Court File No. CL-26-00000292-0000

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN

KENSINGTON PRIVATE EQUITY FUND

Applicant

\- and -

BOLD CANINE INC.

Respondent

IN THE MATTER OF SECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED AND SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED

FACTUM OF THE RECEIVER, TDB RESTRUCTURING LIMITED (Approval and Vesting Order and Ancillary Relief Order)

September 4, 2026

COZEN O'CONNOR LLP
Bay-Adelaide Centre – North Tower
40 Temperance Street, Suite 2700
Toronto, ON M5H 0B4

Steven J. Weisz (32102C)
Tel: 647-417-5334
Email: sweisz@cozen.com

Dilina Lallani (90453E)
Tel: 647-417-5349
Email: dlallani@cozen.com

Lawyers for the Receiver, TDB Restructuring Limited

TO: SERVICE LIST

PART I – OVERVIEW

1. On June 25, 2026, Kensington Private Equity Fund (the "**Applicant**") obtained an Order (the "**Interim Receivership Order**") of the Ontario Superior Court of Justice (Commercial List) (the "**Court**"), appointing TDB Restructuring Limited ("**TDB**") as interim receiver (the "**Interim Receiver**"), without security, of all of the property, assets and undertakings of Bold Canine Inc. (the "**Company**"), excluding the Excluded Assets (as defined in the Interim Receivership Order) (the "**Property**"). The Court also appointed Wholeframe Inc., through its principal, Domagoj Karadjole, as Chief Restructuring Officer (the "**CRO**").[1]

2. The Applicant's application materials contemplated a comeback hearing at which the Court would consider whether the interim receivership should be converted into a full receivership and whether such further relief as may be appropriate should be granted. The endorsement provided for the parties to return before the Court for the full receivership application.[2]

3. On July 9, 2026, the Court granted an Order (the "**Receivership Order**"), among other things: (i) appointing TDB as receiver and manager (in such capacities, the "**Receiver**"), without security, of the Property; (ii) continuing the appointment of the CRO; (iii) authorizing the Receiver to borrow up to $1.1 million pursuant to the Receiver's Borrowings Charge; and (iv) approving the SISP and authorizing and directing the Receiver to implement the SISP in accordance with its terms.[3]

4. The Receiver now seeks:[4]

   a) an Approval and Vesting Order, among other things:

      i. approving the APA (defined herein) and the transaction contemplated therein (the "**Transaction**");

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[1] First Report of the Receiver dated September 1, 2026 at para 1 [First Report of the Receiver] [E194].
[2] First Report of the Receiver at para 2 [E194].
[3] First Report of the Receiver at para 4 [[E194].
[4] First Report of the Receiver at para 7 [E195].

ii. authorizing and directing the Receiver and the Company to take such steps as may be necessary or desirable to complete the Transaction; and

iii. upon delivery of the Receiver's certificate contemplated by the Approval and Vesting Order, vesting the Company's and the Receiver's right, title and interest, if any, in and to the Purchased Assets in the Purchaser, free and clear of all liens, claims and encumbrances, other than the permitted encumbrances provided for in the APA; and

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

i. approving the First Report of the Interim Receiver and the First Report and the actions, conduct and activities of TDB, in its capacities as Interim Receiver and Receiver, described therein;

ii. approving the Interim SRD;

iii. approving the fees and disbursements of the Interim Receiver, Receiver and its counsel, Cozen O'Connor LLP ("**Cozen**"), as set out in their respective fee affidavits; and

iv. sealing Confidential Appendix "1" and Confidential Appendix "2" (collectively, the "**Confidential Appendices**") to the First Report until the closing of the Transaction or further Order of the Court.

PART II – FACTS

5. The facts underlying this motion are more fully set out in the First Report of the Receiver dated September 1, 2026 (the "**First Report of the Receiver**"). Capitalized terms used but not otherwise defined have the meaning ascribed to them in the First Report of the Receiver or the Receivership Order, as the case may be. All references to currency in this factum are references to Canadian dollars, unless otherwise indicated.

