Court File No. CV-21-00657098-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.	)	TUESDAY, THE 13th
	)	
JUSTICE HAINEY	)	DAY OF APRIL, 2021

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TGF ACQUISITION PARENT LTD., SUN RICH FRESH FOODS INC. & TIFFANY GATE FOODS INC.

AMENDED AND RESTATED APPROVAL AND VESTING ORDER (Re: Homestyle Transaction)

THIS MOTION, made by the TGF Acquisition Parent Ltd., Sun Rich Fresh Foods Inc., and Tiffany Gate Foods Inc. (collectively, the "**Applicants**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA"**) for an Order substantially in the form included at Tab 3 of the Motion Record approving the sale transaction (the "**Sale Transaction**") contemplated by the Asset Purchase Agreement (the "**APA**") by and between Homestyle Selections LP (the "**Buyer**"), a limited partnership formed under the laws of Alberta, and Sun Rich Fresh Foods Inc., a corporation incorporated under the laws of British Columbia, and Tiffany Gate Foods Inc., a corporation incorporated under the laws of British Columbia, (together, the "**Sellers**"), dated March 25, 2021 and appended as Exhibit "D" to the Affidavit of Stephen Marotta sworn March 25, 2021 (the "**Marotta Affidavit**"), and vesting the Sellers' right, title and interest in and to the Assets to the Buyer (as defined and described in the APA), was heard this day via video-conference due to the ongoing COVID-19 pandemic.

ON READING the Marotta Affidavit, the Second Report of Ernst & Young Inc., in its capacity as Monitor of the Applicants (the "**Monitor**");

UPON BEING ADVISED that, pursuant to an Assignment and Assumption Agreement dated April 11, 2021, the Buyer has assigned all of its right, title and interest in and to the APA to Freshstone Brands, Inc., a corporation incorporated under the laws of Canada

("**Freshstone**") and to 12901927 Canada Ltd., a corporation incorporated under the laws of Canada ("**12901927**" and, collectively with Freshstone, the "**Assignee Buyers**"); and

UPON HEARING the submissions of counsel for the Applicants, counsel for the Monitor, counsel for the DIP lenders, counsel for the Assignee Buyers, counsel for the Royal Bank of Canada, counsel for HSBC, counsel for the Official Unsecured Creditors Committee of the affiliates of the Applicants and other counsel as listed on the Counsel Slip, no one else appearing for any party although duly served as appears on the affidavit of service.

SERVICE

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

DEFINITIONS

2. **THIS COURT ORDERS** capitalized terms not otherwise defined herein have the meaning ascribed to them in the APA.

STAY PERIOD

3. **THIS COURT ORDERS** that the stay period referred to in the Amended and Restated Initial Order of the Honourable Justice Hainey dated February 26, 2021 (the "**Initial Order**") is extended until and including April 18, 2021.

SALE TRANSACTION

4. **THIS COURT ORDERS AND DECLARES** that the Sale Transaction is hereby approved, and the execution of the APA by the Sellers is hereby authorized, with such minor amendments as the Sellers and the Assignee Buyers, with the approval of the Monitor, may agree upon. The Sellers are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Sale Transaction and for the conveyance of the Assets to the Assignee Buyers.

5. **THIS COURT ORDERS** that the Sellers are authorized and directed to perform their obligations under the APA and any ancillary documents related thereto.

6. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Monitor's certificate to the Sellers (or their counsel) and to the Assignee Buyers (or their counsel)

