

**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
1242939 B.C. UNLIMITED LIABILITY COMPANY, 1241423 B.C. LTD., 1330096 B.C.
LTD., 1330094 B.C. LTD., 1330092 B.C. UNLIMITED LIABILITY COMPANY, 1329608
B.C. UNLIMITED LIABILITY COMPANY, 2745263 ONTARIO INC., 2745270 ONTARIO
INC., SNOSPMIS LIMITED, 2472596 ONTARIO INC., AND 2472598 ONTARIO INC.**

(Applicants)

**FACTUM OF THE APPLICANTS
(Approval of the Art Collection Auction Procedures)
(Returnable September 25, 2025)**

September 23, 2025

Stikeman Elliott LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Ashley Taylor LSO#: 39932E
Email: ataylor@stikeman.com
Tel: +1 416-869-5236

Elizabeth Pillon LSO#: 35638M
Email: lpillon@stikeman.com
Tel: +1 416-869-5623

Maria Konyukhova LSO#: 52880V
Email: mkonyukhova@stikeman.com
Tel: +1 416-869-5230

Philip Yang LSO#: 82084O
Email: pyang@stikeman.com
Tel: +1 416-869-5593

Brittney Ketwaroo LSO#: 89781K
Email: bketwaroo@stikeman.com
Tel: +1 416-869-5524

Lawyers for the Applicants

TO: THE SERVICE LIST

PART I – OVERVIEW¹

1. Hudson's Bay, established by Royal Proclamation in 1670 by King Charles II through the Royal Charter of 1670, was the oldest continuously operating company in North America. Until the commencement of these proceedings, the Company and its subsidiaries collectively operated as a premier North American department store retailer with an extensive portfolio of real estate assets across Canada.² In addition to its commercial presence, the Applicants assembled a significant collection of art and artifacts, with the majority of historic items from the 'fur trade era' donated to the Manitoba Museum in 1994. The remaining collection, which forms the basis of the present motion, relates primarily to the Company's 'retail era' and is referred to as the "Art Collection."³

2. This factum is filled in support of the Applicants' motion seeking issuance of the Art Auction Process Order which, among other things,

- a) approves the Art Collection Auction Procedures for the Art Collection Auction in the form attached as Schedule "A" to the Art Auction Process Order, with such non-material amendments as the Applicants, Reflect, the Auctioneer and the Monitor may agree;
- b) authorizes the Auctioneer to conduct the Art Collection Auction in accordance with the Art Collection Auction Procedures; and
- c) vests the individual Lots constituting the Art Collection in the Buyers (as defined below) at the Art Collection Auction free and clear of all claims and encumbrances.

¹ Capitalized terms used in this factum that are not otherwise defined have the meanings given to them in the Affidavit of Adam Zalev sworn September 19, 2025 (the "**Sixth Zalev Affidavit**").

² Sixth Zalev Affidavit at para 6, Motion Record of the Applicants dated September 19, 2025 ("**AMR**"), Tab 2.

³ Sixth Zalev Affidavit at para 7, AMR, Tab 2.

PART II – THE FACTS

3. The facts with respect to this motion are set out in the Sixth Zalev Affidavit. All references to currency in this factum are references to Canadian dollars, unless otherwise indicated.

A. The Art Collection

4. The Company's Art Collection stands as a testament to centuries of cultural heritage and history, comprising more than 1,700 pieces of art and over 2,700 artifacts.⁴

5. Most of the Company's artifact collection from the fur trade era—including items related to, or representative of, Indigenous cultures—was donated to the Manitoba Museum in 1994, leaving only a limited number of Indigenous-origin objects within the Art Collection. Recently, the Company identified 24 artifacts in its collection that are believed to be of Indigenous origin, potentially of Indigenous origin, or otherwise uniquely representative of Indigenous culture. Three of these artifacts, currently on long-term loan to a museum, are among them. These 24 pieces will not be included in the upcoming Art Collection Auction. Instead, with the assistance from Reflect and the Monitor, the Company is consulting with relevant stakeholders and Indigenous communities to ensure these artifacts are returned or donated to appropriate custodians.⁵

6. In addition, the majority of the Company's reference collection was previously donated to the Hudson's Bay Company Archives, now part of the Archives of Manitoba in Winnipeg.⁶ At the time of filing, the Company also had four war memorials installed in stores across various Canadian cities, along with two additional memorials in storage. In consultation with Reflect and the Monitor, the Company has been working to identify suitable future homes for these memorials, prioritizing continued public access in their

⁴ *Ibid* at para 21.

