Court of King's Bench of Alberta

Citation: National Bank of Canada v Precision Livestock Diagnostics Ltd, 2026 ABKB 64

Date: 2026029
Docket: 2501 04252
Registry: Calgary

Between:

National Bank of Canada

Plaintiff

- and -

Precision Livestock Diagnostics Ltd., Sunterra Food Corp., Soleterra D'Italia Ltd., Sunwold Farms Inc., Sunterra Farms Iowa Inc., Trochu Meat Processors Ltd., Sunterra Quality Food Markets Inc., Sunterra Farms Ltd., Sunwold Farms Limited, Lariagra Farms Ltd., Sunterra Farm Enterprises Ltd., Sunterra Enterprises Inc. and Sunterra Beef Ltd.

Defendants

Reasons for Judgment
of the
Honourable Justice Michael J. Lema

I. Introduction

[1] Is National Bank's contingent claim against some Canadian Sunterra entities too "remote or speculative" to be recognized in Sunterra's *Companies' Creditors Arrangement Act* proceedings?

[2] In a companion judgment – ***Compeer Financial PCA v Sunterra Farms Ltd***, 2026 ABKB 57 -- I found that those Sunterra entities fraudulently misrepresented that various cheques

issued to or for the benefit of certain U.S. Sunterra entities would be honoured (i.e. were backed by sufficient funds on deposit), causing losses of approximately $35 million USD to Compeer after Compeer had advanced funds to or for the benefit of the U.S. entities on the apparent strength of those cheques.

[3] Compeer has advised that it may sue National Bank in connection with those losses. It has not yet done so, and no evidence shows if or when it may do so.

[4] National Bank asserts no wrongdoing by it against Compeer. It argues that, if it is liable to Compeer in connection with those losses, the Canadian Sunterra entities are obliged to contribute to and indemnify National Bank for its exposure to Compeer.

[5] National Bank argues that this contingent claim against Sunterra is sufficiently certain (i.e. is not too remote or speculative) to be accepted as a claim, and then valued, in the *CCAA* proceedings.

[6] Sunterra sees the possible Compeer claim against National Bank as too uncertain. It also denies having any contribution or indemnity obligation to National Bank. Overall it sees National Bank's contingent claim against it as too remote and speculative to be recognized as a claim and, in any case, impossible to value.

[7] I find that that NBC's contingent claim against Sunterra is too remote and speculative -- i.e. is insufficiently certain – to be proved in the *CCAA* proceedings, as explained below.

II. Legislation

[8] Here is the *Companies' Creditors Arrangement Act* provision governing the contingent claims that may be dealt with by a compromise or arrangement under that *Act*:

> **19 (1)** Subject to subsection (2), the only claims that may be dealt with by a compromise or arrangement in respect of a debtor company are
>
> …
>
> **(b)** claims that relate to debts or liabilities, present or future, to which the company may become subject before the compromise or arrangement is sanctioned by reason of any obligation incurred by the company before [the day on which proceedings under this Act commenced].

[9] The *Bankruptcy and Insolvency Act* contains a similar provision, as follows:

> **121 (1)** All debts and liabilities, present or future, … to which the bankrupt may become subject before the bankrupt's discharge by reason of any obligation incurred before the day on which the bankrupt becomes bankrupt shall be deemed to be claims provable in proceedings under this Act.

III. Case law

A. Contingent claims

[10] A contingent claim is "a claim which may or may not ever ripen into a debt, according as some future event does or does not happen": ***Orphan Well Association v Grant Thornton Ltd***, 2019 SCC 5 (para 36), citing ***Peters v Remington***, 2004 ABCA 5 (para 23).

[11] All here agree that NBC's possible claim against Sunterra is a contingent claim, with the contingency being Compeer pursuing and recovering a judgment against NBC, with NBC then (i.e. if the contingent event occurs) claiming indemnity from Sunterra.

