

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

**MOTION RECORD
(returnable November 29, 2010)**

November 24, 2010

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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 PLANET ORGANIC HEALTH CORP. and
DARWEN HOLDINGS LTD.

NOTICE OF MOTION
(returnable on Monday, November 29, 2010)

Deloitte & Touche Inc., in its capacity as the Court-appointed monitor (the "**Monitor**") of Planet Organic Health Corp. ("**Planet Organic**") and Darwen Holdings Ltd. ("**Darwen**") (Planet Organic and Darwen, together, the "**Debtors**"), will make a motion to the Honourable Mr. Justice Morawetz of the Ontario Superior Court of Justice (Commercial List) on Monday, November 29, 2010 at 10:00 a.m. or as soon after that time as the motion can be heard at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR: An Order substantially in the form of the proposed order annexed as Schedule "A" hereto (the "**Order**"), *inter alia*:

- (a) abridging the time for service of the Notice of Motion and Motion Record in respect of this motion and dispensing with further service thereof;

- (b) authorizing 7562578 Canada Inc. ("**New Planet Organic**") to endorse, on behalf of Planet Organic, any and all cheques to New Planet Organic as payee in respect of any refunds or other amounts to be received by the Debtors pursuant to the Tax Filings (as defined in the Order of this Honourable Court dated July 28, 2010), and in accordance with the Acquisition Agreement dated May 19, 2010 and this Honourable Court's Approval and Vesting Order dated June 4, 2010 (the "**Approval and Vesting Order**");
- (c) directing New Planet Organic to deliver an officer's certificate to the Monitor certifying completion of the activities described in paragraph (b) above (the "**Officer's Certificate**");
- (d) declaring that New Planet Organic shall incur no liability or obligation as a result of the carrying out of the actions set out in paragraph (b) above, save and except for any such liabilities or obligations resulting from gross negligence or wilful misconduct on its part;
- (e) declaring that, upon receipt of the Officer's Certificate, the Monitor shall file a certificate substantially in the form annexed as Schedule "A" to the Order (the "**Monitor's Certificate**") with this Court;
- (f) declaring that, upon filing of the Monitor's Certificate (such date being the "**Filing Date**"), the Monitor shall be discharged and relieved from any further duties, responsibilities, liabilities or obligations in respect of these CCAA proceedings;

- (g) declaring that the stay of proceedings granted pursuant to the Initial Order issued by this Honourable Court (as extended by subsequent orders of this Honourable Court) is extended up to the Filing Date (the “**Stay Period**”);
- (h) declaring that the Stay Period shall expire and terminate as of the Filing Date;
- (i) declaring that these CCAA proceedings shall terminate as of the Filing Date;
- (j) declaring that, upon the filing of the Monitor’s Certificate, the Monitor shall be authorized to pay from the Cash Reserve, in accordance with the Approval and Vesting Order, all of the remaining fees and disbursements of the Monitor and its counsel and, thereafter, shall be directed to distribute, as soon as reasonably practicable following, and in any event within fifteen (15) days of, the Filing Date, any remaining amount of the Cash Reserve to New Planet Organic free and clear of the Administration Charge and the other charges granted in these proceedings;
- (k) declaring that the actions and conduct of the Monitor in these CCAA proceedings from the date of the Fifth Report of the Monitor to the date of the Sixth Report of the Monitor, as more particularly set out in the Sixth Report, and the Sixth Report itself, are approved;
- (l) declaring that the fees and disbursements of the Monitor and its counsel incurred during these CCAA proceedings are approved and any requirement of the Monitor and its counsel to pass their accounts in these proceedings is waived; and

- (m) such further and other relief as counsel may request and this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

2. On April 29, 2010, Planet Organic and Darwen commenced these CCAA proceedings with the support of their senior secured creditor and were granted the Initial Order of this Honourable Court which, *inter alia*, provided a stay of proceedings in favour of the Debtors until May 27, 2010. By further court orders, the stay of proceedings was extended to June 18, 2010, July 30, 2010 and November 30, 2010.
3. On June 4, 2010, this Honourable Court granted the Approval and Vesting Order approving the Acquisition Agreement dated May 19, 2010 (the “**Acquisition Agreement**”) which provided for a going-concern acquisition of substantially all of the assets and operations of the Debtors by their senior secured creditor, The Catalyst Capital Group Inc., on behalf of funds managed by it (collectively, “**Catalyst**”), including any and all tax refunds and other amounts due to the Debtors by any government, government agency or fiscal authority (“**Tax Refunds**”).
4. The Debtors and New Planet Organic successfully closed the acquisition on June 4, 2010, after the Monitor delivered a sale certificate which, *inter alia*, confirmed that the transaction had been completed to the Monitor’s satisfaction. The Debtors’ management assisted Catalyst with the transition of the business, assets and employees of the Debtors over to New Planet Organic. Thereafter, management and all of the remaining officers and directors of the Debtors resigned.

