

**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 PROPOSED PLAN  
OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO  
GROWTHWORKS CANADIAN FUND LTD.

**MOTION RECORD OF THE APPLICANT  
(Motion to Extend Time for Annual General Meeting  
Returnable February 28, 2014)**

February 26, 2014

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**TAB 1**

Court File No.: [CV-13-10279-00CL](#)

**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 PROPOSED PLAN  
OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO  
GROWTHWORKS CANADIAN FUND LTD.  
(the "**APPLICANT**")

**NOTICE OF MOTION  
(Motion to Extend Time for Annual General Meeting  
Returnable February 28, 2014)**

The Applicant will make a motion before a judge of the Ontario Superior Court of Justice (Commercial List) on Friday, February 28, 2014 at 10:00 a.m. or as soon after that time as the motion can be heard at 330 University Avenue, in the City of Toronto.

**THE MOTION IS FOR:**

- (a) an order validating service of the notice of motion and motion materials in the manner described in the affidavit of C. Ian Ross sworn February 26, 2014 (the "**Ross Affidavit**") and abridging the time for service, such that this motion is properly returnable on February 28, 2014;
- (b) an order extending the time for the Applicant to call an annual meeting of its shareholders until a date on or before October 31, 2014; and
- (c) such further and other relief as this Honourable Court considers just.

2. The grounds for the application are:

- (a) The Applicant is a labour-sponsored venture capital fund and a corporation incorporated under the *Canada Business Corporations Act* (the “**CBCA**”).
- (b) The Applicant is insolvent and has been under *Companies’ Creditors Arrangement Act* (the “**CCAA**”) protection since October 1, 2013 on which date the Initial Order of the Honourable Mr. Justice Newbould was granted (as amended and restated on October 29, 2013, the “**Initial Order**”).
- (c) Pursuant to subsection 133(b) of the CBCA, the Applicant must call an annual meeting of shareholders (“**AGM**”) no later than fifteen months after holding the last preceding annual meeting but no later than six months after the end of the Applicant’s preceding financial year.
- (d) The last AGM of the Applicant was held on February 19, 2013 and the Applicant’s last financial year ended on August 31, 2013, which means it is required to call the next AGM no later than February 28, 2014, unless an order is made under subsection 133(3) of the CBCA extending that time.
- (e) Within the CCAA proceedings, the Applicant has been completing a Sale and Investor Solicitation Process (“**SISP**”) and a claims process (the “**Claims Process**”), among other things. As a corporation subject to CCAA proceedings, the Applicant’s cash resources are tightly restricted and the Applicant is focused on the restructuring process, including the SISP and the Claims Process.

- (f) Holding an AGM is costly and, at present, there is no business to be put before the AGMs other than routine matters placed before the shareholders each year.
  - (g) Shareholders of the Applicant are kept apprised on a timely basis of material developments affecting the Fund through the issuance of press releases and other public disclosures, the posting of such press releases and disclosure documents on the System for Electronic Document Analysis and Retrieval (“**SEDAR**”), and by way of filings with the CCAA Court and posting of material on the website of the Court-appointed CCAA monitor.
  - (h) Postponing the meeting and voting on ordinary annual business as requested is unlikely to prejudice the shareholders of the Applicant.
  - (i) Accordingly, it is appropriate to grant an extension of the time for the holding of an AGM of the Applicant to a date on or before October 31, 2014, pursuant to subsection 133(3) of the CBCA.
  - (j) Notice of this application has been given in the most timely, practicable and cost-effective manner in the circumstances. Accordingly, pursuant to Rules 3.02 and 16.08 it is appropriate to validate service in the manner effected and to abridge the time for service.
  - (k) The Applicant will also rely on such further and other grounds as counsel may advise and this Court permit.
3. The following documentary evidence will be used at the hearing of the application:
- (a) the Ross Affidavit; and

- (b) such further and other evidence as counsel may advise and this Honourable Court permit.

