Court File No. CV-25-00738613-00CL

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 HUDSON'S BAY COMPANY ULC COMPAGNIE DE LA BAIE D'HUDSON SRI, HBC CANADA PARENT HOLDINGS INC., HBC CANADA PARENT HOLDINGS 2 INC., HBC BAY HOLDINGS I INC., HBC BAY HOLDINGS II ULC, THE BAY HOLDINGS ULC, HBC CENTERPOINT HP INC., HBC HOLDINGS GP INC., SNOSPMIS LIMITED, 2472596 ONTARIO INC., and 2472598 ONTARIO INC.

(the "**Applicants**")

FACTUM OF THE CADILLAC FAIRVIEW CORPORATION LIMITED (RESPONSE TO MOTION TO ASSIGN LEASES UNDER CCAA SECTION 11.3)

August 25, 2025

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TO: THE SERVICE LIST

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PART I - OVERVIEW

1. The Cadillac Fairview Corporation Limited ("**CF**") submits this factum in opposition to the Applicants' motion for forcible assignment under section 11.3 of the CCAA. This factum is filed in coordination with similarly positioned Landlords to avoid duplication.[1] In addition to the specifics of the CF leases, this factum focuses on the financial non-viability of the proposed assignee. It should be read in conjunction with the Landlords' joint factum of law and argument.

2. CF is one of Canada's largest retail landlords. Ruby Liu and her shell nominee seek the assignment of seven of HBC's leases in CF's shopping centres. CF considered and declined. Ms. Liu and her nominee have no credible business plan, no track record in retailing or department stores, no brand, no experienced staff, no infrastructure, insufficient capitalization, and no basis for a long-term relationship of trust. In short, Ms. Liu's proposal lacks commercial sense.

3. Ruby Liu Commercial Investment Corp. ("**PurchaserCo**") proposes to do something unprecedented: open 28 large stores in three provinces compromising over 3.9 million square feet. For CF, the question is not whether Ms. Liu can succeed—she cannot—but rather whether the Landlords should be compelled to participate in this failed experiment to their great prejudice and expense. They should not. The Monitor agrees.

[1] The Landlords consist of: (i) The Cadillac Fairview Corporation Limited and certain of its affiliates ("CF"); (ii) Oxford Properties Group and certain of its affiliates; (iii) KingSett Capital Inc.; (iv) Ivanhoe Cambridge II Inc./Jones Lang LaSalle Incorporated as landlord and/or authorized agent and manager for certain landlords; (v) Morguard Investments Limited as authorized agent and manager for certain landlords; (vi) Primaris Management Inc.; (vii) QuadReal Property Group; and (viii) Westcliff Management Ltd. Together they represent all 24 leases for which assignment is contested.

4. Section 11.3 does not permit an Applicant to forcibly assign a contract at will. This extraordinary power requires that the Applicant show that PurchaserCo will meet its obligations under the Leases and that the assignment is appropriate. It cannot show either.

5. CF has focussed its factum on PurchaserCo's financial model and forecasts. With the assistance of the expert evidence of Sharon Hamilton, CF focusses on how the financial model overstates revenue and understates or omits material costs, including critical costs associated with staffing, corporate overhead, IT implementation, tax and more. By way of summary:

(a) the financial forecast prepared by Ms. Liu is neither reasonable nor reliable;

(b) PurchaserCo, a shell corporation, will likely lose millions of dollars per year;

(c) Ms. Liu's equity commitment, even if advanced in full, is not sufficient and will likely be exhausted before the stores open.

6. The Applicants' failure to show that PurchaserCo will be financially stable, viable or sufficiently capitalized means that they cannot meet their burden under section 11.3. *First*, they have not shown that a non- viable PurchaserCo will be able to perform its obligations under the Leases. *Second*, they cannot show that it is appropriate to assign leases to a non-viable shell company. CF asks this Court to dismiss the Applicants' motion with costs at an elevated scale.

PART II - FACTS

Background: Cadillac Fairview

7. CF is a leading commercial landlord operating over 35 million square feet of leasable commercial space in Canada.[2] The proposed lease assignment targets seven CF properties (the

[2] Affidavit of Rory MacLeod affirmed August 9, 2025 ("**MacLeod Affidavit**"), para. 5, Responding Motion Record of The Cadillac Fairview Corporation Limited ("**CF RMR**"), Vol. 1, Tab 1, p. 2, F2809.

"**CF Properties**"), all of which are first-class enclosed shopping centres. The HBC leases at these properties (the "**Leases**") are long-term: if the tenant exercises all rights of extension and renewal, many of the Leases could extend into the 2080s or 2090s and, in the case of CF Sherway Gardens, into the 23rd century. The CF Properties and Leases are summarized here: [3]

Shopping Centre	HBC Store Area (sq.ft)	HBC as % of Centre	Annual Rent[4]	Current Lease Term	Ultimate Lease Term[5]
CF Fairview Mall	152,420	18%	$1,306,190.97	31-OCT-2027	31-OCT-2087
CF Sherway Gardens	223,477	19%	$3,349,519.54	31-JAN-2036	30-JUN-2203
CF Masonville Place	84,928	13%	$364,715.38	31-AUG-2035	31-AUG-2085
CF Markville	140,094	14%	$801,616.95	31-OCT-2035	31-OCT-2085
CF Richmond Centre	169,692	29%	$2,750,175.05	30-APR-2034	30-APR-2094
CF Market Mall	200,000	22%	$1,111,351.92	30-SEP-2031	30-SEP-2091
CF Chinook Centre	206,514	17%	$2,561,197.46	8-JUN-2033	08-JUN-2083

