

# 2021 YEAR IN REVIEW



The MLT Aikins insolvency and restructuring practice group carried out assignments in 2021 as counsel to debtor companies, lenders and court officers administering insolvency proceedings. Notable highlights are as follows.

**MLT AIKINS**

WESTERN CANADA'S LAW FIRM

# ALBERTA ASSIGNMENTS

## **Alberta Foothills Properties Ltd. (Receivership)**

*Ryan Zahara and Kaitlin Ward* acted for FTI Consulting Canada Inc. in its role as the court-appointed receiver of the assets, undertakings and properties of Alberta Foothills Properties Ltd. (“AFPL”). AFPL’s primary asset is a quarter section of land immediately south of Okotoks that AFPL attempted to develop as a mixed residential and commercial development.

## **Alter NRG Corp. (Receivership)**

*Ryan Zahara and Catrina Webster* acted as counsel for MNP Ltd., court-appointed receiver of the assets, undertakings and properties of Alter NRG Corp. (“Alter NRG”). Alter NRG is an Alberta based company that owns energy conversion intellectual property used to provide renewable energy services.

## **Calgary Oil & Gas Syndicate Group Ltd. et al (CCAA)**

*Ryan Zahara, Catrina Webster and Kaitlin Ward* acted as counsel to a senior secured lender of Calgary Oil & Gas Intercontinental Group Ltd., T5 SC Oil and Gas Limited Partnership, Syndicate Partners Ltd. and Petroworld Energy Ltd. (collectively, the “T5 Companies”). BDO Canada Limited was appointed as the Monitor. The T5 Companies’ CCAA Plan was approved and sanctioned by the Court and the Monitor was discharged in September of 2021.

## **Dusano Mechanical - 1433025 Alberta Ltd. (Bankruptcy)**

*Jonathan Bouchier and Catrina Webster* acted as counsel to a senior secured lender of a Calgary mechanical maintenance and services company and obtained a Bankruptcy Order adjudging the company bankrupt.

## **Eagles Quay Properties Inc. (Receivership)**

*Ryan Zahara and Kaitlin Ward* acted as counsel to BDO Canada Limited, court-appointed receiver of the assets, undertakings and properties of Eagles Quay Properties Inc. of Sylvan Lake, Alberta (“Eagles Quay”). Eagles Quay held property intended to be developed into a luxury lakeshore community.

## **Gain Energy Ltd. (NOI Proceedings)**

*Ryan Zahara and Catrina Webster* acted as counsel for KPMG Inc., Proposal Trustee in the restructuring of Gain Energy Ltd. (“Gain Energy”), an Alberta privately-owned company with assets comprising oil and gas properties in Alberta, Saskatchewan, and British Columbia. The Proposal was approved by Gain Energy’s creditors and sanctioned by the Court and the Proposal Trustee was discharged in October of 2021.

## **Kaisen Energy Corp. (CCAA)**

*Ryan Zahara and Catrina Webster* acted as counsel to Kaisen Energy Corp. (“Kaisen”) in CCAA proceedings commenced by the company. Kaisen is an Alberta based upstream oil and gas company operating in Alberta and Saskatchewan. Ernst & Young Inc. was appointed as the Monitor.

## **Redrock Camps Inc., Sweetwater Hospitality Inc., Sockeye Enterprises Inc. and Baldr Construction Management Inc. (CCAA)**

*Ryan Zahara and Kaitlin Ward* acted as counsel to BDO Canada Limited, court-appointed Monitor in the CCAA proceedings of Redrock Camps Inc., Sweetwater Hospitality Inc., Sockeye Enterprises Inc. and Baldr Construction Management Inc. (the “Redrock Companies”). The Redrock Companies supplied and assembled remote service camps in Northern British Columbia and Alberta.

## **SanLing Energy Ltd. (Receivership and Bankruptcy)**

*Ryan Zahara and Kaitlin Ward* acted as counsel to the Orphan Well Association in its application to appoint PricewaterhouseCoopers Inc. as Receiver of SanLing Energy Ltd. (“SanLing”). The British Columbia Oil and Gas Commission joined the application as a co-applicant. The parties were successful in obtaining a Receivership Order over SanLing’s property, assets and undertakings in Alberta and British Columbia.

