Court File No. CL-26-00000122-0000

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 THE CANNABIST COMPANY HOLDINGS INC. AND THE CANNABIST COMPANY HOLDINGS (CANADA) INC.

(Applicants)

FACTUM OF THE APPLICANTS
(Re: Comeback Motion)
(Returnable April 2, 2026)

March 31, 2026

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TO: THE SERVICE LIST

PART I - OVERVIEW[1]

1. The Applicants through the direct and indirect ownership of its Subsidiaries operate a fully-integrated cannabis business across nine markets in the United States where medical or adult-use cannabis is permitted by law. The Subsidiaries own or manage interests in several state-licensed medical and/or adult use cannabis businesses.

2. As a result of the Company's financial difficulties and operational challenges due to, among other things, the unique regulatory landscape governing the cannabis industry in the United States, the Applicants sought and obtained relief under the CCAA pursuant to the Initial Order dated March 24, 2026. The Initial Order, among other things:

(a) appointed FTI as Monitor of the Applicants;

(b) granted the Stay in favour of the Applicants until and including March 24, 2026;

(c) extended the Stay to the Applicants' Subsidiaries;

(d) authorized the Applicants to pay pre-filing amounts to the Critical Suppliers up to the aggregate maximum amount of $4,000,000; and

(e) granted the Administration Charge in the amount of $1,300,000 and the D&O Charge in the amount of $9,000,000.

3. On March 24, 2026, the Parent Company, as foreign representative of the Applicants, commenced Chapter 15 Proceedings in the United States Bankruptcy Court of the District of Delaware (the "**U.S. Court**") to recognize the CCAA Proceedings as foreign proceedings pursuant to the U.S. Bankruptcy Code. On March 26, 2026, the U.S. Court overruled a limited

[1] Capitalized terms used herein but not otherwise defined have the meanings ascribed to them in the affidavit of Curt Kroll sworn March 23, 2026 (the "**Initial Kroll Affidavit**") in the Applicant's Motion Record dated March 24, 2026 ("**AMR**") at Tab 2. All references to currency in this factum are expressed in United States dollars, unless otherwise noted.

objection of the United States Trustee and recognized the CCAA Proceedings and enforced the Initial Order in the United States on a provisional basis, including the extension of the Stay to the Subsidiaries. A motion to recognize the CCAA Proceedings on a final basis is scheduled before the U.S. Court on May 12, 2026.

4. The Applicants are now seeking the ARIO, among other things:

(a) extending the Stay Period until and including May 29, 2026;

(b) approving and ratifying the KERP and granting a corresponding KERP Charge against the Property as security for payments under the KERP;

(c) appointing SCP as the CRO of the Applicants;

(d) approving the Moelis Engagement Letters and the Ducera Engagement Letter;

(e) authorizing the Company to incur no further expenses in relation to the Securities Filings;

(f) authorizing the Company to pay pre-filing amounts to Critical Suppliers up to the increased aggregate maximum amount of $8,000,000;

(g) approving the Applicants' execution of the Support Agreement; and

(h) granting and/or maintaining the following priority Charges against the Property (ordered in priority):

i. First - the Administration Charge in the amount of $2,500,000;

ii. Second - the D&O Charge in the amount of $10,500,000;

iii. Third - a "**KERP Charge**" against the Property as security for payments under the KERP in the amount of $1,665,000; and

iv. Fourth - a "**Moelis Transaction Fee Charge**" and a "**Ducera Transaction Fee Charge**" against the Property in the amounts of $4,300,000 and $1,000,000, respectively, as security for Moelis' and Ducera's Transaction Fees.

5. Each element of the relief sought in the proposed ARIO is designed to preserve value, maintain stability, and facilitate the successful completion of the Sale Transactions and the orderly wind-down of the Company's remaining operations. The extension of the Stay Period is necessary to provide the Applicants with sufficient time to complete these processes and to protect the Company from creditor enforcement actions that could jeopardize the value-maximizing objectives of these CCAA Proceedings.

6. The approval and ratification of the KERP and corresponding KERP Charge is essential to incentivize Key Employees whose continued participation is critical to the successful completion of the Sale Transactions and wind-down activities. Similarly, the appointment of SCP as CRO and the approval of the engagement letters with Moelis and Ducera will ensure that the Applicants and the Supporting Noteholders have access to the necessary professional expertise to navigate these CCAA Proceedings successfully.

7. The authority to pay pre-filing amounts to Critical Suppliers, up to the increased aggregate maximum amount of $8,000,000, is necessary to ensure the continued supply of goods and services that are essential to maintaining the value of the business and completing the Sale Transactions.

8. Approval of the Support Agreement provides certainty to all parties (including the buyers

under the Sale Transactions) that that CCAA Proceedings will be advanced in accordance with a consensual framework that was extensively negotiated between the Company and the Supporting Noteholders.

9. The proposed Charges, in the priority contemplated, are reasonable and consistent with charges granted in numerous CCAA proceedings across Canada. These Charges will ensure that the professionals engaged to assist the Company, the Key Employees whose continued service is essential, and the directors and officers who are being called upon to guide the Company through these proceedings, are appropriately protected and incentivized to act in the best interests of all stakeholders.

PART II - FACTS

10. Background information on the Applicants and these CCAA Proceedings are more fully set out in the Initial Kroll Affidavit and the Initial Order Factum dated March 24, 2026. All references to currency in this factum are references to U.S. dollars, unless otherwise indicated.

