

CANADA
PROVINCE OF QUEBEC
DISTRICT OF QUEBEC
DIVISION NO.: 01-MONTREAL
COURT NO.: 500-11-047554-148
ESTATE NO.: 41-1920403

SUPERIOR COURT
(Commercial Division)
Bankruptcy and Insolvency Act

IN THE MATTER OF THE PROPOSAL OF:

161617 Canada Inc. (carrying on business as Viking Distribution), a body politic and corporate, duly incorporated according to law and having its head office and its principal place of business at 5850 Vanden Abeele street, of the City of Montreal, in the Province of Quebec, H4S 1R9.

Debtor

- and -

Richter Advisory Group Inc.

Trustee

REPORT OF THE TRUSTEE ON THE FINANCIAL SITUATION
OF THE DEBTOR AND ON THE PROPOSAL
(Sections 50(5) and 50(10)(b) of the *Bankruptcy and Insolvency Act*)

The purpose of the First Meeting of Creditors is to consider the Proposal filed on December 22, 2014 (hereinafter referred to as the "Proposal") by 161617 Canada Inc., (hereinafter referred to as the "Debtor"), (carrying on business as Viking Distribution).

Pursuant to Sections 50(5) and 50(10)(b) of the *Bankruptcy and Insolvency Act* (hereinafter referred to as the "Act"), and in order to assist the Ordinary Unsecured Creditors in considering the Proposal, the Trustee is hereby submitting its report on the financial situation of the Debtor and on the Proposal.

The Trustee cautions the reader that it has neither conducted an audit nor a verification of the books and records of the Debtor. Consequently, the Trustee cannot render an opinion as to the accuracy of the information contained therein. The information discussed herein emanates from the books and records of the Debtor, as well as from discussions with the Management of the Debtor.

All the terms that are not otherwise defined herein shall have the meaning ascribed thereto in the Proposal.

INTRODUCTION

On October 10, 2014, the Debtor filed a Notice of Intention to Make a Proposal ("NOI") in accordance with the Act, the whole as appears from the documents filed into the court records.

On October 16, 2014, documents were sent by regular mail to all creditors of the Debtor, as identified by it, which included a copy of the Debtor's NOI, the whole as appears from the documents filed into the court records.

On November 7, 2014, the Court granted a first extension of delay of 45 days for the filing of a Proposal to December 22, 2014, in order to allow the Debtor additional time to complete the implementation of its restructuring plan.

On December 22, 2014, the Debtor filed a Proposal. We have enclosed herewith the Proposal filed by the Debtor to its creditors, a proof of claim form, a voting form, a proxy and a notice indicating the place and time of the Creditors' meeting to address the Proposal.

This report summarizes the relevant information and key elements that may assist the creditors in evaluating the Debtor's affairs and the Proposal. The report is presented with the following sections:

- I. Overview of the Debtor
- II. Causes of Insolvency
- III. Restructuring Measures
- IV. Results of Sales Process
- V. Financial Information
- VI. Proposal
- VII. Estimated Distribution to the Ordinary Unsecured Creditors
- VIII. Conclusion and Recommendation

I. OVERVIEW OF THE DEBTOR

The Debtor, in operation since 1988, is engaged in the distribution of horticultural products in Quebec and eastern Ontario. This includes the supply of irrigation equipment and products to numerous golf courses.

At the time of the filing, the Company had over 14 employees working at its head office and warehouse. The Debtor's current operations are now limited to the orderly liquidation of its inventory and the collection of its accounts receivable.

II. CAUSES OF INSOLVENCY

In the past two years, the Company has experienced a significant decline in its sales and reported significant losses. Management attributes this decline in sales to the following:

- Current unfavorable economic conditions in the golf industry;
- Insufficient funding of its operations; and
- General economic downturn.

Pursuant to the assessment of its financial situation, Management began implementing, in early 2014, certain corrective measures, with the intent of ensuring its long-term viability. However, in July 2014, the Company lost the support of its main supplier of irrigation equipment. This event further contributed to the decline of its sales, necessitating a formal restructuring through an NOI.

