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ATTORNEYS FOR THE DEBTOR

UNITED STATES BANKRUPTCY COURT

DISTRICT OF ARIZONA

In re: NUTRACEA, a California corporation, Debtor.	Chapter 11 2:09-bk-28817-CGC **NOTICE OF FILING DECLARATION OF LEO GINGRAS IN SUPPORT OF DEBTOR'S MOTION FOR AUTHORITY TO (1) SELL EQUINE BRANDS AND ASSOCIATED INVENTORY AND (2) ENTER INTO SUPPLY AGREEMENT WITH MANNA PRO PRODUCTS** Hearing Date: April 12, 2010 Hearing Time: 9:00 a.m. Hearing Room: 702

Notice is hereby given that Debtor has filed the attached Declaration of Leo Gingras in Support of Debtor's Motion to for Authority to (1) Sell Equine Brands and Associated Inventory and (2) Enter into Supply Agreement with Manna Pro Products. The attached copy of the Declaration is unsigned, but Debtor certifies that the original has been signed and will be filed as soon as it is delivered to counsel. Mr. Gingras was traveling and was unable to fax or email the signed Declaration to counsel before the hearing on the Motion.

DATED this 12th day of April, 2010.

FORRESTER & WORTH, PLLC

/s/ SCF (006342)
S. Cary Forrester
Attorneys for the Debtor

Copy e-mailed and/or mailed April 12, 2010 to all those on the service list attached hereto:

/s/ Carrie A. Lawrence
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ATTORNEYS FOR THE DEBTOR

UNITED STATES BANKRUPTCY COURT

DISTRICT OF ARIZONA

In re: NUTRACEA, a California corporation, Debtor.	Chapter 11 2:09-bk-28817-CGC **DECLARATION OF LEO GINGRAS IN SUPPORT OF DEBTOR'S MOTION FOR AUTHORITY TO (1) SELL EQUINE BRANDS AND ASSOCIATED INVENTORY AND (2) ENTER INTO SUPPLY AGREEMENT WITH MANNA PRO PRODUCTS** Hearing Date: April 12, 2010 Hearing Time: 9:00 a.m. Hearing Room: 702

Leo Gingras hereby states under penalty of perjury as follows:

1. I am Debtor's Chief Operating Officer and President. I file this Declaration in support of Debtor's Motion for Authority to (1) Sell Equine Brands and Associated Inventory and (2) Enter into Supply Agreement with Manna Pro Products, filed on March 17, 2010 (the "**Motion**"). (Dkt. No. 336).

Experience and Expertise.

2. I have been actively employed in the food industry for 27 years.

3. Before joining Debtor in 2007, I served as Vice President of Soy Processing and Technical Services at Riceland Foods, Inc., a large farmer-owned cooperative engaged in the processing and marketing of rice, soybeans and wheat, with annual sales of $950 million and a workforce of 1,800. I managed business units with sales of over $320 million and a workforce of several hundred. I was employed at Riceland for 18 years.

4. Before moving to Riceland, I was employed as Research and Development Manager at Lou Ana Foods, Inc., a company that processes, packages and markets edible oils, with annual sales of $120 million. I was employed by Lou Ana for 6 years.

5. I hold M.S. and M.B.A. degrees from the University of Louisiana Lafayette and a B.A. from Saint Anselm College.

Debtor's Equine Brands.

6. Debtor's patented technology allows it to produce highly nutritious stabilized rice bran ("**SRB**") products for sale in the high-end equine feeds market. Debtor's equine brands include: a) Natural Glo; b) Max-E-Glo; c) Satin Finish; and, 4) Equine Shine. Debtor is not proposing to sell the Equine Shine brand.

7. Debtor grossed approximately $1,000,087 dollars from the manufacture and sale of branded equine feed in 2009, and has projected its sales in 2010 at approximately $900,000. However, its net profit margins are relatively small and it has, historically, operated at or near the break-even level.