[12] NBC cites this communication from Compeer as evidence of a possible claim:

> … We note that **both National and Sunterra seem to be of the view that National may have liability to Compeer**; however, there is no reason why National cannot proceed in the normal course to advance its claim for indemnity as against Sunterra. Should that claim be successful, then a further procedure could be established to determine the quantum of that claim if necessary.
>
> **We can further advise that while Compeer agrees with National and Sunterra that it may have a claim against National, it is simply not in a position to advance one at this time.** It has been focusing its efforts on the issues as they relate to the Sunterra Entities and their directors and officers which are clearly relevant to those proceedings and has had inadequate time and information to **consider or advance a claim in respect of National and it reserves its right to do so outside of the CCAA proceedings in the ordinary course. [emphasis in original]**

B. Provability of contingent claims

[13] The test for accepting a contingent claim for *BIA* or *CCAA* purposes is whether the claim is not "so remote or speculative" or, alternatively, is "sufficiently certain."

[14] In ***Orphan Well Association***, the Supreme Court referred to the "general rules" as follows:

> … In determining whether a non-monetary regulatory obligation [i.e. the environmental-rehabilitation duty there] is **too remote or too speculative to be included** in the bankruptcy proceeding, the court must apply **the general rules that apply to future or contingent claims. It must be sufficiently certain that the contingency will come to pass** … [para 140]

[15] This followed the Supreme Court's formulation of the test in ***Newfoundland and Labrador v AbitibiBowater Inc***, 2012 SCC 67 (para 36):

> The criterion used by courts to determine whether a contingent claim will be included in the insolvency process is **whether the event that has not yet occurred is too remote or speculative** *(Confederation Treasury Services Ltd (Bankrupt), Re*, 1997 CanLII 3091 (ONCA) ....

[16] The following cases provide guidance in gauging when a contingent claim is "not so remote or speculative" or "sufficiently certain."

1. Sureties, guarantors, and indemnifiers

[17] I start with cases of sureties, guarantors, and indemnifiers of a debtor's claim and how their contingent claims (i.e. claims for reimbursement from the debtor) are treated in insolvency.

[18] In ***National Bank of Canada v Merit Energy Ltd***, 2001 ABQB 583 affd 2002 ABCA 5, (provability of a contingent claim for indemnity), LoVecchio J. found sufficient certainty in these markers:

> On a plain reading of the Underwriting Agreement**, the indemnity appears to be engaged by** the Flow-Through Shareholders' **actions. The actions are under case management and are proceeding through discoveries** at this time. Further, there are several authorities that suggest **an indemnity becomes enforceable as soon as a claim of the type indemnified is alleged.** [footnote 20] … [para 78]

[19] The footnoted case is ***Re Froment; Alta Lumber Co v Dept of Agriculture***, 1925 CanLII 313 (ABKB), where Tweedie J. found support for the in-advance-of-paying provability of a surety's claim against the bankrupt in the following cases:

> ... The provisions of [ss 44(1) and (2) of the Bankruptcy Act – materially identical to the present-day ss 121(1) and (2) *BIA*] are similar to those contained in [earlier] Bankruptcy Acts …, under which sections the **right of proof on the part of a surety** has arisen in numerous cases as a result of which "It is now established, notwithstanding the doubts expressed in Re Parrott, [Ex p. *Whittaker* (1891)] 8 Mor. 49, that **the contingent liability of a surety who has not been called upon to pay, or has not in fact paid, forms a debt provable in bankruptcy of the principal debtor** (*Re Paine*, (1897) 1 Q.B. 122; *Re Herepath• & Delmar, [Ex p. Delmar* (1890)] *7 Mor. 129; Re Blackpool Motor Car Co. Limited* (1901) 1 Ch. 77) and that **one surety can prove in the bankruptcy of a co-surety for contribution, although the proving surety has not paid the creditor anything**. (*Wolmershausen v. (Gillick* (1893) 2 Ch. 514.) " *Williams on Bankruptcy, 12th• ed.*, p. 153. … [emphasis added]

