

**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
**CHESSWOOD GROUP LIMITED, CASE FUNDING INC., CHESSWOOD HOLDINGS
LTD., CHESSWOOD US ACQUISITIONCO LTD., LEASE-WIN LIMITED, WINDSET
CAPITAL CORPORATION, CHESSWOOD CAPITAL MANAGEMENT INC.,
CHESSWOOD CAPITAL MANAGEMENT USA INC., 942328 ALBERTA INC.,
908696 ALBERTA INC., WAYPOINT INVESTMENT PARTNERS INC.,
1000390232 ONTARIO INC. and CGL HOLDCO, LLC**

**FACTUM OF THE MONITOR
(STAY EXTENSION AND ANCILLARY RELIEF ORDER)**

April 30, 2025

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PART I - NATURE OF THE MOTION

1. On October 29, 2024, this Court made an order (the “**Initial Order**”) (as amended and restated, the “**ARIO**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the “**CCAA**”) in respect of the CCAA Parties.¹ The Initial Order resulted from an application brought by Royal Bank of Canada, in its capacity as administrative agent and as collateral agent (in such capacity, the “**Pre-Filing Agent**”) to the lenders (the “**Pre-Filing Lenders**”) under a second amended and restated credit agreement dated as of January 14, 2022, as amended (the “**Existing Credit Agreement**”).

2. Pursuant to the Initial Order, FTI Consulting Canada Inc. (“**FTI**”) was appointed as monitor of the CCAA Parties (in such capacity, the “**Monitor**”) and granted expanded powers to conduct and control the financial affairs and operations of the CCAA Parties.

3. Since the Initial Order, the Monitor has undertaken an expansive mandate, working consistently to carry on the business of the CCAA Parties while pursuing potential transactions in search of a value-maximizing resolution to these CCAA proceedings. Its efforts have yielded results, including an asset sale by the Rifco Entities and a share sale of Pawnee and Tandem, approved by this Court on January 29, 2025 and March 7, 2025, respectively.

¹ The “**CCAA Parties**” are comprised of Chesswood Group Limited (“**Chesswood**”), Case Funding Inc., Chesswood Holdings Ltd., Chesswood US Acquisitionco Ltd. (the “**Pawnee Vendor**”), Lease-Win Limited, Windset Capital Corporation, Chesswood Capital Management Inc., Chesswood Capital Management USA Inc., 942328 Alberta Inc. (formerly Rifco National Auto Finance Corporation) (“**Rifco**”), 908696 Alberta Inc. (formerly Rifco Inc.) (together with Rifco, the “**Rifco Entities**”), Waypoint Investment Partners Inc., 1000390232 Ontario Inc., and CGL Holdco, LLC (“**ResidualCo**”). The Initial Order applied to two additional entities, Pawnee Leasing Corporation (“**Pawnee**”) and Tandem Finance Inc. (“**Tandem**”), and did not include ResidualCo. Following the Pawnee RVO (as defined below), Pawnee and Tandem were removed from and ResidualCo was added to these CCAA proceedings.

4. The Monitor seeks an order (the “**Third Stay Extension Order**”):
 - (a) extending the Stay Period (as defined in the ARIO) until and including June 16, 2025;
 - (b) approving the pre-filing report of FTI dated October 29, 2024, the first report of the Monitor dated November 6, 2024, the second report of the Monitor dated December 14, 2024, the third report of the Monitor dated January 23, 2025, the fourth report of the Monitor dated February 28, 2025 (the “**Fourth Report**”), and the fifth report of the Monitor dated April 25, 2025 (the “**Fifth Report**” and all together, the “**Reports**”), and the activities, conduct and decisions of FTI and the Monitor set out therein; and
 - (c) approving the fees and disbursements of the Monitor and its counsel, Osler, Hoskin & Harcourt LLP (“**Osler**”), for the period of October 29, 2024 to February 28, 2025.
5. Extending the Stay Period is necessary and appropriate to permit the Monitor to complete post-closing matters in connection with the Pawnee Transaction (as defined below), pursue potential transactions for the CCAA Parties’ remaining assets, and advance the CCAA proceedings toward a wind-down. The CCAA Parties, under the supervision of the Monitor, have acted in good faith and with due diligence throughout these proceedings.
6. Approving the Reports and activities of the Monitor, along with the fees and disbursements of the Monitor and its counsel, is fair and reasonable in the circumstances.

