2026 Hfx. No. 551716

SUPREME COURT OF NOVA SCOTIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF the *Companies' Creditors Arrangement Act*, R.S.C., 1985 c. C-36 as Amended (the "**CCAA**")

AND IN THE MATTER OF an application by CFFI Ventures Inc. (the "**Applicant**") for relief under s. 11 of the CCAA

REPLY SUBMISSIONS OF SFPC QUANTUM LP IN RESPONSE TO THE MONITOR'S FIRST REPORT AND CFFI'S AMENDED AND RESTATED INITIAL ORDER BRIEF

(Comeback Hearing 23 March 2026)

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PART I - INTRODUCTION:

1. These Reply Submissions are filed by SFPC Quantum LP ("**Quantum**") in response to (i) the First Report of FTI Consulting Canada Inc. in its capacity as Monitor (the "**First Report**") dated March 19, 2026, and (ii) the Brief of Law of the Applicant in support of the Amended and Restated Initial Order (the "**ARIO Brief**") also dated March 19, 2026. These Reply Submissions are to be read together with, and not in substitution for, Quantum's Brief of Law dated March 19, 2026 (the "**Quantum Brief**").

2. Quantum was not consulted, contacted, or given any notice by CFFI, HPS Investment Partners LLC ("**HPS**"), or any of their advisors at any point prior to the filing of the CCAA application on March 11, 2026, the *ex parte* initial order hearing on March 13, 2026, or the preparation of the proposed Amended and Restated Initial Order (the "**ARIO**") and supporting materials filed March 19, 2026.

3. Quantum is the senior secured lender of Cormorant Utility Services Limited("**Cormorant**") under the Amended and Restated Credit Agreement dated March 28, 2025 (the "**ARCA**"), holds first-priority security over CFFI's Cormorant shares, and is a direct and materially affected secured creditor of CFFI. Its complete exclusion from the process that produced the Initial Order and the proposed ARIO is not a procedural technicality. It is emblematic of a process designed to advance HPS's interests without independent scrutiny, and it is the lens through which Quantum's submissions below should be understood.

4. These Reply Submissions address four matters: (a) the structural conflict of interest between CFFI and HPS that compromises the independence of these proceedings; (b) why the Non-Filing Affiliate stay in paragraph 14 of the ARIO is highly unusual, legally precarious, and must be narrowed; (c) admissions in the First Report that support Quantum's positions; and (d) process and valuation concerns requiring enhanced Monitor powers or a creditors' committee.

PART II - QUANTUM WAS EXCLUDED FROM A PROCESS DESIGNED BY HPS FOR HPS:

A. CFFI and HPS Are Not Independent:

5. The CCAA is a remedial statute designed to serve the interests of all creditors and stakeholders. The record in this proceeding discloses a structural alignment between CFFI and HPS that is fundamental to understanding what this proceeding is, and is not, about. The following facts, drawn entirely from CFFI's own filed materials, are not in dispute:

(a) **CFFI's own governance measures confirm HPS's influence over this process, and the cure was no cure.** Bartlett Affidavit #2 confirms that Mayu Sris, a director of CFFI nominated by HPS, was excluded from the Special Committee that determined the fair market value of CFFI's assets and approved the Companies Act Plan. The Special Committee was comprised of all board members other than Mr. Sris. That exclusion is an admission by CFFI that HPS's board presence created a conflict requiring active management. The problem is that the cure was no cure at all. The three committee members who remained, Stan Spavold, Brittany Bartlett, and Nanci Rorabeck, are not independent of HPS. The Companies Act Plan provides that AcquireCo will assume such liabilities to former employees of CFFI as HPS may elect prior to the Effective Time in its sole discretion. The individuals who approved the transaction are the same individuals whose post-closing employment depends on HPS's election. CFFI removed the one director whose conflict was formal and visible while leaving in place three approvers whose conflict is equally real but less obvious. The Special Committee was independent of Mr. Sris. It was not independent of HPS.