A. Background

6. The Company manufactures frozen raw food for dogs and cats under the "Bold by Nature" brand from its production facility located in Erin, Ontario. The Company's operations include the procurement and processing of raw meat products, manufacturing, packaging, warehousing and distribution of finished pet food products throughout Canada.[5]

7. Prior to the commencement of these proceedings, the Company experienced financial and liquidity challenges arising from, among other things, sustained operating losses and increasing creditor pressure. TDB was appointed as Interim Receiver on June 25, 2026 and subsequently as Receiver on July 9, 2026. Since its initial appointment, TDB, with the assistance of the CRO and the Company's management, has continued the Company's operations while taking steps to preserve the value of the Company's business and assets and conducting the Court-approved SISP.[6]

8. The Receiver has worked closely with the CRO, the Company's management and employees, Cozen and other stakeholders to continue the Company's operations, preserve the value of its business and assets, manage the Company's liquidity and implement the Court-approved SISP. The Receiver has maintained active oversight of the Company's affairs throughout the receivership proceedings and has been regularly involved in operational, financial and restructuring matters requiring the Receiver's attention, direction or approval.[7]

B. Sale Process and Transaction

9. Pursuant to the Receivership Order, the Receiver was authorized and directed to conduct the SISP, with the assistance of the Company and the CRO, for the purpose of soliciting interest in a sale of, investment in, or other transaction involving all or any portion of the Company's business and assets. The SISP contemplated a broad canvassing of the market and provided the Receiver with the flexibility necessary to identify and pursue the transaction or transactions considered to be in the best interests of the Company's stakeholders.[8]

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[5] First Report of the Receiver at para 12 [E197].
[6] First Report of the Receiver at paras 13 [E197] and 14 [E198].
[7] First Report of the Receiver at para 15 [E198].
[8] First Report of the Receiver at para 23 [E208].

10. In accordance with the SISP and the amended SISP timelines, the Receiver and/or the CRO distributed a marketing brochure (the "**Teaser**") and confidentiality agreement (the "**NDA**") to approximately thirty prospective bidders, including strategic parties, industry participants, competitors, financial purchasers and other parties considered interested in an acquisition of or an investment in the Company's business and assets. The Receiver also posted copies of the Teaser, NDA and other relevant information concerning the SISP to the Receiver's case webpage.[9]

11. Throughout the SISP, the Receiver, the CRO and the Company responded to reasonable due diligence requests from Potential Purchasers, supplemented the information available in the virtual data room where appropriate and facilitated discussions with interested parties regarding the Company, its operations and the acquisition opportunity.[10] The Receiver and the CRO maintained ongoing communications with Potential Purchasers throughout the SISP, including following up with parties that had expressed interest, responding to questions regarding the process and encouraging interested parties to advance their diligence with a view to submitting a bid by the applicable Bid Deadline.[11]

12. As a result of the Receiver's marketing efforts, nineteen (19) potential purchasers executed the NDA in order to obtain access to the virtual data room to conduct additional due diligence.[12]

13. Pursuant to the terms of the SISP, interested parties were originally required to submit a bid by July 31, 2026. The Receiver extended the deadline to August 24, 2026 and subsequently reduced the deadline to August 14, 2026 in accordance with the notice requirements set out under the SISP (the "**Bid Deadline**").[13]

14. The Receiver received five (5) bids by the Bid Deadline.[14]

15. Following receipt of the bids, the Receiver, in consultation with the CRO, Cozen and the Applicant, reviewed and evaluated each bid in accordance with the criteria set out in the SISP, including, among other things, the purchase price and form of consideration offered, the assets

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[9] First Report of the Receiver at para 25(d) and 25(e) [E209].
[10] First Report of the Receiver at para 25(i) [E210].
[11] First Report of the Receiver at para 25(j) [E210].
[12] First Report of the Receiver at para 25(k) [E210].
[13] First Report of the Receiver at para 27 and 29 [E211].
[14] First Report of the Receiver at para 37 [E213].

proposed to be acquired, conditions to closing, financing requirements, execution risk, proposed closing timeline and other material commercial terms.[15]

16. The Receiver and the CRO prepared and reviewed comparative analyses of the bids received and considered the relative benefits, risks and other material terms of each proposal. The Receiver also participated in discussions with its advisors regarding the bids and the appropriate next steps under the SISP.[16]

17. Following extensive negotiations, Iron Will Raw Inc. (the "**Purchaser**") and the Company, by its Receiver, entered into an asset purchase agreement dated August 29, 2026 (the "**APA**") for the purchase and sale of certain of the Company's assets (the "**Purchased Assets**").[17]

C. Reports and activities of the Interim Receiver and Receiver

18. Paragraph 15 of the First Report of the Interim Receiver dated July 5, 2026[18] and paragraphs 15 to 18 of the First Report of the Receiver[19] include a detailed summary of the Interim Receiver and the Receiver's activities since the date of the Interim Receivership Order and Receivership Order respectively.

