

THE KING'S BENCH
WINNIPEG CENTRE

IN THE MATTER OF: *The Family Farm Protection Act*, Chapter F15,
C.C.S.M.

AND IN THE MATTER OF: An Application for Leave under Section 9 thereof to
commence or continue certain actions or proceedings
to realize or otherwise enforce a right, title or interest in
farmland under Section 8 thereof.

BETWEEN:

BANK OF MONTREAL,

Applicant,

- and -

FILED FEB 12 2024

GENESUS INC. and CAN-AM GENETICS INC.,

Respondents.

NOTICE OF APPLICATION

BEFORE THE HONOURABLE MR. JUSTICE BOCK

HEARING DATE: THURSDAY, FEBRUARY 15, 2024 AT 10:00 A.M.

PITBLADO LLP
Barristers & Solicitors
2500 - 360 Main Street
Winnipeg, Manitoba R3C 4H6

Catherine E. Howden / Madison Laval

Phone No. 956-0560
Fax No. 957-0227
(File No. 638/400)

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- and -

GENESUS INC. and CAN-AM GENETICS INC.,

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NOTICE OF APPLICATION

TO THE RESPONDENTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED by the Applicant. The claim
made by the Applicant appears on the following page.

THIS APPLICATION will come on for a hearing before The Honourable Mr. Justice
Bock, on February 15th, 2024, at 10:00 a.m., at the at the Law Courts, 408 York Avenue,
Winnipeg, Manitoba.

IF YOU WISH TO OPPOSE THIS APPLICATION, you or a Manitoba lawyer acting for you must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must serve a copy of the evidence on the Applicant's lawyer or, where the Applicant does not have a lawyer, serve it on the Applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but not later than 2:00 p.m. on the day before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

E. PEREZ
DEPUTY REGISTRAR
COURT OF KING'S BENCH
FOR MANITOBA

February 12 2024

Issued by _____
Deputy Registrar

Deputy Registrar
408 York Avenue
Winnipeg, MB
R3C 0P9

TO: GENESUS INC.
c/o Fillmore Riley LLP
1700-360 Main St
Winnipeg, MB R3C 3Z3
Attn: Kalev A. Anniko

AND TO: CAN-AM GENETICS INC.
c/o Fillmore Riley LLP
1700-360 Main St
Winnipeg, MB R3C 3Z3
Attn: Kalev A. Anniko

AND TO: FARM CREDIT CANADA
c/o Taylor McCaffrey LLP
2200-200 Portage Ave
Winnipeg, MB
R3B 3L3
Attn: David R.M. Jackson

NOTICE OF APPLICATION

1. THE APPLICANT MAKES APPLICATION FOR:
 - (a) Short leave for the hearing of this application, and abridging and/or validating service of this application, if necessary;
 - (b) An order granting the Applicant leave to commence or continue all actions and proceedings which the Applicant considers necessary to enforce repayment of the debt owed to it by the Respondents and as shall be necessary to realize upon its security under mortgage number 5583625/1 registered in the Winnipeg Land Titles Office, mortgage number 1230862/3 registered in the Portage la Prairie Land Titles Office, and mortgage number 1161500/5 registered in the Neepawa Land Titles Office (collectively, the "**Genesis Mortgages**"), and mortgage number 1503944/2 registered in the Brandon Land Titles Office and mortgage number 1230863/3 registered in the Portage la Prairie Land Titles Office (the "**Can-Am Mortgages**");
 - (i) An order authorizing the Applicant to commence and continue actions and proceedings under the Genesis Mortgages and the Can-Am Mortgage for the following:
 - (a) for sale or disposition of farmland;
 - (b) for foreclosure of an estate, interest or claim in or to farmland;
 - (c) for appointment of a receiver or receiver/manager over farmland;

- (d) for possession of farmland;
 - (e) for any other relief that may be available to the Applicant and be permitted by law in respect of farmland.
- (ii) An order authorizing the Applicant to apply to the District Registrars of the Winnipeg Land Titles Office, the Brandon Land Titles Office, the Portage la Prairie Land Titles Office, and the Neepawa Land Titles Office as may be necessary pursuant to *The Real Property Act* for an Order authorizing the sale and foreclosure of farmland;
 - (iii) An order authorizing the District Registrars of the Winnipeg Land Titles Office, the Brandon Land Titles Office, the Portage la Prairie Land Titles Office, and the Neepawa Land Titles Office to issue an Order authorizing the sale of farmland and authorizing the foreclosure of farmland pursuant to *The Real Property Act*;
- (c) Costs of this proceeding;
 - (d) Such further or other order as this Honourable Court may deem just.

THE GROUNDS FOR THIS MOTION ARE:

- (a) *The Family Farm Protection Act*, sections 8 and 9;
- (b) The Applicant has complied with the provisions of *The Farm Debt Mediation Act*, S.C. 1997, c. 21;

- (c) The Genesis Mortgages and the Can-Am Mortgages are in default;
- (d) Despite demands, the Respondents have not paid the Genesis Mortgages or the Can-Am Mortgages;
- (e) The Applicant intends to apply for the appointment of a receiver over all of the assets, undertaking and property of the Respondents, including the farmland secured by the Genesis Mortgages and the Can-Am Mortgages;
- (f) The appointment of a receiver is urgent to protect the interests of the Applicant and all stakeholders;
- (g) The Applicant therefore requires leave to proceed pursuant to *The Family Farm Protection Act* to commence, *inter alia*, an application for the appointment of a receiver pursuant to *The Bankruptcy and Insolvency Act*, RSC 1985, c B-3, section 243;
- (h) The Respondents have executed a Consent Receivership Order; and
- (i) Such further or other grounds as this Honourable Court may deem just.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) Notice of Application;
- (b) Affidavit of Ed Barrington, affirmed February 9, 2024, to be filed; and

- (c) Such further or other evidence as counsel may advise and this Honourable Court may allow.

February 12, 2024

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