

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

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 2688182 ALBERTA INC.

APPLICANT

**FACTUM OF THE APPLICANT  
(Motion for Expansion of Monitor's Powers and CCAA Termination Order returnable  
May 15, 2025)**

May 12, 2025

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## PART I - NATURE OF THE MOTION

1. On January 7, 2025, Comark Holdings Inc. (“**Comark**”), and its subsidiaries, 10959367 Canada Inc. (formerly, Ricki’s Fashions Inc.) (“**Old Ricki’s**”), 9376208 Canada Inc., (formerly, cleo fashions Inc.) (“**Old cleo**”) and Bootlegger Clothing Inc. (“**Bootlegger**”) (together with Comark, the “**Comark Group**”), were granted protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**,” and the within proceedings the “**CCAA Proceedings**”) pursuant to an initial order (the “**Initial Order**”) of Ontario Superior Court of Justice (Commercial List) (the “**Court**”). Alvarez & Marsal Canada Inc. (“**A&M**”) was appointed as monitor within the CCAA Proceedings (the “**Monitor**”).

2. The CCAA Proceedings are nearly complete, and substantially all of the Comark Group’s business has been sold pursuant to two Court-approved Going Concern Transactions (defined below):

- (a) On February 4, 2025, the Court granted an approval and vesting order (the “**AVO**”, and the transaction authorized therein, the “**Putman Transaction**”) authorizing the sale of certain assets of the retail business of each of Old Ricki’s and Old cleo to 1001110197 Ontario Inc. (the “**Putman Purchaser**”), which closed on February 19, 2025.
- (b) On March 21, 2025, the Court granted an approval and reverse vesting order (the “**ARVO**”), pursuant to which all of the issued and outstanding shares of Comark were acquired by 16751598 Canada Inc. (the “**Purchaser**”) through a reverse vesting transaction (the “**Bootlegger Transaction**”), which closed on April 22, 2025. On the closing date of the Bootlegger Transaction, by operation of the

ARVO, the Comark Group entities ceased to be applicants, and 2688182 Alberta Inc. (the “**Applicant**”) became the sole Applicant in these CCAA Proceedings.

3. The Comark Group and the Applicant have achieved their stated purpose of these CCAA Proceedings. The Applicant therefore seeks an order (the “**Expansion of Monitor’s Powers and CCAA Termination Order**”), which will, among other things:

- (a) authorize the Monitor to exercise expanded powers in respect of the Applicant to facilitate the administration of the Applicant’s business, property and estate and the completion of the CCAA Proceedings;
- (b) authorize the Applicant to make an assignment in bankruptcy pursuant to the *Bankruptcy and Insolvency Act* and empower the Monitor, or such other licensed insolvency trustee as may be engaged by the Applicant, to file any such assignment for and on behalf of the Applicant;
- (c) provide a mechanism for the termination of these CCAA Proceedings, including the discharge of the Monitor;
- (d) grant certain releases in respect of the CCAA Proceedings;
- (e) approve the reports of the Monitor filed in these CCAA Proceedings (the “**Monitor’s Reports**”) and the activities of the Monitor referred to therein, along with the fees and disbursements of the Monitor and its legal counsel, Goodmans LLP (“**Goodmans**”); and
- (f) extend the period of the CCAA stay of proceedings (the “**Stay of Proceedings**”) to the earlier of (i) the date on which the Monitor serves a certificate (the

“**Termination Certificate**”) on the Service List certifying that all matters to be attended to in connection with the CCAA Proceedings have been completed (the “**CCAA Termination Time**”), or (ii) August 15, 2025.

4. These CCAA Proceedings have served their purpose. The proposed Expansion of Monitor’s Powers and CCAA Termination Order should be granted so that the CCAA Proceedings can be brought to an orderly close, providing certainty and finality for all parties after the successful Going Concern Transactions.

