

**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
OLD MAV WIND-DOWN LTD., OLD MAC WIND-DOWN LTD., OLD MAUSH WIND-
DOWN LTD., OLD MAC USA WIND-DOWN LTD., OLD MAC PURE HOLDINGS
WIND-DOWN LTD., OLD MAV MIDCO HOLDINGS WIND-DOWN LLC, OLD R
WIND-DOWN LLC, OLD ONESTA HAIR CARE WIND-DOWN LLC, AND OLD TMC
WIND-DOWN LLC**

Applicants

**FACTUM OF THE MONITOR
Motion for CCAA Termination Order
(Returnable June 12, 2024)**

June 10, 2024

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I. INTRODUCTION

1. On November 14, 2023 (the “**Filing Date**”), Old MAV Wind-Down Ltd. (formerly known as MAV Beauty Brands Inc.) and its subsidiaries (collectively, the “**Applicants**” or the “**MAV Group**”), commenced these proceedings (the “**CCAA Proceedings**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) and obtained an initial order (the “**Initial Order**”) from the Ontario Superior Court of Justice (Commercial List) (the “**Court**”). The Initial Order, among other things, appointed Alvarez & Marsal Canada Inc. (“**A&M**”) as monitor of the Applicants (in such capacity, the “**Monitor**”).¹

2. The principal purpose of these CCAA Proceedings had been to stabilize the MAV Group’s business, obtain the additional liquidity required to operate the MAV Group’s business, and implement the sale of the MAV Group’s assets and business (the “**Transaction**”) to MAV USA, LLC, an affiliate of Nexus Capital Management LP, and/or one or more of its designees, including MAV Beauty Canada, Inc. (collectively, the “**Purchasers**”).

3. The Transaction was approved by the Court at the comeback hearing held on November 24, 2023 (the “**Comeback Hearing**”) and was successfully completed on December 8, 2023.

4. In the months that followed the closing of the Transaction, the Applicants, under the supervision and guidance of the Monitor, worked to complete various post-closing matters and advance the orderly wind-down of the Applicants’ business and affairs. With this work now largely

¹ All capitalized terms used herein and not otherwise defined have the meanings ascribed to them in the Amended and Restated Initial Order of this Court dated November 24, 2023 (the “**Amended and Restated Initial Order**”), or in the Monitor Reports (as defined herein), as applicable. Unless otherwise stated, all monetary amounts contained herein are expressed in United States dollars.

complete and the current Stay Period (as defined below) expiring on June 21, 2024, the Monitor seeks approval of an order (the “**CCAA Termination Order**”), among other things:

- (a) approving the first report of the Monitor dated November 20, 2023 (the “**First Report**”), the second report of the Monitor dated December 14, 2023 (the “**Second Report**”), and the third report of the Monitor dated June 4, 2024 (the “**Third Report**” and, collectively with the First Report and the Second Report, the “**Monitor Reports**”), and the activities and conduct of the Monitor up to and including the date of the CCAA Termination Order in relation to the Applicants and these CCAA Proceedings (including as described in the Monitor Reports);
- (b) approving the fees and disbursements of the Monitor and its counsel for the periods identified in the proposed CCAA Termination Order, as well as the estimated amounts to be incurred by the Monitor and its counsel in connection with the Monitor’s completion of its remaining duties in these CCAA Proceedings;
- (c) terminating these CCAA Proceedings effective as at the CCAA Termination Time (as defined below);
- (d) releasing the Administration Charge granted in these CCAA Proceedings effective as at the CCAA Termination Time;
- (e) providing for the discharge of A&M as the Monitor effective as at the CCAA Termination Time;
- (f) releasing and discharging the Monitor and its affiliates, officers, directors, employees, legal counsel and agents (collectively, the “**Released Parties**”) from

the Released Claims (as defined below) effective at the CCAA Termination Time;
and

- (g) extending the Stay Period to the earlier of (i) the CCAA Termination Time, and (ii) such other date as the Court may order.