5. Pursuant to this Honourable Court's last order dated July 28, 2010 (the "**July 28 Order**"), New Planet Organic was authorized to make the Tax Filings on behalf of the Debtors given (i) that New Planet Organic had acquired the Tax Refunds under the Acquisition Agreement and (ii) that post-sale the Debtors did not (and do not) have any remaining officers, directors or employees who could make the Tax Filings.
6. Following entry of the July 28 Order, and as set out in the Monitor's Sixth Report, New Planet Organic completed and filed the Tax Filings. To date, the Tax Refunds expected in respect of the Tax Filings have not yet been received by the Debtors.
7. Pursuant to the July 28 Order, the Stay Period was extended for approximately three months to November 30, 2010 because it was hoped that the Tax Refunds might be received by then. As stated, the Tax Filings have now been made, but the Tax Refunds have not yet been received. Given that no other matters remain in these CCAA proceedings, the Monitor and New Planet Organic agree that, rather than extending the stay period for another three month or other period, and incurring the cost and time of further proceedings before this Honourable Court, it is more efficient and appropriate at this stage in the CCAA proceedings to now seek the proposed form of Order which will allow these proceedings to automatically terminate once the Tax Refunds are received by the Debtors and endorsed over to New Planet Organic in accordance with the Acquisition Agreement. To accomplish this final step, New Planet Organic requires authority from this Honourable Court to receive and endorse over the Tax Refunds, again given that the Debtors have no remaining personnel to accomplish that themselves and given that New Planet Organic acquired the Tax Refunds under the Acquisition Agreement. The Monitor supports this request, as does New Planet Organic.

8. For all of the reasons set forth above, the Monitor seeks entry of the form of Order annexed hereto as Schedule "A" granting this relief, and certain other related and necessary administrative relief. New Planet Organic supports the relief requested and the proposed form of Order. Debtors' counsel has been consulted and does not object.
9. The parties to this proceeding have been acting, and continue to act, in good faith and with due diligence in these proceedings.
10. The provisions of the CCAA and Rules 2.03, 3.02, 16 and 37 of the *Rules of Civil Procedure*.
11. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) the Fifth Report of the Monitor;
- (b) the Sixth Report of the Monitor; and
- (c) such further and other materials as counsel may request and this Honourable Court may permit.

November 24, 2010

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Lawyers for the Monitor

TO: THE SERVICE LIST ATTACHED HERETO AS SCHEDULE "B"

SCHEDULE "A"

Order

Court File No. 10-8699-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.)	MONDAY, THE 29TH
)	
JUSTICE MORAWETZ)	DAY OF NOVEMBER, 2010

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

AND IN THE MATTER OF PLANET ORGANIC HEALTH CORP. and
DARWEN HOLDINGS LTD.

ORDER

THIS MOTION, made by Deloitte & Touche Inc., in its capacity as Monitor (the "**Monitor**") of Planet Organic Health Corp. and Darwen Holdings Ltd. (collectively, the "**Debtors**"), for an order, *inter alia*, extending the stay of proceedings initially granted pursuant to the Order of the Honourable Mr. Justice Morawetz dated April 29, 2010 (the "**Initial Order**") for a period of time necessary to complete the administration of these proceedings, and certain related relief, as set out in the Monitor's Notice of Motion dated November 24, 2010, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the material filed, including the Notice of Motion and the Report of the Monitor, and on hearing the submissions of counsel for the Monitor, counsel for 7562578 Canada Inc. ("**New Planet Organic**") and such other counsel as were present, and on being advised that the Service List was served with the Motion Record herein:

SERVICE

1. THIS COURT ORDERS that, if necessary, the time for service of the Notice of Motion and the Motion Record is hereby abridged so that this motion is properly returnable today and hereby dispenses with further service thereof.