⁵ *Ibid* at para 22.

⁶ *Ibid* at para 23.

current cities. Discussions are ongoing with Canadian institutions and veterans' associations to ensure these war memorials are respectfully donated and appropriately displayed.⁷

B. The Development of the Art Collection Auction and its Procedures

7. In furtherance of the Applicants' efforts to identify a going-concern solution for all or a portion of the Business, the Applicants sought and obtained the SISP Order on March 21, 2025.⁸ The SISP, which has since been completed, initially provided that Qualified Bidders could submit bids for some or all of the property, assets, and undertakings of the Applicants and the Non-Applicant Stay Parties, which included, among other things, the Art Collection.⁹

8. After consulting with interested parties, the Applicants and Reflect, together with the Monitor, concluded that the SISP was not the most appropriate process for selling the Art Collection.¹⁰ Appreciating the collection's cultural and historical importance, as well as the need to uphold public interests while achieving maximum value, the Applicants decided that a dedicated separate auction would offer the most transparent, equitable, and efficient process for the sale.¹¹

9. On April 24, 2025, the Applicants sought and obtained the A&R SISP Order, which, among other things, removed the Art Collection from the Property available for sale pursuant to the SISP and approved the engagement of Heffel Gallery Limited as Auctioneer to conduct the Art Collection Auction.¹²

10. Following the Court's approval of the A&R SISP Order, the Company and Reflect received a substantial number of inquiries about the Art Collection. In response, and in consultation with the Monitor, the Applicants engaged in discussions with a variety of

⁷ *Ibid* at para 24.

⁸ *Ibid* at para 10.

⁹ *Ibid* at para 11.

¹⁰ *Ibid* at para 12.

¹¹ *Ibid* at para 21.

¹² *Ibid* at para 13.

stakeholders—including Indigenous groups and government bodies, museums, universities, high-net-worth individuals, and others who expressed cultural or historical interest in the Art Collection.¹³ To facilitate a transparent process, the Applicants and Reflect, alongside the Auctioneer, compiled a detailed inventory of the Art Collection, which was made available to any Interested Party upon execution of a NDA. This included parties who had previously expressed interest and signed an NDA during the SISP.¹⁴

11. Since their engagement, Reflect and Heffel have also worked collaboratively with the Applicants to develop comprehensive Art Collection Auction Procedures. As the Auctioneer, Heffel undertook a careful selection of artworks, designating certain pieces for a live, in-person auction while curating others for an online auction, all with the intention of maximizing participation from both collectors and institutions.¹⁵ Prior to finalizing the Art Collection Auction Procedures, Reflect notified the Art Service List that the procedures had been developed and were available for Interested Parties to review. Those wishing to share feedback or ask questions about the procedures or the details of the Art Collection were invited to contact Reflect or the Monitor, after which, the Company would finalize the proposed Art Collection Auction Procedures and seek Court approval of same.¹⁶

12. During that time, Reflect and the Company answered inquiries from parties on the Art Service List regarding the details of certain works included in the Art Collection, and regarding the items excluded from the Art Collection Auction. No material feedback in respect of the draft Art Collection Auction Procedures was received.¹⁷

13. Accordingly, in order to ensure a fair, transparent, and accessible process for all interested parties, the Art Collection Auction will proceed in accordance with the established

¹³ *Ibid* at para 25.

¹⁴ *Ibid* at para 26.

¹⁵ *Ibid* at para 28.

¹⁶ *Ibid* at para 29.

¹⁷ *Ibid* at paras 29-30.

Art Collection Auction Procedures. These Procedures outline the terms governing seller commissions, formats for both live and online auctions, and the treatment of expenses and consignment fees.¹⁸

PART III – ISSUES

14. The issues to be determined on this motion are whether the proposed Art Auction Process Order should be approved, which includes, among other things, whether:

- a) the proposed Art Collection Auction Procedures should be approved; and
- b) the sale and vesting of the individual Lots of the Art Collection to the Buyers pursuant to the Art Auction Process Order should be approved.

