

Court File No.

**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

March 24, 2026

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TO: THE SERVICE LIST

PART I - OVERVIEW¹

1. This factum is filed in support of an application by The Cannabist Company Holdings Inc. (the “**Parent Company**”), and The Cannabist Company Holdings (Canada) Inc. (“**Cannabist Canada Company**” and together with the Parent Company, the “**Applicants**”) seeking an initial order (the “**Initial Order**”) and related relief under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”),² including an initial stay of proceedings that extends to the Applicants’ direct and indirect Subsidiaries.³

2. The Parent Company is the direct and indirect owner of the Subsidiaries, which operate a fully integrated cannabis business across ten markets in the United States where medical or adult-use cannabis is permitted by law. In aggregate, the Subsidiaries own or manage intellectual property assets and procure and distribute inventory to customers. The CC Group is currently facing a severe liquidity crisis and is unable to meet its financial obligations as they become due. This financial distress arises, in part, from the unique regulatory landscape governing the cannabis industry in the United States which has resulted in significant operational challenges.

3. This application is filed in a context where the Company has undertaken substantial measures aimed at addressing its operational and liquidity constraints over an extended period of time. Following the refreshed Strategic Review and a Sales Process which commenced following completion of the CBCA Restructuring Transaction approved by this Court in May of 2025, the Company identified certain value-maximizing Sale Transactions contemplated to be implemented during the CCAA Proceedings (subject to Court approval).

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**”). All references to currency in this factum are expressed in United States dollars, unless otherwise noted.

² R.S.C. 1985, c. C-36, as amended.

³ The Applicants and the Subsidiaries shall collectively be referred to as the “**CC Group**” or the “**Company**”.

4. The Applicants are now filing for CCAA protection, with the support of its major secured creditors, to complete the Sale Transactions and facilitate a Court-supervised, orderly wind-down of the Company's operations in certain markets that are not subject to the Sale Transactions. The relief sought in the Initial Order is limited to what is reasonably necessary for the continued operations of the Company in the ordinary course during the initial Stay Period.

5. The Stay in favour of the Applicants and the extension of the Stay to the Subsidiaries is critical, necessary and appropriate in the circumstances – it will enable the CC Group to preserve liquidity and minimize disruption from uncoordinated enforcement attempts in different jurisdictions, all of which would be counterproductive to the maximization and protection of value for the Company and its stakeholders.

6. The Applicants intend to commence Chapter 15 Proceedings in the United States Bankruptcy Court of the District of Delaware to recognize the CCAA Proceedings as foreign proceedings pursuant to the U.S. Bankruptcy Code, recognize and enforce the Initial Order, and seek appropriate relief under the U.S. Bankruptcy Code. The commencement of the Chapter 15 Proceedings is essential to ensure that, should the Initial Order be granted, the associated Stay is recognized and enforced within the United States.

PART II - FACTS

7. The facts with respect to this application are briefly summarized below and more fully set out in the Initial Kroll Affidavit.

A. Corporate Structure and Operations

8. The Parent Company is the ultimate parent company of each of the other Company entities and its non-applicant affiliates within the Company. The Parent Company is a public company that is incorporated under the *Business Corporations Act* (British Columbia). The

common shares of the Parent Company are listed on the Cboe Canada Inc. exchange (“**CBOE**”), a Canadian stock exchange based in Toronto, Ontario.⁴ Cannabist Canada Company is incorporated under the *Business Corporations Act* (Ontario), having its registered head office located in Toronto, Ontario.⁵

9. The Company’s operations are primarily through the Subsidiaries, which consist of: (a) holding companies or management companies that hold equity interests in the other Subsidiaries which do not hold licenses from state authorities for handling cannabis and do not handle cannabis products; (b) cannabis operating companies that hold licenses from the relevant state authorities and handle cannabis in their day-to-day operations in accordance with such licenses; and (c) non-cannabis operating companies within the CC Group, whose functions include employing employees, owning and licensing intellectual property, and leasing or owning real property used in conducting the Company’s business.⁶

10. In aggregate, the Subsidiaries hold and utilize intellectual property assets, procure and distribute inventory to customers, provide specialized services and technical support, and maintain commercial relationships. Their operations are coordinated to ensure coverage and maintain continuity of supply and service standards that align with the Company’s contractual and regulatory obligations. The Subsidiaries which are not holding companies also maintain licenses, registrations, and permits that are required to comply with their regulatory obligations in each state which they operate in.⁷

11. The Applicants do not hold any licenses for handling cannabis and do not handle cannabis.⁸

⁴ Initial Kroll Affidavit at paras 20-21, in the Motion Record of the Applicants dated March 24, 2026 (“**AMR**”), Tab 2.

⁵ Initial Kroll Affidavit at para 23, AMR, Tab 2.

⁶ *Ibid* at para 18.

⁷ *Ibid* at paras 26-27.

⁸ *Ibid* at para 19.

B. Cash Management System

12. In the ordinary course of business, the Company uses an integrated Cash Management System that includes 56 bank accounts to, among other things, collect funds and pay expenses associated with its operations. The Cash Management System provides the Company with the ability to efficiently and accurately track and control corporate funds and to ensure cash availability.⁹

C. Employees

13. As of February 11, 2026, the Company employed approximately 1,278 people.¹⁰

14. Certain of the Company's employees in its New Jersey and New York markets are subject to CBAs. In New Jersey, the Company is party to a CBA with the UFCW Local 360, covering all full-time and regular part-time retail associates and senior retail associates employed at a Company dispensary located in Deptford, New Jersey, as well as a CBA with UFCW Local 152, covering all full-time and regular part-time cultivation technicians and senior cultivation technicians employed at a Company cultivation facility located in Vineland, New Jersey. In New York, the Company is party to a CBA with UFCW Local 338, covering all regular full-time and part-time retail associates and delivery technicians working at or out of a Company dispensary in Brooklyn, New York.¹¹

15. The Company is current in its obligations to contribute to the 401(k) Plan and is also current in the payment of wages to its employees. Accrued vacation pay as at December 31, 2025, inclusive of accruals, was approximately \$2.14 million.¹²

D. The Company's Capital Structure

⁹ *Ibid* at para 65.

