

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

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
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

**FACTUM OF THE APPLICANTS
(Returnable October 15, 2024)**

October 12, 2024

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TO: THE SERVICE LIST

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PART I: OVERVIEW

1. The Applicants seek relief under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), to, *inter alia*, implement a going concern sale transaction and authorize the distribution of the proceeds related thereto. The Applicants also seek certain ancillary relief, including extending the stay of proceedings and approving the Sixth Report of FTI Consulting Canada Inc. ("**FTI**"), in its capacity as Court-appointed monitor (in such capacity, the "**Monitor**"), dated October 11, 2024 (the "**Sixth Report**") and the Monitor's activities therein.
2. The sale is proposed to be effectuated pursuant to a reverse approval and vesting order (the "**Approval and Vesting Order**"). Among other things, the proposed Approval and Vesting Order:
 - (a) approves the share purchase agreement dated August 23, 2024 (the "**Purchase Agreement**") among BZAM Holdings Inc. ("**BZAM Holdings**"), as vendor, BZAM Management Inc. ("**BZAM Management**"), as target, 1000912353 Ontario Inc. (the "**Purchaser**"), as purchaser, and Wyld Canada Inc. ("**Wyld**"), as an interested third-party, and the transaction contemplated thereby (the "**Transaction**"), inclusive of minor amendments the Applicants and the Purchaser, with the consent of the Monitor (as defined below), may deem necessary;
 - (b) authorizes and directs BZAM Holdings and BZAM Management to perform their obligations under the Purchase Agreement and to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of BZAM Management's shares (the "**Purchased Shares**") to the Purchaser;

- (c) approves the addition of 1001028579 Ontario Inc. ("**ResidualCo**") as an Applicant in these CCAA proceedings (the "**CCAA Proceedings**") and vesting all Excluded Assets, Excluded Contracts, and Excluded Liabilities (as such terms are defined in the Purchase Agreement) out of BZAM Management and into ResidualCo, and discharging all Encumbrances against BZAM Management and the Retained Assets other than the Permitted Encumbrances (each as defined in the Purchase Agreement);
 - (d) vests in the Purchaser all of BZAM Holdings' right, title and interest in and to the Purchased Shares, free and clear of any Encumbrances (as defined in the proposed Approval and Vesting Order); and
 - (e) removes BZAM Management as an Applicant in these CCAA Proceedings.
3. The Applicants intend to seek ancillary relief pursuant to a proposed Order (the "**Ancillary Order**"), which, among other things:
- (a) grants an extension of the Stay Period (as defined below) to and including December 2, 2024 (the "**Stay Extension**");
 - (b) approves an amendment to the DIP Agreement (as defined in the ARIO (as defined below)) which, among other things, extends the maturity date under the DIP Loan (as defined below) to December 2, 2024, and reduces the maximum principal amount available under the DIP Loan and the quantum of the DIP Lender's Charge (as defined in the ARIO) from \$41 million to \$37 million;
 - (c) authorizes and directs the Applicants to distribute the Cash Consideration (as defined below) to Cortland Credit Lending Corporation ("**Cortland**" and in its

capacity as lender, the "**DIP Lender**"), as partial repayment of the indebtedness owing by the Applicants to Cortland (the "**Cash Distribution**"), which shall be applied by Cortland to reduce such indebtedness in accordance with the terms of the DIP Loan; and

(d) approves the Sixth Report and the activities of the Monitor described therein.

4. If approved and consummated, the Purchase Agreement and the Transaction will maximize the going concern value of BZAM Management, maintain the employment of several employees, and preserve the BZAM Management's cannabis and excise licenses (collectively, the "**Cannabis Licenses**"). Due to the limited interest received in respect of BZAM Management's business or assets, the Purchase Agreement and the Transaction present the most commercially reasonable and value maximizing transaction for both the Applicants and their stakeholders.

5. The relief sought under the proposed Approval and Vesting Order and the proposed Ancillary Order is supported by the Monitor and the party with the primary economic interest in these CCAA proceedings, the DIP Lender.

PART II: FACTS

6. The facts underlying this motion are more fully set out in the affidavit of Matthew Milich sworn October 8, 2024 (the "**Milich Affidavit**").¹ All capitalized terms used but not defined herein have the meanings ascribed to them in the Milich Affidavit or the Purchase Agreement, as applicable.

¹ Affidavit of Matthew Milich sworn on October 8, 2024 [Milich Affidavit], Motion Record of the Applicants dated October 8, 2024 at Tab 2 [Motion Record].

A. Background to and Developments in these CCAA Proceedings

7. BZAM Ltd. ("**BZAM**") is the ultimate parent company to several companies in the cannabis industry in Canada.² Through its subsidiaries, its business and operations focus on the production and sale of various cannabis products.³

8. Facing significant liquidity issues, the Applicants obtained protection under the CCAA on February 28, 2024 pursuant to the Initial Order, which, among other things:

- (a) declared that the Applicants are parties to which the CCAA applies;
- (b) appointed FTI as the Monitor;
- (c) granted an initial stay of proceedings in favour of the Applicants, the Non-Applicant Stay Parties, and their respective Directors and Officers, until and including March 8, 2024 (the "**Stay Period**");
- (d) approved The Green Organic Dutchman Ltd.'s ability to borrow up to a principal amount of \$2,400,000 under a debtor-in-possession credit facility (the "**DIP Loan**") from the Applicants' existing senior secured creditor, Cortland, to finance the Applicants' critically required working capital requirements and other general corporate purposes, post-filing expenses and costs during the initial Stay Period with the other Applicants acting as guarantors under the DIP Loan; and
- (e) granted the Administration Charge, the DIP Lender's Charge and the Directors' Charge (each as defined in the ARIO).⁴

² *Ibid* at para 8, Motion Record at Tab 2.

³ *Ibid*, Motion Record at Tab 2.

⁴ *Ibid* at para 10, Motion Record at Tab 2.