PART IV – LAW & ARGUMENT

A. The Art Collection Auction Procedures Should be Approved

15. The remedial nature of the CCAA¹⁹ confers broad powers on Courts to facilitate restructurings, including the power to approve a sale process in relation to a CCAA debtor's business and assets, prior to or in the absence of a plan of compromise and arrangement.²⁰ Courts have frequently exercised this jurisdiction in the context of retail insolvencies.²¹

16. In *Nortel*,²² the Court identified several factors to be considered in determining whether to approve a sales process, which have since been consistently applied²³:

¹⁸ *Ibid* at para 34.

¹⁹ *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 ("CCAA").

²⁰ See i.e. *Grant Forest Products Inc (Re)*, [2013 ONSC 5933](#) at [para 44](#); *Indalex Ltd (Re)*, [2011 ONCA 265](#) at [para 180](#).

²¹ See i.e. *Danier Leather Inc (Re)*, [2016 ONSC 1044](#) at paras 10, 27; *Comark Holdings Inc (Re)*, (January 17, 2025), Ont SCJ [Commercial List], Court File No CV-25-00734339-00CL ([Endorsement of Justice Cavanagh](#)) ("**Comark**") at para 5.

²² *Nortel Networks Corporation (Re)*, [2009 CanLII 39492 \(ONSC\)](#) at [paras 47-48](#) ("**Nortel**").

²³ *Comark* at [para 5](#); *Nordstrom Canada Retail Inc.* (April 20, 2023) Ont SCJ [Commercial List] Court File No. CV-23-00695619-00CL ([Endorsement](#)), at paras 6–13; *Bed Bath & Beyond Canada Ltd.*, (February 21, 2023) Ont SCJ [Commercial List] Court File No. CV-23-00694493-00CL ([Endorsement](#)), at paras 7–9; *Target Canada Co. (Re)* (February 5, 2015) Ont SCJ [Commercial List] Court File No. CV-15-10832-00CL ([Endorsement](#)), at para 3; *Green Growth Brands, (Re)*, [2020 ONSC 3565](#) at [para 61](#).

- a) Is a sale warranted at this time?
- b) Will the sale be of benefit to the whole "economic community"?
- c) Do any of the debtors' creditors have a bona fide reason to object to a sale of the business?
- d) Is there a better viable alternative?²⁴

17. This Court has noted that Section 36 of the CCAA²⁵ directly applies only in the context of the approval of a sale, not of a sales process.²⁶ However, the *Nortel* criteria for approving a sales process should be evaluated in light of the considerations that may ultimately apply when seeking approval for a concluded sale under Section 36 of the CCAA.²⁷

18. Therefore, this Court is entitled to consider whether the proposed Art Collection Auction is likely to satisfy the requirement that the process is fair and that the best price will be obtained, whether the Monitor supports the proposed Art Collection Auction, as well as the extent to which creditors were consulted and other relevant factors.

19. In other CCAA cases, courts have also considered the following factors:

- a) the fairness, transparency and integrity of the proposed process;
- b) the commercial efficacy of the proposed process in light of the specific circumstances; and
- c) whether the sales process will optimize the chances, in the particular circumstances, of securing the best possible price for the assets up for sale.²⁸

20. Applying the above criteria and factors, the Art Collection Auction Procedures should

²⁴ *Nortel* at para 49.

²⁵ CCAA s. 36.

²⁶ *Brainhunter Inc. (Re)*, [2009 CanLII 72333 \(ONSC\)](#) at para 17. ("**Brainhunter**").

²⁷ *Brainhunter*, at para. 16.

²⁸ *Walter Energy Canada Holdings, Inc.*, [2016 BCSC 107](#) at paras. 20-21; *CCM Master Qualified Fund v blutip Power Technologies*, [2012 ONSC 1750](#) at para 6.

be approved for the following reasons:

- a) **The Art Collection Auction is warranted at this time:** the Applicants' restructuring efforts have resulted in the liquidation of the Applicants' assets.²⁹ The Art Collection is one of the few remaining assets to be monetized. Conducting the Art Collection Auction is expected to maximize recoveries from the Art Collection for the benefit of the Applicants' creditors.³⁰ Additionally, the Auctioneer has emphasized that allowing sufficient time between the approval of the Art Collection Auction Procedures and the auction date is vital for effective marketing. This interval enables broad publicity for the auction, thereby increasing the likelihood of fair market value and encouraging robust participation.³¹
- b) **The proposed Art Collection Auction Procedures are structured to benefit the broader economic community:** by utilizing both online and live auction formats, the Art Collection Auction is designed to maximize exposure and participation, fostering competitive bidding among a diverse pool of collectors, institutions, and interested parties to maximize the overall sale proceeds and enhance the potential returns to the Company's creditors.³²
- c) **None of the Company's Creditors or Stakeholders have a bona fide reason to object to the auction:** the Applicants' senior lenders are supportive of the Art Collection Auction. The Applicants are not aware of any creditor with a reasonable basis to object to the Art Collection Auction. On September 3, 2025, Reflect communicated to the Art Service List, informing them that the proposed Art Auction Procedures had been developed and

²⁹ Sixth Zalev Affidavit at para 9, AMR, Tab 2.

