

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
CHESSWOOD GROUP LIMITED, CASE FUNDING INC., CHESSWOOD HOLDINGS
LTD., CHESSWOOD US ACQUISITIONCO LTD., LEASE-WIN LIMITED, WINDSET
CAPITAL CORPORATION, CHESSWOOD CAPITAL MANAGEMENT INC.,
CHESSWOOD CAPITAL MANAGEMENT USA INC., 942328 ALBERTA INC.,
908696 ALBERTA INC., WAYPOINT INVESTMENT PARTNERS INC.
1000390232 ONTARIO INC. and CGL HOLDCO, LLC

**FACTUM OF THE MONITOR
(Bishop AVO)**

July 27, 2025

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PART I - NATURE OF THE MOTION

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

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

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

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

4. The Monitor now seeks an order (the “**Bishop AVO**”):
 - (a) approving the transaction agreement dated July 22, 2025, among the Pawnee Vendor, North Mill Equipment Finance, LLC (“**North Mill**”) and ResidualCo (the “**Transaction Agreement**”) and the transactions contemplated therein (the “**Proposed Transactions**”); and
 - (b) sealing Confidential Appendix “A-2” (the “**Confidential Appendix**”) to the Seventh Report of FTI Consulting Canada Inc., as Monitor, dated July 22, 2025 (the “**Seventh Report**”),² which includes an unredacted copy of the Transaction Agreement, until further order of the Court.
5. The Transaction Agreement and the Proposed Transactions should be approved. Extensive marketing efforts undertaken both prior to and during these CCAA proceedings establish that the Proposed Transactions include the best transactions available with respect to the Bishop Equity Interest (as defined below) and Bishop LLC Agreement (together with the Bishop Equity Interest, the “**Purchased Assets**”), and the Proposed Transactions will benefit all stakeholders, including by, among other things, minimizing the costs to the CCAA Parties’ estate associated with monitoring and administering any Charge-Off Payments and the Bishop Equity Interest (each as defined below).

² Unless otherwise specified, capitalized terms in this factum have the same meaning as in the Seventh Report.

PART II - THE FACTS

A. Background

6. The CCAA Parties' business was to provide loans to small businesses and consumers across Canada and the United States, focusing on equipment, vehicle, and legal financing.³ The CCAA Parties ultimately suffered an impending liquidity crisis caused by several continuing defaults under the Existing Credit Agreement.⁴

7. This Court accordingly granted the Initial Order on October 29, 2024 (the "**Filing Date**") on an application by the Pre-Filing Agent.⁵ The Initial Order also approved the DIP financing principal terms sheet dated October 29, 2024 between Chesswood, as borrower, the other entities in the Chesswood group, as guarantors, Royal Bank of Canada, as administrative and collateral agent, and the lenders thereunder, and authorizing borrowings under a secured super-priority credit facility established thereunder (the "**DIP Facility**").⁶

8. On October 30, 2024, the Monitor, in its capacity as foreign representative, commenced proceedings under chapter 15 of title 11 of the United States Code for each of the CCAA Parties with the U.S. Bankruptcy Court for the District of Delaware (the "**U.S. Court**").⁷

9. On November 7, 2024, this Court issued the ARIO, which extended the period of the Court-ordered stay of proceedings (the "**Stay Period**") until January 31, 2025, and increased the

³ Seventh Report at para. 11.

⁴ Seventh Report at para. 11.

⁵ Seventh Report at para. 1.

⁶ Seventh Report at para. 2.