(b) **AcquireCo was built for this deal.** AcquireCo, the intended acquirer of substantially all of CFFI's assets including its Cormorant shares, was formed for the express purpose of implementing the Companies Act Plan and is indirectly owned and controlled by the HPS Parties. The seller and buyer are not adversarial parties.

(c) **HPS has been the dominant creditor of an insolvent CFFI for over three years.** The HPS Note Purchase Agreement matured in October 2022. The CCAA

filing is the culmination of a process managed by HPS to convert its debt position into equity ownership of CFFI's assets at a valuation that HPS controls.

6. HPS's legal fees are being paid from CFFI's estate. Footnote 8 to the cash flow forecast in Appendix B of the First Report confirms that forecast restructuring legal fees include the counsel of HPS Investment Partners LLC, at a projected 10-week disbursement of $1,685,000. This is nearly seven times the $250,000 Administration Charge approved under the ARIO, which is the only supervised, court-authorized fee envelope. HPS's own counsel fees are flowing from CFFI's estate, outside any approved charge, without court visibility into the quantum or basis, and without any competitive scrutiny.

B. Quantum Was Not Consulted at Any Stage:

7. At no point in the process leading to the Initial Order or the proposed ARIO was Quantum consulted, notified, or given an opportunity to be heard on matters that directly affect its security and contractual rights. The Initial Order was obtained on March 13, 2026, in circumstances where:

(a) Quantum had not been contacted by CFFI, HPS, or their advisors prior to the filing of the CCAA application;

(b) the Initial Order extended a stay of proceedings to Cormorant and its subsidiaries under paragraph 14 without notice to Cormorant's senior secured lender;

(c) the initial application materials did not disclose to the Court the full extent of Quantum's security position, including the first-priority pledge of CFFI's Cormorant shares and the subordination of HPS's competing security interest on those shares; and

(d) the Monitor's recommendation at paragraph 58(e) of the First Report, that no party was opposed to the Stay Period, was formed without the benefit of reviewing any of Quantum's submissions which were filed the same day as the First Report.

8. Quantum's exclusion is particularly significant because the proposed ARIO paragraph 14 purports to stay rights that Quantum holds not against CFFI but against Cormorant, a separate legal entity with its own secured lender and its own contractual obligations. HPS and CFFI made a deliberate choice not to consult Quantum before filing. That choice should attract scrutiny, not reward.

C. The Monitor Has Not Flagged Matters of Fundamental Concern:

9. A further and significant concern arising from the First Report is what it does not say. The Monitor's mandate is to act as an officer of the Court and to provide the Court with independent analysis of the restructuring process. The First Report is notable for its silence on three matters that warranted specific identification and comment.

10. First, the cash flow forecast at Appendix B reveals that CFFI's estate is funding the legal fees of both McInnes Cooper, as counsel to CFFI, and the legal counsel of HPS, collectively described in footnote 8 as "restructuring legal counsel," at a projected combined cost of $1,685,000 over ten weeks. The Monitor does not comment on this arrangement, does not identify it as unusual, and does not explain the basis on which HPS's counsel fees are being characterized as a restructuring cost payable from the debtor's estate. The practical effect is that the two primary directing minds of these proceedings, CFFI and HPS, are being funded from the same estate, without any court-authorized charge covering HPS's fees and without any visibility into the terms of that arrangement. Quantum would have expected this issue to be identified as a structural concern requiring disclosure and court direction. The First Report treats it as a footnote.

11. Second, the Monitor recommends extending the Non-Filing Affiliate stay to Cormorant and its subsidiaries without acknowledging that such relief is extraordinary, that it was obtained without notice to Cormorant's own senior secured lender, and that the evidentiary foundation required to justify it has not been established.

