

COURT FILE NUMBER B-150741
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE BANKRUPTCY AND INSOLVENCY

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL
OF APOLLO GROUP MANAGEMENT LTD.**

THIRD REPORT OF THE PROPOSAL TRUSTEE

NOVEMBER 10, 2015

INTRODUCTION

1. On July 23, 2015, Apollo Group Management Ltd. (“**Apollo**” or the “**Company**”) filed a Notice of Intention to File a Proposal (“**NOI**”) pursuant to Part III, Division I of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended (the “**BIA**”). FTI Consulting Canada Inc. (“**FTI**”) was appointed as the Trustee (the “**Proposal Trustee**”) under the NOI.
2. The reports of the Proposal Trustee and other information in respect of these proceedings are posted on the Proposal Trustee’s website at <http://cfcanada.fticonsulting.com/ApolloGroupManagementLtd/>.

PURPOSE

3. The first report of the Proposal Trustee dated August 14, 2015, (the “**First Report**”), informed the Court on the following:
 - (a) The activities of the Company since the filing of its NOI;
 - (b) An overview of the Purchase and Sale Agreement entered into between Apollo and the Purchaser;
 - (c) A summary of Apollo’s creditors;
 - (d) An analysis of the Company’s actual cash receipts and disbursements to August 9, 2015, compared to the forecast filed on July 31, 2015;
 - (e) The Company’s cash flow forecast for the period from August 10, 2015 to January 23, 2016; and
 - (f) The Company’s request for an extension of the current stay of proceedings under the NOI from August 22, 2015 to October 5, 2015.
4. On August 21, 2015, an Order of this Honourable Court was granted extending the stay of proceedings for the Company to October 5, 2015 (the “**First Extension Order**”).

5. The second report of the Proposal Trustee dated September 23, 2015, (the “**Second Report**”), informed the Court on the following:
 - (a) The activities of the Company since the filing of the First Report;
 - (b) A summary of the Company’s actual cash receipts and disbursements for the period from July 27, 2015 to September 18, 2015;
 - (c) The Company’s cash flow forecast for the period from September 19, 2015 to January 23, 2016; and
 - (d) An update on the status of the Company’s secured lenders.
6. On September 30, 2015, an Order of this Honourable Court was granted extending the stay of proceedings for the Company to November 19, 2015 (the “**Second Extension Order**”).
7. The purpose of this report, the third report of the Proposal Trustee (the “**Third Report**”), is to provide the Court with an update on the following:
 - (a) The activities of the Company since the filing of the Second Report;
 - (b) An analysis of the Company’s actual cash receipts and disbursements for the period from September 19, 2015 to October 31, 2015, compared to previous forecasts filed by the Company;
 - (c) The Company’s cash flow forecast for the period from November 1, 2015 to January 23, 2016; and
 - (d) An update on the status of the Company’s secured lenders.

TERMS OF REFERENCE

8. In preparing this report, the Proposal Trustee has relied upon unaudited financial information, other information available to the Proposal Trustee and, where appropriate, the Company's books and records and discussions with various parties (collectively, the "**Information**").
9. Except as described in this Third Report:
 - (a) The Proposal Trustee 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; and
 - (b) The Proposal Trustee 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.
10. 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.
11. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.
12. Defined terms have the meaning ascribed to them in this report or in prior reports filed by the Proposal Trustee.

