

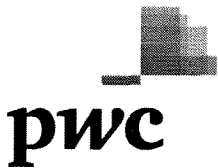
No. B-130443  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**IN THE MATTER OF THE BANKRUPTCY OF  
NORTHWEST ANGLING ADVENTURES LTD.**

**TRUSTEE'S PRELIMINARY REPORT TO CREDITORS**

**April 3, 2013**



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**A. BACKGROUND**

1. Northwest Angling Adventures Ltd (the “**Company**”) operates a seasonal luxury resort called King Pacific Lodge. The resort is a floating lodge that is moored in Barnard Inlet near Princess Royal Island on the west coast of British Columbia. The lodge offers wilderness and ecotourism activities in the nearby Great Bear Rainforest and sport fishing excursions. The lodge typically operates from June 1 to mid/late September and is closed during the remainder of the year.
2. The lodge has been operating since 1989 with the Company purchasing the operations in 1996. The Company’s sole shareholder is indirectly controlled by Mr. Morita, a resident of Tokyo, Japan. Mr. Michael Uehara, a West Vancouver resident, is the current president and has managed the business for approximately 15 years.
3. As further described below, operations of the Company have declined in recent years and the Company’s sole shareholder declined to provide any further financial support for the Company. Accordingly, on March 14, 2013, the Company filed an assignment in bankruptcy for the general benefit of its creditors, pursuant to the provisions of the *Bankruptcy and Insolvency Act* (“**BIA**”) and PricewaterhouseCoopers Inc. was named as trustee in bankruptcy of the Company (the “**Trustee**”), subject to affirmation by the creditors or substitution of another trustee by the creditors.
4. On March 22, 2013, notice of the first meeting of creditors, a list of creditors, a proof of claim form and a proxy were sent to all known creditors of the Company and on March 20, 2013, notice of the bankruptcy and the first meeting of creditors was published in The Province newspaper.
5. The activities of the Trustee since its appointment have primarily consisted of the following:
  - a. taking possession and control of the assets of the Company;
  - b. evaluating options to maximize the realizable value of the assets of the Company;

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- c. evaluating claims made against the estate;
  - d. attacking claims deemed to be a preference and/or a transfer under value pursuant to sections 95 and 96 of the BIA respectively; and
  - e. undertaking statutory work in accordance with the provisions of the BIA and the Wage Earners Protection Program Act ("**WEPPA**").
6. As further discussed below, on March 28, 2013, the Trustee sought and obtained an order (the "**Receivership Order**") of the Supreme Court of British Columbia (the "**Court**") pursuant to Section 39 of the *Law and Equity Act* appointing PricewaterhouseCoopers Inc. as equitable Receiver (the "**Receiver**") without security of all of the assets, undertakings and properties of the Company. The appointment of the Receiver is discussed in further detail below.

**B. CAUSES OF FINANCIAL DIFFICULTY**

7. According to the Company's books and records, revenue peaked in 2007 after which the economic recession contributed to significantly lower revenues. Operating expenses were not adjusted sufficiently and the Company incurred losses for 2008 to 2011. In 2010, revenues had declined to approximately 40% of their peak but recovered to approximately 60% of their peak in 2012. In 2012, the Company earned a small income.
8. The Company was in arrears with its HST remittances to the Canada Revenue Agency ("**CRA**"), and during the two months leading up to the date of bankruptcy, CRA seized approximately \$208,000 of the Company's funds from its bank account pursuant to a requirement to pay in order to satisfy the balance owing.
9. The Company's liquidity further suffered as the Company's in-house accountant made a confession to the RCMP on March 1, 2013 admitting to defrauding the Company. A preliminary review of the Company's records indicates that she misappropriated an estimated \$650,000 of the Company's funds during the past four years and used them for personal use. This matter is currently the subject to an on-going police criminal investigation.

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10. As a result of the sustained operating losses, the Company's limited liquidity, the CRA asset seizure, and loss of funds resulting from the employee theft, the Company's sole shareholder declined to provide any further financial support for the Company and accordingly the Company made an assignment in bankruptcy for the general benefit of its creditors.

