

Court File No. CV-23-00703933-00CL

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

**QUALITY RUGS OF CANADA LIMITED**

Applicant

and

**WAYGAR CAPITAL INC., AS AGENT FOR NINEPOINT CANADIAN SENIOR  
DEBT MASTER FUND L.P.**

Respondent

**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 QUALITY RUGS OF CANADA LIMITED AND THE OTHER COMPANIES  
LISTED IN SCHEDULE "A" HERETO (THE "APPLICANTS")**

**APPLICATION RECORD  
(Returnable, August 4, 2023)**

August 3, 2023

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**TO: THE SERVICE LIST**

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**TAB 1**



**ONTARIO  
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**QUALITY RUGS OF CANADA LIMITED**

Applicant

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**WAYGAR CAPITAL INC., AS AGENT FOR NINEPOINT CANADIAN SENIOR DEBT  
MASTER FUND L.P.**

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1985, C. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
QUALITY RUGS OF CANADA LIMITED AND THE OTHER COMPANIES LISTED IN  
SCHEDULE "A" HERETO (THE "APPLICANTS")**

**NOTICE OF APPLICATION  
(Returnable August 4, 2023)**

TO THE RESPONDENT

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on for a hearing (*choose one of the following*)

- In person
- By telephone conference
- By video conference

at the following location: **in person before a judge presiding over the Commercial List on Friday August 4, 2023 at 11:00 am, at Courtroom 8-1, 330 University Avenue, Toronto, Ontario.**

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date: August 3, 2023

Issued by .....

Local registrar

Address of  
court office 330 University Avenue  
Toronto, ON M5G 1R7

**TO: THE SERVICE LIST**

## APPLICATION

The **APPLICANT**, Quality Rugs of Canada Limited (Variously the “**Company**” and “**QRCL**”) and the applicants listed in Schedule “A” (collectively with the Company, the “**QSG Group**”) will make an application to a Judge of the Commercial List on **August 4, 2023 at 11:00 am**, at Courtroom 8-1, 330 University Avenue, Toronto, Ontario. Please advise if you intend to join the hearing by emailing Chris Besant at [cbesant@grllp.com](mailto:cbesant@grllp.com) by no later than 10:00 a.m. on August 4, 2023 with the following details: (i) the name of the legal counsel attending and his/her email address; (ii) the client’s name; and (iii) a summary of the position that the party in attendance intends to take on the Application.

### THE APPLICATION IS FOR:

1. an Order substantially in the form set out in the Application Record, among other things,
  - a. abridging the time for, or dispensing with, service or further service of this Notice of Application;
  - b. abridging the time for filing this Notice of Application;
  - c. declaring that the QSG Group are companies to which the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c, C-36, as amended (“**CCAA**”) applies;
  - d. authorizing the QSG Group to file a plan of compromise or arrangement with its creditors or if applicable some of them;
  - e. staying all proceedings and remedies taken or that might be taken in respect of the QSG Group and the entities listed in **Schedule “A”** herewith or affecting any of their business or property without leave of the Court;
  - f. appointing RSM Canada Limited (“**RSM**”) as Monitor of the QSG Group;

- g. approving the Interim Lending Facility and granting the Interim Lending Charge in favour of the Interim Lender;
  - h. Staying any steps by Waygar Capital Inc. “Waygar”) to exercise dominion over any blocked accounts of the Applicants at any bank and directing Waygar to take all steps necessary to permit the Applicants to have access to the funds in those accounts;
  - i. granting the Administration Charge to secure the fees and disbursements of the Monitor, the Monitor’s counsel and the QSG Group’s counsel;
  - j. granting the D&O Charge to secure the indemnification of the directors and officers of the Applicants granted by this Order;
  - k. Granting the SISP Proceeds Charge to secure the success fee of the financial advisor as provided for in its engagement letter;
  - l. sealing the confidential appendices to the pre-filing report of the Monitor to be filed in connection with this application (variously herein, the “**Pre-Filing Report**”);
  - m. approving the activities of the Monitor as described in the Pre-Filing Report; and
2. Such other relief as the QSG Group may request and the Court may deem appropriate.

**THE GROUNDS FOR THIS APPLICATION ARE:**

**Overview of the Company and Business**

3. The QSG Group consists of a number of affiliated private companies incorporated under the Ontario *Business Corporations Act*, R.S.O. 1990, c. B. 16 with the exception of Timeline Floors Inc. which is a private company incorporated under the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44, with their registered head offices all located at the



same corporate headquarters in Vaughan, Ontario. The principal operating companies in the QSG Group (“**QSG Opcos**”) are the Company, Malvern Contract Interiors Limited (“**Malvern**”); Weston Hardwood Design Centre Inc (“**Weston**”); Ontario Flooring Ltd. (“**Ontario FL**”); and Timeline Floors Inc. (“**Timeline**”). The other companies in the group are holding companies.

4. The QSG Group is the largest flooring contract business in Canada. It provides a comprehensive selection of flooring – tile, carpet, and hardwood – to builders of new single-family, multi-unit, and high-rise residential markets. The QSG Group serves virtually all of the largest residential and commercial developers and builders in Canada.
5. The QSG Group operates out of a 65,000 square foot facility in Vaughan, Ontario encompassing its head office, a warehouse, and showroom. The Applicants also operate from:
  - a. a 16,681 square foot facility, in Langley, British Columbia,
  - b. an 8,107 square foot facility in Dartmouth, Nova Scotia,
  - c. a 5,267 square foot facility in Calgary, Alberta, and
  - d. a 3,960 square foot facility in Ottawa, Ontario.

Each property is leased from third parties.

6. The QSG Group employs approximately 114 people in Ontario, with a further 14 employed at the QSG Group’s cross-Canada locations.
7. The significant majority of the QSG Group’s flooring installation services are performed by a network of third-party installers who work on a nearly exclusive basis with the QSG Group. The independent contract installers are remunerated based on production (ie. piecework by job) and many are members of the Carpenters and Allied Workers of Local 27 - United

Brotherhood Carpenters and Joiners of America (“**Local 27**”) or Brick and Allied Craft Union of Canada (“**BACU**”), local 31.

### **The Applicants’ Creditors**

8. The Company is currently indebted to Ninepoint Canadian Senior Debt Master Fund L.P., the agent of which is Waygar Capital Inc. (collectively “**Waygar**”), in the amount of approximately \$50,635,148 million as of August 1, 2023, in respect of a revolving working capital loan. As security for this debt, Waygar holds (among other things) a general security interest ranking in first position over all of the QSG Group’s assets.
9. The Waygar debt is guaranteed by the co-applicants listed on Schedule “A.2” to the application. Some of the guarantees are full guarantees and the rest are limited recourse guarantees of holdcos with recourse only to a pledge of shares in one of the QSG Opcos.
10. The Company is currently indebted to Mohawk Carpet Distribution, Inc. (“**Mohawk**”) in the amount of approximately \$2.7 million pursuant to a Loan Agreement dated November 21, 2016. As security for this debt, Mohawk holds a general security interest ranking behind Waygar over the assets of the Company, Malvern and one of the group holdcos, Quality Commercial Carpet Corporation (“**QCCC**”).
11. The QSG Group is also indebted to its shareholders in the net amount of \$4.5 million (due to shareholders balances of \$11.9 million offset by shareholders balances of \$7.4 million).  
With the exception of the two loans described below, these related party loans are unsecured, non-interest bearing and have no fixed repayment obligations. The QSG Group is indebted to JoJohn Holdings Limited, a corporation owned by the shareholders of the QSG Group, for a \$6.2 million note which pays interest only and has a maturity date that had been extended to May 31, 2023. The QSG Group is also indebted to Joseph R. Pacione in the amount of

\$1.0 million on a note which pays interest only and has a maturity date that had been extended to May 31, 2023.

12. Other parties with PPSA registrations against the QSG Group include equipment and vehicle financiers.
13. Amounts owing to trade creditors total approximately \$21.3 million as of June 30, 2023.
14. The QSG Group also has repayment obligations to the Government of Canada in respect of H.S.T. of approximately \$306,000 (HST arrears have not been accumulating; this is the current portion of the monthly remittance owing).
15. Wages salaries and source deductions are current other than any amount of wages and source deductions which have accrued since the last bi-weekly payroll was paid on August 1, 2023, (up to approximately \$225,000 in wages and source deductions will have accrued as bi-weekly payroll is approximately \$450,000) and deferred salary of approximate amount of \$150,000). Accrued vacation pay owing to employees is approximately \$250,000, an ordinary course amount which rises and falls annually as employees take vacations.

### **Causes of the QSG Group's Financial Difficulties**

#### ***Covid 19 Pandemic Impacts 2020-2022***

16. The Covid-19 pandemic significantly impacted the construction industry, including the QSG Group. Without limiting the generality of the foregoing, the QSG Group has suffered financially as a result of the pandemic in the following respects:
  - a. supply chain disruption in materials led to higher prices, longer lead times and challenges in meeting project timelines;

- b. shortages of skilled labourers due to a slowdown in immigration into Canada. Further, Covid-19 government programs exacerbated the pre-covid-19 labour shortage; and
  - c. strict health and safety requirements, lockdowns, use of personal protective equipment, distancing, daily employee screening and quarantining contributed to installation challenges and short-term cost increases. The Omicron Covid-19 variant resulted in site shutdowns in 2022 resulting in construction delays.
17. Without limiting the above, as a “finishing trade”, i.e., the QSG Group’s independent contract installers are among the last to work on a property, delays that occur throughout the construction process have a compounding effect on installation schedules. The result was a reduction in revenues while carrying more inventory for longer periods as builders pushed the schedules for flooring installation even after the QSG Group had purchased the materials.
18. Global supply chain distribution issues, raw material price increases as well as increases in shipping and transportation costs resulted in significant increases in the costs of the QSG Group’s input materials. While the QSG Group has been successful in securing some price increases from their customers, there was an inevitable lag before the price increases could take effect impairing gross operating profit and liquidity. The QSG Group’s gross profit margins suffered in the short-term and liquidity was impacted.

***Ontario Residential Construction Strike 2022***

19. A further difficulty faced by the QSG Group in 2022 was the Ontario residential construction sector strike from May 1 to June 15, 2022. At various points during this 44-day strike, various trades such as tilers, hardwood installers and carpet installers were on

strike. In addition low rise framers, high rise form workers, self-leveling workers, drywallers, railings installers, and operating engineers were also on strike at points during this period.

20. Laborers' International Union of North America ("LiUNA") Local 183 (of which many of the QSG Group's installers were members at that time) wood and carpet installers were on strike for a full six weeks, and Local 183 tilers were on strike for several weeks as well. While the Local 31 high-rise tilers' union was not out on strike, this work was impacted by the stoppages of other trades which must be completed first.

21. The work which was delayed due to the construction strike was deferred causing a revenue lag impairing profitability and liquidity. The QSG Group was required to hold inventory for long periods of time in consequence. To compound matters, the builders that required imminent flooring installations, required, in many cases, different inventory than had been expected prior to the strike. The QSG Group hence was required to obtain and hold an increased amount of flooring colours, styles, and upgrade options, causing stress on liquidity.

22. The strike impacted the QSG Group's cash-flow dramatically. The QSG Group's working capital facility with Waygar is asset-based. Its availability is dependent on, to a large degree, the level of the QSG Group's accounts receivable. As the strike impacted the QSG Group's ability to supply flooring materials its accounts receivable balance dropped during that time causing further liquidity stress

### **SOFA Advance and Recovery of the Business**

23. To assist the company, in August 2022, Waygar authorized an interest only over-advance of \$10 million under its loan beyond the normal credit parameters of its loan (hereinafter

the Secured Over Formula Advance or “SOFA Advance”). After getting through the challenges of Covid and the Strike, and with the benefit of the SOFA Advance, and improving pricing, the Company’s accounts receivable and gross operating profit started to recover in Q4 2022. But to achieve a full recovery, either a further liquidity injection (via loan or equity), sale, or restructuring was required, so the QSG Group continued to be short of liquidity in consequence, preventing it from fully recovering and causing it to continue to miss out on contract and revenue growth opportunities.

### **The CAAA, the Pre- Filing SISP and the Sale Agreement**

#### ***The CAAA***

24. In recognition of that, and in response to Waygar demanding its loan in January 2023, on February 14, 2023, Waygar and the QSG Group entered into a credit accommodation and amending agreement (“CAAA”) that provided that Waygar would forbear from enforcement and the QSG Group would conduct an out of court sales and investment solicitation process (“SISP”) to seek additional financing by loan or equity injection, a sale transaction, or a restructuring transaction, which could either be implemented out of court or through a court restructuring process. Further thereto, Waygar committed to advance an additional \$2.5 million to fund the SISP process and to allow the company to utilize 100% of its receivables collections to fund its operations notwithstanding any credit restrictions to the contrary in its loan agreements.

#### ***Conduct of the Pre-Filing SISP***

25. Further thereto, the SISP has been conducted by Alvarez & Marsal Corporate Finance, a division of A&M Corporate Securities ULC (“A&M”), a highly respected North American financial advisory firm selected by Waygar for the QSG Group to use for this

purpose, further to an engagement letter between the QSG Group and A&M which was approved by Waygar and attached to the CAAA as a schedule. The engagement entitles A&M to a success fee and commits the QSG Group to seek protection of the payment of that fee from the resulting transaction proceeds.

26. The SISP process commenced in March 2023. Over 300 parties were approached by A&M over the course of the SISP process fully canvassing the market options. Waygar received periodic reports on the progress of the SISP.

### ***The Sale Agreement***

27. The best offer which emerged through the SISP was determined by the Company with the assistance of the financial advisor. The initial expression of interest of that proposed buyer was further negotiated by the QSG Group with the assistance of A&M and in consultation with Waygar. Those negotiations culminated on July 25, 2023, when the QSG Group signed a letter of intent with the Buyer (the “Sale Agreement”) which contemplates the completion of the sale to the Buyer within 6 weeks after an initial CCAA Order is obtained. The Buyer is a reputable entity with the internal financial resources to fund the transaction without external borrowing. The Sale Agreement will be a confidential appendix to the proposed Monitor’s pre filing report.
28. The Sale Agreement provides that the Buyer will extend DIP financing to permit the QSG Group to implement the Sale Agreement through a CCAA process.

### **Liquidation Analysis**

29. As the pre-filing SISP process approved by Waygar contemplated that the transaction may need to be implemented as a sale or restructuring transaction through a formal insolvency process, the Company engaged the proposed Monitor and requested that they

prepare a liquidation analysis of the Company to serve as a baseline for comparison with the outcome of the SISP. The price offer by the Buyer produced through the SISP is far superior to what is obtainable through liquidation. There is no conceivable going concern liquidation approach that can match this outcome, and attempting to go that route would likely produce extremely poor results.

### **Waygar Restrictions on QSG Liquidity since May 2023**

30. Despite its funding commitments provided by the CAAA in connection with the SISP process, and despite the fact that the SISP process was still ongoing, and a potential buyer had been selected for negotiations of a definitive transactions, Waygar has, since May 2022, restricted the QSG Group's access to its working capital as follows:

- a. At the beginning of May, Waygar failed to advance the final \$250,000 it had committed under the CAAA to advance to fund the SISP process;
- b. At the end of June 2023, Waygar arbitrarily began withholding 15% of all QSG Group account receivables collections held in a blocked account despite its commitment under the CAAA to allow the QSG Group to use 100% those receipts to fund operations during the ongoing SISP process.

31. These two actions have impaired the QSG Group's cash flow and liquidity which has caused the further rescheduling of flooring installations (the lifeblood of its business), the loss of some new contract opportunities, limited supplier purchases, cash flow stress, and some business deterioration. Waygar has continued to require the QSG Group to pay Waygar substantial interest on its loan throughout the SISP process even while it was restricting the QSG Group's access to its cash. Reducing QSG Group liquidity during the sale process is



counterproductive for all stakeholders, as it risks depressing realizable value on a going concern sale through loss of contracts and opportunities, and the risk of builder set-offs.

### **The CCAA Application**

32. The QSG Group is filing this Application under the *Companies' Creditors Arrangement Act* (the "**Application**") to implement the going concern sale of the company to the successful bidder in the SISP process (the "Buyer"), and the related interim (DIP) financing which will stabilize its interim operations, and to carryout a claims process and the distribution of the resulting proceeds via a plan or otherwise.
33. A comprehensive multi-month SISP process was undertaken at Waygar's request and in the manner it requested, and this is the best offer which emerged from that process.
34. At no time prior to tabling its competing CCAA application on July 24, 2023 did Waygar suggest that QSG Group pursue a different process. Given the comprehensive process which has already been conducted by the QSG Group and its financial advisor in accordance with the specific request of Waygar, there is no reason to think conducting a further process would produce a better result. To do so would risk losing the deal already on the table and would risk unnecessary further deterioration of the QSG Group's business, with consequent damage to its employees customers and suppliers.
35. To preserve the business and to produce the best result for all stakeholders, it is critical to proceed forthwith to implement the Sale Agreement and Interim (DIP) Financing through the CCAA process proposed herein.

### **Interim (DIP) Financing**

36. This Application also seeks approval of interim financing arrangements as follows:

- a. Approval of \$3 million in DIP financing, which the Buyer has committed to provide under the Sale Agreement, to finance the CCAA process through to closing of the Sale Agreement. The DIP is proposed to be secured against the assets of the QSG Group in priority to Waygar and to be repaid from the cash closing proceeds under the Sale Agreement. That will enable the Company to finance the restructuring through closing.
  - b. Approval of the right to access and utilize the approximately \$5.545 million (as of August 1, 2023) of cash trapped in its blocked accounts held by QSG Group at the Toronto-Dominion Bank. Access to those funds would reduce or potentially obviate the need for recourse to the DIP Loan, and their availability would enable the QSG Group to fund the remaining steps in the CCAA process following the closing of the Sale Agreement.
37. The Sale Agreement with the Buyer sets out the terms on which interim finance will be made available by the buyer during the restructuring and a DIP Agreement (the “**Interim Lending Agreement**”) is being finalized to permit the interim advances to be made as needed following the granting of CCAA protection.
38. The DIP terms in the Sale Agreement contemplate that the Company will be permitted by the court to use its cash receipts trapped in its blocked accounts at TD. To the extent that the trapped cash is made available for QSG Group to use to finance operations during the CCAA period, there will be substantially less need for recourse to the DIP. As the DIP is repayable from the sales proceeds, there is no ultimate impact on Waygar from freeing up the funds in the blocked account and thereby reducing the need for recourse to the DIP; Waygar ends up in the same position as it is the first secured creditor.

39. The proposed Monitor will be filing a copy of the Interim Lending Agreement with the Court in connection with this motion.

40. The proposed interim (DIP) financing is necessary to enable the QSG Group to meet its immediate, short-term liquidity needs so as to continue to operate through this period to preserve its going concern value through to sale completion.

### **Proposed Monitor**

41. RSM is proposed as the Monitor in the Application (variously herein the “**proposed Monitor**” or the “**Monitor**”). RSM is a global accounting and advisory brand with a national platform in Canada with deep experience in CCAA and other insolvency matters.

### **Cash Flows**

42. The Monitor has assisted the QSG Group in preparing a cash flow forecast (the “**Cash Flow Forecast**”) which sets out the projected cash flows for the period ending 13 weeks after the date of filing. The QSG Group is expected to have sufficient liquidity to operate to the end of that 13 week period, provided it continues to have access to interim financing and/or the release of the funds in the blocked account.

### **Administration Charge & D&O Charge**

43. The QSG Group will have no reasonable prospect of completing the sale or restructuring its business if it does not obtain the contemplated financing/and/or the release of the funds in the blocked account.

### **Administration & D&O Charges**

44. The QSG Group seeks an order granting a charge over its property securing the fees and disbursement of counsel to the Company, the Monitor and its counsel in the amount of

\$750,000 (the “**Administration Charge**”). The professionals whose fees are to be secured by the Administration Charge have taken on, and will continue to take on, a critical role in this proceeding.

45. The QSG Group seeks an order granting an indemnity secured by a charge in the amount of \$600,000 (the “**D&O Charge**”) over its property in respect of any amounts in respect of unpaid wages source deductions vacation pay or HST for which any directors or officers of the QSG Companies may become liable.
46. The Company has worked with the Monitor to estimate the proposed quantum of the Administration Charge and the D&O Charge. The amount of the Administration Charge contemplates that professionals are paid on a current basis during these proceedings.

#### **SISP Proceeds Charge re Financial Advisor Success Fee**

47. The QSG Group seeks an order granting a charge to secure the A&M success fee promised to it in its engagement letter approved by Waygar (the “**SISP Proceeds Charge**”), which charge shall be limited to the cash proceeds resulting from the transaction with the Buyer and not to other assets of QSG Group. The success fee is only payable from the transaction proceeds if there is a successful closing of the sale transaction (or an alternative transaction if captured by the terms of the engagement letter).

#### **Ranking of Charges**

48. The Charges sought to be created in the property assets and undertaking of the QSG Group are proposed to rank the property in the following order:
- a. Administration Charge
  - b. DIP Loan
  - c. SISP Proceeds Charge (Charge limited to the Cash Proceeds of the Sale)
  - d. D&O Charge

## **Additional Applicants**

49. The companies listed in Schedule A.1 hereto, namely

- a. Malvern Contract Interiors Limited (“Malvern”);
- b. Weston Hardwood Design Centre Inc (“Weston”);
- c. Ontario Flooring Ltd. (“Ontario FL”); and
- d. Timeline Floors Inc. (“Timeline”).

are part of the QSG group and are QSG Opcos in addition to the Applicant QRCL. They are liable under the loan agreements or guarantees with Waygar and have various other obligations to their suppliers and third parties, and hence also applicants for CCAA protection in this application.

50. The companies listed in Schedule “A.2” hereto, namely:

- a. Quality Commercial Carpet Corporation;
- b. Joseph Douglas Pacione Holdings Ltd.;
- c. John Anthony Pacione Holdings Ltd.;
- d. Jopac Enterprises Limited;
- e. Patjo Holdings Inc.;

are directly or indirectly holding companies of the various QSG Opcos which have guaranteed some of the obligations of the QSG Opcos and may have other obligations as well both to external parties and within the QSG Group. In order to facilitate the ongoing operation of the QSG Group during the CCAA Group, it is necessary for them and their directors and officers to be protected by the CCAA stay.

## **Sealing Order**

51. The QSG Group is requesting an order sealing confidential appendices to the Pre-Filing Report containing sensitive financial information including about the pre filing sales and investment solicitation process conducted by the QSG Group. The Proposed Monitor does not believe that any stakeholder will be prejudiced if such information is sealed.

## General

52. Rules 1.04, 1.05, 2.03, 3.02 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg.

194, as amended;

53. Section 106 of the *Courts of Justice Act*, R.S.O. 1990, c. C43;

54. The provisions of the CCAA and the equitable jurisdiction of this Honourable Court;

55. The QSG Group are companies to which the CCAA applies;

56. Such further and other grounds as counsel for the Company may advise and this

Honourable Court may permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used on the motion:

1. The Affidavit of John Pacione, to be affirmed and the exhibits thereto;
2. The Pre-Filing Report of RSM Canada Limited as proposed Monitor and the appendices thereto; and
3. Such further and other materials as counsel may advise and this Honourable Court may permit.

August 3, 2023

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<p><b>RSM CANADA LIMITED</b> 11 King Street West, Suite 700, Box 27 Toronto, ON M5H 4C7</p> <p><b>Bryan Tannenbaum</b> <a href="mailto:bryan.tannenbaum@rsmcanada.com">bryan.tannenbaum@rsmcanada.com</a> 416-238-5055</p> <p><b>Arif Dhanani</b> <a href="mailto:arif.dhanani@rsmcanada.com">arif.dhanani@rsmcanada.com</a> 647-725-0183</p> <p>Proposed CCAA Monitor</p>	<p><b>THE BANK OF NOVA SCOTIA</b> 10 Wright Boulevard Stratford, ON N5A 7X9</p>
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<p><b>MOHAWK CARPET DISTRIBUTION, INC.</b> 160 South Industrial Road Calhoun, Georgia 30701</p> <p><b>David Patton</b> General Counsel <a href="mailto:Dave_patton@mohawking.com">Dave_patton@mohawking.com</a> 706-629-7721</p>	<p><b>TOYOTA INDUSTRIES COMMERCIAL FINANCE CANADA, INC.</b> 60-401 The West Mall Toronto, ON M9C 5J5</p>
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<p><b>CWB NATIONAL LEASING INC.</b> 1525 Buffalo Place Winnipeg, MB R3T 1L9</p>	<p><b>GOLD KEY SALES AND LEASE LTD.</b> 19545 No. 10 Highway Surrey, BC V3S 6K1</p>
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**Schedule “A” – Other Applicants**

**A.1 Other Applicants - QSG Opcos (in addition to QRCL)**

1. Timeline Floors Inc.
2. Ontario Flooring Ltd
3. Weston Hardwood Design Centre Inc
4. Malvern Contract Interiors Limited

**A.2 Holding Companies to be Protected by the CCAA Stay**

5. Quality Commercial Carpet Corporation;
6. Joseph Douglas Pacione Holdings Ltd.;
7. John Anthony Pacione Holdings Ltd.;
8. Jopac Enterprises Limited;
9. Patjo Holdings Inc.