UPDATE ON THE COMPANY'S ACTIVITIES

13. Based on the Proposal Trustee's discussions with Peter Dhillon (the "**Farm Manager**"), the Company has continued to operate the Cranberry Farm in the normal course.
14. As a result of the Company's NOI filing, several of the Company's suppliers have demanded to be paid in advance for their services or prior to the delivery of goods. However this has not affected the cash flow as the payment in advance of services or cash on delivery for goods were anticipated at the time of preparing the initial cash flow.
15. The Cranberry Farm's harvest commenced on September 27, 2015 with the harvest of one field which was quicker to mature than the other fields. The remaining fields were harvested between mid-October and the first week of November.
16. At the date of the First Report the Farm Manager estimated the 2015 crop yield would be approximately 50,000 barrels. The Farm Manager's estimate was approximately 13,000 barrels higher than the average of the past three annual crop yields. He based his estimate for 2015 on the fact that this year had been a longer growing season in what he believed to be optimal growing conditions.
17. At the Date of the Second Report the Proposal Trustee reconfirmed the 50,000 barrel estimate with the Farm Manager.
18. The actual crop yield at the end of the 2015 harvest was 30,916 barrels totaling 3,091,610 usable pounds of cranberries valued at approximately US\$1,391,000 or US\$0.45 per usable pound. The crop yield in 2015 was consistent with that achieved in 2014.

19. According to the Farm Manager the general consensus of cranberry farmers in British Columbia was that environmental conditions were optimal for cranberry growing through the summer of 2015, which had all farmers predicting a strong crop yield.
20. The crop yield of 30,916 barrels is significantly less than the Farm Manager's estimate of 50,000 barrels. The Proposal Trustee discussed the variance with the Farm Manager who indicated that it is difficult to gauge the actual crop yield before harvest and he was basing his estimate on what he thought were optimal growing conditions. The Farm Manager believes there were two main factors that contributed to the low crop yield:
 - (a) In an effort to conserve cash the Company cut back on fertilizer and chemical treatments during the growing season; and
 - (b) A lack of natural precipitation through the majority of the growing season.
21. The cash impact during the NOI period of the lower than expected crop yield is a negative adjustment of \$132,000 to the forecasted cash receipts in December, 2015 from Ocean Spray receivables.

PURCHASE AND SALE AGREEMENT

22. On July 15, 2015 the Company entered into a Purchase and Sale Agreement for the real property and other assets of the Company (the "**Sale Transaction**"). The purchase price pursuant to the Sale Transaction is \$24,875,000.
23. Pursuant to the terms of the Sale Transaction, a deposit of \$500,000 (the "**Deposit Funds**") was provided by the purchaser which is to be credited against the purchase price on closing. The closing date for the Sale Transaction is February 11, 2016.

24. As noted in the Second Report, the purchaser agreed to allow the Company access to the Deposit Funds for use as follows:
- (a) \$228,000 to be paid to HSBC Bank Canada (“**HSBC**”) towards principal reduction of their operating loan;
 - (b) \$88,000 to be remitted to DB Barnston Investment LLP (“**Barnston**”), relating to payment of interest estimated to accrue during the period to the closing of the Sale Transaction in respect of its secured loan; and
 - (c) \$174,000 to be remitted to Farm Credit Canada (“**Farm Credit**”) relating to interest estimated to be payable in November 2015 in respect of its secured loan.
25. The balance of \$10,000 was to be held by the purchaser’s legal counsel as a retainer for the services provided with respect to the release of the Deposit Funds.
26. The Deposit Funds have been released to HSBC, Barnston and Farm Credit as outlined above.
27. The Proposal Trustee contacted the purchaser’s legal counsel last week and was informed that the Sale Transaction is expected to close as scheduled.

STATUS OF SECURED CREDITORS

28. The Company’s principal secured creditors are HSBC, Farm Credit, First West Credit Union (“**First West**”) and Barnston.

Farm Credit

29. As noted in the Second Report, at the hearing for the First Extension Order an agreement was reached between the Company and Farm Credit such that the stay of proceedings would not apply to the rights and remedies of Farm Credit and that Farm Credit was at liberty to commence and continue foreclosure proceedings provided that Farm Credit did not seek a redemption period of less than six months for its Order Nisi.
30. In exchange, the Company agreed to prepay the loan payment due to Farm Credit in November 2015 in the amount of \$174,000 from the Deposit Funds, as set out above.
31. As at the date of the Third Report, the Proposal Trustee understands that Farm Credit has not yet commenced foreclosure proceedings

HSBC

32. As noted in the Second Report, the Company entered into a forbearance agreement with HSBC. In exchange for scheduled principal reductions and payment of interest as it becomes due, HSBC has agreed to forbear from taking any steps to enforce its security until the earlier of a default under the HSBC Agreement or the closing of the Sale Transaction as detailed in the First Report. HSBC is not required to forbear under any circumstance beyond February 29, 2016.
33. The first scheduled payment of \$228,000 to HSBC was made from the Deposit Funds as outlined above, and the next payment of \$100,000 is due prior to December 31, 2015.

