

2024

Hfx No. \_\_\_\_\_

**SUPREME COURT OF NOVA SCOTIA  
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF:**            **The Receivership of Chester Basin Seafood Group Inc.**

**BETWEEN:**                    **4519497 Nova Scotia Limited**

**Applicant**

- and -



**Grant Thornton Limited, in its capacity as Trustee in  
Bankruptcy for Chester Basin Seafood Group Inc.**

**Respondent**

**NOTICE OF APPLICATION IN CHAMBERS**

**To:**    See Schedule "A" attached

**The Applicant requests an order against you**

The Applicant, 4519497 Nova Scotia Limited (the "**Applicant**") is applying to a judge in chambers for an order (the "**Receivership Order**"):

- (i)    Abridging time; and
- (ii)   Appointing Grant Thornton Limited as Receiver of all of the properties, assets and undertaking of Chester Basin Seafood Group Inc. ("**Chester Basin**").

The Applicant started this application by filing this notice on the date certified by the prothonotary.

**Grounds for order**

The Applicant is applying for the Receivership Order on the following grounds:

See Schedule "**B**" attached

The Applicant offers the following affidavits in support of the application for the Receivership Order:

(a) The Affidavit of Jose Teixeira sworn herein on February 10, 2024; and

(b) The Affidavit of Stephen Kingston sworn herein on February 12, 2024.

A copy of each affidavit is to be delivered to you with this notice, and further affidavits may be delivered before the deadlines provided in Civil Procedure Rule 5 - Application.

**You may participate**

You may file with the court a notice of contest, and any affidavits upon which you rely, no more than 5 days after this notice is delivered to you or you are otherwise notified of the application. Filing the notice of contest entitles you to notice of further steps in the application, including notice of further affidavits.

**Time, date, and place**

The application is to be heard by the Honourable Justice presiding in Chambers at **3:00 p.m. on Thursday, February 15, 2024** in the Law Courts, 1815 Upper Water Street, Halifax, Nova Scotia.

The Applicant has set this Application for Hearing a total of a half hour or less in Chambers. The Applicant says that the Application will not require more time.

You have the right to be present and to be represented by counsel or to act on your own. If you are not present, the judge may proceed without you.

**Possible order against you**

The judge may grant a final order on the application without further notice to you if you fail to deliver your notice of contest on time, or if you or your counsel fail to appear in chambers at the above time, date, and place.

**Filing and delivering documents**

Any documents you file with the court must be filed at the office of the prothonotary 1815 Upper Water Street, Halifax, Nova Scotia (telephone 902-424-4900).

When you file a document you must immediately deliver a copy of it to the applicant and each other party entitled to notice, unless the document is part of an ex parte motion, the parties agree delivery is not required, or a judge orders it is not required.

**Contact information**

The Applicant designates the following address:

**Stephen Kingston**  
McInnes Cooper  
1969 Upper Water Street, Suite 1300  
McInnes Cooper Tower - Purdy's Wharf  
Halifax NS B3J 2V1

Documents delivered to this address are considered received by the applicant.  
Further contact information is available from the prothonotary.

**Signature**

Signed February 12, 2024



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**Stephen Kingston**  
Counsel to the Applicant,  
4519497 Nova Scotia Limited

**Prothonotary's certificate**

I certify that this notice of application was filed with the court on February \_\_, 2024.

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Prothonotary

**Schedule "A"**

**Service List**

Mr. Joshua Santimaw  
Boyne Clark  
99 Wyse Rd Unit 600  
Dartmouth, NS B3A 4S5  
Email: [jsantimaw@boyneclarke.ca](mailto:jsantimaw@boyneclarke.ca)

**Counsel for Grant Thornton Limited**

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Mr. Charles Reagh  
Stewart McKelvey  
1741 Lower Water St Suite 600  
Halifax, NS B3J 0J2  
Email: [creagh@stewartmckelvey.com](mailto:creagh@stewartmckelvey.com)

**Recognized agent for Penske Truck Leasing Canada Inc.**

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Mr. Chris MacIntyre  
McInnes Cooper  
1969 Upper Water Street, Suite 1300  
McInnes Cooper Tower - Purdy's Wharf  
Halifax NS B3J 2V1  
Email: [chris.macintyre@mcinnescooper.com](mailto:chris.macintyre@mcinnescooper.com)

**Recognized agent for Wells Fargo Equipment Finance Company**

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Mr. James Cruickshank  
Stewart McKelvey  
1741 Lower Water St Suite 600  
Halifax, NS B3J 0J2  
Email: [jcruickshank@stewartmckelvey.com](mailto:jcruickshank@stewartmckelvey.com)

**Recognized agent for BMW Canada Inc.**

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Ms. Sharon Kour  
Reconstruct LLP  
Royal Bank Plaza, South Tower  
200 Bay Street, Suite 2305, PO Box 120  
Toronto, ON M5J 2J3  
Email: [skour@reconllp.com](mailto:skour@reconllp.com)

**Counsel to Chester Basin Seafood Group Inc.**

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**The Office of the Superintendent of Bankruptcy Canada**

Room 1605, Maritime Centre

1505 Barrington Street

Halifax NS B3J 3K5

Attn: Abdulwahid Nasser

Email: [abdulwahid.nasser@canada.ca](mailto:abdulwahid.nasser@canada.ca)

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**Canada Revenue Agency**

c/o Karen Henderson

Insolvency Collections Officer

Nova Scotia Tax Services Office

100 – 145 Hobson's Lake Drive

Halifax NS B3S 0J1

## Schedule "B"

1. 4519347 Nova Scotia Limited (the "**Applicant**") is a body corporate incorporated pursuant to the laws of the Province of Nova Scotia. It is the successor by amalgamation to 4196293 Nova Scotia Limited, 3312858 Nova Scotia Limited, Seaman's Toy Fisheries (2008) Limited, and Chester Basin Seafoods Incorporated.
2. Chester Basin Seafoods Group Inc. ("**Chester Basin**") is a body corporate incorporated pursuant to the laws of the Province of Nova Scotia.

