

THE QUEEN'S BENCH  
WINNIPEG CENTRE

BETWEEN:

**LINCOLN WOLFE and 5606269 MANITOBA LTD.**

Applicants,

-and-

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

Respondents.

APPLICATION UNDER section 207 of *The Corporations Act*, C.C.S.M. c. C225

---

**NOTICE OF MOTION  
HEARING DATE: FRIDAY, AUGUST 31, 2018 AT 10:00AM  
BEFORE THE HONOURABLE MR. JUSTICE TOEWS**

---

**MLT AIKINS LLP**  
Barristers and Solicitors  
3000 – 360 Main Street  
Winnipeg, Manitoba R3C 4G1

**Jeffrey M. Lee, Q.C./J.J. Burnell**  
Ph: (306) 975-7136/ (204) 957-4663  
Fax: (306) 975-7145/ (204) 957-4285  
Email: [jmlee@mltaikins.com](mailto:jmlee@mltaikins.com)/[jburnell@mltaikins.com](mailto:jburnell@mltaikins.com)

File No. 56074.8/ 1702089

**AUG 23 2018**

THE QUEEN'S BENCH  
WINNIPEG CENTRE

BETWEEN:

**LINCOLN WOLFE and 5606269 MANITOBA LTD.**

Applicants,

-and-

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

Respondents.

APPLICATION UNDER section 207 of *The Corporations Act*, C.C.S.M. c. C225

**NOTICE OF MOTION**

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**") (together the "**Companies**"), will make a motion before the Honourable Mr. Justice Toews on Friday, the 31<sup>st</sup> day of August, 2018 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",  
*inter alia*:
  - a. Abridging the time for service of the Notice of Motion and materials filed in support of this motion, such that this motion is properly returnable on August 31, 2018 at 10:00 AM, and dispensing with further service thereof;

- b. Approving the reported actions of the Liquidator to date in respect of administering these liquidation proceedings and approving the Liquidator's Fourth Report (the "**Fourth Report**"), including the Liquidator's Statement of Receipts and Disbursements contained in the Fourth Report;
- c. Approving the fees and disbursements of the Liquidator from April 28, 2018 to August 14, 2018, and the fees and disbursements of its legal counsel from April 1, 2018 to August 15, 2018;
- d. Ordering that the delivery of the Liquidator's Statement of Receipts and Disbursements contained in the Fourth Report constitute satisfactory compliance by the Liquidator with section 214(h) of *The Corporations Act*, CCSM, c. 225 ("**The Corporations Act**"), with respect to the preparation and delivery of financial statements for TBF;
- e. Extending the time period within which the Liquidator shall be required to apply to Court for approval of its final accounts and for an Order permitting it to distribute in money or kind the remaining Property of each of the Companies to their respective shareholders according to their respective rights pursuant to section 216(2) of *The Corporations Act* to November 30, 2018;
- f. Direction as to the proposed distributions to the respective creditors of the Companies and approving one of the three distribution schedules (the "**Approved Distribution Schedule**") contained in the Fourth Report and authorizing the Liquidator to make final distributions up to the amounts set

out therein to the creditors of the Companies in accordance with the Approved Distribution Schedule and section 216(2) of The Corporations Act; and

- g. In the alternative to the relief sought in paragraph 1(f) above, ordering the Liquidator to pay all funds of the Companies in its possession into Court and that all Property of the Companies is under the control of the Court.

2. Such further and other relief as the Honourable Court may deem just.

#### **THE GROUNDS FOR THIS MOTION ARE:**

##### Background

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.
2. By Order dated November 21, 2017 (the "**Sales Process Order**") this Honourable Court approved the Liquidation Plan and the Proposed Sales Process (together the "**Sale Process**") and authorized the Liquidator to implement same.
3. The Liquidator conducted the Court approved Sale Process in accordance with its terms and in accordance with the Sales Process Order, and the Sale Process resulted in the Liquidator entering into certain asset purchase agreements with Wolfe Land and Equipment Ltd. ("**Wolfe Land**") and Beaver Creek Holding Co. Ltd. ("**Beaver Creek**") (collectively the "**APAs**").

4. Pursuant to the Sale Approval Order this Honourable Court approved the respective sales under the APAs and ordered that the assets thereunder vest in the respective purchasers.

5. The sales under the APAs to each of Wolfe Land and Beaver Creek closed on April 16, 2018 and April 17, 2018 respectively.

