

COURT FILE NO. 2501-06120

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

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

Clerk's
Stamp

**AND IN THE MATTER OF A PLAN OF
COMPROMISE OR ARRANGEMENT OF
SUNTERRA FOOD CORPORATION,
TROCHU MEAT PROCESSORS LTD.,
SUNTERRA QUALITY FOOD MARKETS
INC., SUNTERRA FARMS LTD.,
SUNWOLD FARMS LIMITED,
SUNTERRA BEEF LTD., LARIAGRA
FARMS LTD., SUNTERRA FARM
ENTERPRISES LTD., SUNTERRA
ENTERPRISES INC.**

DOCUMENT **BENCH BRIEF OF THE APPLICANTS**

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**APPLICATION TO BE HEARD BY THE HONOURABLE JUSTICE M.J. LEMA
OCTOBER 29, 2026 AT 2:00 P.M. (M.T.)**

I. INTRODUCTION¹

1. The Applicants² are members of a diversified group of related companies that operates several businesses across multiple sectors of the agricultural and food distribution industries. The Applicants obtained relief under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") pursuant to an initial order of this Court which, among other things, (i) appointed FTI Consulting Canada Inc. as monitor of the Applicants (the "**Monitor**"), and (ii) granted a stay of proceedings in respect of the Applicants, their business and property (the "**Stay Period**"). The Stay Period has been extended by various Orders of this Court, most recently pursuant to the Second Amended and Restated Initial Order granted on April 28, 2026, and currently expires on October 30, 2026.³
2. The Applicants file this Bench Brief in support of their application for an Order extending the Stay Period to and including January 29, 2027 (the "**Stay Extension Order**").
3. In addition, the Applicants also file this Bench Brief in response to the cross-application brought by Certus Developments Inc. ("**Certus**"). Certus' cross-application, which it is seeking to have heard at the Applicants' hearing for the Stay Extension Order, seeks a partial lifting of the stay in the CCAA proceedings effective as at 12:00 a.m. on November 1, 2026 as against Sunterra Markets so as to allow Certus to immediately take any and all steps authorized by law to take possession of the leased premises at Britannia Plaza in Calgary, Alberta (the "**Premises**"), which Sunterra Markets presently leases from Store Properties Limited ("**Store Properties**").⁴ For the reasons provided below, the Applicants request that the Certus Cross-Application be dismissed.

II. THE FACTS

A. BACKGROUND

(i) Overview

4. At this time, two principal paths are being pursued concurrently in order to maximize value for stakeholders of the Applicants:⁵
 - (a) the development and negotiation of stakeholder transaction support agreements, a plan or plans of compromise or arrangement, or other similar restructuring or

¹ Capitalized terms that are not defined herein have the meanings given to them in the affidavit of Neil Narfason sworn October 20, 2026 (the "**Narfason Affidavit**"), the Affidavit of Arthur Price sworn October 27, 2026 (the "**Supplemental Affidavit**") or the SISP (as defined below), as applicable.

² The Applicants consist of Sunterra Food Corporation, Trochu Meat Processors Ltd., Sunterra Quality Food Markets Inc. ("**Sunterra Markets**"), Sunterra Farms Ltd., Sunwold Farms Limited, Sunterra Beef Ltd., Lariagra Farms Ltd., Sunterra Farm Enterprises Ltd., and Sunterra Enterprises Inc.

³ Narfason Affidavit at paras. 5–6.

⁴ Application of Certus Developments Inc. (Partial Lifting of Stay) filed October 26, 2026 (the "**Certus Cross-Application**") at para. 1(b).

⁵ Narfason Affidavit at paras. 7–8.

reorganization transactions, including settlement agreements between the parties (the “**Plan / Restructuring Path**”); and

