

NO. S-1810743
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

AND

**IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,
S.B.C. 2002, c.57, AS AMENDED**

AND

**IN THE MATTER OF THE *CANADA BUSINESS CORPORATIONS ACT*,
R.S.C. 1985, c.44, AS AMENDED**

AND

**IN THE MATTER OF A PLAN OR COMPROMISE AND ARRANGEMENT OF
PUREWAL BLUEBERRY FARMS LTD., 0726357 B.C. LTD., 0726365 B.C. LTD.,
0726368 B.C. LTD. and PUREWAL FARMS PARTNERSHIP**

TENTH REPORT OF THE MONITOR

MARCH 2, 2020

INTRODUCTION

1. This report (“**Tenth Report**”) has been prepared by FTI Consulting Canada Inc. (“**FTI**”) in its capacity as the court-appointed Monitor (the “**Monitor**”) pursuant to an order of the Supreme Court of British Columbia (the “**Court**”) pronounced October 11, 2018 (the “**Initial Order**”) pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985 c.36, as amended.
2. On April 30, 2018, Purewal Blueberry Farms Ltd. (“**Purewal**”) filed a Notice of Intention to File a Proposal (“**NOI**”) with the Superintendent of Bankruptcy pursuant to Part III, Division I of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and FTI was appointed trustee under the NOI (the “**Proposal Trustee**”).
3. Purewal sought and obtained extensions of the time to file a proposal under its NOI and its corresponding stay of proceedings as follows:
 - (a) by Order of the Court pronounced May 30, 2018 extending the time to July 13, 2018;
 - (b) by Order of the Court pronounced July 5, 2018 extending the time to August 27, 2018; and
 - (c) by Order of the Court pronounced August 24, 2018 extending the time to October 11, 2018.
4. Additional Orders sought and obtained by Purewal in the NOI proceedings included:
 - (a) An Order of the Court pronounced May 30, 2018 approving:
 - i. an interim financing facility (the “**DIP Loan**”) from Blueberry Holding (GP) Ltd. (in such capacity, the “**DIP Lender**”) in the maximum principal amount of \$500,000; and

- ii. an administrative charge to secure the fees and disbursements of Purewal's legal counsel, the Proposal Trustee, and its legal counsel (the "**Administrative Charge**") for an amount up to \$200,000.
- (b) Two Orders of the Court pronounced July 5, 2018 approving:
 - i. a claims process (the "**Claims Process**") by the Proposal Trustee to assist in identifying and understanding the quantum and extent of creditor's claims against Purewal (the "**Claims Process Order**"); and
 - ii. a sale process (the "**Sale Process**") for Purewal's processing plant in accordance with a proposed set of bidding procedures, to be administered by the Proposal Trustee (the "**Sale Process Order**").
5. On October 11, 2018, the NOI proceedings were converted into this CCAA proceeding by an order of this Court (the "**Initial Order**"), and all of the orders granted in the NOI proceedings, including but not limited to the Claims Process Order and the Sale Process Order, were continued into these CCAA proceedings.
6. Three companies that were not included in the NOI proceedings were added to these CCAA proceedings; namely 0726357 B.C. Ltd. ("**6357**"), 0726365 B.C. Ltd. ("**6365**") and 0726368 B.C. Ltd. ("**6368**"). 6357, 6365 and 6368 (collectively the "**Brothers' Companies**") are holding companies owned by Malkiat, Charan and Gurjit Purewal, respectively.
7. Among other things, the Initial Order extended the Administrative Charge over the property of Purewal and the Brothers' Companies.
8. On October 11, 2018, the Court made a further Order approving an asset purchase agreement submitted by 0801226 B.C. Ltd. (a party related to the DIP Lender) in the Sale Process, as the stalking horse bidder in the Sale Process.

9. On November 2, 2018, the Petitioners sought and obtained an order of this Court extending the stay of proceedings provided in the Initial Order to December 14, 2018.
10. On December 12, 2018, the Petitioners sought and obtained two orders of this Court:
 - (a) the first order approved an Offer to Purchase and Agreement of Purchase and Sale dated November 21, 2018 between Purewal and 1176094 B.C. Ltd. for the processing plant owned by Purewal; and
 - (b) the second order approved the extension of the stay of proceedings provided in the Initial Order to March 1, 2019 as well as increasing the Administrative Charge from a maximum aggregate of \$200,000 to \$300,000.
11. On February 6, 2019, the Petitioners sought and obtained two orders of this Court:
 - (a) the first order approved an extension for the closing of the sale of Purewal's processing plant to March 8, 2019 or a date as agreed between the Monitor, on behalf of Purewal, and the purchaser no later than 21 days after March 8, 2019; and
 - (b) the second order approved the extension of the stay of proceedings provided in the Initial Order to April 15, 2019, increased the Administrative Charge from an aggregate of \$300,000 to \$450,000 and added Purewal Farms Partnership (the "**Partnership**") as a petitioner to these proceedings (collectively with Purewal and the Brothers' Companies, the "**Petitioners**").
12. On February 6, 2019, the Monitor sought and obtained an order of this Court approving its fees and expenses for the period from April 1, 2018 to November 30, 2018 and approving the fees and expenses of its legal counsel for the period from June 1, 2018 to November 30, 2018.