## **S.F. McCoshen and 10000050 Manitoba Ltd. (Receivership and Bankruptcy)**

*Ryan Zahara and Catrina Webster* acted as counsel to A. Farber & Partners in the bankruptcy of S.F. McCoshen and the Receivership of a Bombardier Model Number CL-600-2B16 (Challenger 604) aircraft owned by 10000050 Manitoba Ltd. S.F. McCoshen holds shares in Alaska-Alberta Railway Development Inc. and has assets in British Columbia, Alberta, Manitoba, Ontario, Oregon and Turks and Caicos.

## **Forthryte Services Inc. (Receivership)**

*Dana Nowak* acted as counsel to A. Farber & Partners Ltd., court-appointed receiver of Forthryte Services Inc., a corporation in the business of waste management transportation in Northern Alberta.

## **Shamrock Valley Enterprises Ltd. (Receivership)**

*Mandi Deren-Dubé* acted as counsel to an unsecured creditor and fuel supplier in the receivership of Shamrock Valley Enterprises Ltd. The creditor continued to supply fuel to the Receiver during the period that the Receiver operated the company. The liquidation of the company is ongoing.

## **Italian Restaurant Group (Insolvency)**

*Dana Nowak* acted as counsel to a chartered bank regarding the insolvency of a group of Italian Restaurants operating in Edmonton. MLT Aikins LLP assisted the bank with enforcement against the operating companies and guarantors.

## **Oil and Gas Parts Manufacturer and Supplier (Insolvency)**

*Dana Nowak* acted as counsel to a chartered bank regarding the insolvency of an oil and gas parts manufacturer (and related entities). MLT Aikins LLP assisted the bank with enforcement against the operating companies and guarantors.

# BRITISH COLUMBIA ASSIGNMENTS

## **EncoreFX Inc. (Bankruptcy to CCAA)**

*William Skelly and Dana Nowak* acted as counsel to Ernst & Young Inc., the former Trustee in Bankruptcy and now the CCAA Monitor of EncoreFX Inc. ("EncoreFX"). EncoreFX is a Victoria, British Columbia based financial services company which provided foreign exchange risk management services and cross-border payment services and cross-border payment solutions to predominantly small and medium enterprises including foreign exchange spot transactions, foreign exchange derivative contracts and payment processing services. EncoreFX became bankrupt on March 20, 2020. Effective March 30, 2021, the bankruptcy proceedings of EncoreFX were taken up and continued under the CCAA.

## **Ardenton Capital Corporation and Ardenton Capital Bridging Inc. (CCAA)**

*William Skelly and Dana Nowak* acted as counsel to Ardenton Capital Corporation ("ACC") and Ardenton Capital Bridging Inc. ("ACBI"). ACC is the parent company of a multinational private equity business. Through various holding companies, including ACBI, ACC acquired, with monies raised from its investors, majority ownership interests in the portfolio companies, which are privately-owned mid-market businesses. ACC and ACBI obtained an Initial Order under the CCAA on March 5, 2021.

## **ILTA Grain Inc. (CCAA)**

*William Skelly* acted for the purchaser of certain assets of ILTA Grain Inc. and a subsequent purchase of the shares of ILTA Grain Inc. through a reverse vesting order.

## **Portliving Farms (3688 Parkview) Investments Inc. (Receivership)**

*William Skelly* acted for a potential purchaser of the assets of Portliving which comprised of three motels in the interior of BC.

## **Toys R Us (CCAA)**

*Dale Lysak and William Skelly* acted for the purchaser of certain asset of Toys R Us in regard to a subsequent dispute with its landlord in downtown Vancouver.

## **Grabbers Last Stand Bison Ranch Ltd. (Receivership)**

*William Skelly and Katelyn Jones* acted as counsel to The Bank of Nova Scotia in obtaining an Order appointing Deloitte as receiver of Grabbers Last Stand Bison Ranch Ltd. and commencing action against its principal, Dwayne Grabber, who made an assignment in bankruptcy. Litigation against third parties regarding receivership estate assets is ongoing.