- (b) the advancement of a Court-approved sale, investment or refinancing transaction as part of an overall group transaction, various asset transactions, or certain limited transactions to support a restructuring (the “**Transaction Path**”). The Transaction Path is being advanced pursuant to the sale and investment solicitation process (the “**SISP**”) approved pursuant to an Order of this Court granted on April 28, 2026 (the “**SISP Approval Order**”).
5. The Plan / Restructuring Path and the Transaction Path are being advanced on behalf of the Applicants by Neil Narfason Professional Corporation, the Court-appointed Chief Restructuring Advisor of the Applicants (the “**Chief Restructuring Advisor**”), with the assistance of the Applicants’ counsel, Goodmans LLP (“**Goodmans**”), and KPMG Corporate Finance Inc., the Court-approved sale advisor in connection with the SISP (the “**Sale Advisor**”), in consultation with the Monitor.⁶
- (ii) *Update on the SISP and the Transaction Path*
6. The SISP is a comprehensive two-phase process designed to solicit interest in, and opportunities for, Investment Proposals and/or Sale Proposals in respect of the Applicants and their businesses and assets. The SISP is being conducted by the Chief Restructuring Advisor, with the assistance of the Sale Advisor, under the supervision of the Monitor and, where applicable, in consultation with the Applicants and National Bank of Canada (“**NBC**”), Farm Credit Canada (“**FCC**”) and Compeer Financial, PCA (together with NBC and FCC, the “**Consultation Stakeholders**”).⁷
7. Following the granting of the SISP Approval Order, and in accordance with the SISP, the Sale Advisor, in consultation with the Chief Restructuring Advisor and the Monitor, among other things: (i) prepared a teaser letter describing the Opportunity, confidential information memoranda and, with the assistance of Goodmans, a form of non-disclosure agreement (an “**NDA**”); (ii) established a secure, electronic data room; (iii) prepared a list of potential bidders, including local and international strategic and financial parties believed to be potentially interested in the Opportunity; (iv) caused a notice of the SISP to be posted on the Monitor’s website and published in *The Globe and Mail* and the *Financial Post* on May 13, 2026; and (v) sent the teaser letter and NDA to potential bidders. Goodmans, in consultation with the Chief Restructuring Advisor and the Sale Advisor, negotiated NDAs with interested parties. Interested parties that executed an NDA and indicated the Property or Business in which they may be interested (each, a “**Phase 1 Qualified Bidder**”) were provided with access to the data room and due diligence materials.⁸
8. The Phase 1 Bid Deadline for the submission of non-binding letters of intent (each, an “**LOI**”) by Phase 1 Qualified Bidders was June 25, 2026, and was subsequently extended

⁶ Narfason Affidavit at para. 9.

⁷ Narfason Affidavit at para. 10.

⁸ Narfason Affidavit at paras. 12–13.

to July 16, 2026 pursuant to the SISP, in consultation with the Consultation Stakeholders, to provide interested parties with additional time to submit LOIs.⁹

9. Following the Phase 1 Bid Deadline, the Chief Restructuring Advisor, in consultation with the Sale Advisor and the Monitor, evaluated the LOIs received against the criteria set out in the SISP and determined which parties were qualified to participate in the second phase of the SISP (each, a “**Phase 2 Qualified Bidder**”).¹⁰
10. The Sale Advisor distributed a process letter for the second phase of the SISP to Phase 2 Qualified Bidders outlining the process for the submission of Binding Offers. The deadline for the submission of Binding Offers was initially determined to be October 1, 2026, and was subsequently amended, with the consent of the Chief Restructuring Advisor and the Monitor and in consultation with the Consultation Stakeholders, to (i) October 7, 2026 in respect of the business and assets of Sunterra Markets and Sunterra Enterprises Inc.’s interest in West Market Square Inc., and (ii) October 22, 2026 in respect of the balance of the Applicants’ businesses and assets.¹¹
11. The SISP is ongoing and the Chief Restructuring Advisor, with the assistance of the Sale Advisor, under the oversight of the Monitor and, where applicable, in consultation with the Applicants and the Consultation Stakeholders, continues to advance the SISP with a view to maximizing value for the benefit of the Applicants’ stakeholders.¹²

(iii) Update on the Plan / Restructuring Path

12. The Applicants, with the assistance of their counsel and the Chief Restructuring Advisor, have been working diligently to advance a potential Plan / Restructuring Path, in parallel with the SISP. These efforts, which are ongoing, have included discussions with the Monitor and key stakeholders regarding potential structures and alternatives for a framework of a restructuring plan and the satisfaction of claims against the Applicants.¹³

B. EXTENSION OF THE STAY PERIOD

13. The Stay Period currently expires on October 30, 2026. The Applicants are requesting an extension of the Stay Period pursuant to the proposed Stay Extension Order to and including January 29, 2027.¹⁴ The Applicants will also seek Court time for the end of November 2026 to request any relief required to further advance the SISP and/or the Plan / Restructuring Path, or to address any related matters.
14. The proposed extension of the Stay Period is necessary to maintain the status quo and provide continued stability while the Applicants, the Chief Restructuring Advisor and the Applicants’ other advisors continue to advance the Transaction Path pursuant to the SISP

⁹ Narfason Affidavit at para. 14.

