



FORCE FILED

No. S-261350
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

NATIONAL BANK OF CANADA

Petitioner

AND:

1030931 B.C. LTD.,
MANNEY TRANSPORT LTD.,
NCG NATIONAL CONTAINER GROUP INC.,
1312230 B.C. LTD. dba LIQUOR 56,
138516 B.C. LTD. and 11490756 B.C. Ltd. dba BURNABY LIQUOR MART

Respondents

NOTICE OF APPLICATION

Name of applicant: 1030931 B.C. Ltd. ("**103**"), Manney Transport Ltd ("**Manney**"), NCG National Container Group Inc. ("**NCG**"), 1312230 B.C. Ltd. ("**131**"), 138516 B.C. Ltd. ("**138**") and 11490756 B.C. Ltd. ("**114**") (the "**Applicants**")

To: The Petitioner, National Bank of Canada

TAKE NOTICE that an Application will be made by the applicants to the Honourable Justice Fitzpatrick at the courthouse at 800 Smithe Street, Vancouver, British Columbia V6Z 2E1 on **April 9, 2026**, at **10:00 a.m.** for the Orders set out in Part 1 below.

The applicants estimate that the Application will take 60 minutes.

- This matter is within the jurisdiction of an Associate Judge.
- This matter is not within the jurisdiction of an Associate Judge and Justice Fitzpatrick is seized of this matter.

Part 1: ORDER(S) SOUGHT

1. An order to abridge the time for service of this Notice of Application, and deeming service to be good and sufficient.
2. An order varying the Order (the "**Receivership Order**") pronounced March 10, 2026, appointing Alvarez & Marsal Canada Inc. as Receiver and Manager (the "**Receiver**") over the assets and property (the "**Property**") of the Applicants, that the Receiver's powers in

respect of the Applicants Manney, NCG, 131, 138 and 114 be further postponed June 10, 2026.

3. Such further relief as the Court may permit.

Part 2: FACTUAL BASIS

Background

4. This is an application to vary the Receivership Order to allow the Applicants additional time to complete a refinancing of certain parts of their businesses.
5. The Applicants' property includes:
 - a) the business and operations of Manney and NCG, including an extensive fleet of trucks and equipment used within its business;
 - b) the properties owned by 103 at 10198 Grace Road, Surrey, BC (PID: 023-645-709) (the "**Grace Road Property**") and the property at 17914 96 Avenue, Surrey, BC (PID: 004-608-038) (the "**96 Avenue Property**"), which are used by Manney in its business operations; and
 - c) the two liquor store businesses operated by 11 ("**Liquor 56**") and 168 and 114 ("**Liquor 138**") (the "**Liquor Businesses**"), including the liquor licence numbers 195105 and 195431.
6. On March 10, 2026, this Honourable Court pronounced the Receivership Order which included the following provisions:
 - a) the Receiver's powers in respect of Manney and NCG are deferred to April 10, 2026; and
 - b) the Receiver's powers in connection with 138, 131 and 114 are deferred to May 10, 2026.
7. Since that time, the Applicants have undertaken significant work to facilitate a pay down the Petitioner and to protect and preserve their assets.
8. In respect of the Liquor Businesses:
 - a) The financing process with Coast Capital Savings Federal Credit Union ("**Coast Capital**"), which will facilitate a repayment in full of the debt due to the Petitioner in respect of the Liquor Businesses, is progressing at pace.
 - b) Coast Capital is currently awaiting the final environmental report before proceeding to funding, which is anticipated imminently.
 - c) In addition, Coast Capital's legal counsel is awaiting further instruction and clarity regarding the discharge of existing security held by the Petitioner, in order to ensure that Coast Capital can obtain first-priority security.