6. By Order dated May 28, 2018 this Honourable Court *inter alia*:

- a. Extended the time period within which the Liquidator shall be required to apply to Court for approval of its final accounts and for an Order permitting it to distribute in money or in kind the remaining Property of each of the Companies to their respective shareholders according to their respective rights pursuant to section 216(2) of The Corporations Act to August 31, 2018; and
- b. Deemed the delivery of the Liquidator's Statement of Receipts and Disbursements to constitute satisfactory compliance by the Liquidator with the requirements of section 214(h) of The Corporations Act with respect to the preparation and delivery of financial statements for EPG.

7. On June 29, 2018 and July 27, 2018 this Honourable Court delivered Endorsements with respect to the distribution of funds by the Liquidator. The terms of that Order have not yet been settled.

Liquidator's Report and Activities

8. An Order approving the activities of the Liquidator to date, inclusive of the Liquidator's Statement of Receipts and Disbursements for the period from May 14, 2018, to August 19, 2018 is necessary, appropriate and in accordance with the standard practice of this Court in Court supervised liquidation proceedings.

Accounts of the Liquidator

9. Paragraph 16 of the Liquidation Order provides that the Liquidator and its legal counsel shall pass their accounts from time to time.

10. The Liquidator's final accounts are reasonable and in each case at the standard rates and charges.

The Corporations Act and Financial Statements

11. TBF is insolvent and the Liquidator intends to assign TBF into bankruptcy following the distributions or payments contemplated in paragraph 1(f) or 1(g) above (as ordered by this Honourable Court) and therefore preparation and delivery of financial statements is not warranted.

12. Following this Honourable Court's approval of the aforementioned distributions or payments, the Liquidator intends to apply for approval of its final accounts in respect of the Companies and, if required, for an Order to distribute in money or in kind the remaining property of EPG to its shareholders according to their respective rights.

13. Sections 214(h) and 216(2) of the Corporations Act.

Distributions

14. TBF is insolvent and EPG may also be insolvent.
15. The Liquidator requires directions with respect to proposed distributions to the creditors of the Companies. The three distribution schedules attached to the Fourth Report are based upon the positions taken by the various parties.
16. Pursuant to Section 214(g) of The Corporations Act, if a liquidator determines that a corporation is unable to pay or adequately provide for the discharge of its obligations, the Liquidator shall apply to Court for directions.
17. Sections 214(g) and 215(1)(h) of the Corporations Act.

Payment into Court

18. Pursuant to section 213(2) of The Corporations Act, where an order for the liquidation of a corporation is made and the office of liquidator becomes vacant, the property of the corporation is under the control of the Court until the office of liquidator is filled.
19. Section 213(2) of The Corporations Act.
20. *Queen's Bench Rules*, Man. Reg. 553/88, as amended, Rule 73.02

Generally

21. *Queen's Bench Rules*, Man. Reg. 553/88, as amended, Rules 2.03, 3.02, 16 and 37.

22. 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. Liquidation Order (Doc #38);
2. The First Report of the Liquidator dated October 31, 2017 (Doc #43);
3. The First Confidential Report of the Liquidator dated October 31, 2017 (Doc #44);
4. The Second Report of the Liquidator dated March 26, 2018 (Doc #56);
5. The Second Confidential Report of the Liquidator dated March 26, 2018 (Doc #57);
6. The Supplement to the Second Report of the Liquidator dated March 29, 2018 (Doc #58);
7. The Liquidator's Certificate (Wolfe Land Purchaser), filed April 16, 2018 (Doc #68);
8. The Liquidator's Certificate (Beaver Creek Purchaser), filed April 17, 2018 (Doc #69);
9. The Third Report of the Liquidator filed May 18, 2018 (Doc #28);
10. Order pronounced May 28, 2018, filed May 30, 2018 (Doc #76);

11. Endorsement Sheet dated June 29, 2018 (Doc #93);
12. Endorsement Sheet dated July 27, 2018 (Doc #96);
13. Fourth Report, to be filed; and
14. Such further and other evidence as counsel may advise and this Honourable Court may permit.

August \_\_\_\_, 2018

MLT AIKINS LLP  
Barristers and Solicitors  
3000 – 360 Main Street  
Winnipeg, Manitoba R3C 4G1

Jeffrey M. Lee, Q.C./ J.J. Burnell  
Ph: (306) 975-7136/ (204) 957-4663  
Fax: (306) 975-7145/ (204) 957-4285  
Email: [jmlee@mltaikins.com](mailto:jmlee@mltaikins.com)/ [jburnell@mltaikins.com](mailto:jburnell@mltaikins.com)

TO: The Attached Service List

**Schedule "A"**

File No. CI 15-01-97066

**THE QUEEN'S BENCH  
WINNIPEG CENTRE**

BETWEEN:

**LINCOLN WOLFE and 5606269 MANITOBA LTD.**

Applicants,

-and-

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

Respondents.

