to complete the purchase and sale and the offeror was unable to provide proof of funds. The Receiver did not consider these to be valid LOI's in accordance with the SISP.
8. The Receiver proceeded with Offer A and worked with them to provide all required documentation to assist them with completing their due diligence in a timely manner. On February 22, 2023, the Receiver was advised by the prospective purchaser that they would be unable to proceed with Offer A for various reasons.
9. The SISP has not resulted in any going concern purchaser. With no prospect of a going concern buyer, the Receiver shut down production and terminated the majority of the employees in order to minimize the cash burn rate.
10. Prior to shutting down production, the Receiver estimates that the cash burn rate was approximately \$200,000 per week, before professional fees.
11. In a liquidation scenario, the Receiver believes the first secured creditor, Waygar Capital Inc., will suffer a significant shortfall on their loan of approximately \$9 million.

12. The Receiver has only kept on the employees necessary to facilitate an orderly wind down of the Companies.
13. The Receiver has reached out to auctioneers to seek liquidation proposals for the assets.
14. The Receiver has had 6 parties tour the premises in order to submit proposals to liquidate the assets or purchase the assets. The Receiver anticipates receiving liquidation proposals from auctioneers in the next three to four days.

Part 3: LEGAL BASIS

1. The Receivership Order provides:
 41. Any interested party may apply to this Court to vary or amend this Order on not less than seven (7) clear business days' notice to the Service List and to any other party who may be affected by the variation or amendment, or upon such other notice, if any, as this Court may order.
 42. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
2. The Receivership Order further authorizes and directs the Receiver to market the Property in accordance with the Sales Process as described therein (paragraph 3(k)). There is no provision for the marketing of the Property other than in accordance with the Sales Process and no provision for terminating the Sales Process if it fails, as it has.
3. This Honourable Court has the power to appoint a Receiver or Receiver-Manager on terms and conditions it thinks just.

Law and Equity Act, R.S.B.C. 1996, c. 253, s. 39(2)

Part 4: MATERIAL TO BE RELIED ON

1. Second Report of the Receiver dated March 9, 2023.

The applicant estimates that the application will take thirty (30) minutes.

This matter is within the jurisdiction of the master.

This matter is not within the jurisdiction of a master as Justice Walker is seized of the matter.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to the application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed application response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person
 - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under 9-7(9).

Date: March 13, 2023



Signature of counsel for applicant,
Peter J. Reardon

THIS NOTICE OF APPLICATION is prepared by Peter J. Reardon, of the firm of Nathanson, Schachter & Thompson LLP whose place of business and address for service is 750 – 900 Howe Street, Vancouver, BC V6Z 2M4, telephone (604) 662-8840, and whose email address for service is preardon@nst.ca with a copy to rpearson@nst.ca.

To be completed by the court only:

Order made

in the terms requested in paragraphs _____ of Part 1 of this notice of application

with the following variations and additional terms:

Dated: _____

Signature of

Judge Master

APPENDIX

THIS APPLICATION INVOLVES THE FOLLOWING:

- discovery: comply with demand for documents
- discovery: production of additional documents
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments

- proceedings at trial
- case plan orders: amend
- case plan orders: other
- experts

SCHEDULE "A"

No. S-230255
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN

**WAYGAR CAPITAL INC., as agent for
NINEPOINT CANADIAN SENIOR DEBT MASTER FUND L.P.**

PETITIONER

AND

**THE VERY GOOD FOOD COMPANY INC., 1218158 B.C. LTD., 1218169 B.C. LTD., THE
CULTURED NUT INC., THE VERY GOOD BUTCHERS INC., LLOYD-JAMES MARKETING
GROUP INC., and VGFC HOLDINGS LLC**