### The NOI Proceeding

3. On November 7, 2023 Chester Basin filed a Notice of Intension to Make a Proposal (the "**NOI**") pursuant to the **Bankruptcy and Insolvency Act**, R.S.C. 1985, c. B-3, as amended (the "**BIA**"). Grant Thornton Limited was appointed as Proposal Trustee.
4. On November 24, 2023 the Registrar of Bankruptcy (the "**Registrar**") issued an Order (the "**November Order**") in the proceeding designated Hfx. No. 528154 (the "**NOI Proceeding**"), which extended the time for Chester Basin to file a proposal to January 21, 2024.
5. The November Order also authorized and empowered Chester Basin to enter into an amended interim financing term sheet (the "**DIP Loan**") with the Applicant in the principal amount of \$1,100,000.
6. The November Order also granted the Applicant a charge (the "**DIP Charge**") over all on Chester Basin's current and future assets, undertakings and properties of every nature and kind, with the DIP Charge and join priority over all other charges, save and except for an Administration Charge of \$50,000.
7. The November Order was amended by Order of the Registrar dated December 1, 2023.
8. The Applicant has advanced the full amount of the DIP Loan to Chester Basin, with \$650,000 being advanced on November 27, 2023 and a further \$450,000 being advanced on November 30, 2023.
9. The DIP Loan has not been repaid, and the full amount of the DIP Loan, accrued interest and associated costs remain outstanding.
10. The outstanding principal and interest owing on the DIP Loan totalled **\$1,131,643.50** as of February 8, 2024. This does not include the Applicant's DIP Costs, which form part of the DIP Charge.

### The Bankruptcy of Chester Basin

11. On January 19, 2024 the Registrar issued an Order further extending the time for Chester Basin to file a proposal to February 7, 2024. Chester Basin did not do so, and the time for it to do so was not further extended by the Court.

12. Chester Basin was accordingly deemed to have made an assignment in bankruptcy pursuant to the BIA, effective February 8, 2024, with Grant Thornton Limited acting as its Trustee in Bankruptcy.

**The Toronto-Dominion Bank**

13. The Toronto-Dominion Bank (the "**Bank**") was Chester Basin's senior secured creditor, and its security for the Chester Basin debt included:
  - (i) Assignments of certain Fishing Licenses;
  - (ii) General Security Agreements; and
  - (iii) Marine Mortgages over the vessels "Atlantic Sea Clipper", "Fortune Pride", and "Seaman's Toy 1".
14. On November 3, 2023 the Bank made demand for payment upon Chester Basin and issued a Notice of Intention to Enforce Security pursuant to the BIA.
15. By Assignment Agreement effective February 8, 2024 (the "**TD Assignment**"), the Bank assigned to the Applicant all of the debt owed by Chester Basin to the Bank, together with all the Bank's associated security (except for personal guarantees).
16. The amount of the TD Bank debt, as stated in the TD Assignment, was **\$5,611,596** as of February 8, 2024. This amount remains outstanding.

**Pluto Investments Inc.**

17. Pluto Investments Inc. ("**Pluto**") was Chester Basin's second ranking senior secured creditor, and its security for the Chester Basin debt included:
  - (i) General Security Agreements; and
  - (ii) Marine Mortgages over the vessels "Atlantic Sea Clipper", "Fortune Pride", and "Seaman's Toy 1".
18. By Assignment Agreement effective December 8, 2023 (the "**Pluto Assignment**"), Pluto assigned to the Applicant all of the debt owed by Chester Basin to Pluto, together with all associated security.
19. The amount owing by Chester Basin to Pluto, as stated in the Pluto Assignment, was **\$1,018,674.40** as of December 18, 2023. This amount, and additional accrued interest remain outstanding.

**Total Secured Debt**

20. The secured debt owed by Chester Basin to the Applicant pursuant to the DIP Loan, the TD Assignment, and the Pluto Assignment totalled **\$7,761,913.19** as of February 9, 2024.

### **Appointment of Receiver**

21. The Applicant considers that a Court-appointed Receiver is necessary and desirable in this instance as Chester Basin is bankrupt, and it has defaulted in its obligations pursuant to the DIP Loan, the assigned Bank debt and security, and the assigned Pluto debt and security.
22. In the event that a Receiver is appointed, the Applicant intends to seek to negotiate an Operating Agreement with the Receiver which will allow for employment of Chester Basin's former employees.
23. The Applicant considers that a Court appointment would enable the Receiver to formulate and implement a process for the orderly sale of Chester Basin's assets, including its fishing licenses and vessels, in a transparent manner and subject to the supervision of this Honorable Court.
24. Grant Thornton Limited has agreed to act as Receiver, if so appointed by this Honorable Court.

### **References**

1. The Applicant shall rely upon the following legislation, rules or points of law in respect of the application:
  - i. Rule 6 of the ***Bankruptcy Insolvency General Rules***, C.C.R. 1978, c. 368;
  - ii. BIA s. 243;
  - iii. Section 43(9) of the ***Judicature Act***, R.S.N.S. 1989, c. 240; and
  - iv. The criteria used by the Courts to assess the merits of Applications made by secured creditors to seek the Court appointment of Receivers.