

**IN THE COURT OF QUEEN'S BENCH OF ALBERTA
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE BANKRUPTCY OF
TRI-AG IMPLEMENTS LTD.**

TRUSTEE'S REPORT TO CREDITORS

May 12, 2020

BACKGROUND

Tri-Ag Implements Ltd. (the "**Company**" or "**Tri-Ag**") operated out of Wainwright, St. Paul, and Consort, Alberta as an agriculture equipment supplier. The Company supplied harvesters, combines, chemical applicators and other related agricultural equipment. The Company owned land and building in Wainwright and leased premises in St. Paul and Consort.

The Company has secured debt owed to CNH Industrial Capital Canada Ltd. ("**CNH Industrial**"), De Lage Landen Financial Services Canada Inc. ("**DLL**"), Encompass Credit Union Ltd. ("**Encompass**"), Farm Credit Canada ("**FCC**"), Gregg Distributors Ltd. ("**Gregg Distributors**"), Morris Industries Ltd. ("**Morris**"), STIHL Limited ("**STIHL**"), and Wells Fargo Capital Finance Corporation Canada ("**Wells Fargo**") totalling approximately \$14.4 million. For each of these, the party has either a registered general security agreement or specific security in the Personal Property Registry. Canada Revenue Agency ("**CRA**") is owed approximately \$200,000 for outstanding payroll source deductions which may have a priority over the secured creditors.

We understand the Company struggled financially due to the downturn in the Alberta economy. This resulted in a strain on the Company's working capital and in order for the Company to continue operations they sold several pieces of equipment out of trust, resulting in an Interim Receiver being appointed on February 6, 2020 on application by Farm Credit Canada.

On February 10, 2020, the Company filed a Notice of Intention to file a Proposal ("**NOI**") under subsection 50.4(l) of the *Bankruptcy and Insolvency Act* (the "**BIA**"). On March 10, 2020, the

Company applied for and received an Order extending the time to file a Proposal to April 24, 2020. On April 24, 2020, the Company failed to file a Proposal. As a result, on April 27, 2020 the Company was deemed to have made an assignment into Bankruptcy. The Bowra Group Inc. was appointed Licensed Insolvency Trustee (the “Trustee”) of the Company. All bankruptcy materials, creditor information and regular updates will be posted to the Trustee’s case website (<https://www.bowragroup.com/tri-ag-implements-ltd>).

FINANCIAL SITUATION

Table 1 summarizes the management prepared income statement for fiscal year ended January 31, 2020 and the unaudited income statement prepared by the Company’s external accountant, Miniely Tower Hughes & Associates LLP for fiscal year ended January 31, 2019.

Table 1		
	Year Ended January 31, 2020 (000's)	Year Ended January 31, 2019 (000's)
Revenue	36,412	44,631
Cost of sales	33,231	38,422
Operating and admin expenses	6,109	4,661
Net Income (loss)	(2,928)	1,549

The Company incurred a net loss of \$2.9 million and net income of \$1.5 million for fiscal years 2020 and 2019, respectively.

Table 2 summarizes the management prepared balance sheet as at January 31, 2020 and the unaudited balance sheet prepared by the Company’s external accountant, Miniely Tower Hughes & Associates LLP, as at January 31, 2019.

	As at January 31, 2020 (000's)	As at January 31, 2019 (000's)
Cash	24	-
Receivables	292	1,088
Inventory	18,074	27,735
GST recoverable	-	30
	18,391	28,854
Property, plant and equipment	1,471	976
Long term investments	-	92
	19,862	29,922
Accounts payable and accrued liabilities	14,168	22,321
Bank indebtedness	1,084	414
Short term debt	-	751
Deposits received	-	624
Long term debt	2,440	664
Shareholders' loans	488	710
	18,181	25,483
Shareholder's equity (deficit)	1,681	4,438
	19,862	29,922

NOI PROCEEDINGS

On March 10, 2020, the Company obtained an Order approving the sale of equipment, inventory and land and building to Webb's Machinery (Vermillion) Ltd. and Geo D. Webb and Sons (1980) Ltd. (collectively the "**Purchasers**"). We understand that the Company terminated all their employees on March 13, 2020. All employees immediately accepted employment offers from the Purchasers. We also understand that the Purchasers have entered into agreements with the landlords for the leased locations in Consort and St. Paul.