5. The Monitor respectfully submits that granting the foregoing relief is appropriate in the circumstances to enable the Monitor to complete the remaining matters in these CCAA Proceedings in an efficient and cost-effective manner, and bring these CCAA Proceedings to an orderly conclusion. The Monitor has also consulted with the Agent for the Lenders (each as defined below) in respect of the relief sought pursuant to the proposed CCAA Termination Order, and understands that the Agent is supportive of the requested relief.

II. FACTS

6. The Applicants sought CCAA protection on the Filing Date pursuant to the Initial Order which, in addition to appointing A&M as the Monitor, among other things: (a) granted a stay of proceedings (the “**Stay of Proceedings**”); (b) approved debtor-in-possession financing for the Applicants (the “**DIP Facility**”); and (c) granted the Administration Charge, the D&O Charge and the DIP Lenders Charge.²

7. At the Comeback Hearing, the Applicants sought and obtained the Amended and Restated Initial Order which, among other things: (a) extended the Stay of Proceedings; (b) approved the engagement of the Applicants’ financial advisor and granted the related Transaction Fee Charge;

² Third Report at para 1.6; Motion Record, Tab 2, p 22 [CL p [E243;E22](#)].

(c) authorized the Applicants to borrow additional amounts under the DIP Facility; and (d) increased the amounts of the Administration Charge and the D&O Charge.³

8. Also at the Comeback Hearing, the Applicants sought and obtained: (a) the Approval, Vesting and Distribution Order which, among other things, approved the Transaction and authorized certain distributions to RBC in its capacity as administrative agent on behalf of the DIP Lenders, and as administrative agent and collateral agent (the “**Agent**”) on behalf of the lenders under the Credit Agreement (the “**Lenders**”); and (b) the Assignment Order which, among other things, approved the assignment of certain contracts to the Purchasers in connection with the Transaction.⁴

9. On December 19, 2023, the Applicants sought and obtained an Order (Stay Extension, Expanded Monitor Powers and Related Relief) (the “**Monitor Expanded Powers Order**”) which, among other things: (a) expanded the powers of the Monitor as they relate to the Applicants on the terms set forth in the Monitor Expanded Powers Order; (b) terminated and released the Court-ordered priority charges, other than the Administration Charge; (c) granted certain releases in favour of the then-current directors and officers of the Applicants; and (d) extended the Stay of Proceedings to and including June 21, 2024 (the “**Stay Period**”).⁵ Shortly following the granting of the Monitor Expanded Powers Order, the remaining directors of the Applicants resigned.

10. Pursuant to the Approval, Vesting and Distribution Order, the DIP Facility was repaid in full from the proceeds of the Transaction (approximately \$1.9 million), and approximately \$23.9 million has been paid to date to RBC as Agent on behalf of the Lenders.⁶

³ Third Report at para 1.7(i); Motion Record, Tab 2, p 22 [CL p [E243;E22](#)].

⁴ Third Report at para 1.7(ii)(iii); Motion Record, Tab 2, p 23 [CL p [E244;E23](#)].

⁵ Third Report at para 1.8; Motion Record, Tab 2, p 23 [CL p [E244;E23](#)].

⁶ Third Report at para 5.2(vi); Motion Record, Tab 2, pp 34–35 [CL pp [E255;E34](#) and [E256;E35](#)].

11. As of May 31, 2024, approximately \$1.6 million remains in the Wind-Down Reserve.⁷ Pursuant to the Approval, Vesting and Distribution Order, amounts remaining in the Wind-Down Reserve at the termination of these CCAA Proceedings will be distributed to RBC as Agent on behalf of the Lenders.⁸

