

COURT NO. B240063
ESTATE NO. 11-3031837

VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY & INSOLVENCY**

**IN THE MATTER OF THE PROPOSAL OF
LOTUS VENTURES INC.**

TRUSTEE'S SECOND REPORT TO CREDITORS

BACKGROUND

1. Lotus Ventures Inc. (“**Lotus**”, the “**Company**”) is a British Columbia based licensed cannabis producer and was formed in British Columbia in November 2014 as a result of an amalgamation. The Company’s Directors are Mr. Carl Correia, Mr. Maurice Creagh, Mr. Simon Davie, and Mr. Dale McClanaghan (also President and CEO) based on a search of the BC Companies Registry as of January 10, 2024. Lotus was incorporated for the purpose of growing premium cannabis which is carried in retail locations across BC and Ontario and sold through export markets. The Company operates from a production facility (the “**Production Facility**”) located in Spallumcheen, British Columbia. The Production Facility is not subject to any encumbrances or mortgages and is wholly owned by the Company.
2. The Trustee’s Report to Creditors was provided on April 8, 2024 (the “**First Report**”), which included that Management filed a Notice of Intention to Make a Proposal (“**NOI**”) on January 17, 2024, and MNP Ltd. consented to act as Licensed Insolvency Trustee (“**Trustee**”) in the proposal proceedings. Further, after obtaining an extension, the Company filed its Proposal on March 28, 2024, which was amended on April 5, 2024.
3. This is the Trustee’s Second Report to Creditors (the “**Second Report**”) and should be read in conjunction with the First Report.
4. In preparing this Second Report and making the comments herein, the Trustee has been provided with, and has relied upon, certain unaudited, draft and/or internal financial information, the Company’s books and records, discussions with employees and management and information from other third-party sources (collectively, the “**Information**”). Except as described in this Report, the Trustee

- has not audited, reviewed, or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards or other standards established by the Chartered Professional Accountants of Canada.
5. Capitalized terms used in the Report are the same as those referenced in the Proposal. Unless otherwise stated herein, all references to currency are to Canadian currency.

UPDATE TO THE CREDITORS

6. The First Meeting of Creditors to consider the Company's Proposal (the "FMOC") was held on April 18, 2024. The meeting was adjourned pursuant to Section 52 of the Bankruptcy and Insolvency Act (the "BIA") to allow for the Company to investigate a potential transaction (the "Transaction") which may allow for an amended Proposal with beneficial terms to the creditors.
7. The Trustee filed a Material Adverse Change Report on May 1, 2024, and circulated same to the creditors, in which the Trustee confirmed that unfavorable cash flow variances had occurred, along with a build up in past due post NOI debts.
8. The reconvened FMOC was held on May 3, 2024 where it was confirmed that the Company had entered into the Transaction, which is expected to provide for a payment to creditors in a fairly short period after the approval of the Proposal and will pay outstanding post NOI debts.
9. The FMOC was again adjourned to allow for the Company to file the Further Amended Proposal (the "Proposal") to reflect the Transaction, and then to be put before the creditors. The Second Report was drafted as the Proposal was being finalized. Any further amendments or updates will be provided at the FMOC.
10. The reconvened FMOC is to be held at 11 am on May 8, 2024.

SUMMARY OF THE FURTHER AMENDED PROPOSAL

11. The Company filed its Further Amended Proposal on May 7, 2024.
12. An overview of the Proposal is included in section 2.2. A summary and major terms of the Proposal are as follows:

- a. The Company entered into the Transaction in which 5008679 Ontario Limited (the "**Purchaser**") will acquire all of the issued and outstanding shares of the Company in exchange for a payment to the Trustee defined as the Cash Consideration in the Subscription Agreement (the "**Agreement**", attached as Appendix A to the Proposal).
 - b. Upon approval of the Proposal by the creditors, the Company and Purchaser will jointly seek to obtain court approval of the Proposal in conjunction with a reverse vesting order (the "**RVO**") which will vest all of the NOI Secured, Preferred, and Affected Creditors (as defined in the Agreement) to a shell company defined as ResidualCo.
 - c. The amount of the Cash Consideration payment will be determined as \$2,538,398, less Company Obligations Amount (as defined in the Agreement). The Company Obligations Amount includes, among other amounts, payment of post NOI debts.
 - d. ResidualCo. will be assigned into bankruptcy by the Trustee facilitating a claims and dividend process.
 - e. The Cash Consideration within the bankruptcy of ResidualCo. is to be paid as follows:
 - i. Canada Revenue Agency ("**CRA**") will be paid in full within 6 months of Court Approval of the Proposal, for unremitted payroll source deductions;
 - ii. Payment of Property Taxes owing to the municipality of Spallumcheen, British Columbia, in priority to other creditors based on their Secured Claim status;
 - iii. Up to \$25,000 for the ResidualCo. Bankruptcy Trustee fees and costs; and
 - iv. The balance is for the benefit of the Affected Creditors in the bankruptcy of ResidualCo.
 - f. There will be one class of creditors for the purpose of considering and voting on the Proposal, made up of Affected Creditors;
13. The Proposal Trustee's fees and expenses, and legal costs of the Trustee arising out of the Proposal shall be paid as part of the Company Obligations.

14. The Proposal contains a provision that claims against the Company's Directors are compromised after the approval of the Proposal by the Court.
15. The Proposal contains a provision that sections 95 to 99, and Section 101, of the BIA shall not apply with respect to this Proposal and the Company.

ASSETS

16. The Trustee has assumed the same values for the Company assets as outlined within the First Report.

LIABILITIES

Secured Creditors

17. The only secured claim confirmed against the Company is the outstanding property taxes of approximately \$175,000 owed against the Production Facility location in Spallumcheen, British Columbia. The terms of the RVO would vest this liability to ResidualCo. retaining its secured status. Accordingly, the Property Taxes are to be paid in priority to all other creditors from the Cash Consideration funds.

Preferred Creditors

Employees

18. Employees are preferred creditors pursuant to Section 136 of the *Bankruptcy and Insolvency Act*, and as such, their preferred claims must be paid in full before any payments are made to the general unsecured creditors. Each employee's preferred claim may not exceed \$2,000, relating to wages and vacation pay during the six-month period immediately preceding the initial date of filing. Amounts owing in excess of the threshold or relate to a period more than six months prior to the Notice of Intention, are general unsecured claims. Any claims relating to severance or termination pay are general unsecured claims. Further, there is a termination clause in the Proposal that may result in additional severance costs under the Proposal.
19. The Trustee has accepted two employee claims which form \$4,000 in preferred amounts with regards to the Proposal, and has assumed potential severance of up to \$200,000.
20. In a bankruptcy scenario, preferred claims of employees (wages/vacation pay) become a secured charge over current assets, and takes priority over other secured

creditors, with the exception of the claim of CRA pertaining to unremitted payroll withholdings. Claims for outstanding termination pay rank as general unsecured claims in a bankruptcy or proposal scenario.

21. Under a bankruptcy scenario it is expected that there would be accrued wages and vacation pay, along with severance obligations owing. For the purposes of this report we have assumed each employee would be owed a preferred claim of \$1,000, and have used \$248,000 to estimate total severance claims in a bankruptcy scenario.

Unsecured Creditors

22. The Company's Statement of Affairs indicates unsecured creditors of approximately \$4,846,500. Ultimately the amount owing to creditors will be based upon the proven claims filed in the Proposal proceeding with creditors being able to prove their claims up to the time of the payout of the funds to creditors.