CCAA STAY

2. THIS COURT ORDERS that the Stay Period in paragraph 14 of the Initial Order be and is hereby extended to and including the date on which the Monitor files (the "**Filing Date**") with this Court a certificate (in form attached as Schedule "A" to this Order) confirming that it has received a certificate from an officer of New Planet Organic certifying that (i) the Tax Filings (as defined in the Order of this Court dated July 28, 2010) are complete and have been assessed by the Canadian Revenue Agency and any applicable provincial revenue authority, and (ii) the Tax Refunds (as defined below) have been paid to, and received by, New Planet Organic or that New Planet Organic's entitlement to the Tax Refunds has otherwise been resolved to the satisfaction of New Planet Organic (the "**Monitor's Certificate**").

3. THIS COURT ORDERS that, upon the filing of the Monitor's Certificate, the Stay Period shall expire and terminate effective as of the Filing Date.

4. THIS COURT ORDERS that, upon the filing of the Monitor's Certificate, these CCAA proceedings shall terminate effective as of the Filing Date, subject only to completion by the Monitor of the activity described in paragraph 11 of this Order.

TAX REFUNDS

5. THIS COURT ORDERS AND AUTHORIZES New Planet Organic to endorse on behalf of either Debtor any and all cheques to New Planet Organic as payee in respect of any refunds or other amounts that the Debtors may receive in connection with the Tax Filings (the "**Tax Refunds**").

6. THIS COURT ORDERS AND AUTHORIZES New Planet Organic to deliver an officer's certificate to the Monitor certifying, once such matters have occurred, that (i) the Tax Filings are complete and have been assessed by the Canada Revenue Agency and any applicable

provincial revenue authority and (ii) any Tax Refunds received by the Debtors have been paid to, and received by, New Planet Organic or New Planet Organic's entitlement to the Tax Refunds has otherwise been resolved to the satisfaction of New Planet Organic (the "**Officer's Certificate**").

7. THIS COURT ORDERS AND DECLARES that New Planet Organic shall incur no liability or obligation as a result of the carrying out of the actions set out in paragraphs 5 and 6, save and except for any such liabilities or obligations resulting from gross negligence or wilful misconduct on its part.

8. THIS COURT ORDERS AND DECLARES that, upon receipt of the Officer's Certificate, the Monitor shall file the Monitor's Certificate with this Court and that, for the purposes of filing the Monitor's Certificate, the Monitor shall be entitled to rely solely on the Officer's Certificate.

DISCHARGE OF CHARGES

9. THIS COURT ORDERS that the Directors' Charge (as defined in the Initial Order) shall be and is hereby discharged and released.

10. THIS COURT ORDERS that, upon the filing of the Monitor's Certificate, the Administration Charge (as defined in the Initial Order) shall be and is hereby discharged and released as of the Filing Date.

11. THIS COURT ORDERS that, upon the filing of the Monitor's Certificate, the Monitor is authorized to pay from the Cash Reserve established under the Approval and Vesting Order, and in accordance with the terms of the Approval and Vesting Order and the Cash Reserve, all of the remaining fees and disbursements of the Monitor and its counsel and, thereafter, is directed to distribute, as soon as reasonably practicable following, and in any event within fifteen (15) days of filing of the Monitor's Certificate, any remaining amount of the Cash Reserve to New Planet Organic free and clear of any charges granted in these proceedings.

THE MONITOR

12. THIS COURT ORDERS that the actions and conduct of the Monitor in these CCAA proceedings from July 22, 2010 (the date of the Fifth Report of the Monitor) to November 24, 2010 (the date of the Sixth Report of the Monitor), as set out in the Sixth Report of the Monitor, and the Sixth Report itself, are approved.

13. THIS COURT ORDERS that, upon the filing of the Monitor's Certificate, Deloitte & Touche Inc. shall be discharged from its duties as Monitor of the Debtors and its appointment as Monitor shall be terminated.

14. THIS COURT ORDERS AND DECLARES that, upon the filing of the Monitor's Certificate, the Monitor shall have satisfied all of its obligations pursuant to the *Companies' Creditors Arrangement Act* (Canada) ("CCAA") and these proceedings and that the Monitor shall be forever released and discharged from any and all liability in respect of these CCAA proceedings, save and except for any liability that may arise out of gross negligence or wilful misconduct on the part of the Monitor.