substantially in the form attached as Schedule "A" hereto (the "**Monitor's Certificate**"), all of the Sellers' right, title and interest in and to the Assets shall vest absolutely in the Assignee Buyers, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Initial Order or any other orders made in these CCAA proceedings; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), *Personal Property Security Act* (British Columbia) or any other personal property registry system; and (iii) any Excluded Liabilities (as defined and described in the APA); (iv) all mortgages, pledges, charges, liens, debentures, trust deeds, assignments by way of security, security interests, conditional sales contracts, or other title retention agreements or similar interests or instruments charging, or creating a security interest in the real property identified in Schedule "C" hereto and municipally known as 195 Steinway Boulevard, Toronto, Ontario and legally described on PIN 07301-0016 (LT) (the "**Real Property**") or any part thereof or any interest therein, and any agreements, leases, options, easements, rights of way, restrictions, executions, or other encumbrances (including notices or other registrations in respect of any of the foregoing) affecting title to the Real Property or any part thereof or interest therein, including but not limited to any of the foregoing which are registered on title to the Real Property following the date referred to in Schedule "C" hereto but prior to the registration in the Land Registry Office for the Land Titles Division of Toronto (No. 66) if an Application for Vesting Order to which this Order is attached; and (v) those Claims listed in Schedule "D" hereto (all of which are, collectively with those items set out in paragraph 6(i), (ii) and (iii) above, referred to as the "**Encumbrances**", which term shall not include the Permitted Encumbrances under the APA, including but not limited to those listed in Schedule "B" hereto, or the Assumed Liabilities set forth in Section 2.4 of the APA) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Assets are hereby expunged and discharged as against the Assets except for the Permitted Encumbrances and Assumed Liabilities.

7. **THIS COURT ORDERS** that upon the registration in the Land Registry Office No. 66 of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, which 12901927 is authorized to submit for registration following delivery of the Monitor's Certificate, the Real Property shall vest absolutely in 12901927 and the

Land Registrar is hereby directed to enter 12901927 as the owner of the Real Property in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule "D" hereto. For greater certainty, the Assets, save and except for the Real Property, shall vest absolutely in Freshstone.

8. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Assets shall stand in the place and stead of the Assets, and that from and after the delivery of the Monitor's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Assets with the same priority as they had with respect to the Assets immediately prior to the sale, as if the Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the Sale Transaction.

9. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof to the Sellers and the Assignee Buyers, or to their respective counsel.

10. **THIS COURT ORDERS** that the Monitor may rely on written notice from the Sellers and the Assignee Buyers or their respective counsel regarding the satisfaction or waiver of the conditions to Closing under the APA, and shall incur no liability with respect to the delivery of the Monitor's Certificate.

11. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Sellers are authorized and permitted to disclose and transfer to the Assignee Buyers all human resources and payroll information in the Sellers' records pertaining to the Sellers' past and current employees. The Assignee Buyers shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Sellers.

12. **THIS COURT ORDERS** that, notwithstanding:

(a) the pendency of these CCAA proceedings;

(b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**") in respect of the Sellers and any bankruptcy order issued pursuant to any such applications; and

(c) any assignment in bankruptcy made in respect of the Sellers;

the vesting of the Assets in the Assignee Buyers and transactions, payments, distributions and disbursements made pursuant to this Order shall be binding on any trustee-in-bankruptcy that may be appointed in respect of the Sellers (or any one of them) and shall not be void or voidable by creditors of the Sellers, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

ASSIGNED AGREEMENTS

13. **THIS COURT ORDERS** that upon the filing of the Monitor's Certificate, the Sellers' rights and obligations under the 11.3 Contracts and 11.3 Leases set out in Schedule "E" hereto (collectively, the "**11.3 Agreements**") may be assigned to and assumed by the Assignee Buyers in accordance with section 2.1 and 2.6 of the APA and such assignment and assumption is hereby approved pursuant to section 11.3 of the CCAA, provided that, the Assignee Buyers may designate any 11.3 Contract and 11.3 Lease as an Excluded Contract or Excluded Lease prior to the Closing Date in accordance with the APA and this Order. Each 11.3 Contract and 11.3 Lease assigned to and assumed by the Assignee Buyers in accordance with the APA as of the Closing Date shall be an "**Assigned Contract**" or an "**Assigned Lease**", respectively (collectively, the "**Assigned Agreements**" and each a "**Assigned Agreement**").

