

Business & Ag

Tasty Bake returns to former owners

CONTINUED FROM
PAGE 1

They claimed that Cereal Holding Company fraudulently misrepresented that it would make a significant capital investment in Tasty Bake; that it would hire a qualified sales team, to expand the business; and that it would make every effort to grow and to expand Tasty Bake.

According to the Johnsons’s lawsuit, they sold Tasty Bake to Cereal Holding Company in September 2014, for \$500,000, requiring Cereal Holding Company to pay \$275,000 in cash, and to execute a secured promissory note for the remaining \$225,000. Cereal Holding Company gave the Johnsons the mortgage deed for the Tasty Bake property, to secure the payment of the note. Up to \$535,000 would be paid to the Johnsons, in the form of earn-out, at 50% of the actual EBITDA (Earnings Before Interest, Taxes, Depreciation, and Amortization), during the four years after the closing of the sale.

The Johnsons claimed that Cereal Holding Company paid only \$29,625 on April 1, 2015, as the first payment on the note, but this was \$20,984.24 short, as the required payment was \$50,609.24. The Johnsons claimed default on the note and mortgage, and sought foreclosure, with the principal amount, \$203,250, plus interest, still owed.

According to the Johnsons’s claim, after the sales contract was executed, Cereal Holding Company “...made little or (nor) effort to grow Tasty Bake or (to) even maintain Tasty Bake’s current business,” which resulted in a claim of damages, which the Johnsons said was \$535,000. The Sheriff’s Office foreclosure sale was ordered as part of the relief for the Johnsons. Baker County Assessor records show that the property was appraised at \$312,950 in 2014, with personal associated property appraised at \$213,180.

Peter was hired in October 2014 by Cereal Holding Company (the Johnsons owned and operated Tasty Bake, from 2001 to 2014), as Tasty Bake Vice President, to assist with the ownership transition, for up to one year after the sale, and he would be reimbursed for regular expenses, such as meals and travel, associated with the business. The Johnsons claimed that Cereal Hold-

ing Company breached the employment contract with Peter, and unpaid expenses were owed to him, in the amount of \$1,960.93.

An Order of Default for Failure to Appear was granted against the defendants, and then a judgment was awarded to the Johnsons, on August 16, 2016, which included the following: \$203,250, plus accruing interest, at the rate of 7% a year, from April 1, 2015, until paid, against defendant Cereal Holding Company; foreclosure of the mortgage, including a Sheriff’s Office sale of the Tasty Bake property, to satisfy the judgment; an award of \$535,000, against defendant Cereal Holding Company, in economic damages, for Fraud, and Breach of Contract; an award of \$1,960.93, against defendant Cereal Holding Company, for Breach of Employment Contract; and an award, against defendant Cereal Holding Company, of all prejudgment interest of \$14,227.50, and plaintiffs’ attorney fees, and other costs, as determined by the Court.

In April 2016 (Tasty Bake’s issues were chronicled in the Friday, April 8, 2016, Friday, April 22, 2016, and Friday, September 9, 2016 issues of The Baker County Press), the Johnsons, former Tasty Bake Plant Manager Curtis Taylor, and Tasty Bake President Yasar Samarah declined to speak about the issues at the time, or future plans for Tasty Bake, however, three food sales brokers for Tasty Bake did provide comments. These were Ken Lance, of Columbia Pacific Brokerage, in Oregon; Matt Lindley, of Main Street Marketing, in Idaho; and John Portillo, of Portillo Sales & Marketing, in Southern California.

Both Lance and Lindley cited the cryptosporidium outbreak during July and August 2013 as the reason for the large reduction in Tasty Bake’s workforce at the time (there was an almost 100% reduction in the workforce earlier this year, also, with Taylor as the remaining employee), and the continuing issues, due to loss of distribution to clientele such as WinCo (Winning Company), a major Tasty Bake contract. Portillo, however, said that Tasty Bake was fully capable of continuing with its operation, even with the change in ownership at the time.