During 2002 to 2014, Gord Deacon, the Debtor's sole shareholder, in an attempt to maintain its ongoing operations, injected \$550,000 into the company on an unsecured basis as well as an additional \$250,000 on a secured basis.

III. RESTRUCTURING MEASURES

Subsequent to the filing of the NOI, the Debtor, with the help of its financial and legal advisors, has been developing a restructuring plan with a view to maximize the recovery to its creditors. The key elements of this plan included:

- The liquidation of its inventory on an orderly basis and the collection of its accounts receivable;
- The reduction of operating and overhead expenses; and
- The search for potential investors and/or purchasers who could participate in the restructuring.

IV. RESULTS OF SALES PROCESS

In April, 2014, Management initiated a sales process whereby specific groups were contacted to seek their interest in either investing in and/or purchasing the shares of the Company. This sales process resulted in the receipt of an offer by a Potential Purchaser (the "Potential Purchaser").

Management has recently concluded an agreement with the Potential Purchaser, whereby, amongst other conditions, the Potential Purchaser will purchase all the shares of the Debtor, assume the secured debts of the Debtor, and fund the Proposal in the amount of \$180,000. This agreement is conditional upon the acceptance of the Proposal by the unsecured creditors and by the Court.

As noted above, the Debtor's current operations are limited to the ongoing sale of its inventory and the collection of its accounts receivable. The Debtor is no longer able to operate its business as a going concern. Should this transaction fail to conclude, the Debtor will have no choice but to file an Assignment in Bankruptcy.

V. FINANCIAL INFORMATION

The following financial data was extracted either from the books and records of the Debtor, the unaudited financial statements or from discussions held with Management. This information is submitted solely to assist the reader in assessing the current financial position of the Debtor.

The Trustee makes no representation and gives no warranty as to the accuracy of said financial information.

A) Operating Results

161617 Canada Inc. Key financial information			
	F2014	F2013	F2012
	(9 months)	(12 months)	(12 months)
(in 000'S)	Preliminary	Reported	Reported
Sales	2 984	4 778	4 838
COGS	2 229	3 533	3 500
Gross profit	755	1 245	1 338
Operating & admin. expenses	1 070	1 469	1 485
Net loss	(315)	(224)	(147)

The above table shows the poor financial performance of the Debtor for the last two (2) fiscal years and the most recent year-to-date period (the latest internal financial statements available).

B) Assets

The Debtor's statement of affairs reflects the following as at November 30, 2014, based on information provided by Management:

161617 Canada Inc. Assets As at November 30, 2014 (in 000'S)	
	<u>Book value</u>
Cash on hand	32
Accounts receivable	335
Inventory	496
Investment	56
Capital assets	60
	<u>979</u>

Accounts Receivable (\$335,000)

The accounts receivable amount to \$335,000. The vast majority (\$301,000) relates to past due accounts (over 60 days), doubtful accounts or accounts in dispute. The accounts receivable are subject to a first ranking hypothec in favour of the secured creditors.

Inventory (\$496,000)

The inventory is comprised of finished goods located in the Debtor's warehouse, including approximately \$200,000 of units with limited sales for the past twelve months. The inventory is subject to a first ranking hypothec in favour of the secured creditors.

Investment (\$56,000)

The investment relates to the cash surrender value of two life insurance policies on the life of the Debtor's sole shareholder.

Capital Assets (\$60,000)

The Debtor's fixed assets consist mainly of computer equipment (\$43,000), furniture and fixtures (\$9,000), and leasehold improvements (\$5,000). The computer equipment is subject to a secured hypothec.

C) Liabilities

The Debtor has provided the Trustee with a list of its creditors. Proof of claim forms have been sent to all known creditors. However, at the present date, the Trustee is unable to determine if the Debtor's records are consistent with those of its creditors. Upon receipt of the proofs of claim, the Trustee will review them with Management and deal with any discrepancies for purposes of the collocation of claims.

