

Court File No. CV-25-00739279-00CL

**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 1001270243 ONTARIO INC.**

Applicant

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**SUPPLEMENTAL BOOK OF AUTHORITIES  
OF THE ATTORNEY GENERAL OF CANADA**

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Date: May 27, 2026

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**AND TO: THE SERVICE LIST**

Court File No. CV-25-00739279-00CL

**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**

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**CITATION:** Contract Pharmaceuticals Limited  
**COURT FILE NO.:** CV-23-711401-00CL  
**DATE:** 20240417

**RE: 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 CONTRACT PHARMACEUTICALS LIMITED, CPL CANADA HOLDCO LIMITED, CONTRACT PHARMACEUTICALS LIMITED CANADA, GLASSHOUSE PHARMACEUTICALS LIMITED CANADA, AND GLASSHOUSE PHARMACEUTICALS LLC**

**BEFORE:** W.D. Black J.

**COUNSEL:** *Christopher Armstrong, Erik Axell and Jennifer Linde, Counsel to the Applicants  
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 Cristian Delfino, Counsel to Royal Bank of Canada  
 Tracy C. Sandler and Hannah Davis, Counsel to Aterian  
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**HEARD:** April 17, 2024

## **ENDORSEMENT**

### **Overview**

[1] The Applicants seek an order (the “ARVO”), in the nature of a reverse vesting order, approving an agreement for a share purchase transaction (the “Sale Agreement” and the “Transaction”), between Contract Pharmaceuticals Limited (“CPL”) as seller, and AIP Elixer Buyer Inc. (the “Buyer”), an affiliate of Aterian Investment Partners IV, LP (“Aterian”). The

applicants seek certain related declarations. In this endorsement I will refer to various companies involved in the AVRO, and aspects of the AVRO itself, as those companies and steps are defined in the applicants' materials.

[2] The Applicants also seek an order (the "Ancillary Relief Order") extending the current stay period through June 17, 2024, expanding the powers of the monitor KSV Restructuring Inc. (the "Monitor") as they relate to residual companies and remaining Applicants (following the implementation of the ARVO), authorizing the applicants and the Monitor to make certain distributions from the net proceeds of the Transaction, and granting certain ancillary relief said to be necessary to advance these CCAA proceeding.

[3] Finally, in relation to employees whose employment will be terminated as part of the proposed arrangements, the Applicants seek an order (the "Terminated Employee Fund Order") approving the Terminated Employee Fund Escrow Agreement to be entered into between the Buyer, as depositor, and the Monitor, as escrow agent, pursuant to which the Terminated Employee Fund will be established.

### **Initial CCAA Order and SISP**

[4] On December 15, 2023, the Applicants obtained an Initial Order (as amended and restated by order of this court dated December 22, 2023 (the "ARIO")) under the CCAA to continue the implementation of the Applicants' restructuring efforts and to pursue a refinancing, sale and investment solicitation process (the "SISP") in respect of the CPL business.

[5] At the time of granting the ARIO, the court also granted the SISP Approval Order approving the SISP to be undertaken by the Applicants with the assistance of the Financial Advisor and under the oversight of the Monitor and directing the applicants, the Financial Advisor and the Monitor to implement the SISP pursuant to its terms.

### **The Sale Agreement**

[6] The Sale Agreement is the outcome and culmination of the SISP. The Applicants assert that the "going concern" Transaction encompassed in the ARVO provides significant benefits to the Applicants' stakeholders, including repayment of nearly \$60 million of secured debt owed by the Applicants, the assumption of a substantial portion of stayed trade payables, and continued employment for the vast majority of CPL Canada's 279 employees. The applicants note that the Transaction is supported by the Monitor, and by Deerfield Private Design Fund III, LP ("Deerfield"), the Applicant's DIP Lender and largest secured creditor. In fact, no opposition to the Transaction or the ARVO has been expressed, including at the hearing before me. This tends to support the Applicant's submission that the relief sought is in the best interests of the Applicants and their stakeholders.

[7] The reverse vesting Transaction provides that all of the issued and outstanding shares of CPL Canada Holdco (the "CPL Shares"), will be sold, assigned and transferred to the Buyer, with the result that the Buyer will become the sole shareholder of CPL Canada Holdco, and that all Excluded Assets, Excluded Contracts and Excluded Liabilities (all as defined in the Sale Agreement), will be transferred and vested out to ResidualCo.