¹⁰ *Ibid* at para 69.

¹¹ *Ibid* at para 70.

¹² *Ibid* at para 72.

(i) Secured Obligations

16. The Company has approximately \$219,415,607 in secured debt owing primarily to: (a) the Senior Noteholders pursuant to the A&R Indenture and the Senior Notes in the approximate amount of \$178,993,000; and (b) East West Bank pursuant to three separate loan agreements secured by mortgages over real property owned by the Company, in the approximate amount of \$40,422,607.¹³

17. On December 31, 2025, the Company elected not to make the interest payment on the Senior Notes in an effort to preserve liquidity while the Sales Process was ongoing. The failure to make an interest payment is subject to a 30-day Grace Period and became an event of default under the A&R Indenture on January 30, 2026. On January 30, 2026, in light of the expiration of the Grace Period, the Company, the Indenture Trustee, and the Senior Noteholders holding the requisite number of Senior Notes pursuant to the A&R Indenture entered into the Forbearance Agreement.¹⁴

18. Pursuant to the Forbearance Agreement, among other things, the requisite number of Senior Noteholders agreed to forbear from, and refrain from instructing the Indenture Trustee to engage in, exercising certain rights and remedies under the A&R Indenture solely with respect to the failure by the Company to make the interest payment on the Senior Notes which was due December 31, 2025. The Forbearance Agreement was subsequently extended on five occasions and the current forbearance period terminates automatically on March 25, 2026.¹⁵

(ii) Unsecured Obligations

(A) Lease Liabilities

¹³ *Ibid* at para 78.

¹⁴ *Ibid* at paras 82-83.

¹⁵ *Ibid* at para 84.

19. The Company has significant liabilities in connection with its operating and financing leases, which is approximately \$112,381,831 as of December 31, 2025.¹⁶

(B) Tax Claims

20. Due to the classification of cannabis as a Schedule I substance under the CSA, the IRS has taken the position that Section 280E of the IRC prevents the Parent Company from taking deductions or credits for any amount paid or incurred during the taxable year in carrying on its cannabis business. The Company disputes this position and the asserted tax claims.¹⁷

21. On December 18, 2025, the President of the United States issued the EO directing the Attorney General of the United States to take all necessary steps to complete the rescheduling of cannabis from Schedule I to Schedule III under the CSA. Once effected, the EO will mean Section 280E, at least prospectively, would no longer apply to the Company. However, until such reclassification occurs, the IRS's interpretation of Section 280E on the Parent Company has resulted in significant asserted tax liabilities in the approximate amount of \$89,336,921 as of December 31, 2025, as shown in the December 2025 Balance Sheet.¹⁸

22. To the extent the IRS asserts that additional tax liabilities are accruing during the CCAA Proceedings on account of Section 280E, consistent with its pre-filing practice and the practice of other U.S.-based cannabis companies and the Commercial List Model Initial Order, the Company does not intend to pay any such disputed amounts and intends to dispute such asserted liabilities. Both the asserted tax claims are asserted as unsecured claims against the Parent Company and certain of the Subsidiaries.¹⁹

23. For avoidance of doubt, the Company intends to continue to pay all other post-filing state

¹⁶ *Ibid* at para 99.

¹⁷ *Ibid* at para 102.

¹⁸ *Ibid* at paras 76 and 104.

¹⁹ *Ibid* at para 106.

and other taxes that become due and payable in the ordinary course of business during the pendency of the CCAA Proceedings.²⁰

E. The Company's Efforts to Address its Financial Difficulties

24. Regulation of cannabis in the United States has created structural challenges for industry participants, particularly in accessing capital markets and suffering from materially adverse tax consequences compared to other industries as a result of Section 280(e) taxes. The industry has also faced significant headwinds with intense competition from regulated and illicit industry participants, and supply chain challenges.²¹

25. The Company has undertaken substantial and sustained efforts to address its challenging operational environment and ongoing liquidity constraints. These efforts have included a series of operational restructuring initiatives, such as the divestitures of underperforming assets, the streamlining and reorganization of various business lines, reductions in overall headcount, implementation of cost-containment measures, and improvements to operational efficiencies.²²

26. Most recently, to address the upcoming maturity on the 2025 Notes and the 2026 Notes, the Company engaged in extensive negotiations with an ad hoc group of noteholders with respect to the CBCA Restructuring Transaction, which exchanged the Original Notes for the current Senior Secured Notes due 2028 to provide the Company with additional runway to implement its business plan. The CBCA Restructuring Transaction was approved by this Court and implemented in May of 2025.²³

F. The Strategic Review

²⁰ *Ibid* at para 107.

²¹ *Ibid* at para 112.

²² *Ibid* at para 113.

²³ *Ibid* at paras 120.

