

**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 PLANET ORGANIC HEALTH CORP. AND DARWEN HOLDINGS LTD.**

Applicants

**THIRD REPORT OF THE MONITOR
DATED MAY 28, 2010**

INTRODUCTION

1. On April 29, 2010, Planet Organic Health Corp. ("**Planet**" or the "**Company**") and Darwen Holdings Ltd. ("**Darwen**") (collectively, the "**Applicants**") filed for and obtained protection under the *Companies' Creditors Arrangement Act* (the "**CCAA**") pursuant to the Order of this Honourable Court dated April 29, 2010 (the "**Initial Order**").
2. Pursuant to the Initial Order, Deloitte & Touche Inc. ("**Deloitte**") was appointed as the Monitor of the Applicants (the "**Monitor**") in the CCAA proceedings and a stay of proceedings was granted in favour of the Applicants. The stay of proceedings has been extended until June 18, 2010 (the "**Stay Period**").
3. The Monitor has provided this Honourable Court with the following reports:
 - i. a pre-filing report of the Proposed Monitor dated April 29, 2010 (the "**Pre-Filing Report**") in connection with the Applicants' application for protection under the CCAA;
 - ii. a first report of the Monitor dated May 11, 2010 (the "**First Report**") in connection with the Applicants' motion to adjourn and postpone the Applicants' annual general

meeting; and

- iii. a second report of the Monitor dated May 19, 2010 (the “**Second Report**”) in connection with the Applicants’ motion to extend the Stay Period to June 18, 2010.
4. Copies of the Initial Order, the Pre-Filing Report, the First Report, the Second Report, all motion records and orders in the CCAA proceedings, and certain other documents related to the CCAA proceedings have been posted and are available on the Monitor’s website at www.deloitte.com/ca/planet-organic.

PURPOSE

5. The purpose of this third report of the Monitor (the “**Third Report**”) is to:
- i. comment on the operations of the Company since the Second Report;
 - ii. comment on the sales process conducted by the Applicants and their advisors prior to the commencement of the CCAA proceedings;
 - iii. comment on the Applicants’ request for an Order approving the Acquisition Agreement dated May 19, 2010 between the Applicants and The Catalyst Capital Group Inc. on behalf of funds management by it (“**Catalyst**”) that has resulted from the sales process (the “**Proposed Acquisition**”);
 - iv. comment on the Applicants’ related request for an Order approving the proposed D&O Claims Process (as defined below);
 - v. provide the Monitor’s Liquidation Analysis;
 - vi. describe the activities of the Monitor since the Monitor’s Pre-Filing Report in connection with the Applicants’ request for an Order approving the Monitors’ First Report, Second Report, Third Report and the actions and conduct of the Monitor as described therein; and
 - vii. provide the Monitor’s conclusions and recommendations regarding the Proposed Acquisition and the related relief requested by the Applicants.

TERMS OF REFERENCE

6. In preparing this Third Report, the Monitor has relied upon unaudited financial information, the Applicants' books and records, the Affidavit of Darren Krissie sworn April 29, 2010 (the "**April 29 Krissie Affidavit**"), the Affidavit of Darren Krissie sworn May 20, 2010 (the "**May 20 Krissie Affidavit**"), the Affidavit of Tripp Baird sworn May 20, 2010 (the "**Baird Affidavit**") and discussions with management of the Company and its financial and legal advisors. The Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of this information and, accordingly, the Monitor expresses no opinion or other form of assurance regarding any such information. An examination of the financial forecast as outlined in the Canadian Institute of Chartered Accountants Handbook has not been performed. Future oriented financial information referred to or relied upon in this Third Report is based on management's assumptions regarding future events and conditions that are not ascertainable. Accordingly, actual results achieved will vary from any such information, and the variations may be material.
7. Unless otherwise stated, all monetary amounts contained in this Third Report are expressed in Canadian dollars.
8. Capitalized terms used in this Third Report but not defined are as defined in the Pre-Filing Report, the First Report and the Second Report.

OPERATIONS OF THE COMPANY SINCE THE SECOND REPORT

9. The Company continues to pay its employees and remit statutory deductions in the normal course of business, as authorized by the Initial Order.
10. Highlights of the Company's financial performance for the period from May 9, 2010 to May 22, 2010 are presented in the Cash Flow Variance Analysis annexed hereto as Exhibit "A". The Monitor's comments on the financial performance of the Company during this period are as follows:
 - (a) Compared with the Cash Flow Statement provided as Exhibit "B" to the Second Report, the Company experienced a cumulative favourable variance of

approximately \$143,000 in respect of ending cash flows for Week 3 and Week 4. The Company experienced higher sales than initially projected during this two week period, with deposits from sales having a cumulative favourable variance compared to forecast of approximately \$191,000;

- (b) Trade payable disbursements had a cumulative unfavourable variance compared to forecast of \$125,000, partially attributable to the increase in cost of sales associated with the increase in sales noted above. A portion of the unfavourable variance was also due to timing, as the Company continued to pay on shorter terms than originally anticipated;
 - (c) Operating expenses had a cumulative favourable variance of approximately \$35,000, due to timing differences related to professional services for accounting and tax related engagements, as costs were incurred during Week 4 as opposed to the close of each engagement as anticipated by the Company. Payroll costs were consistent with the Company's forecast, with a favourable variance of approximately \$6,000; and
 - (d) Restructuring costs had a cumulative favourable variance of approximately \$9,000, as differences due to the timing of receipt of invoices from the Applicants' restructuring advisors were for the most part offset between Week 3 and Week 4.
11. At the close of Week 4 of the Stay Period, cash on hand amounted to \$4.0 million which is consistent with the forecasted balance as per the Updated Cash Flow Statement annexed hereto as Exhibit "B".
12. As at the date of this Third Report, all expenses incurred have been or will be paid from the existing working capital of the Company. Therefore, the Company does not project a requirement for additional financing, as supported in the Updated Cash Flow Statement.

