



This is the 1st affidavit
of Steve Day in this case and
was made on 10/SEP/2025

No. S245481
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C.
1985 c. C-36, AS AMENDED

AND

IN THE MATTER OF THE COOPERATIVE ASSOCIATION ACT, S.B.C.C. 1999, c. 28

AND

IN THE MATTER OF BC TREE FRUITS COOPERATIVE, BC TREE FRUITS INDUSTRIES
LIMITED and GROWERS SUPPLY COMPANY LIMITED

PETITIONER

AFFIDAVIT

I, Steve Day, of 2050 Byrns Road, Kelowna, B.C., V1W 2G4, AFFIRM THAT:

1. I am a former voting member and director of the BC Tree Fruits Cooperative (the "**Cooperative**") and the court appointed representative of the former voting members of the Cooperative in these proceedings, and as such have personal knowledge of the facts and matters hereinafter deposed to, save and except where same are stated to be made on information and belief, and where so stated, I verily believe them to be true.

Personal Background

2. In 1985, I became a full-time farmer at my family's farm, Kalsam Orchards Ltd. ("**Kalsam**"), which was a member of the BC Fruit Packers Cooperative at that time ("**BC Fruit Packers**"). My family farm has been in existence since the 1930s. My grandfather participated in the Kelowna Growers Exchange, which ultimately became the Kelowna

Growers Co-op in the 1950s or 1960s. The Kelowna Growers Co-op joined with the Lake Area Co-op in the 1980s, which then became the BC Fruit Packers. My family's farm has always grown apples and pears.

3. In 1998, as a shareholder in Kalsam, I was elected to the Board of the BC Fruit Packers and remained on the Board until 2004.
4. In 2004, the BC Fruit Packers joined with two other Okanagan Valley cooperatives to operate as the Okanagan Tree Fruit Company. I was on the Board of the Okanagan Tree Fruit Company from 2004 to 2008.
5. In 2008, the Okanagan Similkameen Co-operative based in Oliver BC, joined the three other Okanagan Valley co-operatives, which had already been working together, and the four cooperatives formally amalgamated to form the Okanagan Tree Fruit Cooperative (the "**Amalgamation**"). Attached and marked as **Exhibit "A"** is a copy of the entry in the BC Gazette recording the Amalgamation of the Okanagan Similkameen Cooperative Growers Association, B.C. Fruit Packers, Sun Fresh Cooperative Growers and Okanagan North Growers Cooperative.
6. I remained a member of the Board through the Amalgamation, and the name change to the BC Tree Fruits Cooperative in May 2013. Attached and marked as **Exhibit "B"** is a copy of the May 31, 2013 entry in the BC Gazette recording the name change from the Okanagan Tree Fruit Cooperative to the BC Tree Fruits Cooperative. Subsequently, I ceased to be on the Board for a few years.
7. I was re-elected to the Board of the Cooperative in or around 2015.
8. In 2019, I gave notice of cancellation to the Cooperative with 2021 being the last crop year that I contributed to the Cooperative. I received notice of cancellation of my shares in the Cooperative in early 2022.

Discussion of Rule 125 as part of the Amalgamation

9. Prior to the Amalgamation being voted upon and taking effect, the Board discussed proposed bylaws for the amalgamated cooperative. I was part of these discussions.
10. The proposed bylaws included the concept that would eventually become Rule 125 of the BC Tree Fruits Cooperative Rules (the “**Rules**”). That is, the idea of providing a portion of surplus funds to former members of the Cooperative who contributed tonnage of tree fruits in the years preceding a winding up in recognition of their contributions to member equity over time.
11. This concept was already in the BC Fruit Packers rules, which had a similar mechanism for determining member and former member equity.
12. There was considerable discussion of this matter. Everyone on the Board agreed there should be some amount of consideration given to former members but there was debate on the length of time former members should be compensated for – for example, based on contributions in the 6 years or 10 years preceding the winding up. That agreement was fortified by the recognition of the minimal barriers to entry in becoming a member (for example, there only being a \$1 share fee and a minimal production requirement).
13. We ultimately landed on the six-year time window as being a reasonable compromise with former members and a manageable window.
14. We also discussed this rule being a deterrent to current growers from deciding to cash out the remaining equity in the Cooperative for themselves.
15. Once the Board completed its deliberations over the Rules in 2008, they were presented to the membership of the Cooperative as a whole, which approved the Rules.
16. To the best of my knowledge, the language of Rule 125 has remained the same in all amendments and modifications to the Rules since 2008. At all times between 2008 and 2021 when I ceased to be a member of the Cooperative, I knew about and agreed with Rule 125.

