

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

**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
BZAM LTD., BZAM HOLDINGS INC., BZAM MANAGEMENT INC., BZAM
CANNABIS CORP., FOLIUM LIFE SCIENCE INC., 102172093 SASKATCHEWAN
LTD., THE GREEN ORGANIC DUTCHMAN LTD., MEDICAN ORGANIC INC., HIGH
ROAD HOLDING CORP. and FINAL BELL CORP.**

Applicants

BRIEF OF ORDERS AND ENDORSEMENTS

September 9, 2024

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TAB 1



**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

ENDORSEMENT

COURT FILE NO.:

DATE: February 28, 2024

NO. ON LIST: 1 (4:30pm)

TITLE OF PROCEEDING:

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BZAM LTD., BZAM HOLDINGS INC., BZAM MANAGEMENT INC., BZAM CANNABIS CORP., FOLIUM LIFE SCIENCE INC., 102172093 SASKATCHEWAN LTD., THE GREEN ORGANIC DUTCHMAN LTD., MEDICAN ORGANIC INC., HIGH ROAD HOLDING CORP., AND FINAL BELL CORP.

BEFORE: JUSTICE OSBORNE

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ENDORSEMENT OF JUSTICE OSBORNE:

1. This is an Application for relief under the *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36 (the "CCAA") by BZAM Ltd. ("BZAM"), BZAM Holdings Inc., BZAM Management Inc., BZAM Cannabis Corp., Folium Life Science Inc., 102172093 Saskatchewan Ltd., The Green Organic Dutchman Ltd. ("TGOD"), Medican Organic Inc. , High Road Holding Corp., and Final Bell Corp. (collectively, the "Applicants" or the "Companies").
2. Following the hearing, I granted the initial order with reasons to follow. These are those reasons.
3. In particular, the Applicants seek:
 - a. a declaration that they are companies to which the CCAA applies;
 - b. the appointment of FTI Consulting Canada Inc. ("FTI") as Monitor;
 - c. the approval for TGOD to borrow up to a principal amount of \$2,400,000 by way of a debtor-in-possession ("DIP") credit facility (the "DIP Loan") to finance critical working capital requirements for the Applicants over the next 10 days;
 - d. a stay in effect for an initial period of not more than 10 days;
 - e. the extension of the benefit of the stay to the Non-Applicant Stay Parties (as defined in the materials) and their respective directors and officers;
 - f. relief from certain securities reporting obligations until further order of this Court; and

g. approval of the Administration Charge, the DIP Lender's Charge, the Edmonton Property Charge and the Directors' Charge (each as defined in the motion materials) in the priorities as set out in the motion materials.

4. BZAM is the ultimate parent company to several entities in the cannabis industry in Canada (collectively, the "Company"). It is a reporting issuer listed on the Canadian Securities Exchange, and its shares trade in the United States on the OTCQX.
5. The Company engages in the production, cultivation, processing and distribution of cannabis and cannabis related products.
6. The Applicants are insolvent. One of their cannabis licences is set to expire imminently. Absent protection under the CCAA, as well as access to the proposed DIP financing, the Applicants lack sufficient cash to meet their obligations as they come due, their liabilities exceed the value of their assets, and they will be forced to immediately cease operations.
7. The Applicants seek protection from their creditors while they continue as a going concern to allow time to explore various restructuring options and possibilities for the benefit of stakeholders. Those options will likely include, it is submitted, a Court-supervised sale and investor solicitation process ("SISP").
8. The relief sought by the Applicants today is fully supported by the senior secured creditor, the subordinate creditor, and is recommended by the Proposed Monitor. The Applicants submit that it is also limited to what is reasonably necessary to allow them to maintain the status quo and continue operations during the initial 10 day stay of proceedings.
9. With this context in mind, the issues on this Application are:
 - a. does the Court have jurisdiction to grant the relief requested under the CCAA and should a stay of proceedings be granted?
 - b. should the Court approve the DIP Loan?
 - c. should FTI be appointed as Monitor?
 - d. should the benefit of the stay be extended to the Non-Applicant Stay Parties?
 - e. should relief from the securities reporting obligation be granted? and
 - f. should the Charges be approved, and approved in the proposed priority?

Jurisdiction

10. The Applicants rely on the Affidavit of Matthew Milich sworn February 28, 2024 together with the exhibits thereto, and the Pre-filing Report of the Proposed Monitor dated February 28, 2024. Defined terms in this Endorsement have the meaning given to them in the Application materials unless otherwise indicated.
11. Each of the Applicants is incorporated under Canadian corporate statute. All of the non-BZAM Applicants are wholly-owned, directly or indirectly, by BZAM except for Folium Life and BZAM Cannabis, in respect of which BZAM Holdings is the majority shareholder as to 80% and 80.3%, respectively.
12. Five of the Applicants are licenced with Health Canada and operate cannabis facilities in Ontario, Alberta and British Columbia. 102 Saskatchewan leases a retail store in Saskatchewan.

13. The majority of the Company's business is conducted out of Ontario. Two cannabis facilities of the Applicants, including its largest facility, are located in Ontario and approximately 256 of the 441 employees of the Applicants are employed in Ontario.
14. The Company's senior secured creditor, Cortland Credit Lending Corp. ("Cortland") is also headquartered in Toronto.
15. The majority of BZAM's directors reside in Ontario, and its Chief Financial Officer and Chief Executive Officer divide their time between the Company's offices in Ontario and British Columbia.
16. The Non-Applicant Stay Parties include four directly or indirectly wholly-owned subsidiaries of BZAM: 9430-6347 Québec Inc. ("943 Québec"), a company incorporated under the QBCA; (ii) The Green Organic Beverage Corp. ("Green Organic"), a company based in Delaware; (iii) TGOD Europe B.V. ("TGOD Europe"), a company based in the Netherlands; and (iv) The Green Organic Dutchman Germany GmbH ("TGOD Germany"), a company based in Germany.
17. 943 Québec is a licensed entity with Health Canada operating out of a leased facility in Québec.
18. The evidence satisfies me that the Applicants are unable to meet their obligations as they become due. They have accrued payables in the ordinary course of business that they cannot meet and are unable to pay amounts owed to secured parties.
19. As at January 1, 2024, the Company had total consolidated assets with a book value of approximately \$95,711,080 and liabilities with a book value of approximately \$112,873,839. The Applicants anticipate having on hand only approximately \$1,848,000 in cash at the close of business today, with the result that they face an urgent liquidity crisis.
20. Secured financing has been provided by Cortland pursuant to a credit agreement entered into on March 31, 2020 between Cortland as Agent for the Lenders and TGOD as borrower. It has been amended and restated including as recently as January 8, 2024 (as amended, the "Credit Agreement").
21. Pursuant to the Credit Agreement, Cortland provided TGOD with an interest-bearing revolving credit facility totaling \$34 million. The guarantors under the Credit Agreement are TGOD, BZAM, Medican Organic, BZAM Holdings, BZAM Management, BZAM Cannabis, Folium Life, High Road and BZAM Labs (together, in such capacity, the "Cortland Obligor").
22. As of February 28, 2024, approximately \$31,919,208.84 of principal is owing together with interest of an additional \$362,916.21.
23. In addition, BZAM has entered into six (6) promissory notes (the "Stone Pine Promissory Notes") with Stone Pine Capital Ltd. ("Stone Pine"), an entity controlled by BZAM's largest shareholder and current Chairman. The Stone Pine Promissory Notes were all amended on January 4, 2024, to each be payable upon demand, provided that Stone Pine shall not be permitted to make a demand until the later of either: (i) the maturity date of the Cortland Credit Agreement; and (ii) March 31, 2025.
24. Contemporaneously with the execution of the Stone Pine Promissory Notes, BZAM and Stone Pine entered into general security agreements (the "Stone Pine GSAs") under which Stone Pine was granted security over all present and after-acquired property, assets and undertakings of BZAM. Additionally, BZAM, Stone Pine and Cortland entered into subordination and postponement agreements to subordinate the amounts loaned under the Stone Pine Promissory Notes to the amounts loaned under the Credit Agreement with Cortland.
25. As of February 28, 2024, approximately \$8,515,000 of principal is owing to Stone Pine, and approximately an additional \$509,755 of interest accrued month-to-date for a total amount owing of

with interest being calculated monthly and payable on the last day of each month. No interest has ever been paid on the Stone Pine Promissory Notes.

26. BZAM Cannabis entered into a \$5 million loan from for private lenders that is secured against the Edmonton Facility pursuant to a commitment letter dated May 19, 2021 as well as a general security agreement over all of the property of BZAM Cannabis and a corporate guarantee from BZAM Management.
27. In addition to the above, the Applicants have a number of unsecured obligations including a promissory note issued by BZAM to Final Bell Holdings International Inc. dated January 5, 2024 in the amount of \$8 million and employee liabilities including monthly aggregate payroll obligations of approximately \$2,344,764 related to both salaried and hourly employees. The Applicants also owe \$1,103,860 and accrued and unpaid vacation pay and another \$702,000 in unpaid bonuses.
28. The Applicants had accounts payable and accrued liabilities as at January 31, 2024 of approximately \$28,211,004, and CRA liabilities as at February 15, 2024 of approximately \$4,440,000 in excise tax arrears, \$2,650,000 in sales tax arrears, and a modest amount in respect of unremitted payroll deductions. BZAM Management and TGOD have entered into payment plans with the CRA in respect of their excise and/or sales tax arrears.
29. It is clear that the current cash position of the Applicants is not sufficient to meet their obligations as they come due, particularly relating to ongoing and future payroll obligations and the cash required to maintain business operations while preventing the expiry of valuable (and required) cannabis licences.
30. The CCAA applies in respect of a “debtor company or affiliated debtor companies” whose liabilities exceed \$5 million. The term “debtor company” is defined as “any company that: (a) is bankrupt or insolvent [...]”, and the term “company” is defined as “any company, corporation or legal person incorporated by or under an Act of Parliament or of the legislature of a province [...]”.
31. The CCAA also specifies companies are affiliated companies if one of them is the subsidiary of the other or both are subsidiaries of the same company. Each of the Applicants is a “company” within the meaning of the CCAA as each was incorporated under Canadian provincial or federal laws. All of the Applicants other than BZAM are direct or indirect subsidiaries of BZAM. Accordingly, the Applicants are all affiliated companies.
32. Each of the Applicants is a “debtor company” as defined in the CCAA. The insolvency of a debtor company is assessed as of the time of filing the CCAA application. Courts have taken guidance from the definition of “insolvent person” in subsection 2(1) of the *Bankruptcy and Insolvency Act*, which, in relevant part, provides that an “insolvent person” is a person:
 - a. who is for any reason unable to meet his obligations as they generally become due;
 - b. who has ceased paying his current obligations in the ordinary course of business as they generally become due; or
 - c. the aggregate of whose property is not, at a fair valuation, sufficient, or if disposed of at a fairly conducted sale under legal process, would not be sufficient to enable payment of all his obligations, due and accruing due.
33. A company is also insolvent for the purposes of the CCAA “if it is reasonably expected to run out of liquidity within reasonable proximity of time as compared with the time reasonably required to implement a restructuring”.

37. The Applicants collectively have over \$55,000,000 in debt and only approximately \$1,070,000 of cash on hand. Absent the Stay of Proceedings and the approval of the DIP Loan, the Applicants will be unable to meet their obligations as they come due. As such, the Applicants are affiliated debtor companies to which the CCAA applies.

35. I am also satisfied that Ontario is the chief place of business of the Applicants, and as such this Application is properly made to this Court.

36. Section 9(1) of the CCAA provides that an application for a stay under the CCAA may be made to the court that has jurisdiction in the province in which the head office or chief place of business of the company in Canada is situated.

37. In *Nordstrom Canada Retail, Inc.*, this Court found that the company's "chief place of business" was Ontario despite the fact that Nordstrom Canada Retail was incorporated and had significant business operations in British Columbia. In determining whether the court had jurisdiction over the proceedings, this Court considered multiple factors, including the location of the company's assets, employees and sales.

38. The Court found that there was sufficient evidence establishing Ontario as the proper jurisdiction based on the following: 8 of the 13 Nordstrom Canada retail stores are located in Ontario, while approximately 1,450 out of Nordstrom Canada's 2,500 full and part-time employees work in Ontario. Further, during fiscal year 2022, store sales in Ontario totalled \$220 million, compared to \$148 million in British Columbia and \$77 million in Alberta.

39. The same analysis can be applied here. Approximately 58% of the employees of the Applicants are situated in Ontario. While the Applicants have two cannabis facilities in each of Ontario and British Columbia, the largest facility of the Company is in Hamilton, Ontario. The Company maintains corporate offices in both Ontario and British Columbia and a majority of the BZAM directors reside in Ontario. In addition, the principal place of business of the senior secured lender, Cortland, is Ontario.

Stay of Proceedings

40. Section 11.02(1) of the CCAA provides that the Court may order a stay of proceedings on an initial CCAA application for a period of not more than 10 days. Section 11.001 of the CCAA provides that relief granted on an initial CCAA application shall be limited to relief that is reasonably necessary for the continued operations of the debtor company in the ordinary course of business during that initial 10-day period.

41. A stay of proceedings is clearly necessary here if any form of restructuring process is to be successful. The relief sought today is limited to what is reasonably necessary.

Non-Applicant Stay Parties

42. I am also satisfied that the stay should apply to the Non-Applicant Stay Parties. The Court has authority to extend the stay to non-parties pursuant to sections 11 and 11.02(1) of the CCAA, which permits the Court to make an initial order on any terms imposed. In determining whether a stay should be extended to non-parties, courts have considered numerous factors, including whether the subsidiaries of applicants had guaranteed secured loans of the applicants, whether the non-applicants were deeply integrated into the business operations of the applicants, and whether the claims against the non-applicants were derivative of the primary liability of the applicants: See *MPX International Corporation*, 2022 ONSC 4348 ("*MPX*") at para 52, *Lydian International Limited, (Re)*, 2019 ONSC 7473 at para 39; *Sino-Forest Corporation (Re)*, 2012 ONSC 2063 at paras 5, 18, and 31; at paras 28-29; and *Target Canada Co.*, 2015 ONSC 303 ("*Target*") at paras 49-50.

75. All of the Non-Applicant Stay Parties here are highly integrated into the business as wholly-owned subsidiaries (direct or indirect) of BZAM, or in the case of 943 Québec, as a soon to be acquired company. None carry on active business. The three entities other than 943 Québec also have tax attributes which could be beneficial to the objective of maximizing value for stakeholders.

44. I am satisfied that the stay should be extended to these parties to prevent uncoordinated realization and enforcement attempts from being made in different jurisdictions all of which would be counterproductive to the maximization and protection of value for stakeholders of the Applicants.

45. Moreover, the Applicants advise that they intend to seek approval of a SISP in this proceeding which will include the Non-Applicant Stay Parties with the result that the stay should apply to them to give comfort to potential bidders that enforcement actions against those parties will be stayed while a sales process is being conducted.

Regulatory Stay of Licences

46. CCAA courts have granted regulatory stays over licences where, absent such a stay, the applicable regulators were likely to suspend or cancel licences due to the commencement of the CCAA proceeding. Other courts have observed that permitting the immediate termination of the licenses of a debtor company would not avoid social and economic losses but rather would amplify them. See: *Re Just Energy Corp.*, at para 87; *Abbey Resources Corp., Re*, (29 July 2021) *Saskatoon Q.B. No. 733 of 2021 (SKQB)*; *Original Traders Energy Ltd. et al.*, (30 January 2023) *Toronto, Ont Sup Ct [Commercial List] CV-23-00693758-00CL* (Initial Order) at para 19.

47. Canadian courts have also granted stays to prevent the Canada Revenue Agency from seeking to enforce its rights through regulatory actions related to an excise licence for a cannabis company during the period in which it was under protection in an insolvency regime: *Tantalus Labs Ltd., Re*, 2023 BCSC 1450 (“*Tantalus*”) and *Aleafa Health Inc.* SISP Approval Order August 22, 2023 [CV-23-00703350-00CL].

48. In *Tantalus*, the British Columbia Supreme Court granted an order as part of the BIA proposal maintaining the status quo of a cannabis excise licence during the course of the proposal proceeding. It did so, rejecting the submission of the CRA, which had submitted that a ministerial decision to not renew a licence could not be the subject of a stay under the *BIA*. The same principles apply to a CCAA proceeding.

49. The cannabis licences of the Applicants are among their most valuable assets. Just as importantly, they are required to permit the Applicants to continue operating their underlying business. The expiry or cancellation of licences will suspend or terminate completely the operation and delivery of products by the Applicants with the result that the ability of the Applicants to restructure or continue as a going concern business will in all probability be eliminated.

Appointment of FTI as Monitor

50. The Applicants propose to have FTI appointed as the Monitor. FTI is a “trustee” within the meaning of subsection 2(1) of the *BIA*, is established and qualified, and has consented to act as Monitor. The involvement of FTI as the court-appointed Monitor will lend stability and assurance to the Applicants’ stakeholders. FTI is not subject to any of the restrictions set out in s. 11.7(2) of the *CCAA*.

51. I am satisfied that FTI should be appointed as Monitor in these CCAA Proceedings.

The DIP

52. Pursuant to a DIP facility agreement dated February 28, 2024 (the “DIP Agreement”), Cortland as proposed DIP Lender, has agreed to provide TGOD as borrower with a super priority, non-revolving

credit facility up to a maximum principal amount not to exceed the lesser of \$71 million and the Revolving Facility Limit (as defined in the Second ARCA) plus \$7 million, subject to certain conditions. Each of the Applicants is a guarantor under the DIP Agreement.

53. The DIP Loan has a commitment fee of \$98,000 and bears interest at the greater of the Toronto-Dominion Bank's floating annual rate of interest plus 8.05% per annum and 12% per annum (an interest rate that I observe is the same as that set out in the Second ARCA).
54. The DIP Loan is conditional on the granting of the DIP Charge.
55. The amount of the DIP Loan to be funded during the initial stay period of 10 days (up to \$2,400,000) is only that portion necessary to ensure the continued operation of the business of the Applicants in the ordinary course for that period of time such that I am satisfied it is appropriate that it be approved at this time pursuant to section 11.2(5) of the CCAA, as was approved in *Mjardin Group, Inc., (Re)*, 2022 ONSC 3338 at para. 31.
56. While the DIP Agreement contemplates what the Applicants describe as a "creeping-roll up" structure pursuant to which all post-filing receipts by the Applicants will be applied to repay pre-filing obligations owing to Cortland, it is important to note that the DIP Charge does not secure any obligation that existed prior to the granting of the Initial Order. This Court has previously approved DIP facilities that use receipts from operations post-filing to repay pre-filing amounts, pursuant to the jurisdiction found in section 11.2(1). The emphasis is on preserving the pre-filing status quo, so as to uphold the relative pre-stay priority position of each secured creditor: *Comark Inc., (Re)*, 2015 ONSC 2010 at paras. 40-41; and *Performance Sports Group Ltd.*, 2016 ONSC 6800 at para. 22.
57. Moreover, and in accordance with section 11.2(1), notice has been provided to the secured creditors proposed to be primed by the DIP, and as noted above, the proposed DIP Charge does not secure any pre-filing obligations of the Applicants. Cortland, the proposed DIP Lender, is already in first position as the senior secured creditor in respect of all of the property of the Applicants save and except for the Edmonton Facility which is not proposed to be primed by the DIP in any event. Stone Pine Capital is supportive of the proposed DIP Loan.
58. Section 11.2(4) of the CCAA sets out a non-exhaustive list of criteria that the Court must consider in deciding whether to grant a DIP lender's charge. Those criteria include the period during which the Applicants are expected to be subject to CCAA proceedings, how the Applicants' business and financial affairs are to be managed during the proceedings, whether the Applicants' management has the confidence of its major creditors, whether the loan would enhance the prospects of a viable compromise or arrangement being made in respect of the Applicants, the nature and value of the Applicants' property, whether any creditor would be materially prejudiced as a result of the security or charge, and whether the monitor supports the charge.
59. DIP financing may be approved even if it potentially prejudices some creditors, as long as the prejudice is outweighed by the benefit to all stakeholders.
60. It is important that an applicant meet the criteria in section 11.2(1) as well as those in section 11.2(4). (See *CanWest Publishing Inc., Re*, 2010 ONSC 222 ("*CanWest*") at paras. 42-44).
61. I am satisfied that the Applicants are facing a liquidity crisis and the Cash Flow Statement shows that financing even on an interim basis is required to fund these proceedings.
62. I am also satisfied that the terms of the proposed DIP Loan are appropriate. I recognize that the interest rate is at the very high end of the range within which DIP loans have been approved by this Court. However, I am satisfied that it is appropriate here. First, the rate is exactly the same as the rate applicable to the existing credit facilities of the senior secured creditor, Cortland, who is the proposed DIP Lender,

SO THERE IS NO INCREASE IN THE COST OF BORROWING RELATIVE TO THE CURRENT FACILITIES. SECOND, THE COMMITMENT fee is relatively modest as against the total funding to be made available. The cost of borrowing necessarily involves a consideration of the commitment fee together with the applicable interest rate. Third, interest rates generally have increased materially over the last year, so one must proceed with caution in considering a previously established range of interest rates. Fourth, the cannabis sector generally has faced and continues to face significant challenges and risks, with the result that the cost of borrowing within the sector generally is expensive.

63. Finally, the Proposed Monitor is supportive of the DIP Loan and corresponding charge, and is further in agreement that those amounts proposed to be advanced during the initial 10 day period are required in order to preserve the status quo and the going concern operations of the Applicants.

Administration Charge

64. The Court has jurisdiction to grant an administration charge under s. 11.52 of the CCAA. It is to consider: the size and complexity of the business being restructured, the proposed role of the beneficiaries of the charge, whether there is an unwarranted duplication of roles, whether the quantum of the proposed charge appears to be fair and reasonable, the position of the secured creditors likely to be affected by the charge, and the position of the Monitor. (See *CanWest*, at para. 54).

65. The administration charge of \$500,000 is appropriate. It is supported by the Proposed Monitor and the senior creditors.

Directors' Charge

66. The Court has jurisdiction to grant a directors' charge under section 11.51 of the CCAA, provided notice is given to the secured creditors who are likely to be affected by it. To ensure the stability of the business during the restructuring period, the Applicants need the ongoing assistance of their directors and officers, who have considerable institutional knowledge and specialized expertise.

67. Here, I recognize that the proposed quantum of the Directors' Charge is very significant at \$5,300,000. However, almost all of that is as a result of the excise tax obligations owing by the Applicants which are very material and which, I observe, will increase going forward.

68. The Monitor supports the Applicants' request for the Directors' Charge. I am satisfied it is appropriate here.

69. The Directors' Charge is approved.

Relief from Securities Obligations

70. The Applicants seek relief to dispense with certain securities filing requirements and in particular, the authority to incur no further expenses in relation to any filings, and that none of the directors or officers, employees or other representatives of the Applicants or the Monitor shall have personal liability with respect thereto.


71. This Court has previously granted such relief and I am satisfied that it is appropriate here. See: *Aleafa Health Inc.*, amended and restated initial order issued August 4, 2023 [CV-23-00703350-00CL] paras 45-46; *MPX International Corporation*, amended and restated initial order issued July 25, 2022 [CV-22-00684542-00CL] at para 46-47; *CannTrust Holdings Inc., Re*, initial order issued March 31, 2021 [Court File No. CV-20-00638930] at paras 46-47; and *Pure Global Cannabis, Inc., Re*, initial order issued March 19, 2020 [CV-20-00638503-00CL] at para. 49.