On March 10, 2020 further Orders were granted permitting seizure or releasing collateral held by CNH Industrial, Wells Fargo, DLL and Farm Credit Canada. In the event there is a valid claim made by CRA in respect of a deemed trust claim ranking in priority ahead other valid security

interests, the parties have agreed to allocate an equitable share of that claim pursuant to a further court order, or as otherwise agreed between the parties.

BOOKS AND RECORDS

The Trustee has taken possession of certain books and records of the Company including payroll records, banking records and financial statements.

CONSERVATORY AND PROTECTIVE MEASURES

Tri-Ag generally ceased operations on March 13, 2020. We understand all outstanding wages and vacation have been paid by the Company. 2019 T4s and ROEs have been prepared by the Company. The Trustee is in the process of having the 2020 T4s prepared.

The Trustee sent correspondence to Encompass and Servus Credit Union Ltd. (“**Servus**”) requesting the Company’s bank accounts be frozen and any future deposits be forwarded to the Trustee. As at the date of bankruptcy, we understand the Encompass bank account was in overdraft and the Servus bank account had a balance of approximately \$113,000. The Trustee has requested Servus to forward all funds in the bank account to the Trustee to hold in trust.

The Trustee has identified remaining unsold equipment and inventory worth approximately \$300,000. The Trustee is working with previous management of the Company to identify, secure and insure the remaining assets.

On May 11, 2020 the Trustee was provided with information that Tri-Ag returned a significant amount of inventory to CNH Industrial resulting in a refund of \$1.2M. Pursuant to the May 10, 2020 Order the funds are being sent to Biamonte LLP, counsel to Encompass, to be held in trust subject to Encompass’s security and a further Order of the Court.

The Trustee has sent notices to prove security to all parties registered in the Personal Property Registry. Once all secured parties have proven their claims the Trustee will be in better position to assess if any of the above assets can be realized on for the benefit of the bankrupt estate.

SECURED CREDITORS

Creditor	Assets Secured	Table 3 Estimated Claim (\$000's)
Canada Revenue Agency	Deemed Trust - all present and after-acquired property	200
CNH Industrial Capital Canada Ltd.	General Security Agreement - all goods supplied by CNH Capital Canada Ltd.	4,651
Farm Credit Canada	Specific farm equipment, such as combines, tractors, and trailers	3,732
De Lage Landen Financial Services Canada Inc.	General Security Agreement - all present and after-acquired inventory	2,825
Encompass Credit Union Ltd.	General Security Agreement - all present and after-acquired property	2,768
Wells Fargo Capital Finance Corporation Canada	General Security Agreement - all present and after-acquired property	924
Morris Industries Ltd.	General Security Agreement - all present and after-acquired inventory	13
STIHL Limited	PMSI Registration - all inventory and equipment obtained from STIHL Limited	12
Gregg Distributors	2 - DUR 363 72 opening bins	2
2202133 Alberta Ltd.	General Security Agreement - security deposit pursuant to lease agreement dated September 1, 2019	Unknown
Bourgault Industries Ltd.	General Security Agreement - all inventory manufactured by Bourgault Industries Ltd.	Unknown
Buhler Trading Inc.	General Security Agreement - all inventory manufactured and/or distributed by Buhler Manufacturing	Unknown
CNH Capital Canada Ltd.	General Security Agreement - all goods supplied by CNH Capital Canada Ltd.	Unknown
ET Works Inc.	General Security Agreement - all present and after-acquired inventory supplied by ET Works Inc.	Unknown
Flexi-Coil Ltd.	General Security Agreement - all tractors, implements, and equipment	Unknown
Ford New Holland Canada Ltd.	General Security Agreement - all present and after-acquired inventory	Unknown
GM Financial Canada Leasing Ltd.	3 - 2018 Chevrolet Silverado 1500	Unknown
Kuhn Farm Machinery Inc.	General Security Agreement - all assets manufactured and/or distributed by Kuhn Farm Machinery Inc.	Unknown
Kuhn Knight Inc.	General Security Agreement - all assets manufactured and/or distributed by Kuhn Knight Inc.	Unknown
New Holland (Canada) Credit Company	General Security Agreement - all present and after-acquired inventory	Unknown
Royal Bank of Canada	2 - GMC Sierra 2500 and 2 - Chevrolet Silverado 2500	Unknown
TAIT Distributors Ltd.	General Security Agreement - all present and after-acquired inventory	Unknown
TCF Commercial Finance Canada Inc.	General Security Agreement - all present and after-acquired property	Unknown
Westward Parts Services Ltd.	General Security Agreement - all present an after-acquired inventory manufactured, distributed or sold and delivered by Westward Parts Services Ltd.	Unknown