“I think that (the crypto outbreak) has nothing to do with anything...That is a

moot point...The new owners came in, acquired the company from the previous owner (the Johnsons), and stopped shipping to anybody...They just stopped...And, why they did that, I have no idea... You don’t need to be destroying economies at all,” Portillo said.

All three brokers noted the sudden halt in Tasty Bake’s distribution earlier this year, with a lack in communication to the brokers following that action. Portillo even noted that he understood that some former Tasty Bake employees were yet to be paid at the time, which he said was a serious violation of the law. Several former employees confirmed this, and other details, related to the crypto outbreak, and unrelated, and they said that one day, they showed up to work, and had found that the doors were locked, and they were suddenly out of a job (the former employees had declined to provide their names earlier this year for an article, citing likely retaliation from the ownership at that time). This left Taylor as the sole employee, to maintain the property, during the regular work week, until his resignation, on approximately October 20, 2016, according to court records.

On Wednesday, November 30, 2016, Tasty Bake, Inc., and Cereal Holding Company, represented by Portland-based Black Helderline LLP, filed a motion for a Temporary Restraining Order (TRO), and a Preliminary Injunction, to prevent the sale of the Tasty Bake property; a motion for Relief From Judgment; and a Motion To Dismiss, citing lack of jurisdiction.

In requesting a TRO, the defendants argued that a court may grant the order, “When it appears that a party is entitled to relief demanded in a pleading, and such relief, or any part thereof, consists of restraining the commission or continuance of some act, the commission of which during the litigation would produce injury to the party seeking the relief.”

In requesting relief from the judgment, the defendants argued that “...the judgment that was entered was void as a result of plaintiffs failing to provide defendants the opportunity to resolve the disputes through ADR (alternative dispute resolution)... defendants are entitled to relief because the unfortunate circumstances that led to their being found in default constitute excusable neglect...”

On Friday, December

2, 2016, attorney Tim J. Helfrich, of Ontario-based Yturri Rose LLP, who represented the plaintiffs, addressed a letter to Baker County Circuit Court Judge Patricia Sullivan, criticizing the defendants for their “...desperate, last minute effort to enlist the court in further delaying the case...” and informing Sullivan that critical information was omitted by the defendants, and that the plaintiffs would be submitting substantive material on December 2, in response.

Helfrich said, “The Sheriff’s sale is scheduled for Tuesday. There is virtually no chance that anyone other than the plaintiffs would bid in that sale, considering the now rundown condition of this property, which is currently unprotected, and unsupervised. The defendants have a statutory redemption period of six months, and the Sheriff’s sale is, therefore, a conditional, and not final step in this process. It can go forward, still allowing defendants to get a hearing on their motion for relief from judgment...The security for their (the plaintiffs’) debt, which is now unattended, apparently uninsured, apparently not supplied with electrical power, is deteriorating and at serious risk. If it were to burn down or to be subsequently damaged by snowfall or rain on an inadequate roof, their security would be gone, and their only remedy would be to chase after corporations which have consistently failed to pay their bills, and meet their obligations.”

Helfrich’s reference about the condition of the property is included in Yturri Rose LLP attorney Brian D. DiFonzo’s Declaration In Opposition To Defendants’ Motion For TRO, and in Peter’s motion of the same, both filed on December 2, 2016.

According to court records, DiFonzo said that he had spoken with Taylor, and Taylor informed DiFonzo that there was a significant roof leak in the building, with the possibility of water damage to the property, and that one of Taylor’s tasks was to energize pumps used for water removal, in order to avoid water damage inside the building. DiFonzo said that Taylor indicated that, one he had resigned, Taylor was unaware of anyone else who continued to perform this function, in order to avoid additional water damage.

SEE TASTY BAKE PAGE 8

— WEEKLY HAY REPORT —

Friday, December 16, 2016 — Eastern Oregon

Prices trended generally steady in a limited test compared to week ago prices. Most demand lays with the retail/stable hay. According to some producers, horse owners prefer lower sugar, higher protein hay. Many hay producers are looking forward to upcoming snow in the forecast as hay sales tend to increase as the snow comes.

