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File: 22067-1089226



August 4, 2023

**HAND DELIVERED**

The Honourable Justice Presiding in Chambers  
Supreme Court of Nova Scotia  
The Law Courts  
1815 Upper Water Street  
Halifax, NS B3J 1S7

Dear Presiding Justice:

**Re: In the Matter of the Proposal of Blue Rose Gardening Inc.  
Application to Extend Time to File a Proposal - August 16, 2023 at 9:30 a.m.**

We represent the Applicant, Blue Rose Gardening Inc. operating as The Gardener Halifax (the "Company").

This is the Company's brief in support of its application for an extension of time to file a proposal pursuant to s. 50.4(9) of the *Bankruptcy and Insolvency Act* (the "BIA").

Filed in support of this application is the affidavit of Robert Corey, President of the Company, and the First Report of the proposal trustee, MNP Ltd. ("MNP").

**I. Facts**

The Company is in the landscaping and lawn maintenance business in Halifax Regional Municipality.

On July 20, 2023, the Company filed a Notice of Intention to Make a Proposal (the "NOI") under the BIA. The filing was necessitated by the Company's rapid growth together with labour shortages during the COVID-19 pandemic and poor financial management.

Since filing the NOI the Company has:

- developed an ongoing cash flow summary;
- filed a cash flow statement and complied with its other obligations under s. 50.4(2) of the BIA;
- engaged in discussions with MNP on what the terms of a proposal may include;
- engaged in preliminary discussions with key creditors;
- had discussions with critical suppliers whose continuing supply is essential to the ability of the Company to continue operations; and
- continued to operate, seek out new work and new customers.

The Company also made changes to reduce overhead, improve margins on quotes and engaged a firm to provide accounting and comptroller services, all of which have improved the Company's financial position.

The NOI shows total claims of \$2,518,011. The Company's largest creditors are:

- Canada Revenue Agency ("CRA") (\$1,169,257);
- Jim Pattison Industries Inc. ("JPI") (\$292,366);
- Business Development Bank of Canada ("BDC") (\$235,608);
- O'Regan's National Leasing ("O'Regan's") (\$225,700);
- Kubota Canada Ltd. ("Kubota") (\$165,300); and
- Mortley Investments Inc. ("MII") (\$108,976).

CRA's claim consists primarily of arrears of taxes (\$363,815) and source deductions (\$765,442).

BDC's claim is partly secured by a general security agreement over all of the Company's personal property. The claims of JPI, O'Regan's, Kubota and MII are secured by registrations against various vehicles and equipment.

The Company requires more time to organize and update its financial information and engage in meaningful discussions with its key creditors before it can prepare a viable proposal. It will not be in a position to do that by August 19, 2023, the initial 30-day deadline to file a proposal under s. 50.4(8) of the BIA.

The Company is requesting a 45-day extension to October 3, 2023. This is the Company's first request for an extension. MNP supports the extension.

## **II. Law**

Section 50.4(9) of the BIA gives the Court the discretion to grant an extension of up to 45 days to file a proposal as long as the application is made before the expiry of the initial

30 days and the Court is satisfied that the person is acting in good faith and with due diligence, will likely be able to make a viable proposal if the extension is granted and there would be no material prejudice to creditors. It states:

**Extension of time for filing proposal**

(9) The insolvent person may, before the expiry of the 30-day period referred to in subsection (8) or of any extension granted under this subsection, apply to the court for an extension, or further extension, as the case may be, of that period, and the court, on notice to any interested persons that the court may direct, may grant the extensions, not exceeding 45 days for any individual extension and not exceeding in the aggregate five months after the expiry of the 30-day period referred to in subsection (8), if satisfied on each application that

(a) the insolvent person has acted, and is acting, in good faith and with due diligence;

(b) the insolvent person would likely be able to make a viable proposal if the extension being applied for were granted; and

(c) no creditor would be materially prejudiced if the extension being applied for were granted.

**III. Application of Law to Facts**

This is the Company's first request to extend the time to file a proposal.

The Company has acted and continues to act in good faith and with due diligence. It has complied with its obligations under s. 50.4(2) of the BIA and is working with MNP on organizing and updating its financial information, engaging with key creditors and preparing a proposal.

The Company believes it will likely be able to make a viable proposal if the extension is granted. MNP shares that belief. As noted above, the proposal is expected to involve a settlement with unsecured creditors, disclaiming certain leases and a payment plan for the CRA arrears.

No creditor would be materially prejudiced if the extension is granted. An extension will benefit rather than prejudice the Company's creditors for the following reasons:

1. The Company is continuing to operate, generate new business and improve its financial position;
2. Creditors will likely be better off under a proposal than in a bankruptcy; and

3. If the extension is not granted, the Company is not in a position to file a proposal by the initial 30-day deadline which will end August 19, 2023 and failure to do so will result in immediate bankruptcy.

The Company requests a 45-day extension to file its proposal, from August 19, 2023 to October 3, 2023.

All of which is respectfully submitted.

Yours very truly,

**BURCHELL WICKWIRE BRYSON LLP**



**Marc L. Dunning**  
Partner

MLD/cmd  
Enclosures