

**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 PROPOSED PLAN
OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO
GROWTHWORKS CANADIAN FUND LTD.

**MOTION RECORD OF THE APPLICANT
(Stay Extension Motion,
Returnable March 6, 2014)**

March 4, 2014

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TAB 1

Court File No. CV-13-10279-00CL

**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

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OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO
GROWTHWORKS CANADIAN FUND LTD.
(the "APPLICANT")

**NOTICE OF MOTION
(Stay Extension - Returnable March 6, 2014)**

GrowthWorks Canadian Fund Ltd. (the "**Applicant**" or the "**Fund**") will make a motion before a judge of the Ontario Superior Court of Justice (Commercial List) on March 6, 2014 at 10:00 a.m. or as soon after that time as the motion can be heard at 330 University Avenue, in the City of Toronto.

THE MOTION IS FOR:

1. An Order, substantially in the form attached to the Motion Record at Tab 3:
 - (a) abridging the time for service of the Notice of Motion such that the motion is properly returnable March 6, 2014 and dispensing with further service thereof;
 - (b) extending the Stay Period (the "**Stay Period**") as defined in paragraph 14 of the Initial Order of the Honourable Mr. Justice Newbould dated October 1, 2013, as amended and restated on October 29, 2013 (the "**Initial Order**"), to May 2, 2014; and,

- (c) approving the Fifth Report of the Monitor, dated January 8, 2014, and the Monitor's activities as described therein; and,
- 2. Granting such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

Background:

- 3. The Fund is a labour-sponsored venture capital fund with investments in illiquid securities consisting primarily of minority equity interests in private companies.
- 4. On October 1, 2013, the Court granted the Initial Order, which was amended and restated on October 29, 2013.
- 5. The Initial Order included a stay of proceedings as against the Fund. The Stay Period has been extended twice and currently expires on March 7, 2014.
- 6. The Fund has completed a Sale and Investor Solicitation Process (the "**SISP**"), which was approved by the Honourable Mr. Justice Morawetz on November 18, 2013. The deadline for bids in Phase 2 of the SISP was February 3, 2014.
- 7. Two proposals were received at the Phase 2 bid deadline; however, neither proposal was a "Qualifying Bid" (as defined in the SISP) that would pay the claims of Roseway Capital S.a.r.l ("**Roseway**") in full and in cash.
- 8. The Fund, its advisors and the Monitor have been in discussions with Roseway regarding the proposals received and next steps.

9. The Fund seeks a further extension of the Stay Period to May 2, 2014 to conclude its current discussions with Roseway and to formulate a management and realization plan.
10. The Fund has acted in good faith and with due diligence since the granting of the Initial Order.
11. The Fund seeks an extension of the Stay Period to May 2, 2014. This extension is necessary and appropriate in the circumstances, in particular to allow the Fund to develop a management arrangement, identify exit opportunities to realize on the value of its investments, and assess and address tax implications for its shareholders.
12. The Fund has sufficient liquidity to be able to continue operating in the ordinary course during the requested Stay Period.
13. The Fund also relies upon the following:
 - (a) Section 11.02 and other provisions of the CCAA and the inherent and equitable jurisdiction of this Court;
 - (b) Rules 2.03, 3.02 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and
 - (c) Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. Affidavit of C. Ian Ross sworn March 3, 2014;
2. The Sixth Report of the Monitor, to be filed; and

3. Such further and other materials as counsel may advise and this Court may permit.

March 4, 2014

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Lawyers for the Applicant

TO: ATTACHED SERVICE LIST

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at [Toronto](#)

**NOTICE OF MOTION
(RETURNABLE March 6, 2014)**

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TAB 2

Court File No. CV-13-10279-00CL

**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 PROPOSED PLAN
OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO
GROWTHWORKS CANADIAN FUND LTD.
(the "APPLICANT")

**AFFIDAVIT OF C. IAN ROSS,
SWORN March 3, 2014
(Stay Extension Motion)**

I, C. Ian Ross, of the Town of The Blue Mountains, in the Province of Ontario,
MAKE OATH AND SAY:

1. I am the Chairman of GrowthWorks Canadian Fund Ltd. (the "**Fund**"), the Applicant in these proceedings. I am a director of the Fund and interim chief executive officer of the Fund, in which role I am responsible for the daily operations of the Fund, acting under the oversight of a special committee of the Fund's Board of Directors. As such, I have personal knowledge of the facts to which I depose, except where I have indicated that I have obtained facts from other sources, in which case I believe those facts to be true.
2. I have sworn a series of affidavits in these *Companies Creditors' Arrangement Act* ("**CCAA**") proceedings, including an affidavit on September 30, 2013 in support of the initial application of the Fund pursuant to the CCAA, which I shall refer to herein as my "**Initial Affidavit**". Capitalized terms contained but not defined herein, have the meanings provided in my Initial Affidavit.