## **Conian Development Inc. (Receivership / Bankruptcy)**

*William Skelly and Mark Gill* acted as counsel to two creditors pursuing funds which were diverted to this multi-unit development in Surrey, British Columbia.

# SASKATCHEWAN ASSIGNMENTS

## **Abbey Resources Corp. (CCAA)**

*Jeff Lee and Michael Marschal* acted as counsel to a Saskatchewan First Nation that is a creditor and landlord of Abbey Resources Corp., an insolvent gas production company operating in Saskatchewan which obtained an Initial Order under the CCAA from the Court of Queen's Bench For Saskatchewan on July 20, 2021.

## **Bison & Cattle Ranch (Interim Receivership)**

*Jeff Lee and Shay Brehm* acted as counsel to a secured lender in obtaining an October 14, 2021 Order from the Court of Queen's Bench for Saskatchewan appointing an interim receiver of an insolvent Saskatchewan bison and cattle ranch which lacked the resources required to feed and care for its livestock.

## **Safetytek Software Ltd. (NOI Proceedings)**

*Paul Olfert* acted as counsel to the largest debenture holders in the restructuring of Safetytek Software Ltd., a Saskatchewan-based provider of workplace safety software, in proceedings initiated by Safetytek pursuant to Division I of Part III of the Bankruptcy and Insolvency Act.

## **Smith Northern Ranching (Receivership)**

*Jeff Lee, Paul Olfert, and Marek Coutu* acted as counsel to the Receiver of a mixed farming operation near Duck Lake, Saskatchewan pursuant to an Order of the Court of Queen's Bench for Saskatchewan. These proceedings resulted in a reported decision which is now the leading authority regarding the disclaimer of contracts in Saskatchewan receivership proceedings: Bank of Montreal v Smith, 2021 SKQB 47.

## **Swift River Farms Ltd. (Selling Officer Engagement)**

*Paul Olfert* was appointed by the Court of Queen's Bench for Saskatchewan as Selling Officer for the purpose of selling \$6.2 million worth of farmland in Central Saskatchewan.

# MANITOBA ASSIGNMENTS

## **Taylor Bros. Farm Ltd. and Edwin Potato Growers Ltd. (Liquidation)**

*Jeff Lee and J.J. Burnell* acted as counsel to Deloitte Restructuring Inc., court-appointed Liquidator of Taylor Bros. Farm Ltd. and Edwin Potato Growers Ltd., in proceedings before a court-appointed Claims Officer; proceedings before the supervising Judge in the Court of Queen's Bench and proceedings in the Manitoba Court of Appeal (obtaining an Order granting security for costs of an appeal and an Order dismissing an appeal of a claim made by the Liquidator in the Court-ordered claims process).

## **Globeways Canada Inc., Canpulse Food Ltd., and Global Grain Canada Ltd. (Receivership)**

*J.J. Burnell and Anjali Sandhu* acted as counsel to BDO Canada Limited, court-appointed Receiver, in obtaining a distribution order following a motion related to priority issues arising under the Canada Grain Act before the Ontario Superior Court of Justice (Commercial List).

## **Rainbow Colony of Hutterian Brethren, Rainbow Colony Farms Ltd., Liberty Farms Ltd., Ile des Chenes Holding Co. Ltd., and 6201041 Manitoba Inc.**

*J.J. Burnell* acted as counsel to Deloitte Restructuring Inc., court-appointed monitor of the business and affairs of the above-noted entities, which operate a large mixed farm pursuant to a farm plan approved of by the Court of Queen's Bench of Manitoba.

## **Composites Innovation Centre (Proposal Proceedings)**

*J.J. Burnell* acted as counsel to Deloitte Restructuring Inc., the bankruptcy trustee and proposal trustee for Composites Innovation Centre in implementing the creditor and Court-approved proposal filed by Composites Innovation Centre. Following the approval of the proposal, the bankruptcy was annulled and Deloitte Restructuring Inc. was discharged as proposal trustee.

## **6106234 Manitoba Ltd. (Receivership)**

*J.J. Burnell and Anjali Sandhu* acted as counsel to Deloitte Restructuring Inc., court-appointed receiver of 6106234 Manitoba Ltd. by Order of the Court of Queen's Bench of Manitoba granted on October 29, 2021.