¹⁰ Narfason Affidavit at para. 15.

¹¹ Narfason Affidavit at paras. 16–17.

¹² Narfason Affidavit at para. 18.

¹³ Narfason Affidavit at para. 19.

¹⁴ Narfason Affidavit at para. 23.

and the Plan / Restructuring Path in pursuit of a comprehensive restructuring solution. The SISP is ongoing and additional time is needed to advance one or more potential binding transactions. The Applicants' efforts to advance the Plan / Restructuring Path are also continuing and require additional time to pursue a potential restructuring transaction.¹⁵

C. THE CERTUS CROSS-APPLICATION

(i) Background

15. Sunterra Markets is a long-time tenant at Britannia Plaza and has occupied the Premises for more than 30 years. Sunterra Markets, through a predecessor entity, originally entered into a lease of the Premises with Store Properties and 64483 Alberta Ltd., as landlords, dated as of January 15, 1996 (as amended, the "**Lease**"). The term of the Lease, as amended, extended to January 14, 2026.¹⁶
16. When the term of the Lease was set to expire, Store Properties, by letter dated December 29, 2025, consented to Sunterra Markets continuing to occupy the Premises on a month-to-month basis in accordance with the overholding provisions in Section 17.10 of the Lease. Sunterra Markets continued to occupy the Premises on that basis following the commencement of these proceedings.¹⁷
17. On April 28, 2026, the same day the SISP Approval Order was granted, representatives of Sunterra Markets met with Store Properties to discuss the SISP and how it would interact with the arrangement in respect of the Premises. Given that the SISP could result in a transaction involving Sunterra Markets or its business or assets, the parties determined to enter into a short-term arrangement that would provide continuity for Sunterra Markets at the Premises while the SISP was carried out, with the outcome of the SISP to crystallize next steps in respect of the Premises.¹⁸
18. The parties subsequently entered into a Revival and Amending Agreement made effective July 1, 2026, which revived the Lease for a term expiring on October 31, 2026 (the "**Revived Term**") and reduced the rent payable to reflect the circumstances of these CCAA proceedings.¹⁹
19. The October 31, 2026 expiry was chosen to correspond generally with the timeline of the SISP, not to provide for an end to Sunterra Markets' occupancy. Sunterra Markets understood that it would remain in the Premises following the expiry of the Revived Term on a month-to-month basis while the SISP was carried out to its conclusion.²⁰

¹⁵ Narfason Affidavit at para. 24.

¹⁶ Supplemental Affidavit at paras. 9–10.

¹⁷ Supplemental Affidavit at paras. 12–13.

¹⁸ Supplemental Affidavit at paras. 14–16.

¹⁹ Supplemental Affidavit at para. 17.

²⁰ Supplemental Affidavit at para. 18.

