

**THE KING'S BENCH**  
**WINNIPEG CENTRE**

IN THE MATTER OF: THE APPOINTMENT OF A RECEIVER PURSUANT TO SECTION 243 OF *THE BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985 c. B-3, AS AMENDED AND SECTION 55 of *THE COURT OF KING'S BENCH ACT*, C.C.S.M. c. C280

BETWEEN:

**BANK OF MONTREAL,**

Applicant,

- and -

**GENESUS INC., CAN-AM GENETICS INC. and  
GENESUS GENETICS, INC.**

Respondents.

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**SUPPLEMENTAL AFFIDAVIT OF ED BARRINGTON  
AFFIRMED MAY 28<sup>TH</sup>, 2024**

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**PITBLADO LLP**  
2500 - 360 Main Street  
Winnipeg, MB R3C 4H6

**Catherine E. Howden / Madison Laval**

Phone No. 204-956-0560  
Fax No. 204-957-0227

(File No. 638/400)

**THE KING'S BENCH**  
**WINNIPEG CENTRE**

IN THE MATTER OF: THE APPOINTMENT OF A RECEIVER PURSUANT TO SECTION 243 OF *THE BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985 c. B-3, AS AMENDED AND SECTION 55 of *THE COURT OF KING'S BENCH ACT*, C.C.S.M. c. C280

BETWEEN:

**BANK OF MONTREAL,**

Applicant,

- and -

**GENESUS INC., CAN-AM GENETICS INC. and GENESUS  
GENETICS, INC.,**

Respondents.

**SUPPLEMENTAL AFFIDAVIT OF ED BARRINGTON**

I, ED BARRINGTON, of the City of Edmonton, in the Province of Alberta,

AFFIRM AND SAY THAT:

1. I am a Senior Account Manager, Special Accounts Management Unit, Western Canada for Bank of Montreal ("**BMO**"), the Applicant herein, and as such, have personal knowledge of the facts and matters hereinafter deposed

to by me, except where same are stated to be based upon information and belief, in which case I verily do believe same to be true.

2. I make this Affidavit as a supplement to my first Affidavit, affirmed February 9, 2024, filed on February 12, 2024, in support of BMO's Application herein (my "**First Affidavit**").

3. Since the filing of my First Affidavit, on or about February 22, 2024, the Respondent, Trevor Klippenstein ("**Mr. Klippenstein**"), then-Vice President Finance of Genesis Inc. ("**Genesis**"), contacted me via email to request that holds placed on Genesis' US and Canadian BMO accounts be released to allow Genesis to pay for feed. Attached hereto and marked as **Exhibit "BBB"** is a copy of Mr. Klippenstein's email to me, dated February 22, 2024, along with my responding email to Mr. Klippenstein, in which I advised that BMO would not be releasing the holds on Genesis' accounts.

4. Since the filing of my First Affidavit, Can-Am Genetics Inc.'s ("**Can-Am**") BMO account was in unauthorized overdraft position on multiple occasions, as follows:

- (a) On or about March 13, 2024, the sum of \$2,922.44 was returned to cure Can-Am's overdrawn position, which amount appeared to relate to payment of a propane bill;

(b) On or about April 4, 2024, the sum of \$2,934.84 was returned to cure Can-Am's overdrawn position, which amount appeared to relate to payment of a propane bill; and

(c) On or about April 5, 2024, the sum of \$29,095.89 was returned to cure Can-Am's overdrawn position, which amount appeared to relate to payment of various propane and Manitoba Hydro bills.

5. I am advised by counsel for BMO, Catherine Howden of Pitblado LLP ("**Ms. Howden**") and do verily believe that on or about April 9, 2024, counsel for Genesis, Keith Senden of Fillmore Riley LLP ("**Mr. Senden**"), contacted her to advise that Genesis intended to sell its property located on the NW 1/4 of Section 32-13-23 WPM in the Rural Municipality of Hamiota (the "**Hamiota Property**"), together with certain specific pieces of equipment located at the Hamiota Property. I am further advised by Ms. Howden and do verily believe that Mr. Senden asked whether BMO would be willing to release its security interest in certain specific pieces of equipment located at the Hamiota Property (the "**Purchased Assets**").