## **7537281 Manitoba Ltd. (Bankruptcy)**

*J.J. Burnell* acted as counsel to a secured creditor of 7537281 Manitoba Ltd. in obtaining an order of the Court of Queen's Bench of Manitoba adjudging the company bankrupt on June 3, 2021.



# MULTIPLE PROVINCE ASSIGNMENTS

## **Resort Operation (NOI Proceedings)**

*Jeff Lee, Dana Nowak and Shay Brehm* acted as counsel to a group of six corporations with assets in Saskatchewan, Alberta and British Columbia whose primary business is operating a resort in Saskatchewan. The corporate group filed Notices of Intention to Make a Proposal to Creditors under Division I of Part III of the Bankruptcy and Insolvency Act on September 29, 2021 and its restructuring is ongoing.

## **WA Grain & Pulse Solutions (Receivership)**

*Ryan Zahara, Paul Olfert, Catrina Webster, and Kaitlin Ward* acted as counsel for BDO Canada Limited in its role as the court-appointed receiver of all the assets, undertakings and properties of W.A. Grain Holdings Inc., 1309497 Alberta Ltd. (o/a W.A. Grain & Pulse Solutions), New Leaf Essentials (West) Ltd., and 1887612 Alberta Ltd. and over certain assets of New Leaf Essentials (East) Ltd. (collectively, "WA Grain Group"). The WA Grain Group are Innisfail, Alberta based corporations which operate grain processing facilities in Alberta, Saskatchewan, and PEI.

# SPEAKING ENGAGEMENTS, PAPERS AND OTHER MILESTONES



**J.J. Burnell**  
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## **J.J. Burnell & Ryan Zahara: panellists at the Insolvency Institute of Canada Conference**

J.J. Burnell, Insolvency Partner in the Winnipeg office of MLT Aikins, and Ryan Zahara, Insolvency Partner in the Calgary office of MLT Aikins, served as panellists at the Insolvency Institute of Canada Conference on November 4, 2021.

J.J. participated in an IIC Conference Panel Discussion entitled "Show Me The Money! Compromises, Creditors and Claims". Ryan took part in an IIC Conference Panel Discussion entitled "Let's Make a Deal - The Art of Distressed M & A."



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## **Ryan Zahara & Kaitlin Ward Publish Article in The Journal of The Insolvency Institute of Canada**

*Ryan Zahara* and *Kaitlin Ward* from the Calgary Office of MLT Aikins published an Article in *The Journal of The Insolvency Institute of Canada* entitled "Recent Developments in CBCA Plans of Arrangement - Funding the Balance Between a Facilitative and a Functional Process."



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**J.J. Burnell**  
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## **J.J. Burnell & Anjali Sandhu Publish Article in The Journal of The Insolvency Institute of Canada**

*J.J. Burnell* and *Anjali Sandhu* from the Winnipeg office of MLT Aikins and *Michelle Grant* of PricewaterhouseCoopers Inc. published an Article in The Journal of The Insolvency Institute of Canada entitled "The Art of Marshalling - The Good, The Bad and The Potential."



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**Catrina Webster**  
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**Catrina Webster Admitted to the MLT Aikins LLP Partnership at MLT Aikins LLP**

On January 1, 2022, Catrina Webster, lawyer in the firm's Calgary office, was admitted to the MLT Aikins LLP partnership.



**Jeff Lee**  
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**Jeff Lee and Paul Olfert Deliver Presentation to the Canadian Bar Association (Saskatchewan Branch) Bankruptcy Section**

On November 3, 2021, *Jeff Lee* and *Paul Olfert* delivered a presentation entitled "Notable Issues Raised by the Smith Northern Ranching Receivership" to the Canadian Bar Association (Saskatchewan Branch) Bankruptcy Section.



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**Dana Nowak**  
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**Dana Nowak and Mandi Deren-Dubé Present to the Canadian Association of Insolvency Restructuring Professionals**

On August 5, 2021, Dana Nowak and Mandi Deren-Dube presented the "Alberta Case Law Technical Update," to a webinar hosted by the Canadian Association of Insolvency Restructuring Professionals.



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