Court File No. BK-26-03389454-0032

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

IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT,* R.S.C. 1985, c. B-3, AS AMENDED

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF GOOD NATURED PRODUCTS PACKAGING BRAMPTON GP INC., GOOD NATURED PRODUCTS PACKAGING CANADA GP INC., GOOD NATURED PRODUCTS INDUSTRIAL CANADA GP INC., GOOD NATURED PRODUCTS INDUSTRIAL CANADA LP, GOOD NATURED PRODUCTS PACKAGING BRAMPTON LP, GOOD NATURED PRODUCTS PACKAGING CANADA LP and GOOD NATURED REAL ESTATE HOLDINGS (ONTARIO) INC.

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(Returnable July 28, 2026)

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FACTUM OF THE DEBTORS

PART I - INTRODUCTION

1. On June 22, 2026, Good Natured Products Industrial Canada LP ("**Industrial LP**"), Good Natured Products Industrial Canada GP Inc. ("**Industrial GP**"), Good Natured Products Packaging Brampton LP ("**Brampton LP**"), Good Natured Products Packaging Brampton GP Inc. ("**Brampton GP**"), Good Natured Products Packaging Canada LP ("**Packaging Canada LP**"), Good Natured Products Packaging Canada GP Inc. ("**Packaging Canada GP**") each filed a Notice of Intention to Make a Proposal ("**NOI**") pursuant to section 50.4(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the "**BIA**"). On July 10, 2026, Good Natured Real Estate Holdings (Ontario) Inc. ("**Ontario RE**") filed an NOI.[1]

[1] Industrial LP, Industrial GP, Brampton LP, Brampton GP, Packaging Canada LP, Packaging Canada GP, and Ontario RE, are collectively referred to herein as the "**Debtors**".

2. This factum is filed in support of the Debtors' motion for:

(a) an approval and vesting order (the "**Asset Approval and Vesting Order**"), among other things, approving the agreement of purchase and sale between Brampton LP, by its general partner, Brampton GP, as vendor, and Jones Healthcare Group, Inc. ("**Jones**"), as purchaser for the sale of substantially all the assets of Debtors' manufacturing and sustainable packaging operations located at the Brampton Facility (defined below) substantially in the form as agreed to by the parties (the "**Asset Purchase Agreement**");

(b) transferring and vesting all of Brampton LP's right, title and interest in and to the Purchased Assets (as defined in the Asset Purchase Agreement) in Jones, free and clear of all Claims and Encumbrances, other than the Permitted Encumbrances (if any), upon the closing of the Asset Purchase Agreement, in accordance with the terms of the Asset Approval and Vesting Order; and

(c) a real property approval and vesting order (the "**Real Property Approval and Vesting Order**"), among other things, approving the agreement of purchase and sale between and Ontario RE, as vendor, and Jones, as purchaser, for the sale of the real property municipally described as 5 Abacus Road, Brampton, Ontario in the form substantially agreed to by the parties (the "**Real Property APS**");

(d) approving the interim lease between Ontario RE, as landlord, and Jones, as tenant (the "**Interim Lease**");

(e) transferring and vesting all of Ontario RE's right, title and interest in and to the real property described in the Real Property APS in Jones, free and clear of all Claims and Encumbrances (as defined in the Real Property APS), other than the Permitted Encumbrances (as defined in the Real Property APS), upon the closing of the Real Property APS, in accordance with the terms of the Real Property Approval and VestingOrder; and

(f) an ancillary relief order (the "**Ancillary Relief Order**"), seeking, among other things:

(i) administratively consolidating the Debtors' NOI proceedings commenced under the BIA under Court File No. BK-26-03389454-0032;

(ii) declaring that the Debtors meet the criteria set out in section 3.2 of the *Wage Earner Protection Program Regulations* (the "**WEPPR**") for the purposes of subsection 5(5) of the *Wage Earner Protection Program Act, SC 2005, c 47, s 1* (the "**WEPPA**") in order for the Debtors' employees, upon termination, to be able to file claims under the WEPPA for any unpaid wages, vacation, termination and severance payments (the "**WEPPA Declaration**"); and

(iii) sealing confidential appendices to this first report ("**First Report**") of TDB Restructuring Limited ("**TDB**") in its capacity as proposal trustee (the "**Proposal Trustee**") dated July 20, 2026, and the supplementary report of the Proposal Trustee dated July 24, 2026 ("**Supplementary Report**") until further Order of this court.

3. The Debtors manufacture sustainable packaging products.

4. Since commencing these NOI proceedings, the Debtors, together with the Proposal Trustee, have worked to complete going-concern transactions that maximize value for the benefit of employees, secured creditors and other stakeholders.

