

**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 CLHC COMPANY, OLD CBCLSC COMPANY,
OLD KCRFL HOLDINGS LIMITED, OLD 616CL LIMITED, OLD CBHC
COMPANY AND OLD CBSFC COMPANY

Applicants

**MOTION RECORD OF THE MONITOR
(Motion for Approval of Monitor's Activities and Fees and for Stay Extension)**

September 22, 2020

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TO: SERVICE LIST

**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 CLHC COMPANY, OLD CBCLSC COMPANY, OLD KCRFL
HOLDINGS LIMITED, OLD 616CL LIMITED, OLD CBHC COMPANY AND
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Tab 1

Court File No.: CV-19-631523-00CL

**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 OLD CLHC COMPANY, OLD CBCLSC COMPANY,
OLD KCRFL HOLDINGS LIMITED, OLD 616CL LIMITED, OLD CBHC
COMPANY AND OLD CBSFC COMPANY

Applicants

**NOTICE OF MOTION
(Motion for Approval of Monitor's Activities and Fees and for Stay Extension)**

Alvarez & Marsal Canada Inc., in its capacity as Monitor of the Applicants, will make a Motion before the Honourable Mr. Justice Hainey of the Ontario Superior Court of Justice (Commercial List) on September 29, 2020 at 9:30 A.M. at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The Motion is to be heard orally by Zoom videoconference. Details of the videoconference are attached as Appendix A.

THE MOTION IS FOR

1. An Order substantially in the form attached at Tab 2 of the Motion Record, *inter alia*:
 - (a) if necessary, abridging the time for service of this Notice of Motion and the Motion Record and dispensing with further service thereof;

- (b) approving the reports and activities of the Monitor and the fees and disbursements of the Monitor and its counsel in the within proceedings;
 - (c) extending the Stay Period (as defined in paragraph 17 of the Second Amended and Restated Initial Order (as defined below)) until and including February 1, 2021; and
2. Such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

3. On November 22, 2019, this Honourable Court granted protection to the Applicants under the *Companies' Creditors Arrangement Act* (the “**CCAA**”) pursuant to an Initial Order (the “**Initial Order**” and the Applicants’ proceeding under the CCAA, the “**CCAA Proceedings**”);
4. Pursuant to the Initial Order, Alvarez & Marsal Canada Inc. was appointed to act as the Monitor in these CCAA Proceedings (in that capacity, the “**Monitor**”);
5. On November 25, 2019, this Honourable Court granted an Amended and Restated Initial Order;
6. On December 20, 2019, this Honourable Court granted a Second Amended and Restated Initial Order (the “**Second Amended and Restated Initial Order**”);
7. The Applicants are affiliated with a number of U.S. entities (collectively, “**U.S. Old BB**” and together with the Applicants and certain of their international affiliates, the “**Old BB Group**”);
8. On November 21, 2019, certain of the U.S. Old BB Group (the “**Chapter 11 Debtors**”) filed voluntary petitions for relief pursuant to title 11 of the United States Code, 11 U.S.C. §§ 101-1520, as amended, in the United States Bankruptcy Court for the District of Delaware;

9. On January 28, 2020, this Honourable Court issued an Approval and Vesting Order which, among other things, approved the sale transaction (the “**Sale Transaction**”) contemplated by the asset purchase agreement entered into among the Applicants, the Chapter 11 Debtors and certain affiliates of FCF Co. Ltd. On the same day, this Honourable Court issued the Monitor’s Expansion of Powers & Stay Extension Order which, among other things, extended the Stay Period until April 3, 2020 and granted the Monitor the Expanded Powers (as defined and described in the Third Report of the Monitor dated January 27, 2020), expanding the powers of the Monitor to, among other things, oversee the remaining business and wind-down activities of the Applicants.;

10. The Sale Transaction closed on January 31, 2020;

11. On April 3, 2020, on motion of the Monitor, the Court further extended the Stay Period until September 30, 2020 (the “**Stay Extension Order**”);

APPROVAL OF REPORTS, ACTIVITIES AND FEES OF MONITOR

12. Pursuant to paragraphs 33 and 34 of the Initial Order, (i) the Monitor and its counsel shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to the date of the Initial Order; and (ii) the Monitor and its legal counsel shall pass their accounts from time to time before the Court;

13. The activities of the Monitor in connection with the CCAA Proceedings are set out in the reports filed by the Monitor;

14. The Fifth Report and the fee affidavits appended thereto contain detailed information regarding the fees and disbursements of the Monitor and its counsel Osler, Hosking & Harcourt LLP (“**Osler**”);

15. It is the Monitor's view that its fees and disbursements and the fees and disbursements of Osler are reasonable and appropriate in the circumstances having regard to the scope of activity undertaken by the Monitor in the CCAA Proceedings and the positive outcome of the Applicants' restructuring;

EXTENSION OF STAY PERIOD

16. Since the granting of the Stay Extension Order, the Applicants have acted and, with the assistance and oversight of the Monitor, continue to act in good faith and with due diligence in the CCAA Proceedings;