(ii) *Proposed Sale of Britannia Plaza*

20. On July 30, 2026, Sunterra Markets received notice from Store Properties stating that it had “completed an unconditional sale” of Britannia Plaza to Certus, with a closing date of October 31, 2026. Certus thereafter contacted Sunterra Markets to advise of the transaction, advise that it was seeking a new tenant for the Premises, and request that vacant possession be delivered on October 31, 2026.²¹
21. At a meeting on September 9, 2026, Certus confirmed that its purchase had not yet closed, and indicated that it intended to renovate the Premises and was negotiating a lease with a new tenant at a higher rent. After being advised that Sunterra Markets could not take any steps on the basis of a proposed transaction that had not closed, and may not close, Certus asked whether 30 days following the closing of Certus’ purchase would be sufficient time for Sunterra Markets to exit the Premises.²² Sunterra Markets responded that 60 days following closing would be more practical, given the time required to manage inventory and remove trade fixtures and equipment and the approaching holiday period. Certus indicated that it would provide a response to that proposal, but no response was received.²³
22. On September 15, 2026, Store Properties delivered a Notice of Expiration of Lease (the “**Expiration Notice**”) purporting to notify Sunterra Markets that its holdover term would expire on October 31, 2026, and that vacant possession was required on that date. Until receiving the Expiration Notice, Sunterra Markets had no indication that Store Properties understood the arrangement based on the April 28, 2026 discussion differently.²⁴
23. On September 16, 2026, following receipt of the Expiration Notice, Sunterra Markets contacted Store Properties to reiterate its understanding of the arrangement agreed at the April 28, 2026 meeting, note that no response had been received from Certus regarding Sunterra Markets’ proposed 60-day transition period, and request a meeting with Store Properties, which was denied. On September 17, 2026, Sunterra Markets inquired once more about a meeting with Store Properties, as landlord under the Lease. Store Properties was not prepared to proceed with Sunterra Markets’ requested meeting, and such meeting did not proceed.²⁵
24. Sunterra Markets remains in possession of the Premises at this time and continues to operate its store in the ordinary course. An orderly wind-down of the store would require, among other things, removing and, where possible, repurposing inventory, coordinating with vendors to dismantle and remove trade fixtures and equipment, and terminating or re-assigning employees, which cannot be done properly on a limited timeframe.²⁶

²¹ Supplemental Affidavit at paras. 19–21.

²² Supplemental Affidavit at para. 22.

²³ Supplemental Affidavit at paras. 22, 26.

²⁴ Supplemental Affidavit at paras. 23–24.

²⁵ Supplemental Affidavit at paras. 25–26.

²⁶ Supplemental Affidavit at para. 27.

(iii) *Certus' Cross-Application*

25. After the Applicants served their materials for the Stay Extension Order, counsel to Certus contacted counsel to the Applicants to advise that it disputes that any month-to-month arrangement is in place in respect of the Premises.²⁷
26. Although the Applicants, through the Chief Restructuring Advisor and Goodmans, sought to reach a consensual arrangement with Certus under which Sunterra Markets would remain in the Premises for a reasonable period to permit an orderly transition and wind-down, Certus has not agreed to such requested period.²⁸
27. Certus served and filed the Certus Cross-Application on October 26, 2026, seeking to have such cross-application heard at the hearing for the Stay Extension Order, in which it seeks, effective as at 12:00 a.m. on November 1, 2026, a partial lifting of the stay in the CCAA proceedings as against Sunterra Markets so as to allow Certus to immediately take any and all steps authorized by law to take possession of the Premises.²⁹

III. ISSUES AND THE LAW

28. The issues to be considered on this application are:
 - (a) whether the Court should extend the Stay Period to and including January 29, 2027; and
 - (b) whether the stay should be lifted as against Sunterra Markets in respect of the Premises, as requested in the Certus Cross-Application.

A. EXTENSION OF THE STAY PERIOD

29. The Applicants request that the Court extend the Stay Period to and including January 29, 2027 pursuant to the proposed Stay Extension Order.
30. Section 11.02(2) of the CCAA provides the Court with discretion to make an order extending the stay of proceedings granted in an initial order. Specifically, Section 11.02(2) states:³⁰

11.02(2) *Stays, etc. — other than initial application* – 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

²⁷ Supplemental Affidavit at para. 5.

²⁸ Supplemental Affidavit at paras. 7, 28.

²⁹ Supplemental Affidavit at para. 2; Certus Cross-Application at para. 1(b).

³⁰ CCAA, Section [11.02\(2\)](#) [**BOA Tab 1**].

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.