[20] In the most recent case mentioned there -- ***Re Blackpool Motor Car Co Ltd***, Buckley J. found overall "provability" support in ***Whittaker***, ***Delmar***, and ***Wolmershausen***:

> Then it was argued that those sureties were not creditors, and that they had no right of proof under s. 37 of the Bankruptcy Act, 1883, because they had not paid anything. To my mind, the decision in *Wolmershausen v Gullick* and *Ex parte Delmar*, notwithstanding what Cave J. said about that case in the case of *Ex parte Whittaker*, shews plainly that here these gentlemen, who were **sureties for the debt of the company to the bank, were persons who were under a contingent liability which could be the subject of a proof. It seems to me that they are creditors within the definition of s. 48** …. [p 87 – final paragraph] [emphasis added]

[21] In ***Re Paine***, the one case from ***Re Froment*** not mentioned by Buckley J., Vaughan Williams J. reached the same conclusion i.e. a surety can prove a contingent claim in bankruptcy even where the surety has not yet been called upon to pay as such (p 124).

[22] Another surety case is ***McCrie v Gray***, (1940) 22 CBR 390 (Urguhart J.), where provability was found despite the absence (to that point) of a bank demand for payment, but "undoubtedly a claim will be made" (paras 19 and 23).

[23] To the extent NBC seeks to analogize its position to that of a surety, guarantor, or indemnifier, I find the analogy inapt. The essence of these roles is backstopping another person's debt or liability i.e. agreeing to pay it if the other person cannot.

[24] NBC is not any kind of surety or equivalent for Compeer. No evidence shows that it agreed to cover any of Sunterra's debts or liabilities to Compeer. NBC's primary position is that it has no responsibility to Compeer for anything Sunterra-related.

[25] Accordingly, the cases treating sureties or equivalents as having provable contingent claims do not assist NBC here i.e. to the extent it seeks to be treated as or as akin to a surety or like role.

2. Fines and penalties

[26] Claims for fines and penalties imposed after the onset of insolvency are another species of contingent claims – that is, where the sanctioned party is exposed to potential fines or penalties.

[27] In ***Chambre de la sécurité financière c Thibault***, 2016 QCCA 1691, the Quebec Court of Appeal interpreted the "not so remote or speculative" or "sufficiently certain" test as equating, in a potential-penalty context, to whether a sanction "would probably be imposed":

> … Speaking through Justice Deschamps, the [Supreme] Court [in *Newfoundland and Labrador v AbitibiBowate*r (cited above)] indicated that, in order to determine whether a claim is a claim provable, a factual inquiry is required to determine whether the conditions for the inclusion of the claim as a claim provable are met.[fn to *AbitibiBowater* (para 37)] Thus, in this case, it is facile to say that the fines had not yet been imposed on the date of the bankruptcy. **The appropriate factual inquiry is whether, at the date of the bankruptcy, the conditions were met in order to affirm that a sanction would probably be imposed.** In *Harton* (decided years prior to *Abitibi*) it could be said that the condition was not met. In the present case, not only was the hearing held before bankruptcy but the Respondent **indicated that he would plead guilty thus making himself liable to a penalty**. Once the committee would not accept his guilty plea, Respondent presented legal arguments based on the *Charter*, but that too occurred eight months prior to the bankruptcy. **It is true that the imposition of a fine, as opposed to a purely non-monetary penalty, was discretionary. However, it is not erroneous to consider the imposition of a fine probable or at least more than hypothetical as at the date of the bankruptcy**. … [para 26] [emphasis added]

[28] Another contingent-penalty case is ***Air Canada (Re)***, 2006 CanLII 42583 (ONSC) (Cumming J.), where a penalty ultimately imposed for breaching noise-control regulations (aircraft landing during night-time quiet period) was accepted as provable in Air Canada's *CCAA* proceeding despite its (initial) contingent nature.

[29] Given the apparently straightforward issue (i.e. did the plane land during an embargoed period?) and the apparently clear evidence that it did, Cumming J. readily found that the possible (and later actual) penalty was not "too remote or speculative."

