

**Estate #51-1793121
Court #NB19522**

**COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE PROPOSAL OF
JEANIE MARSHAL FOODS CANADA INC.**

**OF THE CITY OF MONCTON
IN THE PROVINCE OF NEW BRUNSWICK**

First Report of the Proposal Trustee on the Amended Proposal

Section A – Background

Jeanie Marshal Foods Canada Inc. ("Jeanie Marshal" or the "Company") was incorporated in New Brunswick on May 20, 2008. The shares of Jeanie Marshal are owned 100% by 639556 NB Ltd ("NB Ltd"), which in turn are owned 51% by Bob Lewis ("Lewis") and 49% by Allon Fish ("Fish"), the two sole directors of Jeanie Marshal (the "Directors").

Jeanie Marshal is in the business of manufacturing and marketing ready-to-eat ("RTE") frozen foods. Jeanie Marshal specializes in RTE frozen entrees, which are sold principally to commercial airlines. Approximately 90% of the sales are to Air Canada. The Company experienced operational and financial success for a number of years before experiencing financial difficulties.

During the past 12 months, based on significant growth in the Air Canada relationship, and the desire of the Directors to more closely align the operations of Jeanie Marshal with similar business holdings in the United States and United Kingdom, a decision was made to relocate from Moncton, New Brunswick to Mississauga, Ontario and become a food wholesaler as opposed to its past role as a food broker.

The Company incurred several challenges with the transition, namely:

- i. Delays with the construction of the new facility in Mississauga and related cost overruns;
- ii. Delays in obtaining Canadian Food Inspection Agency ("CFIA") approval for the new facility;
- iii. Operating issues during the start-up phase at the new facility.

With all available credit facilities fully utilized, and cash injections by related entities of nearly \$800,000 over the past two years, the Company was still unable to meet its day-to-day cash requirements and decided to file a Notice of Intention to Make a Proposal ("NOI") with the Official Receiver on September 26, 2013. Deloitte Restructuring Inc. ("Deloitte") consented to act as Proposal Trustee ("Proposal Trustee").

On October 24, 2013 Registrar Natalie LeBlanc of the Court of Queen's Bench of New Brunswick in Bankruptcy and Insolvency (the "Court") granted a 45-day extension to the NOI period until December 10, 2013.

Capitalized terms used herein shall bear the meanings ascribed to them in the Amended Proposal, unless otherwise noted. We refer to the Amended Proposal herein as the Amended Proposal.

Section B – Summary of Amended Proposal

The Amended Proposal is an operating proposal whereby approximately 90% of projected annual cash flow after management fees, income taxes and capital investments over the next four years will be distributed by the Company to the Unsecured Creditors to settle outstanding Claims as at September 26, 2013.

In addition to the above payments, as described in greater detail below, the Company anticipates receiving an income tax recovery relating to the payment of income taxes for the last three fiscal years. Conditional upon its receipt of such tax recovery, the Company will make a payment to the Proposal Trustee that will be the lesser of (i) the actual income tax recovery received and (ii) \$200,000. It is anticipated that this payment would be made available to the Proposal Trustee within 60 days of its receipt from the Canada Revenue Agency and is intended to be used to satisfy the obligation owing to the Convenience Class. In the event the said recovery is not received, or if received is less than \$200,000, the Company will not be responsible to make up any shortfall. The Proposal Trustee has reviewed the analysis prepared by the Company's tax advisor and agrees with the analysis.

In summary, the Amended Proposal contemplates the following:

1. The Amended Proposal is not being made to any of the Secured Creditors of Jeanie Marshal. Conditional upon approval of the Amended Proposal by Unsecured Creditors and the Court by way of the Court Approval Order, Jeanie Marshal will continue with preexisting arrangements in effect with Secured Creditors as at September 26, 2013;
2. That all Preferred Creditors will be paid in full, without interest, under the statutory requirements as contained within the Bankruptcy and Insolvency Act ("BIA"), before any payments are made to the Unsecured Creditors. The Proposal Trustee advises that there are no known Preferred Creditors as at September 26, 2013;
3. The Unsecured Creditors with Proven Claims as at the date of filing the NOI, except for the Related Parties addressed below, will be paid as follows:
 - i. A Convenience Class will be created and all Proven Claims up to \$3,500 will be paid in full, without interest, on or before the 1st day of June 2014;
 - ii. For Proven Claims in excess of \$3,500, pro rata payments approximating 67% of the amount outstanding will be paid, in addition to the \$3,500 Convenience Class payment contemplated in paragraph (i); and
 - iii. Payments, other than the Convenience Class portion, will be made in equal installments on a quarterly basis over a period of four years, with the first anticipated payment being made no later than August 31, 2014.