5. The restructuring efforts have culminated in the proposed sale of the Debtors' Brampton manufacturing operations pursuant to an Asset Purchase Agreement and the associated real property pursuant to the Real Property APS (the "**Transactions**") to Jones, one of the Debtors' longstanding and largest customers.[2]

6. In the months leading up to the within NOI proceedings, the Debtors' liquidity deteriorated rapidly due to increased raw material costs, reduced access to resin (the primary component of their manufacturing operations) and reduced borrowing availability. As a result, the Debtors were unable to satisfy their obligations as they became due, were subject to enforcement proceedings, and had no choice but to actively canvass the market in an effort to identify a purchaser or investment transaction. [3]

7. The Debtors' 2026 sales efforts leveraged the results of an extensive marketing process undertaken during the Debtors' 2024 *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") proceedings. In the course of the 2024 restructuring substantially the same business was marketed in what amounted to a significantly more favourable macroeconomic environment.[4]

[2] First Report of TDB Restructuring Limited in its capacity as proposal trustee dated July 20, 2026 ("**First Report**"), Tab 2 of the Motion Record of the Debtors dated July 20, 2026, at para 83.

[3] First Report at paras 26-30.

[4] First Report at para 21-24, 75-79.

8. Jones is the only party to submit a viable going-concern proposal. It was also the only party prepared to provide the operational support necessary to enable the Debtors to continue operating while sale transactions were negotiated and finalized.[5]

9. The Proposal Trustee supports the Transactions. It has concluded that they maximize value in the circumstances, preserve employment, and represent the best available outcome for the Debtors' stakeholders.[6]

PART II - SUMMARY OF FACTS

10. The underlying facts are more fully set out in the First Report and the Supplementary Report of the Proposal Trustee. Unless otherwise indicated, capitalized terms not otherwise defined herein have the meanings ascribed to them in the First Report and the Supplementary Report.[7]

A. Background

11. The Debtors manufacture sustainable packaging products, with a focus on the development and production of plant-based packaging products in Canada and the United States. Their Canadian operations are carried on through an integrated business consisting of manufacturing, packaging, warehousing and logistics operations. The business of the Debtors is heavily dependent on resin, its principal raw material and largest input cost.[8]

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[5] First Report at paras 71-73, and 83.

[6] First Report at para 102(a).

[7] First Report and Supplementary Report.

[8] First Report at paras 11-13.

12. Brampton LP operates the Debtors' manufacturing and packaging business from the facility located at 5 Abacus Road, Brampton, Ontario (the "**Brampton Facility**"). Ontario RE owns the Brampton Facility, which is leased to Brampton LP and forms the subject of the proposed real property transaction. Industrial LP operates the manufacturing facility located at 15 Waydom Drive, Ayr, Ontario (the "**Ayr Facility**"), where resin is processed into sheets and rolls that are supplied to the Brampton Facility for finished packaging production. Packaging Canada LP provides centralized logistics, warehousing and distribution services in support of the Canadian operations.[9]

13. Since the date of filing these NOI proceedings (June 22, 2026), the Debtors employed approximately 49 employees across their operations at the Brampton Facility and the Ayr Facility.[10]

B. The 2024 CCAA Proceedings

14. In 2024, the Debtors and certain affiliated entities sought protection under the CCAA. During those CCAA proceedings, Alvarez & Marsal Canada Inc., in its capacity as Monitor, conducted an extensive court-approved Sales and Investment Solicitation Process ("**SISP**") in respect of substantially the same business and assets that are the subject of this motion.

15. The SISP was widely marketed, resulting in 165 potential strategic and financial purchasers being contacted, 49 confidentiality agreements executed, seven letters of intent received, and four

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[9] First Report at para 15.

[10] First Report at para 17.

parties advancing to the second phase of the process. Ultimately, HUK 149 Limited ("**HUK 149**") was the successful purchaser and acquired the business.[11]

16. Following on the 2024 restructuring efforts, the Debtors have experienced renewed financial distress arising from significant increases in resin costs, trade disruptions, reduced borrowing availability and resulting liquidity constraints. Such circumstances required the commencement of the within NOI proceedings.[12]

C. Marketing efforts before the NOI proceedings

17. In the months preceding the NOI proceedings, the Debtors, together with HUK 149 (the owner), actively sought to preserve the business by identifying a purchaser or investment transaction. [13]

18. As the Debtors' liquidity deteriorated and they began operating under full cash dominion with only limited cash available to fund ongoing operations, the urgent focus became one of preserving liquidity, maintaining customer relationships and pursuing a going-concern transaction.[14]

19. Rather than commencing a new broad marketing process from scratch, the Debtors leveraged the extensive market intelligence and purchaser relationships developed during the 2024 CCAA SISP by re-engaging potential strategic purchasers identified through that process.[15]

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[11] First Report at paras 19-21. More information on the CCAA proceedings can be found here: https://www.alvarezandmarsal.com/goodnatured

[12] First Report at paras 26-28.

[13] First Report at para 65.

[14] First Report at paras 66-67.

[15] First Report at paras 65-69.