⁷ Seventh Report at para. 3. The U.S. Court subsequently entered orders on October 31, 2024 and November 25, 2024: Seventh Report at paras. 3, 5.

permitted DIP Borrowings (as defined in the ARIO). The Stay Period has subsequently been extended by the Court until October 3, 2025.⁸

10. On December 19, 2024, this Court issued an order approving a sale and investment solicitation process (the “**SISP**”) in respect of the CCAA Parties (other than the Rifco Entities).⁹

11. On January 29, 2025, this Court issued orders approving the sale of certain assets by the Rifco Entities, which transaction closed on February 14, 2025.¹⁰

12. On March 7, 2025, this Court issued an order (the “**Pawnee RVO**”) approving the sale by the Pawnee Vendor of all of the issued and outstanding shares in the capital of Pawnee and Tandem to North Mill pursuant to a share purchase agreement (the “**Pawnee SPA**”) through a reverse vesting transaction, and vesting certain excluded assets and liabilities in ResidualCo (the “**Pawnee Transaction**”).¹¹

13. The Pawnee Transaction closed on April 1, 2025.¹²

14. On June 9, 2025, the Court issued an order approving the sale by Chesswood Capital Management Inc. of all issued and outstanding shares in the capital of Waypoint Investment Partners Inc, which transaction is currently anticipated to close by early August 2025.¹³

⁸ Seventh Report at para. 4.

⁹ Seventh Report at para. 6.

¹⁰ Seventh Report at para. 7.

¹¹ Seventh Report at para. 8.

¹² Seventh Report at para. 9.

¹³ Seventh Report at para. 10.

B. The Bishop Equity Interest

15. Pursuant to the Pawnee RVO, an equity interest of approximately 10% at that time (the “**Bishop Equity Interest**”) in Bishop Holdings LLC, a Delaware limited liability corporation (“**Bishop Holdings**”), was vested in ResidualCo. W-Bishop S LLC (the “**Wafra Member**”) holds the remaining equity in Bishop Holdings.¹⁴

16. Bishop Holdings is a joint venture vehicle that does not engage in any business or activity other than acting as purchaser of loan and lease assets from Pawnee and contributing them to Bishop Holdings Finance Trust (“**Bishop Trust**”, a trust settled by Bishop Holdings). Bishop Holdings receives payments of excess cashflows or repayments from Bishop Trust on the loan and lease assets previously sold and/or contributed by Bishop Holdings to Bishop Trust and subsequently financed by Bishop Trust with Deutsche Bank, AG New York Branch (the “**Bishop Facility**”). Neither Bishop Holdings nor Bishop Trust are CCAA Parties.¹⁵

17. In the absence of a sale of the Bishop Equity Interest, ResidualCo would be entitled to receive payments pursuant to the terms of the Limited Liability Company Agreement of Bishop Holdings (as amended, the “**Bishop LLC Agreement**”), which payments would be based on excess cashflows or repayments on loan and lease assets previously sold and/or contributed to Bishop Trust. In the normal course, these payments would be mainly spread out over the course of approximately three years. To the extent such loan and lease assets under perform and do not generate sufficient cashflows for the financing provided by the Bishop Facility, holders of equity interests in Bishop Holdings, including ResidualCo, are subject to periodic capital calls where such

¹⁴ Seventh Report at para. 21.

¹⁵ Seventh Report at para. 22.

holders must either contribute capital or have their equity interest (and in turn distributions) diluted. The amount and frequency of capital calls is unknown given that they are a function of the performance of the assets held by Bishop Trust (*i.e.*, if repayments on loan and lease assets fall below amounts required under the Bishop Facility, Bishop Holdings may initiate a capital call). Since the closing of the Pawnee Transaction, a capital call in excess of US\$300,000 has been made, which ResidualCo did not fund and which has resulted in a dilution of ResidualCo's interest in Bishop Holdings to approximately 8.7%, with the Wafra Member now currently holding an approximately 91.3% interest. ResidualCo does not have access to funds to satisfy such capital calls, or to finance the long-term administration of its interest in Bishop Holdings. The Monitor anticipates additional capital calls may occur, in which case the Bishop Equity Interest would be further diluted.¹⁶

C. The Charge-Off Payments

18. The Pawnee SPA provides that the Pawnee Vendor is entitled to receive 50% of net recoveries on "charge-offs" (*i.e.*, debts previously written off, which the Monitor understands would typically occur after 154 days of non-payment) ("**Charge-Off Payments**"), subject to certain exceptions and deductions, up to a maximum payment to the Pawnee Vendor of US\$2.5 million (the "**Maximum Charge-Off Payment Amount**"). Pursuant to the Pawnee SPA, the first Charge-Off Payment will become due 30 days after June 30, 2025 in respect of the months of April, May and June 2025.¹⁷

¹⁶ Seventh Report at para. 24.