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**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 QUALITY RUGS OF CANADA  
LIMITED AND THE OTHER COMPANIES LISTED IN SCHEDULE "A"**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

**NOTICE OF APPLICATION**

**GARDINER ROBERTS LLP**

Lawyers  
Bay Adelaide Centre, East Tower  
22 Adelaide Street West, Suite 3600  
Toronto ON M5H 4E3

Chris Besant (248820)

Tel: (416) 865-6600

Fax: (416) 865-6636

Lawyers for the Applicant

RCP-E 4C (May 1, 2016)

**TAB 2**

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
**IN BANKRUPTCY AND INSOLVENCY**

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 QUALITY RUGS OF CANADA  
LIMITED AND THE APPLICANTS LISTED IN SCHEDULE  
"A" (the "**Applicants**")

AFFIDAVIT OF JOHN A. PACIONE  
(affirmed Aug 3, 2023)

I, John Pacione, of the City of Vaughan, in the Province of Ontario, MAKE OATH AND SAY AS FOLLOWS:

1. I am a Co-Chief Executive Officer of Quality Rugs of Canada Limited (variously referred to herein as "QRCL and the "Company"), which with various affiliates does business as the Quality Sterling Group of Companies (variously referred to below as the "QSG Group" or the "Group" or the "Companies"). As such, I have knowledge of the matters to which I depose in this affidavit, save and except for such facts or matters which are stated to be based on information and belief, and where so stated, I believe same to be true. This affidavit is sworn in opposition to the applications of Waygar for CCAA protection in respect of the Group, and for a Receiver of the Group.
2. This affidavit is also sworn in support of an application by the Group seeking the following orders:
  - (a) abridging the time for, or dispensing with, service or further service of a Notice of Application;
  - (b) abridging the time for filing a Notice of Application;
  - (c) declaring that the Group are companies to which the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended ("CCAA") applies;

- (d) Authorizing the Group to complete a sale of all or substantially all of its business assets and property to Ironbridge Equity Partners Management Limited (variously herein the “Buyer” and the “Purchaser”), which Purchaser was selected through an exhaustive pre-filing SISP process conducted by a leading North American financial advisory firm;
- (e) staying all proceedings and remedies taken or that might be taken in respect of the Group and the entities listed in Schedule “A” herewith or affecting any of their business or property without leave of the Court;
- (f) permitting the Group to continue to use its cash management system including the cash presently in, or deposited in future to, its blocked accounts at the Toronto-Dominion Bank, and staying any exercise of dominion over those accounts by Waygar Capital Inc. (“Waygar”) and directing Waygar to take all steps necessary to permit the QSG Group to access the funds in those accounts
- (g) appointing RSM Canada Limited as Monitor of the Group;
- (h) approving the Interim Lending Facility and granting the Interim Lending Charge in favour of the proposed Purchaser as interim financier at the Comeback hearing;
- (i) granting the Administration Charge to secure the fees and disbursements of the Monitor, the Monitor’s counsel, the Group’s counsel and the monthly work fee of A&M;
- (j) granting a charge over the sales proceeds of the Sale to the Purchaser (the SISP Proceeds Charge) to secure the success fee provided for in the Group’s engagement letter with its financial advisor, Alvarez & Marsal Corporate Securities ULC (“A&M”), and if necessary an Order approving that engagement letter
- (k) granting a charge in favour of the Directors and Officers in respect of liabilities arising post filing;

- (l) authorizing the Group to file a plan of compromise or arrangement with its creditors or if applicable some of them;
  - (m) sealing the confidential appendices to the pre-filing report of the Monitor to be filed in connection with this application (the “**Pre-Filing Report**”);
  - (n) approving the activities of the Monitor as described in the Pre-Filing Report; and
  - (o) for certain other ancillary relief as set out in the Company’s Notice of Application
3. All capitalized terms in this section not defined herein have the meaning defined below in this affidavit.

## **OVERVIEW OF THE COMPANY AND OPERATIONS**

### The Company, the Group and its Management

4. The Company is a private company incorporated under the Ontario Business Corporations Act whose registered head office is located at 505 Cityview Boulevard, Unit #1, Vaughan, Ontario.
5. The Group consists of the Company and several affiliated entities. The principal operating subsidiaries and which own the assets of the QSG Group business are QRCL and the entities listed in Schedule A.1 to the Notice of Application (collectively including QRCL, the “QSG Opcos”), namely:
  - (a) Malvern Contract Interiors Limited (“Malvern”);
  - (b) Weston Hardwood Design Centre Inc (“Weston”);
  - (c) Ontario Flooring Ltd. (“Ontario FL”); and
  - (d) Timeline Floors Inc. (“Timeline”).
6. Certain holding companies of the QSG Opcos (variously herein the “QSG Holdcos” or “holdcos”) ) are Group entities which may have liability to the Group’s creditors under

guarantees or arrangements. They are listed in Schedule A.2 to the Notice of Application, as follows:

- (a) Quality Commercial Carpet Corporation;
- (b) Joseph Douglas Pacione Holdings Ltd.;
- (c) John Anthony Pacione Holdings Ltd.;
- (d) Jopac Enterprises Limited;
- (e) Patjo Holdings Inc.;

These holding companies simply own shares directly or indirectly in the QSG Opcos and have no operations or nor material assets of value. They are liable as guarantors of the Waygar loan to the QSG Opcos, which loan arrangements are described below.

7. The Group is family owned. Specifically, the Company and the Group are wholly owned by various members of the Pacione family directly and through holding companies as shown on the simplified group organization chart (“QSG Organization Chart”), which is attached herewith as Exhibit “A”. The Company is currently managed under the leadership of my brother JD and I as co-CEOs..

#### The Business and its Customers

8. The Company was founded 58 years ago in 1965 by the Group’s current Chair, my father Joseph R. Pacione. Through growth and the acquisition of other companies in the industry, the Group has grown to become the largest flooring contract business in Canada and holds, by far, the largest market share in the Ontario marketplace. Until its recent short term difficulties, the Group has been a generational success story.
9. The Group provides a comprehensive selection of flooring – tile, carpet and hardwood – to builders in the new single-family, multi-unit and high-rise residential markets (approximately 80%) in addition to general contractors serving commercial markets. The Group serves virtually all of the largest residential and commercial developers and builders in Canada.
10. In addition to housing the Group’s head office, the 65,000 square foot facility located in Vaughan includes a warehouse and showroom and provides coverage of the Ontario



market. In addition, the Group operates from a 16,681 square foot facility in Langley, British Columbia, a 8,107 square foot facility in Dartmouth, Nova Scotia, a 5,267 square foot facility in Calgary, Alberta and a 3,960 square foot facility in Ottawa, Ontario each serving their respective markets. All properties are leased from third parties.

### The Industry

11. Flooring is an essential part of finishing new residential and commercial developments and completing renovations. The residential market, which is by far the greatest source of Group revenues, will continue to be driven for the foreseeable future by the demand for housing as Canada's population continues to grow. In the past year, Canada's population reached 40 million after growing at the fastest rate since 1957 ([https://www.statcan.gc.ca/en/subjects-start/population\\_and\\_demography/40-million](https://www.statcan.gc.ca/en/subjects-start/population_and_demography/40-million) )

### Employees

12. The Company employs approximately 128 people – 114 in Ontario, with a further 14 employed at other locations across Canada.
13. The significant majority of the Group's installation work (virtually all of the Ontario residential business) is performed by an extensive network of third-party installers who work on an almost exclusive basis with the Group owing to its large volume of work. The independent contract installers are remunerated based on production (ie. piecework by job) and many are members of the Carpenters and Allied Workers of Local 27 - United Brotherhood Carpenters and Joiners of America ("**Local 27**") or Brick and Allied Craft Union of Canada ("**BACU**"), local 31. Hence their futures are also greatly impacted by the fate of the business.
14. The Company does not provide or administer any pension plans for its employees.
15. My brother, J.D. Pacione and I are Co-Chief Executive Officers of the Group. Generally, J.D. focuses his attention on business development and I focus on operations. We both have many years of experience with the Company ( 35 and 32 years respectively) and extensive connections and relationships with builders, suppliers, installers, and other key industry participants, as does our father. Relationships are critical in the industry which

remains tightly-knit and with many companies having multi-generational ownership and operating affinities.

16. The business also has a senior management team consisting of experienced professionals in operations and supply chain management, finance, data analytics and information technology. The CFO is a former investment banker with a wealth of invaluable skills and experience. As well, under the leadership of my brother J.D. Pacione, there are critical business development people in each of the operating entities able to leverage off years of experience in the industry (as noted, the Group is the largest flooring contractor in Canada).

#### Financial Snapshot as at May 31, 2023

17. A copy of the Group's internal balance sheet and income statement as at May 31, 2023, is attached hereto and marked as Exhibit "B". Those financial statements show the Group has total Assets of \$80.2 million, of which the current assets are \$67.5 million. The Current Assets are in turn composed principally of \$51 Million in receivables from builders (AR 39.5 million + Holdback AR + Accrued Revenue) and 9.4 million in Inventory WIP and Goods in-Transit.
18. The breakdown of the accounts receivables and inventory is as follows:

<b>\$000s</b>	Jun'23	May'23	
Gross A/R	43,326	43,484	*
Aged out A/R	( 9,437)	( 9,399)	
Intercompany	( 379)	( 2,382)	
other ineligible	( 947)	( 433)	
Eligible A/R	<u>32,562</u>	<u>31,269</u>	
Holdback	7,327	8,002	*
ineligibles	-	-	
Eligible holdback	<u>7,327</u>	<u>8,002</u>	
Total A/R	50,654	51,486	sum of *
Gross inventory	7,176	8,230	
ineligibles	( 1,137)	( 1,121)	
Eligible Inventory	<u>6,039</u>	<u>7,109</u>	

19. Owing to the restrictions on lending and access to cash imposed by Waygar since February 2023 discussed further below, there has been some deterioration in the asset base since May, 31, 2023, and the company's ability to purchase and pay installers was impaired by those restrictions.
20. The income statement to May 31, 2023, shows in the trailing 12 months to that date, the Group revenue was in excess of \$134 Million, the Group had a gross profit margin of 16.1%, the Group suffered a net loss of \$6.5 Million, and its EBITDA was \$1.4 million. The loss reflected the difficulties experienced in 2022, high levels of interest expense, and the financial restrictions imposed by Waygar in 2023. Losses have continued in June and July because Waygar has not been lending to the Company while at the same time it has frozen \$5 million of its working capital as discussed below. That forces the Group to operate inefficiently and lose opportunities.
21. The Group is a 55 year old business in a robust industry that has long been profitable and enjoys a dominant market position and a good business reputation. Management anticipates improved margins and a return to profitability once the business is recapitalized following the implementation of the proposed Sale Transaction, and can resume its normal profitable business pattern of the decades preceding the unusual 2020-2023 period.

#### Cash Management System

22. The QSG Group operates a consolidated receipts account and a consolidated disbursements account at the Toronto-Dominion Bank. Receipts from its builder customers go into the receipts account. Each week funds are released from that account to the disbursements account to fund the week's expenditures. Pursuant to its loan arrangements with Waygar discussed below the receipts account is a blocked account (the "Blocked Account") and funds cannot be transferred from there to the disbursements account or otherwise withdrawn or spent, unless Waygar consents to the release of the funds to the disbursement account.

#### **THE GROUP'S CREDITORS**

Waygar

23. The Company is currently indebted to Ninepoint Canadian Senior Debt Master Fund L.P., the agent for which is Waygar in the amount of approximately \$50,635,148 million as of August 1, 2023 in respect of a revolving working capital The loan agreement was entered into on October 19, 2019 and was amended 5 times between then and August 15 2022, and then was further modified by an agreement defined below as the CAAA on February 14, 2023. As security for this debt, Waygar holds (among other things) general security interests ranking in first position over all of the Group's assets granted under GSAs with various group entities. It also holds limited recourse pledges of the shares of the operating companies held by holding companies in the Group. It holds no personal guarantees.
24. Until the Summer of 2022, the revolving working capital loan had a stated limit of \$40 million, but that was increased to \$50 Million through the SOFA Loan (defined below), and was increased again in the February of 2023 to \$52.5 Million pursuant to a Loan Amending and Accommodation Agreement.
25. In addition to the upper limit on lending, the loan is governed by a borrowing base. As discussed below, the current amount outstanding on the revolving working capital loan is offside the borrowing base calculation. Subject to the exception noted below, the Group is unable to draw beyond the current \$51 million without Waygar's discretionary permission.
26. On or about July 29, 2022, Waygar agreed to advance the Group a Secured Over-advance Facility (the "**SOFA Loan**") of \$10 million to meet the Group's anticipated critical payment needs. A loan amending agreement was entered into to finalize and implement those terms and the \$10 million was drawn down. That advance was conditional on the Pacione family injecting a further \$1 million beyond the approximately \$9 million the family had already invested in the business. That injection was made in order to satisfy the SOFA terms and permit the Group to access the liquidity provided by the SOFA.
27. The Waygar debt is guaranteed by c the QSG Group entities listed on Schedules "A.1: and "A.2" to the Notice of Application. The Schedule A.1 entities are QSG Opcos which

have given full guarantees, and the Schedule A.2 entities are holding companies that for the most part have provided limited recourse guarantees with recourse only to a pledge of shares in one of the QSG Opcos.

28. The Waygar loan documentation is attached to the affidavit of Don Rogers in the Waygar application.

#### Mohawk

29. The Company is currently indebted to Mohawk Carpet Distribution, Inc. (“Mohawk”), one of the Group’s larger suppliers, in the amount of approximately \$2.7 million pursuant to a Loan Agreement dated November 21, 2016. As security for this debt, Mohawk holds a general security interest ranking behind Waygar over the Group’s assets. There is an inter-creditor agreement between Mohawk and Waygar that gives Mohawk priority over the inventory it has supplied, but there is only about an estimated \$200,000 worth of such inventory which the Group currently holds.
30. The Mohawk/Waygar Inter-creditor Agreement is attached to the affidavit of Don Rogers filed in the Waygar application.

#### Related Party Loans

31. The Group is indebted to its holdco shareholders in the amount of approximately 11.9 million. These related party balances are unsecured, non-interest bearing and have no fixed repayment obligations with the exception of:
  - (a) notes totalling \$6.2 million payable to JoJohn Holdings Limited, a corporation owned by the shareholders of the QSG Group, which pays interest only and have maturity dates of May 31, 2023.
  - (b) a note for \$1.0 million payable to Joseph R. Pacione which pays interest only and has a maturity date of May 31, 2023.

There are in theory offsetting intercompany balances owing by other QSG Group entities, so that the net intercompany balance is approximately \$4.5 million, but the offsetting balances are owed by entities with no assets of value..

### PPSA Registrations

32. A search of the Personal Property Security Registration System in Ontario (“PPRS”) shows that there are also registrations against the Group in respect of certain specific equipment and vehicles. A copy of the PPRS search results for QRCL is attached to the affidavit of Don Rogers in the parallel Waygar application.

### Litigation

33. The company is not engaged in any material litigation out of the normal course of operations.

### Employee Liabilities

34. The Company is current in respect of payment of employee wages and vacation pay and amounts required to be remitted to governmental authorities for source deductions or otherwise. The current amounts owing in respect of wages and source deductions is just the prorated amount since the last weekly payroll before the filing is approximately \$225,000. The accrued vacation pay is also an ordinary course amount of approximately \$250,000. The Company proposes to pay these amounts to bring them current forthwith after filing.

### Suppliers

35. Amounts owing to trade creditors total approximately \$21.3 million as of June 30, 2023. Approximately \$9.2 million of that is in arrears. These arrears largely resulted from cash flow stress which the Group experienced from 2020-2022 during the difficult period of the Covid pandemic and the construction industry strikes of 2022 discussed below,, which was compounded in 2023 by Waygar’s restriction of lending from February 2023 forward, and then by Waygar’s further restrictions since the end of June 2023 on the Group’s access to its cash collections in its bank accounts, all as discussed further below. Many of the Suppliers have had to be paid on a COD basis over the past several months in order to secure continuing supply, although they may have been crediting those payments to their earliest accounts receivable to reduce the older arrears. A high level summary of the Group’s outstanding Accounts Payable, as at June 30, 2023, sorted by the

largest exposures with the names redacted is attached hereto as **Exhibit “C”**. The Waygar application asserts that there are up to \$11 million in trust claims against collections to come from builders associated with those payables, but that analysis has not yet been conducted in a granular way and the actual amount is not known, but Group management believes it would be lower than that.

36. During the CCAA proceedings until completion of the sale, ongoing payments to Suppliers are proposed to be funded by cash flow from receivables collections, the DIP Loan, and access to the Group’s funds on deposit in its bank, all as explained further below.
37. The amounts owing to the Group’s largest 10 trade creditors (“**Critical Vendors**”) total approximately \$13.4 million. Under the Sale Agreement discussed below, the Purchaser will have the option to strike agreements with the Critical Vendors and other suppliers regarding their indebtedness owed by the Group and the Buyer may elect to assume some of that debt. It is anticipated that negotiations with Suppliers re same will take place once CCAA protection is granted and prior to the closing of the Sale Agreement.

#### Sales Taxes

38. The Company also has repayment obligations to the Government of Canada in respect of H.S.T. of approximately \$306,000 and a liability to pay intercompany HST of approximately \$120,000. These amounts represent current amounts which have accrued since late June, 2023, which has not been able to be paid as the Company’s access to its receivables collections was unilaterally curtailed by its lender starting June 29, 2023 as further detailed below. The Group proposes to pay these outstanding HST obligations to bring them current forthwith after filing. There are no other material sales tax arrears.

#### **Causes of the QSG Group’s Financial Difficulties**

##### ***Covid 19 Pandemic Impacts 2020-2022***

39. The Covid-19 pandemic significantly impacted the construction industry, including the QSG Group. Without limiting the generality of the foregoing, the QSG Group has suffered financially as a result of the pandemic in the following respects:

- a. supply chain disruption in materials led to higher prices, longer lead times and challenges in meeting project timelines;
  - b. shortages of skilled labourers due to a slowdown in immigration into Canada. Further, Covid-19 government programs exacerbated the pre-Covid-19 labour shortage; and
  - c. strict health and safety requirements, lockdowns, use of personal protective equipment, distancing, daily employee screening and quarantining contributed to production challenges and short-term cost increases. The Omicron Covid-19 variant resulted in site shutdowns in 2022 resulting in construction delays.
40. Without limiting the above, as a “finishing trade”, ie the QSG Group’s independent contract installers are among the last to work on a property, delays that occur throughout the construction process have a compounding effect on installation schedules. The result was a reduction in revenues while carrying more inventory for longer periods as builders pushed the schedules for flooring installation even after the QSG Group had purchased the materials.
41. Global supply chain distribution issues, raw material price increases as well as increases in shipping and transportation costs resulted in significant increases in the costs of the QSG Group’s input materials. While the QSG Group has been successful in securing some price increases from their customers, there was an inevitable lag before the price increases could take effect impairing gross operating profit and liquidity. The QSG Group’s gross profit margins suffered in the short-term and liquidity was impacted.

***Ontario Residential Construction Strike 2022***

42. A further difficulty faced by the QSG Group in 2022 was the Ontario residential construction sector strike from May 1 to June 15, 2022. At various points during this 44 day strike trades such as the tilers, hardwood installers and carpet installers were on strike. In addition low rise framers, high rise form workers, self-leveling workers, drywallers, railings installers, and operating engineers were also on strike at points during this period.



43. Laborers' International Union of North America ("LiUNA") Local 183 (of which many of the QSG Group's installers were members at that time) wood and carpet installers were on strike for a full six weeks, and Local 183 tilers were on strike for several weeks as well. While the Local 31 high-rise tilers' union was not out on strike, this work was impacted by the stoppages of other trades which must be completed first.
44. The work which was delayed due to the construction strike was deferred causing a revenue lag impairing profitability and liquidity. The QSG Group was required to hold inventory for long periods of time in consequence. To compound matters, the builders that required imminent flooring installations, required, in many cases, different inventory than had been expected prior to the strike. The QSG Group hence was required to obtain and hold an increased amount of flooring colours, styles, and upgrade options, causing stress on liquidity.
45. The strike impacted the QSG Group's cash-flow dramatically. The QSG Group's working capital facility with Waygar is asset-based. Its availability is dependent on, to a large degree, the level of the QSG Group's accounts receivable. As the strike impacted the QSG Group's ability to supply flooring materials its accounts receivable balance dropped during that time causing further liquidity stress

#### **SOFA Advance and Recovery of the Business**

46. To assist the Group, in August 2022, Waygar authorized an interest only over-advance of \$10 million under its loan beyond the normal credit parameters of its loan (hereinafter the Secured Over Formula Advance or "SOFA Advance"). After getting through the challenges of Covid and the Strike, and with the benefit of the SOFA Advance, and improving pricing, the Company's accounts receivable and gross operating profit started to recover in Q4 2022. But to achieve a full recovery, either a further liquidity injection (via loan or equity), sale, or restructuring was required, so the QSG Group continued to be short of liquidity in consequence, preventing it from fully recovering and causing it to continue to miss out on contract and revenue growth opportunities. The SOFA amendment to the Waygar loan agreements is included in the Waygar loan documents

attached to the affidavit of Don Rogers filed in support of the parallel Waygar CCAA application.

47. As part of the SOFA arrangements, the Pacione Family injected another \$1 million into the business personally to help support the liquidity of the QSG Group, bringing their overall investment in the business to over \$10 million.

### **The CAAA, the Pre- Filing SISP and the Sale Agreement**

#### *The CAAA*

48. In recognition of the need for further liquidity from an external source, and in response to Waygar demanding its loan in January 2023, on February 14, 2023, Waygar and the QSG Group entered into a credit accommodation and amending agreement (“CAAA”) that provided that Waygar would forbear from enforcement and the QSG Group would conduct an out of court sales and investment solicitation process (“SISP”) to seek additional financing by loan or equity injection, a sale transaction, or a restructuring transaction, which could either be implemented out of court or through a court restructuring process. Further thereto, Waygar committed to advance an additional \$2.5 million to fund the SISP process and to allow the company to utilize 100% of its receivables collections to fund its operations notwithstanding any credit restrictions to the contrary in its loan agreements. A copy of the CAAA is attached the Don Rogers affidavit in the Waygar application.
49. The Group had requested that Waygar advance \$5 million under the CAAA to fund the SISP period, and management informed Waygar that failing to do so would start to cause the Group’s operations and receivables to erode and its payables to climb. However Waygar was only able to agree to \$2.5 million as the SISP advance under the CAAA, and asked the Group to continue to operate with compromised liquidity during the SISP process. Saddled with that constraint, management of the Group has done the best it could to keep the Group operating in the interests of all stakeholders, while an investor was sourced through the SISP to inject liquidity into the Group via a financing sale or restructuring,

*Conduct of the Pre-Filing SISP by A&M Corporate Finance*

50. Further thereto, the SISP has been conducted by Alvarez & Marsal Corporate Finance, a division of A&M Canada Securities ULC (“A&M”), a highly respected North American financial advisory firm selected by Waygar for the QSG Group to use for this purpose, further to an engagement letter between the QSG Group and A&M which was approved by Waygar and attached to the CAAA as a schedule. The engagement entitles A&M to a success fee and commits the QSG Group to seek protection of the payment of that fee from the resulting transaction proceeds. A copy of the A&M engagement letter as signed by A&M, the QSG Group and approved by Waygar is attached to the CAAA which is attached to the Don Rogers affidavit filed in the Waygar application.
51. In short the SISP process was part of the CAAA deal and was intended to effect the restructuring of the business through a financing, sale, or restructuring transaction. This was to be accomplished out of court if possible and through the court if necessary. The SISP process that Waygar and the Group jointly established was not a fishing expedition where Waygar would test the waters for buyers and then do the process over again. Both Waygar and the Group understood that the SISP was intended to be a broad canvassing of the market to identify counter-parties willing and able to produce a viable solution to the Group’s liquidity issues. Any insolvency filing that would then take place would be to implement the deal, not to start a new or different process to look for a different sale, financing, or restructuring.
52. The SISP process is summarized by A&M in its report on the SISP process which is appended to the Monitor’s Pre Filing Report. Some key points are as follows:
- (a) The SISP process commenced in March 2023;
  - (b) A data room was established;
  - (c) Around 300 parties were approached by A&M over the course of the SISP process fully canvassing the market options, including financiers, equity investors, financial buyers and strategic buyers;
  - (d) Multiple parties signed NDAs to access the due diligence room;

- (e) Indications of Interest (bids) were received;
- (f) The best transaction proposal was selected for further negotiation culminating in the Sale Agreement with the Buyer;
- (g) Waygar received periodic reports from A&M on the progress of the SISP.