6. I am further advised by Ms. Howden, and do verily believe that on or about April 16, 2024, she received a letter from counsel for Designed Genetics Inc. ("**DGI**"), the owner and landlord of the St. Andrews Property, indicating that DGI was considering enforcing its statutory lien rights

pursuant to *The Stable Keepers Act*, R.S.M. 1987, C. S200, and was expressly reserving its rights to exercise that lien. Attached hereto and marked as **Exhibit “CCC”** is a copy of the April 16, 2024, letter from DGI’s counsel to Ms. Howden.

7. On or about May 2, 2024, BMO consented to the sale of the Hamiota Property, subject to the terms of a partial release of its security interest in the Purchased Assets and the Hamiota Property.

8. On or about May 24, 2024, BMO provided a partial release of its security interests to Genesis with respect to the sale of the Hamiota Property (the “**Partial Release**”). The terms of the Partial Release included, *inter alia*:

(a) Genesis had or would be entering into an Offer to Purchase the Hamiota Property (the “**Purchase Agreement**”);

(b) Genesis had requested that BMO consent to the Offer to Purchase the Hamiota Property and to release all of its security interests in the Purchased Assets, including Mortgage No. 1161500/5 and Personal Property Registration Nos. 201805918808 and 201102738905, held against the Hamiota Property upon the closing of the transactions contemplated by the Purchase Agreement;

(c) BMO consented to the transaction on the terms and conditions contained in the Purchase Agreement, and would release its security interest in the Purchased Assets upon payment of the sale proceeds as follows:

- i. Any outstanding real property tax arrears with respect to the real property forming part of the Hamiota Property;
- ii. Reasonable legal fees and disbursements incidental to the sale; and
- iii. Payment to Farm Credit Canada in respect of its Mortgage No. 1105775/5.

9. Attached hereto and marked as **Exhibit “DDD”** is a copy of the Partial Release signed by BMO, dated May 24, 2024.

10. I am advised by Ms. Howden and do verily believe that the sale of the Hamiota Property closed on May 24, 2024.

11. I am advised by Ms. Howden and do verily believe that on or about May 6, 2024, she received a phone call from Paul Reiss (“**Mr. Reiss**”) of DGI, during which Mr. Reiss advised that Genesis was not paying rent to DGI and had not paid the property insurance with respect to the St. Andrews Property,

contrary to the terms of the lease agreement between DGI, as landlord, and Genesis, as tenant.

12. I am further advised by Ms. Howden that on May 24, 2024, she received a letter from counsel for DGI, indicating that DGI had exercised its distraint rights over the livestock located at the St. Andrews Property to account for rent arrears owed by Genesis to DGI in the amount of \$392,174.00, which livestock are subject to BMO's Security. Attached hereto and marked as **Exhibit "EEE"** is a copy of the May 24, 2024, letter from DGI's counsel to Ms. Howden, along with the enclosure thereto.

13. On or about May 24, 2024, I was advised by David Lewis of BDO and do verily believe that:

- (a) Two of Genesis' senior accounting employees, Mr. Klippenstein, former Vice President Finance of Genesis, and Jodi Nigh, former Controller of Genesis, are no longer employed by Genesis;
- (b) The only remaining employees of Genesis who may fulfil Genesis' financial reporting obligations are a bookkeeper who resides in Toronto, Ontario, and a junior employee of Genesis who is located in Manitoba;

(c) As at February 2024, based on Genesis' and Can-Am's payables statements for February 2024, Genesis owed approximately \$12.6 million to approximately 258 creditors, while Can-Am owed approximately \$1.08 million to approximately 51 creditors; and

(d) There are approximately 800-1000 sows in GGI's Indiana, U.S. operation.

14. Given that both Ms. Nigh and Mr. Klippenstein are no longer employed by Genesis, BMO is concerned about the accuracy of future financial reporting by Genesis.

15. On or about May 28, 2024, I was advised by David Lewis of BDO, and do verily believe that Genesis is indebted to Manitoba Taxation as follows:

(a) With respect to the Manitoba Health and Education Levy, in an unknown amount;

(b) With respect to arrears of Retail Sales Tax in the amount of \$106.06; and

(c) With respect to an outstanding International Fuel Tax Agreement account balance of \$1,066.97.