³⁰ Ninth Report of the Monitor dated September 22, 2025 ("**Ninth Monitor's Report**"), at s. 3.12(a).

³¹ Sixth Zalev Affidavit at para 29, AMR, Tab 2.

³² *Ibid* at paras 31- 32.

were available for review by Interested Parties. Those wishing to provide feedback or make inquiries regarding same were asked to contact Reflect or the Monitor by September 16, 2025, after which, the Company would finalize the proposed Art Collection Auction Procedures and seek Court approval of same. No material feedback or concerns were received from any of the Interested Parties.³³

- d) **There is no better viable alternative:** following initial consultations and discussions with parties expressing interest in the Art Collection and acknowledging the historical and cultural significance for the Art Collection, the Applicants and Reflect, in consultation with the Monitor, determined that the SISP was not the most appropriate process to sell the Art Collection and removed the Art Collection from the Property available for sale pursuant to the SISP.³⁴ The Applicants, Reflect, and the Monitor are of the view that conducting the Art Collection Auction is the most transparent, fair and efficient approach to monetize the Art Collection while creating a platform for the Company to ensure that the consideration to be received for the assets is reasonable and fair.³⁵

B. The Approval and Vesting of the individual Lots in the Buyers should be Approved

21. Section 36 of the CCAA sets out the applicable legal test for obtaining court approval where a debtor company seeks to sell assets outside the ordinary course of business during a CCAA proceeding. In particular, s. 36(3) outlines certain factors that the Court may consider when deciding whether to approve a sale:

- a) whether the process leading to the proposed sale or disposition was

³³ *Ibid* at paras 29-30.

³⁴ *Ibid* at paras 11-13.

³⁵ *Ibid* at para 21.

reasonable in the circumstances;

- b) whether the monitor approved the process leading to the proposed sale or disposition;
- c) whether the monitor filed with the court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under a bankruptcy;
- d) the extent to which the creditors were consulted;
- e) the effects of the proposed sale or disposition on the creditors and other interested parties; and
- f) whether the consideration to be received for the assets is reasonable and fair, taking into account their market value.³⁶

22. The factors enumerated in s. 36(3) are not intended to be exhaustive, nor are they intended to be a checklist that must be followed in every CCAA sale transaction.³⁷

23. Courts have noted that the s. 36(3) criteria largely corresponds with the principles articulated in *Soundair* for the approval of the sale of assets in an insolvency scenario, those being:

- a) whether sufficient effort has been made to obtain the best price and that the debtor has not acted improvidently;
 - b) the interests of all parties;
 - c) the efficacy and integrity of the process by which offers have been obtained;
- and

³⁶ CCAA, s. 36(3).

³⁷ *Re Target Canada Co*, [2015 ONSC 1487](#) at [para 16](#) (“**Target**”).

d) whether there has been unfairness in the working out of the process.³⁸

24. If the Court approves a sale, then it may issue a vesting order that conveys the assets free and clear of any security, charge or other restriction.³⁹

25. Although not technically applicable at the process approval stage in a proceeding, as previously mentioned, the factors set out in s. 36(3) of the CCAA may be considered in approving the sale process.⁴⁰ As such, many of the factors enumerated in s. 36(3) parallel or are subsumed within the criteria articulated by the *Nortel* test. Given this overlap, and to avoid unnecessary duplication, we will specifically delineate those factors in s. 36(3) that remain distinct from the *Nortel* test and address them separately.