Table 3 provides a listing of claims, according to the Personal Property Registry that may have a priority over the claims of unsecured creditors. The claim amounts listed are estimates based on the Company’s books and records. As noted, the Trustee has sent notices to prove security to parties with registered security interests.

CRA has a deemed trust claim for unpaid source deductions. The Company has estimated the amount owing at \$200,000, however, this is likely to increase once a payroll trust audit is completed by CRA. This may take priority over all other secured claims. As of the date of this report, the Trustee has not received a proof of claim from CRA. The trust audit by CRA is currently on hold due to the closure of the CRA as a result of Covid19.

FCC, Gregg Distributors, GM Financial Canada Leasing Ltd., Royal Bank of Canada all hold security over specific assets, which include vehicles and bins. STIHL has a registered Purchase Money Security Interest over all inventory and equipment the Company obtained from STIHL.

The remaining secured creditors have registered general security agreements granting them priority charge over all present and after-acquired inventory and/or property.

UNSECURED CREDITORS

We are aware of 155 unsecured creditors owed approximately \$503,000 based on the Company’s books and records. Table 4 summarizes the major unsecured creditors.

Creditor	Table 4 Estimated Claim (\$000's)
Bourgault Tillage Tools	80
Honey Bee Manufacturing Ltd.	48
ET Works Canada Ltd.	21
Recochem Inc.	19
Cornerstone Co-op	18

IDENTIFICATION AND VALUATION OF ASSETS

The Company's assets consist of cash, accounts receivable, capital assets and the CNH Industrial inventory refund. Table 5 provides a summary of the Company's assets at the date of bankruptcy and the Trustee's estimated realization.

	Per Statement of Affairs as at April 27, 2020	Estimated Realization
	(000's)	(000's)
Cash	113	113
Receivables	100	75
Capital assets	299	224
CNH Industrial inventory refund	-	1,200
	512	1,612

Cash represents the amount in the Company's Servus deposit account as at the date of bankruptcy.

Receivables represent outstanding amounts owing to the Company based on the Trustee's discussions with the Company's management. The Trustee has requested details regarding the outstanding receivables from the Company. Once the Trustee receives the details for the outstanding receivables, the Trustee will send out demand letters.

Capital assets consist of the remaining unsold equipment. The value is estimated based on an informal desktop appraisal completed by a bailiff. The Trustee is working with the Company's previous management to identify, secure and insure the remaining equipment.

Once all secured parties have proven their claims and the CRA trust audit has been completed the Trustee will be in better position to determine if there will be a recovery to the unsecured creditors.

LEGAL ACTIONS

Based on the information obtained from the Company, the Trustee is not aware of any ongoing legal actions against or by the Company.

REVIEW OF RECORDS & CONDUCT OF THE DEBTOR

The Trustee reviewed the books and records that were made available, including bank statements for the period of October 1, 2019 to April 27, 2020.

Upon review of the Company's books and records, the Trustee is not aware of the Company being party to any preferences, priorities or transfers at undervalue as set out in the *BIA*.

CONCLUSION

At this point it is unknown if there will be a recovery to the unsecured creditors.

The Bowra Group Inc.

Licensed Insolvency Trustee of Tri-Ag Implements Ltd.

Per:



Kristin Gray, CPA, CA, CIRP, LIT