12. Since the completion of the Transaction, the Monitor has been assisting the Applicants with various post-closing and wind-down matters, as further described in the Third Report. At this time, nearly all of the matters required to finalize these CCAA Proceedings have now been completed, other than certain limited remaining activities described in the Third Report (the “**Remaining Activities**”), which include, among other things, completing statutory and administrative duties and filings, including applicable tax filings on behalf of the Applicants, closing the Bank Accounts, and distributing the balance of the Wind-Down Reserve to RBC as Agent on behalf of the Lenders upon the termination of the CCAA Proceedings.⁹

13. Accordingly, the Monitor brings this motion seeking approval of the CCAA Termination Order.

III. ISSUES AND THE LAW

14. The issues to be considered on this motion are whether the Court should:

- (a) approve the Monitor Reports and the fees and disbursements of the Monitor and its counsel, including amounts to be incurred through the completion of these CCAA Proceedings;

⁷ Third Report at para 5.3; Motion Record, Tab 2, p 35 [CL p [E256:E35](#)].

⁸ Third Report at para 5.3; Motion Record, Tab 2, p 35 [CL p [E256:E35](#)].

⁹ Third Report at para 6.2; Motion Record, Tab 2, p 35–36 [CL pp [E256:E35](#) and [E257:E36](#)].

- (b) authorize the termination of the CCAA Proceedings and the release of the Administration Charge as at the CCAA Termination Time;
- (c) discharge A&M as Monitor as at the CCAA Termination Time;
- (d) release and discharge the Released Parties from the Released Claims; and
- (e) extend the Stay Period.

15. The Monitor respectfully submits that the Court ought to grant the foregoing relief pursuant to the proposed CCAA Termination Order.

A. The Monitor's Reports, Activities and Professional Fees

(i) Approval of the Monitor Reports and Activities

16. This Court has held that there are good policy and practical reasons for approving a court officer's report and activities, including that Court approval:

- (a) allows the court officer to move forward with the next steps in the proceedings;
- (b) brings the court officer's activities before the court;
- (c) allows an opportunity for the concerns of stakeholders to be addressed, and any problems to be rectified;
- (d) enables the court to satisfy itself that the court officer's activities have been conducted in a prudent and diligent manner;
- (e) provides protection for the court officer not otherwise provided by the applicable legislation; and

- (f) protects creditors from the delay in distribution that would be caused by: (i) re-litigation of steps taken to date; and (ii) potential indemnity claims by the court officer.¹⁰

17. The Monitor submits that it is appropriate to approve the Monitor Reports and the activities and conduct described therein because:

- (a) the activities described in the Monitor Reports were necessary and undertaken in good faith pursuant to the Monitor's duties and powers set out in Orders of this Court granted in these CCAA Proceedings, including the Amended and Restated Initial Order and the Monitor Expanded Powers Order;
- (b) the Monitor's activities were undertaken in the best interests of the Applicants' stakeholders; and
- (c) the Monitor Reports were served on the service list in these CCAA Proceedings and posted on the Monitor's website for review by the Applicants' creditors and other stakeholders, and there have been no comments received in respect thereof.

(ii) *Approval of the Accounts of the Monitor and its Counsel*

18. The Amended and Restated Initial Order directs that the Monitor and its legal counsel shall pass their accounts from time to time and that they shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges.¹¹

¹⁰ *Target Canada Co, Re*, [2015 ONSC 7574](#) at para [12](#); *Laurentian University of Sudbury*, [2022 ONSC 2927](#) at paras [13-14](#) [*Laurentian*].

¹¹ *MAV Beauty Brands Inc et al* (24 November 2023), Ont Sup Ct J [Commercial List] CV-23-00709610-00CL ([Amended and Restated Initial Order](#)) at paras 29 and 30.

19. The overarching test on a motion to pass the accounts of a monitor and its counsel is to evaluate them based on the “overriding principle of reasonableness”, with the predominant consideration being the overall value contributed by the monitor and its counsel.¹² The Court has held that it “does not engage in a docket-by-docket or line-by-line assessment of the accounts as minute details of each element of a professional services may not be instructive when looked at in isolation.”¹³

20. The Court has held that the following non-exhaustive list of factors assist courts in evaluating the fairness and reasonableness of a court-appointed officer’s fees and those of its counsel:

- (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

¹² *Re Nortel Networks Corporation et al*, [2017 ONSC 673](#) at para [13](#) [*Nortel*]. See also [Laurentian](#) at para [9](#).