Barnston

34. As indicated previously, Barnston has been paid \$88,000 from the Deposit Funds which is an estimate of the interest expected to accrue on its secured loan until the closing of the Sale Transaction.

First West

35. Subsequent to the Second Report the Company reached an agreement with First West, the principal terms of which are summarized as follows:

- (a) Monthly interest payments will be made on the following dates:
- i. Payment of the amount of \$25,533 by October 8, 2015 relating to the interest earned in August that remains unpaid;
 - ii. Payment of the amount of \$32,725 by October 15, 2015 relating to the interest earned in September that remains unpaid; and
 - iii. Payment of monthly interest (approximately \$34,000 per month) to be made on the last day of each subsequent month commencing October 31, 2015. The payment amount will reduce pending any further principal reduction.
- (b) Should any payment be missed, returned NSF or, delayed for any reason by the Company, a default rate of interest will be incurred equal to an increase of 3% over the existing rate.

- (c) First West will be paid approximately \$400,000 from the release of funds being held to secure a Letter of Credit given in favour of the City of Burnaby by a company related to Apollo. The payment will be applied directly to the principal balance owing. It is uncertain whether these funds will be released prior to the closing of the Sale Transaction.
 - (d) First West will discharge the crystalized floating charge it registered on title of the personal residence of one of the First West loan guarantors.
36. The Company made the first two interest payments as outlined above. However, the proposal Trustee notes that the October 31, 2015 payment was returned to First West due to non-sufficient funds in the Company's bank account. The Proposal Trustee has been informed by Apollo's management, that there was a timing issue with a deposit made to Apollo's account to cover the payment to First West. Subsequent to October 31, 2015 Apollo made payment to First West for the October, 2015 interest
37. The Proposal Trustee has been advised that First West has agreed not to invoke the default rate of interest as a result of the late payment.

COMPARISON OF FORECAST TO ACTUAL

38. The following table indicates the actual cash receipts and disbursements for the period from September 19, 2015 to October 31, 2015 as compared to the forecast prepared by the Company and attached as Appendix A to the Second Report.

Actual Receipts and Disbursements Compared to Forecast from September 19, 2015 to October 31, 2015

	Forecast	Actual	Variance
Opening Cash (Canadian Dollar)	294,396	294,396	-
Cash Receipts			
Collections on AR	200,000	198,245	(1,755)
Total - Operating Receipts	200,000	198,245	(1,755)
Cash Disbursements			
Interest and Principal Payments to Secured Creditor	78,000	58,250	19,750
Operating Costs	118,675	128,285	(9,610)
Professional Fees	55,000	22,944	32,056
Management Fees	45,000	80,000	(35,000)
Total - Operating Disbursements	296,675	289,479	7,196
Net Change in Cash from Operations	(96,675)	(91,234)	5,441
Ending cash (Canadian Dollar)	197,721	203,161	5,441

39. The details for the significant variances are as follows:

- (a) The interest and principal payments to secured creditors variance is due to timing of interest payments and expected to reverse in future weeks;
- (b) Operating costs were higher than forecast as the Company was required to prepay all harvest costs. The variance is expected to be a timing difference which has been taken into consideration in the Cash Flow Forecast;

- (c) Professional fees are lower than forecast. A portion of the variance is expected to be a permanent difference to the cash flow. The remaining variance is a timing difference that is expected to reverse in future weeks; and
 - (d) The management fee variance is a timing difference that is expected to reverse in future weeks.
40. As a result, the Company held a cash balance of approximately \$203,000 as at October 31, 2015.