- 31. In order to make an order pursuant to Section 11.02(2), the Court must be satisfied that:
 - (i) circumstances exist that make the order appropriate; and (ii) the applicant has acted, and is acting, in good faith and with due diligence.³¹
- 32. The Applicants submit that an extension of the Stay Period to and including January 29, 2027 is appropriate in the circumstances given, among other things:³²
 - (a) the Applicants have acted, and continue to act, in good faith and with due diligence, including in connection with advancing the Plan / Restructuring Path and the Transaction Path with the assistance of the Chief Restructuring Advisor, the Sale Advisor and Goodmans;
 - (b) the SISP is being implemented in accordance with its terms and is ongoing. Additional time is needed to advance one or more potential binding transactions pursuant to the SISP;
 - (c) the Applicants continue to advance the Plan / Restructuring Path in parallel with the SISP, including through discussions with key stakeholders regarding potential structures and alternatives for a restructuring plan, and those efforts are ongoing;
 - (d) the Applicants, with the assistance of the Chief Restructuring Advisor and Goodmans, have sought, where possible, to resolve matters with creditors consensually and to limit contested Court attendances in an effort to reduce the overall professional costs of these CCAA proceedings, and have been actively engaged in productive discussions with creditors and other stakeholders;
 - (e) it is expected that no creditor or stakeholder will suffer any material prejudice as a result of the proposed extension of the Stay Period and, to the contrary, creditors and stakeholders are expected to benefit from efforts to pursue the SISP and comprehensive restructuring solutions;
 - (f) the Applicants have funded their operations and these proceedings from cash generated by their operations, without the need for interim financing, and the cash

³¹ CCAA, Section [11.02\(3\)](#) [BOA Tab 1]; *U.S. Steel Canada Inc. (Re)*, [2016 ONSC 3106](#) at para. [2](#) [BOA Tab 2]; *Mantle Materials Group, Ltd (Re)*, [2024 ABKB 19](#) at para. [35](#) [BOA Tab 3]; *Delta 9 Cannabis Inc (Re)*, [2025 ABKB 52](#) at para. [41](#) [BOA Tab 4].

³² Narfason Affidavit at paras. 9–19, 24–28; Eighth Report of the Monitor dated October 22, 2026 (the “**Monitor’s Eighth Report**”) at paras. 44(d), 45.

flow forecast included in the Monitor's Eighth Report demonstrates that the Applicants are expected to have sufficient liquidity to operate through the extended Stay Period;

- (g) the Applicants intend to return to Court at the end of November 2026 to seek any relief required to further advance the SISP and/or the Plan / Restructuring Path, or to address any related matters; and
 - (h) the Monitor supports the proposed extension of the Stay Period.
33. The Applicants respectfully submit that the extension of the Stay Period to and including January 29, 2027 is in the best interests of the Applicants and their stakeholders, and that it is appropriate in the circumstances for this Court to grant the proposed Stay Extension Order.³³

B. THE CERTUS CROSS-APPLICATION

34. The Applicants submit that Certus has not met the burden required for the stay to be lifted as against Sunterra Markets in respect of the Premises and, accordingly, that the Certus Cross-Application should be dismissed.
35. Section 11.02 of the CCAA gives the Court broad discretion to impose a stay of proceedings and to determine whether, and on what terms, that stay should be lifted.³⁴ The party seeking to lift the stay bears the onus of demonstrating that the relief is warranted, which has repeatedly been described as a heavy onus because lifting a stay is not routine.³⁵
36. Determining whether to lift the stay is a fact-specific balancing exercise. The Court should consider, among other things, whether doing so is consistent with the objectives of the CCAA and the relative prejudice to the affected parties.³⁶
37. In *Wallace & Carey*, the Court relied on the decision of Paperny J. (as she then was) in *Canadian Airlines* in considering whether to lift a CCAA stay, and summarized the non-exhaustive factors identified in the decisions that followed *Canadian Airlines*. Those factors include, among others:³⁷
- (a) the relative prejudice of affected parties;

³³ Narfason Affidavit at paras. 28–30.

³⁴ CCAA, Section [11.02\(2\)](#) [BOA Tab 1]; *Wallace & Carey Inc. (Re)*, [2025 ABKB 750](#) at para. [54](#) [*Wallace & Carey*] [BOA Tab 5].

³⁵ *Wallace & Carey*, *supra* note 34 at para. [55](#), citing, among others, *Bellatrix Exploration Ltd. (Re)*, [2020 ABQB 809](#) at para. [67](#) [BOA Tab 6], and *Canwest Global Communications Corp. (Re)*, [2009 CanLII 70508 \(ONSC\)](#) at para. [32](#) [*Canwest 2009*] [BOA Tab 7].

