

THE QUEEN'S BENCH
WINNIPEG CENTRE

BETWEEN:

LINCOLN WOLFE and 5606269 MANITOBA LTD.

Applicants,

-and-

**DUANE TAYLOR, 5608067 MANITOBA LTD., TAYLOR
BROS. FARM LTD. and EDWIN POTATO GROWERS LTD.**

Respondents.

**NOTICE OF MOTION
HEARING DATE: November 21, 2017 at 10:00 AM
BEFORE THE HONOURABLE MR. JUSTICE TOEWS**

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Box No. 3

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Deloitte Restructuring Inc., court-appointed liquidator (the "**Liquidator**") of the assets, undertakings and property (collectively, the "**Property**") of Taylor Bros. Farm Ltd. ("**TBF**") and Edwin Potato Growers Ltd. ("**EPG**"), will make a motion before the Honourable Mr. Justice Toews on Tuesday, the 21st day of November, 2017 at 10 o'clock in the forenoon or as soon after that time as the motion can be heard, at the Law Courts Building, 408 York Avenue, Winnipeg, Manitoba.

THE MOTION IS FOR:

1. An Order (substantially in the form of the Draft Order attached as Schedule "A") approving the Liquidation Plan and the Proposed Sales Process recommended by the Liquidator and authorizing the Liquidator to implement same;
2. An Order (substantially in the form of the Draft Order attached as Schedule "A") approving the proposed Claims Process recommended by the Liquidator and authorizing the Liquidator to implement same;

3. An Order (substantially in the form of the Draft Order attached as Schedule "A") sealing the Confidential Report in the Court File;
4. An Order (substantially in the form of the Draft Order attached as Schedule "A") requiring the Respondent, Duane Taylor ("**Mr. Taylor**"), on or before November 30, 2017, to cause to be paid the outstanding water accounts (the "**Outstanding Water Accounts**") for the lands leased from the Liquidator by Mr. Taylor's operating company, Fat Cat Farms Ltd. ("**FCF**");
5. An Order (substantially in the form of the Draft Order attached as Schedule "A") requiring Mr. Taylor, on or before November 30, 2017, to provide to the Liquidator all supporting documents pertaining to the accounts receivable of TBF and EPG (collectively, the "**Companies**");
6. An Order (substantially in the form of the Draft Order attached as Schedule "A") requiring Mr. Taylor, on or before November 30, 2017, to provide to the Liquidator all supporting documents pertaining to the accounts payable of the Companies;
7. An Order (substantially in the form of the Draft Order attached as Schedule "A") approving of the actions of the Liquidator to date in respect of its administration of these liquidation proceedings, including the Statement of Receipts and Disbursements contained in the Liquidator's First Report filed in these proceedings;

8. An Order (substantially in the form of the Draft Order attached as Schedule "A") requiring Mr. Taylor to pay to the Liquidator its cost of this application on a solicitor-client full indemnity basis;
9. An Order (substantially in the form of the Draft Order attached as Schedule "A") permitting the Liquidator to serve any materials and orders in these proceedings, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission on the parties on the Service List attached hereto; and
10. Such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THIS MOTION ARE:

1. By means of the Order (Appointing Liquidator) of the Honourable Mr. Justice Toews pronounced in these proceedings on April 28, 2017 (the "**Liquidation Order**"), Deloitte Restructuring Inc. was appointed Liquidator of the Property.

Order Approving The Liquidation Plan

2. Paragraphs 2(i) and 2(o) of the Liquidation Order empowered and authorized the Liquidator:
 - a) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Liquidator in its discretion may deem appropriate; and