12. Third, the Monitor does not comment on the absence of any SISP, the existence of Quantum's contractual SISP rights under the ARCA, or the fact that the proposed CCAA Plan is in substance the Companies Act Plan repackaged, a pre-arranged transaction negotiated by and for HPS, with no open-market process, no competitive bidding, and no independent verification of value. These are not peripheral matters. They go to the integrity

of the restructuring process the Monitor has been appointed to oversee. Their absence from the First Report is itself a reason why the Court should not adopt the Monitor's recommendation as a basis for granting the ARIO in the form proposed.

D. Enhanced Monitor Powers or a Creditors' Committee Is Required:

13. In the circumstances described above, the existing governance structure is insufficient to protect the interests of unsecured and minority secured creditors. Quantum submits the Court should address this structural deficit in one of two ways.

14. First, the Monitor's mandate should be expanded to include an express obligation to independently assess the fairness and adequacy of the proposed CCAA Plan as compared to reasonably available alternatives, including an open-market sale process. The Monitor should be required to report to the Court with its independent assessment before any plan is filed or any SISP is waived. The Administration Charge should be fixed at a level sufficient to fund that mandate.

15. Second, and alternatively, the Court should direct the establishment of a creditors' committee under CCAA s. 101 comprising representatives of the major unsecured creditor classes, and minor secured creditors, to provide independent oversight. A creditors' committee is a recognized mechanism for ensuring that creditor interests are represented in proceedings where the debtor and its dominant secured creditor are structurally aligned. The facts of this proceeding are precisely the circumstances in which such a committee is warranted.

PART III - THE NON-FILING AFFILIATE STAY IS HIGHLY UNUSUAL AND MUST BE NARROWED:

A. The Non-Filing Affiliate Stay Is Extraordinary Relief Rarely Granted:

16. Paragraph 14 of the ARIO extends the stay of proceedings to Cormorant and its subsidiaries, entities that are not debtors under the CCAA, have not sought creditor protection, and have not been declared insolvent. The breadth of this relief is, to put the matter plainly, extraordinary. Stays extended to non-debtor affiliates at the initial order

stage without prior notice to those affiliates' own creditors are not a routine or standard feature of CCAA proceedings. They are granted rarely, in specific circumstances, and only on a proper evidentiary foundation.[1]

17. Section 11.02(1) of the CCAA authorizes a stay of proceedings "in respect of" the debtor company. The statute contains no automatic authorization for a stay against non-debtor affiliates. Section 11.04 expressly provides that no order made under section 11.02 has effect on any action, suit or proceeding against a person other than the debtor company who is obligated under a letter of credit or guarantee in relation to the company.[2]

18. Case law confirms that as a general rule the stay applies only to acts against the debtor company and not to acts against non-debtors such as guarantors, sureties, co-debtors, or other related parties.[3] While the Court's broad discretion under section 11 may support an affiliate stay in appropriate cases, judicial discretion must be exercised in light of the statutory framework, not in defiance of it. An affiliate stay is an extraordinary remedy that requires an evidentiary foundation demonstrating that proceedings against the affiliate would directly and materially impair the debtor's restructuring.[4]

19. Recent jurisprudence has addressed the tension between section 11.04 and the Court's broad powers under section 11. In *Pride Group Holdings Inc. (Re)*, the Ontario Superior Court of Justice recognized that the jurisdiction to stay guarantee proceedings may exist under section 11 notwithstanding section 11.04 but emphasized that such relief is discretionary and requires a proper evidentiary foundation. The critical question is whether the stay is logical or necessary to preserve the restructuring.[5] Necessity, not convenience, is the standard.

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[1] *Century Services Inc. v. Canada (Attorney General)*, 2010 SCC 60 at paras 59-60, 70 **[TAB 1 in Quantum Brief of Law, dated 19 March 2026]**.
[2] Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, s. 11.04.
[3] *Lehndorff General Partner Ltd. (Re)* (1993), 9 CBR (3d) 275 (Ont Gen Div) **[TAB 2 in Quantum Brief of Law, dated 19 March 2026]**.
[4] *Pride Group Holdings Inc. (Re)*, 2024 ONSC 1830 at paras 3, 10, 35 **[TAB 3 in Quantum Brief of Law, dated 19 March 2026]**.
[5] *Muscletech Research and Development Inc. (Re)* (2006), 25 CBR (5th) 231 (Ont SCJ) **[TAB 4 in Quantum Brief of Law, dated 19 March 2026]**.

