



Tel: 905 615 8787
Fax: 905 615 1333
www.bdo.ca

BDO Canada Limited
1 City Centre Drive, Suite 1040
Mississauga ON L5B 1M2 Canada

District of ONTARIO
Division No. 09 - Toronto
Estate No. 31-2504280
Court No. 31-2504280

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE PROPOSAL OF
TOONBOX ENTERTAINMENT LTD.
OF THE CITY OF TORONTO,
IN THE REGIONAL MUNICIPALITY OF TORONTO,
IN THE PROVINCE OF ONTARIO.**

REPORT OF TRUSTEE ON PROPOSAL

**TO THE CREDITORS OF
TOONBOX ENTERTAINMENT LTD.**

The Toonbox Entertainment Ltd. (the “Company”) filed a Proposal under the *Bankruptcy and Insolvency Act* on the 29th day of April, 2019 with the Official Receiver, and BDO Canada Limited consented to act as Trustee in the administration of the Proposal. A creditors’ meeting will be held to consider the Proposal on the 21st day of May, 2019 at 10:00 a.m. at the office of BDO Canada Limited, 1 City Centre Drive, Suite 1040, Mississauga, Ontario.

We enclose herewith the following documents:

- Statutory Notice of Meeting of Creditors;
- Copy of the Certificate of Filing;
- Copy of the Proposal;
- Condensed statement of assets and liabilities;
- Listing of creditors;
- Proof of claim form (blank);
- General proxy (blank); and
- Voting letter (blank) in the event you wish to vote in advance of the meeting.

To participate in any dividend distributions, creditors must submit to the Trustee a properly completed proof of claim, together with a Statement of Account attached thereto as Schedule “A” (the “Claim”). Further, to be eligible to vote in the Proposal, the Claim must be submitted to us prior to the time of the meeting. The Claim should include all amounts outstanding as at the Date of Filing. Filing your Claim is sufficient notice to us of any disagreement you may have with respect to the amount reported due to you in the attached documents. The completed Claim can be delivered to the Trustee’s office by mail, courier, facsimile, electronic mail, or in person.

Creditors do not have to attend the creditors' meeting, but can vote on the Proposal by completing the attached voting letter and indicating their vote FOR or AGAINST the Proposal. Creditors can also appoint a person to represent them at the creditors' meeting by submitting a properly completed proxy form with the proof of claim form. The proxy may be given in favour of the Trustee or any individual representing you. All corporations must name a proxy.

The following information is provided to assist creditors in evaluating the Company's affairs and the Proposal. Please note we have not audited or reviewed the Company's books and records and, as a result, we are not able to express an opinion concerning the accuracy of the information contained herein. The following information originated from the Company's books and records that were made available to us, as well as from our discussions with the Company and management.

BACKGROUND

The Company was incorporated on June 19, 2008 and operated as an animation studio producing various computer-animated films including "The Nut Job" 1,2, and 3, "Far Fetched" "Bolts & Blip", "Spark" and "The Beet Party" (the "Films"). Mr. Hong Kim ("Hong") is the Company's controlling shareholder and director. The Company is the holding company that owns various production companies registered for each film production including The Nut Job 2 Productions Inc. (the "The Nut Job 2") operating as an animation studio producing "The Nut Job 2: Nutty by Nature" film.

In 2013 the Company entered into a co-production agreement (the "Agreement") with RedRover Co. Ltd. (the "Redrover") pursuant to which the Redrover took responsibility in regards to the financing of various co-productions being produced between two parties. The Company in turn has agreed to take the responsibility for the production of the films. Pursuant to the Agreement the net receipts from the exploitation of the films are to be shared on an equal basis (i.e. 50% to the Company and 50% to Redrover).

Hong advises that Redrover has failed to provide the Company with the required accounting from the exploitation of various films leaving the Company unable to determine the equal share of the exploitation proceeds that remain due to the Company.

