

**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 CANNABIS CORP., FOLIUM LIFE
SCIENCE INC., 102172093 SASKATCHEWAN LTD., THE GREEN ORGANIC
DUTCHMAN LTD., MEDICAN ORGANIC INC., HIGH ROAD HOLDING CORP.
FINAL BELL CORP. AND 1001028579 ONTARIO INC.**

Applicants

**FACTUM OF THE APPLICANTS
(Returnable March 27, 2025)**

March 25, 2025

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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**"), for an Order (the "**Stay Extension Order**"), among other things, extending the stay of proceedings to May 15, 2025 (the "**Stay Extension**"), and approving the Ninth Report (as defined below) and the Monitor's activities described therein.

2. The stay extension sought pursuant to the proposed Stay Extension Order will preserve the *status quo* and provide the breathing room required for the Applicants to seek approval of the Stalking Horse Transaction (as defined below), attempt to resolve outstanding matters with the Department of Justice, the Canada Revenue Agency and Health Canada, and continue preparations to exit these CCAA Proceedings. The Applicants therefore seek to extend the Stay Period (as defined below) in order to continue working diligently and with good faith towards the consensual resolution of all remaining issues.

3. The relief sought in the within motion is supported by the Monitor and the DIP Lender. The Applicants respectfully submit that the proposed Stay Extension is in the best interests of the Applicants and their stakeholders and appropriate in the circumstances.

PART II: FACTS

4. The facts underlying this motion are more fully set out in the affidavit of Matthew Milich sworn March 20, 2025 (the "**Milich Affidavit**").¹ All capitalized terms used but not defined herein have the meanings ascribed to them in the Milich Affidavit.

¹ Affidavit of Matthew Milich sworn on March 20, 2025 [Milich Affidavit], Motion Record of the Applicants dated March 20, 2025 at Tab 2 [Motion Record].

A. Background to and Developments in these CCAA Proceedings

5. 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

6. Facing significant liquidity issues, the Applicants were granted CCAA protection by an order of the Ontario Superior Court of Justice (Commercial List) on February 28, 2024 (the "**Initial Order**").⁴ The Initial Order, among other things, appointed FTI as the Monitor in these CCAA Proceedings and granted an initial stay of proceedings in favour of the Applicants, the Non-Applicant Stay Parties (as defined in the Initial Order) and their respective directors and officers until and including March 8, 2024 (the "**Stay Period**").⁵

7. On March 8, 2024, the Applicants obtained an amended and restated Initial Order, which, among other things, extended the Stay Period to and including May 25, 2024.⁶

8. In an effort to identify and implement a value-maximizing transaction, the Applicants sought and, on March 8, 2024, obtained the SISP Approval Order, which, among other things, authorized and approved a sale and investment solicitation process (the "**SISP**"), in which a share subscription agreement (the "**Stalking Horse Subscription Agreement**") between BZAM and 1000816625 Ontario Inc. (the "**Stalking Horse Purchaser**") served as the Stalking Horse Bid (the transaction contemplated thereby, the "**Stalking Horse Transaction**").⁷

² Milich Affidavit, *ibid* at para 6, Motion Record at Tab 2.

³ Milich Affidavit, *ibid*, Motion Record at Tab 2.

⁴ Milich Affidavit, *ibid* at para 7, Motion Record at Tab 2.

⁵ Milich Affidavit, *ibid* at para 8, Motion Record at Tab 2.

⁶ Milich Affidavit, *ibid* at para 9, Motion Record at Tab 2.

⁷ Milich Affidavit, *ibid* at para 10, Motion Record at Tab 2.