[30] A contingent penalty was found "too remote or speculative" in ***Quebec Chamber of Notaries v Barabe***, 2019 QCCQ 6747 (Vallee J.). Here are the key factors:

> Mr. Barabé **never expressed any intention of pleading guilty** to the offences with which he was charged. **On the contrary, he vehemently contested** the proceedings brought against him.
>
> Until the decision on his guilt, he benefited at all times from the presumption of innocence.
>
> Only the Council can impose a monetary penalty, so the Chamber could not claim to be entitled to any sum before the date of Mr. Barabé's bankruptcy.
>
> …
>
> Putting ourselves back before the date of his bankruptcy, **how can we assert that Mr. Barabé, who declares himself not guilty of the offences with which he is charged and who contests their validity, while benefiting from a presumption of innocence, will probably be found guilty and sentenced to pay a sum of money?**
>
> Clearly, and to paraphrase again the authors Houlden and Morawetz, **there was not "an element of probability" of this claim before Mr. Barabé's bankruptcy.**
>
> In the opinion of the Tribunal, these disbursements do not constitute a present debt to which Mr. Barabé was subject at the date of the bankruptcy.
>
> Nor is it a future claim to which he became subject before his release because of an obligation contracted prior to that date.
>
> **At the time of release, there were only pending proceedings.**
>
> **Nothing demonstrates, then, that Mr. Barabé is more likely to be found guilty than not**. Nor does anything demonstrate that, even if he is found guilty, he will have to pay any amount whatsoever to the Chamber. [paras 40-42 and 44-49] [emphasis added]

[31] Same ruling on a contingent penalty in ***Chartered Professional Accountants of Alberta v Neilson***, 2018 ABQB 170, where Eamon J. found too much uncertainty:

> Given the integrity issues raised in the allegations, suspension or de-registration were probably foregone conclusions if the allegations were proved. However, **whether a discipline tribunal would pile on fines could not be predicted.**
>
> It is one thing to predict that costs would be imposed if there was misconduct. It is a very different thing to predict as of the date of bankruptcy whether a tribunal would see fit to impose a fine. As mentioned earlier, discipline tribunals must be **sensitive to proportionality and the relevant facts and circumstances at the time of sanctioning**. Their sanction decision depends on a **myriad of**

> **information about the specific circumstances of the Respondent, and would likely include any aggravating circumstances** (such as refusing to cooperate in the investigation) **and any mitigating circumstances** (such as an early and meaningful acknowledgment of responsibility or guilty plea). **There is nothing in the record that suggests the regulator would have had such information at the date of bankruptcy. Important pieces of the puzzle did not exist at the date of bankruptcy, including information about the Respondent's cooperation or an early and meaningful guilty plea**. At the date of bankruptcy, the disciplinary fines must have been **remote or speculative.** [paras 109 and 110] [emphasis added]

[32] More contingent penalty cases are reviewed in ***James Bankruptcy (Re)***, 2017 SKQB 370 (Reg. Thompson) (paras 58-63).

3. Other examples of provability test in action

[33] In ***SemCanada Crude Company (Oreleans Energy Ltd) (Re)***, 2012 ABQB 495, Romaine J. found a contingent contractual claim provable in a *CCAA* proceeding, emphasizing these "sufficiently certain" indicators:

> Orleans submits that, prior to the receipt of the Rework details, it did not know and could not have known if SemCAMS had to pay Orleans or vice-versa. That may be so, but **Orleans knew that SemCAMS had under-paid it for condensate. It knew it was entitled to a credit** in the Rework for the under-allocated condensate **and it could, and likely did, calculate the value of that credit. If that calculation could not be made with absolute finality, it could be made with a fair degree of certainty.**
>
> …
>
> The Price Adjustment Claim was **not too speculative to be a provable claim. It was sufficiently certain that a) SemCAMS had an obligation to pay for a price adjustment credit for 2007 arising out of the under-allocation of the condensate; b) that this would be addressed in a Rework; and c) the amount of the credit could have been calculated with some degree of certainty. …** [paras 66 and 68] [emphasis added]

