

COURT OF QUEEN'S BENCH OF NEW BRUNSWICK

IN THE MATTER OF THE BANKRUPTCY OF
HILLSPRING FARMS LTD. ("HILLSPRING" NOW KNOWN AS 693528 NB LTD.), A
COMPANY WITH A HEAD OFFICE IN CENTREVILLE, IN THE PROVINCE OF NEW
BRUNSWICK

APPLICANT/RESPONDENT

REPORT OF THE TRUSTEE'S PRELIMINARY ADMINISTRATION
OF THE ESTATE OF HILLSPRING FARMS LTD.
JULY 16, 2020

INTRODUCTION

1. Pursuant to section 33 of *the Judicature Act* (New Brunswick), Rule 41 of the Rules of Court of New Brunswick, and section 243 of *the Bankruptcy and Insolvency Act* (Canada), on June 26, 2020, an application brought by Hillspring Farms Ltd. ("**Hillspring**" now operating as 693528 NB Ltd.), HSF Foods Ltd. ("**HSF**") and Hillspring Warehouse & Logistics Inc. ("**Logistics**" now operating as 693206 NB Inc.) (collectively the "**Companies**", the "**Respondents**" or "**HSF Group**") as well as Farm Credit Canada ("**FCC**") was heard by the Honourable Justice Darrell J. Stephenson of the Court of Queen's Bench of New Brunswick (the "**Court**").
2. On June 29, 2020, the Court granted an order that appointed Ernst & Young Inc. as receiver and receiver manager (the "**Receiver**") of all the Companies' current and future assets, undertakings and properties and wherever situate including all proceeds thereof (the "**Property**") in relation to the business carried on by

the Respondents except for the Excluded Property. A copy of the June 29, 2020 Order (the “**Receivership Order**”) with an effective time of 12:01 a.m. on June 26, 2020 can be found on the Trustee’s website established in connection with the Companies (www.ey.com/ca/hillspring) (the “**Website**”).

3. Pursuant to paragraph 26 of the Receivership Order, the Receiver, was authorized to assign the Companies into bankruptcy. Bankruptcy assignment documents were filed with the Office of the Superintendent of Bankruptcy, and each of the Companies are now bankrupt. A copy of the Certificate of Appointment of the Trustee for the Hillspring Estate dated June 26, 2020 is posted on the Website.
4. We present hereunder our Report on the Trustee’s Preliminary Administration of the Hillspring Estate (the “**Report**”).

TERMS OF REFERENCE

5. In preparing this Report, the Trustee has been provided with and has relied upon unaudited historical financial statements, other unaudited financial information and projections prepared by the Companies, the books and records of the Companies, discussions with the management and employees of the Companies, and other information from various sources. The Trustee has assumed that the information it has been provided is accurate and complete. The Trustee did not audit, review or otherwise attempt to verify the accuracy or completeness of the information. Accordingly, the Trustee expresses no opinion or other form of assurance with respect to the information presented in this Report or relied upon by the Trustee in preparing this Report. Further, the nature of the Trustee’s work completed in these proceedings will not necessarily disclose errors,

misstatements, irregularities or illegal acts, if such exist, on the part of the Companies, or their officers or employees or in the information.

6. This Report has been prepared solely for Hillspring's creditors, as general information on the state of affairs of Hillspring. This information is summary in nature and is subject to change as the mandate progresses. In light of the foregoing, the Report should not be circulated or used for other purposes or reproduced without our knowledge and prior written permission. We will not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of the Report contrary to the provisions of this paragraph.
7. All references to monetary amounts in this Report are in Canadian dollars unless otherwise noted.
8. Capitalized terms not defined in this Report are as defined in the Receivership Order. Copies of Court materials in these proceedings may be obtained from the Website.

BACKGROUND

9. Hillspring, HSF and Logistics, which were incorporated under the *New Brunswick Business Corporations Act*, had grown into profitable enterprises with more than 190 employees in rural New Brunswick prior to the receivership. Although there were multiple legal entities involved within the HSF Group, there were two primary business segments historically operated by the Companies being (1) the potato farming operation of Hillspring and (2) the flake plant operation of HSF. Logistics was primarily responsible for grain brokerage services to certain customers on a limited scale basis.