At the time of my resignation as a member, I expected that Rule 125 would be complied with.

17. Prior to the July 9, 2025 member's requisition seeking to change Rule 125 (the "**Special Resolution**"), I had never heard from any current or former member that they viewed Rule 125 as unfair or that it should be changed. To the best of my knowledge, there was no discussion among current or former voting members of a change to Rule 125 until it became clear there would be surplus funds to distribute after the payment of creditors in this proceeding.

Response to Amarjit Singh Lalli's evidence on the cause of the cooperative's decline

18. I have reviewed affidavit #4 of Amarjit Singh Lalli made July 15, 2025. The Rules that Mr. Lalli encloses as Exhibit "A" are not a copy of the most recent version of the Rules. He has enclosed the Rules as revised March 20, 2019, but to the best of my knowledge, the Rules were most recently revised and ratified November 16, 2021. The most current version of the Rules is at Exhibit D to Affidavit #1 of Douglas Pankiw made August 12, 2024 ("**Pankiw #1**").

19. Mr. Lalli says the following about the financial collapse of the Cooperative:

The Members believe the departure of Former Members from BTFC was a significant factor in the financial collapse of the co-op. The Former Members left BCTFC on their own accord. Amongst other things, the departure of Former Members decreased revenues for BCTFC, increased overhead costs for the remaining Members, and in many cases, involved Former Members breaching their fruit supply agreements with BFTFC. As such many Members believe that Former Members should not participate in any distribution of surplus BCTFC funds.

20. It is not clear to me which "Members" Mr. Lalli is referring to who hold this belief, as I believe Mr. Lalli's representation of current members was based on a list of what Mr. Lalli said represented 56% of the current membership who were responsible for 50% of the total apples delivered in 2023. I base this belief on my review of Mr. Lalli's first affidavit made August 21, 2024 at paragraphs 4 and 5, and Exhibit A.

21. I also do not understand what information Mr. Lalli is relying on for his comments that the “departure of Former Members decreased revenues for BCTFC, increased overhead costs for the remaining Members, and in many cases, involved Former Members breaching their fruit supply agreements”.
22. His comments and his stated belief about the cause of the financial collapse of the Cooperative is not consistent with what I understand to be the reasons for the collapse. In Pankiw #1, Mr. Pankiw identified the following as the factors leading to the collapse of the Cooperative:

7. The change in the consolidation plan from Kelowna (in the North Okanagan region) to Oliver (in the Southern Okanagan region) amplified already differing regional views among BCTFC’s members, leading to multiple requests for special meetings of BCTFC members to prohibit property sales and governance changes which were ultimately defeated but caused delays in property divestments (which led to increased interest costs being incurred by BCTFC and decreased returns given the declining property market), delays in equipment installations and an increase in growers electing to resign their membership and/or send their fruit to BCTFC’s competitors.

8. The final tipping point in the already precarious financial position of BCTFC was the unexpected and significant crop reduction caused by unusually severe weather pattern in 2024. As a result, the 2024 crop saw a reduction in volume by 85-90% in cherries and all other stone fruit were reduced to zero due to those weather events. Received apple volumes, the largest commodity of BCTFC, had already been dropping over the preceding years but 2024 estimated volumes provided to BCTFC in July 2024 from apple growers showed a staggering approximately 50% reduction in projected apple volumes from the 2023 volumes, significantly less than expected. With rising carrying and debt costs from delayed property sales and significantly reduced fruit volumes, BCTFC is no longer able to meet its overhead requirements, pay its growers or other creditors.

...

32. The board of directors of BCTFC, by way of resolution on July 25, 2024, determined that due to extremely low estimated fruit volumes and the difficult market and financial conditions facing BCTFC, BCTFC would not be able to pay the Growers for their fruit if it were delivered and would not be able to effectively operate the business through 2024...

