

File No. CI 24-01-46529

**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, RSC 1985, c
B-3, AS AMENDED AND SECTION 55 OF *THE
COURT OF QUEEN'S BENCH ACT*, CCSM c C280**

BETWEEN:

THE ROYAL BANK OF CANADA,

Applicant,

- and -

**PADM GROUP INC., PADM MEDICAL INC., and ROSWELL DOWNHOLE
TECHNOLOGIES INC.**

Respondents.

**NOTICE OF MOTION
DATE OF HEARING: THURSDAY, MAY 23, 2024 AT 10:00 A.M.
CHARTIER, J.**

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Client File No. 46727-17

**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*, RSC 1985, c B-3, AS AMENDED
AND SECTION 55 OF *THE COURT OF QUEEN'S
BENCH ACT*, CCSM c C280

BETWEEN:

THE ROYAL BANK OF CANADA,

Applicant,

- and -

PADM GROUP INC., PADM MEDICAL INC., and ROSWELL DOWNHOLE
TECHNOLOGIES INC.

Respondents.

NOTICE OF MOTION

BDO Canada Limited as the proposed Receiver (the "Proposed Receiver")
of the Respondents will make a motion before the Honourable Mr. Justice Chartier on
Thursday, the 23rd day of May, 2024 at 10:00 o'clock in the forenoon or so soon after that
time as the motion can be heard at the Law Courts, 408 York Avenue at Kennedy Street,
in the City of Winnipeg.

THE MOTION IS FOR

1. An Order under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as
amended (the "BIA"), *The Court of King's Bench Act*, C.C.S.M. c. C280, as amended (the
"KBA") and pursuant to the inherent jurisdiction of this Honourable Court, substantially in
the form attached hereto as Schedule "1" (the "Approval and Vesting Order"), *inter alia*:

- a) That this matter be heard on short notice;
- b) Abridging time for service of or alternatively validating and/or dispensing with service of this Notice of Motion and the materials related thereto such that the motion is properly returnable Thursday, May 23, 2024 and dispenses with further service thereof;
- c) Sealing the Confidential Report of the Receiver dated May 22, 2024 (the "Confidential Report")
- d) Approving the sale transaction contemplated by the Asset Purchase Agreement between the Proposed Receiver and 15988977 Canada Inc. (the "Purchaser") dated May 21, 2024 and vesting all of the Respondents' right, title and interest in and to the Purchased Assets (as defined therein) in the Purchaser and authorizing the Proposed Receiver to enter into and close the transaction contemplated therein;
- e) Approving the Pre-Filing Report of the Receiver dated May 21, 2024 and the Confidential Pre-Filing Report of the Receiver dated May 21, 2024 and the activities of the Receiver described therein;
- f) Upon the Receiver filing a Certificate confirming that:
 - i) the payment by the Purchaser of the Purchase Price for the Purchased Assets;
 - ii) the conditions to Closing have been satisfied or waived by the Receiver and the Purchaser; and
 - iii) the transaction has been completed to the satisfaction of the Receiver;

the Respondents' right, title, and interest in and to the Purchased Assets will vest in the Purchaser.

2. Such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

1. Queen's Bench Rules 1.04(1), 2.01(1), 2.03, 3.02(1), 16.04(1), 16.08, 37.08(2) and 41.
2. *The Court of King's Bench Act*, CCSM c. C280 ss. 55 and 77(1).

3. *Bankruptcy and Insolvency Act* RSC c.B3 as amended ("BIA") s. 243.
4. *The Corporations Act* CCSM c.C255 s. 95.
5. *The Personal Property Security Act* CCSM c.P35 ("PPSA") ss. 20, 64.
6. This an urgent matter.
7. The Applicant has filed an Application returnable on May 23, 2024 (the "Initial Hearing") for an Order (the "Receivership Order") appointing the Proposed Receiver as Receiver of all the assets and undertakings of the Respondents (the "Property") and, *inter alia*, authorizing the Proposed Receiver to sell the Property or any part or parts thereof with the approval of this Honourable Court and apply for any vesting order or other orders necessary to convey the Property.
8. The Respondents have been endeavoring to market and sell one of its operating divisions for some time. They have recently found a buyer who is prepared to purchase that division for a commercially reasonable price and retain the employees provided that the transaction can be approved concurrent with the proposed Receivership Order being granted.
9. With the support of the Respondents and the major lenders, the Proposed Receiver has taken over the negotiations with the buyer and is in the process of finalizing an Asset Purchase Agreement ("APA:")that will be subject to both the Receiver Order being granted as well as Court approval.
10. If appointed, the Proposed Receiver is seeking approval of a sale approval and vesting order (the "SAVO") at the Initial Hearing in respect of the APA.

