

2016

RECEIVED

SEP 12 2016

Hfx. No. 454744

COURT ADMINISTRATION

Supreme Court of Nova Scotia

Application by Victory Farms Incorporated and Jonathan Mullen Mink Ranch Limited (the "Applicants") for relief under the *Companies' Creditors Arrangement Act*

FIRST REPORT OF DELOITTE RESTRUCTURING INC.,
IN ITS CAPACITY AS MONITOR OF
THE APPLICANTS

SEPTEMBER 12th, 2016

1. INTRODUCTION AND BACKGROUND

- 1.1 On August 31, 2016, the Supreme Court of Nova Scotia (the "Court") granted an order (the "Initial Order") under the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended (the "CCAA") granting certain relief to Victory Farms Incorporated and Jonathan Mullen Mink Ranch Limited (collectively the "Applicants").
- 1.2 As part of the Initial Order, Deloitte Restructuring Inc. ("Deloitte") was appointed as Monitor under these CCAA proceedings.
- 1.3 Deloitte advises that this report (the "First Report") should be read in conjunction with the affidavit of Jonathan Mullen (the "Mullen Affidavit"), which is to be filed in support of the Applicants' motion for interim financing.

2. TERMS OF REFERENCE

- 2.1 In preparing the First Report, the Monitor has relied upon financial information of the Applicants, discussions with the Applicants' management ("Management") and BoyneClarke LLP, the Applicants' legal counsel.
- 2.2 The financial information of the Applicants has not been audited, reviewed or otherwise verified by the Monitor as to its accuracy or completeness, nor has it necessarily been prepared in accordance with generally accepted accounting principles and the reader is cautioned that the First Report may not disclose all significant matters about the Applicants. Additionally, none of our procedures were intended to disclose defalcations or other irregularities. Were we to perform additional procedures or to undertake an audit examination of the financial statements in accordance with generally accepted auditing standards, additional matters may have come to our attention. Accordingly, the Monitor does not express an opinion or provide any other form of assurance on the financial or other information presented herein. The Monitor may refine or alter its observations as further information is obtained or brought to its attention after the date of the First Report.

- 2.3 The Monitor 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 the First Report. Any use which any party makes of the First Report, or any reliance or decisions to be made on the First Report, is the sole responsibility of such party.
- 2.4 All dollar amounts identified in the First Report are expressed in or converted to Canadian dollars.
- 2.5 The purpose of the First Report is to inform this Court on the status of:
- (i) The Monitor's activities since the date of the Initial Order
 - (ii) The Monitor's activities with Royal Bank of Canada ("RBC")
 - (iii) The Applicants' request for an interim financing order (the "Charging Order").

3. MONITOR'S ACTIVITIES AND COMPLIANCE WITH STATUTORY OBLIGATIONS

- 3.1 Since the granting of the Initial Order, the Monitor's activities have included:
- (i) filing with the Office of the Superintendent of Bankruptcy Forms 1 and 2 as prescribed under the CCAA;
 - (ii) arranging for the notice of the CCAA proceedings to be published in the Chronicle Herald (Provincial Edition), the Tri-County Vanguard and the online version of the Digby County Courier as directed by the Court on the day of the granting of the Initial Order;
 - (iii) arranging for the Initial Order to be published online by establishing a website at <http://www.insolvencies.deloitte.ca/en/VictoryFarms> where other materials in the CCAA Proceedings are also available in electronic form;
 - (iv) sending a notice of the CCAA Proceedings, within 5 days of the Initial Order, to every known creditor who has a claim against the Applicants of more than \$1,000 advising that the Initial Order is publicly on the website established by the Monitor;
 - (v) implementing procedures for monitoring the Applicants' actual cash flow and for ongoing reporting of variances to the Cash Flow Forecast filed with the Court as part of the Applicants' Initial Application Record; and
 - (vi) attending meetings and corresponding with creditors of the Applicants.

4. DISCUSSIONS WITH ROYAL BANK OF CANADA

- 4.1 Subsequent to the granting of the Initial Order, the Monitor attempted on several occasions to make contact with a representative of RBC, the Applicants' financial institution, to advise of these CCAA proceedings and to have a stop payment put on a number of automatic withdrawals.

- 4.2 Despite repeated attempts, the Monitor was unable to reach a representative of RBC until the morning of September 6, 2016. In the interim period, the amount of \$11,883.19 was withdrawn from the Applicants' bank account. A detailed schedule of the payments is attached to this First Report as Appendix A.
- 4.3 The Monitor has discussed this issue with the Applicants' legal counsel and is working diligently with RBC to have the issue rectified as soon as possible.
- 4.4 The Monitor will update the Court further in respect of this matter as further information becomes available.