27. The CBCA Restructuring Transaction provided the Company with the necessary runway to implement operational changes and improve its business. However, it did not result in a deleveraging of the Company or injection of new capital. Accordingly, the Company sought to continue a refreshed Strategic Review in June 2025 following the CBCA Restructuring Transaction to ensure it continued to explore available options to maximize value for the Company and its stakeholders. The refreshed Strategic Review involved a dual-track process – the Sales Process conducted by Moelis to explore either the sale of the Company or strategic market divestitures, and a review, with the assistance of Moelis, of a stand-alone restructuring of the Company’s business and capital structure.²⁴

28. The dual-track process conducted with the assistance of Moelis was designed to be broad and flexible and provide the Company with the latitude to pursue a range of transactions. The Strategic Review also benefited from the additional runway provided by the CBCA Restructuring Transaction by avoiding any “forced” options in the face of an imminent maturity.²⁵

29. On October 3, 2025, the Company formed the Special Committee comprised of independent members of the Board to oversee the Strategic Review and make recommendations to the Board regarding the ultimate path forward for the Company.²⁶ The Special Committee, in consultation with the Company’s advisors, exercised its good faith business judgment in evaluating the available transaction alternatives.²⁷

30. Upon consideration of the bids received in connection with the Sales Process, the Special Committee determined that pursuing sale transactions for select markets would maximize value of the Company for the benefit of stakeholders. This determination was made following careful review of the bids and the Company’s strategic alternatives. The decision also

²⁴ *Ibid* at para 124.

²⁵ *Ibid*.

²⁶ *Ibid* at para 126.

²⁷ *Ibid* at para 127.

took into account feedback received from certain Senior Noteholders who held a majority of the outstanding Senior Notes.²⁸

31. The Company, with the assistance of Moelis, pursued the various Sale Transactions in stages given potential overlap of certain bids and interconnected negotiations, resulting in four (4) separate groups of transactions: (a) the Virginia Sale which closed on February 5, 2026; (b) the Ohio Transaction; (c) the Delaware Transaction; and (d) the Remaining States Transaction.²⁹ No actionable transactions were available for the Company's New York business. Substantially all of the Company's Pennsylvania business was previously divested, but an uneconomic cultivation facility remains with the Company. Accordingly, the Company has commenced the implementation of an orderly wind-down of its operations in New York and Pennsylvania to preserve liquidity and permit the Company to focus its resources on completing the Sale Transactions.³⁰

32. In light of the foregoing, the Company is filing for CCAA protection in order to complete a number of value-maximizing transactions that would otherwise be jeopardized by fragmented enforcement proceedings across multiple jurisdictions. The protection afforded by these proceedings is necessary to ensure business continuity for certain of the Subsidiaries' operations, preserve employment for the Company's employees where possible, and protect the interests of key customers, suppliers, and other stakeholders who rely on the Company's continued operations. The CCAA Proceedings also allow for the facilitation of a Court-supervised orderly wind-down of the Company's operations in certain markets that are not subject to the Sale Transactions, providing the necessary breathing room from potentially impacted creditor or other stakeholders.³¹ Ultimately, these CCAA Proceedings represent the

²⁸ *Ibid.*

²⁹ *Ibid* at para 128.

³⁰ *Ibid* at para 129.

³¹ *Ibid* at para 15.

most viable path forward to achieve an orderly realization of value from the Company's assets and operations, for the benefit of all stakeholders.

33. The Applicants intend to seek to have the Delaware and Ohio Sale Approval Motion heard concurrently with, or shortly after, the Comeback Motion.

PART III – ISSUES

34. The issues in respect of the relief being sought under the Initial Order are whether:

- (a) the Applicants are entitled to seek protection under the CCAA;
- (b) the Stay during the initial Stay Period should be granted;
- (c) the Stay should be extended to the Subsidiaries;
- (d) FTI should be appointed as the Monitor;
- (e) the Applicants should be authorized to pay pre-filing arrears owing to Critical Suppliers, subject to approval of the Monitor;
- (f) the Support Agreement should be ratified and approved and a sealing order in respect of the unredacted Support Agreement should be granted;
- (g) the Administration Charge and the D&O Charge should be granted; and
- (h) the Parent Company should be authorized to act as foreign representative for the purpose of having these CCAA Proceedings recognized and approved in a jurisdiction outside of Canada, and to apply for foreign recognition and approval of these CCAA Proceedings in any jurisdiction outside of Canada.

PART IV – LAW AND ANALYSIS

A. The Applicants are Entitled to Seek Protection under the CCAA

(i) The Applicants are Either “Debtor Companies” or “Affiliated Debtor Companies” to which the CCAA applies

35. The CCAA applies to a debtor company (a company having assets or doing business in Canada) or affiliated debtor companies where the total of claims against the debtor or its affiliates exceeds \$5 million.³²

36. Each of the Applicants qualifies as a “company” within the meaning of section 2 of the CCAA. Both the Parent Company and Cannabist Canada Company are properly incorporated entities carrying on business in Canada. Both of the Applicants have substantial connections to Canada through their obligations under the Senior Notes and the Parent Company being responsible for a number of financings which have been used to fund the business and operations of the Subsidiaries.³³

37. The total claims against the Applicants exceed \$5 million.³⁴

(ii) The Applicants are Insolvent

38. Pursuant to section 2 of the CCAA, a “debtor company” means, among other things, any company that is insolvent or has committed an act of bankruptcy.³⁵ In *Stelco*, Justice Farley applied a purposive definition of insolvent in the CCAA context to reflect the “rescue” emphasis of the CCAA, to include a financially troubled corporation that is “reasonably expected to run out of liquidity within a reasonable proximity of time as compared with the time reasonably required to implement a restructuring”.³⁶

³² CCAA, s. 3(1).

³³ Initial Kroll Affidavit at paras 20, 22, 23, 24 AMR, Tab 2.

³⁴ *Ibid* at para 76, AMR, Tab 2.

³⁵ CCAA, s. 2(1) and s. 3(1).

³⁶ *Stelco Inc., Re*, [2004 CanLII 24933](#) (ON SC) (“*Stelco*”) at [paras 25-26](#).