³⁶ *Canwest 2009*, *supra* note 35 at para. [32](#) [BOA Tab 7].

³⁷ *Wallace & Carey*, *supra* note 34 at para. [56](#) [BOA Tab 5], citing, among others, *Canwest 2009*, *supra* note 35 at paras. [32–33](#) [BOA Tab 7], and *Canadian Airlines Corp. (Re)*, [2000 CanLII 28202 \(AB QB\)](#) at paras. [15–20](#) [*Canadian Airlines*] [BOA Tab 8].

- (b) the balance of convenience;
 - (c) the status of the CCAA proceedings and the impact lifting the stay will have on them; and
 - (d) whether it is in the interests of justice, or would be equitable, to lift the stay.
38. None of those factors favour lifting the stay here. Certus' asserted prejudice is a delay in the commencement of certain construction work to be completed under its new lease before delivering possession to its new tenant (the "**Landlord's Work**"). On Certus' own evidence, the new tenant's possession date is March 1, 2027, and only the interior portion of the Landlord's Work must be completed by that date. While Certus alleges that it risks default under the new lease, it has not put the new lease into evidence, leaving the Court unable to assess what prejudice, if any, would result. In addition, Certus has provided no evidence, such as a construction schedule or contractor estimate, as to the actual length of time required to complete the interior work.³⁸
39. On the other hand, it cannot be said that there would be no prejudice to the Applicants or the position of their creditors and other stakeholders. In fact, there would be material prejudice to the Applicants and their stakeholders resulting from a lifting of the stay of proceedings to enable Certus to take steps against Sunterra Markets to force an immediate exit from the Premises. Among other things, granting Certus' requested relief could result in the following potential harms:³⁹
- (a) harm to the value and operations of Sunterra Markets' business and the overall value of the Sunterra Group through the loss of a performing store with a strong and loyal customer base developed over more than 30 years, particularly with the holiday season, a critical period for a grocery business, approaching;
 - (b) the immediate loss of the cash flow generated by the store, which forms part of the operating cash flow from which the Applicants have funded their operations and these CCAA proceedings without interim financing;
 - (c) overall uncertainty for customers, suppliers and other stakeholders of Sunterra Markets, including the immediate loss of ongoing business for suppliers of the Britannia Plaza store;
 - (d) the abrupt loss of employment for the approximately 42 employees of Sunterra Markets currently employed at the Britannia Plaza location, prior to the holiday season. This would include 17 long-term employees who have been employed by Sunterra Markets for five years or more;
 - (e) the potential loss of value from the trade fixtures and equipment located at the Premises, which form part of the collateral of NBC and FCC, as Sunterra Markets would not have sufficient time to remove many of its trade fixtures and equipment

³⁸ Affidavit of Ron Ghitter sworn October 26, 2026 at paras. 11–16; Certus Cross-Application at paras. 12–13.

³⁹ Supplemental Affidavit at paras. 29–32.

from the Premises if it were required to immediately vacate. Any loss of those assets, or diminution in the value of the Sunterra Markets business, resulting from a forced and expedited exit from the Premises would potentially have a direct impact on NBC and FCC and their ultimate recoveries in these CCAA proceedings; and

- (f) a significant distraction for the management of Sunterra Markets, who would otherwise be focused on operating the Sunterra Markets business to ensure profitable operations and the generation of cash flow.
- 40. The relative prejudice, balance of convenience and interests of justice therefore favour denying the relief requested by Certus.
 - 41. Courts frequently decline immediate stay relief where immediate enforcement would disrupt the CCAA process.⁴⁰
 - 42. For instance, in *Philip's Manufacturing*, the landlord alleged that the debtor's leases had expired without an effective renewal and sought leave to commence proceedings under commercial tenancies legislation in order to take possession of the premises. The court granted relief from the stay to permit the landlord to commence proceedings for the purposes of determining the issue of whether or not there had been a notice of renewal but held that any possession order would be subject to the CCAA stay as long as it remained in effect. The court recognized that the leased premises were important to the reorganization and that ongoing rent payments protected the landlord in the interim.⁴¹
 - 43. Here, Sunterra Markets asks for considerably less: a short, defined period to occupy the Premises and complete an orderly transition under Court supervision. During that period, Sunterra Markets will continue to pay rent and intends to vacate by a fixed date. To the extent Certus faces any timing pressure, these terms and the time remaining before the new tenant's anticipated possession on March 1, 2027 substantially mitigate it.⁴²
 - 44. The cases in which stays have been lifted are distinguishable. Stay relief is generally more compelling where the affected asset no longer has any connection to the restructuring or where the relief permits only a narrow step that will not disrupt the CCAA process.⁴³ These circumstances are not present here. The Britannia Plaza store remains part of the Applicants' operating business. Certus seeks relief that will be disruptive to the Applicants and these CCAA proceedings, and potentially result in the loss of value for the Applicants and their stakeholders as a whole, rather than a narrow procedural step.
 - 45. Sunterra Markets' intention is to occupy and operate from the Premises until December 31, 2026. This period would provide time to coordinate an orderly exit from the Premises

