

ENTERED

C40748

COURT FILE NO. 2301- 02578
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF ENZIO HOLDINGS LTD.
DEFENDANTS CANDRE CANNABIS INC., FRONDIS HOLDINGS LTD., CALYPTRA CULTIVATION INC. and JASMINE VENTURES LTD.



\$50.00
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Apr 19 2023

DOCUMENT **APPLICATION (Approve Cannabis Destruction Process and Other Relief)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
BENNETT JONES LLP
Barristers and Solicitors
4500, 855 – 2nd Street S.W.
Calgary, Alberta T2P 4K7

Attention: Chris Simard and Michael W. Selnes
Tel No.: 403-298-4485/3311
Fax No.: 403-265-7219
Client File No. 071752.4
Email: simardc@bennettjones.com and selnesm@bennettjones.com

NOTICE TO THE RESPONDENTS: See Service List attached hereto as **Schedule "A"**.

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the master/judge.

To do so, you must be in Court when the application is heard as shown below:

Date: Wednesday, April 19, 2023
Time: 11:00 a.m.
Where: Calgary Court Centre (via Webex) in Virtual Courtroom 60
Before Whom: The Honourable Madam Justice B. Johnston

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1. Alvarez & Marsal Canada Inc. ("**A&M**") in its capacity as receiver (in such capacity, the "**Receiver**") of the assets, undertakings and properties of Candre Cannabis Inc. (the "**Debtor**" or "**Candre**"), seeks an order substantially in the form attached hereto as **Schedule "B"**:
 - (a) if necessary, abridging the time for service of this application (the "**Application**") and declaring service to be good and sufficient;
 - (b) authorizing and directing the Receiver to enter into the Master Services and Supply Agreement with Novem Pharmaceuticals Inc. ("**Novem**") pertaining to the licensed destruction of the Excluded Cannabis Products (as defined below), a copy of which is attached as Appendix "A" to the Second Report (the "**Destruction Contract**");
 - (c) approving the protocol for the destruction of the Excluded Cannabis Products (the "**Cannabis Destruction Protocol**"), as set out in the Destruction Contract;
 - (d) authorizing and directing the Receiver to take all steps and actions, and to do all things, necessary or appropriate to implement and perform its obligations under the Destruction Contract;
 - (e) declaring that the Receiver, by performing its obligations under the Destruction Contract, shall not have taken possession of, nor be deemed to have taken possession of, the Excluded Cannabis Products;
 - (f) ratifying and approving the Receiver's actions, conduct and activities as reported in the First Report and the Second Report;
 - (g) approving, without the necessity of a formal assessment of accounts the Receiver's accounts for fees and disbursements as set out in the Second Report;

- (h) approving, without the necessity of a formal assessment of accounts, the accounts of the Receiver's legal counsel, Bennett Jones LLP, for its fees and disbursements, as set out in the Second Report; and
- (i) such further and other relief as the Receiver may request and this Honourable court may deem appropriate.

Grounds for making this application:

Cannabis Destruction Protocol

2. Pursuant to the Receivership Order granted by Justice Fagnan of this Honourable Court on March 6, 2023, the Receiver was appointed as the Receiver of all of Candre's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (defined in the Receivership Order as the "**Property**").
3. The Receivership Order expressly excluded from the Property any of Candre's assets for which any permit or license is issued or may be issued in accordance or connection with the following or similar legislation:
 - (a) the *Excise Tax Act*, 2001, SC 2002, c. 22;
 - (b) the *Cannabis Act*, SC 2018, c C 16;
 - (c) the *Gaming, Liquor and Cannabis Act*, RSA 2000, c G-1;
 - (d) the *Cannabis Control (Saskatchewan) Act*, SS 2018, c C-2.111; and
 - (e) *Ontario Cannabis Retail Corporation Act*, 2017, SO 2017, c 26, Sch 1,and any controlled substances subject to such legislation, which was defined in the Receivership Order as the "**Excluded Assets**".
4. The Receivership Order expressly stipulated that the Receiver shall not be deemed to be in possession of the Excluded Assets.