16. There continues to have been no reduction in the Debt owing to BMO since the sale of the St. Andrews Property in or about October 2023. BMO has been advised by BDO that there are potential buyers interested in purchasing property owned by Genesis, however, no letters of intent, agreements of purchase and sale, or financing commitments have been presented to BMO. BMO is not confident that any sale or refinancing will be consummated without the appointment of a court ordered receivership, particularly considering the significant number of creditors of the Debtors.

17. I make this Affidavit *bona fide*.

AFFIRMED BEFORE ME at the )  
City of Edmonton, in the Province )  
of Alberta, by videoconference on )  
the 28<sup>th</sup> day of May, 2024, at which )  
time I saw and heard the declarant )  
swear this document and sign it. )

The declarant provided their )  
identity by means of Alberta driver's )  
license. )

  
\_\_\_\_\_  
ED BARRINGTON

On this                    day of May, 2024,  
having received this originally  
executed document, I signed it.

\_\_\_\_\_  
A Notary Public in and for the  
Province of Manitoba

This is **Exhibit “BBB”** referred to in the Affidavit of Ed Barrington affirmed before me by videoconference on the 28<sup>th</sup> day of May, 2024, at which time I saw and heard the affiant affirm this document and sign it. The affiant provided their identity by means of photo identification.

On this \_\_\_\_\_ day of May, 2024, having received this originally executed document, I signed it.

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A Notary Public in and for the Province of Manitoba

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**From:** BARRINGTON, ED  
**Sent:** February 22, 2024 11:25 AM  
**To:** Trevor Klippenstein <tklippenstein@genesus.com>  
**Cc:** Jim Long <jimlong@genesus.com>  
**Subject:** RE: Fund Released

Sorry, Trevor.

The Bank is not comfortable releasing holds and you will need to manage cashflows accordingly.

#### **d. Cheque Hold Policy**

A cheque is not the same as cash. It is an instruction by a payor to its bank to pay you. We may **hold** amounts you deposit by cheque to give the payor's bank time to confirm that the payor's account has funds available to cover the cheque. Our **hold** periods are set out below. If we put a **hold** on your cheque, you cannot withdraw the amount deposited for the duration of the **hold**.

Please note that you should only accept a cheque from someone you can trust because the payor's bank can return it to your account at any time, even after we have removed a **hold**, for a variety of reasons, including because it is counterfeit, has a forged signature or endorsement, has been altered or is stolen. If that happens, we have the right to debit your account for the amount of the cheque<sup>1</sup>. If you are unsure about a cheque, ask for payment by cash or *Interac* e-Transfer.

We may apply the same **hold** periods to other instruments you deposit, such as certified cheques, money orders and drafts.

Cheque deposit <b>hold</b> details	<b>Hold Duration</b>
<b>Encoded Canadian dollar cheques, money orders and drafts drawn on a Financial Institution located in Canada</b>	
Cheque amount for \$1,500 or less deposited in the branch with an employee	Cheques may be held up to four business days <sup>2</sup> after the day of the deposit
Cheque amount for \$1,500 or less deposited through any other manner, including an ATM	Cheques may be held up to five business days after the day of the deposit
Cheque amount for greater than \$1,500 deposited in the branch with an employee	Cheque may be held up to seven business days after the day of the deposit
Cheque amount for greater than \$1,500 deposited through any other manner, including an ATM	Cheque may be held up to eight business days after the day of the deposit
New accounts (opened for less than 90 days)	All cheques may be held up to seven business days after the day of the deposit

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**From:** Trevor Klippenstein <tklippenstein@genesus.com>  
**Sent:** February 22, 2024 10:30 AM  
**To:** BARRINGTON, ED <ED2.BARRINGTON@bmo.com>  
**Cc:** Jim Long <jimlong@genesus.com>  
**Subject:** Fund Released

**External Email:** Use caution with links and attachments. | **Courriel externe :** Faites preuve de prudence en ce qui a trait aux liens et aux pièces jointes.

