



TDB Restructuring Limited
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Court File No. BK-24-03064916-0031

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL
OF NATIONAL TRAFFIC SAFETY MANAGEMENT INC.**

IN THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

FOURTH REPORT THE PROPOSAL TRUSTEE

June 17, 2024

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1.0 INTRODUCTION

1. This report is being submitted by TDB Restructuring Limited in its capacity as proposal trustee (the “**Proposal Trustee**”) of National Traffic Safety Management Inc. (“**NTSM**” or the “**Company**”) in connection with Notice of Intention to Make a Proposal (the “**NOI**”) filed by NTSM on April 5, 2024, pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*.
2. The NOI was filed by the Company to create a stabilized environment for NTSM to continue to operate in the ordinary course, while allowing the Company the opportunity to restructure its financial affairs.
3. The Certificate of Filing, together with Court documents related to the NOI proceeding has been posted on the Proposal Trustee’s website (the “**Trustee’s Website**”), which can be found at:

<https://tdbadvisory.ca/insolvency-case/NTSM/>

1.1 Purpose of the Fourth Report to Court

4. The purpose of this report to Court (the “**Fourth Report**”) is to provide the Court with information in connection with the motion by the Company for a 45-day extension of the deadline for the Company to file a proposal from June 19, 2024, to August 3, 2024 or the first business day thereafter (the “**Stay Extension**”). The Company intends to return to Court on or before June 25, 2024 for the approval of a new interim financing facility and in connection therewith, will file an updated 13-week cashflow forecast with the Court.

1.2 Terms of Reference

5. In preparing this Fourth Report and making the comments herein, the Proposal Trustee has relied upon information from third-party sources (collectively, the “**Information**”). Certain of the information contained in the Fourth Report may refer to, or is based on, the Information. As the Information has been provided by other parties or obtained from documents filed with the Court in this matter, the Proposal Trustee has relied on the Information and, to the extent possible, reviewed

the Information for reasonableness. However, the Proposal Trustee has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Proposal Trustee expresses no opinion or other form of assurance in respect of the Information.

6. Unless otherwise stated, all dollar amounts contained in the Fourth Report are expressed in Canadian dollars.

2.0 BACKGROUND

7. The details of NTSM's background and the events leading up to the filing of the NOI can be found in the Affidavit of Michael Spencley sworn April 11, 2024. A copy of the Affidavit of Michael Spencley, without exhibits, is attached as **Appendix "A"** to this report.

3.0 CASHFLOW FORECAST

8. The Company continues to experience a cash flow issue due primarily to the length of time required by its customers to pay invoices. The average cycle for collection of accounts receivable is approximately 60 days. While waiting for payment from its customers, the Company requires working capital to pay expenses such as payroll, rent, HST, fuel and other operating costs.
9. For the purposes of this motion, the Company has prepared a three-week cash flow forecast for the period June 7, 2024 to June 28, 2024 (the "**Cashflow Forecast**"). A copy of the Cashflow Forecast is attached as **Appendix "B"** to this report.
10. The Cashflow Forecast was prepared by the Company with the assistance of the Proposal Trustee. As noted in the Cashflow Forecast, the Company has sufficient funds on hand to continue operations through June 21, 2024. However, without further financing the Company projects that it will be out of funds and no longer able to meet its post-filing obligations at some point the following week.

4.0 NEW FINANCING FACILITY

11. On April 16, 2024, Justice Cavanagh approved a bridge interim financing loan pursuant to a term sheet dated April 10, 2024, between the Company and a non-arm's length party, J9 Investments Inc. ("**J9**" or the "**DIP Lender**") to finance the Company's working capital requirements and general corporate purposes.
12. On May 3, 2024, Justice Cavanagh approved the amended and restated DIP term sheet between the Company and J9 dated April 30, 2024. Justice Cavanagh also granted an increase to the DIP Charge to \$350,000.
13. On June 10, 2024, Justice Conway approved the seconded amended and restated DIP term sheet between the Company and J9 dated June 6, 2024. Justice Conway also granted an increase to the DIP Charge to \$550,000.
14. The Company has continued negotiations with various third-party lenders for additional or replacement financing. A lender that has been in discussions with the Company, (the "**Proposed New DIP Lender**"), an arms-length party, has provided a draft term sheet for financing which is currently under discussion with the Proposed New DIP Lender (collectively, the "**New Financing Facility**").
15. The Proposed New DIP Lender is working diligently with the Company to prepare an agreement which sets out the terms upon which it is prepared to advance funds. The Proposal Trustee understands that an agreement has been reached in principle, and the Proposed New DIP Lender and the Company are in the final stages of finalizing a term sheet. The Company intends to return to Court to seek approval of the term sheet by no later than June 25, 2024, subject to the Court's availability.
16. The Proposal Trustee understands that the New Financing Facility will provide the Company with sufficient working capital to meet its ongoing, post-filing obligations and continue operations in the normal course.