13. On April 12, 2019, the Petitioners sought and obtained an order of the Court extending the stay of proceedings provided in the Initial Order to May 6, 2019.
14. On May 6, 2019, the Petitioners sought and obtained an order of the Court extending the stay of proceedings provided in the Initial Order to May 10, 2019.
15. On May 8, 2019, the Petitioners sought and obtained an order of the Court extending the stay of proceedings provided in the Initial Order to August 13, 2019 and expanding the Monitor's powers (the "**Expanded Powers Order**").
16. On August 12, 2019, the Petitioners sought and obtained two orders of this Court:
 - (a) the first order (the "**Sale Approval Order**") approved the sale of a property located at 13549 Hale Road, Pitt Meadows (the "**House Property**"), the details of which were described in the Seventh Report of the Monitor; and
 - (b) the second order approved the extension of the stay of proceedings provided in the Initial Order to September 30, 2019 and authorized the Petitioners' legal counsel to distribute the surplus funds remaining from the sale of Purewal's processing plant to the Monitor after providing for certain holdbacks related to priority claims (the "**Distribution Order**").
17. On September 30, 2019, the Petitioners sought and obtained an order of the Court extending the stay of proceedings provided in the Initial Order to January 15, 2020.
18. On January 8, 2020, the Petitioners sought and obtained three orders of this Court:
 - (a) the first order approved an Amended and Restated Settlement Agreement dated December 2019 as between the Petitioners and Berar and provided a vesting order to facilitate the closing of the transaction (the "**Approval and Vesting Order**");
 - (b) the second order extended the stay of proceedings provided in the Initial Order to March 18, 2020; and

- (c) the third order compelled the purchaser of Purewal's processing plant (1176094 BC Ltd.) to allow the Petitioners access to the server which was acquired in the sale of the processing plant for the purpose of making a copy of Purewal's electronic accounting records (the "**Records Access Order**").
19. On January 8, 2020, counsel to the Monitor sought and obtained an order of the Court approving the Monitor's fees and expenses for the period from December 1, 2018 to June 30, 2019 and for the Monitor's legal counsel for its fees and expenses for the period from February 21, 2019 to December 23, 2019.
20. The Monitor notes that the Court's approval with respect to its fees and expenses and those of its legal counsel was granted with the provision that any interested party on the service list could apply within 3 business days to vary the order. The Monitor advises this Honourable Court that no such applications were received.
21. The reports of the Proposal Trustee and the Monitor and other information in respect of these proceedings are posted on the Monitor's website at <http://cfcanada.fticonsulting.com/purewal/>.

PURPOSE

22. The purpose of the Tenth Report of the Monitor is to provide the Court with an update on the following:
- (a) the status of the Petitioners' funding;
 - (b) the status of the Berar claim and CRA claim;
 - (c) the status of the Petitioners' books and records and access thereto; and
 - (d) the Monitor's views and recommendations regarding the Petitioners' request for an extension of the provisions of the Initial Order, including the stay of proceedings, to June 19, 2020.

TERMS OF REFERENCE

23. In preparing this report, the Monitor has relied upon unaudited financial information, other information available to the Monitor and, where appropriate, the Petitioners' books and records and discussions with various parties (collectively, the "**Information**").
24. The Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants of Canada Handbook.
25. The Monitor has not examined or reviewed financial forecasts and projections referred to in this report in a manner that would comply with the procedures described in the Chartered Professional Accountants of Canada Handbook.
26. Future oriented financial information reported or relied on in preparing this report is based on assumptions regarding future events; actual results may vary from forecast and such variations may be material.
27. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.

