

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE BANKRUPTCY OF
BLACK ISLE RESTAURANTS LTD.

ORDINARY ADMINISTRATION

TRUSTEE'S PRELIMINARY REPORT TO CREDITORS

BACKGROUND

Black Isle Restaurants Ltd. (“**Black Isle**” or the “**Company**”) is a provincially registered corporation located in Port Moody, British Columbia.

A search of the British Columbia Corporate Registry performed on April 25, 2024, indicated the Company’s director is Alex Barnetson (the “**Director**”). The Company operated three restaurants under the Freshii franchise.

ASSIGNMENT IN BANKRUPTCY

The Company’s Directors stated that the Company experienced financial difficulty and incurred net losses in the most recent fiscal year. The Company explored options with its lessors and parties that were interested in assuming the Company’s leases prior to the bankruptcy to limit the financial losses experienced by the lessors. The Company made a voluntary assignment in bankruptcy pursuant to the provisions of the *Bankruptcy and Insolvency Act* effective May 2, 2024. MNP Ltd. was appointed as the Licensed Insolvency Trustee of the Bankrupt Estate (the “**Trustee**”), subject to creditor affirmation at the First Meeting of Creditors.

Notice of the Assignment in Bankruptcy and First Meeting of Creditors was sent to all known creditors on May 7, 2024.

ASSETS

Cash

The Statement of Affairs filed in the bankruptcy reported cash of \$8,971 The Trustee has requested that all funds in the Company’s bank account will be directed to the Trustee.

SALE OF ASSETS – Machinery, Equipment and Plant

The Company and Able Auctions entered into an auction agreement for the sale of the Assets prior to the date of the bankruptcy. The value reported on the Statement of Affairs is the initial estimated realization provided by Able Auctions. Final net realization from these assets will be confirmed following the auction.

PROVABLE CLAIMS

It is the duty of the Trustee to examine and satisfy itself as to the validity and priority of all claims filed in the Estate. As of the date of this report, no proof of claims been filed with the Trustee.

	Statement of Affairs	Filed
Secured creditors	Nil	Nil
Preferred creditors	Nil	Nil
Unsecured creditors	\$1,637,578.35	Nil
Total	<u>\$1,637,578.35</u>	<u>Nil</u>

SECURED CREDITORS

According to a British Columbia Personal Property Registry search performed on February 23, 2024, there are no creditors with registered security interests against the Company.

Canada Revenue Agency (“CRA”)

CRA has a “deemed trust” claim or property claim equal to the amount of payroll deductions withheld from employees’ compensation and not remitted to CRA. This claim comes in priority to the claims of all other creditors.

Any debt owing to CRA for unremitted goods and service tax at the date of bankruptcy will rank as a general, unsecured claim.

To date, a proof of claim has not been received from CRA in relation to the unremitted payroll source deductions. The Trustee will engage in correspondence with CRA for the purpose of confirming the deemed trust amounts owing to CRA, if any. The Company’s payroll was handled

by a third-party payroll processor. As such, we expect that the payroll source deductions were properly remitted to the CRA and we therefore do not expect there to be any material amounts owing with respect to payroll source deductions.

Claims of Wage Earners

Pursuant to Section 81.3(1) of the BIA, claims of employees who are owed wages, vacation pay, and other compensation for services rendered in the six-month period preceding the Date of Bankruptcy are secured, to the extent of \$2,000, by security over the Company’s assets (Other Property).

Fourteen employees qualified under the Wage Earners Protection Program (“WEPP”) for unpaid wages, vacation pay, and termination pay. As there were no unpaid wages or vacation pay reported by the Company, we estimate the priority claim from these employee claims to be \$0. The Trustee is in the process of confirming employee’s entitlements for termination pay which will be processed through WEPP.

PREFERRED CREDITORS

There are no preferred creditors noted.

UNSECURED CREDITORS

The Statement of Affairs reports total unsecured creditors of \$1,637,578.35. Ultimately the amounts owing to the unsecured creditors will be based on proofs of claim filed by the creditors and admitted by the Trustee.

OTHER MATTERS

Books and Records

The Trustee is in possession of certain books and records as at the date of bankruptcy that were provided by the Company.

Legal Proceedings

The Trustee has not commenced any legal proceedings at the date of this report.

Conservatory and Protective Measures

The Trustee did not take possession of the Company’s assets, as the assets were subject to an auction agreement with Able Auctions prior to the bankruptcy assignment. The Trustee will collect the funds from the Company’s bank accounts.

Preferences, and Transactions at Under Value

The Trustee will undertake a review of the Company’s books and records preceding the date of bankruptcy in order to ascertain whether or not any preferential payments and/or reviewable transactions have occurred within the last three months or, where related parties are involved, within the last twelve months.

Directive 16 Third-Party Deposits and Guarantees

Alex Barnetson provided the Trustee with a retainer in the amount of \$30,000 as security for professional fees should the asset realizations not be sufficient to cover the Trustee’s fees.

ESTIMATED REALIZATION

The Trustee expects to realize proceeds from the auction and will distribute the proceeds according to legal priority. The total recovery from the assets is unknown at this time.

All dividends payable by the Trustee to creditors are subject to a 5% levy payable to the Office of the Superintendent of Bankruptcy.

This concludes the Trustee’s Preliminary Report to Creditors.

DATED at the City of Vancouver, in the Province of British Columbia, this 15th day of May, 2024.

MNP Ltd.

In its capacity as Licensed Insolvency Trustee
of the Bankrupt Estate of
Black Isle Restaurants Ltd.
and not in its personal capacity



Seamus Boyle, CPA, CIRP, LIT
Vice President