¹⁷ Seventh Report at para. 26.

19. Given that “charge-offs” are comprised of written off debts, the ultimate collectability and timing for recovery (if any) on charge-offs is largely unknown. Further, the Pawnee Vendor, North Mill and the Monitor have each had to incur time, costs and expenses in order to monitor and administer these charge-offs, including the preparation and review of collection reports and supporting documentation required by the Pawnee SPA, as well as engaging with each other with respect to any discrepancies in such reports or disagreements between the parties. This time and these costs and expenses continue to be incurred by the parties notwithstanding that the Monitor anticipates, based on discussions with former Pawnee management, that the collectability of such amounts may decrease on an ongoing basis with the passage of time.¹⁸

D. The Proposed Transactions

20. Following the completion of the SISP, which did not culminate in a transaction involving the Bishop Equity Interest, and the closing of the Pawnee Transaction, the Monitor and North Mill engaged in discussions regarding (i) the potential acquisition of the Bishop Equity Interest and (ii) the potential replacement of the right to receive the Charge-Off Payments over time (subject to the Maximum Charge-Off Payment Amount) with a one-time incremental payment. These discussions culminated in the Transaction Agreement.¹⁹

21. Pursuant to the Transaction Agreement and the proposed Bishop AVO:²⁰

¹⁸ Seventh Report at para. 27.

¹⁹ Seventh Report at paras. 25 and 28.

²⁰ The key terms of the Transaction Agreement are summarized in detail in the Seventh Report at paras. 29-30. Capitalized terms not otherwise defined are as defined in the Transaction Agreement.

- (a) North Mill will acquire the Bishop Equity Interest and ResidualCo's rights under the Bishop LLC Agreement (*i.e.*, the only assigned contract) from ResidualCo for the Purchase Price (as defined in the Transaction Agreement and disclosed in the Confidential Appendix);²¹
- (b) North Mill will pay to the Pawnee Vendor an amount equal to the Charge-Off Settlement Amount (as defined in the Transaction Agreement and disclosed in the Confidential Appendix)²² as consideration for the amendment to the Maximum Charge-Off Payment Amount in the Pawnee SPA (the "**Charge-Off Settlement**");
- (c) At closing, North Mill will pay the Purchase Price to ResidualCo and the Charge-Off Settlement Amount to the Pawnee Vendor;
- (d) North Mill will also pay the aggregate amount of the Charge-Off Payments for the months of April-June 2025 (the "**Aggregate Q2 Charge-Off Payment Amount**") no later than the earlier of July 30 and the closing of the Proposed Transactions, which payment will be deemed to be in full satisfaction of the amended Maximum Charge-Off Payment Amount;
- (e) the outside date for closing is August 29, 2025; and
- (f) the aggregate cash proceeds from the Proposed Transactions will be distributed to the Pre-Filing Agent as partial repayment of the indebtedness owing to the Pre-Filing Lenders under the Existing Credit Agreement.²³

²¹ Confidential Appendix, Unredacted Transaction Agreement at s. 3.1.

²² Confidential Appendix, Unredacted Transaction Agreement at s. 7.1(a) and (c).

²³ The DIP Facility has been repaid and, as of May 30, 2025, the balance of the facility under the Existing Credit Agreement was approximately US\$66 million. See the "DIP Balance" and "Revolver Balance" as at May 30, 2025, as listed in the updated cash flow forecast for the

22. The Monitor served the motion record on the Wafra Member.²⁴

PART III - THE ISSUES

23. The issue on this motion is whether the Court should grant the Bishop AVO and thereby:
- (a) approve the Proposed Transactions; and
 - (b) seal the Confidential Appendix.

