

SUPREME COURT OF NOVA SCOTIA

Citation: *Bank of Montreal v. Linden Leas Limited*, 2018 NSSC 82

Date: 2018-04-11

Docket: Tru. No. 470166

Registry: Truro

Between:

Bank of Montreal

Applicant

v.

Linden Leas Limited

Respondent

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Judge: The Honourable Justice Peter P. Rosinski

Heard: March 20, 2018, in Truro, Nova Scotia

Subject: Appointment of a receiver, to seek repayment of indebtedness owed to a secured creditor as a final remedy, pursuant to ss. 243(1) *Bankruptcy and Insolvency Act*; Section 77, *Companies Act* (Nova Scotia); CPR 73; Section 43(9) *Judicature Act*

Summary: LL's core business was a cattle farm. BMO was a secured creditor of LL, whose primary security was the cattle herd. LL failed to make payments for 18 months. It continued to grow the size of its distinctive and valuable herd. It owed at least \$200,000 to the bank. BMO sought to have a receiver appointed, with power to sell, over time, portions of the herd, to effect a pay down of LL's debt.

Issues: (1) Is it just or convenient to order the appointment of a receiver in the circumstances?

Result: Receiver appointed. The Court found that at least \$200,000 is owing. Order granted permitting the receiver to effect a reasonably timely reduction of that indebtedness by sale of

portions of the cattle herd, the timing and amounts thereof to be in its sole discretion, after collaborative consultations with LL regarding the ongoing objective of keeping the cattle herd at a critical mass and mix for continued viability.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.
QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET.***