Good morning Ed,

I was wondering if I could get the following funds released to pay for feed today:

US - 2/14/24 deposit  
**\$14,123.75**

CDN – 2/14/24 deposit  
500.00  
2,901.29  
1,736.15  
**\$5,137.44 – total**

CDN – 2/20/24 deposit  
**\$164.00**

CDN – 2/21/24 deposit  
**\$3,206.50**

These deposits are from reputable entities.

Thank you,

Trevor Klippenstein CPA, CMA  
Vice President of Finance  
Phone: 204.267.2813  
[tklippenstein@genesus.com](mailto:tklippenstein@genesus.com)



This is **Exhibit “CCC”** referred to in the Affidavit of Ed Barrington affirmed before me by videoconference on the 28<sup>th</sup> day of May, 2024, at which time I saw and heard the affiant affirm this document and sign it. The affiant provided their identity by means of photo identification.

On this \_\_\_\_\_ day of May, 2024, having received this originally executed document, I signed it.

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A Notary Public in and for the Province of Manitoba

# MLT AIKINS

WESTERN CANADA'S LAW FIRM

MLT Aikins LLP  
30th Floor - 360 Main Street  
Winnipeg, MB R3C 4G1  
T: (204) 957-0050  
F: (204) 957-0840

April 16, 2024

**VIA EMAIL**

**Pitblado Law**

2500 – 360 Main Street  
Winnipeg, MB R3C 4H6

Attention: Catherine Howden

Dear Madam:

**Re: Designed Genetics Inc. and Genesis Inc.**  
**MLT Aikins File No: 0128998-00006**

We are counsel for Designed Genetics Inc., a creditor of Genesis Inc. We are writing to you as we are aware you are counsel for the Bank of Montreal, also a creditor of Genesis Inc.

We write to provide you with notice that our client is considering enforcing its statutory lien rights in accordance with *The Stablekeepers Act*, R.S.M. 1987, C. S200, and expressly reserves its rights to exercise that lien.

Yours truly,

**MLT AIKINS LLP**



**Per:**

Kelsey Schade  
Lawyer

**Kelsey Schade**  
Direct Line: (204) 957-4849  
Fax: (431) 317-3266  
E-mail: [kschade@mltaikins.com](mailto:kschade@mltaikins.com)

Jennifer Hofer  
Legal Assistant  
Direct Line: (204) 957-4660  
E-mail: [jhofer@mltaikins.com](mailto:jhofer@mltaikins.com)

This is **Exhibit “DDD”** referred to in the Affidavit of Ed Barrington affirmed before me by videoconference on the 28<sup>th</sup> day of May, 2024, at which time I saw and heard the affiant affirm this document and sign it. The affiant provided their identity by means of photo identification.

On this \_\_\_\_\_ day of May, 2024, having received this originally executed document, I signed it.

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A Notary Public in and for the Province of Manitoba

May 24, 2024

Genesis Inc.  
101 2<sup>nd</sup> Street  
Oakville, MB  
R0H 0Y0

Re: Release Request

This letter sets forth the partial release terms for security held to secure the obligations of Genesis Inc. (the "**Debtor**") to Bank of Montreal (the "**Secured Creditor**"). The Debtor has entered or will be entering into that certain Offer to Purchase Hog Operation (the "**Purchase Agreement**") by and between the Debtor, as vendor, and Sage Creek Farms Ltd. (the "**Purchaser**"), as purchaser, under which the Debtor has agreed to sell the Purchased Property, as such term is defined in the Purchase Agreement (a copy of which is attached hereto as Schedule "A"), to the Purchaser, on the terms and conditions contained therein. The Debtor has requested that Secured Creditor consent to the foregoing transaction and release all of Secured Creditor's security interests in the Purchased Assets, including under Mortgage No. 1161500/5 and Personal Property Registration Nos. 201805918808 and 201102738905, held against the Purchased Property upon the closing of the transactions contemplated by the Purchase Agreement and payment of the Release Amount (as hereafter defined), and Secured Creditor has agreed to such partial release subject to the terms hereof.