53. At no time did Waygar ask for the process to be halted or altered, nor as far as I am aware did they ever suggest any counter-parties that should be contacted as potential bidders. The QSG Group, the potential bidders, the Purchaser, and A&M all proceeded and spent money in reliance on the process which Waygar requested and consented to. Waygar's attempt to resile from the process at the 11<sup>th</sup> hour by filing a CCAA application literally on the eve of the deal being signed with the Purchaser is not commercially reasonable, nor in good faith, and in the opinion of management has no prospect of producing a result as good as, let alone better than the deal on the table.

***The Sale Agreement***

54. The best offer which emerged through the SISP was determined by the Company with the assistance of A&M as financial advisor. The initial expression of interest of that proposed Purchaser was further negotiated by the QSG Group with the assistance of A&M and in consultation with Waygar. Those negotiations culminated on July, 25, 2023, when the QSG Group signed a letter of intent with the Purchaser (the "Sale Agreement") which contemplates the completion of the sale to the Purchaser within 6 weeks after an initial CCAA Order is obtained. The Purchaser is a reputable entity with the internal financial resources to fund the transaction without external borrowing. A redacted version of the Sale Agreement is annexed hereto and marked as Exhibit "D". The unredacted Sale Agreement will be a confidential appendix to the proposed Monitor's pre filing report.

55. Key aspects of the Sale Agreement and transaction are:

- (a) Purchased Assets: The business and assets of the QSG Group;

- (b) Price: (the amount is in the unredacted Sale Agreement) paid 30% in cash and the remaining 70% by a split of accounts receivables collections where the Group receives 80 cents of each dollar collected until the Purchase Price is paid;
- (c) Adjustment: The price is adjusted at Closing to the extent the business has deteriorated from its May 31 financial position, and in particular if AR and inventory levels have declined from the May 31 benchmark;
- (d) Closing: No later than 6 weeks after the CCAA Initial Order is granted;
- (e) DIP Financing: The Purchaser will extend up to \$3 million in DIP financing to permit the QSG Group to implement the Sale Agreement through a CCAA process, conditional on the Group also being permitted to use the cash in its blocked accounts;
- (f) Going Concern Deal: the Purchaser will recapitalize the business post closing and continue it as a going concern;
- (g) The Purchaser will negotiate terms with management as to their future participation in the business;
- (h) The Purchaser will assume most of the employees;
- (i) Contracts with developers would be assumed, and protected by continuing operations to fulfill the contracts and to ensure there is a continuing entity standing behind the warranties that QSG offers with installations;
- (j) No liabilities will be assumed, but the Purchaser has the option to assume some of the debts to suppliers to the extent needed to ensure the successful operation of the business going forward; and
- (k) The transaction is conditional on an approval and vesting order being issued.

56. At this point, the Sale Agreement is at the executed Letter of Intent stage. Ironbridge has completed business due diligence and waived issues re same and has moved on to legal due diligence which is proceeding to complete. In parallel with that, Ironbridge counsel is currently preparing the DIP Term Sheet contemplated by the LOI, with a view to getting the DIP loan and related definitive documentation approved at the Comeback Hearing (defined below). Once legal due diligence is completed, the sale part of the transaction will also move to definitive documentation, including an Asset Purchase Agreement and

ancillary documentation. The objective is to finalize the definitive sale documentation before the Comeback Hearing so that an Approval and Vesting Order can be sought at that hearing.

57. Ironbridge is not just a financial buyer, and they are no stranger to successfully completing a purchase through a CCAA process. Earlier this year they purchased the business and assets of Gesco Industries Inc and affiliates (“Gesco”) through a CCAA interim sale. Gesco is also active in the Canadian flooring industry, operating as a distributor of flooring and related products on a national scale.. Ironbridge formerly owned Gesco so they know the industry well. The chance that the Group will find another strategic buyer who knows the industry, with its own internal resources to fund the liquidity needs of the business, and happens to be in acquisition mode at this moment, is close to zero.
58. QSG Group Management is of the opinion that the market has been fully canvassed and this is the best offer available, and that conducting a further SISP process will not produce a superior offer. It saves a 55 year old business, gets the best price available from a sound buyer with financial capacity to supply the business with sufficient liquidity to operate profitably, protects jobs and builder customers, protects the retail customers of builders who are waiting to move into residences they have put down deposits to secure, avoids work interruptions for the Group’s installation subcontractors, and creates future work for suppliers and some prospect for these suppliers to negotiate terms re assumption of existing exposures.

### **Liquidation Analysis by RSM**

59. As the pre-filing SISP process approved by Waygar contemplated that the transaction may need to be implemented as a sale or restructuring transaction through a formal insolvency process, the QSG Group engaged RSM Canada Limited as proposed CCAA Monitor, and requested that they prepare a liquidation analysis of the Company to serve as a baseline for comparison with the outcome of the SISP. A copy of their liquidation analysis is a confidential appendix the Pre-Filing Report of the proposed Monitor. In a

nutshell, the price in the Sale Agreement produced through the SISP is vastly superior to what is obtainable through liquidation.

### **Waygar's Going Concern Liquidation Approach is not Feasible**

60. Waygar's proposed manner of proceeding proposes:
- (a) handing over management to an accounting firm with no evidence of any expertise in the construction business;
  - (b) collecting accounts receivables from builders while progressively winding down the business (their cash flow shows a progressively declining payroll over 12 weeks, and dramatically declining payments to installers. This is evident from a comparison set out in the proposed Monitor's Pre-Filing Report; and
  - (c) attempting to solicit buyers in a compressed timeframe for a business they are winding down.

In short Waygar wants to attempt an orderly wind down liquidation of the Group with little prospect of any benefit for other stakeholders

61. In the opinion of Group management, there is no conceivable orderly wind down liquidation approach that can match the Sale Agreement outcome, and attempting to go that route would likely produce extremely poor results. This is due to the nature of business operations and contracts in the construction industry. QSG Group's business is wholly dependent on the builders paying their accounts receivables and granting new contracts to QSG for further flooring installations. Three things are particularly essential to QSG's builder customers:
- (a) on-time installation of flooring by QSG Group so as not to disrupt the builders timeline to complete and sell units and thereby retire its project related financing, and

- (b) the right of recourse to QSG Group to honour warranties for deficiencies in flooring supplied, both to correct issues before the project is sold, and afterwards, as their Purchasers have a right of recourse against the builders for same.
- (c) trusted relationship with QSG Group management so that they know the supplier can perform as promised.

Waygar's proposed manner of proceeding in its application cannot meet any of the critical criteria of the builders.

62. If QSG Group fails to honour these expectations, builders have rights under building contracts to terminate QSG' contracts, engage new suppliers to provide the flooring installations, withhold receivables payments and claim set offs against the receivables for the cost of mitigation and damages. The RSM Liquidation Analysis is based on discussions with management about these issues and assumes that is what will happen. Builders have these strong rights because:

- (a) Builders typically have obligations both to the financiers who finance construction ( construction finance would be far less available without the ability of builders to protect the completion of their projects),
- (b) Purchasers who have often paid deposits and planned their lives around taking occupancy. (Thousands of Purchasers would be affected if builders could not take quick action to ensure the continuity of their projects, and indeed thousands of Purchasers would be affected if QSG Group could not complete its scheduled installations and stand behind its installations post completion); and
- (c) For those reasons, builders will be very proactive in exercising the full extent of these rights to the full extent permitted by law.

63. The builders rely on relationships with QSG management built over decades. They will have no confidence in the capacity of an accounting firm to try to take over management of the QSG Group, nor of their reliability to attempt to start fulfilling construction supply contracts, nor to select replacement suppliers to fulfill them if necessary. The builders



will set off and terminate through the CCAA process rather than permit that. Such an approach is commercially unrealistic and will produce extremely poor receivable collection results, and cause the rapid deterioration of the business leaving little to sell.

64. Waygar is an asset based lender not a construction lender and its application materials do not state that Waygar or its proposed monitor/receiver Fuller Landau Group Inc. (“Fuller”) have experience in trying to maximize value for a distressed business in the construction industry. Their affiant Don Rogers has 30 years of experience in commercial and asset based lending and there is no issue with his capabilities in that field, but his experience does not appear to be in construction related lending and no claim is made in the Waygar application to the contrary. Waygar’s CCAA Application is a de facto receivership to be run by Fuller, and Group management is strongly of the view that this approach is not going to work to maximize value for QSG stakeholders given the construction industry context, and that the Sale Agreement is the best possible outcome, even if a compressed further SISIP were coupled with the orderly wind down attempt which Waygar proposes to have Fuller undertake.
65. Waygar’s application materials do not address key issues and risks with respect to the realization plan it envisages:
- (a) No security opinion about whether Waygar has valid security;
  - (b) No liquidation analysis;
  - (c) No estimate of obtainable value through their AR collection plan;
  - (d) No estimate of obtainable value thru a compressed SISIP;
  - (e) No estimate of the risk facing the company if their plan does not work;
  - (f) No details of their proposed compressed SISIP; and
  - (g) No statement of re any construction industry experience of Fuller or Waygar or Don Rogers.

### **Waygar Restrictions on QSG Liquidity since May 2023**

66. As noted above, Waygar underfunded the SISIP process, thereby putting the QSG Group under further liquidity stress as it conducted the SISIP, leading to unavoidable operational

deterioration which naturally impacts going concern realizable value. In short Waygar's unwillingness or inability to fully fund QSG's operational requirements during the SISF process has worked against Waygar's own interests.

67. Then starting in May 2023, Waygar made things worse. Under the CAAA, Waygar promised to advance \$2.5 million more to QSG Group to fund the SISF process and to let QSG Group use all of its cash and collections as working capital. Despite these commitments by Waygar in the CAAA in connection with the SISF process, and despite the fact that the SISF process was still ongoing and a potential Purchaser had been selected for negotiations of a definitive transactions, Waygar has since May 2022 restricted the QSG Group's access to its working capital as follows:

- (a) At the beginning of May, Waygar failed to advance the final \$250,000 installment it had committed under the CAAA to advance to fund the SISF process, (it only advanced \$2.25 Million to May 12, 2023 instead of the \$2.5 Million it promised to advance);
- (b) On June 29, 2023, with no advance notice, Waygar arbitrarily began withholding 15% of all QSG Group account receivables collections held in the Blocked Account, despite Waygar's commitment under the CAAA to allow the QSG Group to use 100% of those receipts to fund operations during the ongoing SISF process. As a result, as of August 2, 2023, there is now over \$6 million in cash trapped in the Blocked Account that Waygar is preventing the QSG Group from using. If that liquidity had been permitted to be used as working capital in the business as promised, the business would be in better condition, suppliers would be owed less, the company would have higher revenues and accounts receivables, and the risk of a price adjustment on the closing of the Sale Agreement would be lower.

68. Waygar's actions have impaired the QSG Group's cash flow and liquidity which has caused the further rescheduling of flooring installations (the lifeblood of its business), the loss of some new contract opportunities, limited supplier purchases, cash flow stress, and

some business deterioration. Waygar has nevertheless continued to require the QSG Group to pay Waygar substantial interest on its loan throughout the SISP process even while it was restricting the QSG Group's access to its cash, including approximately \$475,000 it transferred to itself this week while released no money to the Group since July 28, 2023. Reducing QSG Group liquidity during the sale process is counterproductive for all stakeholders, as it risks depressing realizable value on a going concern sale through loss of contracts and opportunities, and the risk of builder set-offs.

69. The restriction on liquidity since Feb 14, 2023 can be seen in the pattern of lost contracts which QSG has experienced. The Group has lost 11 contracts: 1 in March, 1 in May, 2 in June. But then after the restriction on full access to the funds in the Blocked Account was imposed on June 29, 2023, the Group has lost 7 contracts. The overall volume of lost contracts is not that alarming as the Group has more than 100 contracts in various stages and some customers have indicated a willingness to return once the Group stabilizes. However, the accelerating trend is of serious concern. The trend suggests strongly that the Group needs to be stabilized by access to its cash in the blocked account and then to the proposed DIP financing, and that it needs to complete the proposed going concern sale transaction forthwith. Waygar's plan to curtail staff and installer payments as shown in its cash flow forecast in the Fuller Report, will exacerbate the loss of contracts quickly and would not be a viable approach to sell the business as a going concern.

### **The QSG Group's CCAA Application**

70. The QSG Group is filing this Application under the *Companies' Creditors Arrangement Act* (the "**Application**") to implement the going concern sale of the company to the successful bidder in the SISP process (the "Purchaser"), and the related interim (DIP) financing which will stabilize its interim operations, and to carry out a claims process and the distribution of the resulting proceeds via a plan or otherwise.
71. A comprehensive multi-month SISP process was undertaken at Waygar's request and in the manner it requested, and this is the best offer which emerged from that process.

72. At no time prior to tabling its competing CCAA application on July 24, 2023 did Waygar suggest that QSG Group pursue a different process. Given the comprehensive process which has already been conducted by the QSG Group and its financial advisor in accordance with the specific request of Waygar, there is no reason to think conducting a further process would produce a better result. To do so would risk losing the deal already on the table and would risk unnecessary further deterioration of the QSG Group's business, with consequent damage to its employees customers and suppliers.
73. To preserve the business and to produce the best result for all stakeholders, it is critical to proceed forthwith to implement the Sale Agreement and Interim (DIP) Financing through the CCAA process proposed herein.

### **Interim (DIP) Financing**

74. This Application also seeks approval of interim financing arrangements as follows:
- (a) Approval of \$3 million in DIP financing, which the Purchaser has committed to provide under the Sale Agreement, to finance the CCAA process through to closing of the Sale Agreement. The DIP is proposed to be secured against the assets of the QSG Group in priority to Waygar and to be repaid from the cash closing proceeds under the Sale Agreement. That will enable the Company to finance the restructuring through closing.
  - (b) Approval of the right to access and utilize the approximately \$6 million in cash trapped in its blocked accounts held by QSG Group at the Toronto-Dominion Bank. Access to those funds could reduce the need for recourse to the DIP Loan, and their availability would enable the QSG Group to fund the remaining steps in the CCAA process following the closing of the Sale Agreement (at which time the DIP facility would be repaid from the sale proceeds pursuant to the Sale Agreement, meaning the Group would then propose to access its cash in its Blocked Accounts to fund the remaining steps in the CCAA process as required.)

Approval of the DIP facility would be sought at the 'Comeback Hearing' following the making of the Initial Order ("Comeback Hearing"), once the definitive DIP Loan documentation has

been completed with the Purchaser, so the immediate need on the initial hearing is to free up the right to use the cash currently trapped in the Blocked Account.

75. The Sale Agreement with the Purchaser sets out the terms on which interim finance will be made available by the Purchaser during the restructuring and a DIP Agreement (the “**Interim Lending Agreement**”) is being finalized to permit the interim advances to be made as needed following the granting of CCAA protection.
76. The DIP terms in the Sale Agreement contemplate that the Company will be permitted by the court to use its cash receipts trapped in the Blocked Account.. To the extent that the trapped cash is made available for QSG Group to use to finance operations during the CCAA period, there may be less need for recourse to the DIP. As the DIP is repayable from the sales proceeds, there is no ultimate impact on Waygar from freeing up the funds in the Blocked Account and thereby reducing the need for recourse to the DIP; Waygar ends up in the same position as it is the first secured creditor.
77. The proposed Monitor will be filing a copy of the Interim Lending Agreement with the court once it is finalized. It is anticipated to be finalized in the period between the Initial Order and the Comeback Motion and approval of the Interim Lending Agreement would be sought on that motion. The Group would need access to the cash in the Blocked Account to fund in the interim.
78. The proposed interim (DIP) financing is necessary to enable the QSG Group to meet its immediate, short-term liquidity needs so as to continue to operate through this period to preserve its going concern value through to sale completion.
79. The DIP Term Sheet contemplates definitive documentation will be entered into and is subject to Court approval. I am advised by QSG Group counsel that this agreement will contain terms which are customary for a loan advanced as part of an insolvency proceeding, including the requirement for security ranking in priority to all existing charges, security interests and other encumbrances, other than the Administration Charge (the “Interim Lending Charge”).

80. The Company will have no reasonable prospect of making a viable plan or restructuring or selling its business if it does not obtain the contemplated financing.
81. I believe that Purchaser is the most logical DIP lender given that:
- (a) it is motivated to complete the transaction and hence unlike third party lenders is not focussed on the profit from the loan as the source of transactional return, which keeps the loan cost and availability more than competitive
  - (b) it has done extensive due diligence allowing it to gain confidence that the loan will be repaid, whereas third party lenders would need a material ramp up time to make a decision
  - (c) it is offering the finance at an interest rate comparable to or below what one would expect to be able to find in the marketplace.

### **Proposed Monitor**

82. RSM is proposed as the Monitor in the Application (variously herein the “**proposed Monitor**” or the “**Monitor**”). RSM is a global accounting and advisory brand with a national platform in Canada with deep experience in CCAA and other insolvency matters.

### **Cash Flows of the Applicants**

83. The Monitor has assisted the Group in preparing a consolidated cash flow forecast (the “**Cash Flow Forecast**”) which sets out projected cash flows of the Applicants for the period ending 13 weeks from the date of the Initial Order (the “**Cash Flow Period**”), a copy of which is **appended to the proposed Monitor’s Pre-Filing Report**.
84. As set out in the Cash Flow Forecast, the Group anticipates that the pending Sale Transaction will be closed within 6 weeks after filing , with its operations funded from its cash on hand, cash inflows backed by a \$3 Million DIP. The DIP Loan will then be repaid forthwith after closing from the Closing proceeds. The Group is expected to have greatly reduced cash outflows after closing, which would need to be funded from the funds in the Blocked Account. That would provide sufficient liquidity to operate through

the remaining 7 weeks of the Cash Flow Period, during which time the Company proposes to conduct the distribution of proceeds and wind down and completion of the CCAA proceeding. The Cash Flow Forecast does not include the Sales Proceeds, and it is not expected that remaining CCAA activities post sale closing would need recourse to those funds.

85. The QSG Group is expected to have sufficient liquidity to operate to the end of Cash Flow Period, provided it continues to have access to interim financing and/or the release of the funds in the blocked account. As the DIP facility is not anticipated to be approved until the Comeback Hearing, in order to have sufficient liquidity to operate through to the Comeback Hearing, the QSG Group needs to access the funds in the Blocked Account. Assuming the Comeback Hearing is in Week 3 of the Cash Flow Period, the Group would need the funds set out in the Cash Flow through to Week 3.
86. The QSG Group will have no reasonable prospect of completing the sale or restructuring its business if it does not obtain the contemplated financing and/or the release of the funds in the blocked account.

#### **Administration Charge and D&O Charge**

87. The QSG Group seeks an order granting a charge over its property securing the fees and disbursement of counsel to the Company, the Monitor and its counsel in the amount of \$750,000 (the “**Administration Charge**”). The professionals whose fees are to be secured by the Administration Charge have taken on, and will continue to take on, a critical role in this proceeding.
88. The QSG Group seeks an order granting an indemnity secured by a charge in the amount of \$600,000 (the “**D&O Charge**”) over its property in respect of any amounts in respect of unpaid wages source deductions vacation pay or HST for which any directors of officers of the QSG Companies may become liable.
89. The Company has worked with the Monitor to estimate the proposed quantum of the Administration Charge and the D&O Charge. The amount of the Administration Charge contemplates that professionals are paid on a current basis during this proceedings.

**SISP Proceeds Charge re Financial Advisor Success Fee**

90. The QSG Group seeks an order granting a charge to secure the A&M success fee promised to it in its engagement letter approved by Waygar (the “SISP Proceeds Charge”), which charge shall be limited to the cash proceeds resulting from the transaction with the Purchaser and not to other assets of QSG Group. The success fee is only payable from the transaction proceeds if there is a successful closing of the sale transaction (or an alternative transaction if captured by the terms of the engagement letter). The Success Fee is based on a formula which is set out in A&M’s engagement letter.

**Ranking of Charges**

91. The Charges sought to be created in the property assets and undertaking of the QSG Group are proposed to rank in priority in the following order:

- (a) Administration Charge;
- (b) DIP Charge;
- (c) SISP Proceeds Charge (Charge limited to the Cash Proceeds of the Sale);
- (d) D&O Charge.

**Additional Applicants**

92. The companies listed in Schedule A.1 hereto, namely

- (a) Malvern Contract Interiors Limited (“Malvern”);
- (b) Weston Hardwood Design Centre Inc (“Weston”);
- (c) Ontario Flooring Ltd. (“Ontario FL”);
- (d) Timeline Floors Inc. (“Timeline”).

are part of the QSG group and along with the Applicant QRCL are the QSG operating companies (collectively the “QSG Opcos”) which operate QSG’s business and hold substantially all of the assets to be sold under the Sale Agreement. They are liable under the loan agreements with Waygar as guarantors, and have various other obligations to



their suppliers and third parties, and hence also applicants for CCAA protection in this application.

93. The companies and entities listed in Schedule “A.2” hereto, namely:

- (a) Quality Commercial Carpet Corporation;
- (b) Joseph Douglas Pacione Holdings Ltd.;
- (c) John Anthony Pacione Holdings Ltd.;
- (d) Jopac Enterprises Limited;
- (e) Patjo Holdings Inc.;

are the “QSG Holdcos” of various QSG Opcos as discussed above, and have guaranteed Waygar’s Loans to the QSG Opcos and pledged their shares in the QSG Opcos structure as security therefor. In order to facilitate the ongoing operation of the QSG Group during the CCAA Group, it is necessary for them to a stay of proceedings to be extended to them and their directors and officers.

### **Sealing Order**

94. The QSG Group is requesting an order sealing confidential appendices to the Pre-Filing Report containing sensitive financial information including about the pre filing sales and investment solicitation process conducted by the QSG Group. The Proposed Monitor does not believe that any stakeholder will be prejudiced if such information is sealed.

### **Waygar’s Stealth CCAA Application and Other Commercially Unreasonable Conduct**

95. Since mid-2022, Waygar has struggled to communicate with QSG Group about its liquidity needs in a commercially reasonable manner. Requests for additional liquidity in connection with the SOFA negotiations and the CAAA negotiations were met with long silences even when it was obvious what should be done to protect the business and Waygar's investment. The reasons for Waygar’s inability to respond to matters or make decisions in a timely fashion was not explained.

96. This conduct continued during the SISP period. Both management and A&M experienced a lack of timely responses to requests for input on the Buyer's bid, notwithstanding Waygar's role in the establishment of the SISP process. Waygar's inability to respond was not explained.
97. Even prior to the June 29 restrictions on cash access, Waygar caused delays in Waygar making the cash in the Blocked Account available to pay bills, despite the promise in the CAAA that the Group could use 100% of those funds in its operations.
98. Starting on June 29, 2023 Waygar imposed a unilateral restriction on the use of cash in the Group's receipts account at its bank, despite the terms of the CAAA. Waygar advised it would hold back 15% of the cash then in the account, and 15% of every future receipt that entered the blocked account thereafter. It now appears that what Waygar was doing was trying to make the Group operate for 5 weeks (July 29 to August 4) without sufficient cash while it caused the Group to build up a cash reserve to try to fund Waygar's misconceived CCAA/Receivership application, because Waygar does not seem to have the internal resources to act as its own DIP financier..
99. On July 4, 2023, Waygar contacted the Commercial List Office to request the August 4 date for its application. It described the application as contested but did not contact QSG counsel for input on dates or disclose that it was planning to bring a CCAA Application..
100. On July 5, the Commercial List Office wrote to Waygar counsel to tell them to notify QSG Group counsel of the date request. The instruction to do so was highlighted in yellow.. Waygar ignored this and continued to proceed to book the date without opposing counsel's knowledge, in what I am advised by counsel is an apparent violation of the Commercial List Practice Direction.

101. Fuller signed its consent to act as CCAA Monitor on July 18, 2023.
  
102. No disclosure was made to QSG Group or its counsel of the booking of the August 4 court date or the pending application until the application was served on July 24, the same day the QSG Group received the signed LOI from the Purchaser. Had Waygar been communicating and complying with the rules of procedure instead of planning a sneak attack for 4 weeks, it would have known that the LOI was coming. It makes no sense to have served its application when it did. Attached hereto and marked as Exhibit 'E' is a copy of an email chain between Waygar's counsel and the Commercial List office starting on July 4, 2023, together with an email from QSG Counsel to Waygar counsel asking for an explanation of how the proceeding was booked without advising opposing counsel, and the explanation provided.
  