### **The Applicant's Business and Rationale for the RVO**

[8] The specific impetus for the Transaction being structured as a reverse vesting transaction is that CPL Canada holds certain regulatory licences issued by (among others), Health Canada and the U.S. Food and Drug Administration (the "Regulatory Licences"), most of which are non-transferrable and all of which are critical to the operation of the CPL business. The reverse vesting structure allows CPL Canada to maintain all of its Regulatory Licences, enabling the CPL Business to continue without interruption as a going concern upon closing of the Transaction.

[9] The Applicants are in the business of developing, testing and manufacturing non-sterile liquid and semi-solid pharmaceutical and regulated over-the-counter products. Their core business is that of CPL Canada, based in Mississauga, Ontario.

[10] The Applicants acknowledge that beginning in 2016, they made certain strategic decisions that led to losses and inconsistent performance in their business lines, and have distracted from the core CPL business and created debt burden.

[11] As a result of challenging interest expenses arising from this debt burden, leading in turn to reduced availability of funding, and despite efforts to restructure, the Applicants began to struggle to meet ongoing working capital requirements.

[12] The Applicants accordingly began, with the assistance of advisors, to explore strategic alternatives. These efforts did not immediately yield a definitive transaction, and so, facing mounting liquidity challenges, the Applicants sought and received CCAA protection.

[13] Once the SISP Order was in place, the Applicants, with the assistance of a financial advisor and under the oversight of the Monitor, conducted the SISP with a view to identifying the best available restructuring transaction for the benefit of all concerned.

### **The SISP Process**

[14] The SISP process in fact generated several submissions before the qualified bid deadline, including the Aterian Bid leading to the Sale Agreement. With input and assistance from the financial advisor and the Monitor, and following negotiations, the Applicants determined that the Aterian Bid was the best option.

[15] The consideration from the Buyer under the Sale Agreement consists of an amount equal to the aggregate amount of the Applicants' secured debt obligations (of approximately \$57,516,345) less U.S.\$8,000,000, to be the subject of the Deerfield earn-out, as well as a cash component to satisfy priority administrative obligations and wind-down costs. In connection with the proposed Terminated Employee Fund Order, the Buyer will also pay \$500,000 to the Monitor for the purposes of establishing the Terminated Employee Fund.

[16] The Buyer has engaged in discussions with certain customers of the business, and on April 9, 2024, the Buyer, the Applicants and Deerfield reached an agreement in principle to waive a condition relative to the customers (and related matters).

[17] This waiver, and the conversion of repayment of U.S.\$8,000,000 of the amounts owing to Deerfield to an earn-out under a separate agreement, were addressed in an amendment to the Sale Agreement on April 12, 2024.

### **Details and Results of the Proposed Transaction**

[18] Following the Transaction, the Applicants comprising the Company (again, as defined in the Applicants' materials) will retain substantially all of the assets owned by them on closing, and will retain certain liabilities, including up to approximately \$10.8 million of the Applicants' pre-filing trade payables, liabilities to continuing employees, and liabilities relating to retained contracts, permits and licences.

[19] The ARVO, as noted, will provide that upon completion of the Transaction, ResidualCo will be added as an Applicant in these proceedings and the Applicants comprising the Company will be released from the purview of these proceedings, save and except for the ARVO.

[20] The ARVO also provides for a release of all claims against the current and former directors, officers, shareholders, employees, legal counsel and advisors of each of the Applicants, and of the Monitor and its legal counsel, the Buyer, and Deerfield (and in each case –the current and former directors, officers, partners, employees, consultants, legal counsel and other advisors), with the exception that claims against current directors and officers of the Applicants are preserved to the extent necessary to maintain claims against any insurance policies that may be available to pay insured claims (and limited to those claims and any proceeds).

[21] With respect to the Ancillary relief sought, the Stay Extension Order currently in place, granted on April 10, 2024, will expire on May 3, 2024, whereas the Sale Agreement provides for an outside date of June 7, 2024. As such, the Applicants seek an extension of the stay period to June 17, 2024.

[22] It is contemplated that the vast majority of the Company's 279 employees will continue in their employment following the closing of the Transaction (the Sale Agreement confirms that not less than 250 employees will be retained). However, it is also contemplated that a small number of employees may be terminated prior to the closing of the Transaction.