The Secured Creditor hereby consents to the transaction on the terms and conditions contained in the Purchase Agreement. Upon the Secured Creditor's receipt of the balance of the net sale proceeds, following the payout of: (i) any outstanding real property tax arrears with respect to the real property forming part of the Purchased Property; (ii) reasonable legal fees and disbursements incidental to the sale; and (iv) payment to Farm Credit Canada in respect of Mortgage No. 1105775/5 (the "**Release Amount**"), in its solicitor's trust account, all security interests and liens that the Debtor may have granted to the Secured Creditor, or which the Secured Creditor may otherwise possess solely with respect to the Purchased Property, shall automatically be released and terminated.

This letter shall enure to the benefit of any and all successors and assigns of the Debtor. This letter shall be governed, construed and enforced in accordance with the laws of the Province of Manitoba and the laws of Canada applicable therein. This letter may not be amended or otherwise modified except by the written agreement of the Secured Creditor. The Secured Creditor acknowledges and agrees that the Purchaser is entitled to rely on this letter as a third party beneficiary hereof.

**BANK OF MONTREAL**

By: 

Name: Ed Barrington

Title: Senior Account Manager, SAMU Bank of Montreal



This is **Exhibit “EEE”** referred to in the Affidavit of Ed Barrington affirmed before me by videoconference on the 28<sup>th</sup> day of May, 2024, at which time I saw and heard the affiant affirm this document and sign it. The affiant provided their identity by means of photo identification.

On this \_\_\_\_\_ day of May, 2024, having received this originally executed document, I signed it.

---

A Notary Public in and for the Province of Manitoba

# MLT AIKINS

WESTERN CANADA'S LAW FIRM

MLT Aikins LLP  
30th Floor - 360 Main Street  
Winnipeg, MB R3C 4G1  
T: (204) 957-0050  
F: (204) 957-0840

**Kelsey Schade**

Direct Line: (204) 957-4849  
Fax: (431) 317-3266  
E-mail: [kschade@mltaikins.com](mailto:kschade@mltaikins.com)

Jennifer Hofer

Legal Assistant  
Direct Line: (204) 957-4660  
E-mail: [jhofer@mltaikins.com](mailto:jhofer@mltaikins.com)

May 24, 2024

**VIA EMAIL**

**Pitblado Law**

2500 – 360 Main Street  
Winnipeg, MB R3C 4H6

Attention: Catherine Howden

Dear Madam:

**Re: Designed Genetics Inc. and Genesis Inc.**  
**MLT Aikins File No: 0128998-00006**

We write further to the above-noted matter.

As you are aware, we are counsel for Designed Genetics Inc. (“DGI”). We are writing to you as counsel for the Bank of Montreal, a secured creditor of Genesis Inc.

We write to notify you that on May 23, 2024, pursuant to the Barn Lease Agreement between DGI, Genesis Inc., and Michael Van Schepdael and James Long (as indemnitors) executed on February 26, 2018, DGI executed its distraint rights over the livestock on the premises to account for the rent arrears owed to it by Genesis Inc. Enclosed for service upon you are the relevant notices and distraint documents executed at the premises yesterday.

Please advise if formal notice is required to be served on the Bank of Montreal, or if you have instructions to accept this notice on BMO’s behalf. We would also be grateful if you would advise who represents Farm Credit Canada (if you know).

Yours truly,

**MLT AIKINS LLP**



Per:

Kelsey Schade  
Lawyer

Encls.



LANDLORD'S WARRANT

41 HIGGINS AVE
WINNIPEG, MB R3B 0A8
PH:431-887-(REPO)7376
FAX:204-925-4539
EMAIL: info@rivercitybailiffs.ca

My bailiff's in this behalf

DISTRAIN THE GOODS AND CHATTELS OF GENESUS INC.
LIABLE TO BE DISTRAINED FOR RENT IN AND UPON THE PREMISES SITUATED AT
178 OSTERMANN ROAD, LOCKPORT MB, R1A 3T2

IN THE TOWN OF LOCKPORT IN THE PROVINCE OF MANITOBA NOW OR LATELY IN THE
TENURE OR OCCUPATION OF
DESIGNED GENETICS INC.
FOR THE SUM OF \$392,174.00

being rent for the term Of NOVEMBER 2023 THROUGH TO MAY 21, 2024
due to me for the said premises, on the 21st day of MAY 2024 and
for the purpose aforesaid distrain within the time , in the manner, and with the forms by law, all such Goods and
Chattels of the said GENESUS INC.

wheresoever they shall be found, as have been carried off the said premises but are nevertheless liable by law to be
seized for the rent aforsaid.