5. Upon the Receiver's appointment, it was informed by the former CEO of the Debtor that the Debtor had disposed of all Excluded Assets prior to the commencement of the Receivership, and the Receiver conducted walk-through of the Debtor's premises, during which the Receiver saw no evidence that any Excluded Assets were present.
6. Subsequently, on March 20, 2023, the Receiver learned that certain Excluded Assets remained on the Debtor's premises (outside the building, but within the secured compound of the Debtor), comprised of:
 - (a) 7,934 containers containing approximately 3.5 grams each of cannabis products;
 - (b) 286 containers containing approximately 1 gram each of cannabis products; and
 - (c) a small amount of miscellaneous unpackaged flower/residue cannabis products;(collectively, the "**Excluded Cannabis Products**").
7. Upon making this discovery, the Receiver immediately:
 - (a) secured the Excluded Cannabis Products by moving them to a locked, secured room in the Debtor's premises (to which only the Receiver has access, via a secured cardlock access system);
 - (b) advised Canada Revenue Agency ("**CRA**"), whose representatives were present at the premises conducting an Excise Tax Act audit, of the discovery; and
 - (c) advised Health Canada of the discovery.
8. Subsequently, the Receiver entered into discussions with Novem to arrange for the supervised and licensed disposal of the Excluded Cannabis Products. These discussions resulted in the parties agreeing to the terms set out in the Destruction Contract, subject to the approval of this Honourable Court.
9. Novem supplies midstream strategic supply chain services to biopharmaceutical cultivators, licensed producers, pharmaceutical manufacturers, biopharma processors, co-

packagers, clinical research facilities, and biopharmaceutical and pharmaceutical sales and distribution.

10. Novem holds a Cannabis Drug License from Health Canada as License No. LIC-8DU7VA307O-2023, which authorizes it to possess and deal with cannabis products such as the Excluded Cannabis Products.
11. As part of the specialized services that it is authorized to provide by Health Canada, Novem provides destruction services for licensed cannabis products such as the Excluded Cannabis Products.
12. Pursuant to the Destruction Contract, Novem has proposed to:
 - (a) securely transport the Excluded Cannabis Products to its licensed facility (located near the Edmonton International Airport) and catalogue same;
 - (b) open each individual container and then destroy all Excluded Cannabis Products until inert, in accordance with its Health Canada-approved Standard Operating Procedure ("**SOP**");
 - (c) dispose of empty packaging and inert Excluded Cannabis Products; and
 - (d) provide written documentation to the Receiver, certifying the destruction and disposal of all the Excluded Cannabis Products in accordance with the SOP.

Approval of Receiver's Activities

13. As further set out in the Second Report of the Receiver dated April 10, 2023 (the "**Second Report**") and summarized at paragraph 14, the Receiver is of the view that it has acted diligently since its appointment has undertaken the activities as set out in the First Report dated March 15, 2023 and the Second Report, which conduct and actions are lawful, proper and consistent with the Receiver's powers and duties under the Receivership Order.

14. The Receiver is of the view that the terms of the Destruction Contract are commercially reasonable and will provide for the destruction and disposal of the Excluded Cannabis Products, in accordance with all Health Canada requirements.

Approval of Professional Fees

15. The accounts of the Receiver for the period of September 27, 20223 to March 31, 2023, total \$190,725.35, exclusive of GST.
16. The accounts of the Receiver's legal counsel, Bennett Jones LLP ("**Bennett Jones**"), for the period of January 1, 2023 to March 31, 2023, total \$96,283.79, exclusive of GST.
17. The invoices rendered by the Receiver and its counsel are commensurate with the work performed, commercially fair and reasonable and were validly incurred in accordance with the provisions of the Receivership Order.
18. The Receiver's and Bennett Jones' invoices are available for review by the Court, on request.

Material or evidence to be relied on:

19. First Report of the Receiver, dated March 15, 2023.
20. Second Report of the Receiver, dated April 10, 2023.
21. Affidavit of Service, to be sworn and filed; and
22. such further and other materials as counsel may advise and this Honourable court may permit.

Applicable rules:

23. Alberta Rules of Court, including Rules 1.2–1.4, 6.1–6.3 and 6.47.

Applicable Acts and regulations:

24. *Judicature Act*, RSA 2000, c J-2.

- 25. *Bankruptcy and Insolvency Act*, RSC 1985, c B-3.
- 26. *Personal Property Security Act*, RSA 2000, c P-7.
- 27. *Business Corporations Act*, RSA 2000, c B-9.
- 28. Such further and other Acts and Regulations as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

- 29. None.