⁴⁰ See, e.g., *Wallace & Carey*, *supra* note 34 at paras. 3, 125–128, 139 [BOA Tab 5]; *Canadian Airlines*, *supra* note 37 at paras. 30–32, 41 [BOA Tab 8].

⁴¹ *Philip's Manufacturing Ltd. Estate*, 1991 CanLII 226 (BCSC) at pp. 21–22 [BOA Tab 9].

⁴² Supplemental Affidavit at paras. 33–34.

⁴³ See, e.g., *Comstock Canada Ltd. (Re)*, 2013 ONSC 6043 at paras. 17–24 [BOA Tab 10]; *Timminco Limited (Re)*, 2014 ONSC 3393 at paras. 6, 11, 37–50 and 54–58 [BOA Tab 11].

pursuant to an orderly wind-down of operations, including the termination or re-assignment of employees and the sale or disposal of inventory, fixtures and equipment. Sunterra Markets is current on its rent and other obligations under the Lease and would continue to pay rent to Certus if and when it acquires Britannia Plaza. Any impact to Certus is temporary and mitigated by rent payments made by Sunterra Markets, whereas the loss of the Premises to Sunterra Markets would be permanent. The Applicants are not asking the Court to create a new lease or authorize indefinite occupation. They are asking for a short, fixed period to transition and exit in an orderly way, while continuing to pay rent.⁴⁴

46. There seems to be a misunderstanding between the parties in respect of the timing of Sunterra Markets' occupation of the Premises. In these circumstances, the Applicants submit that Sunterra Markets should be permitted to remain in possession of the Premises for a limited period so that it can protect the value of its business, maintain its relationships with its customers and treat its employees fairly through an orderly transition. Certus has not met the test for lifting the stay.⁴⁵
47. For these reasons, the Applicants submit that the Certus Cross-Application should be dismissed.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 28th day of October, 2026.

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Andrew Harnes / Gurratan Gill
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⁴⁴ Supplemental Affidavit at paras. 27, 33–34.

⁴⁵ Supplemental Affidavit at paras. 18, 24, 27, 29–30, 33.

TABLE OF AUTHORITIES

TAB	STATUTE
1.	<i>Companies' Creditors Arrangement Act</i> , RSC 1985, c C-36 , at Sections 11.02(2) , 11.02(3)
TAB	CASE LAW
2.	<i>U.S. Steel Canada Inc. (Re)</i> , 2016 ONSC 3106
3.	<i>Mantle Materials Group, Ltd (Re)</i> , 2024 ABKB 19
4.	<i>Delta 9 Cannabis Inc (Re)</i> , 2025 ABKB 52
5.	<i>Wallace & Carey Inc. (Re)</i> , 2025 ABKB 750
6.	<i>Bellatrix Exploration Ltd. (Re)</i> , 2020 ABQB 809
7.	<i>Canwest Global Communications Corp. (Re)</i> , 2009 CanLII 70508 (ONSC)
8.	<i>Canadian Airlines Corp. (Re)</i> , 2000 CanLII 28202 (AB QB)
9.	<i>Philip's Manufacturing Ltd. Estate</i> , 1991 CanLII 226 (BCSC)
10.	<i>Comstock Canada Ltd. (Re)</i> , 2013 ONSC 6043
11.	<i>Timminco Limited (Re)</i> , 2014 ONSC 3393