...

92. The Petitioners are currently in the midst of a liquidity crisis, primarily due to (a) adverse weather resulting in a reduction of fruit volumes and increased competition and (b) the internal dispute among members regarding disposal of non-operational real estate owned by BCTFC. These factors, among other things, have necessitated a restructuring of the Petitioners' affairs, including the sale of certain real estate assets to reduce the Petitioners' indebtedness.

23. I believe the decline in projected volumes was caused by a significant number of current members withholding their 2024 crop estimates in protest of the leadership being provided by the directors of the Cooperative. I base this belief on Pankiw #1 and particularly Exhibit E, which includes the following statement in the recitals to the August 3, 2024 member requisition for a special general meeting (exhibit p. 74):

Whereas:

There was no meeting of the Audit and Finance Committee to discuss the implications of the low estimates.

...

Whereas:

No communication was sent to growers on the implication of not giving an estimate.

Whereas:

Growers are allowed to change estimates up to harvest and pay penalties for under and over delivering fruit.

24. The resolution was signed by two members, and 84 other members also signed on. It followed the July 26, 2024 delivery of the Notice to Growers that the Cooperative will not be receiving fruit and that it would take steps to properly wind down the Cooperative: Ex. G to Pankiw #1.

25. I know from my 40 years of experience as a grower and nearly 20 years of board experience with the Cooperative that without accurate crop estimates, it is impossible for the Cooperative to budget and plan for the upcoming crop year.
26. I also believe that many current members have already benefited by receiving funds that were derived from Cooperative equity. I base this belief on Pankiw #1 at paras. 50-51, where Mr. Pankiw explained that in order for the Cooperative to fulfill the commitments of the Apple Quality Income Assurance Program (which began in 2020 and provided for minimum fixed returns and earn up incentives), the Cooperative had to fund a portion of the returns through debt or proceeds from real estate sales. Former members were not included in this distribution of equity.
27. In addition to the above factors, I also believe the Cooperative's financial circumstances were contributed to by membership being unable to agree on basic strategic steps to move the Cooperative forward. For example, I recall there were five or six CEOs who were appointed and then removed within a seven-year period.
28. If the Special Resolution is allowed to proceed and the current members pass it, then I believe – based on the above information – that it will result in former members being deprived of any of the surplus funds that they contributed to in circumstances where the conduct of many current members was a significant factor leading to the financial collapse of the Cooperative and where current members have already benefited from the Cooperative's equity.
29. I believe this would be an unfair and prejudicial outcome. I have reviewed Affidavit #3 of Jordan Beaulieu made July 16, 2025 (“**Beaulieu #3**”), and the exhibit to that affidavit. In the table at exhibit page 5 there is a table that identifies the total fruit volume contributions by current members and those by former members for the time period 2018-2023. It states that current members contributed 68% and former members contributed 32%.
30. The table that is depicted on pages 6-11 demonstrates a significant number of “current growers” also had crop contributions decline in recent years. Below I have included a sample

of 20 current growers and their respective contributions to the Cooperative between 2018 and 2023, which is based on the information in the table in Beaulieu #3:

Grower #	2023 lbs	2022 lbs	2021 lbs	2020 lbs	2019 lbs	2018 lbs
16	152,670	55,290	213,360	286,492	239,288	97,764
26	436,290	508,581	603,548	627,053	589,958	700,815
53	106,588	103,993	91,044	302,050	351,187	304,788
61	77,160	26,481	313,739	330,970	390,051	397,888
131	39,374	4,578	264,504	389,170	425,859	319,405
139	290,794	340,639	320,000	363,226	545,067	508,800
233	178,656	444,232	297,276	490,579	492,056	720,687
271	18,619	45,627	276,182	211,616	288,356	353,698
272	189,206	195,546	209,509	222,129	345,977	384,977
287	460,264	594,204	594,265	986,547	1,258,646	1,174,250
293	162,239	107,893	160,627	340,198	597,036	575,427
368	498,991	786,910	559,740	717,679	1,162,857	1,287,165
382	55,459	91,666	1,578,219	1,766,629	3,209,022	1,457,341
439	998,741	1,308,518	1,298,619	2,145,757	1,911,667	1,809,522
576	273,086	198,758	258,527	633,520	863,879	751,671