20. Over the 21 weeks preceding the NOI filings, those efforts included:

(a) contacting 13 potential purchasers, consisting of nine strategic parties, two financial investors and two related parties;

(b) entering into 10 confidentiality agreements;

(c) facilitating four site visits; and

(d) receiving two letters of intent.[16]

21. Jones, one of the Debtors' largest customers, submitted the only viable proposal to acquire the operating business as a going concern.[17]

22. Jones also provided operational support, including continuing to place purchase orders, procure raw materials and assist with logistics, all of which enabled the Debtors to continue manufacturing products and servicing customers while the definitive transaction documents were negotiated.[18]

23. No other interested party submitted a comparable going-concern proposal, offered similar operational support, or advanced an alternative transaction capable of preserving the Debtors' business as a going concern.[19]

D. NOI Proceedings

24. During the NOI proceedings, the Debtors worked with Jones to finalize the terms of the proposed Transactions. Pending execution of the definitive agreements, Jones provided vital

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[16] First Report at para 70.

[17] First Report at para 71.

[18] First Report at paras 72-73.

[19] First Report at para 70-74.

operational support that enabled the Debtors to continue manufacturing products and stay in business.[20]

25. On July 21, 2026, this Court granted an extension of the stay of proceedings to September 5, 2026, to permit the parties an opportunity to finalize the Asset Purchase Agreement, the Real Property APS and the Interim Lease. Such agreements have now been finalized and are before this Court for approval.[21]

26. In the Supplementary Report, the Proposal Trustee confirms that the definitive transaction documents have been fully negotiated and substantially complete, and that there has been no material adverse change to the Debtors' cash flow, and that it continues to recommend approval of the Transactions and the ancillary relief sought.[22]

E. The Asset Purchase Agreement

27. Pursuant to the Asset Purchase Agreement, Jones will acquire substantially all of the operating assets of Brampton LP used in the Debtors' business, including equipment, tooling, intellectual property, goodwill and certain inventory. The acquisition will enable Jones to continue operating the Brampton business as a going concern, preserving employment, maintaining customer relationships and avoiding the value destruction that would likely result from a liquidation of the operating business.[23]

28. The transaction remains subject to customary closing conditions, including Court approval and the granting of an Asset Approval and Vesting Order. The Proposal Trustee supports approval

[20] First Report at paras 72-73 and 83.

[21] Supplementary Report of the Proposal Trustee dated July 24, 2026 (the "**Supplementary Report**") at paras 8-9.

[22] Supplementary Report at paras 10 and 14-15.

[23] First Report at paras 87-89.

of the Asset Purchase Agreement and has concluded that it represents the best available transaction in the circumstances, is commercially reasonable, and is in the best interests of the Debtors' stakeholders.[24]

F. The Real Property APS and Interim Lease

29. The Real Property APS provides for Jones' acquisition of the Brampton Facility from Ontario RE. Pending completion of that transaction, the Interim Lease permits Jones to immediately occupy and operate from the Brampton Facility, thereby ensuring continuity of the Debtors' operations and avoiding any interruption to the business during the transition period.[25]

30. The Asset Purchase Agreement, the Real Property APS and the Interim Lease are interdependent components of a single going-concern transaction.[26]

PART III - STATEMENT OF ISSUES, LAW & AUTHORITIES

31. The issues to be determined on this motion are whether:

(a) this Court should approve the Asset Purchase Agreement, the Real Property APS and the Interim Lease, and vest all of the Debtors' right, title and interest in and to the Purchased Assets and the Purchased Real Property, as applicable, free and clear of all Claims and Encumbrances (other than the Permitted Encumbrances), in Jones;

(b) this Court should grant a declaration pursuant to the WEPPA;

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[24] First Report at paras 101-102.

[25] First Report at paras 90-96.

[26] First Report at paras 86 and 94-96.

(c) it is appropriate for this Court to seal the confidential appendices to the First Report and the Supplementary Report (collectively, the "**Confidential Appendices**") pending completion of the Transactions, or until further order of this Court; and

(d) this Court should administratively consolidate the NOI proceedings of the Debtors.

A. Approval of the Transactions

32. Section 65.13 of the BIA provides that a debtor "may not sell or otherwise dispose of assets outside of the ordinary course of business unless authorized to do so by the court."[27] In considering whether to approve a sale, a court should consider the following factors, among other things:

(a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances;

(b) whether the trustee approved the process leading to the proposed sale or disposition;

(c) whether the trustee filed with the court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under a bankruptcy;

(d) the extent to which the creditors were consulted;

(e) the effects of the proposed sale or disposition on the creditors and other interested parties; and

[27] *Bankruptcy and Insolvency Act*, RSC 1985, c B-3["***BIA***"] at s 65.13.

(f) whether the consideration to be received for the assets is reasonable and fair, taking into account their market value.[28]

33. The factors are identical to the factors set out at Section 36(3) of the C*ompanies' Creditors Arrangement Act*[29]. In *Harte Gold*[30], Justice Penny held that the Section 36(3) criteria largely correspond to the common law factors applied to the consideration of an asset sale in insolvency, articulated in *Royal Bank of Canada v Soundair Corp*.[31] In *Just Energy*, Justice McEwen held that where a s. 36(3) analysis supports a proposed transaction, *Soundair* is likely satisfied as well.[32] This reasoning is applicable in a BIA proceeding.