A. Activities Since Commencement of the CCAA Proceedings

11. The Stay Period currently expires on April 2, 2026. The Applicants are seeking an extension of the Stay Period to May 29, 2026. Since the granting of the Initial Order, the Applicants have acted and are continuing to act in good faith and with due diligence.[2]

12. On March 24, 2026, immediately following the granting of the Initial Order by this Honourable Court, the Parent Company, acting in its capacity as the court-appointed foreign representative of the Applicants, filed a petition pursuant to Chapter 15 of Title 11 of the United States Code (the "**U.S. Bankruptcy Code**") in the United States Bankruptcy Court for the

[2] Affidavit of Curt Kroll sworn March 31, 2026 ("**Second Kroll Affidavit**"), at para 9, in the Supplemental Application Record of the Applicants dated March 31, 2026 ("**SAR**") at Tab 1.

District of Delaware (the "**U.S. Court**"). The relief sought in the Chapter 15 Proceedings included, *inter alia*: (a) an order recognizing the CCAA Proceedings as a "foreign main proceeding" or in the alternative, a "foreign non-main proceeding," within the meaning of the U.S. Bankruptcy Code; and (b) an order recognizing and enforcing the Initial Order, including the extension of the Stay of Proceedings to the Subsidiaries, on a provisional basis.[3]

13. On March 26, 2026, Judge Brendan L. Shannon of the U.S. Court conducted a hearing to consider enforcing the Initial Order on a provisional basis in the United States. At this hearing, the U.S. Court granted the provisional relief motion. Specifically, the U.S. Court issued an order: (a) recognizing the CCAA Proceedings; and (b) giving full force and effect to the Initial Order within the United States on a provisional basis, including recognizing the extension of the Stay to the Subsidiaries pending a final determination of the relief requested in the Recognition Motion.[4] A further hearing has been scheduled before the U.S. Court on May 12, 2026, at which time the Court will consider the requested relief on a final basis.[5]

14. Following the granting of the Initial Order, the Company prepared and served two comprehensive service packages on the Company's key creditors and stakeholders, including East West Bank and the IRS, along with critical vendors/suppliers and landlords, containing the following documents: (a) a Notice of Agenda for Chapter 15 Hearing on March 26, 2026; (b) a letter from Stikeman Elliott LLP providing a link to the Monitor's Website; (c) the Initial Order (and in certain instances, the Notice of Application); and (d) certain Chapter 15 Proceeding documents, including among other things, the Recognition Motion, the Chapter 15 Petitions including all exhibits and the Provisional Relief Order.[6]

15. On March 24, 2026, the Company published a press release in order to inform its

[3] Second Kroll Affidavit at para 10, SAR at Tab 1.
[4] *Ibid* at para 11.
[5] *Ibid* at para 12.
[6] Ibid at para 13.

various stakeholders of the granting of the Initial Order. The Monitor also arranged for publication within the Globe and Mail and Wall Street Journal.[7]

B. KERP and KERP Charge

16. In July 2025, the Compensation Committee approved a Transaction Bonus Plan for 16 key employees and other service providers providing for bonus pools up to a maximum of $5,000,000.[8] Following the establishment of the Special Committee in connection with the Strategic Review and progression of the Sales Process, the Company, in consultation with ClearBridge, an independent consulting advisory firm advising boards of directors and senior management on executive compensation matters, reviewed the terms of the existing plan and replaced it with the KERP to better align with the objectives of the Strategic Review and address heightened retention needs.[9]

17. Unlike the Transaction Bonus Plan, the KERP reflects cash awards, payable generally in monthly installments, generally contingent on continued employment through specified periods and not payments tied to divestitures by the Company.[10]

18. The KERP contemplates that all of the Key Employees are subject to the following terms, among others:[11]

(a) payments under the KERP agreements are made in substantially equal monthly installments, with the first KERP payment having been made on or before December 31, 2025, and each of the remaining installments on the Company's last regularly scheduled payroll date in each of the applicable months in 2026;

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[7] *Ibid* at paras 17 and 18(d)
[8] Initial Kroll Affidavit at para 170, AMR at Tab 2.
[9] *Ibid* at paras 171-174.
[10] *Ibid* at para 174.
[11] *Ibid* at para 176.

(b) Key Employees are eligible to receive payments under the KERP if they continue their active employment in good standing[12]; and

(c) if a Key Employee's employment is terminated by the Company without Cause (as defined by the KERP agreement) or terminates due to death or Disability (as defined in the KERP agreement), such Key Employee is entitled to receive any remaining unpaid KERP payments on the first regularly scheduled payroll date following the 60th day following such termination date, subject to certain conditions.[13]

19. The KERP was designed to incentivize the Key Employees to continue their employment or service, as applicable, with the Company in order to continue operations in the ordinary course and maximize value for all stakeholders through the various transactions set out above and orderly wind-down of unprofitable markets.[14]

20. The KERP contemplates aggregate payments of approximately $2.74 million, which is less than the projected payouts of approximately $3.38 million under the original Transaction Bonus Plan. Approximately $1.66 million remains payable to the Key Employees, consisting of 18 individuals including C-Suite executives and senior executives responsible for overseeing management of the Company's business, managing cash flows, communications with stakeholders, and treasury operations. The KERP provides for payments in substantially equal monthly installments, contingent upon continued employment through specified periods.[15]