15. THIS COURT ORDERS that, upon the filing of the Monitor's Certificate, any and all claims against the Monitor, its officers, directors, employees and affiliates, in connection with its appointment or the performance of its duties as Monitor shall be and they are hereby stayed, extinguished and forever barred and the Monitor, its officers, directors, employees and affiliates, shall have no obligation or liability in respect thereof, except for any liability arising out of gross negligence or wilful misconduct on the part of the Monitor.

16. THIS COURT ORDERS AND DECLARES that no action or other proceeding shall be commenced against the Monitor in any way arising from or related to its capacity or conduct as Monitor, except (i) with prior leave of this Court on at least seven (7) days notice to Deloitte & Touche Inc. and (ii) the posting of security for costs by the plaintiff or moving party in an amount sufficient to cover the substantial indemnity costs of Deloitte & Touche Inc. for the proposed action or proceeding.

17. THIS COURT ORDERS that the Monitor's fees and disbursements and the fees and disbursements of its legal counsel incurred in these CCAA proceedings, as described in the Sixth

Report of the Monitor, be and are hereby approved and any obligation of the Monitor or its counsel to pass their accounts in these CCAA proceedings is hereby waived.

18. THIS COURT ORDERS that, except to the extent the Initial Order has been varied by or is inconsistent with this Order, the provisions of the Initial Order shall remain in full force and effect until the Filing Date, and the Monitor shall continue to have the benefit of the provisions of all Orders made in these proceedings, including all approvals, protections and stays of proceedings in favour of Deloitte & Touche, Inc. in its capacity as Monitor.

FURTHER ADVICE AND DIRECTION

19. THIS COURT ORDERS that the Monitor or New Planet Organic may apply to this Court for further advice, directions or assistance as may be necessary to give effect to the terms of this Order, provided that any such application shall be on not less than five (5) days notice to either New Planet Organic or the Monitor, as applicable, and any other party likely to be affected by the application.

Schedule A – Form of Monitor’s Certificate

Court File No. 10-8699-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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DARWEN HOLDINGS LTD.

MONITOR’S CERTIFICATE**RECITALS**

- A. Pursuant to an Order of the Honourable Mr. Justice Morawetz of the Ontario Superior Court of Justice (the “**Court**”) dated April 29, 2010, Deloitte & Touche Inc. was appointed as the monitor of the Planet Organic Health Corp. and Darwen Holdings Ltd. (the “**Monitor**”).
- B. Pursuant to a further Order of the Court dated November 29, 2010 (the “**Order**”), the Monitor was authorized to file this Certificate in accordance with the terms of the Order.

THE MONITOR CERTIFIES the following:

1. The Monitor has received the Officer’s Certificate (as defined in the Order), which certifies that (i) the Tax Filings (as defined in the Order of this Court dated July 28, 2010) are complete and have been assessed by the Canada Revenue Agency and any applicable provincial revenue authority and (ii) the Tax Refunds (as defined in the Order) have been paid to, and received by, New Planet Organic or that New Planet Organic’s entitlement to the Tax Refunds has otherwise been resolved to the satisfaction of New Planet Organic.
2. This Certificate was filed by the Monitor on ● [DATE].

**Deloitte & Touche Inc., in its capacity as
Monitor of Planet Organic Health Corp. and
Darwen Holdings Ltd., and not in its personal
capacity**

Per: _____

Name:

Title:

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

MONITOR'S CERTIFICATE

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Court File No. 10-8699-00CL

**ONTARIO
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Proceeding commenced at Toronto

ORDER

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AND TO: **MINISTRY OF FINANCE (NOVA SCOTIA)**

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**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C.
1985, c. C-36, AS AMENDED AND IN THE MATTER OF PLANET ORGANIC
HEALTH CORP. AND DARWEN HOLDINGS LTD.**

Court File No. 10-8699-00CL

**ONTARIO
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Proceeding commenced at Toronto

NOTICE OF MOTION

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TAB 2

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
PLANET ORGANIC HEALTH CORP. AND
DARWEN HOLDINGS LTD.