31. Eight of the nine growers who appear on the first page of Schedule A as signatories to the July 9, 2025 member's requisition had, to varying degrees, contributed declining crop volumes to the Cooperative between 2018 and 2023: growers 957, 955, 1152, 591, 364, 279,

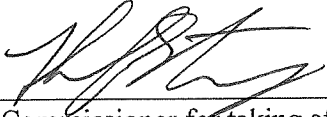
706, and 853. The ninth (grower 748) only became a member in 2023 and had contributed one year's worth of crop.

32. The current mechanism in Rule 125 for calculating the basis on which surplus funds will be distributed to each current and former grower, already accounts for the volumes contributed. That means that if any current or former growers chose to take some of their crop to a private packing house then they will get fewer surplus funds on a winding up as a result.
33. I believe the proposed change to Rule 125 is arbitrary and unjustifiably eliminates the entitlement of only former members to surplus funds. For example, my family farm is grower 539 and we contributed 2.15% of the overall crop volume in the past 6 years, the highest of any current or former grower identified in Exhibit A to Beaulieu #3. The next highest is grower 40 who is a former member that contributed 1.78% of the total volume. By contrast, Mr. Lalli contributed just 0.16% and one current member, grower 28, contributed just 0.02%. There are three growers (growers 748, 1476 and 1544) who only joined the Cooperative in 2023, the last full year of its operations.
34. If there are \$12M left in surplus funds to be distributed, then my family farm would be entitled to \$258,000 under Rule 125. If there are \$15M in surplus funds, then we would be entitled to \$322,500. If the proposed Special Resolution is passed, then we will receive nothing, while Mr. Lalli and the other current growers will receive a proportionately higher distribution.
35. I believe that it is the attitude of current members who are in favour of the proposed Special Resolution that has also contributed to the Cooperative's decline. Since 1985, I have experienced the cooperative to be premised on mutual understanding and respect between members. We made decisions that were designed to benefit the membership as a whole, and to recognize the contributions of former members in a fair manner. The Special Resolution contemplates current members benefiting at the expense of former members, which is completely at odds with how we tried to operate the cooperative in my 36 years of involvement.

Remote Commissioning

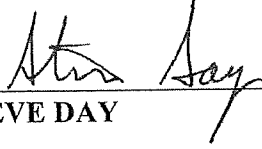
36. I acknowledge the solemnity of making a sworn statement/solemn declaration and acknowledge the consequences of making an untrue statement.
37. I was not physically present before the person whom this affidavit was sworn or affirmed but was in that person's presence using video conferencing.

AFFIRMED BEFORE ME at
Vancouver, British Columbia,
on 10/SEP/2025.



A Commissioner for taking affidavits
for British Columbia

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AMALGAMATION

The Registrar of Companies hereby gives notice that on June 2, 2008, **Okanagan** North Growers Cooperative (CP-73), **Okanagan** Similkameen Cooperative Growers Association (CP-1332), B.C. Fruit Packers Cooperative (CP-1450), and Sun Fresh Cooperative Growers (CP-1767) have amalgamated and formed a new cooperative under the name **Okanagan Tree Fruit Cooperative** (CP-2055). [je12]

This is Exhibit "A" referred to in the
affidavit of Steve Day
sworn before me at Vancouver
this 10 day of September, 2025


A Notary Public in and for
the Province of British Columbia

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CHANGE OF NAME

The Registrar of Companies hereby gives notice that the following cooperative has registered a change of name:

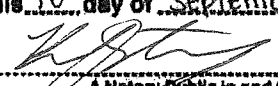
May 31, 2013

CP-2055

Previous Company Name:
Okanagan Tree Fruit Cooperative

New Company Name:
BC Tree Fruits Cooperative

[je6]

This is Exhibit " B " referred to in the
affidavit of Steve Day
sworn before me at Vancouver
this 10 day of September, 2025.

A Notary Public in and for
the Province of British Columbia

No. S245481
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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LIMITED and GROWERS SUPPLY COMPANY LIMITED

PETITIONER

AFFIDAVIT #1 OF STEVE DAY

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