5. INTERIM FINANCING

- 5.1 In order to address the Applicants' financing needs during the initial 13 week Cash Flow projection period of these CCAA proceedings (to and including November 25, 2016), the Applicants are currently finalizing a debtor in possession ("DIP") financing agreement (the "DIP Facility") with North American Fur Actions Inc. (the "DIP Lender").
- 5.2 The DIP Lender identified by the Applicants has, subject to the approval of the Court and the meeting of terms and conditions of the Term Sheet negotiated in respect of the DIP Facility, committed to provide to the Applicants a senior secured super-priority DIP term loan of up to \$1.5 million.
- 5.3 The Term Sheet setting out the terms and conditions of the proposed DIP Facility is appended to this First Report as Appendix B.
- 5.4 The Monitor is not presently aware of any other parties that are willing to provide the Applicants with interim debtor in possession financing.
- 5.5 The proceeds of the proposed DIP Facility would be used to fund working capital requirements in accordance with the Applicants' Cash Flow projections in support of their restructuring efforts and would not be used to repay any indebtedness outstanding prior to the date of the CCAA proceedings.
- 5.6 The Monitor believes that the proposed DIP financing would assist the Applicants as they continue to operate during the initial 13 week period extending to November 25, 2016, as set forth in the Cash Flow projections attached to the August 24, 2016 pre-filing Report of (then proposed) Monitor, Deloitte. The interim financing would allow the Applicants time to provide a restructuring plan to their stakeholders.
- 5.7 The proposed Charging Order filed on the motion provides for a charge to secure payment to the DIP Lender of amounts owing under the DIP Facility (the "DIP Lender's Charge").

5.8 The Monitor is of the opinion that the DIP Lender's Charge is required to support the Applicants' restructuring efforts in the immediate term, to and including November 25, 2016, and the terms of the DIP Facility are considered reasonable by the Monitor as a means of facilitating the restructuring of the Applicants.

6. CONCLUSION

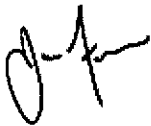
6.1 This Report has been prepared to provide this Court with information regarding the Monitor's activities since the date of the Initial Order, the Monitor's discussions with RBC and the DIP Lender's Charge sought in the Applicants' Motion for a Charging Order, which is to be heard on September 16, 2016.

All of which is respectfully submitted this 12th day of September, 2016.

DELOITTE RESTRUCTURING INC.

Acting in its capacity as
Monitor of Victory Farms Incorporated and
Jonathan Mullen Mink Ranch Limited
and not in its personal capacity

Per:



James Foran, CPA, CA, CIRP, LIT
Vice President

Appendix A: Summary of RBC payments

Victory Farms Incorporated and Jonathan Mullen Mink Ranch Limited
Summary of loan payments subsequent to August 31, 2016

Victory Farms Incorporated

Date	Vendor	Amount
9/1/2016	Farm Credit Canada	506.18
9/1/2016	CNH Capital	616.65
9/1/2016	CNH Capital	529.64
9/6/2016	Nova Scotia Farm Loan Board	<u>9,287.18</u>
		10,939.65

Jonathan Mullen Mink Ranch Limited

Date	Vendor	Amount
9/1/2016	Farm Credit Canada	<u>943.54</u>
		943.54
Total		<u><u>11,883.19</u></u>

Appendix B: DIP Facility Terms and Conditions

Interim Financing Term Sheet

Dated as of September 7, 2016

WHEREAS the Borrower (as defined below) has requested that the Interim Lender (as defined below) provide financing to fund certain of the Borrower's obligations during the Borrower's proceedings (the "**CCAA Proceedings**") under the *Companies' Creditors Arrangement Act* (the "**CCAA**"), before the Nova Scotia Supreme Court (the "**Court**") and in accordance with the terms and conditions set out herein;

AND WHEREAS, the Interim Lender has agreed to provide financing in order to fund certain obligations of the Borrower in the context of its CCAA Proceedings in accordance with the terms set out herein;

NOW THEREFORE, the parties, in consideration of the foregoing and the mutual agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

Borrower: Victory Farms Incorporated and Jonathan Mullen Mink Ranch Limited ("Borrower")

Interim Lender: North American Fur Auctions Inc. (the "Interim Lender")

Facility: **Demand Revolving Loan** ("DRL") Facility in the maximum amount of \$1,500,000.00 (or US\$ equivalent). The DRL will be drawn and advanced in tranches for amounts requested by the Borrower and approved by the Monitor. Amounts outstanding under the DRL shall bear interest at twelve per cent (12%) per annum payable monthly on the last day of each month during which any portion of the DRL remains outstanding.

Purpose: To provide Debtor in Possession funding ("DIP Financing") and provide working capital financing, as evidenced in Borrower's cash flow projections provided to the Interim Lender.

Term: Twelve (12) months, creditor approval of a plan of arrangement, date of bankruptcy, or date of abandonment of CCRA proceedings, whichever shall be the sooner.