**C. FINANCIAL POSITION / ASSETS**

11. As detailed in the Statement of Affairs, the Company's assets at the date of bankruptcy consisted of:

- a. Cash – The Company maintained bank accounts at the Toronto Dominion Bank (“**TD**”) and the Royal Bank of Canada (“**RBC**”). The Trustee has seized \$ \$7,544 from the TD account, \$27,705 from the RBC account and \$420.80 in petty cash;
- b. Inventory consists primarily of supplies inventory stored on the lodges with a book value of approximately \$32,000;
- c. Furniture & Fixtures with a book value of approximately \$18,000 is primarily comprised of head office furniture;
- d. Boats and Other Equipment consists primarily of 12 fishing boats 18-22 feet in length, along with outboard motors with a book value of approximately \$353,000;
- e. Lodges and Docks consist of the King Pacific guest lodge, the staff lodge and the associated docks. The lodges and docks have a book value of approximately \$5,595,000 and are stored in winter moorage in Prince Rupert at a moorage leased from Wainwright. The Trustee has entered into an agreement with Wainwright to continue to moor the lodges in Prince Rupert, and arrangements have been made to continue security surveillance of the lodges; and
- f. Vehicles consists of one vehicle with a book value of approximately \$27,000 which is used by Michael Uehara and is subject to a lease. This asset is discussed in further detail below.

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12. The Trustee has not made a determination of the realizable value of the assets of the Company, accordingly at this time it is unknown what assets will be available for distribution to unsecured creditors.

**D. SECURED CREDITORS**

Employees

13. There were four employees who were current employees as at the date of bankruptcy who are owed wages, and their claims for these immediate wages are secured as against the current assets of the Company pursuant to section 81.3 of the BIA up to \$2,000 per employee. The Company's records indicate that net wages of \$6,475 and source deductions of \$1,275 are owed to the employees ("**Employee Priority Claims**"). Accordingly, as current assets exceeds the total Employee Priority Claims, the Trustee intends to pay this amount to the four employees and to the CRA respectively from the cash on hand. Accordingly, it is expected that upon payment of these claims, there will be no further priority claims outstanding under section 81.3 of the BIA.

Uehara Claim

14. Mr. Uehara filed a secured claim with the Trustee in the amount of \$2,669,421.30 for unpaid wages, advances and interest thereupon made to the Company. The claim asserts a security interest over all the assets of the Company (the "**Uehara Claim**").
15. Michael Uehara was granted security on December 12, 2011 which was registered in the *Personal Property Registry* ("**PPR**") on February 26, 2013. However, no registration of the security was made pursuant to the requirements of the *Canada Shipping Act*.
16. Following review of the Uehara Claim, and as result of the registration defects, the Trustee issued a Notice of Revision or Disallowance reducing the claim by \$100,000 due to a calculation error and disallowing a secured claim over the lodges.

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17. Mr. Uehara was employed as President of the Company from 1998 to the date of bankruptcy. Additionally, Mr. Uehara was a director of the Company for the period from February 11, 1998 until his resignation dated February 13, 2013.
18. In summary, the Trustee has determined that:
- a. Mr. Uehara was not dealing with the Company at arms-length when the security was granted;
  - b. the Company was insolvent at the time that the security was granted;
  - c. the granting of the security gave Mr. Uehara a preference over other creditors; and
  - d. the Company did not receive any value for the security provided.
19. Accordingly, the Trustee applied to the Court seeking a declaration that the granting of the security was a preference pursuant to s. 95 and/or a transfer under value pursuant to s. 96 and is therefore void.
20. Mr. Uehara has disputed the Trustee's conclusion regarding the preference or transfer under value of the security granted. This matter is before the Court and a timeline is being developed to address this matter in an expedient manner. Accordingly, no decision has been rendered on the Trustee's application at this time.

Other secured claims

21. The Trustee has received a secured claim from Wainwright Marine Services Ltd. ("**Wainwright**") in the amount of \$208,008 for unpaid goods and services provided (the "**Wainwright Claim**"). The claim asserts security on account of Wainwright's possession of certain assets of the Company. The Trustee has not made a determination of the Wainwright Claim at this time.
22. The Company's books and records identify a lease with Toyota Credit Canada Inc. ("**Toyota**") for the vehicle used by Mr. Uehara. A claim was received by Toyota in the amount of \$32,507. The Trustee reviewed the claim and confirmed

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that Toyota registered its security over the vehicle in the PPR on January 26, 2011 and has concluded that Toyota's secured claim is valid. The Trustee has compared the value of the claim against current market value of the vehicle and has concluded that there is no equity in the vehicle available for the bankrupt estate.

**E. PREFERRED CREDITORS**

23. The Company's Statement of Affairs indicates that there were no known preferred creditors as at the date of bankruptcy.

**F. GENERAL UNSECURED CREDITORS**

Employees

24. Wages in the amount of approximately \$122,000 owed to former employees for the 2012 season gratuities are considered to be unsecured claims, as they were earned outside of the 6 month period prior to the date of bankruptcy.

Customer Deposits

25. Approximately 242 customers have placed deposits totaling approximately \$622,000 with the Company to secure their reservation for visits during the 2013 operating season. These deposits were not held in trust and therefore these claims are considered to be unsecured.