9. On March 8, 2024, the Applicants sought and obtained an amended and restated Initial Order pursuant to the CCAA, which, *inter alia*, extended the Stay Period to and including May 25, 2024, increased the maximum principal amount available under the DIP Loan to \$41 million and approved increases to the Administration Charge, the Directors' Charge and the DIP Lender's Charge up to the maximum amounts of \$1 million, \$41 million and \$12.9 million, respectively.⁵

10. In an effort to identify and implement a value-maximizing transaction, the Applicants sought and, on March 8, 2024, obtained an order (the "**SISP Order**") under the CCAA, among other things:

- (a) authorizing and approving BZAM's execution of a share subscription agreement (the "**Stalking Horse Purchase Agreement**") among BZAM and 1000816625 Ontario Inc. (the "**Stalking Horse Purchaser**") dated March 1, 2024, *nunc pro tunc*, including certain bid protections;
- (b) approving a sale and investment solicitation process (the "**SISP**") in which the Stalking Horse Purchase Agreement served as the "**Stalking Horse Bid**"; and
- (c) authorizing and directing the Applicants and the Monitor to perform their respective obligations and to do all things reasonably necessary to perform their obligations under the SISP.⁶

B. Conduct and Results of the SISP

11. The Applicants developed the SISP, in consultation with the Monitor, to solicit interest in the sale of, or investment in, all or part of the Applicants' assets and business (collectively, the

⁵ *Ibid* at para 11, Motion Record at Tab 2.

⁶ *Ibid* at para 12, Motion Record at Tab 2.

"Assets").⁷ The SISP was intended to be a flexible process to obtain the best offer for the Assets and to maximize value for the Applicants' many stakeholders through a broad canvassing of the market.⁸ In an effort to provide greater certainty during the sale process, the SISP included a Stalking Horse Bid to set an appropriate floor for prospective bidders.⁹

12. As part of its marketing efforts, the Monitor, with the assistance of the Applicants, prepared and contacted a list of potential bidders, which included: (i) parties who had previously expressed interest in the Applicants' business or the Assets, and (ii) other local and international interested third parties.¹⁰ In addition, the Monitor prepared a Teaser Letter and other marketing materials, which were disseminated into the market broadly.¹¹

13. Pursuant to the SISP, each potential bidder that wished to submit a bid was required to deliver a letter of intent (a "**LOI**") by no later than April 8, 2024 (the "**Bid Deadline**").¹² None of the LOIs received contemplated the purchase of the Applicants' entire business or operations, nor were any bids received in respect of BZAM Management or its assets.¹³ Despite the Applicants and the Monitor's extensive marketing efforts, it was determined that no Qualified Bids (as defined in the SISP) were submitted by the Bid Deadline, other than the Stalking Horse Bid.¹⁴ Accordingly, the Stalking Horse Bid was deemed to be the Successful Bid (as defined in the SISP) and the SISP was terminated.¹⁵

⁷ *Ibid* at paras 12-13, Motion Record at Tab 2.

⁸ *Ibid* at para 13, Motion Record at Tab 2; Affidavit of Matthew Milich sworn on March 1, 2024 at para 35, Motion Record at Tab 2, Exhibit "B".

⁹ *Ibid* at para 12, Motion Record at Tab 2.

¹⁰ *Ibid* at para 14, Motion Record at Tab 2.

¹¹ *Ibid*, Motion Record at Tab 2.

¹² *Ibid* at para 15, Motion Record at Tab 2.

¹³ *Ibid*, Motion Record at Tab 2.

¹⁴ *Ibid* at para 17, Motion Record at Tab 2.

¹⁵ *Ibid*, Motion Record at Tab 2.

C. The Purchase Agreement

14. Pursuant to the proposed Approval and Vesting Order, the Applicants are seeking, *inter alia*, approval of the Purchase Agreement and the Transaction.¹⁶ The Purchase Agreement is effectively a spinoff transaction from the original Stalking Horse Purchase Agreement and is the product of extensive discussion and negotiation among the Applicants, the Purchaser and Wyld, in consultation with the Monitor and the DIP Lender (the "**Transaction Parties**").¹⁷

15. Following certain discussions among the Transaction Parties, Wyld expressed interest in acquiring BZAM Management with the intention of operating BZAM Management's joint venture, and to continue selling products under the "Wyld" brand.¹⁸ The Stalking Horse Purchaser ultimately agreed to purchase BZAM Management through a separate transaction, independent from the transaction contemplated under the Stalking Horse Purchase Agreement (the "**Stalking Horse Transaction**"), with the intention of selling the subsidiary to Wyld at a later date outside of these CCAA Proceedings.¹⁹

16. As an entity related to Mr. Alghanim,²⁰ the Purchaser is a related party to the Applicants and is owned and controlled by the same individual who owns and controls the Stalking Horse Purchaser.²¹ The dual structuring of the original Stalking Horse Bid is entirely motivated by licensing and regulatory issues, as Wyld is unable to acquire BZAM Management until certain regulatory approvals are obtained.²²

¹⁶ *Ibid* at para 18, Motion Record at Tab 2.

¹⁷ *Ibid*, Motion Record at Tab 2.

¹⁸ *Ibid* at para 21, Motion Record at Tab 2.

¹⁹ *Ibid* at para 22, Motion Record at Tab 2.

²⁰ Mr. Bassam Alghanim is BZAM's largest shareholder, its current Chairman and the controller of Stone Pine Capital Inc. (a secured creditor of the Applicants).

²¹ *Ibid* at para 19, Motion Record at Tab 2.

²² *Ibid* at paras 21, 36, Motion Record at Tab 2.

17. Pursuant to the Purchase Agreement, the Purchaser will acquire all of the issued and outstanding shares in the capital of BZAM Management owned by BZAM Holdings for a purchase price equal to the aggregate of \$1,000,000 (the "**Cash Consideration**") and the assumption of the Assumed Liabilities.²³ The Purchase Agreement contemplates a reverse vesting transaction to, among other things, preserve the Cannabis Licenses, which could not otherwise be transferred in the ordinary course and are essential to BZAM Management's operations.²⁴

18. Pursuant to the proposed Approval and Vesting Order, Residual Co., in which all of the Excluded Assets, Excluded Liabilities and Excluded Contracts will have been vested in and transferred to, will be added as an Applicant in these CCAA proceedings as of the Closing Time (as defined in the proposed Approval and Vesting Order).²⁵ Correspondingly, BZAM Management will be removed as an Applicant in these CCAA proceedings as of the Closing Time.²⁶

19. Following the implementation of the Closing Sequence, BZAM Management will retain all of the Retained Assets and remain liable for all of the Assumed Liabilities, and the Purchaser will be the owner of all of the Purchased Shares (each as defined in the Purchase Agreement).²⁷

D. Cash Distribution

20. The proposed Ancillary Order authorizes and directs the Applicants to distribute the Cash Consideration to Cortland free and clear of all claims, as partial satisfaction of the indebtedness owing to the DIP Lender by the Applicants.²⁸ Cortland, as the DIP Lender, holds a Court-ordered super priority interest in all current and future assets of the Applicants.²⁹

²³ *Ibid* at para 26, Motion Record at Tab 2.