Hudson's Bay was an Anchor Tenant at each CF Shopping Centre

8. As anchor tenant, HBC played a specific, contractually defined role as an anchor tenant in CF's shopping centres.[6] HBC received favourable lease terms at each of the CF Properties, including low rent, tenant inducements, and greater freedom to sublet the premises.[7] In return for these favourable terms, HBC agreed to play a specific role as a "department store." The importance

[3] MacLeod Affidavit, para. 30, CF RMR, Vol. 1, Tab 1, p. 10, F2817; Affidavit of Franco Perugini sworn July 29, 2025, para. 47, Motion Record of the Applicants ("**AMR**"), Tab 2, pp. 16-20, A6110-6114.
[4] Calculated on the basis of the next full-year rent period, not including current year or any stub year.
[5] Assuming all rights of extension and renewal are exercised.
[6] MacLeod Affidavit, para. 30, CF RMR, Vol. 1, Tab 1, p. 10, F2817.
[7] MacLeod Affidavit, paras. 33, 177, CF RMR, Vol. 1, Tab 1, pp. 11, 50, F2818, F2857.

of anchor tenants is more fully discussed in the Ivanhoe Cambridge, Morguard and Westcliff Factum.

9. With some variation, each of the Leases includes a "Permitted Use Clause" requiring HBC to operate a business that is a "department store" of a specific quality:[8]

Shopping Centre	**Lease Clause**	**Permitted Use**
CF Chinook Centre	6.00	… a department store…
CF Fairview Mall	6.00	… a typical suburban department store similar to the typical suburban department stores operated in the Province of Ontario under the names "Simpsons", "Woodwards", "Eatons", "Sears", "the Bay", and "Hudson's Bay Company"
CF Market Mall	5.33	… a typical Bay department store...
CF Markville Mall	6.00	… a first class department store…
CF Masonville	5.01(a)	… a typical "Eatons" department store suitable for the market in which it is located …
CF Richmond Centre	10.01(a)	…for retail purposes from time to time similar to those of the Tenant's other suburban department store operations within the Greater Vancouver area…
CF Sherway Gardens	6	… a typical first-class department store suitable to the market in which it is located...

10. Other relevant lease terms are summarized in the McLeod Affidavit.[9]

[8] MacLeod Affidavit, para. 34, CF RMR, Vol. 1, Tab 1, p. 11, F2818.
[9] Table of Key Terms of the Leases, MacLeod Affidavit, CF RMR, Vol. 1, Tab 1, Exhibit B, pp. 73-121, F2880-2928.

CF Reasonably Refuses to Consent to Assignment

11. After CF learned of Ms. Liu and PurchaserCo signing an asset purchase agreement (the "**APA**") it immediately began requesting information.[10] On May 28, Reflect Advisors invited CF to a meeting with Ms. Liu to discuss the assignment of the Leases. CF again requested information about a business plan but was told that "no business plan will be provided in advance of the meeting."[11]

12. CF met with Ms. Liu on June 2, 2025. Ms. Liu arrived at the meeting without a business plan or financial information. When asked about a business plan, Ms. Liu said that she was "not allowed to share it" and would deliver it only after CF agreed to the assignment. [12] Ms. Liu presented an improvised vision of her business that betrayed a profound misunderstanding of the CF Properties, the renovation required, and the terms of the Leases themselves. CF concluded that Ms. Liu had no intention or capability of running a department store. They ended the meeting and reiterated the need for a business plan in order to consider the assignment.[13]

13. On June 6, Ms. Liu's former counsel wrote to CF requesting CF's consent to the assignment of the Leases.[14] The business information was skeletal and did not appear to be based on any market research or assessment of actual costs; for CF it "had no basis in reality."[15]

14. CF refused its consent to the assignment. On June 11, CF's counsel responded to PurchaserCo expressing dissatisfaction with the absence of any meaningful information and the

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[10] MacLeod Affidavit, para. 46, CF RMR, Vol. 1, Tab 1, p. 15, F2822.
[11] Responding email from Ashley Taylor dated May 30, 2025, MacLeod Affidavit, CF RMR, Vol. 1, Tab 1, Exhibit I, pp. 158-159, F2965-2966.
[12] MacLeod Affidavit, para. 53, CF RMR, Vol. 1, Tab 1, p. 17, F2824.
[13] MacLeod Affidavit, paras. 56-57, CF RMR, Vol. 1, Tab 1, p. 17, F2824.
[14] MacLeod Affidavit, para. 61, CF RMR, Vol. 1, Tab 1, p. 18, F2825.
[15] MacLeod Affidavit, para. 62, CF RMR, Vol.1, Tab 1, p. 18, F2825-2826.

fact that CF's requests for additional detail had been "steadfastly ignored." CF noted that PurchaserCo's June 6 letter provided almost no detail and noted the "wildly divergent uses of the premises" proposed by Ms. Liu. In sum, CF was "left with the strong impression that Ms. Liu is making this up as she goes."[16]

15. CF's refusal to consent to the assignment was reasonable, which speaks to the appropriateness of the assignment. Based on all materials received from Ms. Liu and PurchaserCo, CF has no confidence in PurchaserCo's ability to launch and operate a viable department store across 28 locations simultaneously.

Allegations as to CF's Motives in Refusing Consent are Unfounded

16. The Applicants, Pathlight Capital LP and Ms. Liu accuse the Landlords of refusing to consent in order to capitalize on HBC's insolvency and obtain a windfall. They allege that CF is attempting to rid itself of restrictive building covenants for free and reclaim the leasable space so that it can be rented out at higher rates. These allegations are wrong.