11. The primary Secured Parties and Proposed Receiver have reviewed the APA and are supportive of the Court approving the APA and granting the SAVO.

12. The Proposed Receiver is of the opinion that, *inter alia*, the APA is reasonable in the circumstances as it is expected to provide greater net realizations for the Respondents' assets than would be expected in a bankruptcy scenario or from conducting a further sales process and that the APA negotiated with the Purchaser is the best price to be obtained with respect to the Purchased Assets of the Respondents.

12. In order to complete the proposed sale it is necessary for the Proposed Receiver to obtain approval of this Honourable Court and an Order vesting the Purchased Assets in the name of the Purchaser free and clear of all encumbrances once all conditions of closing have been met.

13. The Confidential Pre-Filing Report of the Proposed Receiver dated May 22, 2024, contains sensitive confidential information pertaining to the assets that have been conditionally sold, subject to Court approval. A Sealing Order is necessary as publication of this information may undermine any future efforts to maximize the realizations from these assets if the proposed APA is not approved by the Court or if the proposed APA does not close.

14. The salutatory effects of a Sealing Order with respect to the Confidential Report outweigh any considerations relating to the public interest in open and accessible Court proceedings.

15. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT
THE HEARING OF THE MOTION:

1. The Pre-Filing Report of the Receiver dated May 22, 2024.
2. The Confidential Pre-Filing Report of the Receiver dated May 22, 2024.
3. The Affidavit of Alex Wang affirmed May 15, 2024.
4. The Affidavit of Laura Leigh Buley sworn May 21, 2024.
5. Such further and other evidence as counsel may advise and this Honourable Court may permit.

May 22, 2024

TAYLOR McCAFFREY LLP
Barristers & Solicitors
2200 – 201 Portage Avenue
Winnipeg, Manitoba
R3B 3L3

DAVID R.M. JACKSON
CHARLES ROY

TO: THE SERVICE LIST – ATTACHED AT SCHEDULE "2"

SCHEDULE "1"

SCHEDULE "1"

**THE KING'S BENCH
Winnipeg Centre**

THE HONOURABLE) WEDNESDAY, THE 23RD
MR. JUSTICE CHARTIER) DAY OF MAY, 2024

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 *KING'S BENCH ACT*, C.C.S.M. c. C280

B E T W E E N:

THE ROYAL BANK OF CANADA,

Applicant,

- and -

PADM GROUP INC., PADM MEDICAL INC., and ROSWELL DOWNHOLE TECHNOLOGIES INC.

Respondents.

APPROVAL AND VESTING ORDER

THIS MOTION, made by BDO Canada Limited as the proposed Receiver (the "**Receiver**") of the undertaking, property and assets (the "**Property**") of PADM Group Inc., PADM Medical Inc. and Roswell Downhole Technologies Inc. (the "**Debtors**") for an order approving the sale transaction (the "**Transaction**") contemplated by an Asset Purchase Agreement (the "**Asset Purchase Agreement**") between the Proposed Receiver and 15988977 Canada Inc.. (the "**Purchaser**") dated May 22, 2024 appended as Appendix A to the Pre-Filing Confidential Report of the Receiver dated May 22, 2024 (the "**Confidential Report**"), and vesting in the Purchaser the Debtors' right, title and interest in and to the assets described in the Asset Purchase Agreement (the "**Purchased Assets**"), was heard this day at Winnipeg, Manitoba.