[34] In ***Harvey (Re)***, 2004 ABQB 773, Master Smart (as he then was) found provability of a contingent claim in circumstances where:

> … [a]ll of the events which gave rise to the liability of [Human Resources and Development Canada] occurred prior to the bankruptcy. All that need[ed] to be done by HRDC is to review its file, calculate the amount [of an EI overpayment], and give notice. Indeed, in this case it has already been done but in any case it cannot be said that these tasks are so difficult so as to cause one to conclude that the claim is too speculative or remote. [para 19]

[35] In ***James Bankrutpcy (Re)***, 2017 SKQB 370, Registrar Thompson examined a contingent claim by Saskatchewan Government Insurance against a driver responsible for a car accident who later assigned into bankruptcy. SGI's claim crystallized later but before the bankrupt's application for discharge.

[36] Registrar Thompson catalogued the factors pointing to probable liability i.e. that the contingency would be satisfied and found the SGI claim provable:

> The **evidence of impairment** in the Motor Vehicle Accident Report Form, the Notice of Suspension, the Driver Licence Suspension, and the Accident Description; **no evidence that Mr. James intended to or could rebut the criminal charges or his liability**; the **evidence of property damage and injury**, caused by the accident, and reported at the time of the accident on the Motor Vehicle Accident Report Form and by the claimant in the Accident Description; **SGI's opinion that it would be liable for the property claim** identified in the July 11, 2016, s. 45(7) letter; and, based on **SGI's conclusion that Mr. James would not be entitled to coverage unless he rebutted liability** in the same letter **all lead to a finding that the conditions were met to affirm that Mr. James would probably be liable to reimburse SGI**.
>
> Based on the foregoing, I find that it was **probable and not hypothetical that Mr. James would be liable for the injury and damage, that he would not be covered for the liability by SGI and that he would be liable to reimburse SGI** for the settlement of both claims, before the bankruptcy. [paras 89 and 90] [emphasis added]

[37] I next turn to the application of these provability principles in this case.

IV. Provability of NBC's contingent claim against Sunterra

[38] In gauging whether NBC's contingent claim is "not too remote or speculative" or is "sufficiently certain", these are the key factors:

1) Compeer has not brought an action against NBC;
2) it has not said it will bring such an action, instead that it may;
3) per the identified communication, Compeer itself had not, and apparently has not (with no further evidence on this point), fully considered whether it has a claim against NBC ("inadequate time and information to **consider** or advance **a claim in respect of National** and it reserves its right to do so");
4) Compeer did not, and has not, indicated the basis or bases for any such action i.e. identified any cause(s) of action it would or may raise. (As discussed in ***National Bank of Canada v Sunterra Food Corporation***, 2025 ABKB 599 (para 37), Compeer apparently advised NBC that any causes of action against NBC "would presumably not be fraud, conspiracy or oppression." However, that would not appear to preclude Compeer from invoking any or all of those causes). However, as noted, Compeer has not identified or suggested any particular causes of action or species of wrongdoing;
5) Compeer did not point to any evidence as the basis for any such action e.g. that NBC had or could have had a different and better window into the

cheque kiting here and done something different or at least earlier to stop it;

6) it did not indicate the losses or the range of losses which it might seek to recover from NBC;

7) it did not advise whether any such action would depend on whether it first exhausted its recovery options against Sunterra directly and experienced a shortfall, versus seeking recoveries against Sunterra and National simultaneously;

8) in any case, it did not, and has not, has provided any estimates of its anticipated recoveries on other fronts i.e. to permit an assessment of the likelihood of Compeer experiencing a shortfall (i.e. apart from any possible recovery against NBC) and, if any, the likely scale of the shortfall. For instance, approximately $28 million USD of Compeer's claim against the two central Sunterra Canada entities are guaranteed by another Sunterra entity (with judgment against that guarantor for that amount having been granted in the companion judgment);