The Nut Job 2 was eligible to claim the following provincial and federal refundable tax credits for the production of the film:

- The Ontario Film & Television Tax Credit ("OFTTC")
- The Ontario Production Services Tax Credit ("OPSTC")
- The Ontario Computer Animation & Special Effects Tax Credit ("OCASETC")

On December 19, 2017 The Nut Job 2 entered into a loan agreement with Pacific Mercantile Bank ("PMB") for the amount of \$8,170,705 USD pursuant to which a general security interest was granted by The Nut Job 2 to PMB. The Company has guaranteed the payment of the loan to PMB. The Nut Job 2 intended to use the refundable tax credits mentioned previously to repay PMB in full in or around October 2018. Pursuant to the loan agreement the funds generated from the refundable tax credits were to be kept in trust in favour of PMB and paid over as soon as practicable. The Nut Job 2 did not comply with the terms of the loan. The funds were co-mingled with the Company's funds and used by the Company to fund the ongoing operations and film productions.

The Company and The Nut Job 2 had no further funds to continue the productions and ceased operations on March 20, 2019. On April 18, 2019, on the application of PMB, an order was issued by the Honourable Justice Mr. Hailey appointing BDO Canada Limited an interim receiver of all assets, undertakings and properties of the Company and The Nut Job 2 Productions Inc. (the “Interim Receiver”).

The Company finds itself unable to pay its obligations as they become due. Accordingly, the Company wishes to seek a settlement with its creditors and, accordingly, filed a Proposal under the *Bankruptcy and Insolvency Act*.

SUMMARY OF PROPOSAL

Under the terms of the Proposal the assets of the Company will vest in the Trustee and the Trustee will realize on the Assets for the benefit of the creditors by conducting the Sales Process and negotiating with interested parties relating to the sale of the Company’s Net Assets.

Under the terms of the Proposal, the funds paid under the Proposal will be utilized as follows:

- The Administrative Fees and Expenses will be paid in priority to all creditors’ claims;
- All amounts owing to Canada Revenue Agency that could be subject to a demand under subsection 224(1.2) of the *Income Tax Act* or under any substantially similar provision of provincial legislation, that were outstanding at the Date of Filing, shall be paid in full within 6 months after the Court Approval Date;
- All Secured Creditors shall be paid in accordance with the existing arrangements between the Debtor and those Secured Creditors, or as may be arranged between the Debtor and the Secured Creditors;
- Preferred Creditors will be paid in full in priority to Ordinary Creditors, immediately after Court approval. Based on available information, the Trustee is not aware of any amount owing under this category;
- Ordinary Creditors will receive the balance of the remaining funds, to be divided on a pro rata basis, in full and final settlement of their proven ordinary claims;
- Creditors agree not to pursue any assessments against the Company’s directors for claims against the directors of the Company that arose prior to the Date of Filing and that relate to the obligations of the Company where the directors are by law liable in their capacity as directors for the payment of such obligation; and
- All payments to creditors are subject to a levy payable to the Superintendent of Bankruptcy pursuant to section 147 of the *Bankruptcy and Insolvency Act*, calculated at 5 percent.

If the statutory majority of creditors and the Court approve the Proposal, the Proposal will become legally binding on the Company and all Ordinary and Preferred Creditors. If the creditors reject the Proposal, the Company will be deemed to have filed an assignment in bankruptcy.

Condition Precedent

The arrangements set out in the Proposal will not take effect unless the Proposal of Nut Job 2



Production Inc., is also approved by the Creditors and the Court.

Readers are cautioned that the foregoing summary is meant only as a simplified overview. The Proposal contains terms and conditions which are not set out above. In the event of any conflict between the summary and the Proposal, the terms of the Proposal will prevail. Creditors are therefore urged to read the Proposal in its entirety and, if necessary, to consult with their professional advisors.

IDENTIFICATION AND EVALUATION OF ASSETS

The Trustee conducted a search under the *Personal Property Security Act* and confirmed that the following creditors have registered a security interests against certain equipment:

- Actra Performer's Rights Society
- Royal Bank of Canada
- Screen Actors Guild-American Federation of Television and Radio Artists

The Company advises that no monies were owed to the above mentioned creditors at the time of the Proposal filing. Accordingly, the Trustee has not incurred the expense of requesting an independent legal opinion of the respected securities at this time.