How the application is proposed to be heard or considered:

- 30. On the Commercial List, before the Honourable Justice B. Johnston via Webex in Virtual Courtroom 60.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and time shown at the beginning of this form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

SCHEDULE "A"

COURT FILE NUMBER 2301-02578

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF ENZIO HOLDINGS LTD.

DEFENDANTS CANDRE CANNABIS INC., FRONDIS HOLDINGS LTD., CALYPTRA CULTIVATION INC. and JASMINE VENTURES LTD.

DOCUMENT **SERVICE LIST**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

Burnet, Duckworth & Palmer LLP
2400, 525 – 8 Avenue SW
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Phone Number: (403) 260-0210 / (403) 260-0126
Fax Number: (403) 260-0332
Email Address: dlegeyt@bdplaw.com / ralgar@bdplaw.com
File No. 75684-2

SERVICE LIST

Updated: March 27, 2023

BURNET, DUCKWORTH & PALMER LLP 2400, 525 – 8 Avenue SW Calgary, AB T2P 1G1 Attention: David LeGeyt Ryan Algar Email: dlegeyt@bdplaw.com ralgar@bdplaw.com	CANDRE CANNABIS INC. Registered Office 819 – 5 Avenue Sundre, AB T0M 1X0 Mailing Address: PO Box 12119 RPO Copperfield Calgary, AB T2Z 1H4 c/o Jesse Beaudry Email: jbeaudry@candrecannabis.com Jimmy Chamoun, Director Email: jchamoun@tuktukthai.com Garrett Popadynetz, CFO Email: gpopadynetz@candrecannabis.com <i>Defendant</i>
<i>Counsel for Enzo Holdings Ltd. and Censeo Capital Corp.</i>	

FRONDIS HOLDINGS LTD. Registered Office 2400, 525 – 8 Avenue SW Calgary, AB T2P 1G1 Attention: Lindsay Cox Email: cores@bdplaw.com lcx@bdplaw.com <i>Defendant</i>	CALYPTRA CULTIVATION INC. Registered Office 2400, 525 – 8 Avenue SW Calgary, AB T2P 1G1 Attention: Lindsay Cox Email: cores@bdplaw.com lcx@bdplaw.com <i>Defendant</i>
JASMINE VENTURES LTD. Registered Office 501 Chaparral Drive SE Email: jbeaudry@candrecannabis.com <i>Defendant</i>	BENNETT JONES LLP 4500 Bankers Hall East 855 – 2 Street SW Calgary, AB T2P 4K7 Attention: Chris Simard Michael Selnes Kristos Iatridis Email: simardc@bennettjones.com SelnesM@bennettjones.com iatridisk@bennettjones.com <i>Counsel to the Receiver, Alvarez & Marsal</i> <i>Canada ULC</i>
ALVAREZ & MARSAL CANADA ULC 1110, 250 - 6 Ave SW Calgary AB T2P 3H7 Attention: Orest Konowalchuk Bryan Krol Stephen Oosterbaan Email: okonowalchuk@alvarezandmarsal.com bkrol@alvarezandmarsal.com soosterbaan@alvarezandmarsal.com <i>Receiver</i>	PARAMOUNT STRUCTURES INC. Suite 750, 101 – 6 th Avenue SW Calgary, AB T2P 3P4 c/o Agent for Service: Jason Burroughs 5 Wolf Court Redwood Meadows, AB T3Z 1A3 Email: lucn@psi-structures.com <i>Lienor, LTO Registration no. 181 257 074</i>
MOLI INDUSTRIES LTD. Field LLP 400, 444 7 th Avenue SW Calgary, AB T2P 0X8 Attention: Anthony Burden Email: aburden@fielddlaw.com <i>Lienor, LTO Registration no. 181 264 825</i>	CENSEO CAPITAL CORP. Suite 840, 517 – 10 th Avenue SW Calgary, AB T2R 0A8 (Counsel is BDP) <i>PPR Registration no. 19120223289</i>