The DRL Facility herein can be repaid in full, without penalty at any time, provided that a 30-day prior written notice is given to the Interim Lender.

Repayment: Expiry of the term.

Fees: Work fee and due diligence fee of \$25,000.00 non-refundable, payable on granting of the Order approving the DIP Loan and the DIP Charge.

Covenants: Borrower agrees:

1. To pay all sums of money due under this agreement on demand;
2. Not to change its name or merge, amalgamate or consolidate with any other corporation without the prior written consent of the Interim Lender;
3. Not to make any capital expenditures, acquisitions or incur any debt outside of Court approved cash flows, without prior written consent of the Interim Lender;
4. To give the Interim Lender prompt notice of any Event of Default or any event which with notice or lapse of time or both would constitute an Event of Default;
5. Not to make any payments to any shareholder or director of the Borrower without the prior consent of the Interim Lender; and
6. Not to seek or support the granting of any Order which provides for a security interest in any of the assets of the Borrower ranking in priority to that in favour of the Interim Lender, other than the Admin Charge described below.

Conditions: The obligation of the Interim Lender to make the Facility available shall be subject to and conditional upon each of the following:

- Borrower shall have obtained an Order (the "DIP Order") of the Supreme Court that provides for *inter alia*:
 - The creation of an Interim Lender DIP Charge on terms satisfactory to the Interim Lender;
 - A stay of proceedings pursuant to the provision of the CCAA (the "Initial Order");
 - The ongoing communication, regarding the Borrower and the CCAA process, of information by the Monitor to the Interim Lender;
 - The Initial Order and the DIP Order shall not have been stayed, vacated or otherwise caused to be ineffective or amended, restated or modified in a way that adversely impacts the rights and interests of the Interim Lender;
 - The Interim Lender and its advisors shall be provided with and the Interim Lender shall be satisfied with Borrower's proposed and future cash flow projections (as the same may be amended in form and substance satisfactory to the Interim Lender (the "Cash Flow"));
 - Borrower shall be in compliance with the Initial Order, the DIP Order and any amendments thereto and the

Borrower's operating results shall substantially comply with the Cash Flow;

The Interim Lender's security interest under the Order ranking first over the livestock (mink) of the debtor, including breeding stock, the pelts derived therefrom, and the proceeds thereof, but subject to an Admin charge as provided in the Initial Order not exceeding \$150,000;

- Borrower agrees to furnish all assistance and information, to perform such acts as the Interim Lender reasonably requests, and to grant to the Interim Lender or its authorized agents, not acting unreasonably, access to Borrower's premises and to all places where assets may be located, during normal business hours, to verify the accounts receivable, inventory and fixed assets and the general condition of the business of the Borrower; and
- The Interim Lender to be provided with any other reporting reasonably requested.

Reporting:

Monthly within 30 days of month end

The Borrower shall provide to the Interim Lender, on a monthly basis, within 15 days of the end of each month:

1. Bank statements of Borrower;
2. Summary Report on health of mink crop;
3. Evidence of payment of government remittances (i.e.: employee source deductions, HST, etc.);
4. Internally prepared financial statements comprising balance sheet and income statement for Borrower.

Annually within 60 days of fiscal year

The Borrower shall provide to the Interim Lender, within 60 days of the Borrower's fiscal year accountant prepared financial statements of the Borrower.

Expenses:

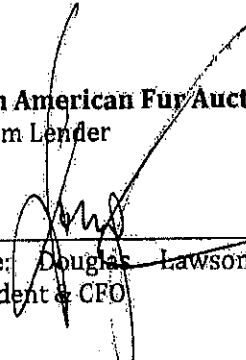
All reasonable costs incurred by the Interim Lender including legal fees, professional fees, search and registration fees, etc in implementing or attempting to implement this Facility, any ongoing charges incurred in maintaining or reviewing this Facility or the security requirements of the Interim Lender; plus any costs of collection, enforcement, realization and / or subsequent discharges, are for the account of Borrower. Such costs shall bear interest at the rate set out above, from the date on which they are incurred by the Interim Lender.

This Agreement may be signed in counterparts and each of such counterparts shall constitute an original document and all of which counterparts taken together shall constitute one and the same agreement.

Copies of this Agreement provided by facsimile transmission or email transmission shall be conclusively deemed to have been executed and delivered and shall be binding on the party delivering such copy.

In witness whereof the parties hereto have executed these presents all as at the 7th day of September, 2016.

North American Fur Auctions Inc.,
Interim Lender
Per:


Name: Douglas Lawson, Senior Vice
President & CFO

Victory Farms Incorporated, Borrower
Per:


Name: Jonathan Mullen, President

Jonathan Mullen Mink Ranch Limited,
Borrower
Per:


Name: Jonathan Mullen, President