PART IV - THE LAW

A. The Proposed Transactions should be approved

24. The Proposed Transactions include a disposition of the Purchased Assets to the North Mill and the Charge-Off Settlement. Pursuant to subsection 36(1) of the CCAA, the court may authorize a debtor company to sell or otherwise dispose of assets outside the ordinary course of business. Further, CCAA courts have the jurisdiction to approve settlements entered into by debtors during the course of CCAA proceedings,²⁵ which authority derives from the court's general discretion granted under s. 11 of the CCAA.²⁶

25. In considering whether to approve a sale or other disposition of assets outside the ordinary course of business, subsection 36(3) sets out a list of factors to guide the court's decision:

Factors to be considered

36(3) In deciding whether to grant the authorization, the court is to consider, among other things,

period ending October 3, 2025, attached as Appendix "A" to the Sixth Report of the Monitor, dated June 2, 2025, Case Center, Master p. [E1189](#).

²⁴ The Wafra Member is represented by Goodmans LLP and is on the service list in these proceedings.

²⁵ *Robertson v. ProQuest Information & Learning Co.*, [2011 ONSC 1647](#) at para. 22 [*Robertson*].

²⁶ *1057863 B.C. Ltd. (Re)*, [2024 BCSC 1111](#) at para. 13 [*Northern Pulp*].

- (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.

26. These factors overlap to a significant extent with the *Soundair* factors that were applied in approving sale transactions prior to the amendments introducing section 36. Under the *Soundair* test, it was necessary to consider: (i) whether the receiver has made a sufficient effort to get the best price and has not acted improvidently; (ii) the interests of all parties; (iii) the efficacy and integrity of the process for obtaining offers; and (iv) whether there was any unfairness in the working out of the process.²⁷

27. The factors listed in subsection 36(3) are not exhaustive.²⁸ In deciding whether to approve a sale, courts consider the appropriateness of the sale as against the CCAA's overall remedial purpose, namely avoiding the social and economic losses resulting from the liquidation of an insolvent company.²⁹ Where the section 36 factors and the *Soundair* principles have been met, the

²⁷ *Pride Group Holdings Inc. et al.*, [2024 ONSC 5908](#) at para. 12 [*Pride*], citing *Royal Bank v. Soundair Corp.* (1991), [4 O.R. \(3d\) 1](#), 1991 CanLII 2727 (C.A.) [*Soundair*].

²⁸ *Pride* at para. 10.

²⁹ *Pride* at para. 13.

court “should uphold the business judgment of the Monitor as to the result of the sales process and should not lightly interfere” with the exercise of this judgment “so long as the sale process was fair, reasonable, transparent and efficient.”³⁰

28. As noted above, CCAA courts have the jurisdiction to approve settlement agreements entered into by debtors during the course of CCAA proceedings.³¹ In determining whether to approve a proposed settlement, CCAA courts consider whether the settlement is fair and reasonable, whether it provides substantial benefits to stakeholders, and whether it is consistent with the purpose and spirit of the CCAA.³²

29. Taking into account the factors listed in subsection 36 and the Court’s broad statutory jurisdiction under section 11 of the CCAA, this Court should approve the Proposed Transactions, which the Monitor believes would be in the best interests of all stakeholders.

(a) The process was reasonable

30. Whether the process for achieving a sale transaction under the CCAA is fair and reasonable must be examined contextually, in light of the particular circumstances existing at the time.³³

³⁰ *Pride* at para. 14. See also *BBB Canada Inc.*, [2023 ONSC 2308](#) at para. 13.

³¹ *Robertson* at para. 22.

³² *Northern Pulp* at para. 15.