C. Appointment of SCP as the CRO of the Applicants

21. On November 14, 2025, SCP and the Parent Company executed an engagement letter,

[12] In one case where an officer acts as a consultant to the Company, the KERP contemplates the right to receive payments is conditional upon their continued function as an officer.
[13] In the one case where an officer acts as a consultant to the Company, the qualifying termination provision differs based on his consulting arrangement, but the provision is similar.
[14] Initial Kroll Affidavit at para 177, AMR, Tab 2.
[15] *Ibid* at paras 172 and 175.

which was amended and restated on March 23, 2026 (the "**SCP Engagement Letter**"), pursuant to which SCP was retained to provide financial advisory and restructuring support services to the Company. The scope of SCP's engagement included preparing a potential wind-down plan, developing cash flow forecasts, building financial models, communicating with lenders and other stakeholders, and advising on restructuring alternatives.[16]

22. Over the course of its engagement, SCP constructed short-term and long-term liquidity forecasts with associated variance tracking, prepared a long-term budget to facilitate ongoing restructuring efforts, assisted the Company's advisors with due diligence efforts, communicated engagement and liquidity developments to the Ad Hoc Group and its advisors, and assisted in the preparation leading up to the commencement of these CCAA Proceedings.[17]

23. The SCP Engagement Letter contemplates that in SCP's role as the CRO of the Applicants, it will, among other things: (a) provide oversight and assistance with the preparation of financial information; (b) communicate with lenders directly regarding financial performance, strategy, and other matters; (c) evaluate and make recommendations in connection with strategic alternatives as needed to maximize the value of the Company; (d) evaluate cash-flows; (e) provide oversight and assistance in connection with communications and negotiations with constituents, including trade vendors, investors and other critical constituents to the successful execution of the Company's plan during the CCAA Proceedings; (f) provide affidavit evidence and testimony, as necessary; and (g) perform such other services as requested or directed by the Company.[18]

D. Approval of Moelis and Ducera Engagements and Transaction Fee Charge

24. As part of the Company's strategic review processes, the Parent Company engaged

[16] *Ibid* at para 183.
[17] *Ibid* at para 184.
[18] *Ibid* at para 188.

Moelis as its investment banker and financial advisor.[19]

25. The Parent Company and Moelis entered into a first engagement letter on June 27, 2024, and a second engagement letter on October 4, 2024, which amended the first engagement letter in respect of certain transaction types, pursuant to which Moelis was engaged to act as the Company's exclusive investment banker and financial advisor.[20]

26. On March 9, 2026, the Parent Company, Weil (as counsel to and on behalf of the Company), and Moelis entered into the A&R Moelis Engagement Letter which amended and restated the prior engagement letters. Pursuant to the A&R Moelis Engagement Letter:

(a) Moelis is to be paid a monthly financial advisory fee of $150,000 in connection with its services in continuing to assist the Parent Company with its strategic review process described above. After the first three monthly fees have been paid to Moelis, half of the monthly fees thereafter are available for use as an offset against any future transaction fees payable to Moelis, subject to a maximum offset of $525,000; and

(b) Moelis is to be reimbursed for all its reasonable and documented out of pocket expenses incurred in entering into and performing services pursuant to the terms therein, provided that the Parent Company is not required to reimburse Moelis for amounts (other than outside legal costs and expenses) that exceed $10,000 per month or for outside legal costs and expenses that exceed $100,000 in the aggregate.[21]

27. In addition to the monthly fees, the A&R Moelis Engagement Letter also provides for the

[19] *Ibid* at para 189.
[20] *Ibid*.
[21] *Ibid* at para 190.

payment of certain fees in the event that one or more successful transactions involving the Parent Company is implemented, with a number of different fees that could apply depending on the type of transaction effected – primarily: a Restructuring Fee, a Company Sale Transaction Fee; and an Asset Sale Transaction Fee.[22]

28. The Company also entered into an engagement letter with Ducera on December 18, 2025, pursuant to which Ducera acts as financial advisor to counsel for the Ad Hoc Group and is entitled to certain transaction fees upon the implementation of successful transactions.[23]

29. To secure the Transaction Fees payable to Moelis and Ducera, the Applicants seek approval of the Transaction Fee Charge over the Property in the maximum amount of $4,300,000 and $1,000,000 respectively, which are proposed to rank behind the other Charges on a *pari passu* basis.[24]

E. Authority to Dispense with Securities Filings

30. The Applicants are seeking authorization to dispense with certain securities filing requirements. In particular, the Applicants seek authorization for the Applicants to incur no further expenses in relation to the Securities Filings that may be required by any federal, provincial, or other law respecting securities or capital markets in Canada, or by the rules and regulations of a stock exchange, including without limitation, the *Securities Act* (Ontario), and comparable statutes enacted by other provinces of Canada, and other rules, regulations and policies of CBOE (collectively, the "**Securities Provisions**").[25]

PART III – ISSUES

31. The issues in respect of the ARIO being sought are whether this Court should:

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[22] *Ibid* at para 191.
[23] *Ibid* at para 192.
[24] *Ibid* at para 193.
[25] *Ibid* at para 198.