## **PART II - SUMMARY OF FACTS**

5. The facts are more fully set out in the Affidavit of Shamsh Kassam and the Fourth Report of the Monitor.<sup>1</sup>

### **A. Background and Update on the CCAA Proceedings**

6. On January 7, 2025, the Court granted the Initial Order, *inter alia*: (i) appointing A&M as Monitor; (ii) granting the Stay of Proceedings in respect of the Comark Group for an initial 10-day period; (iii) authorizing the Comark Group to borrow from Canadian Imperial Bank of Commerce (“**CIBC**”), as interim lender, under the Applicants’ existing revolving facility; (iv) authorizing, but not requiring, the Comark Group to pay certain pre-filing amounts; and (v) granting various court-ordered charges (together with the charges granted in the ARIO (as defined below), the “**Charges**”).<sup>2</sup>

7. At the Comeback Hearing on January 17, 2025, the Court granted the following Orders:

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<sup>1</sup> Affidavit of Shamsh Kassam, sworn May 8, 2025 [**Fifth Kassam Affidavit**]. Capitalized terms not otherwise defined have the same meaning as in the Fourth Kassam Affidavit. Dollar amounts are given in Canadian dollars unless otherwise specified.

<sup>2</sup> Fifth Kassam Affidavit at paras. 5-6.

- (a) An Amended and Restated Initial Order (the “**ARIO**”), which, *inter alia*: (i) extended the Stay of Proceedings to May 15, 2025; (ii) authorized the Comark Group to enter into the DIP Term Sheet with CIBC in the maximum principal amount of \$18 million and granted the DIP Lender’s Charge; and (iii) increased the amount of certain of the other Charges authorized by the Initial Order. The ARIO also authorized the Comark Group, with the support of the Monitor and the DIP Lender, to pursue offers for or avenues of restructuring, sale or reorganization of the Comark Group’s business or assets, in whole or in part (each, a “**Going Concern Transaction**”).<sup>3</sup>
- (b) The “**Realization Process Approval Order**,” which, *inter alia*: (i) approved a consulting agreement between the Comark Group and the Consultant; and (ii) authorized the Comark Group, with the assistance of the Consultant, to undertake a liquidation sale (the “**Sale**”) of the Inventory and FF&E of Old Ricki’s, Old cleo and Bootlegger in accordance with the terms of the Realization Process Approval Order, the Consulting Agreement and the Sale Guidelines (each of as defined in the Fifth Kassam Affidavit).<sup>4</sup>

8. Ultimately, two Going Concern Transactions for the assets of the Comark Group were identified, approved by the Court, and executed. On February 4, 2025, the Court granted the AVO authorizing the Comark Group to execute the Putnam Transaction, as contemplated by an asset purchase agreement between Old cleo and Old Ricki’s, as sellers, and the Putman Purchaser. The Putman Transaction closed on February 19, 2025, which resulted in, *inter alia*, the retention of 61

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<sup>3</sup> Fifth Kassam Affidavit at para. 8.

<sup>4</sup> Fifth Kassam Affidavit at paras. 9-10.

leases which were assigned to the Putman Purchaser, and approximately 455 former Old Ricki's and Old cleo employees accepting employment with the Putman Purchaser.<sup>5</sup>

9. At the February 4 Hearing, the Court also granted the Stalking Horse Sale Process Approval Order, which, *inter alia*: (i) approved a sales process in respect of the Remaining Business; and (ii) authorized the execution of a term sheet (the “**Stalking Horse Term Sheet**”) setting out the key terms, conditions and timetable under which the Stalking Horse Purchaser (as defined in the Stalking Horse Term Sheet) would acquire the Bootlegger business, together with the tax attributes and certain other assets of the Comark Group through a reverse vesting transaction.<sup>6</sup>

10. On March 21, 2025, this Court granted the ARVO which approved a purchase agreement among Comark, Old Ricki's, Old cleo, and Bootlegger, ParentCo, as vendor, and the Purchaser (the “**Purchase Agreement**”), pursuant to which the Purchaser would receive a conveyance of all of the issued and outstanding shares of Comark through a reverse vesting transaction.<sup>7</sup> The Bootlegger Transaction closed on April 22, 2025, which resulted in, *inter alia*, 46 real property leases that were Retained Leases under the Purchase Agreement being assigned to Warehouse One Clothing Ltd. (“**Warehouse One**”) under consensual arrangements with the respective landlords, and approximately 331 former employees accepting employment with Warehouse One.<sup>8</sup> In addition, the Outstanding Senior Secured Indebtedness in the amount of approximately \$3.71 million was repaid to ParentCo in full.<sup>9</sup>

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<sup>5</sup> Fifth Kassam Affidavit at para. 11.

<sup>6</sup> See Fifth Kassam at para. 12 for a detailed summary of Stalking Horse Sale Process Approval Order.