AUTHORIZATION FOR PRE-FILING PAYMENTS

72. The Applicants seek the authority but not the requirement to make payments for goods or services supplied to the Applicants prior to the date of the Initial Order, but in all cases only with the consent of the Monitor and the DIP Lenders, and only in circumstances where, in the opinion of the Applicants and the Monitor, the supplier or service provider is critical to preserve, protect or enhance the value of the business.
73. While section 11.4 of the CCAA gives the Court authority to declare a person to be a critical supplier and to grant a charge on the debtor's property to secure amounts owing for services provided post-filing, nothing in that section removes the inherent jurisdiction of the court to allow the payment of pre-filing amounts to suppliers who services are critical to the post-filing operations of the debtor, even where the debtor does not propose to secure the payment of post-filing goods or services with a critical supplier charge: See *Cline Mining Corp., Re*, 2014 ONSC 6998 at para. 38, and *MPX* at para. 70.
74. Such relief may be included in an initial order: see *Target*, at paras. 64-65.
75. I am satisfied that such relief is appropriate here, particularly given that the consent of the Monitor is required for such payments to be made.

Comeback Hearing

76. The comeback hearing shall take place on Friday, March 8, 2024 commencing at 2:00 PM via Zoom.
77. The order I have signed is effective immediately and without the necessity of issuing and entering.



Osborne, J.

TAB 2



Court File No.: _____

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE) WEDNESDAY, THE 28th
)
JUSTICE OSBORNE) DAY OF FEBRUARY, 2024
)

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 BZAM LTD., BZAM HOLDINGS INC.,
BZAM MANAGEMENT INC., BZAM CANNABIS CORP.,
FOLIUM LIFE SCIENCE INC., 102172093 SASKATCHEWAN
LTD., THE GREEN ORGANIC DUTCHMAN LTD., MEDICAN
ORGANIC INC., HIGH ROAD HOLDING CORP. AND FINAL
BELL CORP. (collectively the "**Applicants**", and each an
"**Applicant**")

INITIAL ORDER

THIS APPLICATION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day by judicial videoconference via Zoom.

ON READING the affidavit of Matthew Milich sworn February 28, 2024, and the Exhibits thereto (the "**Milich Affidavit**"), and the Pre-Filing Report of FTI Consulting Canada Inc. ("**FTI**") as the proposed monitor dated February 28, 2024, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicants and the additional parties listed in Schedule "A" hereto (collectively, the "**Non-Applicant Stay Parties**" and together with the Applicants, the "**BZAM Entities**"), counsel for FTI, counsel for Cortland Credit Lending Corporation (the "**DIP Lender**"), and such other counsel that were present, and on reading the consent of FTI to act as the Monitor (as defined below),

SERVICE

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

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that each of the Applicants is a company to which the CCAA applies. Although not Applicants, the Non-Applicant Stay Parties shall enjoy the benefits of the protections and authorizations provided under the terms of this Order.

POSSESSION OF PROPERTY AND OPERATIONS

3. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their respective current and future assets, licences, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the "**Business**") and Property. The Applicants are authorized and empowered to continue to retain and employ the employees, consultants, contractors, agents, experts, accountants, counsel and such other persons (collectively, "**Assistants**") currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

4. **THIS COURT ORDERS** that the BZAM Entities shall be entitled to continue to utilize the central cash management system currently in place as described in the Milich Affidavit or, with the consent of the Monitor and the DIP Lender, replace it with another substantially similar central cash management system (the "**Cash Management System**"), and that any present or future bank providing the Cash Management System shall: (i) not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the BZAM Entities of funds transferred, paid, collected or otherwise dealt with in the Cash Management System; (ii) be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the BZAM Entities, pursuant

to the terms of the documentation applicable to the Cash Management System; and (iii) be, in its capacity as provider of the Cash Management System, an unaffected creditor under any plan of compromise or arrangement with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

5. **THIS COURT ORDERS** that, subject to the terms of the DIP Agreement (as defined below), the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to, on, or after the date of this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and employee expenses payable prior to, on, or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (b) with the consent of the Monitor and the DIP Lender, amounts owing for goods and services actually supplied to the Applicants prior to the date of this Order, with the Monitor considering, among other factors, whether (i) the supplier or service provider is essential to the Business and ongoing operations of the Applicants and the payment is required to ensure ongoing supply, (ii) making such payment will preserve, protect or enhance the value of the Property or the Business, (iii) making such payment is required to address regulatory concerns, and (iv) the supplier or service provider is required to continue to provide goods or services to the Applicants after the date of this Order, including pursuant to the terms of this Order; and
- (c) the fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges.

6. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein or in the DIP Agreement, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after the date of this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of

insurance (including directors' and officers' insurance), maintenance and security services; and

- (b) payment for goods or services actually supplied to the Applicants on or following the date of this Order.

7. **THIS COURT ORDERS** that, subject to the terms of the DIP Agreement, the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order;
- (c) any taxes, duties or other payments required under the Cannabis Legislation (as defined below) (collectively, "**Cannabis Taxes**"), but only where such Cannabis Taxes are accrued or collected after the date of this Order; and
- (d) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicants.

8. **THIS COURT ORDERS** that until a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as

otherwise may be negotiated between the applicable Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, monthly on the first day of each month, in advance (but not in arrears) in the amounts set out in the applicable lease or, with the consent of the Monitor and the DIP Lender, at such other time intervals and dates as may be agreed to between the applicable Applicant and landlord. On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

9. **THIS COURT ORDERS** that, except as specifically permitted herein or required pursuant to the terms of the DIP Agreement, the Applicants are hereby directed, until further Order of this Court: (i) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of this date; (ii) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of the Property; and (iii) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

10. **THIS COURT ORDERS** that each of the Applicants shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the DIP Agreement, have the right to:

- (a) sell inventory in the ordinary course of business consistent with past practice, or otherwise with the consent of the Monitor and the DIP Lender; and
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate,

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business.

NO PROCEEDINGS AGAINST THE BZAM ENTITIES OR THEIR RESPECTIVE PROPERTY

11. **THIS COURT ORDERS** that until and including March 8, 2024, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or

tribunal (each, a "**Proceeding**", and collectively, "**Proceedings**") shall be commenced or continued against or in respect of any of the BZAM Entities or the Monitor, or their respective employees and representatives acting in such capacities, or affecting the Business or the Property, except with the written consent of the BZAM Entities and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the BZAM Entities or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court or the written consent of the BZAM Entities and the Monitor.

NO EXERCISE OF RIGHTS OR REMEDIES

12. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, organization, governmental unit, body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of any of the BZAM Entities or the Monitor, or their respective employees and representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the BZAM Entities and the Monitor, or leave of this Court, provided that nothing in this Order shall: (i) empower any BZAM Entity to carry on any business which such BZAM Entity is not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

13. **THIS COURT ORDERS** that during the Stay Period, no Person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, rescind, terminate or cease to perform any right, renewal right, contract, agreement, lease, sublease, licence, authorization or permit in favour of or held by any of the BZAM Entities, except with the written consent of the BZAM Entities and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

14. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements or arrangements with any of the BZAM Entities or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software,

communication and other data services, centralized banking services, payroll services, accounting services, testing and irradiation services, security services, insurance, transportation services, utility or other services to the Business or any of the BZAM Entities, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by any of the BZAM Entities or exercising any other remedy provided under the agreements or arrangements, and that each of the BZAM Entities shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the applicable BZAM Entity in accordance with the normal payment practices of the applicable BZAM Entity or such other practices as may be agreed upon by the supplier or service provider and the applicable BZAM Entity and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

15. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to any of the BZAM Entities. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

16. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by Subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of any of the BZAM Entities with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of any of the BZAM Entities whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

17. **THIS COURT ORDERS** that the Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as a director or officer of any of the Applicants after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of such director's or officer's gross negligence or wilful misconduct.

18. **THIS COURT ORDERS** that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$5,300,000, unless permitted by further Order of this Court, as security for the indemnity provided in paragraph 17 of this Order. The Directors' Charge shall have the priority set out in paragraphs 35 and 37 herein.

19. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary: (i) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and (ii) the Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 17 of this Order.

APPOINTMENT OF MONITOR

20. **THIS COURT ORDERS** that FTI is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the BZAM Entities and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by any of the BZAM Entities pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

21. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicants' receipts and disbursements, including the management and use of any funds advanced by the DIP Lender to the Applicants under the DIP Agreement (as defined below);
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicants, to the extent required by the Applicants, in their dissemination, to the DIP Lender and its counsel on a weekly basis, or as otherwise agreed to by the DIP Lender, of financial and other information as agreed to between the Applicants and the DIP Lender, which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;
- (d) advise the Applicants in their preparation of the Applicants' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis, but not less than weekly, or as otherwise agreed to by the DIP Lender;
- (e) monitor all payments, obligations and transfers as between the BZAM Entities;
- (f) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the BZAM Entities, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;
- (g) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (h) perform such other duties as are required by this Order or by this Court from time to time.

22. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property or be deemed to take possession of the Property, pursuant to any provision of any federal, provincial or

other law respecting, among other things, the manufacturing, possession, processing and distribution of cannabis or cannabis products including, without limitation, under the *Cannabis Act*, S.C. 2018, c. 16, as amended, the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, as amended, the *Criminal Code*, R.S.C. 1985, c. C-46, as amended, the *Excise Act, 2001*, S.C. 2002, c. 22, as amended, the *Cannabis Licence Act, 2018*, S.O. 2018, c. 12, Sched. 2, as amended, the *Cannabis Control Act, 2017*, S.O. 2017, c. 26, Sched. 1, as amended, the *Ontario Cannabis Retail Corporation Act, 2017*, S.O. 2017, c. 26, Sched. 2, as amended, the *Cannabis Control and Licensing Act*, S.B.C. 2018, c. 29, as amended, the *Cannabis Distribution Act*, S.B.C. 2018, c. 28, as amended, the *Gaming, Liquor and Cannabis Act*, R.S.A. 2000, c. G-1, as amended, *The Cannabis Control (Saskatchewan) Act*, S.S. 2018, c. C-2.111, as amended, the *Cannabis Regulation Act*, C.Q.L.R. c. C-5.3, as amended or other such applicable federal, provincial or other legislation or regulations (collectively, the "**Cannabis Legislation**"), and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or the Property, or any part thereof within the meaning of any Cannabis Legislation or otherwise. For greater certainty, nothing in this Order shall be construed as resulting in the Monitor being an employer or successor employer within the meaning of any statute, regulation or rule of law or equity for any purpose whatsoever.

23. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Fisheries Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, the *Ontario Occupational Health and Safety Act*, the *Alberta Environmental Protection and Enhancement Act*, the *Alberta Water Act*, the *Alberta Occupational Health and Safety Act*, the *British Columbia Environmental Management Act*, the *British Columbia Water Protection Act*, the *British Columbia Workers Compensation Act*, *The Environmental Management and Protection Act, 2010* (Saskatchewan), the *British Columbia Workers Compensation Act*, the *British Columbia*

Fish Protection Act, The Environmental Management and Protection Act, 2010 (Saskatchewan), the Agricultural Operations Act (Saskatchewan), The Dangerous Goods Transportation Act (Saskatchewan), The Water Security Agency Act (Saskatchewan), the Saskatchewan Occupational Health and Safety Act, 1993, the Quebec Environment Quality Act, the Act Respecting Occupational Health And Safety (Quebec) and regulations thereunder (collectively, "Environmental Legislation")), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

24. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicants including, without limitation, the DIP Lender, with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

25. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Monitor under the CCAA or as an officer of this Court, neither the Monitor nor its employees and representatives acting in such capacities shall incur any liability or obligation as a result of the Monitor's appointment or the carrying out by it of the provisions of this Order including, without limitation, under any Cannabis Legislation, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded to the Monitor by the CCAA or any applicable legislation.

26. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants in these proceedings 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 this Order, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel

for the Applicants in these proceedings on a weekly basis, or pursuant to such other arrangements as may be agreed to between the Applicants and such parties.

27. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

28. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and the Applicants' counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$500,000, unless permitted by further Order of this Court, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 35 and 37 hereof.

DIP FINANCING

29. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow under a credit facility from the DIP Lender in order to finance the Applicants' working capital requirements and other general corporate purposes and capital expenditures, provided that the borrowings under such credit facility shall not exceed the principal amount of \$2,400,000, unless permitted by further Order of this Court.

30. **THIS COURT ORDERS** that such credit facility shall be on the terms and subject to the conditions set forth in the DIP facility agreement between the Applicants and the DIP Lender dated as of February 28, 2024 (as may be amended from time to time, the "**DIP Agreement**"), filed.

31. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the DIP Agreement or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Agreement and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

32. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lender's Charge**") on the Property, which DIP Lender's Charge shall not exceed the amount of \$2,400,000 plus interest, fees, costs or other charges under the DIP Agreement, unless permitted by further Order of this Court, or secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs 35 and 37 hereof.

33. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon 4 days' notice to the Applicants and the Monitor, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the DIP Agreement, Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under the DIP Agreement, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants; and
- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

34. **THIS COURT ORDERS AND DECLARES** that, unless agreed to by the DIP Lender, the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by any of the Applicants under the CCAA, or any proposal filed by any of the Applicants under the

Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended (the "**BIA**"), with respect to any advances made under the Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

35. **THIS COURT ORDERS** that the priorities of the Administration Charge, the Edmonton Property Charge (as defined in the Milich Affidavit), the Directors' Charge and the DIP Lender's Charge (collectively, the "**Charges**"), as among them, shall be as follows:

With respect to all Property other than the Edmonton Property (as defined in the Milich Affidavit):

First – Administration Charge (to the maximum amount of \$500,000);

Second – DIP Lender's Charge (to the maximum amount of \$2,400,000), plus interest, fees, costs or other charges under the DIP Agreement); and

Third – Directors' Charge (to the maximum amount of \$5,300,000).

With respect to the Edmonton Property:

First – Administration Charge (to the maximum amount of \$500,000);

Second – Edmonton Property Charge;

Third – DIP Lender's Charge (to the maximum amount of \$2,400,000), plus interest, fees, costs or other charges under the DIP Agreement); and

Fourth – Directors' Charge (to the maximum amount of \$5,300,000).

36. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

37. **THIS COURT ORDERS** that each of the Charges (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person notwithstanding the order of perfection or attachment; provided that the Charges shall rank behind Encumbrances in favour of any Persons that have not been served with notice of the application for this Order. The Applicants and the beneficiaries of the Charges shall be entitled to seek priority of the Charges ahead of such Encumbrances on a subsequent motion including, without limitation, on the Comeback Date (as defined below), on notice to those Persons likely to be affected thereby.

38. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants also obtain the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the Charges, or further Order of this Court.

39. **THIS COURT ORDERS** that the Charges and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") and/or the DIP Lender thereunder shall not otherwise be limited or impaired in any way by: (i) the pendency of these proceedings and the declarations of insolvency made herein; (ii) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (iii) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (iv) the provisions of any federal or provincial statutes; or (v) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds any of the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Agreement or the Definitive Documents shall create or be deemed to constitute a breach by any of the Applicants of any Agreement to which the applicable Applicant(s) is a party;

- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicants entering into the DIP Agreement, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicants pursuant to this Order, the DIP Agreement or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

40. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the applicable Applicant's interest in such real property lease.

CORPORATE MATTERS

41. **THIS COURT ORDERS** that BZAM Ltd. is hereby relieved of any obligation to call and hold an annual meeting of its shareholders until further Order of this Court.

RELIEF FROM REPORTING AND FILING OBLIGATIONS

42. **THIS COURT ORDERS** that the decision by BZAM Ltd. to incur no further expenses in relation to any filings (including financial statements), disclosures, core or non-core documents, restatements, amendments to existing filings, press releases or any other actions (collectively, the "**Securities Filings**") that may be required by any federal, provincial or other law respecting securities or capital markets in Canada, or by the rules and regulations of a stock exchange, including, without limitation, the *Securities Act* (Ontario), RSO 1990, c S.5 and comparable statutes enacted by other provinces of Canada, the CSE Policies 1-10 and other rules, regulations and policies of the Canadian Securities Exchange (collectively, the "**Securities Provisions**"), is hereby authorized, provided that nothing in this paragraph shall prohibit any securities regulator or stock exchange from taking any action or exercising any discretion that it may have of a nature described in section 11.1(2) of the CCAA as a consequence of BZAM Ltd. failing to make any Securities Filings required by the Securities Provisions.

43. **THIS COURT ORDERS** that none of the directors, officers, employees, and other representatives of BZAM Ltd. nor the Monitor shall have any personal liability for any failure by BZAM Ltd. to make any Securities Filings required by the Securities Provisions.

"STATUS QUO" OF APPLICANTS' LICENSES

44. **THIS COURT ORDERS** that (a) the status quo in respect of the Applicants' Health Canada and cannabis excise licenses (collectively, the "**Licenses**") shall be preserved and maintained during the pendency of the Stay Period, including the Applicants' ability to sell cannabis inventory in the ordinary course under the Licenses; and (b) to the extent any License may expire during the Stay Period, the term of such License shall be deemed to be extended by a period equal to the Stay Period.

SERVICE AND NOTICE

45. **THIS COURT ORDERS** that the Monitor shall: (i) without delay, publish in the *Globe and Mail (National Edition)*, a notice containing the information prescribed under the CCAA; and (ii) within five (5) days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, or cause to be sent, in the prescribed manner, a notice to every known creditor who has a claim against any of the Applicants of more than \$1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Subsection 23(1)(a) of the CCAA and the regulations made thereunder, provided that the Monitor shall not make the names and addresses of individuals who are creditors publicly available.

46. **THIS COURT ORDERS** that the E-Service Guide of the Commercial List (the "**Guide**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended (the "**Rules of Civil Procedure**"). Subject to Rule 3.01(d) of the *Rules of Civil Procedure* and paragraph 13 of the Guide, service of documents in accordance with the Guide will

be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Guide with the following URL: <http://cfcanada.fticonsulting.com/bzam>.

47. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Guide is not practicable, the Applicants, the Monitor, and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile or other electronic transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service, distribution or notice shall be deemed to be received: (i) if sent by courier, on the next business day following the date of forwarding thereof; (ii) if delivered by personal delivery or facsimile or other electronic transmission, on the day so delivered; and (iii) if sent by ordinary mail, on the third business day after mailing.

48. **THIS COURT ORDERS** that the Applicants, the Monitor and each of their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices or other correspondence, by forwarding true copies thereof by electronic message (including by e-mail) to the Applicants' creditors or other interested parties and their advisors, as applicable. For greater certainty, any such service or distribution shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of Subsection 3(c) of the *Electronic Commerce Protection Regulations* (SOR/2013-221).

GENERAL

49. **THIS COURT ORDERS** that any interested party that wishes to amend or vary this Order shall be entitled to appear or bring a motion before this Court on March 8, 2024 (the "**Comeback Date**"), and any such interested party shall give not less than two (2) business days' notice to the Service List and any other party or parties likely to be affected by the Order sought in advance of the Comeback Date; provided, however, that the Chargees shall be entitled to rely on this Order as granted and on the Charges and priorities set forth in paragraphs 35 and 37 hereof with respect to any fees, expenses and disbursements incurred, as applicable, until the date this Order may be amended, varied or stayed.

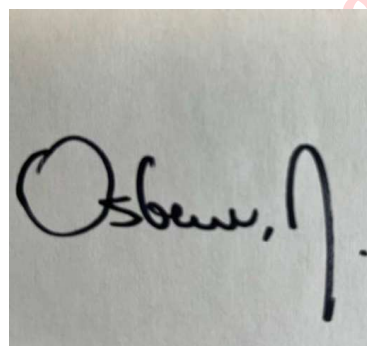
50. **THIS COURT ORDERS** that, notwithstanding paragraph 49 of this Order, each of the Applicants, the Monitor or the DIP Lender may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of its powers and duties hereunder or in the interpretation of this Order.

51. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of any of the Applicants, the Business or the Property.

52. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

53. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

54. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. (Eastern Time) on the date of this Order without the need for entry or filing.

A rectangular box containing a handwritten signature in black ink. The signature appears to be "Osborne, J." with a stylized flourish at the end.

2024.02.2

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SCHEDULE "A"
NON - APPLICANT STAY PARTIES

1. The Green Organic Beverage Corp.
2. TGOD Europe B.V.
3. 9430-6347 Québec Inc.
4. The Green Organic Dutchman Germany GmbH

R.S.C. 1985, c. C-36, AS AMENDED

Court File No.:

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF BZAM LTD., BZAM HOLDINGS INC., BZAM MANAGEMENT INC., BZAM
CANNABIS CORP., FOLIUM LIFE SCIENCE INC., 102172093
SASKATCHEWAN LTD., THE GREEN ORGANIC DUTCHMAN LTD.,
MEDICAN ORGANIC INC., HIGH ROAD HOLDING CORP. AND FINAL BELL
CORP.**

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

INITIAL ORDER

BENNETT JONES LLP

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Lawyers for the Applicants

TAB 3



**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

ENDORSEMENT

COURT FILE NO.: CV-24-00715773-00CL DATE: March 8, 2024

NO. ON LIST: 2

TITLE OF PROCEEDING: In the Matter of the *Companies' Creditors Arrangement Act*
and
In the Matter of a Plan of Compromise or Arrangement of BZAM Ltd.

BEFORE: JUSTICE OSBORNE

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Sean Zweig Mike Shakra Andrew Froh Jamie Ernst	BZAM Ltd. <i>et al</i> , Applicants	ernstj@bennettjones.com zweigs@bennettjones.com froha@bennettjones.com shakram@bennettjones.com

For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info
Joseph Bellissimo Natalie Levine	Cortland Credit Lending Corp.	jbello@bellissimo.com nlevine@cassels.com
Harvey Chaiton	Stone Pine Capital Ltd.	harvey@chaitons.com
Alex Macfarlane R. Bevan Brooksbank Nick Hollard	Ontario Cannabis Retail Corp.	amacfarlane@blg.com bbrooksbank@blg.com nhollard@blg.com
Tevia Jeffries	Pure Sunfarms Corp.	tjeffries@farris.com

Claude Lapointe	Lapointe Claude 514-350-0347 QUEBEC	lapointeclaude@gmail.com
Kevin Dias Kelly Smith Wayland	Lawyers of His Majesty the King, in the Right of Canada, as Represented by the Minister of National Revenue	Kevin.dias@justice.gc.ca Kelly.smithwayland@justice.gc.ca
Jennifer J. Quick	Representative from CannaPiece Corp., a creditor	JQuick@cannapiece.ca
Andrew Winton	Final Bell Holdings International	awinton@lolg.ca

Other:

Name of Person Appearing	Name of Party	Contact Info
Maria Konyukhova Philip Yang	Monitor	mkonyukhova@stikeman.com pyang@stikeman.com
Jeffrey Rosenberg Kamran Hamidi	FTI Consulting Canada Inc., Monitor	Jeffrey.rosenberg@fticonsulting.com Kamran.hamidi@fticonsulting.com

ENDORSEMENT OF JUSTICE OSBORNE:

1. The Applicants seek at this comeback hearing an amended and restated Initial Order (the “ARIO”) that:
 - a. extends the stay of proceedings to and including May 25, 2024;
 - b. increases the maximum principal amount that the Applicants can borrow under the DIP Loan to \$41 million; and
 - c. increases the quantum of each of the Administration Charge, the DIP Lender’s Charge and the Directors’ Charge to a maximum amount of \$1 million, \$41 million plus interest fees and expenses, and \$12,900,000 respectively.