Tons	Price Range	Wtd Avg
Alfalfa — Large Square Good/Premium		
30	140.00-140.00	140.00
Alfalfa — Large Square Fair		
650	95.00-95.00	95.00
Orchard Grass — Large Square Good/Premium		
2	120.00-120.00	120.00

USDA Market News Service—AMS.USDA.gov

— CATTLE MARKET REPORT —

Wednesday, December 14, 2016
Vale, Oregon

Cattle sold through the auction: 2,513

Steer Calves		
300-400#	Bulk 151.00 - 172.00	Top 182.50
400-500#	Bulk 144.00 - 175.00	Top 176.00
500-600#	Bulk 124.00 - 153.00	Top 154.50

Heifer Calves		
300-400#	Bulk 135.00 - 152.00	Top 156.00
400-500#	Bulk 125.00 - 142.00	Top 146.00
500-600#	Bulk 109.00 - 127.25	Top 128.00

Yearling Steers		
600-700#	Bulk 121.00 - 132.75	Top 133.50
700-800#	Bulk 115.00 - 128.00	Top 129.25
800-900#	Bulk 109.00 - 117.00	Top 118.25
900-1,000#	Bulk N/A	Top N/A

Yearling Heifers		
600-700#	Bulk 114.50 - 122.00	Top 122.50
700-800#	Bulk 109.00 - 118.50	Top 119.75
800-900#	Bulk 94.00 - 103.00	Top 104.00
900-1,000#	Bulk N/A	Top N/A

Thin Shelly Cows	29.00 - 47.00
Butcher Cows	52.00 - 61.00
Butcher Bulls	43.00 - 55.00
Pairs Older	N/A
Hfretts.	73.00 - 88.00
Stock Cows Young	- N/A
ProducersLivestock.com	
541-473-3136	

— LOG PRICE REPORT —

Prices are based on the majority of saw mills in Northeastern Oregon and Central Idaho. The prices listed below are a composite prices of various sawmills willing to visit with me about this topic.

Ponderosa Pine—small diameter class 8-11 inches diameter class \$250 per mbf. Only one sawmill was willing to buy small diameter pine at this time.

Ponderosa Pine—medium diameter class 12-17 inches diameter class \$300 to \$350 per mbf

Ponderosa Pine-large diameter class 18 plus inches diameter class \$380 to \$410 per mbf

The Pine prices are still approximately \$40 per mbf below average lumber/log market due to 2017 fire salvage

Doug Fir & Western Larch—\$380 to \$420 per mbf. Normal prices typically ranged between \$425 to \$475 per mbf.

White Fir-\$300 per mbf. Normal prices typically ranged between \$340 to \$360 per mbf.

Engelmann Spruce—\$350 at one Idaho sawmill, other sawmills including with White fir prices.

In general, the log prices still impacted from 2015 fire season and fire salvage that resulted. Sawmills are starting to get log yard inventory in line with sawmill production needs. With a new Administration as of 1/20/2017, a more normal economic environment should result and hopefully a more healthy housing situation will result in a better climate for Northeast Oregon Sawmill and private forest land-owners.


Courtesy of Arvid Andersen,
Andersen Forestry Consulting

— PRECIOUS METALS REPORT —

Price per ounce, USD	
Gold:	\$1,136.40
Silver:	\$16.14
Platinum:	\$919.31
Palladium:	\$664.85
<i>Bloomberg.com</i>	

— AG COMMODITIES —

Corn:	\$350.50/bu/USD
Wheat:	\$403.00/bu/USD
Soybeans:	\$1016.75/bu/USD
Oats:	\$223.50 bu/USD
Rough Rice:	\$9.72/cwt/USD
Canola:	\$521.20 CAD/mwt
Live Cattle:	\$115.50/lb./USD
Feeder Cattle:	\$125.85/lb./USD
Lean Hogs:	\$64.00/lb./USD
<i>Bloomberg.com</i>	



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