[23] As a result of the reverse vesting feature of the Transaction, CPL Canada will emerge from these proceedings, meaning that there will be no triggering event as defined in and required by WEPPA. To address this, the Applicants seek a declaration that ResidualCo (which is expected to be bankrupted), is deemed to be the former employer of former employees of the Applicants who were or are terminated between June 15, 2023, (being six months prior to the commencement of the CCAA proceedings) and the closing date, solely for the purposes of termination pay and severance pay pursuant to WEPPA.

[24] Inasmuch as, upon closing of the Transaction, all then current directors and officers of the Remaining Applicants are expected to resign from these positions, with the result that the Remaining Applicants will have no directors or officers, the Ancillary Relief Order provides that the Monitor will be authorized and empowered to exercise any powers properly exercised by the boards of directors of each of the Remaining Applicants, effective as of the closing date.

[25] The Sale Agreement contemplates repayment in full of the Applicants' secured debt as part of the closing process (subject to the Deerfield earn-out). The Applicants therefore request authority that they and the Monitor may make certain distributions from the net proceeds of the Transaction to their secured creditors.

[26] The Applicants also seek approval of the Monitor's reports and activities in connection with these proceedings.

[27] Liabilities owing to Terminated Employees are Excluded Liabilities under the Sale Agreement, and so the Applicants seek approval of the Terminated Employee Fund Order under which the Buyer will fund and the Monitor will administer the Terminated Employee Fund in the amount of not less than \$500,000. This Order also contemplates and provides for one-time Hardship Benefit payments for those employees facing termination of their employment in the circumstances of the CCAA proceedings.

### **Jurisdiction to Approve the Sale Agreement and Transaction**

[28] Under section 36 of the CCAA this court has jurisdiction to approve a sale outside the ordinary course of business. I agree with Penny J.'s observation in *Harte Gold Corp (Re)*, 2022 ONSC 653 that, because the structure of a transaction employing an RVO "typically does not involve the debtor 'selling or otherwise disposing of assets outside the ordinary course of business as provided in s. 36(1)", but is instead "really a purchase of shares of the debtor and "vesting out" from the debtor to a new company, of unwanted assets, obligations and liabilities" (as here) it is not apt to say that jurisdiction to issue an RVO is founded in s. 36(1).

[29] I also agree, however, with Penny J.'s comments (and those of a number of other judges who have discussed the issue) that section 11 of the CCAA, as broadly interpreted in the relevant jurisprudence, does provide the jurisdiction to grant an RVO, so long as the discretion under s. 11 is exercised in accordance with the objects and purposes of the CCAA. It is in this way, again as observed by Penny J. that the analytical framework of s. 36 of the CCAA can be applied to an RVO transaction, even though s. 36 "may not support a standalone basis for the jurisdiction in an RVO situation".

[30] Finally, also from *Harte*, I echo Penny J.'s caution that "it would be wrong to regard employment of the RVO structure in an insolvency situation as the "norm" or something that is routine or ordinary course." Despite the increasing use of RVOs in recent years, I agree with Penny J. that such a structure should continue to be considered an unusual and extraordinary measure, and only available in limited circumstances.

### **Observations and Conclusions re Relief Sought**

[31] That said, in my view the circumstances in this case justify the use of an RVO structure.

[32] By reference to s. 36(3) of the CCAA, and to the frequently cited principles in *Royal Bank of Canada v. Soundair Corp.* (1991), 83 DLR (4th) 76 (Ont. CA) as well as those enunciated in *Nortel Networks Corporation (Re)*, (2009) OJ No 3169 (QL) ONSC), and the touchstones articulated in *Harte*, I note:

- (a) The solicitation process leading to the Sale Agreement was reasonable. The Applicants and their Financial Advisor spent about three months on solicitation efforts, involving contacting 445 potentially interested parties, resulting in 11 LOIs being received from prospective bidders and several submissions being received before the Qualified Bid Deadline, including the successful Aterian Bid;
- (b) The consideration under the Sale Agreement is fair and reasonable and will result in repayment in full of the Applicants' secured debt (subject to Deerfield's earn-out) totaling approximately \$58 million and the retention of trade creditor liabilities of up to \$10.8 million;
- (c) The Transaction benefits the economic community, in that it results in the continuation of the CPL business as a going concern, in turn meaning that the vast majority of the Applicants' employees will keep their jobs, and that customer and supplier relationships will be preserved. Any terminated employees will have access to a hardship benefit and the arrangement to access WEPPA;
- (d) The Transaction is supported by the Monitor, and the process leading to the Transaction included consultation with key stakeholders, who also support it;
- (e) There is no better viable alternative available; and,
- (f) The criteria in s. 36(7) are met, in that the Applicants have and will continue to pay all employee wages and compensation referred to in paragraph 6(5)(a) and do not owe any obligations of the type described in paragraph 6(6)(a).