2. The Applicants also seek a SISP Approval Order that:
 - a. authorizes and approves the Stalking Horse Purchase Agreement;
 - b. grants a Court-ordered charge (the “Bid Protections Charge”) in favour of the Stalking Horse Purchaser;
 - c. approves the SISP including the Stalking Horse Bid; and
 - d. authorizes and directs the Applicants and the Monitor to undertake the SISP.

3. Defined terms in this Endorsement have the meaning given to them in my earlier Endorsement made in this proceeding, the motion materials, and/or the First Report of the Monitor dated March 6, 2024, unless otherwise stated.
4. The Applicants rely on the Affidavit of Matthew Milich sworn March 1, 2024 together with Exhibits thereto, together with the First Report.
5. For the reasons that follow, I am satisfied that the relief should be granted.
6. I observe at the outset that the relief sought today is unopposed by any party. It is strongly supported by Cortland as senior secured creditor and DIP Lender, as well as by Stone Pine, a secured creditor and the proposed Stalking Horse Bidder. It is recommended by the Monitor. The Service List has been served with the motion materials and the First Report.
7. With respect to the proposed stay extension, I am satisfied that the Applicants have acted in good faith and with due diligence since the granting of the Initial Order and continue to do so. It is just, convenient and necessary as well as in the best interests of the Applicants and their stakeholders that the proposed extension until May 25, 2024 be granted as such will allow the Monitor, with the assistance of the Applicants, to complete the SISP all with a view to preserving and maximizing value for the stakeholders.
8. I observe that the cash flow forecast projects that the Applicants should have sufficient liquidity to fund their obligations and costs of these proceedings through the end of the extended stay period.
9. I am also satisfied that the increases to the maximum quantum permitted in each of the charges, and the priority of each of those charges, should be approved. In the Initial Order, the Administration Charge, the DIP Lenders' Charge and the Directors' Charge were each limited to only what was reasonably necessary during the initial 10 day period.
10. The basis for the proposed increased quantum of each charge is set out in the motion materials and in the First Report.
11. The increased quantum of the Directors' Charge is particularly large. I am satisfied, however, that it is appropriate in that it reflects potential exposure for excise tax obligations. Those obligations are significant given the nature of the business of the Applicants (in the cannabis sector) but also as a result of the timing of the filing for creditor protection on February 28. The result of that date was that there were excise tax obligations for both January, due but not yet paid, and February, accrued but not yet due. I am satisfied that the quantum, while large, is appropriate.
12. I also recognize that the priority of the charges is somewhat atypical in that both the Directors' Charge and the Bid Protections Charge (described below) are subordinate to the DIP Lender's Charge in favour of Cortland. Such was the condition of DIP financing to enable the continuation of the business as a going concern and, as noted above, the relative priority of the charges has the support of all of these parties.
13. The Applicants seek approval for the proposed SISP including the Stalking Horse Bid. The proposed Stalking Horse Bidder (1000816625 Ontario Inc.) is a company related to the largest shareholder of BZAM, Bassam Alghanim, the current Chairman and the individual that ultimately controls Stone Pine.
14. The mechanics of the proposed SISP are fully set out in the motion materials and the First Report. The timelines and key dates are relatively tight. I am satisfied, however, that they are appropriate, achievable, and are accretive to maximizing value for all stakeholders. The Monitor, with the assistance of the Applicants, is already well along in preparatory work.

15. I am satisfied that the factors identified by the Court to be considered in a determination of whether to approve a sales process as contemplated by ss. 11 and 36(3) of the CCAA are met here: *Nortel Networks Corporation (Re)*, 2009 CanLII at paras. 47 – 48.
16. Given that, as noted above, the Stalking Horse Purchaser is a related party contemplated in section 36(5) of the CCAA, I have also considered the factors referred to in that subsection and am satisfied that they have been met here.
17. I am further satisfied as to the fairness, transparency and integrity of the proposed process; the commercial efficacy of the proposed process in light of the specific circumstances of this case; and whether the sales process will optimize the chances, in the particular circumstances of securing the best possible price for the assets.
18. The Stalking Horse Purchase Agreement will serve as the basis for the Stalking Horse Bid as part of the SISF. It is contemplated to be structured as a reverse vesting transaction. While such structures remain the exception and not the norm, I am satisfied given the critical importance of maintaining the cannabis licences and regulatory permits that are so central to asset value in this case, that such a structure is appropriate here.
19. I also recognize that the Stalking Horse Purchase Agreement is the product of significant efforts and negotiations among the Stalking Horse Purchaser, the Company, the Monitor and the senior creditors of the Company, Stone Pine and Cortland.
20. If the Stalking Horse Bid is not the Successful Bid, the Stalking Horse Purchaser will be entitled to the payment of Bid Protections up to the maximum amount of \$850,000 comprised of a break fee of \$750,000 and an expense reimbursement of \$100,000. These amounts are not insignificant, but I am satisfied are appropriate here and I observe that the maximum amount of the Bid Protections in the aggregate is approximately 2% of the purchase price and therefore within the range of such fees previously approved by this Court (see, for example, *CCM Master Qualified Fund v. blutip Power Technologies*, 2012 ONSC 1750 at paras. 12 -14). The amount is also recommended and fully supported by the Monitor.
21. I also note that the Stalking Horse Bid is not a traditional credit bid in the circumstances of this case, but rather contemplates a bid that includes the Stone Pine indebtedness, but also either the assumption or payout of the Cortland Debt, at the option of Cortland. In particular, the subscription price includes the assumption of the Stone Pine Debt, and the Cash Consideration as fully described in the affidavit of Mr. Milich.
22. I observe again that the Stalking Horse Agreement is not being approved today as a purchase agreement, but rather only as a stalking horse bid. I am satisfied that it will facilitate potential transactions but also provide a floor or a minimum by establishing a baseline price and deal structure. It provides for the preservation and continuity of the core business of the Applicants as a going concern, including but not limited to the continued employment of employees as well as supplier and customer relationships.
23. For all of these reasons, the motion is granted and the relief sought is approved.
24. I observe one additional point in conclusion. Counsel for Final Bell Holdings International Ltd. appeared today in Court and made brief submissions to the effect that while Final Bell was specifically not opposing any of the relief sought (particularly including approval of the SISF and the timelines therein), it wished to advise the Court that it was in the process of investigating whether it would be bringing a motion to seek certain relief which could have an impact on the sales process approved today.

25. Final Bell was a company acquired by the Applicants very shortly prior to filing for creditor protection in this proceeding. The acquisition purchase price was satisfied by the issuance of equity and unsecured debt.

26. Final Bell apparently takes the position that financial disclosure provided to it in the course of due diligence was inconsistent with the financial state of the company as disclosed in this Application. Final Bell may seek rescission of its transaction. That issue is for another day. However, it is obviously imperative for potential bidders in the SISP to have clarity and certainty as to the assets and business on which they are bidding, with the result that, if Final Bell pursues a claim, and specifically pursues a claim seeking rescission, that may well have to be determined before bids are finalized.

27. I have implored the parties to continue the discussions I understand they are having, and I have specifically directed the Court-appointed Monitor to coordinate those discussions with a view to ensuring that all matters proceed on an expedited but fair basis and that the sales process is not undermined by outstanding issues.

28. Orders to go in the form signed by me today which orders are effective immediately and without the necessity of issuing and entering.



OSBORNE, J.

Date: March 8, 2024

TAB 4



Court File No.: CV-24-00715773-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE) FRIDAY, THE 8th
)
JUSTICE OSBORNE) DAY OF MARCH, 2024
)

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 BZAM LTD., BZAM HOLDINGS INC.,
BZAM MANAGEMENT INC., BZAM CANNABIS CORP.,
FOLIUM LIFE SCIENCE INC., 102172093 SASKATCHEWAN
LTD., THE GREEN ORGANIC DUTCHMAN LTD., MEDICAN
ORGANIC INC., HIGH ROAD HOLDING CORP. AND FINAL
BELL CORP. (collectively the "**Applicants**", and each an
"**Applicant**")

AMENDED AND RESTATED INITIAL ORDER
(Amending Initial Order Dated February 28, 2024)

THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for an Amended and Restated Initial Order was heard this day by judicial videoconference via Zoom.

ON READING the affidavits of Matthew Milich sworn February 28, 2024, and the Exhibits thereto (the "**Milich Affidavit**") and March 1, 2024 and the Exhibits thereto (the "**Second Milich Affidavit**"), the Pre-Filing Report of FTI Consulting Canada Inc. ("**FTI**") as the proposed monitor dated February 28, 2024, and the First Report of FTI as the Court-appointed monitor of the Applicants (in such capacity, the "**Monitor**") dated March 6, 2024, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicants and the additional parties listed in Schedule "A" hereto (collectively, the "**Non-Applicant Stay Parties**" and together with the Applicants, the "**BZAM Entities**"), counsel for the Monitor, counsel for

Cortland Credit Lending Corporation (the "**DIP Lender**"), counsel for 1000816625 Ontario Inc. and such other counsel that were present, no one else appearing although duly served as appears from the affidavits of service of Jamie Ernst, filed, and on reading the consent of FTI to act as the Monitor,

SERVICE AND INTERPRETATION

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

2. **THIS COURT ORDERS** that, for the avoidance of doubt, references in this Order to the "date of this Order", the "date hereof" or similar phrases refer to the date the Initial Order of this Court was granted in these proceedings, being February 28, 2024 (the "**Initial Order**").

APPLICATION

3. **THIS COURT ORDERS AND DECLARES** that each of the Applicants is a company to which the CCAA applies. Although not Applicants, the Non-Applicant Stay Parties shall enjoy the benefits of the protections and authorizations provided under the terms of this Order.

PLAN OF ARRANGEMENT

4. **THIS COURT ORDERS** that each of the Applicants shall have the authority to file and may, subject to further Order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

5. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their respective current and future assets, licences, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the "**Business**") and Property. The Applicants are authorized and empowered to continue to retain and employ the employees, consultants, contractors, agents, experts, accountants, counsel and such other persons

(collectively, "**Assistants**") currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

6. **THIS COURT ORDERS** that the BZAM Entities shall be entitled to continue to utilize the central cash management system currently in place as described in the Milich Affidavit or, with the consent of the Monitor and the DIP Lender, replace it with another substantially similar central cash management system (the "**Cash Management System**"), and that any present or future bank providing the Cash Management System shall: (i) not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the BZAM Entities of funds transferred, paid, collected or otherwise dealt with in the Cash Management System; (ii) be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the BZAM Entities, pursuant to the terms of the documentation applicable to the Cash Management System; and (iii) be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan (if any) with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

7. **THIS COURT ORDERS** that, subject to the terms of the DIP Agreement (as defined below), the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to, on, or after the date of this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and employee expenses payable prior to, on, or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (b) with the consent of the Monitor and the DIP Lender, amounts owing for goods and services actually supplied to the Applicants prior to the date of this Order, with the Monitor considering, among other factors, whether (i) the supplier or service provider is essential to the Business and ongoing operations of the Applicants and the payment is required to ensure ongoing supply, (ii) making such payment will preserve, protect or enhance the value of the Property or the Business, (iii) making such payment is

- required to address regulatory concerns, and (iv) the supplier or service provider is required to continue to provide goods or services to the Applicants after the date of this Order, including pursuant to the terms of this Order; and
- (c) the fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges.

8. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein or in the DIP Agreement, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after the date of this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors' and officers' insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicants on or following the date of this Order.

9. **THIS COURT ORDERS** that, subject to the terms of the DIP Agreement, the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior

- to the date of this Order but not required to be remitted until on or after the date of this Order;
- (c) any taxes, duties or other payments required under the Cannabis Legislation (as defined below) (collectively, "**Cannabis Taxes**"), but only where such Cannabis Taxes are accrued or collected after the date of this Order; and
 - (d) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicants.

10. **THIS COURT ORDERS** that until a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the applicable Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, monthly on the first day of each month, in advance (but not in arrears) in the amounts set out in the applicable lease or, with the consent of the Monitor and the DIP Lender, at such other time intervals and dates as may be agreed to between the applicable Applicant and landlord. On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

11. **THIS COURT ORDERS** that, except as specifically permitted herein or required pursuant to the terms of the DIP Agreement, the Applicants are hereby directed, until further Order of this Court: (i) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of this date; (ii) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of the Property; and (iii) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

12. **THIS COURT ORDERS** that each of the Applicants shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the DIP Agreement, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding \$250,000 in any one transaction or \$1,000,000 in the aggregate;
- (b) sell inventory in the ordinary course of business consistent with past practice, or otherwise with the consent of the Monitor and the DIP Lender;
- (c) in accordance with paragraphs 13 and 14 of this Order, vacate, abandon or quit any leased premises and/or disclaim or resiliate any real property lease and any ancillary agreements relating to the leased premises in accordance with Section 32 of the CCAA;
- (d) disclaim such other arrangements or agreements of any nature whatsoever with whomsoever, whether oral or written, as the applicable Applicant deems appropriate, in accordance with Section 32 of the CCAA;
- (e) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and
- (f) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business.

13. **THIS COURT ORDERS** that the applicable Applicant shall provide each relevant landlord with notice of such Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes such Applicant's entitlement to remove any such fixture under the

provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the applicable Applicant, or by further Order of this Court upon application by the applicable Applicant on at least two (2) days' notice to such landlord and any such secured creditors. If any Applicant disclaims or resiliates a lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Subsection 32(5) of the CCAA), and the disclaimer or resiliation of the lease shall be without prejudice to such Applicant's claim to the fixtures in dispute.

14. **THIS COURT ORDERS** that if a notice of disclaimer or resiliation is delivered pursuant to Section 32 of the CCAA, then: (i) during the notice period prior to the effective time of the disclaimer or resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the applicable Applicant and the Monitor 24 hours' prior written notice; and (ii) at the effective time of the disclaimer or resiliation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the applicable Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE BZAM ENTITIES OR THEIR RESPECTIVE PROPERTY

15. **THIS COURT ORDERS** that until and including May 25, 2024, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**", and collectively, "**Proceedings**") shall be commenced or continued against or in respect of any of the BZAM Entities or the Monitor, or their respective employees and representatives acting in such capacities, or affecting the Business or the Property, except with the written consent of the BZAM Entities and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the BZAM Entities or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court or the written consent of the BZAM Entities and the Monitor.

NO EXERCISE OF RIGHTS OR REMEDIES

16. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, organization, governmental unit, body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of any of the BZAM Entities or the Monitor, or their respective employees and representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the BZAM Entities and the Monitor, or leave of this Court, provided that nothing in this Order shall: (i) empower any BZAM Entity to carry on any business which such BZAM Entity is not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

17. **THIS COURT ORDERS** that during the Stay Period, no Person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, rescind, terminate or cease to perform any right, renewal right, contract, agreement, lease, sublease, licence, authorization or permit in favour of or held by any of the BZAM Entities, except with the written consent of the BZAM Entities and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

18. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements or arrangements with any of the BZAM Entities or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, accounting services, testing and irradiation services, security services, insurance, transportation services, utility or other services to the Business or any of the BZAM Entities, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by any of the BZAM Entities or exercising any other remedy provided under the agreements or arrangements, and that each of the BZAM Entities shall be entitled to the continued use of its current premises,

telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the applicable BZAM Entity in accordance with the normal payment practices of the applicable BZAM Entity or such other practices as may be agreed upon by the supplier or service provider and the applicable BZAM Entity and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

19. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to any of the BZAM Entities. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

20. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by Subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of any of the BZAM Entities with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of any of the BZAM Entities whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

21. **THIS COURT ORDERS** that the Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as a director or officer of any of the Applicants after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of such director's or officer's gross negligence or wilful misconduct.

22. **THIS COURT ORDERS** that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$12,900,000, unless permitted by further Order of this Court, as security for the indemnity provided in paragraph 21 of this Order. The Directors' Charge shall have the priority set out in paragraphs 39 and 41 herein.

23. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary: (i) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and (ii) the Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 21 of this Order.

APPOINTMENT OF MONITOR

24. **THIS COURT ORDERS** that FTI is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the BZAM Entities and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by any of the BZAM Entities pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

25. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicants' receipts and disbursements, including the management and use of any funds advanced by the DIP Lender to the Applicants under the DIP Agreement (as defined below);
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;

- (c) assist the Applicants, to the extent required by the Applicants, in their dissemination, to the DIP Lender and its counsel on a weekly basis, or as otherwise agreed to by the DIP Lender, of financial and other information as agreed to between the Applicants and the DIP Lender, which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;
- (d) advise the Applicants in their preparation of the Applicants' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis, but not less than weekly, or as otherwise agreed to by the DIP Lender;
- (e) advise the Applicants in their development of the Plan (if any) and any amendments to the Plan;
- (f) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) monitor all payments, obligations and transfers as between the BZAM Entities;
- (h) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the BZAM Entities, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;
- (i) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (j) perform such other duties as are required by this Order or by this Court from time to time.

26. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property or be deemed to take possession of the Property, pursuant to any provision of any federal, provincial or other law respecting, among other things, the manufacturing, possession, processing and distribution of cannabis or cannabis products including, without limitation, under

the *Cannabis Act*, S.C. 2018, c. 16, as amended, the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, as amended, the *Criminal Code*, R.S.C. 1985, c. C-46, as amended, the *Excise Act, 2001*, S.C. 2002, c. 22, as amended, the *Cannabis Licence Act, 2018*, S.O. 2018, c. 12, Sched. 2, as amended, the *Cannabis Control Act, 2017*, S.O. 2017, c. 26, Sched. 1, as amended, the *Ontario Cannabis Retail Corporation Act, 2017*, S.O. 2017, c. 26, Sched. 2, as amended, the *Cannabis Control and Licensing Act*, S.B.C. 2018, c. 29, as amended, the *Cannabis Distribution Act*, S.B.C. 2018, c. 28, as amended, the *Gaming, Liquor and Cannabis Act*, R.S.A. 2000, c. G-1, as amended, *The Cannabis Control (Saskatchewan) Act*, S.S. 2018, c. C-2.111, as amended, the *Cannabis Regulation Act*, C.Q.L.R. c. C-5.3, as amended or other such applicable federal, provincial or other legislation or regulations (collectively, the "**Cannabis Legislation**"), and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or the Property, or any part thereof within the meaning of any Cannabis Legislation or otherwise. For greater certainty, nothing in this Order shall be construed as resulting in the Monitor being an employer or successor employer within the meaning of any statute, regulation or rule of law or equity for any purpose whatsoever.

27. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Fisheries Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, the *Ontario Occupational Health and Safety Act*, the *Alberta Environmental Protection and Enhancement Act*, the *Alberta Water Act*, the *Alberta Occupational Health and Safety Act*, the *British Columbia Environmental Management Act*, the *British Columbia Water Protection Act*, the *British Columbia Workers Compensation Act*, *The Environmental Management and Protection Act, 2010* (Saskatchewan), the *British Columbia Workers Compensation Act*, the *British Columbia Fish Protection Act*, *The Environmental Management and Protection Act, 2010* (Saskatchewan), the *Agricultural*

Operations Act (Saskatchewan), *The Dangerous Goods Transportation Act* (Saskatchewan), *The Water Security Agency Act* (Saskatchewan), the Saskatchewan *Occupational Health and Safety Act, 1993*, the Quebec *Environment Quality Act*, the *Act Respecting Occupational Health And Safety* (Quebec) and regulations thereunder (collectively, "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

28. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicants including, without limitation, the DIP Lender, with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

29. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Monitor under the CCAA or as an officer of this Court, neither the Monitor nor its employees and representatives acting in such capacities shall incur any liability or obligation as a result of the Monitor's appointment or the carrying out by it of the provisions of this Order including, without limitation, under any Cannabis Legislation, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded to the Monitor by the CCAA or any applicable legislation.

30. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants in these proceedings 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 this Order, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel

for the Applicants in these proceedings on a weekly basis, or pursuant to such other arrangements as may be agreed to between the Applicants and such parties.

31. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

32. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and the Applicants' counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$1,000,000, unless permitted by further Order of this Court, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 39 and 41 hereof.

DIP FINANCING

33. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow under a credit facility from the DIP Lender in order to finance the Applicants' working capital requirements and other general corporate purposes and capital expenditures, provided that the borrowings under such credit facility shall not exceed the principal amount of \$41,000,000, unless permitted by further Order of this Court.

34. **THIS COURT ORDERS** that such credit facility shall be on the terms and subject to the conditions set forth in the DIP facility agreement between the Applicants and the DIP Lender dated as of February 28, 2024 (as may be amended from time to time, the "**DIP Agreement**"), filed.

35. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the DIP Agreement or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Agreement and the Definitive Documents as and

when the same become due and are to be performed, notwithstanding any other provision of this Order.

36. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lender's Charge**") on the Property, which DIP Lender's Charge shall not exceed the amount of \$41,000,000, plus interest, fees, costs and other charges under the DIP Agreement, unless permitted by further Order of this Court, or secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs 39 and 41 hereof.

37. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon 4 days' notice to the Applicants and the Monitor, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the DIP Agreement, Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under the DIP Agreement, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants; and
- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

38. **THIS COURT ORDERS AND DECLARES** that, unless agreed to by the DIP Lender, the DIP Lender shall be treated as unaffected in the Plan (if any) filed by any of the Applicants

under the CCAA, or any proposal filed by any of the Applicants under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**"), with respect to any advances made under the Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

39. **THIS COURT ORDERS** that the priorities of the Administration Charge, , the Bid Protections Charge (as defined in the Second Milich Affidavit), , the Directors' Charge and the DIP Lender's Charge (collectively, the "**Charges**") and the Edmonton Property Charge (as defined in the Milich Affidavit) and Cortland's Pre-Filing Debt (as defined below), as among them, shall be as follows:

With respect to all Property other than the Edmonton Property:

First – Administration Charge (to the maximum amount of \$1,000,000);

Second – DIP Lender's Charge (to the maximum amount of \$41,000,000, plus interest, fees, costs and other charges under the DIP Agreement);

Third – DIP Lender's existing security for all amounts due under the Amended and Restated Credit Agreement dated January 8, 2024 ("**Cortland's Pre-Filing Debt**");

Fourth – Directors' Charge (to the maximum amount of \$12,900,000); and

Fifth – Bid Protections Charge.

With respect to the Edmonton Property:

First – Administration Charge (to the maximum amount of \$1,000,000);

Second – Edmonton Property Charge;

Third – DIP Lender's Charge (to the maximum amount of \$41,000,000, plus interest, fees, costs and other charges under the DIP Agreement);

Fourth – Cortland's Pre-Filing Debt;

Fifth – Directors' Charge (to the maximum amount of \$12,900,000); and

Sixth – Bid Protections Charge.

40. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

41. **THIS COURT ORDERS** that each of the Charges (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person notwithstanding the order of perfection or attachment, except for the Directors' Charge and the Bid Protections Charge, which shall rank subordinate to Cortland's Pre-Filing Debt and the Edmonton Property Charge.

42. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants also obtain the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the Charges, or further Order of this Court.

43. **THIS COURT ORDERS** that the Charges and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") and/or the DIP Lender thereunder shall not otherwise be limited or impaired in any way by: (i) the pendency of these proceedings and the declarations of insolvency made herein; (ii) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (iii) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (iv) the provisions of any federal or provincial statutes; or (v) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other

agreement (collectively, an "**Agreement**") which binds any of the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Agreement or the Definitive Documents shall create or be deemed to constitute a breach by any of the Applicants of any Agreement to which the applicable Applicant(s) is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicants entering into the DIP Agreement, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicants pursuant to this Order, the DIP Agreement or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

44. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the applicable Applicant's interest in such real property lease.

CORPORATE MATTERS

45. **THIS COURT ORDERS** that BZAM Ltd. is hereby relieved of any obligation to call and hold an annual meeting of its shareholders until further Order of this Court.