¹³ [Laurentian](#) at para [9](#).

- (i) the cost of comparable services when performed in a prudent and economical manner.¹⁴

21. Applying these factors to the present case, the Monitor respectively submits that its accounts, as well as those of its counsel, should be approved.

22. The Monitor submits that the fees and disbursements of the Monitor and its counsel are reasonable and appropriate in the circumstances having regard to the scope of activity undertaken by the Monitor in the CCAA Proceedings, and have been validly incurred in accordance with the provisions of the Amended and Restated Initial Order.¹⁵

23. The Monitor confirms that the fees and disbursements of its counsel set out in the invoices appended to the Goodmans Fee Affidavit relate to advice sought by the Monitor and assistance provided by Goodmans in respect of these CCAA Proceedings and that, in the Monitor's view, Goodmans' fees and disbursements are properly chargeable, reasonable and appropriate.¹⁶

24. The proposed CCAA Termination Order also approves the fees and disbursements of the Monitor and its counsel to be incurred in completing the Remaining Activities required to finalize the wind-down activities and terminate these CCAA Proceedings. Such approval of future fees and disbursements is appropriate in order to bring these CCAA Proceedings to a conclusion in an efficient and cost-effective manner, without the need for a further court attendance. Courts have granted similar relief in a number of cases.¹⁷

¹⁴ *Bank of Nova Scotia v Diemer*, [2014 ONSC 365](#) at para 9; *Nortel* at para 14; *Laurentian* at para 10.

¹⁵ Third Report at para 8.5; Motion Record, Tab 2, p 41 [CL p [E262;E41](#)].

¹⁶ Third Report at para 8.4; Motion Record, Tab 2, p 40 [CL p [E261;E40](#)].

¹⁷ See e.g., *Harte Gold Corp et al* (15 February 2022), Ont Sup Ct J [Commercial List] CV-21-00673304-00CL ([CCAA Distribution and Termination Order](#)) at para 11 [*Harte Gold*]; *DEL Equipment Inc* (29 October 2020), Ont Sup Ct J [Commercial List] CV-19-629552-00CL ([CCAA Termination Order](#)) at para 6 [*DEL*]; *MJardin Group, Inc et al* (3 April 2023), Ont Sup Ct J [Commercial List] CV-22-00682101-00CL ([CCAA Termination Order](#)) at para 6

B. Termination of the CCAA Proceedings

(i) *Termination of the CCAA Proceedings and Discharge of the Monitor is Appropriate*

25. On many occasions, this Court has granted an order terminating proceedings under the CCAA and discharging the Monitor appointed in those proceedings on terms similar to those sought in the proposed CCAA Termination Order.¹⁸

26. Pursuant to the proposed CCAA Termination Order, upon service by the Monitor on the service list in these CCAA Proceedings of an executed certificate in substantially the form attached as Schedule “A” to the proposed CCAA Termination Order (the “**Monitor’s Certificate**”), these CCAA Proceedings will be terminated without any further act or formality (the “**CCAA Termination Time**”).¹⁹ The Monitor’s Certificate contemplates certification by the Monitor that all matters to be attended to in connection with these CCAA Proceedings have been completed.²⁰

27. The Monitor submits that it is appropriate for this Court to order that the CCAA Proceedings shall be terminated and that A&M be discharged as Monitor as at the CCAA Termination Time, including because:

- (a) the limited Remaining Activities that need to be completed before the termination of these CCAA Proceedings will be completed by the CCAA Termination Time;
- (b) the Applicants’ cash on hand is expected to be sufficient to address any professional fees, expenses and disbursements required to complete the Remaining Activities;

[*MJardin*]; *Chalice Brands Ltd* (28 September 2023), Ont Sup Ct J [Commercial List] CV-23-00699872-00CL ([CCAA Termination Order](#)) at para 5 [*Chalice Brands*]; *Sungard Availability Services (Canada) Ltd et al* (27 October 2022), Ont Sup Ct J [Commercial List] CV-22-00679628-00CL ([Order \(Recognition of Foreign Order and Termination of CCAA Proceedings\)](#)) at para 10.