SALES PROCESS CONDUCTED BY THE APPLICANTS PRIOR TO THE CCAA PROCEEDINGS

13. As discussed in the Pre-Filing Report, the April 29 Krissie Affidavit and the Baird Affidavit, the Company conducted an extensive marketing and sales process during the course of the year leading up to the commencement of the CCAA proceedings.
14. In March 2009, the Company retained Partnership Capital Growth LLC (“PCG”) to act as its advisor for the purpose of reorganizing or recapitalizing the business and/or exploring other restructuring alternatives, including a sale and/or divesture process.
15. During the period from March 2009 to April 2010, PCG and the Company worked together in an effort to restructure the business. These efforts involved:
 - (a) attempts to raise additional equity and/or refinance the business;
 - (b) sales of non-core assets; and
 - (c) efforts to market and sell the core business (consisting of POM in Canada and Mrs. Green’s in the U.S.) either as a whole or separately.

A. Efforts to Raise Equity or Refinance

16. As discussed in greater detail in the Pre-Filing Report, the April 29 Krissie Affidavit and the Baird Affidavit, the Applicants’ pre-filing efforts to raise additional equity and/or refinance the business were (a) varied and extensive and (b) unsuccessful.

B. Sales of Non-Core Assets

17. During the period from July 2009 through April 2010, the Company’s financial advisor, PCG, contacted 213 parties in a marketing and sales process focused on selling the business as a whole or in part. Of that total, 130 parties were contacted for the sale of POM and Mrs. Green’s (from December 2009 through April 2010), 33 parties were contacted for the sale of Trophic (from August 2009 through February 2010) and 50 parties were contacted for the sale Sangster’s and Healthy’s (from July 2009 through December

2009). These efforts resulted in the Company entering into three separate transactions in February and March 2010 for the sale of the Sangster's, Healthy's and Trophic divisions (the "**Non-Core Operations**").

18. In the context of the marketing and sales process for the Trophic Non-Core Operation, PCG contacted 33 parties as referenced above, 16 parties executed confidentiality agreements ("**CAs**") with the Company, and 4 indications of interest ("**IOIs**") were received for the purchase of the Trophic division as a stand-alone operation. As a result of this process, on March 17, 2010, Atrium Innovations Inc. purchased the assets of Trophic for gross proceeds of \$10.6 million.
19. In the context of the marketing and sales process for the Sangster's and Healthy's Non-Core Operations, PCG contacted 50 parties as referenced above, 7 parties executed CAs with the Company, and 5 IOIs were received for the purchase of the Sangster's and Healthy's divisions as stand-alone operations. As a result of this process, (i) the sale of Sangster's was completed on February 18, 2010 when JAMM Enterprises, Inc. acquired the stock of S-5 Holdings Ltd., 616407 Alberta Ltd. and certain assets of Darwen for gross proceeds of \$1.1 million and (ii) the sale of Healthy's was completed on March 16, 2010 when Health-X Corp purchased Healthy's for gross proceeds of \$348,500.
20. The net cash proceeds from the sale of these Non-Core Operations, after transaction related costs of approximately \$1.3 million, were applied as follows:
 - (a) \$5,296,266 was used to repay in full all outstanding indebtedness owed to the then senior secured lender, The Toronto-Dominion Bank;
 - (b) \$4,533,820 million was used to reduce indebtedness owed to Ares Capital Corporation as agent of another secured lending group ("**Ares**"); and
 - (c) \$850,000 was used to fund two escrow accounts created in connection with the Trophic sale transaction: (i) a short-term working capital escrow account of \$250,000; and (ii) a long-term indemnity escrow of \$600,000. The Company has since received a return of the short-term working capital escrow amount of \$250,000 (during the first week of the CCAA proceeding) and the long-term

indemnity escrow of \$600,000 will remain in escrow until the end of the escrow period (March 2011).

C. Efforts to Market and Sell the Core Assets

21. As noted above, and as discussed in greater detail in the Pre-Filing Report, the April 29 Krissie Affidavit and the Baird Affidavit, during the period from July 2009 through April 2010, the Company's financial advisor, PCG, contacted 213 parties in a marketing and sales process focused on selling the business as a whole or in part. Of that total, 130 parties were contacted for the sale of the core assets – POM in Canada and Mrs. Green's in the U.S.
22. Of the 130 financial and strategic parties that were contacted regarding their interest in POM and/or Mrs. Green's, the Monitor understands that 51 parties signed CAs with the Company and were given access to an on-line data room, 11 parties submitted IOIs, and 6 parties ultimately submitted letters for POM and Mrs. Green's on or about January 8, 2010. As of January 15, 2010, these six bids are summarized in the Baird Affidavit as follows:
 - (a) an offer by Catalyst to acquire the combined assets of POM and Mrs. Green's for an effective purchase price in the range of \$33 million to \$36 million;
 - (b) a revised offer of \$30 million by another party for the recapitalization of the entire business which was subject to arranging for financing;
 - (c) a revised offer from another party in the range of US\$14 million to US\$18 million to acquire six western locations of POM;
 - (d) another party's offer of \$7.6 million for the POM division only;
 - (e) another party's offer in the range of US\$15 million to US\$18 million for Mrs. Green's only; and
 - (f) another party's all cash offer of US\$20 million for POM and Mrs. Green's.