39. The Applicants are currently insolvent. The Company's current and long-term liabilities combined exceed the net book value of their current and long-term assets such that, on a balance sheet basis, the Company is insolvent.³⁷ Further, due to liquidity constraints, on December 31, 2025, the Company elected not to make the interest payment on the Senior Notes in an effort to preserve liquidity while the Sales Process was ongoing and became an event of default under the A&R Indenture on January 30, 2026, which required the entering into of the Forbearance Agreement with the Indenture Trustee and certain Senior Noteholders.³⁸ The Company still does not have sufficient liquidity to make such interest payment while preserving sufficient cash to continue operations as a going concern.

(iii) The Ontario Court has Jurisdiction Over the Applicants

40. Subsection 9(1) of the CCAA provides that an application under the CCAA may be made to the court that has jurisdiction in the province where the debtor company has its "head office or chief place of business," or if the company has no place of business in Canada, in any province within which any assets of the company are situated.³⁹ Cannabist Canada Company is incorporated in Ontario with its registered head office located in Toronto, Ontario.⁴⁰ The Parent Company's primary business has been completing various financings to fund the operations conducted through the Subsidiaries, which have primarily been completed through CBOE, a Canadian stock exchange based in Toronto, Ontario.⁴¹

41. Accordingly, this Court is an appropriate venue for these CCAA Proceedings.

(iv) The Relief Sought is Reasonably Necessary

³⁷ Initial Kroll Affidavit at paras 75-76, AMR, Tab 2.

³⁸ *Ibid* at paras 83.

³⁹ CCAA, s. 9(1); J. P. Sarra, *Rescue! The Companies' Creditors Arrangement Act* 2nd ed. (2013), at p. 128.

⁴⁰ Initial Kroll Affidavit at para 23, AMR, Tab 2.

⁴¹ *Ibid* at para 21.

42. Pursuant to s. 11.001 of the CCAA, the relief sought on an initial application is to be limited to what is reasonably necessary for the continued operations of the debtor company in the ordinary course of business during the initial stay period. The stated purpose of s. 11.001 is to “limit the decisions that can be taken at the outset of a CCAA proceeding to measures necessary to avoid the immediate liquidation of an insolvent company, thereby improving participation of all players.”⁴²

43. The relief sought in the proposed Initial Order is limited to only the relief that is reasonably necessary in the circumstances for the continued operation of the Company’s business. As outlined in the Initial Kroll Affidavit, if the Initial Order is granted, the Applicants intend to seek the ARIO which contains several additional heads of relief that is not being sought in the Initial Order.⁴³

B. The Stay Should be Granted

44. Section 11.02(1) of the CCAA permits the Court to grant an initial stay of up to 10 days on an application for an initial order, provided such a stay is appropriate and the Applicants have acted with due diligence and in good faith. Under s. 11.001, the relief granted at the same time as an order under s. 11.02(1) must be limited “to relief that is reasonably necessary for the continued operation of the debtor company in the ordinary course of business during that period.”⁴⁴

45. In *Lydian (Re)*, Morawetz C.J. stated that the initial stay period preserves the status quo and allows for operations to be stabilized and negotiations to occur, followed by requests for expanded relief on proper notice to affected parties at the full comeback hearing.⁴⁵ Whether particular relief is necessary to stabilize a debtor company’s operations during the initial stay

⁴² CCAA, s. 11.001, 11.02(1) and (3); *Lydian International Limited (Re)*, 2019 ONSC 7473 (“*Lydian*”) at paras 22-26.

⁴³ Initial Kroll Affidavit at para 4, AMR, Tab 2.

⁴⁴ CCAA, s. 11.02(1).

⁴⁵ *Lydian*, at paras 26 and 30; see also *Re Just Energy Corp.*, 2021 ONSC 1793 (“*Just Energy*”) at para 56.

period is an inherently factual determination, based on all of the circumstances of the particular debtor.⁴⁶

46. The Applicants are in default of the A&R Indenture for failing to make the required interest payment, and the Forbearance Agreement will expire as of March 25, 2026.⁴⁷ Absent the Stay, the Indenture Trustee would be able to enforce on its security against the Applicants, to the detriment of the Applicants and their broader stakeholder groups.

47. Further, the Company has commenced the implementation of an orderly wind-down of its operations in New York and Pennsylvania to preserve liquidity and permit the Company to focus its resources on completing the Sale Transactions.⁴⁸

48. The requested Stay during the initial ten-day Stay Period is therefore critical, necessary, and reasonable in the circumstances.

C. The Stay Should be Extended to the Subsidiaries

49. The Applicants further seek that the benefit of the stay of proceedings and certain other protections of the proposed Initial Order be extended to the Subsidiaries. The authority of the court to extend a stay to non-filing affiliates is derived from the broad jurisdiction allotted to the court under s. 11 and 11.02(1) of the CCAA, and is commonly granted as part of CCAA proceedings,⁴⁹ including to foreign non-applicant affiliates.⁵⁰

⁴⁶ See for example *Laurentian University of Sudbury (Re)*, [2021 ONSC 659](#), in which the CCAA Court granted a variety of relief during the Initial Stay Period that was particular to the debtor company's factual circumstances. See also *Just Energy; Boreal Capital Partners Ltd et al. (Re)*, [2021 ONSC 7802](#) ("**Boreal Capital**") at para 16.

⁴⁷ Initial Kroll Affidavit at paras 84, AMR, Tab 2.

⁴⁸ *Ibid* at para 129.

⁴⁹ *Chalice Brands Ltd (Re)*, [2023 ONSC 3174](#), at [para 35](#) ("**Chalice Brands**"). See also *Lydian International Limited et al.* (December 23, 2019), Ont. S.C.J. [Commercial List], Court File No. CV-19-00633392-00CL ([Initial Order](#)); *Discovery Air Inc.* (March 21, 2018), Ont. S.C.J. [Commercial List], Court File No. CV-18-594380-00CL ([Initial Order](#)); *In the matter of Sandvine Corporation et al.* (November 15, 2024), Ont. S.C.J. [Commercial List], Court File No. CV-24-00730838-00CL ([Amended and Restated Initial Order](#)); and *In the matter of Imperial Tobacco Canada Limited and Imperial Tobacco Company Limited* (March 12, 2019), Ont. S.C.J. [Commercial List], Court File No. CV-19-616077-00CL ([Initial Order](#)).