PART II - THE FACTS

A. Background

7. The CCAA Parties' business provides loans to small businesses and consumers across Canada and the United States, focusing on equipment, vehicle, and legal financing.² The CCAA Parties ultimately suffered an impending liquidity crisis caused by several continuing defaults under the Existing Credit Agreement.³

8. This Court accordingly granted the Initial Order on October 29, 2024 on an application by the Pre-Filing Agent.⁴ The Initial Order also approved the DIP financing principal terms sheet dated October 29, 2024 (the "**DIP Term Sheet**") between Chesswood, as borrower, the other entities in the Chesswood Group, as guarantors, Royal Bank of Canada, as administrative and collateral agent (the "**DIP Agent**"), and the lenders thereunder (the "**DIP Lenders**"), and authorizing borrowings under a secured super-priority credit facility established thereunder (the "**DIP Facility**").⁵

9. On October 30, 2024, the Monitor, in its capacity as foreign representative, commenced proceedings (the "**Chapter 15 Proceedings**") under chapter 15 of title 11 of the United States Code for each of the CCAA Parties with the U.S. Bankruptcy Court for the District of Delaware (the "**U.S. Court**").⁶

² The background to these proceedings is set out more fully in the Fifth Report at paras. 1-12, 20-23. Unless otherwise specified, capitalized terms in this factum have the same meaning as in the Fifth Report.

³ Fifth Report at para. 12.

⁴ Fifth Report at para. 1.

⁵ Fifth Report at para. 2.

⁶ Fifth Report at para. 3. The U.S. Court subsequently entered orders on October 31, 2024 and November 25, 2024: Fifth Report at paras. 3, 5.

10. On November 7, 2024, this Court issued the ARIO, which extended the Stay Period until January 31, 2025, and increased the permitted DIP Borrowings (as defined in the ARIO).⁷

11. On December 19, 2024, this Court issued an order (the “**SISP Approval Order**”) approving a sale and investment solicitation process (the “**SISP**”) in respect of the CCAA Parties (other than the Rifco Entities).⁸

12. On January 29, 2025, this Court issued orders approving the sale of certain assets by the Rifco Entities to Vault Auto Finance Corporation and extending the Stay Period until March 31, 2025.⁹

13. On March 7, 2025, the Court issued an order (the “**Pawnee RVO**”) approving the sale by the Pawnee Vendor of all of the issued and outstanding shares in the capital of Pawnee and Tandem to North Mill Equipment Finance, LLC through a reverse vesting transaction, and vesting certain retained assets and liabilities in ResidualCo (the “**Pawnee Transaction**”). That day, the Court also issued an order extending the Stay Period until May 2, 2025 (the “**Second Stay Extension Order**”).¹⁰

B. Update on the Pawnee Transaction

14. On April 1, 2025, the Pawnee Transaction closed, and the Monitor filed the Monitor’s certificate contemplated by the Pawnee RVO with the Court.¹¹

15. At closing, the Pawnee Vendor received total cash consideration of approximately US\$82.79 million (inclusive of the deposit) (the “**Pawnee Transaction Proceeds**”), which is

⁷ Fifth Report at para. 4.

⁸ Fifth Report at para. 6.

⁹ Fifth Report at paras. 8-9.

¹⁰ Fifth Report at paras. 10-11.

¹¹ Fifth Report at para. 21.

subject to further post-closing adjustments under the Pawnee SPA (as defined in the Fourth Report).¹² The Pawnee SPA and Pawnee RVO contemplate the distribution of the Pawnee Transaction Proceeds to the DIP Agent, for and on behalf of the DIP Lenders, as a mandatory repayment in accordance with the DIP Term Sheet and, as applicable, the Pre-Filing Agent, for and on behalf of the Pre-Filing Lenders.¹³

16. The Monitor, the DIP Agent and the DIP Lenders, and their respective counsel have been working to determine the appropriate means and processes for distribution, having regard to potential post-closing adjustments to the Pawnee Transaction Proceeds, potential tax implications associated with a distribution, and ensuring that the CCAA Parties have sufficient liquidity for the wind down of the CCAA Parties and the CCAA proceedings.¹⁴

C. Activities of the Monitor

17. Since the Fourth Report, the Monitor's activities have included:¹⁵

- (a) updating the Monitor's website as necessary, including posting copies of the Fourth Report, the Pawnee RVO, the Second Stay Extension Order, and other related documents;
- (b) assisting in activities related to the SISP in accordance with the SISP Approval Order, including completion of the Pawnee Transaction;
- (c) engaging with interested parties with respect to potential transactions related to the assets and businesses of the CCAA Parties;
- (d) issuing disclaimer notices pursuant to section 32 of the CCAA in respect of certain contracts of the Chesswood Group;

¹² Fifth Report at para. 22.