161617 Canada Inc. Liabilities As at November 30, 2014 (in 000\$)	
Liabilities per the books and records of the Debtor	
Secured creditors (3)	450
Unsecured creditors (101)	1 032
Unsecured creditor - related party (1)	550
Restructuring claims (estimated - Note 1)	40
	<u>2 072</u>

Note 1: Claims resulting from lease repudiation and employee layoffs.	

The secured creditors' claims consist of loans made by Gordon Deacon, President and sole shareholder of the Debtor (\$250,000), Dave Desjardins (\$150,000) and Greg McVittie, VP sales of the Debtor (\$50,000). The amounts owed are secured by all the assets of the Debtor for a total amount of \$450,000. The Trustee is in the process of obtaining an independent legal opinion on the validity of said secured claims.

Based on the information provided by the Debtor, there are no known preferred creditors.

Ordinary Unsecured Creditors (\$1,032,000) were identified through the Debtor's books and records and include trade suppliers, sales taxes and accrued liabilities.

Unsecured creditors – related party (\$550,000) relates to funds advanced by Gordon Deacon and his holding Company to the Debtor.

The Trustee calculated the potential amounts that could be claimed as damages following the disclaimer of leases as well as the termination and severance pay following the layoff of the workforce. The Trustee estimates that these potential liabilities total approximately \$40,000.

The Trustee cautions that these amounts may change as proofs of claims are filed and such changes may be significant.

VI. PROPOSAL

A) Summary

The Trustee notes that the following is only a summary of the Terms of the Proposal. Creditors are advised to read the Proposal for complete details.

The Terms of the Proposal provide that the Ordinary Unsecured Creditors shall be paid a total amount of \$180,000 (hereinafter referred to as the "Proposal Amount"), in four installments of \$45,000 on February 24, 2015, February 24, 2016, February 24, 2017, February 24, 2018.

The Proposal Amount shall be payable by the Debtor in the following manner:

- i. Each of the Ordinary Creditors having a Proven Claim of less than \$250 will be paid the full amount of its Ordinary Claim without interest or penalty, within thirty (30) days after receipt by the Trustee of the Initial Installment of the Proposal Amount from the Company; and
- ii. For the balance of its Proven Claim, after the distribution mentioned above, and within thirty (30) days after the payment by the Debtor of each of the four installments, each of the Ordinary Creditors shall also receive, in full and final payment of its Ordinary Claim, without interest or penalty, its pro rata share of each instalment referred to above.

B) Funding

The Proposal will be funded by the Potential Purchaser. The funding is conditional upon the Proposal's acceptance by the Unsecured Creditors and the approval by the Court.

C) Amounts to be Paid as a Priority

According to the terms of the Proposal, the following amounts must be paid in priority, from the Proposal Amount:

- Amounts owing to Her Majesty in right of Canada or a Province that could be subject to a demand under Section 224(1.2) of the *Income Tax Act*, or under any provision of the Canada Pension Plan or of the *Employment Insurance Act* that refers to subsection 224(1.2) of the *Income Tax Act* and provides for the collection of a contribution, as defined in the Canada Pension Plan, or an employee's premium, or employer's premium, as defined in the *Employment Insurance Act*, and of any related interest, penalties or other amounts, or under any substantially similar provision of provincial legislation, outstanding at the time of the filing of the Notice of Intention, will be paid in full within six (6) months after Proposal Approval; said sums will be paid directly by the Company to the fiscal authorities;
- Amounts owing to employees and former employees, that they would have been entitled to receive under Section 136(1)(d) of the Act if the employer became bankrupt on the date of Proposal Approval, will be paid in full immediately after Proposal Approval;
- The Preferred Claims, without interest, will be paid in full in priority to all claims of Ordinary Creditors, within sixty (60) days of Proposal Approval;
- Secured Creditors shall be paid in accordance with existing contracts, or as may otherwise be arranged with the Secured Creditors. For greater certainty, the Proposal is not addressed to the Secured Creditors and they shall not be bound by the Proposal in respect of their Secured Claim;

- Post-Filing Obligations and Professional Fees shall be paid in full by the Debtor in the normal course of business.