³³ See *White Birch Paper Holding Co. (Re)*, [2010 QCCS 4915](#) at para. 49, leave to appeal ref’d [2010 QCCA 1950](#): “The Court has to look at the transaction as a whole and essentially decide whether or not the sale is appropriate, fair and reasonable. In other words, the Court could grant the process for reasons others than those mentioned in Section 36 CCAA or refuse to grant it for reasons which are not mentioned in Section 36 CCAA.”

Assessing the reasonableness of a sale process does not require the court to examine in minute detail all of the circumstances leading up to the acceptance of a particular offer.³⁴

31. Extensive efforts were made to identify a sale or investment transaction involving the business and assets of the CCAA Parties, including the Bishop Equity Interest.³⁵ Following the Filing Date, and in accordance with the SISP, the Monitor contacted 198 parties that may have had an interest in the Chesswood group's business and assets, including the Bishop Equity Interest. The Monitor engaged in various discussions with potentially interested parties with respect to the Bishop Equity Interest during the SISP, including in connection with potential transactions relating to Pawnee, but did not ultimately receive any offers in respect of the Bishop Equity Interest.³⁶

32. There is no suggestion of any unfairness in the working out of this process. To the contrary, interested parties were presented with the opportunity to purchase the Bishop Equity Interest as part of a Court-sanctioned SISP. The Monitor carried out the SISP, and is satisfied that its extensive marketing attempts demonstrate the improbability of receiving a better offer. Further, the Pre-Filing Lenders support the Proposed Transactions.³⁷

(b) The consideration is fair and reasonable

33. In considering whether the consideration is fair and reasonable, courts look to whether the Monitor has made a sufficient effort to obtain the best price and has not acted improvidently.³⁸

³⁴ *Soundair* at paras. 48-49.

³⁵ Seventh Report at para. 31.

³⁶ Seventh Report at para. 23.

³⁷ Seventh Report at para. 33.

³⁸ See *Pride* at para. 12; *Edward Collins Contracting Limited (Re)*, [2023 NLSC 139](#) at para. 68.

34. The Monitor believes that the Purchase Price and Charge-Off Settlement Amount are fair and reasonable in the circumstances. Despite the extensive marketing efforts during the SISP, no transaction involving the Bishop Equity Interest was identified,³⁹ indicating that a better deal is unlikely to materialize. The Charge-Off Settlement Amount is reasonable in the circumstances, as it provides certainty of recovery for the CCAA Parties' estate, as compared to the unknown value of the Charge-Off Payments (if any) due to the unknown collectability and timing of the underlying charge-offs, as well as the anticipated decrease in their collectability over time.⁴⁰

(c) The Proposed Transactions are in the best interests of stakeholders

35. The Monitor believes that the sale of the Purchased Assets, on the terms set forth in the Transaction Agreement, are more beneficial to creditors than a sale or disposition under a bankruptcy, particularly given the potential future capital call requirements on the Bishop Equity Interest.⁴¹ As described above, because ResidualCo does not have access to funds to satisfy any such capital calls, these would only further dilute the Bishop Equity Interest.⁴²

36. The Charge-Off Settlement also saves the Pawnee Vendor and the Monitor the time and expense of monitoring and assessing charge-off recoveries without any certainty that associated Charge-Off Payments, if any, would be enough to offset the corresponding time and cost.⁴³ With the Charge-Off Settlement, the Pawnee Vendor would receive a guaranteed payment without the

³⁹ Seventh Report at para. 31.

⁴⁰ Seventh Report at para. 32.

⁴¹ Seventh Report at para. 31.

⁴² Seventh Report at para. 24.

⁴³ Seventh Report at para. 32.

corresponding costs incurred by monitoring and assessing charge-off recoveries.⁴⁴ This arrangement would permit the CCAA Parties' estate to retain value while providing the Monitor with more resources to administer it to the benefit of stakeholders, consistent with the remedial purpose of the CCAA.