[33] As noted above, where courts have determined reverse vesting orders to be appropriate, it is frequently in a setting where, as here, the debtor operates in a highly regulated environment in which its existing permits, licences or other rights are difficult or impossible to assign to a purchaser.

[34] The Transaction also appears to balance stakeholder interests. There is no evidence of creditors who will be materially disadvantaged by the reverse vesting structure of the transaction, and indeed the Transaction preserves creditors' rights to the extent they would have been available in an asset sale scenario.

[35] I am prepared to grant the releases sought for the various officers and directors and others.

[36] *In Lydian International Limited (Re)*, 2020 ONSC 4006, Morawetz CJ summarized certain non-exhaustive factors relevant to the approval of releases in CCAA proceedings. In my view the releases sought here are aligned with the *Lydian* factors. The released parties have been and will continue to be important in facilitating the CCAA proceedings and the Transaction, and the continued involvement of the Applicants, the Buyer, the Monitor and Deerfield and their respective professional advisors will continue to be critical in the restructuring effort.

[37] The releases are thus rationally connected to the purposes and benefits of the Transaction, and they are fair, reasonable and not unduly broad. As further evidence that that is the case, all

parties on the service list have been provided with notice of the proposed releases, and no stakeholder has objected.

### **Approval of Orders**

[38] For all of these reasons, I approve the ARVO.

[39] I also approve the Ancillary Relief Order. I find that the debtor company has been acting in good faith and with due diligence, and that no creditor will be prejudiced by the extension sought. That extension will allow the necessary time for the Transaction to close, and I note that the Monitor's Fourth Report says that the Applicants are expected to have sufficient liquidity to continue operations during the contemplated extension.

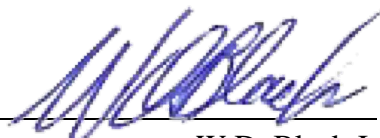
[40] I also approve the WEPPA declaration within the Ancillary Relief Order, in that it will assist the modest number of employees whose employment has been or will be terminated to access termination and severance pay.

[41] I agree that the Monitor's powers should be expanded in the fashion contemplated by the Ancillary Relief Order. Given the planned resignation of directors and officers, it will be important for the Monitor to have the necessary powers to, among other things, wind down the CCAA proceedings and assign or cause any of the Remaining Applicants to be assigned into bankruptcy.

[42] It is also appropriate that the Ancillary Relief Order authorize the Applicants and the Monitor to make the distributions contemplated from the net proceeds resulting from the closing of the Transaction, and I approve the proposed distributions.

[43] I am also approving the Monitor's activities and reports (including the most recent Fourth Report). I find that the Monitor's conduct and activities have been undertaken in good faith and to the benefit of all stakeholders.

[44] Finally, I also approve the Terminated Employee Fund Order. As noted, relatively few employees are expected to lose their positions, but for those who have, or will be terminated, I find that the Terminated Employee Fund is an appropriate mechanism.

  
\_\_\_\_\_  
W.D. Black J.

**DATE:** April 17, 2024



## SUPERIOR COURT OF JUSTICE

COUNSEL SLIP/ENDORSEMENT

COURT FILE NO.: CV-22-00682101-00CL DATE: 3 April 2023

NO. ON LIST: 1

TITLE OF PROCEEDING: **IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT INVOLVING MJARDIN GROUP, INC.,  
GROWFORCE HOLDINGS INC ., 8586985 CANADA  
CORPORATION AND HIGHGRADE MMJ CORPORATION  
UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED**

**PRICEWATERHOUSECOOPERS INC . v. MJARDIN GROUP,  
INC., et al**

BEFORE: **JUSTICE KIMMEL**

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Name of Person Appearing	Name of Party	Contact Info