<sup>7</sup> See Fifth Kassam Affidavit at para. 13 for a detailed summary of the Bootlegger Transaction.

<sup>8</sup> See Fifth Kassam Affidavit at paras. 16-18 for a detailed summary of the closing of the Bootlegger Transaction.

<sup>9</sup> Fifth Kassam Affidavit at para. 17(c).

11. At the March 21 Hearing, the Comark Group also sought a declaration pursuant to the *Wage Earner Protection Program Act*, SC 2005, c 47, s 1 (“**WEPPA**”). On April 17, 2025, the Court granted an order (the “**WEPPA Order**”), declaring that, pursuant to subsections 5(1)(b)(iv) and 5(5) of WEPPA, effective as of April 15, 2025, each of Old Ricki’s, Old cleo and Bootlegger meet the criteria prescribed by section 3.2 of the *Wage Earner Protection Program Regulations*, SOR/2008-222, and their former employees are individuals to whom the WEPPA applies.<sup>10</sup>

**B. Termination of the CCAA Proceedings**

12. As a result of the completion of the Putman Transaction and the Bootlegger Transaction, the Comark Group and the Applicant have achieved their stated purpose of maximizing the value of the Comark Group’s assets, which was achieved through the court-approved sale process and two complementary Going Concern Transactions.<sup>11</sup> Accordingly, the Applicant now seeks the proposed Expansion of Monitor’s Powers and CCAA Termination Order.

**PART III - ISSUES AND THE LAW**

13. This Factum addresses the following issues:

- (a) the Monitor should be granted expanded powers;
- (b) the CCAA Proceedings should be terminated;
- (c) the Releases should be granted;

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<sup>10</sup> Fifth Kassam Affidavit at para. 14.

<sup>11</sup> As part of these CCAA Proceedings, the Comark Group initially conducted a liquidation sale of the Inventory and FF&E of Old Ricki’s, Old cleo and Bootlegger pursuant to the terms of the Consulting Agreement and the Realization Process Approval Order, which liquidation sale also sought to maximize the value of the Comark Group’s assets. The Consulting Agreement was terminated in accordance with its terms following the identification of the Going Concern Transactions.

- (d) the Monitor's Reports and activities, along with the fees and disbursements of the Monitor and Goodmans, should be approved; and
- (e) the Stay of Proceedings should be extended.

**A. The Monitor Should be Granted Expanded Powers**

14. The Applicant seeks to expand the current powers of the Monitor in order to, among other things, oversee the remaining business and winddown activities of the Applicant. The Monitor's expanded powers will authorize and empower, but not require, the Monitor to take any and all actions and steps in the name of and on behalf of the Applicant to facilitate the administration of the Applicant's business, property, operations, affairs, and estate, along with various other powers required to oversee the remaining business and winddown activities of the Applicant.<sup>12</sup>

15. Granting these expanded powers to the Monitor is necessary and appropriate in the circumstances and should be approved. The expansion of the Monitor's powers is an efficient arrangement which will avoid unnecessary duplication of costs and expenditures and facilitate the completion of remaining matters in an orderly and efficient manner. The Monitor, by virtue of its involvement since the outset of the CCAA Proceedings, has a high degree of familiarity with the Applicant and its current circumstances and has the capacity and resources to assist the Applicant with the completion of the well-defined and limited scope of activity which remains to be completed over the coming months. In contrast, if the expanded powers are not granted, the Applicant will be unable to conduct the resolution of the CCAA Proceedings, as it no longer has any directors, officers or employees.<sup>13</sup>

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<sup>12</sup> See Fifth Kassam Affidavit at para. 19 for a detailed list of the Monitor's expanded powers.

<sup>13</sup> Fifth Kassam Affidavit at paras. 19-22.



16. The expanded powers sought by the Monitor are authorized by the CCAA, which provides the Court with broad discretion in respect of the Monitor's functions. Section 23(1)(k) provides that the Monitor can "carry out any other functions in relation to the [debtor] company that the court may direct," while s. 11 further authorizes the Court to make any order that is necessary and appropriate in the circumstances. Further, the grant of expanded powers to the Monitor accords with the common practice of CCAA courts in similar circumstances. Courts have expanded monitors' powers where the expanded powers are necessary to conduct an orderly winddown and administer CCAA proceedings, including the ability to cause any remaining debtors to perform functions that the Monitor considers necessary to the winding-down of the remaining debtors.<sup>14</sup>

