

District of Alberta
Division 01 - Edmonton
Court No. 24-2582587
Estate No. 24-2582587

TRUSTEE'S PRELIMINARY REPORT

IN THE MATTER OF THE BANKRUPTCY OF MCG RESTAURANTS LTD.

Formerly carrying on business in the City of Edmonton, in the Province of Alberta

Background

On November 12, 2019, MCG Restaurants Ltd. ("**MCG**" or the "**Company**") filed a Notice of Intention to Make a Proposal (the "**NOI Proceedings**"), in accordance with the *Bankruptcy and Insolvency Act* (the "**BIA**"). The Court of Queen's Bench of Alberta (the "**Court**") granted three (3) extensions of time for the Company to file its proposal during the NOI Proceedings. As the Company failed to file a proposal by the expiration of the third and final extension on April 23, 2020, MCG was deemed to have made an assignment in bankruptcy that same day. Deloitte Restructuring Inc. (the "**Trustee**") is the appointed Licensed Insolvency Trustee, subject to affirmation by the creditors at the first meeting of creditors.

MCG is an amalgamated corporation registered in Alberta. Mr. Philip Clarke ("**Mr. Clarke**") and Mr. Robert Morris ("**Mr. Morris**") are the only directors of the Company. The Company operated as the franchisee of a chain of restaurants known as Moxie's Grill & Bar under franchise agreements with Moxie's Restaurants, Limited Partnership as franchisor (the "**Franchisor**"). The Company formerly operated six (6) franchised restaurants (the "**Locations**") in Edmonton with the following addresses:

- 13551 St. Albert Trail (the "**St. Albert Trail Location**");
- 10628 Kingsway Avenue (the "**Kingsway Location**");
- #1670, 8882-170th Street (the "**West Edmonton Mall Location**");
- 17109 100 Avenue (the "**170 Street Location**");
- 1739 102 Street (the "**South Common Location**"); and
- 4790 Calgary Trail (the "**Calgary Trail Location**").

All of the Locations had ceased operating on or before March 17, 2020, with the exception of the Calgary Trail Location, which ceased operations on October 29, 2019.

Cause of insolvency

The Company had been struggling for an extended period of time under the pressures of increasing minimum wage costs and declining attendance at its restaurants, while attempting to fulfill required capital improvements to refresh and update the Locations. The Company intended to restructure

under Division I of the *BIA* by filing a proposal to its creditors. However, the Company was significantly impacted by the COVID-19 pandemic in March 2020, and as a result of insufficient working capital to sustain operations during the disruption, MCG was unable to file a proposal to its creditors, resulting in the deemed bankruptcy.

Notice to reader

In developing this report, the Trustee has relied upon unaudited financial information prepared by the Company's management ("**Management**"), the Company's books and records, and discussions with Management. The Trustee has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants of Canada Handbook. The Trustee expresses no opinion or other form of assurance with respect to the accuracy of any financial information presented in this report, or relied upon by the Trustee in preparing this report.

The Trustee may refine or alter its observations as further information is obtained or brought to its attention after the date of this report. The Trustee assumes no responsibility or liability for any loss or damage occasioned by any party as a result of the circulation, publication, reproduction, or use of this report. Any use which any party makes of this report, or any reliance or decision to be made based on this report, is the sole responsibility of such party.

All amounts included herein are in Canadian dollars unless otherwise stated.

Section A – Assets

Class I – Inventory

The Company estimated on its Statement of Affairs, total inventory with an approximate value of \$50,000, comprising cutlery, glassware, alcohol, and food inventory.

Class II – Cash on Hand

The Company listed cash held in two accounts on its Statement of Affairs: \$3,500.00 on deposit with Royal Bank of Canada ("**RBC**") and \$24,000 on deposit with Canadian Western Bank ("**CWB**"). The funds on deposit with CWB are secured by a letter of credit in favour of the Company's liquor supplier. The Trustee has notified RBC and CWB of the bankruptcy and requested the funds be paid to the Trustee.

Class III – Plant, Machinery and Equipment and Office Equipment

The Company disclosed on its Statement of Affairs restaurant equipment with a value of \$85,000, furniture and fixtures with a value of \$114,000, computer equipment with a value of \$9,000, and leasehold improvements with no disclosed value. These assets are located at the various Locations.