SIXTH REPORT OF THE MONITOR
DATED NOVEMBER 24, 2010

INTRODUCTION

1. On April 29, 2010, Planet Organic Health Corp. ("**Planet**") 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 (the "**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. By further Orders of the Court, the stay of proceedings was extended until November 30, 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;
- 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; and
- iv. a third report of the Monitor dated May 28, 2010 (the “**Third Report**”) in connection with the Applicants’ motion for, among other things:
 - a. an Order approving the Acquisition Agreement dated May 19, 2010 between the Applicants and The Catalyst Capital Group Inc. on behalf of funds managed by it (“**Catalyst**”) that resulted from the sales process and pursuant to which an affiliate of Catalyst, 7562578 Canada Inc. (“**New Planet Organic**”), acquired substantially all of the assets of the Applicants (the “**Acquisition**”); and
 - b. an Order approving the proposed Directors’ & Officers’ Claims Procedure (“the **D&O Claims Procedure**”);
- v. a fourth report of the Monitor dated June 16, 2010 (the “**Fourth Report**”) in connection with the Applicants’ motion to extend of the Stay Period to July 30, 2010, and to provide this Honourable Court with a status update on the closing of the Acquisition and the D&O Claims Procedure; and
- vi. a fifth report of the Monitor dated July 22, 2010 (the “**Fifth Report**”) in connection with the Applicants’ motion to extend the Stay Period to November 30, 2010, and to provide this Honourable Court with a status update on the following:
 - a. certain mandatory corporate income tax, sales tax and other applicable tax filing requirements of the Applicants to be completed by New Planet Organic on behalf of the Applicants;
 - b. the Vaughan store location lease and related dealings and disputes with the Vaughan landlord;

- c. the status of obligations settled under the Cash Reserve established pursuant to the Approval and Vesting Order dated June 4, 2010 granted in connection with the Acquisition (the “**Approval and Vesting Order**”); and
 - d. the status of, and steps taken under, the Directors’ & Officers’ Claims Procedure Order (the “**D&O Claims Procedure Order**”).
4. Copies of the Initial Order, the Pre-Filing Report, the First Report, the Second Report, the Third Report, the Fourth Report, the Fifth 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 sixth report of the Monitor (the “**Sixth Report**”) is to provide the Court with information on the few remaining matters in these CCAA proceedings, being:
- i. the status of the Tax Filings (as defined in the last Order of this Court dated July 28, 2010 (the “**July 28 Order**”)) made by New Planet Organic on behalf of the Applicants;
 - ii. the resolution of the Vaughan store issues with the associated landlord;
 - iii. the status of obligations settled under the Cash Reserve established pursuant to the Approval and Vesting Order; and
 - iv. certain other matters concerning the Applicants,

in each case in connection with the motion filed by the Monitor, on behalf of the Applicants (who, post-Acquisition, have no remaining management, officers, directors or employees), for an Order that will, among other things, allow these proceedings to automatically terminate once the tax refunds expected in respect of the Tax Filings (the “**Tax Refunds**”) are received by the Applicants and endorsed over to New Planet Organic in accordance with the Acquisition Agreement and the Approval and Vesting Order (the “**Monitor’s Motion**”).

TERMS OF REFERENCE

6. In preparing this Sixth Report, the Monitor has relied upon unaudited interim financial information, the Applicants' books and records, and discussions with the Applicants' former management. 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.
7. Unless otherwise stated, all monetary amounts contained in this Sixth Report are expressed in Canadian dollars.
8. Capitalized terms used in this Sixth Report but not defined are as defined in the Pre-Filing Report, the First Report, the Second Report, the Third Report, the Fourth Report, the Fifth Report and the Approval and Vesting Order.

TAX FILINGS

9. Pursuant to the July 28 Order, New Planet Organic was authorized to make the Tax Filings on behalf of the Applicants given that (i) New Planet Organic had acquired any Tax Refunds due to the Applicants under the Acquisition Agreement and (ii) post-Acquisition the Applicants did not (and do not) have any remaining officers, directors or employees who could have made the Tax Filings.
10. New Planet Organic has completed and filed the Tax Filings. As contemplated by the July 28 Order, the Monitor was provided with an adequate opportunity to review the Tax Filings prior their remittance. The Monitor understands that to date, the Tax Refunds have not yet been received by the Applicants.
11. Once the Tax Refunds are received, New Planet Organic will again need authority from this Court to, on behalf of the Applicants (who have no ability to do so themselves), endorse the Tax Refunds over to New Planet Organic in accordance with the Acquisition Agreement and the Approval and Vesting Order. Accordingly, the Monitor supports the relief requested in the proposed Order in that regard.