5.0 STAY OF PROCEEDINGS

17. The Company is seeking the Court's approval for the Stay Extension. The Company intends to return to Court in or around June 25, 2024 for approval of the New Financing Facility.
18. As set out in the Third Report, the Company has generated significant sales and corresponding receivables balances but requires additional time to collect the funds owing while simultaneously formulating a proposal to its creditors, which the Company believes will maximize recoveries for those creditors.
19. The Proposal Trustee has considered the Company's request for the Stay Extension and is supportive of this request for the following reasons:
 - a) the Company is acting in good faith and with due diligence;
 - b) the Stay Extension will provide the Company with an appropriate period in which to finalize a term sheet with the Proposed New DIP Lender and secure the necessary funds to continue its restructuring efforts; and
 - c) no creditor would likely be materially prejudiced if the extension were granted.

6.0 PROPOSAL TRUSTEE RECOMMENDATION

20. Based on the foregoing, the Proposal Trustee respectfully recommends that the Court grant the Stay Extension sought by the Company as described in paragraph 4 above.

All of which is respectfully submitted to this Court as of this 17th day of June 2024.

TDB RESTRUCTURING LIMITED, solely in its capacity
as Proposal Trustee *re* National Traffic Safety Management
Inc. and not in its personal or corporate capacity

Per:



Bryan A. Tannenbaum, FCPA, FCA, FCIRP, LIT
Managing Director

APPENDIX A

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

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
NATIONAL TRAFFIC SAFETY MANAGEMENT INC.
IN THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

**AFFIDAVIT OF MICHAEL SPENCLEY
(sworn April 11, 2024)**

I, Michael Spencley, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY AS FOLLOWS:

1. I am the President and Chief Executive Officer of National Traffic Safety Management Inc. (the “**Company**”). 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.

2. This affidavit is sworn in support of a motion by the Company seeking an order approving the DIP Facility and granting the DIP Charge in favour of J9 Investments Inc.

OVERVIEW OF THE COMPANY AND OPERATIONS

The Company

3. The Company is a private company incorporated under the Ontario *Business Corporations Act* whose registered head office is located in Toronto, Ontario. Attached hereto as **Exhibit “A”** is a copy of the Corporate Profile Search.

The Business

4. The Company is in the business of providing end-to-end traffic management solutions including traffic management solutions to ensure construction and infrastructure workers are safe at job sites. The Company operates throughout the province of Ontario.

5. The Company currently has 3 long-term multi-year contracts with Aecon, Ellis-Don and West Quarter to provide traffic control services. In addition to these long-term contracts, the Company has several short-term contracts (lasting a year or less). The Company usually has 4-8 of these short-term contracts going on at any one time.

Employees

6. The Company currently employs approximately 25 hourly employees. Of these employees, only 5 are non-unionized. The Company also employs 8 salaried employees.

7. Unionized employees are members of Laborers' International Union of North America (“LIUNA”) and four local branches: Local 837; Local 183; Local 1059 and Local 506. On the 15th day of each month, the Company remits health benefits, pension benefits, 10% vacation pay and administrative fees to the respective Local, in arrears. Union dues are deducted from the wages of each employee and are remitted to the corresponding Local.

8. For the past two months, the Company’s weekly payroll for its hourly employees has been approximately \$20,000 to \$25,000. As the Company enters its busier time of year, it anticipates this payroll will increase to approximately \$80,000 per week. The Company’s payroll for its salaried employees is \$30,000, and is due every two weeks.