APPLICATION UNDER section 207 of *The Corporations Act*, C.C.S.M. c. C225

---

**ORDER**

---

**MLT AIKINS LLP**

Barristers and Solicitors  
3000 – 360 Main Street  
Winnipeg, Manitoba R3C 4G1

**Jeffrey M. Lee, Q.C./J.J. Burnell**

Ph: (306) 975-7136/ (204) 957-4663

Fax: (306) 975-7145/ (204) 957-4285

Email: [jmlee@mltaikins.com](mailto:jmlee@mltaikins.com)/[jjburnell@mltaikins.com](mailto:jjburnell@mltaikins.com)

File No. 56074.8/ 1702089

Box No. 3

THE QUEEN'S BENCH  
WINNIPEG CENTRE

THE HONOURABLE        )  
MR. JUSTICE TOEWS    )     Friday, the 31<sup>st</sup> day of August, 2018  
                              )

BETWEEN:

**LINCOLN WOLFE and 5606269 MANITOBA LTD.**

Applicants,

-and-

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

Respondents.

APPLICATION UNDER section 207 of *The Corporations Act*, C.C.S.M. c. C225

**ORDER**

THIS MOTION, made by Deloitte Restructuring Inc., court-appointed liquidator (the "**Liquidator**") of the assets, undertakings and property of Taylor Bros. Farm Ltd. ("**TBF**") and Edwin Potato Growers Ltd. ("**EPG**"), (together the "**Companies**"), for an Order approving certain actions and fees and disbursements of the Liquidator, extending certain time periods, approving a distribution schedule and other relief was heard this day, at the Law Courts Building, 408 York Avenue, Winnipeg, Manitoba.

ON READING the First Report of the Liquidator dated October 31, 2017, the First Confidential Report of the Liquidator dated October 31, 2017, the Second Report of the Liquidator dated March 26, 2018, the Second Confidential Report of the Liquidator dated March 26, 2018, the Supplement to the Second Report of the Liquidator dated March 29, 2018, the Certificate of the Liquidator for the Wolfe Land transaction, the Certificate of Liquidator for the Beaver Creek transaction, the Third Report of the Liquidator dated May 18, 2018, the Fourth Report of the Liquidator dated August \*\*\*, 2018 and on hearing the submissions of counsel for the Liquidator, counsel for the Applicants, Lincoln Wolfe and 5606269 Manitoba Ltd., counsel for the Respondents, Duane Taylor and 5608067, counsel for Pitblado LLP and counsel for Gerald and Martha Weibe, no one appearing for any other person, although properly served as appears from the Affidavit of service of Samantha Dunn sworn August \*\*\*, 2018.

### **SERVICE**

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the supporting materials herein is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

### **LIQUIDATOR'S REPORT**

2. THIS COURT FURTHER ORDERS that the reported actions of the Liquidator to date in respect of administering these liquidation proceedings and the Liquidator's Fourth Report dated August 24, 2018 ("**Fourth Report**"), including the statement of Receipts and Disbursements contained in the Fourth Report, shall be and is hereby approved.

**LIQUIDATOR'S FEES AND DISBURSEMENTS**

3. THIS COURT FURTHER ORDERS that the fees and disbursements of the Liquidator for the period of April 28, 2018 to August 14, 2018, and the fees and disbursements of its legal counsel for the period of April 1, 2018 to August 15, 2018, shall be and are hereby approved.

**THE CORPORATIONS ACT**

4. THIS COURT FURTHER ORDERS that the delivery by the Liquidator of the Liquidator's Statement of Receipts and Disbursements attached to the Fourth Report, shall be and is hereby deemed to constitute satisfactory compliance by the Liquidator with the requirements of section 214(h) of *The Corporations Act*, C.C.S.M. c. C225, as amended ("**The Corporations Act**") with respect to preparation and delivery of financial statements for TBF.

5. THIS COURT FURTHER ORDERS that paragraph 2 of this Honourable Court's Order dated May 28, 2018 shall be and is hereby amended to extend to November 30, 2018 the time period within which the Liquidator shall be required to apply to Court for approval of its final accounts and for an order permitting it to distribute in money or in kind the remaining property of each of the Companies to their respective shareholders according to their respective rights pursuant to section 216(2) of *The Corporations Act*.

**DISTRIBUTIONS**

6. THIS COURT FURTHER ORDERS that Exhibit "\*\*\*\*" to the Fourth Report of the Liquidator ("**Approved Distribution Schedule**"), be and hereby is approved and that

the Liquidator is authorized to make final distributions up to the amounts set out therein to the creditors of the Companies in accordance with the Approved Distribution Schedule and section 216(2) of The Corporations Act.