23. According to the Baird Affidavit, these bids were analyzed by the Company's Board of Directors (the "**Board**") and its committee of independent directors (the "**Committee**"), which determined to ask the bidders to submit additional detail and clarification regarding their offers by January 25, 2010.
24. According to the Baird Affidavit, based on the responses received, the Board and the Committee concluded that the offer submitted by Catalyst for both POM and Mrs. Green's was the best overall bid received in terms of the proposed purchase price, its ability to satisfy the claims of stakeholders (including the Company's secured lenders, unsecured creditors and employees), and with respect to Catalyst's ability to close the proposed acquisition. Accordingly, the Board and the Committee determined to move forward with further due diligence with Catalyst with a view to signing a binding letter of intent by mid-February 2010 and a target closing by the end of March 2010.
25. As disclosed in the Pre-Filing Report, Deloitte & Touche Inc. was retained by the Company on March 9, 2010 to assist the Company with its restructuring efforts and with its preparations for a potential filing under the CCAA.
26. Notwithstanding their determination that the Catalyst offer was the best offer received, all six of the aforementioned bidders were given another opportunity to resubmit their bids in early March 2010 and again in early April 2010. These further calls for better or other offers did not produce any offers superior to the Catalyst bid.
27. PCG has submitted a confidential summary of the offers received as Exhibit "A" to the Baird Affidavit and the Applicants are seeking an Order that the summary be sealed until the closing of the Proposed Acquisition, should this Honourable Court approve the Proposed Acquisition. The Applicants have stated that public disclosure of the summary of bids received could have a negative effect on further sale efforts by the Applicants in the event that the Proposed Acquisition is not completed. Since it contains relevant terms of the competing bids, which the Monitor understands were submitted by the parties on a confidential basis, the Monitor supports the Applicants' request that the summary be sealed.

THE MONITOR'S COMMENTS REGARDING THE SALES PROCESS CONDUCTED FOR THE SALE OF POM AND/OR MRS. GREEN'S

28. As stated in the Pre-Filing Report, the Monitor is of the view that, in addition to other efforts undertaken by the Applicants to restructure their business, the Applicants, together with their financial advisor, PCG, have undertaken an extensive marketing and sales process in respect of the core assets of the Company – POM and Mrs. Green's. Since the Monitor was not present at the time that the sale process was designed and initially conducted, the sale process that has led to the Proposed Acquisition was not pre-approved by the Monitor. That said, based on its review of what was undertaken prior to the Monitor's engagement, and its observation of events since, the Monitor is of the view that:

- (a) the sales process undertaken by PCG and the Company for the sale of POM and/or Mrs. Green's was extensive;
- (b) the sale process was conducted with the objective of maximizing value for all stakeholders;
- (c) the sale process was fair and reasonable in the circumstances and was conducted in a fair and reasonable manner by the Applicants and their advisors; and
- (d) the offer made by Catalyst, including in the current form of the Proposed Acquisition, is the best offer that emerged from that process.

29. The Monitor understands that the sale process was run in consultation with the Company's then senior secured lender (Ares), until Catalyst purchased the secured debt held by Ares and the other Convertible Note Holders on or about April 20, 2010. Accordingly, the Monitor is also of the view that, in conducting the sale process, the Applicants consulted with their creditors to an appropriate extent.

THE ACQUISITION AGREEMENT AND THE PROPOSED ACQUISITION

30. As discussed in greater detail in the Pre-Filing Report, the April 29 Krissie Affidavit and the May 20 Krissie Affidavit, after identifying the Catalyst bid as the highest and best offer resulting from the sales process, the Company and its senior secured lenders (Ares and the

Convertible Note Holders), among others, spent several weeks negotiating the form of an acquisition with Catalyst. Ultimately, however, these senior secured lenders determined that they would instead sell their debt to Catalyst and, on or about April 20, 2010, Catalyst acquired all of the outstanding Ares debt, the Convertible Note Holder debt and the related security by way of assignment.

31. Thereafter, the Company and Catalyst continued discussions and negotiations in order to complete an acquisition whereby Catalyst would acquire substantially all of the assets and business operations and assume substantially all of the liabilities of the Applicants, now in part through a credit bid of the senior secured debt now held by Catalyst.
32. On April 28, 2010, Catalyst made demand for repayment of the outstanding secured indebtedness owed to it, and the Applicants are unable to repay said debt.
33. As of May 19, 2010, Catalyst is owed at least US\$31 million, as follows:
 - (a) approximately US\$13.9 million under the Term B Loan, including accrued interest; and
 - (b) approximately US\$17.1 million under the Convertible Notes, including accrued interest.
34. On May 19, 2010, the Monitor was advised by the Applicants that they had come to an agreement with Catalyst on the terms of an acquisition by Catalyst of substantially all of the Applicants' assets. The Monitor has received and reviewed the Acquisition Agreement between Catalyst and the Applicants (the "**Acquisition Agreement**"), a copy of which is appended to the May 20 Krissie Affidavit as Exhibit "D" thereto.