²⁴ *Ibid* at paras 42-43, Motion Record at Tab 2.

²⁵ *Ibid* at para 26, Motion Record at Tab 2.

²⁶ *Ibid*, Motion Record at Tab 2.

²⁷ *Ibid*, Motion Record at Tab 2.

²⁸ *Ibid* at para 48, Motion Record at Tab 2.

²⁹ *Ibid*, Motion Record at Tab 2.

21. The Cash Consideration from the Transaction will be insufficient to repay, in full, the secured debt of the DIP Lender.³⁰ Accordingly, it is proposed that the DIP Lender will be the only creditor receiving proceeds from the Cash Distribution.³¹

E. Final Bell Litigation

22. Final Bell Holdings International Ltd. ("**Final Bell**") served a notice of motion on March 18, 2024, in support of a rescission claim with respect to a share exchange agreement dated December 5, 2023.³² On May 3, 2024, Final Bell abandoned its rescission claim, seeking in the alternative, among other things: (i) equitable damages in lieu of rescission, and (ii) a declaration that such damages are subject to a constructive trust (the "**Amended Claim**").³³

23. In response to the Amended Claim, Cortland brought a motion seeking a declaration that the claims of Final Bell against the Applicants, including any potential constructive trust claim in relation to the assets of the Applicants or the sale proceeds related thereto, are subordinate to Cortland's secured interest, including its DIP Lender's Charge, in such assets and proceeds (the "**Threshold Motion**").³⁴

24. As of the date of the Sixth Report, there has been no decision issued in respect of the Threshold Motion.³⁵

³⁰ *Ibid* at para 49, Motion Record at Tab 2.

³¹ *Ibid*, Motion Record at Tab 2.

³² *Ibid* at para 30, Motion Record at Tab 2.

³³ *Ibid*; Sixth Report of the Monitor dated October 11, 2024 at para 12 [Monitor's Report]; The Amended Claim was further amended on September 5, 2024.

³⁴ *Ibid* at para 32, Motion Record at Tab 2; Monitor's Report, *ibid*, at para 17.

³⁵ *Ibid* at para 33, Motion Record at Tab 2.

F. DIP Amendment

25. The Applicants and Cortland have agreed to: (i) reduce the maximum principal amount available under the DIP Loan from \$41 million to \$37 million, with a corresponding reduction to the DIP Lender's Charge, and (ii) extend the maturity date under the DIP Loan to December 2, 2024 (the "**DIP Amendment**").³⁶

26. The DIP Amendment is based on the go-forward funding needs of the Applicants.³⁷ The Applicants, with the assistance of the Monitor, have prepared a revised and extended consolidated cash flow, reflecting that the Applicants are forecasted to have sufficient liquidity to fund their obligations and the costs of these CCAA Proceedings notwithstanding the DIP Amendment.³⁸

G. The Stay of Proceedings

27. The Stay Period will expire on October 15, 2024.³⁹ Pursuant to the proposed Ancillary Order, the Applicants are seeking to extend the Stay Period to and including December 2, 2024.⁴⁰

28. The Applicants' revised cash flow forecast demonstrates that the Applicants will have sufficient liquidity to fund their obligations and the costs of these CCAA proceedings throughout the Stay Period.⁴¹ The revised cash flow forecast is attached as Appendix "A" to the Sixth Report.⁴²

³⁶ *Ibid* at para 46, Motion Record at Tab 2.

³⁷ *Ibid*, Motion Record at Tab 2.

³⁸ *Ibid* at para 47, Motion Record at Tab 2; Monitor's Report, *supra* note 33 at paras 54-56.

³⁹ *Ibid* at para 52, Motion Record at Tab 2.

⁴⁰ *Ibid*, Motion Record at Tab 2.

⁴¹ *Ibid* at para 56, Motion Record at Tab 2.

⁴² Monitor's Report, *supra* note 33 at paras 54-56.

H. The Sixth Report

29. The proposed Ancillary Order also seeks approval of the Sixth Report and the activities of the Monitor described therein.⁴³

PART III: ISSUES

30. The issues to be considered on this motion are whether this Court should:

- (a) approve the Purchase Agreement and the Transaction;
- (b) authorize the Cash Distribution to Cortland;
- (c) approve the Stay Extension; and
- (d) approve the Sixth Report.

PART IV: LAW AND ANALYSIS

A. The Purchase Agreement and the Transaction Should be Approved

1. This Court has Jurisdiction to Approve a Reverse Vesting Transaction

31. It is "settled law" that the broad discretion inherent in section 11 of the CCAA to make any order considered "appropriate in the circumstances" vests this Court with jurisdiction to approve reverse vesting transactions akin to the proposed Transaction.⁴⁴

⁴³ Milich Affidavit, *supra* note 1 at para 58, Motion Record at Tab 2.

⁴⁴ *Companies' Creditors Arrangement Act*, RSC 1985, c. C-36 s 11 [CCAA]; *Just Energy Group Inc et al v Morgan Stanley Capital Group Inc et al*, 2022 ONSC 6354 at paras 29-31 [*Just Energy*]; *Re Harte Gold Corp*, 2022 ONSC 653 at paras 18, 37 [*Harte Gold*]. See also, *Re Quest University Canada*, 2020 BCSC 1883 at paras 150, 153-155 [*Quest*], aff'd 2020 BCCA 364; *Tacora Resources Inc. (Re)*, 2024 ONSC 4436 at paras 6-7 [Tacora].