9. Following a determination that none of the letters of intent received by the Applicants and the Monitor constituted Qualified LOIs (as defined under the SISP), the SISP was terminated and the Stalking Horse Transaction was recognized as the successful bid.⁸

10. Since the termination of the SISP, the Applicants have implemented two court-approved, value maximizing transactions pursuant to the following Orders:

- (a) on October 15, 2024, the Applicants obtained a reverse approval vesting order, which, among other things, approved the BMI Transaction between BZAM Holdings Inc., as vendor, BZAM Management Inc., as target, 1000912353 Ontario Inc. (the "**Interim Purchaser**"), as purchaser, and Wyld Canada Inc., as an interested third party – pursuant to which, 100% of the share capital of BZAM Management Inc. (a former Applicant in these CCAA Proceedings) was sold to the Interim Purchaser;⁹ and
- (b) on January 13, 2025, the Applicants obtained an approval and vesting order (along with certain other ancillary relief), approving, among other things, the Edmonton Property Transaction, whereby BZAM Cannabis Corp. sold to 2627411 Alberta Ltd, among other things, the lands and premises municipally described as 8770 24th Street, Sherwood Park, Alberta.¹⁰

11. Both transactions listed above have closed.¹¹ The net proceeds were distributed to, among others, Cortland as partial repayment of its indebtedness under the DIP Loan.¹²

⁸ Milich Affidavit, *ibid* at para 11, Motion Record at Tab 2.

⁹ Milich Affidavit, *ibid* at para 12, Motion Record at Tab 2.

¹⁰ Milich Affidavit, *ibid* at para 15, Motion Record at Tab 2.

¹¹ Milich Affidavit, *ibid* at paras 13, 16, Motion Record at Tab 2.

¹² Milich Affidavit, *ibid*, Motion Record at Tab 2.

12. The Applicants have also obtained certain ancillary relief, including on December 2, 2024, where the Court granted an Order, which, among other things, authorized 9430-6347 Québec Inc. ("**9430 Quebec**") or the Monitor to file an assignment in bankruptcy for 9430 Quebec (the "**Bankruptcy Assignment**").¹³ The Applicants continue to work with counsel to Ms. France Boisvert and Mr. Daniel Fontaine (referred to as the Disclaimer Motion Parties in the Milich Affidavit), the shareholders and directors listed on the corporate registry of 9430 Quebec, to move the Bankruptcy Assignment forward.¹⁴

13. The Stay Period has been extended six times during the pendency of these CCAA Proceedings, including most recently to and including March 31, 2025.¹⁵ The delay in seeking the Stalking Horse Transaction and completing these CCAA Proceedings is attributable to a variety of factors, including the Applicants' litigation with Final Bell Holdings International Ltd., which was settled on December 13, 2024, and outstanding matters with the Canada Revenue Agency and Health Canada (as discussed below).¹⁶

B. Outstanding Matters

14. There are a number of outstanding items the Applicants need to resolve prior to completing these CCAA Proceedings, including:

- (a) certain outstanding tax matters with the Department of Justice (the "**DOJ**") and the Canada Revenue Agency (the "**CRA**"). The Applicants, the Monitor, the CRA and the DOJ have engaged in without prejudice discussions in an attempt to reach a consensual resolution of the aforementioned matters. The Applicants agreed not to

¹³ Milich Affidavit, *ibid* at para 14, Motion Record at Tab 2.

¹⁴ Milich Affidavit, *ibid* at para 25, Motion Record at Tab 2.

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

¹⁶ Ninth Report of the Monitor dated March 25, 2025 at para 22 [Monitor's Report].

seek approval of the Stalking Horse Transaction while these discussions remain ongoing;¹⁷

- (b) outstanding discussions with the DOJ and Health Canada regarding certain licensing fees under the *Cannabis Act* (Canada). The Applicants similarly are working towards a consensual resolution with Health Canada;¹⁸
- (c) since the termination of the SISP, the Applicants have been working towards completing the Stalking Horse Transaction. The amended and restated Stalking Horse Agreement is substantially finalized, and the Applicants intend to seek approval of the Stalking Horse Transaction at the next hearing in these CCAA Proceedings;¹⁹ and
- (d) the Bankruptcy Assignment of 9430 Quebec. Pursuant to the terms of the negotiated resolution between the Applicants and the Disclaimer Motion Parties (as set out in greater detail in the Supplement to the Seventh Report of the Monitor dated December 2, 2024), certain conditions must be satisfied by the respective parties prior to the Bankruptcy Assignment. The Applicants continue to work with the Disclaimer Motion Parties' counsel to move the Bankruptcy Assignment forward on a consensual basis.²⁰

15. If the Applicants are unable to reach a consensual resolution with either Health Canada or the CRA, they expect to seek the Court's assistance in resolving such matters at the next hearing in these CCAA Proceedings.²¹

¹⁷ Milich Affidavit, *ibid* at para 20, Motion Record at Tab 2.