- b) to develop a plan for the liquidation of TBF and EPG, the satisfaction of TBF and EPG's liabilities, and the payment of any surplus realized thereby (the "**Liquidation Plan**"), to seek acceptance by the Applicant and the Respondents of the Liquidation Plan, and, failing such acceptance within a reasonable period of time, as determined by the Liquidator, to recommend the Liquidation Plan to this Court and to seek approval thereof from this Court.
3. The Liquidator has developed a proposed Liquidation Plan and a Proposed Sales Process and has sought acceptance of same from the Applicant and the Respondents by means of a face to face meeting and repeated correspondence between July of 2017 and October of 2017. The Applicants, Lincoln Wolfe and 5606269 Manitoba Ltd. (through counsel), have communicated their unconditional acceptance of the Proposed Sales Process. The Respondents, Duane Taylor and 5608067 Manitoba Ltd. (through counsel), have objected to the Proposed Sales Process unless a number of conditions are satisfied, including the deferral of any sale of the Property "until the arbitration process has been completed and all judicial reviews therefrom are completed".
4. Given its inability to obtain acceptance of the Proposed Sales Process from the Applicants and the Respondents, the Liquidator has been thwarted in its efforts to carry out its mandate pursuant to the Liquidation Order. Accordingly, an Order of this Honourable Court authorizing and empowering the Liquidator to implement the proposed Liquidation Plan and the Proposed Sales Process

forthwith (whether with or without the acceptance of same by the Respondents) is necessary and appropriate.

5. Continued delays in the execution of the Liquidation Order have resulted in the erosion of equity in the Property as interest continues to accrue on the secured debt owing by the Companies to secured creditors such as Bank of Montreal and R.L. Wolfe Ltd. Further delays in the execution of the Liquidation Order will result in significant prejudice to all stakeholders.

Order Approving The Claims Process

6. In the event that the implementation of the Liquidation Plan yields net realization proceeds in excess of the amount owing by the Companies to their secured creditors, it will be necessary for the Liquidator to make a distribution to the unsecured creditors of the Companies. The proposed Claims Process will facilitate the Liquidator making a timely and cost-effective distribution of sales proceeds to the secured and unsecured creditors of the Companies.

Order Sealing The Confidential Report

7. In accordance with the standard practice of the Court in court-supervised sale processes, an Order sealing the Confidential Report in the Court File until further Order of the Court is necessary in order to preserve the integrity of the proposed Liquidation Plan and to prevent sensitive information as to the value of the Property from being disclosed to potential purchasers of the Property.
8. *The Queen's Bench Act, CCSM c. C280, as amended, section 77.*

Order Requiring Payment of The Outstanding Water Accounts

9. Despite repeated written requests by the Liquidator of FCF and Mr. Taylor to pay the Outstanding Water Accounts, FCF and Mr. Taylor have failed, neglected or refused to pay the Outstanding Water Accounts.

Order Requiring Delivery of Documents Pertaining To Accounts Receivable and Accounts Payable

10. Mr. Taylor is in possession of supporting documents pertaining to the accounts receivable and accounts payable of the Companies. Despite repeated written requests by the Liquidator of Mr. Taylor to deliver such documents to the Liquidator, Mr. Taylor has failed, neglected or refused to do so.

Order Approving The Activities of The Liquidator

11. An Order approving the activities of the Liquidator to date, inclusive of the Liquidator's statement of receipts and disbursements for the period from April 28, 2017 to October 27, 2017, is necessary, appropriate and in accordance with the standard practice of this Court in court-supervised liquidation proceedings.

Order Requiring Payment of The Liquidator's Costs of This Motion

12. The relief sought by the Liquidator in this motion is straightforward and uncontroversial relief that, in the ordinary course of such proceedings, is commonly obtained through co-operation amongst stakeholders and a reasonable, fair-minded approach that obviates the need for involvement of the Court. Further, and in particular, the majority of the relief sought by the

Liquidator in this application is relief that has already been granted by the Court in the Liquidation Order. This application by the Liquidator to enforce the Liquidation Order has been made necessary by the failure, neglect or refusal of Mr. Taylor to extend reasonable co-operation to the Liquidator. Accordingly, an Order requiring Mr. Taylor to pay to the Liquidator its costs of this application on a solicitor-client full indemnity basis is appropriate.

13. *Court of Queen's Bench Rules*, Reg. 553/88, as amended, Rules 2.03, 3.02, 16.04, and 37.
14. 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:

1. The First Report of the Liquidator dated October 31, 2017;
2. The First Confidential Report of the Liquidator dated October 31, 2017;

3. Such further and other evidence as counsel may advise and this Honourable Court may permit.

October 31, 2017

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TO: The Attached Service List