17. CF has no ulterior motive to get the Leases back. Indeed, CF has tried to keep HBC alive. When HBC was struggling, CF lent it $200 million to keep it afloat. Despite the abysmal state of repair in its stores, CF did not deliver default notices on their condition.[17] CF has had ample opportunity to put pressure on HBC and reclaim the Leases; instead, CF took those opportunities to deepen and stabilize its relationship with HBC.

[16] Letter from David Bish dated June 11, 2025, MacLeod Affidavit, CF RMR, Vol. 1, Tab 1, Exhibit Q, p. 244, F3051.
[17] Cross-Examination of Rory MacLeod on August 18, 2025, p. 34, ll. 4-7, Brief of Transcripts ("**BT**"), Tab N, p. ■.

18. Nor does CF have restrictions on development to get rid of. In 2023, CF entered into a series of Mass Lease Amending Agreements with HBC. These lease amendments removed longstanding restrictions on redevelopment—known as "No-Build Zones"—from the Leases.[18] Accordingly, CF has had no restrictive development covenants with HBC since 2023.

19. CF has no ulterior motive. In rejecting the assignment CF gives up (i) a new tenant, (ii) immediate rent, (iii) purported repairs and, (iv) as the third secured creditor, additional recoveries to the estate that would ultimately improve recovery on CF's secured claim. Instead CF sees PurchaserCo as so fundamentally inappropriate that, in its business judgment, it must refuse the assignment. CF asks the Court to respect its business judgment on this issue.

CF will Suffer Significant Prejudice from the Proposed Assignment

20. As one of Canada's leading retail landlords, CF has navigated hundreds of retail insolvencies. It has never contested a proposed assignment. PurchaserCo is different. If there were an element of PurchaserCo's proposal that made commercial sense, CF would explore it. But it does not. Instead, the forced assignment to PurchaserCo would be "profoundly harmful" to CF, its shopping centres and its tenants.[19]

21. The prejudice that CF will suffer from the assignment is directly relevant to the appropriateness of the assignment under section 11.3(3)(c).

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[18] Mass Lease Amending Agreement C, Joint Lease Compendium, Tab ■, p. ■.
[19] MacLeod Affidavit, paras. 185, 187, CF RMR, Vol. 1, Tab 1, pp. 52-53, F2859-2860.

22. The Applicants argue that PurchaserCo should be seen as a blessing because of the rent and repairs it promises. But a single unfit tenant—particularly a major anchor tenant—can significantly detract from a shopping centre: "A bad tenant is not worth the rent they pay."[20]

23. CF's evidence regarding the prejudice it would suffer is uncontested. Mr. MacLeod was not cross-examined on it. The proposed assignment will harm the public perception of the Landlords' shopping centres, reduce sales, decrease property values, and interfere with the Landlords' ability attract and retain quality tenants.[21]

24. These are not hypothetical concerns. CF has already been contacted by two leading apparel retailers with stores in CF shopping centres to express concern about a potential "Ruby Liu" tenancy.[22] These retailers indicated that they would review and reconsider their tenancy in CF malls with a "Ruby Liu" store.[23] This is a significant risk to CF: harm to the future ability to lease its malls far outweighs any benefits from installing a "Ruby Liu" store.

25. Moreover, the EY Report raises a realistic concern that "Ruby Liu" stores will run out of money before they open, leaving a partly renovated construction site for months or years. This will significantly prejudice the shopping centres. *First*, unfinished construction carries a risk of construction liens and other legal risks.[24] *Second*, this will impact customers' perceptions of the CF Properties. New tenants are unlikely to rent in the vicinity of an untested new store that may never open. *Third*, CF faces the risk of back-to-back anchor tenant insolvencies. This will have a

[20] MacLeod Affidavit, para. 9, CF RMR, Vol. 1, Tab 1, p. 3, F2810.
[21] MacLeod Affidavit, paras. 191-196, CF RMR, Vol. 1, Tab 1, pp. 54-55, F2861-2862.
[22] MacLeod Affidavit, para. 196, CF RMR, Vol. 1, Tab 1, p. 55, F2862.
[23] MacLeod Affidavit, para. 196, CF RMR, Vol. 1, Tab 1, p. 55, F2862.
[24] MacLeod Affidavit, para. 190, CF RMR, Vol. 1, Tab 1, pp. 53-54, F2860-2861.

compounding effect.[25] Because PurchaserCo is a shell company, there is no recourse for CF to recover for unpaid rent, breached leases or stranded building liens.

PART III - LAW AND ARGUMENT

26. This factum focuses on the flawed financial forecasts provided by PurchaserCo. To avoid duplication, CF relies on the factums of the remaining Landlords.

27. The Applicant relies wholly on PurchaserCo's high level financial forecast and model (the "**Financial Model**"). But an analysis of that model, assisted by Ms. Hamilton's independent report, reveals that the Applicants have not, and cannot, show that PurchaserCo's business will be viable. To summarize the section below:

(a) **The Financial Model is neither reasonable nor reliable.** It contains clear errors, omissions, and faulty assumptions. Neither the Applicants nor Reflect Advisors exercised the necessary diligence to ensure it was reasonable. Once these errors and assumptions are corrected, the evidence is that PurchaserCo is likely to lose tens of millions of dollars per year.

(b) **Ms. Liu's equity commitment is insufficient.** There is a significant risk that the equity commitment (even if advanced in full) will be consumed before the stores open. But even if it is not, PurchaserCo's heightened operating costs will quickly exhaust what remains.