AND PROCEED thereon for the reccovery of said rent as the law directs.

We hereby agree to protect and indemnify you against any and all claims for damages and cost which maybe made
against you by reason of your actions under this authority.

And we hereby agree to pay your fees and disbursements with respect to services rendered pursuant to this
warrant , provided, however, that your fees, exclusive of disbursements, shall not exceed 10% of fair market value of
the goods to be seized or distrained hereunder. This express agreement as to fees and disbursements shall be
binding upon us in lieu of costs sat forth in Schedule "A" of the "Distress Act" R.M.S, Chapter 64 and amendments
thereto

And for you doings so, this shall be your sufficient WARRANT AND AUTHORITY.

But you are hereby expressly prohibited form taking any property not legally liable for a Distress for
Rent.

Witness by my hand and seal this 22nd day of MAY 2024
Witness James Watts Paul & Marie
DISTRESS MADE THIS ,2024 TIME:

**BAILEE'S UNDERTAKING**

In consideration of the good(s) and chattels(s) seized and mentioned in the Seizure Schedule(s) here in being left in my possession, I, Mike Van Schepdael of Winnipeg, Manitoba, hereby agree to do the following:

1. I agree to act as Bailee for River City Bailiffs, on behalf of **DESIGNED GENETICS INC.**

2. I shall keep the said goods and chattels in my possession, and shall, upon demand, turn them over or deliver the said goods and chattels to River City Bailiffs, on behalf of **DESIGNED GENETICS INC.** MUT

3. I am responsible to River City Bailiffs on behalf of **DESIGNED GENETICS INC.** for an loss or damage which may occur to the goods and chattels while they are in my possession.

4. That I shall take all necessary precautions to protect the goods and chattels from harm while they are in my possession and shall keep them insured and the insurance proceeds from the loss or damage to the goods and chattels becomes payable to me, I agree to pay same to River City Bailiffs, on behalf of **DESIGNED GENETICS INC.**

5. I will not alter the goods and chattels while they are in my possession other than to repair them, and I will do nothing to the goods and chattels or allow any thing to be done to them which will lessen their value.

6. I will notify River City Bailiffs, on behalf of **DESIGNED GENETICS INC.** immediately of any loss or damage of any kind happening to the goods and chattels while they are in my possession.

7. I will complete any further documents necessary to complete the terms of this Bailee's Undertaking.

8. I understand that I may be charged with a criminal offense for any damage or loss that occurs for failing to produce the goods and chattels which are under seizure while they are in my possession, when requested to do so.

DATED AT Lockport IN THE PROVINCE OF MANITOBA ON THIS 23rd DAY OF May, 2024

[Signature]  
Bailee - Signature

[Signature]  
Bailiff - Signature

Mike Van Schepdael  
Bailee - Print

River City Bailiffs  
41 Higin Avenue  
Winnipeg, MB R3B0A8  
Ph:(431) 887-7376(REPO)  
Fax:(204)925-4539

MICHAEL DIAKOWICH  
Bailiff - Print

Address or location of where good(s) and Chattel(s) are to be kept by Bailiee:

178 OSTERMAN RD LOCKPORT, MB R1A 3T2

**SEIZURE SCHEDULE**

Copy thereof to be provided to the debtor or person in possession at the time of seizure.

Schedule of security (save and except legal exemptions) of the debtor seized pursuant to  
the Barn Lease Agreement commencing on February 26, 2018 between  
Designed Genetics Inc. and Genesus inc.

PLEASE SEE SCHEDULE "A"

ALL BUILDINGS WITH CONTENTS CONSISTING OF  
ALL LIVESTOCK

The above was seized at :  
178 Ostermann Road, Lockport MB, R1A 3T2

Given under my hand this 23 day of MAY 2024

Bailiff -(name)  
River City Bailiffs on behalf of **DESIGNED GENETICS INC.**  
41 Higgins Ave Winnipeg, MB R3B0A8  
Telephone:(431)887-7376 Fax:(204)925-4539 Email: info@rivercitybailiffs.ca