103. Waygar then compounded the error by randomly serving the CCAA Application on 3 suppliers out of the many suppliers QSG has. Suppliers talk in the construction business and an lender experienced in that business would never have done that. That was a unnecessary risk to take with a going concern business.
  
104. Waygar served its application QSG counsel on July 24, 2023 with a threat that if it was opposed, it would be converted into a receivership application and sent the draft receivership Notice of Application to QSG Counsel together with the CCAA materials it served.
  
105. Once it served the Application, Waygar was immediately informed on July 25 2023 that the Sale Agreement had been signed further to the SISP and was asked to adjourn its Application to August 14, 2023, as the process would be disorderly if the parties attempted to deal with the sale and the competing CCAA applications in the limited time before the 4<sup>th</sup>. Waygar refused.

106. On July 28, 2023, QSG Group notified Waygar that it intended to bring its own application for CCAA protection and to seek implementation of the Sale Agreement further to the SISF. In response, Waygar threatened to hold the directors personally liable if they sought CCAA protection for the Group..
107. Then, starting on July 28, 2023, Waygar refused to transfer any funds from the blocked accounts to QSG Groups disbursement account at TD to allow QSG to pay its bills, , which has left the Group precariously short of available cash as the balance in its disbursement account gets utilized without being replenished, even though it has millions in the bank. No reason was given by Waygar for this step.
108. Waygar was asked again on August 1 and 2 to release the funds so the company could plan its operating payments. Waygar did not respond. The QSG Group disbursement account now has less than \$1,000,000 exclusive of outstanding cheques and little to nothing if outstanding cheques are taken into account. Approximately \$ 6.18 million is in the receipts account to which Waygar is improperly blocking access.
109. Notwithstanding starving the company of cash to force it to run down its remaining free cash resources, Waygar paid itself approximately \$475,000 in interest from the Company's blocked cash this week.
110. Waygar issued its threatened Receivership Application on August 2, 2023. It now has served a stealth CCAA Application on July 24, a confidential supplemental affidavit on July 31, 2023 responding to the Sale Agreement, and now issued a Receivership Application on August 2, 2023, all for a proceeding it scheduled unilaterally for August 4, 2023.
111. Waygar's conduct is commercially unreasonable and wholly inappropriate in the circumstances. Waygar appears to be more concerned with tactical advantage than with

the operational health of the business to be protected, or protecting the value of the business to be realized through a transaction, or protecting the transaction being finalized through the SISP it participated in establishing, or protecting other stakeholders, or in conducting an orderly proceeding. Its application should be stayed dismissed, or adjourned in consequence.

**AFFIRMED before me** at the City of Toronto,  
in the Province of Ontario, on August 3, 2023,  
in accordance with O. Reg. 431/20,  
Administering Oath or Declaration  
Remotely



DocuSigned by:

Saisha Mahil

6DB6C86A890492...

Commissioner for Taking Affidavits  
(or as may be)  
Saisha Mahil LSO #80083T

DocuSigned by:

John Pacione

D59AF63ECDD02EA

**JOHN PACIONE**



THIS IS **EXHIBIT “A”** REFERRED TO

IN THE AFFIDAVIT OF

JOHN A. PACIONE, AFFIRMED BEFORE ME in the City of Toronto via  
videoconference in accordance with O. Reg 431/20, Administering Oath or Declaration  
Remotely

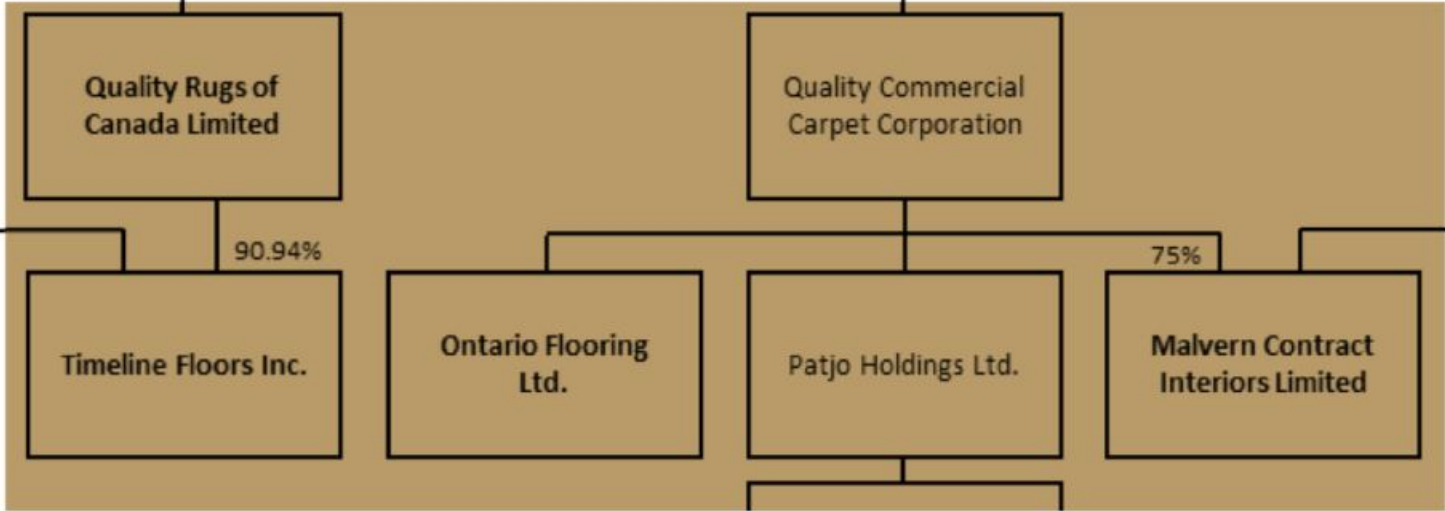
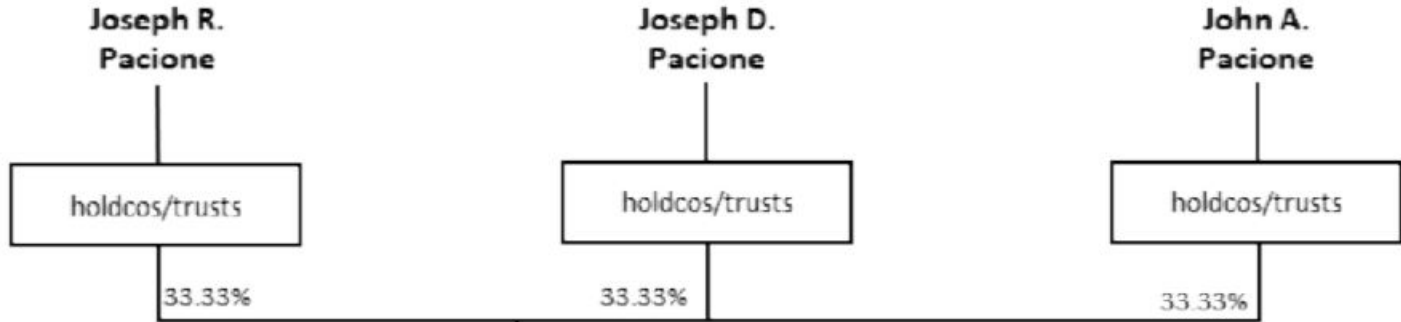
THIS 3<sup>rd</sup> DAY OF AUGUST, 2023

DocuSigned by:

*Saisha Mahil*

6DDB6C80A890482...

A COMMISSIONER FOR TAKING AFFIDAVITS  
SAISHA MAHIL LSO #80083T



Timeline managers

9.06% + options

Malvern founder's family

25%

THIS IS **EXHIBIT “B”** REFERRED TO

IN THE AFFIDAVIT OF

JOHN A. PACIONE, AFFIRMED BEFORE ME in the City of Toronto via  
videoconference in accordance with O. Reg 431/20, Administering Oath or Declaration  
Remotely

THIS 3<sup>rd</sup> DAY OF AUGUST, 2023

DocuSigned by:

*Saisha Mahil*

6DDB6C80A890492...

A COMMISSIONER FOR TAKING AFFIDAVITS  
SAISHA MAHIL LSO #80083T



Quality Sterling Group  
 Unaudited Financial Statements as at  
 May 31, 2023

Period 12

Combined Balance Sheet	QRCL dba Quality Sterling Group	Malvern	WHDC	OFL	Timeline	Eliminating Entries	Combined Balance 05/31/2023
<b>ASSETS</b>							
Current Assets							
Cash	\$ 1,167,541	\$ 687,570	\$ 376	\$ 15	\$ 903,306	\$ 3,281,185	\$ 2,329,741
Accounts Receivable	25,690,840	7,417,218	26,101	-	6,647,307	(676,934)	\$ 39,104,532
Holdback Receivable	3,991,419	1,219,835	-	-	2,856,233	-	\$ 8,067,487
Accrued Revenue	1,991,453	280,563	-	-	1,578,324	-	\$ 3,850,340
Other Receivables	254,086	20,617	-	-	90,130	-	\$ 364,833
Intercompany Receivable - Related Parties (MCI)	2,277,729	2,633,893	-	-	2,293,825	356,164	\$ 7,520,939
Inventory	4,033,057	1,194,057	-	-	633,121	-	\$ 1,915,648
Work in Process and goods in transit	1,278,279	4,248	-	-	-	-	\$ 3,372,000
Income Tax Recoverable	3,372,000	-	-	-	-	-	\$ 1,017,989
Prepaid Expenses	488,447	402,737	8,199	-	118,606	-	\$ 67,543,508
<b>Total Current Assets</b>	<b>\$ 42,209,769</b>	<b>\$ 7,217,812</b>	<b>\$ 34,676</b>	<b>\$ 15</b>	<b>\$ 15,120,852</b>	<b>2,960,414</b>	<b>\$ 67,543,508</b>
Long-Term Assets							
Long-Term Deposits	-	-	-	-	-	-	\$ -
Property, Plant & Equipment	1,318,875	64,012	37,011	24,301	278,481	-	\$ 1,722,680
Tax Losses Recoverable	-	-	21,000	-	25,000	-	\$ 46,000
Intangible Assets	-	-	144,999	96,748	1,086,750	-	\$ 1,328,497
Goodwill	-	-	-	-	781,201	-	\$ 781,201
Investment in Northwood	350,000	-	-	-	-	-	\$ 350,000
Investment in Timeline	3,000,000	-	-	-	-	(3,000,000)	\$ -
Due from related parties	16,603,335	64,012	1,824,603	(256,086)	(9,477,152)	(213,001)	\$ 8,481,699
<b>Total Long-Term Assets</b>	<b>\$ 21,272,210</b>	<b>\$ 64,012</b>	<b>\$ 2,027,613</b>	<b>(135,037)</b>	<b>(7,305,720)</b>	<b>(3,213,001)</b>	<b>\$ 12,710,076</b>
<b>Total Assets</b>	<b>\$ 63,481,979</b>	<b>\$ 7,281,824</b>	<b>\$ 2,062,289</b>	<b>(135,052)</b>	<b>\$ 7,815,132</b>	<b>(252,587)</b>	<b>\$ 80,253,585</b>
<b>LIABILITIES</b>							
Current Liabilities							
Bank indebtedness	\$ -	\$ -	-	-	-	-	\$ -
Loan Payable - Waygar	50,569,860	-	-	-	-	-	\$ 50,569,860
Current Portion of Debts	588,702	-	-	-	38,542	-	\$ 588,702
Due to Related Parties	-	-	-	-	2,467,741	2,747,413	\$ 38,542
Accounts Payable	16,416,513	2,900,035	2,795	-	1,559	-	\$ 24,534,497
Income Taxes Payable	-	-	76	-	173,666	-	\$ 1,483
Deferred Revenue	-	-	-	-	-	-	\$ 173,666
<b>Total Current Liabilities</b>	<b>\$ 67,575,075</b>	<b>\$ 2,900,035</b>	<b>\$ 2,719</b>	<b>\$ 1,559</b>	<b>\$ 2,679,949</b>	<b>\$ 2,747,413</b>	<b>\$ 75,906,750</b>
Long-Term Liabilities							
Mortgage Payable	427,357	16,423	-	-	2,168	-	\$ 441,612
Finance Contracts Payable	-	12,000	-	-	-	-	\$ 12,000
Deferred Taxes	-	358,265	-	-	-	-	\$ 358,265
Long Term Debt Unsubordinated	(588,702)	-	-	-	-	-	\$ (588,702)
Less - Current Portion	10,052,443	1,823,468	-	-	-	-	\$ 11,875,911
Related Party Loans - Subordinated	2,281,735	-	-	-	-	-	\$ 2,281,735
Other Subordinated Debt	-	-	-	-	-	-	\$ -
<b>Total Long-Term Liabilities</b>	<b>\$ 12,172,833</b>	<b>\$ 2,210,157</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 2,168</b>	<b>\$ -</b>	<b>\$ 14,380,822</b>
SHAREHOLDERS' EQUITY							
Common Shares	4,611,490	108,782	100	101	3,260,000	(3,260,000)	\$ 4,720,473
Non Controlling Interest	-	-	-	-	-	-	\$ -
<b>Retained Earnings</b>	<b>(20,877,419)</b>	<b>2,062,850</b>	<b>2,059,470</b>	<b>(136,712)</b>	<b>1,877,351</b>	<b>260,000</b>	<b>(14,754,460)</b>
<b>Total Liabilities and S/E</b>	<b>\$ 63,481,979</b>	<b>\$ 7,281,824</b>	<b>\$ 2,062,289</b>	<b>(135,052)</b>	<b>\$ 7,815,132</b>	<b>(252,587)</b>	<b>\$ 80,253,585</b>

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Quality Sterling Group  
Unaudited Financial Statements as at  
May 31, 2023

Period 12

	QRCL dba Quality Sterling Group	Malvern	WHDC	OFL	Timeline	Eliminating Entries	Combined Balance 05/31/2023
<b>Trailing Twelve Month Income Statement</b>							
<b>May 31, 2023</b>							
Sales	86,614,980	25,553,789	52,095	-	21,945,614	-	134,062,288
CoGS	73,401,867	20,368,240	-	-	18,646,982	-	112,417,089
Inventory Adjustment	-	-	-	-	-	-	-
Gross Profit	13,213,113 15.3%	5,185,549 20.3%	52,095 100.0%	-	3,298,632 15.0%	-	21,645,199 16.1%
SG&A	12,923,877	4,030,583	28,472	16,158	3,703,177	-	20,702,267
Interest	5,637,801	13,340	11	-	270	-	5,651,422
Reorganization Costs	1,454,178	-	-	-	387,990	-	1,842,168
Tax Expense	-	-	-	-	-	-	-
<b>Net Income</b>	<b>(6,802,743)</b>	<b>1,141,626</b>	<b>(80,578)</b>	<b>(16,158)</b>	<b>(792,805)</b>	<b>-</b>	<b>(6,550,658)</b>
Interest	5,637,801	13,340	11	-	270	-	5,651,422
Depreciation	168,781	22,254	24,872	16,158	278,981	-	511,046
Reorganization Costs	1,454,178	-	-	-	387,990	-	1,842,168
Tax Expense	-	-	-	-	-	-	-
<b>EBITDA</b>	<b>458,017</b>	<b>1,177,220</b>	<b>55,695</b>	<b>0</b>	<b>(125,564)</b>	<b>-</b>	<b>1,453,978</b>
<b>12 Month(s) Ended 05/31/2023</b>							
	Quality Sterling	Malvern	WHDC	OFL	Timeline	Eliminating Entries	12 Month(s) Ended 05/31/2023
Sales	86,614,980	25,553,789	52,095	-	21,945,614	-	134,062,288
CoGS	73,401,867	20,368,240	-	-	18,646,982	-	112,417,089
Inventory Adjustment	0	-	-	-	-	-	-
Gross Profit	13,213,113 15.3%	5,185,549 20.3%	52,095 100.0%	-	3,298,632 15.0%	-	21,645,199 16.1%
SG&A	12,923,877	4,030,583	28,472	16,158	3,703,177	-	20,702,267
Interest	5,637,801	13,340	11	-	270	-	5,651,422
Reorganization Costs	1,454,178	-	-	-	387,990	-	1,842,168
Tax Expense	-	-	-	-	-	-	-
<b>Net Income</b>	<b>(6,802,743)</b>	<b>1,141,626</b>	<b>(80,578)</b>	<b>(16,158)</b>	<b>(792,805)</b>	<b>-</b>	<b>(6,550,658)</b>
Interest	5,637,801	13,340	11	-	270	-	5,651,422
Depreciation	168,781	22,254	24,872	16,158	278,981	-	511,046
Reorganization Costs	1,454,178	-	-	-	387,990	-	1,842,168
Tax Expense	-	-	-	-	-	-	-
<b>EBITDA</b>	<b>458,017</b>	<b>1,177,220</b>	<b>55,695</b>	<b>0</b>	<b>(125,564)</b>	<b>-</b>	<b>1,453,978</b>

THIS IS **EXHIBIT “C”** REFERRED TO

IN THE AFFIDAVIT OF

JOHN A. PACIONE, AFFIRMED BEFORE ME in the City of Toronto via  
videoconference in accordance with O. Reg 431/20, Administering Oath or Declaration  
Remotely

THIS 3<sup>rd</sup> DAY OF AUGUST, 2023

DocuSigned by:

*Saisha Mahil*

6DDB6C80A890492...

A COMMISSIONER FOR TAKING AFFIDAVITS  
SAISHA MAHIL LSO #80083T






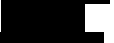
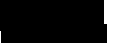
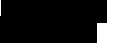


**Quality Sterling Group**  
**Summary of Trade Creditors at June 30, 2023**  
**\$000s**

Accounts payable	\$ 14,359
Accrued trade expenses	6,944
	<u>21,303</u>

by supplier:		cumulative	% of total
1	2,614	2,614	12%
2	1,628	4,241	20%
3	1,457	5,698	27%
4	1,431	7,129	33%
5	1,412	8,541	40%
6	1,185	9,726	46%
7	1,071	10,797	51%
8	909	11,706	55%
9	864	12,570	59%
10	835	13,405	63%
11	622	14,027	66%
12	492	14,518	68%
13	409	14,927	70%
14	383	15,310	72%
15	360	15,670	74%
16	316	15,986	75%
17	287	16,273	76%
18	165	16,437	77%
19	148	16,585	78%
20	119	16,704	78%
21	117	16,821	79%
22	116	16,936	80%
23	115	17,051	80%
24	113	17,164	81%
25	77	17,241	81%
remainder	4,062	21,303	100%

**Quality Sterling Group**  
**Summary of Trade Creditors at June 30, 2023**  
**\$000s**

Accounts payable	\$ 14,359
Accrued trade expenses	6,944
	<u>21,303</u>

by supplier:		cumulative	% of total
1		2,614	12%
2		4,241	20%
3		5,698	27%
4		7,129	33%
5		8,541	40%
6		9,726	46%
7		10,797	51%
8		11,706	55%
9		12,570	59%
10		13,405	63%
remainder		21,303	100%

THIS IS **EXHIBIT “D”** REFERRED TO

IN THE AFFIDAVIT OF

JOHN A. PACIONE, AFFIRMED BEFORE ME in the City of Toronto via  
videoconference in accordance with O. Reg 431/20, Administering Oath or Declaration  
Remotely

THIS 3<sup>rd</sup> DAY OF AUGUST, 2023

DocuSigned by:

*Saisha Mahil*

6DDB6C80A890492...

A COMMISSIONER FOR TAKING AFFIDAVITS  
SAISHA MAHIL LSO #80083T



July 24, 2023

**PRIVATE & CONFIDENTIAL**

Hugh Rowan-Legg  
Alvarez & Marsal Corporate Finance  
200 Bay Street, Suite 2900  
Toronto, ON M5J 2J1

**Re: Proposal to Purchase Substantially All of the Assets of [Quality Rugs of Canada Limited, Quality Commercial Carpet Corporation, Timeline Floors Inc., Ontario Flooring Ltd., Patjo Holdings Ltd., Weston Hardwood Design Centre Inc. and Malvern Contract Interiors Limited]<sup>1</sup> (collectively the “Companies”, “Quality Sterling” or the “Vendors”)**

Thank you for providing Ironbridge Equity Partners Management Limited (“**Ironbridge**”) the opportunity to discuss with you the acquisition of the business carried on by Quality Sterling (the “**Business**”). We are pleased to submit this letter of intent (“**LOI**”) summarizing the terms and conditions pursuant to which the assets of the Companies would be acquired by an entity controlled by Ironbridge (the “**Purchaser**”). The assets of the Business will include, but not be limited to, all real and personal property, equipment, inventory, vehicles, accounts receivable, contracts, licences, intellectual property, and books and records other than certain excluded assets to be agreed (the “**Purchased Assets**”).

It is our intention to restructure and operate the Business as a going concern, retain the majority of the employees, serve customers and their communities from the key locations, and rebuild the foundation of this more than 55-year-old company that has been impaired by the global pandemic. This intent is consistent with our skills and experience as described below.

Ironbridge is a Canadian private equity firm whose strategy is to make investments in high-quality, mid-market, Canadian private companies. Our target industries include consumer and business products and services, manufacturing, and distribution. The operating backgrounds of the principals enable us to be high-value partners to management teams as they seek to reposition, improve, and grow their businesses. We have direct operating experience in the CEO, COO, and CFO roles and bring this practical experience to assist portfolio companies in their pursuit of profitable growth. In addition to our operating roles, we have over 27 years of combined experience as strategy consultants at leading consulting firms where we have worked in numerous industries, functional areas, and situations to drive performance.

Ironbridge has highly relevant experience working with distressed businesses in positions similar to that of the Vendors. Ironbridge recently acquired the assets of Gesco Industries, a supplier to Quality Sterling, and is continuing to operate that business as a national flooring distribution platform.

Ironbridge’s assets under management are over \$700 million and we are currently investing in new businesses through our \$383 million Ironbridge Equity Partners IV, LP (“**Fund IV**”), which is backed by institutional investors from Canada, the US and Europe. Ironbridge has successfully completed 29 platform and 23 tuck-in investments since 2005.

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<sup>1</sup> Note: Quality Sterling to advise which companies in the Quality Sterling group hold the operating assets of the business.

It is expressly understood that this LOI is not intended to, and does not, constitute a binding agreement to consummate the transactions described in this LOI, or enter into definitive documentation with respect thereto, and that except as explicitly set forth in this LOI, this LOI is not binding on any party. Consummation of the transactions described in this LOI will be subject to the satisfactory results of Ironbridge's due diligence investigations of the Purchased Assets, and the negotiation and execution of a definitive acquisition agreement (the "**Acquisition Agreement**") between the Purchaser and the Vendors and documentation in respect of the Interim Financing (as described below) between the Interim Lender (as defined below) and the Vendors, in each case, on terms that are mutually satisfactory to both parties. The parties intend for this LOI to serve as the framework for a going concern transaction. All amounts in this LOI are in Canadian dollars.

1. **Purchase and Sale.** Pursuant to the Acquisition Agreement, the Purchaser will purchase, and the Vendors will sell, the Purchased Assets free and clear of all liens and encumbrances (the "**Transaction**"). Ironbridge reserves the right to change the transaction structure after it has obtained advice from its tax and other professional advisors.
  2. **Purchase Price.** The purchase price for the Purchased Assets (the "**Purchase Price**") will consist of a \$[REDACTED] million cash payment (the "**Cash Purchase Price**") and the assumption of certain liabilities of the Vendors in connection with the Purchased Assets identified by the Purchaser.
- 2.1 The Purchase Price is based on the following assumptions:

(a)

(b)

(c)

(d)

- 2.2 The Cash Purchase Price, as adjusted in accordance with Section 2.3, will be payable as follows:

- (a) [REDACTED] million (the "**Closing Payment**") shall be payable on the Closing Date (as defined below). A portion of the Closing Payment shall be used to repay the Interim Financing; and
- (b) the balance of the Purchase Price shall be payable following the Closing Date based on a sharing of accounts receivable collections of the Purchaser, whereby \$[REDACTED] of each dollar of accounts receivable collections will be for the account of the Vendors (the "**Vendor Receivables Share**") and \$[REDACTED] of each dollar of accounts receivable collections will be for the account of the Purchaser, and which payments to the Vendors will commence once the Vendor Receivables Share of accounts receivable collections received following the Closing Date exceeds the Closing Payment.