Sharon Hamilton (EY) Report: The Financial Model is not Reasonable

28. The Landlords have delivered an expert report prepared by Sharon Hamilton of Ernst & Young (the "**EY Report**"). Ms. Hamilton is a CPA and leads EY's Canadian restructuring practice with over 30 years of experience conducting independent business reviews and carrying out

[25] MacLeod Affidavit, paras. 188-191, CF RMR, Vol. 1, Tab 1, pp. 53-54, F2860-2861.

sophisticated benchmarking and financial sensitivity analysis [26] Ms. Hamilton relied on professionals from EY with in-depth knowledge of the retail and commercial real estate sectors.[27] This section provides a brief summary of the EY Report, but we commend it to the Court to be read in full.

29. The Applicants perversely criticize Ms. Hamilton for not conducting all the interviews and analysis she would have liked to do given the constrained litigation timetable.[28] This is grossly unfair. Ms. Hamilton prepared a 60-page report of qualitative and quantitative analysis in *10 days*, including a long weekend. The Landlords asked for a longer schedule and were denied. The urgency for this motion was necessitated by PurchaserCo's delays.

30. The EY Report concludes that PurchaserCo's Financial Model is not reasonable and does not support a reasonable prospect of viability, among other reasons, because:

(a) The projected financial results do not appear reasonable and are at significant risk of being materially worse;[29]

The estimated costs to store opening do not appear feasible, reasonable and realistic and are likely to be significantly higher;[30] and

[26] Expert Report of Ernst & Young Inc. dated August 8, 2025 ("**EY Report**"), para. 3, CF RMR, Vol. 2, Tab 2, Exhibit B, p. 411, F3255.
[27] EY Report, para. 5, CF RMR, Vol. 2, Tab 2, Exhibit B, p. 412, F3256.
[28] The Applicants say at paragraph 149 that Ms. Hamilton did not have enough time to deliver as high-quality a report as she would have liked or this this court expected from her. She said no such thing – just that she did not have time to interview Ms. Liu and her team, see Cross-Examination of Sharon Hamilton on August 18, 2025, p. 34, qq. 121-122, BT, Tab K, p. ■.
[29] EY Report, para. 186, CF RMR, Vol. 2, Tab 2, Exhibit B, p. 466, F3310.
[30] EY Report, para. 186, CF RMR, Vol. 2, Tab 2, Exhibit B, p. 466, F3310.

(b) The equity commitment from Ms. Liu is unlikely to be sufficient to fund PurchaserCo until it becomes cashflow positive and is likely to be exhausted before leasehold improvements are completed.[31]

31. The Applicants have delivered no expert evidence. Mr. Zalev gives evidence regarding (i) HBC's historical forecasting process—a process in which he was not involved—and (ii) the opinion of senior members of HBC on the reasonableness of the forecast.[32] HBC's financial staff remain employed and are available but chose not to give evidence on these contested issues.[33] Their opinions, filtered through Mr. Zalev's evidence, should be given no weight.

32. Mr. Zalev himself also purports to opine on the reasonableness and conservatism of the Financial Model. This is problematic. Mr. Zalev has not met the requirements of Rule 53 in form or in substance. His opinions were not "based on any professional standards" nor did he rely on any benchmarks or industry comparisons.[34]

33. Most importantly, Mr. Zalev is not independent. The connections between Reflect and Pathlight became clear on cross-examination. Pathlight is Reflect's largest customer. As of January 2025, Reflect's eight most recent engagements were all for Pathlight. In four of those transactions, Reflect advised Pathlight "with respect to HBC or an HBC affiliate." In other words, Mr. Zalev acted "for Pathlight across the table from HBC."[35] On February 14, 2025—three weeks before the CCAA filing—Reflect resigned as Pathlight's advisor *at Pathlight's request* to become the

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[31] EY Report, paras. 21, 186, CF RMR, Vol. 2, Tab 2, Exhibit B, pp. 416, 466, F3260, F3310.
[32] Affidavit of Adam Zalev sworn July 29, 2025 ("**Zalev Affidavit**"), para. 47, AMR, Tab 4, p. 255, A6303; Cross-Examination of Adam Zalev on August 14, 2025 ("**Zalev Cross**"), p. 164, qq. 666-667, BT, Tab A, p. ■.
[33] Zalev Cross, pp. 164-165, qq. 668-678, BT, Tab A, pp. ■.
[34] Zalev Cross, p. 29, q. 80; p. 122, q. 489; p. 136, q. 555; pp. 161-162, qq. 657-659, BT, Tab A, pp. ■.
[35] Zalev Cross, pp. 17-18, qq. 25-27, BT, Tab A, pp. ■.

Financial Advisor to the Applicants. It is Reflect's expectation and hope that, after this case, it will win more work from Pathlight.[36]

34. In any event, it does not appear that Reflect spent enough time and diligence with the forecast to appropriately speak to its reasonableness. There were two significant errors in the Financial Model. At no time before cross-examination did Reflect inform any party about the errors. On the contrary, Mr. Zalev admitted that he had found one of these errors—an error that he agreed was material—"very shortly after the model was provided" but took no steps to inform the Landlords or the Court, nor to correct the error through his reply affidavit.[37]

The Financial Model is not Reliable

35. As EY concluded, the Financial Model is not reasonable. It is "based on a limited set of high level, simplistic assumptions" with "no explanatory notes" and in most cases "no supporting calculations."[38] As discussed below, PurchaserCo's projected revenue is too high and certain material costs are either too low or omitted altogether.

36. Fatal to the reliability of the Financial Model is the fact that its assumptions do not actually reflect neither PurchaserCo's business plan submitted on this motion (the "**Business Plan**"),[39] nor Ms. Liu's stated intention. On cross-examination, Mr. Zalev admitted that the Financial Model was created before the Business Plan.[40] It does not model the actual performance of the Business Plan that has been put forward. A few examples suffice.