3. I swear this affidavit in support of a motion for an order extending the Stay Period as defined in paragraph 14 of the Initial Order (defined below) (the “**Stay Period**”) to May 2, 2014 and for no other or improper purpose.

BACKGROUND AND CCAA PROCEEDINGS

4. The Fund is a labour-sponsored venture capital fund with a diversified portfolio of investments in small and medium-sized Canadian businesses (as defined in my Initial Affidavit, the “**Portfolio Companies**”).

5. The Fund’s investments in the Portfolio Companies are held in illiquid securities consisting primarily of minority equity interests in private companies. The Fund’s ability to divest of its relatively illiquid investments at a profit is largely dependent on favourable market conditions to provide opportunities for the Fund to exit profitably, typically at the stage of an initial public offering or merger or acquisition involving a Portfolio Company. Such opportunities have been limited as a result of the 2008 financial crisis and other market constraints.

6. A forced sale of the Fund’s investment assets, prior to an appropriate exit opportunity arising, generally results in depressed values and portfolio losses.

7. In the face of the above and other challenges described in my Initial Affidavit, including a \$20 million secured payment obligation coming due to Roseway Capital S.a.r.l. (“**Roseway**”), the Fund sought and received Court protection pursuant to the CCAA in the form of an initial order of the Honourable Mr. Justice Newbould dated October 1, 2013, which was amended and restated on October 29, 2013 by the Honourable Justice Mesbur (as amended and restated, the “**Initial Order**”).

8. Also on October 29, 2013, the Stay Period was extended by order of the Honourable Justice Mesbur to January 15, 2014.
9. On November 18, 2013, the Honourable Mr. Justice Morawetz granted an order approving a Sale and Investor Solicitation Process (the “SISP”). The purpose of the SISP was to canvass the market to solicit interest in purchasing or investing in the Fund’s business and property.
10. On January 9, 2014, the Stay Period was extended to and including March 7, 2014 by order of the Honourable Justice McEwen and a procedure for identifying, assessing and determining claims against the Fund (the “Claims Process”) was approved.

SALE AND INVESTOR SOLICITATION PROCESS UPDATE

11. The SISP was divided into two phases. The deadline for bids in Phase 1 of the SISP occurred on December 13, 2013 at which time The Commercial Capital Corporation (operating as CCC Investment Banking) (the “Financial Advisor”) received seven non-binding letters of intent (“LOI”). Six of the LOI’s received in Phase 1 were determined to be “Qualified LOI’s” as defined in the SISP.
12. Phase 2 of the SISP commenced on December 20, 2013 with six bidders invited to participate in Phase 2.
13. During Phase 2 of the SISP, the participating bidders were given access to a variety of legal agreements, updated financial information and company overview presentations relating to the material Portfolio Companies. Due diligence calls were also conducted in which management of the relevant Portfolio Companies gave an overview presentation and responded to questions from bidders.

14. At the Phase 2 bid deadline of February 3, 2014, two parties submitted proposals. Neither of these proposals constituted a "Qualifying Bid" as defined in the SISP since, among other reasons, neither included a purchase price or funds to be invested in an amount sufficient to pay the Roseway Claims (as defined in the SISP) in full in cash.

15. One proposal contemplated a purchase of only a portion of the Fund's assets at a price that was unacceptable to the Fund and the Financial Advisor (the "**Discounted Sale Offer**"). The second proposal was neither a sale nor investment offer but rather was a proposal to take over the management of the Fund's portfolio (the "**Management Proposal**") for a fee. No offer to complete a merger transaction was received.

16. The Fund, its advisors and FTI Consulting Canada Inc. in its capacity as Court-appointed monitor (the "**Monitor**") met with Roseway and its advisors to consider the Discounted Sale Offer and the Management Proposal and to discuss the best path forward for the Fund and its stakeholders including Roseway.