February 26, 2014

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

Court File No: [CV-13-10279-00CL](#)

**ONTARIO  
SUPERIOR COURT OF JUSTICE -  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**NOTICE OF MOTION**  
(MOTION TO EXTEND TIME FOR ANNUAL GENERAL  
MEETING RETURNABLE FEBRUARY 28, 2014)

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**TAB 2**

**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 PROPOSED PLAN  
OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO  
GROWTHWORKS CANADIAN FUND LTD.  
(the "APPLICANT")

**AFFIDAVIT OF C. IAN ROSS,  
Sworn February 26, 2014  
(Motion to Extend Time for Annual General Meeting)**

I, C. Ian Ross, of the Town of The Blue Mountains, in the Province of Ontario, MAKE OATH AND SAY:

1. I am the Chairman of GrowthWorks Canadian Fund Ltd. (the "**Fund**" or the "**Applicant**"), the Applicant in these proceedings. I am a director of the Fund and interim chief executive officer of the Fund, in which role I am responsible for the daily operations of the Fund, acting under the oversight of a special committee of the Fund's Board of Directors. As such, I have personal knowledge of the facts to which I depose, except where I have indicated that I have obtained facts from other sources, in which case I believe those facts to be true.

2. I have sworn a series of affidavits in these *Companies Creditors' Arrangement Act* ("**CCAA**") proceedings, including an affidavit on September 30, 2013 in support of the initial application of the Fund pursuant to the CCAA, which I shall refer to herein as my "**Initial Affidavit**". Capitalized terms contained but not defined herein, have the meanings provided in my Initial Affidavit.

3. I swear this affidavit in support of a motion for the following relief, and for no other or improper purpose:

- (a) an order validating service of the notice of motion and motion materials in the manner described herein and abridging the time for service, such that this motion is properly returnable on February 28, 2014;
- (b) an order extending the time for the Fund to call an annual meeting of its shareholders to a date on or before October 31, 2014; and
- (c) such further and other relief as this Honourable Court considers just.

#### **BACKGROUND AND CCAA PROCEEDINGS**

4. The Fund is a labour-sponsored venture capital fund with a diversified portfolio of investments in small and medium-sized Canadian businesses, and a corporation incorporated under the *Canada Business Corporations Act* (the “**CBCA**”).

5. The Fund is insolvent. In the face of a series of challenges described in my Initial Affidavit, the Fund sought and received Court protection pursuant to the CCAA in the form of an initial order of the Honourable Mr. Justice Newbould dated October 1, 2013, which was amended and restated on October 29, 2013 by the Honourable Justice Mesbur (as amended and restated, the “**Initial Order**”).

6. On November 18, 2013, the Honourable Mr. Justice Morawetz granted an order approving a Sale and Investor Solicitation Process (the “**SISP**”). The purpose of the SISP was to canvass the market to solicit interest in purchasing or investing in the Fund’s business and property. The deadline for bids in “Phase 2” of the SISP was February 3, 2014. The Fund, with the assistance of

FTI Consulting Canada Inc. in its capacity as Court-appointed monitor (the “**Monitor**”) is presently assessing the outcome of the SISP and next steps in the restructuring process.

7. On January 9, 2014, the Honourable Mr. Justice McEwen granted an order approving a claims procedure to identify, determine and resolve claims of creditors of the Fund (the “**Claims Order**”). The claims bar date set out in the Claims Order is March 6, 2014.

### **SHAREHOLDERS OF THE FUND**

8. The authorized capital of the Fund is explained in detail at paragraphs 40-49 of my Initial Affidavit. In brief, the authorized capital of the Fund consists of Class A Shares, Class B Shares and Class C Shares:

- (a) There are currently approximately 30,630,098.8815 Class A Shares outstanding, all of which are held by individuals or registered plans established for the benefit of individuals. The Class A Shares are not listed or quoted on any stock-exchange or over-the-counter market and no market exists through which holders of Class A Shares may be sold. As a practical matter, Class A shareholders rely on redemptions to dispose of their Class A shares in the Fund.
- (b) The Class B Shares are all held by the Canadian Federation of Labour, the Fund’s labour sponsor and are of nominal value.
- (c) The Class C Shares are all issued to the former manager of the Fund and have various restrictions including that, except as required by law, the holder is not entitled to vote.