RELIEF FROM REPORTING AND FILING OBLIGATIONS

46. **THIS COURT ORDERS** that the decision by BZAM Ltd. to incur no further expenses in relation to any filings (including financial statements), disclosures, core or non-core documents, restatements, amendments to existing filings, press releases or any other actions (collectively, the "**Securities Filings**") that may be required by any federal, provincial or other law respecting securities or capital markets in Canada, or by the rules and regulations of a stock exchange, including, without limitation, the Securities Act (Ontario), RSO 1990, c S.5 and

comparable statutes enacted by other provinces of Canada, the CSE Policies 1-10 and other rules, regulations and policies of the Canadian Securities Exchange (collectively, the "**Securities Provisions**"), is hereby authorized, provided that nothing in this paragraph shall prohibit any securities regulator or stock exchange from taking any action or exercising any discretion that it may have of a nature described in section 11.1(2) of the CCAA as a consequence of BZAM Ltd. failing to make any Securities Filings required by the Securities Provisions.

47. **THIS COURT ORDERS** that none of the directors, officers, employees, and other representatives of BZAM Ltd. nor the Monitor and its directors, officers, employees and representatives shall have any personal liability for any failure by BZAM Ltd. to make any Securities Filings required by the Securities Provisions during the Stay Period, provided that nothing in this paragraph shall prohibit any securities regulator or stock exchange from taking any action or exercising any discretion that it may have against the directors, officers, employees and other representatives of the Applicant of a nature described in section 11.1 (2) of the CCAA as a consequence of such failure by BZAM Ltd. For greater certainty, nothing in this order is intended to or shall encroach on the jurisdiction of any securities regulatory authorities (the "**Regulators**") in the matter of regulating the conduct of market participants and to issue cease trade orders if and when required pursuant to applicable securities law. Further, nothing in this Order shall constitute or be construed as an admission by the Regulators that the court has jurisdiction over matters that are within the exclusive jurisdiction of the Regulators under the Securities Legislation.

"STATUS QUO" OF APPLICANTS' LICENSES

48. **THIS COURT ORDERS** that (a) the status quo in respect of the Applicants' Health Canada and cannabis excise licenses (collectively, the "**Licenses**") shall be preserved and maintained during the pendency of the Stay Period, including the Applicants' ability to sell cannabis inventory in the ordinary course under the Licenses; and (b) to the extent any License may expire during the Stay Period, the term of such License shall be deemed to be extended by a period equal to the Stay Period.

SERVICE AND NOTICE

49. **THIS COURT ORDERS** that the Monitor shall: (i) without delay, publish in the *Globe and Mail (National Edition)*, a notice containing the information prescribed under the CCAA; and (ii) within five (5) days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, or cause to be sent, in the prescribed manner, a notice to every known creditor who has a claim against any of the Applicants of more than \$1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Subsection 23(1)(a) of the CCAA and the regulations made thereunder, provided that the Monitor shall not make the names and addresses of individuals who are creditors publicly available.

50. **THIS COURT ORDERS** that the E-Service Guide of the Commercial List (the "**Guide**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended (the "**Rules of Civil Procedure**"). Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Guide with the following URL: <http://cfcanada.fticonsulting.com/bzam>.

51. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Guide is not practicable, the Applicants, the Monitor, and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile or other electronic transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service, distribution or notice shall be deemed to be received: (i) if sent by courier, on the next business day following the date of forwarding thereof; (ii) if

delivered by personal delivery or facsimile or other electronic transmission, on the day so delivered; and (iii) if sent by ordinary mail, on the third business day after mailing.

52. **THIS COURT ORDERS** that the Applicants, the Monitor and each of their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices or other correspondence, by forwarding true copies thereof by electronic message (including by e-mail) to the Applicants' creditors or other interested parties and their advisors, as applicable. For greater certainty, any such service or distribution shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of Subsection 3(c) of the *Electronic Commerce Protection Regulations* (SOR/2013-221).

GENERAL

53. **THIS COURT ORDERS** that each of the Applicants, the Monitor or the DIP Lender may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder or in the interpretation of this Order.

54. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of any of the Applicants, the Business or the Property.

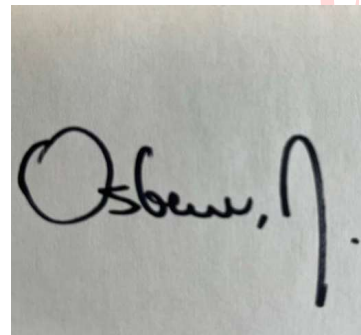
55. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

56. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in

carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

57. **THIS COURT ORDERS** that any interested party (including each of the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

58. **THIS COURT ORDERS** that the Initial Order of this Court dated February 28, 2024 is hereby amended and restated pursuant to this Order, and this Order and all of its provisions are effective as of 12:01 a.m. (Eastern Time) on the date of this Order without the need for entry or filing.



2024.03.

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SCHEDULE "A"
NON - APPLICANT STAY PARTIES

1. The Green Organic Beverage Corp.
2. TGOD Europe B.V.
3. 9430-6347 Québec Inc.
4. The Green Organic Dutchman Germany GmbH

ORS ARRANGEMENT

Court File No./N° du dossier du greffe : CV-24-00715773-00CL

**ACT, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF A
PLAN OF COMPROMISE OR ARRANGEMENT OF BZAM LTD., BZAM
HOLDINGS INC., BZAM MANAGEMENT INC., BZAM CANNABIS CORP.,
FOLIUM LIFE SCIENCE INC., 102172093 SASKATCHEWAN LTD., THE
GREEN ORGANIC DUTCHMAN LTD., MEDICAN ORGANIC INC., HIGH
ROAD HOLDING CORP. AND FINAL BELL CORP.**

Court File No.: CV-24-00715773-00CL

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

Proceeding commenced at Toronto

**AMENDED AND RESTATED INITIAL
ORDER**

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TAB 5



Court File No.: CV-24-00715773-00CL

THE HONOURABLE
JUSTICE OSBORNE

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FRIDAY, THE 8th
DAY OF MARCH, 2024

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BZAM LTD., BZAM HOLDINGS INC., BZAM MANAGEMENT INC., BZAM CANNABIS CORP., FOLIUM LIFE SCIENCE INC., 102172093 SASKATCHEWAN LTD., THE GREEN ORGANIC DUTCHMAN LTD., MEDICAN ORGANIC INC., HIGH ROAD HOLDING CORP., AND FINAL BELL CORP. (collectively the "**Applicants**", and each an "**Applicant**")

SISP APPROVAL ORDER

THIS MOTION, made by the Applicants pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, for an order, inter alia, approving the Sale and Investment Solicitation Process in the form attached hereto as Schedule "A" (the "**SISP**") and certain related relief, was heard this day by videoconference via Zoom.

ON READING the affidavit of Matthew Milich sworn March 1, 2024 and the Exhibits thereto (the "**Milich Affidavit**"), the Pre-Filing Report of FTI Consulting Canada Inc. ("**FTI**"), in its capacity as the proposed monitor of the Applicants dated February 28, 2024, and the First Report of FTI as the Court-appointed monitor of the Applicants (in such capacity, the "**Monitor**") dated March 6, 2024, and on being advised that the secured creditors who are likely to be affected by the charge created herein were given notice, and on hearing the submissions of counsel for the Applicants, the Monitor, Cortland Credit Lending Corporation and Stone Pine Capital Ltd. ("**Stone Pine**"), and the other parties listed on the counsel slip, no one appearing for any other party although duly served as appears from the affidavit of service of Jamie Ernst sworn March 1, 2024.

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Amended and Restated Initial Order of this Court dated March 8, 2024 (the "ARIO"), the SISP or the Stalking Horse Purchase Agreement (as defined below).

SALE AND INVESTMENT SOLICITATION PROCESS

3. **THIS COURT ORDERS** that the SISP is hereby approved and the BZAM Entities and the Monitor are hereby authorized and directed to implement the SISP pursuant to the terms thereof. The BZAM Entities and the Monitor are hereby authorized and directed to perform their respective obligations thereunder and to do all things reasonably necessary to perform their respective obligations thereunder, subject to prior approval of the Court being obtained before completion of any transaction(s) under the SISP.
4. **THIS COURT ORDERS** that the BZAM Entities, the Monitor, and their respective affiliates, partners, directors, officers, employees, legal advisors, representatives, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liabilities of any nature or kind to any person in connection with or as a result of the SISP, except to the extent of losses, claims, damages or liabilities that arise or result from the gross negligence or wilful misconduct of any such person (with respect to such person alone), in performing their obligations under the SISP, as determined by this Court in a final order that is not subject to appeal or other review.
5. **THIS COURT ORDERS** that in overseeing and conducting the SISP, the Monitor shall have all of the benefits and protections granted to it under the CCAA, the ARIO and any other Order of this Court in the within proceeding.

STALKING HORSE PURCHASE AGREEMENT

6. **THIS COURT ORDERS** that BZAM Ltd. is hereby authorized and empowered to enter into the Share Subscription Agreement dated March 1, 2024 (the "**Stalking Horse Purchase Agreement**") between BZAM Ltd as vendor (the "**Vendor**"), and 1000816625 Ontario Inc. (the "**Stalking Horse Purchaser**"), attached as Exhibit "**C**" to the Milich Affidavit, *nunc pro tunc*, with such minor amendments as may be acceptable to the Vendor and the Stalking Horse Purchaser, with the approval of the Monitor; provided that, nothing herein approves the sale and the vesting of any Property to the Stalking Horse Purchaser (or any of its designees) pursuant to the Stalking Horse Purchase Agreement and that the approval of any sale and vesting of any such Property shall be considered by this Court on a subsequent motion made to this Court if the transaction set out in the Stalking Horse Purchase Agreement is the Successful Bid.

7. **THIS COURT ORDERS** that, as soon as reasonably practicable following the Vendor and the Stalking Horse Purchaser agreeing to any amendment to the Stalking Horse Purchase Agreement permitted pursuant to the terms of this Order, the Applicants shall: (a) file a copy thereof with this Court; (b) serve a copy thereof on the Service List; and (c) provide a copy thereof to each SISP Participant (as hereinafter defined) excluding from the public record any confidential information that the Vendor and the Stalking Horse Purchaser, with the consent of the Monitor, agree should be redacted.

BID PROTECTIONS

8. **THIS COURT ORDERS** that the Bid Protections are hereby approved and, subject to the entry of the Stalking Horse Purchase Agreement, the Vendors are hereby authorized and directed to pay the Bid Protections to the Stalking Horse Purchaser (or to such other person as it may direct) in the manner and circumstances described in the Stalking Horse Purchase Agreement.

9. **THIS COURT ORDERS** that the Stalking Horse Purchaser shall be entitled to the benefit of and is hereby granted a charge (the "**Bid Protections Charge**") on the Property, which charge shall not exceed \$850,000 as security for payment of the Bid Protections in the manner and circumstances described in the Stalking Horse Purchase Agreement.

10. **THIS COURT ORDERS** that the filing, registration or perfection of the Bid Protections Charge shall not be required, and that the Bid Protections Charge shall be valid and enforceable for all purposes, including against any right, title or interest filed, registered, recorded or perfected subsequent to the Bid Protections Charge, notwithstanding any such failure to file, register, record or perfect.

11. **THIS COURT ORDERS** that the Bid Protections Charge shall constitute a charge on the Property and shall rank in the priority provided for in the ARIO.

12. **THIS COURT ORDERS** that except for the Charges or as may be approved by this Court on notice to parties in interest, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, the Bid Protections Charge, unless the BZAM Entities also obtain the prior written consent of the Monitor and the Stalking Horse Purchaser, or further Order of this Court.

13. **THIS COURT ORDERS** that the Bid Protections Charge shall not be rendered invalid or unenforceable and the rights and remedies of the Stalking Horse Purchaser shall not otherwise be limited or impaired in any way by: (i) the pendency of these proceedings and the declarations of insolvency made herein; (ii) any application(s) for bankruptcy order(s) or receivership order(s) issued pursuant to the *Bankruptcy and Insolvency Act* (the "**BIA**") or otherwise, or any bankruptcy order(s) or receivership order(s) made pursuant to such applications; (iii) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (iv) the provisions of any federal or provincial statutes; or (v) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds any of the BZAM Entities, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Bid Protections Charge nor the execution, delivery, perfection, registration or performance of the Stalking Horse Purchase Agreement shall create, cause or be deemed to constitute a breach by any of the BZAM Entities of any Agreement to which they are a party;

- (b) the Stalking Horse Purchaser shall not have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Bid Protections Charge or the execution, delivery or performance of the Stalking Horse Purchase Agreement; and
- (c) the payments made by the Vendor pursuant to this Order, the Stalking Horse Purchase Agreement and the granting of the Bid Protections Charge, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

14. **THIS COURT ORDERS** that the Bid Protections Charge created by this Order over leases of real property in Canada shall only be a charge on the Applicants' interest in such real property lease.

15. **THIS COURT ORDERS AND DECLARES** that the Stalking Horse Purchaser, with respect to the Bid Protections Charge only, shall be treated as unaffected in any Plan, or any proposal filed by the Applicants under the BIA.

PIPEDA

16. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 and any similar legislation in any other applicable jurisdictions, the Monitor, the BZAM Entities and their respective advisors are hereby authorized and permitted to disclose and transfer to prospective SISP participants that are party to a non-disclosure agreement (each a "**SISP Participant**") and their respective advisors personal information of identifiable individuals, but only to the extent required to negotiate or attempt to complete a transaction pursuant to the SISP (a "**Transaction**"). Each SISP Participant to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation for the purpose of effecting a Transaction, and, if it does not complete a Transaction, shall return all such information to the Monitor or the BZAM Entities, or, in the alternative, destroy all such information and provide confirmation of its destruction if requested by the Monitor or the BZAM Entities. Any bidder with a Successful Bid

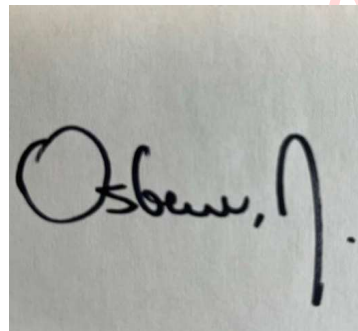
shall maintain and protect the privacy of such information and, upon closing of the Transaction(s) contemplated in the Successful Bid(s), shall be entitled to use the personal information provided to it that is related to the Business and/or the Property acquired pursuant to the SISP in a manner that is in all material respects identical to the prior use of such information by the BZAM Entities, and shall return all other personal information to the Monitor or the BZAM Entities, or ensure that all other personal information is destroyed and provide confirmation of its destruction if requested by the Monitor or the BZAM Entities.

GENERAL

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

18. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal and regulatory or administrative bodies, having jurisdiction in Canada or in any other foreign jurisdiction, to give effect to this Order and to assist the BZAM Entities, the Monitor, and their respective agents in carrying out the terms of this Order. All courts, tribunals and regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the BZAM Entities and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the BZAM Entities and the Monitor and their respective agents in carrying out the terms of this Order.

19. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. (Toronto Time) on the date of this Order without the need for entry or filing.

A rectangular stamp containing a handwritten signature in black ink. The signature appears to be "Osborne, J." with a stylized flourish at the end.

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SCHEDULE "A"

SALE AND INVESTMENT SOLICITATION PROCESS

[ATTACHED]

BZAM LTD.

SALE AND INVESTMENT SOLICITATION PROCESS

1. On February 28, 2024, the Ontario Superior Court of Justice (Commercial List) (the "**Court**") granted an order (the "**Initial Order**"), among other things, granting BZAM Ltd., BZAM Holdings Inc., BZAM Management Inc., BZAM Cannabis Corp., Folium Life Science Inc., 102172093 Saskatchewan Ltd., The Green Organic Dutchman Ltd., Medican Organic Inc., High Roads Holdings Corp., and Final Bell Corp. (collectively, the "**Applicants**") relief pursuant to the *Companies' Creditors Arrangement Act* (the "**CCAA Proceedings**"), and appointed FTI Consulting Canada Inc., as the monitor of the Applicants (the "**Monitor**"). The benefits and protections of the Initial Order were extended to The Green Organic Beverage Corp., TGOD Europe B.V., 9430-6347 Québec Inc., and The Green Organic Dutchman Germany GmbH (collectively, the "**Non-Applicant Stay Parties**" and together with the Applicants, the "**BZAM Entities**").
2. On March 8, 2024, the Court granted (a) an order amending and restating the Initial Order (the "**ARIO**"), and (b) an order (the "**SISP Approval Order**") that, among other things: (i) authorized the Applicants to implement a sale and investment solicitation process ("**SISP**") in respect of the BZAM Entities, including substantially all of the property, assets and undertakings of BZAM Entities (collectively, the "**Business**"), in accordance with the terms hereof; (ii) authorized and empowered BZAM Ltd. to enter into the Share Subscription Agreement dated March 1, 2024 (the "**Stalking Horse Bid**") with 1000816625 Ontario Inc. (the "**Stalking Horse Bidder**"); (iii) approved the Bid Protections; and (iv) granted the Bid Protections Charge. Capitalized terms that are not otherwise defined herein have the meanings ascribed to them in the ARIO, the SISP Approval Order or the Affidavit of Matthew Milich sworn March 1, 2024, as applicable. Copies of the ARIO and the SISP Approval Order can be found at <http://cfcanada.fticonsulting.com/bzam> (the "**Monitor's Website**").
3. This SISP sets out the manner in which: (a) non-binding letters of intent ("**LOIs**") and binding bids for a broad array of executable transaction alternatives (each a "**Transaction**") that are superior to the sale transaction contemplated by the Stalking Horse Bid will be solicited from interested parties; (b) any such LOIs and bids received will be addressed by the Applicants and the Monitor; (c) any Successful Bid (as defined below) will be selected; and (d) Court approval of any Successful Bid will be sought. Such Transaction alternatives may include, among other things, a sale of the Business or an investment in the Applicants, each of which shall be subject to all terms set forth herein.
4. The SISP shall be conducted by the Applicants and the Monitor.
5. Parties who wish to have their bids considered must participate in the SISP.
6. The Monitor, with the assistance of the Applicants, will:
 - (a) disseminate a teaser and a bid process letter (which letter shall, among other things, direct recipients to the Monitor's Website for a copy of this SISP) to potentially

- interested parties identified by the Applicants and the Monitor or any other interested party who contacts the Applicants or the Monitor;
- (b) publish a notice of the SISP in one or more trade industry and/or insolvency-related publications as may be considered appropriate by the Monitor;
 - (c) solicit interest from interested parties with a view to such parties entering into non-disclosure agreements in form and substance satisfactory to the Applicants and the Monitor ("**NDA**");
 - (d) provide interested parties who have executed an NDA with: (i) a confidential information memorandum in respect of the Business, and (ii) access to an electronic data room containing diligence information in respect of the Business and such other diligence opportunities as the Monitor and the Applicants consider advisable;
 - (e) request that such interested parties submit an LOI by the LOI Deadline (as defined below); and
 - (f) to the extent the SISP proceeds to Phase 2 (as defined below), request that Qualified Bidders (as defined below) submit a binding offer that meets at least the requirements set forth in Section 12 below, as determined by the Applicants and the Monitor (a "**Qualified Bid**"), by the Qualified Bid Deadline (as defined below).
7. The SISP shall be conducted subject to the terms hereof and the following key milestones:
- (a) the Court issues the SISP Approval Order approving the: (i) SISP and (ii) the Stalking Horse Bid in the SISP – **March 8, 2024**;
 - (b) the Monitor to commence solicitation process - as soon as possible following issuance of the SISP Approval Order;
 - (c) Deadline to submit an LOI - **5:00 p.m. (Toronto time) on April 8, 2024** (the "**LOI Deadline**");
 - (d) Deadline for Applicants and the Monitor, to determine if any LOIs constitute a Qualified LOI (as defined below) and to proceed to Phase 2 of the SISP - **by no later than April 11, 2024**;
 - (e) Deadline for Qualified Bidders to submit a Qualified Bid -**2:00 p.m. (Toronto time) on April 29, 2024** (the "**Qualified Bid Deadline**");
 - (f) The Applicants and Monitor to commence an Auction (as defined below), if any - **by no later than May 3, 2024**;
 - (g) Approval Order (as defined below) hearing - **by no later than May 21, 2024**, subject to Court availability; and

- (h) closing of the Successful Bid - as soon thereafter as possible and, in any event, **by no later than June 21, 2024** (the "**Outside Date**").
8. Any party that executed an NDA will be prohibited from communicating with any other party who executed an NDA regarding the BZAM Entities during the term of the SISP, without the consent of the Monitor, in consultation with the Applicants.
 9. Any interested party who wishes to submit an LOI in the SISP must submit an LOI that complies with the following criteria (it being understood that the Applicants and the Monitor, with the consent of the DIP Lender, may waive strict compliance with any or more of the requirements specified below):
 - (a) it sets forth the identity of the interested party, including its contact information, full disclosure of its direct and indirect principals and equity holders, and information as to the interested party's financial wherewithal to complete a transaction pursuant to the SISP;
 - (b) it sets forth the principal terms of the proposed Transaction, including: (i) the nature of the proposed Transaction (e.g. sale, investment, etc.); (ii) the purchase price or other consideration offered in connection with the Transaction, including material assumed liabilities; (iii) a description of any conditions or approvals required and any additional due diligence required for the interested party to make a final binding bid; (iv) all conditions to closing that the interested party may wish to impose on the closing of the Transaction; (v) proposed treatment of the BZAM Entities' employees; (vi) proposed treatment of the BZAM Entities' secured indebtedness; (vii) any other terms or conditions that the interested party believes are material to the Transaction; and (viii) any other information as may be reasonably requested by the Applicants and the Monitor; and
 - (c) it is received by the Applicants and the Monitor by the LOI Deadline at the email addresses specified on Schedule "B" hereto.
 10. Following the LOI Deadline, the Applicants and the Monitor and, subject to Section 21, the DIP Lender and the Stalking Horse Bidder, will assess the LOIs. If no Qualified LOIs are received by the LOI Deadline, then the Applicants and the Monitor and, subject to Section 21 with the consent of the DIP Lender and the Stalking Horse Bidder, may elect to terminate the SISP and send notice of same to the service list established in the CCAA Proceedings and any interested party who submitted an LOI, and proceed to seek Court approval to implement the transaction contemplated by the Stalking Horse Bid. If the Applicants and the Monitor determine, subject to Section 21, with the consent of the DIP Lender and following consultation with the Stalking Horse Bidder, that the Transaction outlined in an LOI represents a viable potential alternative Transaction that could provide greater value to the BZAM Entities and their stakeholders than the Stalking Horse Bid, including having regard to: (i) the consideration offered; (ii) the interested party's financial capability to complete a Transaction; (iii) the interested party's ability to make a binding offer by the Qualified Bid Deadline; (iv) treatment of the secured indebtedness of the BZAM Entities; and (v) such other factors that the Applicants and the Monitor, consider

relevant, then such LOI shall be deemed a "**Qualified LOI**" and the interested party submitting such Qualified LOI shall be deemed a "**Qualified Bidder**".