Hereto attached as Appendix A is the Projected Distribution to Unsecured Creditors.

4. Conditional upon acceptance and Court approval of the Amended Proposal, Unsecured Creditors which are related to Jeanie Marshal in accordance with Section 4 of the BIA, namely Lewis and Associates, Jeanie Marshal Food Inc, BAFS Inc, and JMF UK (the "Related Parties"), have agreed to postpone receipt of distributions pursuant to the Amended Proposal until such time as the Proven Claims of all other Unsecured Creditors have been paid from the Fund in accordance with the terms of the Amended Proposal. In the event the Amended Proposal is defeated and a deemed bankruptcy occurs the Related Parties would participate in any distribution on pari passu basis. The Related Parties have signified their consent to the postponement of their Claims recovery by signing the Amended Proposal.

5. All payments made to the Unsecured Creditors are subject to a 5% levy payable to the Office of Superintendent of Bankruptcy (the "OSB");
6. The professional fees owing to the Proposal Trustee, its legal counsel, and legal counsel of the Company are to be paid in priority to any amounts described above in paragraph 3 (iii);
7. The offer contained within the Amended Proposal is conditional on being accepted by the requisite support of the Unsecured Creditors and approval by the Court.

Section C – Financial Position and Causes of Difficulties

The Company has informed the Proposal Trustee that its financial difficulties resulted from:

- i. Margin pressures related to providing continued services to its largest customer; and,
- ii. One-time issues experienced with the physical relocation of the Company's operations from Moncton, New Brunswick to Mississauga, Ontario.

The Company produced unaudited financial statements as at November 30, 2013 which are summarized in the Company's Statement of Affairs ("Statement of Affairs"). Detailed analysis of the Company's current financial position is found in Section E below.

Section D – Interim Receiver

Not applicable as there was no appointment of an Interim Receiver during the period of the NOI.

Section E – Identification and Evaluation of Assets

According to the Company's Statement of Affairs as at November 30, 2013, and information provided to the Proposal Trustee by the Company, the Company's assets and their estimated realizable value (in liquidation) consists of the following:

	Book Value	Estimated Realizable Value	
		Low	High
Cash	\$ 109,757	\$ 109,757	\$ 109,757
Accounts receivable	233,717	116,858	175,287
HST receivable	124,446	62,223	93,335
Note receivable	254,197	Nil	Nil
Inventory	331,245	33,125	82,811
Income Tax Recovery*	-	175,000	200,000
Prepaid expenses	21,374	Nil	Nil
Other current assets	11,164	Nil	Nil
Capital assets (net)	851,216	Nil	25,000
Total	\$ 1,937,115	\$ 496,962	\$ 686,190

*Anticipated and estimated

The estimated realizations contained in this Report are based on the assumption that the financial position of the Company will not change materially between November 30, 2013 and January 24, 2014, the date of deemed bankruptcy if the Amended Proposal is not accepted by the Unsecured Creditors and approved by the Court. The estimated realizations also assume receipt of the income tax recovery described above. At present, this recovery remains a contingent prospect, as does the use of such recovery to fund distributions to Unsecured Creditors in accordance with the Amended Proposal. These assets are discussed in greater detail hereunder:

Cash

According to the Company as at November 30, 2013, the Company had \$109,757 in cash. The Company maintains five bank accounts: three Canadian dollar accounts and two US dollar accounts. The Proposal Trustee estimates that in a liquidation scenario, the realizable value of the cash balance would be \$109,757 (100%).

Accounts Receivable

According to the Company, the accounts receivable balance of \$233,717 set out on the Statement of Affairs is net of bad debts, unissued credit notes and volume rebates to be issued. In a liquidation scenario, customers of the Company may claim offsets for product warranty, lack of continued supply, etc. against all amounts owed to the Company. As a result, the Proposal Trustee estimates that in a liquidation scenario, the realizable value of the accounts receivable would be between \$116,858 (50%) and \$175,297 (75%).

HST Receivable

According to the Company, the amount of \$124,446 represents the Company's book value of outstanding Investment Tax Credits ("ITCs"). Of this total, \$91,175 pertains to the claimed refund for September and October 2013 while \$33,270 pertains to the unclaimed refund for November 2013. The Proposal Trustee estimates that in a liquidation scenario the realizable value of this balance would be between \$62,223 (50%) and \$93,335 (75%) based on potential offsets applied by the Canada Revenue Agency for ITCs claimed but not paid by the Company.