¹³ Fifth Report at para. 23.

¹⁴ Fifth Report at para. 23.

¹⁵ Fifth Report at para. 20.

- (e) monitoring the Monitor's email inbox and responding to enquiries;
- (f) participating in discussions with and assisting the CCAA Parties in discussions with employees, suppliers, creditors, other stakeholders, and other parties on matters related to the CCAA proceedings and responding to requests for information from certain such parties;
- (g) reviewing borrowings under the DIP Facility;
- (h) monitoring the receipts and disbursements of the CCAA Parties;
- (i) responding to enquiries from and participating in discussions with stakeholders;
- (j) assisting in the reporting to the DIP Lenders in accordance with the DIP Term Sheet;
- (k) engaging in discussions with the DIP Agent and the DIP Lenders and their legal counsel regarding the SISP and the DIP Facility;
- (l) engaging in discussions with the CCAA Parties and their legal counsel regarding termination of certain contracts; and
- (m) preparing the Fifth Report.

PART III - THE ISSUES

18. The issues to be considered on this motion are whether this Court should:
- (a) extend the Stay Period to June 16, 2025;
 - (b) approve the Report and activities of FTI and the Monitor; and
 - (c) approve the fees and disbursements of the Monitor and its counsel.

PART IV - THE LAW

A. The Stay Period should be extended

19. This Court is authorized to extend a CCAA stay pursuant to section 11.02(2) of the CCAA, provided that the two considerations outlined in subsection 11.02(3) are satisfied. These are: (a) circumstances exist that make the order appropriate; and (b) the applicant has acted, and is acting, in good faith and with due diligence. Both of the subsection 11.02(3) factors are satisfied here.

20. The current Stay Period will expire on May 2, 2025. The Monitor is seeking an extension of the Stay Period up to and including June 16, 2025. The stay extension is appropriate and necessary in the circumstances to provide breathing room and ongoing stability to the CCAA Parties while the Monitor attends to post-closing matters in connection with the Pawnee Transaction, works to monetize the CCAA Parties' remaining assets, and continues to advance the CCAA proceedings towards a wind-down.¹⁶

21. Since the filing of the Fifth Report,¹⁷ the Monitor and the DIP Agent have continued their discussions regarding an extension of the Stay Period and amendments to the DIP Term Sheet. The DIP Agent has confirmed to the Monitor that the DIP Lenders will support an extension of the Stay Period to and including June 16, 2025, together with the related April 2025 Forecast and wind-down reserve, and an extension of the maturity of the DIP Term Sheet to the same date, subject to the execution of a satisfactory agreements with respect to terms for a future distribution of a portion of the Pawnee Transaction Proceeds (the "**Interim Distribution Agreement**") and an amendment to the DIP Term Sheet. The Monitor anticipates that the Interim Distribution Agreement and related amendment to the DIP Term Sheet will be reached prior to the hearing of

¹⁶ Fifth Report at paras. 26, 29(a).

¹⁷ Fifth Report at para. 27.

the motion and will provide the Court with a further status update on these matters at the attendance.¹⁸

22. The CCAA Parties, under the supervision of the Monitor, have acted in good faith and with due diligence since the commencement of the CCAA proceedings.¹⁹ The Monitor forecasts that the CCAA Parties will have sufficient liquidity to continue operating in the ordinary course of business during the requested extension of the Stay Period.²⁰ The Monitor believes that no creditor of the CCAA Parties would be materially prejudiced by the extension of the Stay Period.²¹

B. The Reports and activities of the Monitor should be approved

23. The Monitor seeks the approval of the actions, conduct and activities of FTI Consulting Canada Inc. in its capacity as Monitor, as described in the Reports.

24. This Court has noted that requests to approve a monitor's reports and activities are "not unusual," and there are "good policy and practical reasons" for the court to do so, including:²²

- (a) allowing the monitor to move forward with next steps in the CCAA proceeding;
- (b) allowing the monitor to bring its activities before the Court;
- (c) enabling the Court to satisfy itself that a monitor's activities have been conducted in a prudent and diligent manner;
- (d) providing protection for a monitor not otherwise provided by the CCAA; and
- (e) protecting creditors from delay that may be caused by re-litigation of steps.