- 2.3 The Cash Purchase Price will be adjusted as follows:
- (a) The Cash Purchase Price will be increased or decreased to reflect the difference between the Companies' inventory on the Closing Date ("**Closing Inventory**") and \$ [REDACTED] million. Closing Inventory of the Companies will be determined on a consolidated basis, prepared in accordance with GAAP and in a manner consistent with the Companies' financial policies and procedures used in preparation of its audited financial statements.
  - (b) The Cash Purchase Price will be increased or decreased to reflect the difference between the Companies' accounts receivable on the Closing Date ("**Closing AR**") and \$ [REDACTED] million. Closing AR of the Companies will be determined on a consolidated basis, prepared in accordance with GAAP and in a manner consistent with the Companies' financial policies and procedures used in preparation of its audited financial statements.
3. **Acquisition Agreement.** Upon receipt of a copy of this LOI executed by the Vendors, Ironbridge will instruct its counsel to prepare the Acquisition Agreement to reflect the terms and conditions contained in this LOI and such other terms and conditions as are reasonable and appropriate for transactions of a similar nature to the Transaction, including the following:
- (a) the Purchased Assets will be sold on an "as is, where is" basis;
  - (b) the Acquisition Agreement and any transition services agreement will be subject to court approval; and
  - (c) the Acquisition Agreement will contain a mechanism for any adjustments arising from Section 2.3 to occur on or before 90 days after the Closing Date.
4. **Conditions Precedent to Closing.** The Acquisition Agreement will contain such conditions to closing as may be reasonably requested by Ironbridge and as are satisfactory to the Vendors. Without limiting the generality of the foregoing, the Acquisition Agreement will contain the following conditions to closing:
- (a) the Vendors have obtained a Sale Approval and Vesting Order which will, inter alia, vest the Purchased Assets in the Purchaser on the Closing Date, free and clear of any encumbrances against the Purchased Assets and the operation and effect of such order shall not have been stayed, amended, modified, reversed, waived, dismissed or appealed and no notices of the foregoing shall have been filed;
  - (b) the Purchaser and the Vendors have obtained all necessary government or regulatory approvals to the completion of the Transaction, including any clearance required under the *Competition Act* (Canada);
  - (c) the Vendors have received all third-party consents to the assignment of any material required licenses, permits or approvals and material contracts required to carry on the Business in the ordinary course; and/or, at the election of the Purchaser, the Vendors have obtained an assignment order in respect of such material contracts. Any cure costs associated with any contract that forms part of the Purchased Assets shall be for the account of the Vendors; and
  - (d) the Purchaser shall have reached agreements with the senior employees of the Seller with respect to their employment by the Purchaser following closing, including with respect to each senior employee's role, remuneration and equity investment in the Purchaser.

5. **Closing Date.** The Transaction will close on the 10th calendar day after the date on which all of the conditions precedent to closing are satisfied (the "**Closing Date**"); provided that, notwithstanding such, the Acquisition Agreement will provide that there will be at least 10 business days between the signing of the Acquisition Agreement and the Closing Date to allow the Purchaser to make offers of employment to employees of the Vendors and arrange for the continuation of benefits and other employment matters. Ironbridge is committed to closing the transaction in an expeditious manner and does not anticipate any impediments to closing.<sup>2</sup>
6. **Employees.** The Purchaser will offer employment to certain employees of the Vendors ("**Retained Employees**") determined by the Purchaser following completion of due diligence. Such offers will be on such terms as may be determined by the Purchaser, in its sole discretion, and will provide that the Purchaser will only recognize the Retained Employee's past service with the Vendors for purposes of any minimum standards imposed by applicable employment standards legislation. The Purchaser will only be liable for the wages, bonuses and vacation pay of the Retained Employees and other employment related liabilities in respect of the Retained Employees from and after the Closing Date. The Vendors will be and will remain liable for unpaid or accrued wages, unpaid or accrued bonus and unpaid or accrued vacation of the Retained Employees prior to the Closing Date and any other pre-closing employment related liabilities in respect of the Retained Employees.
7. **Interim Financing.** In connection with the Transaction, Fund IV or the Purchaser (in such capacity, the "**Interim Lender**") will provide interim financing (the "**Interim Financing**") to the Vendors in the proposed CCAA proceedings. The Interim Financing is conditional on the Vendors obtaining an initial order under the CCAA ("**Initial Order**") substantially in the form of the CLUC Model Order and which also provides that all funds currently being held by the **[lenders]** in the Vendors' blocked account are released and available for use by the Vendors in accordance with the cash flow projections. The Interim Financing will be a non-revolving loan up to the maximum amount of **\$3.0** million at an interest rate of **12%** with a maturity date that is six weeks following the commencement of the Vendors' CCAA proceedings. The term of the Interim Financing may be extended for a further two weeks at the sole discretion of the Interim Lender. The Interim Financing is repayable at the earlier of the closing of the Transaction or on the maturity date of the Interim Financing. The Interim Financing will be secured by a court ordered first ranking charge contained in the Initial Order on all present and after-acquired personal and real property of the Vendors without the need for any further loan or security documentation or any filings or registrations in any public register or system. The Interim Financing shall rank behind a court ordered administration charge of not more than \$750,000 and a court ordered director and officer charge of not more than \$600,000 but in priority to any other court ordered charges. The Interim Financing shall be used in strict accordance with mutually agreed to cash flow projections, subject to reasonable weekly variances due to variations in the timing of projected receipts and disbursements. Any variation from the cash flow projections beyond that will require the Interim Lender's written consent. The Vendors shall pay all reasonable and documented costs and expenses of the Interim Lender in connection with the implementation and administration of the Interim Financing as well as an exit fee of \$100,000 and if an extension is required, an extension fee of \$15,000, on the maturity date of the Interim Financing or the closing of the Transaction. The Purchase Price payable to the Vendors in connection with the Transaction shall be applied first to pay in full any amounts outstanding under or in connection with the Interim Financing. At Ironbridge's election, secured guarantees may be required from non-Vendors. The Interim Lender and the Vendors will enter into a binding interim financing facility term sheet with cash flow projections appended.

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<sup>2</sup> Note: To discuss aligning closing with a month end or the end of a pay period.

8. **Due Diligence by Ironbridge.** Upon accepting this LOI, the Vendors will give Ironbridge and its employees, auditors, legal counsel and other authorized representatives and the proposed CCAA monitor, all reasonable opportunity and access during normal business hours to inspect, investigate and audit the assets, liabilities, contracts, books, records, operations, and business relating to the Purchased Assets. Ironbridge will require:
- (a) access to all relevant information reasonably requested by its financial and legal advisors;
  - (b) access to the data room established by the Vendors, which will include copies of all contracts, agreements, leases, licences and permits relating to the Purchased Assets; and
  - (c) meetings with the Vendors' major customers and suppliers, provided that such meetings will be arranged at the request of Ironbridge with not less than 24 hours' notice.
9. **No Assignment.** This LOI may not be assigned by any party without the prior written consent of the other parties.
10. **Governing Law.** This LOI shall be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein.
11. **Confidentiality.** The contents of this LOI will be kept confidential by all parties and are intended for the exclusive use of the parties and their professional advisors. Each party may disclose this LOI to its professional advisors. Additionally, the Vendors may disclose this LOI to its lenders and their professional advisors and to its proposed CCAA monitor, who, in each case, will also agree to keep it confidential. Except as required to conduct the necessary due diligence, as may be required by law or as provided in this LOI, disclosure of this LOI's existence or contents to any other person may only be made upon the prior written consent of Ironbridge and the Vendors.
12. **Exclusivity.**

From the date of this letter until the earlier of (i) October 15, 2023; and (ii) the mutual agreement of Ironbridge and the Vendors not to pursue the Transaction, the Vendors, the proposed CCAA monitor of the Vendors and any shareholders and agents of the Vendor shall not, directly or indirectly through any of their respective directors, officers, employees, associates, affiliates, agents or other representatives ("**Representatives**"):

- (a) solicit, assist, initiate, knowingly encourage or knowingly facilitate (including by way of discussion, negotiation, furnishing information, permitting any visit to any facilities or properties of the Vendors, or entering into any form of agreement, arrangement or understanding) any inquiries, proposals or offers regarding the acquisition of the Vendors or all or any part of their business or assets (other than products and immaterial assets disposed of in the Vendors' ordinary course of business), an investment of any nature in the Vendors or any other transaction that would be inconsistent or incompatible with the Transaction (an "**Alternative Transaction**");
- (b) engage or participate in any discussions or negotiations regarding, or provide any confidential information with respect to or otherwise cooperate with any person regarding any Alternative Transaction; or

- (c) accept or enter into, or propose to accept or enter into, any letter of intent, agreement in principle, agreement, arrangement or undertaking related to any Alternative Transaction.

The Vendors, the proposed monitor to the Vendors, any shareholders and agents of the Vendor and their Representatives shall immediately cease and cause to be terminated any existing solicitation, discussion or negotiation with any person (other than Ironbridge) with respect to any Alternative Transaction.

13. **Fees and Expenses.** Other than as set out in Section 7 in respect of the Interim Financing, the parties agree to bear their own costs and expenses with respect to the negotiation, preparation and execution of this LOI, the Acquisition Agreement and all other documents entered into or delivered in connection therewith, and no party shall have any liability to the other for any such expenses.
14. **Acceptance.** This LOI shall have no effect unless the Purchaser receives a copy of this LOI executed by the Vendors on or before July 25, 2023, at 7:00 pm Eastern Time. Upon acceptance of this LOI by the Vendors, Sections 9, 10, 11, 12, 13 and 14 of this LOI are intended to, and shall, constitute a legally binding and enforceable contract between and among the parties. In all other respects, this LOI, whether or not accepted by the parties, is not intended to, and shall not, create or reflect any binding contract or other form of legal relation between the parties.
15. **Contact Party.** Please contact the following with any questions regarding this proposal:

Alan Sellery  
 President & Managing Partner  
 Ironbridge Equity Partners Management  
 Limited  
 Bay Adelaide Center – East Tower  
 22 Adelaide Street West, Suite 3520  
 Toronto, Ontario M5H 4E3  
 Direct: (416) 863-0101  
 Email: asellery@ironbridgeequity.com

Peter Dowse  
 Managing Partner  
 Ironbridge Equity Partners Management  
 Limited  
 Bay Adelaide Centre – East Tower  
 22 Adelaide St. West, Suite 3520  
 Toronto, Ontario M5H 4E3  
 Direct: (416) 863-0106  
 Email: pdowse@ironbridgeequity.com

(The remainder of this page is intentionally left blank; signature page follows.)

If the foregoing is in accordance with your understanding of this transaction, please have the Vendors sign and return one copy of this LOI to us. We look forward to working together to complete a mutually satisfactory agreement.

**IRONBRIDGE EQUITY PARTNERS  
MANAGEMENT LIMITED**

by   
Name: Alan Sellery  
Title: President & Managing Partner

The foregoing terms and conditions are accepted this 25 day of July, 2023.

**QUALITY RUGS OF CANADA LIMITED**

by \_\_\_\_\_  
Name:  
Title:

**QUALITY COMMERCIAL CARPET  
CORPORATION**

by \_\_\_\_\_  
Name:  
Title:

**PATJO HOLDINGS LTD.**

by \_\_\_\_\_  
Name:  
Title:

**TIMELINE FLOORS INC.**

by \_\_\_\_\_  
Name:  
Title:

**WESTON HARDWOOD DESIGN  
CENTRE INC.**

by \_\_\_\_\_  
Name:  
Title:

**MALVERN CONTRACT INTERIORS  
LIMITED**

by \_\_\_\_\_  
Name:  
Title:

**ONTARIO FLOORING LTD.**

by \_\_\_\_\_  
Name:  
Title:


If the foregoing is in accordance with your understanding of this transaction, please have the Vendors sign and return one copy of this LOI to us. We look forward to working together to complete a mutually satisfactory agreement.

**IRONBRIDGE EQUITY PARTNERS  
MANAGEMENT LIMITED**

by   
Name: Alan Sellery  
Title: President & Managing Partner

The foregoing terms and conditions are accepted this 25 day of July, 2023.

**QUALITY RUGS OF CANADA LIMITED**

by   
Name: J.D. Loewie  
Title: Co-CEO


**QUALITY COMMERCIAL CARPET  
CORPORATION**

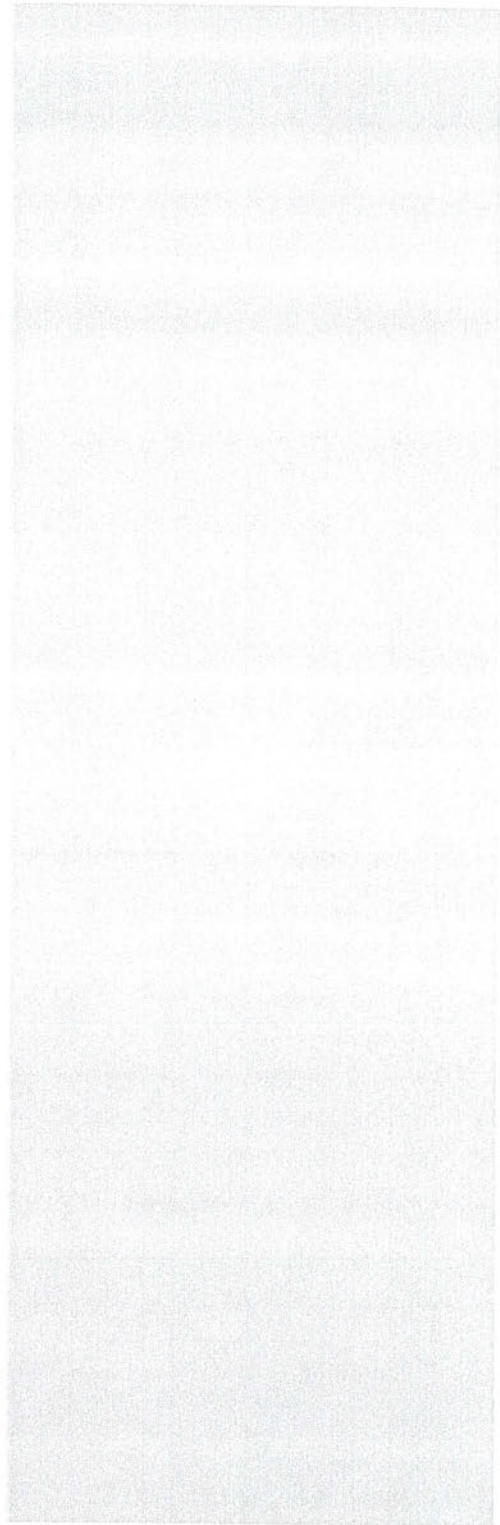
by   
Name: J.D. Loewie  
Title: Co-CEO

**PATJO HOLDINGS LTD.**

by   
Name: J.D. Loewie  
Title: Co-CEO

**TIMELINE FLOORS INC.**


by   
Name: J.D. Loewie  
Title: Co-CEO



WESTON HARDWOOD DESIGN  
CENTRE INC.

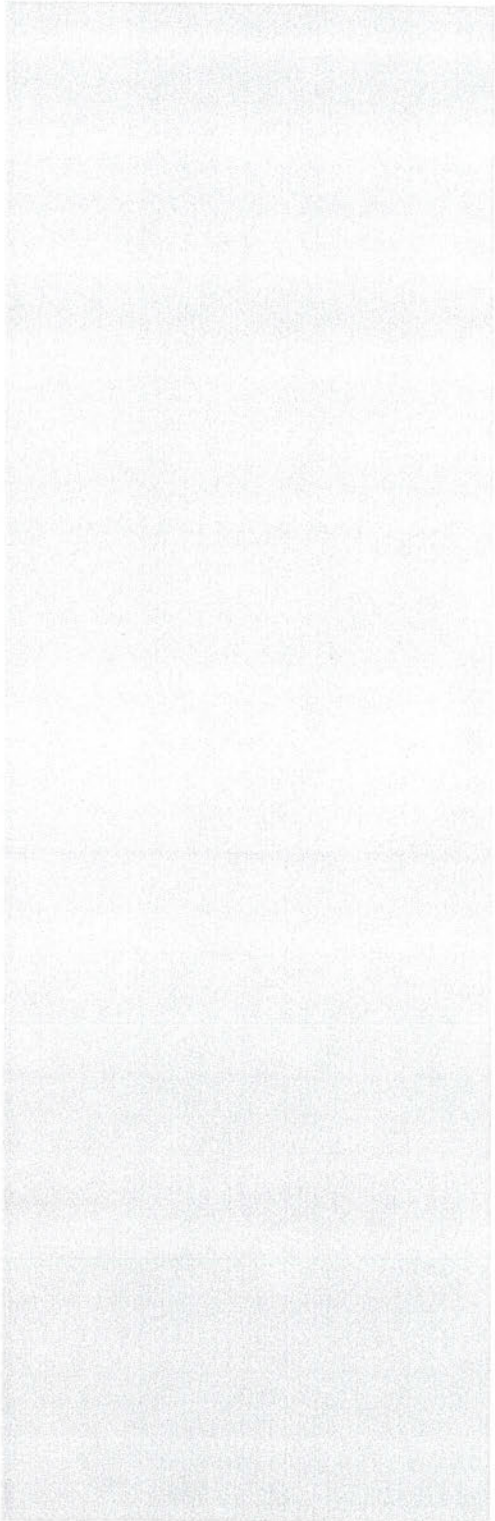
by   
Name: J.D. Boiesne  
Title: Co-CEO

MALVERN CONTRACT INTERIORS  
LIMITED

by   
Name: J.D. Boiesne  
Title: Co-CEO

ONTARIO FLOORING LTD.

by   
Name: J.D. Boiesne  
Title: Co-CEO






If the foregoing is in accordance with your understanding of this transaction, please have the Vendors sign and return one copy of this LOI to us. We look forward to working together to complete a mutually satisfactory agreement.

**IRONBRIDGE EQUITY PARTNERS  
MANAGEMENT LIMITED**


by   
Name: Alan Sellery  
Title: President & Managing Partner

The foregoing terms and conditions are accepted this 25 day of July, 2023.


**QUALITY RUGS OF CANADA LIMITED**

by   
Name: J.D. Pacione  
Title: Co-CEO

**QUALITY COMMERCIAL CARPET  
CORPORATION**

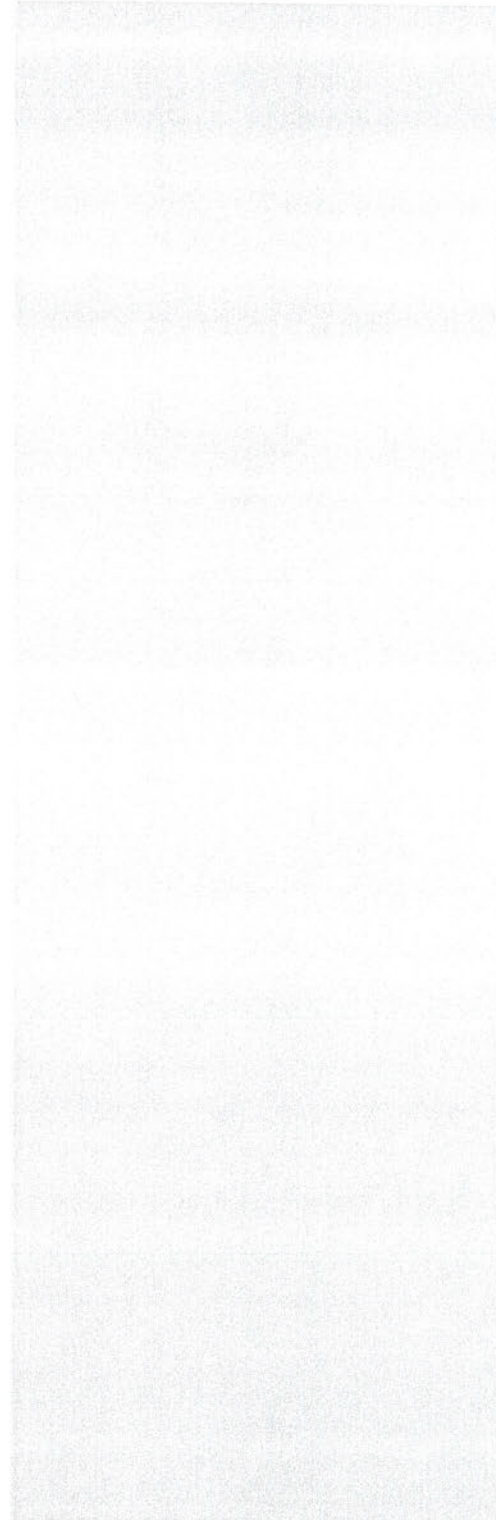
by   
Name: J.D. Pacione  
Title: Co-CEO

**PATJO HOLDINGS LTD.**

by   
Name: J.D. Pacione  
Title: Co-CEO

**TIMELINE FLOORS INC.**

by   
Name: J.D. Pacione  
Title: Co-CEO



WESTON HARDWOOD DESIGN  
CENTRE INC.

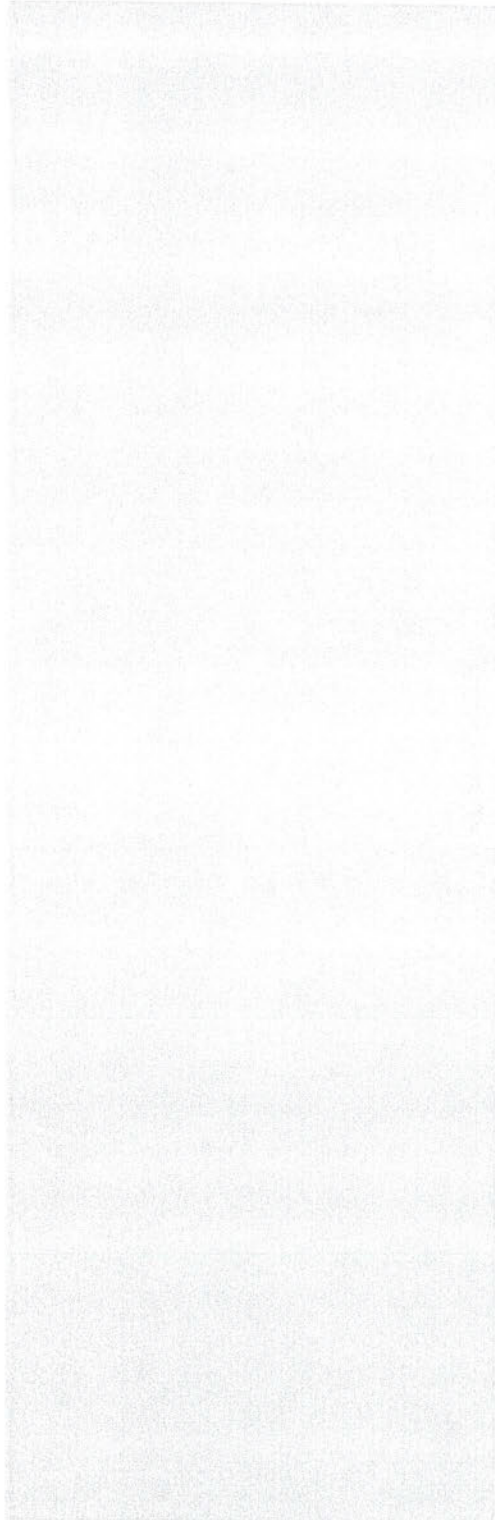
by   
Name: J.O. Loew  
Title: Co-CEO

MALVERN CONTRACT INTERIORS  
LIMITED

by   
Name: J.O. Loew  
Title: Co-CEO

ONTARIO FLOORING LTD.

by   
Name: J.O. Loew  
Title: Co-CEO



**THIS IS EXHIBIT “E” REFERRED TO**

**IN THE AFFIDAVIT OF**

**JOHN A. PACIONE, AFFIRMED BEFORE ME in the City of Toronto via  
videoconference in accordance with O. Reg 431/20, Administering Oath or Declaration  
Remotely**

**THIS 3<sup>rd</sup> DAY OF AUGUST, 2023**

DocuSigned by:

*Saisha Mahil*

6DDB6C80A890492...

**A COMMISSIONER FOR TAKING AFFIDAVITS  
SAISHA MAHIL LSO #80083T**

## Bordman, Eli

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**From:** Matilda Lici <mlici@airdberlis.com>  
**Sent:** Monday, July 31, 2023 5:22 PM  
**To:** Besant, Chris; Steven L. Graff  
**Subject:** RE: Quality Sterling Group CCAA Application Aug 4 - Notice

Hi Chris,

Given the difficulties and delays associated with securing court time during the summer months, priority was given to locking down the earliest available hearing date. From then, we were waiting to receive news or updates from your clients' end, which only arrived after we had served our materials. It also took us time to prepare and assemble materials, for both a receivership path and a CCAA path, as we weren't entirely sure which route we'd be taking until most recently.

