

C A N A D A
PROVINCE OF SASKATCHEWAN

Q.B. No. 1461 of 2009

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IN THE QUEEN'S BENCH
JUDICIAL CENTRE OF SASKATOON

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED (the "*CCAA*")

AND IN THE MATTER OF A PROPOSED PLAN OF ARRANGEMENT FOR THE
CREDITORS OF BIG SKY FARMS INC., DRYCAST SYSTEMS INC. and
BIG SKY MANAGEMENT CONSULTING CORP.

NOTICE OF MOTION
(Extension of Stay of Proceedings Against Big Sky Finishers (No. 1) Inc.)

TAKE NOTICE that an application will be made to the Honourable Mr. Justice N.G. Gabrielson in Chambers at the Court House, 520 Spadina Crescent East, Saskatoon, Saskatchewan, on Thursday, the 18th day of March, 2010, at eight-thirty (8:30) o'clock in the forenoon, or so soon thereafter as counsel may be heard on behalf of the Applicants, Big Sky Farms Inc., Drycast Systems Inc. and Big Sky Management Consulting Corp. (collectively, the "**Applicants**" or "**Big Sky**"), for the following items of relief, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the "*CCAA*"), the *Ex Parte* Initial Order of the Honourable Mr. Justice N.G. Gabrielson dated and issued in these proceedings on November 10, 2009, as amended by subsequent Orders of the Honourable Mr. Justice N.G. Gabrielson (the "**Initial Order**"); the Order (Sanction of Plan of Arrangement; Approval of Articles of Reorganization; Postponement of Annual Shareholders' Meetings; Termination of Unanimous Shareholders' Agreement; Receipt of Late Filed & Contingent Claims; Extension of Stay of Proceedings) of the Honourable Mr. Justice N.G. Gabrielson dated and issued in these proceedings on February 11, 2010 (the "**Sanction Order**"); and the inherent jurisdiction of this Honourable Court, namely:

- A. An Order declaring that the time for service of this Notice of Motion and the materials filed by the Applicants in support of this Notice of Motion is hereby abridged and directing that

further service of this Notice of Motion be dispensed with, such that this application is properly returnable on March 18, 2010.

- B. An Order providing that the Initial Order, and the stay of proceedings against the Applicants provided for therein, shall be confirmed and extended insofar as it applies to Big Sky Finishers (No. 1) Inc. ("**Finishers**"), and shall continue to apply in accordance with its terms, insofar as it applies to Finishers, from March 18, 2010 to and including the day that is one Business Day after the date on which the application by Finishers for relief under section 32(2) of the CCAA commenced by Notice of Motion dated February 18, 2010 (the "**Finishers Application**") shall be heard and finally disposed of by means of an Order of a court of competent jurisdiction in respect of which Order all relevant appeal periods have expired (the "**Finishers Application Conclusion Date**").

AND FURTHER TAKE NOTICE that the grounds to be argued in support of this application are as follows, namely:

1. Big Sky Farms Inc. and Finishers are parties to an Option Agreement dated May 16, 2003 (the "**Option Agreement**"), pursuant to which Finishers has a put option (the "**Put Option**") to sell to Big Sky Farms Inc. two large-scale hog finishing barns and related land, facilities and equipment located near Ogema, Saskatchewan (the "**Project**") at the expiry of the term of the Contract Finishing Agreement dated May 16, 2003 between Big Sky Farms Inc. and Finishers (or, at the option of Finishers, on one year's notice at any time after June 10, 2009) at the depreciated book value of the Project at the time of sale, subject to certain adjustments as provided in the Option Agreement.
2. The Initial Order, and the stay of proceedings against the Applicants provided for therein, operates so as to prevent Finishers from, *inter alia*, exercising the Put Option.
3. Pursuant to paragraph 10 of the Sanction Order, the stay of proceedings against the Applicants provided for in the Initial Order expires on the earlier of March 18, 2010 or one Business Day after the Plan Implementation Date.

4. Unless extended by further Order of this Honourable Court, the stay of proceedings against the Applicants provided for in the Initial Order shall no longer apply to Finishers from and after March 18, 2010.
5. By means of a "Notice by Debtor Company to Disclaim or Resiliate an Agreement" dated February 4, 2010, Big Sky Farms Inc. gave notice to Finishers of the intention of Big Sky Farms Inc. to disclaim, *inter alia*, the Option Agreement.
6. By reason of its commencement of the Finishers Application, Finishers has formally sought an Order of this Honourable Court blocking the disclaimer of the Option Agreement by Big Sky Farms Inc. and has placed before the Court the issue of the entitlement (if any) of Finishers to have the Option Agreement upheld and maintained and the right (if any) of Finishers to exercise the Put Option.
7. Big Sky Farms Inc. has expressed to Finishers the concern that, by reason of the expiry of the stay of proceedings on March 18, 2010, Finishers may take steps to exercise the Put Option immediately thereafter, notwithstanding the fact that the Finishers Application is before the Court and is awaiting hearing and determination by this Honourable Court.
8. Big Sky has requested that Finishers address the concern of Big Sky Farms Inc. described in the immediately preceding paragraph by Finishers indicating in writing that, notwithstanding the expiry of the stay of proceedings on March 18, 2010, Finishers will not purport to exercise the Put Option prior to the Finishers Application Conclusion Date. Finishers has refused to do so.
9. Given that the Finishers Application is before this Honourable Court awaiting hearing and determination, notwithstanding the expiry of the stay of proceedings, it would not be valid or appropriate for Finishers to purport exercise the Put Option prior to the Finishers Application Conclusion Date. For Finishers to do so would amount to an abuse of process and a wrongful and improper attempt to subvert the supervisory jurisdiction of this Honourable Court over these CCAA proceedings.

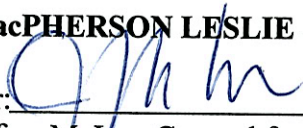
10. Given the failure or refusal of Finishers to indicate in writing that it will not purport to exercise the Put Option prior to the Finishers Application Conclusion Date, an Order extending the stay of proceedings against the Applicants contained in the Initial Order insofar as it applies to Finishers is necessary and appropriate.
11. Such further and other grounds as counsel to the Applicants shall identify and this Honourable Court shall see fit to consider.

AND FURTHER TAKE NOTICE that in support of this application will be read:

1. This Notice of Motion;
2. The Seventh Report of the Monitor;
3. A form of Draft Order;
4. The pleadings and proceedings had and taken herein; and
5. Such further and other materials as counsel may advise and this Honourable Court may allow.

DATED at Saskatoon, Saskatchewan, this 15th day of March, 2010.

MacPHERSON LESLIE & TYERMAN LLP

Per: 

Jeffrey M. Lee, Counsel for the Applicants,
Big Sky Farms Inc., Drycast Systems Inc.
and Big Sky Management Consulting Corp.

This Notice of Motion was delivered by:
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TO: Local Registrar
Court of Queen's Bench
Judicial Centre of Saskatoon

AND TO: Those parties listed on the Service List posted at www.ey.com/ca/bigskyfarms