(a) extend the Stay Period until and including May 29, 2026;

(b) approve the KERP and grant the corresponding KERP Charge;

(c) seal the unredacted KERP;

(d) approve the engagement of SCP as CRO of the Applicants;

(e) approve the Moelis Engagement Letters, the Ducera Engagement Letter, and the Transaction Fee Charge;

(f) authorize the Company to incur no further expenses in relation to the Securities Filings;

(g) authorize the Company to pay pre-filing amounts to Critical Suppliers up to the increased aggregate maximum amount of $8,000,000;

(h) approve the Support Agreement; and

(i) the Administration Charge and D&O Charge should be increased.

PART IV – LAW AND ARGUMENT

A. The Stay Period Should be Extended

32. The Initial Order provides for a Stay Period up to and including April 2, 2026. The proposed ARIO seeks to extend the Stay Period to May 29, 2026.

33. Section 11.02(2) of the CCAA gives this court the authority to grant an extension of the Stay Period for any period "it considers necessary".[26] To do so, this Court must be satisfied that circumstances exist that make the order appropriate and that the Applicants have acted, and

[26] CCAA, s. 11.02(2).

are acting, in good faith and with due diligence.[27] A stay of proceedings is appropriate to provide a debtor with breathing room while it seeks to emerge from the CCAA.[28]

34. The Applicants filed for CCAA protection to seek Court approval of and implement the Sale Transactions and to facilitate an orderly wind-down of the Applicants and their related entities. The extension of the Stay Period and the continued extension of the Stay to the Subsidiaries is critical to providing the Company with the breathing space and operational stability to continue operating in the ordinary course and seek implementation of the value-maximizing Sale Transactions for the benefit of the Company and its stakeholders.[29]

35. The Cash Flow Forecast demonstrates that the Company has sufficient liquidity to operate through the proposed extension of the Stay Period to and including May 29, 2026.[30] The Applicants has acted and are continuing to act in good faith and with due diligence. The Monitor is supportive of the proposed extension of the Stay Period.[31]

36. The extension of the Stay Period to and including May 29, 2026, is therefore necessary and appropriate in the circumstances.

B. The KERP and KERP Charge Should be Approved

37. This Court has approved employee retention plans and charges in several proceedings. Factors generally considered by the Court include whether: (a) the Monitor approves of the KERP; (b) the beneficiaries of the KERP would consider other employment opportunities if the charge was not approved; (c) the beneficiaries of the KERP are crucial to the successful restructuring of the debtor company; (d) a replacement could be found in a timely manner; (e)

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[27] CCAA, s. 11.02(3).
[28] *Century Services Inc. v. Canada (Attorney General)*, 2010 SCC 60 at para. 14.
[29] Initial Kroll Affidavit at para 15, AMR at Tab 2.
[30] Pre-Filing Report of the Proposed Monitor FTI Consulting Canada Inc. dated March 24, 2026 ("**Pre-Filing Report**") at para 28.
[31] First Report of the Monitor FTI Consulting Canada Inc. dated March 31, 2026 ("**First Report of the Monitor**") at para 67.

the board of directors exercised their business judgment in developing the KERP; and (f) whether the KERP is supported or consented to by secured creditors of the debtor.[32]

38. The Court in *Aralez* reflected on the existing factors established by caselaw and set out three considerations which provide a framework for courts to consider the objective business judgment underlining a proposed KERP:

(a) the arm's length input, including from the Monitor, into the design, scope and implementation;

(b) the necessity on a case-by-case basis of the retention program; and

(c) whether the program's design reasonably relates to the goals pursued, which goals must be of demonstrable benefit to the objectives of the restructuring process.[33]

39. The Applicants submit that the KERP complies with the factors set out above and is consistent with KERP arrangements that have been approved by CCAA courts. In particular:

(a) in connection with the CBCA Restructuring Transaction, the A&R Indenture expressly included provisions which permit the establishment of a management cash incentive plan by the Parent Company and approved by the Compensation Committee;[34]

(b) the Company revisited the Transaction Bonus Plan previously established following the CBCA Restructuring Transaction to ensure it aligned with the objectives of the refreshed Strategic Review and reflected the likely outcome of the entire business in connection with multiple transactions, and engaged ClearBridge, an independent

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[32] *Aralez Pharmaceuticals Inc. (Re)*, 2018 ONSC 6980 ("***Aralez***") at para. 29; *Just Energy Group Inc. et al*., 2021 ONSC 7630 ("***Just Energy***"), at para. 7; and *Cinram International Inc. (Re)*, 2012 ONSC 3767 at para. 37.
[33] *Aralez*, at para. 30.
[34] Initial Kroll Affidavit at para 170, AMR at Tab 2.

consulting firm advising boards of directors and senior management on executive compensation matters, to assist with the review;

(c) the Special Committee and the Compensation Committee, in consultation with ClearBridge and the Company's other advisors, designed the KERP to replace the existing Transaction Bonus Plan. The KERP contemplates payments of approximately $2.74 million in the aggregate, which was less than the remaining projected payouts of approximately $3.38 million under the Transaction Bonus Plan;

(d) the KERP was benchmarked by ClearBridge to other retention plans implemented in similar circumstances;

(e) the KERP was appropriately designed to incentivize the Key Employees to continue their employment or service, as applicable, with the Company in order to continue operations in the ordinary course and maximize value for all stakeholders through the various transactions set out above and orderly wind-down of unprofitable markets;