CONCLUSION OF THE VAUGHAN LEASE MATTERS

12. As reported in the Fifth Report, the Applicants disclaimed the Vaughan location lease on June 4, 2010 and, on July 7, 2010, the Monitor attended at a joint walk through of the Vaughan location with representatives from New Planet Organic, 8000 Bathurst Street Realty Inc. (the “**Vaughan Landlord**”) and the Applicants for purposes of identifying which assets any party believed to be fixtures or improvements.
13. Subsequently, pursuant to an executed release and quit claim agreement dated September 7, 2010, New Planet Organic and the Vaughan Landlord resolved the disputes between them over the remaining property at the Vaughan location. Under this agreement, the Vaughan Landlord agreed to pay the all-inclusive sum of \$275,000 to New Planet Organic in exchange for complete conveyance of title to the disputed leasehold improvements.
14. Accordingly, all matters between the Applicants, New Planet Organic and the Vaughan Landlord with respect to the Vaughan location have now been resolved.

STATUS OF THE CASH RESERVE

15. Pursuant to the Approval and Vesting Order, a Cash Reserve was established with the Monitor on the Closing Date, to be held in trust for the benefit of the Persons entitled to be paid Cash Reserve Costs per the terms of the Acquisition Agreement and the Approval and Vesting Order. The Cash Reserve was established to fund the following obligations of the Applicants:
 - i. obligations secured by the Administration Charge established in the Initial Order to the extent required for the completion of the CCAA proceedings up to an aggregate maximum amount of \$300,000;
 - ii. obligations secured by the D&O Charge established in the Initial Order in respect of any claims covered by the D&O Charge and arising prior to the Closing Date up to an aggregate maximum amount of \$500,000;

- iii. 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
 - iv. Planet Organic's obligation to pay the amount owed to its financial advisor, PCG, under the April 20, 2010 letter agreement between PCG and Catalyst.
16. As reported in the Fifth Report, the Monitor has already:
- i. satisfied all obligations secured by the D&O Charge established in the Initial Order in respect of any claims covered by the D&O Charge and arising prior to the Closing Date, and distributed, with the approval of New Planet Organic and the Applicants, any and all excess and remaining Cash Reserve funds in respect of the D&O Charge to New Planet Organic, as required by the Acquisition Agreement and the Approval and Vesting Order;
 - ii. reviewed adequate evidence that all claims under subsection 6(5)(a) of the CCAA in respect of excluded employees were fully paid by New Planet Organic on behalf of the Applicants subsequent to the closing of the Acquisition Agreement, and with the approval of New Planet Organic and the Applicants, distributed to New Planet Organic the \$75,000 set aside for this purpose in the Cash Reserve, as required by the Acquisition Agreement and the Approval and Vesting Order; and
 - iii. paid from the Cash Reserve approximately \$1.2 million to PCG in respect of the amount owing to PCG under the April 20, 2010 letter agreement, in accordance with the Acquisition Agreement and the Approval and Vesting Order.
17. Accordingly, the only funds that remain in the Cash Reserve at this time are \$144,000 in respect of the Administration Charge and the costs covered thereby, as detailed below.
18. With the approval of New Planet Organic and the Applicants, the Monitor has to date paid approximately \$137,000 to the Monitor, its counsel, and the Applicants' counsel for obligations secured by the Administration Charge since the Closing Date. The Monitor also incurred miscellaneous expenses of approximately \$19,000, mainly attributable to

advertising costs associated with placing newspaper notice of the D&O Claims Process, as directed by the Court. The Monitor continues to hold approximately \$144,000 in the Cash Reserve for future obligations secured by the Administration Charge in relation to the completion of the CCAA proceedings. A summary of professional fees secured and settled by the Administration Charge to date, with the consent of all relevant parties, is as follows:

Invoice Date	Service Provider	Invoice Amount
Jun 23, 2010	Deloitte & Touche Inc.	\$ 52,827.33
Jul 23, 2010	Deloitte & Touche Inc.	14,490.00
Sep 15, 2010	Deloitte & Touche Inc.	9,361.24
Jun 22, 2010	Goodmans LLP	12,548.20
Jul 12, 2010	Goodmans LLP	1,809.47
Aug 9, 2010	Goodmans LLP	723.14
Sep 21, 2010	Goodmans LLP	13,277.81
Jun 9, 2010	Baker McKenzie LLP	3,733.51
Jun 17, 2010	Baker McKenzie LLP	11,240.25
Jun 22, 2010	Baker McKenzie LLP	14,087.38
Jun 10, 2010	Heighington Law Firm	3,104.94
		<u>\$ 137,203.27</u>