A. Basic Terms of the Proposed Acquisition

35. The Acquisition Agreement contemplates that Catalyst will acquire substantially all of the assets and business operations of the Applicants and assume substantially all of the liabilities of the Applicants, such that the businesses of POM in Canada and Mrs. Green's in the U.S. will each continue as a going concern. The key terms of the Acquisition

Agreement are summarized below. Defined terms used in this part of the Report but not defined have the meanings ascribed to them in the Acquisition Agreement.

A.1 Assets to be Acquired

36. Under the terms of the Acquisition Agreement, Catalyst will acquire all of the operating assets of the Applicants, except for two leases.
37. Specifically, with respect to Planet Organic, Catalyst will acquire all of Planet Organic's operating assets, except for the Vaughan Lease which is not profitable and will be disclaimed. In acquiring the assets of Planet Organic, Catalyst will acquire the shares of the U.S. holdco that owns Mrs. Green's in the U.S.
38. With respect to Darwen, Darwen's operating business and assets were sold in the pre-CCAA non-core asset sale referenced above (which closed in February 2010) and, accordingly, the only assets that Catalyst will acquire from Darwen are certain remaining accounts receivable.
39. In connection with its acquisition of these assets, Catalyst has agreed to offer employment to all of the Applicants' approximately 500 employees (except for the 45 employees at the Vaughan store), to assume all of the Applicants' contracts and leases (except for essentially the Vaughan Lease and the non-operating Nanaimo Lease, discussed below), and to assume all of the Applicants' trade payables such that, in conjunction with the operating assets to be acquired by Catalyst, the POM and Mrs. Green's businesses will each continue as a going concern under the Proposed Acquisition.

A.2 Excluded Assets

40. As discussed in the May 20 Krissie Affidavit, the Vaughan Lease is not profitable and will be disclaimed under the Proposed Acquisition. Catalyst has, however, agreed to assume all trade payable obligations related to the Vaughan store and, in addition, with respect to the 45 employees at the Vaughan store, Catalyst has agreed to assume certain employee-related liabilities and/or allow for a cash reserve such that these 45 excluded employees are

expected to receive full payment of (i) any termination payments owed to them and (ii) any employee priority claims they may have as set out in subsection 6(5)(a) of the CCAA.

41. As discussed in the May 20 Krissie Affidavit, the Nanaimo Lease is an obligation of Darwen left over after the pre-CCAA sale of all of Darwen's operating assets, which is currently the subject of a commercial dispute. Catalyst will not assume this lease and the Applicants have estimated the obligations under this non-operating lease at \$13,000.

A.3 Assumed Liabilities

42. In consideration for the acquisition of certain of the assets described above, and as part of the Proposed Acquisition, Catalyst will assume the following liabilities:
- (a) all trade liabilities and obligations incurred in the ordinary course of business by the Applicants for the supply of goods and services;
 - (b) all liabilities under and in connection with the contracts, licenses and leases to be assumed under the Acquisition Agreement, and in respect of which Catalyst will cure any existing financial defaults at closing;
 - (c) all liabilities associated with employees who accept employment with Catalyst;
 - (d) Planet Organic's liability to the excluded employees for termination payments up to a cap of \$35,000 (which is expected to cover all such payments in full); and
 - (e) as discussed above, Catalyst will acquire the shares of Planet Organic Holding Corp., which owns Mrs. Green's and which will continue to be liable for the Term B Loan (which, as of May 19, 2010, totalled approximately US\$13.9 million, including accrued interest).
43. In addition, under the terms of the Proposed Acquisition, Catalyst has carved-out from the cash of the Applicants (in which it has a perfected security interest) a "Cash Reserve" which will be available to fund the following obligations of the Applicants:

- (a) obligations secured by the Administration Charge established in the Initial Order to the extent required for the completion of the CCAA case up to an aggregate maximum amount of \$300,000;
- (b) obligations secured by the D&O Charge established in the Initial Order in respect of any claims covered by the Charge and arising prior to the closing date of the Proposed Acquisition (the “**Closing Date**”) up to an aggregate maximum amount of \$500,000;
- (c) all claims under subsection 6(5)(a) of the CCAA in respect of the excluded employees to the extent not paid by the Applicants or assumed by Catalyst prior to the Closing Date; and
- (d) Planet Organic’s obligation to pay the amount owed to PCG under the April 20, 2010 letter agreement between PCG and Catalyst of \$1.1 million.

The Monitor has reviewed the amounts contemplated for the Cash Reserve and is satisfied that sufficient funds will be available in the Cash Reserve to satisfy all potential claims under subsection 6(5)(a) of the CCAA.

44. The following obligations or liabilities are expressly not being assumed by Catalyst under the Proposed Acquisition:
- (a) any liabilities of the Applicants for expenses incurred in completing the acquisition with Catalyst;
 - (b) any liabilities of the Applicants to banks, financial institutions or other persons for borrowed money (the Company has advised the Monitor that there are no such amounts outstanding);
 - (c) any liabilities of the Applicants accruing prior to the Closing Date under the contracts, licenses and leases to be assumed by Catalyst to the extent such liabilities (i) were not disclosed to Catalyst in the schedules to the Acquisition Agreement or (ii) are contingent at the time of closing;

- (d) any liabilities arising under any contracts, licenses or leases that are not being assumed (which are essentially just the Vaughan lease and the Nanaimo lease discussed above);
- (e) any liabilities of the Applicants for product liability claims arising out of the Applicants' conduct of business prior to the closing (according to the May 20 Krissie Affidavit, the Applicants are not aware of any such liabilities).
- (f) any liabilities for taxes, other than source deductions;
- (g) certain indemnity obligations of the Applicants relating to the retention of PCG; and
- (h) certain guarantee/indemnity obligations of Planet Organic in favour of the landlords under certain leases that were assigned pursuant to Planet Organic's prior sale of the Healthy's business.