Note Receivable

The amount of \$254,197 represents a note receivable from NB Ltd, a related company. According to the Company, NB Ltd is a non-operating entity without sufficient assets to repay this balance. The Proposal Trustee estimates that in a liquidation scenario the realizable amount would be nil.

Inventory

The amount of \$331,245 represents the Company's book value of inventory. According to the Company, the inventory consists primarily of raw materials (\$232,992), work-in-progress (\$9,449) and finished goods (\$88,803.40). Due to the perishable nature of the Company's inventory, the highly regulated industry in which they operate, and potential 30-day goods claims under subsection 81.1(1) of the BIA, the Proposal Trustee estimates the realizable value in a liquidation scenario would be between \$33,125 (10%) and \$82,811 (25%) after taking into account inventory obsolescence.

Income Tax Recovery

The amount of \$175,000 - \$200,000 noted in the table above represents the Company's anticipated (estimated) recovery relating to income taxes paid within the last three fiscal years. The Company incurred significant operating losses during the most recent fiscal year and shall forthwith file an income tax return and elect to carry these losses back to its three most recent taxation years in order to recover taxes paid in those years. The estimated magnitude of this potential recovery remains consistent under both liquidation and going concern scenario, yet this recovery remains a contingent prospect at present, as does the use of such funds to pay dividends under the Amended Proposal.

Prepaid Expenses

Prepaid expenses consist of pre-paid rent/utility deposits, insurance including property insurance and other prepaid amounts. Due to the nature of these prepaid expenses, in a liquidation scenario, the Proposal Trustee estimates the estimated realizable value would be nil.

Other Current Assets

According to the Company there are \$11,164 of other current assets (e.g. deposits with post-NOI vendors). The Proposal Trustee estimates that in a liquidation scenario the realizable amount would be nil.

Capital Assets

According to the Company's records, the net book value of the Company's capital assets as at November 30, 2013 is \$851,216. Capital assets consist of machinery and equipment (\$295,247), leasehold improvements (\$561,888), office furniture (\$3,958) and computer software (\$15,332).

The Proposal Trustee obtained a legal opinion which advised that there are priority secured charges over specific pieces of the machinery and equipment. Due to the nature of the remaining assets, and taking into consideration potential commission and sales expenses, the Proposal Trustee estimates that the realizable value of the Company's capital assets would be between nil and \$25,000 in a liquidation scenario.

Section F – Conduct of the Debtor

The Proposal Trustee monitored the cash flows of the Company during the NOI period and is not aware of any material payments relating to pre-NOI debts or of payments which could be viewed as reviewable under the BIA.

The Proposal Trustee is not aware of any offenses under the BIA having been committed during the NOI period.

Section G – Creditors' Claims

According to information provided to the Proposal Trustee by the Company, the Company's Creditors are comprised of:

Category	No. of Creditors	Balance
Preferred	0	\$ -
Unsecured	74	1,767,734
Contingent	N/A	N/A
Total	74	\$1,767,734

The Proposal Trustee is not aware of any material discrepancies between the amounts contained within the books and records of the Company and the expected claims to be filed by Creditors. Any discrepancies will be investigated by the Proposal Trustee.

The Proposal Trustee worked with the Company and its external accountants, KPMG LLP of Moncton, New Brunswick, to identify related-party transactions which are summarized below:

	As at:		
	Sept 24, 2013	Jan 5, 2013	Dec 31, 2011
Receivable from 639556 NB Ltd.	\$ 256,197	\$ 548,779	\$ 712,553
Payable to BAFS Inc	(88,426)	(165,405)	-
Jeanie Marshal Food Inc	(60,786)	-	-
JMF UK	(190,878)	-	-
Net Position:	\$ (83,893)	\$ 383,374	\$ 712,553

Note: The information presented above has not been audited, reviewed or otherwise verified by the Proposal Trustee

As demonstrated by the information presented above the Proposal Trustee notes that approximately \$800,000 of support was provided to the Company over the past three years by related companies.

Section H – Previous Business Dealings with the Debtor

Deloitte has had no previous dealings with Jeanie Marshal or its related companies prior to providing its consent to act as the Proposal Trustee on September 25, 2013.

Deloitte further confirms that it does not have any knowledge of any conflict of interest situation arising from the acceptance of this appointment as Proposal Trustee.