D. Fees and disbursements of the Interim Receiver and Receiver and its counsel

19. For the period from May 20, 2026 to August 31, 2026, TDB, as Interim Receiver and Receiver, expended 282.1 hours in connection with this matter, giving rise to $138,130.10 in fees and disbursements, plus HST of $17,955.88, for a total amount of $156,085.98. The average hourly rate was $489.25.[20]

20. For the period from June 25, 2026 to August 31, 2026, Cozen expended 162.1 hours in connection with this matter, giving rise to $96,928.01 in fees and disbursements, plus HST of $12,581.63, for a total amount of $109,509.64. Cozen's average hourly rate was $596.76.[21]

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[15] First Report of the Receiver at para 38 [E213].
[16] First Report of the Receiver at para 39 [E213].
[17] First Report of the Receiver at para 16(kk)[E204] and para 42 [E213].
[18] First Report of the Receiver at Appendix "B" [E245].
[19] First Report of the Receiver at paras 15-18 [E198].
[20] First Report of the Receiver at para 58 [E223] and Exhibit B of Appendix "J" [E382].
[21] First Report of the Receiver at para 59 [E224] and Appendix "K" [E409].

E. The Interim SRD

21. The Interim SRD for the period from June 25, 2026 to August 26, 2026 sets out cash receipts of $2,000,375 including advances made by the Applicant totaling $900,000 pursuant to the Receiver's Certificates, and cash disbursements of $1,604,432, resulting in an excess of receipts over disbursements of $395,943.[22]

22. The Receiver requests approval of the Interim SRD.

F. Sealing of Confidential Appendices

23. The Confidential Appendices include: (i) the Bid Matrix, which summarizes the bids received by the Receiver during the SISP, including the material financial and commercial terms of such bids; and (ii) an unredacted version of the APA, which includes the Purchase Price and other commercially sensitive terms of the Transaction.[23]

24. The Receiver seeks the sealing of the Confidential Appendices until the closing of the Transaction, or further order of this Court.

PART III – ISSUES AND THE LAW

25. The issues on this Motion are whether the Court should:

(a) approve the APA and grant the Approval and Vesting Order;

(b) approve the First Report of the Interim Receiver and the First Report of the Receiver and the activities of the Interim Receiver and the Receiver set out therein;

(c) approve the fees and disbursements of the Interim Receiver and the Receiver and its legal counsel and approve the Interim SRD; and

(d) approve the sealing of Confidential Appendix "1" and Confidential Appendix "2".

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[22] First Report of the Receiver at para 55 [E223].
[23] First Report of the Receiver at para 62 [E224].

A. The Court should grant the Approval and Vesting Order

26. In *Royal Bank v. Soundair Corp*, the Court of Appeal outlined the following factors that must be considered when determining approval of a proposed sale in a receivership:[24]

a) whether the receiver has made a sufficient effort to get the best price and has not acted improvidently;

b) whether the interests of all parties have been considered;

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.

27. Courts will generally defer to a Court-appointed receiver's business expertise in reviewing a sale and will not second-guess the receiver's recommendations absent exceptional circumstances. Where a receiver has acted reasonably, prudently and not arbitrarily, the Court will not conduct a detailed review of each aspect of the procedure by which a receiver's decision was made with respect to a sale process.[25]

28. It is respectfully submitted that the *Soundair* test is readily met on the facts of this case and that the Court should grant the Approval and Vesting Order for the following reasons:[26]

a) the Receiver is of the view that the Transaction represents the highest and best transaction available in the circumstances and is the result of a fair and commercially reasonable Court-approved sale process;

b) following the Bid Deadline, the Receiver, in consultation with the CRO and Cozen, reviewed and compared the bids received, including the consideration offered, the assets proposed to be acquired, conditions to closing, execution risk, funding and other material commercial terms. The Receiver ultimately determined that the

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[24] *Royal Bank of Canada v. Soundair Corp*., 1991 4 OR (3d) 1, 83 DLR (4th) 76 (ONCA) at para 16 [*Soundair*].
[25] *Marchant Realty Partners Inc. v. 2407553 Ontario Inc*., 2021 ONCA 375 at para 15, citing R*egal Constellation Hotel Ltd., Re.*, 2004 CanLII 206 (ONCA) at para 23; *Bank of Montreal v. Dedicated National Pharmacies Inc. et al*, 2011 ONSC 4634 at para 43.
[26] First Report of the Receiver at paras 48-51 [E218-E222].