(f) the Company requires the continued participation of the Key Employees to avoid any disruption to the Company's business and the ongoing Sale Transactions. Finding alternative, qualified individuals will be challenging, disruptive, costly, and time consuming for the Company, particularly given the Key Employees' institutional knowledge of the Company's business. It is not expected that any buyer will be offering employment to the Key Employees through transactions as the contemplated sales will involve only going-concern sales of individual markets, not a sale of the entire Company;

(g) the quantum of the KERP is appropriate in the circumstances; and

(h) the Supporting Noteholders have consented to the proposed KERP pursuant to the Support Agreement and the Monitor supports the proposed KERP and KERP Charge.[35]

C. The Unredacted KERP Should be Sealed

40. The Initial Order temporarily sealed the KERP summary until the Comeback Hearing. The Applicants request that this Court extend the sealing of Confidential Exhibit "J" to the Initial Kroll Affidavit which contains a confidential summary of the proposed KERP where it may be unsealed pursuant to further order of the Court. This Court has the discretion pursuant to section 137(2) of the *Courts of Justice Act*[36] and its inherent jurisdiction to order that any document filed in a civil proceeding be treated as confidential, sealed and not form part of the public record.

41. In *Sherman Estate v. Donovan*, the Supreme Court of Canada held that the person asking a court to exercise discretion in a way that limits the open court presumption must establish that: (a) court openness poses a serious risk to an important public interest; (b) the order sought is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk; and (c) as a matter of proportionality, the benefits of the order outweigh its negative effects.[37]

42. The Applicants respectfully submit that the foregoing test has been satisfied. The Confidential Appendix contains a confidential summary with respect to the KERP that contains employee names and individual compensation information and the KERP payments for each eligible employee. Protecting the sensitive personal and compensation information of the employees is an important public interest that should be protected. Employees also have a

[35] First Report of the Monitor at paras 40(h) and 41.
[36] R.S.O. 1990, c. C.43, s. 137(2).
[37] *Sherman Estate v. Donovan*, 2021 SCC 25 at paras. 37-38.

reasonable expectation that their names and compensation information will be kept confidential. Finally, as a matter of proportionality, the benefits of sealing the requested information outweigh its negative effects, including because the overall potential cost of the KERP has been disclosed to stakeholders.

43. Courts have previously granted sealing orders in respect of individual compensation arrangements relating to key employee retention plans.[38]

44. The Monitor is supportive of having the unredacted KERP sealed and not form part of the public record.[39]

D. The Engagement of SCP as CRO Should be Approved

45. The Court has the statutory authority to make an order engaging the CRO under s. 11 of the CCAA.[40] The engagement of a chief restructuring officer is appropriate where the proposed chief restructuring officer has expertise that will assist the Applicant and the Monitor in achieving the objectives of the CCAA.[41] The "experience and skills" of a restructuring professional can be key to maximizing the value of a CCAA applicant's business and assets.[42]

46. Courts have also emphasized the utility of a chief restructuring officer with "thorough knowledge of the affairs of" the debtor.[43] For instance, in *Mobilicity*, this Court approved the appointment of a chief restructuring officer who had been engaged by the debtor five months earlier to assist with restructuring matters.[44] Similarly, in *Victorian Order of Nurses*, the CCAA

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[38] *Ontario Securities Commission v. Bridging Finance Inc.,* 2021 ONSC 4347 at paras. 23-28; *Just Energy* at paras. 26-29; *Golf Town Canada Holdings Inc. (Re)*, (September 14, 2016), Ontario S.C.J. [Commercial List], Court File No. CV-16-11527-00CL (Initial Order) at para. 64; *Acerus Pharmaceuticals Corporation et. al (Re)*, (February 3, 2023) Ontario S.C.J. [Commercial List], Court File No. CV-23- 00693595-00CL (Amended and Restated Initial Order).
[39] First Report of the Monitor at para 43.
[40] CCAA, s 11.
[41] *Boreal Capital Partners Ltd et al*, *Re*, 2021 ONSC 7802 ("***Boreal***") at para 31; see also *Walter Energy Canada Holdings, Inc., (Re)*, 2016 BCSC 107 ("***Walter Energy***") at para 35.
[42] *Re JTI-MacDonald Corp*, 2019 ONSC 1625 at para 26; *Boreal* at para 32.
[43] *Re: Mobilicity Group,* 2013 ONSC 6167 ("***Mobilicity***") at para 48; see also *Boreal* at para 32.
[44] *Mobilicity* at paras 17 and 32.

court praised the chief restructuring officer's "extensive background knowledge of the VON group's structure and business operations" when concluding that engaging the chief restructuring officer was "appropriate and essential."[45]

47. The CRO possesses these key characteristics. SCP's familiarity with the Company's operations since being engaged on November 14, 2025, its established relationships with the Company's stakeholders including the Ad Hoc Group, and its expertise in complex restructuring matters make it well-suited to serve as the CRO of the Applicants.[46]

48. Over the course of its engagement, SCP has provided substantial services critical to the Company's restructuring efforts. In particular, SCP constructed short-term and long-term liquidity forecasts with associated variance tracking, prepared a long-term budget to facilitate ongoing restructuring efforts, assisted the Company's advisors with due diligence efforts, communicated engagement and liquidity developments to the Ad Hoc Group and its advisors, and assisted in the preparation leading up to the commencement of these CCAA Proceedings.[47] SCP has thereby gained critical knowledge of the Company's business operations, financial challenges, and strategic initiatives.

