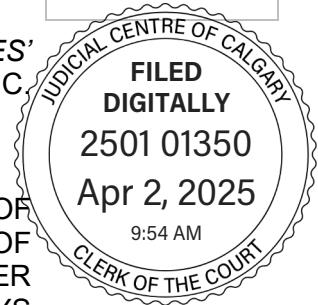


COURT FILE NUMBER 2501 01350  
COURT COURT OF KING'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY

Clerk's stamp

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  
PEAVEY INDUSTRIES GENERAL PARTNER  
LIMITED, TSC STORES GP INC., GUYS  
FREIGHTWAYS LTD., and PEAVEY  
INDUSTRIES LIMITED



APPLICANTS PEAVEY INDUSTRIES GENERAL PARTNER  
LIMITED, TSC STORES GP INC., GUYS  
FREIGHTWAYS LTD., and PEAVEY  
INDUSTRIES LIMITED

DOCUMENT

**BENCH BRIEF**

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File no.: 1001279041

**INTRODUCTION**

1 This Bench Brief is submitted by the Applicants, Peavey Industries General Partner Limited (**Peavey GP**), TSC Stores GP Inc. (**TSC GP**), Guys Freightways Ltd. (**Guys**), and Peavey Industries Limited (**Peavey Industries**). The non-applicant entities in this matter are Peavey Industries LP (**Peavey**), a limited partnership, and Peavey Industries Mutual Fund Trust (**MFT**), a trust (collectively, the **Peavey Group**). Creditor protection and the benefits of the Initial Order, as amended and restated, were granted to those non-applicant entities.

2 Capitalized terms used but not defined herein take their meaning from the First Affidavit of Douglas Anderson, sworn on January 27, 2025.

**FACTS**

3 The Applicants have been working extensively with the Monitor, the Agent, and their stakeholders

to advance these proceedings under the *Companies' Creditors Arrangement Act* (the **CCAA**)<sup>1</sup> and maximize value for creditors, as set out in the Third Report of the Monitor, dated March 26, 2025 (the **Third Report**).

4 These efforts have included the Applicants commencing a sale process to solicit interest and offers in respect of certain intellectual property owned by the Peavey Group (the **IP SISP**). Prior to launch, the Applicants received a pre-emptive bid in respect of Peavey's ownership of intellectual property assets relating to Tractor Supply Company brand (the **TSC IP**). Following negotiations, the purchaser, Tractor Supply Company (**Tractor Supply**), agreed to act as stalking horse and for its bid to serve as the stalking horse bid (the **Stalking Horse Bid**) in a sale process specifically in relation to the TSC IP (the **TSC IP SISP**).

5 Aside from the Stalking Horse Bid, no bids were received for the TSC IP by March 24, 2025, the bid deadline under the TSC IP SISP. Accordingly, Tractor Supply was accepted as the successful bidder. The Applicants now seek approval of a Sale Agreement based on the terms of the Stalking Horse Bid.

6 The Applicants have further negotiated the terms of an Amending Agreement in respect of the RE Consulting Agreement (the **Amended RE Consulting Agreement**).

7 The Applicants seek approval of (1) the Sale and Vesting Order in respect of the Sale Agreement; and (2) the Approval Order in respect of the Amended RE Consulting Agreement.

## LAW

8 The British Columbia Supreme Court in *Re Freshlocal Solutions Inc.*<sup>2</sup> recently surveyed the Canadian authorities relevant to consideration of a stalking horse sale process, and stated the relevant factors for approval. These factors, together with the relevant facts for this matter, are as follows:

- (a) How did the stalking horse agreement arise? The Stalking Horse Bid was a pre-emptive offer from an arm's length third party.
- (b) What are the stability benefits? The Stalking Horse Bid arises in the context of a liquidating CCAA, which makes the "stability benefits" less applicable. It is, however, a significant transaction that will bring value to the creditors of the Peavey Group.
- (c) Does the timing support approval? The TSC IP SISP followed a short, but not unreasonably truncated process. The Applicants' and Monitor's efforts in relation to the IP SISP allowed them to market an already known group of logical buyers. By the nature of the marketed assets, no data room or confidentiality agreements were needed, and due diligence was relatively limited.
- (d) Who supports or objects to the stalking horse agreement? The Applicants are not aware of any objections. The Monitor and Interim Lender are supportive.
- (e) What is the true cost of the stalking horse agreement? As noted, Tractor Supply is an arm's length party. The \$250,000 USD break fee is modest.
- (f) Is there an alternative? The TSC IP SISP struck an appropriate balance between recognizing the unique interest of the Tractor Supply in the TSC IP while also reasonably

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<sup>1</sup> RSC 1985, c C-36 [[CCAA](#)].

<sup>2</sup> 2022 BCSC 1616 [[Freshlocal](#)].

and adequately canvassing the market for other interested bidders. No alternative offer for the TSC IP – let alone a higher and better offer – was made.<sup>3</sup>

9 The test for granting a vesting order, as set out in the CCAA<sup>4</sup> and at common law, overlaps with the factors set out immediately above. Most famously, this was set out by the Ontario Court of Appeal in *Soundair*,<sup>5</sup> The guiding factors from *Soundair* are reproduced below, together with the relevant facts for this matter:

- (a) Whether the party made a sufficient effort to obtain the best price and to not act improvidently: The Applicants canvassed the market during the course of two overlapping sales processes for the Peavey Group's intellectual property, and the deal was negotiated at arm's length.
- (b) The interests of all parties: The Sale Agreement brings significant value to the creditors of the Peavey Group, and is supported by the Monitor and the Interim Lender.
- (c) The efficacy and integrity of the process by which the party obtained offers: The Applicants undertook the TSC IP SISP with the assistance and supervision of the Monitor. No changes or amendments were made to the process as advertised.
- (d) Whether the working out of the process was unfair: In the Applicants' view, there was no unfairness in the process. The Applicants are aware of no opposition to the vesting order as sought.

10 On the basis of the above, the Applicants request that the TSC IP SISP and proposed form of Sale Approval and Vesting Order be granted.

11 The Applicants also seek approval of their entry into and activities performed pursuant to the Amended RE Consulting Agreement, which was originally entered to aid the Peavey Group in streamlining its operations before a CCAA proceeding was contemplated, but, as amended, now better reflects the consulting services and activities necessary in the context of Peavey Group's rapid liquidation of real estate interests in CCAA.

## CONCLUSION

12 The Applicants respectfully request that this Honourable Court grant the Sale Approval and Vesting Order and the Amending Agreement Approval Order.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 2nd DAY OF APRIL, 2025:

**Norton Rose Fulbright Canada LLP**

Per: 

Howard A. Gorman, KC, D. Aaron Stephenson  
and Meghan L. Parker,  
Counsel for the Applicants

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<sup>3</sup> *Ibid* at paras 36-76. See also the discussion in *Validus Power Corp. et al. and Macquarie Equipment Finance Limited*, 2023 ONSC 6367 [Validus] at paras 35-37, 68, where, after considering numerous cases including *Freshlocal*, the Court noted: "These analyses distill, essentially, to this question: taking into account the support for and opposition to the terms of the proposed SISP and stalking horse agreement, while recognizing whether and how those parties supporting or opposing it are economically affected by the outcome, will the proposed process (including its stalking horse bid component and all other material terms), if approved and approved at this time, likely result in the best recovery on the assets being sold pursuant to a fair and transparent process?"

<sup>4</sup> *Supra* note 1 at section 36(3).

<sup>5</sup> *Royal Bank of Canada v. Soundair Corp.*, 1991 CanLII 2727 [Soundair].

## TABLE OF AUTHORITIES

- 1     *Companies' Creditors Arrangement Act*, [RSC 1985, c C-36](#)
- 2     *Re Freshlocal Solutions Inc.*, [2022 BCSC 1616](#)
- 3     *Validus Power Corp. et al. and Macquarie Equipment Finance Limited*, [2023 ONSC 6367](#)
- 4     *Royal Bank of Canada v. Soundair Corp.*, [1991 CanLII 2727](#)