Purchaser's bid represented the best available transaction for the Company's stakeholders;

c) **the SISP was reasonable and appropriately conducted:** the SISP was approved by the Court pursuant to the Receivership Order and was conducted by the Receiver with the assistance of the CRO and the Company. The Receiver identified and contacted a broad range of prospective strategic and financial purchasers and other potentially interested parties, distributed the Teaser and NDA, established the VDR and provided qualified interested parties with an opportunity to conduct due diligence in respect of the Company and its business and assets. The Receiver and the CRO responded to reasonable diligence requests and maintained communications with Potential Purchasers throughout the SISP. In the Receiver's view, the SISP provided an appropriate and commercially reasonable opportunity for the market to assess and submit offers for the Company's business and assets;

d) **the SISP timelines were reasonable in the circumstances**: the Receiver actively considered and adjusted the SISP milestones as the process progressed. In accordance with the authority provided under the SISP, the Receiver first extended certain milestones, including the Bid Deadline to August 24, 2026, and subsequently revised the Bid Deadline to August 14, 2026 at 5:00 p.m. EST. The Receiver considered the level of market interest, the progress of due diligence, the Company's ongoing operations and liquidity requirements and the need to preserve the value of the Company's assets in determining the appropriate timing of the SISP. In the Receiver's view, interested parties were afforded sufficient time and information to evaluate the opportunity and submit informed bids;

e) **the market was appropriately canvassed**: the marketing process resulted in nineteen (19) parties executing NDAs and obtaining access to the VDR and ultimately resulted in the Receiver receiving five (5) bids by the Bid Deadline. The Receiver is satisfied that the marketing efforts undertaken in the circumstances provided the market with an appropriate opportunity to express interest in and submit offers for the Company's business and assets;

f) **the bids were evaluated objectively**: following the Bid Deadline, the Receiver, with the assistance of the CRO and Cozen, reviewed and compared the bids received. In conducting its evaluation, the Receiver considered not only the headline purchase price, but also the assets included in each bid, the form and certainty of consideration, conditions to closing, financing and execution risk, proposed timing and other material commercial terms. The Receiver prepared and reviewed the Bid Matrix to assist in its comparative assessment of the competing proposals;

g) **the Purchase Price is fair and reasonable:** in the Receiver's view, the Purchase Price is fair and reasonable having regard to the results of the SISP, the bids received, the terms and conditions of the Transaction and the Receiver's assessment of the available alternatives. The Receiver is of the view that the Purchase Price represents the highest and best value available for the Purchased Assets in the circumstances;

h) **the Transaction provides substantial certainty of closing:** the Purchaser has paid the Deposit, which is being held in trust and will be credited against the Purchase Price on Closing. The APA also contains customary representations, covenants and conditions to Closing and the Purchaser has represented that it has sufficient cash on hand or other immediately available funds to pay the Purchase Price and complete the Transaction. In the Receiver's view, these factors provide meaningful transaction certainty;

i) **the Transaction appropriately allocates execution and contract risk:** the Purchaser is responsible for the Cure Costs associated with Purchased Contracts and for the costs of obtaining any Assignment Order that may be required in respect thereof. The Purchaser is also responsible for applicable Transfer Taxes associated with its acquisition of the Purchased Assets. These provisions reduce the potential burden on the receivership estate in connection with completing the Transaction;

j) **the Transaction preserves value while leaving other assets available to the Receiver:** the Transaction is expressly limited to Lot 1, being the Brand and Intellectual Property, Packaging and related Books and Records, together with Merchantable Inventory accepted by the Purchaser. The Purchaser is not acquiring the Company itself or all of its assets or operations. Among other things, the Machinery, Equipment and Production Assets, Leasehold Interest, Bold USA Inc. Shares, certain Inventory and the assets relating to the Private Label Business are excluded from the Transaction and remain available to the Receiver to deal with separately for the benefit of stakeholders;

