

ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY

BEFORE THE HONOURABLE)
)
MADAM JUSTICE H.A. RADY)

MONDAY, THE 16TH DAY
OF SEPTEMBER, 2019

BETWEEN:

ROYAL BANK OF CANADA

Plaintiff

and

GRANT GUSTIN

Defendant

ORDER

THIS MOTION, brought by MNP LTD., in its capacity as the court-appointed receiver (the “Receiver”), without security, of the all of the assets, undertakings, and properties of the defendant (the “Debtor”) acquired for or used in relation to a business carried on by the Debtor, and of the real property described in Schedule “A” hereto (the “Real Property”), was heard on Friday, September 13, 2019, at the courthouse, 80 Dundas Street West, London, Ontario.

ON READING the First Report of the Receiver dated August 30, 2019 with the appendices thereto; and the Confidential Supplement to the First Report of the Receiver dated August 30, 2019, and the appendices thereto; and the Supplement to the First Report dated September 12, 2019; and the affidavit of Frank Charles Gustin sworn September 12, 2019, and the exhibits thereto; and on hearing the submissions of counsel for the Receiver, the plaintiff, the Debtor, and

Frank Gustin and 1886890 Ontario Limited, no other person on the service list appearing although served as appears from the affidavit of service of Colleen Balint sworn September 4, 2019,

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** the First Report of the Receiver dated August 30, 2019 (the “**First Report**”) and the activities and conduct of the Receiver described therein are hereby approved.
3. **THIS COURT ORDERS** that the Receiver’s recommended realization strategy for the marketing and sale of the Real Property, machinery and equipment, grain, and planted crops owned by the Debtor, as set forth in section 3.0 of the First Report and the Confidential Supplement to the First Report dated August 30, 2019 (the “**Confidential Supplement**”), is hereby approved. The Receiver shall not sell any grain owned by Frank Gustin or 1886890 Ontario Limited except with the express permission of the said parties.
4. **THIS COURT ORDERS** that the Receiver shall not sell the pieces of equipment listed in Schedule “B” hereto, in which Frank Gustin and 1886890 Ontario Limited claim an ownership interest, until further order of this court.

5. **THIS COURT ORDERS** that Frank Gustin and 1886890 Ontario Limited shall deliver up possession of the pieces of equipment listed at Schedule "C" at the end of the 2019 harvest, and in any event no later than December 31, 2019.

6. **THIS COURT ORDERS** that the Receiver shall hold the net proceeds of any equipment or grain in which Frank Gustin or 1886890 Ontario Limited claims an interest pending further order of this court.

7. **THIS COURT ORDERS** that any equipment in which the Debtor has an ownership interest that is in the possession of Frank Gustin or 1886890 Ontario Limited shall be released to the Receiver forthwith save and except the equipment listed in Schedules "B" and "C" hereto.

8. **THIS COURT ORDERS** that the Receiver may file an assignment in bankruptcy on behalf of the Debtor.

9. **THIS COURT ORDERS** that the Receiver is hereby authorized to make an interim distribution payment to the plaintiff, Royal Bank of Canada, in the amount of \$100,000.00.

10. **THIS COURT ORDERS** that the Confidential Supplement, and the unredacted copy of the motion record, are hereby sealed until the Receiver has completed its sale of the real property, machinery, and equipment of the Debtor, or further order of this court.

11. **THIS COURT ORDERS** that the professional fees and disbursements of the Receiver from August 9 to August 23, 2019, as detailed in the fee affidavit of Rob Smith sworn August 29, 2019, are hereby approved.

12. **THIS COURT ORDERS** that the professional fees and disbursements of the Receiver's counsel from August 8 to August 28, 2019, as detailed in the fee affidavit of Duncan Macfarlane sworn August 28, 2019, are hereby approved.



ORDER ENTERED
SEP 19 2019
3164

Schedule "A"
Real Property

PT LT 18 CON 12 ENNISKILLEN AS IN L540722; ENNISKILLEN (PIN 43341-0068 LT),
(municipally known as 4715 Lasalle Line, Petrolia, Ontario)

Schedule "B"
Subject Property - Equipment

- (a) 2 Massey Grain Heads 20' with header wagons;
- (b) 12 Row 30" White 5100 Corn Planter;
- (c) 6 Furrow Kongskilde Plow Norm;
- (d) 28% Side Dresser (Applicator) Anderson;
- (e) 21' White Disc;
- (f) Coil Packer 22';
- (g) Massey Ferguson 8570 Combine;
- (h) Market 6"x30' Plastic Seed Auger;
- (i) 30' RJ Land Leveller;
- (j) Fertilizer Tanks x 6 (1,600 Gallon); and
- (k) Hiniker 1000 12 row 30" scuffler.

Schedule "C"
Subject Property - Equipment

- (a) 1135 Massey Ferguson Tractor;
- (b) 283 Massey Ferguson Tractor;
- (c) 2 x 500 bu. tarped wagons;
- (d) 10 x 50' Farm King auger.

ROYAL BANK OF CANADA

v.

GRANT GUSTIN

Plaintiff

Defendant

Court File No.: 35-2225602T

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY**

Proceeding commenced at **LONDON**

ORDER

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JRM/kl