B. The Evidentiary Foundation Is Absent Here:

20. Cormorant is not an insolvent entity. It is an operating company with active contracts, employees, and a $30.6 million senior secured credit facility held by Quantum. CFFI's relationship to Cormorant is that of a 54.8% equity holder. CFFI is not operationally integrated with Cormorant's utility services business in the way that would typically justify an affiliate stay. CFFI is a pure holding company. Its assets are equity interests, receivables, and cash. Cormorant runs its business independently.

21. The ARIO Brief's sole justification for the Non-Filing Affiliate Stay is the general framework from *JTI-Macdonald Corp. (Re)*, which identifies a list of factors courts have considered in deciding whether to extend a stay to non-applicant third parties. The brief applies those factors at a level of abstraction that could justify a stay over any subsidiary of any debtor. It provides no specific analysis of Cormorant's circumstances, no evidence that Quantum's exercise of its ARCA rights would impair the restructuring, and no acknowledgment that Quantum holds security over CFFI's Cormorant shares that pre-dates and is senior to HPS's interest in that collateral.

22. Crucially, the Non-Filing Affiliate Stay as drafted in paragraph 14 of the ARIO goes well beyond preventing *ipso facto* defaults. It purports to prevent Quantum from "making any demand, accelerating, amending or declaring in default or taking any enforcement steps" under any agreement with respect to which CFFI is a party, borrower, principal obligor or guarantor. Quantum's rights as lender under the ARCA are not contingent on CFFI's insolvency or its CCAA filing. A November 27, 2025, Event of Default was continuing before this proceeding commenced, unrelated to the CCAA filing. There is no basis in law or in equity for a court order that immunizes Cormorant from enforcement of pre-existing, independently arising defaults by its own lender, solely because CFFI's parent company has sought creditor protection.

23. The stay was also obtained without notice to Quantum. Quantum, the entity whose rights are most directly affected by the Non-Filing Affiliate Stay, was given no opportunity to be heard at the March 13 hearing. The *ex parte* nature of the initial order is understandable as a matter of general CCAA practice; the extension of that *ex parte* order to cover the

rights of a non-debtor's senior secured lender is not understandable and should not stand without proper justification on notice.

C. The Required Carve-Out:

24. Quantum does not oppose a reasonable affiliate stay that prevents *ipso facto* defaults or enforcement actions taken solely by reason of CFFI's insolvency. What Quantum requires is an express carve-out in paragraph 14 of the ARIO confirming that the Non-Filing Affiliate stay does not restrict: (i) any default, demand, notice, election, administrative step, or enforcement action arising under the ARCA, the CFFI Guarantee, or any Credit Document where the default arose prior to or following the date of the Initial Order and is unrelated to the Applicant's insolvency or CCAA filing; (ii) any Event of Default arising from a Change of Control of Cormorant; and (iii) Quantum's rights to enforce its security over CFFI's Cormorant shares as permitted by CCAA s. 11.04.

PART IV - THE MONITOR'S FIRST REPORT SUPPORTS QUANTUM'S POSITIONS:

A. Quantum's Security Is Confirmed:

25. At paragraph 40(b) of the First Report, the Monitor confirms that the CFFI Guarantee is secured debt of CFFI. The security table at paragraph 41 further confirms that Quantum's security includes: (i) a securities pledge agreement granting Quantum a security interest in all securities owned or at any time acquired by CFFI in the capital of Cormorant; and (ii) a security agreement granting Quantum a security interest in all property and undertakings of CFFI. The Monitor has not yet completed its security review. Quantum reserves all rights under the CFFI Guarantee and the ARCA, including all enforcement rights, and nothing in these submissions constitutes any waiver of those rights.

