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C A N A D A
DISTRICT OF NEW BRUNSWICK
DIVISION No.: 04 - Moncton
COURT No.: 25915
ESTATE No.: 51-2872024

COURT OF KING'S BENCH OF
NEW BRUNSWICK IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE BANKRUPTCY OF: **Zio's Pizza Kitchen Ltd.**, a Company formed under the laws of New Brunswick, having its head office at 214 Church Street, Moncton, NB, E1C 5A2

Bankrupt

- and -

DELOITTE RESTRUCTURING INC.

(Kurt MacLeod, MBA, CIRP, LIT)

having its place of business at 1741 Lower Water Street, Suite 800, Halifax NS, B3J 0J2

Licensed Insolvency Trustee

SECTION A – BACKGROUND

Zio's Pizza Kitchen Ltd. ("**Zio's**") was incorporated under the Business Corporations Act of New Brunswick ("**NB**") on December 5, 2006. The shares of Zio's are wholly owned by Sandro Speranza.

Prior to its insolvency, Zio's operated a full service dine-in restaurant and pizza take-away business from owned premises located at 214 Church Street, Moncton, NB, along with an adjacent parking lot located at 14-146 Mountain Road, Moncton, NB (collectively the "**Properties**").

On July 8, 2019, Zio's filed a Notice of Intention to Make a Proposal (the "**NOI Proceeding**") with the Official Receiver and MNP Ltd. ("**MNP**") was named the Licensed Insolvency Trustee (the "**Proposal Trustee**"). As part of the NOI Proceeding, the Court of Queen's Bench (as it was then known) of New Brunswick in Bankruptcy and Insolvency (the "**Court**") granted Zio's extensions of time in which to file a proposal on August 29, 2019 and October 10, 2019.

On November 5, 2019, Zio's filed a proposal to creditors (the "**Proposal**"), which was subsequently amended on November 29, 2019, and further amended on December 4, 2019.

On December 5, 2019, the Proposal was accepted by Zio's creditors and on the January 23, 2020, the Proposal was approved by the Court.

On October 5, 2022 (the "**Date of Bankruptcy**"), Zio's filed an assignment in bankruptcy with the Official Receiver and Deloitte Restructuring Inc. ("**Deloitte**") was named the Licensed Insolvency Trustee (the "**Trustee**").

Zio's causes of insolvency are as follows:

- (i) In 2015, Zio's decided to expand its service offering from a pizza take-away business to building a large scale dine-in restaurant facility. During construction, Zio's suffered from project delays and cost overruns which led to the NOI Proceeding;
- (ii) The location of Zio's restaurant was affected by municipal improvements that negatively impacted Zio's sales; and
- (iii) The onset of Coronavirus ("**COVID-19**") and the impact government regulations had on the hospitality industry.

The Trustee understands that MNP is in the process of advising the Court of the default in the Proposal and will be seeking its discharge.

Additional information regarding the administration of the bankruptcy proceedings can be found at the Trustee's website www.insolvencies.deloitte.ca/ziospizza.

SECTION B – PRELIMINARY EVALUATION OF ASSETS AND SECURED CREDITORS

As at the Date of Bankruptcy, a preliminary evaluation of the book value of Zio's assets and liabilities was:

Zio's Pizza Kitchen Ltd.		
Preliminary summary of assets and liabilities		
As at October 5, 2022		
Assets		
Current		46,306
Non-current assets		2,993,362
		<u>3,039,668</u>
Liabilities		
Secured creditors		2,352,109
Unsecured creditors		1,338,515
		<u>3,690,624</u>

Note: The information above has been obtained by the Trustee from the books and records of Zio and has not been audited, reviewed or otherwise verified. Asset values presented above are presented on a book value basis and as such, realizations on these assets may vary from the amounts presented.

Zio's assets primarily consist of the following:

- cash held in bank accounts with Canadian Imperial Bank of Commerce ("**CIBC**");
- food and beverage equipment; and
- the Properties.

Zio's had previously provided CIBC and Business Development Bank of Canada ("**BDC**") (collectively, the "**Secured Creditors**") with general security agreements and real property mortgages that fully encumbered Zio's assets (the "**Secured Creditor Collateral**"). In addition to the Secured Creditor indebtedness, Zio's has incurred a property tax liability of approximately \$311,000, a portion of which forms a priority claim ahead of the Secured Creditor Collateral on the Properties.

In addition to the Secured Creditors, Zio's granted registrations under the Personal Property Search Act to Blue Chip Leasing Corporation, Silver Chef Rentals Inc., and the Bank of Nova Scotia (collectively the "**PPSA Creditors**").

The Trustee has requested Stewart McKelvey clear conflicts, and subject to confirming their independence, the Trustee will be seeking a motion at the first meeting of the estate inspectors to retain them as estate counsel. Stewart McKelvey will then be requested to provide the Trustee with independent legal opinions regarding the validity and enforceability of the Secured Creditor Collateral and PPSA Creditors.

SECTION C – BOOKS AND RECORDS

The Trustee is in possession of Zio's physical and electronic books and records.

SECTION D – CONSERVATORY AND PROTECTIVE MEASURES

The Trustee has taken the following conservatory and protective measures over Zio's assets:

- secured the Properties by changing locks;
- obtained insurance coverage over the Properties;
- engaged an external security company to complete daily security checks with ongoing reporting to the Trustee; and
- instructed CIBC to put Zio's bank accounts on "deposit only".

SECTION E – RELEVANT INFORMATION RELATING TO PROVABLE CLAIMS AND A DESCRIPTION OF CREDITORS

Based on the books and records of Zio's, there are five secured creditors (i.e. the Secured Creditors and the PPSA Creditors) with amounts owing of approximately \$2.4 million and 59 unsecured creditors with amounts owing of approximately \$1.4 million.

The Trustee has received four proofs of claim as at the date of this report.

SECTION F – LEGAL PROCEEDINGS, REVIEWABLE TRANSACTIONS AND PREFERENCE PAYMENTS

Based on a preliminary review of the books and records of Zio's, the Trustee is not aware of any legal proceedings, reviewable transactions or preference payments at this time.

The Trustee will continue to review the books and records to identify any potential reviewable transactions and/or preference payments.

SECTION G – DETAILS OF THIRD-PARTY DEPOSITS OR GUARANTEES

The fees, disbursements, and costs of the bankrupt proceedings will be covered by an administrative agreement between the Trustee and the Secured Creditors.

SECTION H – TRUSTEE'S INTENTION TO ACT FOR SECURED CREDITORS

The Trustee is currently in discussions with the Secured Creditors with respect to a dual appointment as Receiver.

SECTION I – PROJECTED DISTRIBUTION AND TRUSTEE COMMENTS ON ANTICIPATED ASSET REALIZATIONS

Based on the activities the Trustee to date, including reviewing documentation relating to Zio's NOI Proceeding and information contained with the statement of affairs, the Trustee does not anticipate a distribution to unsecured creditors will be made from the bankrupt estate.

SECTION J – OTHER

On September 27, 2022, Deloitte was retained by the Secured Creditors to act as financial consultant with respect to advances provided to Zio's. This engagement ended on the Date of Bankruptcy.

Dated at Halifax, Nova Scotia this 24th day of October, 2022.

DELOITTE RESTRUCTURING INC

Acting in its capacity as
Licensed Insolvency Trustee of Zio's Pizza Kitchen Ltd.
and not in its personal capacity

Per:

A handwritten signature in black ink, appearing to read "Kurt Macleod". The signature is written in a cursive, somewhat stylized font.

Kurt Macleod, MBA, CIRP, LIT
Vice President