In any event, the materials were served with more than 10 days' notice, as required by the *Rules*, and none of the relief sought should be surprising to your clients, given the discussions between the parties over the last seven months.

Thanks,

**Matilda Lici**

T 416.865.3428  
E mlici@airdberlis.com

**Aird & Berlis LLP**

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**From:** Besant, Chris <cbesant@grllp.com>  
**Sent:** Monday, July 31, 2023 4:21 PM  
**To:** Steven L. Graff <sgraff@airdberlis.com>  
**Cc:** Matilda Lici <mlici@airdberlis.com>  
**Subject:** RE: Quality Sterling Group CCAA Application Aug 4 - Notice

You said "We will have an answer and explain"

Please let me have your answer and explanation by the end of the day today.

**Chris Besant** • Partner

Gardiner Roberts LLP

Bay Adelaide Centre - East Tower, 22 Adelaide St W, Ste. 3600, Toronto, ON M5H 4E3

T 416.865.4022 | F 416.865.6636 | E [cbesant@grllp.com](mailto:cbesant@grllp.com) | [www.grllp.com/p/christopherbesant](http://www.grllp.com/p/christopherbesant)

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**From:** Steven L. Graff [<mailto:sgraff@airdberlis.com>]  
**Sent:** Monday, July 31, 2023 4:20 PM  
**To:** Besant, Chris  
**Cc:** Matilda Lici  
**Subject:** RE: Quality Sterling Group CCAA Application Aug 4 - Notice

Sorry; answer to what?

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**Steven L. Graff**

T 416.865.7726  
E [sgraff@airdberlis.com](mailto:sgraff@airdberlis.com)

**Aird & Berlis LLP**

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**From:** Besant, Chris <[cbesant@grllp.com](mailto:cbesant@grllp.com)>  
**Sent:** Monday, July 31, 2023 4:18 PM  
**To:** Steven L. Graff <[sgraff@airdberlis.com](mailto:sgraff@airdberlis.com)>; Matilda Lici <[mlici@airdberlis.com](mailto:mlici@airdberlis.com)>  
**Subject:** RE: Quality Sterling Group CCAA Application Aug 4 - Notice

Please let me know your answer by the end of the day as it may affect the materials to be filed and other steps to be taken.

**Chris Besant** • Partner

Gardiner Roberts LLP  
Bay Adelaide Centre - East Tower, 22 Adelaide St W, Ste. 3600, Toronto, ON M5H 4E3  
T 416.865.4022 | F 416.865.6636 | E [cbesant@grllp.com](mailto:cbesant@grllp.com) | [www.grllp.com/p/christopherbesant](http://www.grllp.com/p/christopherbesant)

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**From:** Steven L. Graff [<mailto:sgraff@airdberlis.com>]  
**Sent:** Monday, July 31, 2023 4:15 PM  
**To:** Besant, Chris; Matilda Lici  
**Subject:** RE: Quality Sterling Group CCAA Application Aug 4 - Notice

Not going to let you paint us that way Chris. We will have an answer and explain; but, to be clear, we aren't the bad guy here!

**Steven L. Graff**

T 416.865.7726  
E [sgraff@airdberlis.com](mailto:sgraff@airdberlis.com)

**Aird & Berlis LLP**

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**From:** Besant, Chris <[cbesant@grllp.com](mailto:cbesant@grllp.com)>  
**Sent:** Monday, July 31, 2023 4:12 PM  
**To:** Steven L. Graff <[sgraff@airdberlis.com](mailto:sgraff@airdberlis.com)>; Matilda Lici <[mlici@airdberlis.com](mailto:mlici@airdberlis.com)>  
**Subject:** RE: Quality Sterling Group CCAA Application Aug 4 - Notice

Steve

Thanks for your note

If your client is concerned about timing, we had proposed that the parties adjourn the hearing to August 14. We proposed that out of concern that the process would be disorderly. Your client declined that suggestion on July 28.

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As you know, August 4 was booked by your client for its CCAA Application without consulting me as opposing counsel concerning the date, even though your client was aware the application would be opposed and that I was counsel, which is contrary to the Commercial List Practice Direction.

It further appears from the attached which was circulated on July 28<sup>th</sup> to us for the first time, that your client has been in communication with the commercial list about scheduling this date since July 4, a full 20 days before your application was served, and that requests from the Commercial List during the scheduling process as far back as July 5, 2023, to notify opposing counsel of the proposal to book the date were ignored. The request on July 5 from the court was highlighted in yellow.

We will do our best to get our materials to you in the time available.

All rights are reserved which flow from the sequence of events noted above.

Regards  
Chris

**Chris Besant** • Partner  
Gardiner Roberts LLP  
Bay Adelaide Centre - East Tower, 22 Adelaide St W, Ste. 3600, Toronto, ON M5H 4E3  
T 416.865.4022 | F 416.865.6636 | E [cbesant@grllp.com](mailto:cbesant@grllp.com) | [www.grllp.com/p/christopherbesant](http://www.grllp.com/p/christopherbesant)

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**From:** Steven L. Graff [<mailto:sgraff@airdberlis.com>]  
**Sent:** Saturday, July 29, 2023 12:42 PM  
**To:** Besant, Chris  
**Cc:** Matilda Lici  
**Subject:** RE: Quality Sterling Group CCAA Application Aug 4 - Notice

Chris; Please confirm when we will be in receipt of your materials. We trust they will be delivered within sufficient time for our review and response. Thanks.

**Steven L. Graff**

T 416.865.7726  
E [sgraff@airdberlis.com](mailto:sgraff@airdberlis.com)

**Aird & Berlis LLP**

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**From:** Besant, Chris <[cbesant@grllp.com](mailto:cbesant@grllp.com)>  
**Sent:** Friday, July 28, 2023 5:13 PM  
**To:** Steven L. Graff <[sgraff@airdberlis.com](mailto:sgraff@airdberlis.com)>  
**Cc:** Matilda Lici <[mlici@airdberlis.com](mailto:mlici@airdberlis.com)>  
**Subject:** RE: Quality Sterling Group CCAA Application Aug 4 - Notice

Steven

Thank you for your note. Your materials have been reviewed and the QSG companies actions in response are informed by an analysis of those materials and by the surrounding facts. I don't think its productive to get into a letter writing campaign about our clients respective positions. The materials will speak for themselves. I anticipate the directors of QSG will continue acting in the best interest of QSG and its stakeholders.

With regards  
Chris

**Chris Besant** • Partner

Gardiner Roberts LLP

Bay Adelaide Centre - East Tower, 22 Adelaide St W, Ste. 3600, Toronto, ON M5H 4E3

T 416.865.4022 | F 416.865.6636 | E [cbesant@grllp.com](mailto:cbesant@grllp.com) | [www.grllp.com/p/christopherbesant](http://www.grllp.com/p/christopherbesant)

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**From:** Steven L. Graff [<mailto:sgraff@airdberlis.com>]  
**Sent:** Friday, July 28, 2023 3:38 PM  
**To:** Besant, Chris  
**Cc:** Matilda Lici  
**Subject:** Re: Quality Sterling Group CCAA Application Aug 4 - Notice

With Prejudice

Chris, I thought I should provide you a slightly more elaborate response to your email below. To begin, it isn't clear to me that you have read the application materials in that you suggest that we are embarking upon a liquidation. To the contrary, it is our intention to engage in a SISP shortly after the commencement of the CCAA proceedings and only if a deal cannot be mutually negotiated between Ironbridge and WayGar which could avoid the necessity of such a process. What is more important is that you seem to believe that the company is operating with its own money and as if there is value in the equity. You have conceded that there isn't. WayGar is the fulcrum creditor. Any process, as it stands right now, whether CAAA or otherwise, based upon every indication we have, will only generate monies to pay cost in the ordinary cost of operations, trust and lien claims, where appropriate, and to pay WayGar. There is no prospect of any at this point of any surplus beyond those amounts. To suggest that your client can or should continue control the loss that WayGar is going to suffer is to suggest that your client is entitled to step into the lender's shoes. There is no precedent for such a scenario whatsoever.

In addition, please be advised that to the extent that any monies of the company are spent on your application process, we hereby put you and the directors on notice that we will hold them personally liable for fees incurred, and the corresponding loss that Waygar will suffer. There is no basis for your client to counter the application brought by Waygar in the circumstances. In our view, the responsible thing for you and your client to be doing is to negotiate the form of the Order to be issued in a mutually satisfactory form.

No doubt you and your client will govern yourselves accordingly.

**Steven L. Graff**, Partner and Co-lead of the Financial Services Group

**Aird & Berlis LLP**

T [416.865.7726](tel:416.865.7726)

M [416.894.5090](tel:416.894.5090)

E [sgraff@airdberlis.com](mailto:sgraff@airdberlis.com)

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**From:** Besant, Chris <[cbesant@grllp.com](mailto:cbesant@grllp.com)>  
**Sent:** Friday, July 28, 2023 12:25:32 PM

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To: Steven L. Graff <[sgraff@airdberlis.com](mailto:sgraff@airdberlis.com)>; Matilda Lici <[mlici@airdberlis.com](mailto:mlici@airdberlis.com)>

Subject: Quality Sterling Group CCAA Application Aug 4 - Notice

Steve & Matilda

We have your advice that your client has declined to adjourn the August 4 CCAA Application it has commenced. Accordingly we are writing to notify you that:

1. the Quality Sterling Group (QSG) will be making a CCAA Application returnable at the same time as your clients application (ie on August 4, 2023 at 11 am before the Honourable Justice Penny). We will serve the materials once they are ready, but the thrust will be that
  - a. a SISP process has been run at your client's request using a financial advisor your client requested the company to use, and a buyer identified after a comprehensive process which was transparent to Waygar;
  - b. that the offer is the best obtainable
  - c. that the QSG business should be sold forthwith in the CCAA process as a going concern to best protect the interests of the stakeholders, and
  - d. that this result will be far superior to the liquidation approach proposed by your client;
2. In consequence, your client Waygar Capital Inc.'s CCAA Application will be opposed.

I trust this is of assistance.

Regards  
Chris



**Chris Besant • Partner**

Gardiner Roberts LLP

Bay Adelaide Centre - East Tower, 22 Adelaide St W, Ste. 3600, Toronto, ON M5H 4E3

T 416.865.4022 | F 416.865.6636 | E [cbesant@grllp.com](mailto:cbesant@grllp.com) |

[www.grllp.com/p/christopherbesant](http://www.grllp.com/p/christopherbesant)

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90

**From:** Matilda Lici  
**Sent:** July 12, 2023 12:43 PM  
**To:** JUS-G-MAG-CSD-Toronto-SCJ Commercial List  
**CC:** Steven L. Graff  
**BCC:** WayGar Capital Inc\_ re Financing of Quality Sterling Group \_ 152026 Emails \_ 152026  
**Subject:** RE: Contested CCAA application  
**Attachments:** Hearing Request Form - 12-JUL-2023(53645560.1).pdf

Thanks Also! Based on the information we have at this time, we don't believe that we would need two hours, but defer to his Honour's judgment.

I attach a revised form. Thanks again!

### Matilda Lici

T 416.865.3428  
E [mlici@airdberlis.com](mailto:mlici@airdberlis.com)

### Aird & Berlis LLP

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If you did receive this email in error, the information in this email may be confidential and must not be disclosed to anyone.

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**From:** JUS-G-MAG-CSD-Toronto-SCJ Commercial List <[MAG.CSD.To.SCJCom@ontario.ca](mailto:MAG.CSD.To.SCJCom@ontario.ca)>  
**Sent:** Wednesday, July 12, 2023 11:06 AM  
**To:** Matilda Lici <[mlici@airdberlis.com](mailto:mlici@airdberlis.com)>  
**Cc:** Steven L. Graff <[sgraff@airdberlis.com](mailto:sgraff@airdberlis.com)>  
**Subject:** RE: Contested CCAA application

I have reported to Justice Penny that matter contested and His Honour approved 2 hrs in person hearing .  
Please amend request form  
Will you able to know at this point of opposing counsel to let them know that this in person hearing ?

Thank you

Also Anissimova

Superior Court of Justice  
Commercial & Estates Trial coordinator  
330 University Ave 7<sup>th</sup> floor  
Civil Trial office  
Toronto, Ontario  
M5G 1R7  
Tel: (416) 327-5047  
Email: [MAG.CSD.To.SCJCOM@ONTARIO.CA](mailto:MAG.CSD.To.SCJCOM@ONTARIO.CA)

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*Toronto Commercial List – Commencing May 9, 2022 , Ministry Zoom coordinates will be used, created and uploaded by court staff into CaseLines. Zoom coordinates for hearings will no longer need to be provided by the parties.*

Please note that counsel for the moving party is responsible for inviting all required counsel/parties on a file to CaseLines for upcoming hearings.

Please note when providing the request form for scheduling via e-mail , please copy (cc ) request form to all required counsel.

---

**From:** Matilda Lici <[mlici@airdberlis.com](mailto:mlici@airdberlis.com)>  
**Sent:** July 12, 2023 11:00 AM  
**To:** JUS-G-MAG-CSD-Toronto-SCJ Commercial List <[MAG.CSD.To.SCJCom@ontario.ca](mailto:MAG.CSD.To.SCJCom@ontario.ca)>  
**Cc:** Steven L. Graff <[sgraff@airdberlis.com](mailto:sgraff@airdberlis.com)>  
**Subject:** RE: Contested CCAA application

**CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.**

Hi Alsou,

Thanks so much for accommodating! Here's the request form.

Matilda Lici

T 416.865.3428  
E [mlici@airdberlis.com](mailto:mlici@airdberlis.com)

Aird & Berlis LLP

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**From:** JUS-G-MAG-CSD-Toronto-SCJ Commercial List <[MAG.CSD.To.SCJCom@ontario.ca](mailto:MAG.CSD.To.SCJCom@ontario.ca)>  
**Sent:** Wednesday, July 12, 2023 10:16 AM  
**To:** Matilda Lici <[mlici@airdberlis.com](mailto:mlici@airdberlis.com)>  
**Cc:** Steven L. Graff <[sgraff@airdberlis.com](mailto:sgraff@airdberlis.com)>  
**Subject:** RE: Contested CCAA application

Hello!

Justice Penny available to hear the matter on August 4, we can accommodate 90 min , at 11:00am.

Please provide request form .

Thank you

Alsou Anissimova

Superior Court of Justice  
Commercial & Estates Trial coordinator  
330 University Ave 7<sup>th</sup> floor

92

Civil Trial office

Toronto, Ontario

M5G 1R7

Tel: (416) 327-5047

Email: [MAG.CSD.To.SCJCOM@ONTARIO.CA](mailto:MAG.CSD.To.SCJCOM@ONTARIO.CA)

*Toronto Commercial List – Commencing May 9, 2022 , Ministry Zoom coordinates will be used, created and uploaded by court staff into CaseLines. Zoom coordinates for hearings will no longer need to be provided by the parties.*

Please note that counsel for the moving party is responsible for inviting all required counsel/parties on a file to CaseLines for upcoming hearings.

Please note when providing the request form for scheduling via e-mail , please copy (cc ) request form to all required counsel.

---

**From:** Matilda Lici <[mlici@airdberlis.com](mailto:mlici@airdberlis.com)>  
**Sent:** July 11, 2023 11:30 PM  
**To:** JUS-G-MAG-CSD-Toronto-SCJ Commercial List <[MAG.CSD.To.SCJCom@ontario.ca](mailto:MAG.CSD.To.SCJCom@ontario.ca)>  
**Cc:** Steven L. Graff <[sgraff@airdberlis.com](mailto:sgraff@airdberlis.com)>  
**Subject:** RE: Contested CCAA application

**CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.**

Hi Alsou,

As requested, I attach the preliminary draft notice of application. Please let us know what dates are available for a 1 hr hearing, and we'll submit a request form to secure same as soon as possible.

Thanks!

Matilda Lici

T 416.865.3428

E [mlici@airdberlis.com](mailto:mlici@airdberlis.com)

Aird & Berlis LLP

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**From:** JUS-G-MAG-CSD-Toronto-SCJ Commercial List <[MAG.CSD.To.SCJCom@ontario.ca](mailto:MAG.CSD.To.SCJCom@ontario.ca)>  
**Sent:** Tuesday, July 11, 2023 3:37 PM  
**To:** Matilda Lici <[mlici@airdberlis.com](mailto:mlici@airdberlis.com)>  
**Cc:** Steven L. Graff <[sgraff@airdberlis.com](mailto:sgraff@airdberlis.com)>  
**Subject:** RE: Contested CCAA application

Can you provide the draft notice of application ?  
I have to report and forward to team leader judge .

Thank you

## Alsou Anissimova

Superior Court of Justice

Commercial & Estates Trial coordinator

330 University Ave 7<sup>th</sup> floor

Civil Trial office

Toronto, Ontario

M5G 1R7

Tel: (416) 327-5047

Email: [MAG.CSD.To.SCJCOM@ONTARIO.CA](mailto:MAG.CSD.To.SCJCOM@ONTARIO.CA)

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Please note that counsel for the moving party is responsible for inviting all required counsel/parties on a file to CaseLines for upcoming hearings.

Please note when providing the request form for scheduling via e-mail , please copy (cc ) request form to all required counsel.

---

**From:** Matilda Lici <[mlici@airdberlis.com](mailto:mlici@airdberlis.com)>

**Sent:** July 11, 2023 2:59 PM

**To:** JUS-G-MAG-CSD-Toronto-SCJ Commercial List <[MAG.CSD.To.SCJCom@ontario.ca](mailto:MAG.CSD.To.SCJCom@ontario.ca)>

**Cc:** Steven L. Graff <[sgraff@airdberlis.com](mailto:sgraff@airdberlis.com)>

**Subject:** RE: Contested CCAA application

**CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.**

Hi Alsou, yes this is a new CCAA (application not issued yet).

Matilda Lici

T 416.865.3428

E [mlici@airdberlis.com](mailto:mlici@airdberlis.com)

Aird & Berlis LLP

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**From:** JUS-G-MAG-CSD-Toronto-SCJ Commercial List <[MAG.CSD.To.SCJCom@ontario.ca](mailto:MAG.CSD.To.SCJCom@ontario.ca)>

**Sent:** Tuesday, July 11, 2023 2:57 PM

**To:** Matilda Lici <[mlici@airdberlis.com](mailto:mlici@airdberlis.com)>

**Cc:** Steven L. Graff <[sgraff@airdberlis.com](mailto:sgraff@airdberlis.com)>

**Subject:** RE: Contested CCAA application

Hello!

Please let me know if this is a new CCAA.

Thank you

Alsou Anissimova

Superior Court of Justice  
Commercial & Estates Trial coordinator  
330 University Ave 7<sup>th</sup> floor  
Civil Trial office  
Toronto, Ontario  
M5G 1R7  
Tel: (416) 327-5047  
Email: [MAG.CSD.To.SCJCOM@ONTARIO.CA](mailto:MAG.CSD.To.SCJCOM@ONTARIO.CA)

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Please note that counsel for the moving party is responsible for inviting all required counsel/parties on a file to CaseLines for upcoming hearings.

Please note when providing the request form for scheduling via e-mail , please copy (cc ) request form to all required counsel.

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**From:** Matilda Lici <[mlici@airdberlis.com](mailto:mlici@airdberlis.com)>  
**Sent:** July 11, 2023 12:03 PM  
**To:** JUS-G-MAG-CSD-Toronto-SCJ Commercial List <[MAG.CSD.To.SCJCom@ontario.ca](mailto:MAG.CSD.To.SCJCom@ontario.ca)>  
**Cc:** Steven L. Graff <[sgraff@airdberlis.com](mailto:sgraff@airdberlis.com)>  
**Subject:** RE: Contested CCAA application

**CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.**

Good afternoon,

Could you please advise whether August 4<sup>th</sup> or 8<sup>th</sup> are still available. If not, kindly advise of available court time for a one hour CCAA application.

Thank you!

Matilda Lici

T 416.865.3428  
E [mlici@airdberlis.com](mailto:mlici@airdberlis.com)

Aird & Berlis LLP

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**From:** JUS-G-MAG-CSD-Toronto-SCJ Commercial List <[MAG.CSD.To.SCJCom@ontario.ca](mailto:MAG.CSD.To.SCJCom@ontario.ca)>  
**Sent:** Wednesday, July 5, 2023 9:17 AM  
**To:** Matilda Lici <[mlici@airdberlis.com](mailto:mlici@airdberlis.com)>  
**Cc:** Steven L. Graff <[sgraff@airdberlis.com](mailto:sgraff@airdberlis.com)>  
**Subject:** RE: Contested CCAA application

Hello

**Next available dates for 60 min**

**August 4, or 8**

Thanks  
Mannie

REMINDER:

**Kindly, continue to reply/ respond/communicate on the original email chain.  
It helps us assist you better.**

Thank-you  
Ms. Mannie Maneli  
Assistant Trial Coordinator  
Commercial, Estates, Civil, Trial Scheduling Office

---

**From:** Matilda Lici <[mlici@airdberlis.com](mailto:mlici@airdberlis.com)>  
**Sent:** July 5, 2023 8:47 AM  
**To:** JUS-G-MAG-CSD-Toronto-SCJ Commercial List <[MAG.CSD.To.SCJCom@ontario.ca](mailto:MAG.CSD.To.SCJCom@ontario.ca)>  
**Cc:** Steven L. Graff <[sgraff@airdberlis.com](mailto:sgraff@airdberlis.com)>  
**Subject:** Re: Contested CCAA application

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Thanks, Mannie! Could we also enquire about 1hr dates.

Thanks!

Matilda Lici  
T [416.863.1500](tel:416.863.1500) x3428  
E [mlici@airdberlis.com](mailto:mlici@airdberlis.com)

Aird & Berlis LLP

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**From:** JUS-G-MAG-CSD-Toronto-SCJ Commercial List <[MAG.CSD.To.SCJCom@ontario.ca](mailto:MAG.CSD.To.SCJCom@ontario.ca)>  
**Sent:** Wednesday, July 5, 2023 8:21:16 AM  
**To:** Matilda Lici <[mlici@airdberlis.com](mailto:mlici@airdberlis.com)>  
**Cc:** Steven L. Graff <[sgraff@airdberlis.com](mailto:sgraff@airdberlis.com)>  
**Subject:** RE: Contested CCAA application

Hi

Kindly copy all Parties when submitting the form

To schedule 1.5 hrs hearings Parties must attend a scheduling apt.

Next available dates for 15 min

July 14, 17, 20, 21, 25, 27, or 28, 2023

Please email a request form to secure the date

Thanks  
Mannie

REMINDER:

Kindly, continue to reply/ respond/communicate on the original email chain.  
It helps us assist you better.

Thank-you  
Ms. Mannie Maneli  
Assistant Trial Coordinator  
Commercial, Estates, Civil, Trial Scheduling Office  
**Bus. Hours 8:30 AM to 4:30 PM**

---

**From:** Matilda Lici <[mlici@airdberlis.com](mailto:mlici@airdberlis.com)>

**Sent:** July 4, 2023 4:59 PM

**To:** JUS-G-MAG-CSD-Toronto-SCJ Commercial List <[MAG.CSD.To.SCJCom@ontario.ca](mailto:MAG.CSD.To.SCJCom@ontario.ca)>; JUS-G-MAG-CSD-Toronto-SCJ Commercial List <[MAG.CSD.To.SCJCom@ontario.ca](mailto:MAG.CSD.To.SCJCom@ontario.ca)>

**Cc:** Steven L. Graff <[sgraff@airdberlis.com](mailto:sgraff@airdberlis.com)>

**Subject:** Contested CCAA application

**CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.**

Good afternoon Alsou,

Could you please advise on the earliest available dates for a 1.5 hr contested CCAA application? There is some urgency to the matter given the quantum of the indebtedness (~50 million) and the limited prospects facing the debtor.

Thanks as always!

