

CANADA
Province of Ontario
Division No.: 09- Toronto
Court No: 31-2887950
Estate No: 31-2887950

TRUSTEE'S PRELIMINARY REPORT

IN THE MATTER OF THE BANKRUPTCY OF 10135739 CANADA INC. IN THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

Licensed Insolvency Trustee ("**Trustee**"): MNP Ltd.

The information contained in this Preliminary Report has been prepared from the available books and records of the Company (as such term is later defined) and discussions with the Management. These books and records have not been reviewed or otherwise audited by the Trustee and, consequently, the Trustee expresses no opinion whatsoever with respect to the validity, the exactness or the reliability of the information taken from those records contained herein.

SECTION A – BACKGROUND AND CAUSES OF FINANCIAL DIFFICULTIES

10135739 Canada Inc. (the "**Company**") operated a vegan restaurant named "LOV King West" from leased premises at Suite 102, 620 King Street West, Toronto, Ontario (the "**Premises**"). Incorporated in March 2017, the Company commenced restaurant operations in September 2019 just before the start of the COVID-19 pandemic (the "**Pandemic**").

Due to the impact of the Pandemic (forced closure of the restaurant, securing staff for the reopening of the restaurant, reduced dining activity following reopening, etc.), increased costs due to inflation, and the decision of Groupe Evoluco Inc. ("**EVI**"), a related entity, to ceasing funding operations, the Company determined it could no longer continue and needed to file for bankruptcy. Accordingly, on November 24, 2022, the Company filed an assignment in bankruptcy, which was accepted by the Office of the Superintendent of Bankruptcy Canada ("**OSB**") and became effective on November 25, 2022. MNP Ltd. ("**MNP**") was appointed as the licensed insolvency trustee (the "**Trustee**") of the Company's bankruptcy estate, subject to affirmation by creditors at the first meeting of creditors (the "**FMOC**").

On December 1, 2022, the Notice to Creditors advising of the bankruptcy and the FMOC, a list of creditors and a proof of claim form, along with a proxy, were sent to all known creditors of the Company. Pursuant to subsection 102(4) of the BIA, the Notice of Bankruptcy was published in the *Toronto Sun* newspaper on December 2, 2022.

The various public documents related to the Company and its bankruptcy proceedings are posted at the Trustee's case website at: <http://www.mnpdebt.ca/10135739canadainc>.

SECTION B – PRELIMINARY EVALUATION OF ASSETS AND SECURITY INTERESTS

Security Interests

An Ontario *Personal Property Security Act* registry search conducted on November 8, 2022 (the “PPSA”) revealed that there is a security interest (the “Security”) registered against the Company in favour of Royal Bank of Canada (“RBC”) over all the assets, equipment, and inventory of the Company (the “Property”). The Trustee has retained Dominic Magisano of Lerner LLP (“Lerner”) to provide an opinion on the validity and enforceability of the Security held by RBC as against the Trustee (the “Opinion”). At the time that this Report was issued, Lerner had not yet completed the Opinion. Any distributions to RBC will be dependent on the Trustee first obtaining the Opinion confirming the validity and enforceability of the security held by RBC.

Deposits in Financial Institutions

As set out on the Company's sworn Statement of Affairs (the “SOA”), the Deposits in Financial Institutions represents funds held in the bank account at the Caisse Desjardins du Plateau-Mont-Royal (“Desjardins”) in the amount of \$7,821.86 at the Date of Bankruptcy.

Inventory

The inventory primarily consists of unopened bottles of wine and spirits which have been valued at \$2,000 on the SOA.

Machinery, Equipment and Plant

The Machinery, Equipment and Plant represents various restaurant equipment, furniture and other related capital assets (the “Equipment”). This Equipment has a net book value of approximately \$428,000 and have been valued on the SOA to produce \$150,000. The Trustee has engaged Canam-Apprais Inc. (“Canam”) to provide an appraisal on the Equipment on a liquidation value basis. However, based on a recent appraiser report, the liquidation value of the Equipment has been determined to be significantly lower than the \$150,000 value reflected on the SOA.

Leasehold Improvements

The Leasehold Improvements have a net book value of approximately \$1.1 million and have been valued on the SOA to produce \$1. As confirmed by Canam have no value given their nature and the cost of removal.

SECTION C – BOOKS AND RECORDS

The Trustee is in the process of taking possession and control of available books and records of the Company which are necessary for the administration of these proceedings.

The Trustee has retained the Company's payroll service provider, Nethris, to complete the preparation of the 2022 T4s and T4 summary.