9) NBC denies any liability to Compeer (e.g. para 142 of NBC brief), emphasizing (among other matters) that "[it] was entitled to reverse the kited cheques in the circumstances";

10) NBC does not stand as a surety, guarantor, or indemnifier to or of Compeer i.e. pursuant to any agreements between them. NBC invoked ***Merit Energy*** (cited above), but the comparison is inapt, with NBC not standing in any of those roles here. In any case, in that case, the underlying claim (i.e. against the indemnifier) manifested in actual actions ("under case management and … proceeding through discoveries"). Plus LoVecchio J. found that "[o]n a plain reading of the Underwriting Agreement, the indemnity appears to be engaged by [the] actions." In other words, the party in the "middle position" (equivalent to NBC here) was facing more than a theoretical claim, instead one that was in progress and was found to engage the indemnity i.e. the indemnifier's rights over against the debtor;

11) NBC noted only theoretical ways in which it might have exposure to Compeer:

> [Assuming no allegations of fraud, conspiracy, or oppression i.e. as noted above], that leaves open the possibility of a claim founded in other torts. … Or perhaps a claim in contract or quasi-contract.
>
> A claim in tort might allege something like "NBC was negligent in monitoring the Sunterra parties' accounts." … [This would be an] awfully hard case for Compeer, given that it was in the same position as NBC. It had to investigate its side of the [Sunterra] accounts, but [it could not explore] the side of NBC. And the same is true, vice

> versa. NBC was blind to the Compeer side [and vice versa].
>
> [NBC is in a difficult position, namely] "I didn't do anything wrong, but if I did, I would like contribution and indemnity [for that from Sunterra]."
>
> [As for] claims in contract or quasi-contract … something alleging [that] NBC's return of cheques … was somehow improper e.g. under whatever rules or agreements … govern cheque clearing between the U.S. and Canada. …
>
> These are the kinds of claims that [NBC] can conceive of.
>
> [There is also possibly] a claim in equity, [but NBC] has not deeply considered that issue. [excerpts from NBC submissions on December 4, 2025, drawing from my notes i.e. this is not a verbatim transcript but intended to capture the gist of these submissions]

12) NBC did not point to any evidence that would or might ground any of these theoretical causes of action;

13) NBC did not point to any case law illuminating how the law of negligence might apply as between banks on opposite ends of cheque kiting or any kind of inter-bank context, or to any particular rules, protocols, or agreements governing the movement and actioning of cheques across the border (or otherwise) or any cases illuminating their operation, or anything else that might help in the assessment of whatever exposure NBC may have to Compeer i.e. even if only hypothetically ("If it were shown that NBC [outline proscribed activities], which is denied, a duty of care might be found on [explain basis], the standard of care would or may have been [explain], etc.; and

14) as noted, NBC instead argues that, throughout, it followed orthodox banking rules and practices, honoured its obligations to Sunterra, had no reason to suspect (until the cheque-kiting was exposed) that Sunterra was kiting cheques and working largely, when "covering" them, from conditional credit, and acted reasonably in the aftermath of that revelation, exercising its recovery rights within the law and without causing any harm to Compeer.

[39] Contrast these circumstances to the cases above where contingent claims were found not too remote or speculative i.e. were found sufficiently certain.

[40] For instance, ***Thibault***, where the person being investigated had effectively conceded liability, moving the prospect of a monetary penalty out of the hypothetical zone.

[41] And ***Air Canada***, where the possible penalty was apparently almost inevitable on the facts

[42] And ***SemCanada***, where the entity in question had an "obligation to pay" a certain credit, a mechanism had been engaged to address the credit, and the "amount of the credit could have been calculated with some degree of certainty."

[43] And ***Re Harvey***, where "[a]ll that need[ed] to be done by HRDC [was] to review its file, calculate the amount [of the EI overpayment] and give notice."