34. In determining whether the Transactions ought to be approved, this Court must consider the following factors (the "**Soundair Test**") outlined by the Ontario Court of Appeal *in Royal Bank v Soundair Corp.:*

(a) Whether sufficient effort has been made to obtain the best price and the receiver has not acted improvidently;

(b) The interests of all parties;

(c) The efficacy and integrity of the process by which offers are obtained; and

(d) Whether there has been unfairness in the working out of the process.[33]

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[28] *BIA*, s. 65.13(4).

[29] *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended, at s. 36(3).

[30] *Harte Gold Corp. (Re), 2022 ONSC 653.*

[31] *Royal Bank of Canada v Soundair Corp*., [1991] O.J. No. 1137, 4 OR (3d) 1 ["***Soundair***"].

[32] *Just Energy Group Inc. et. al. v Morgan Stanley Capital Group Inc. et. al*., 2022 ONSC 6354, paras 32 and 62.

[33] *Soundair*.

35. In the current matter, the Debtors' business was extensively exposed to the market through sale efforts made by the Debtors immediately prior to the appointment of the Proposal Trustee, including a relatively recent court-approved SISP administered during 2024 CCAA proceedings.

36. Absent a violation of *Soundair* factors, the court should be "loathe to interfere with the business judgment of a [Proposal Trustee] and refuse to approve a transaction recommended by the [Proposal Trustee] acting properly in the fulfillment of its obligations as an officer of the court."[34]

37. A formal sales and investment solicitation process is not a prerequisite to approval under section 65.13 of the *BIA*. Where the evidence demonstrates that the debtor has insufficient funding to undertake a further, extended marketing process, and there is no reasonable basis to conclude that such a process would result in a better realization, the absence of a further formal sales process does not preclude approval of the proposed transaction.[35]

38. Transactions that receive Court-approval soon after the appointment of a receiver (or other creditor-representative) without any further marketing process have been referred to as "pre-pack transactions". Pre-pack transactions must still satisfy the *Soundair* Test, with specific consideration to the economic realities of the business and the specific transaction in question.[36]

(i) Sufficent effort to obtain the best price

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34 *Morgante Canada Corp v Wolfhollow Properties Inc,* 2003 CanLII 7759 (ONSC) at para 7,; see also: *Eddie Bauer of Canada, Inc (Re),* 2009 CanLII 48527 at para 22, and *Bank of Montreal v Dedicated National Pharmacies Inc et al*, 2011 ONSC 4634 at para 43.

35 *Tool-Plas Systems Inc. (Re),* 2008 CanLII 54790 (ON SC) at paras. 15-16; *Elleway Acquisitions Limited v. 4358376 Canada Inc.*, 2013 ONSC 7009 at paras. 23-27 ["***Elleway***"]; see also *Affinity Credit Union 2013 v Ritchie Industries Inc.*, 2023 SKKB 152 at para. 16; *OEL Projects Ltd (Re)*, 2020 ABQB 365 ["***OEL***"]at paras. 24, 27, 29, 31-35.

36 *Elleway* at para 33.

39. The Proposal Trustee is of the view that the Purchase Price (as defined in the Asset Purchase Agreement and the Real Property APS) for the assets and the property is fair and reasonable.[37]

40. The consideration to be provided under the Transactions exceeds the expected realizations from an orderly liquidation of the Assets.[38]

41. No other interested party was prepared to provide comparable operational support or advance an alternative transaction capable of preserving the Debtors' business as a going concern. Indeed, no other proposals for a sale or investment in the business were received.[39]

42. The Proposal Trustee is satisfied that the Debtors have made concerted and all reasonable efforts to maximize value and did not act improvidently.[40]

(ii) The interests of all parties

43. The Transactions are in the best interest of the Debtors and their respective stakeholders.

44. The Proposal Trustee understands that Wells Fargo, as the Debtors' primary secured lender in respect of the operating assets, and TD, as the mortgagee of the Brampton Facility, also support the proposed transactions with Jones.[41]

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[37] First Report at para 102(f).

[38] First Report at para 102(d) and 102(h).

[39] First Report at para 74.

[40] First Report at para 102(a).

[41] First Report at para 99.