⁵⁰ See, ie., *Chalice Brands*, at [paras 35, 42](#); *Lydian*, at [para 39](#); *Pacific Exploration & Production Corp. (Re)*,

50. In *JTI-Macdonald Corp. (Re)*, this Court outlined the factors determining when it is appropriate to extend a CCAA stay over non-filing affiliates, including where the business of the non-filing affiliate is significantly intertwined with that of the debtors and extending the stay would help maintain stability during the CCAA process.⁵¹

51. In *Chalice Brands*, in the context of a CCAA proceeding in respect of a Canadian cannabis parent company with operating subsidiaries located in the United States, this Court applied the *JTI-Macdonald* factors to extend the stay to U.S.-based subsidiaries given, among other things, “[t]he Chalice Group operates as a vertically integrated business and most key decision-making is done through the Applicant.”⁵² The Court recognized that “[f]ederal laws in the United States have precluded Chalice from pursuing a coordinated U.S. *Bankruptcy Code* proceeding. [...] In the circumstances, where protection under the U.S. *Bankruptcy Code* is not available to the Chalice Group, extending the CCAA stay to the Non-Filing Affiliates is the best option to achieve the breathing space necessary to preserve the value of the Chalice Group.”⁵³

52. In *Lydian*, this Court extended the stay to certain foreign companies where the debtor companies were the parent companies of certain direct and indirect subsidiaries that was focused on constructing a mining project in Armenia.⁵⁴

53. In *Sandvine*, this Court again applied *JTI-Macdonald* factors to extend the stay of proceedings to foreign subsidiaries of the debtor companies which were “functionally and operationally integrated with those of the Applicants.”⁵⁵ In that case, the non-debtor stay parties employed “approximately 294 employees constituting over half of Sandvine’s global

2016 ONSC 5429 at para 26. *Tamerlane Ventures Inc (Re)*, 2013 ONSC 5461 at paras 20-21; *Sandvine Corporation (Re)*, 2024 ONSC 6199 at paras 37-39 (“*Sandvine*”).

⁵¹ *JTI-Macdonald Corp. (Re)*, 2019 ONSC 1625 at para 15 (“*JTI-Macdonald*”).

⁵² *Chalice Brands* at para. 39

⁵³ *Ibid* at para. 40.

⁵⁴ *Lydian* at para. 39.

⁵⁵ *Sandvine* at para. 39.

workforce.”⁵⁶

54. The Applicants submit that the *JTI-Macdonald* factors support the extension of the Stay to the Subsidiaries, given, among other reasons:

- (a) the Applicants and the Subsidiaries have an integrated Cash Management System;
- (b) the operation of the Subsidiaries are dependent on management by the Applicants’ Board and management team;
- (c) the insolvency of and commencement of the CCAA Proceedings by the Applicants may constitute defaults under certain contracts of the Subsidiaries. The Stay will assist protect these contracts for the benefit of the Applicants, the Subsidiaries and their stakeholders during the restructuring;
- (d) protection of the Subsidiaries is critical to the success of the Applicants’ restructuring efforts and these CCAA Proceedings. None of the Applicants are operating companies – all of the Company’s cannabis operating companies are Subsidiaries and to preserve the value-maximizing Sale Transactions, the Subsidiaries need the protection of the Stay to operate in the ordinary course and preserve value for the benefit of their creditors and the Applicants’ creditors;
- (e) extending the Stay to the Subsidiaries will also mitigate against the risk of uncoordinated enforcement attempts in different jurisdictions, all of which would be counterproductive to the maximization and protection of value for the Company

⁵⁶ *Ibid.*

and its stakeholders; and⁵⁷

- (f) the failure to maintain the going-concern nature business of the Applicants and the Subsidiaries through the Sale Transactions will be detrimental to the Applicants' stakeholders, including the Senior Noteholders, customers, suppliers and over 1,200 employees; and
- (g) the primary secured creditor of the vast majority of Subsidiaries – the Senior Noteholders – support the relief.

55. The Subsidiaries are not applicants in these CCAA Proceedings because, among other reasons, certain licenses held by the Subsidiaries are potentially impacted upon an insolvency filing of such entity. For example, in Colorado, an insolvency or receivership triggers mandatory notice to the Marijuana Enforcement Division and suitability vetting for any new person or entity exercising control, with any court appointee required to obtain a temporary appointee registration, notify within seven days of appointment and apply for a suitability finding within fourteen days. In certain other jurisdictions, licenses held by the Subsidiaries are only impacted by a “bankruptcy” or a “receivership” of the entity; however, it is unclear whether such legislation is intended to also cover formal insolvency proceedings (such as a CCAA proceeding or recognition proceeding) and not becoming applicants entirely avoids any potential impact of the licences and preserves the related value.⁵⁸

56. The Subsidiaries could also face objections or opposition if they attempt to access the United States Bankruptcy Code as recognized in the case of *Chalice Brands*.

D. FTI Should be Appointed as the Monitor

57. Pursuant to section 11.7 of the CCAA, a court is required to appoint a person to monitor

⁵⁷ Initial Kroll Affidavit at para 134, AMR, Tab 2.