32. The exercise of this Court's discretion under section 11 of the CCAA must "further the remedial objectives of the CCAA and be guided by the baseline considerations of appropriateness, good faith, and due diligence."⁴⁵

33. The CCAA's remedial objectives include "providing for timely, efficient and impartial resolution of a debtor's insolvency", "preserving and maximizing the value of a debtor's assets", and "balancing the costs and benefits of restructuring or liquidating the company."⁴⁶ Moreover, a principal purpose of the CCAA "is to permit the debtor to continue to carry on business and, where possible, avoid the social and economic costs of liquidating its assets."⁴⁷ In furtherance of these objectives, Courts have approved reverse vesting transactions where, as here, the proposed transaction is the only viable transaction to have emerged and preserves the debtors' highly-regulated business operations and licenses.⁴⁸

2. The Purchase Agreement and the Transaction are Appropriate in the Circumstances

34. As appropriateness under section 11 of the CCAA "extends not only to the purpose of the order, but also to the means it employs",⁴⁹ this Court has made it clear that reverse vesting transactions should be closely scrutinized.⁵⁰ Scrutiny of a proposed reverse vesting transaction, as Justice Penny held in *Re Harte Gold Corp.*, may be informed by the following inquiries:

- (a) why is the reverse vesting order necessary in this case;

⁴⁵ [9354-9186 Québec inc v Callidus Capital Corp.](#), 2020 SCC 10 at para 70 [*Callidus*]; [Harte Gold](#), *ibid* at para 32; [Century Services Inc v Canada \(Attorney General\)](#), 2010 SCC 60 at paras 15, 59 [*Century Services*].

⁴⁶ [Callidus](#), *ibid* at para 40; [Harte Gold](#), *ibid* at para 32; [Century Services](#), *ibid* at paras 15, 59, 70.

⁴⁷ [Century Services](#), *ibid* at para 15; [In the Matter of The Body Shop Canada Limited](#), 2024 ONSC 3882 at para 13.

⁴⁸ [Just Energy](#), *supra* note 44 at paras 33, 34; [Harte Gold](#), *supra* note 44 at para 71; [Quest](#), *supra* note 44 at paras 158-162.

⁴⁹ [Century Services](#), *supra* note 45 at para 70.

⁵⁰ [Harte Gold](#), *supra* note 28 at para 38; [In the Matter of the Companies' Creditors Arrangement Act and In the Matter of Cannapiece Group Inc.](#), 2023 ONSC 841 at para 58; [Just Energy](#), *supra* note 28 at para 33.

- (b) does the reverse vesting transaction structure produce an economic result at least as favourable as any other viable alternative;
- (c) is any stakeholder worse off under the reverse vesting transaction structure than they would have been under any other viable alternative; and
- (d) does the consideration being paid for the debtors' business reflect the importance and value of the licenses and permits (or other intangible assets) being preserved under the reverse vesting transaction structure.⁵¹

35. When exercising its jurisdiction under section 11 of the CCAA to approve a reverse vesting transaction, this Court has also concurrently considered the non-exhaustive factors enumerated under subsection 36(3) of the CCAA and those articulated in *Royal Bank v Soundair*.⁵² Together, these factors include:

- (a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances;
- (b) whether the monitor approved the process leading to the proposed sale or disposition;
- (c) whether the monitor filed with the Court a report stating that in its opinion the sale or disposition would be more beneficial to creditors than a sale or disposition under a bankruptcy;
- (d) the extent to which creditors were consulted;

⁵¹ *Harte Gold*, *ibid* at para 38; *CannaPiece*, *ibid* at para 58; *Just Energy*, *ibid* at para 34; *Tacora*, *supra* note 44 at para 11.

⁵² *Harte Gold*, *ibid* at paras 20-21, 23, 39; *CannaPiece*, *ibid* at paras 53-54; *Just Energy*, *ibid* at paras 31-32; *Re Green Relief Inc.*, 2020 ONSC 6837 at paras 5-6 [*Green Relief*].

- (e) the effects of the proposed sale or disposition on the creditors and other interested parties;
- (f) whether the consideration to be received for the assets is reasonable and fair, taking into account their market value;
- (g) whether sufficient effort has been made to obtain the best price and that the debtors have not acted improvidently;
- (h) the efficacy and integrity of the process by which officers have been obtained;
- (i) whether the interests of all parties have been considered; and
- (j) whether there has been unfairness in the working out of the process.⁵³

36. When considering a related party transaction, the court may, after considering the factors referred to above, grant the authorization for the sale *only* if it is satisfied that subsections 36(4)(a) and 36(4)(b) of the CCAA have been satisfied:

- (a) good faith efforts were made to sell or otherwise dispose of the assets to persons who are not related to the company; and
- (b) the consideration to be received is superior to the consideration that would be received under any other offer made in accordance with the process leading to the proposed sale or disposition.⁵⁴

⁵³ [CCAA](#), *supra* note 44 s 36(3); [Royal Bank of Canada v Soundair Corp.](#), [1991] 7 CBR (3d) 1 at para 16. See also, [Harte Gold](#), *ibid* at paras 20-21; [CannaPiece](#), *ibid* at paras 53-54; [Just Energy](#), *ibid* at paras 31-32; [Green Relief](#), *ibid* at paras 5-6; [Tacora](#), *supra* note 44 at para 13.

⁵⁴ [CCAA](#), *supra* note 28 s 36(4); [Target Canada Co., Re](#), 2015 ONSC 2066 at para 15 [Target].

37. Prior to authorization, the court must be satisfied that sufficient safeguards were adopted to ensure that a related party transaction is in the best interests of all stakeholders and that the risks associated with a related party transaction have been mitigated.⁵⁵

38. Applied here, the foregoing considerations and factors support the approval of the Purchase Agreement and the Transaction, and the granting of the proposed Approval and Vesting Order.

Namely:

- (a) ***The Process Leading to the Purchase Agreement and the Transaction was Reasonable*** – The Purchase Agreement and the Transaction are the culmination of:
- (i) the SISP developed by the Applicants, in consultation with the Monitor, which provided a flexible and equitable process for canvassing the market for potential buyers of the Assets, in which no Qualified Bids (other than the Stalking Horse Bid) were received;
 - (ii) the Monitor's efforts to solicit interest in the Applicants' business and assets, including through the preparation of marketing materials and engagement with prospective non-related third-party purchasers, including both local and international companies and potential investors; and
 - (iii) extensive negotiation and discussions between the Transaction Parties, in consultation with the Monitor and the DIP Lender.⁵⁶
- (b) ***The Monitor Approved the Process Leading up to the Purchase Agreement and the Transaction*** – The SISP was developed in consultation with and supported by the Monitor and was conducted at all times in accordance with its terms and the

⁵⁵ *Target*, *ibid* at para 15.