THE COMPANY’S CREDITORS

PPSA Registrations

9. I am advised by the Company’s insolvency counsel, Chaitons LLP, that a search of the Personal Property Security Registration System in Ontario (“PPRS”) as of March 31, 2024 shows that there are registrations against the Company as follows:

- (a) Neli Financial Incorporated registered a financing statement on June 22, 2018, listing collateral classified as “inventory”, “equipment”, “accounts”, “other” and “motor vehicle included” in respect of certain vehicles and freightliners. The amount owing to Neli Financial Incorporated in connection with this registration has been paid off in full;
- (b) Mercedes-Benz Financial Services Canada Corporation registered a financing statement of July 5, 2019 listing collateral classified as “equipment”, “other” and “motor vehicle included” in respect of certain motor vehicles and related equipment financed by Mercedes-Benz;
- (c) J9 Investments Ltd. registered a financing statement on July 23, 2020 listing collateral classified as “inventory”, “equipment”, “accounts”, “other” and “motor vehicle included”. J9 Investments Ltd. is owed \$807,000 in respect of a secured loan;
- (d) Royal Bank of Canada registered a financing statement on May 6, 2021 listing collateral classified as “inventory”, “equipment”, “accounts”, “other” and “motor vehicle included”. Royal Bank is owed \$199,000 secured in respect of a Highly Affected Sectors Credit Availability Program (“**HASCAP**”) loan;
- (e) 1555207 Ontario Inc. registered a financing statement on February 7, 2022 listing collateral classified as “inventory”, “equipment”, “accounts”, “other” and “motor vehicle included” 1555207 Ontario Inc. is owed \$335,000;
- (f) Betty Copeland registered a financing statement on April 17, 2023 listing collateral classified as “inventory”, “equipment”, “accounts”, “other” and “motor vehicle included”. Betty Copeland is owed \$200,000 in respect of a secured loan. Ms. Copeland is also owed approximately \$77,000 in unsecured debt.

A copy of the PPRS search results is attached hereto as **Exhibit “B”**.

Other Liabilities

10. The Company is not current in respect of HST remittances. Approximately \$1,000,000 is owed to Canada Revenue Agency for HST arrears.
11. The Company owes \$17,000 to LIUNA Local 837 in respect of unremitted union dues.
12. The Company is current in respect of source deduction remittances.

CURRENT FINANCIAL POSITION

13. The Company has suffered financially in the following respects:
 - (a) working condition constraints from the Covid-19 pandemic significantly reduced sales for 2021-2022; and
 - (b) the diversion of approximately \$2,000,000 in sales and other assets by the Company's former Vice-President Operations, and his operations manager to a new company. Both are currently being investigated by Niagara Police Services.
14. The Company is addressing these financial challenges by hiring a new commissioned, Sales Onboarding Manager. The Company has also offered a commission referral policy for all National employees as a way to incentivize current employees to stay with the business.
15. Despite these measures, the Company has incurred losses since the start of fiscal 2024, totalling approximately \$200,000. The Company's year end loss for 2023 is estimated to be \$500,000.
16. The Company currently owes a total of \$2,406,000 in secured debt and \$4,753,627.39 in unsecured debt.
17. Within the past two weeks, the Company was engaged by:
 - (a) the City of Hamilton to provide traffic services; and
 - (b) Aecon to provide traffic safety services at the Eglinton Crosstown LRT project.

THE NOI PROCEEDING

18. As a result of the Company's financial difficulties, on April 5, 2024 (the "**Filing Date**"), the Company filed a Notice of Intention to File a Proposal ("**NOI**") under the Bankruptcy and Insolvency Act (the "**NOI Proceeding**"). The NOI filing was necessary to provide stability to the allow the Company to restructure.

19. TDB Restructuring Limited ("**TDB**") is the trustee in the NOI Proceeding (the "**Proposal Trustee**").

Cash Flows

20. The Proposal Trustee has assisted the Company in preparing a cash flow forecast (the "**Cash Flow Forecast**") which sets out projected cash flows for the period ending July 5, 2024, 2024 (the "**Cash Flow Period**"), a copy of which I understand will be filed with the Court by the Trustee in connection with the Company's motion.

21. As set out in the Cash Flow Forecast, the Company is expected to have sufficient liquidity to operate to the end of the Cash Flow Period provided that it has access to interim financing. As reflected in the Cash Flow Forecast, without interim financing, the Company will run out of money by the week of April 15, 2024.

DIP and Interim Financing

22. I have reviewed a term sheet for debtor-in-possession ("**DIP**") financing from a third party lender. The proposed terms pursuant to the term sheet are acceptable to the Company.