26. For the reasons set out above, and that follow, the sale of each Lot constituting the Art Collection pursuant to the Art Collection Auction Procedures satisfies the factors set out in s. 36(3) of the CCAA and the *Soundair* principles:

i. The Sale Process will be Reasonable

27. The Art Collection Auction will be carried out by the Auctioneer, under the oversight of the Applicants, Reflect and the Monitor.⁴¹ The Applicants have provided extensive notice to potential buyers of their intention to sell the Art Collection, initially including the sale of the Art Collection in the SISP in March 2025, and subsequently removing it to pursue the Art Collection Auction (which was determined to be a more appropriate process to sell the Art Collection) after consulting with parties who expressed an interest in the Art Collection.⁴²

28. In preparation for the Art Collection Auction, the Applicants have distributed detailed listings of the artwork and artifacts included in the Art Collection⁴³ and, in recent weeks,

³⁸ *Target*, at paras 14-17; *Royal Bank v Soundair Corp*, [1991 CanLII 2727](#) (ONCA).

³⁹ CCAA, s. 36(6).

⁴⁰ *Brainhunter*, at [para. 16](#).

⁴¹ Sixth Zalev Affidavit at para 34, AMR, Tab 2.

⁴² *Ibid* at paras 10-12.

⁴³ *Ibid* at para 14.

have organized schedules of the items to be included in both the live and online auction. These schedules will be made publicly accessible, ensuring that all interested parties can review which pieces will be available for bidding.⁴⁴ Prior to the auction itself, the Auctioneer will also launch an extensive marketing initiative, which will, among other things, provide opportunities for prospective bidders to preview and inspect individual Lots to be included in the Art Collection Auction in-person or online through detailed cataloguing and digital images via the Auctioneer's website.⁴⁵

29. The Applicants have actively shared draft versions of the Art Collection Auction Procedures with the Art Service List and invited feedback, ensuring there are open channels for inquiries and suggestions.⁴⁶ These procedures demonstrate good faith efforts to secure the highest and best offers and reflect a commitment to a fair, efficient, and reasonable sale process for all participants. The Monitor has also filed its Ninth Report stating that the Art Collection Auction Procedures provide for a process that will allow the Applicants to maximize the value of the Art Collection in a fair and reasonable manner.⁴⁷

ii. The Monitor's Involvement

30. The Applicants have consulted with the Monitor throughout the process of developing the Art Collection Auction Procedures including seeking approval of the removal of the Art Collection from the property available for sale pursuant to the SISP,⁴⁸ seeking approval of Heffel as Auctioneer to conduct the Art Collection Auction,⁴⁹ physically securing the Art Collection and developing a comprehensive listing of the Art Collection for Interested Parties,⁵⁰ and engaging in discussions with and requesting feedback from Interested Parties

⁴⁴ *Ibid* at para 28.

⁴⁵ *Ibid* at paras 32-33.

⁴⁶ *Ibid* at para 29.

⁴⁷ Ninth Monitor's Report at para 3.12(a).

⁴⁸ Sixth Zalev Affidavit at para 13, AMR, Tab 2.

⁴⁹ *Ibid* at para 13.

⁵⁰ *Ibid* at para 14.

about the Art Collection Auction Procedures.⁵¹ These approaches have received the Monitor's approval as detailed in its Ninth Report.⁵²

iii. The Effect of the Proposed Sale on the Creditors and other Interested Parties

31. The Art Collection Auction Procedures provide for a process that will allow the Applicants to maximize the value of the Art Collection in a fair and reasonable manner. The Art Collection Auction will be conducted by Heffel, an experienced art auctioneer that was previously approved in the A&R SISP Order,⁵³ and will be conducted both online and live at the Auction House, allowing for a broad outreach to potential buyers and interested parties, thereby maximizing participation in the auction itself and maximizing returns for creditors.⁵⁴ Items identified as being of Indigenous origin, potentially of Indigenous origin, or uniquely representative of Indigenous culture will be excluded from the Art Collection Auction. Instead, the Company is actively consulting with relevant stakeholders and Indigenous communities to ensure these items are returned and/or donated appropriately.⁵⁵ The Monitor does not believe the granting of the Art Auction Process Order will materially prejudice any of the Applicants' stakeholders.⁵⁶

iv. Consideration to be Received for the Assets is Reasonable and Fair

32. Items selected for the live auction will be offered with reserve prices, ensuring a minimum acceptable bid is met. Items presented in the online auction may be available without reserve, allowing for greater flexibility in bidding. Additionally, Heffel retains the discretion to combine several items into single Lots for online sales, which can enhance the

⁵¹ *Ibid* at para 29.

⁵² Ninth Monitor's Report at para 3.12, 7.2 (g).

⁵³ *Ibid* at para 3.12(a); Sixth Zalev Affidavit at para 13, AMR, Tab 2.