UPDATE ON THE PETITIONERS' FUNDING

28. Subsequent to the date of the Ninth Report, the Monitor has used the funds in its trust account to pay for the professional fees of the Petitioners and for the post filing obligations of the Petitioners which primarily consists of the fees of the former accountant who has been assisting with the Petitioners' administrative affairs.
29. The following is a summary of the receipts and disbursements in the Monitor's trust account for the period from November 15, 2018 to February 25, 2020:

Summary of Receipts and Disbursements

Receipts	
Advances pursuant to DIP Loan	265,000
Extension fee	150,000
Funds released from Clark Wilson	2,829,113
Interest income	15,240
Total receipts	3,259,353
Disbursements	
DIP Lender fee	10,500
Insurance	93,279
Security	62,827
BC Hydro	73,267
Contractor fees and expenses	268,724
Payment to City of Pitt Meadows	51,080
Petitioners' legal counsel fees and disbursements	145,874
Monitor's fees and disbursements	249,828
Monitor's legal counsel fees and disbursements	83,730
Bank charges	131
Total disbursements	1,039,240
Excess of receipts over disbursements	\$ 2,220,113

30. As indicated, the Monitor is holding funds of approximately \$2.2 million as at February 25, 2020.

31. As indicated in the Ninth Report of the Monitor, the Petitioners' legal counsel was holding funds totalling approximately \$4.0 million.
32. However, pursuant to the Approval and Vesting Order, the Petitioner's legal counsel released \$2,065,250 to Berar's legal counsel for payment of all amounts due under the Amended and Restated Settlement Agreement.
33. In addition, the Petitioners' legal counsel also released \$1,778,725 to the Canada Revenue Agency ("CRA") as payment in full of its deemed trust claim for unremitted employee source deductions.
34. Given that the claims against the funds held by the Petitioners' legal counsel have now been satisfied, the Monitor expects to receive the residual funds for depositing into its trust account.

Funds held by Petitioners' legal counsel	
Balance of trust account as noted in Ninth Report of Monitor	4,048,006
Additional earned interest	20,146
Payment of CRA deemed trust claim	(1,778,725)
Payment of Berar settlement	(2,065,250)
Funds to be released to the Monitor	224,177

THE STATUS OF THE COMPANY'S BOOKS AND RECORDS

35. Subsequent to the granting of the Records Access Order, Purewal's former accountant attempted to serve the order at the processing plant, however there was no one on site.
36. The Monitor called and left messages with the contact person who had been acting as the principal in the sale transaction, however none of the Monitor's calls were returned.
37. On February 5, 2020, the Monitor was finally able to speak with a representative of 1176094 BC Ltd. who agreed to allow the Petitioners' former accountant and an IT consultant access to the premises so that Purewal's accounting records could be copied.
38. The representative of 1176094 BC Ltd. indicated that they had some issues that they had been dealing with and apologized for the delay in providing access.
39. Accordingly, on February 7, 2020 the Petitioners' former accountant obtained access and with the assistance of the Petitioners' IT consultant, were able to make an electronic copy of Purewal's accounting records.
40. Subsequently, the Monitor provided the Petitioners' former accountant with the supporting documents for all of the payments made by the Monitor and the Petitioners' legal counsel from funds they held so that the transactions could be recorded in the Petitioners' accounts.
41. As a result, the Petitioners' former accountant is now in the process of preparing and filing all of the remaining outstanding GST returns so that CRA may finalize its claim.

42. In addition, now that the Petitioners' have access to its books and records, the Petitioners' former accountant can work with the Monitor to evaluate the remedies that may be available to the Petitioner with respect to monetizing the Airport Lease.

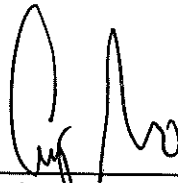
PETITIONERS' REQUEST TO EXTEND THE STAY OF PROCEEDINGS

43. The Petitioners are seeking an extension of the provisions of the Initial Order, including the stay of proceedings, to June 19, 2020. Absent such extension, the stay will expire on March 18, 2020.
44. The Petitioners are seeking an extension for the following reasons:
- (a) to finalize the Claims Process, including the review of CRA's claim;
 - (b) to finalize the Monitor's investigation with respect to, and allow it to evaluate the remedies relating to, the Airport Lease; and
 - (c) to consider and implement the process for a distribution to unsecured creditors.
45. The Monitor has considered the test that the Court must be satisfied with in order to grant an extension of the stay of proceedings to the Petitioners, namely that:
- (a) the Petitioners must be acting in good faith and with due diligence; and
 - (b) the Petitioners satisfy the Court that circumstances exist that make the order appropriate.

46. Given that the sale of the majority of the Petitioners' assets have now been completed, and the Monitor has been provided with expanded powers pursuant to the Expanded Powers Order, the Monitor believes that the Petitioners are acting in sufficiently good faith and due diligence such that the extension of the stay of proceedings is in the best interests of all stakeholders.
47. Accordingly, the Monitor supports the Petitioners' request for an extension of the stay of proceedings to June 19, 2020.

All of which is respectfully submitted this 2nd day of March, 2020.

FTI Consulting Canada Inc., in its capacity as
Monitor of Purewal Blueberry Farms Ltd.,
0726365 B.C. Ltd., 0726368 B.C. Ltd., 0726357
B.C. Ltd. and Purewal Farms Partnership



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