9. The Fund ceased offering Class A Shares for sale to the public on September 30, 2011. Redemptions of Class A Shares were closed in the fall of 2011 in order to preserve the Fund's capital resources and to comply with CBCA requirements.

10. The Fund currently has approximately 92,000 individual Class A shareholders.

#### **TIME FOR ANNUAL GENERAL MEETING SHOULD BE EXTENDED**

11. Pursuant to subsection 133(b) of the CBCA, the Applicant must call an annual meeting of shareholders ("AGM") no later than fifteen months after holding the last preceding annual meeting but no later than six months after the end of the Applicant's preceding financial year.

12. The Fund last held an AGM on February 19, 2013 and the Applicant's last financial year ended on August 31, 2013, which means it is required to call the next AGM no later than February 28, 2014, unless an order is made under subsection 133(3) of the CBCA extending that time.

13. The cost to the Fund associated with the holding of a meeting of its shareholders, including printing and mailing costs, is approximately \$220,000.

14. In order to reduce the Fund's expenses and permit the Fund and its management to focus on the CCAA process, including the SISP and claims process, the Fund is of the view that it would be appropriate, subject to the approval of this Court, to postpone the calling of the AGM to a date no later on or before October 31, 2014 at which time the Fund expects to have greater clarity regarding its restructuring process.

15. For the reasons that follow, I do not believe that the shareholders of the Fund will suffer any prejudice should the calling of the AGM be so postponed:

- (a) There is no business to be put before the AGM other than the usual matters of placing financial statements before shareholders, election of auditors and election of directors. The unaudited annual financial statements of the Fund for the year ended August 31, 2013 were attached to my Initial Affidavit as Exhibit “N”. An audit cannot be completed at this time because of issues arising in and related to the CCAA proceedings;
- (b) Shareholders of the Fund are kept apprised on a timely basis of material developments affecting the Fund through the issuance of press releases and other public disclosures, the posting of such press releases and disclosure documents on the System for Electronic Document Analysis and Retrieval (“**SEDAR**”), and by way of filings with the CCAA Court and posting of material on the website of the Monitor; and,
- (c) If there are further material developments before the holding of the AGM, disclosure will be made in accordance with applicable securities laws and the CCAA.

16. As a corporation subject to CCAA proceedings, the Applicant’s cash resources are tightly restricted and the Applicant is focused on the restructuring process and the management of its portfolio for the benefit of all of its stakeholders in accordance with the priority of their claims. Holding an AGM is costly and in circumstances in which there are no matters to be addressed at the AGM other than routine matters addressed each year and in which material information has been disclosed publicly by other means, the Fund is of the view that its resources and the time spent by its management and advisors is better spent focusing on the restructuring process at this time.

**SERVICE OF THIS MOTION**

17. Given the amount of available time and the cost of doing so, it would not be practicable or cost-efficient to mail copies of the motion record in this matter to the approximately 92,000 holders of shares of the Fund. Accordingly, we intend to give notice of this application by the following means:

- (a) issuing a press release (substantially in the form attached to this Affidavit as **Exhibit “A”**) advising of the intention to bring this motion, together with the hearing date and location; and, filing the press release with applicable Canadian securities regulatory authorities, which will result in the press release being posted on SEDAR. Accordingly, notice of this application will be available to the public and to securities markets;
- (b) posting on the Monitor’s website (<http://cfcanada.fticonsulting.com/GCFL/>) (i) the Motion Record for this motion, including the Notice of Motion and this Affidavit; (ii) the factum in support of this motion; and (iii) the brief of authorities in support of this motion. In this way, anyone seeking the court materials in respect of this application will be able to access the complete set of materials the Fund is placing before the Court; and,
- (c) serving the motion record electronically on the service list in these CCAA proceedings.

18. In the view of the Fund, the process summarized in the preceding paragraph is the most cost-effective and practical method of getting notice of this motion to shareholders.