⁵⁴ Sixth Zalev Affidavit at para 31.

⁵⁵ *Ibid* at paras 22.

⁵⁶ Ninth Monitor's Report at para 3.12(d).

appeal for collectors seeking grouped artworks or artifacts. To encourage maximum participation and enhance market exposure, several online auctions will be organized over a span of weeks, each thoughtfully curated to attract a diverse pool of potential bidders.⁵⁷ The Auctioneer will also implement an extensive marketing campaign, highlighting the cultural and historical importance of the Collection, while also creating a platform for the Company to ensure that the consideration received for the assets is reasonable and fair.⁵⁸

PART V – ORDER SOUGHT

33. For the foregoing reasons, the Applicants respectfully submit that this Court grant the Art Auction Process Order substantially in the form of the draft order attached at Tab 3 to the Applicants' motion record.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 23rd day of September 2025.

Stikeman Elliott LLP

Stikeman Elliott LLP

Lawyers for the Applicants

⁵⁷ Sixth Zalev Affidavit at para 34(c).

⁵⁸ *Ibid* at para 32.

LIST OF AUTHORITIES

1. *Bed Bath & Beyond Canada Ltd.*, (February 21, 2023) Ont SCJ [Commercial List] Court File No. CV-23-00694493-00CL ([Endorsement](#))
2. *Brainhunter Inc. (Re)*, [2009 CanLII 72333 \(ONSC\)](#)
3. *CCM Master Qualified Fund v blutip Power Technologies*, [2012 ONSC 1750](#)
4. *Comark Holdings Inc (Re)*, (January 17, 2025), Ont SCJ [Commercial List], Court File No CV-25-00734339-00CL ([Endorsement of Justice Cavanagh](#))
5. *Danier Leather Inc (Re)*, [2016 ONSC 1044](#)
6. *Grant Forest Products Inc (Re)*, [2013 ONSC 5933](#)
7. *Green Growth Brands, (Re)*, [2020 ONSC 3565](#)
8. *Indalex Ltd (Re)*, [2011 ONCA 265](#)
9. *Nordstrom Canada Retail Inc.* (April 20, 2023) Ont SCJ [Commercial List] Court File No. CV-23-00695619-00CL ([Endorsement](#))
10. *Nortel Networks Corporation (Re)*, [2009 CanLII 39492 \(ONSC\)](#)
11. *Re Target Canada Co*, [2015 ONSC 1487](#)
12. *Royal Bank v Soundair Corp.*, [1991 CanLII 2727 \(ONCA\)](#)
13. *Target Canada Co. (Re)* (February 5, 2015) Ont SCJ [Commercial List] Court File No. CV-15-10832-00CL ([Endorsement](#))
14. *Walter Energy Canada Holdings, Inc.*, [2016 BCSC 107](#)

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

Note: Under the Rules of Civil Procedure, an authority or other document or record that is published on a government website or otherwise by a government printer, in a scholarly journal or by a commercial publisher of research on the subject of the report is presumed to be authentic, absent evidence to the contrary (rule 4.06.1(2.2))

Date: September 23, 2025

B. Ketwaroo

Signature

STATUTES

Companies' Creditors Arrangement Act, RSC 1985, c C-36

Restriction on disposition of business assets

Factors to be considered

36(3) In deciding whether to grant the authorization, the court is to consider, among other things,

- (a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances;
- (b) whether the monitor approved the process leading to the proposed sale or disposition;
- (c) whether the monitor filed with the court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under a bankruptcy;
- (d) the extent to which the creditors were consulted;
- (e) the effects of the proposed sale or disposition on the creditors and other interested parties; and
- (f) whether the consideration to be received for the assets is reasonable and fair, taking into account their market value.

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

FACTUM OF THE APPLICANTS

STIKEMAN ELLIOTT LLP

Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Ashley Taylor LSO#: 39932E

Email: ataylor@stikeman.com
Tel: +1 416-869-5236

Elizabeth Pillon LSO#: 35638M

Email: lpillon@stikeman.com
Tel: +1 416-869-5623

Maria Konyukhova LSO#: 52880V

Email: mkonyukhova@stikeman.com
Tel: +1 416-869-5230

Philip Yang LSO#: 82084O

Email: PYang@stikeman.com
Tel: +1 416-869-5593

Brittney Ketwaroo LSO#: 89781K

Email: bketwaroo@stikeman.com
Tel: +1 416-869-5524

Lawyers for the Applicants