8. Debtor is currently competing against larger and better funded companies in the equine feed market, including its own customers. Debtor does not believe that competing with its own customers is a viable long-term business strategy. Accordingly, it developed an alternative strategy to take advantage of its patented SRB technology and its competitors' larger distribution networks.

9. This strategy involves the sale of its equine brands to a competitor who will, in turn, purchase all of its SRB from Debtor. This will allow Debtor to quickly increase sales of its core products and more fully utilize its production facilities.

10. Debtor aggressively pursued the sale of the equine brands by, among other things, discussing its new marketing strategy with its customer-competitors, following up with e-mail term sheets and face-to-face negotiations.

11. Because the strategy involves a buyer that will continue to purchase its SRB from Debtor under a long-term supply agreement and will co-brand them with Debtor's logo, the universe of potential buyers is quite limited. Debtor approached the following customer-competitors: (a) Purina; (b) Cargill; (c) Star Milling; (d) BioVance; and, (e) Manna Pro Products ("**Buyer**"). Other than Buyer, only Cargill and BioVance expressed an interest in buying any of the equine brands, and only Buyer made a serious proposal.

<u>The Asset Purchase Agreement.</u>

12. On or about March 16, 2010, Debtor and Buyer entered into the Asset Purchase Agreement (the "**Agreement**"), which calls for the sale of the assets for the cash purchase price of $650,000. An earnest money deposit of $50,000 has been paid into escrow and the balance will be paid at the close of escrow.

13. In addition to the cash purchase price of $650,000, Buyer will pay an additional amount for Debtor's inventory of bags, packaging materials and bagged inventory, excluding rice bran oil. Inventory will be valued at cost. Based upon its ordinary inventory levels, Debtor estimates the additional amount to be paid for inventory at approximately $50,000.

14. As part of the Agreement, Debtor also agrees not to sell competing products to any customer or previous customer identified in the Agreement, but this will not prevent it from selling bulk SRB to third parties.

The Supply Agreement.

15. As part of the sale, Debtor and Buyer will also enter into a Supply Agreement in the form attached to the Agreement as Exhibit 1. Pursuant to the Supply Agreement, Debtor will be the exclusive supplier of SRB to Buyer for so long as it markets SRB products under any of the assigned trademarks. Buyer will be given "most favored customer" status, and will co-brand the products with Debtor's approved logo.

The Committee's Objection.

16. The Official Committee of Unsecured Creditors (the "**Committee**") filed an objection to the Motion on March 7, 2009. It did not object to the sale of the assets, but expressed a number of concerns with the Supply Agreement, including: (a) whether it will be profitable; (b) whether Debtor can perform; and (c) whether Debtor is subjecting itself to a large administrative claim if it fails to perform.

17. As to the first concern, Debtor anticipates that the Supply Agreement will generate sales of approximately $1,800,000 per year. The gross margin on such sales is proprietary information and cannot be disclosed in a public document, but it will be significant, and the Supply Agreement will be profitable from the outset.

18. As to the second concern:

(a) Debtor has significant excess capacity at its Arbuckle, California, West Sacramento California, and Mermentau, Louisiana facilities. In addition, Debtor has recently assumed the long-term lease of its Lake Charles, Louisiana facility and anticipates re-opening that facility before it exits bankruptcy;

(b) Debtor has been supplying SRB to Buyer for more than ten years. It currently supplies Buyer with approximately 10 truckloads per month, at approximately 22 tons each. Debtor anticipates that this will increase over time to approximately 20 truckloads per month under the Supply Agreement, and could increase even more. Debtor has more than enough capacity to meet this demand.

(c) Debtor is protected from a rapid increase in the quantity of SRB ordered by Buyer under the provisions of Section 3.4 of the Supply Agreement, which requires Buyer to provide rolling 90-day forecasts of its anticipated demands.

(d) Debtor is also protected by the provisions of Section 3.1 of the Supply Agreement, which provides that "[n]o Purchase Order will be effective or accepted until confirmed in writing by NutraCea."