Class V – Books and Records

The books and records of the Company are currently being stored at Mr. Morris's residence. The Trustee has not taken possession of the books and records due to COVID-19 precautions. The Trustee will request the records to the extent necessary.

Class VI – Other Assets

2019 tax refund

The Company estimated that it may have approximately \$120,000 in corporate tax refunds owing from 2019. However, the Trustee believes the refunds will be setoff in full against the Company's source deduction and goods services tax ("**GST**") obligations owing to Canada Revenue Agency ("**CRA**").

Section B – Conservatory and Protective Measures

The Trustee has no funds in the estate to take conservatory and protective measures. However, the Trustee has confirmed that the Franchisor has taken steps to secure the Locations, including conducting regular walk-throughs of all Locations, and is maintaining the Company's insurance coverage and paying the utilities.

Section C – Legal Proceedings

None that have been brought to the attention of the Trustee.

Section D – Provable Claims

The Company estimated on its Statement of Affairs unsecured claims to be approximately \$2,298,835. The Company has advised the Trustee that its bookkeeping was not current as at the date of the deemed bankruptcy, and that not all invoices had been entered into the Company's accounting system. As a result, the liabilities disclosed on the Statement of Affairs may be understated. As at the date of this report, the Trustee has received and admitted proofs of claim totalling approximately \$620,485.

Section E – Priority and Secured Creditors

CRA - payroll source deductions

The Company estimates that unremitted employee portion of payroll source withholdings, which will represent a priority claim, totaled approximately \$580,000, at the date of bankruptcy. As of the date of this report, the Trustee has not yet received a proof of claim from CRA.

As the value of the Company's assets may be insufficient to provide recovery to creditors subordinate to CRA, the Trustee has contacted CRA to request an agreement for its fees and disbursements to be taken from the realization of the Company's assets. However, as CRA's operations have been disrupted by COVID-19, the Trustee has not received a response from CRA as at the date of this report.

Employee wage claims

The Company estimates that unpaid wages in the amount of approximately \$341,685 will represent priority claims pursuant to s. 81.4 of the *BIA*. As of the date of this report, the Trustee has received claims from 210 employees (out of a total of 323) in the approximate amount of \$247,075.

Canadian Western Bank

The Company estimates that CWB has a secured claim of approximately \$3,334,000. Pursuant to an Alberta Personal Property Registry ("**PPR**") search, CWB has registered security over all present and after-acquired property of the Company. As of the date of this report, the Trustee has not yet received a proof of claim from CWB.

Franchisor

The Company estimates that the Franchisor has a secured claim of approximately \$102,378. Pursuant to a PPR search, the Franchisor has registered security over all present and after-acquired personal property of the Company behind CWB. As of the date of this report, the Trustee has not yet received a proof of claim from the Franchisor.

Rye Inc. and Ric Young

The Company estimates that Rye Inc. and Ric Young have a secured claim of approximately \$500,000. Pursuant to a PPR search, Rye Inc. and Ric Young have registered security interest over all of the assets of the Company, behind CWB and the Franchisor. As of the date of this report, the Trustee has not yet received a proof of claim from Rye Inc. and Ric Young.

Section F – Realization and Projected Distribution

Due to the quantum of priority claims and the debts owed to the secured creditors, there does not appear to be sufficient value in the Company's assets to provide any recovery to the unsecured creditors.

Section G – Reviewable Transactions and Preference Payments

The estate does not have funds to support a review for preferential transactions or transfers at under value. Absent an agreement or funding from creditors, the Trustee will not be in a position to conduct such a review.

Section H – Third Party Deposits or Guarantees

The Trustee has not been provided with any third party deposits or fee guarantees.

Section I – Other Matters

None at this time.

Dated at Edmonton, this 19th day of May, 2020.

DELOITTE RESTRUCTURING INC.

In its capacity as Licensed Insolvency Trustee of the Estate of
MCG Restaurants Ltd., in bankruptcy
And not in its personal capacity



Darren Crocker, CPA, CGA, CIRP, LIT
Senior Vice-President