k) **the Transaction avoids the risks and costs associated with continuing the SISP or pursuing an alternative transaction:** the Company has continued to operate throughout the receivership proceedings and has required ongoing funding and active oversight by the Receiver and CRO. In the Receiver's view, extending or restarting the sale process would result in additional professional and operating costs, increase liquidity requirements and expose the Company's assets and enterprise value to further execution risk, without any reasonable basis to conclude that a superior transaction would result;

l) **the interests of stakeholders have been considered:** in evaluating the Transaction, the Receiver considered the interests of the Company's secured creditors, unsecured creditors, employees, customers, suppliers and other stakeholders, together with the costs, risks and benefits associated with the available alternatives. The Receiver is of the view that the Transaction maximizes the realizable value of the Purchased Assets in the circumstances while allowing the Receiver to continue to realize upon or otherwise deal with the Excluded Assets for the benefit of the estate; and

m) **the terms and conditions are commercially reasonable**. The Receiver has reviewed and negotiated the APA with the assistance of Cozen and the CRO and is satisfied that its terms and conditions are commercially reasonable and appropriate in the circumstances. The Purchased Assets are being sold on an "as is, where is" basis, and the Purchaser has acknowledged that it has conducted its own investigation, due diligence and analysis in respect of the Company and the Purchased Assets.

29. The Receiver is also of the view that the Transaction satisfies the considerations applicable to a Court-approved sale in a receivership proceeding. In particular, the Receiver has made a

sufficient effort to obtain the best price for the Purchased Assets, the SISP and marketing process were conducted fairly and transparently, the Receiver considered the interests of the parties affected by the Transaction, and the Transaction represents the best available result produced by the Court-approved SISP.[27]

30. The Receiver respectfully recommends that this Honourable Court approve the APA and the Transaction contemplated thereby and grant the proposed Approval and Vesting Order substantially in the form included in the Receiver's Motion Record.

B. The First Report of the Interim Receiver and the First Report of the Receiver and the activities of the Interim Receiver and Receiver set out therein should be approved

31. The Receiver seeks the approval of the First Report of the Interim Receiver and the First Report of the Receiver, along with the actions, conduct and activities of the Interim Receiver and Receiver referred to therein.

32. It is common practice for receivers to seek approval of their reports and activities set out therein.[28]

33. In the CCAA context, requests to approve a monitor's report and activities are not unusual, and there are good policy and practical reasons for the court to do so, including:

a) allowing the monitor to move forward with the next steps;

b) allowing the monitor to bring its activities before the Court;

c) allows an opportunity for the concerns of stakeholders to be addressed, and any problems be rectified;

d) enabling the Court to satisfy itself that a monitor's activities have been conducted in prudent and diligent manners;

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[27] First Report of the Receiver at para 51 [E222].

[28] *Chief Executive Officer of the Financial Services Regulatory Authority of Ontario v. First Swiss Mortgage Corp*. (June 24, 2024) Ont. S.C.J. [Commercial List] Court File No. CV-23-00696362-00CL (Endorsement of Justice Steele) at para 23, citing *Target Canada Co. (Re)*, 2015 ONSC 7574 at para 2 [*Target*]; *Triple-I Capital Partners Limited v. 12411300 Canada Inc.*, 2023 ONSC 3400 at paras 65-66 [*Triple-I*].

e) providing protection for a monitor not otherwise provided by the CCAA; and

f) protecting creditors from delay that may be caused by re-litigation of steps and potential indemnity claims. [29]

34. Subsequent case law has confirmed that the same principles apply in a receivership.[30]

35. The Receiver is of the view that the activities of the Receiver were necessary and appropriate in the circumstances, were undertaken in good faith and in accordance with the Receivership Order and were directed toward preserving and maximizing the value of the Company's business and assets for the benefit of its stakeholders. Accordingly, the Receiver respectfully requests that the Court approve the activities and conduct of the Receiver described in the First Report of the Receiver.[31]

36. Additionally, the Receiver is of the view that the actions, conduct and activities undertaken by TDB, as Interim Receiver, and as described in the First Report of the Interim Receiver have been conducted in good faith and in accordance with the terms of the Interim Receivership Order.[32]

37. The Receiver therefore respectfully submits that the First Report of the Interim Receiver and the First Report of the Receiver and activities described therein should be approved.

