

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36

BETWEEN:

THE BANK OF NOVA SCOTIA

PETITIONER

AND:

BIFANO CONSOLIDATED INC.
BIFANO FARMS INC.
NATA FARMS INC.,
SSC VENTURES (NO. 105) LTD. AND
SPALLUMCHEEN FARM LTD.

RESPONDENTS

ORDER MADE AFTER APPLICATION

APPROVAL AND VESTING ORDER

BEFORE THE HONOURABLE MADAM
JUSTICE FITZPATRICK

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MONDAY, THE 12TH DAY
OF AUGUST 2024

ON THE APPLICATION of Alvarez & Marsal Canada Inc., in its capacity as Court-appointed Receiver and Manager (the “**Receiver**”) of all of the assets, undertakings and properties of Bifano Consolidated Inc., Bifano Farms Inc., Nata Farms Inc., SSC Ventures (No. 105) Ltd. and Spallumcheen Farm Ltd. (collectively, “**Bifano**”) coming on for hearing at Vancouver, British Columbia, on the 12th day of August 2024; AND ON HEARING Bryan C. Gibbons and Noor Mann, counsel for the Receiver, and those other counsel listed on **Schedule “A”** hereto, and no one else appearing, although duly served; AND UPON READING the material filed, including the First Report of the Receiver dated July 26, 2024 (the “**First Report**”) and the Supplement to the First Report of the Receiver dated August 7, 2024 (the “**Supplement**”)

THIS COURT ORDERS AND DECLARES THAT:

Service

1. The time for service of this Notice of Application and supporting materials is hereby abridged so that the application is properly returnable on August 12, 2024, and the need

for further service of the Notice of Application and supporting materials is hereby dispensed with.

Approval of Transaction

2. The sale transaction (the “**Transaction**”) contemplated by the Purchase and Sale Agreement dated July 19, 2024, as amended by an Amendment Agreement dated August 6, 2024 (collectively, the “**Sale Agreement**”) between the Receiver and Hallano Farm Holdings Inc. (the “**Purchaser**”), a redacted copy of which is attached as Appendix A to the Supplement is hereby approved, and the Sale Agreement is commercially reasonable. The execution of the Sale Agreement by the Receiver is hereby authorized and approved, and the Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance to the Purchaser of the assets described in the Sale Agreement (the “**Purchased Assets**”).
3. Upon delivery by the Receiver to the Purchaser of a certificate substantially in the form attached as **Schedule “B”** hereto (the “**Receiver’s Certificate**”), all of Bifano’s right, title and interest in and to the Purchased Assets described in the Sale Agreement and listed on **Schedule “C”** hereto shall vest absolutely in the Purchaser in fee simple, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of this Court dated February 28, 2024, as amended and restated March 11, 2024, and by the Order of this Court dated June 24, 2024 (collectively, the “**CCAA Charges**”); and (ii) all charges, security interests or claims evidenced by registrations pursuant to the Personal Property Security Act of British Columbia or any other personal property registry system; and (iii) those Claims listed on **Schedule “D”** hereto (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule “E”** hereto), and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.
4. Upon delivery by the Receiver to the Purchaser of the Receiver’s Certificate, Bifano Farms Inc. and SSC Ventures (No. 105) Ltd. (together, the “**Released Entities**”) shall be released from the CCAA Charges, and the Released Entities shall cease to be Respondents in these proceedings and shall be deemed released from the purview of all orders of this Court granted in these proceedings, save and except for this order, and the style of cause shall be amended accordingly.
5. Upon presentation for registration in the Land Title Office for the Land Title District of Kamloops of a certified copy of this Order, together with a letter from Lawson Lundell

LLP, solicitors for the Receiver, authorizing registration of this Order, the British Columbia Registrar of Land Titles is hereby directed to:

- (a) enter the Purchaser as the owner of the Lands, as identified in **Schedule “C”** hereto, together with all buildings and other structures, facilities and improvements located thereon and fixtures, systems, interests, licenses, rights, covenants, restrictive covenants, commons, ways, profits, privileges, rights, easements and appurtenances to the said hereditaments belonging, or with the same or any part thereof, held or enjoyed or appurtenant thereto, in fee simple in respect of the Lands, and this Court declares that it has been proved to the satisfaction of the Court on investigation that the title of the Purchaser in and to the Lands is a good, safe holding and marketable title and directs the BC Registrar to register indefeasible title in favour of the Purchaser as aforesaid; and
 - (b) having considered the interest of third parties, to discharge, release, delete and expunge from title to the Lands all of the registered Encumbrances except for those listed in **Schedule “E”**.
6. For the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and from and after the delivery of the Receiver’s Certificate all Claims shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having had possession or control immediately prior to the sale.
7. The Receiver is to file with the Court a copy of the Receiver’s Certificate forthwith after delivery thereof.
8. Pursuant to Section 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act* or Section 18(10)(o) of the *Personal Information Protection Act* of British Columbia, the Receiver is hereby authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the company’s records pertaining to the Debtor’s past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by Bifano.
9. Subject to the terms of the Sale Agreement, vacant possession of the Purchased Assets, including any real property, shall be delivered by the Receiver to the Purchaser at 12:00 noon on the Closing Date (as defined in the Sale Agreement), subject to the permitted encumbrances as set out in the Sale Agreement and listed on **Schedule “E”**.
10. The Receiver, with the consent of the Purchaser, shall be at liberty to extend the Closing Date to such later date as those parties may agree without the necessity of a further Order of this Court.

11. Notwithstanding:

- (a) these proceedings;
- (b) any applications for a bankruptcy order in respect of Bifano now or hereafter made pursuant to the *Bankruptcy and Insolvency Act* and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made by or in respect of Bifano,

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Bifano and shall not be void or voidable by creditors of Bifano, nor shall it constitute or be deemed to be a transfer at undervalue, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

- 12. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body, wherever located, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.
- 13. The Receiver or any other party have liberty to apply for such further or other directions or relief as may be necessary or desirable to give effect to this Order.
- 14. Endorsement of this Order by counsel appearing on this Application is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

BRYAN C. GIBBONS
Lawyer for the Receiver, Alvarez & Marsal
Canada Inc.

By the Court.

Registrar

SCHEDULE “A”

List of Counsel

Counsel	Party
Bryan C. Gibbons Noor Mann	The Receiver, Alvarez & Marsal Canada Inc.
Lisa Hiebert Mishaal Gill	The Bank of Nova Scotia

SCHEDULE “B”

Receiver’s Certificate

No. S241161
Vancouver Registry

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RESPONDENTS

Receiver’s Certificate

RECITALS

A. Pursuant to an Order of the Supreme Court of British Columbia (the “**Court**”) dated June 24, 2024 (the “**Receivership Order**”), Alvarez & Marsal Canada Inc. was appointed as Receiver and Manager (the “**Receiver**”) of all of the assets, undertakings and properties of Bifano Consolidated Inc., Bifano Farms Inc., Nata Farms Inc., SSC Ventures (No. 105) Ltd. and Spallumcheen Farm Ltd. (collectively, the “**Debtor**”).

B. Pursuant to an Order of the Court dated August 12, 2024 (the “**Approval and Vesting Order**”), the Court approved the Purchase and Sale Agreement dated July 19, 2024, as amended by an Amendment Agreement dated August 6, 2024 (collectively, the “**Sale Agreement**”) between the Receiver and Hallano Farm Holdings Inc. (the “**Purchaser**”), providing for the vesting in the Purchaser of all of the right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in Article 8 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, capitalized terms have the meanings set out in the Approval and Vesting Order or the Sale Agreement, as applicable.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price, as defined in the Sale Agreement, for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing set out in Article 8 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.

This Certificate was delivered by the Receiver at Vancouver, BC this __ day of August, 2024.

ALVAREZ & MARSAL CANADA INC.,
in its capacity as Receiver and Manager of all
of the assets, undertakings and properties of
Bifano Consolidated Inc., Bifano Farms Inc.,
Nata Farms Inc., SSC Ventures (No. 105) Ltd.
and Spallumcheen Farm Ltd.