(e) Debtor is also protected by the provisions of Section 7.4 of the Supply Agreement, which provides that neither party shall be liable for "any indirect, special, incidental, exemplary or consequential damages of any kind arising out of or in connection with this Agreement . . . ."

19. As to the third concern, while the price of SRB to be charged to Buyer under the Supply Agreement is proprietary information and cannot be disclosed in a public document, I can state that: (a) the sale of SRB is a competitive business; and (b) the difference between what Buyer will pay under the Supply Agreement and what it would pay to obtain SRB from an alternative source is small and would not give rise to a claim for "cover" damages that would materially affect the distribution to unsecured creditors in this case.

20. The sale of SRB is Debtor's core business, and increasing sales of SRB will materially assist Debtor in successfully reorganizing its affairs and successfully exiting bankruptcy.

21. On April 8, 2010, I participated in a conference call with counsel for the Official Committee of Unsecured Creditors and its financial advisors. I provided them with all requested information concerning the proposed sale, including proprietary pricing information and my understanding of the mechanics of the Supply Agreement.

22. If the Committee's objection is not resolved before the hearing on the Motion, a supplement to this Declaration will be filed under seal in which the proprietary information discussed above will be disclosed to the Court.

Existing Liens.

23. The assets are subject to a senior security interest in favor of Wells Fargo Bank, N.A., acting through its Business Credit operating division ("**Wells Fargo**"). The security interest secures all of Debtor's obligations under its DIP Credit Facility, in the maximum principal amount of $6.75 million. The amount presently owing on the DIP Credit Facility is approximately $2.2 million. There are no other known liens against the assets.

24. As part of the DIP Financing Agreement Wells Fargo consented to the sale of the assets, agreed to release its security interest in them, and agreed that any amounts to be paid or credited to Debtor under the terms the Agreement may be used for its working capital needs.

The Buyer.

25. Buyer is a long time customer and competitor of Debtor in the equine feed business. There is no commonality of ownership or management and at all times during the negotiation of the Agreement the parties were represented by their own counsel and dealt at arms length without collusion.

26. To the best of Debtor's knowledge, information and belief: (a) Buyer is not an insider of Debtor; (b) Buyer is not related to the Debtor in any way; (c) Buyer has no

connection with any of Debtor’s officers or directors; (d) the proposed sale is an arms-length transaction; and, (e) no fraud, collusion or improper relationship exists between Debtor and Buyer.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

____
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File a Notice:

2:09-bk-28817-CGC Nutracea, a California corporation

Type: bk	Chapter: 11 v	Office: 2 (Phoenix)
Assets: y	Judge: CGC	

U.S. Bankruptcy Court

District of Arizona

Notice of Electronic Filing

The following transaction was received from S. CARY FORRESTER entered on 4/12/2010 at 8:44 AM AZ and filed on 4/12/2010

Case Name:	Nutracea, a California corporation
Case Number:	2:09-bk-28817-CGC
Document Number:	367

Docket Text:
Notice of Filing *Declaration of Leo Gingras in Support of Debtor's Motion for Authority to (1) Sell Equine Brands and Associated Inventory and (2) Enter Into Supply Agreement With Manna Pro Products* filed by S. CARY FORRESTER of FORRESTER & WORTH, PLLC on behalf of Nutracea, a California corporation (related document(s)[336] Motion to Approve Sale).(FORRESTER, S.)

The following document(s) are associated with this transaction:

Document description: Main Document
Original filename:N:\Word Docs\Cary\Active\NutraCea\363 Sales\Manna Pro\363 Motion\Notice of Filing Declaration.pdf
Electronic document Stamp:
[STAMP bkecfStamp_ID=875559564 [Date=4/12/2010] [FileNumber=17355445-0
] [8735e963960f4f6ebc27c45d5ea264a0dd0f5240661e07614860ba9a9f6f3139987
76337183957bd109913ef11b29b7d83015d5454ba237aef0a2c76b3644826]]

2:09-bk-28817-CGC Notice will be electronically mailed to:

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