19. In addition, should the order sought be rendered by this Court, the Fund will diligently publish a press release, in substantially the same form as the press release attached to this Affidavit as **Exhibit "B"**.

**Previous application to extend the time for the 2011 and 2012 AGM**

20. In the interest of full disclosure, I want the Court to be aware that the Fund also sought and obtained an order extending the time for its AGM in 2011 and 2012, although for different reasons. In 2011, the AGM was delayed as a result of a potential merger transaction that would have required shareholder approval at a special meeting. In 2012, the AGM was delayed as a result of a proposal to the British Columbia Securities Commission regarding redemptions of Class A shares in which there was a possibility that conditions would be attached that required approval by shareholders of the Fund.


SWORN BEFORE ME at the City of  
Toronto in the Province of Ontario on  
February 26, 2014.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits



\_\_\_\_\_  
**C. Ian Ross**



This is Exhibit "A" referred to in the  
affidavit of C. IAN ROSS  
sworn before me, this 26<sup>th</sup>  
day of FEBRUARY 2014  
  
A COMMISSIONER FOR TAKING AFFIDAVITS

## **GrowthWorks Canadian Fund Ltd. Applies to Extend Time for Annual General Meeting**

Toronto – February 26, 2014 – GrowthWorks Canadian Fund Ltd. (the “Fund”) today announced that it is seeking an order pursuant to section 133(b) of the *Canada Business Corporations Act* extending the time for the Fund to call the next annual meeting of its shareholders to a date on or before October 31, 2014. The motion is scheduled to be heard before a judge of the Ontario Superior Court of Justice, Commercial List on Friday, February 28, 2014 at 10:00 a.m., at 330 University Avenue, Toronto, Ontario.

In support of the motion, the Fund will today file with the Court the following materials (the “**Court Materials**”): a Motion Record, containing the Notice of Motion, the Affidavit of C. Ian Ross, sworn February 26, 2014 and a draft Order; a Factum; and, a Brief of Authorities.

The Court material, together with details relating to the Fund’s *Companies’ Creditors Arrangement Act* (“CCAA”) Proceedings, will be posted on the website of the Court-appointed monitor in the Fund’s CCAA Proceedings at <http://cfcanada.fticonsulting.com/GCFL/>.

### **Forward-Looking Information**

This press release contains forward looking statements, including statements with respect to the CCAA Proceedings. These forward-looking statements reflect the Fund’s current views and are based on certain assumptions, including assumptions as to future operating conditions and courses of action, sale or refinancing alternatives, economic conditions and other factors the Fund believes are appropriate. Such forward looking statements are subject to risks and uncertainties that may cause actual results to differ materially from those contained in these statements, including the risk that a disposition of the Fund’s portfolio investments or refinancing or other strategic alternatives may not be available on terms acceptable to the Fund, or at all, or that any such disposition or other strategic alternative would yield proceeds sufficient to satisfy in full the Fund’s payment obligations to Roseway Capital S.a.r.l., the Fund’s other creditors or any distribution to the Fund’s shareholders; the risk that litigation or defence proceedings involving claims by the former manager of the Fund or other third parties against the Fund may involve substantial expense and, if successful, could require the Fund to pay substantial damages; and those risks and uncertainties disclosed in the Fund’s most recently filed prospectus and other regulatory filings posted on SEDAR at [www.sedar.com](http://www.sedar.com). These risks and uncertainties may cause actual results, events or developments to be materially different from those expressed or implied by such forward-looking statements. Unless required by law, the Fund does not assume any obligation to update any forward-looking statements, whether as a result of new information, future events or results or other factors.


### **Contact Information**

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This is Exhibit "B" referred to in the  
affidavit of C. IAN ROSS 15  
sworn before me, this 26<sup>th</sup>  
day of FEBRUARY 2014  
  
A COMMISSIONER FOR TAKING AFFIDAVITS



## **GrowthWorks Canadian Fund Ltd. Postpones Annual General Meeting Date**

Toronto –February 28, 2014 – GrowthWorks Canadian Fund Ltd. (the “Fund”) today announced that it obtained an order pursuant to section 133(b) of the *Canada Business Corporations Act* extending the time for the Fund to call the next annual meeting of its shareholders to a date on or before October 31, 2014.