Trade Creditors

26. The Company's records identify approximately 124 creditors with approximately \$1,234,000 in unsecured claims. The majority of these claims are trade payables related to unpaid balances from the 2012 operating season and winter maintenance/storage liabilities.

Shareholder loan

27. The Company's records identify two unsecured shareholder loans totaling approximately \$9,713,000 owed directly and indirectly to the Company's sole shareholder.



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**G. PROVABLE CLAIMS**

28. As at the date of this report, the Trustee has recorded Proofs of Claims filed, as follows:

<b>Claim Type</b>	<b>(#)</b>	<b>(\$)</b>
Priority claim (Section 81)	8	83,675
Secured claim	4	2,918,388
Preferred claim	4	10,504
Unsecured claim	27	426,863
<b>Total</b>	<b>43</b>	<b>3,439,430</b>

**H. PREFERENCE PAYMENTS AND TRANSFERS AT UNDERVALUE**

29. As noted above, the Trustee has applied to the Court to have the security of the Uehara Claim deemed void as a preference and/or transfer at undervalue pursuant to sections 95 and 96 of the BIA respectively.

30. The Trustee has not completed its review of the Company's books and records with respect to other potential preferences or transfers at undervalue, as defined in the BIA. It is the intention of the Trustee to discuss the scope of its review with the Inspectors to be appointed at the first meeting of creditors.

**I. TRUSTEE'S FEES**

31. The Trustee's fees and disbursements will be funded out of the bankrupt estate of the Company, subject to the provisions of the BIA and taxation by the Court.

32. The Trustee's costs of administration in the bankruptcy have been guaranteed to a maximum of \$40,000 by Mr. Morita, the beneficial owner of the Company.

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**J. RECEIVERSHIP PROCEEDINGS AND SALES PROCESS**

33. As noted above, the Trustee was appointed as equitable Receiver under the *Law and Equity Act* to address the uncertainty arising from the Uehara Claim. Pursuant to the Receivership Order, the Receiver has authority to charge the Company's assets to fund on-going operations and a sales process and to convey clear title to the Company's assets subject to approval of the Court.
34. The Receiver has taken possession of the Company's assets and estimates that its ongoing monthly costs to preserve and protect the assets are as follows:

Description	\$/Month
Wages	3,500
Office Rental	4,511
Insurance	7,020
Boat Storage	1,200
Lodge Mooring Costs	4,390
Lodge Security	2,400
Web maintenance	750
Utilities	1,500
<b>Total Costs</b>	<b>25,271</b>

35. Due to limited funding available, the Receiver is unable to operate the business, and intends to implement an expedited sales process in an effort to find a new operator with sufficient financing to restart the Company's operations in time to preserve a portion of the 2013 summer operating season. The Receiver believes that a new operator would be interested in an expedited purchase so that it could preserve the current bookings for 2013. The Receiver estimates that a sale must occur by April 30, 2013 in order to enable a new operator to ready the operations for a late start to the season on July 1, 2013.

**K. ESTIMATED REALIZATION FOR UNSECURED CREDITORS**

36. Although the fair market value of the Company's major assets is uncertain as they have not been exposed to the market, the Company engaged a marine surveyor to provide an appraisal of the assets in September, 2012. Chris Small Marine Surveyors Ltd issued its report dated September 30, 2012, in which it opined that

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the two lodges, the stiff-legs & docks and the fishing boats had as of that date a replacement value of approximately \$17 million and a fair value of approximately \$5.9 million. The Trustee has not determined an estimated realizable value for the Company's assets in bankruptcy; however the Trustee does not expect that the realizable value of the Company's assets in bankruptcy will approach the values noted above.

37. As noted above, the Trustee has applied to the Court to have the security of the Uehara Claim deemed void and Mr. Uehara has disputed this application. This matter is currently before the Court and a final decision has not been made as to the priority of the security of the Uehara Claim. Should the security of the Uehara Claim be deemed void and a successful sale of the business occurs, a minor distribution to unsecured creditors may be possible. If the security of the Uehara Claim is declared valid, it unlikely that unsecured creditors will receive a distribution.

**L. OTHER INFORMATION**

38. Further information relating to the bankruptcy proceedings for the Company may be obtained from PwC's website at [www.pwc.com/car-naal](http://www.pwc.com/car-naal).

Dated at Vancouver, B.C. this 3<sup>rd</sup> day of April, 2013.

**PricewaterhouseCoopers Inc.**

Trustee of the Estate of  
Northwest Angling Adventures Ltd.,  
a bankrupt

A handwritten signature in dark ink, appearing to read "Neil Bunker", is written over a horizontal line.

**Neil Bunker, CA, CIRP**  
**Vice President**