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**ENDORSEMENT OF JUSTICE KIMMEL:****The Relief Sought and the Proposed Transactions**

1. KSV Restructuring Inc. ("KSV"), in its capacity as court-appointed monitor of the Respondents (the "Monitor"), MJardin Group, Inc. ("MGI"), Growforce Holdings Inc. ("Growforce Holdings"), 8586985 Canada Corporation ("858 Canada") and Highgrade MMJ Corporation ("Highgrade", and together with MGI, Growforce Holdings and 858 Canada, the "Debtors"), brings this motion for certain sale approvals and the termination of these CCAA proceedings. In particular, the Monitor seeks the following orders:
  - a. An approval and vesting order and related relief ("Approval and Vesting Order") with respect to the transaction agreement dated March 28, 2023 (the "Residual Transaction Agreement") between (i) MGI and Growforce Holdings, as vendors (together, the "Vendors"), and (ii) Bridging Finance Inc. ("BFI"), as agent for certain affiliated investment funds, as purchaser, and the transactions contemplated thereby involving certain equity interests held by the Debtors and other residual assets, including litigation claims (the "Proposed Residual Transaction");
  - b. A reverse vesting order and related relief ("Approval and Reverse Vesting Order") approving the transaction agreement dated March 28, 2023 (the "Reverse Vesting Transaction Agreement") among (i) Growforce Holdings, 858 Canada and Highgrade (the "MJar 2.0 Companies"), (ii) 14881729 Canada Inc. (the "Reverse Vesting Transaction Purchaser"), as purchaser, and (iii) BFI, as agent for certain affiliated investment funds, and the transactions contemplated thereby (the "Proposed Reverse Vesting Transaction" and, together with the Proposed Residual Transaction, the "Proposed Transactions"), and authorizing the MJar 2.0 Companies to execute the Reverse Vesting Transaction Agreement and complete the Proposed Reverse Vesting Transaction involving the Debtors' core cannabis Cultivation Operations; and
  - c. If the proposed Approval and Vesting Order and the proposed Approval and Reverse Vesting Order are both granted, an Order (the "CCAA Termination Order"):
    - i. extending the Stay Period (as defined in the Amended and Restated Initial Order of this Court effective June 2, 2022 (the "ARIO")) to the CCAA Termination Time;
    - ii. approving the Monitor's Seventh Report dated March 29, 2023, and the activities of the Monitor and the fees and disbursements of the Monitor and its counsel described in such report and the supporting fee affidavits;
    - iii. authorizing the issuance of the Monitor's Transaction Certificates and the completion of any other matters necessary to complete these CCAA proceedings as determined by the Monitor;

- iv. terminating the CCAA proceedings and discharging the Monitor;
  - v. authorizing MGI and ResidualCo to make an assignment into bankruptcy on or after the CCAA Termination Time, and authorizing the Monitor and the CRO to execute and file any assignment in bankruptcy and related documents.
2. Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Monitor's Seventh Report.
  3. The purchaser in each transaction is the Debtors' senior secured creditor, BFI (or an affiliate thereof), and the consideration under the Transactions consists primarily of a credit bid and release of a portion of the significant secured indebtedness owed to BFI (which now exceeds \$200 million, including pre-CCAA debt of in excess of \$150 million). This is a creditor, rather than debtor, driven CCAA.
  4. The reverse vesting structure of the MJar 2.0 Transaction enables the Health Canada Licenses critical to the continuation of the Cultivation Operations to remain with 858 and Highgrade, thereby preserving the Health Canada Licenses, while also facilitating the vesting out of excluded assets and liabilities to ResidualCo.
  5. The Proposed Transactions are being presented for approval following completion of the SISP that was approved by an order of this court dated November 4, 2022. The SISP generated limited interest and did not produce any bids. The Monitor and the Debtors, in consultation with PricewaterhouseCoopers Inc., in its capacity as Court- appointed receiver and manager (the "Bridging Receiver"), terminated the SISP and proceeded to explore a potential credit bid to acquire most of the Debtors' assets. This was put on hold briefly to explore an unsolicited expression of interest ("EOI") that was received by the Monitor after the SISP was terminated, but ultimately it was determined that the EOI would not lead to a viable transaction that would be better for the other stakeholders or acceptable to BFI.
  6. The Monitor and the Bridging Receiver recommend the Proposed Transactions, which are presented as the best option overall for the stakeholders, and the only option aside from a bankruptcy. The DIP Facilities are almost fully drawn and the DIP Lender is not prepared to continue to fund the Debtors' business and operations, absent the Proposed Transactions being approved and implemented in the near term. Accordingly, the Transactions represent the best (and only) viable alternative to a wind-down and liquidation of the Debtors' business and assets.
  7. The Proposed Transactions hold out the prospect of some benefit for the senior secured lender BFI, and some continuing employees, customers and suppliers of the core cannabis Cultivation Operations that will continue. When considered against the alternative of a bankruptcy, the Proposed Transactions are neutral for most other stakeholders, except a small group of terminated employees.
  8. The Monitor notes that if these Debtors were bankrupted, certain former employees would likely be entitled to payments under the *Wage Earner Protection Program Act*, SC 2005, c. 47, s. 1 ("WEPPA"), up to a maximum of approximately \$8,278 per former employee. As each of the aforementioned Debtors will be reverse vested and will emerge from the CCAA proceedings, they will not be bankrupted and WEPPA will not be triggered. The Monitor believes that this negative impact of the RVO structure for former employees must be balanced against the competing positive benefits outlined above, including preserving the employment of the Debtors' continuing employees.
  9. The motion record for this motion was served on the service list. Counsel for the Monitor and the Bridging Receiver are confident that all affected stakeholders have been made aware of the motion