¹⁸ Milich Affidavit, *ibid* at para 21, Motion Record at Tab 2.

¹⁹ Milich Affidavit, *ibid* at para 23, Motion Record at Tab 2; Monitor's Report, *supra* note 16 at para 21.

²⁰ Milich Affidavit, *ibid* at para 25, Motion Record at Tab 2; Monitor's Report, *ibid* at para 30.

²¹ Milich Affidavit, *ibid* at para 22, Motion Record at Tab 2.

C. The Stay of Proceedings

16. The Stay Period is currently set to expire on March 31, 2025.²² Pursuant to the proposed Stay Extension Order, the Applicants are seeking to extend the Stay Period to and including May 15, 2025.²³

17. The 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.²⁴ The revised cash flow forecast is attached as Appendix "A" to the Ninth Report of the Monitor dated March 25, 2025 (the "**Ninth Report**").²⁵

PART III: ISSUES

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

- (a) approve the Stay Extension; and
- (b) approve the Ninth Report and the activities described therein.

PART IV: LAW AND ANALYSIS

A. The Stay of Proceedings Should be Extended

19. The Stay Period is currently set to expire on March 31, 2025.²⁶ 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."²⁷ To grant such an extension, this Court must be satisfied that circumstances exist that make the order appropriate and that the Applicants have

²² Milich Affidavit, *ibid* at para 27, Motion Record at Tab 2.

²³ Milich Affidavit, *ibid*, Motion Record at Tab 2.

²⁴ Milich Affidavit, *ibid* at para 31, Motion Record at Tab 2; Monitor's Report, *supra* note 16 at para 36.

²⁵ Monitor's Report, *ibid*, at Appendix "A".

²⁶ Milich Affidavit, *supra* note 1 at para 27, Motion Record at Tab 2.

²⁷ [Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, s. 11.02\(2\)](#) [CCAA].

acted, and are acting, in good faith and with due diligence.²⁸ There is no statutory limit on how long a stay of proceedings can be extended.

20. An extension of the stay of proceedings will be appropriate where it advances the purposes of the CCAA. Some of these purposes includes enabling the continuation of the applicant's business, facilitating a value maximizing restructuring, and avoiding the social and economic effects of bankruptcy.²⁹

21. In this case, the proposed Stay Extension is appropriate in the circumstances given that:

- (a) the Applicants have and continue to act in good faith and with due diligence to, among other things, stabilize their business, advance their restructuring efforts, and implement value-maximizing transactions;³⁰
- (b) the additional time will afford the Applicants the breathing space and stability required to attempt to consensually resolve all outstanding matters with the CRA and Health Canada;³¹
- (c) it will provide the Applicants with the necessary time to complete the Bankruptcy Assignment now that the Applicants and the Disclaimer Parties have agreed on a path forward;³²

²⁸ CCAA, *ibid* s 11.02(2); *Harte Gold Corp. (Re)*, 2022 ONSC 653 at para 87.

²⁹ *Century Services Inc. v. Canada (Attorney General)*, 2010 SCC 60 at para 15; *Target Canada Co. (Re)*, 2015 ONSC 303 at para 8; *Heritage Cannabis Holdings Corp. et al.* (June 26, 2024) ONSC (Commercial List), Court File No. CV-24-00717664-00CL ([Endorsement of the Honourable Justice Osborne](#)) at para 13.