- d) Once these matters are resolved, the transaction is expected to proceed in the near term.
9. In respect of Manney and NCG:
- a) Whilst the receivership order has impacted customer and vendor confidence, resulting in tighter payment terms from suppliers and, in some cases, efforts by competitors to solicit existing customers, Manney has made significant efforts to maintain service levels and preserve its customer base.
 - b) Business operations have continued to the fullest extent possible, with payments to critical suppliers being actively managed to minimize disruption to the business.
 - c) Employee-related obligations, including wages, have been treated as a priority, and Manney has made efforts to ensure that workers are paid in a timely manner to avoid disruption to operations;
 - d) Manney has obtained interest from a prospective lender, Ocean Trailer, a semi-trailer dealer and rental fleet, service centre and parts provider, who is prepared to finance the acquisition of certain equipment, which would facilitate repayment to the Petitioner. These discussions are continuing; and
 - e) Manney and NCG are continuing to engage with the Receiver and the Petitioner with respect to a potential purchase of the shares in Manney and NCG. Those discussions are ongoing.
10. The Applicants continue to provide their full cooperation with the Receiver with respect to the provision of information relating to the business and operations of Manney and NCG and the two Liquor Businesses.
11. The Receivership Order should be varied to allow for refinancing and/or sale as follows:
- a) The Receivership Order's effect has already been delayed by this Honourable Court with the Receiver's powers to manage the various businesses postponed;
 - b) The proposed refinancing in respect of the Liquor Businesses represents the best offer available to repay the Petitioner in the near term;
 - c) The proposed refinancing in respect of the certain assets of Manney and NCG represents the best offer available to repay the Petitioner and other stakeholders in the near term;
 - d) The imminent appointment of the Receiver in respect of the business and operations of Manney and NCG would:
 - (i) cause immediate and irreparable harm to the business and reputations of Manney and NCG given the inherently sensitive nature of their businesses, which are highly dependent on operational stability and are highly vulnerable when exposed to disruption such as receiver intervention; and

- (ii) significantly increase costs to the Applicants and would likely erode recovery to stakeholders;
- e) A variation of the Receivership Order would allow for the Applicants to advance the refinancing efforts in respect of the Liquor Businesses and in respect of Manney and NCG, which are already at an advanced stage.

Part 3: LEGAL BASIS

- 12. The Receivership Order provides that any interested party may apply to this Court to vary or amend the Receivership Order. Although the Receivership Order states that 7 business days' notice is necessary, the Applicants state that it is in the interest of justice to abridge that provision.
- 13. Allowing for sale of the certain of the Applicants' business and assets will reduce costs to existing stakeholders and preserve the Applicant's equity of redemption. Any prejudice to the Petitioner for the extension can be compensated for under its existing loan security and interest.
- 14. Whether or not to appoint a Receiver calls for a "holistic" review of all the circumstances, "and a robust review" of them, to determine whether it is just and convenient to appoint a Receiver.

Bank of Montreal v. Gian's Business Centre Inc., 2016 BCSC 2348, paras. 23-24

- 15. The factors that justify the appointment of a receiver are appropriate to consider on an application to vary. As set out in *Maple Trade Finance Inv. v. CY Oriental Holdings Ltd.*, 2009 BCSC 1527 ("**Maple Trade Finance**") at para. 25, these include:
 - a) whether irreparable harm might be caused if no order were made, although it is not essential for a creditor to establish irreparable harm if a receiver is not appointed, particularly where the appointment of a receiver is authorized by the security documentation;
 - b) the risk to the security holder taking into consideration the size of the debtor's equity in the assets and the need for protection or safeguarding of the assets while litigation takes place;
 - c) the nature of the property;
 - d) the apprehended or actual waste of the debtor's assets;
 - e) the preservation and protection of the property pending judicial resolution;
 - f) the balance of convenience to the parties;
 - g) the fact that the creditor has the right to appoint a receiver under the documentation provided for the loan;
 - h) the enforcement of rights under a security instrument where the security-holder encounters or expects to encounter difficulty with the debtor and others;

- i) the principle that the appointment of a receiver is extraordinary relief which should be granted cautiously and sparingly;
 - j) the consideration of whether a court appointment is necessary to enable the receiver to carry out its' duties more efficiently;
 - k) the effect of the order upon the parties;
 - l) the conduct of the parties;
 - m) the length of time that a receiver may be in place;
 - n) the cost to the parties;
 - o) the likelihood of maximizing return to the parties;
 - p) the goal of facilitating the duties of the receiver.
16. These factors are not a checklist but a collection of considerations to be viewed holistically in an assessment as to whether in all of the circumstances the appointment of a receiver is just or convenient.