11. If one or more LOIs is determined to be a Qualified LOI, then the Applicants and the Monitor shall proceed to a second phase of the SISP ("**Phase 2**"). Only Qualified Bidders shall be permitted to participate in Phase 2. The Applicants and the Monitor will prepare a bid process letter for Phase 2 (the "**Bid Process Letter**"), and the Bid Process Letter will be (i) sent to all Qualified Bidders, and (ii) posted on the Monitor's Website. Phase 2 of the SISP shall include, among other things, the opportunity for Qualified Bidders to: (i) conduct additional diligence, including participation in management presentations; and (ii) to prepare and submit a Qualified Bid on or before the Qualified Bid Deadline.
12. In order to constitute a Qualified Bid, a bid must comply with the following:
 - (a) it must be superior to the Stalking Horse Bid and provide for aggregate consideration, payable in cash in full on closing in an amount equal to or greater than (i) all outstanding obligations owing to Cortland Credit Lending Corporation pursuant to the Second Amended and Restated Credit Agreement dated January 8, 2024; (ii) all outstanding obligations owing to Cortland Credit Lending Corporation under the DIP Agreement; (iii) all outstanding obligations under the DIP Agreement, (iv) any obligations in priority to amounts owing under the DIP Agreement, including any Charges, (v) the amount of \$250,000 to fund any professional fees incurred in connection with the wind-up of the CCAA Proceedings and any further proceedings or wind-up costs; (vi) the amount of \$850,000 to satisfy the Bid Protections (the "**Consideration Value**"), and provides a detailed sources schedule that identifies, with specificity, the composition of the Consideration Value and any assumptions that could reduce the net consideration payable including details of any material liabilities that are being assumed or being excluded;
 - (b) it contemplates closing of the proposed transaction by not later than the Outside Date;
 - (c) it contains:
 - (i) duly executed binding Transaction document(s);
 - (ii) the legal name and identity (including jurisdiction of existence) and contact information of the Qualified Bidder, full disclosure of its direct and indirect principals, and the name(s) of its controlling equityholder(s);
 - (iii) a redline to the Stalking Horse Bid;
 - (iv) evidence of authorization and approval from the Qualified Bidder's board of directors (or comparable governing body) and, if necessary to complete the transaction, the bidder's equityholder(s);

- (v) disclosure of any connections or agreements with the BZAM Entities or any of their affiliates, any other bidder participating in the SISP or any officer, manager, director, member or equity security holder of the BZAM Entities or any of their affiliates; and
- (vi) such other information as may be reasonably requested by the Applicants and the Monitor in the Bid Process Letter;
- (d) it includes a letter stating that the bid is submitted in good faith, is binding and is irrevocable until closing of the Successful Bid; provided, that if such bid is not selected as the Successful Bid or as the next-highest or otherwise best Qualified Bid as compared to the Successful Bid (such bid, the "**Back-Up Bid**") it shall only remain irrevocable until selection of the Successful Bid;
- (e) it provides that the bid will serve as a Back-Up Bid if it is not selected as the Successful Bid and if selected as the Back-Up Bid it will remain irrevocable until the earlier of (i) closing of the Successful Bid or (ii) closing of the Back-Up Bid;
- (f) it provides written evidence of the Qualified Bidder's ability to fully fund and consummate the Transaction and satisfy its obligations under the Transaction documents, including binding equity/debt commitment letters and/or guarantees covering the full Consideration Value;
- (g) it does not include any request for or entitlement to any break fee, expense reimbursement or similar type of payment;
- (h) it is not conditional upon:
 - (i) approval from the Qualified Bidder's board of directors (or comparable governing body) or equityholder(s);
 - (ii) the outcome of any due diligence by the Qualified Bidder; or
 - (iii) the Qualified Bidder obtaining financing;
- (i) it includes an acknowledgment and representation that the Qualified Bidder (i) has had an opportunity to conduct any and all required due diligence prior to making its bid and has relied solely upon its own independent review, investigation and inspection in making its bid, (ii) is not relying upon any written or oral statements, representations, promises, warranties, conditions, or guarantees whatsoever, whether express or implied (by operation of law or otherwise), made by any person or party, including the BZAM Entities, the Monitor and their respective employees, officers, directors, agents, advisors and other representatives, regarding the proposed Transaction, this SISP, or any information (or the completeness of any information) provided in connection therewith, except as expressly stated in the proposed Transaction documents, (iii) is making its bid on an "as is, where is" basis and without surviving representations or warranties of any kind, nature, or description by the BZAM Entities, the Monitor or any of their respective

- employees, officers, directors, agents, advisors and other representatives, except to the extent set forth in the proposed Transaction documents, (iv) is bound by this SISP and the SISP Approval Order, and (v) is subject to the exclusive jurisdiction of the Court with respect to any disputes or other controversies arising under or in connection with the SISP or its bid;
- (j) it specifies any regulatory (including Health Canada) or other third-party approvals the Qualified Bidder anticipates would be required to complete the Transaction (including the anticipated timing necessary to obtain such approvals);
 - (k) it includes full details of the Qualified Bidder's intended treatment of the BZAM Entities' employees under the proposed bid;
 - (l) it is accompanied by a cash deposit (the "**Deposit**") by wire transfer of immediately available funds equal to 10% of the Consideration Value, which Deposit shall be held by the Monitor in a trust account in accordance with the terms hereof;
 - (m) it includes a statement that the Qualified Bidder will bear its own costs and expenses (including ally legal and advisor fees) in connection with the proposed Transaction, and by submitting its bid is agreeing to refrain from and waive any assertion or request for reimbursement on any basis; and
 - (n) it is received by the Applicants and the Monitor by the Qualified Bid Deadline at the email addresses specified on Schedule "B" hereto.
13. The Qualified Bid Deadline may be extended by: (a) the Applicants and the Monitor and, subject to Section 21, with the consent of the DIP Lender and the Stalking Horse Bidder; or (b) further order of the Court. In such circumstances, the milestones contained in subsections 7(f) - 7(h) may be extended by Applicants for the same amount of time.
14. The Applicants and the Monitor, may waive strict compliance with any one or more of the requirements specified in Section 12 above and deem a non-compliant bid to be a Qualified Bid, provided that the Applicants shall not waive compliance with the requirements specified in Subsections **Error! Reference source not found.**, (b), (c), (h), (l) or (m) without the prior written consent of the Stalking Horse Bidder and the DIP Lender, each acting reasonably.
15. If one or more Qualified Bids (other than the Stalking Horse Bid) has been received by the Applicants and the Monitor on or before the Qualified Bid Deadline, the Applicants and the Monitor, in consultation with the DIP Lender, may:
- (a) negotiate with one or more of the Qualified Bidders who submitted a Qualified Bid, including requesting that such Qualified Bidder improve or otherwise modify the terms of its Qualified Bid (and any such improved or modified Qualified Bid submitted by a Qualified Bidder shall be deemed to be a Qualified Bid hereunder for all purposes);

- (b) considering the factors set out in Section 12 of the SISP and, among other things, (i) the amount of consideration being offered and, if applicable, the proposed form, composition and allocation of same, (ii) the value of any assumption of liabilities or release of liabilities not otherwise accounted for in (i) above, (iii) the likelihood of the Qualified Bidder's ability to close a Transaction by not later than the Outside Date (including factors such as: the Transaction structure and execution risk; conditions to, timing of, and certainty of closing; termination provisions; availability of financing and financial wherewithal to meet all commitments; and required governmental or other approvals), (iv) the likelihood of the Court's approval of the Successful Bid, (v) the benefit to the BZAM Entities and their stakeholders, including employees and (vi) any other factors the directors or officers of the Applicants may, consistent with their fiduciary duties, reasonably deem relevant (collectively, the "**Consideration Factors**"); and (y) designate any Qualified Bid received (including the Stalking Horse Bid) to be the highest or otherwise best bid in the SISP (as may be designated pursuant to this Section 15 (b) or designated at the Auction, the "**Successful Bid**" and the Qualified Bidder making such bid, the "**Successful Bidder**");
 - (c) having regard to the Consideration Factors, designate any Qualified Bid received as the Back-Up Bid (provided that the Stalking Horse Bid shall not serve as the Back-Up Bid unless agreed to in writing by the Stalking Horse Bidder); or
 - (d) proceed with an auction process to determine the Successful Bid and any Back-Up Bid (the "**Auction**"), which Auction shall be administered in accordance with Schedule "A" hereto.
16. If no Qualified Bid (other than the Stalking Horse Bid) has been received by the Applicants and the Monitor by the Qualified Bid Deadline, then the Stalking Horse Bid shall be deemed the Successful Bid and shall be consummated in accordance with and subject to the terms of the Stalking Horse Bid, including obtaining Court approval thereof.
17. Following selection of the Successful Bid, the Applicants, with the assistance of their advisors and the Monitor, shall seek to finalize any remaining necessary definitive agreement(s) with respect to the Successful Bid in accordance with the milestones set out in Section 7. Once the necessary definitive agreement(s) with respect to a Successful Bid have been finalized, as determined by the Applicants and the Monitor, the Applicants shall apply to the Court for an order or orders approving such Successful Bid and/or the mechanics to authorize the BZAM Entities to complete the transactions contemplated thereby, as applicable, and authorizing the applicable BZAM Entities to: (a) enter into any and all necessary agreements and related documentation with respect to the Successful Bid; (b) undertake such other actions as may be necessary to give effect to such Successful Bid; and (c) implement the Transaction contemplated in such Successful Bid (each, an "**Approval Order**"). If the Successful Bid is not consummated in accordance with its terms, the Applicants shall be authorized, but not required, to elect that the Back-Up Bid (if any) is the Successful Bid.

18. The highest Qualified Bid may not necessarily be accepted by the Applicants. The Applicants, with the written consent of the Monitor and the DIP Lender, reserve the right not to accept any Qualified Bid or to otherwise terminate the SISP. The Applicants, with the written consent of the Monitor and the DIP Lender, reserve the right to deal with one or more Qualified Bidders to the exclusion of others, to accept a Qualified Bid for different parts of the BZAM Entities' business and assets or to accept multiple Qualified Bids and enter into definitive agreements in respect of all such bids, provide that the aggregate of such Qualified Bids satisfies the requirements of Section 11(a) and (b).
19. If a Successful Bid is selected and an Approval Order authorizing the consummation of the Transaction contemplated thereunder is granted by the Court, any Deposit paid in connection with such Successful Bid will be non-refundable and shall, upon closing of the Transaction contemplated by such Successful Bid, be applied to the cash consideration to be paid in connection with such Successful Bid or be dealt with as otherwise set out in the definitive agreement(s) entered into in connection with such Successful Bid. Any Deposit delivered with a Qualified Bid that is not selected as a Successful Bid will be returned to the applicable Qualified Bidder by the Monitor as soon as reasonably practicable (but not later than ten (10) business days) after the date upon which the Successful Bid is approved pursuant to an Approval Order or such earlier date as may be determined by the Applicants, with the consent of the Monitor; provided, the Deposit in respect of any Back-Up Bid shall not be returned to the applicable Qualified Bidder until the closing of the Successful Bid.
20. The Applicants and the Monitor shall be permitted, in their discretion, to provide updates and information in respect of the SISP to any creditor (including any advisor thereto) (each a "**Creditor**") on a confidential basis upon: (a) the irrevocable confirmation in writing from such Creditor that the applicable Creditor will not submit any bid in the SISP; and (b) such Creditor executing a confidentiality agreement or undertaking with the Applicants in form and substance satisfactory to the Applicants and the Monitor.
21. The DIP Lender shall only be entitled to the consultation rights specified herein in its favour and confidential updates and information from the BZAM Entities and the Monitor in respect of the SISP, including copies of any LOIs or bids submitted in Phase 2, upon the DIP Lender irrevocably confirming in writing to the Applicants and the Monitor that it will not submit any bid in the SISP. The Stalking Horse Bidder shall only be entitled to the consultation rights specified herein in its favour and confidential updates and information from the BZAM Entities and the Monitor in respect of the SISP, including copies of any LOIs or Qualified Bid, upon the Stalking Horse Bidder irrevocably confirming in writing to the Applicants and the Monitor that it will not submit any bid in the SISP except for the Stalking Horse Bid, except for any revised Stalking Horse Bid that may be submitted in the Auction.
22. Any amendments to this SISP may only be made by the Applicants with the written consent of the Monitor and the DIP Lender, or by further order of the Court, provided that the Applicants shall not amend the requirements specified in Subsections 12(a) or (b) without the prior written consent of the Stalking Horse Bidder, acting reasonably, or approval of the Court.

23. The DIP Lender and any other secured lender of the BZAM Entities shall have the right (subject to compliance with the terms of this SISP) to credit bid their secured debt against the assets secured thereby up to the full face value of such secured lender's claims, including principal, interest and any other obligations owing to such secured lender; provided that any such secured lender shall be required to: (i) pay in full in cash any obligations of the BZAM Entities in priority to its secured debt (including as contemplated by Subsection 12(a) ; and (ii) pay appropriate consideration for any assets of the BZAM Entities which are contemplated to be acquired and that are not subject to such secured lender's security.
24. The Monitor will oversee the conduct of the SISP and, without limitation to that supervisory role, the Monitor will participate in the SISP in the manner set out herein and in the SISP Approval Order, and is entitled to receive all information in relation to the SISP.
25. For the avoidance of doubt, the Stalking Horse Bidder shall be deemed a Qualified Bidder for all purposes hereunder and the Stalking Horse Bid deemed a Qualified Bid.

SCHEDULE "A": AUCTION PROCEDURES

1. **Auction.** Instructions to participate in the Auction, which will take place either: (i) via video conferencing, or (ii) at a location to be designated in Toronto, Ontario, that will be provided by the Monitor to Qualified Parties (as defined below) not less than 48 hours prior to the Auction. Such instructions will identify and include a copy of the Qualified Bid that represents the highest or otherwise best Qualified Bid as determined by the Applicants and the Monitor, to be the initial bid at the Auction (the "**Initial Bid**").

2. **Participation.** Only Qualified Bidders that delivered a Qualified Bid, including, for greater certainty, the Stalking Horse Bidder (collectively the "**Qualified Parties**" and each a "**Qualified Party**"), shall be eligible to participate in the Auction. No later than 2:00 p.m. (Toronto time) on the day prior to the Auction, each Qualified Party must inform the Applicants and the Monitor in writing whether it intends to participate in the Auction. The Monitor will promptly thereafter inform in writing each Qualified Party who has expressed its intent to participate in the Auction of the identity of all other Qualified Parties that have indicated their intent to participate in the Auction. If no Qualified Party provides such expression of intent, the Initial Bid shall be designated as the Successful Bid.

3. **Auction Procedures.** The Auction shall be governed by the following procedures:
 - (a) **Attendance.** Only the Applicants, the Monitor, the Qualified Parties, the DIP Lender and any other secured creditor of the Applicants to the extent agreed to by the Monitor, and each of their respective advisors will be entitled to attend the Auction, and only the Qualified Parties will be entitled to make any Overbids (as defined below) at the Auction;

 - (b) **No Collusion.** Each Qualified Party participating at the Auction shall be required to confirm on the record at the Auction that: (a) it has not engaged in any collusion with respect to the Auction and the SISP; and (b) its bid is a good-faith bona fide offer, it is irrevocable and it intends to consummate the proposed transaction if selected as the Successful Bid;

 - (c) **Minimum Overbid and Back-Up Bid.** The Auction shall begin with the Initial Bid, and any bid made at the Auction by a Qualified Party subsequent to the Initial Bid (each, an "**Overbid**"), must proceed in minimum additional cash increments (or, if consented to by the Applicants and the Monitor, such other form of consideration being offered by a Qualified Party) of \$100,000, and all such Overbids shall be irrevocable until closing of the Successful Bid; provided, that if such Overbid is not selected as the Successful Bid or as the Back-Up Bid (if any) it shall only remain irrevocable until selection of the Successful Bid. An Overbid must comply with the bid requirements contained in the SISP for a Qualified Bid (including the requirements for payment of (i) all outstanding obligations owing to Cortland Credit Lending Corporation pursuant to the Second Amended and Restated Credit Agreement dated January 8, 2024; and (ii) all outstanding obligations owing to Cortland Credit Lending Corporation under the DIP Agreement), provided that the deadline to submit a Qualified Bid shall not apply;

- (d) **Bidding Disclosure**. The Auction shall be conducted such that all bids will be made and received in one group video-conference or meeting room (as applicable), on an open basis, and all Qualified Parties will be entitled to be present for all bidding with the understanding that the true identity of each Qualified Party will be fully disclosed to all other Qualified Parties and that all material terms of each subsequent Qualified Bid will be fully disclosed to all other Qualified Parties throughout the entire Auction; provided, however, that the Applicants and the Monitor, in their discretion, may establish separate video conference rooms or meeting breakout rooms to permit interim discussions among the Applicants, the Monitor and individual Qualified Parties with the understanding that all formal bids will be delivered in one group video-conference or meeting room (as applicable), on an open basis;
- (e) **Bidding Conclusion**. The Auction shall continue in one or more rounds and will conclude after each participating Qualified Party has had the opportunity to submit an Overbid with full knowledge and confirmation of the then-existing highest or otherwise best bid and no Qualified Party submits an Overbid; and
- (f) **No Post-Auction Bids**. No bids will be considered for any purpose after the Successful Bid has been designated and the Auction has concluded.

Selection of Successful Bid and Back-Up Bid

- 4. **Selection**. During the Auction, the Applicants and the Monitor, will: (a) review each subsequent Overbid, considering the Consideration Factors; and (b) identify the highest or otherwise best bid received at the Auction and designate such bid as the Successful Bid and such Qualified Party as the Successful Bidder. The Applicants and the Monitor may also elect to designate a bid received at the Auction as the Back-Up Bid (provided that the Stalking Horse Bid shall not serve as the Back-Up Bid unless agreed to in writing by the Stalking Horse Bidder).
- 5. **Acknowledgement**. The Successful Bidder shall complete and execute all agreements, contracts, instruments or other documents evidencing and containing the terms and conditions upon which the Successful Bid was made within one business day of the Successful Bid being selected as such, unless extended by the Applicants in their sole discretion, following consultation with the Monitor, subject to the milestones set forth in Section 7 of the SISP.

SCHEDULE "B"
E-MAIL ADDRESSES FOR DELIVERY OF BIDS

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To the Monitor and counsel to the Monitor:

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Attention:

Maria Konyukhova: mkonyukhova@stikeman.com
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IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED Court File No.: CV-24-00715773-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BZAM LTD., BZAM HOLDINGS INC., BZAM MANAGEMENT INC., BZAM CANNABIS CORP., FOLIUM LIFE SCIENCE INC., 102172093 SASKATCHEWAN LTD., THE GREEN ORGANIC DUTCHMAN LTD., MEDICAN ORGANIC INC., HIGH ROAD HOLDING CORP., AND FINAL BELL CORP.

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

Proceeding commenced at Toronto

SISP APPROVAL ORDER

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Lawyers for the Applicants

TAB 6



**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-24-00715773-00CL

DATE: March 19, 2024

NO. ON LIST: 4 (10:30am)

TITLE OF PROCEEDING:

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BZAM LTD., BZAM HOLDINGS INC., BZAM MANAGEMENT INC., BZAM CANNABIS CORP., FOLIUM LIFE SCIENCE INC., 102172093 SASKATCHEWAN LTD., THE GREEN ORGANIC DUTCHMAN LTD., MEDICAN ORGANIC INC., HIGH ROAD HOLDING CORP., AND FINAL BELL CORP.

BEFORE: JUSTICE OSBORNE

PARTICIPANT INFORMATION

For Plaintiff, Applicant:

Name of Person Appearing	Name of Party	Contact Info
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For Defendant, Respondent:

Name of Person Appearing	Name of Party	Contact Info
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BOZZELLI, ALESSANDRO LEVINE, NATALIE	CORTLAND CREDIT LENDING CORPORATION	abozzelli@cassels.com nlevine@cassels.com

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
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ENDORSEMENT OF JUSTICE OSBORNE:

- [1] I previously granted an Initial Order and subsequently approved a SISP in this CCAA proceeding.
- [2] As reflected in my most recent Endorsement in approving the SISP, Final Bell had appeared to indicate that it may be seeking advice and directions with respect to a possible rescission order which would have obvious effect on the SISP.
- [3] Final Bell was a company acquired by the Debtor just prior to the CCAA filing (i.e., December, 2023) in exchange for consideration of debt and equity. Final Bell alleges that the Debtor and its directors and/or officers made fraudulent misrepresentations as part of the acquisition transaction, but for which fraudulent misrepresentations, Final Bell never would have agreed to be acquired. It now wants an order rescinding that transaction based on the fraudulent misrepresentations.
- [4] Given the pending SISP, the parties sought advice and directions today. It is common ground that this matter obviously needs to be determined before the SISP can be completed. Bidders need to know what they are bidding on, and in particular, whether Final Bell is part of the Debtor or not.

- [5] The issue today is whether there is any necessity for *viva voce* evidence. Final Bell submits there is, and the Debtor, supported by the Monitor, submits that there is not, and that it is critical that there be no interruption to the SISP.
- [6] In the circumstances, and while all parties are in agreement that this matter can proceed on an expedited and summary trial basis, in my view Final Bell is entitled to have this matter determined on the basis of *viva voce* evidence to the extent necessary.
- [7] The issues are real, and the allegations are serious. Final Bell asserts not just innocent or negligent misrepresentation, but fraud, and alleges that the representations given to it literally in the few weeks before the insolvency filing as to assets, liquidity, credit availability and solvency were completely inconsistent with the filing and the evidence filed with the Court in support of the relief sought. Whether those very serious allegations can be made out or not, is for another day. But they do need to be determined expeditiously, but also fairly.
- [8] One possible result is that the allegations are not made out. Another possible result is that there is a finding that misrepresentations were made and relied upon, but that the misrepresentations were negligent and not fraudulent, with the result that Final Bell might be entitled to an unsecured claim for damages, but not rescission.
- [9] In my view, there will be very real issues of credibility that need to be determined at least on some core issues. One problem of proceeding on the basis of a written record, such as by way of summary judgment or summary proceeding (i.e., argument based on a written record of affidavits and cross-examination transcripts only) is that if the judge determining the matter decides that a trial or a trial of an issue is necessary, we will be no further ahead, and indeed will be further behind because the SISP will be further delayed to the detriment of all stakeholders.
- [10] Accordingly, this matter will proceed by way of summary trial of an issue, within this CCAA Proceeding. The trial will be completed within two court days. I have urged the parties, under the auspices of the Court-appointed Monitor, to agree on a case management timetable and to agree on as many issues as possible such that those matters requiring the court to hear *viva voce* evidence are limited in number and scope. All parties are in agreement with this.
- [11] I expect the parties to agree on a chronology, an agreed statement of facts, a cast of characters, and all or virtually all of the documents. I am hopeful that the parties can also agree on much of the evidence. Evidence in chief may be adduced by affidavit. Witnesses may testify in hybrid fashion, meaning that they may offer evidence by way of affidavit (subject to cross-examination) and that only those key issues requiring the court to hear *viva voce* evidence need be addressed by way of supplementary evidence.
- [12] The critical factor is that this matter be determined before formal bids are due in the SISP. The Applicants and the Monitor are of the view that non-binding letters of intent can be delivered notwithstanding that the First Bell issues will not yet have been determined. I am prepared to accept this, provided that (and I hereby direct) that the Monitor advises every party submitting a letter of intent of the fact of this dispute and the fact that it has not yet been finally determined although it is anticipated to be heard before final bids are due.
- [13] I have advised the Court-appointed Monitor of dates in April when the Commercial List can accommodate a two day hearing. The Monitor will coordinate a case management schedule with the parties to work

backwards from that to ensure that the matter is fully briefed and capable of being determined on the merits on those dates.

[14] The Monitor will schedule a further case management conference before me prior to the trial of an issue and after productions have been exchanged so that I can receive a report to ensure that the matter remains on track and that there are no case management issues that will cause delays.

[15] I may be spoken to if further directions are required.

Oliver, J.