37. Furthermore, the only parties with an economic interest in the proceeds from the Proposed Transactions are the Pre-Filing Lenders,⁴⁵ who support the Monitor's motion for the proposed Bishop AVO and consent to the Proposed Transactions.⁴⁶

(d) The Proposed Transactions comply with other statutory requirements

38. The other statutory requirements for obtaining relief under section 36 of the CCAA have been satisfied.

39. As required by subsection 36(2) of the CCAA, the only secured creditors who are likely to be affected by the Proposed Transactions (*i.e.*, the Pre-Filing Lenders) have been notified and, indeed, have provided their consent.⁴⁷

40. Further, subsection 36(7) of the CCAA provides that relief under section 36 cannot be granted unless the court is "satisfied that the company can and will make the payments that would have been required under [paragraph 6(5)(a)] if the court had sanctioned the compromise or

⁴⁴ Seventh Report at para. 32.

⁴⁵ As noted in the Supplement to the Fifth Report of the Monitor, dated April 30, 2025, it is anticipated the Pre-Filing Lenders will suffer a significant shortfall in recovery: see para. 19 therein, Case Center, Master p. [E1112](#).

⁴⁶ Seventh Report at para. 29-30, 33.

⁴⁷ Seventh Report at para. 29-30, 33.

arrangement.”⁴⁸ Paragraph 6(5)(a) refers to amounts owing by a debtor company to its employees and former employees for unpaid wages that they would have been entitled to receive under the *Bankruptcy and Insolvency Act*, and amounts owing for post-filing services to the debtor company. The Pawnee Vendor and ResidualCo do not have any employees.

41. As set out above, the Charge-Off Settlement is fair and reasonable, provides substantial benefits to stakeholders, and is consistent with the purpose and spirit of the CCAA. The Supreme Court has recognized that CCAA proceedings, in pursuit of objectives including maximizing creditor recovery, have evolved to permit outcomes that “involve some form of liquidation of the debtor’s assets under the auspices of the Act itself.”⁴⁹ The Charge-Off Settlement is consistent with these purposes in that it avoids risk and removes uncertainty (in terms of both amount and timing) in connection with the receipt and distribution of Charge-Off Payments to the Pre-Filing Lenders, which are supportive of the settlement.⁵⁰

B. The Confidential Appendix should be sealed

42. The Confidential Appendix contains an unredacted copy of the Transaction Agreement, which discloses certain commercially sensitive financial information (the “**Confidential Information**”), namely the purchase price for the Bishop Equity Interest,⁵¹ the Charge-Off

⁴⁸ CCAA, s. 36(7). Paragraph 6(6)(a) concerns payments in respect of a prescribed pension plan, which it not in issue in this case.

⁴⁹ *9354-9186 Québec inc. v. Callidus Capital Corp.*, [2020 SCC 10](#) at para. 42.

⁵⁰ See, e.g., *Northern Pulp* at paras. 17 and *Walter Energy Canada Holdings, Inc. (Re)*, [2017 BCSC 1968](#) at para. 34, where the court cited the reduction of uncertainty and risk (respectively) in approving settlement agreements.

⁵¹ Transaction Agreement at s. 3.1.

Settlement Amount,⁵² and the Aggregate Q2 Charge-Off Payment Amount.⁵³ The proposed Bishop AVO includes a provision sealing the Confidential Appendix pursuant to section 137(2) of the Courts of Justice Act, such that it does not form part of the public record pending further order of this Court.⁵⁴

43. Courts granting a sealing order consider three factors:⁵⁵

- (a) whether court openness poses a serious risk to an important public interest;
- (b) whether the order sought is necessary to prevent this serious risk to the identified interest because a reasonable alternative measure will not prevent this risk; and
- (c) whether, as a matter of proportionality, the benefits of the order outweigh its negative effects.

44. Each of these considerations supports the sealing of the Confidential Appendix:

- (a) **Public interest:** In sealing an unredacted copy of the Pawnee SPA, this Court recognized that “there is a public interest in both maximizing recovery in this insolvency and in protecting the integrity of a Court-ordered sales process.”⁵⁶ Here, the disclosure of the Confidential Information could pose a serious risk to the objective of maximizing value in these CCAA proceedings. If the Proposed

⁵² Transaction Agreement at s. 7.1(c).