23. Under a bankruptcy scenario we have assumed additional unsecured claim amounts:

| | |
|-------------------------------------|-----------|
| Employees Severance costs | \$248,000 |
| Company Obligations / Post NOI Debt | \$275,000 |

24. The voting rights or rights to participate in the Proposal Funds may be impaired if any claim is determined to be a Related Party Claim or a Non-Arm's Length Claim as defined within the BIA, or related legislation and regulations.

CONDUCT OF THE DEBTOR

25. Since the filing the NOI, and in preparation for its filing, the Company has been acting in good faith by organizing its affairs and investigating various options with a view to formulating and presenting a proposal to its creditors.
26. The Trustee has not identified material preferential transactions or transactions at under value that would likely be challenged by a Trustee in Bankruptcy pursuant to the provisions of the BIA.
27. The Trustee reported above with regards to the issuance of a Material Adverse Change Report. The Company has negotiated the Transaction and developed its Proposal in a manner that is expected to deal with the issues outlined in that report.

REMUNERATION OF THE TRUSTEE

28. The costs of administration pertaining to the Proposal Trustee's fees and disbursements and legal costs incurred in relation to the Proposal are a preferred claim and will be paid as part of the Company Obligations under the Agreement, and will be subject to taxation by Court and approval of the Inspectors, if appointed, or the creditors should no Inspectors be appointed. The estimated Proposal Trustee fees and costs are included in the Statement of Estimated Realization.
29. The Proposal and RVO include the assignment of ResidualCo. into bankruptcy. The ResidualCo. bankruptcy Trustee Fees are shown at \$25,000.
30. The Trustee holds a third party retainer of \$75,000 related to this matter.

CONSEQUENCES OF NON-APPROVAL OF THE PROPOSAL

31. If the Proposal is not accepted by the creditors, the Company will be deemed to have made an assignment in bankruptcy on that date. The Lotus bankruptcy Trustee Fees and costs are included in the Statement of Estimated Realization.

ESTIMATED REALIZATION – BANKRUPTCY vs. PROPOSAL

32. The Trustee has prepared a Statement of Estimated Realization (the "Statement") which is attached as Schedule "A" to this Report and compares the estimated net realization in a bankruptcy versus proposal scenario. If the Proposal is not accepted by the creditors, the Company will be deemed to have made an assignment in bankruptcy on that date.
33. The Proposal will provide \$2,538,398 less the Company Obligations which are not finalized until the Closing Date of the Transaction after the FMOC. The Company has estimated the Company Obligations to be approximately \$275,000 plus Proposal Trustee Fees and costs. The estimated Cash Consideration payment to the Proposal Trustee is shown at approximately \$2,035,000 on the Statement.
34. After payment of the Property Tax claim and ResidualCo. bankruptcy Trustee fees, there is expected to be approximately \$1,840,000 available to the Affected Creditors under the Proposal (or approximately 36% of their claims).

35. In a bankruptcy scenario, funds available will be primarily dependent on the asset realizations. While the Trustee has presented our reasonable expectations regarding these realizations in this Report, actual realizations may vary materially from these estimates. The timing on the payout to creditors under the bankruptcy is expected to be between six months and one year, as the primary Company asset is real estate. The Affected Creditors are expected to receive approximately 21% of their claims under a bankruptcy scenario.
36. This percentage of creditor recovery will vary from the above analysis as the actual payout will be dependent on proven claims accepted by the Trustee (or by the Court) in this process which may be higher or lower than the amounts included in this analysis.
37. If the Cash Consideration is approximately \$2,036,000, the Proposal will provide a significantly higher recovery (by approximately \$700,000) to the Affected Creditors than they would receive in a bankruptcy scenario. Accordingly, we recommend acceptance of this Proposal.

DATED AT the City of Vancouver, British Columbia this 7th day of May, 2024.

MNP Ltd.

In its capacity as Licensed Insolvency Trustee
In the Proposal Proceedings of Lotus Ventures Inc.
and not in its corporate capacity



Per: Greg Ibbott, CIRP, LIT, CPA, CA
Senior Vice President