SECTION D – CONSERVATORY AND PROTECTIVE MEASURES

The Trustee has sent notice to Desjardins to freeze the bank account and to remit the balance held to the Trustee.

The Trustee has conducted an inventory and appraisal of the Property, as previously reported.

The Trustee has not yet taken possession of the Premises and the Property as such has been presumed to be subject to RBC's security. With the inspectors' approval, if appointed, the Trustee intends to temporarily occupy the Premises for the purpose of removing the Property for later sale by Canam.

SECTION E – PROVABLE CLAIMS

The claims of creditors as per the SOA and the proof of claims filed as of 9:30 a.m. (Toronto time) on December 13, 2022, are summarized below:

Particulars	SOA ¹	Claims as Filed ²
Secured	\$159,822.86	\$302,671.10
Preferred	Nil	Nil
Unsecured	\$3,435,727.75	\$534,419.11
Total	\$ 3,595,550.61	\$837,090.21

¹ – Represents all claims as per the SOA

² – Represents only claims submitted to the Trustee and accepted for voting purposes only.

The above-noted claims have not yet been reviewed for the purposes of admitting the claims for distribution

Secured Creditors – On the SOA and notwithstanding that the indebtedness owing RBC is shown to amount to approximately \$621,587.18 (plus ongoing interest and costs), the amount shown as secured represents the value of their security based on the Company's estimates, with balance reflected as an unsecured claim.

Unsecured Creditors – On the SOA, the unsecured creditors include, among other things, the amounts payable to i) the landlord, ii) EVI, iii) the unsecured portion of RBC's claim, and iv) the termination pay owed to the former employees of the Company, which claims may be eligible for the Wage Earner Protection Program ("WEPP").

Canada Revenue Agency ("CRA") - Based on the information provided by the Company, it does not appear as if the Company has any indebtedness to CRA. However, should CRA determine it has a claim for unremitted employee source deductions, a portion of that claim would represent a deemed trust claim ranking in priority to the claims of secured and unsecured creditors.

SECTION F- LEGAL PROCEEDINGS, TRANSFERS AT UNDER-VALUE AND PREFERENCE PAYMENTS

Legal Proceedings

To date, the Trustee has not commenced any legal proceedings.

Transfers at Under-Value and Preference Payments

The Trustee has completed its review of potential transfers at undervalue or preference payments. The scope of the review was limited to a review of certain disbursements made in the 12 months preceding the Date of Bankruptcy (the "**Review Period**") and inquiries with management.

Based on the Trustee's review, it was identified that during the Review Period, the Company repaid advances to Groupe Evoluco Inc. ("**EVI**"), a related entity, in excess of the advances received to the extent of approximately \$278,000. It should be noted that since the Company's inception, EVI had been funding operations in anticipation of it becoming profitable, and the Company could not have survived and without their support. EVI is still shown to be owed more than \$2.2 million as of the Date of Bankruptcy.

The Trustee will discuss the above matter with the creditors present and eligible to vote at the FMOC or with the Inspector(s), if appointed.

SECTION G - ANTICIPATED REALIZATIONS AND PROJECTED DISTRIBUTION

It is contemplated, subject the approval of the inspectors to be appointed at the FMOC, that the Property will be realized upon and/or sold by the Trustee through Canam. Provided that it is confirmed that RBC holds valid and enforceable security over the Property and given the extent of the secured indebtedness owing to RBC as compared to the appraised value of the Property, the Trustee anticipates a distribution to RBC but no distributions to the Company's unsecured creditors.

SECTION H – OTHER MATTERS

3rd Party Deposit Agreement and Guarantee

Prior to the filing of the bankruptcy, MNP received a retainer of \$22,500 and entered into a 3rd Part Deposit Agreement with EVI to cover its professional fees and disbursements associated with the administration of the bankruptcy. In addition to the 3rd Party Deposit Agreement, EVI also agreed to guarantee the estate's administration costs should they exceed the amount of the retainer provided.

Wage Earner Protection Program

The Trustee is currently in the process of assembling the necessary information to administering the WEPP on this estate. Notice of the WEPP and instruction on how to file a claim is expected to be mailed out to the Company's former employees in the coming weeks. Based on the Company's records, the WEPP claims appear to be only in respect of statutory termination pay claims.

10135739 CANADA INC.
Estate No: 31-2887950
Trustee's Preliminary Report

Dated in Toronto, Ontario, this 13th day of December 2022.

MNP LTD.

Trustee of the Estate of 10135739 Canada Inc., a Bankrupt
and not in its personal or corporate capacity

Per:



Matthew Lem, CIRP, LIT
Senior Vice-President