⁵³ Transaction Agreement at s. 7.1(a); Seventh Report at para. 34.

⁵⁴ Draft Approval and Vesting Order at para. 12, Tab 3 to the Motion Record of the Monitor (Bishop AVO), dated July 22, 2025.

⁵⁵ *Sherman Estate v. Donovan*, [2021 SCC 25](#) at para. 38.

⁵⁶ *Royal Bank of Canada v. Chesswood Group Ltd. et al.*, [2025 ONSC 1577](#) at paras. 1, 61.

Transactions were to not close, disclosure of the Confidential Information would impair the integrity of any subsequent process to find any subsequent purchaser.⁵⁷

- (b) **Lack of a reasonable alternative:** There is no reasonable alternative to the sealing order that would protect the confidentiality of the Confidential Information.
- (c) **Proportionality:** CCAA courts have approved sealing orders where the information over which confidentiality is sought to be maintained is “discrete, proportional, and limited.”⁵⁸ The terms of the Transaction Agreement have been made almost entirely public through a version of the Transaction Agreement, with only four amounts redacted, that has been attached as Appendix “A-1” to the Seventh Report. In the circumstances, the salutary effects of the proposed sealing order outweighs any deleterious effects that may exist.⁵⁹

45. Finally, the Monitor supports the proposed sealing order. CCAA courts have referred to the support of the monitor as a relevant factor in determining whether the *Sherman Estate* test is met.⁶⁰

⁵⁷ Seventh Report at para. 35.

⁵⁸ *Original Traders Energy Ltd. and 2496750 Ontario Inc. (Re)*, [2023 ONSC 753](#) at para. 63 [*Original Traders*].

⁵⁹ Seventh Report at para. 35.

⁶⁰ *Original Traders* at paras. 60, 64.

PART V - RELIEF REQUESTED

46. The Monitor requests that this Court grant the Bishop AVO and the sealing of the Confidential Appendix.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 27th day of July, 2025.



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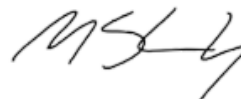
SCHEDULE “A”

LIST OF AUTHORITIES

1. *1057863 B.C. Ltd. (Re)*, [2024 BCSC 1111](#)
2. *9354-9186 Québec inc. v. Callidus Capital Corp.*, [2020 SCC 10](#)
3. *BBB Canada Inc.*, [2023 ONSC 2308](#)
4. *Edward Collins Contracting Limited (Re)*, [2023 NLSC 139](#)
5. *Original Traders Energy Ltd. and 2496750 Ontario Inc. (Re)*, [2023 ONSC 753](#)
6. *Pride Group Holdings Inc. et al.*, [2024 ONSC 5908](#)
7. *Robertson v. ProQuest Information & Learning Co.*, [2011 ONSC 1647](#)
8. *Royal Bank of Canada v. Chesswood Group Ltd. et al.*, [2025 ONSC 1577](#)
9. *Royal Bank v. Soundair Corp.* (1991), [4 O.R. \(3d\) 1](#), 1991 CanLII 2727 (C.A.)
10. *Sherman Estate v. Donovan*, [2021 SCC 25](#)
11. *Walter Energy Canada Holdings, Inc. (Re)*, [2017 BCSC 1968](#)
12. *White Birch Paper Holding Co. (Re)*, [2010 QCCS 4915](#), leave to appeal ref'd [2010 QCCA 1950](#)

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

Date July 27, 2025



Signature

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

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

Restriction — employees, etc.