B. Consideration to be provided for the Acquired Assets and Assumed Liabilities

45. As discussed above and in further detail in the May 20 Krissie Affidavit, under the Proposed Acquisition, Catalyst will effectively credit bid certain of the senior secured debt owed to Catalyst and assume certain liabilities. Attached as Exhibit "E" to the May 20 Krissie Affidavit is a copy of the Applicants' calculation of the consideration being offered by Catalyst, which concludes that Catalyst is offering \$35,767,544 for the assets and assumed liabilities. The Monitor notes that this total includes a \$2,572,132 "Prepayment Amount" claimed by Catalyst and acknowledged by the Applicants, and the Monitor also notes that Catalyst may ultimately receive a significant portion of the \$800,000 that has been set aside in the Cash Reserve for the Administration Charge and the D&O Charge. While the Monitor has not expressed a view on the enforceability of the Prepayment Amount, or on the likely extent of the draw on the Cash Reserve, the Monitor is of the view that even at the reduced amount of approximately \$32,400,000 the consideration being offered by Catalyst under the Proposed Acquisition is better than any other executable offer made for the POM and Mrs. Green's assets. Moreover, the Monitor is of the view that

there is no reasonable basis on which to conclude or reasonable prospect that any further marketing efforts or sale process would produce an offer higher or better than the offer being made by Catalyst under the Proposed Acquisition.

46. In connection with the foregoing, the Monitor notes that the following items or factors could be added to, or should also be considered with respect to, the consideration being offered by Catalyst under the Proposed Acquisition:

- (a) the value of the liabilities being assumed by Catalyst under the Proposed Acquisition (which the Company has advised the Monitor is approximately \$4.7 million), including the fact that the Proposed Acquisition does not affect the trade creditors of the Applicants, in respect of which any liabilities will be assumed (and, to the extent of any existing financial defaults, cured) by Catalyst; and
- (b) the fact that the Proposed Acquisition preserves the employment of approximately 90% of the Applicants' over 500 employees.

C. Effect of the Proposed Acquisition on Creditors and Other Interested Parties

47. As discussed above, the Proposed Acquisition will have the following impact on the Applicants' creditors and other interested parties:

- (a) Secured Creditors – Catalyst will receive the assets of the Applicants as a consequence of the Applicants' failure to pay the perfected, senior secured debt owed to Catalyst, which the Applicants are otherwise not able to repay. The Applicants' extensive marketing efforts were not able to attract a bid for these assets that exceeded the amount of the secured debt.
- (b) Unsecured Creditors – other than the landlords in respect of the Vaughan Lease and the Nanaimo Lease, the unsecured creditors of the Applicants will largely be unaffected by the Proposed Acquisition as the businesses of POM and Mrs. Green's will continue as going concerns and Catalyst will assume (and, to the extent of any existing financial defaults, will cure) the vast majority of the Applicants contracts, licenses and leases and will assume all of the Applicants'

trade payable obligations. This is a significant benefit for these creditors who would, given the liquidation analysis discussed below, otherwise not receive any recoveries.

- (c) Employees – as discussed, Catalyst will offer employment to all of the employees of the Company, other than the 45 employees at the Vaughan store (who will receive payments in respect of any amounts due to them in respect of termination payments and any claims under subsection 6(5)(a) of the CCAA). These employment offers will be on terms and conditions which are no less favourable in the aggregate than the current employment terms. Pursuant to the Acquisition Agreement, Catalyst is not prevented from including in the offers of employment an acknowledgement of new employment and that the employee's years of service with the applicable Applicant will be recognized for statutory purposes only. These offers of employment are a significant benefit to these stakeholders who would not have employment if the businesses were not continued as a going concern.

D. Conditions to Closing the Proposed Acquisition

- 48. Article 6 of the Acquisition Agreement details the conditions precedent to closing the Proposed Acquisition which include, among others, the following:
 - (a) the Initial Order shall not have been stayed, vacated, reversed or amended without the prior consent of Catalyst;
 - (b) the Approval and Vesting Order sought shall have been granted by the Court on or before June 4, 2010 and shall not have been stayed, varied or vacated, and no order shall have been issued to restrain or prohibit the acquisition;
 - (c) the D&O Claims Procedure Order (described below) shall have been granted on the day that the Approval and Vesting Order is granted, and shall not have been stayed, varied or vacated; and

- (d) all payments and distributions by the Applicants shall have been in accordance with the 13-week cash flow forecast filed with the Court in connection with the Initial Order, subject to an allowed 15% cumulative variance.
- 49. The other conditions to closing the Proposed Acquisition are standard and the Monitor understands that, once these conditions are met, the parties expect to close the acquisition as soon as possible.
- 50. The Monitor also notes that the closing of the Acquisition Agreement has been made subject to the Monitor providing a Certificate in which it attests that the acquisition has been completed to the satisfaction of the Monitor. This provision gives the Monitor an opportunity to ensure that the acquisition is appropriately implemented in the period between Court approval and closing, should this Honourable Court approve the Proposed Acquisition.
- 51. The Monitor also notes that, at the closing of the Acquisition Agreement, the Applicants will be released from the following liabilities:
 - (a) all obligations of the Applicants in respect of the Convertible Note Debt (which, as of May 19, 2010, totalled approximately US\$17.1 million, including accrued interest); and
 - (b) all obligations of the Applicants in respect of their guarantee of the Term B Loan (which, as of May 19, 2010, totalled approximately US\$13.9 million, including accrued interest).