⁵⁶ Milich Affidavit, *supra* note 1 at paras 13-14, 22, Motion Record at Tab 2; See also the Confidential Supplement to the Second Report of the Monitor dated April 16, 2024.

SISP Order. The Purchase Agreement and the Transaction is also supported by the Monitor.⁵⁷

- (c) ***The Proposed Purchase Agreement and the Transaction Produce an Economic Result at Least as Favourable as any Other Viable Alternative*** – Following the termination of the SISP, the Purchase Agreement and the Transaction present the only commercially reasonable and viable transaction that allows BZAM Management to continue as a going-concern.⁵⁸ The Applicants' only reasonable restructuring alternative to the Purchase Agreement and the Transaction, is the Stalking Horse Transaction as originally structured, which contemplates the eventual liquidation of BZAM Management – an outcome that would foreclose a going concern result to the detriment of the BZAM Management's employees, customers and suppliers.⁵⁹ The sale proceeds contemplated under the Purchase Agreement act effectively as a pre-payment of the amounts that would have been otherwise due under the Stalking Horse Purchase Agreement, making the Transaction (coupled with the ultimate Stalking Horse Transaction) equally as favourable as the Stalking Horse Transaction and more favourable than any other alternative.⁶⁰
- (d) ***The Proposed Purchase Agreement and the Transaction Effect a Superior Result to a Bankruptcy*** – The Purchase Agreement will allow BZAM Management to continue operating, preserve the jobs of 49 employees, maintain customer and supplier relationships in respect of the "Wyld" brand, and reduce future interest

⁵⁷ Milich Affidavit, *ibid* at paras 13-15, 40, Motion Record at Tab 2; Monitor's Report, *supra* note 33 at paras 18-19, 39.

⁵⁸ Milich Affidavit, *ibid* at paras 15, 20, Motion Record at Tab 2; Monitor's Report, *ibid* at paras 28-29.

⁵⁹ Milich Affidavit, *ibid*, Motion Record at Tab 2; Monitor's Report, *ibid*.

⁶⁰ Milich Affidavit, *ibid* at paras 37-38, Motion Record at Tab 2; Monitor's Report, *ibid* at para 35; See also [Just Energy](#), *supra* note 44 at para 57.

payments under the DIP Loan.⁶¹ Since no bids were received for the business or assets of BZAM Management (other than the Stalking Horse Bid), the reverse vesting transaction contemplated by the Purchase Agreement provides a materially better recovery than would otherwise be achieved through an eventual liquidation or bankruptcy.⁶²

- (e) ***The DIP Lender was Appropriately Consulted*** – The party with the primary economic interest in the Applicants and these CCAA proceedings, being the DIP Lender, was consulted throughout the negotiation of the Purchase Agreement and is supportive of the approval of the Transaction contemplated therein.⁶³ As required under subsection 3.13(1) of the DIP Loan, the Applicants have sought, and have received, Cortland's consent to seek the approval of the Purchase Agreement and the Transaction.⁶⁴
- (f) ***The Proposed Reverse Vesting Structure is Necessary in the Circumstances*** – The proposed reverse vesting transaction structure is the only commercially reasonable means in the circumstances by which the Cannabis Licenses can be preserved. Absent the utilization of a reverse vesting transaction structure, the Cannabis Licenses, which are essential to BZAM Management's business, could not be transferred expediently in the ordinary course.⁶⁵ A reverse transaction is the only

⁶¹ Milich Affidavit, *ibid* at para 39, Motion Record at Tab 2; Monitor's Report, *ibid* at paras 37, 46.

⁶² Milich Affidavit *ibid* at paras 35, 39, Motion Record at Tab 2.

⁶³ Milich Affidavit, *ibid* at paras 25, 40, Motion Record at Tab 2; Monitor's Report, *supra* note 33 at para 36.

⁶⁴ Milich Affidavit, *ibid* at paras 25; Motion Record at Tab 2; Monitor's Report, *ibid* at para 36.

⁶⁵ Milich Affidavit, *ibid* at para 43; Motion Record at Tab 2; Monitor's Report, *ibid* at para 39.

commercially reasonable means by which the value of BZAM Management can be maximized, and a going concern result achieved, in the circumstances.⁶⁶

(g) ***The Proposed Reverse Vesting Structure does not Disadvantage any Stakeholder***

– The Applicants are not aware of any creditor that would be materially disadvantaged by the proposed Purchase Agreement and the Transaction, including through its implementation by way of a reverse vesting transaction.⁶⁷ Final Bell has been provided notice of the Transaction and, it is the Applicants' and Monitor's understanding that it does not oppose the Transaction or the proposed distribution of the proceeds thereof.⁶⁸ While the Applicants' other secured and unsecured creditors will not receive any of the proceeds pursuant to the Transaction, the proposed Purchase Agreement and the Transaction provides no worse recovery to such stakeholders than under the Stalking Horse Purchase Agreement or a liquidation process, while assuring a going concern result.⁶⁹

(h) ***The Consideration is Reasonable and Fair and Adequately Reflects the Value of the Proposed Reverse Vesting Transaction***

– The purchase price adequately reflects the value of preserving the Cannabis Licenses through the proposed reverse vesting transaction structure and for the business of BZAM Management. No offer, let alone a higher or better offer, was obtained in respect of BZAM Management or its assets, despite being marketed extensively (as described above).⁷⁰ Accordingly,

⁶⁶ Milich Affidavit, *ibid* at paras 42-44, Motion Record at Tab 2; Monitor's Report, *ibid* at paras 39-40. See also, [Re MPX International Corporation, 2022 ONSC 7152](#) at para 7 where Justice Penny accepted that the need to preserve the debtors' cannabis licenses satisfied "the exceptional circumstances necessary for the threshold application of the RVO structure".

⁶⁷ Milich Affidavit, *ibid* at para 45, Motion Record at Tab 2; Monitor's Report, *ibid* at paras 35-37.