and the relief sought. In addition to service upon identified stakeholders, the fact of this motion and relief being sought were publicized by way of press release.

10. Stakeholders whose claims will be impacted by the Proposed Transactions and the approval orders sought, such as: Canada Revenue Agency (“CRA”) for pre-filing HST and excise taxes, the landlord of the facility in which the Cultivation Operations will continue, a subordinated mortgagee of a property that has been sold, former employees, minority shareholders of certain continuing companies whose shares will be cancelled, counter-parties to continuing contracts that are being assumed who had pre-filing claims (that are not being assumed), and the insurance companies who hold director and officer liability insurance policies that may be subject to future claims in respect of pre-filing activities that are not being released, have all been specifically put on notice of this motion.
11. No stakeholder has communicated any objection, nor did any person appear at the hearing to express any objection or oppose the motion. This is said to be reflective of the economic realities of this case, in which BFI is the only true economic stakeholder.

Approval of the Proposed Transactions, the Approval and Vesting Order and Approval and Reverse Vesting Order

12. The steps that the Proposed Transactions will entail are described in detail in the Monitor’s Seventh Report and are to be implemented through the authorizations and approvals contemplated by the Approval and Vesting Order and Approval and Reverse Vesting Order. Counsel took the court through the provisions of each of these orders and has explained and justified the rationale and authority for each of them in both written and oral submissions.
13. The court was assured that the proposed orders do not contain any precedent setting relief in the CCAA and/or reverse vesting context. They are intended to implement the required mechanics of the transactions and provide the necessary protections for the parties that have supported the process that the Debtors have come, starting with a receivership, that was transitioned into a CCAA restructuring when it was determined that there was some aspect of the Debtors’ business that might be salvaged, the SISP and corresponding market check, and eventually culminating in the credit bid and Proposed Transactions for which the court’s approval is now sought.
14. The Monitor’s factum provides a detailed review and analysis of the court’s jurisdiction to grant the requested orders and the factors to be considered under s. 36 of the CCAA, which largely overlap with the factors enumerated in *Royal Bank v. Soundair Corp.* (1991), 83 DLR (4th) 76 (OCA), at para 16, as supplemented by the additional factors to be considered when authorizing a sale under the CCAA in the absence of a plan of arrangement. See *Nortel Networks Corporation (Re)* [2009] O.J No 3169, 55 CBR (51) 229, at para 49 and *Green Growth Brands Inc.*, 2020 ONSC 3565 at para. 61.
15. I am satisfied that the criteria specified in these authorities have been met.
16. There is also precedent for the court exercise its jurisdiction to authorize the implementation of a reverse vesting transaction, such as the MJar 2.0 Transaction, particularly in circumstances such as this case involving continuing operations that depend upon Health Canada Licences . See, for example: *Re Green Relief Inc.*, 2020 ONSC 6837; *Hydrx Farms Ltd.*, Reverse Vesting Order granted November 23, 2021, Court File No. CV-21-00659187-00CL (ONSC); *Wayland Group Corp.* Reverse Vesting Order granted April 21, 2020, Court File No. CV-19-00632079-00CL (ONSC); *Beleave Inc.*, Reverse Vesting Order granted September 18, 2020, Court File No. CV-20-00642097-00CL (ONSC), citing: *Re Stornaway*