10. Over the past several years the Companies invested significant funds in farm lands and various capital projects primarily associated with the flake plant operation through debt financing. The substantial increase in HSF Group's indebtedness failed to produce incremental revenue or profitability and led to the Companies' liquidity constraints causing serious concerns within FCC and CIBC being the Companies' primary secured creditors (the "**Secured Creditors**"). EY was retained by FCC to conduct a general review of HSF Group's business affairs.
11. Given the Companies' historical financial performance and challenged 2020 outlook, the Secured Creditors concluded they were not prepared to provide additional loans to address the continuing needs of the business. In response, the Companies initiated discussions with the Secured Creditors, McCain Foods Limited ("**MFL**" or "**McCain**") and other industry participants to explore alternative solutions.
12. As described in the Report of the Proposed Receiver dated June 22, 2020, MFL presented an offer that contemplated MFL acquiring certain assets, on an as is where is basis, including all of the real property owned and associated with the operation of the potato farming, packing and seed businesses and all potato, grain, seeds, packing and chemical inventories (collectively the "**McCain Agreement Assets**"). The Secured Creditors provided their consent with respect to the proposed sale after they independently considered the MFL offer and determined that the proposed transaction would provide a reasonable recovery notwithstanding that the Secured Creditors would each crystallize a significant deficiency with respect to their respective advances to the Companies.

13. The terms of the McCain offer formed the basis for ongoing discussions and negotiations among McCain, the Secured Creditors and the Companies. Prior to signing the asset purchase agreement, significant efforts were undertaken to finalize definitive lists of assets that would be included or excluded from the McCain Agreement Assets. Property that the Receiver is authorized to take possession of but is excluded from the McCain Agreement Assets (the “**Residual Property**”) will be sold by the Receiver through the receivership administration and not these bankruptcy proceedings.
14. On June 26, 2020, the Court granted an order approving the sale to McCain. A copy of the McCain Sale Approval and Vesting Order is available on the Website. On June 30, 2020, all conditions precedent associated the sale were satisfied and the transaction has closed. Financial terms associated with the McCain transaction remain subject to a sealing order from the Court.
15. Pursuant to the terms of the McCain transaction, Hillspring was required to formally change its name. Counsel for the Companies facilitated the corporate name change requests through Service New Brunswick and the new name of 693528 NB Ltd. was issued.

Section A - The Trustee’s Duties under Section 16 (3) of the Bankruptcy Act

Assets

16. All identified assets of Hillspring noted within its financial records and reported within the Statement of Affairs, are subject to the court appointed receivership proceedings or are fully encumbered by third party secured creditor charges and will be liquidated outside of the bankruptcy proceedings. The Trustee is not aware of any unencumbered assets and has not taken possession of any unencumbered assets for the benefit of the Estates unsecured creditors.

Books and Records

17. The Trustee has coordinated access to the books and records of Hillspring through McCain. The access agreement allows the Trustee to access the books and records for a period of at least six years after the date of the bankruptcy.

Section B - Legal Proceedings

18. The Trustee understands that there was no litigation pending against or on behalf of Hillspring.

Section C - Provable Claims

19. The Trustee is in the process of accepting and reviewing proofs of claims. As of July 15, 2020, a total of 29 unsecured claims totaling \$20,256,930.55 have been filed with the Trustee. An update will be provided at the first meeting of creditors.

Section D - Secured Creditors

20. The Trustee is in the process of accepting and reviewing proofs of claims. As of July 15, 2020, a total of 3 secured claims totaling \$51,238,505.28 have been filed with the Trustee. An update will be provided at the first meeting of creditors.

Section E - Anticipated Realizations and Projected Distributions

21. As noted above, all identified assets of Hillspring are intended to be liquidated through the court appointed receivership or other secured creditor actions and the Trustee has not taken possession of any unencumbered assets. The anticipated net recoveries generated through the receivership proceedings are expected to be materially less than the collective claims of the secured creditors.

Accordingly, the Trustee does not anticipate there being any available funds to distribute to the unsecured creditors.

Section F - Reviewable Transactions and Preference Payments

22. The Trustee intends to conduct a review of the books and records of Hillspring to determine the extent, if any, of any preference or transactions at undervalue. At this time, the Trustee is not aware of any irregularities to report to creditors.

Section G - Other Matters

23. On July 7, 2020, packages were mailed to the creditors listed on Hillspring's Statement of Affairs. The packages included a notice of the bankruptcy, the first meeting of creditors, a list of creditors, a proof of claim and a proxy.
24. On July 7, 2020, a newspaper advertisement was placed in the Telegraph-Journal and The Daily Gleaner informing creditors of the bankruptcy and the date and time of the first meeting of creditors.
25. Copies of the documents related to Hillspring's bankruptcy are available on the Website.

ERNST & YOUNG INC.

Licensed Insolvency Trustee
Acting in its capacity as Trustee in Bankruptcy of
Hillspring Farms Ltd., a Bankrupt, and
not in its personal capacity

Per:



George Kinsman, CPA, CA, CIRP, LIT
Senior Vice President