³⁰ Milich Affidavit, *supra* note 1 at para 30; Motion Record at Tab 2; Monitor's Report, *supra* note 16 at para 37(b).

³¹ Milich Affidavit, *ibid* at paras 20-22, Motion Record at Tab 2.

³² Milich Affidavit, *ibid* at paras 24-26, Motion Record at Tab 2.

- (d) the proposed extension will allow the Applicants and the Stalking Horse Purchaser to seek approval of the Stalking Horse Subscription Agreement, which the Monitor still believes is the best result for the Applicants and their stakeholders;³³
- (e) it will provide the Applicants with additional time to prepare for the completion of these CCAA Proceedings;³⁴
- (f) the Revised Cash Flow Forecast reflects that the Applicants are projected to have sufficient liquidity to fund their expenses in these CCAA proceedings up to and including May 15, 2025;³⁵ and
- (g) the Monitor and the DIP Lender are supportive of the proposed Stay Extension and the Monitor does not believe that any creditor will be prejudiced by such extension.³⁶

22. 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.

B. The Ninth Report Should be Approved

23. 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.³⁷ This Court has recognized a number of policy and practical reasons for the Court to approve a monitor's activities, including that it:

³³ Milich Affidavit, *ibid* at para 23, Motion Record at Tab 2; Monitor's Report, *supra* note 16 at para 37(c).

³⁴ Milich Affidavit, *ibid* at para 30, Motion Record at Tab 2.

³⁵ Milich Affidavit, *ibid* at 31; Motion Record at Tab 2; Monitor's Report, *supra* note 16 at para 36.

³⁶ Milich Affidavit, *ibid* at para 32; Motion Record at Tab 2; Monitor's Report, *ibid* at para 37(a).

³⁷ *Target Canada Co. (Re)*, [2015 ONSC 7574](#) at [paras 1-2](#) [*Target*]; *Laurentian University of Sudbury*, [2022 ONSC 2927](#) at paras 13-14.

- (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;
- (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.³⁸

24. In addition, 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.³⁹

25. The Monitor has continued to demonstrate a diligent and good faith performance of its activities in compliance with both the CCAA and the orders of this Court.⁴⁰ The proposed Stay Extension Order includes the customary restriction that the benefit of such approval shall apply only to the Monitor. Moreover, there has been no opposition, formally or otherwise, from any party with respect to the approval of the Ninth Report.

³⁸ *Target*, *ibid* at [para 23](#).

³⁹ *Target*, *ibid* at [para 21](#); *Nordstrom Canada Retail, Inc.*, 2023 ONSC 4199 at [para 22](#).

⁴⁰ Milich Affidavit, *supra* note 1 at para 34; Motion Record at Tab 2; Monitor's Report, *supra* note 16 at para 10.

26. In light of the aforementioned benefits, the Applicants submit that it is appropriate in the circumstances for this Court to approve the Ninth Report and the activities of the Monitor described therein.

PART V: RELIEF REQUESTED

27. The Applicants submit that the relief sought on the within motion is appropriate in the circumstances and respectfully request that the proposed form of the Stay Extension Order be granted.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 25TH DAY OF MARCH, 2025

Bennett Jones LLP

BENNETT JONES LLP

SCHEDULE A – LIST OF AUTHORITIES

Cases Cited

1. [Century Services Inc v Attorney General \(Canada\), 2010 SCC 60](#)
2. [Heritage Cannabis Holdings Corp. et al. \(June 26, 2024\) ONSC \(Commercial List\), Court File No. CV-24-00717664-00CL \(Endorsement of the Honourable Justice Osborne\)](#)
3. [Laurentian University of Sudbury, 2022 ONSC 2927](#)
4. [Nordstrom Canada Retail, Inc., 2023 ONSC 4199](#)
5. [Re Harte Gold Corp, 2022 ONSC 653](#)
6. [Target Canada Co. \(Re\), 2015 ONSC 303](#)
7. [Target Canada Co. \(Re\), 2015 ONSC 7574](#)

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

Dated: March 25, 2025



Signature

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.

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