Per: _____
Todd Martin

SCHEDULE “C”

Purchased Assets

1. The following, each as defined in the Sale Agreement:
 - a. the Chattels;
 - b. the Purchased Contracts;
 - c. the Inventory;
 - d. the Business Records; and
 - e. the Permits, Licenses and Certifications;
2. All of the intangible assets of Bifano Consolidated Inc., Nata Farms Inc. and Spallumcheen Farm Ltd.; and
3. The following lands, including all buildings, structures, improvements and all appurtenances and attachments thereto:

Bifano Consolidated Inc. - Real Property

Title 1

PID: 030-083-893

Legal Description: Lot 1 Sections 12, 13, 18 and 26 Township 18 and 35 Range 8 and 9 West of the 6th Meridian Kamloops Division Yale District Plan EPP68311

Spallumcheen Farm Ltd. - Real Property

Title 1

PID: 011-498-986

Legal Description: District Lot 94 Osoyoos Division Yale District

Title 2

PID: 011-291-761

Legal Description: Lot 2 Section 26 Township 35 Kamloops (formerly Osoyoos) Division Yale District Plan 2011

Title 3

PID: 011-255-188

Legal Description: Lot 3 Section 26 Township 35 Kamloops (formerly Osoyoos)
Division Yale District Plan 2080

Title 4

PID: 011-367-750

Legal Description: Lot 6 District Lot 148 Kamloops Division Yale District Plan 1654

Title 5

PID: 011-367-784

Legal Description: Lot 7 District Lot 148 Kamloops Division Yale District Plan 1654

Title 6

PID: 014-003-449

Legal Description: The Fractional South West $\frac{1}{4}$ Section 35 Township 35 Kamloops
(formerly Osoyoos) Division Yale District except Plan A402

Title 7

PID: 013-795-848

Legal Description: That Part of section 13 which is bounded on the North by District Lot 148 Osoyoos Division Yale District on the East by District Lot 94 Osoyoos Division Yale District, on the South by District Lot 92 Osoyoos Division Yale District and on the West by the right bank of Fortune Creek as shown on Plan of said Township dated at Ottawa on the 10th day of January, 1902 including all the timber thereon Township 18 Range 9 West of the 6th Meridian Kamloops Division Yale District

SCHEDULE “D”

Claims to be deleted/expunged from title to Real Property

Nature of Charge	Registration No.
Mortgage Bank of Nova Scotia	CA8113787
Assignment of Rents Bank of Nova Scotia	CA8113788
Mortgage Bank of Nova Scotia	CA8542605
Assignment of Rents Bank of Nova Scotia	CA8542606
Mortgage Van Maren Financial Ltd.	CB460545
Assignment of Rents Van Maren Financial Ltd.	CB460546
Mortgage Van Maren Financial Ltd.	CB460547
Assignment of Rents Van Maren Financial Ltd.	CB460548
Claim of Builder’s Lien Douglas Smith	LB572943
Claim of Builder’s Lien Douglas Smith	LB572944

Together with any other charges, liens, encumbrances, caveats, mortgages, certificates of pending litigation, or interests registered against the lands subsequent to the above charges.

SCHEDULE “E”

Permitted Encumbrances, Easements and Restrictive Covenants related to Real Property

1. The reservations, limitations, provisos and conditions expressed in the original grant thereof from the Crown;
2. The following legal notations:
 - (a) THIS TITLE MAY BE AFFECTED BY THE AGRICULTURAL LAND COMMISSION ACT
 - (b) THIS CERTIFICATE OF TITLE MAY BE AFFECTED BY THE AGRICULTURAL LAND COMMISSION ACT, SEE AGRICULTURAL LAND RESERVE PLAN NO.M11122
 - (c) THIS TITLE MAY BE AFFECTED BY A PERMIT UNDER PART 26 OF THE LOCAL GOVERNMENT ACT, SEE KW139409
3. Any residential tenancies;
4. And the following:

Nature of Charge	Registration No.
Undersurface Rights The Director of Soldier Settlement	32820E
Covenant Her Majesty the Queen in Right of the Province of British Columbia	L41694
Covenant Her Majesty the Queen in Right of the Province of British Columbia	L41698
Statutory Right of Way British Columbia Hydro and Power Authority	CA9990276