CASH FLOW FORECAST

41. The Company has prepared a revised cash flow forecast (the “**Cash Flow Forecast**”) for the period from November 1, 2015 to January 23, 2016 (attached as Appendix A). The Cash Flow Forecast takes into account the permanent negative variance in cash receipts due to the lower than expected crop yield discussed above. The Company has adjusted the operating budget to accommodate for the lower cash receipts and is willing to further reduce the management fee if required.
42. The Cash Flow Forecast indicates that the Company should have sufficient resources to meet its obligations during the period covered by the Cash Flow Forecast.

COMPANY REQUEST FOR AN EXTENSION

43. The Company is seeking an extension of the stay of proceedings to December 22, 2015. Absent an extension, the stay of proceedings would expire on November 19, 2015. The Company is seeking an extension to formulate a proposal to its creditors in conjunction with the closing of the Sale Transaction.

44. The Proposal Trustee supports the Company's request for an extension of its stay of proceedings based on the following:
- (a) The Proposal Trustee has observed that the Company has acted in good faith and with due diligence;
 - (b) The Sale Transaction if closed, would appear to provide sufficient proceeds to satisfy the claims of all creditors in full; and
 - (c) The Company appears to have sufficient resources to allow it to keep its creditors current during the extension period and accordingly does not appear to be prejudicial to any of the creditors.

All of which is respectfully submitted this 10th day of November, 2015.

FTI Consulting Canada Inc.,
in its capacity as Proposal Trustee under a NOI
filed by Apollo Group Management Ltd.



Name: Craig Munro
Title: Managing Director,
FTI Consulting Canada Inc.

APPENDIX A

	Month			TOTAL	Notes
	November	December	January 1 - 23		
Opening Cash (as of October 31, 2015)	203,161	60,836	195,761	203,161	1
Cash Receipts					
Collections on AR	-	384,000	-	384,000	2
Other Deposits	33,500	-	-	33,500	3
Total - Operating Receipts	33,500	384,000	-	417,500	
Cash Disbursements					
Interest and Principal Payments to Secured Creditor	68,000	134,000	107,000	309,000	4
Operating Costs	52,825	55,075	24,475	132,375	5
Professional Fees	20,000	25,000	20,000	65,000	6
Management Fees	35,000	35,000	35,000	105,000	7
Total - Operating Disbursements	175,825	249,075	186,475	611,375	
Net Change in Cash from Operations	(142,325)	134,925	(186,475)	(193,875)	
Ending cash	60,836	195,761	9,286	9,286	

Notes:

Apollo Group Management Ltd. ("Apollo") has prepared this Projected Cash Flow Statement solely for the purposes of determining the liquidity requirements of Apollo for the period from November 1, 2015 to January 23, 2015 .

The Projected Cash Flow Statement is based on the probable and hypothetical assumptions detailed in Notes 1 - 7.

Consequently, actual results will likely vary from performance projected and such variations may be material.

- 1 - Opening bank balance as at October 31, 2015.
- 2 - Ocean Spray International Inc. pays Apollo for its annual harvest on a bi-monthly basis over an agreed upon period (12 months for the 2015 harvest). This represents the amount expected to be collected from Ocean Spray relating to accounts receivable 2014 and 2015 harvest. Payments are made in USD and are subject to currency fluctuation. The forecast is based on a USD/CAD exchange rate of 1.31.
- 3 - Other deposits relate to funds anticipated to be received from a related company.
- 4 - Apollo proposes to fund the post-filing interest expense of its secured creditors; Farm Credit Canada, DB Barnston Investment LP, First West Credit Union, and HSBC until the sale closes in February 2016. Apollo also proposes to make payments to HSBC on account of principal in the amounts of \$100,000 in December 2015 and \$72,000 in January 2016. The monthly interest payments to HSBC is being paid by a related company.
- 5 - Operating costs are based on Apollo's 2015 operating budget and assumed to be on a COD basis. The operating costs are based on historical costs which reflect the farm in full operation.
- 6 - Professional fees are based on estimates provided by the Proposal Trustee and the company's legal counsel.
- 7 - Management fees relate to management services provided to Apollo.