August \_\_\_\_, 2018

---

TOEWS, J.

THE QUEEN'S BENCH  
WINNIPEG CENTRE

BETWEEN:

**LINCOLN WOLFE and 5606269 MANITOBA LTD.**

Applicants,

-and-

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

Respondents.

---

**SERVICE LIST  
AS AT MARCH 27, 2018**

---

**MLT AIKINS LLP**  
Barristers and Solicitors  
3000 – 360 Main Street  
Winnipeg, Manitoba R3C 4G1

**Jeffrey M. Lee, Q.C./ J.J. Burnell**  
Ph: (306) 975-7136 / (204) 957-4663  
Fax: (306) 975-7145 / (204) 957-4285  
Email: [jmlee@mltaikins.com](mailto:jmlee@mltaikins.com)

**File No. 56074.8/ 1702089**

Box No.

THE QUEEN'S BENCH  
WINNIPEG CENTRE

BETWEEN:

**LINCOLN WOLFE and 5606269 MANITOBA LTD.**

Applicants,

-and-

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

Respondents.

**SERVICE LIST**

<b>Party/Counsel</b>	<b>Telephone</b>	<b>Facsimile</b>	<b>Party Representative</b>
<b>MLT AIKINS LLP</b> 3000 – 360 Main Street Winnipeg, Manitoba R3C 4G1  JEFF M. LEE, Q.C. E-Mail: <a href="mailto:JMLee@mltaikins.com">JMLee@mltaikins.com</a>  J.J. BURNELL E-Mail: <a href="mailto:Jburnell@mltaikins.com">Jburnell@mltaikins.com</a>	204-957-0050   306-975-7136   204-957-4663	204-957-0840   306-975-7145   204-957-4285	<b>Counsel for the Liquidator, Deloitte Restructuring Inc.</b>
<b>DELOITTE RESTRUCTURING INC.</b> 360 Main Street, Suite 2300 Winnipeg, MB R3C 3Z3  BRENT WARGA E-Mail: <a href="mailto:bwarga@deloitte.ca">bwarga@deloitte.ca</a>  JOHN FRITZ E-Mail: <a href="mailto:jofritz@deloitte.ca">jofritz@deloitte.ca</a>	204-942-0051	204-947-2689	<b>Liquidator</b>

Party/Counsel	Telephone	Facsimile	Party Representative
<p><b>FAST TRIPPIER CLUNIE WITTMAN SANTOS LLP</b> 10 Donald Street Winnipeg, Manitoba R3C 1L5</p> <p>FARON J. TRIPPIER E-Mail: <a href="mailto:ftrippier@ft-lawyers.com">ftrippier@ft-lawyers.com</a></p>	204-925-5302	204-943-7997	<p><b>Counsel for Duanne Taylor, 5608067 Manitoba Ltd. and Fat Cat Farms Ltd.</b></p>
<p><b>PITBLADO LLP</b> 2500 - 360 Main Street Winnipeg, Manitoba R3C 4H6</p> <p>DOUGLAS WARD, Q.C. E-Mail: <a href="mailto:ward@pitblado.com">ward@pitblado.com</a></p>	204-956-3534	204-957-0227	<p><b>Counsel for Bank of Montreal</b></p>
<p><b>PITBLADO LLP</b> 2500 - 360 Main Street Winnipeg, Manitoba R3C 4H6</p> <p>THOMAS TURNER E-Mail: <a href="mailto:turner@pitblado.com">turner@pitblado.com</a></p>	204-956-3516	204-957-0227	<p><b>Counsel for Pitblado LLP</b></p>
<p><b>THOMPSON DORFMAN SWEATMAN LLP</b> 201 Portage Avenue Suite 2200 Winnipeg, Manitoba R3B 3L3</p> <p>ROSS A. MCFADYEN E-Mail: <a href="mailto:ram@tdslaw.com">ram@tdslaw.com</a></p>	204-934-2378	204-934-0538	<p><b>Counsel for Lincoln Wolfe and 4606269 Manitoba Ltd.</b></p>

Party/Counsel	Telephone	Facsimile	Party Representative
<p><b>BOUDREAU LAW LLP</b> 3 St. Annes Road Winnipeg, Manitoba R2M 2X9</p> <p>NORMAN J.R. BOUDREAU E-Mail: <a href="mailto:nboudreau@boudreaulaw.ca">nboudreau@boudreaulaw.ca</a></p>	204-318-2681	204-231-2628	<b>Counsel for Gerald Wiebe and Martha Wiebe</b>