45. Notwithstanding the fact that it is expected to incur a significant shortfall under the current estimated recoveries, HUK 147 (a party being owed approximately $8,100,000) supports the proposed transactions as representing the best available outcome in the circumstances.[42]

46. Jones expects to offer employment to at least 15 employees currently employed at the Brampton Facility, which will preserve jobs.[43]

(iii) The efficacy and integrity for the process by which offers are obtained

47. The approval and closing of the Transactions are time-sensitive and urgent. The Debtors are experiencing a severe liquidity crisis resulting from significant increases in resin prices following the escalation of hostilities involving Iran, together with broader macroeconomic pressures affecting the North American manufacturing sector. No alternative purchaser emerged despite the Debtors' extensive marketing efforts, and any delay in closing the Transactions would further erode value and increase the risk of a value-destructive liquidation.[44]

48. Pausing to pursue an alternative process is not a viable option. It is not supported by the Cash Flow Forecast or the Proposal Trustee and in the absence of identified competitive interest it is certain to precipitate a value-destructive liquidation.[45]

49. In *Elleway*, it was noted that courts have approved of pre-pack transactions where, among other things, a delay of the transaction will erode the realization of the security of the creditor in sole economic interest.[46]

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[42] First Report at para 98.

[43] First Report at para 109.

[44] First Report at paras 26-28, 67, 71.

[45] First Report at para 102(d).

[46] *Elleway* at para 33.

50. No alternative purchaser emerged despite the Debtors' marketing efforts, and any delay in completing the Transactions would further erode the value of the Debtors' business and materially prejudice stakeholders, including Jones, which has continued to support the Debtors' operations while the transaction documents were finalized.[47]

51. In *Re OEL Projects Ltd., 2020 ABQB 365* ("**OEL Projects**"), the Alberta Court of Queen's Bench approved a transaction one day after the moving party filed a Notice of Intention under the BIA. The sale was to a related party, and there had been no third-party sales process. In approving the sale, the court considered the following factors among others:

(a) The secured creditors were supportive of the proposed transaction;

(b) The proposed transactions would allow employees to be hired by the purchaser and keep their jobs;

(c) The purchase price was more than what would be achieved in liquidation;

(d) The analysis by the proposal trustee provided independent benchmarks of values and the Court was satisfied the consideration was reasonable and fair; and

(e) The transaction would proceed quickly so as to avoid further erosion of value.[48]

52. Here, the Purchaser is an arm's length party. Both formal and informal sale processes were run prior to the appointment of the Proposal Trustee. The sale negotiations were concluded under the NOI and the Proposal Trustee oversight. Many of the factors considered by the Court in OEL

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[47] First Report at para 73.

[48] *OEL* at paras 23-24 & 27.

Projects in its decision to grant an order approving the transaction are present in the current circumstances, including:

(a) Wells Fargo Capital Finance Corporation Canada and The Toronto-Dominion Bank, the Debtors' principal secured creditors, have received notice of the Transactions and support the relief sought;[49]

(b) The Purchaser will offer re-employment to the certain of the Debtors' employees;[50]

(c) The Proposal Trustee has obtained and considered two current market assessments ("CMA") of the real estate conducted by national real estate brokerage and investments firms for the Brampton Facility and the CMAs assumed a vacant sale scenario with a three- to six-month marketing period and is therefore of the view that the purchase price is commercially reasonable and fair;[51]

(d) The consideration to be provided under the Transactions is higher than what is expected to be received in a liquidation;[52]

(e) the Asset Purchase Agreement, the Real Property APS and the Interim Lease are interdependent components of a single integrated going-concern transaction, each of which is conditional upon Court approval and the granting of the requested court orders;[53] and

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[49] First Report at para 99.
[50] First Report at para 109.
[51] First Report at para 102(f).
[52] First Report at para 102(d) and 102(h).
[53] First Report at paras 89, 93, 96.

(f) The Transactions are expected to close promptly following the granting of the requested Orders, thereby avoiding further erosion of the Debtors' business and preserving going-concern value for the benefit of stakeholders.[54]

(iv) There has been no unfairness in the working out of the process

53. There has been no unfairness in the working out of the process. The Transactions were negotiated in good faith with an arm's length party.[55]

54. Based on the foregoing, and consistent with the Proposal Trustee's analysis and recommendations, the Debtors respectfully submit that the proposed Transactions satisfy the *Soundair* factors.[56]

B. The *WEPPA* Relief Should be Approved

55. The *WEPPA* permits eligible former employees of a company subject to the BIA to collect certain benefits, including termination and severance pay, if certain criteria are met.[57] As a preliminary matter, where a company is subject to BIA proceedings, the Court must determine that the debtor company meets the criteria prescribed by section 3.2 of the *WEPP Regulations*.[58] In other words, the Court must determine that the debtor company is "the former employer all of whose employees in Canada have been terminated other than any retained to wind down its business operations."[59]

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[54] First Report at paras 89, 92, 102(e) and see also Supplementary Report at para 10.

[55] First Report at para 102(f).

[56] First Report at para 101.

[57] *Wage Earner Protection Program Act,* SC 2005, c 47, s 1 *["**WEPPA**"]* at ss. 5(1), 7(1); *Wage Earner Protection Program Regulations*, SOR/2008-222 at s. 3.

[58] *WEPPA* at ss. 5(1)(iv), 5(5); *Wage Earner Protection Program Regulations*, SOR/2008-222 at s. 3.2.

[59] *WEPPA* at s. 5(5); *Wage Earner Protection Program Regulations*, SOR/2008-222 at s. 3.2.