¹⁸ *Harte Gold* at paras 12 and 15; *DEL* at paras 7 and 10; *MJardin* at paras 7 and 9; *Chalice Brands* at paras 6 and 11.

¹⁹ Draft CCAA Termination Order at para 7; Motion Record, Tab 3, p 136 [CL p [E357:E136](#)].

²⁰ Draft CCAA Termination Order at para 7; Motion Record, Tab 3, p 136 [CL p [E357:E136](#)].

- (c) the Monitor is of the view that no creditors or stakeholders will be prejudiced by the granting of the CCAA Termination Order and the termination of these CCAA Proceedings; and
- (d) the Monitor has duly and properly discharged and performed its duties and obligations in these CCAA Proceedings in compliance and in accordance with the CCAA and all orders of this Court made in these CCAA Proceedings.²¹

(ii) *The Release of the Released Parties is Appropriate*

28. The proposed CCAA Termination Order orders the release and discharge, effective at the CCAA Termination Time, of the Released Parties from any and all claims that any person may have or be entitled to assert against the Released Parties, based in whole or in part on any act or omission, transaction, dealing or other occurrence in any way relating to, arising out of, or in respect of, these CCAA Proceedings or with respect to their respective conduct in these CCAA Proceedings (collectively, the “**Released Claims**”).²²

29. The Court summarized the factors relevant to the approval of releases in CCAA proceedings in *Lydian International Limited (Re)*:²³

- (a) whether the parties to be released from claims were necessary and essential to the restructuring of the debtor;
- (b) whether the claims to be released were rationally connected to the purpose of the plan and necessary for it;

²¹ Third Report at para 6.4; Motion Record, Tab 2, p 37 [CL p [E258:E37](#)].

²² Draft CCAA Termination Order at para 12; Motion Record, Tab 3, p 137 [CL p [E358:E137](#)].

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

- (c) whether the plan could succeed without the releases;
- (d) whether the parties being released were contributing to the plan; and
- (e) whether the release benefitted the debtors as well as the creditors generally.

30. The Court has granted similar releases in the context of granting Orders terminating CCAA proceedings.²⁴

31. The Monitor submits that it is appropriate to release the Released Parties from the Released Claims effective as at the CCAA Termination Time for the following reasons:

- (a) the Monitor has made significant contributions to these CCAA Proceedings for the benefit of the Applicants' stakeholders, including, among other things, assisting the Applicants in successfully completing the Transaction and taking on the expanded powers to direct post-closing and wind-down matters pursuant to the Monitor Expanded Powers Order;
- (b) the purpose of the releases is to achieve finality for the Released Parties in connection with the termination of these CCAA Proceedings, in turn assisting in bringing these CCAA Proceedings to a conclusion;
- (c) the proposed releases relate to claims arising out of, or in respect of, these CCAA Proceedings and conduct in these CCAA Proceedings, and are not overly broad; and

²⁴ See e.g., [Chalice Brands](#) at para 17; [DEL](#) at para 17; *Greenspace Brands Inc et al* (26 September 2023), Ont Sup Ct J [Commercial List] CV-23-00697516-00CL ([CCAA Distribution and Termination Order](#)) at para 22; *McEwan Enterprises Inc* (21 December 2021), Ont Sup Ct J [Commercial List] CV-21-00669445-00CL ([CCAA Termination Order](#)) at para 16.

- (d) the releases do not release any Released Party from any claim or liability arising out of any gross negligence or wilful misconduct on the part of the applicable Released Party.