¹⁸ Supplement to the fifth report of the Monitor, dated April 30, 2025 at para. 13.

¹⁹ Fifth Report at para. 29(e).

²⁰ Fifth Report at para. 29(b). An updated cash flow forecast for the period ending October 3, 2025 is attached as Appendix "A" to the Fifth Report.

²¹ Fifth Report at para. 29(c).

²² *Laurentian University of Sudbury*, [2022 ONSC 2927](#) at paras. 13-14, citing *Target Canada Co. (Re)*, [2015 ONSC 7574](#) at paras. 2, 12, 22.

25. The Monitor submits that the Reports, along with the applicable activities described therein, should be approved. The activities of the Monitor have been carried out in accordance with the orders of this Court, and the Monitor has acted reasonably and in good faith throughout.

C. The accounts of the Monitor and its counsel should be approved

26. The ARIO provides that the Monitor and its counsel, Osler, are to be paid their reasonable fees and disbursements at their standard rates and charges as part of the costs of the CCAA proceedings, and to pass their accounts from time to time before this Court.²³

27. In accordance with the ARIO, the Monitor seeks approval of the following fees and disbursements for the period of October 29, 2024 to February 28, 2025:

- (a) a total of \$5,210,914.41 for the Monitor's accounts, comprised of \$4,574,090.50 in fees, \$37,338.17 in expenses and disbursements, and \$599,485.74 in HST;²⁴ and
- (b) a total of \$1,854,594.82 for Osler's accounts, comprised of \$1,635,804.50 in fees, \$5,539.49 in expenses and disbursements and \$213,250.83 in HST.²⁵

28. In considering whether to approve fees and disbursements, a court has regard to the "overriding principle of reasonableness," and does not engage in a docket-by-docket or line-by-line assessment of the accounts.²⁶ The following factors assist a court in assessing the reasonableness of the Monitor's fees:²⁷

- (a) the nature, extent and value of the assets being handled;
- (b) the complications and difficulties encountered;
- (c) the degree of assistance provided by the company, its officers or its employees;

²³ Fifth Report at para. 31.

²⁴ Fifth Report at para. 34.

²⁵ Fifth Report at para. 36.

²⁶ *Nortel Networks Inc.*, [2022 ONSC 6680](#) at para. 10 [*Nortel*].

²⁷ *Nortel* at para. 11.

- (d) the time spent;
- (e) the Monitor's knowledge, experience and skill;
- (f) the diligence and thoroughness displayed;
- (g) the responsibilities assumed;
- (h) the results achieved; and
- (i) the cost of comparable services when performed in a prudent and economical manner.

29. The fees and disbursements are appropriate in light of the Monitor's expansive mandate and extensive involvement in all aspects of these CCAA proceedings. As the CCAA Parties' board of directors had resigned immediately prior to the CCAA proceedings, the Initial Order and ARIO granted the Monitor expanded powers to act on behalf of the CCAA Parties, control their financial affairs, carry on their business, and act as their foreign representative in the Chapter 15 Proceedings.²⁸

30. The Monitor's many significant contributions to these proceedings include:

- (a) administering the SISF in accordance with the SISF Approval Order, which featured the extensive marketing of several businesses in multiple jurisdictions, and included 49 non-disclosure agreements with resulting due diligence from each of the parties, 8 offers received by the bid deadline, and extensive negotiations in obtaining the Pawnee Transaction;
- (b) continuing to pursue potential transactions for the remaining assets after the SISF;

²⁸ Fifth Report at paras. 37-38.

- (c) participating and assisting the CCAA Parties in discussions with employees, suppliers, creditors, other stakeholders, and other parties on matters related to the CCAA proceedings;
- (d) reviewing borrowings under the DIP Facility and monitoring the receipts and disbursements of the CCAA Parties;
- (e) engaging in discussions with the DIP Agent and the DIP Lenders and their legal counsel regarding the SISP and the DIP Facility;
- (f) negotiating and closing the Rifco Transaction and the Pawnee Transaction;
- (g) engaging in discussions with the CCAA Parties and their legal counsel regarding termination of certain contracts; and
- (h) bringing several motions throughout pursuant to its expanded authority.²⁹

31. The fees and disbursements incurred by the Monitor and its counsel are reasonable in the circumstances and have been validly incurred in accordance with the provisions of the orders issued in these CCAA proceedings. Additionally, the Monitor believes that the hourly rates charged by its counsel are consistent with the rates charged by corporate law firms practicing in the area of corporate insolvency and restructuring law in Toronto.³⁰ This Court should therefore approve the fees and disbursements of the Monitor and its counsel.