56. As a consequence of this restructuring, employees will be terminated, with some continuing on for a period of time to support completion of the Transactions. The Debtors submit that the requirements of section 3.2 of the *WEPP Regulations* are satisfied.

57. Similar relief has been granted in other insolvency proceedings including, among others, *Scotch & Soda*, *Bad Boy Furniture* and *Synaptive Medical Inc*.[60] In *Scotch & Soda*, the Court granted the WEPPA declaration in the initial stages of the BIA proposal proceedings on the basis that the debtor would need to terminate the employment of some or all of its employees during the proceedings if there was no purchaser or going-concern outcome for the debtor's business.[61]

58. Given the Debtors' financial circumstances and ongoing restructuring efforts, it is appropriate to permit eligible employees whose employment may be terminated in connection with the restructuring to access the benefits available under the *WEPPA*. This will enable affected employees to obtain a timely recovery in respect of eligible termination and severance entitlements, while mitigating the financial hardship associated with the Debtors' restructuring.[62]

59. Accordingly, the Debtors respectfully requests that the Court make the *WEPPA* Declaration.

C. The Confidential Appendices Should be Sealed

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[60] Scotch & Soda, Endorsement of J Steele dated May 16, 2023 at paras 38-41; *Bad Boy Furniture Warehouse Limited v. KSV Restructuring Inc.*, (Court File No. BK-23-03008133-0031) Endorsement of J Wilton-Siegel dated November 13, 2023; Synaptive Medical Inc., in the matter of a Plan of Compromise or Arrangement of 1001270243 Ontario Inc. (Court File No. CV-25-00739279-00CL) Endorsement of J. Dietrich dated July 7, 2026.

[61] Scotch & Soda, Endorsement of J Steele dated May 16, 2023 at para 37.

[62] First Report at paras 109-112.

60. The Debtors seek an order sealing the Confidential Appendices to the First Report and the Supplementary Report. The Confidential Appendices contains commercially sensitive information regarding the Debtors' assets, the premature disclosure of which may hinder the Proposal Trustee's ability to maximize recoveries in these proceedings.

61. Subsection 137(2) of the *Courts of Justice Act* allows this Court to order that a document be "treated as confidential, sealed and not form part of the public record."[63]

62. In *Sierra Club of Canada v. Canada (Minister of Finance)*, the Supreme Court of Canada held that a sealing order may be granted when:

(a) such an order is necessary to prevent a serious risk to an important interest, including a commercial interest, in the context of litigation, because reasonably alternative measures will not prevent the risk; and

(b) the salutary effects of the order, including the effects on the right of civil litigants to a fair trial, outweigh its deleterious effects, including the effects on the right of free expression, which in this context includes the public interest in open and accessible court proceedings.[64]

63. Per the Supreme Court of Canada's decision in *Sherman Estate v. Donovan*, sealing orders constitute a "discretionary [limit] on presumptive court openness". In granting such an order, the Court must be satisfied that:

(1) court openness poses a serious risk to an important public interest;

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[63] *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, Schedule B, s. 137(2).

[64] *Sierra Club of Canada v. Canada (Minister of Finance)*, 2002 SCC 41 at paras. 45 & 53.

(2) the order sought is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk; and,

(3) as a matter of proportionality, the benefits of the order outweigh its negative effects.[65]

64. In the context of insolvency proceedings, value maximization in respect of the debtor and its assets "is well recognized as a public interest worthy of protection which has minimal public interest detriment under the *Sherman Estate* test."[66]

65. Relying upon the prerequisites in *Sherman Estate* and for the purpose of ensuring value maximization, courts have granted sealing orders to temporarily prevent disclosure of, among other things, the purchase price.[67]

66. Here, the commercially sensitive information contained in the Confidential Appendices consists of commercially sensitive information including, among other things, the quantum of the Purchase Price (as defined in the Asset Purchase Agreement and the Real Property APS) payable under the agreements.[68]

67. Disclosure of this commercially sensitive information would pose a material risk to the Proposal Trustee's ability to maximize recoveries for the benefit of the creditors. For example, if the Asset Purchase Agreement or the Real Property APS fail to close, disclosure of the aforementioned information would materially compromise the Proposal Trustee's ability to obtain the highest and best value for the Debtors' business and assets.[69]

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65 *Sherman Estate v. Donovan*, 2021 SCC 25 at para. 38.

66 *U.S. Steel Canada Inc. (Re)*, 2025 ONSC 1759 at para. 123.

67 *First Source Financial Management v. Chacon Strawberry Fields Inc.*, 2024 ONSC 7229 at paras. 48-53.

68 First Report at paras 113-114.

69 First Report at paras 113-114.

68. Accordingly, the Confidential Appendices should be sealed until such time as the commercial sensitivity of the information contained therein has been mitigated, being the date upon which the proposed Transactions have closed.