**B. These CCAA Proceedings Should be Terminated**

17. With the closing of the Putman Transaction and Bootlegger Transaction, the Comark Group and the Applicant have achieved their stated purpose of maximizing the value of the Comark Group. The Applicant is accordingly seeking an Order that approves, among other things, the termination of these CCAA Proceedings, the termination of the Charges, and the discharge of A&M as the Monitor upon the service of the Termination Certificate, and authorization for the Applicant to make an assignment in bankruptcy pursuant to the BIA from or after the filing of the Termination Certificate.<sup>15</sup>

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<sup>14</sup> *Atlas Global Brands et. al. (Re)*, (October 28, 2024), Ont S.C.J. [Commercial List], Court File No. CV-24-00722386-00CL ([Endorsement of Justice Steele](#)) at paras. 37-39; *DCL Corporation (Re)*, [2023 ONSC 4475](#) at para. 7 [*DCL Corporation*]; *PricewaterhouseCoopers Inc. v. Canada Fluorspar (NL) Inc.*, [2023 NLSC 88](#) at paras. 84-85.

<sup>15</sup> Fifth Kassam Affidavit at paras. 24-27.

18. It is well established that this Court may grant an order terminating proceedings under the CCAA on terms similar to those sought in the proposed Expansion of Monitor's Powers and CCAA Termination Order.<sup>16</sup> Such orders have frequently included provisions explicitly:

- (a) terminating the CCAA Proceedings upon service of an executed certificate by the monitor certifying that, to the knowledge of the monitor, all matters to be attended to in connection with the CCAA proceeding have been completed;<sup>17</sup>
- (b) discharging the monitor from all further duties, obligations, and responsibilities as monitor, while authorizing the monitor, notwithstanding its discharge, to address any matters that are ancillary or incidental to the CCAA Proceedings;<sup>18</sup>
- (c) terminating, releasing and discharging any charges connected to the CCAA Proceedings;<sup>19</sup> and
- (d) authorizing the monitor, or another licensed insolvency trustee, to assign debtors into bankruptcy and authorizing, but not requiring, the monitor, or another licensed insolvency trustee, to act as a trustee in respect of the bankrupt debtors.<sup>20</sup>

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<sup>16</sup> See, e.g., *Cline Mining Corporation et al. (Re)*, (July 30, 2015), Ont. S.C.J. [Commercial List], CV-14-10781-00CL ([CCAA Termination Order](#)) [*Cline Mining Termination Order*]; *Express Fashion Apparel Canada Inc. et al. (Re)*, (December 8, 2017), Ont. S.C.J. [Commercial List], Court File No. CV-17-11785-00CL ([Stay Extension & Discharge & Termination Order](#)) [*Express Termination Order*]; *Forever XXI ULC (Re)*, (September 28, 2022), Ont. S.C.J. [Commercial List], Court File No. CV-19-00628233-00CL ([CCAA Termination Order](#)) [*Forever XXI Termination Order*]; *Golf Town et al. (Re)*, (March 29, 2018), Ont. S.C.J. [Commercial List], Court File No. CV-16-11527-00CL ([CCAA Termination Order](#)) [*Golf Town Termination Order*]; *Harte Gold Corp. et al. (Re)*, (February 15, 2021), Ont. S.C.J. [Commercial List], Court File No. CV-21-00673304-00CL ([CCAA Distribution and Termination Order](#)) [*Harte Gold Termination Order*].

<sup>17</sup> See, i.e., *Express Termination Order* at para. 3; *Golf Town Termination Order* at para. 9; *Harte Gold Termination Order* at para. 12.

<sup>18</sup> See, i.e., *Cline Mining Termination Order* at paras. 9, 13; *Golf Town Termination Order* at para. 12; *Harte Gold Termination Order* at para. 15.

<sup>19</sup> See, i.e., *Cline Mining Termination Order* at para. 3; *Express Termination Order* at para. 6; *Harte Gold Termination Order* at para. 14.

<sup>20</sup> See, i.e., *Golf Town Termination Order* at para. 11; *Forever XXI Termination Order* at para. 14.

19. The proposed Expansion of Monitor's Powers and CCAA Termination Order is appropriate in the circumstances and provides for an effective and appropriate process whereby the CCAA Proceedings may be terminated.