TAB 7



ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

ENDORSEMENT

COURT FILE
NO.:

CV-24-00715773-00CL

DATE: April 12, 2024

NO. ON LIST: 1

TITLE OF
PROCEEDING:

In the Matter of a Plan of Compromise or Arrangement of BZAM Ltd.,
and Others

Justice Osborne

BEFORE:

PARTICIPANT INFORMATION

For the Applicant:

Name of Person Appearing	Name of Party	Contact Info
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Mike Shakra		Shakram@bennettjones.com

For Other:

Name of Person Appearing	Name of Party	Contact Info
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Andrew Winton	Counsel for Final Bell Corporation	awinton@lolg.ca
Joanna Vasiliou		jvasiliou@lolg.ca
Alessandro Bozzelli	Counsel for Cortland Credit Lending Corporation	abozzelli@cassels.com
Colin Pendrith		cpendrith@cassels.com

ENDORSEMENT OF JUSTICE OSBORNE:

1. This case conference was requested to address procedural issues in respect of the upcoming trial of an issue as between the Applicants on the one hand and Final Bell Holdings on the other hand.
2. First, on the consent of the parties, the legal briefs already agreed and directed to be delivered by the parties in advance of the hearing shall not exceed 50 pages in length. Supplementary legal briefs in the

nature of closing submissions to be delivered concurrently with final submissions on the second day of the trial of an issue will be limited to 25 pages in length.

3. Second, I approve the parties' joint request for Veritext Court Reporting to act as the court reporter and provide real-time transcripts and/or same-day rough drafts. A courtesy copy will be provided to the Court.
4. Third, the Monitor is preparing a report to assist the court with respect to the issues. Final Bell submits that in the course of investigating the matter and preparing its Report, the Monitor should review the record as it stands between the parties, but not seek to adduce new evidence such as by interviewing additional witnesses.
5. The Monitor, in furtherance of its mandate as directed by the Court, submitted that it reviewed the financial information as adduced by the Applicants and the Final Bell, and was of the view that there were certain limitations and gaps therein, with the result that any recommendations it might make for the benefit and assistance of this Court would be more informed if it obtained additional information to clarify the issues and fill in the gaps. The Monitor has acted entirely properly throughout, and has sought only to assist the Court as directed. It simply wants advice and directions as to how to proceed in the present circumstances. Final Bell strongly opposes the Monitor adducing or obtaining any additional evidence. The Applicants take no position, and nor does the secured lender, Cortland.
6. The parties have exchanged six affidavits that will constitute the evidence in chief. Cross examinations have been conducted with the result that, as directed, the *viva voce* evidence to be led at the hearing will be very limited. In short, the evidentiary record is relatively mature, subject to the additional evidence to be led at the trial of the issue. The allegations are serious and fundamental. Final Bell alleges fraudulent misrepresentation and seeks an order in the nature of rescission setting aside and unwinding the acquisition of that company by the Applicants.
7. Having heard from the parties and considered the issues, in my view, the Monitor should base its report and corresponding recommendations on the material already in the record in this proceeding, as well as in the record, specifically for this issue, without interviewing additional witnesses or seeking production of additional documents. To be clear, however, the Monitor may as it sees fit, make reference in its report to what it considers to be gaps in information and materials and any other issues as it sees fit. I understand Final Bell to be in agreement with this.

Osawa, J.

TAB 8



**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

ENDORSEMENT

COURT FILE NO.: CV-24- 00715773-00CL

DATE: April 19, 2024

NO. ON LIST: 2

TITLE OF PROCEEDING: In the Matter of BZAM LTD.

BEFORE: JUSTICE OSBORNE

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

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For Defendant, Respondent, Responding Party:

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	BZAM MANAGEMENT INC.	
	BZAM CANNABIS CORP.	
	FOLIUM LIFE SCIENCE INC.	
	102172093 SASKATCHEWAN LTD.	
	THE GREEN ORGANIC DUTCHMAN LTD.	
	MEDICAN ORGANIC INC.	
HIGH ROAD HOLDING CORP.		
PENDRITH, COLIN LEVINE, NATALIE	CORTLAND CREDIT LENDING CORPORATION	cpendrith@cassels.com nlevine@cassels.com

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
ROSENBERG, JEFF YANG, PHILIP KONYUKHOVA, MARIA	FTI Consulting (Monitor)	Jeffrey.rosenberg@fticonsulting.com pyang@stikeman.com mkonyukhova@stikeman.com

ENDORSEMENT OF JUSTICE OSBORNE:

- [1] The trial of an issue in this CCAA proceeding was scheduled to be heard on April 22 and 23, 2024. After scheduling the trial, I conducted two trial management conferences, the most recent of which was earlier this week, specifically for the purpose of ensuring that the matter was on track and would proceed. All was in order.
- [2] This morning, counsel for Final Bell requested an urgent case conference before me to request an adjournment of the trial on the basis of the disclosure of documents late yesterday, which Final Bell asserts fundamentally change the landscape of the issues, such that it is seeking further supplementary production from BZAM and a further examination for discovery, and then leave to file an amended opening statement.
- [3] BZAM, strongly supported by the secured lender and DIP lender, Cortland, submits that the documents are in the nature of corrections and clarifications, relate to issues that could have been explored on examinations for discovery already conducted but which were not, and in any event, do not reflect any prejudice that could not be fully addressed by a brief supplementary examination for discovery of the relevant witness and an amended opening statement from Final Bell, both of which things BZAM would consent to.
- [4] Having heard from all of the parties, and the Court-appointed Monitor, I am, with great reluctance, adjourning this trial of an issue. It was scheduled on an expedited basis with the consent and at the request of the parties, given other ongoing steps in this restructuring, which would or could be fundamentally affected by a determination on this issue.
- [5] The issue (or issues) to be tried are important. Final Bell was acquired by BZAM shortly before filing for CCAA protection. Final Bell alleges fraudulent misrepresentation in connection with that transaction and seeks the remedy of rescission with the obvious potential of having a fundamental effect on what constitutes the property of the Debtor.
- [6] Each of Final Bell and BZAM filed an aide memoire in respect of today's attendance, and as noted above, I heard submissions from all parties and the Court-appointed Monitor. Based on the materials filed and the submissions made, I cannot conclude that the issue is minor. It may be, but I cannot conclude that today. I explored with the parties the possibility of brief examinations for discovery being conducted over the weekend and revised materials being filed thereafter. Final Bell strenuously submitted that such would not remedy the prejudice it says it has suffered.
- [7] One of the reasons that I cannot conclude today that there has been no unfairness is that the trial is about allegations of fraudulent misrepresentations and, specifically, what the obligations and liabilities were of

BZAM at the relevant time. The newly disclosed documents consist of Canada Revenue Agency documents relevant to the issue of what indebtedness was owing to the CRA at certain points in time. That could be important to a determination of the trial, and in my view, fairness militates in favour of an adjournment.

- [8] I noted above that I granted the adjournment reluctantly, and I say this for a number of reasons, including the fact that the disruption to the Commercial List schedule is significant and the potential ramifications of an adjournment on the parties to this issue, and on other parties and stakeholders in this CCAA proceeding, could be significant. I have reminded all parties that there could well be material cost consequences resulting from this claim and the adjournment. I have also made it very clear to the parties that there was significant disruption to the schedule of the Commercial List to free up the two days next week, on an emergency basis, and I was not at all certain that two consecutive days could be accommodated again, at least before the summer.
- [9] I observe that the SISP, which was one of the factors militating in favour of an expedited date (and there are others) has now been terminated, such that the Stalking Horse Agreement would be the Successful Bid, and I further observe that the principal of the Stalking Horse Bidder is the current Chairman of BZAM.
- [10] I have directed that once all parties are in agreement that additional production has been made, and examinations have been completed, the Monitor may request a brief case conference before me, at which I will do my best to reschedule this trial as soon as it can be accommodated, ideally for a shorter period of time than the two days presently booked, even if that means the two days may not be consecutive (which is not my preference).

Oleew, J.

TAB 9



ONTARIO SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

COUNSEL SLIP/ENDORSEMENT

COURT FILE NO.: CV-24-00715773-00CL

DATE: May 6, 2024

NO. ON LIST: 5

TITLE OF PROCEEDING: In the Matter of BZAM LTD.
BEFORE Justice OSBORNE
JUSTICE:

PARTICIPANT INFORMATION

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Name of Person Appearing	Name of Party	Contact Info
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For Defendant, Respondent, Responding Party, Defence:

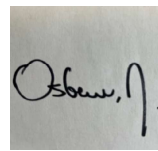
Name of Person Appearing	Name of Party	Contact Info
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For Other, Self-Represented:

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Maria Konyukhova	Lawyers for the Monitor	mkonyukhova@stikeman.com

ENDORSEMENT:

1. This case conference was requested today in respect of the upcoming trial of an issue involving Final Bell in this CCAA proceeding.
2. Final Bell advises that it is no longer seeking the remedy of rescission with the result that the issue, while still important and time sensitive, is not as emergent as it was since it no longer has the direct effect on the pending SISP.
3. At the same time, the Applicants and Cortland, the senior creditor and DIP Lender, seek security for costs from Final Bell on the basis of both non-residency and impecuniosity.
4. Accordingly, the security for costs motion will proceed on **June 4, 2024 commencing at 10 AM and continuing as necessary for one half day.**
5. The moving parties have delivered detailed costs outlines and have broken out in segregated professional time in respect of this trial of an issue from time related to the restructuring generally. I do not order the production of individual dockets.
6. Moving party materials have already been served. Responding materials will be served by end of day on May 9. Reply materials if any, will be served by May 14. Responding party facta will be served by May 22. Reply facta, if any, will be served by May 29.
7. The trial of an issue tentatively scheduled to be heard for **two days on September 18 and 19, 2024.** At schedule will be revisited at the June for security for costs motion to see if earlier dates are available.
8. All counsel have confirmed their availability for all dates and the fact that all materials will be delivered such that the matters are ready for determination on the merits as scheduled.



2024.05.12

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Justice OSBORNE

Date: May 6, 2024

TAB 10



ONTARIO SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

COUNSEL SLIP/ENDORSEMENT

COURT FILE NO.: CV-24-00715773-00CL

DATE: May 6, 2024

NO. ON LIST: 5

TITLE OF PROCEEDING: In the Matter of BZAM LTD.
BEFORE Justice OSBORNE
JUSTICE:

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
Joseph Blinick	Lawyers for the Applicants	blinickj@bennettjones.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Andrew Winton David Ionis	Lawyers for Final Bell Holdings International Ltd.	awinton@lolg.ca dionis@lolg.ca
Jeffrey Rosenberg Kamran Hamidi Adsaran Vithiyananthan	Monitor	jeffrey.rosenberg@fticonsulting.com kamran.hamidi@fticonsulting.com adsaran.vithiyananthan@fticonsulting.com
Joseph Bellissimo	Lawyers for Cortland Credit Lending Corporation	jbellissimo@cassels.com
Maria Konyukhova	Lawyers for the Monitor	mkonyukhova@stikeman.com

ENDORSEMENT:

1. This case conference was requested today in respect of the upcoming trial of an issue involving Final Bell in this CCAA proceeding.
2. Final Bell advises that it is no longer seeking the remedy of rescission with the result that the issue, while still important and time sensitive, is not as emergent as it was since it no longer has the direct effect on the pending SISP.
3. At the same time, the Applicants and Cortland, the senior creditor and DIP Lender, seek security for costs from Final Bell on the basis of both non-residency and impecuniosity.
4. Accordingly, the security for costs motion will proceed on **June 4, 2024 commencing at 10 AM and continuing as necessary for one half day.**
5. The moving parties have delivered detailed costs outlines and have broken out in segregated professional time in respect of this trial of an issue from time related to the restructuring generally. I do not order the production of individual dockets.
6. Moving party materials have already been served. Responding materials will be served by end of day on May 9. Reply materials if any, will be served by May 14. Responding party facta will be served by May 22. Reply facta, if any, will be served by May 29.
7. The trial of an issue tentatively scheduled to be heard for **two days on September 18 and 19, 2024.** At schedule will be revisited at the June for security for costs motion to see if earlier dates are available.
8. All counsel have confirmed their availability for all dates and the fact that all materials will be delivered such that the matters are ready for determination on the merits as scheduled.

Justice OSBORNE

Date: May 6, 2024

TAB 11



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

COUNSEL SLIP / ENDORSEMENT

COURT FILE NO.: CV-24-00715773-00CL

DATE: May 17, 2024

NO. ON LIST: 1

TITLE OF PROCEEDING: BZAM Ltd. et al v. Pure Sunfarms Corp et al

BEFORE: Mr. Justice Osborne

PARTICIPANT INFORMATION

For the Applicants:

Name of Person Appearing	Name of Party	Contact Info
Sean Zweig	Counsel for the Applicants	zweigs@bennettjones.com
Mike Shakra		shakram@bennettjones.com
Jamie Ernst		ernstj@bennettjones.com

For the Respondents / Others:

Name of Person Appearing	Name of Party	Contact Info
Maria Konyukhova	Counsel for the Monitor, FTI Consulting	mkonyukhova@stikeman.com
Andrew Winton	Counsel for Final Bell Holdings Intl.	awinton@lolg.ca
Jeffrey Bellissimo	Counsel for Cortland Credit Lending	jbellissimo@cassels.com

ENDORSEMENT OF JUSTICE OSBORNE:

1. The Applicants seek a stay extension to and including July 15, 2024, and approval of the Third Report of the Monitor, the Prior Reports, and the activities of the Monitor described therein.
2. The relief sought today is unopposed. The Service List has received the materials.
3. The proposed stay extension is appropriate in the circumstances to allow time for the resolution of various outstanding matters and, hopefully, the completion of the stalking horse transaction.

4. The DIP Lender, Stone Pine, and the Stalking Horse Purchaser all support the proposed relief. The Monitor recommends approval. As demonstrated in the revised cash flow analysis appended to the Third Report, the Applicants should have sufficient liquidity through the end of the proposed stay extension.
5. The Applicants have acted and continue to act in good faith and I agree with the conclusion of the Monitor that no stakeholder will be materially prejudiced by the extension. It is approved.
6. The Third Report and the Prior Reports and the activities described therein are consistent with the mandate of the Monitor set out in the Initial Order. They are appropriate and are approved.
7. Order to go in the form signed by me today which is effective immediately and without the necessity of issuing and entering.

Olson, J.

TAB 12



Court File No.: CV-24-00715773-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE) FRIDAY, THE 17th
JUSTICE OSBORNE) DAY OF MAY, 2024

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 BZAM LTD., BZAM HOLDINGS INC., BZAM MANAGEMENT INC., BZAM CANNABIS CORP., FOLIUM LIFE SCIENCE INC., 102172093 SASKATCHEWAN LTD., THE GREEN ORGANIC DUTCHMAN LTD., MEDICAN ORGANIC INC., HIGH ROAD HOLDING CORP. AND FINAL BELL CORP. (collectively the "**Applicants**", and each an "**Applicant**")

STAY EXTENSION ORDER

THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for an order, among other things, extending the Stay Period was heard this day by judicial videoconference via Zoom.

ON READING the affidavit of Matthew Milich dated May 10, 2024, and the Exhibits thereto (the "**Milich Affidavit**") and the Third Report of the Monitor dated May 14, 2024 (the "**Third Report**"), and on hearing the submissions of counsel for the Applicants and the additional parties listed in Schedule "A" hereto, counsel for the Monitor, counsel for the DIP Lender and counsel for the Stalking Horse Purchaser, and such other counsel that were present, no one else appearing although duly served as appears from the affidavit of service of Jamie Ernst, filed,

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that all capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Milich Affidavit or the Amended and Restated Initial Order dated March 8, 2024 (the "**ARIO**"), as applicable.

EXTENSION OF THE STAY PERIOD

3. **THIS COURT ORDERS** that the Stay Period as defined in paragraph 15 of the ARIO is hereby extended until and including July 15, 2024.

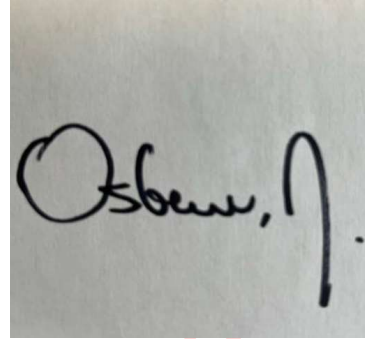
APPROVAL OF THE MONITOR'S ACTIVITIES AND REPORTS

4. **THIS COURT ORDERS** that the Pre-Filing Report, the First Report, the Second Report and the Third Report are hereby approved, and the activities and conduct of the Monitor as described therein is hereby ratified and 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 approvals.

GENERAL

5. **THIS COURT ORDERS** that this Order is effective as of 12:01 AM from the date that it is made and is enforceable without the needs for entry and filing.
6. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding,

or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

A rectangular image showing a handwritten signature in black ink on a light-colored background. The signature appears to be "Osburn, J." with a large, stylized initial "O" and a vertical line extending downwards from the "J".

2024.05.1

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SCHEDULE "A"
NON - APPLICANT STAY PARTIES

1. The Green Organic Beverage Corp.
2. TGOD Europe B.V.
3. 9430-6347 Québec Inc.
4. The Green Organic Dutchman Germany GmbH

ORS ARRANGEMENT

Court File No./N° du dossier du greffe : CV-24-00715773-00CL

**ACT, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF A
PLAN OF COMPROMISE OR ARRANGEMENT OF BZAM LTD., BZAM
HOLDINGS INC., BZAM MANAGEMENT INC., BZAM CANNABIS CORP.,
FOLIUM LIFE SCIENCE INC., 102172093 SASKATCHEWAN LTD., THE
GREEN ORGANIC DUTCHMAN LTD., MEDICAN ORGANIC INC., HIGH
ROAD HOLDING CORP. AND FINAL BELL CORP.**

Court File No.: CV-24-00715773-00CL

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

Proceeding commenced at Toronto

STAY EXTENSION ORDER

BENNETT JONES LLP

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Email: ernstj@bennettjones.com

Lawyers for the Applicants

TAB 13



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL SLIP/ENDORSEMENT

COURT FILE NO.: CV-24-00715773-00CL

DATE: June 30, 2024

NO. ON LIST: 2

TITLE OF PROCEEDING: In the Matter of BZAM LTD. et al

BEFORE JUSTICE: Justice OSBORNE

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

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For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
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Joseph Bellissimo Natalie Levine Colin Pendrith Jonathan Shepherd	Counsel for Cortland Credit Lending	jbello@bellissimo.com nlevine@cassels.com cpendrith@cassels.com jshepherd@cassels.com

For Other:

Name of Person Appearing	Name of Party	Contact Info
Maria Konyukhova	Counsel for the Monitor, FTI Consulting	mkonyukhova@stikeman.com

ENDORSEMENT of OSBORNE, J:

1. These motions engage two issues that arise relatively infrequently:
 - a. when and in what circumstances are security for costs appropriate within an ongoing *CCAA* proceeding; and
 - b. whether a party against whom no relief is directly sought can be entitled to security for costs.
2. BZAM Ltd. (“BZAM”) and Cortland Credit Lending Corporation (“Cortland”) each seek an order requiring Final Bell Holdings International Ltd. (“Final Bell”) to immediately post security for the costs of its claim originally for rescission of a Share Exchange Agreement dated December 5, 2023, and now damages and equitable relief, including the imposition of a constructive trust.
3. BZAM seeks security in respect of costs on a full indemnity scale in the amount of \$636,000, or in the alternative on a substantial indemnity scale in the amount of \$575,000, and Cortland seeks security on a partial indemnity scale in the amount of \$243,595.34.
4. Final Bell opposes the relief sought.
5. BZAM relies upon the affidavits of Wenbo Sun affirmed April 23, 2024 and May 13, 2024, and the affidavit of Matthew Milich sworn May 28, 2024. Cortland relies on the affidavit of Jonathan Shepherd sworn April 24, 2024. Final Bell relies on the affidavit of Keith Adams dated March 18, 2024.
6. Defined terms in this Endorsement have the meaning given to them in the motion materials unless otherwise stated.

Background

7. The overarching background to, and context of, this motion is set out in earlier Endorsements I have issued in this *CCAA* proceeding.
8. BZAM is a Canadian cannabis company that owns cannabis cultivation facilities in Ontario and Alberta, leases production facilities in Ontario, British Columbia and Québec, leases a retail store in Saskatchewan, and has corporate offices in Ontario and British Columbia. It filed for and was granted protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c C-36 (the “*CCAA*”) pursuant to the terms of the Initial Order granted on February 28, 2024.
9. Approximately three months before BZAM’s *CCAA* filing, BZAM had entered into a Share Exchange Agreement with Final Bell dated December 5, 2023, pursuant to which Final Bell sold its wholly-owned subsidiary, Final Bell Canada Inc. (“FBC”) to BZAM. The consideration paid for the shares of FBC consisted of equity in BZAM and unsecured debt. As a result, Final Bell became a shareholder of BZAM.
10. Cortland is the pre-filing senior secured lender of BZAM, and the provider of debtor-in-possession (“DIP”) financing (the “DIP Lender”) pursuant to the Initial Order.
11. Final Bell did not appear on the first day hearing in this proceeding on February 28, 2024 to oppose the Initial Order that was granted. It did not seek to avail itself of the come-back clause in that Initial Order or seek relief amending or vacating the Initial Order. Even at the come-back hearing required under the *CCAA* to be conducted within 10 days of the Initial Order, Final Bell did not oppose the continuation of relief, including but not limited to the stay of proceedings.
12. However, on March 18, 2024, Final Bell brought a claim seeking to rescind the Share Exchange Agreement, alleging fraudulent misrepresentation on the part of BZAM. With the agreement of the parties, that claim has proceeded, and has been case managed, as a trial of an issue within this *CCAA* proceeding. It originally came before the Court on an urgent basis, given that Final Bell’s claim for rescission needed to be

resolved in order that the pending Sale and Investment Solicitation Process (“SISP”) for BZAM could proceed. Potential bidders needed to know what they were bidding on (i.e., whether the assets and business of BZAM included FBC or not). The parties requested, and the Court accommodated, an extremely expedited case management timetable leading to the summary trial of Final Bell’s claim for rescission.

13. Subsequent to the scheduling of the summary trial by which the Final Bell claim was to be adjudicated, Final Bell advised the Court that it was abandoning its claim for rescission. However, it now seeks in its claim damages and equitable relief in the form of an order imposing a constructive trust over any proceeds of the sale of the business of the Applicants. I pause to observe that, subject to the Final Bell claim, those proceeds would be entirely payable to Cortland, which is anticipated to suffer a loss even if it receives the entirety of those net proceeds.

14. That case management timetable contemplated the very steps that in fact occurred: the claimant and the respondents filed extensive affidavit evidence, made extensive documentary production, conducted cross examinations on the affidavits, conducted a Rule 39.03 examination, and responded to undertakings and further document requests.

15. The summary trial was intended to proceed in hybrid format, with evidence of all parties being led by way of affidavit, with cross examinations and other *viva voce* evidence limited to certain fundamental issues. Trial was scheduled for two days on April 22 and 23, 2024, dates which were scheduled by the Court on the consent of all parties, each of whom confirmed their availability for those dates.

16. The trial did not proceed as scheduled. On April 19, 2024, a few days before it was set to commence, Final Bell sought an urgent case conference at which it requested an adjournment of the trial on the basis that it had just received supplementary productions from BZAM that, in the submission of Final Bell, fundamentally changed the landscape and required Final Bell to re-evaluate its position and anticipated evidence. BZAM and Cortland opposed the adjournment. Having heard submissions from all parties, I granted the adjournment requested by Final Bell. The hearing is now anticipated to occur sometime this summer.