*Diamond Corporation et al*, Court File No. 500-11-057094-191

(<https://www.insolvencies.deloitte.ca/en>) and *Re Wayland Group Corp, et al*, Court File No. CV-19-00632079-CL ([https://pwc.com/ca/en/car/wayland/assets/wayland-094\\_042120](https://pwc.com/ca/en/car/wayland/assets/wayland-094_042120)).

17. A reverse vesting transaction, such as is proposed in this case, that would allow the purchaser to maintain operations and use of the cannabis licenses and provide for continued employment for a significant proportion of employees was held in *Beleave* (at para. 3) to satisfy both s. 36(3) of the CCAA and the *Soundair* test. The preservation of jobs and customer and supplier relationships in this case outweighs the acknowledged negative effects for the former employees who will not receive WEPPA benefits.
18. The MJar 2.0 Transaction also meets the added criteria for a reverse vesting transaction that were delineated by this court in *Harte Gold Corp (Re)*, 2022 ONSC 653 at paras 36-38, for the reasons outlined in detail in the Monitor's factum.
19. The authority for the corporate implementation steps provided is grounded in ss. 173 and 191 of the *Canada Business Corporations Act*, R.S.C., 1985, c. C-44. 1. In the circumstances of this case where shareholders have no real economic interest, a shareholder vote is not required. See 37 CBCA, s. 191(7); *Harte Gold* at paras 63 and 64; CCAA, s. 36(1).
20. The factors relevant to the approval of releases in CCAA proceedings as set out in *Lydian International Limited (Re)* 2020 ONSC 4006 at para 54, are present and the releases and related provisions contained in the Approval and Reverse Vesting Order are aligned with what is customarily provided for, including in CCAA orders outside of a plan of arrangement and in the context of a court approved restructuring. See also, *Green Relief* at para 27; *Blackrock* at para 128; *Harte Gold* at para 79. The release language contains the required carve-outs under s. 5.1(2) of the CCAA and for fraud, gross negligence, or willful misconduct of the Released Parties.

#### Approval of the CCAA Termination Order

21. The Court may grant an Order terminating proceedings under the CCAA and discharging the Monitor appointed in the proceedings on terms similar to those sought in the proposed CCAA Termination Order.
22. I am satisfied that the approval of the Monitor's Seventh Report and the activities described therein is appropriate. The approval language is appropriately qualified in the order to limit reliance upon it to the Monitor. The fees of the Monitor and its counsel appear to be reasonable and have been appropriately supported by fee affidavits that set out the time and specific work that has been devoted to this case in which the Monitor has been a central player. The fee accruals are also appropriately supported.
23. The authority granted to the Monitor to make the contemplated bankruptcy filings is a necessary added power in the circumstances, where the remaining directors and officers will resign upon the closing of the Proposed Transactions (currently targeted for mid-April, 2023) and the bankruptcy filing is contemplated to occur after that.
24. The stay extension provided for has been requested in good faith and there has been no identified prejudice to any party. I am satisfied that it is appropriate in this case for it to be tied to the filing of the Monitor's Certificate after the closing of the Proposed Transactions, rather than set to end on a specified date, so as to provide the flexibility to the Monitor to address any loose ends after closing

without having to spend time and money to come back to court for a further extension of the stay; this is based on the undertaking provided on behalf of the Monitor (and practical reality) that if for some reasons the Proposed Transactions do not close, the parties will be back before the court seeking other relief, in the context of which the stay extension will be further considered.

Final Disposition

25. Orders (Approval and Vesting Order, Approval and Reverse Vesting Order and CCAA Termination Order) to go in the forms signed by me today.

A handwritten signature in cursive script that reads "Kimmel J." with a period at the end.

KIMMEL J.

**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 1001270243 ONTARIO INC.**

Applicant

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

Proceeding commenced at  
Toronto

**SUPPLEMENTAL BOOK OF AUTHORITIES OF  
THE ATTORNEY GENERAL OF CANADA**

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