Matilda Lici

T 416.865.3428  
F 416.863.1515  
E [mlici@airdberlis.com](mailto:mlici@airdberlis.com)

Aird & Berlis LLP | Lawyers  
Brookfield Place, 181 Bay Street, Suite 1800  
Toronto, Canada M5J 2T9 | [airdberlis.com](http://airdberlis.com)






Commercial List File Number:	YR/CL/#####
Civil File Number:	YR/CV/#####

Date Filed: July 12, 2023

**SUPERIOR COURT OF JUSTICE – COMMERCIAL LIST**  
REQUEST FORM NEW MATTER

A	Short Title of Proceeding: <b>WAYGAR CAPITAL INC. v. QUALITY RUGS OF CANADA LIMITED et al.</b>		
B	The estimated time for the hearing of this matter is:		
	# Minutes	<b>2 Hour(s)</b>	# Day(s)
C	If hearing is to be 1 day or more in duration, please provide an estimate of reading time required for judge to prepare for hearing		
	# Minute(s)	# Hour(s)	# Day(s)
D	The matter concerns (indicate one of the categories from the Practice Direction, (2002), 57 O.R. (3 <sup>rd</sup> ) 97 par 1 (if under clause 1(l), indicate nature of the matter and state briefly why it should be listed on the Commercial List): <b>Waygar Capital Inc., in its capacity as the primary secured lender of Quality Rugs of Canada Limited and other related companies brings this application for an order declaring that the Respondents are companies to which the Companies' Creditors Arrangement Act applies, and for a monitor to be appointed.</b>		
E	State the date(s) and time(s) for hearing the matter that has (have) been arranged with other counsel.:		
	(1) <b>AUGUST 4, 2023</b>	(2)	(3)
F	Specify if this matter is already being dealt with in the court system (giving particulars as court number and office, when and by what judge or other judicial official). Advise of any known judicial conflicts. <b>New matter.</b>		
G	The following materials will be necessary for the matter to be considered. (It is the responsibility of counsel to confirm that the proper materials are available for the Court.)  Application Record of Waygar Capital Inc. and responding materials of Respondents, if any		

COUNSEL FOR APPLICANT/MOVING PARTY		COUNSEL FOR OTHER PARTY	
<b>Party</b>	WAYGAR CAPITAL INC.	<b>Party</b>	
<b>Counsel</b>	AIRD & BERLIS LLP Steven Graff/Matilda Lici  PRINT AND SIGN OR INITIAL	<b>Counsel</b>	PRINT AND SIGN OR INITIAL
<b>Address</b>	181 Bay Street, Suite 1800 Toronto, ON M5J 2T9	<b>Address</b>	
<b>Phone</b>	416.865.3428	<b>Phone</b>	
<b>Fax</b>	416.863.1515	<b>Fax</b>	
<b>E-Mail</b>	<a href="mailto:sgraff@airdberlis.com">sgraff@airdberlis.com</a> <a href="mailto:mlici@airdberlis.com">mlici@airdberlis.com</a>	<b>E-Mail</b>	

(IF MORE THAN 2 PARTIES INVOLVED, ADD ADDITIONAL SIGNATURES AND PARTICULARS ON REVERSE OR SEPARATE PAGE)

To be submitted to: Commercial List Office, 330 University Avenue, 7<sup>th</sup> Floor, Toronto Ontario **Fax to: (416) 327-6228**  
You may also convert to PDF and email to [Toronto.Commerciallist@jus.gov.on.ca](mailto:Toronto.Commerciallist@jus.gov.on.ca)

<b>Endorsement/Disposition</b> <input type="checkbox"/> See attached Yellow Endorsement Form
--

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 QUALITY RUGS OF CANADA LIMITED AND  
THE OTHER COMPANIES LISTED IN SCHEDULE "A"

Court File No.

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

PROCEEDING COMMENCED AT  
TORONTO

**AFFIDAVIT OF JOHN PACIONE**

**GARDINER ROBERTS LLP**

Lawyers  
Bay Adelaide Centre, East Tower  
22 Adelaide Street West, Suite 3600  
Toronto ON M5H 4E3

**Chris Besant (248820)**

Tel: (416) 865-6600

Fax: (416) 865-6636

Lawyers for the Applicant

CP-E 4C (May 1, 2016)

**TAB 3**

Court File No. [REDACTED]

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE [REDACTED] )  
JUSTICE [REDACTED] )

FRIDAY, THE 4TH  
DAY OF AUGUST, 2023

**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 QUALITY RUGS OF CANADA  
LIMITED, TIMELINE FLOORS INC., ONTARIO  
FLOORING LTD., WESTON HARDWOOD DESIGN  
CENTRE INC, AND MALVERN CONTRACT INTERIORS  
LIMITED**

(collectively, the "**Applicants**")

**INITIAL ORDER**

THIS APPLICATION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36*, as amended (the "CCAA"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of John Pacione sworn August 3, 2023 and the Exhibits thereto (the "**Pacione Affidavit**"), the Application Record (including the supplementary affidavit of Don Rogers sworn [INSERT DATE]) filed by Waygar Capital Inc. ("Waygar") and the consent of RSM Canada Limited to act as the Monitor, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on

hearing the submissions of counsel for the Applicants, counsel for Waygar and counsel for RSM Canada Limited, no other parties having been served or appearing,

### **SERVICE**

1. THIS COURT ORDERS that the time for service of the Applicants' Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

### **APPLICATION**

2. THIS COURT ORDERS AND DECLARES that the Applicants are companies to which the CCAA applies.

### **PLAN OF ARRANGEMENT**

3. [intentionally deleted].

### **POSSESSION OF PROPERTY AND OPERATIONS**

4. THIS COURT ORDERS that the Applicants shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "Property"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the "Business") and Property. The Applicants are authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "Assistants") currently retained or employed by them, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. THIS COURT ORDERS that the Applicants shall be entitled to utilize the cash management system currently in place as described in the Pacione Affidavit or to replace it with another substantially similar cash management system (the "Cash Management System") and that any present or future bank providing the Cash Management System shall not be under any

obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicants, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as the provider of the Cash Management System, an unaffected creditor under any Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. THIS COURT ORDERS that the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and
- (b) the fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges.

7. THIS COURT ORDERS that, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicants following the date of this Order.

8. THIS COURT ORDERS that the Applicants shall remit, in accordance with legal requirements, or pay:

(a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;

(b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and

(c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

9. THIS COURT ORDERS that until a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicants and the landlord from time to time ("Rent"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

10. THIS COURT ORDERS that, except as specifically permitted herein, the Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of its creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

### **RESTRUCTURING**

11. THIS COURT ORDERS that the Applicants shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding \$\_\_\_\_ in any one transaction or \$\_\_\_\_ in the aggregate;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and
- (c) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business (the "Restructuring").

12. THIS COURT ORDERS that the Applicants shall provide each of the relevant landlords with notice of the Applicants' intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicants' entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicants, or by further Order of this Court



upon application by the Applicant on at least two (2) days notice to such landlord and any such secured creditors. If the Applicant disclaims or resiliates the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer or resiliation of the lease shall be without prejudice to the Applicants' claim to the fixtures in dispute.

13. THIS COURT ORDERS that if a notice of disclaimer or resiliation is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer or resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicants and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer or resiliation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicants in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

#### **NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY**

14. THIS COURT ORDERS that until and including August 14, 2023, or such later date as this Court may order (the "Stay Period"), no proceeding or enforcement process in any court or tribunal (each, a "Proceeding") shall be commenced or continued against or in respect of the Applicants, the entities named in Schedule "A" hereto (the "Protected Parties"), the Monitor, the Financial Advisor (as hereinafter defined), or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

15. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the

foregoing, collectively being "Persons" and each being a "Person") against or in respect of the Applicants, the Protected Parties, the Monitor, or the Financial Advisor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

### **NO INTERFERENCE WITH RIGHTS**

16. THIS COURT ORDERS that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicants or the Protected Parties, except with the written consent of the Applicants and the Monitor, or leave of this Court.

### **CONTINUATION OF SERVICES**

17. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with the Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, the Cash Management System or other banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicants, and that the Applicants shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicants in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

**TREATMENT OF LIEN CLAIMS**

18. THIS COURT ORDERS that, without limiting the generality of paragraphs [14 to 17] hereof, the rights of any person who has supplied services and/or materials to the Applicants to preserve and perfect a lien under the *Construction Lien Act* (Ontario) or any applicable provincial equivalent (the "Provincial Lien Legislation") in respect of a project to which one of the Applicants is a contracting party (the "Lien Claims") be and are hereby stayed and any person seeking to preserve, perfect or otherwise enforce such a claim shall be required to comply with the process and seek the rights and remedies set out in paragraphs [18 to 21] hereof subject to further Order of the Court.

19. THIS COURT ORDERS that any person who wishes to assert a Lien Claim (a "Lien Claimant") shall serve a notice of such Lien Claim setting out the amount and particulars thereof to (a) the Monitor at arif.dhanani@rsmcanada.com, with a copy Goodmans LLP, counsel to the Monitor at: jlatham@goodmans.ca, and (b) the Applicants, care of cbesant@grllp.com, in each case within the timeframes prescribed by the applicable Provincial Lien Legislation (a "Lien Notice") or such other time frame as may be ordered by the Court.

20. THIS COURT ORDERS that, upon serving a Lien Notice, the Lien Claimant shall be entitled to a charge over the Property of the Applicants equivalent to the value that the Lien Claimant would otherwise be entitled to as a lien under the applicable Provincial Lien Legislation (the "Lien Charge").

21. THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and obligations under the CCAA and elsewhere in this Order, is hereby authorized and empowered to review the Lien Notices and reduce or disallow the Lien Claims set out therein, or refer such matter for determination by the Court, on notice to the applicable Lien Claimant. Any such Lien Claimant shall have 10 days to give notice to the Monitor and the Applicants that it intends seek a review by the Court of the decision of the Monitor on a motion before a judge of this Court.

22. THIS COURT ORDERS that nothing in paragraphs [18 to 21] hereof shall be construed as limiting or prejudicing the rights of the Monitor, the Applicants or any other interested party from challenging: (a) the validity or timeliness of a Lien Notice; (b) the validity or quantum of a Lien Claim under the applicable Provincial Lien Legislation, except for failure to preserve a lien by registration; (c) a Lien Claimant's entitlement to a Lien Charge under paragraph [20] of this Order; or (d) the priority of a Lien Charge under paragraphs [45] and [47] of this Order.

23. THIS COURT ORDERS that, in connection with the matters in paragraphs [18 to 21] of this Order, the Monitor (i) shall have all of the protections given to it by the CCAA, this Order and any other orders of the Court in the CCAA Proceedings, (ii) shall incur no liability or obligation as a result of carrying out matters in connection with paragraphs [18 to 22] of this Order, (iii) shall be entitled to rely on the books and records of the Applicants and any information provided by the Applicants, all without independent investigation, (iv) shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information, and (v) may seek such assistance as may be required to carry out matters in connection with paragraphs [18 to 22] of this Order from the Applicants or any of their affiliates.

#### **NON-DEROGATION OF RIGHTS**

24. THIS COURT ORDERS that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

#### **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

25. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants or the Protected Parties with respect to any claim against the directors or officers that arose before the date hereof and

that relates to any obligations of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

### **DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE**

26. THIS COURT ORDERS that the Applicants shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

27. THIS COURT ORDERS that the directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "Directors' Charge") on the Property, which charge shall not exceed an aggregate amount of \$600,000, as security for the indemnity provided in paragraph [26] of this Order. The Directors' Charge shall have the priority set out in paragraphs [45] and [47] herein.

28. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph [26] of this Order.

### **APPOINTMENT OF MONITOR**

29. THIS COURT ORDERS that the agreement dated as of February 1, 2023, engaging Alvarez & Marsal Canada Securities ULC (the "Financial Advisor") as financial advisor to the Applicants, a copy of which is attached as Exhibit "\*" to the Pacione Affidavit (the "A&M

Engagement Letter"), and the retention of the Financial Advisor under the terms thereof are hereby approved, including, without limitation, the Success Fee (as the term is defined in the A&M Engagement Letter). The Financial Advisor shall be entitled to the benefit of and is hereby granted a charge (the "Financial Advisor's Charge") on the Property, which charge shall not exceed an aggregate amount of \$950,000, as security for the Success Fee. The Financial Advisor's Charge shall have the priority set out in paragraphs [45] and [47] herein.

#### **APPOINTMENT OF MONITOR**

30. THIS COURT ORDERS that RSM Canada Limited (the "Monitor") is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

31. THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicants' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicants, to the extent required by the Applicants, in its dissemination, of information to creditors of the Applicants, including Waygar;
- (d) [intentionally deleted];
- (e) [intentionally deleted];

- (f) [intentionally deleted];
- (g) [intentionally deleted];
- (h) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;
- (i) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (j) perform such other duties as are required by this Order or by this Court from time to time.

32. THIS COURT ORDERS that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

33. THIS COURT ORDERS that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in

pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

34. THIS COURT ORDERS that that the Monitor shall provide any creditor of the Applicants with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph or in paragraph [31] hereof. In the case of information that the Monitor has been advised by the Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.

35. THIS COURT ORDERS that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

36. THIS COURT ORDERS that the Monitor, counsel to the Monitor, the Financial Advisor and counsel to the Applicants shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, and, in the case of the Financial Advisor, pursuant to the A&M Engagement Letter, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a bi-weekly basis, and the Financial Advisor on a monthly basis and, in addition, the Applicant is hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Applicant, retainers in the amount[s] of \$40,000, \$35,000 and [GR?], respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.



37. THIS COURT ORDERS that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

38. THIS COURT ORDERS that the Monitor, counsel to the Monitor, the Applicants' counsel and the Financial Advisor (in respect of their monthly fees and expenses as set out in the A&M Engagement Letter) shall be entitled to the benefit of and are hereby granted a charge (the "Administration Charge") on the Property, which charge shall not exceed an aggregate amount of \$750,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, and, in the case of the Financial Advisor, pursuant to the A&M Engagement Letter, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs [45] and [47] hereof.

**[intentionally deleted]**

39. [intentionally deleted]

40. [intentionally deleted]

41. [intentionally deleted]

42. [intentionally deleted].

43. [intentionally deleted]

(a)

44. [intentionally deleted]

**VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

45. THIS COURT ORDERS that the priorities of the Directors' Charge, the Administration Charge, the Financial Advisor's Charge and the Lien Charge, as among them, shall be as follows:

First – the Administration Charge (to a maximum amount of \$750,000);

Second – the Financial Advisor's Charge (to a maximum of \$950,000);

Third – the Directors' Charge (to a maximum amount of \$600,000); and

Fourth – the Lien Charge, to the extent necessary to secure such Lien Claims as may arise.

46. THIS COURT ORDERS that the filing, registration or perfection of the Directors' Charge, the Administration Charge, the Financial Advisor's Charge or the Lien Charge (collectively, the "Charges") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

47. THIS COURT ORDERS that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "Encumbrances") in favour of any Person, notwithstanding the order of perfection or attachment, except (a) for any Person who is a "secured creditor" as defined in the CCAA that has not been served with the Notice of Application for this Order, and (b) for any claims of any person against the Applicants for amounts owing for services rendered and/or materials supplied that have priority over Encumbrances by statute **[NTD: any basis to note a subordination to Waygar?]**.

48. THIS COURT ORDERS that the Applicants shall be entitled, at the Comeback Hearing, on notice to those Persons likely to be affected thereby, to seek priority of the Charges ahead of any Encumbrance over which the Charges may not have obtained priority pursuant to this Order.

49. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants also obtain the prior written consent of the Monitor and the beneficiaries of the Charges, or further Order of this Court.

50. THIS COURT ORDERS that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "Chargees") thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "Agreement") which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by the Applicants of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and
- (c) the payments made by the Applicants pursuant to this Order and the granting of the Charges do not and will not constitute preferences, fraudulent conveyances, transfers

at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

51. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicants' interest in such real property leases.

### **SERVICE AND NOTICE**

52. THIS COURT ORDERS that service of the Applicants' Application Record, together with written confirmation of the date of such hearings, to any Person in respect of this Order constitutes notice of the Comeback Hearing.

53. THIS COURT ORDERS that the Monitor shall (i) without delay, publish in The Globe and Mail (National Edition) [NTD: other publications?] a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicants of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

54. THIS COURT ORDERS that the E-Service Guide of the Commercial List (the "Guide") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*. Subject to Rule 3.01(d) of the *Rules of Civil Procedure* and paragraph 21 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Guide with the following URL '<@>' (the "Monitor's Website").

55. THIS COURT ORDERS that the Monitor shall create, maintain and update as necessary a list of all Persons appearing in person or by counsel in these proceedings (the“Service List”). The Monitor shall post the Service List, as may be updated from time to time, on the Monitor's Website, provided that the Monitor shall have no liability in respect of the accuracy of or the timeliness of making any changes to the Service List.

56. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Guide is not practicable, the Applicants and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Applicants’ creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

## **GENERAL**

57. THIS COURT ORDERS that the Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

58. THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicants, the Business or the Property.

59. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to

give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

60. THIS COURT ORDERS that each of the Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

61. THIS COURT ORDERS that any interested party (including the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

62. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

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**Schedule “A” – Other Entities Protected by the Stay**

1. Quality Commercial Carpet Corporation;
2. Joseph Douglas Pacione Holdings Ltd.;
3. John Anthony Pacione Holdings Ltd.;
4. Jopac Enterprises Limited;
5. Patjo Holdings Inc.;

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
QUALITY RUGS OF CANADA LIMITED, TIMELINE FLOORS INC., ONTARIO  
FLOORING LTD., WESTON HARDWOOD DESIGN CENTRE INC, AND MALVERN  
CONTRACT INTERIORS LIMITED**

collectively, The Applicants

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**  
Proceeding commenced at Toronto

**INITIAL ORDER**

**Gardiner Roberts LLP**

Bay Adelaide Centre  
22 Adelaide Street West, Suite 3600  
Toronto, ON M5H 4E3

**Christopher Besant (LSO# <>)**

Email: cbesant@grllp.com  
Tel: (416) 865 4022

Lawyer for the Applicants<>



**TAB 4**

Court File No. \_\_\_\_\_

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**



Court File No. \_\_\_\_\_

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE \_\_\_\_\_  
JUSTICE \_\_\_\_\_

)  
)  
)

~~WEEKDAY~~FRIDAY, THE #  
~~DAY OF MONTH, 20YR~~4TH

JUSTICE \_\_\_\_\_

)

DAY OF AUGUST, 2023

~~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 [APPLICANT'S NAME] (the "Applicant")~~

**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 QUALITY RUGS OF CANADA  
LIMITED, TIMELINE FLOORS INC., ONTARIO  
FLOORING LTD., WESTON HARDWOOD DESIGN  
CENTRE INC, AND MALVERN CONTRACT INTERIORS  
LIMITED**

(collectively, the "Applicants")

**INITIAL ORDER**

THIS APPLICATION, made by the ~~Applicant~~Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"),<sup>2</sup> was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of ~~[NAME]~~John Pacione sworn ~~[DATE]~~August 3, 2023 and the Exhibits thereto (the "Pacione Affidavit"), the Application Record (including the supplementary affidavit of Don Rogers sworn [INSERT DATE]) filed by Waygar Capital Inc. ("Waygar") and the consent of RSM Canada Limited to act as the Monitor, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for ~~[NAMES], no one appearing for [NAME]<sup>1</sup> although duly served as appears from the affidavit of service of [NAME] sworn [DATE] and on reading the consent of [MONITOR'S NAME] to act as the Monitor~~the Applicants, counsel for Waygar and counsel for RSM Canada Limited, no other parties having been served or appearing,

## SERVICE

1. THIS COURT ORDERS that the time for service of the Applicants' Notice of Application and the Application Record is hereby abridged and validated<sup>2</sup> so that this Application is properly returnable today and hereby dispenses with further service thereof.

## APPLICATION

2. THIS COURT ORDERS AND DECLARES that the ~~Applicant is a company~~Applicants are companies to which the CCAA applies.

## PLAN OF ARRANGEMENT

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<sup>1</sup>~~Include names of secured creditors or other persons who must be served before certain relief in this model Order may be granted. See, for example, CCAA Sections 11.2(1), 11.3(1), 11.4(1), 11.51(1), 11.52(1), 32(1), 32(3), 33(2) and 36(2).~~

<sup>2</sup>~~If service is effected in a manner other than as authorized by the Ontario Rules of Civil Procedure, an order validating irregular service is required pursuant to Rule 16.08 of the Rules of Civil Procedure and may be granted in appropriate circumstances.~~

3. ~~THIS COURT ORDERS that the Applicant shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "Plan").~~[intentionally deleted].

## POSSESSION OF PROPERTY AND OPERATIONS

4. THIS COURT ORDERS that the ~~Applicant~~Applicants shall remain in possession and control of ~~its~~their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "Property"). Subject to further Order of this Court, the ~~Applicant~~Applicants shall continue to carry on business in a manner consistent with the preservation of ~~its~~their business (the "Business") and Property. The ~~Applicant is~~Applicants are authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "Assistants") currently retained or employed by ~~it~~them, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. ~~THIS COURT ORDERS that the Applicant~~Applicants shall be entitled ~~to continue~~ to utilize the ~~central~~ cash management system<sup>3</sup> currently in place as described in the Pacione Affidavit of [NAME] sworn [DATE] or to replace it with another substantially similar ~~central~~ cash management system (the "Cash Management System") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the ~~Applicant~~Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the ~~Applicant~~Applicants, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as the

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<sup>3</sup>~~This provision should only be utilized where necessary, in view of the fact that central cash management systems often operate in a manner that consolidates the cash of applicant companies. Specific attention should be paid to cross-border and inter-company transfers of cash.~~

provider of the Cash Management System, an unaffected creditor under ~~the~~any Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.}]

6. THIS COURT ORDERS that the ~~Applicant~~Applicants shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

(a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and

(b) the fees and disbursements of any Assistants retained or employed by the ~~Applicant~~Applicants in respect of these proceedings, at their standard rates and charges.

7. THIS COURT ORDERS that, except as otherwise provided to the contrary herein, the ~~Applicant~~Applicants shall be entitled but not required to pay all reasonable expenses incurred by the ~~Applicant~~Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

(a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and

(b) payment for goods or services actually supplied to the ~~Applicant~~Applicants following the date of this Order.

8. THIS COURT ORDERS that the ~~Applicant~~Applicants shall remit, in accordance with legal requirements, or pay:

(a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted

from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;

(b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and

(c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

9. THIS COURT ORDERS that until a real property lease is disclaimed ~~for~~ <sup>4</sup>resiliated in accordance with the CCAA, the ~~Applicant~~Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the ~~Applicant~~Applicants and the landlord from time to time ("Rent"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

10. THIS COURT ORDERS that, except as specifically permitted herein, the ~~Applicant~~Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the ~~Applicant~~Applicants

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<sup>4</sup>~~The term "resiliate" should remain if there are leased premises in the Province of Quebec, but can otherwise be removed.~~

to any of its creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

## RESTRUCTURING

11. THIS COURT ORDERS that the ~~Applicant~~Applicants shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, ~~and~~ to dispose of redundant or non-material assets not exceeding \$~~●~~\_\_\_\_\_ in any one transaction or \$~~●~~\_\_\_\_\_ in the aggregate<sup>5</sup>;
- (b) ~~t~~erminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate~~;~~; and
- (c) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the ~~Applicant~~Applicants to proceed with an orderly restructuring of the Business (the "Restructuring").

~~12.~~12. THIS COURT ORDERS that the ~~Applicant~~Applicants shall provide each of the relevant landlords with notice of the ~~Applicant~~Applicants's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the ~~Applicant~~Applicants's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be

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<sup>5</sup>~~Section 36 of the amended CCAA does not seem to contemplate a pre-approved power to sell (see subsection 36(3)) and moreover requires notice (subsection 36(2)) and evidence (subsection 36(7)) that may not have occurred or be available at the initial CCAA hearing.~~

dealt with as agreed between any applicable secured creditors, such landlord and the ~~Applicant~~Applicants, or by further Order of this Court upon application by the Applicant on at least two (2) days notice to such landlord and any such secured creditors. If the Applicant disclaims ~~for resiliates~~ the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer ~~for resiliation~~ of the lease shall be without prejudice to the ~~Applicant's~~Applicants' claim to the fixtures in dispute.

13. THIS COURT ORDERS that if a notice of disclaimer ~~for resiliation~~ is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer ~~for resiliation~~, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the ~~Applicant~~Applicants and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer ~~for resiliation~~, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the ~~Applicant~~Applicants in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

#### **NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY**

14. THIS COURT ORDERS that until and including ~~[DATE — MAX. 30 DAYS]~~August 14, 2023, or such later date as this Court may order (the "Stay Period"), no proceeding or enforcement process in any court or tribunal (each, a "Proceeding") shall be commenced or continued against or in respect of the ~~Applicant or~~Applicants, the entities named in Schedule "A" hereto (the "Protected Parties"), the Monitor, the Financial Advisor (as hereinafter defined), or affecting the Business or the Property, except with the written consent of the ~~Applicant~~Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the ~~Applicant~~Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**



15. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person") against or in respect of the ~~Applicant~~Applicants, the Protected Parties, the Monitor, or the ~~Monitor~~Financial Advisor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the ~~Applicant~~Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH RIGHTS**

16. THIS COURT ORDERS that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the ~~Applicant~~Applicants or the Protected Parties, except with the written consent of the ~~Applicant~~Applicants and the Monitor, or leave of this Court.