C. The Court should approve the fees and disbursements of the Interim Receiver and the Receiver and its legal counsel and the Interim SRD

38. The Interim Receivership Order provides that the Interim Receiver and counsel to the Interim Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Interim Receiver and counsel to the Interim Receiver were granted a charge on the Property and the Excluded Assets as security for such fees and disbursements.[33]

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[29] *Target*, *ibid,* at para. 23.
[30] *Triple-I*, supra note 28*,* at paras 65 and 66; *Hanfeng Evergreen Inc.,* (Re), 2017 ONSC 7161 at para. 15.
[31] First Report of the Receiver at para 19 [E205].
[32] First Report of the Receiver at para 20 [E205].
[33] First Report of the Receiver at para 56 [E223].

39. The Receivership Order provides that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver were granted a charge on the Property and the Excluded Assets as security for such fees and disbursements. The priority of the Receiver's Charge is as set out in the Receivership Order.[34]

40. In determining whether to approve the accounts of a Court-appointed receiver and its counsel, the Court will consider the overall value contributed, taking into account the following factors:

a) the nature, extent and value of the assets;

b) the complications encountered;

c) the degree of assistance provided by the debtor;

d) the time spent;

e) the receiver's knowledge, experience and skill;

f) the diligence and thoroughness displayed;

g) the responsibilities assumed;

h) the results of the receiver's efforts; and

i) the cost of comparable services when performed in a prudent and economical manner.[35]

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[34] First Report of the Receiver at para 57 [E223].

[35] *Bank of Nova Scotia v. Diemer,* 2014 ONCA 851 at para 33 [*Diemer*], citing *Federal Business Development Bank v. Belyea and Fowler (1983),* 1983 CanLII 4086 (NB CA), 44 N.B.R. (2d) 248 (C.A.) at para 9.

41. In *Bank of Nova Scotia v. Diemer*, the Court of Appeal for Ontario stated that "the focus of the fair and reasonable assessment should be on what was accomplished, and not how much time it took".[36]

42. The Receiver has appended fee affidavits for both its own fees and disbursements as Interim Receiver and Receiver, and the fees and disbursements of its legal counsel, Cozen, to the First Report of the Receiver. The Receiver is of the view that Cozen's hourly rates are consistent with the rates charged by other law firms practicing in the area of restructuring and insolvency in the Toronto market, and it is the Receiver's opinion that the fees and disbursements of the Interim Receiver, Receiver and Cozen are reasonable and justified in the circumstances.[37]

43. Based on the foregoing, the Receiver respectfully requests that this Honourable Court approve the fees and disbursements of the Interim Receiver and Receiver and Cozen.

44. The Receiver also seeks approval of the Interim SRD.

D. The Court should approve the sealing of the Confidential Appendices

45. The Receiver seeks an order sealing Confidential Appendix "1" and Confidential Appendix "2" appended to the First Report of the Receiver until the closing of the Transaction or further Order of the Court.

46. This Court may seal confidential documents under section 137(2) of the CJA. Section 137(2) of the CJA provides "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."[38]

47. The Supreme Court of Canada in *Sierra Club of Canada v Canada (Minister of Finance)* has held that a sealing order should only be ordered when: [39]

[36] *Diemer*, *ibid,* at para 45.
[37] First Report of the Receiver at para 60 [E224].
[38] *Courts of Justice Act,* RSO 1990, c C. 43 at s. 137(2).
[39] *Sierra Club of Canada v Canada (Minister of Finance)*, 2002 SCC 41 at para 45.

a) such an order is necessary in order to prevent a serious risk to the proper administration of justice because reasonably alternative measures will not prevent the risk; and

b) the salutary effects of the publication ban outweigh the deleterious effects on the rights and interests of the parties and the public, including the effects on the right to free expression, the right of the accused to a fair and public trial, and the efficacy of the administration of justice.

48. In *Sherman Estate v. Donovan*, the Supreme Court of Canada held that a person asking a court to exercise discretion in limiting the 'open court' presumption must establish that:[40]

a) court openness poses a serious risk to public interest;

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

c) as a matter of proportionality, the benefits of the order outweigh its negative effects.