69. Only by sealing the Confidential Appendices will the serious risk to the interests of the Debtors' creditors and other stakeholders be prevented; there is no reasonable alternative to a sealing order in the present circumstances.

D. The Matters Should be Administratively Consolidated

70. The Court's jurisdiction to procedurally consolidate the seven matters stems from Rule 6.01 of the *Rules of Civil Procedure* ("***Rules***")[70], which is incorporated into the bankruptcy context through Section 3 of the *Bankruptcy and Insolvency General Rules*.[71]

71. Rule 6.01 of the *Rules* permits a Court to consolidate the proceedings where the two proceedings have (a) a question of law or fact in common; (b) the relief claimed arises out of the same transaction or occurrences; or (c) for any other reason the order should be made. Procedural consolidation is permitted in order to avoid "unnecessary costs or delay."[72]

72. Given that the Debtors are intrinsically linked and their operations are operationally and financially integrated, it is appropriate to administratively consolidate the seven NOI proceedings because of the following:

(a) it will permit the NOI proceedings to be best coordinated rather than having multiple proceedings. Additionally, the consolidation sought will allow the Debtors

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[70] 6.01 of the *Rules of Civil Procedure, RRO 1990, Reg 194* [*"**Rules**"*].

[71] S. 3 of the *Bankruptcy and Insolvency General Rules*, CRC, c.368.

[72] 6.01(2) of the *Rules*.

to advance these proceedings in the most expedient and efficient manner for the benefit of stakeholders;

(b) it will facilitate the orderly administration of these proceedings;

(c) creditor rights will not be affected by the procedural consolidation;

(d) it will reduce costs, including by filing materials in one proceedings only.[73]

PART IV - ORDER REQUESTED

73. For the reasons set out above, the Debtors requests that this Honourable Court grant the relief in the form of the proposed Asset Approval and Vesting Order, the Real Property Approval and Vesting Order, and the Ancillary Order.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 27th day of July, 2026.

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[73] First Report at para 16, 115-17. See also Scotch & Soda, Endorsement of J Steele at para 6.

SCHEDULE "A"

LIST OF AUTHORITIES

1. *Affinity Credit Union 2013 v Ritchie Industries Inc.*, 2023 SKKB 152.

2. *Bad Boy Furniture Warehouse Limited v. KSV Restructuring Inc.*, (Court File No. BK-23-03008133-0031) Endorsement of J Wilton-Siegel dated November 13, 2023.

3. *Bank of Montreal v Dedicated National Pharmacies Inc et al*, 2011 ONSC 4634.

4. *Eddie Bauer of Canada, Inc (Re),* 2009 CanLII 48527.

5. *Elleway Acquisitions Limited v. 4358376 Canada Inc.*, 2013 ONSC 7009.

6. *First Source Financial Management v. Chacon Strawberry Fields Inc.*, 2024 ONSC 7229.

7. *Harte Gold Corp. (Re), 2022 ONSC 653.*

8. *Just Energy Group Inc. et. al. v Morgan Stanley Capital Group Inc. et. al*., 2022 ONSC 6354.

9. *Morgante Canada Corp v Wolfhollow Properties Inc,* 2003 CanLII 7759 (ONSC).

10. *OEL Projects Ltd (Re)*, 2020 ABQB 365.

11. *Royal Bank of Canada v Soundair Corp*., [1991] O.J. No. 1137, 4 OR (3d) 1.

12. *Tool-Plas Systems Inc. (Re),* 2008 CanLII 54790 (ON SC).

13. *Sierra Club of Canada v. Canada (Minister of Finance)*, 2002 SCC 41.

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

15. Scotch & Soda, Endorsement of J Steele dated May 16, 2023.

16. *U.S. Steel Canada Inc. (Re)*, 2025 ONSC 1759.

17. Synaptive Medical Inc., in the matter of a Plan of Compromise or Arrangement of 1001270243 Ontario Inc. (Court File No. CV-25-00739279-00CL) Endorsement of J. Dietrich dated July 7, 2026.

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

Note: Under the Rules of Civil Procedure, an authority or other document or record that is published on a government website or otherwise by a government printer, in a scholarly journal or by a commercial publisher of research on the subject of the report is presumed to be authentic, absent evidence to the contrary (rule 4.06.1(2.2)).

Date July 27, 2026

David Ward/ Mryam Sarkis

SCHEDULE "B"

TEXT OF STATUTES, REGULATIONS & BY - LAWS

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

65.13 (1) An insolvent person in respect of whom a notice of intention is filed under section 50.4 or a proposal is filed under subsection 62(1) may not sell or otherwise dispose of assets outside the ordinary course of business unless authorized to do so by a court. Despite any requirement for shareholder approval, including one under federal or provincial law, the court may authorize the sale or disposition even if shareholder approval was not obtained.

Individuals
(2) In the case of an individual who is carrying on a business, the court may authorize the sale or disposition only if the assets were acquired for or used in relation to the business.