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[36] Zalev Cross, p. 19, q. 33 and p. 174, q. 717, BT, Tab A, pp. ■.
[37] Zalev Cross, pp. 105-106, qq. 406-407, BT, Tab A, pp. ■.
[38] EY Report, para. 43, CF RMR, Vol. 2, Tab 2, Exhibit B, p. 421, F3265.
[39] Business Plan, Supplemental Affidavit of Weihong Liu sworn July 30, 2025 ("**Liu Supp Affidavit**"), Supplemental Supporting Motion Record of Ruby Liu Investment Corp. ("**RL Supp SMR**"), Tab 1A, pp. 44-93, F9427-9476.
[40] Zalev Cross, p. 48, qq. 162-163, BT, Tab A, pp. ■.

37. *First*, the Financial Model relies on significantly reducing IT costs by implementing a Shopify-derived Enterprise Resource Planning (ERP) software, instead of alternatives such as Oracle and SAP, which Mr. Zalev described as "notoriously expensive."[41] But PurchaserCo's Business Plan makes no mention of Shopify. Instead, Oracle and SAP are potential vendors.[42]

38. *Second*, the Financial Model critically relies on hiring J2 for a distribution model that avoids warehousing and logistics;[43] Ms. Liu has now rejected J2's services.[44]

39. The Financial Model forecasts a business that is different from Ms. Liu's intentions.

PurchaserCo is not Viable: It will Likely Lose Tens of Millions of Dollars a Year

40. The Financial Model is itself based on unreasonable assumptions. Once these are accounted for—and the implicit risks acknowledged—PurchaserCo is clearly unviable.

41. The Financial Model was constructed from HBC's 2025 store-by-store forecast for each Lease location. The 2025 forecast was based on 2024 actual figures with an assumed revenue growth of 2-3%. According to Mr. Zalev, this yields a store-level EBITDA of $33 million.[45] In his first affidavit, Mr. Zalev represented that this $33 million EBITDA was "consistent with HBC's historical performance" for the Lease locations.[46]

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[41] Zalev Cross, p. 46, qq. 148-149, BT, Tab A, pp. ■. See also Zalev Cross, pp. 44-45, qq. 139-147, BT, Tab A, pp. ■.

[42] Zalev Cross, p. 48, qq. 158-159, BT Tab A, pp. ■; Business Plan, Slide 16, Liu Supp Affidavit, RL Supp SMR, Tab 1A, p. 59, F9442.

[43] Affidavit of Adam Zalev sworn August 12, 2025, paras. 50-52, Reply Motion Record of the Applicants dated August 12, 2025 ("**ARR**"), Tab 3, pp. 12-13, A8845-8846.

[44] Cross-Examination of Weihong (Ruby) Liu ("**Liu Cross**"), p. 155, ll. 8-20, BT, Tab H, pp. ■.

[45] Due to a mathematical error, this number is wrong and is actually $40.1m. See Zalev Affidavit, para. 42, AMR, Tab 4, p. 11, A6302; EY Report, paras. 49, 92, CF RMR, Vol. 2, Tab 2, Exhibit B, pp. 422, 435, F3266, F3279.

[46] Zalev Affidavit, paras. 39-42, AMR, Tab 4, p. 11, A6302.

42. As Mr. Zalev conceded on cross examination, this was wrong: the same store EBITDA figure was not consistent with historical results.[47] It vastly overstated them. EY determined that while the Financial Model assumed 2-3% revenue growth, it also assumed a dramatic decrease in same-store operating costs from 2024 to 2025. This decrease was not disclosed in either Zalev affidavit.

43. The Financial Model assumes an 18% reduction in costs when compared to 2024 actual costs, primarily driven by the reduction in payroll costs by 32%.[48] There is no reasonable basis to simply assume that payroll is cut by one-third from 2024 while revenue increases. Even more unreasonable given that, as Mr. Zalev acknowledged, HBC was "notorious for being understaffed" in 2024.[49] Finally, this assumption is inconsistent with Ms. Liu's Business Plan. The forecasted cost reductions were dependent on hiring only 989 employees across PurchaserCo's stores. But this was never Ms. Liu's plan; she plans on hiring "at a minimum" 1800 employees.[50] EY provided a table showing the incongruity of the Financial Model with previous same store results:[51]

HBC Store P&L Actuals vs. Financial Model Base Store P&L Forecast

($ millions CAD)	F24 HBC Actual	Model Base Store P&L	$ Change	% Change
External Sales	400.5	412.2	11.8	3%
COGS	(241.2)	(242.4)	(1.2)	1%
Gross Margin	**159.3**	**169.8**	**10.5**	**7%**
Gross Margin %	*39.8%*	*41.2%*	*1.4%*	
Store Payroll & Benefits	(94.8)	(64.8)	30.0	-32%
Store Occupancy	(50.7)	(52.0)	(1.2)	2%
Credit/Cash Trans Costs	(4.6)	(5.2)	(0.5)	12%
Other Store Costs	(7.4)	(7.7)	(0.4)	5%
Total Store Costs	**(157.5)**	**(129.7)**	**27.8**	**-18%**
Store Contribution	**1.7**	**40.1**	**38.4**	**2201%**

[47] Zalev Cross, p. 125, q. 500, BT, Tab A, p. ■.
[48] EY Report, para. 92, CF RMR, Vol. 2, Tab 2, Exhibit B, p. 435, F3279; Zalev Cross, pp. 109-110, qq. 433-436, BT, Tab A, pp. ■.
[49] Zalev Cross, p. 121, qq. 481-484, BT, Tab A, pp. ■.
[50] Zalev Cross, pp. 119-120, qq. 470-475, BT, Tab A, pp. ■; Business Plan, Slide 5, Liu Supp Affidavit, RL Supp SMR, Tab 1A, Exhibit A, p. 48, F9431; Liu Cross, p. 123, ll. 5-12, BT, Tab H, p. ■.
[51] EY Report, para. 92, CF RMR, Vol. 2, Tab 2, Exhibit B, p. 435, F3279.