Further details regarding this order and the Fund’s *Companies’ Creditors Arrangement Act* (“CCAA”) Proceedings may be found on the website of the Court-appointed monitor in the Fund’s CCAA Proceedings at <http://cfcanada.fticonsulting.com/GCFL/>.

### **Forward-Looking Information**

This press release contains forward looking statements, including statements with respect to the CCAA Proceedings. These forward-looking statements reflect the Fund’s current views and are based on certain assumptions, including assumptions as to future operating conditions and courses of action, sale or refinancing alternatives, economic conditions and other factors the Fund believes are appropriate. Such forward looking statements are subject to risks and uncertainties that may cause actual results to differ materially from those contained in these statements, including the risk that a disposition of the Fund’s portfolio investments or refinancing or other strategic alternatives may not be available on terms acceptable to the Fund, or at all, or that any such disposition or other strategic alternative would yield proceeds sufficient to satisfy in full the Fund’s payment obligations to Roseway Capital S.a.r.l., the Fund’s other creditors or any distribution to the Fund’s shareholders; the risk that litigation or defence proceedings involving claims by the former manager of the Fund or other third parties against the Fund may involve substantial expense and, if successful, could require the Fund to pay substantial damages; and those risks and uncertainties disclosed in the Fund’s most recently filed prospectus and other regulatory filings posted on SEDAR at [www.sedar.com](http://www.sedar.com). These risks and uncertainties may cause actual results, events or developments to be materially different from those expressed or implied by such forward-looking statements. Unless required by law, the Fund does not assume any obligation to update any forward-looking statements, whether as a result of new information, future events or results or other factors.

### **Contact Information**

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**ONTARIO  
SUPERIOR COURT OF JUSTICE -  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**AFFIDAVIT OF C. IAN ROSS  
(Re: Motion to Extend Time for  
Annual General Meeting)  
(sworn February 26, 2014)**

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**TAB 3**

Court File No.: [CV-13-10279-OOCL](#)

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

THE HONOURABLE MR ) FRIDAY, THE 28<sup>TH</sup>  
) )  
JUSTICE BROWN ) DAY OF FEBRUARY, 2014

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

AND IN THE MATTER OF A PROPOSED PLAN  
OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO  
GROWTHWORKS CANADIAN FUND LTD.  
(the "**APPLICANT**")

**ORDER**

THIS MOTION, made by the Applicant, for an order extending the time for the Applicant to call an annual general meeting of its shareholders to a date on or before October 31, 2014 and validating service of the notice of motion and motion materials in the manner described in the affidavit of C. Ian Ross sworn February 26, 2014 and the Exhibits thereto (the "**Ross Affidavit**") and abridging the time for service, such that this motion is properly returnable today, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Ross Affidavit and on hearing the submissions of counsel for the Applicant and counsel for the Monitor, no one appearing for any other party,

**SERVICE**

1. **THIS COURT ORDERS** that service of the notice of motion and motion materials in the manner described in the Ross Affidavit is validated and that the time for service is abridged, such that this application is properly returnable today.

**EXTENSION OF TIME FOR ANNUAL GENERAL MEETING**

2. THIS COURT ORDERS that the time for the Applicant to call an annual general meeting of its shareholders is extended until and including October 31, 2014.

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

Court File No: [CV-13-10279-OOCL](#)

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

Proceeding commenced at Toronto

**ORDER  
(EXTENSION OF TIME FOR ANNUAL  
GENERAL MEETING)**

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IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c.  
C-36, AS AMENDED AND IN THE MATTER OF A PROPOSED PLAN OF COMPROMISE  
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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(Commercial List)**

Proceeding Commenced at Toronto

**MOTION RECORD OF THE APPLICANT  
(Motion to Extend Time for  
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