17. BZAM and Cortland now seek security for their respective costs of the Final Bell claim, based both on non-residency and good reason to believe that Final Bell lacks sufficient assets in Ontario or elsewhere to pay a costs award if ordered to do so.

Rule 56 and Security for Costs

18. This Court has jurisdiction to make an order respecting security for costs pursuant to Rule 56.01(1):

The court, on motion by the defendant or respondent in a proceeding, may make such order for security for costs as is just where it appears that,

- a) the plaintiff or applicant is ordinarily resident outside Ontario;
- b) the plaintiff or applicant has another proceeding for the same relief pending in Ontario or elsewhere;
- c) the defendant or respondent has an order against the plaintiff or applicant for costs in the same or another proceeding, that remain unpaid, in whole or in part;
- d) the plaintiff or applicant is a corporation or a nominal plaintiff or applicant, and there is good reason to believe that the plaintiff or applicant has insufficient assets in Ontario;
- e) there is good reason to believe that the action or application is frivolous and vexatious, and that the plaintiff or applicant has insufficient assets in Ontario to pay the costs of the defendant or respondent; or

f) a statute entitles the defendant or respondent to security for costs.

19. The jurisdiction is discretionary. The analysis to be undertaken by the Court in determining whether that discretion should be exercised has two stages:

- a. first, the moving party must show that any one of the six factors set out in Rule 56.01(1) applies; and
- b. if the first stage is met, the onus shifts to the responding party to establish that it would be unjust in all of the circumstances to order security for costs.

See: *Brown v. Hudson's Bay Company*, 2014 ONSC 1065 at paras. 33-34.

20. The threshold to meet the first stage of the test is “light”, given that “unfairness would result were the defendant required to prove something that is within the knowledge of the plaintiff”: *JoBro Film Finance Ltd., v. National Bank of Canada*, 2020 ONSC 975 (“*JoBro*”) at para. 6.

21. The second stage involves an inquiry into other factors which may assist in determining the justice of the case:

[E]ach case must be considered on its own facts are helpful nor just to compose a static list of factors to be used in all cases. In determining the justness of the security for costs order. There is no utility in imposing rigid criteria on top of the criteria already provided for in the Rules. The correct approach is for the court to consider the justness of the order holistically, examining all the circumstances of the case and guided by the overriding interests of justice to determine whether it is just that the order be made.

See *Yaiguaje v. Chevron Corporation*, 2017 ONCA 827 (“*Yaiguaje*”) at para. 25.

22. Courts must be vigilant to ensure an order that is designed to be protective in nature is not used as a litigation tactic to prevent a case from being heard on its merits, even in circumstances where the other provisions of Rule 56 have been met: *Yaiguaje* at para. 23.

23. As recognized by the Court of Appeal in *Yaiguaje* at para. 24, courts in Ontario have identified various factors to be considered, including the merits of the claim, any delay in bringing the motion for security, the impact of a defendant’s conduct on the available assets of the plaintiff, access to justice concerns, and the public importance of the litigation.

24. However, none of those factors is exclusive, mandatory or static, and each case must be considered on its own facts. The overarching objective is, as stated by the Court of Appeal, to consider the justness of the order holistically, examining all the circumstances of the case and being guided by the overriding interests of justice.

Does Rule 56 Apply to Claims in a CCAA Proceeding?

25. Final Bell submits that, as a preliminary issue, Rule 56.01 does not apply at all because BZAM is not a “defendant” or a “respondent” as referred to in Rule 56.01 (1) and is in fact, the Applicant in this CCAA proceeding, and also because Final Bell, as the claimant here, is not a “plaintiff” or “applicant” but is a respondent in this CCAA proceeding.

26. I cannot accept the submission. While Final Bell is indeed a Respondent in this insolvency proceeding, and BZAM is indeed the Applicant, the dispute in respect of which security for costs is sought is the claim of Final Bell described above. Final Bell is the claimant, and it alleges fraud and seeks substantive relief against BZAM. The relationship of those parties in the context of the Final Bell claim is analogous in all respects to that of plaintiff and defendant or applicant and respondent.

27. If necessary, I would place reliance on Rule 1.04(1) which requires that the Rules shall be liberally construed to secure the just, most expeditious and least expensive determination of every civil proceeding on its merits, and also on Rule 1.04(2), which provides that where matters are not provided for in the rules, the practice shall be determined by analogy to them.

28. I draw additional comfort for my analogous approach from Rule 56.01(2) itself, which provides that subrule (1) applies with necessary modifications to a party to a garnishment, interpleader or other issue who is an active claimant and would, if a plaintiff, be liable to give security for costs. In my view, the legislative intent is clearly that security for costs should be available in circumstances of an active claim.

29. Finally, if necessary, in my view, the broad discretion given to this Court in s.11 of the *CCAA* to make any order that it considers appropriate in the circumstances “on the application of any person interested in the matter” would also be a basis for my jurisdiction to order security for costs. The power given to the supervising court is vast, and this broad discretionary power is the feature of the *CCAA* that enables it to be adapted so readily to each reorganization: *Canada v. Canada North Group Inc.*, 2021 SCC 30 (CanLII), [2021] 2 SCR 571 (“*Canada North*”) at para. 121, quoting *9354-9186 Québec Inc. v. Callidus Capital Corp.*, 2020 SCC 10, [2020] 1 S.C.R. 521 at para. 67.

30. In my view, the baseline requirements of appropriateness, good faith and due diligence, and the requirement that the supervising judge must be satisfied that the order sought would advance the policy and remedial objectives of the *CCAA* (i.e., the survival of going concerns, and the objective of providing the conditions under which the debtor can attempt to reorganize) are all such that there is no good policy reason to hold that the security for costs regime established by the Rules cannot apply in a *CCAA* proceeding: see *Canada North*, at para. 21.

31. In this case, the successful party or parties in respect of Final Bell’s claim would presumptively be entitled to costs in respect of that claim, just as would a party successful on a motion within any application or action. There is nothing special about a claim advanced in a *CCAA* proceeding, and particularly a significant claim with material costs incurred to prosecute and defend, that disentitles a successful party to costs when the claim is determined. Sometimes costs are sought and sometimes they are not, just as with any proceeding. Claims within a *CCAA* proceeding are routinely the subject of claims for costs, and where the determination of claims is delegated by order to a claims officer (which is very common in complex and large restructurings), those claims officers are regularly given the jurisdiction and discretion to determine and award costs.

32. In my view, it follows that if the successful party or parties on the Final Bell claim would presumptively be entitled to costs following a determination of that claim (as they would be), there is no just rationale for the conclusion that the security for costs regime established by the Rules cannot apply at all.

33. For all of these reasons, I find that Rule 56.01 is not inapplicable to a claim brought within a *CCAA* proceeding.

Is Security for Costs available to Cortland?

34. Final Bell submits that it ought not to be required to post security in favour of Cortland, even if security is otherwise appropriate, since it alleges no wrongdoing against Cortland and seeks no relief against that party.

35. In my view, additional considerations can apply in the somewhat unusual circumstances as are present here, in that the Final Bell Claim is being litigated within this *CCAA* proceeding. It is to be expected, and indeed it is the case here, that other stakeholders are directly affected by this claim.

36. Cortland, in its capacity as senior secured lender and DIP Lender, is such an example. That party is clearly affected by the disruption to the restructuring proceeding (with attendant costs) brought about by the final bow claim, whatever the result. In addition, it is also very directly affected by the result of the claim in

that if Final Bell is successful, the ability of Cortland to recover on its DIP financing and/or on its pre-filing indebtedness owing by BZAM will almost certainly be negatively affected.

37. This Court previously approved the DIP Facility pursuant to which the DIP financing was advanced. It allows BZAM to continue operating during this restructuring. Pursuant to the DIP facility, Cortland was granted a super priority charge over all existing and after-acquired real and personal property of the Applicants. That includes all existing and after-acquired real and personal property of FBC and Final Bell. I pause to observe that Final Bell did not oppose that super priority charge, and nor has it sought subsequently to amend, vary or vacate that charge, although the constructive trust remedy it now seeks would have precisely that effect.

38. As noted above, and subject to the Final Bell claim, Cortland would be entitled to the entirety of the net proceeds from the sale of BZAM's business, and it is anticipated that Cortland would still suffer a shortfall on its indebtedness. It is those very net proceeds over which Final Bell (notwithstanding its late-in-the-day abandonment of its rescission claim), now seeks to assert a constructive trust. If that constructive trust claim is successful, it would "prime" or rank in priority to the claim of Cortland, which would therefore suffer the corresponding loss as a direct result. Accordingly, it is difficult to conclude that Cortland is unaffected by the Final Bell claim.

39. Moreover, it is perhaps ironic that Final Bell takes the position that Cortland ought not to be entitled to security for costs when one of the key allegedly fraudulent misrepresentations on which Final Bell bases its claim is that, as noted above, BZAM was anticipated to have sufficient financing available pursuant to the revolving credit facility issued by none other than Cortland.

40. Indeed, Final Bell essentially concedes this point itself in its factum, where it describes Cortland as "the only party with a legitimate interest in seeking security" (para. 2(e)).

41. Had the Final Bell claim been outstanding earlier, Cortland may well have elected not to provide DIP financing at all. Other stakeholders (such as other creditors) could also be directly affected by the Final Bell claim here notwithstanding that they are not directly involved in its determination. The pendency of that claim is delaying the progress in the restructuring, including but not limited to the SISF. DIP financing costs and other professional fees that may otherwise have been avoided or reduced continue to accrue, all of which reduces the overall recovery available to creditors and other stakeholders.

42. The conclusion that Cortland is an affected party entitled to respond to the motion and entitled to security for the costs thereof is reinforced by Rule 37.07(1) which requires that a notice of motion be served on any party "or other person who will be affected by the order sought, unless these rules provide otherwise", and is consistent with the approach taken by this Court in *Re U.S. Steel Canada Inc.*, [2022] 5 C.B.R. (7th) 95, 2022 ONSC 6993 at paras. 51 and 52. Here, as in that case, the proprietary and economic interests of the party [seeking security] depend on the outcome of the claim.

43. Finally, I accept the submission of Cortland that equity and fairness militate in favour of it being entitled to security in the circumstances where the consideration that Final Bell received under the Share Exchange Agreement of shares and unsecured debt means that, at its highest, Final Bell is an unsecured creditor and an equity holder of BZAM. Cortland, on the other hand, was and is a secured creditor. It held secured debt pursuant to the revolving credit facility pre-filing, and has a priority charge in respect of the post-filing DIP Facility. To conclude that Cortland ought not to be entitled to security would amount to elevating the position of Final Bell above Cortland and leave Cortland, as the admittedly innocent party against which no allegations are advanced, bearing most of the risk.

44. For all of these reasons, it seems just and equitable that security for costs be available in appropriate circumstances to a party in the position of Cortland. If necessary, I find that the broad discretionary jurisdiction given to a CCAA court in s. 11 of the CCAA and discussed above is broad enough to direct a party to post

security for costs in favour of another stakeholder in appropriate circumstances, such as I have found to be present in this particular case.

Application of Rule 56 to this Case

45. In this case, there is no dispute that Final Bell ordinarily resides outside Ontario (Rule 56.01(1)(1)(a)).
46. The jurisdiction where the corporate party carries on business is decisive in satisfying the rule in this regard: *Fruitticola SNC v. Rite-Pak Produce Co. Limited*, 2009 CanLII 60089 (ONSC) at para. 7. In any event, however the requirement of being “ordinarily resident” is to be construed, there is no interpretation that allows for the conclusion that Final Bell is “ordinarily resident” in Ontario.
47. Final Bell is a US-based cannabis company, incorporated under the laws of British Columbia. It is therefore ordinarily resident outside of Ontario, specifically in Van Nuys, California, United States. It has no connection to Ontario. While technically or formally a Canadian company in that its registered mailing office is in British Columbia, it is functionally a U.S. operation. Its directors are also all located outside Ontario: one is in the United States, one is in Singapore, one is in Australia and two are in British Columbia. Its Chief Financial Officer is located in California.
48. I am satisfied that the factors set out in Rule 56.01(1)(a) apply.
49. I am equally satisfied that there is good reason to believe that Final Bell has insufficient assets in Ontario to pay the costs of either BZAM or Cortland or both. As a starting point, there is no evidence that it has any assets in Ontario at all.
50. Jurisdiction aside, each of its financial statements since at least December 31, 2021 reflect that Final Bell has recorded net losses from operations and that liabilities exceed assets by a material amount. Moreover, things are trending in the wrong direction: the margin by which its liabilities exceed assets has exceeded over time.
51. The moving parties submit that Final Bell has at all times been, and remains, balance-sheet insolvent. Its condensed consolidated financial statements as of and for the three and nine months ended December 31, 2022 and 2021, which constitute its most recent publicly-disclosed financial statements, reveal total assets of USD \$72,575,890 as against total liabilities of USD \$86,015,166, therefore yielding negative equity of USD \$13,439,276 as at December 31, 2022.
52. The moving parties submit that over time, between the date of those financial statements and during the nine months thereafter ending September 30, 2023, the financial situation of Final Bell deteriorated even further, such that by March 31, 2023, its total liabilities exceeded its total assets by USD \$29,030,384.
53. Moreover, Final Bell’s condensed consolidated statement of cash flows as at March 31, 2022 and March 31, 2023 reflect losses from operations in the amounts of USD \$13,137,736 and USD \$17,710,102, respectively, and that it suffered net losses of USD \$22,521,933 and \$52,201,853, respectively.
54. The audit of Final Bell’s condensed consolidated financial statements was never completed for the year ended March 31, 2022 or the year ended March 31, 2023. In fact, its auditor resigned on November 3, 2023, citing professional standards and issues of “concern” regarding Final Bell’s valuation of FBC, the company it sold to BZAM (less than one month after its auditor resigned).
55. As a result of its failure to file financial statements, Final Bell was placed under a Cease Trade Order by the British Columbia Securities Commission on August 14, 2023. That CTO remains active, although partially revoked by the BCSC on September 30, 2023 and January 9, 2024 at the request of Final Bell to avoid materially prejudicial events occurring.

56. As a result of all of the above, BZAM and Cortland submit that while Final Bell may not be impecunious, there is good reason to believe that it does not have sufficient assets in Ontario to pay the costs of BZAM and/or Cortland if ordered to do so.

57. There has been much jurisprudence about whether and in what circumstances the fact that a corporation's liabilities exceed its assets is enough to meet the first part of the test, or whether a corporation's operational insolvency is similarly enough to meet the test. (See, for example, *JoBro*, at para. 39; *Capital Sports Management Inc. v. Trinity Development Group Inc., et al*, 2020 ONSC 7309 at para. 17; *Legendary Log Homes, Inc. v. Courtice Auto Wreckers Limited*, [2008] O.J. No. 4028 [ONSC] at para. 2; and *American Axle & Manufacturing Inc. v. Durable Release Coasters Ltd.*, [2006] O.J. No. 5283 [ONSC] at para. 33.

58. However, the application of the test as articulated in *JoBro* requiring that the issue be approached holistically and in a common sense manner, allows for no conclusion here other than that Final Bell lacks sufficient assets to satisfy a costs award, in or even outside Ontario, with the result that Rule 56.01(1)(d) also applies.

59. Accordingly, I am satisfied that the moving parties have established that the first stage of the test has been met, such that the onus shifts to Final Bell to establish that requiring it to post security for costs in the circumstances would be unjust.

60. I am reinforced in this conclusion by the position of Final Bell itself, which submits in paragraph one of its factum that "the issue on this motion is whether the justness of the case supports an order that Final Bell pay security for costs".

61. A consideration of what is just in any one case is clearly dependent on the particular circumstances of that case. The objective is to ensure equality between litigants and avoid, for example, creating a circumstance where the effect of an order requiring a party to post security would almost automatically mean, in a practical sense, that that party was deprived of the opportunity to bring its claim. Against this, however, the court must balance the right of the party or parties seeking security to avoid a circumstance where those parties would be compelled to defend a claim in respect of which it is virtually certain that they could never recover any costs, whatever the result.

62. This balancing is particularly relevant in a matter like this one where the allegations are serious (fraud), the costs will likely be significant and they will be incurred in relatively short order given the accelerated timetable for this claim and summary trial.

63. The respective positions of the parties with respect to the merits of the Final Bell claim are wholly at odds with one another.

64. Final Bell submits that the strength of its claim is a factor in its favour, since it has a strong *prima facie* case that it was defrauded.

65. Final Bell alleges that it is entitled to damages and equitable relief essentially on the basis that it sold its subsidiary, FBC, to BZAM in exchange for shares and unsecured debt, only to have BZAM file for insolvency protection three months later. It alleges four broad fraudulent misrepresentations:

- a. BZAM misled Final Bell about its ability to extend a revolving credit facility granted by Cortland, which Final Bell understood was going to be extended in March, 2024 for another 15 months;
- b. BZAM misled Final Bell about its future cash flows as a standalone entity;
- c. BZAM misled Final Bell about its outstanding excise tax liabilities other than those disclosed; and
- d. BZAM did not inform Final Bell of its intention to terminate its CFO without any succession plans and very shortly after the closing of the FBC acquisition.

66. BZAM denies all of the fraudulent misrepresentation allegations, a position in which it is fully supported by Cortland, who has been involved prior to filing as BZAM's pre-filing senior secured lender, and thereafter as the DIP Lender. BZAM and Cortland submit that the Final Bell claim is without merit and that BZAM made no misrepresentations, fraudulent or otherwise.

67. In my view, and while recognizing that the merits of the underlying claim can be a factor taken into account, the merits of the Final Bell claim here are a neutral factor. As noted above, the allegations are serious, and the claim has serious consequences for all parties involved. The nature of the fraudulent misrepresentations alleged engage credibility issues of a number of individuals involved, including but not limited to the credibility of the CEO and former CFO of BZAM. That is in large part why the summary trial contemplates *viva voce* evidence, albeit from a limited number of witnesses and on a limited number of issues.

68. The Final Bell claim engages vigorously contested allegations of discrepancies between documents said to have been produced during the due diligence period, and records subsequently disclosed following the Final Bell transaction, including but not limited to Canada Revenue Agency filings in respect of cannabis excise tax obligations.

69. In my view, I am not in a position on this motion to resolve these fundamental issues or make any significant preliminary findings in respect thereof, with the result that the merits of the case are a neutral factor.

70. Moreover, the moving parties submit that Final Bell is advancing its claim purely for tactical reasons and delay in order to gain leverage, and that this is illustrated by the fact that, notwithstanding its threats to do so, Final Bell did not avail itself of the come-back right in the Initial Order to seek to set aside that Initial Order (including the stay of proceedings) within the 10 day period, or at any time subsequently. Nor has it sought, as noted above, to amend or vacate the super priority charge in favour of Cortland as DIP Lender.

71. They submit that Final Bell was late in asserting its claim and did not advance the claim for many weeks while this CCAA proceeding was ongoing. When it did bring its claim, it sought the remedy of rescission, which was wholly disruptive to the proceeding generally, and to that then-ongoing SISP process in particular. Only once the summary trial of the Final Bell claim was scheduled on an urgent basis did Final Bell then abandon its claim for rescission, although that has only a partially calming effect since it continues to seek a constructive trust over the proceeds of sale of the assets and business of BZAM.

72. In response, Final Bell submits that the moving parties, and particularly BZAM, were late in bringing these motions for security and such motions must be brought promptly after the defendant discovers it has a reasonable basis for doing so. Final Bell submits that the justness of the case requires that it not be placed in the position of having to post security for costs after it has incurred significant expense to advance its claim.

73. While I accept that delay can be a factor (both ways), in my view, it does not operate in the particular circumstances of this case to favour Final Bell. The claim would already have been heard on the merits at the originally proposed summary trial but for the adjournment request of Final Bell. While I do not fault Final Bell for bringing that request (indeed, I granted it), I do not think that in the circumstances the fact that the summary process has expanded and now continues and it is in that context in which the moving parties bring these motions, amounts to delay such as to disentitle the moving parties to relief.

74. In the same way, I cannot accept the submission of Final Bell that granting security to BZAM in the circumstances is "tantamount to rewarding it for its faulty documentary disclosure". While BZAM could have moved for security earlier, there is no question but that this entire claim has proceeded on a very expedited timetable and the parties (all of them) have been busy responding to issues in real-time and preparing for trial on an accelerated basis.

75. In my view, and having considered all of the relevant factors in the circumstances of this case holistically, I am satisfied that it would be fair and just to require Final Bell to post security in favour of both

BZAM and Cortland. The Final Bell claim is significant and wholly disruptive to this restructuring proceeding. That is not to say that it is without merit, and the disruption may ultimately be determined to have been justified, but at present, the disruption is real and the merits of the claim are undetermined.

76. Moreover, the claim is complex, proceeding as noted above, on an extremely expedited timetable, and requires the expenditure of very significant resources by all affected parties, as is reflected in all of the Bills of Costs discussed below.

77. There is no evidence before me to the effect that an order requiring security to be posted would force an end to the Final Bell claim. On the contrary, Final Bell submits that, notwithstanding its balance sheet insolvency, it would be in a position to pay an award of costs following the determination of its claim, if ordered to do so.

78. For all of the above reasons, I am satisfied that Final Bell has not met its onus of establishing that it would be unjust to compel it to post security for costs.

Quantum of Security to be Posted

79. The next issue, then, is what quantum should be required.

80. The court has wide discretion as to the quantum of security to be posted, and that discretion must be exercised in a manner that is just in all the circumstances. As is clear from the jurisprudence cited above, it is the role of the court to do its best by balancing the entitlement of the responding parties to the claim to a reasonable measure of protection for their costs, as against the impact of any order requiring security to be posted on the claimant.

81. The principles and factors that apply to a determination of the appropriate quantum are substantially similar to the factors that apply to the exercise of discretion in fixing costs. The amount ordered must fall within the reasonable contemplation of the parties, and the court must be guided by what is reasonable and fair: *Canadian Metal Buildings Inc. v. 1467344 Ontario Limited*, 2019 ONSC 566 at para. 27; and *2018218 Ontario Limited v. Realty Specialists Inc.*, 2019 ONSC 150 at para. 23.

82. In this particular case, that involves a consideration of three points, among others.

83. First, BZAM submits that security in respect of costs on an elevated scale (full indemnity or substantial indemnity, as opposed to partial indemnity) could be appropriate given that the allegation by Final Bell in the underlying claim is fraud, such that it would presumptively be entitled to costs on an elevated scale at the end of the day if successful.

84. Cortland seeks security on a partial indemnity scale.

85. Final Bell acknowledges that costs may be awarded on an elevated scale where dishonest conduct is alleged as in this case, but it submits that the strength of its case is such that security should be ordered, if at all, only on a lower scale given its *prima facie* case that misrepresentations were knowingly or recklessly made by officers of BZAM.

86. In my view, and balancing all of the factors, I am not persuaded that security should be ordered in respect of costs on an elevated scale. Whether costs will ultimately be awarded in respect of the Final Bell claim at all, let alone on an elevated scale, remain to be seen. It is not automatic that unsuccessful allegations of fraud inevitably entitle a successful party to elevated costs: see *Hamilton v. Open Window Bakery Ltd.*, 2004 SCC 9 at para. 26. In my view, the equities in this case justify an order requiring that security be posted, but not on an elevated scale.