49. SCP has also advised several confidential cannabis companies in distressed situations. These engagements include, among others, acting as financial advisor to a cannabis supply company, being retained by a lender holding a defaulted commercial real estate position with cannabis tenants, and providing interim financial leadership to a vertically integrated cannabis in the U.S.[48]

50. The appointment of SCP as the CRO is appropriate and necessary in the

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[45] *Victorian Order of Nurses for Canada (Re)*, 2015 ONSC 7371 at para 27.
[46] Initial Kroll Affidavit at para 183, AMR, Tab 2.
[47] *Ibid* at para 184.
[48] *Ibid* at para 187.

circumstances to facilitate the successful completion of these CCAA Proceedings for the benefit of all stakeholders. The cannabis industry is heavily regulated and complex, with an added layer of complexity given the cross-border nature of these proceedings. The success of the CCAA Proceedings and the completion of the contemplated Sale Transactions requires the leadership and substantial restructuring experience and knowledge of SCP.[49]

E. The Engagement of Moelis and Ducera Should be Approved and the Transaction Fee Charge Should be Approved

51. The Applicants seek approval of the Moelis Engagement Letters and the Ducera Engagement Letter, *nunc pro tunc*, and the granting of the Transaction Fee Charge to secure the fees that may become payable pursuant to the Moelis Engagement Letters and the Ducera Engagement Letter.

52. The Court has the jurisdiction to approve the engagement of financial advisors under s. 11 of the CCAA,[50] and courts have approved the engagement of a financial advisor in order to assist CCAA debtors in achieving the objectives of the CCAA, to assist the debtors' management in dealing with a crisis situation, and to allow management to focus on the debtors' continued operations.[51]

53. Courts have similarly approved corresponding charges to secure such advisors' professional fees, where such advisors' knowledge and experience is critical to assisting the debtor with a successful restructuring or is necessary to assist the debtor with a liquidation sale.[52] The Court has the jurisdiction to grant charges in respect of the fees of a financial advisor retained by the company or any other interested person pursuant to s. 11.52 of the

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[49] *Ibid* at para 185.
[50] *Walter Energy,* at paras. 35, 39-43, 48.
[51] *Walter Energy*, at para 35. See also *In the Matter of a Plan of Compromise or Arrangement of Sandvine Corporation et al.,* 2024 ONSC 6199 at paras 58-61.
[52] *Payless ShoeSource Canada Inc and Payless ShoeSource Canada GP Inc. (Re),* 2019 ONSC 1215 at paras. 30-32; see also *Target Canada Co (Re)*, 2015 ONSC 303 at para. 72.

CCAA,[53] with such charges being the typical " basis on which financial advisors are incentivized to continue to work for companies involved in restructuring."[54]

54. Moelis has worked extensively with the Applicants since its initial engagement in April 2024, has worked diligently in soliciting proposals from several potential investors and purchasers. Moelis is largely responsible for generating the Sale Transactions which are expected to maximize value for stakeholders, and its continued involvement will be critical to the successful completion of the Sale Transactions. Similarly, Ducera has worked extensively with the Ad Hoc Group, the Company's primary secured creditors and major stakeholders, in connection with the development of the Sale Transactions and the negotiation of the Support Agreement with the Company, and its continued involvement will be critical to the successful completion of the Sale Transactions and ongoing review of the Company's compliance with the Support Agreement.[55]

55. The Transaction Fee Charge is supported by the Monitor[56] and should be approved by the Court. The Transaction Fee Charge is proposed to rank fourth in priority among the Charges, behind the Administration Charge, the KERP Charge, and the D&O Charge. The granting of the Transaction Fee Charge is appropriate in the circumstances given the critical role that Moelis and Ducera have played, and will continue to play, in facilitating the Sale Transactions for the benefit of all stakeholders.[57]

F. The Company Should be Authorized to Incur No Further Expenses in Relation to the Securities Filings

56. The Applicants seek an order permitting Applicants to incur no further expenses in relation to the Securities Filings, and that none of the directors, officers, employees and other

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[53] *Walter Energy* at paras. 39-43.
[54] *Tacora Resources Inc. (Re)*, 2023 ONSC 6126 at para. 152.
[55] Initial Kroll Affidavit at para 194, AMR, Tab 2.
[56] First Report of the Monitor at para 55.
[57] Initial Kroll Affidavit at para 193.

representatives of the Applicants or the Monitor shall have any personal liability for failure by the Applicants to make any Securities Filings.[58]

57. In other CCAA proceedings, courts frequently have exercised their broad jurisdiction under the CCAA to permit reporting issuers to not incur further expenses in relation to any filings and disclosures that may be required by any federal, provincial or other laws respecting securities or capital markets in Canada. [59]

58. The Parent Company is a publicly-traded company and a reporting issuer whose common shares are listed for trading under the ticker symbol "CBST" on the Cboe Canada Inc. exchange ("**CBOE**"), a Canadian stock exchange based in Toronto, Ontario. Common shares of the Parent Company also trade under the ticker symbol "CBSTF" on the OTCQX.[60] Following the commencement of the CCAA Proceedings, CBOE has commenced a de-listing review.

