

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF NFC ACQUISITION GP INC., NFC
ACQUISITION CORP. AND
NFC LAND HOLDINGS CORP.**

**UNOFFICIAL TRANSCRIPTION OF THE ENDORSEMENT OF
MR. JUSTICE MORAWETZ
(January 17, 2012)**

January 17, 2012

D. Bish, A. Slavens, for Applicants
B. Grey for Directors B. Cram & M. Thrasher
C. Prophet & D. Cohen for BMO
E. Lamek & C. Fell for FTI

This Application was brought, for all practical purposes, on an ex parte basis. Counsel submit that the urgency of the situation coupled with business realities required and necessitated this approach. For the purposes of this hearing I accept these submissions.

Having reviewed the record and hearing submissions, I am satisfied that it is appropriate to grant the requested relief.

In arriving at this decision I have taken into account:

1. The Applicants are debtor corporations to which the CCAA applies.
2. The Applicants are insolvent and have liabilities in excess of \$5 million.
3. The NFC Entities, which are comprised of the Applicants, New Food Classics ("NFC") and NFC Acquisition L.P. (NFC and NFC Acquisition L.P. being the "Partnerships") are insolvent.
4. Courts in CCAA proceedings often exercise jurisdiction to stay proceedings with respect to partnerships and limited partnerships affiliated with one or more Applicants where it is just and convenient to do so. In this case, I am satisfied that operations of the Applicants

are so intertwined with the Partnerships so as to justify the application of the CCAA to the Partnerships. (Paragraph 13 of Factum).

5. A stay of proceedings is necessary so as to allow the NFC Entities to maintain operations while giving them the necessary time to effectuate the restructuring and implementation of a sales process.
6. DIP Charge, Administration Charge and Directors' and Officers' Charge are necessary and are granted. In granting such charges, I have considered the tests set out in the CCAA and the facts of this case. The legal tests are set out in the factum as well as the specific facts in this case. (See paragraphs 19 - 34).
7. In priority of the Directors' Charge, the Administration Charge and the DIP Lenders' Charge (collectively the "Charges") is set out in the draft order starting at paragraph 38. The Charges have priority to the security interests of BMO and TD only. (See paragraph 40).
8. The Applicants also request approval of a sales process. At paragraphs 108 - 111 of Mr. Cram's affidavit, the factual basis for embarking on an expedited sales process is set out. Counsel to BMO emphasized the necessity of approving the sales process today - notwithstanding the lack of notice to any party, in particular the Union. The Applicants also stress the need for the requested approval of the sales process at this time. In the circumstances and recognizing the terms and conditions being put forth by BMO for its support, I have been persuaded that the sales process should be approved at this time. However, in order to accommodate the possibility that other parties may have differing views on the issue, the approval of the sales process is being granted on the express understanding that the Applicants will forthwith contact parties with significant interest in this matter and advise them that a further hearing will be held on Friday January 20, 2012, (1 1/2 hours) at which time the approval of its sales process can be reviewed and reconsidered, if necessary. This hearing is not intended to be an all encompassing comeback hearing. It will focus on the sales process. Applicants to ensure that all unions are to be made aware of this hearing.
9. I have also noted that the NFC Entities are headquartered in Burlington and as such are properly before this court. In addition the required documents (see s. 10 of CCAA) have been filed with the Application, as well as the consent of FTI Consulting Canada Inc., as proposed monitor. In the result, CCAA protection is granted.

Order has been signed in the form presented.

Morawetz J.

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Court File No.

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ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

Proceeding commenced at Toronto

**Unofficial Transcription of the Endorsement
of Mr. Justice ■
(January 17, 2012)**

Torys LLP

79 Wellington Street West
Suite 300, TD Centre
Toronto, Ontario M5K 1N2

Fax: 416.865.7380

David Bish (LSUC#: 41629A)

Tel: 416.865.7353

Email : dbish@torys.com

Adam M. Slavens LSUC#: 54433J

Tel: 416.865.7333

Email: aslavens@torys.com

Lawyers for NFC Acquisition GP Inc.,
NFC Acquisition Corp.,
NFC Land Holdings Corp.,
New Food Classics and
NFC Acquisition L.P.