32. Accordingly, the Monitor respectfully submits that the releases set forth in the proposed CCAA Termination Order are reasonable and justified in the circumstances and should be approved by this Court.

C. It is Appropriate to Extend the Stay Period

33. Under Section 11.02(2) 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 satisfies the Court that it has acted, and is acting, in good faith and with due diligence.²⁵

34. The Monitor submits that the proposed extension of the Stay Period is appropriate because:

- (a) the Monitor has acted, and continues to act, in good faith and with due diligence to advance these CCAA Proceedings to their conclusion;
- (b) the proposed extension of the Stay Period is required to enable the Monitor to facilitate and complete the Remaining Activities;
- (c) the Applicants are expected to have sufficient liquidity for the Monitor to complete the Remaining Activities through to the CCAA Termination Time; and
- (d) the Monitor does not believe that any creditor or stakeholder will be materially prejudiced if the extension of the Stay Period is granted.²⁶

²⁵ *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, s [11.02\(3\)](#).

²⁶ Third Report at para 9.2; Motion Record, Tab 2, pp 41–42 [CL pp [E262;E41](#) and [E263;E42](#)].

35. Accordingly, the Monitor submits that the proposed extension of the Stay Period is reasonable and appropriate in the circumstances.

IV. ORDER REQUESTED

36. For the reasons set out above, the Monitor respectfully requests that this Court grant the CCAA Termination Order.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

June 10, 2024



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SCHEDULE A

LIST OF AUTHORITIES

1. *Target Canada Co, Re*, [2015 ONSC 7574](#)
2. *Laurentian University of Sudbury*, [2022 ONSC 2927](#)
3. *MAV Beauty Brands Inc et al* (24 November 2023), Ont Sup Ct J [Commercial List] CV-23-00709610-00CL ([Amended and Restated Initial Order](#))
4. *Re Nortel Networks Corporation et al*, [2017 ONSC 673](#)
5. *Bank of Nova Scotia v Diemer*, [2014 ONSC 365](#)
6. *Harte Gold Corp et al* (15 February 2022), Ont Sup Ct J [Commercial List] CV-21-00673304-00CL ([CCAA Distribution and Termination Order](#))
7. *DEL Equipment Inc* (29 October 2020), Ont Sup Ct J [Commercial List] CV-19-629552-00CL ([CCAA Termination Order](#))
8. *MJardin Group, Inc et al* (3 April 2023), Ont Sup Ct J [Commercial List] CV-22-00682101-00CL ([CCAA Termination Order](#))
9. *Chalice Brands Ltd* (28 September 2023), Ont Sup Ct J [Commercial List] CV-23-00699872-00CL ([CCAA Termination Order](#))
10. *Sungard Availability Services (Canada) Ltd et al* (27 October 2022), Ont Sup Ct J [Commercial List] CV-22-00679628-00CL ([Order \(Recognition of Foreign Order and Termination of CCAA Proceedings\)](#))
11. *Lydian International Limited (Re)*, [2020 ONSC 4006](#)
12. *Greenspace Brands Inc et al* (26 September 2023), Ont Sup Ct J [Commercial List] CV-23-00697516-00CL ([CCAA Distribution and Termination Order](#))
13. *McEwan Enterprises Inc* (21 December 2021), Ont Sup Ct J [Commercial List] CV-21-00669445-00CL ([CCAA Termination Order](#))

SCHEDULE B

STATUTORY REFERENCES

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

Stays, etc. — other than initial application

11.02 (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.

Stays, etc. – Burden of proof on application

11.02 (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.

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

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**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF OLD MAV
WIND-DOWN LTD., OLD MAC WIND-DOWN LTD., OLD MAUSH WIND-DOWN LTD., OLD
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HAIR CARE WIND-DOWN LLC, AND OLD TMC WIND-DOWN LLC**

Applicants

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**
Proceeding commenced at Toronto

**FACTUM OF THE MONITOR
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(Returnable June 12, 2024)**

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