B. Valuation Is Unverified and Materially Impaired:

26. At paragraph 39 of the First Report, the Monitor states it is in the process of reviewing and considering the Fairness Opinion. The Fairness Opinion, prepared by EY, is the primary evidentiary basis for CFFI's position that the HPS transaction represents fair value. The Monitor has not been able to confirm or challenge that conclusion.

27. At paragraph 36, the Monitor states that CFFI's equity investment in World Energy GH2 Inc. is expected to be impaired following its CCAA filing on February 27, 2026, and that it is not clear what value, if any, was ascribed to that investment under the Companies Act Plan. WEGH2 was a Transferred Equity Interest. The impairment of a significant asset that was part of the transaction bundle materially undermines the reliability of the Fairness Opinion and any finding that the proposed plan represents fair value for creditors.

28. The Monitor's footnote 3 to Appendix A further notes that the equity investment table may be modified as more information becomes available. No order purporting to approve or advance the CCAA Plan should be made until the Monitor has completed its review and the Court has a settled and verified asset inventory.

C. The Shareholders' Agreement Transfer Restrictions:

29. The ARIO Brief is silent on the Third Amended and Restated Shareholders' Agreement (Investors) of Cormorant (the "**USA**"). The USA contains transfer restrictions at sections 4.2, 4.3, 5.5, and 1.11 that bind all shareholders of Cormorant, including CFFI. Those restrictions, including Quantum's right of first refusal and approval rights over any change of control, are part of the commercial bargain under which Quantum advanced credit to Cormorant and accepted the CFFI Guarantee. Any CCAA Plan or vesting order purporting to transfer CFFI's Cormorant shares free and clear of those restrictions without Quantum's consent requires the Court to address its jurisdiction to override those contractual rights, on proper notice to Quantum.

D. FPR Financial: Related-Party Voting:

30. FPR Financial Corporation ("**FPR**") holds a secured promissory note against CFFI (US$2,102,339), is a subsidiary of CFFI, and is identified in footnote 8 of the First Report as a guarantor under the HPS Note Purchase Agreement. FPR is expected to be dissolved. An entity that is simultaneously a creditor, a subsidiary, and a guarantor of HPS's debt, and that has no independent economic interests, should not be permitted to vote on a CCAA Plan as an arms-length creditor. Quantum submits that any FPR vote should be treated as a related-party vote under CCAA s. 22(3).

PART V - A COURT-SUPERVISED SISP IS REQUIRED:

31. The First Report confirms that no CCAA Plan has yet been served and that the proposed plan is expected to be substantially similar to the Companies Act Plan. The Companies Act Plan was structured by HPS for HPS's benefit. The Monitor has not verified the Fairness Opinion. A material asset in the transaction bundle is now impaired. Against this backdrop, Quantum holds a contractual SISP right under the ARCA giving it sole discretion over any accepted transaction involving Cormorant. That contractual right predates the CCAA proceedings and is not subject to variation by the Initial Order or the ARIO.

32. The structural conflict identified in Part II and the absence of any prior consultation with Quantum reinforces the case for a court-supervised SISP. Where the debtor and the proposed acquirer are aligned, where management approving the transaction has financial interests tied to the acquirer's election, and where the most directly affected secured creditor was deliberately excluded from the process, an open-market process is the only mechanism capable of producing a reliable valuation and demonstrating that maximum value has been achieved.

33. Quantum submits that no Plan should be filed or approved that disposes of Cormorant shares without a prior SISP or equivalent court-supervised marketing process. The Court should direct the Monitor to develop and implement a SISP on terms that reflect Quantum's contractual rights under the ARCA.

