

TRUSTEE'S REPORT ON PRELIMINARY ADMINISTRATION

IN THE MATTER OF THE BANKRUPTCY OF

2173381 ALBERTA LTD O/A FATBURGER

BKY 25-2976059

HUDSON & COMPANY INSOLVENCY TRUSTEES INC.

2173381 Alberta Ltd o/a Fatburger in Medicine Hat, Alberta (hereinafter referred to as “**Fatburger**” or the “**Company**”) filed a voluntary assignment into bankruptcy pursuant to Section 49(1) of the *Bankruptcy and Insolvency Act* (“**BIA**”) on August 16, 2023, with Hudson & Company Insolvency Trustees Inc. appointed as Licensed Insolvency Trustee (“**Trustee**”).

The company operated a Fatburger franchise restaurant from a leased premise at #109 1840 Strachan Rd SE, Medicine Hat, Alberta.

SECTION A - The Trustee's duties under Section 16(3) of the Bankruptcy and Insolvency Act:

Class I - Stocks and Merchandise:

- The Company's stock was valued on the Statement of Affairs at zero.
- The Trustee has conducted an inventory of the Company's assets.

Class II - Machinery and Equipment:

- The Company's equipment was valued on the sworn Statement of Affairs at approximately \$55,002.

Class III - Buildings and Real Estate:

- The Company did not own buildings or real estate.

Class IV - Books and Records:

- The Trustee took possession of certain records of the Company on August 16, 2023, and since that time, the Trustee has secured further records from the former directors of the Company.

Class V - Other Assets:

- The Trustee received cash on hand of \$2,243.75, a portion of which was located in the Company's premises on the date of bankruptcy.
- The Trustee sold certain food items for \$500 on the date of its appointment, where such food would have otherwise spoiled.

SECTION B - Conservatory and Protective Measures:

- The Trustee changed the locks on the leased premises on August 15, 2023, after receiving a temporary appointment certificate.
- The Trustee is arranging to have insurance transferred to Hudson & Company as loss payee and the named insured. A local Medicine Hat resident has conducted periodic visits of the site to ensure the Company's premises remains secured.
- There was no alarm system on site.

SECTION C - Legal Proceedings:

- None that the Trustee is aware of at this time.

SECTION D - Provable Claims:

- To date, the Trustee has received unsecured claims totalling \$23,367.79. The Trustee does not anticipate that there will be sufficient funds realized to pay unsecured claims. Instead, it is expected that the Canada Revenue Agency ("CRA") is owed approximately \$75,000 for a deemed trust property claim related to unremitted source deductions and if this proves to be accurate, such claim will rank in priority to all other claimants. In consideration of this expected deemed trust property claim of the Canada Revenue Agency, the Trustee has requested that the CRA enter into an administrative agreement with the Trustee, such that the Trustee's reasonable fees and expenses would be paid from the asset realizations from the bankruptcy estate, in priority to the CRA's deemed trust property claim. To date, the Trustee has not had any response to this request from the CRA.

SECTION E - Secured Creditors:

- Based on the Trustee's review of the Company's Personal Property Registry ("PPR"), RBC Royal Bank of Canada is the first ranking secured creditor, and they have a general security agreement over all the present and after acquired property of the Company.
- The Trustee has received a secured claim from BMW Canada, which is currently being reviewed.

SECTION F - Priority Claims

- The Company operated from a leased premise and the Trustee understands that rental arrears are owing. Accordingly, the landlord may file a priority claim for rental arrears.
- The Trustee understands that the Company owes several employees for unpaid wages, vacation and termination pay. The Trustee has received preferred claims from former employees totaling \$11,425.00 and such claims are being administered through the WEPPA program.

SECTION G - Reviewable Transactions and Preference Payments:

- To date, none have come to the Trustee's attention.

SECTION H - Other Matters:

- The Trustee has received a total of \$10,000 from two third parties, and these funds are being held in a third-party trust account. If needed, these funds are to be used to reimburse the Trustee for the costs of administrating the bankruptcy.
- On the Company's PPR, the Trustee notes that a 2020 BMW 330i is being financed jointly by the Company and one of its directors, through BMW Canada Inc. The director has indicated to the Trustee that he has purchased the vehicle personally, and the Trustee has verified that the vehicle is registered in the name of the director and not the Company. The director has provided personal bank statements for the prior 12-month period to prove that payments for the purchase financing of this vehicle have been made by him personally, and not as an expense of the Company.

SECTION I - Estimated Asset Realization:

- Following its appointment, the Trustee contacted an auctioneer to help determine an estimated realizable value of the equipment in the leased premises. The asset listing and pictures of the equipment were provided to the auctioneer to assist in their determination of the estimated realizable value of the equipment. The auctioneer provided an estimate of value of the equipment, and also submitted an auction proposal and outright purchase offer, and these proposals will be discussed in further detail at the creditor meeting scheduled for August 29, 2023.
- The franchisor, FDZ Brandz also submitted an outright purchase offer for the Company's assets. This offer will also be discussed in further detail at the creditor meeting scheduled for August 29, 2023.

DATED at Calgary, Alberta, this 29th day of August 2023.

HUDSON & COMPANY INSOLVENCY TRUSTEES INC.

Per: _____



Stefan DuChene, Licensed Insolvency Trustee

SCHEDULE "A"

**IN THE MATTER OF THE BANKRUPTCY OF
2173381 ALBERTA LTD. O/A FATBURGER**

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ESTIMATED REALIZATION

As Per Debtors Statement Dated		Estimated Realization As Per Trustee
Assets		
Pledged	\$57,003.00	\$77,000.00
Free	<u>0.00</u>	<u>0.00</u>
Total Assets	<u>57,003.00</u>	<u>77,000.00</u>
Liabilities		
Unsecured	120,805.94	120,805.94
Secured	<u>298,357.38</u>	<u>298,357.38</u>
Total Liabilities	<u>419,163.32</u>	<u>419,163.32</u>
Apparent Deficit	<u>\$362,160.32</u>	<u>\$342,163.32</u>

PROJECTED DISTRIBUTION

Estimated Total Realization	\$77,000.00
Costs of Administration	<u>12,000.00</u>
Estimated amount available for priority / secured creditors	<u>\$65,000.00</u>