RESPONDENTS

SERVICE LIST

As at March 13, 2023

PARTIES	COUNSEL
<p>The Very Good Food Company Inc., 1218158 B.C. Ltd., 1218169 B.C. Ltd., The Cultured Nut Inc., The Very Good Butchers Inc., Lloyd-James Marketing Group Inc., and VGFC Holdings LLC</p> <p><i>The Respondents</i></p>	<p>Fasken Martineau DuMoulin LLP 2900 - 550 Burrard Street Vancouver, BC V6C 0A3</p> <p>Kibben Jackson Tel.: 604-634-4789 Email: kjackson@fasken.com</p> <p><i>Counsel for the Respondents</i></p>
<p>BDO Canada Limited Royal Centre 1100 - 1055 West Georgia Street PO Box 11101 Vancouver, BC V6E 3P3</p> <p>Jervis C. Rodrigues Tel.: 604-443-4724 Email: jrodrigues@bdo.ca</p> <p>Chris Bowra Email: cbowra@bdo.ca</p>	<p>Nathanson, Schachter & Thompson LLP 750 – 900 Howe Street Vancouver, BC V6Z 2M4</p> <p>Peter Reardon Tel.: 778-328-8940 Email: preardon@nst.ca</p>

CREDITORS	COUNSEL
<p>Garry Taylor Tel.: 905-631-6611 Email: gtaylor@reiser.com</p>	<p>PO Box 35 Toronto, ON M5K 1B7</p> <p>Wojtek Jaskiewicz Email: wjaskiewicz@weirfoulds.com</p>
<p>Royal Bank of Canada</p> <p>400 - 36 York Mills Road Toronto, ON M2P 0A4</p> <p>Renan Yin Email: renan.yin@rbc.com</p>	
<p>Ford Credit Canada Leasing, Division of Canadian Road Leasing Company</p> <p>PO Box 2400 Edmonton, AB T5J 5C7</p> <p>Fax: 1-866-367-3888</p>	
<p>Modern Forklift Services Ltd.</p> <p>PO Box 21043 MRSQ RPO Maple Ridge, BC V2X 1P9</p> <p>Tamara Evans Email: jason@modernforkliftservices.com</p>	<p>Icon Law Group 1820 - 1111 West Georgia Street Vancouver, BC V6E 4M3</p> <p>Kenneth Armstrong KC (he/him) Associate Counsel Tel.: 604.676.3337 Email: karmstrong@iconlaw.ca</p> <p><i>Counsel for Modern Forklift Services Ltd.</i></p>
<p>Bodkin, A Division of Bennington Financial Corp.</p> <p>102 – 1465 North Service Road East Oakville, ON L6H 1A7</p> <p>Faiza Sheikh Email: faizas@benningtonfinancial.ca</p>	
<p>C.T. Control Temp Ltd.</p> <p>4340 Dawson Street Burnaby, BC V5C 4B6</p> <p>Jim Lee</p>	

CREDITORS	COUNSEL
Email: jim@ctcontroltemp.com	
<p>Madison Pacific Properties Inc.</p> <p>389 West 6th Avenue Vancouver, BC V5Y 1L1</p> <p>Rob Hackett Vice President, Property Management Tel. (direct): 604-638-5274 Tel. (office): 604-732-6540 Email: rhackett@madisonpacific.ca</p> <p><i>Landlord</i></p>	<p>Richard Buell Sutton LLP 700 – 401 West Georgia Street Vancouver, BC V6B 5A1</p> <p>Daniel D. Nugent Tel. (direct): 604-595-9917 Email: dnugent@rbs.ca</p> <p><i>Counsel for the Landlord, Madison Pacific Properties Inc.</i></p>
<p>TF Intermodal</p> <p>1201 Creditstone Road Concord, ON L4K 0C2</p> <p>Tanaz Wadia Credit and Collection Manager Tel.: 416-798-4965 ext. 5005 Cell: 416-576-1199 Email: Tanaz.Wadia@tfintermodal.com</p>	
<p>Sunbelt Rentals of Canada Inc.</p> <p>209 Pembina Road Sherwood Park, AB T8H 2W8</p> <p>Marilyn Ohmenzetter Regional Credit Manager Tel.: 587-827-3000 Cell: 780-691-7165 Email: marilyn.ohmenzetter@sunbeltrentals.com</p>	
<p>Fraser Valley Refrigeration Ltd.</p> <p>Box 337 26121 Fraser Highway Aldergrove, BC V4W 2T8</p> <p>Christine Masztalar Tel.: 604-856-8644, ext. 235 Email: christine@fvrl.com</p>	
<p>Fontana Flavors, Inc.</p>	