23. The proposed DIP lender is completing its due diligence process.

24. In the meantime, the Company requires additional funds to pay critical operating expenses including: payroll, fuel and rent.

25. J9 Investments Inc., an investor in the Company, has agreed to provide bridge DIP financing (the "**Interim DIP Loan**") which is to be repaid once the third party lender completes its due diligence, and the DIP facility from the third party lender is approved by the Court and

becomes available to the Company. A copy of the term sheet in respect of the Interim DIP Loan is attached hereto as **Exhibit “C”**.

26. The material terms of the Interim DIP Loan are as follows:

Key Terms	Description
Borrower	National Traffic Safety Management Inc.
Lender	J9 Investments Inc.
Facility	A super-priority, debtor-in-possession non-revolving demand credit facility up to a maximum principal amount of one hundred fifty thousand dollars \$150,000 (the “Facility”).
Interest Rate	Interest on the principal amount of the Facility outstanding from time to time shall be calculated at a rate of fifteen percent (15%) per annum, which interest shall be calculated on the daily outstanding balance owing under the Facility, not in advance, and shall accrue and be paid on the Maturity Date.
Facility Fee	A Facility fee equal to \$7,500, which shall be fully earned Court approval of this Term Sheet, and secured by the Interim Financing Charge, shall be due and payable on the Maturity Date.
Repayment	The Borrower shall repay all principal, interest, fees and other amounts owing under the Facility on the earlier of (the “Maturity Date”): (i) demand; (ii) the date the Facility is refinanced; (iii) the day on which the stay of proceedings has been terminated; (iv) the date on which the Borrower becomes bankrupt. The Borrower is entitled to repay all or any part of the Facility at any time without notice or penalty.

27. There is a serious risk that the Company will not be able to provide safety services or a viable proposal if it does not receive interim financing. Employees may seek alternative employment if they are not paid on a timely basis.

SWORN remotely by Michael Spencley of the City of Toronto in the Regional Municipality of the Metropolitan of Toronto, before me at the City of Toronto in the Regional Municipality of Metropolitan Toronto, on April 11, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits
(or as may be)

Michael Spencley

APPENDIX B

National Traffic Safety Management Inc.
Cash Flow Forecast
For the period ended June 28, 2024

	Note	7-Jun-24	14-Jun-24	21-Jun-24	28-Jun-24	Total
Cash Receipts						
Pre-Filing A/R Collections	1		70,882	30,575	40,730	142,187
DIP Financing	2		190,000	-	-	190,000
Total Receipts			260,882	30,575	40,730	332,187
Cash Disbursements						
Rent	3		2,000	-	-	2,000
Insurance	4		18,000	-	-	18,000
Payroll & Benefits	5		114,100	64,000	134,000	312,100
Operating Costs	6		30,000	31,500	31,500	93,000
Professional Fees	7		-	-	25,000	25,000
Total Disbursements			164,100	95,500	190,500	450,100
Cash - Opening			5,334	102,116	37,191	5,334
Net cash inflow/(outflow)			96,782	(64,925)	(149,770)	(117,913)
Cash - Closing		5,334	102,116	37,191	(112,579)	(112,579)

Notes

- 1) Collections of accounts receivable from pre-filing sales are based on management's best estimate of the amount and timing of payments from the Company's customers
- 2) Pursuant to the Order of the Honourable Justice Conway dated June 10, 2024, J9 Investments agreed to fund a further \$200,000 under the approved DIP loan. During the week ended June 14, 2024, advances totaling approximately \$190,000 were made.
- 3) Rent is comprised of lease payments for the Company's Toronto and Niagara offices.
- 4) Insurance is comprised of property & liability insurance premiums payable by the Company during the forecast period.
- 5) Payroll includes head office salaries as well as hourly/contract worker wages. Benefits and union dues are also included in these amounts.
- 6) Operating costs include fuel charges as well as a provision equal to 8% of sales. The provision of 8% is management's best estimate for costs incurred by employees in carrying out their duties for items including meals and hotels. The forecast assumes that fuel charges and reimbursement of employee out-of-pocket costs will be paid 30-days after they are incurred.
- 7) Includes estimated fees and disbursements payable to the Proposal Trustee and its counsel, as well as the Company's counsel.