⁵⁸ *Ibid* at para 135.

the business and financial affairs of a debtor company at the time that an initial CCAA order is made. Section 11.7(2) of the CCAA also sets out certain requirements for, and restrictions on, who may act as a monitor, including that a monitor be a trustee within the meaning of subsection 2 of the BIA.⁵⁹

58. FTI is a trustee within the meaning of subsection 2(1) of the BIA and is not barred by any of the restrictions outlined in section 11.7(2) of the CCAA. Subject to Court approval, FTI has consented to act as Monitor of the Applicants in these CCAA Proceedings.⁶⁰

59. FTI has extensive experience in matters of this nature and is therefore well-suited to this mandate. Furthermore, FTI is familiar with the assets and operations of the Company.⁶¹

E. The Court Should Authorize Certain Pre-Filing Payments to Critical Suppliers

60. The proposed Initial Order authorizes, but does not require, the Applicants to make payments for goods or services supplied to the Applicants prior to the date of the Initial Order, but only with the express authorization of the Monitor.⁶²

61. Section 11.4 of the CCAA gives the Court the specific authority to declare a person to be a critical supplier and to grant a charge on the debtor's property to secure amounts owing for services provided after the filing. Here, however, the Applicants are seeking authority to pay pre-filing Critical Suppliers.

62. Section 11.4 of the CCAA does not oust the court's inherent jurisdiction to make provision for the payment of pre-filing amounts to suppliers whose services are viewed as critical to the post-filing operations of the debtor.⁶³ Case law demonstrates that this Court may

⁵⁹ CCAA s. 11.7.

⁶⁰ Initial Kroll Affidavit at para 142, AMR, Tab 2.

⁶¹ *Ibid* at para 143.

⁶² Proposed Initial Order at para 6(d), AMR, Tab 4.

⁶³ *BZAM Ltd. Plan of Arrangement*, 2024 ONSC 1645 at para 73; *Cline Mining Corporation (Re)*, 2014 ONSC 6998 at paras 39-40.

grant such authority, particularly where the pre-filing payments are integral to the debtor's ability to operate, the debtor has a need for the uninterrupted supply of the goods or services, the requirement that the monitor approve any such payments, and monitor's support and willingness to ensure pre-filing payments are appropriate, whether the applicants have sufficient inventory of goods on hand to meet their needs, and the effect of not making such pre-filing payments on the debtors' operations and ability to restructure.⁶⁴

63. The Applicants require the ability to make pre-filing payments to the Critical Suppliers to ensure that their business continues uninterrupted throughout these proceedings. The Applicants do not have any readily available means to replace the Critical Suppliers, and even if they did, doing so would be time consuming and costly.⁶⁵

F. The Support Agreement Should be Ratified and Approved

64. The Special Committee, in exercising its business judgment, has consistently solicited feedback and input from the Ad Hoc Group and their advisors. As part of these good-faith discussions and with a view towards implementing the Sale Transactions in an efficient and timely manner, the Company entered into the Support Agreement.⁶⁶

65. The execution of the Support Agreement is the product of arm's-length negotiations and demonstrates meaningful support from the Company's Senior Noteholders for the Company's contemplated steps in the CCAA Proceedings as the most viable and value-maximizing path forward.⁶⁷ The Senior Noteholders are expected to suffer a significant deficiency on the amounts owing to them and are the Company's fulcrum creditors with the remaining economic interest in the proceeds of the Sale Transactions.

⁶⁴ *Clover Leaf Holdings Company, Re.*, 2019 ONSC 6966 at para 25; *Re Just Energy* at para 99; *BZAM* at paras 73-74.

⁶⁵ Initial Kroll Affidavit at paras 161, AMR, Tab 2.

⁶⁶ *Ibid* at para 163.

⁶⁷ *Ibid*.

66. Among other benefits, the Support Agreement materially reduces execution risk associated with any of the Sale Transactions and mitigates against the risk of a value-destructive, contested CCAA proceeding and enforcement by the Senior Noteholders of their rights and remedies against the Company's assets.⁶⁸ The Supporting Noteholders have indicated that they will support the commencement of these CCAA Proceedings and the Sale Transactions and related wind-down process on the terms set forth in the Support Agreement. Accordingly, the Applicants submit that the Support Agreement should be ratified and approved.

67. Further, the approval of the Support Agreement – like all relief in the Initial Order – is subject to a comeback hearing where any stakeholders may raise potential concerns.

G. The Sealing Order should be Granted

68. The Applicants request a limited sealing order in respect of the following:

- (a) Confidential Exhibit "I" to the Kroll Affidavit, which contains a confidential copy of the Support Agreement and Confidential Exhibit "D" to the Kassel Affidavit which contains certain economic terms of the Ohio EPA be sealed until the earlier of (a) May 24, 2026; (b) the filing of a motion by the Applicants seeking approval of the Remaining States Transaction; and (c) further Order of the Court;
- (b) Confidential Exhibit "F" of the Kassel Affidavit, which contains bid information from the Sales Process be sealed until the earlier of (a) the return hearing for the Delaware and Ohio Sale Approval Motion; and (b) further Order of the Court; and
- (c) Confidential Exhibit "J" of the Kroll Affidavit, which contains the KERP summary, be sealed until the earlier of (i) the comeback motion and (b) further Order of the Court.

⁶⁸ *Ibid* at para 164.

69. This Court has the discretion pursuant to section 137(2) of the *Courts of Justice Act*⁶⁹ 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.

70. 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.⁷⁰

71. The Applicants respectfully submit that the foregoing test has been satisfied. As a matter of proportionality, the benefits of sealing the requested information outweigh its negative effects. The unredacted copy of the Support Agreement includes, among other things, acceptable economic terms to the Remaining States Transaction. The transaction remains subject to ongoing negotiation and disclosure of such terms could prejudice the Applicants as they attempt to finalize definitive documentation. The sealing of the bids from the Sales Process is also appropriate until the hearing to approve the proposed Sale Transaction given disclosure could prejudice a future sales process if such transactions are not approved or fail to close. The sealing in each case will be time limited.⁷¹

H. The Priority Charges Should be Approved

(i) The Administration Charge Should be Granted

72. The Applicants request that this Court grant a super-priority Administration Charge on the Property in favour of the Proposed Monitor, counsel to the Proposed Monitor, counsel to the

⁶⁹ R.S.O. 1990, c. C.43.