CREDITORS	COUNSEL
<p>109 - 3817 McCoy Drive Aurora, IL 60504-4234 USA</p> <p>Rachel Palm Tel.: 1-608-754-9668 Email: accounting@fontanaflavors.com</p>	
<p>Haleson Inc.</p> <p>2531 Chomedey Boulevard Laval, QC H7T 2R2</p> <p>Jocelyne Hall, Administrative Director Tel.: 450-686-6663, ext. 22 Email: j.hall@halesoninc.com</p>	
<p>Rolls-Right Industries Ltd.</p> <p>2441 United Boulevard Coquitlam, BC V3K 6A8</p> <p>Daisy Cheng, Controller/Office Manager Tel.: 604-638-1756 Email: dcheng@rollsrigh.ca</p>	
<p>Velocity Marketing Ltd.</p> <p>3355 Euclid Avenue Vancouver, BC V5R 5G1</p>	<p>Ascendion Law</p> <p>720 – 789 West Pender Street Vancouver, BC V6C 1H2</p> <p>Cory Russell Tel. (direct): 604-639-2565, ext. 3 Email: service@ascendionlaw.com</p> <p><i>Counsel for Velocity Marketing Ltd.</i></p>
<p>Multivac Canada Inc.</p> <p>6 Abacus Road Brampton, ON L6T 5B7</p> <p>Evan Segalowitz, President Tel.: 905-264-1170 Email: evan.segalowitz@ca.multivac.com</p>	
<p>Deloitte LLP</p>	

CREDITORS	COUNSEL
<p>Bay Adelaide Centre, East Tower 200 - 8 Adelaide Street West Toronto, ON M5H 0A9</p> <p>Ashley Csanadi Legal Specialist Tel.: (416) 202-2836 Email: acsanadi@deloitte.ca</p>	
<p>Woodland Foods LLC</p> <p>3751 Sunset Avenue Waukegan, IL 60087 USA</p> <p>Alesandra Lopez Collections / AR Coordinator Tel.: 847-693-7661 Email: alopez@woodlandfoods.com</p>	
<p>Justice, Health and Revenue Legal Services Branch, Ministry of Attorney General</p>	<p>Ministry of Attorney General PO Box 9280, Stn. Prov. Govt. Victoria, BC V8W 9J7</p> <p>Email for Service List: AGLSBRevTaxInsolvency@gov.bc.ca</p> <p>Aaron Welch Tel.: 250-356-8589 Email: Aaron.Welch@gov.bc.ca</p> <p>Cindy Cheuk Tel.: 236-478-3782 Email: Cindy.Cheuk@gov.bc.ca</p> <p>Carmen Saldivia Legal Assistant to Aaron Welch and Cindy Cheuk Tel.: 778-974-4578 Fax: 250-387-0700 Email: Carmen.Saldivia@gov.bc.ca</p>
<p>Jansen Claims Group</p> <p>209A - 19237 122A Avenue Pitt Meadows, BC V3Y 2T1</p> <p>Tel.: 604-785-2971 Email: jansenclaimsgroup@gmail.com</p>	

CREDITORS	COUNSEL
<p>Wageningen University Agrotechnology and Food Science Group</p> <p>c/o F.A.O. Contract Management and Legal Affairs PO Box 57 6700 AB Wageningen Netherlands</p> <p>Alina Trofymenko Legal Counsel AFSG Tel.: 31-06-280-43-122 Email: contractmanagement.afsg@wur.nl</p>	
<p>PMC Logistics Inc.</p> <p>1602 London Street New Westminster, BC V3M 3C7</p> <p>Clelia De Marchi, CPA, CA Tel.: 604-880-2626 Email: cdemarchi@pmclogistics.ca / pcarraro01@gmail.com</p>	
<p>Galligan's Construction Ltd.</p> <p>43 – 8716 Walnut Grove Drive Langley, BC V1M 2K2</p> <p>Maureen Galligan Administration Tel.: 778-823-3535 Email: galligansconstruction@gmail.com</p>	