ON READING the Pre-Filing Report of the Receiver dated May 22, 2024 (the "**Pre-Filing Report**"), the Confidential Report and the Affidavit of Alex Wang affirmed May 15, 2024, and on hearing the submissions of counsel for the Receiver, the Applicant and the Purchaser, no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service of _____ sworn May 2_, 2024 filed:

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the supporting materials is hereby abridged and validated so this motion is properly returnable today and hereby dispenses with further service thereof.

SEALING ORDER

2. THIS COURT ORDERS AND DECLARES that the Confidential Report be sealed, kept confidential and not form part of public record and shall remain stored electronically with this Court on an encrypted basis limiting access to only the Registrar of this Honourable Court and the presiding Judge and shall only be made accessible or form part of the public record upon further Order of this Court.

SALE APPROVAL AND VESTING

3. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the Receiver is hereby authorized and directed to execute the Asset Purchase Agreement, complete the Transaction and take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

4. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "**Receiver's Certificate**"), all of the Debtors' right, title and interest in and to the Purchased Assets described in the Asset Purchase Agreement shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been

perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Mr. Justice G.L. Chartier dated May 23, 2024 (the "Receivership Order"); and (ii) all charges, security interests or claims evidenced by registrations pursuant to *The Personal Property Security Act* (Manitoba) or any other personal property registry system (all of which are collectively referred to as the "Encumbrances"), and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

PRIORITIES

5. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets (the "Net Sale Proceeds") shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the Net Sale Proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

6. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

7. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtors and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtors;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or

voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct or action other than in good faith pursuant to any applicable federal or provincial legislation.

APPROVAL OF ACTIVITIES OF THE RECEIVER

8. THIS COURT ORDERS that the Pre-Filing Report and the Confidential Report and the activities described therein are hereby approved.

MISCELLANEOUS MATTERS

9. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

Schedule A – Form of Receiver’s Certificate

Court File No. _____

**THE KING'S BENCH
WINNIPEG CENTRE**

B E T W E E N:

THE ROYAL BANK OF CANADA,

Applicant,

- and -

**PADM GROUP INC., PADM MEDICAL INC., and ROSWELL DOWNHOLE
TECHNOLOGIES INC.**

Respondents.

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Mr. Justice G.L. Chartier of the Manitoba Court of King's Bench (the "**Court**") dated May 23, 2024, BDO Canada Limited was appointed as the receiver (the "**Receiver**") of the undertaking, property and assets of the Respondents (the "**Debtors**").

B. Pursuant to an Order of the Court dated May 23, 2024, the Court approved the Asset Purchase Agreement made as of May 2_, 2024 (the "**Asset Purchase Agreement**") between the Receiver and 15988977 Canada Inc. (the "**Purchaser**") and provided for the vesting in the Purchaser of the Debtors' right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing have been satisfied or waived by the

Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Asset Purchase Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Asset Purchase Agreement;
2. The conditions to Closing the Asset Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

**BDO Canada Limited, in its capacity as
Receiver and Manager of the undertaking,
property and assets of debtors, and not in its
personal capacity**

Per: _____

Name:

Title:

SCHEDULE "2"

SCHEDULE "2"

THE SERVICE LIST AS OF MAY 22, 2024

Party/Counsel	Telephone	Facsimile	Party Represented
Fillmore Riley LLP 360 Main Street, suite 1700 Winnipeg, Manitoba R3C 3Z3 Kalev A. Anniko kanniko@fillmoreriley.com	204-957-8308	204-956-0308	Counsel for the Applicant, Royal Bank of Canada
BDO Canada Limited 201 Portage Avenue, 26th Floor Winnipeg MB R3B 3K6 Brent Warga bwarga@bdo.ca John Fritz jfritz@bdo.ca	204-220-3666 204-282-9716	1 833 888 1678	Proposed Receiver
Taylor McCaffrey LLP 2200-201 Portage Avenue Winnipeg, MB R3B 3L3 David Jackson djackson@tmlawyers.com Charles Roy croy@tmlawyers.com	204-988-0375 204-988-0472	204-953-7178 204-953-7231	Counsel for the Proposed Receiver
Thompson Dorfman Sweatman 242 Hargrave St #1700, Winnipeg, MB R3C 0V1 Bruce Taylor gbt@tdslaw.com Melanie Labossiere mml@tdslaw.com	204-934-2566 204-934-2508	204- 934-0570	Counsel for the Respondents