The Trustee identified the following assets:

Cash on hand

The Company's Statement of Affairs reported approximately \$345,907 in its bank accounts as at the date of the filing of the Proposal. The Interim Receiver has confirmed that the funds are in the RBC Bank account and has requested for the funds to be remitted to the Interim Receiver. At the date of this report funds have not yet been received.

GST/HST Receivable

The Company's Statement of Affairs reported approximately \$93,046 in GST/HST refund receivable at the date of the filing of the Proposal.

Tax Credits

The Company is eligible to receive provincial and federal refundable tax credits for the production of the "Far Fetched" film. The Company is estimating to receive approximately \$679,242 in tax credits upon finalizing the film, obtaining required certificates and filing necessary returns. The Trustee has not determined the feasibility of completing the film.

Machinery, Equipment, Furniture and Fixtures

As previously mentioned the Company ceased operations on March 21, 2019. The Company has retained the Office Move Pro to arrange for the move and storage of its equipment, furniture and fixtures (collectively "Equipment"). The Equipment was packaged and wrapped by the Office Move Pro during the move to prevent the possible damage caused by the move. The Equipment is currently stored at the Office Move Pro warehouse and remains in the same packaged and wrapped condition. The Interim Receiver is taking necessary steps to safeguard the Equipment and has requested for a "desk top" appraisal.

Production Service Fees

As mentioned previously, pursuant to the Agreement between the Company and Redrover, the net receipts from the exploitation of the films were to be shared on an equal basis (i.e. 50% to the Company and 50% to Redrover). Hong advises that Redrover has failed to provide the Company with the required accounting from the exploitation of various films leaving the Company unable to determine the equal share of the exploitation proceeds that remain due to the Company. The books and records of the Company revealed the most recent correspondence sent by the Company's solicitor Goodman to Redrover requesting for the accounting of the exploitation of the films. The Trustee has confirmed that the information requested by Goodman has not been received. The Trustee will continue to investigate the relationship between the Company and Redrover to determine the Company's entitlement under the Agreements.

Investments/Advanced

The Company balance sheet indicates investments in the amount of \$4.5 million in "Dundy Ltd: and RNT No 1 Ltd. The Company has also made various advanced to , "The Nut Job 3", "Zodiac Export", "TGMRC" Bana Royale and Pirate Cat. The Trustee is investigating these investments and advances.

Franchise rights

The Company reports to own franchise rights in the following films: "The Nut Job" 1,2, and 3, "Far Fetched" "Bolts & Blip", "Spark" and "The Beet Party". The Trustee is currently investigating the Company's interest in the above mentioned films, as well as other films reported to be owned by the Company. The Trustee is unable to determine the value of the reported franchise rights at this time.

ESTIMATED REALIZATION TO CREDITORS

The Company and The Nut Job 2 Productions Inc. (collectively "Companies") have prepared the marketing and sales process to determine whether a successful bid or bids can be obtained for the business assets of the Companies enbloc. The Trustee is not able to quantify the estimated realization to creditors at this point. The Trustee believes that the Companies proposed marketing and sales process will result in higher realization to creditors due to preserved value of the Companies intangible assets, such as intellectual property and goodwill of the Companies and ability to realize the full value of the assets as compared to the bankruptcy scenario.

If the Proposal is rejected, the Company will be deemed bankrupt. The Licensed Insolvency Trustee would proceed to realize on the assets available for Ordinary Creditors.

The main advantages of the Proposal are as follows:

- Ordinary Creditors will experience a recovery that they may otherwise not obtain in a bankruptcy;
- The intangible assets of the Company will be preserved, therefore increasing realization to creditors.

Based on all of the information that has come to the Trustee's attention to date, the Trustee recommends that Ordinary Creditors accept the Company's Proposal.



We trust that the foregoing adequately explains the current and ongoing circumstances of the Company. If any questions or concerns arise, please contact Vince Siciliano at (905) 615-6200.

Dated at Mississauga, Ontario this 7th day of May, 2019.

A handwritten signature in blue ink, appearing to be 'Vince Siciliano', written over a horizontal line.

BDO CANADA LIMITED
Trustee
1 City Centre Drive, Suite 1040
Mississauga, Ontario L5B 1M2