Management estimates that Crown Claims, Employees Claims and Preferred Claims will have been paid in full prior to the remittance of the Proposal Amount to the Trustee.

D) Other

Sections 91 through 101 of the Act and Articles 1631 through 1636 of the Civil Code of Québec, and all other provisions of law, rights, remedies and recourses similar to the provisions of law, rights and remedies set forth in any Province of Canada other than the Province of Québec shall not apply to the present Proposal.

The Proposal will constitute a compromise of all claims against directors and will operate as a full and complete discharge in favor of such directors with respect to such claims.

The proposal shall be deemed to be accepted by the creditors if, and only if, the Ordinary Unsecured Creditors vote for the acceptance of the Proposal by a majority in number and two thirds in value of the Ordinary Unsecured Creditors present, personally or by proxy, at the meeting of creditors to consider the Proposal and voting on the resolution.

VII. ESTIMATED DISTRIBUTION TO ORDINARY UNSECURED CREDITORS

In the event that the creditors reject the Proposal, the Debtor will automatically be deemed bankrupt and the net proceeds from the liquidation of the assets (after payment of the Trustee's fees and expenses) will be distributed to the creditors in the order provided for under the Act. The following information is to inform the creditors on the estimate as to the distribution to creditors under the Proposal in comparison to the estimated distribution under a bankruptcy scenario.

A) Proposal

Based on Management's representations and the aggregate amount of the Unsecured Claims, as reflected in the Debtor's statement of affairs, at the present time, the Trustee estimates that the funds of \$180,000 available for distribution over four (4) years to the Ordinary Unsecured Creditors would represent an estimated recovery of 11% of the Ordinary Unsecured Claims, as follows:

161617 Canada Inc. Proposal estimated distribution (in 000\$)	
Dividend paid by the Debtor	180
Unsecured creditors subject to the Dividend	
Unsecured creditors (per books and records)	1 032
Unsecured creditors - related party	550
Restructuring claims	40
	<u>1 622</u>
Estimated distribution percentage	11%

The Proposal will be funded by the Potential Purchaser, conditional upon acceptance of the Proposal by the Unsecured Creditors and the approval by the Court.

B) Bankruptcy

In a bankruptcy scenario, based on the value of the assets and liabilities of the Debtor, as reflected in the statement of affairs, the Trustee estimates that the distribution would be NIL calculated as follows:

161617 Canada Inc.		
Bankruptcy - Estimated distribution		
(in 000\$)		
	<u>Book value</u>	<u>Estimated realization</u>
Cash on hand	32	32
Accounts receivable	335	218
Inventory	496	198
Investment	56	56
Capital assets	60	6
Estimated Gross realization		510
Less: Estimated realization cost (incl. prof. fees)		125
Net realization value		385
Secured creditors		(450)
Priority claims		TBD
Deficit for secured creditors		(65)
Estimated distribution to unsecured creditors		NIL

The above analysis indicates that the estimated realization values of the Debtor's assets would likely be insufficient to reimburse in full the Secured Creditors. Therefore, there would be no amount available to distribute to the Unsecured Creditors.

C) Other Considerations

The approval of the Proposal will avoid a bankruptcy and will be of benefit to the following constituents:

- Certain employees will have continued employment with the Potential Purchaser if the transaction is concluded; and
- Product suppliers and service providers will have a going concern entity with which to continue doing business.

VIII. CONCLUSION AND RECOMMENDATION

It is estimated that the Proposal would provide the Unsecured Creditors with a dividend of approximately \$0.11 on the dollar, compared to an estimated dividend of NIL in the event of a bankruptcy. As well, the Debtor will continue, as a going concern, doing business with its suppliers and certain employees will have continued employment with the Potential Purchaser.

For the foregoing reasons, the Trustee is of the opinion that the present Proposal is more advantageous than a bankruptcy and therefore recommends the approval of the Proposal.

Dated at Montréal, Province of Québec, this 22nd day of December 2014.

**Richter Advisory Group Inc.
Trustee**



Julien Bélisle, CPA, CA, CIRP