Section I – Informal Meetings with Major Creditors

The Proposal Trustee has held several discussions with TD Bank (“TD”) and its legal counsel since the filing of the NOI. TD has remained supportive of the Company since the filing and has continued to provide access to an operating line in accordance with the financing agreement dated November 12, 2013.

Frequent discussions were held with the three main Unsecured Creditors: Bonte Foods Limited, Labour Source Inc., and Eamatech Canada Inc. The Proposal Trustee received the consent of the major creditors and the OSB to seek an extension for the date of the First Meeting of Creditors outside of the statutory period contemplated by the BIA.

Section J – Remuneration of Trustee

For the purposes of the Amended Proposal, all proper fees of the Proposal Trustee, and the reasonable expenses and legal costs of the Proposal Trustee, on and incidental to the proceedings arising out of the Amended Proposal (including the preparation of the Amended Proposal) shall be paid in priority to all claims of the Preferred Creditors, Unsecured Creditors and Subsequent Creditors. Such fees shall be based on the time expended and charged by the Proposal Trustee and its legal counsel at their normal billing rates.

Section K – Other

The Proposal Trustee engaged McInnes Cooper of Halifax, Nova Scotia as its legal counsel.

The Proposal Trustee engaged Corporate and General Liquidators and Auctioneers of Markham, Ontario to perform a valuation of the Company’s tangible assets located at the main facility in Mississauga, Ontario.

The Proposal Trustee observed the on-going communications between the Company and its largest customer, Air Canada. Air Canada remained supportive of the Company during the NOI period and has continued to place orders and settle their accounts under normal business conditions.

Section L – Statement of Estimated Realization

The Proposal Trustee estimates the realization to Unsecured Creditors under the Amended Proposal or a potential bankruptcy situation as follows:

	Book Value	Proposal	Liquidation in Bankruptcy	
			Low	High
Cash	\$ 109,757		\$ 109,757	\$ 109,757
Accounts receivable	233,717		116,858	175,287
HST receivable	124,446		62,223	93,335
Note receivable	254,197		Nil	Nil
Inventory	331,245		33,125	82,811
Income Tax Recovery *			175,000	200,000
Prepaid expenses	21,374		Nil	Nil
Other current assets	11,164		Nil	Nil
Capital assets (net)	851,216		Nil	25,000
Estimated gross realizations	\$ 1,937,115	\$ 1,045,456	\$ 496,962	\$ 686,190
Less: claims of secured creditors		Nil	Nil	Nil
Less: claims of preferred creditors		Nil	30,000	60,000
Less: professional fees in bankruptcy		35,000	50,000	75,000
		35,000	80,000	135,000
Estate balance		1,010,456	416,962	551,190
Levy to OSB		50,523	20,848	27,559
Available for distribution		\$ 959,933	\$ 396,114	\$ 523,630
Total unsecured claims		\$ 1,421,594	\$ 1,767,734	\$ 1,767,734
Dividend yield		68%	22%	30%

* Anticipated and estimated

The Proposal Trustee, in its preparation of the above analysis, assumes that the financial position of the Company as at January 24, 2014, the date of a potential bankruptcy, will not be materially different than the financial position as at November 30, 2013. The estimated realizations also assume receipt of the income tax recovery described above. At present, this recovery remains a contingent prospect, as does the use of such recovery to fund distributions to Unsecured Creditors in accordance with the Amended Proposal.

Section M – Recommendations

It is the opinion of the Proposal Trustee that the Amended Proposal is in the best interests of the Unsecured Creditors. If the Amended Proposal is rejected and the Company is deemed bankrupt, the Proposal Trustee has estimated that the Unsecured Creditors would receive a return in the range of 22 to 30%, as opposed to the approximately 68% return contemplated by the terms of the Amended Proposal. Both recovery scenarios being dependent upon the aforementioned assumptions respecting the anticipated tax recovery. Accordingly, the Proposal Trustee recommends that Unsecured Creditors support the Company's Amended Proposal. Furthermore, the Proposal Trustee intends to vote proxies received, naming the Proposal Trustee as the proxy holder, in favor of the Amended Proposal.

Dated at Halifax, Nova Scotia, the 13th day of January, 2014.

DELOITTE RESTRUCTURING INC.
In its capacity as Trustee under the Proposal of
Jeanie Marshal Foods Canada Inc.
and not in its personal capacity

Per:

A handwritten signature in black ink, appearing to be 'J Foran', written in a cursive style.

James Foran, CA, CIRP
Vice President