**THE MONITORS' COMMENTS REGARDING THE ACQUISITION AGREEMENT
AND THE PROPOSED ACQUISITION**

- 52. Based on the foregoing, the views of the Monitor regarding the Acquisition Agreement and the Proposed Acquisition can be summarized as follows:
 - (a) the Monitor is of the view that the Applicants and their financial advisor, PCG, have conducted an extensive sale process for the assets and businesses of POM and/or Mrs. Green's and that the Catalyst offer, as represented in the current form

of the Acquisition Agreement, is the highest and best offer that has emerged from that process and is capable of being implemented;

- (b) the consideration being offered by Catalyst is reasonable and fair, taking into account the market value of the assets, as evidenced by the extensive marketing and sale process that has been undertaken and the value or level of the offers made by several market participants for the assets in that process;
- (c) under the circumstances, there is no reasonable basis on which to conclude or realistic prospect that further marketing and sale efforts (or other restructuring efforts or initiatives for that matter) would produce an executable offer superior to the Acquisition Agreement;
- (d) under the circumstances, there is no reasonable basis on which to conclude or realistic prospect that further marketing and sale efforts (or other restructuring efforts or initiatives for that matter) would produce an executable offer that would return value to the shareholders of the Applicants.

THE MONITOR'S LIQUIDATION ANALYSIS

- 53. In the event that the Acquisition Agreement is not implemented, and absent any proceedings to restrict the exercise of Catalyst's rights as the senior secured creditor of the Applicants, Catalyst would have the right to request the immediate repayment of the amounts owed and, under such circumstances, the Applicants would not be in a position to meet those obligations and could well be forced into liquidation.
- 54. Based on the latest draft financial statements for the Applicants, as at March 31, 2010, the Applicants had total liabilities of approximately \$38.9 million, of which amounts owing to lenders represented approximately \$30.3 million, including accrued fees and interest.
- 55. As mentioned in the First Report, the Monitor's independent counsel, Goodmans LLP, has conducted a review of the security held by Catalyst and opined that the security has been duly registered, filed and recorded in the Provinces of British Columbia, Alberta, Saskatchewan, Ontario and Nova Scotia and that Catalyst has a valid, enforceable and

perfected security interest in the personal property of the Applicants in accordance with the Personal Property Security Acts in those Provinces.

56. Based on the Monitor's estimated liquidation analysis using information provided by the Company as at March 31, 2010, the liquidation value of the Company would be in the range of \$24.7 million to \$27.6 million, substantially below the book value of the assets.
57. As a result, in the event of the Applicants' liquidation, unsecured creditors would be significantly worse off as they would receive no recovery on their claims. Consequently, the shareholders would also suffer a complete loss of their investment and no recovery on their equity interests.
58. Liquidation would also put at risk the Applicants' over 500 employees and would have a significant impact on its customers and suppliers.
59. Based on the Monitor's liquidation analysis, and the discussion above, the Monitor is of the opinion that the Proposed Acquisition would be more beneficial to the Applicants' creditors than a sale or disposition under bankruptcy.

DIRECTORS' AND OFFICERS' CLAIMS PROCESS

60. As referenced above, it is a condition of closing of the Acquisition Agreement that the D&O Claims Procedure Order be granted by this Honourable Court. The directors' and officers' claim process described in the proposed D&O Claims Procedure Order (the "**D&O Claim Process**") is intended to determine claims, if any, against the Applicants' directors and officers during the period from the commencement of the CCAA proceedings to the Closing Date, such that the amount of any claims to be made against the \$500,000 set aside in the Cash Reserve for such claims can be determined.
61. Under the proposed D&O Claims Process, the Applicants propose that any creditor asserting a claim against the directors and officers of the Applicants be required to file a proof of claim with the Monitor prior to 4:00 p.m. (EDT) on the 21st day after the Closing Date, or such later date as may be ordered by the Court (the "**Claims Bar Date**").