87. Second, it is important to ensure that the quantum reflects only the potential costs of this particular claim. Here, Final Bell submits that the costs claimed by BZAM include costs of this restructuring proceeding beyond the four corners of this claim, and should therefore be reduced.
88. It is elementary that the quantum reflects only the costs incurred or to be incurred with respect to this claim.
89. Final Bell contests the quantum sought to be posted by BZAM in part, on the basis that BZAM has not submitted actual dockets reflecting solicitors' time already incurred. In my view, this is not fatal to BZAM's position. Dockets are often not required, and I previously gave case management directions to the effect that dockets were not required in connection with this motion (see Endorsement made in this proceeding dated May 6, 2024).
90. Further, I accept the statement from counsel to the effect that the Bill of Costs does not include any time for matters unrelated to the Final Bell claim, consistent with the Bill of Costs itself in the description of services in respect of which costs are sought to be secured. Obviously, actual entitlement to an award of costs, and the quantum of such costs, are for another day, and the costs claimed will have to be justified.
91. Third, Final Bell submits that the quantum of costs sought to be posted is simply unfairly high and that even if this Court were persuaded that security was appropriate, the quantum should be reduced so as not to prevent Final Bell from asserting its claim.
92. Where the requirement for security for costs has been established, and the majority of litigation steps have been completed, a plaintiff must generally pay security for those costs already incurred and for anticipated costs of upcoming steps in the litigation: *Shuter v. Toronto Dominion Bank*, [2007] O.J. 3435 [ONSC] at para. 193; *Demessy Limited v. Cassels Brock and Blackwell LLP*, 2011 ONSC 4122 at para. 33.
93. BZAM seeks security to be posted in accordance with its draft Bill of Costs. It breaks down costs already incurred and costs estimated to be incurred going forward, and summarizes total fees and disbursements as follows: \$635,712.96 (full indemnity scale), \$574,986.81 (substantial indemnity scale), and \$392,808.38 (partial indemnity scale).
94. Cortland has also filed a Bill of Costs. That reflects total fees, inclusive of disbursements and HST, in the amount of \$243,595.34 (partial indemnity scale), \$363,001.43 (substantial indemnity scale), and \$402,723.53 (actual fees). As noted above, Cortland seeks security to be posted in the partial indemnity amount.
95. Final Bell has filed its own Costs Outline in respect of its claim to support its submission that the quantum sought by each of BZAM and Cortland is excessive. The Costs Outline of Final Bell reflects costs incurred to date, and it projects costs going forward, all-inclusive of fees, disbursements and HST, as follows: \$293,230.27 (partial indemnity scale), \$430,601.55 (substantial indemnity scale), and \$476,391.97 (actual amounts).
96. In my view, and having considered all of the relevant factors, including the work undertaken to date in respect of the Final Bell claim and the projected work to be undertaken through to and including the completion of the summary trial, an appropriate order is one that requires Final Bell to post security for costs in favour of BZAM in the amount of \$350,000 and in favour of Cortland in the amount of \$147,000, for a total of \$497,000. All amounts are inclusive of fees, disbursements and HST.
97. I observe that this aggregate amount is, in my view, well within the range that Final Bell could expect to pay if unsuccessful in its claim. I pause to observe that the Purchase Price in the Share Exchange Agreement included Consideration Shares (as defined in the Agreement) with a value of \$13,500,000 (90 million Purchaser Shares at a deemed price per Purchaser Share of \$0.15). Moreover, the proportion of the amount I

have ordered to be posted in favour of Cortland relative to BZAM is equal to the proportion of partial indemnity costs claimed by those parties relative to one another.

Result and Disposition

98. The motion of each of BZAM and Cortland is granted. Final Bell is ordered to post security for costs in the following amounts:

- a. in respect of the costs of BZAM: \$350,000; and
- b. in respect of the costs of Cortland: \$147,000.

99. Given the expedited timetable pursuant to which the Final Bell claim is being tried, that security is to be posted within 15 days, failing which the parties may seek a case conference before me to determine next steps, including whether the Final Bell claim should be dismissed.

100. BZAM and Cortland seek their costs of this motion, if successful. So too does Final Bell. Having been successful, BZAM and Cortland are presumptively entitled to their costs.

101. Pursuant to s. 131 of the *Courts of Justice Act*, R.S.O. 1990, c.C.43, costs are in the discretion of the court, and the court may determine by whom and to what extent the costs shall be paid.

102. Rule 57.01 provides that in exercising its discretion under s. 131, the court may consider, in addition to the result in the proceeding (and any offer to settle or contribute), the factors set out in that Rule.

103. The overarching objective is to fix an amount that is fair, reasonable, proportionate and within the reasonable expectations of the parties in the circumstances: *Boucher v. Public Accountants Council for the Province of Ontario*, (2004) 71 O.R. (3d) 291 (C.A.), 2004 CanLII 14579 (Ont. C.A.).

104. Rule 57.03 provides that, on the hearing of a contested motion, unless the court is satisfied that a different order would be more just, the court shall fix the costs of the motion and order them to be paid within 30 days.

105. BZAM has filed a Costs Outline pursuant to which it seeks costs on a partial indemnity scale inclusive of disbursements in the amount of \$30,747.87. (The Costs Outline also reflects substantial indemnity costs of over \$46,000 and actual costs in excess of \$51,000).

106. All parties filed extensive motion records, facta, authorities, briefs and aides memoire. In my view, and having considered all of the Rule 57 factors in the circumstances of this motion, Final Bell should pay to BZAM its costs in the amount of \$20,000 and Cortland its costs in the amount of \$8500. Those costs are inclusive of fees, disbursements and HST. They are payable by Final Bell to BZAM and Cortland respectively, at the same time as the security is to be posted: within 15 days.

107. Order to go to give effect to these reasons.



Osborne J.

TAB 14



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL SLIP/ENDORSEMENT

COURT FILE NO.: CV-24-00715773-00CL DATE: July 15, 2024

NO. ON LIST: 4

TITLE OF PROCEEDING: **BZAM LTD. et al**

BEFORE JUSTICE: **Justice OSBORNE**

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

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For Defendant, Respondent, Responding Party, Defence:


Name of Person Appearing	Name of Party	Contact Info

For Other, Self-Represented:

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ENDORSEMENT OF JUSTICE OSBORNE:

- [1] The Applicant seeks a stay extension to and including August 28, 2024, together with an order approving the Fourth Report of the Monitor dated July 12, 2024 and the activities described therein.
- [2] The Service List has been served. The relief sought is not opposed by any party, and is supported by Cortland and recommended by the Monitor.
- [3] The Applicant relies upon the affidavit of Matthew Milich sworn July 8, 2024 together with exhibits thereto, and the Fourth Report.
- [4] The SISP has been completed but the stalking horse bid transaction awaits resolution or disposition of the Final Bell issues.
- [5] For all of the reasons set out in the materials I am satisfied that stay, which currently expires today, should be extended until and including August 28, 2024, and that it is in the best interests of the Applicants and their stakeholders, since such an extension will provide an opportunity to finalize and seek approval of the transaction and in the interim preserve the status quo. The Monitor is of the view that no stakeholder will be materially prejudiced, and the cash flow forecast, revised, demonstrates sufficient liquidity through the end of the proposed extension period.
- [6] For all of these reasons, the stay extension is granted.
- [7] I am also satisfied that the Fourth Report and the activities of the Monitor as described therein, should be approved. They are appropriate, consistent with the mandate given to the Monitor in the original appointment order and have been accretive to maximizing the chances of success in this proceeding. They are approved.
- [8] Order to go in the form signed by me today which is effective immediately and without the necessity of issuing and entering.

 Osborne, J.

TAB 15

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE) FRIDAY, THE 15th
JUSTICE OSBORNE) DAY OF JULY, 2024

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 BZAM LTD., BZAM HOLDINGS INC.,
BZAM MANAGEMENT INC., BZAM CANNABIS CORP.,
FOLIUM LIFE SCIENCE INC., 102172093 SASKATCHEWAN
LTD., THE GREEN ORGANIC DUTCHMAN LTD., MEDICAN
ORGANIC INC., HIGH ROAD HOLDING CORP. AND FINAL
BELL CORP. (collectively the "**Applicants**", and each an
"**Applicant**")

STAY EXTENSION ORDER

THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for an order, among other things, extending the Stay Period was heard this day by judicial videoconference via Zoom.

ON READING the affidavit of Matthew Milich dated July 8, 2024, and the Exhibits thereto (the "**Milich Affidavit**") and the Fourth Report of the Monitor dated July 12, 2024 (the "**Fourth Report**") and on hearing the submissions of counsel for the Applicants and the additional parties listed in Schedule "A" hereto, counsel for the Monitor, counsel for the DIP Lender and counsel for the Stalking Horse Purchaser, and such other counsel that were present, no one else appearing although duly served as appears from the affidavit of service of Jamie Ernst, filed,

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that all capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Milich Affidavit or the Amended and Restated Initial Order dated March 8, 2024 (the "**ARIO**"), as applicable.

EXTENSION OF THE STAY PERIOD

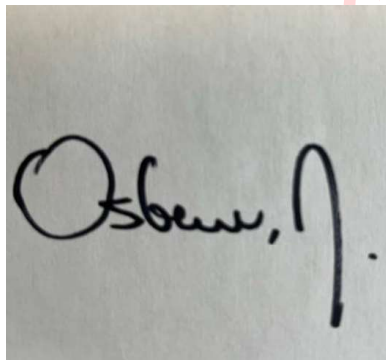
3. **THIS COURT ORDERS** that the Stay Period as defined in paragraph 15 of the ARIO is hereby extended until and including August 28, 2024.

APPROVAL OF THE MONITOR'S ACTIVITIES AND THE FOURTH REPORT

4. **THIS COURT ORDERS** that the Fourth Report is hereby approved, and the activities and conduct of the Monitor as described therein are hereby ratified and 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.

GENERAL

5. **THIS COURT ORDERS** that this Order is effective as of 12:01 AM from the date that it is made and is enforceable without the needs for entry and filing.
6. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.



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SCHEDULE "A"
NON - APPLICANT STAY PARTIES

1. The Green Organic Beverage Corp.
2. TGOD Europe B.V.
3. 9430-6347 Québec Inc.
4. The Green Organic Dutchman Germany GmbH

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 BZAM LTD., BZAM HOLDINGS INC., BZAM MANAGEMENT INC., BZAM CANNABIS CORP., FOLIUM LIFE SCIENCE INC., 102172093 SASKATCHEWAN LTD., THE GREEN ORGANIC DUTCHMAN LTD., MEDICAN ORGANIC INC., HIGH ROAD HOLDING CORP. AND FINAL BELL CORP.

Court File No.: CV-24-00715773-00CL

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

Proceeding commenced at Toronto

STAY EXTENSION ORDER

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TAB 16



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL SLIP/ENDORSEMENT

COURT FILE NO.: CV-24-00715773-00CL DATE: August 12, 0224

NO. ON LIST: 1

TITLE OF PROCEEDING: BZAM LTD. et al

BEFORE JUSTICE: Justice OSBORNE

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For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info

For Other, Self-Represented:

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Nick Avis Jeffery Rosenberg Maria Konyukhova	Counsel for the Monitor	navis@stikeman.com Jeffrey.rosenberg@fticonsulting.com mkonyukhova@stikeman.com

ENDORSEMENT OF JUSTICE OSBORNE:

- [1] This case conference was requested by the DIP Lender, Cortland Credit Lending Corporation (“Cortland”).
- [2] Defined terms in this Endorsement have the meaning given to them in the materials and/or in earlier Endorsements made in this proceeding.
- [3] Cortland seeks a case management order scheduling a threshold motion for the determination of the priority of its claims over those of Final Bell, assuming Final Bell were to obtain the relief it seeks on its pending trial of an issue in respect of the Final Bell claims.
- [4] The history and chronology of this matter has been complex, and regrettably, very acrimonious.
- [5] As set out in previous Endorsements, Final Bell brought a claim seeking, among other things, rescission of the relevant agreement. That proposed relief had obvious implications for the entire restructuring and in particular the SISP process. Accordingly, the matter was submitted to be extremely urgent, and I directed that a summary trial proceed on an expedited schedule.
- [6] Shortly before the commencement of that summary trial, Final Bell sought, and was granted, an adjournment on the basis of a dispute about certain Canada Revenue Agency documents and their interpretation and effect.
- [7] Final Bell then amended its claim to abandon the request for rescission, but also to seek a constructive trust with the practical effect that, if granted, Final Bell would have a priority claim over the assets of the Applicants.
- [8] Cortland opposes this relief on the basis that it was a *bona fide* third party purchaser for value without notice, having advanced all of its pre-filing security for good consideration, and without knowledge of Final Bell’s claims, and having advanced funds pursuant to the DIP Facility, and corresponding DIP Charge that secures all of Cortland’s lending or Final Bell was on notice of the motion for approval of the DIP Facility, and corresponding Charge, and did not oppose that relief. Cortland submits that the priority afforded to it by the DIP Charge will be very materially compromised if Final Bell succeeds on its claim for constructive trust which would effectively prime the DIP.
- [9] For all of those reasons, Cortland asks the Court to exercise its case management function and schedule a hearing in respect of, and then determine, the threshold issue of the relative legal priority. It submits that this would provide for material increased judicial efficiency to the benefit of the Court and the parties on the basis that, if Cortland is correct that its security cannot be subordinated to the claim of Final Bell, the continuation of the summary trial in respect of the claims advanced by Final Bell will be moot, since there will be no proceeds from which Final Bell could recover even if successful.
- [10] The position of Cortland is supported by the Applicants who submit, in addition, that further delays to approval of the Stalking Horse Purchase Agreement can be avoided by a timely adjudication of the threshold motion.
- [11] Final Bell opposes such a case management order being made, submitting that the relief being sought by Cortland is in effect a mid-trial motion for partial summary judgment, and it is impossible and unfair to bifurcate the legal issue of relative priority between Final Bell and Cortland from the factual issue of whether, as Final Bell alleges, the Applicants made fraudulent misrepresentations.
- [12] This Court has broad discretion as the supervising CCAA Court to make such case management directions, and to manage the proceeding generally, such as may be appropriate to minimize costs and time and

maximize efficiency for the benefit of the Court and all affected stakeholders. That requires the sequencing and determination of matters in a complex and multi-step CCAA proceeding such as this, in an orderly fashion.

- [13] I am satisfied in the circumstances that it is an appropriate exercise of my discretion to direct that the threshold issue be determined first, as requested by Cortland. Such a motion requires materials that will be significantly more limited than will be the materials required for the summary trial. In fact, Cortland has already served its motion materials.
- [14] It is to the benefit of all parties that costs be minimized, and this restructuring be advanced as expeditiously as possible.
- [15] In my view, there is no prejudice to Cortland by this direction. Cortland submits that it is entitled to its “day in court” and wants to present its case in support of its claim on the facts that the Applicants made fraudulent misrepresentations on which Final Bell relied in entering into the agreement. Final Bell submits that this Court ought not to determine at this stage whether those factual claims have merit. To be clear, I am not making any such factual determination about the alleged fraudulent misrepresentations.
- [16] The practical reality is, however, that even if Final Bell succeeds on its factual claims, it must also succeed on the legal issues of priority that are the subject of the proposed threshold motion in order for there to be any practical difference. Put differently, there is no practical difference in outcome whether Final Bell can prove actionable fraudulent misrepresentations or not, unless Final Bell can also succeed on its claim that it is entitled to a constructive trust as a remedy, flowing from such liability findings.
- [17] It seems to me, therefore, that it works no unfairness on Final Bell for the threshold motion to be determined effectively on the hypothetical basis that: “assuming the Final Bell claims succeeded, the key legal issue is whether Final Bell is entitled to a priority over Cortland?”.
- [18] In my view, such a direction is well within the scope of my description as the supervising CCAA Court. The fact that the parties had exchanged opening statements and some documents prior to Final Bell’s request for an adjournment on the eve of the summary trial does not make the requested direction in any practical sense equivalent to a mid-trial motion for partial summary judgment. Nor am I persuaded that Final Bell is prejudiced because I directed that it post security for costs as it has now done. The motion for security for costs was brought, prior to the amendment of the relief sought by Final Bell to abandon its claim for rescission but to seek a constructive trust. In any event, it is to the benefit of all parties if the costs that may ultimately be payable by one party to another, and incurred by all parties for their own respective benefits, be minimized.
- [19] If Final Bell succeeds on the threshold motion, it will have all of its rights to argue the factual elements of its fraudulent misrepresentation claims. Moreover, it can argue all of its legal positions on the threshold motion, just as it would following trial. If it does not succeed on the threshold motion, however, the result of the factual determinations will inevitably be moot, given the limited funds available, and all of the parties will have spent materially less resources litigating the issues.
- [20] In the circumstances, I am satisfied that proceeding in this manner is to the benefit of all parties, and I cannot see any prejudice to Final Bell.
- [21] This Summary Trial was previously scheduled for two days on September 18 and 19. In the circumstances, the threshold motion will proceed at 10 AM on September 18 and continue as necessary for one half day. The September 19 date is vacated. The summary trial is adjourned to be scheduled as soon as possible following a determination of the threshold motion as necessary.

[22] Cortland has already delivered its threshold motion materials. The Applicants will do so promptly, and Final Bell will deliver its responding materials. I strongly urge the parties to work out a case management timetable for the exchange of materials for the threshold motion among themselves in order that it is fully briefed for determination on September 18.

Olewn, J.

TAB 17



SUPERIOR COURT OF JUSTICE

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-24-00725938-00CL

DATE: August 26, 2024

NO. ON LIST: 6

TITLE OF PROCEEDING: IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BZAM LTD., BZAM HOLDINGS INC., BZAM MANAGEMENT INC., BZAM CANNABIS CORP., FOLIUM LIFE SCIENCE INC., 102172093 SASKATCHEWAN LTD., THE GREEN ORGANIC DUTCHMAN LTD., MEDICAN ORGANIC INC., HIGH ROAD HOLDING CORP., AND FINAL BELL CORP.

BEFORE: JUSTICE PENNY

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Mike Shakra Jamie Ernst	Counsel for Bzam Ltd., Bzam Holdings Inc., Bzam Management Inc., Bzam Cannabis Corp., Folium Life Science Inc., 102172093 Saskatchewan Ltd., The Green Organic Dutchman Ltd., Medican Organic Inc., High Road Holding Corp, and Final Bell Corp.	shakram@bennettjones.com ernstj@bennettjones.com
Andrew Winton	Counsel for Final Bell Holdings International	awinton@lolg.ca
Natalie Levine	Counsel for Cortland Credit Lending Corporation	nlevine@cassels.com

For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
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Jeffrey Rosenberg Kamran Hamidi	FTI As Monitor	Jeffrey.rosenberg@fticonsulting.com Kamran.hamidi@fticonsulting.com
Harvey Chaiton	Counsel for Stone Pine Capital	harvey@chaitons.com

ENDORSEMENT OF JUSTICE PENNY (Revised August 27, 2024):

- [1] The applicants move for a stay extension and approval of the Monitor's fees and those of its counsel. There is no opposition to the relief sought. The Monitor supports granting the stay extension.
- [2] I am satisfied that the applicants continue to act in good faith and with due diligence. There are sound reasons for the stay extension, canvassed in the applicants' material and by the Monitor. There is sufficient cash flow to maintain operations under the proposed stay extension to October 15, 2024.
- [3] The fees of the Monitor and those of its counsel are proportionate to the length of time for the period covered and the level of active involvement undertaken. They are approved.
- [4] Order to issue in the form signed by me this day.



Penny J.

TAB 18



Court File No.: CV-24-00715773-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE)
JUSTICE PENNY)
)
)
)
MONDAY, THE 26th
DAY OF AUGUST, 2024

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 BZAM LTD., BZAM HOLDINGS INC.,
BZAM MANAGEMENT INC., BZAM CANNABIS CORP.,
FOLIUM LIFE SCIENCE INC., 102172093 SASKATCHEWAN
LTD., THE GREEN ORGANIC DUTCHMAN LTD., MEDICAN
ORGANIC INC., HIGH ROAD HOLDING CORP. AND FINAL
BELL CORP. (collectively the "**Applicants**", and each an
"**Applicant**")

STAY EXTENSION AND FEE APPROVAL ORDER

THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for an order, among other things, extending the Stay Period was heard this day by judicial videoconference via Zoom.

ON READING the affidavit of Matthew Milich dated August 19, 2024, and the Exhibit thereto (the "**Milich Affidavit**") and the Fifth Report of the Monitor dated August 21, 2024 (the "**Fifth Report**") and on hearing the submissions of counsel for the Applicants and the additional parties listed in Schedule "A" hereto, counsel for the Monitor, counsel for the DIP Lender and counsel for the Stalking Horse Purchaser, and such other counsel that were present, no one else appearing although duly served as appears from the affidavit of service of Jamie Ernst, filed,

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that all capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Milich Affidavit or the Amended and Restated Initial Order dated March 8, 2024 (the "**ARIO**"), as applicable.

EXTENSION OF THE STAY PERIOD

3. **THIS COURT ORDERS** that the Stay Period as defined in paragraph 15 of the ARIO is hereby extended until and including October 15, 2024.

APPROVAL OF THE MONITOR'S ACTIVITIES AND THE FIFTH REPORT

4. **THIS COURT ORDERS** that the Fifth Report is hereby approved, and the activities and conduct of the Monitor as described therein are hereby ratified and 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.

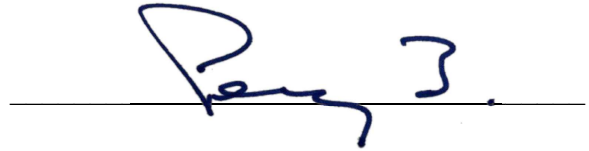
FEE APPROVAL

5. **THIS COURT ORDERS** that the fees and disbursements of the Monitor and the Monitor's legal counsel, Stikeman Elliott LLP, from the commencement of these CCAA proceedings to and including July 31, 2024, as set out in the Fifth Report and as more particularized in the Fee Affidavits appended thereto, be and are hereby approved.

GENERAL

6. **THIS COURT ORDERS** that this Order is effective as of 12:01 AM from the date that it is made and is enforceable without the need for entry and filing.
7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in

carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

A handwritten signature in blue ink is positioned above a horizontal line. The signature is stylized and appears to consist of the letters 'P' and 'J' followed by a flourish.

SCHEDULE "A"
NON - APPLICANT STAY PARTIES

1. The Green Organic Beverage Corp.
2. TGOD Europe B.V.
3. 9430-6347 Québec Inc.
4. The Green Organic Dutchman Germany GmbH

ORS ARRANGEMENT

Court File No./N° du dossier du greffe : CV-24-00715773-00CL

**ACT, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF A
PLAN OF COMPROMISE OR ARRANGEMENT OF BZAM LTD., BZAM
HOLDINGS INC., BZAM MANAGEMENT INC., BZAM CANNABIS CORP.,
FOLIUM LIFE SCIENCE INC., 102172093 SASKATCHEWAN LTD., THE
GREEN ORGANIC DUTCHMAN LTD., MEDICAN ORGANIC INC., HIGH
ROAD HOLDING CORP. AND FINAL BELL CORP.**

Court File No.: CV-24-00715773-00CL

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

Proceeding commenced at Toronto

**STAY EXTENSION AND FEE APPROVAL
ORDER**

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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 PLAN OF COMPROMISE OR ARRANGEMENT OF
BZAM LTD., BZAM HOLDINGS INC., BZAM MANAGEMENT INC., BZAM CANNABIS CORP., FOLIUM LIFE SCIENCE INC.,
102172093 SASKATCHEWAN LTD., THE GREEN ORGANIC DUTCHMAN LTD., MEDICAN ORGANIC INC., HIGH ROAD
HOLDING CORP. AND FINAL BELL CORP.**

Applicants

Court File No. CV-24-00715773-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

BRIEF OF ORDERS AND ENDORSEMENTS

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