**C. The Releases should be Approved**

20. The proposed Expansion of Monitor's Powers and CCAA Termination Order provides that, upon termination of the CCAA Proceedings, the Released Parties<sup>21</sup> shall be released from any and all liability that they may have, now or in the future, in connection with the CCAA Proceedings and/or with respect to their respective conduct in the CCAA Proceedings, including any actions taken by A&M or Goodmans following the CCAA Termination Time with respect to the Applicant or the CCAA Proceedings (as defined in the proposed Order, the "**Released Claims**"), provided that the Released Claims shall not include any claim or liability determined to be the result of gross negligence, wilful misconduct or fraud (the "**Releases**"). The Court has the jurisdiction to render orders approving the Releases, and equivalent releases are commonly found in orders terminating proceedings under the CCAA.<sup>22</sup>

21. The test for third-party releases in CCAA proceedings is well established. The Court must ask: (i) whether the parties to be released were necessary and essential to the restructuring of the debtor; (ii) whether the claims to be released are rationally connected to the purpose of the restructuring and necessary for it; (iii) whether the restructuring could succeed without the

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<sup>21</sup> "Released Parties" is defined in the proposed Expansion of Monitor's Powers and CCAA Termination Order as (a) Comark, Bootlegger, Old Ricki's and Old cleo and their current and former directors, officers, employees, consultants, <sup>legal</sup> counsel, affiliates and advisors, but in each case solely to the extent relating to the period prior to the closing of the Bootlegger Transaction; (b) current and former directors, officers, employees, consultants, legal counsel, affiliates and advisors of the Applicant; and (c) A&M (in its capacity as Monitor and in its personal capacity), its legal counsel and their current and former directors, officers, partners, employees, consultants, affiliates and advisors.

<sup>22</sup> See, i.e., *Express Termination Order* at para. 7, *Forever XXI Termination Order* at para. 15; *Golf Town Termination Order* at para. 14.

releases; (iv) whether the parties being released contributed to the restructuring; and (v) whether the releases benefit the debtors as well as the creditors generally.<sup>23</sup> It is not necessary for each of these factors to apply in order for a release to be granted.<sup>24</sup> Releases in favour of third parties, such as the directors and officers of a debtor, may be granted outside of a CCAA plan of arrangement, including in circumstances in which no plan is proposed or anticipated.<sup>25</sup>

22. The proposed Releases satisfy these factors. The Released Parties have made significant and often critical contributions to the CCAA Proceedings, including by achieving a successful going concern outcome for a substantial portion of the business operated by the Comark Group through the Putman Transaction and the Bootlegger Transaction. The proposed Releases are important to facilitate the release of the court-ordered Charges in favour of the Released Parties in connection with the termination of the CCAA Proceedings.<sup>26</sup> Further, the proposed Releases are appropriately limited in scope, and do not apply in respect of any claim or liability arising out of gross negligence, willful misconduct, or fraud on the part of the Released Parties.<sup>27</sup> Finally, it is in the interest of all parties that the Releases be granted, as the Releases will provide finality to the CCAA Proceedings in an efficient manner.<sup>28</sup> The Monitor supports granting the proposed releases.<sup>29</sup>

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<sup>23</sup> *Lydian International Limited (Re)*, [2020 ONSC 4006](#) at para. 54.

<sup>24</sup> *Green Relief Inc. (Re)*, [2020 ONSC 6837](#) at para. 28.

<sup>25</sup> See, i.e., *ENTREC Corporation (Re)*, [2020 ABQB 751](#) at paras. 5-9 and *UrtheCast Corp. (Re)*, [2021 BCSC 1819](#) at paras. 91-95; *Golf Town Termination Order* at para. 14. In each case the directors and officers of the debtor were released from liability.

<sup>26</sup> Fourth Report at para. 5.8.

<sup>27</sup> Fifth Kassam Affidavit at para. 29.

<sup>28</sup> Fifth Kassam Affidavit at para. 29.

<sup>29</sup> Fourth Report para. 5.8.

**D. The Monitor's Reports and Activities Should be Approved**

23. The proposed Expansion of Monitor's Powers and CCAA Termination Order approves the Monitor's Reports, along with the actions, conduct and activities of the Monitor referred to therein. As has been noted by this court, requests to approve monitor's reports are not unusual, and there are good policy and practical reasons for the court to do so, including:<sup>30</sup>

- (a) allowing the monitor to move forward with the next steps;
- (b) allowing the monitor to bring its activities before the Court;
- (c) enabling the Court to satisfy itself that a monitor's activities have been conducted in prudent and diligent manners;
- (d) providing protection for a monitor not otherwise provided by the CCAA; and
- (e) protecting creditors from delay that may be caused by re-litigation of steps.