62. The Applicants propose to give notice of the D&O Claims Process and the Claims Bar Date by the following means:
- (a) the Monitor will make available a copy of the Proof of Claim Document Package on its website within five (5) business days following the Closing Date;
 - (b) the Monitor will place a notice to all potential creditors on two separate days on or before five (5) business days after the Closing Date, in The Globe and Mail, National Post, Toronto Star, Calgary Herald and Edmonton Journal; and
 - (c) the Monitor will send a copy of the Proof of Claim Document Package to any person claiming to be a creditor and requesting such material as soon as reasonably possible after the Monitor receives such request, provided that the request is received prior to the Claims Bar Date.
63. Creditors will be asked to submit their Proofs of Claim to the Monitor. In consultation with the applicable directors and officers and Catalyst, the Monitor will review all Proofs of Claim filed before the Claims Bar Date and accept or disallow (in whole or in part) the amount and/or status of such Claims. If an applicable director or officer or Catalyst (or the Monitor) disputes any portion or all of a Claim, the Monitor will disallow it. For those creditors whose Claims have been disallowed, the Monitor will send a Notice of Disallowance advising them of the disallowance (in whole or in part) and the reasons therefor.
64. Creditors who intend to dispute the classification or amount of a Notice of Disallowance must deliver a Dispute Notice to the Monitor on or before the day that is 14 days after the Monitor sends the Notice of Disallowance. Upon receipt of a Dispute Notice, the Monitor, in consultation with the applicable directors and officers and Catalyst, may attempt to consensually resolve the Claim with the creditor. If the Claim is not resolved to the satisfaction of the Monitor within 10 days of receipt of the Dispute Notice, the Monitor may bring a motion for advice and directions to this Honourable Court for determination of the Claim.

65. The Monitor is of the view that the proposed method of notification, the Claims Bar Date and the time periods contemplated in the D&O Claims Process are appropriate.

MONITOR'S CONCLUSIONS AND RECOMMENDATIONS

66. The Applicants' refinancing, capital raising, marketing and sales efforts have been extensive. Over the past twelve months, the Applicants have retained professional advisors to assist them in conducting a rigorous search for additional capital and/or lenders to refinance the senior secured debt, and to conduct an extensive marketing and sale process for a buyer at a level that would satisfy the senior secured debt. These efforts have not resulted in any executable transaction other than the Proposed Acquisition.
67. The Proposed Monitor believes that the Applicants have conducted, with the assistance of their financial advisors, a reasonable and extensive process to maximize the value of their assets and businesses for the benefit of all stakeholders. The proposed Acquisition Agreement with Catalyst is the highest and best offer obtained from that process.
68. It is the Applicants' view that based on the current debt and projected liquidity position of the Applicants, and the results of the Applicants' initiatives to date, there is no reasonable basis to conclude that any further restructuring or marketing process would result in the emergence of a transaction superior to the proposed Acquisition Agreement, or permit a transaction that would see any recovery of value to the Applicants' shareholders.
69. The Monitor supports the Applicants' view based on the Applicants' financial position, the Monitor's review of the Applicants' restructuring, marketing and sale efforts to date, and the results that have emerged from that process. Based on those results, and in particular the several other offers made by market participants for the Applicants' assets, the Monitor also believes that the consideration being offered by Catalyst under the Acquisition Agreement for the Applicants' assets and businesses is reasonable and fair, having regard to their market value.
70. With the exception of current shareholders, all stakeholders of the Applicants will benefit from the completion of the Acquisition Agreement, including the vast majority of the Applicants' unsecured creditors, employees, suppliers and customers. In the absence of the

proposed Acquisition Agreement, the Company could be faced with the possible liquidation and cessation of its businesses in the very near term. Under a liquidation scenario, liquidation values would result in significantly lower realizations for these stakeholders than the treatment offered under the proposed Acquisition Agreement; indeed, these stakeholders would likely receive no recoveries.

71. The relief sought by the Applicants in their motion returnable June 4, 2010, including approval of the Acquisition Agreement, granting of the proposed form of Approval and Vesting Order, and granting of the proposed D&O Claims Procedure Order, will enable the Applicants to complete their restructuring in a manner that best maximizes value for their various stakeholders. Accordingly, the Monitor recommends that this Honourable Court grant the relief sought by the Applicants in their motion returnable June 4, 2010.

ACTIVITIES OF THE MONITOR

72. The Applicants also seek an Order approving the Monitors' First Report, Second Report, Third Report and the actions and conduct of the Monitor as described therein. Since the Monitor's Pre-Filing Report, the Monitor has engaged in the following activities, among others:
 - (a) carried out all of the various notice requirements of the Initial Order, as detailed in the First Report;
 - (b) monitored on a weekly basis the receipts and disbursements of the Company and provided updated cash flow statements and cash flow variation analyses, as appended to each of the Monitor's First, Second and Third Reports;
 - (c) participated in the hearings regarding, and reported to this Honourable Court with respect to, the Applicants' requests to extend the Stay Period and to adjourn Planet Organic's annual general meeting;
 - (d) participated, as necessary and appropriate, in the Applicants' and Catalyst's negotiations over the Proposed Acquisition;

- (e) continued to review the Proposed Acquisition and the process that led to the Proposed Acquisition, as further reported on in this Third Report; and
- (f) prepared a liquidation analysis of the Applicants.

73. The Monitor respectfully requests that this Honourable Court approve the Monitors' First Report, Second Report and Third Report and the steps and actions taken by the Monitor to date in respect of the CCAA proceedings described therein.

All of which is respectfully submitted at Toronto, Ontario, this 28th day of May, 2010.

DELOITTE & TOUCHE INC.,
in its capacity as Monitor of
Planet Organic Health Corp. and Darwen Holdings Ltd.