19. The amounts above detail the payments of fees and expenses that the Monitor and its legal counsel have received from the Cash Reserve since the closing of the Acquisition, with the approval of New Planet Organic. On the closing of the Acquisition, the Monitor and its legal counsel also received payment of their fees and expenses incurred in these CCAA proceedings to the date of closing, again with the approval of New Planet Organic. For the Court's information, these amounts were \$215,677.39 and \$223,127.80, respectively.

HUMAN RIGHTS APPLICATION

20. For the Court's information, the Monitor is aware that on September 21, 2010, the Human Rights Tribunal of Ontario ("HRTO") issued a notice of mediation regarding an application by certain individuals in respect of Planet. The mediation date was scheduled for November 2, 2010.

21. On October 21, 2010, counsel for the Applicants (Baker & McKenzie LLP) provided written notice to the HRTO and Human Rights Advisory Services, as the representative of one of the individuals, that Planet was subject to a stay of proceedings until November 30, 2010 pursuant to the July 28 Order. The Applicants' counsel also advised that substantially all of the assets of Planet were sold pursuant to the Approval and Vesting Order, and that it had no instructions to act or respond to the human rights application, or participate in any mediation or proceeding, the stay of proceedings notwithstanding.
22. On October 29, 2010, the HRTO issued a notice of cancelation of the mediation date. The HRTO requested that counsel for the Applicants provide it with an update on the status of these proceedings at the beginning of December 2010. The Monitor understands that counsel to the Applicants will do so.

STAY PERIOD EXTENSION

23. Pursuant to the July 28 Order, the Stay Period was extended for approximately three months to November 30, 2010 because it was expected that the Tax Refunds might be received by then. As stated, the Tax Filings have been made, but the Tax Refunds have not yet been received.
24. Given that only the few administrative-type matters outlined above remain in these CCAA proceedings, the Monitor, the Applicants and New Planet Organic agree that, rather than extending the stay period for another fixed period of time and incurring the cost and time of further proceedings before the Court, it is more efficient and appropriate at this stage in the CCAA proceedings to now seek the proposed form of Order which will allow these proceedings to automatically terminate once the Tax Refunds are received by the Applicants and endorsed over to New Planet Organic in accordance with the Acquisition Agreement and the Approval and Vesting Order.
25. As discussed, to accomplish this final step, New Planet Organic requires authority from the Court to receive and endorse over the Tax Refunds on behalf of the Applicants, again given that the Applicants have no remaining personnel to accomplish that themselves. The Monitor

supports this request, as does New Planet Organic. The Applicants' counsel has been consulted and does not object.

MONITOR'S CONCLUSIONS AND RECOMMENDATIONS

26. The Monitor supports and recommends that this Court grant the relief sought in the proposed form of final Order for these CCAA proceedings, in substantially the form set out in the draft order annexed to the Monitor's Notice of Motion. In the Monitor's view, the proposed form of Order is appropriate at this stage of these CCAA proceedings and will allow for an efficient and orderly conclusion and termination of these CCAA proceedings and the few administrative-type matters that remain.

27. No cash flow statement is included with this Sixth Report as the only cash available to the Applicants post closing of the Acquisition is the Cash Reserve held by the Monitor, which funds are being held solely for purposes of payment of the Cash Reserve Costs outlined in paragraph 15 above.

All of which is respectfully submitted at Toronto, Ontario, this 24th day of November, 2010.

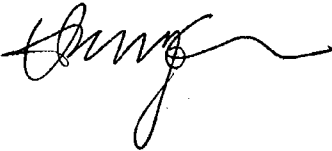
DELOITTE & TOUCHE INC.

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

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

SIXTH REPORT OF THE MONITOR

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**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C.
1985, c. C-36, AS AMENDED AND IN THE MATTER OF PLANET ORGANIC
HEALTH CORP. AND DARWEN HOLDINGS LTD.**

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**ONTARIO
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**MOTION RECORD
(Returnable November 29, 2010)**

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