24. Such approval is commonly granted as part of CCAA termination orders.<sup>31</sup> The Monitor's Reports and activities should be approved, as the Monitor has acted reasonably and in good faith throughout these CCAA Proceedings.

25. The Expansion of Monitor's Powers and CCAA Termination Order also approves the fees and disbursements of the Monitor and Goodmans, and authorizes the Monitor to apply funds held in the Wind-Down Reserve (previously approved by this Court to fund the Monitor's fees and other expenses) to the payment of any outstanding fees or disbursements of the Monitor and its

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<sup>30</sup> *Target Canada Co. (Re)*, [2015 ONSC 7574](#) at para. 23.

<sup>31</sup> See, i.e., *Harte Gold Termination Order* at para. 8; *King Street Company et al. (Re)*, (March 29, 2021), Ont. S.C.J. [Commercial List], Court File No. CV-20-00650945-00CL ([Termination Order](#)) at paras. 12-13.

counsel.<sup>32</sup> In considering whether to approve fees and disbursements, the court has regard to the “overriding principle of reasonableness,” and does not engage in a docket-by-docket or line-by-line assessment of the accounts.<sup>33</sup> The following factors assist a court in assessing the reasonableness of the Monitor’s fees:<sup>34</sup>

- (a) the nature, extent and value of the assets being handled;
- (b) the complications and difficulties encountered;
- (c) the degree of assistance provided by the company, its officers or its employees;
- (d) the time spent;
- (e) the Monitor’s knowledge, experience and skill;
- (f) the diligence and thoroughness displayed;
- (g) the responsibilities assumed;
- (h) the results achieved; and
- (i) the cost of comparable services when performed in a prudent and economical manner.

26. Fee approvals are routinely given as part of CCAA termination orders,<sup>35</sup> and should be granted in the present case. The Monitor and its counsel have acted with diligence throughout these

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<sup>32</sup> Fifth Kassam Affidavit, para. 32; See Fifth Kassam Affidavit at para. 35 for a description of the Wind-Down Reserve.

<sup>33</sup> *Nortel Networks Inc.*, [2022 ONSC 668](#) at para. 10 [*Nortel*].

<sup>34</sup> *Nortel* at para. 11.

<sup>35</sup> See, i.e., *Golf Town Termination Order* at paras. 7-8; *Harte Gold Termination Order* at paras. 9-11.

CCAA Proceedings and in good faith, and the Monitor views the fees as chargeable, reasonable and appropriate in the circumstances.<sup>36</sup>

**E. The Stay of Proceedings Should be Extended**

27. Pursuant to section 11.02 of the CCAA, the court may grant an extension of a stay of proceedings where: (a) circumstances exist that make the order appropriate; and (b) the debtor company satisfies the court that it has acted, and is acting, in good faith and with due diligence. There is no statutory time limit on how long a stay of proceedings can be extended.

28. The Stay of Proceedings currently expires on May 15, 2025. The Applicant requests that the Stay of Proceedings be extended to the earlier of the CCAA Termination Time or August 15, 2025, for the following reasons:

- (a) additional time is required to complete the remaining Wind-Down Activities (as defined in the Fourth Report), including reporting and reconciliation activities through to the completion of the Transition Period under the Putman Transaction;<sup>37</sup>
- (b) the Wind-Down Reserve held by the Monitor is sufficient to fund the remaining costs of these CCAA Proceedings;<sup>38</sup>
- (c) the remaining creditors of the Applicant will not be prejudiced by the proposed extension of the Stay Period;<sup>39</sup> and;
- (d) the Applicant continues to act with good faith and with due diligence.<sup>40</sup>

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<sup>36</sup> Fourth Report at para. 5.4(a).

<sup>37</sup> Fourth Report at para. 5.4(b).

<sup>38</sup> Fourth Report at para. 5.4(b).

<sup>39</sup> Fourth Report at para. 5.4(c).

<sup>40</sup> Fourth Report at para. 5.4(d).