⁷⁰ *Sherman Estate v Donovan*, 2021 SCC 25 at paras. 37-38.

⁷¹ Initial Kroll Affidavit at paras 167, AMR, Tab 2.

Applicants. Pursuant to the Initial Order, the Administration Charge will be requested in the amount of \$1,300,000 in respect of the Stay Period.⁷²

73. This Court has the jurisdiction to grant the Administration Charge pursuant to section 11.52 of the CCAA. In *Canwest Publishing*, Justice Pepall identified six non-exhaustive factors that the Court may consider when determining whether to grant an administration charge:

- (a) the size and complexity of the business being restructured;
- (b) the proposed role of the beneficiaries of the charge;
- (c) whether there is an unwarranted duplication of roles;
- (d) whether the quantum of the proposed charge appears to be fair and reasonable;
- (e) the position of the secured creditors likely to be affected by the charge; and
- (f) the position of the monitor.⁷³

74. The Administration Charge is warranted, necessary, and appropriate in the circumstances, given that:

- (a) the Applicants operate in a highly regulated environment, with a significant number of complex issues (including cross-border issues) to address;⁷⁴
- (b) the beneficiaries of the Administration Charge will provide essential legal and financial advice throughout these CCAA Proceedings;⁷⁵
- (c) each of the beneficiaries of the Administration Charge will have distinct roles in

⁷² Proposed Initial Order at paras 35, AMR, Tab 4.

⁷³ *Canwest Publishing Inc.*, 2010 ONSC 222, at para. 54.

⁷⁴ Initial Kroll Affidavit at para 185, AMR, Tab 2.

⁷⁵ *Ibid* at paras 145-146.

the CCAA Proceedings and the Chapter 15 Proceeding;⁷⁶

- (d) the Applicants' advisors have engaged in a significant amount of work on a pre-filing basis; and
- (e) the Proposed Monitor is supportive of the proposed Administration Charge and believes that the proposed quantum of the Administration Charge is reasonable.⁷⁷

(ii) The D&O Charge Should be Granted

75. The Applicants request that this Court grant a priority D&O Charge on the Property in favour of the Applicants' and the Subsidiaries' current and future directors and officers in the amount of \$9,000,000 ranking subordinate to the Administration Charge.

76. The D&O Charge protects the current and future directors and officers against obligations and liabilities they may incur as directors and officers of the Applicants after the commencement of the CCAA proceedings, except to the extent that any such claims or the obligation or liability is incurred as a result of the director's or officer's gross negligence or wilful misconduct.

77. Section 11.51 of the CCAA provides the Court with the express statutory jurisdiction to grant the D&O Charge in an amount the Court considers appropriate, provided notice is given to the secured creditors who are likely to be affected by it.⁷⁸

78. In *Jaguar Mining Inc., (Re)*, Justice Morawetz (as he then was) stated that, in order to grant a D&O Charge, the Court must be satisfied of the following factors:

- (a) notice has been given to the secured creditors likely to be affected by the charge;

⁷⁶ *Ibid* at paras 145.

⁷⁷ *Ibid* at para 146..

⁷⁸ CCAA, s. 11.51.

- (b) the amount is appropriate;
- (c) the applicant could not obtain adequate indemnification insurance for the directors at a reasonable cost; and
- (d) the charge does not apply in respect of any obligation incurred by a director as a result of the director's gross negligence or wilful misconduct.⁷⁹

79. With respect to the Applicants, the D&O Charge is reasonable in the circumstances because:

- (a) the Applicants will benefit from the active and committed involvement of the directors and officers, who have considerable institutional knowledge and valuable experience and whose continued participation will help facilitate an effective transaction;
- (b) the Applicants cannot be certain whether the existing insurance will be applicable or respond to any claims made, and the Applicants do not have sufficient funds available to satisfy any given indemnity should its directors and officers need to call upon such indemnities;
- (c) absent approval by this Court of the D&O Charge in the amounts set out above, all or certain of the Company's directors and officers may resign; and
- (d) the Proposed Monitor is of the view that the D&O Charge is reasonable and appropriate in the circumstances.⁸⁰

I. The Parent Company Should be Appointed as the Foreign Representative

⁷⁹ *Jaguar Mining Inc, Re*, 2014 ONSC 494 at para. 45.

⁸⁰ Initial Kroll Affidavit at paras 148-153, AMR, Tab 2.

80. As the majority of the Company's operations, assets and valuable business are in the United States, the Applicants intend to initiate the Chapter 15 Proceedings, seeking, among other things: (a) recognition of the CCAA Proceedings as a foreign proceeding pursuant to the U.S. Bankruptcy Code; (b) recognition and enforcement of the Initial Order; and (c) other appropriate relief under the U.S. Bankruptcy Code.⁸¹

81. Pursuant to s. 56 of the CCAA, the Applicants therefore seek an order allowing the Parent Company to act as a foreign representative in respect of this proceeding for the purpose of having orders issued in the course of this proceeding recognized in jurisdictions outside of Canada, including in the anticipated Chapter 15 Proceedings.⁸²

82. The Chapter 15 Proceedings are therefore necessary to ensure that if the Initial Order is granted, the Stay is recognized and enforced in the United States.⁸³ Accordingly, authorizing the Parent Company to seek recognition of the orders of this Court in the United States is appropriate and in the best interests of stakeholders.

PART V – ORDER SOUGHT

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

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 24 day of March, 2026.