59. In the current circumstances, it would not be practical or appropriate, and would be an unnecessary distraction and unwarranted expense, for the Applicants to incur costs associated with its filing and disclosure obligations. The Applicants' resources and time are better directed towards their restructuring efforts. Further, there is no prejudice to shareholders or stakeholders given that detailed financial information and other information regarding the Company will continue to be made publicly available through the materials filed in these CCAA Proceedings. Accordingly, it is in the best interest of the Applicants and their stakeholders for the Company to incur no further expenses to maintain the currency of their securities reporting going forward,

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[58] *Ibid* at para 198.
[59] *Inscape Corporation, Re*, (January 20, 2023) Ontario S.C.J. [Commercial List], Court File No. CV-23- 00692784-00CL at paras. 42-43 (Amended and Restated Initial Order); *CannTrust Holdings Inc., Re*, (March 31, 2020) Ontario S.C.J. [Commercial List], Court File No. CV-20-00638930-00CL at paras. 46-47 (Initial Order); *Pure Global Cannabis Inc., Re*, (March 19, 2020) Ontario S.C.J. [Commercial List], Court File No. CV-20-00638503-00CL at para. 49 (Initial Order); Magna Gold Corp. Re, (May 29, 2023) Ontario S.C.J. [Commercial List], Court File No. CV-23-00696874-00CL (Amended and Restated Initial Order).
[60] Initial Kroll Affidavit at para 21, AMR, at Tab 2.

particularly given the Sale Transactions will result in the sale of substantially all of the Company's business and there is not any expected recovery for equity holders.[61]

60. Further, the language in the proposed ARIO does not prohibit any securities regulator or stock exchange from taking any action or exercising any discretion that it may have as described in section 11.1(2) of the CCAA. The language also reflects standard provisions often requested by securities regulators, including providing that nothing in the ARIO shall encroach on the jurisdiction of securities regulators on regulating the conduct of market participants and issuing cease trade orders. Accordingly, the Applicants believe that this relief is appropriately tailored to what is necessary in the circumstances.

G. The Maximum Amount of Pre-Filing Payments to Critical Suppliers Should be Increased

61. The Initial Order authorizes, but does not require, the Company to make payments for goods or services supplied to the Company in the amount of $4,000,000. The Applicants now seek to increase the maximum quantum that may be paid to Critical Suppliers in respect of pre-filing amounts to $8,000,000**.**

62. The Court has discretion to grant and increase charges in amounts that the Court considers appropriate pursuant to sections Section 11.4 of the CCAA.[62] The initial amount was determined based on what was reasonably necessary for the first initial ten-day Stay Period. The Applicants require the flexibility to make additional payments to Critical Suppliers in respect of pre-filing amounts during the extended Stay Period (if granted).

H. The Support Agreement Should be Approved

63. As described more fully in the Applicants' factum filed in support of the Initial Order, the

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[61] *Ibid* at para 199.
[62] CCAA, s. 11.4.

Support Agreement is the product of extensive arm's-length negotiations with the Ad Hoc Group and demonstrates meaningful support from the majority of the Senior Noteholders, who are the Company's fulcrum creditors.

64. In the Court's endorsement dated March 24, 2026, it noted the evidence that the support of the Senior Noteholders is important in moving the Applicants' restructuring process forward. The Support Agreement materially reduces execution risk associated with the Sale Transactions and mitigates against the risk of a value-destructive, contested CCAA proceeding or attempted enforcement by the Senior Noteholders of their rights and remedies against the Company's assets. The Support Agreement also provides certainty to buyers that the Sale Transactions are supported by the Supporting Noteholders.

65. The Monitor supports the terms of the Support Agreement. Accordingly, the Applicants submit that approval of the Support Agreement is appropriate in the circumstances and in the best interests of the Company and its stakeholders.

I. The Administration Charge and the D&O Charge Should be Increased

66. The Initial Order approved the Administration Charge in the amount of $1,300,000 and a D&O Charge in the amount of $9,000,000. The Applicants now seek to increase the Administration Charge to $2,500,000 and the D&O Charge to $10,500,000.

67. The Court has discretion to grant and increase charges in amounts that the Court considers appropriate pursuant to sections 11.51 and 11.52 of the CCAA.[63] The Monitor was involved in the calculation of the Administration Charge and D&O Charge and supports the increase, given the complexity of the CCAA Proceedings and the expected contributions to be

[63] CCAA, s. 11.51 and 11.52.

provided by the beneficiaries of the Administration Charge.[64]

PART V – ORDER SOUGHT

68. For all of the foregoing reasons, the Applicants request an Order substantially in the form of the draft ARIO.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 31st day of March 2026.

Stikeman Elliott LLP

STIKEMAN ELLIOTT LLP
Counsel for the Applicants

[64] First Report of the Monitor at paras 46 and 50.

SCHEDULE "A"
LIST OF AUTHORITIES

1. *Acerus Pharmaceuticals Corporation et. al (Re)*, (February 3, 2023) Ontario S.C.J. [Commercial List], Court File No. CV-23- 00693595-00CL (Amended and Restated Initial Order)

2. *Aralez Pharmaceuticals Inc. (Re)*, 2018 ONSC 6980

3. *Boreal Capital Partners Ltd et al.* (*Re)*, 2021 ONSC 7802

4. *CannTrust Holdings Inc., Re*, (March 31, 2020) Ontario S.C.J. [Commercial List], Court File No. CV-20-00638930-00CL (Initial Order)

5. *Century Services Inc. v. Canada (Attorney General)*, 2010 SCC 60

6. *Cinram International Inc. (Re)*, 2012 ONSC 3767

7. *Golf Town Canada Holdings Inc. (Re)*, (September 14, 2016), Ontario S.C.J. [Commercial List], Court File No. CV-16-11527-00CL (Initial Order)

8. *In the Matter of a Plan of Compromise or Arrangement of Sandvine Corporation et al.,* 2024 ONSC 6199

9. *Inscape Corporation, Re*, (January 20, 2023) Ontario S.C.J. [Commercial List], Court File No. CV-23- 00692784-00CL (Amended and Restated Initial Order)

10. *JTI-MacDonald Corp., Re,* 2019 ONSC 1625

11. *Just Energy Group Inc. et al*., 2021 ONSC 7630

12. Magna Gold Corp. Re, (May 29, 2023) Ontario S.C.J. [Commercial List], Court File No. CV-23-00696874-00CL (Amended and Restated Initial Order).