6(5) The court may sanction a compromise or an arrangement only if

- (a)** the compromise or arrangement provides for payment to the employees and former employees of the company, immediately after the court’s sanction, of
 - (i)** amounts at least equal to the amounts that they would have been qualified to receive under paragraph 136(1)(d) of the *Bankruptcy and Insolvency Act* if the company had become bankrupt on the day on which proceedings commenced under this Act, and
 - (ii)** wages, salaries, commissions or compensation for services rendered after proceedings commence under this Act and before the court sanctions the compromise or arrangement, together with, in the case of travelling salespersons, disbursements properly incurred by them in and about the company’s business during the same period; and
- (b)** the court is satisfied that the company can and will make the payments as required under paragraph (a).

Restriction — pension plan

(6) If the company participates in a prescribed pension plan for the benefit of its employees, the court may sanction a compromise or an arrangement in respect of the company only if

- (a)** the compromise or arrangement provides for payment of the following amounts that are unpaid to the fund established for the purpose of the pension plan:
 - (i)** an amount equal to the sum of all amounts that were deducted from the employees’ remuneration for payment to the fund,
 - (ii)** if the prescribed pension plan is regulated by an Act of Parliament,
 - (A)** an amount equal to the normal cost, within the meaning of subsection 2(1) of the *Pension Benefits Standards Regulations, 1985*, that was required to be paid by the employer to the fund, and
 - (A.1)** an amount equal to the sum of all special payments, determined in accordance with section 9 of the *Pension Benefits Standards Regulations, 1985*, that were required to be paid by the employer to the fund referred to in sections 81.5 and 81.6 of the

Bankruptcy and Insolvency Act to liquidate an unfunded liability or a solvency deficiency,

- (A.2) any amount required to liquidate any other unfunded liability or solvency deficiency of the fund as determined on the day on which proceedings commence under this Act,
 - (B) an amount equal to the sum of all amounts that were required to be paid by the employer to the fund under a defined contribution provision, within the meaning of subsection 2(1) of the *Pension Benefits Standards Act, 1985*,
 - (C) an amount equal to the sum of all amounts that were required to be paid by the employer to the administrator of a pooled registered pension plan, as defined in subsection 2(1) of the *Pooled Registered Pension Plans Act*, and
- (iii) in the case of any other prescribed pension plan,
- (A) an amount equal to the amount that would be the normal cost, within the meaning of subsection 2(1) of the *Pension Benefits Standards Regulations, 1985*, that the employer would be required to pay to the fund if the prescribed plan were regulated by an Act of Parliament, and
 - (A.1) an amount equal to the sum of all special payments, determined in accordance with section 9 of the *Pension Benefits Standards Regulations, 1985*, that would have been required to be paid by the employer to the fund referred to in sections 81.5 and 81.6 of the *Bankruptcy and Insolvency Act* to liquidate an unfunded liability or a solvency deficiency if the prescribed plan were regulated by an Act of Parliament,
 - (A.2) any amount required to liquidate any other unfunded liability or solvency deficiency of the fund as determined on the day on which proceedings commence under this Act,
 - (B) an amount equal to the sum of all amounts that would have been required to be paid by the employer to the fund under a defined contribution provision, within the meaning of subsection 2(1) of the *Pension Benefits Standards Act, 1985*, if the prescribed plan were regulated by an Act of Parliament,
 - (C) an amount equal to the sum of all amounts that would have been required to be paid by the employer in respect of a prescribed plan, if it were regulated by the *Pooled Registered Pension Plans Act*; and

- (b) the court is satisfied that the company can and will make the payments as required under paragraph (a).

[...]

General power of court

11 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.

Restriction on disposition of business assets

36 (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.

Courts of Justice Act, R.S.O. 1990, c. C.43

Documents public

137 (1) On payment of the prescribed fee, a person is entitled to see any document filed in a civil proceeding in a court, unless an Act or an order of the court provides otherwise.

Sealing documents

(2) A court may order that any document filed in a civil proceeding before it be treated as confidential, sealed and not form part of the public record.

Court lists public

(3) On payment of the prescribed fee, a person is entitled to see any list maintained by a court of civil proceedings commenced or judgments entered.

Copies

(4) On payment of the prescribed fee, a person is entitled to a copy of any document the person is entitled to see.

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

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