Party/Counsel	Telephone	Facsimile	Party Represented
Tapper Cuddy LLP 1000-330 St. Mary Avenue Winnipeg, MB R3C 3Z5 Richard W. Schwartz rschwartz@tapperdcuddy.com	204-944-3232	204-947-2593	Counsel for Business Development Bank of Canada, Secured Creditor
The Cote Family Trust Suite 650, 211 – 11 th Avenue SW Calgary, AB T2R 0C6 Robert Stack rstack@wilcraft.com	403-476-0154		Secured Creditor
The Fiolka Family Trust Suite 650, 211 – 11 th Avenue SW Calgary, AB T2R 0C6 Robert Stack rstack@wilcraft.com	403-476-0154		Secured Creditor
The Sadie Capital Trust / The Sadie Family Trust Suite 650, 211 – 11 th Avenue SW Calgary, AB T2R 0C6 Robert Stack rstack@wilcraft.com	403-476-0154		Secured Creditor
Coast Capital Equipment Leasing Ltd. 800-9900 King George Blvd Surrey, BC V3T 0K7 cservice@coastcapitalsavings.com equipment@coastcapitalsavings.com	888- 517-7000		Secured Creditor

Party/Counsel	Telephone	Facsimile	Party Represented
De Lage Landen Financial Services Canada Inc. 5046 Mainway, Unit 1 Burlington, ON L7L 5Z1 clientservices-ca@leasedirect.com corporate@dllgroup.com	877-523-5515		Secured Creditor
Travelers Leasing Ltd. 800-9900 King George Blvd Surrey, BC V3T 0K7 cservice@coastcapitalsavings.com equipment@coastcapitalsavings.com	888- 517-7000		Secured Creditor
Orthopedic Innovation Centre Inc. Suite 320 1155 Concordia Avenue, Winnipeg, MB R2K 2M9 info@orthooinno.com	204-926-1290		Secured Creditor
Valiant Financial Services Inc. Ste 426 – 505 8840 210 Street Langley, BC V1M 2Y2 amallory@valiantfinancial.ca	833-635-3273	604-424-8507	Secured Creditor
CWB National Leasing 1525 Buffalo Place Winnipeg, Manitoba R3T 1L9 ppsa.adminstration@cwbnationalleasing.com <u>debt enforcement@cwbnationalleasing.com</u>	204 954 9000	866 814 4752	Secured creditor

Party/Counsel	Telephone	Facsimile	Party Represented
Surrey National Verification and Collection Centre Canada Revenue Agency 9755 King George Boulevard Surrey, British Columbia V3T 5E1	866-891-7403	833-697-2389	His Majesty / CRA (Manitoba and Alberta)
Manitoba Justice Civil Legal Services 301 – 310 Broadway Winnipeg, Manitoba R3C 3L6 Shelley Haner Shelley.haner@gov.mb.ca	204-792-6471	204-948-2826	Counsel for the Minister of Finance
RAL Calgary Cargo, LP 201 West Street Annapolis, MD USA 21401 Legal Department legal@realterm.com			Landlord
ARTIS WPG Industrial Ltd. Brad Goerzen bgoerzen@artisreit.com	204-934-2797		Landlord
ESFC Funding Co., LLC 251 Little Falls Drive Wilmington, DE USA 19808 legal@fundeasily.com			Secured Creditor
MLT AIKINS LLP 30 th Floor – 360 Main Street Winnipeg, MB R3C 4G1 JJ Burnell jburnell@mltaikins.com	(204) 957-4663		Counsel for 15988977 Canada Inc. (Potential Purchaser)

Party/Counsel	Telephone	Facsimile	Party Represented
FIRST AMERICAN EQUIPMENT FINANCE 211 High Point Drive Victor, New York 14564 Alan Sikora – CEO <u>alan.sikora@faef.com</u> Bruce Masterson - general counsel <u>Bruce.masterson@faef.com</u> <u>Thomas.Flint@faef.com</u> <u>Chris.Wuest@faef.com</u>	 508-836-3270 585-643-3287 585-643-3270		First American Equipment Finance - Creditor