29. The Monitor supports the extension of the Stay of Proceedings.<sup>41</sup>

**PART IV - NATURE OF THE ORDER SOUGHT**

30. The Applicant therefore requests that this Court grant the Expansion of Monitor's Powers and CCAA Termination Order substantially in the form attached at Tab 3 to the Motion Record.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 12<sup>th</sup> day of May, 2025

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Sierra Farr

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<sup>41</sup> Fourth Report at para. 5.4.

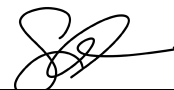


### SCHEDULE "A": LIST OF AUTHORITIES

1. *Atlas Global Brands et. al. (Re)*, (October 28, 2024), Ont S.C.J. [Commercial List], Court File No. CV-24-00722386-00CL ([Endorsement of Justice Steele](#))
2. *DCL Corporation (Re)*, [2023 ONSC 4475](#)
3. *Nortel Networks Inc.*, [2022 ONSC 6680](#)
4. *PricewaterhouseCoopers Inc. v. Canada Fluorspar (NL) Inc.*, [2023 NLSC 88](#)
5. *Cline Mining Corporation et al. (Re)*, (July 30, 2015), Ont. S.C.J [Commercial List], CV-14-10781-00CL ([CCAA Termination Order](#))
6. *ENTREC Corporation (Re)*, [2020 ABQB 751](#)
7. *Express Fashion Apparel Canada Inc. et al. (Re)*, (December 8, 2017), Ont. S.C.J. [Commercial List], Court File No. CV-17-11785-00CL ([Stay Extension & Discharge & Termination Order](#))
8. *Green Relief Inc. (Re)*, [2020 ONSC 6837](#)
9. *Forever XXI ULC (Re)*, (September 28, 2022), Ont. S.C.J. [Commercial List], Court File No. CV-19-00628233-00CL ([CCAA Termination Order](#))
10. *King Street Company et al. (Re)*, (March 29, 2021), Ont. S.C.J. [Commercial List], Court File No. CV-20-00650945-00CL ([Termination Order](#))
11. *Golf Town et al. (Re)*, (March 29, 2018), Ont. S.C.J. [Commercial List], Court File No. CV-16-11527-00CL ([CCAA Termination Order](#))
12. *Harte Gold Corp. et al. (Re)*, (February 15, 2022), Ont. S.C.J. [Commercial List], Court File No. CV-21-00673304-00CL ([CCAA Distribution and Termination Order](#))
13. *Lydian International Limited (Re)*, [2020 ONSC 4006](#)
14. *Target Canada Co. (Re)*, [2015 ONSC 7574](#)
15. *UrtheCast Corp. (Re)*, [2021 BCSC 1819](#)

I certify that I am satisfied as to the authenticity of every authority.

Date May 12, 2025



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Signature  
Sierra Farr

## **SCHEDULE “B”**

### ***COMPANIES’ CREDITORS ARRANGEMENT ACT***

R.S.C., 1985, c. C-36, as amended

#### **Stays, etc. – initial application**

**11.02 (1)** A court may, on an initial application in respect of a debtor company, make an order on any terms that it may impose, effective for the period that the court considers necessary, which period may not be more than 10 days,

- (a) staying, until otherwise ordered by the court, all proceedings taken or that might be taken in respect of the company under the [\*Bankruptcy and Insolvency Act\*](#) or the [\*Winding-up and Restructuring Act\*](#);
- (b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and
- (c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

#### **Stays, etc. – other than initial application**

**(2)** A court may, on an application in respect of a debtor company other than an initial application, make an order, on any terms that it may impose,

- (a) staying, until otherwise ordered by the court, for any period that the court considers necessary, all proceedings taken or that might be taken in respect of the company under an Act referred to in paragraph (1)(a);
- (b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and
- (c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

#### **Burden of proof on application**

**(3)** The court shall not make the order unless

- (a) the applicant satisfies the court that circumstances exist that make the order appropriate; and
- (b) in the case of an order under subsection (2), the applicant also satisfies the court that the applicant has acted, and is acting, in good faith and with due diligence.

#### **Restriction**

**(4)** Orders doing anything referred to in subsection (1) or (2) may only be made under this section.

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 2688182 ALBERTA INC.

Court File No: CV-25-00734339-00CL

*Ontario*  
**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**FACTUM OF THE APPLICANT**  
(Motion for Expansion of Monitor's Powers and CCAA  
Termination Order returnable May 15, 2025)

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