44. As a result of the undisclosed cost reduction, store level contribution (a term comparable to Mr. Zalev's same-store EBITDA) increases by 2201% or 22x from 2024.[52] It is hard to call a 2201% increase either conservative or realistic.

45. EY describes many other concerns with the Financial Model's P&L forecast, including revenue, gross margin and corporate expenses:

(a) **Revenue and Gross Margin.** The forecast underlying the Financial Model was originally prepared by HBC for its own operations. The Financial Model assumes that PurchaserCo will have more revenue, at a higher gross margin, than HBC from the very first day it opens its doors. Mr. Zalev describes this assumption as both conservative and reasonable.[53] But PurchaserCo is unknown; it will not have any of the IP, goodwill, or brand loyalty of HBC. EY concludes "there is a high risk that it might take some time for [PurchaserCo] to achieve HBC same store historical results."[54] **Corporate Expenses.** EY concludes that the Financial Model "likely omits or understates several costs."[55] EY is concerned that costs for corporate payroll (head office), IT, corporate occupancy (head office), marketing, and professional fees were all understated.[56] Based on established benchmarks, PurchaserCo would be expected to hire nearly twice as many corporate and back-office staff than the Financial Model currently permits.EY conducted a sensitivity analysis on forecasted 2027 EBITDA to determine how the results would change under various scenarios. If even a few of the risks identified by EY arise, PurchaserCo will be deep in the red. For example, merely returning to HBC's actual payroll expenses in 2024 would put PurchaserCo into a deficit position.[57] For EY,

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[52] EY Report, para. 92, CF RMR, Vol. 2, Tab 2, Exhibit B, p. 435, F3279.
[53] Zalev Cross, pp. 145-146, qq. 592-598, BT, Tab A, p. ■.
[54] EY Report, para. 113, CF RMR, Vol. 2, Tab 2, Exhibit B, p. 443, F3287.
[55] EY Report, para. 182, CF RMR, Vol. 2, Tab 2, Exhibit B, pp. 463-464, F3307-3308.
[56] EY Report, para. 25, CF RMR, Vol. 2, Tab 2, Exhibit B, p. 417, F3261.
[57] EY Report, para. 182, CF RMR, Vol. 2, Tab 2, Exhibit B, pp. 463-464, F3307-3308.

there is a "significant risk that [PurchaserCo] will generate annual operating losses in the tens of millions of dollars."[58]

PurchaserCo's Equity Buffer is Not Sufficient: There is not Enough Cash Available

47. Ms. Liu has provided an equity "commitment" to PurchaserCo. This is PurchaserCo's sole source of funds.[59] The equity commitment is variously described as $375 million or $400 million. As detailed in the Kingsett Factum, it does not appear that Ms. Liu has access to liquid funds in these sums.

48. $400 million is a large sum of money—assuming Ms. Liu has the liquid cash to meet it. But what Ms. Liu is trying to do is larger still: start a chain of 28 large-scale department stores. From scratch. EY concludes that this equity commitment is simply insufficient for an undertaking of this scale. There is a significant risk that the required funding will be "hundreds of millions greater than the $375 million."[60] Indeed, under some scenarios considered by EY, PurchaserCo will likely run out of cash before opening.

49. This is consistent with the benchmarks. When Target arrived in Canada it invested $7 billion or $52 million per store. Nordstrom invested over $59 million per store. Ms. Liu's $375 million equity commitment represents only $13.4 million per store. Target and Nordstrom both had established branding, back-office, and logistics infrastructure. Ms. Liu does not.[61]

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[58] EY Report, para. 26, CF RMR, Vol. 2, Tab 2, Exhibit B, p. 417, F3261.

[59] The Applicants raise the prospect that PurchaserCo can raise debt. Other than unsolicited calls received by Mr. Zalev (for which no details are provided), there is no evidence that financing is available. Ms. Liu has given no evidence that she can or would raise debt to finance PurchaserCo: see Zalev Affidavit, para. 36, AMR, Tab 4, p. 253, A6301.

[60] EY Report, paras. 27, 185, CF RMR, Vol. 2, Tab 2, Exhibit B, pp. 417, 465, F3261, F3309.

[61] EY Report, para. 52, CF RMR, Vol. 2, Tab 2, Exhibit B, pp. 423-424, F3267-3268.

PurchaserCo Omits or Understates Start-Up Costs

50. The Financial Model assumes that there is a cash contingency of $31 million, based on a $375 million commitment. This rises to $56 million if $400 million is committed.[62] But the Financial Model also ignores or understates costs that could quickly consume this cash buffer.