17. Pursuant to the Monitor's Expansion of Powers & Stay Extension Order, a wind-down reserve from the proceeds of the Sale Transaction was previously established with the Monitor, and it continues to be sufficient to fund the remaining costs anticipated as being required during the wind-down of the CCAA Proceedings (and any related wind-down proceedings such as a formal bankruptcy);

18. It is necessary and in the best interests of the Applicants and their stakeholders that the Stay Period be extended until February 1, 2021, as it will allow the Monitor to facilitate and oversee the wind-down of the CCAA Proceedings, including addressing certain outstanding tax, administrative and wind-down issues described in the Fifth Report filed in connection with this motion;

19. The provisions of the CCAA, including section 11.02(2) thereof, and the inherent and equitable jurisdiction of this Honourable Court;

20. Rules 1.04, 1.05, 2.03, 3.02, 16 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended, and section 106 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended; and

21. Such further and other grounds as the lawyers may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Motion:

1. The Fifth Report of the Monitor, dated September 22, 2020;
2. Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

September 22, 2020

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Lawyers for the Monitor

TO: SERVICE LIST

Appendix A

Zoom Meeting

<https://us02web.zoom.us/j/83799762247?pwd=a2xDQ0dJUitQSWFMMWp4VUVsbjE3Zz09>

Meeting ID: 837 9976 2247

Passcode: 756261

One tap mobile

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Dial by your location

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Meeting ID: 837 9976 2247

Passcode: 756261

Find your local number: <https://us02web.zoom.us/j/83799762247?pwd=a2xDQ0dJUitQSWFMMWp4VUVsbjE3Zz09>

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF OLD CLHC COMPANY, OLD CBCLSC COMPANY, OLD KCRFL HOLDINGS LIMITED, OLD 616CL LIMITED, OLD CBHC COMPANY AND OLD CBSFC COMPANY

Applicants

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

Proceeding commenced at: TORONTO

**NOTICE OF MOTION
(Motion for Approval of Monitor's Activities and Fees
and for Stay Extension)**

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Tab 2

Court File No. CV-19-631523-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.	)	TUESDAY, THE 29 TH
	)	DAY OF SEPTEMBER, 2020
JUSTICE HAINEY	)	

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 CLHC COMPANY, OLD CBCLSC
COMPANY, OLD KCRFL HOLDINGS LIMITED, OLD 616CL
LIMITED, OLD CBHC COMPANY AND OLD CBSFC
COMPANY

Applicants

ORDER

(Motion for Approval of Monitor's Activities and Fees and for Stay Extension)

THIS MOTION made by Alvarez & Marsal Canada Inc. in its capacity as court-appointed monitor of the Applicants in these proceedings (the "**Monitor**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an order: (i) extending the Stay Period (as defined in paragraph 17 of the Second Amended and Restated Initial Order dated December 20, 2019) until and including February 1, 2021; (ii) approving the activities of the Monitor; and (iii) approving the fees and disbursements of the Monitor and its counsel in the within proceedings was heard this day by videoconference in Toronto, Ontario.

ON READING the Notice of Motion of the Monitor and the Fifth Report of the Monitor dated September 22, 2020, including the appendices thereto (the "**Fifth Report**"), and on hearing the submissions of counsel for the Monitor and such other counsel as were present, no one else appearing although duly served:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record herein be and is hereby abridged and validated so that the Motion is properly returnable today and hereby dispenses with further service thereof.

EXTENSION OF STAY PERIOD

2. **THIS COURT ORDERS** that the Stay Period is hereby extended from September 30, 2020 until and including February 1, 2021.

APPROVAL OF THE MONITOR'S REPORTS, ACTIVITIES AND FEES

3. **THIS COURT ORDERS** that the First Report of the Monitor dated November 24, 2019, the Second Report of the Monitor dated December 16, 2019, the Third Report of the Monitor dated January 27, 2020, the Fourth Report of the Monitor dated March 25, 2020 and the Fifth Report, and the activities of the Monitor referred to therein be and are hereby approved provided, however, that only the Monitor, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

4. **THIS COURT ORDERS** that the fees and disbursements of the Monitor and its counsel, as set out in the Fifth Report, are hereby approved.

GENERAL

5. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

6. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court or administrative body in any province of Canada, the Federal Court of Canada, any administrative tribunal or other court constituted pursuant to the Parliament of Canada or any of its provinces or territories and any federal or state court or administrative body in the United States of America or any other foreign courts to act in aid of and to be complimentary to this Court in carrying out the terms of this Order.

Applicants

ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST) Proceeding commenced at: TORONTO	
ORDER (Motion for Approval of Monitor's Activities and Fees and for Stay Extension)	
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AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF OLD CLHC COMPANY, OLD CBCLSC COMPANY, OLD KCRFL HOLDINGS LIMITED, OLD 616CL LIMITED, OLD CBHC COMPANY AND OLD CBSFC COMPANY

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**ONTARIO
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