Per:



Pierre Laporte, CA, CIRP
President



Huey Lee, MBA, CMA, CIRP
Vice President

Exhibit A – Cash Flow Variance Analysis

	<u>Forecast</u>	<u>Actual</u>	<u>Variance</u>
Week ending May 15, opening cash balance	4,134,599	4,134,599	-
Cash Outflows			
Trade Payables	(776,954)	(765,874)	11,080
Operating Expenses	(139,276)	(38,059)	101,217
Payroll	(515,832)	(509,885)	5,947
Rent	-	-	-
Maintenance Capex	(5,000)	-	5,000
	-	-	-
Total outflows	<u>(1,437,062)</u>	<u>(1,313,818)</u>	<u>123,244</u>
Cash Inflows			
Deposits - sales	1,256,910	1,315,844	58,934
Deposits - other	-	375	375
Total inflows	<u>1,256,910</u>	<u>1,316,219</u>	<u>59,309</u>
Net weekly operating cash position	(180,152)	2,401	182,553
Exchange difference on USD accounts	-	(4,303)	(4,303)
Disbursements - Restructuring	(180,000)	(288,732)	(108,732)
Adjusted closing balance week ending May 15	<u>3,774,447</u>	<u>3,843,965</u>	<u>69,518</u>
	<u>Forecast</u>	<u>Actual</u>	<u>Variance</u>
Week ending May 22, opening cash balance	3,774,447	3,843,965	69,518
Cash Outflows			
Trade Payables	(813,420)	(949,362)	(135,942)
Operating Expenses	(82,276)	(148,487)	(66,211)
Payroll	-	-	-
Rent	-	-	-
Maintenance Capex	(5,000)	-	5,000
	-	-	-
Total outflows	<u>(900,696)</u>	<u>(1,097,849)</u>	<u>(197,153)</u>
Cash Inflows			
Deposits - sales	1,211,050	1,343,270	132,220
Deposits - other	-	11,013	11,013
Total inflows	<u>1,211,050</u>	<u>1,354,283</u>	<u>143,233</u>
Net weekly operating cash position	310,354	256,434	(53,920)
Exchange difference on USD accounts	-	9,814	9,814
Disbursements - Restructuring	(180,000)	(62,755)	117,245
Adjusted closing balance week ending May 22	<u>3,904,801</u>	<u>4,047,458</u>	<u>142,657</u>

Exhibit B – Revised Cash Flow Statement

13-Week Operating Cash Flow Forecast													
	ACT	ACT	ACT	ACT	FCST	FCST	FCST	FCST	FCST	FCST	FCST	FCST	FCST
Week #	1	2	3	4	5	6	7	8	9	10	11	12	13
Week ending	1-May-10	8-May-10	15-May-10	22-May-10	29-May-10	5-Jun-10	12-Jun-10	19-Jun-10	26-Jun-10	3-Jul-10	10-Jul-10	17-Jul-10	24-Jul-10
Forecast Opening Cash Balance	\$3,132,825	\$4,115,104	\$4,134,599	\$3,843,965	\$4,047,458	\$3,667,414	\$3,538,873	\$3,252,409	\$3,552,752	\$3,241,059	\$3,481,374	\$3,154,243	\$3,353,304
Cash Outflows													
Trade Payables	-	\$888,106	\$765,874	\$949,362	\$833,609	\$825,322	\$799,073	\$770,231	\$798,380	\$811,926	\$805,583	\$792,322	\$748,409
Operating Expenses	10,698	105,785	38,059	148,487	82,276	82,276	133,591	82,276	82,276	82,276	82,276	82,276	82,276
Payroll Expense	-	-	509,885	-	515,832	-	515,832	-	515,832	-	515,832	-	515,832
Rent Expense	-	238,049	-	-	-	298,875	-	-	-	298,875	-	-	-
Maintenance Capex	-	-	-	-	5,000	20,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000
Total Cash Outflows	\$10,698	\$1,231,940	\$1,313,818	\$1,097,849	\$1,436,717	\$1,226,473	\$1,453,496	\$857,507	\$1,401,488	\$1,198,078	\$1,408,691	\$879,599	\$1,351,518
Cash Inflows													
Sales Forecast	\$800,634	\$1,326,322	\$1,315,844	\$1,343,270	\$1,256,673	\$1,277,932	\$1,267,032	\$1,246,850	\$1,178,795	\$1,177,393	\$1,170,560	\$1,167,659	\$1,149,385
Other Receipts	250,064	11,024	(3,928)	20,827	-	-	-	-	-	350,000	-	-	-
Total Cash Inflows	\$1,050,698	\$1,337,346	\$1,311,916	\$1,364,097	\$1,256,673	\$1,277,932	\$1,267,032	\$1,246,850	\$1,178,795	\$1,527,393	\$1,170,560	\$1,167,659	\$1,149,385
Net Weekly Cash Position	\$1,040,000	\$105,406	(\$1,902)	\$266,248	(\$180,044)	\$51,459	(\$186,464)	\$389,342	(\$222,693)	\$329,315	(\$238,131)	\$288,060	(\$202,133)
Restructuring Costs	(57,721)	(85,911)	(288,732)	(62,755)	(200,000)	(180,000)	(100,000)	(89,000)	(89,000)	(89,000)	(89,000)	(89,000)	(47,000)
Forecast Bank Balance	\$4,115,104	\$4,134,599	\$3,843,965	\$4,047,458	\$3,667,414	\$3,538,873	\$3,252,409	\$3,552,752	\$3,241,059	\$3,481,374	\$3,154,243	\$3,353,304	\$3,104,171

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 PLANET ORGANIC HEALTH
CORP. AND DARWEN HOLDINGS LTD.

Court File No.:10-8699-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

THIRD REPORT OF THE MONITOR

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