51. Land transfer tax is a good example. This is not a contingent risk; it is a fixed cost of transferring the leases to PurchaserCo that have a term of more than 50 years (including renewals). EY estimates land transfer tax at $8.7 million.[63] There is *no provision* for land transfer tax in the Financial Model, nor did Mr. Zalev even discuss it with the Applicants,[64] despite one Landlord raising the issue expressly with the Applicants as early as June 2025.[65]

52. IT implementation is another example. The Business Plan envisions an extensive IT catalogue including Enterprise Resource Planning, Customer Relationship Management, Point of Sale, Order Management Systems, Warehouse Management Systems, and Transportation Management Systems. The Financial Model does not appear to include any discrete provision for IT implementation costs, except a general professional fee cost line.[66] The EY Report concludes that the incremental additional cost of setting up the IT systems could be "in the range of $5-$15 million or more."[67] On cross-examination, Mr. Zalev agreed that IT implementation often had cost overruns.[68]

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[62] EY Report, para. 12, CF RMR, Vol. 2, Tab 2, Exhibit B, p. 414, F3258.
[63] EY Report, paras. 90-91, CF RMR, Vol. 2, Tab 2, Exhibit B, pp. 434-435, F3278-3279.
[64] Zalev Cross, pp. 125-126, qq. 502-504, BT, Tab A, p. ■.
[65] Letter dated June 11, 2025 from counsel to Oxford to counsel for the Monitor and counsel for HBC, Affidavit of Nadia Corrado sworn August 9, 2025 ("**Corrado Affidavit**"), Responding Motion Record of Oxford Properties Group ("**OP RMR**"), Tab 2, Exhibit F, pp. 86-88, F3541-3543.
[66] EY Report, para. 159, CF RMR, Vol. 2, Tab 2, Exhibit B, p. 457, F3301.
[67] EY Report, para. 160, CF RMR, Vol. 2, Tab 2, Exhibit B, p. 457, F3301.
[68] Zalev Cross, pp. 44-47, qq. 139-151, BT, Tab A, pp. ■.

53. As implementation costs consume the initial equity commitment, there will be no equity buffer to absorb unforeseen or overlooked operating costs, namely:

(a) **Corporate Payroll.** The Financial Model assumes annual corporate headcount of 53 positions, totaling compensation of $6 million in 2026. Based on established benchmarks, including HBC's total corporate headcount, the EY Report concludes that a reasonable range for corporate payroll could fall between $16,950,000 and $22,600,000 per year. This would be between $11 million and $16.6 million more than currently budgeted in the Financial Model.[69] **Corporate Occupancy.** The Financial Model excludes any rent expense for head office workers. Assuming between 150 to 200 corporate employees divided between Vancouver and Toronto, the EY Report estimates an incremental cost between $9.67 million and $12.89 million for corporate occupancy.[70] On cross-examination, Mr. Zalev assumed that the cost would be borne in the 'other' category (only $2 million) or workers would simply work remotely, something that is not contemplated anywhere in the evidence or in Ms. Liu's business plan.[71]**Professional Fees.** The Financial Model provides for $5 million in professional fees. With these fees indicated by Mr. Zalev for IT, there are no funds left to pay for legal, accounting/auditing, HR professionals or other consultants to stand up an operation with 1800 employees across 3 provinces. EY estimates that such costs could be $10 million a year or more.[72]Once these costs are taken into account, the buffer of $31 million, or even $56 million, are quickly used.

PurchaserCo Underestimates Repair, Remediation and Renovation Costs

55. The Financial Model contemplates $117.7 million for leasehold improvements, including remediation, repairs, and renovations (the "**Leasehold Improvement Budget**"). This is

[69] EY Report, para. 151, CF RMR, Vol. 2, Tab 2, Exhibit B, p. 454, F3298.
[70] EY Report, para. 163, CF RMR, Vol. 2, Tab 2, Exhibit B, p. 458, F3302.
[71] Zalev Cross, p. 134, qq. 539-540, BT, Tab A, p. ■.
[72] EY Report, para. 170, CF RMR, Vol. 2, Tab 2, Exhibit B, p. 460, F3304.

approximately $31 per square foot, significantly lower than comparable benchmarks which tend to range between $87 per square foot (in 2014 dollars) to $329 per square foot (in 2024 dollars).[73] Based on EY's sensitivity analysis, if the average cost of leasehold improvements rises to $250 per square foot—which would be consistent with benchmarks—then the Leasehold Improvement Budget would need to increase sevenfold to approximately $844 million. The "Ruby Liu" venture would start life with an insurmountable deficit.

56. The Financial Model's repair costs are significantly understated, as detailed in the Primaris and QuadReal Factum. EY reviewed the reports of external experts in assessing building conditions for 18 of the 25 stores. The repair and remediation cost in the immediate and short term for these 18 locations is higher than PurchaserCo's entire Leasehold Improvement Budget for 25 stores,[74] which budget is meant to cover much more than repairs.

57. EY's benchmarks are reasonable and consistent with CF's experience. New tenants in CF shopping centres typically spend between $250 to $400 per square foot, requiring approximately 2 years from initial planning to final construction and fixturing. CF is currently working with a new anchor tenant conducting a new store build-out for approximately $350 per square foot.[75]

58. The Applicants criticize EY's benchmarks but provide no benchmarks of their own. They have also failed to do any real inquiries of their own. Mr. Ampas, put forward as PurchaserCo's Vice President of Construction, admitted that he had approved the Leasehold Improvement Budget based on a cursory review of the budget and a one-hour conversation with a member of Central

[73] EY Report, paras. 84-85, CF RMR, Vol. 2, Tab 2, Exhibit B, pp. 432-433, F3276-3277.
[74] EY Report, para. 82, CF RMR, Vol. 2, Tab 2, Exhibit B, p. 431, F3275.
[75] MacLeod Affidavit, para. 135, CF RMR, Vol. 1, Tab 1, p. 41, F2848. See also Oxford Properties Group's estimate of $250 to $400 per square foot, Corrado Affidavit, para. 113, OP RMR, Tab 2, p. 112, F3507, as well as Primaris Management Inc.'s estimate of $200 to $250 per square foot, Affidavit of Patrick Sullivan sworn August 9, 2025, para. 48, Responding Motion Record of Primaris Management Inc., Tab 1, p. 50, F4107.