Stikeman Elliott LLP

STIKEMAN ELLIOTT LLP
Counsel for the Applicants

⁸¹ *Ibid* at para 154.

⁸² CCAA s. 56.

⁸³ Initial Kroll Affidavit at para 156, AMR, Tab 2.

**SCHEDULE “A”
LIST OF AUTHORITIES**

1. *BZAM Ltd. Plan of Arrangement*, [2024 ONSC 1645](#)
2. *Boreal Capital Partners Ltd et al. (Re)*, [2021 ONSC 7802](#)
3. *Canwest Publishing Inc.*, [2010 ONSC 222](#)
4. *Chalice Brands Ltd (Re)*., [2023 ONSC 3174](#)
5. *Cline Mining Corporation (Re)*, [2014 ONSC 6998](#)
6. *Clover Leaf Holdings Company, Re.*, [2019 ONSC 6966](#)
7. *Discovery Air Inc.* (March 21, 2018), Ont. S.C.J. [Commercial List], Court File No. CV-18-594380-00CL ([Initial Order](#))
8. *In the matter of Sandvine Corporation et al.* (November 15, 2024), Ont. S.C.J. [Commercial List], Court File No. CV-24-00730838-00CL ([Amended and Restated Initial Order](#))
9. *In the matter of Imperial Tobacco Canada Limited and Imperial Tobacco Company Limited* (March 12, 2019), Ont. S.C.J. [Commercial List], Court File No. CV-19-616077-00CL ([Initial Order](#)).
10. *Jaguar Mining Inc, Re*, [2014 ONSC 494](#)
11. J. P. Sarra, *Rescue! The Companies' Creditors Arrangement Act* 2nd ed. (2013)
12. *JTI-Macdonald Corp. (Re)*, [2019 ONSC 1625](#)
13. *Laurentian University of Sudbury (Re)*, [2021 ONSC 659](#)
14. *Lydian International Limited (Re)*, [2019 ONSC 7473](#)
15. *Lydian International Limited et al.* (December 23, 2019), Ont. S.C.J. [Commercial List], Court File No. CV-19-00633392-00CL ([Initial Order](#))
16. *Pacific Exploration & Production Corp. (Re)*, [2016 ONSC 5429](#)
17. *Re Just Energy Corp.*, [2021 ONSC 1793](#)
18. *Sandvine Corporation (Re)*, [2024 ONSC 6199](#)
19. *Stelco Inc., Re*, [2004 CanLII 24933](#) (ON SC)
20. *Sherman Estate v Donovan*, [2021 SCC 25](#)

21. *Tamerlane Ventures Inc (Re)*, 2013 ONSC 5461

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

Date March 24, 2026


Signature

SCHEDULE "B"
RELEVANT LEGISLATION

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

Section 2(1) - Definitions

2(1). In this Act, *debtor company* means any company that

- a) is bankrupt or insolvent,
- b) has committed an act of bankruptcy within the meaning of the [Bankruptcy and Insolvency Act](#) or is deemed insolvent within the meaning of the [Winding-up and Restructuring Act](#), whether or not proceedings in respect of the company have been taken under either of those Acts,
- c) has made an authorized assignment or against which a bankruptcy order has been made under the [Bankruptcy and Insolvency Act](#), or
- d) is in the course of being wound up under the [Winding-up and Restructuring Act](#) because the company is insolvent; (*compagnie débitrice*)

Section 3(1) - Application

3(1). This Act applies in respect of a debtor company or affiliated debtor companies if the total of claims against the debtor company or affiliated debtor companies, determined in accordance with [section 20](#), is more than \$5,000,000 or any other amount that is prescribed.

Section 9(1) - Jurisdiction of court to receive applications

9(1). Any application under this Act may be made to the court that has jurisdiction in the province within which the head office or chief place of business of the company in Canada is situated, or, if the company has no place of business in Canada, in any province within which any assets of the company are situated.

Section 11 - 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.

Section 11.001 - Relief reasonably necessary

11.001. An order made under section 11 at the same time as an order made under subsection 11.02(1) or during the period referred to in an order made under that subsection with respect to an initial application shall be limited to relief that is reasonably necessary for the continued operations of the debtor company in the ordinary course of business during that period.

Section 11.02(1) - 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.

11. 02(3) - Burden of proof on application

11. 02(3) The court shall not make the order unless

- o (a) the applicant satisfies the court that circumstances exist that make the order appropriate; and
- o (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.

Section 11.4 - 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.

Section 11.51(1) - 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.

Section 11.52 - 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.

Section 11.7 - Court to appoint monitor

11.7(1). When an order is made on the initial application in respect of a debtor company, the court shall at the same time appoint a person to monitor the business and financial affairs of the company. The person so appointed must be a trustee, within the meaning of subsection 2(1) of the Bankruptcy and Insolvency Act.

Section 56 - Authorization to act as representative of proceeding under this Act

56. The court may authorize any person or body to act as a representative in respect of any proceeding under this Act for the purpose of having them recognized in a jurisdiction outside Canada.

Bankruptcy and Insolvency Act, RSC 1985, c B-3,

Section 2(1) - Definitions

2(1). *trustee* or *licensed trustee* means a person who is licensed or appointed under this Act.

Internal Revenue Code

Section 280E - Expenditures in Connection with the Illegal Sale of Drugs

280E. No deduction or credit shall be allowed for any amount paid or incurred during the taxable year in carrying on any trade or business if such trade or business (or the activities which comprise such trade or business) consists of trafficking in controlled substances (within the meaning of schedule I and II of the *Controlled Substances Act*) which is prohibited by Federal law or the law of any State in which such trade or business is conducted.

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

Court File No. _____

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF THE
CANNABIST COMPANY HOLDINGS INC. AND THE CANNABIST COMPANY HOLDINGS
(CANADA) INC.**

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT TORONTO

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