⁶⁸ Final Bell does not oppose subject to the condition that that such non-opposition is without prejudice to Final Bell's position in the Final Bell litigation and the relief sought therein and that neither BZAM the Applicants nor Cortland will rely on Final Bell's non-opposition in response to Final Bell's claim in the Final Bell litigation; See Monitor's Report, *ibid* at para 36.

⁶⁹ Milich Affidavit, *ibid* at para 45, Motion Record at Tab 2; Monitor's Report, *ibid* at paras 19, 40.

⁷⁰ Milich Affidavit, *ibid* at para 15; Motion Record at Tab 2.

the consideration to be received pursuant to the Transaction is superior to all other alternatives available to the Applicants and their stakeholders.

B. The Cash Distribution Should be Approved

39. If the Purchase Agreement is approved and the Transaction closes, the proposed Ancillary Order will authorize the Applicants to distribute the Cash Consideration to Cortland. It is well established that the broad discretion conferred under section 11 of the CCAA permits Courts to approve interim or final distributions to secured or unsecured creditors absent a plan of compromise or arrangement.⁷¹

40. To ensure the equitable treatment of claims and maximize creditor recovery, this Court has previously exercised its discretion under section 11 of the CCAA to authorize distributions to the creditors of debtor companies absent a plan of compromise or arrangement.⁷² The Applicants submit that it is similarly appropriate, and consistent with the CCAA's remedial objectives, for this Court to authorize the proposed Cash Distribution in this case given that:

- (a) the Cash Distribution will be made only from the proceeds of the Transaction and will not prejudice any other stakeholder;
- (b) the Cash Distribution is effectively a *de minimis* partial pre-payment of the cash consideration that will be owed under the Stalking Horse Purchase Agreement upon consummation of the Stalking Horse Transaction, and effecting the Distribution now prevents interest from accruing under the DIP Loan;

⁷¹ CCAA, *supra* note 44 s 11; *Re Nortel Networks Corporation et al*, 2014 ONSC 4777, *ibid* at paras 54-58; *AbitibiBowater inc. (Arrangement relatif à)*, 2009 QCCS 6461 at para 71.

⁷² See for example: *LoyaltyOne, Re.* (July 5, 2023) ONSC (Commercial List), Court File No CV-23-00696017-00CL (Stay Extension and Distribution Order) (Steele, J); *Greenspace Brands Inc, Re* (June 15, 2023) ONSC (Commercial List), Court File No CV-23-00697516-00CL (Ancillary Relief Order) (McEwen, J); *BioSteel Sports Nutrition Inc et al.* (December 14, 2023) ONSC (Commercial List), Court File No CV-23-00706033-00CL (Distribution, Stay Extension and Expansion of Powers Order) (Steele, J).

- (c) given that the original Stalking Horse Purchase Agreement was structured to only repay the outstanding obligations of Cortland (pursuant to the terms of the DIP Loan), subject to certain closing payments, the other creditors of the Applicants are no worse off by the Cash Distribution under the proposed Ancillary Order than they would be under a similar distribution order upon the consummation of the Stalking Horse Transaction;
- (d) the Cash Distribution is supported by the Monitor; and
- (e) the Applicants are not aware of any opposition to the Cash Distribution.⁷³

41. As such, this Court has jurisdiction to approve the Cash Distribution and it is appropriate and in the best interests of BZAM Management, the other Applicants and their stakeholders to do so.

C. The Stay of Proceedings Should be Extended

42. The Stay Period is currently set to expire on October 15, 2024.⁷⁴ Subsection 11.02(2) of the CCAA expressly authorizes this Court to grant an extension of the stay of proceedings for "any period that the court considers necessary".⁷⁵ To grant such an extension, this Court must be satisfied that circumstances exist that make the order appropriate and that the Applicants have acted, and are acting, in good faith and with due diligence.⁷⁶

43. Despite their best efforts to seek approval of the Stalking Horse Purchase Agreement and the Stalking Horse Transaction prior to the expiry of the Stay Period, the Applicants have

⁷³ *Milich Affidavit*, *supra* note 1 at paras 37-38, 48-51, Motion Record at Tab 2.

⁷⁴ *Ibid* at para 52, Motion Record at Tab 2.

⁷⁵ CCAA, *supra* note 44 s 11.02(2).

⁷⁶ CCAA, *ibid* s 11.02(2); *Harte Gold*, *supra* note 44 at para 87.

continued to postpone seeking such approval due to the ongoing uncertainty surrounding the determination of the Amended Claim.⁷⁷ As discussed in greater detail in the Milich Affidavit, it is a requirement under subsection 3.13(l) of the DIP Loan that, subject to Cortland's consent, all sale transactions entered into by the Applicants must result in the full payment of all obligations owing to Cortland (pursuant to the terms of the DIP Loan).⁷⁸ The Applicants and Cortland are unable to make such determination until the Amended Claim is resolved.

44. In light of the foregoing, the Applicants require the Stay Extension to maintain the *status quo* and prevent enforcement action by, among others, the Applicants' contractual counterparties while the Final Bell litigation remains ongoing.

45. In this case, the proposed Stay Extension is appropriate given that:

- (a) since the granting of the Initial Order, the Applicants have acted in good faith and with due diligence to, among other things, stabilize the Applicants' business, advance their restructuring efforts, and identify and implement value-maximizing transactions;
- (b) the proposed Stay Extension will afford the Applicants the breathing space and stability required to close the Transaction expeditiously, with a view to preserving and maximizing value for BZAM Management's stakeholders;
- (c) the proposed Stay Extension will provide time for the Applicants and the Stalking Horse Purchaser to finalize the terms of the amended Stalking Horse Purchase Agreement and, subject to the determination of the Amended Claim, seek approval thereof;

⁷⁷ Milich Affidavit, *supra* note 1 at para 53, Motion Record at Tab 2.

⁷⁸ Milich Affidavit, *ibid*, Motion Record at Tab 2.

- (d) the proposed Stay Extension will allow the Applicants to advance matters towards a termination of these CCAA Proceedings that will allow certain of the Applicants to emerge as going concern entities; and
- (e) the Monitor is supportive of the proposed extension of the proposed Stay Extension and does not believe that any creditor will be prejudiced by such extension.⁷⁹

46. Taken together, the Applicants submit that the proposed Stay Extension is in the best interests of the Applicants and their stakeholders, is consistent with the purposes of the CCAA, and is appropriate in the circumstances.

