



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**

**FOURTH REPORT OF THE MONITOR**

**APRIL 8, 2019**

## INTRODUCTION

1. This report (“**Fourth 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 its stay of proceedings under the NOI as follows:
  - (a) by Order of the Court pronounced May 30, 2018 extending the time to file a proposal under its NOI (and corresponding stay of proceedings) to July 13, 2018;
  - (b) by Order of the Court pronounced July 5, 2018 extending the time to file a proposal under its NOI (and corresponding stay of proceedings) to August 27, 2018; and
  - (c) by Order of the Court pronounced August 24, 2018 extending the time to file a proposal under its NOI (and corresponding stay of proceedings) 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, secured by a charge in priority to all other encumbrances, over the assets of Purewal (including any assets of Purewal held in trust for 0726357 B.C. Ltd., 0726365 B.C. Ltd. and 0726368 B.C. Ltd.) (the “**Purewal Property**”) (the “**DIP Lender’s Charge**”); 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**”) in priority to all other encumbrances (other than the DIP Lender’s Charge) against the Purewal Property for 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**”) which are holding companies owned by Malkiat, Charan and Gurjit Purewal, respectively. Malkiat, Charan and Gurjit are brothers and together are the founders of Purewal.
7. The Initial Order increased the amount of the approved DIP Loan from \$500,000 to \$1,000,000, increased the DIP Lender’s Charge to \$1,000,000, and extended the DIP Lender’s Charge and the Administrative Charge over the property of Purewal and the Brothers’ Companies (the “**Petitioners**”).
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. (the “**Purchaser**”) (the “**Winning APA**”) as detailed in the Second Report and provided a vesting order to convey title in the processing plant to the Purchaser (the “**AV Order**”); 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 Winning APA 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 as a petitioner to these proceedings.
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. In addition, the activities of the Monitor as described in its Third Report were also approved.
13. 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**

14. The purpose of the Fourth Report of the Monitor is to provide the Court with an update on the following:
  - (a) An update on the status of the Sale Process; and
  - (b) 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 May 6, 2019.

## TERMS OF REFERENCE

15. 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**").
16. 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.
17. 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.
18. 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.
19. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.

## **UPDATE ON THE SALE PROCESS**

20. As indicated previously, on February 6, 2019 the Petitioners sought and obtained an order of the Court approving the extension of the closing date of the Winning APA to March 8, 2019 or a date as agreed between the Monitor, on behalf of Purewal, and the purchaser not later than 21 days after March 8, 2019.
21. A further extension request was sought by the Purchaser's legal counsel which was agreed after the Monitor confirmed with Purchaser's proposed lender that the financing had been approved.
22. A one week extension was agreed to by the Monitor after consulting with the Petitioner and its legal counsel.
23. On March 15, 2019, the Winning APA was closed and closing proceeds were forwarded to the Petitioner's legal counsel.
24. Subsequent to closing, the Petitioners' legal counsel paid out the stalking horse termination fee and the outstanding amounts due to the DIP Lender with respect to its DIP Loan and mortgage.

## **PETITIONERS' REQUEST TO EXTEND THE STAY OF PROCEEDINGS**

25. The Petitioners are seeking an extension of the provisions of the Initial Order, including the stay of proceedings, to May 6, 2019. Absent such extension, the stay will expire on April 15, 2019.
26. The Petitioners had originally intended to seek the following relief in addition to an extension of the stay of proceedings:

- (a) A revised claim process order which would supplement the Claim Process Order granted in the NOI proceedings focusing on the claims of the additional Petitioners and providing a claims bar date:
  - (b) Adding 0740656 B.C. Ltd. as an additional petitioner to these proceedings; and
  - (c) An order providing the Monitor with enhanced powers to take steps to resolve some outstanding issues that the Petitioners have been delayed in addressing.
27. On April 5, 2019 the Petitioners' legal counsel was advised by Court scheduling that Justice Weatherill was unavailable to hear the Petitioners' application until May 6, 2019.
28. To date, Justice Weatherill has heard all of the Petitioners' applications in these CCAA proceedings and the Monitor is of the view that his history with the case would make the application for the broader relief being sought more efficient.
29. Accordingly, the Petitioners are limiting the relief in this application to an extension of the stay of proceedings to the next available date for Justice Weatherill.
30. The Monitor intends to prepare and file a more comprehensive report prior to the Petitioners' application on May 6, 2019.
31. 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 must satisfy the Court that circumstances exist that make the order appropriate.

32. The Monitor is currently examining certain of the Petitioners' actions that have come to light since the date of the Monitor's prior report; which will be fully detailed in its next report. Although the Monitor believes that some of the Petitioners' actions give rise to concern, the Petitioners are being co-operative with the Monitor's ongoing consideration of this matter and therefore the Monitor is of the view that a short extension of the stay of proceedings is in the best interest of all stakeholders to provide for the time necessary:

- (a) to allow the Monitor time to prepare and file a comprehensive report on the status of the proceedings since its prior report, including the consideration noted above; and to
- (b) allow discussions to further develop regarding the possible settlement of the Berar claim (as detailed in the Second Report of the Monitor) and to further investigate the claims of CRA.

33. Further, it is the Monitor's understanding that the relief that will be sought on May 6, 2019 to enhance its powers is intended to address these issues and bring these restructuring proceedings to a conclusion, and in bringing such applications, the Monitor is satisfied that the Petitioners are acting with good faith and due diligence.

34. Accordingly, the Monitor supports the Petitioners' request for an extension of the stay of proceedings to May 6, 2019.

All of which is respectfully submitted this 8<sup>th</sup> day of April, 2019.

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 Farm  
Partnerships



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FTI Consulting Canada Inc.