2025 01G 1510

IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF the *Companies' Creditors Arrangement Act*, RSC 1985 c. C-36, as amended (the **CCAA**)

AND IN THE MATTER OF an application of Nemori Farms Ltd.

AFFIDAVIT OF STÉPHANE MÉNARD

I, **STÉPHANE MÉNARD**, of Montreal, Quebec, **MAKE OATH** and say as follows:

Introduction

1. I am a Senior Director, Special Loans for Royal Bank of Canada (**RBC**) and have primary responsibility for RBC's accounts with Nemori Farms Ltd. (the **Company**).

2. The facts set out in this affidavit are within my direct knowledge arising from my position and role with RBC. Where any matter set out in this affidavit is not within my direct knowledge, I set out the source of my knowledge and believe that the matter is true. Nothing in this affidavit constitutes a waiver of privilege. In particular, where I refer in this affidavit to communications with or advice from lawyers, or to any past or ongoing legal proceedings, I do not intend to wave any privilege and no privilege is waived.

3. I make this affidavit in support of the Interlocutory Application made on behalf of RBC in this proceeding for various relief under the *Companies' Creditors Arrangement Act*, RSC 1985 c.C-36, as amended (the **CCAA**), including in particular for directions that, notwithstanding certain provisions of the Sales and Investment Solicitation Process (**SISP**) Bidding Procedures approved by the Court in the Sale and Investment Soliciation Process Order dated 24 April 2025 (the **SISP Order**):

3.1. Grant Thornton Limited, in its capacity as the monitor (the **Monitor**) of the Company, shall disclose to RBC the details of all Qualified Bids (as defined in the SISP Order) received in the SISP and provide RBC copies of all material documentation containing the terms of such Qualified Bids; and

3.2. RBC shall be entitled to communicate directly with any of the Potential Bidders (as defined in the SISP) that submitted Qualified Bids with respect to matters related to the SISP and the Qualified Bids, with a supervisory role for the Monitor.

4. As the Court is familiar with the general background to these proceedings, I limit my evidence in this affidavit to new matters directly relevant to the above-requested relief.

RBC's Credit Bid in the SISP

5. The terms governing the SISP are attached to the SISP Order. The SISP contemplated that a party holding a valid, enforceable, and properly perfected security interest in the Company could submit a credit bid. In accordance with the SISP terms, RBC notified the Monitor on 2 June 2025 that it intended to submit a credit bid, to reserve its rights to do so. In the event, by the deadline set under the SISP, RBC submitted a credit bid to acquire substantially all of the Company's business, property, assets, and undertaking through a reverse vesting order structure (the **Credit Bid**). The Credit Bid contemplates that, upon closing, the Company's assets will be liquidated on a break-up basis for RBC's benefit. In such a scenario, the Company's existing business would only be operated to a very limited extent necessary to facilitate that orderly liquidation.

6. RBC's motivation in submitting the Credit Bid was that it would achieve a greater recovery through a break-up sale, and in particular by offering the Company's fluid milk quota for sale on the Newfoundland and Labrador milk quota exchange, than completing a going concern sale through the CCAA and the SISP.

7. The Monitor advised RBC on 7 July 2025 that the Monitor identified the Credit Bid as the highest bid in the SISP and therefore the successful bid. RBC continues to work with the Monitor on finalizing the definitive documentation for court approval and closing of the Credit Bid.

Proposal to Explore Going Concern Options

8. Through discussions between RBC's counsel and financial advisors with the Monitor, RBC understands that the Monitor received multiple other qualified bids in the SISP that contemplate a going concern transaction (the **Going Concern Bids**) and that some of those Going Concern Bids proposed purchase prices that may be compelling to RBC as an alternative to completing the Credit Bid. At this time, and in compliance with the SISP terms, the Monitor has not advised RBC of any details regarding the Going Concern Bids.

9. If the Monitor could disclose the Going Concern Bids to RBC, and RBC had the opportunity if necessary to communicate directly with the relevant bidders, we would be able to quickly identify whether RBC would be supportive of one or more of the Going Concern Bids, as an alternative to proceeding with the Credit Bid and the break-up liquidation process contemplated by the Credit Bid. RBC recognizes that a going concern sale, even at a purchase price less than the Credit Bid value, may result in a better overall result for the Company and its stakeholders as a whole and better reflect the statutory goals of the CCAA.

10. RBC therefore asks that the Court make the direction sought on the Interlocutory Application to allow the Monitor to disclose the details of the Going Concern Bids to RBC and allow direct communication between RBC and those bidders, with the Monitor involved and copied in those communications to the extent reasonably practicable.

11. RBC's counsel will make further submissions on this request at the hearing scheduled for 17 July 2025.

Disclosure of Certain Communications

12. There is an additional related matter that I wish to advise the Court on, in the interests of full disclosure and to ensure that RBC is complying with its obligations under the CCAA to act in good faith, concerning communications that I had with other RBC employees advising RBC clients interested in the SISP:

    12.1. On 3 July 2025, a RBC commercial banking employee sent me a written message stating that he was working with a client who is bidding on the Company's assets, and asking whether RBC could take a mortgage on the Company's land assets that are leased from the province. I responded to this employee the next day stating that I could not communicate with him regarding the Company.

    12.2. On 8 July 2025, a RBC commercial banking employee sent me an email stating that one of his clients had submitted a bid in the SISP and had reached out to him as the client was informed that RBC was the highest bidder under a credit bid. The employee stated that his client was wondering if it was possible for him to negotiate with RBC directly if he was the next highest bidder. Again, I responded to this employee stating that I could not communicate with him regarding the Company.

13. I reiterate that, consistent with the undertaking given to the Monitor, and except as described above, none of the individuals at RBC, its financial advisors, or its lawyers, that are responsible for and providing services in relation to RBC's position in these CCAA proceedings has had any contact directly or indirectly with any other Potential Bidder (as defined in the SISP) during the term of the SISP regarding the SISP.

SWORN before me at Montreal, Quebec, this 15th day of July, 2025

Reynold Del Papa, Avocat - 2687372

STÉPHANE MÉNARD