[44] And ***James Bankruptcy (Re)***, where evidence clearly tagged Mr. James with liability, "no evidence [showed] that [he] intended to or could rebut the criminal charges or his liability, there was "evidence of property damage and injury", and these and all other indicators showed that he "would probably be liable to reimburse SGI."

[45] The present case is much more similar to ***Quebec Chamber of Notaries***, where the person (potentially) subject to the contingent liability "vehemently contested" the proceedings brought against him, there were only "pending proceedings", and the reviewing court was not able to, or in any case did not, gauge the strength of the underlying case.

[46] And to ***Chartered Professional Accountants of Alberta***, where the sanction decision "depend[ed] on a myriad of information about the specific circumstances …" and "[i]mportant pieces of the puzzle did not exist at the date of bankruptcy."

[47] Overall, given the above-described uncertainties surrounding Compeer's possible claim against NBC, I find that it can only be characterized as remote and speculative.

[48] How else to describe a claim which may or may not be brought, where (per the available evidence) Compeer itself has not concluded it has a claim, Compeer has not asserted any cause(s) of action or identified any evidence of NBC wrongdoing or breaches, NBC's self-assessment of exposure does not illuminate how NBC could have any actual exposure to Compeer (whether possible cause(s) of action or possible evidence of any wrongdoing or breaches), NBC strongly denies any wrongdoing or breaches, Compeer has other recovery options available to it (which it may decide to exhaust before pursuing NBC, if at all), and NBC in no way stands as a surety or equivalent to Compeer?

[49] In these circumstances, NBC's potential claim-over against Sunterra is, by definition, equally remote, speculative, and insufficiently certain to qualify as a provable contingent claim in Sunterra's *CCAA* proceedings.

[50] This is all aside from any incremental uncertainties (if any) arising from or relating to NBC's (potential) claim over against Sunterra i.e. concerning whether NBC has any, some, or all of the claimed indemnity routes to Sunterra.

[51] Where the core proceeding (Compeer v NBC) is remote and speculative, I find it unnecessary to explore potential further uncertainties in the claim-over link.

[52] The core-claim uncertainties on their own make the potential claim-over equally uncertain and thus unprovable as a contingent claim here.

V. Closing note

[53] I recognize that, in ***National Bank of Canada v Sunterra Food Corporation***, 2025 ABKB 599, I declined to order Compeer to provide details of its possible claim against National Bank, for reasons explained in that decision.

[54] And that, in that decision, I adverted to the proving of contribution and indemnity claims under s 19 *CCAA* i.e. to the suitability of the *CCAA* process for proving and valuing such claims (paras 16, 17, and 19).

[55] However, I did not rule there that NBC's contingent claim against Sunterra would or would not qualify for proving or otherwise address the merits of the current proving issue.

[56] I also adverted to the possibility that Compeer might provide more information about its possible claim against NBC (which apparently did not happen).

[57] All to say: then and now, Compeer was entitled to decide if, when, and how it will pursue NBC and with what (if any) advance disclosure of the basis or bases for any such action to NBC i.e. before a formal proceeding.

[58] The result, for present purposes, is to make the NBC-Sunterra claim-over remote, speculative, and insufficiently certain to prove here

Heard on December 4 and 5, 2025 in Calgary, Alberta.
Dated at Calgary, Alberta on January 29, 2026.

Michael J. Lema
J.C.K.B.A.

Appearances:

Sean F. Collins, KC
Sean Smyth, KC
McCarthy Tetrault LLP
For National Bank of Canada

Scott Chimuk and Charlotte Pittman
Blue Rock Law
For Sunterra Food Corporation, Trochu Meat Processors Ltd., Sunterra Quality Food Markets Inc., Sunterra Farms Ltd., Sunwold Farms Limited, Sunterra Beef Ltd., Lariagra Farms Ltd., Sunterra Farm Enterprises Inc., Sunterra Enterprises Inc., Ray Price, Debbie Uffelman and Craig Thompson