D. The Sixth Report Should be Approved

47. It has become a usual practice in CCAA proceedings for a court-appointed monitor (or an applicant on its behalf) to bring a motion to approve its reports.⁸⁰ This Court has recognized a number of policy and practical reasons for the Court to approve a monitor's activities, including that it:

- (a) allows the monitor to move forward with next steps in the CCAA proceedings;
- (b) brings the monitor's activities before the Court;
- (c) allows an opportunity for the concerns of the stakeholders to be addressed, and any problems to be rectified;
- (d) enables the Court to satisfy itself that the monitor's activities have been conducted in prudent and diligent manners;

⁷⁹ Milich Affidavit, *supra* note 1 at paras 52-57, Motion Record at Tab 2; Monitor's Report, *supra* note 33 at para 57.

⁸⁰ [Target Canada Co. \(Re\), 2015 ONSC 7574](#) at paras 1-2; [Laurentian University of Sudbury, 2022 ONSC 2927](#) at paras 13-14.

- (e) provides protection for the monitor not otherwise provided by the CCAA; and
- (f) protects the creditors from the delay and distribution that would be caused by:
 - (i) re-litigation of steps taken to date, and
 - (ii) potential indemnity claims by the monitor.⁸¹

48. Furthermore, this Court has advised that the benefit of any approval in respect of a monitor's report and its activities should be limited to the monitor itself and should not extend to the Applicants or other third parties.⁸²

49. Given the aforementioned benefits, the customary restrictions imposed under the Ancillary Order to limit the benefit of such approval to only the Monitor, and the Monitor's diligent and good faith performance of its activities in compliance with the CCAA and the orders of this Court,⁸³ the Applicants submit that it is appropriate for this Court to approve the Sixth Report and the activities described therein.

PART V: RELIEF REQUESTED

50. The Applicants submit that the relief sought on the within motion is appropriate in the circumstances and consistent with prior orders of this Court,⁸⁴ and respectfully request that the proposed form of Approval and Vesting Order and Ancillary Order be granted.

⁸¹ [Target Canada Co. \(Re\)](#), 2015 ONSC 7574 at para 23.

⁸² [Target Canada Co. \(Re\)](#), 2015 ONSC 7574 at para 21; [Nordstrom Canada Retail, Inc.](#), 2023 ONSC 4199 at para 22.

⁸³ Monitor's Report, *supra* note 33 at para 11.

⁸⁴ See generally, [In the Matter of a Plan of Compromise or Arrangement of FIGR Brands, Inc., FIGR Norfolk Inc. and Canada's Island Garden Inc.](#) (June 10, 2021), Toronto, CV-21-00655373-00CL (Approval and Vesting Order) (ONSC); [In the Matter of a Plan of Compromise or Arrangement of Green Relief Inc.](#) (November 9, 2020), Toronto, CV-20-00639217-00CL (Order) (ONSC); [In the Matter of a Plan of Compromise or Arrangement of Superette Inc. et al.](#) (December 20, 2022), Toronto, CV-22-00686245-00CL (Approval and Vesting Order) (ONSC); [In the Matter of a Plan of Compromise or Arrangement of Harte Gold Corp.](#) (January 28, 2022), Toronto, CV-21-00673304-00CL (Approval and Reverse Vesting Order) (ONSC); [In the Matter of a Plan of Compromise or Arrangement of MPX International Corporation et al.](#) (December 15, 2022), Toronto, CV-22-00684542-00CL (Approval and Vesting Order) (ONSC); [LoyaltyOne, Re.](#) (July 5, 2023) ONSC (Commercial List), Court File No CV-23-00696017-00CL (Stay Extension and Distribution Order) (Steele, J); [Greenspace Brands Inc. Re](#) (June 15, 2023) ONSC (Commercial List), Court File No CV-23-00697516-00CL (Ancillary Relief Order) (McEwen, J); [In the Matter of a Plan of Compromise or Arrangement of Aleafia Health Inc., Emblem Corp., Emblem Cannabis Corporation, Emblem Realty Ltd., Growwise Health Limited., Canabo Medical Corporation, Aleafia Inc., Aleafia](#)

**ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 12TH DAY OF OCTOBER,
2024**

Bennett Jones LLP

BENNETT JONES LLP

SCHEDULE A – LIST OF AUTHORITIES

Cases Cited

1. [9354-9186 Québec inc v Callidus Capital Corp, 2020 SCC 10](#)
2. [AbitibiBowater inc. \(Arrangement relatif à\), 2009 QCCS 6461](#)
3. [Century Services Inc v Attorney General \(Canada\), 2010 SCC 60](#)
4. [In the Matter of a Plan of Compromise or Arrangement of Aleafia Health Inc., Emblem Corp., Emblem Cannabis Corporation, Emblem Realty Ltd., Growwise Health Limited., Canabo Medical Corporation, Aleafia Inc., Aleafia Farms Inc., Aleafia Brands Inc., Aleafia Retail Inc., 2672533 Ontario Inc., and 2676063 Ontario Inc. \(October 30, 2023\), Toronto, CV-23-00703350-00CL \(Approval and Reverse Vesting Order\) \(ONSC\)](#)
5. [In the Matter of a Plan of Compromise or Arrangement of BioSteel Sports Nutrition Inc et al. \(December 14, 2023\), Court File No CV-23-00706033-00CL \(Distribution, Stay Extension and Expansion of Powers Order\) ONSC \(Commercial List\)](#)
6. [In the Matter of the Companies' Creditors Arrangement Act and In the Matter of CannaPiece Group Inc, 2023 ONSC 841](#)
7. [In the Matter of a Plan of Compromise or Arrangement of FIGR Brands, Inc., FIGR Norfolk Inc. and Canada's Island Garden Inc. \(June 10, 2021\), Toronto, CV-21-00655373-00CL \(Approval and Vesting Order\) \(ONSC\)](#)
8. [In the Matter of a Plan of Compromise or Arrangement of Green Relief Inc. \(November 9, 2020\), Toronto, CV-20-00639217-00CL \(Order\) \(ONSC\)](#)
9. [In the Matter of a Plan of Compromise or Arrangement of Greenspace Brands Inc, Re \(June 15, 2023\), Court File No CV-23-00697516-00CL \(Ancillary Relief Order\) \(ONSC\)](#)
10. [In the Matter of a Plan of Compromise or Arrangement of Harte Gold Corp. \(January 28, 2022\), Toronto, CV-21-00673304-00CL \(Approval and Reverse Vesting Order\) \(ONSC\)](#)
11. [In the Matter of a Plan of Compromise or Arrangement of LoyaltyOne, Co \(July 5, 2023\), Toronto, CV-23-00696017-00CL \(Stay Extension and Distribution Order\) \(ONSC\)](#)
12. [In the Matter of a Plan of Compromise or Arrangement of MPX International Corporation et al. \(December 15, 2022\), Toronto, CV-22-00684542-00CL \(Approval and Vesting Order\) \(ONSC\)](#)