17. The Fund and its advisors recommended that the Discounted Sale Offer be rejected because the price offered was inadequate and the remaining Fund assets would require continued management with reduced resources. Instead, the Fund recommended that it retain its assets to be managed and realized to repay Roseway and to preserve value for other stakeholders. In that context, the Fund is discussing with Roseway an appropriate cost reduction and asset management proposal for consideration by the Fund, with the help of the Monitor.

STAY EXTENSION

18. The Initial Order included a stay of proceedings as against the Applicant until and including October 31, 2013, or such later date as the Court may order.
19. The Stay Period has been extended twice and presently expires on March 7, 2014.
20. The Fund seeks a further extension of the Stay Period to May 2, 2014 to conclude its current discussions with Roseway and to formulate a management and realization plan.
21. The Applicant has acted in good faith and with due diligence since the granting of the Initial Order, including that the Applicant has, among other things:
- (a) Conducted the SISP, as described above;
 - (b) Worked with the former manager of the Fund in relation to providing certain critical transition services to the Fund;
 - (c) Updated and worked with Roseway, including in relation to the SISP and potential next steps arising from the SISP;
 - (d) Taken steps to address the claim by Allen-Vanguard Corporation against the Fund, including bringing a cross-motion seeking to have certain questions relating to the Allen-Vanguard Action determined in a mini-trial in these CCAA proceedings; and
 - (e) Prepared and obtained approval of the Claims Process to identify claims against the Fund and its directors and officers.

22. The requested extension of the Stay Period is necessary and appropriate in the circumstances, in particular to allow the Fund to develop a management arrangement, identify exit opportunities to realize on the value of its investments, and assess and address tax implications for its shareholders.

23. I believe that the Fund and its stakeholders would benefit from having sufficient time and the protection of a CCAA stay to enable these steps to be taken.

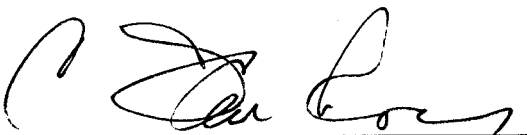
24. The cash flow projection that I understand will be attached to the Monitor's Sixth report shows that the Applicant has sufficient liquidity to be able to continue operating in the ordinary course during the requested Stay Period.

RELIEF REQUESTED

25. Accordingly, this affidavit is sworn in support of a motion by the Fund for an order pursuant to the CCAA, among other things:

- (a) abridging the time for service of the Notice of Motion and dispensing with further service thereof;
- (b) extending the Stay Period to May 2, 2014; and
- (c) granting such further and other relief as Counsel may request and this Honourable Court may deem just.

SWORN BEFORE ME at the)
 City of Toronto, in the Province)
 of Ontario, this 3rd day of March,)
 2014.)
 _____)
 Commissioner for taking)
 affidavits)



 C. IAN ROSS

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

Court File No: CV-13-10279-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE - COMMERCIAL
LIST**

Proceeding commenced at Toronto

**AFFIDAVIT OF C. IAN ROSS
(Re: Stay Extension)
(sworn March 3, 2014)**

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TAB 3

Court File No.: CV-13-10279-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.) THURSDAY, THE 6TH
))
JUSTICE MCEWEN) DAY OF MARCH, 2014

IN THE MATTER OF THE *COMPANIES' CREDITORS*
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STAY EXTENSION ORDER

THIS MOTION, made by GrowthWorks Canadian Fund Ltd. (the “**Applicant**”) for an order extending the stay period defined in paragraph 14 of the initial order of the Honourable Justice Newbould made October 1, 2013 in these proceedings, as amended and restated on October 29, 2013 (the “**Stay Period**”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record, including the Notice of Motion and the affidavit of C. Ian Ross sworn on March 3, 2014 (the “**Motion Record**”), and the Sixth Report (the “**Sixth Report**”) of FTI Consulting Canada Inc., in its capacity as monitor of the Applicant (the “**Monitor**”), and on hearing the submissions of counsel for the Applicant, the Monitor and Roseway Capital S.a.r.l. (“**Roseway**”), no one appearing for any other party although duly served as appears from the affidavit of service.

SERVICE

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

STAY EXTENSION

2. THIS COURT ORDERS that the Stay Period is hereby extended until and including May 2, 2014.

MONITOR'S ACTIVITIES AND REPORT

3. THIS COURT ORDERS that the Fifth Report of the Monitor dated January 8, 2014, and the activities described therein are hereby approved.
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IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c.
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**ONTARIO
SUPERIOR COURT OF JUSTICE
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Proceeding Commenced at Toronto

STAY EXTENSION ORDER

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