#### **CONTINUATION OF SERVICES**

17. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with the ~~Applicant~~Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, ~~centralized~~the Cash Management System or other banking services, payroll services, insurance, transportation services, utility or other services to the Business or the ~~Applicant~~Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the ~~Applicant~~Applicants, and that the ~~Applicant~~Applicants shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after

the date of this Order are paid by the ApplicantApplicants in accordance with normal payment practices of the ApplicantApplicants or such other practices as may be agreed upon by the supplier or service provider and each of the ApplicantApplicants and the Monitor, or as may be ordered by this Court.

### TREATMENT OF LIEN CLAIMS

18. THIS COURT ORDERS that, without limiting the generality of paragraphs [14 to 17] hereof, the rights of any person who has supplied services and/or materials to the Applicants to preserve and perfect a lien under the *Construction Lien Act* (Ontario) or any applicable provincial equivalent (the "Provincial Lien Legislation") in respect of a project to which on of the Applicants is a contracting party (the "Lien Claims") be and are hereby stayed and any person seeking to preserve, perfect or otherwise enforce such a claim shall be required to comply with the process and seek the rights and remedies set out in paragraphs [18 to 21] hereof subject to further Order of the Court.

19. THIS COURT ORDERS that any person who wishes to assert a Lien Claim (a "Lien Claimant") shall serve a notice of such Lien Claim setting out the amount and particulars thereof to (a) the Monitor at arif.dhanani@rsmcanada.com, with a copy Goodmans LLP, counsel to the Monitor at: jlatham@goodmans.ca, and (b) the Applicants, care of cbesant@grllp.com, in each case within the timeframes prescribed by the applicable Provincial Lien Legislation (a "Lien Notice") or such other time frame as may be ordered by the Court.

20. THIS COURT ORDERS that, upon serving a Lien Notice, the Lien Claimant shall be entitled to a charge over the Property of the Applicants equivalent to the value that the Lien Claimant would otherwise be entitled to as a lien under the applicable Provincial Lien Legislation (the "Lien Charge").

21. THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and obligations under the CCAA and elsewhere in this Order, is hereby authorized and empowered to review the Lien Notices and reduce or disallow the Lien Claims set out therein, or refer such matter

for determination by the Court, on notice to the applicable Lien Claimant. Any such Lien Claimant shall have 10 days to give notice to the Monitor and the Applicants that it intends seek a review by the Court of the decision of the Monitor on a motion before a judge of this Court.

22. THIS COURT ORDERS that nothing in paragraphs [18 to 21] hereof shall be construed as limiting or prejudicing the rights of the Monitor, the Applicants or any other interested party from challenging: (a) the validity or timeliness of a Lien Notice; (b) the validity or quantum of a Lien Claim under the applicable Provincial Lien Legislation, except for failure to preserve a lien by registration; (c) a Lien Claimant's entitlement to a Lien Charge under paragraph [20] of this Order; or (d) the priority of a Lien Charge under paragraphs [45] and [47] of this Order.

23. THIS COURT ORDERS that, in connection with the matters in paragraphs [18 to 21] of this Order, the Monitor (i) shall have all of the protections given to it by the CCAA, this Order and any other orders of the Court in the CCAA Proceedings, (ii) shall incur no liability or obligation as a result of carrying out matters in connection with paragraphs [18 to 22] of this Order, (iii) shall be entitled to rely on the books and records of the Applicants and any information provided by the Applicants, all without independent investigation, (iv) shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information, and (v) may seek such assistance as may be required to carry out matters in connection with paragraphs [18 to 22] of this Order from the Applicants or any of their affiliates.

#### **NON-DEROGATION OF RIGHTS**

24. ~~18.~~ THIS COURT ORDERS that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any

monies or otherwise extend any credit to the ~~Applicant~~Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.<sup>6</sup>

## PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

25. ~~19.~~ THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the ~~Applicant~~Applicants or the Protected Parties with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the ~~Applicant~~Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the ~~Applicant~~Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the ~~Applicant~~Applicants or this Court.

## DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

26. ~~20.~~ THIS COURT ORDERS that the ~~Applicant~~Applicants shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the ~~Applicant~~Applicants after the commencement of the within proceedings,<sup>7</sup> except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

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<sup>6</sup> ~~This non-derogation provision has acquired more significance due to the recent amendments to the CCAA, since a number of actions or steps cannot be stayed, or the stay is subject to certain limits and restrictions. See, for example, CCAA Sections 11.01, 11.04, 11.06, 11.07, 11.08, 11.1(2) and 11.5(1).~~

<sup>7</sup> ~~The broad indemnity language from Section 11.51 of the CCAA has been imported into this paragraph. The granting of the indemnity (whether or not secured by a Directors' Charge), and the scope of the indemnity, are discretionary matters that should be addressed with the Court.~~

27. ~~21.~~ THIS COURT ORDERS that the directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "Directors' Charge")<sup>8</sup> on the Property, which charge shall not exceed an aggregate amount of \$~~●~~600,000, as security for the indemnity provided in paragraph ~~[2026]~~ of this Order. The Directors' Charge shall have the priority set out in paragraphs ~~[3845]~~ and ~~[4047]~~ herein.

28. ~~22.~~ THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the ~~Applicant's~~Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph ~~[2026]~~ of this Order.

#### **APPOINTMENT OF MONITOR**

29. THIS COURT ORDERS that the agreement dated as of February 1, 2023, engaging Alvarez & Marsal Canada Securities ULC (the "Financial Advisor") as financial advisor to the Applicants, a copy of which is attached as Exhibit "\*" to the Pacione Affidavit (the "A&M Engagement Letter"), and the retention of the Financial Advisor under the terms thereof are hereby approved, including, without limitation, the Success Fee (as the term is defined in the A&M Engagement Letter). The Financial Advisor shall be entitled to the benefit of and is hereby granted a charge (the "Financial Advisor's Charge") on the Property, which charge shall not exceed an aggregate amount of \$950,000, as security for the Success Fee. The Financial Advisor's Charge shall have the priority set out in paragraphs [45] and [47] herein.

#### ~~23.~~ APPOINTMENT OF MONITOR

30. THIS COURT ORDERS that ~~[MONITOR'S NAME]~~RSM Canada Limited (the "Monitor") is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to

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~~<sup>8</sup>Section 11.51(3) provides that the Court may not make this security/charging order if in the Court's opinion the Applicant could obtain adequate indemnification insurance for the director or officer at a reasonable cost.~~

monitor the business and financial affairs of the ~~Applicant~~Applicants with the powers and obligations set out in the CCAA or set forth herein and that the ~~Applicant~~Applicants and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the ~~Applicant~~Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

31. ~~24.~~ THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the ~~Applicant's~~Applicants' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the ~~Applicant~~Applicants, to the extent required by the ~~Applicant~~Applicants, in its dissemination, ~~to the DIP Lender and its counsel on a [TIME INTERVAL] basis of financial and other~~of information ~~as agreed to between~~creditors of the ~~Applicant and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender~~Applicants, including Waygar;
- (d) ~~advise the Applicant in its preparation of the Applicant's cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis, but not less than [TIME INTERVAL], or as otherwise agreed to by the DIP Lender;~~[intentionally deleted];
- (e) ~~advise the Applicant in its development of the Plan and any amendments to the Plan;~~[intentionally deleted];
- (f) ~~assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;~~[intentionally deleted];

(g) ~~\_\_\_\_\_ [intentionally deleted];~~

(h) ~~(g)~~ have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the ~~Applicant~~Applicants, to the extent that is necessary to adequately assess the ~~Applicant~~Applicants's business and financial affairs or to perform its duties arising under this Order;

(i) ~~(h)~~ be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and

(j) ~~(i)~~ perform such other duties as are required by this Order or by this Court from time to time.

32. ~~25.~~ THIS COURT ORDERS that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

33. ~~26.~~ THIS COURT ORDERS that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers

under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

34. ~~27.~~ THIS COURT ORDERS that that the Monitor shall provide any creditor of the ~~Applicant and the DIP Lender~~ Applicants with information provided by the ~~Applicant~~ Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph or in paragraph [31] hereof. In the case of information that the Monitor has been advised by the ~~Applicant~~ Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.

35. ~~28.~~ THIS COURT ORDERS that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

36. ~~29.~~ THIS COURT ORDERS that the Monitor, counsel to the Monitor, the Financial Advisor and counsel to the ~~Applicant~~ Applicants shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, and, in the case of the Financial Advisor, pursuant to the A&M Engagement Letter, by the ~~Applicant~~ Applicants as part of the costs of these proceedings. The ~~Applicant is~~ Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a ~~[TIME INTERVAL]~~ bi-weekly basis, and the Financial Advisor on a monthly basis and, in addition, the Applicant is hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Applicant, retainers in the amount[s] of \$ ~~●~~ 40,000, \$35,000 and [GR?], respectively, } to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.



37. ~~30.~~ THIS COURT ORDERS that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

38. ~~31.~~ THIS COURT ORDERS that the Monitor, counsel to the Monitor, ~~if any, and~~ the ~~Applicant~~Applicants's counsel and the Financial Advisor (in respect of their monthly fees and expenses as set out in the A&M Engagement Letter) shall be entitled to the benefit of and are hereby granted a charge (the "Administration Charge") on the Property, which charge shall not exceed an aggregate amount of ~~\$~~\$~~750,000~~, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, and, in the case of the Financial Advisor, pursuant to the A&M Engagement Letter, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs ~~[3845]~~ and ~~[4047]~~ hereof.

#### **DIP FINANCING**

~~32. — THIS COURT ORDERS that the Applicant is hereby authorized and empowered to obtain and borrow under a credit facility from [DIP LENDER'S NAME] (the "DIP Lender") in order to finance the Applicant's working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed \$~~ ~~unless permitted by further Order of this Court.~~

~~33. — THIS COURT ORDERS THAT such credit facility shall be on the terms and subject to the conditions set forth in the commitment letter between the Applicant and the DIP Lender dated as of [DATE] (the "Commitment Letter"), filed.~~

~~34. — THIS COURT ORDERS that the Applicant is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "Definitive Documents"), as are contemplated by the Commitment Letter or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicant is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under~~

~~and pursuant to the Commitment Letter and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.~~

~~35. THIS COURT ORDERS that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "DIP Lender's Charge") on the Property, which DIP Lender's Charge shall not secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs [38] and [40] hereof.~~

~~36. THIS COURT ORDERS that, notwithstanding any other provision of this Order:~~

~~[intentionally deleted]~~

~~39. [intentionally deleted]~~

~~40. [intentionally deleted]~~

~~41. [intentionally deleted]~~

~~42. [intentionally deleted].~~

~~43. [intentionally deleted]~~

~~(a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;~~

~~(b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon ● days notice to the Applicant and the Monitor, may exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the Commitment Letter, Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Applicant and set off and/or consolidate any amounts owing by the DIP~~

~~Lender to the Applicant against the obligations of the Applicant to the DIP Lender under the Commitment Letter, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicant and for the appointment of a trustee in bankruptcy of the Applicant; and~~

~~(c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property.~~

~~37. THIS COURT ORDERS AND DECLARES that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicant under the CCAA, or any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act* of Canada (the "BIA"), with respect to any advances made under the Definitive Documents.~~

44. [intentionally deleted]

## VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

45. ~~38.~~ THIS COURT ORDERS that the priorities of the Directors' Charge, the Administration Charge, the Financial Advisor's Charge and the ~~DIP Lender's~~Lien Charge, as among them, shall be as follows<sup>9</sup>:

First – the Administration Charge (to ~~the~~a maximum amount of \$~~●~~\$750,000);

Second – ~~DIP Lender~~the Financial Advisor's Charge (to a maximum of \$950,000); ~~and~~

Third – the Directors' Charge (to ~~the~~a maximum amount of \$~~●~~600,000); and

Fourth – the Lien Charge, to the extent necessary to secure such Lien Claims as may arise.

46. ~~39.~~ THIS COURT ORDERS that the filing, registration or perfection of the Directors' Charge, the Administration Charge, the Financial Advisor's Charge or the ~~DIP Lender's~~Lien Charge (collectively, the "Charges") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

47. ~~40.~~ THIS COURT ORDERS that each of the ~~Directors' Charge, the Administration Charge and the DIP Lender's Charge (all as constituted and defined herein)~~Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, ~~trusts,~~ liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "Encumbrances") in favour of any Person, notwithstanding the order of perfection or attachment, except (a) for any Person who is a "secured creditor" as defined in the CCAA that has not been

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<sup>9</sup> ~~The ranking of these Charges is for illustration purposes only, and is not meant to be determinative. This ranking may be subject to negotiation, and should be tailored to the circumstances of the case before the Court. Similarly, the quantum and caps applicable to the Charges should be considered in each case. Please also note that the CCAA now permits Charges in favour of critical suppliers and others, which should also be incorporated into this Order (and the rankings, above), where appropriate.~~

served with the Notice of Application for this Order, and (b) for any claims of any person against the Applicants for amounts owing for services rendered and/or materials supplied that have priority over Encumbrances by statute [NTD: any basis to note a subordination to Waygar?].

48. THIS COURT ORDERS that the Applicants shall be entitled, at the Comeback Hearing, on notice to those Persons likely to be affected thereby, to seek priority of the Charges ahead of any Encumbrance over which the Charges may not have obtained priority pursuant to this Order.

49. ~~41.~~ THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the ~~Directors' Charge, the Administration Charge or the DIP Lender's Charge~~ Charges, unless the ~~Applicant~~ Applicants also ~~obtains~~ obtain the prior written consent of the Monitor, ~~the DIP Lender~~ and the beneficiaries of the ~~Directors' Charge and the Administration Charge~~ Charges, or further Order of this Court.

50. ~~42.~~ THIS COURT ORDERS that the ~~Directors' Charge, the Administration Charge, the Commitment Letter, the Definitive Documents and the DIP Lender's Charge~~ Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "Chargees") ~~and/or the DIP Lender~~ thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "Agreement") which binds the ~~Applicant~~ Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) ~~neither~~ the creation of the Charges ~~nor the execution, delivery, perfection, registration or performance of the Commitment Letter or the Definitive Documents~~ shall

not create or be deemed to constitute a breach by the ~~Applicant~~Applicants of any Agreement to which it is a party;

(b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the ~~Applicant entering into the Commitment Letter, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents~~; and

(c) the payments made by the ~~Applicant~~Applicants pursuant to this Order, ~~the Commitment Letter or the Definitive Documents~~, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

51. ~~43.~~ THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the ~~Applicant's~~Applicants' interest in such real property leases.

## SERVICE AND NOTICE

52. THIS COURT ORDERS that service of the Applicants' Application Record, together with written confirmation of the date of such hearings, to any Person in respect of this Order constitutes notice of the Comeback Hearing.

53. ~~44.~~ THIS COURT ORDERS that the Monitor shall (i) without delay, publish in ~~[newspapers specified by the Court]~~The Globe and Mail (National Edition) [NTD: other publications?] a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the ~~Applicant~~Applicants of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it

publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

54. ~~45.~~ THIS COURT ORDERS that the E-Service ~~Protocol~~Guide of the Commercial List (the “~~Protocol~~Guide”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the ~~Protocol~~Guide (which can be found on the Commercial List website at ~~http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/~~http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*. Subject to Rule 3.01(d) of the *Rules of Civil Procedure* and paragraph 21 of the ~~Protocol~~Guide, service of documents in accordance with the ~~Protocol~~Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the ~~Protocol~~Guide with the following URL ‘<~~@~~>’ (the “Monitor’s Website”).

55. THIS COURT ORDERS that the Monitor shall create, maintain and update as necessary a list of all Persons appearing in person or by counsel in these proceedings (the “Service List”). The Monitor shall post the Service List, as may be updated from time to time, on the Monitor’s Website, provided that the Monitor shall have no liability in respect of the accuracy of or the timeliness of making any changes to the Service List.

56. ~~46.~~ THIS COURT ORDERS that if the service or distribution of documents in accordance with the ~~Protocol~~Guide is not practicable, the ~~Applicant~~Applicants and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the ~~Applicant’s~~Applicants’ creditors or other interested parties at their respective addresses as last shown on the records of the ~~Applicant~~Applicants and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

**GENERAL**

57. ~~47.~~ THIS COURT ORDERS that the ~~Applicant~~Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

58. ~~48.~~ THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the ~~Applicant~~Applicants, the Business or the Property.

59. ~~49.~~ THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the ~~Applicant~~Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the ~~Applicant~~Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the ~~Applicant~~Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

60. ~~50.~~ THIS COURT ORDERS that each of the ~~Applicant~~Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

61. ~~51.~~ THIS COURT ORDERS that any interested party (including the ~~Applicant~~Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.



62. ~~52.~~ THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.



**Schedule “A” – Other Entities Protected by the Stay**

1. Quality Commercial Carpet Corporation;
2. Joseph Douglas Pacione Holdings Ltd.;
3. John Anthony Pacione Holdings Ltd.;
4. Jopac Enterprises Limited;
5. Patjo Holdings Inc.;

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
QUALITY RUGS OF CANADA LIMITED, TIMELINE FLOORS INC., ONTARIO  
FLOORING LTD., WESTON HARDWOOD DESIGN CENTRE INC, AND MALVERN  
CONTRACT INTERIORS LIMITED

collectively, The Applicants

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
Proceeding commenced at Toronto

INITIAL ORDER

Gardiner Roberts LLP  
Bay Adelaide Centre  
22 Adelaide Street West, Suite 3600  
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Lawyer for the Applicants<>



Document comparison by Workshare Compare on Thursday, August 3, 2023 1:00:08 PM

Input:	
Document 1 ID	file://C:\Users\messierj\Desktop\Joe\Model Order - initial-order-CCAA-EN (10).doc
Description	Model Order - initial-order-CCAA-EN (10)
Document 2 ID	PowerDocs://GOODMANS/7400429/2
Description	GOODMANS-#7400429-v2-CCAA_Initial_Order_for_QSG_August_4,_2023
Rendering set	Standard

Legend:	
	<u>Insertion</u>
	<del>Deletion</del>
	<del>Moved from</del>
	<u>Moved to</u>
	Style change
	Format change
	<del>Moved deletion</del>
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

<b>Statistics:</b>	
	Count
Insertions	264
Deletions	268
Moved from	1
Moved to	1
Style changes	0
Format changes	0
Total changes	534

**TAB 5**

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 QUALITY RUGS OF CANADA  
LIMITED AND THE APPLICANTS LISTED IN SCHEDULE  
"A"**

The "**Applicants**"

**CONSENT OF THE PROPOSED MONITOR**

RSM Canada Limited hereby consents to act as Court-appointed monitor of the Applicants, in respect of these proceedings, subject to the granting of an initial order under the *Companies' Creditors Arrangement Act* (Canada) in the form included in the Applicants' application record.

Dated as of August 2, 2023

**RSM Canada Limited**

Per:



\_\_\_\_\_  
Name: Arif Dhanani, CPA, CA, CIRP, LIT

Title: Vice-President



**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  
QUALITY RUGS OF CANADA LIMITED AND THE APPLICANTS LISTED IN  
SCHEDULE "A"**

Applicants

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**  
Proceeding commenced at Toronto

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**MONITOR'S CONSENT**

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**Goodmans LLP**

Bay Adelaide Centre  
333 Bay Street, Suite 3400  
Toronto, ON M5H 2S7

**L. Joseph Latham (LSO# 32326A)**

Email: [jlatham@goodmans.ca](mailto:jlatham@goodmans.ca)  
Tel: (416) 597-4211

Lawyers for RSM Canada Limited, the Proposed  
Monitor

**TAB 6**

<p><b>AIRD &amp; BERLIS LLP</b>          Brookfield Place          181 Bay Street, Suite 1800          Toronto, ON M5J 2T9</p> <p><b>Steven L. Graff (LSO #31871V)</b>  <a href="mailto:sgraff@airdberlis.com">sgraff@airdberlis.com</a>          416-865-7726</p> <p><b>Matilda Lici (LSO #79621D)</b>  <a href="mailto:mlici@airdberlis.com">mlici@airdberlis.com</a>          416-865-3428</p> <p>Lawyers for Waygar Capital Inc., as agent for          Ninepoint Canadian Senior Debt Master Fund          L.P.</p>	<p><b>MINISTRY OF FINANCE</b>          Ministry of the Attorney General (Ontario)          Collections Branch – Bankruptcy and          Insolvency Unit          6-33 King Street West          Oshawa, ON L1H 8H5</p> <p><a href="mailto:insolvency.unit@ontario.ca">insolvency.unit@ontario.ca</a>          1-866-668-8297</p>
<p><b>WAYGAR CAPITAL INC., AS AGENT          FOR NINEPOINT CANADIAN SENIOR          DEBT MASTER FUND</b>          372 Bay Street, Suite 901          Toronto, ON M5H 2W9</p> <p><b>Don Rogers</b>  <a href="mailto:drogers@waygarcapital.com">drogers@waygarcapital.com</a>          416-565-2738</p>	<p><b>ROYAL BANK OF CANADA</b>          10 York Mills Road, 3<sup>rd</sup> Floor          Toronto, ON M2P 0A2</p>
<p><b>RSM CANADA LIMITED</b>          11 King Street West, Suite 700, Box 27          Toronto, ON M5H 4C7</p> <p><b>Bryan Tannenbaum</b>  <a href="mailto:bryan.tannenbaum@rsmcanada.com">bryan.tannenbaum@rsmcanada.com</a>          416-238-5055</p> <p><b>Arif Dhanani</b>  <a href="mailto:arif.dhanani@rsmcanada.com">arif.dhanani@rsmcanada.com</a>          647-725-0183</p> <p>Proposed CCAA Monitor</p>	<p><b>THE BANK OF NOVA SCOTIA</b>          10 Wright Boulevard          Stratford, ON N5A 7X9</p>
<p><b>GOODMANS LLP</b>          Bay Adelaide Centre          333 Bay Street, Suite 3400          Toronto, ON M5H 2S7</p>	<p><b>BUCKWOLD WESTERN LTD.</b>          70, 3239 Faithfull Avenue          Saskatoon, SK S7K 8H4</p> <p><a href="mailto:ar@buckwold.com">ar@buckwold.com</a></p>

<p><b>Robert Chadwick (LSO #35165K)</b> 416-597-4285 <a href="mailto:rchadwick@goodmans.ca">rchadwick@goodmans.ca</a></p> <p>Lawyers for the Proposed CCAA Monitor</p>	
<p><b>MOHAWK CARPET DISTRIBUTION, INC.</b> 160 South Industrial Road Calhoun, Georgia 30701</p> <p><b>David Patton</b> General Counsel <a href="mailto:Dave_patton@mohawking.com">Dave_patton@mohawking.com</a> 706-629-7721</p>	<p><b>TOYOTA INDUSTRIES COMMERCIAL FINANCE CANADA, INC.</b> 60-401 The West Mall Toronto, ON M9C 5J5</p>
<p><b>ATTORNEY GENERAL OF CANADA DEPARTMENT OF JUSTICE</b> Ontario Regional Office, Tax Law Section 120 Adelaide Street West, Suite 400 Toronto, ON M5H 1T1</p> <p><b>Diane Winters</b> General Counsel <a href="mailto:diane.winters@justice.gc.ca">diane.winters@justice.gc.ca</a> 647-256-7459</p>	<p><b>DE LAGE LANDEN FINANCIAL SERVICES CANADA INC.</b> 3450 Superior Court, Unit 1 Oakville, ON L6L 0C4</p>
<p><b>CWB NATIONAL LEASING INC.</b> 1525 Buffalo Place Winnipeg, MB R3T 1L9</p>	<p><b>GOLD KEY SALES AND LEASE LTD.</b> 19545 No. 10 Highway Surrey, BC V3S 6K1</p>
<p><b>LAWSON LUNDELL LLP</b> Brookfield Place Suite 1100, 225 – 6<sup>th</sup> Avenue SW Calgary, AB T2P 1N2</p> <p><b>Andrea Lutsch</b> <a href="mailto:alutsch@lawsonlundell.com">alutsch@lawsonlundell.com</a> 403-218-7574</p> <p><b>Kelly Hannan</b> <a href="mailto:khannan@lawsonlundell.com">khannan@lawsonlundell.com</a> 403-218-7541</p> <p>Lawyers for Taiga Building Products Ltd.</p>	<p><b>RCAP LEASING INC.</b> 5575 North Services Road, Suite 300 Burlington, ON L7L 6M1</p>

**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 QUALITY RUGS OF CANADA LIMITED AND THE OTHER COMPANIES LISTED IN SCHEDULE "A"**

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Court File No. CV-23-00703933-00CL

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

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**APPLICATION RECORD**

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**GARDINER ROBERTS LLP**

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**Chris Besant (248820)**

Tel: (416) 865-6600  
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Lawyers for the Applicant

CP-E 4C (May 1, 2016)