Walk. He had not reviewed any quotes, estimates, floor plans, layouts, or technical drawings of any kind.[76]

59. Finally, as detailed in the Primaris and QuadReal Factum, PurchaserCo's timeline of 6 to 12 months to opening is unrealistic. CF generally estimates 2 years to opening and, in its affidavit, details the actual timeline to plan, permit, renovate and open a large-format retail store.[77] This timeline is consistent with the experience of other Landlords.[78] As EY details, the delay in opening is expensive and further depletes cash.[79]

Sensitivity Analysis

60. EY conducted a sensitivity analysis. This is not an estimate but rather a tool to assess what happens to any equity buffer as expected costs materialize.

POTENTIAL ADJUSTMENTS TO FORECAST CASH POSITION AT STORE OPENING (in $ millions)

Cost Category	Assumption	Scenario 1	Scenario 2
Forecast Cash Position at Store Opening prior to Amounts set out below		103.1	103.1
Funding >50% of Leasehold Improvements Prior to Opening	75% and 100% costs funded	(29.4)	(58.9)
Increased Leasehold Improvement Costs	$100 and $225 per sq.ft	(267.0)	(844.0)
Leasehold Improvements for Central Walk Properties	$75 / $125 / $175 /$225 per sq.ft	(34.5)	(86.3)
Delay in store opening	6 and 18 month delay	(27.3)	(82.0)
Land transfer taxes	Based on assessed value	(8.7)	(8.7)
Increased IT implementation costs	$5M and $15M	(5.0)	(15.0)
Increased corporate headcount	150 and 200 FTEs	(11.0)	(16.6)
Corporate occupancy	$35.40/sq.ft for 150sq.ft/employee	(9.6)	(12.7)
Professional Fees	$10M / $15M	(10.0)	(15.0)
Adjusted Cash Position		(299.4)	(1,036.2)

[76] Cross-Examination of Elias Louis Ampas on August 15, 2025 ("**Ampas Cross**"), pp. 56-60, ll. 14-16, BT, Tab F, pp. ■.
[77] MacLeod Affidavit, paras. 97-99, CF RMR, Vol.1, Tab 1, pp. 28-29, F2835-2836.
[78] Corrado Affidavit, para. 108(h), OP RMR, Tab 2, pp. 108-109, F3503-3504.
[79] EY Report, para. 23, CF RMR, Vol. 2, Tab 2, Exhibit B, p. 416, F3260.

61. In contrast, the Financial Model includes no sensitivity analysis at all. There is no consideration of foreseeable risks or alternative scenarios. When asked about this, Mr. Zalev relied on the $56 million in incremental liquidity to cover all possible contingencies.[80] But, as demonstrated from the table above, that $56 million is quickly consumed by even a few of the missing or understated costs.

62. The Applicants' own evidence illustrates this point well. In his reply affidavit, Mr. Ampas deposes that he led the renovation of the HBC location in Medicine Hat in 2019.[81] As described in the Primaris and QuadReal Factum, that renovation was nowhere near the level of finishing or designs expected for a "Ruby Liu" store.[82] In cross-examination, Mr. Ampas admitted that in today's dollars the same project would cost $54 per square foot.[83] At $54 per square foot, PurchaserCo would be required to budget an additional $89.7 million in leasehold improvements. This would exhaust the equity buffer almost two times over.

CONCLUSION

63. In summary, the Financial Model is fundamentally flawed. PurchaserCo has not shown that it will be financially stable or viable and therefore can neither show that it will meet the obligations of the Leases or that the assignment is appropriate.

[80] Zalev Cross, pp. 151-152, q. 624, BT, Tab A, pp. ■.
[81] Affidavit of Elias Louis Ampas sworn August 12, 2025, para. 6, ARR, Tab 2, p. 161, A8825.
[82] Business Plan, Slides 26, 28, 31, Liu Supp Affidavit, RL Supp SMR, Tab 1A, pp. 69, 71, 74, F9452, F9454, F9457.
[83] Ampas Cross, p. 90, ll. 18-22, BT, Tab F, p. ■.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 25th day of August, 2025.

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SCHEDULE "A"

LIST OF AUTHORITIES

N/A

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 ______________________________ ______________________________

Signature

SCHEDULE "B"

TEXTS OF STATUTES, REGULATIONS & BY-LAWS

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

Assignment of agreements

11.3 (1) On application by a debtor company and on notice to every party to an agreement and the monitor, the court may make an order assigning the rights and obligations of the company under the agreement to any person who is specified by the court and agrees to the assignment.

Exceptions

(2) Subsection (1) does not apply in respect of rights and obligations that are not assignable by reason of their nature or that arise under

(a) an agreement entered into on or after the day on which proceedings commence under this Act;

(b) an eligible financial contract; or

(c) a collective agreement.

Factors to be considered

(3) In deciding whether to make the order, the court is to consider, among other things,

(a) whether the monitor approved the proposed assignment;

(b) whether the person to whom the rights and obligations are to be assigned would be able to perform the obligations; and

(c) whether it would be appropriate to assign the rights and obligations to that person.

Restriction

(4) The court may not make the order unless it is satisfied that all monetary defaults in relation to the agreement — other than those arising by reason only of the company's insolvency, the commencement of proceedings under this Act or the company's failure to perform a non-monetary obligation — will be remedied on or before the day fixed by the court.

Copy of order

(5) The applicant is to send a copy of the order to every party to the agreement.

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

Court File No. CV-25-0073861300CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF HUDSON'S BAY COMPANY ULC COMPAGNIE DE LA BAIE D'HUDSON SRI et al.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at TORONTO

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