PART VI - INCONSISTENCY REGARDING THE ADMINISTRATION CHARGE:

34. Paragraphs 14 and 15 of the ARIO Brief state that CFFI is not seeking any increase in the Administration Charge, which is to remain at $250,000. By contrast, at paragraph 49 of the First Report, the Monitor states, after service of the ARIO Brief, that the Administration Charge should be increased to $400,000. The Court is asked to make the ARIO on the basis of a charge that neither CFFI has sought nor that appears in the draft ARIO as filed. Quantum takes no position on the appropriate quantum but requests that the Court receive clear and consistent submissions from the Applicant and the Monitor before determining

the amount, particularly given Quantum's submission in Part II above that the Monitor's mandate may need to be expanded.

PART VII - RELIEF SOUGHT:

35. For the foregoing reasons, Quantum respectfully requests that this Honourable Court grant the following relief:

(a) an order directing the establishment of a creditors' committee under CCAA s. 101, or alternatively an order expanding the Monitor's mandate to include an independent assessment of the proposed CCAA Plan as compared to reasonably available alternatives, with the Administration Charge fixed at a level sufficient to fund that mandate;

(b) an order that all fees being funded from CFFI's estate, including HPS's counsel fees, be fully disclosed to the Court and to creditors, and that no estate funds may be applied to professional fees except as authorized by the Court or the Monitor;

(c) an order varying paragraph 14 of the ARIO to exclude from the Non-Filing Affiliate stay: (i) any default, demand, notice, election, administrative step, or enforcement action arising under the ARCA, the CFFI Guarantee, or any Credit Document where the default is unrelated to the Applicant's insolvency or CCAA filing; and (ii) any Event of Default arising from a Change of Control of Cormorant;

(d) an order expressly acknowledging and preserving Quantum's first-priority security interest in the Cormorant Securities Collateral, Quantum's contractual rights under the ARCA and CFFI Guarantee, and the transfer restrictions imposed by the USA governing Cormorant;

(e) an order that no CCAA Plan or vesting order be granted that purports to transfer or vest CFFI's Cormorant shares free of the USA's transfer restrictions without prior notice to Quantum and a hearing on the Court's jurisdiction to do so;

(f) an order directing that any voting process properly classify FPR Financial Corporation as a related-party interest and apply CCAA s. 22(3) accordingly;

(g) an order requiring a court-supervised SISP, on terms reflecting Quantum's contractual SISP rights under the ARCA, before any disposition of CFFI's Cormorant shares or advancement of any CCAA Plan affecting Cormorant; and

(h) such further and other relief as this Honourable Court deems just and appropriate.

36. Quantum relies upon: (a) the Affidavit of Brittany Bartlett sworn March 11, 2026; (b) the Affidavit of Brittany Bartlett sworn March 19, 2026; (c) the Monitor's First Report dated March 19, 2026; (d) the Initial Order entered March 13, 2026; (e) the ARCA and the CFFI Guarantee; (f) sections 11, 11.001, 11.02(1), 11.04, 22(3), and 101 of the *CCAA*; (g) the *Nova Scotia Civil Procedure Rules*; (h) the equitable jurisdiction of this Honourable Court; and (i) such further grounds as counsel may advise.

37. The purpose of the CCAA is remedial: to preserve going-concern value and to facilitate restructuring through a fair, transparent, and court-supervised process.[6] That purpose is not served by a process that excludes a senior secured creditor from the design of the proceeding, extends an extraordinary stay to non-debtor entities without an evidentiary foundation, and insulates a pre-packaged transaction from market testing. Quantum asks only for what the statute contemplates: transparency, independent oversight, and the preservation of contractual rights pending a process that treats all stakeholders fairly.

DATED at Halifax, Nova Scotia, this 20th day of March 2026.

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[6] *Canwest Publishing Inc. (Re)*, 2010 ONSC 222 at paras 43-49 **[TAB 11 in Quantum Brief of Law, dated 19 March 2026]**.

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TO: Counsel and parties listed in the Service List attached as **Schedule "A".**