BANK OF MONTREAL 250 Yonge Street, 9 th Floor Toronto, ON M5B 2L7 Email: abautonsp@teranet.ca <i>PPR Registration no. 20041426226</i>	LEAVITT MACHINERY GENERAL PARTNERSHIP 24389 Fraser Hwy Langley, BC V2Z 2L3 Email: abautonsp@teranet.ca <i>PPR Registration nos. 20042828994 and 20070731629</i>
LEAVITT MACHINERY CANADA INC. 24389 Fraser Hwy Langley, BC V2Z 2L3 Email: abautonsp@teranet.ca <i>PPR Registration nos. 20042828994, 20070731629 and 22011919137</i>	CANADA REVENUE AGENCY Prairie Regional Office (Edmonton) 300, 10423-101 Street Edmonton, Alberta T5H 0E7 Attention: George F. Bódy Email: George.Body@Justice.GC.CA
AGLC 50 Corriveau Avenue St. Albert AB T8N 3T5 Attention: Wenbo Zhang Email: wenbo.zhang@aglc.ca	

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SCHEDULE "B"

COURT FILE NO.: 2301- 02578

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF ENZIO HOLDINGS LTD.

DEFENDANTS CANDRE CANNABIS INC., FRONDIS HOLDINGS LTD.,
CALYPTRA CULTIVATION INC. and JASMINE VENTURES LTD.

DOCUMENT **ORDER (Approve Cannabis Destruction Process and Other Relief)**

ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION
OF PARTY
FILING THIS
DOCUMENT

BENNETT JONES LLP
Barristers and Solicitors
4500, 855 – 2nd Street S.W.
Calgary, Alberta T2P 4K7

Attention: Chris Simard and Michael W. Selnes
Tel No.: 403-298-4485/3311
Fax No.: 403-265-7219
Client File No. 071752.4

Email: simardc@bennettjones.com and
selnesm@bennettjones.com

DATE ON WHICH ORDER WAS PRONOUNCED: April 19, 2023

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Justice B. Johnston

LOCATION OF HEARING: Calgary, AB (via Webex)

UPON THE APPLICATION of Alvarez & Marsal Canada Inc. ("**A&M**") in its capacity as court-appointed receiver (in such capacity, the "**Receiver**") of certain of the current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, of Candre Cannabis Inc. (the "**Debtor**"), for an order approving, among other things: (i) approval of a cannabis destruction protocol; and (ii) the activities of the Receiver to date; and (iii) professional fees incurred to date by the Receiver and its counsel Bennett Jones LLP;

AND UPON HAVING read the First Report or the Receiver dated March 15, 2023, and the Second Report of the Receiver, dated April 10, 2023 (the "**Second Report**");

AND UPON HEARING from counsel to the Receiver, counsel to Enzo Holdings Ltd. and Censeo Capital Ltd., and counsel to and any other interested party in attendance;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. All capitalized terms not otherwise defined in this Order shall have the meaning ascribed to them in the Second Report, as applicable.

Service

2. Service of notice of this this Application and materials in support of this Order are hereby declared to be good and sufficient and time for service of the Application and supporting materials is hereby abridged to that actually given.

Approval of the Cannabis Destruction Protocol

3. The Receiver is authorized and directed to enter into the Master Services and Supply Agreement with Novem Pharmaceuticals Inc. ("**Novem**") pertaining to the licensed destruction of the Excluded Cannabis Products (as defined in the Second Report), a copy of which is attached as Appendix "A" to the Second Report (the "**Destruction Contract**").
4. The protocol for the destruction of the Excluded Cannabis Products, as set out in the Destruction Contract, is hereby approved.
5. It is hereby declared that the Receiver, by performing its obligations under the Destruction Contract, shall not have taken possession of, nor be deemed to have taken possession of, the Excluded Cannabis Products.

Approval of Receiver's Activities

6. The Receiver's actions, conduct and activities as reported in the First Report and the Second Report, are hereby ratified and approved.

Approval of Professional Fees

7. The Receiver's accounts for fees and disbursements as set out in the Second Report are hereby approved without the necessity of a formal assessment of its accounts.
8. The accounts of the Receiver's legal counsel, Bennett Jones LLP, for its fees and disbursements as set out in the Second Report are hereby approved without the necessity of a formal assessment of its accounts.

General

9. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
10. Service of this Order shall be deemed good and sufficient by:
 - (a) Serving the same on:
 - (i) the persons listed on the service list created in these proceedings;
 - (ii) any other person served with notice of the application for this Order; and
 - (iii) any other parties attending or represented at the application for this Order; and
 - (b) Posting a copy of this Order on the Receiver's website at <http://alvarezandmarsal.com/candre>.
11. Service of this Order may be effected by facsimile, electronic mail, personal delivery, recorded mail or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.

Justice of the Court of King's Bench of
Alberta