



Court File No. CV-23-00692784-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) FRIDAY, THE 24TH
JUSTICE CONWAY) DAY OF MARCH, 2023

IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF INSCAPE CORPORATION, INSCAPE
(NEW YORK) INC., AND INSCAPE INC.

ANCILLARY RELIEF ORDER

THIS MOTION, made by Inscape Corporation, Inscape (New York) Inc. and Inscape Inc. (collectively, the "**Applicants**") pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the "**CCAA**"), for an order, among other things, granting certain ancillary relief was heard this day by Zoom videoconference.

ON READING the Notice of Motion dated March 21, 2023, the Affidavit of Eric Ehgoetz sworn March 21, 2023, the Third Report of Alvarez & Marsal Canada Inc., in its capacity as the court-appointed monitor of the Applicants (the "**Monitor**") dated March 23, 2023, the Affidavit of John Ewine sworn March 23, 2023, and on hearing the submissions of counsel for the Applicants, counsel for the Monitor and counsel for those other parties present as indicated on the counsel slip, and on reading the affidavit of service of Darlene Moffett sworn March 21, 2023, filed:

SERVICE

1. THIS COURT ORDERS that the time for service and filing of the Notice of Motion, the Third Report of the Monitor and the Motion Record is hereby abridged and validated so that this motion is properly returnable today, and hereby dispenses with further service thereof.

DISTRIBUTION TO SECURED CREDITOR

2. THIS COURT ORDERS that subject to the Monitor paying the amounts claimed under the Directors' Charge (as defined in the Amended and Restated Initial Order of Justice Conway dated January 20, 2023), the Monitor be and is hereby authorized and directed to make distributions to HUK 116 Limited ("**Hilco**") up to the amount of its secured indebtedness, and without further Order of this Court, on account of the Applicants' secured indebtedness owing to Hilco for principal, interest and costs.

APPROVAL OF THE MONITOR'S ACTIVITIES AND FEES

3. THIS COURT ORDERS that the First Report, the Second Report, and the Third Report of the Monitor, and the conduct and activities of the Monitor as set out therein, be and are hereby approved, provided, however, that only the Monitor, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize, in any way, such approvals.

4. THIS COURT ORDERS that the fees and disbursements of the Monitor and the Monitor's legal counsel, Aird & Berlis LLP ("**A&B**"), as set out in the Third Report and as more particularized within the fee affidavits of the Monitor and A&B appended to the Third Report, be and are hereby approved.

DEALER DISPUTE

5. THIS COURT ORDERS that until such time as the Dealer Claim Motion is heard by the Court pursuant to the timetable set out in this Order, as may be amended from time to time, Prevolv, Inc. (the "**Dealer**") shall provide to the Monitor when requested by the Monitor acting reasonably:

- (a) information, in a form and substance acceptable to the Monitor, about the status and outcome(s) of the Dealer's efforts to collect the accounts receivable related to the Dealer's sale of furniture products manufactured by Inscape and sold by the Dealer ("**Inscape Product**") to its end customers, including, but not limited to, the quantum of the said accounts receivable that have been collected to date and the quantum of the said accounts receivable that remain due and owing; and
- (b) financial information, in a form and substance acceptable to the Monitor, to satisfy the Monitor, in its sole discretion, that the Dealer has sufficient liquidity to pay the disputed \$2,147,490 USD account receivable ("**Inscape Receivable**") and that the Dealer's funds have not been utilized in a manner that appears outside of the ordinary course of business,

(collectively, the "**Confidential Dealer Information**").

6. THIS COURT ORDERS AND DIRECTS that Confidential Dealer Information shall be provided to the Monitor confidentially, and the Monitor shall not disclose such information to any other party, including the Applicants, except to the extent that the Monitor is required to advise any such party that the information received from the Dealer is or is not satisfactory to the Monitor for the specific purposes for which it was provided as outlined in paragraph 5 herein.

7. THIS COURT ORDERS AND DECLARES that the Monitor shall not be liable, directly or indirectly, to any party for any claims arising out of the Confidential Dealer Information or by reason of the Monitor maintaining the confidentiality of the Confidential Dealer Information.

8. THIS COURT ORDERS AND DIRECTS that the Monitor, or the Applicants, shall be entitled to return to Court, on an urgent basis, to seek advice and directions if: (a) the Dealer fails to deliver the Confidential Dealer Information to the Monitor as and when it becomes due; or (b) the Monitor, in its sole discretion, determines that the Confidential Dealer Information cannot satisfy the Monitor for the specific purposes for which it was provided as outlined in paragraph 5 herein.

9. THIS COURT ORDERS AND DIRECTS that this Order is without prejudice to any argument that the Dealer may make on a motion (“**Dealer Claim Motion**”) to determine competing claims to the Inscape Receivable.

10. THIS COURT ORDERS that the Dealer Claim Motion proceed in accordance with the following timetable:

- Dealer’s motion record to be served by April 10, 2023;
- Applicants’ responding motion record to be served by April 17, 2023;
- Cross-examinations, if any, to be conducted virtually on April 19, 20 or 21, 2023;
- Dealer’s Factum to be served by April 26, 2023;
- Applicants’ Factum to be served by April 28, 2023; and,
- Dealer Claim Motion to be heard on May 2, 2023 at 11:00 am for a half day.

GENERAL

11. THIS COURT ORDERS that the costs of the Applicants’ motion shall be reserved for decision by the Court hearing the Dealer Claim Motion.

12. THIS COURT ORDERS that, notwithstanding Rule 59.05, this Order is effective from the date it is made, and is enforceable without any need for entry and filing.



ONTARIO
SUPERIOR COURT OF JUSTICE -
COMMERCIAL LIST
Proceeding commenced at TORONTO

ANCILLARY RELIEF ORDER

MILLER THOMSON LLP
Scotia Plaza
40 King Street West, Suite 5800
P.O. Box 1011
Toronto, ON Canada M5H 3S1

Larry Ellis LSO#:49313K
lellis@millerthomson.com
Tel: 416.595. 8639

David Ward LSO#: 33541W
dward@millerthomson.com
Tel: 416.595.8625

Monica Faheim LSO #:82213R
mfaheim@millerthomson.com
Tel: 416.595.6087

Lawyers for the Applicant

52526279.5