The Bank of Nova Scotia v Sidhu, 2025 BCSC 1344 at para. 9.
Institutional Mortgage Capital Canada Inc. v. Mortise (Scott Road Residential) Holdings Ltd. 2025 BCSC 1500, at para. 26.

17. This Court has previously held that the granting of a receivership order is an “*extraordinary relief which should be granted cautiously and sparingly.*”

The Bank of Nova Scotia v Sidhu, 2025 BCSC 1344 at para 35.

18. Justice Fitzpatrick has previously held that “*if the court can fashion a remedy that avoids receivership, then that is certainly something that should be considered*”.

Cascade Divide Enterprises, Inc. v. Laliberte, 2013 BCSC 263 at para. 82.

19. Justice Fitzpatrick has also held, in *Bank of Montreal v. Haro-Thurlow Street Project Limited Partnership*, that the debtor's equity of redemption should be considered in deciding whether to appoint a receiver.

Bank of Montreal v. Haro-Thurlow Street Project Limited Partnership, 2024 BCSC 47,
 para. 101

20. Recognizing that an equity of redemption exists, even in a receivership, the true issue in that event is what amount of time should be afforded.

Bank of Montreal v. Haro-Thurlow Street Project Limited Partnership, 2024
 BCSC 47 at para. 103

21. Applying the *Maple Trade Finance* factors:

- a) There is no risk of irreparable harm if the Receivership Order is varied, and the Petitioner will be entitled to interest on its mortgage obligations;
 - b) There is no evidence of waste or otherwise;
 - c) The Applicants are working diligently to refinance the entirety of amounts owed to the Petitioner, and have cooperated with the Receiver in all respects;
 - d) There is no benefit to the immediate appointment of the Receiver given the potential for refinancing.
22. In the alternative, the Applicants state that this court ought to vary its own order in the interests of justice and its inherent jurisdiction.
23. The Applicant relies on:
- a) *Supreme Court Civil Rules*, B.C. Reg. 168/2009 (the "**Rules**"), in particular, Rules 6.2, 8.1, and 22.4;
 - b) The inherent and equitable jurisdiction of this Court; and
 - c) Such further and other legal bases and authorities as counsel may advise and this court may permit.

Part 4: MATERIAL TO BE RELIED ON

- 1. Affidavit #4 of Gagandeep Singh Nahal, made April 2, 2026;
- 2. The pleadings and proceedings herein; and
- 3. Such further materials as Counsel may consider necessary.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this Notice of Application, you must, within 5 business days after service of this Notice of Application or, if this Application is brought under Rule 9-7, within 8 business days after service of this Notice of Application,

- (a) file an Application Response in Form 33,
- (b) file the original of every Affidavit, and of every other document, that
 - (i) you intend to refer to at the hearing of this Application, and
 - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed Application Response;

- (ii) a copy of each of the filed Affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
- (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Date: April 2, 2026



Signature of applicants
 Lawyer for applicants
Cody Reedman

Cody Reedman

To be completed by the Court only:

Order made

in the terms requested in paragraphs _____ of Part 1 of this Notice of Application

with the following variations and additional terms:

Date: _____

Signature of Judge Associate Judge

APPENDIX

THIS APPLICATION INVOLVES THE FOLLOWING:

- discovery: comply with demand for documents
- discovery: production of additional documents
- other matters concerning document discovery
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial
- case plan orders: amend
- case plan orders: other
- experts
- none of the above