13. *Ontario Securities Commission v. Bridging Finance Inc.,* 2021 ONSC 4347

14. *Payless ShoeSource Canada Inc and Payless ShoeSource Canada GP Inc. (Re),* 2019 ONSC 1215

15. *Pure Global Cannabis Inc., Re*, (March 19, 2020) Ontario S.C.J. [Commercial List], Court File No. CV-20-00638503-00CL (Initial Order)

16. *Re: Mobilicity Group,* 2013 ONSC 6167

17. *Sherman Estate v. Donovan*, 2021 SCC 25

18. *Tacora Resources Inc. (Re)*, 2023 ONSC 6126

19. *Target Canada Co. (Re)*, 2015 ONSC 303

20. *Victorian Order of Nurses for Canada (Re)*, 2015 ONSC 7371

21. *Walter Energy Canada Holdings, Inc., (Re)*, 2016 BCSC 107

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

Date March 31, 2026

B. Ketunuo

Signature

SCHEDULE "B"
RELEVANT LEGISLATION

***Companies' Creditors Arrangement Act*, RSC 1985, c C-36**

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.
s. 11

Stays, etc. — initial application
11.02 (1) A court may, on an initial application in respect of a debtor company, make an order on any terms that it may impose, effective for the period that the court considers necessary, which period may not be more than 10 days,

(a) staying, until otherwise ordered by the court, all proceedings taken or that might be taken in respect of the company under the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act*;
(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.

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

Burden of proof on application
(3) The court shall not make the order unless

(a) the applicant satisfies the court that circumstances exist that make the order appropriate; and
(b) in the case of an order under subsection (2), the applicant also satisfies the court that the applicant has acted, and is acting, in good faith and with due diligence.

Critical supplier
11.4 (1) On application by a debtor company and on notice to the secured creditors who are likely to be affected by the security or charge, the court may make an order declaring a person to be a critical supplier to the company if the court is satisfied that the person is a supplier of goods or services to the company and that the goods or services that are supplied are critical to the company's continued operation.

Obligation to supply
(2) If the court declares a person to be a critical supplier, the court may make an order requiring the person to supply any goods or services specified by the court to the company on any terms and conditions that are consistent with the supply relationship or that the court considers appropriate.

Security or charge in favour of critical supplier
(3) If the court makes an order under subsection (2), the court shall, in the order, declare that all or part of the property of the company is subject to a security or charge in favour of the person declared to be a critical supplier, in an amount equal to the value of the goods or services supplied under the terms of the order.

Priority
(4) The court may order that the security or charge rank in priority over the claim of any secured creditor of the company.

Security or charge relating to director's indemnification
11.51 (1) On application by a debtor company and on notice to the secured creditors who are likely to be affected by the security or charge, the court may make an order declaring that all or part of the property of the company is subject to a security or charge — in an amount that the court considers appropriate — in favour of any director or officer of the company to indemnify the director or officer against obligations and liabilities that they may incur as a director or officer of the company after the commencement of proceedings under this Act.

Priority
(2) The court may order that the security or charge rank in priority over the claim of any secured creditor of the company.

Restriction — indemnification insurance
(3) The court may not make the order if in its opinion the company could obtain adequate indemnification insurance for the director or officer at a reasonable cost.

Negligence, misconduct or fault
(4) The court shall make an order declaring that the security or charge does not apply in respect of a specific obligation or liability incurred by a director or officer if in its opinion the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct or, in Quebec, the director's or officer's gross or intentional fault.

Court may order security or charge to cover certain costs
11.52 (1) On notice to the secured creditors who are likely to be affected by the security or charge, the court may make an order declaring that all or part of the property of a debtor company is subject to a security or charge — in an amount that the court considers appropriate — in respect of the fees and expenses of

(a) the monitor, including the fees and expenses of any financial, legal or other experts engaged by the monitor in the performance of the monitor's duties;

(b) any financial, legal or other experts engaged by the company for the purpose of proceedings under this Act; and

(c) any financial, legal or other experts engaged by any other interested person if the court is satisfied that the security or charge is necessary for their effective participation in proceedings under this Act.

Priority
(2) The court may order that the security or charge rank in priority over the claim of any secured creditor of the company.

***Courts of Justice Act*, RSO 1990, c C.43**

Sealing documents
137 (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.

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 THE CANNABIST COMPANY HOLDINGS INC. AND THE CANNABIST COMPANY HOLDINGS (CANADA) INC.

Court File No. CL-26-00000122-0000

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT TORONTO

FACTUM OF THE APPLICANTS
(RETURNABLE APRIL 2, 2026)

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