Notice to secured creditors

(3) An insolvent person who applies to the court for an authorization shall give notice of the application to the secured creditors who are likely to be affected by the proposed sale or disposition.

Factors to be considered

(4) In deciding whether to grant the authorization, the court is to consider, among other things,

> **(a)** whether the process leading to the proposed sale or disposition was reasonable in the circumstances;
>
> **(b)** whether the trustee approved the process leading to the proposed sale or disposition;
>
> **(c)** whether the trustee filed with the court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under a bankruptcy;
>
> **(d)** the extent to which the creditors were consulted;
>
> **(e)** the effects of the proposed sale or disposition on the creditors and other interested parties; and
>
> **(f)** whether the consideration to be received for the assets is reasonable and fair, taking into account their market value.

Wage Earner Protection Program Act, SC 2005, c 47, s 1

Conditions of eligibility

- **5 (1)** An individual is eligible to receive a payment if
    - **(a)** the individual's employment ended for a reason prescribed by regulation;

- **(b)** one of the following applies:
  - **(i)** the former employer is bankrupt,
  - **(ii)** the former employer is subject to a receivership,
  - **(iii)** the former employer is the subject of a foreign proceeding that is recognized by a court under subsection 270(1) of the *Bankruptcy and Insolvency Act* and
    - **(A)** the court determines under subsection (2) that the foreign proceeding meets the criteria prescribed by regulation, and
    - **(B)** a trustee is appointed, or
  - **(iv)** the former employer is the subject of proceedings under Division I of Part III of the *Bankruptcy and Insolvency Act* or under the *Companies' Creditors Arrangement Act* and a court determines under subsection (5) that the criteria prescribed by regulation are met; and
- **(c)** the individual is owed eligible wages by the former employer.
- **(d)** [Repealed, 2009, c. 2, s. 343]

Employment in Canada

(3) An individual who is eligible to receive a payment because of subparagraph (1)(b)(iii) is only eligible to receive a payment in respect of eligible wages earned for employment in Canada and termination pay and severance pay that relate to that employment.

Deemed bankruptcy

(4) For the purposes of this Act, if all of the conditions set out in subparagraph (1)(b)(iii) are met, the former employer is deemed to be bankrupt and the date of the bankruptcy is deemed to be the day on which all of those conditions are met.

Prescribed criteria — other proceedings

(5) On application by any person, a court may, in proceedings under Division I of Part III of the *Bankruptcy and Insolvency Act* or under the *Companies' Creditors Arrangement Act*, determine that the former employer meets the criteria prescribed by regulation.

Amount of payment

- **7 (1)** The amount that may be paid under this Act to an individual is the amount of eligible wages owing to the individual up to a maximum of an amount equal to seven times the maximum weekly insurable earnings under the *Employment Insurance Act*.

Wage Earner Protection Program Regulations, SOR/2008-222

Termination of Employment

3 An individual's employment has ended for the purposes of paragraph 5(a) of the Act if it has ended for any of the following reasons:

- **(a)** the individual resigned or retired;
- **(b)** the individual's employment has terminated; or
- **(c)** the term of the individual's employment has expired.

Proceedings Under Bankruptcy and Insolvency Act or Companies' Creditors Arrangement Act
3.2 For the purposes of subsection 5(5) of the Act, a court may determine whether the former employer is the former employer all of whose employees in Canada have been terminated other than any retained to wind down its business operations.

Courts of Justice Act, R.S.O. 1990, c. C.43

Sealing documents
137(2) A court may order that any document filed in a civil proceeding before it be treated as confidential, sealed and not form part of the public record.

Rules of Civil Procedure, RRO 1990, Reg 194

RULE 6 CONSOLIDATION OR HEARING TOGETHER

Where Order May Be Made
6.01 (1) Where two or more proceedings are pending in the court and it appears to the court that,
(a) they have a question of law or fact in common;
(b) the relief claimed in them arises out of the same transaction or occurrence or series of transactions or occurrences; or
(c) for any other reason an order ought to be made under this rule,
the court may order that,
(d) the proceedings be consolidated, or heard at the same time or one immediately after the other; or
(e) any of the proceedings be,
(i) stayed until after the determination of any other of them, or
(ii) asserted by way of counterclaim in any other of them. R.R.O. 1990, Reg. 194, r. 6.01 (1).
(2) In the order, the court may give such directions as are just to avoid unnecessary costs or delay and, for that purpose, the court may dispense with service of a notice of listing for trial and abridge the time for placing an action on the trial list. R.R.O. 1990, Reg. 194, r. 6.01 (2).

Discretion of Presiding Judge
6.02 Where the court has made an order that proceedings be heard either at the same time or one immediately after the other, the judge presiding at the hearing nevertheless has discretion to order otherwise.

IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT,* R.S.C. 1985, c. B-3, AS AMENDED

Court File No. BK-26-03389454-0032

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF GOOD NATURED PRODUCTS INDUSTRIAL CANADA LP, et al.

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)
(COMMERCIAL LIST)
Proceeding Commenced at
Toronto

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