14. **THIS COURT ORDERS** that, with respect to the Assigned Agreements that are real property leases (collectively, the "**Real Property Leases**"), the Assignee Buyers shall be entitled to all of the rights and benefits and subject to all of the obligations as tenant pursuant to the terms of the Real Property Leases for the period commencing from and after the Closing Date (as defined below) and may enter into and upon and hold and have quiet enjoyment of the premises contemplated by the Real Property Leases and, if applicable, any renewals thereof, for its own use and benefit, all in accordance with the terms of the Real Property Leases, without any interruption from the Sellers, the landlords under the Real Property Leases or any other person whomsoever claiming through or under any of the Sellers or the landlords under the Real Property Leases.

15. **THIS COURT ORDERS** that the outstanding monetary defaults under the 11.3 Agreements shall be as set out in Schedule "E" (the "**Cure Amounts**") or as otherwise agreed in writing between the relevant counterparty of the Assigned Agreement (each a "**Contract Counterparty**"). Within fourteen (14) Business Days following the Closing Date, the Assignee Buyers shall pay the Cure Amounts with respect to each applicable Assigned Agreement, in full and final satisfaction of any monetary defaults under the Assigned Agreements arising prior to the Closing Date.

16. **THIS COURT ORDERS** that the assumption of the Sellers' rights and obligations under the Assigned Agreements by the Assignee Buyers and the assignment of the Assigned Agreements by the Sellers to the Assignee Buyers pursuant to the CCAA and this Order is valid and binding upon each Contract Counterparty notwithstanding any restriction, condition or prohibition contained in any Assigned Agreement relating to the assignment thereof, including any provision requiring the consent of any party to the assignment and each Contract Counterparty shall be forever barred, estopped, and permanently enjoined from enforcing the same against the Assignee Buyers or the Sellers.

17. **THIS COURT ORDERS** that, except as otherwise dealt with herein, the Sellers' right, title and interest in the Assigned Agreements shall vest absolutely in the Assignee Buyers free and clear of all Encumbrances other than the Permitted Encumbrances.

18. **THIS COURT ORDERS** that, from and after the Closing Date and conditional on the payment of the relevant Cure Amount, if any, (a) the Assigned Agreements will remain in full force and effect and the Buyer shall be entitled to all the rights, benefits and entitlements of the Sellers thereunder (subject to any amendments agreed to between the Contract Counterparty and the Assignee Buyers), (b) no default (monetary or other cure) shall exist under the Assigned Agreement; and (c) no Contract Counterparty shall be permitted (i) to declare a default by the Assignee Buyers under such Assigned Agreement, or (ii) to accelerate, terminate, rescind, refuse to perform, repudiate its obligations thereunder, or otherwise exercise any rights or remedies or take any action or proceedings against the Assignee Buyers, as a result of: (A) any circumstance that existed on or prior to the Closing Date; (B) any Sellers' financial condition, the insolvency of the Sellers or the affiliates of the Sellers in the United States; (C) the commencement of these proceedings by the Sellers or the chapter 11 proceedings in respect of the affiliates of the Sellers in the United States; (D) any steps taken by the Sellers in these proceedings or pursuant to the APA or this Order; (E) any change of control of the Sellers arising from the implementation of the Sale Transaction or any anti-assignment provision in the

Assigned Agreements; or (F) any failure of the Sellers or their affiliates to perform a non-monetary obligation under the Assigned Agreements.

19. **THIS COURT ORDERS** that any Contract Counterparty may apply to this Court prior to the Closing Date to vary or amend this Order on not less than five (5) business days' notice to the Applicants, the Monitor and the Assignee Buyers, if such Contract Counterparty objects to the assignment and assumption of their 11.3 Contract or 11.3 Lease on the basis that the Assignee Buyers will not be able to perform the obligations under such 11.3 Contract or 11.3 Lease. For greater certainty, no Contract Counterparty may further apply to this Court to amend or vary the Cure Amount under the 11.3 Contract or 11.3 Lease.

GENERAL

20. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

21. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order without any need for filing or entry.

Hainey J.

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ONTARIO
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(COMMERCIAL LIST)

Proceeding commenced at Toronto

AMENDED AND RESTATED APPROVAL AND VESTING ORDER

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