49. This Court has routinely applied both *Sherman* and *Sierra* and held it appropriate to seal information and documentation filed in support of a motion to approve a sale, where the materials "disclose valuations of the assets under sale, the details of the bids received by the court appointed officer and the purchase price contained in the offer for which court approval is sought".[41]

50. The Receiver is of the view that the Confidential Appendices should be sealed due to the commercially sensitive nature of the information contained therein, pending further Order of the Court or the completion of the Transaction.[42]

51. Public disclosure of the Confidential Appendices could prejudice the Company and its stakeholders by revealing commercially sensitive terms, valuation information, the bids received during the SISP and the Purchase Price. Disclosure of this information could materially impair the

[40] *Sherman Estate v. Donovan*, 2021 SCC 25 at para 38.
[41] *GE Canada Real Estate Financing Business Property Company v. 1262354 Ontario Inc.*, 2014 ONSC 1173 at para 32.
[42] First Report of the Receiver at para 63 [E224].

Receiver's ability to re-market the Purchased Assets and maximize realizations for stakeholders if the Transaction fails to close for any reason.[43]

52. Accordingly, the Receiver respectfully recommends that the Confidential Appendices be sealed on the terms proposed in the Ancillary Relief Order.

PART IV – RELIEF REQUESTED

53. For the reasons set out above, the Receiver requests that this Court grant the Approval and Vesting Order and the Ancillary Relief Order.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 4th day of September, 2026

Dilina Lallani

COZEN O'CONNOR LLP

Dilina Lallani (90453E)
Tel: 647-417-5349
Email: dlallani@cozen.com

[43] First Report of the Receiver at para 64 [E224].

SCHEDULE "A"

LIST OF AUTHORITIES

1. *Bank of Montreal v. Dedicated National Pharmacies Inc. et al*, 2011 ONSC 4634
2. *Bank of Nova Scotia v. Diemer,* 2014 ONCA 851
3. *Chief Executive Officer of the Financial Services Regulatory Authority of Ontario v. First Swiss Mortgage Corp*. (June 24, 2024) Ont. S.C.J. [Commercial List] Court File No. CV-23-00696362-00CL (Endorsement of Justice Steele)
4. *Federal Business Development Bank v. Belyea and Fowler (1983),* 1983 CanLII 4086 (NB CA), 44 N.B.R. (2d) 248 (C.A.)
5. *GE Canada Real Estate Financing Business Property Company v. 1262354 Ontario Inc.*, 2014 ONSC 1173
6. *Hanfeng Evergreen Inc.,* (Re), 2017 ONSC 7161
7. *Marchant Realty Partners Inc. v. 2407553 Ontario Inc*., 2021 ONCA 375
8. R*egal Constellation Hotel Ltd., Re.*, 2004 CanLII 206 (ONCA)
9. *Royal Bank of Canada v. Soundair Corp*., 1991 4 OR (3d) 1, 83 DLR (4th) 76 (ONCA)
10. *Sherman Estate v. Donovan*, 2021 SCC 25
11. *Sierra Club of Canada v Canada (Minister of Finance)*, 2002 SCC 41
12. *Target Canada Co. (Re)*, 2015 ONSC 7574
13. *Triple-I Capital Partners Limited v. 12411300 Canada Inc.*, 2023 ONSC 3400

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

Dated: September 4, 2026

Dilina Lallani (90453E)

SCHEDULE "B"

TEXT OF STATUTES, REGULATIONS & BY-LAWS

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

Sealing documents

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

KENSINGTON PRIVATE EQUITY FUND
Applicant

-and-

BOLD CANINE INC.
Respondent

Court File No. CL-26-00000292-0000

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT
TORONTO

FACTUM OF THE RECEIVER

COZEN O'CONNOR LLP
Bay-Adelaide Centre – North Tower
40 Temperance Street, Suite 2700
Toronto, ON M5H 0B4

Steven J. Weisz (32102C)
Tel: 647-417-5334
Email: sweisz@cozen.com

Dilina Lallani (90453E)
Tel: 647-417-5349
Email: dlallani@cozen.com

Lawyers for the Receiver, TDB Restructuring Limited