²⁹ Fifth Report at paras. 38-39.

³⁰ Fifth Report at para. 40.

PART V - RELIEF REQUESTED

32. The Monitor requests that this Court grant the proposed Third Stay Extension Order.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 30th day of April, 2025.



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SCHEDULE "A"

LIST OF AUTHORITIES

1. *Laurentian University of Sudbury*, [2022 ONSC 2927](#)
2. *Nortel Networks Inc.*, [2022 ONSC 6680](#)
3. *Target Canada Co. (Re)*, [2015 ONSC 7574](#)

I certify that I am satisfied as to the authenticity of every authority.

Date April 30, 2025



Signature

SCHEDULE “B”
TEXT OF STATUTES, REGULATIONS & BY-LAWS

Companies’ Creditors Arrangement Act, R.S.C. 1985, c. C-36

Stays, etc. — other than initial application

11.02 (2) A court may, on an application in respect of a debtor company other than an initial application, make an order, on any terms that it may impose,

(a) staying, until otherwise ordered by the court, for any period that the court considers necessary, all proceedings taken or that might be taken in respect of the company under an Act referred to in paragraph (1)(a);

(b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and

(c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

Burden of proof on application

(3) The court shall not make the order unless

(a) the applicant satisfies the court that circumstances exist that make the order appropriate; and

(b) in the case of an order under subsection (2), the applicant also satisfies the court that the applicant has acted, and is acting, in good faith and with due diligence.

[...]

Disclaimer or resiliation of agreements

32 (1) Subject to subsections (2) and (3), a debtor company may — on notice given in the prescribed form and manner to the other parties to the agreement and the monitor — disclaim or resiliate any agreement to which the company is a party on the day on which proceedings commence under this Act. The company may not give notice unless the monitor approves the proposed disclaimer or resiliation.

Court may prohibit disclaimer or resiliation

(2) Within 15 days after the day on which the company gives notice under subsection (1), a party to the agreement may, on notice to the other parties to the agreement and the monitor, apply to a court for an order that the agreement is not to be disclaimed or resiliated.

Court-ordered disclaimer or resiliation

(3) If the monitor does not approve the proposed disclaimer or resiliation, the company may, on notice to the other parties to the agreement and the monitor, apply to a court for an order that the agreement be disclaimed or resiliated.

Factors to be considered

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

- (a) whether the monitor approved the proposed disclaimer or resiliation;
- (b) whether the disclaimer or resiliation would enhance the prospects of a viable compromise or arrangement being made in respect of the company; and
- (c) whether the disclaimer or resiliation would likely cause significant financial hardship to a party to the agreement.

Date of disclaimer or resiliation

(5) An agreement is disclaimed or resiliated

- (a) if no application is made under subsection (2), on the day that is 30 days after the day on which the company gives notice under subsection (1);
- (b) if the court dismisses the application made under subsection (2), on the day that is 30 days after the day on which the company gives notice under subsection (1) or on any later day fixed by the court; or
- (c) if the court orders that the agreement is disclaimed or resiliated under subsection (3), on the day that is 30 days after the day on which the company gives notice or on any later day fixed by the court.

Intellectual property

(6) If the company has granted a right to use intellectual property to a party to an agreement, the disclaimer or resiliation does not affect the party's right to use the intellectual property — including the party's right to enforce an exclusive use — during the term of the agreement, including any period for which the party extends the agreement as of right, as long as the party continues to perform its obligations under the agreement in relation to the use of the intellectual property.

Loss related to disclaimer or resiliation

(7) If an agreement is disclaimed or resiliated, a party to the agreement who suffers a loss in relation to the disclaimer or resiliation is considered to have a provable claim.

Reasons for disclaimer or resiliation

(8) A company shall, on request by a party to the agreement, provide in writing the reasons for the proposed disclaimer or resiliation within five days after the day on which the party requests them.

Exceptions

(9) This section does not apply in respect of

- (a)** an eligible financial contract;
- (b)** a collective agreement;
- (c)** a financing agreement if the company is the borrower; or
- (d)** a lease of real property or of an immovable if the company is the lessor.

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
CHESSWOOD GROUP LIMITED, et al.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

**FACTUM OF THE MONITOR
(Stay Extension and Ancillary Relief Order)**

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