Email Service List

As at March 13, 2023

kjackson@fasken.com; wskelly@maitkins.com; kplunkett@airdberlis.com; shan@airdberlis.com;
jrodrigues@bdo.ca; cbowra@bdo.ca; preardon@nst.ca; jason.levine@justice.gc.ca;
jean.murray@justice.gc.ca; gtaylor@reiser.com; wjaskiewicz@weirfoulds.com; renan.yin@rbc.com;
jason@modernforkliftservices.com; karmstrong@iconlaw.ca; faizas@benningtonfinancial.ca;
jim@ctcontroltemp.com; rhackett@madisonpacific.ca; dnugent@rbs.ca;
Tanaz.Wadia@tfintermodal.com; marilyn.ohmenzetter@sunbeltrentals.com; christine@fvrl.com;
accounting@fontanaflavors.com; j.hall@halesoninc.com; dcheng@rollsrightright.ca;
service@ascendionlaw.com; evan.segalowitz@ca.multivac.com; acsanadi@deloitte.ca;
alopez@woodlandfoods.com; AGLSBRevTaxInsolvency@gov.bc.ca; jansenclaimsgroup@gmail.com;
contractmanagement.afsg@wur.nl; cdemarchi@pmclogistics.ca; pcarraro01@gmail.com;
galligansconstruction@gmail.com;

SCHEDULE "B"

No. S-230255
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

**WAYGAR CAPITAL INC., as agent for
NINEPOINT CANADIAN SENIOR DEBT MASTER FUND L.P.**

PETITIONER

AND:

**THE VERY GOOD FOOD COMPANY INC., 1218158 B.C. LTD., 1218169 B.C. LTD.,
THE CULTURED NUT INC., THE VERY GOOD BUTCHERS INC., LLOYD-JAMES
MARKETING GROUP INC., and VGFC HOLDINGS LLC**

RESPONDENTS

ORDER MADE AFTER APPLICATION

BEFORE) THE HONOURABLE JUSTICE WALKER) March 22, 2023
)
)
)
)

ON THE APPLICATION of the applicant, BDO Canada Limited, Receiver/Manager of the Respondents (the “Receiver”), coming on for hearing at 800 Smithe Street, Vancouver, BC, on 22/Mar/2023, and on hearing Peter J. Reardon, counsel for the applicant, William E.J. Skelly, counsel for the Petitioner, and;

THIS COURT ORDERS that:

1. the time for service of this Notice of Application is abridged such that the Notice of Application is properly returnable on the date set forth above and service hereof upon any interested party other than those parties on the Service List maintained by the Receiver in the proceeding is dispensed with;
2. the words “in accordance with the Sales Process, as described herein” be deleted from paragraph 3(k) of the order of the Honourable Mr. Justice Walker made herein on January 19, 2023 (the “Receivership Order”); and,

3. the following be added as paragraph 3(t) of the Receivership Order;
 - t. to cause the Debtors, or any of them, to make an assignment in bankruptcy pursuant to the terms of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended,
4. The necessity of counsel other than counsel for the Receiver approving the form of this order is hereby dispensed with.
5. Such further and other relief as this Honourable Court deems just and equitable.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

Signature of counsel for the applicant,
BDO Canada Limited, Receiver/Manager of the Respondents

By the Court

Registrar

No. S-2030255
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

**WAYGAR CAPITAL INC., as agent for
NINEPOINT CANADIAN SENIOR DEBT MASTER FUND L.P.**

PETITIONER

AND:

**THE VERY GOOD FOOD COMPANY INC., 1218158 B.C. LTD., 1218169 B.C. LTD.,
THE CULTURED NUT INC., THE VERY GOOD BUTCHERS INC., LLOYD-JAMES
MARKETING GROUP INC., and VGFC HOLDINGS LLC**

RESPONDENTS

ORDER MADE AFTER APPLICATION

Peter J. Reardon
NATHANSON, SCHACHTER & THOMPSON LLP
750 – 900 Howe Street,
Vancouver, BC V6Z 2M4
Telephone: (604) 662-8840
Email: preardon@nst.ca