

COURT FILE NUMBER 2103-04643

COURT COURT OF QUEEN'S BENCH OF ALBERTA IN
BANKRUPTCY AND INSOLVENCY



MATTER **IN THE MATTER OF THE RECEIVERSHIP OF
1465770 ALBERTA LTD.**

E122054
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JUDICIAL CENTRE EDMONTON

PLAINTIFF ROYAL BANK OF CANADA

DEFENDANT 1465770 ALBERTA LTD.

APPLICANT ERNST & YOUNG INC., in its capacity as
Receiver of 1465770 Alberta Ltd.

DOCUMENT **APPLICATION FOR ORDER
CONFIRMING SALE & VESTING TITLE**

ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION
OF PARTY FILING
THIS DOCUMENT

DLA Piper (Canada) LLP
2700, 10220-103 Ave NW
Edmonton, AB T5J 0K4
Attention: Jerritt R. Pawlyk
Phone: 780.426.5330
File No. 038689-00016

NOTICE TO RESPONDENTS

This application is made against you. You are a respondent.
You have the right to state your side of this matter before the Master.

To do so, you must be in Court when the application is heard as shown below:

Date **Wednesday, December 8, 2021**

Time **2:00 p.m.**

Where **Edmonton Courts via WebEx**

Virtual Courtroom 86

<https://albertacourts.webex.com/meet/virtual.courtroom86>

Before Whom **The Honourable Justice K. Feth**

Remedy claimed or sought:

1. Ernst & Young Inc. (the “**Receiver**”), in its capacity as Court-appointed receiver and manager of all current and future assets, undertakings, and properties of 1465770 Alberta Ltd., which formerly operated as Westlake Husky (“**Westlake**”), seeks the following relief:
 - a) abridging time for service of this application and deeming service good & sufficient, if necessary; and
 - b) a Sale Approval and Vesting Order, substantially in the form attached hereto as **Schedule “A,”** with respect to the sale by the Receiver to the purchaser (the “**Purchaser**”) at an auction held on August 30, 2021 (the “**Auction**”) of a 2019 Ford F-150 pickup truck with the serial number 1FTEW1EP2KFB66858 (the “**Truck**”); and
 - c) such further and other relief as this Honourable Court may deem just.

Grounds for making this application:

2. On March 24, 2021, Ernst & Young Inc. was appointed as Receiver over the current and future assets, undertakings, and properties of Westlake, pursuant to the Receivership Order of the Honourable Justice Mah.
3. As described in the Receiver’s First Report dated November 23, 2021, the Receiver initially took possession of the Truck on March 18, 2021 and continued maintaining proper insurance on the Truck thereafter.
4. After careful consideration, the Receiver determined that sale of the Truck by auction would most likely yield the highest return for the benefit of the Estate. Accordingly, the Receiver retained Mirterra Industrial Appraisers & Auctioneers (“**Mirterra**”) to sell the Truck.
5. On August 30, 2021, the Truck was sold (the “**Sale**”) at the Auction for \$42,000.00 (the “**Sale Price**”), less the 4% commission payable to Mirterra of \$1,680.00, resulting in net sale proceeds of \$40,320.00.
6. Following the Sale, the Receiver instructed its counsel to request discharge of a security interest registered against the Truck by Ford Credit Canada Company (“**Ford Credit**”) at the Personal Property Registry, in an effort to provide the Purchaser with clear title to the Truck and minimize costs to the Estate. However, the Receiver’s counsel received no response to its attempts to reach Ford Credit.
7. The Receiver believes approval of the Sale is in the best interests of all stakeholders for the following reasons:
 - a) the Sale Price represented the highest and best price offered for the Truck;
 - b) the Receiver was acting in good faith and with due diligence with respect to the Sale;

- c) the Receiver believes the Sale was conducted at arm's length, in good faith, and in a commercially reasonable manner;
 - d) the Receiver believes the Sale resulted from a fair process on the open market; and
 - e) the requested Order will not result in prejudice to existing or anticipated claimants for indebtedness owing by Westlake.
8. Such further and other grounds as counsel may advise and this Honourable Court may permit.

Material or evidence to be relied on:

- 9. Receiver's First Report, dated November 23, 2021.
- 10. The pleadings and Orders in this Action.
- 11. Such further and other material as counsel may advise.

Applicable rules:

- 12. Rules 6.3(1) and 6.9(1) of the *Alberta Rules of Court*, Alta Reg. 124/2010.

Applicable Acts and regulations:

- 13. *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3.

Any irregularity complained of or objection relied on:

- 14. Not applicable to this Application.

How the application is proposed to be heard or considered:

- 15. Via WebEx, in Virtual Courtroom 86, before the Honourable Justice K. Feth.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.