13. [*In the Matter of a Plan of Compromise or Arrangement of Superette Inc. et al.* \(December 20, 2022\), Toronto, CV-22-00686245-00CL \(Approval and Vesting Order\) \(ONSC\)](#)
14. [*In the Matter of The Body Shop Canada Limited*, 2024 ONSC 3882](#)
15. [*Just Energy Group Inc et al v Morgan Stanley Capital Group Inc et al*, 2022 ONSC 6354](#)
16. [*Laurentian University of Sudbury*, 2022 ONSC 2927](#)
17. [*Nordstrom Canada Retail, Inc.*, 2023 ONSC 4199](#)
18. [*Re Green Relief Inc*, 2020 ONSC 6837](#)
19. [*Re Harte Gold Corp*, 2022 ONSC 653](#)
20. [*Re MPX International Corporation*, 2022 ONSC 7152](#)
21. [*Re Nortel Networks Corporation et al*, 2014 ONSC 4777](#)
22. [*Re Quest University Canada*, 2020 BCSC 1883](#)
23. [*Royal Bank of Canada v Soundair Corp*, \[1991\] 7 CBR \(3d\) 1](#)
24. [*Tacora Resources Inc. \(Re\)*, 2024 ONSC 4436](#)
25. [*Target Canada Co., Re*, 2015 ONSC 2066](#)
26. [*Target Canada Co. \(Re\)*, 2015 ONSC 7574](#)

SCHEDULE B – STATUTES AND REGULATIONS RELIED ON

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

Section 11

General power of court

Despite anything in the [Bankruptcy and Insolvency Act](#) or the [Winding-up and Restructuring Act](#), if an application is made under this Act in respect of a debtor company, the court, on the application of any person interested in the matter, may, subject to the restrictions set out in this Act, on notice to any other person or without notice as it may see fit, make any order that it considers appropriate in the circumstances.

R.S., 1985, c. C-36, s. 111992, c. 27, s. 901996, c. 6, s. 1671997, c. 12, s. 1242005, c. 47, s. 128.

Section 11.02

Stays, etc. – initial application

(1) A court may, on an initial application in respect of a debtor company, make an order on any terms that it may impose, effective for the period that the court considers necessary, which period may not be more than 10 days,

- (a) staying, until otherwise ordered by the court, all proceedings taken or that might be taken in respect of the company under the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act*;
- (b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and
- (c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

Stays, etc. — other than initial application

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

- (a) staying, until otherwise ordered by the court, for any period that the court considers necessary, all proceedings taken or that might be taken in respect of the company under an Act referred to in paragraph (1)(a);
- (b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and
- (c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

Burden of proof on application

(3) The court shall not make the order unless

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

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

Restriction

(4) Orders doing anything referred to in subsection (1) or (2) may only be made under this section.

2005, c. 47, s. 128, 2007, c. 36, s. 62(F)2019, c. 29, s. 137.

Section 36

Restriction on disposition of business assets

(1) A debtor company in respect of which an order has been made under this Act may not sell or otherwise dispose of assets outside the ordinary course of business unless authorized to do so by a court. Despite any requirement for shareholder approval, including one under federal or provincial law, the court may authorize the sale or disposition even if shareholder approval was not obtained.

Notice to creditors

(2) A company that applies to the court for an authorization is to give notice of the application to the secured creditors who are likely to be affected by the proposed sale or disposition.

Factors to be considered

(3) In deciding whether to grant the authorization, the court is to consider, among other things,

(a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances;

(b) whether the monitor approved the process leading to the proposed sale or disposition;

(c) whether the monitor filed with the court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under a bankruptcy;

(d) the extent to which the creditors were consulted;

(e) the effects of the proposed sale or disposition on the creditors and other interested parties; and

(f) whether the consideration to be received for the assets is reasonable and fair, taking into account their market value.

Additional factors — related persons

(4) If the proposed sale or disposition is to a person who is related to the company, the court may, after considering the factors referred to in subsection (3), grant the authorization only if it is satisfied that

(a) good faith efforts were made to sell or otherwise dispose of the assets to persons who are not related to the company; and

(b) the consideration to be received is superior to the consideration that would be received under any other offer made in accordance with the process leading to the proposed sale or disposition.

Related persons

(5) For the purpose of subsection (4), a person who is related to the company includes

(a) a director or officer of the company;

(b) a person who has or has had, directly or indirectly, control in fact of the company; and

(c) a person who is related to a person described in paragraph (a) or (b).

Assets may be disposed of free and clear

(6) The court may authorize a sale or disposition free and clear of any security, charge or other restriction and, if it does, it shall also order that other assets of the company or the proceeds of the sale or disposition be subject to a security, charge or other restriction in favour of the creditor whose security, charge or other restriction is to be affected by the order.

Restriction — employers

(7) The court may grant the authorization only if the court is satisfied that the company can and will make the payments that would have been required under paragraphs 6(5)(a) and (6)(a) if the court had sanctioned the compromise or arrangement.

Restriction — intellectual property

(8) If, on the day on which an order is made under this Act in respect of the company, the company is a party to an agreement that grants to another party a right to use intellectual property that is included in a sale or disposition authorized under subsection (6), that sale or disposition does not affect that other party's right to use the intellectual property — including the other party's right to enforce an exclusive use — during the term of the agreement, including any period for which the other party extends the agreement as of right, as long as the other party continues to perform its obligations under the agreement in relation to the use of the intellectual property.

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.

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

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