

COURT FILE NUMBER 2401-17986

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

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

AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF 420 INVESTMENTS LTD., 420 PREMIUM MARKETS LTD., GREEN ROCK CANNABIS (EC 1) LIMITED and 420 DISPENSARIES LTD.

APPLICANTS 420 INVESTMENTS LTD., 420 PREMIUM MARKETS LTD., GREEN ROCK CANNABIS (EC 1) LIMITED, and 420 DISPENSARIES LTD.

DOCUMENT **APPLICATION**

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File No.: 155857.1002



NOTICE TO THE RESPONDENT(S)

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Date: April 28, 2025

Time: 11:00am

Where: Calgary Courts Centre – By Webex (See **Schedule “A”**)

Before: The Honourable Justice Bourque in Commercial Chambers

Go to the end of this document to see what you can do and when you must do it.

Remedy claimed or sought:

1. 420 Investments Ltd. ("**420 Parent**"), 420 Premium Markets Ltd. ("**420 OpCo**"), Green Rock Cannabis (EC 1) Ltd. ("**Green Rock**") and 420 Dispensaries Ltd. ("**420 Dispensaries**") (collectively, "**FOUR20**" or the "**Applicants**"), respectfully seek an Order substantially in the form attached hereto as **Schedule "B"** (the "**Order**"):
 - (a) disallowing High Park Shops Inc. ("**High Park**") from voting on the proposes Plan of Arrangement (the "**Plan**") in their own capacity, through an assigned claim, or through proxy;
 - (b) requiring High Park to pay the costs of this Application on a solicitor-and-own-client costs basis; and
 - (c) such further and other relief as counsel may request and this Honourable Court may deem just.
2. All terms used but not otherwise defined herein have the meanings given to such terms in the Plan and the Affidavit of Scott Morrow, sworn on April 17, 2025.

Grounds for making this application:

Background

3. The FOUR20 business is focused on cannabis retail sales in Alberta and Ontario. It is not a producer of cannabis. 420 Parent is the ultimate parent company of the FOUR20 group of companies. 420 Premium, Green Rock, and 420 Dispensaries are directly or indirectly owned by 420 Parent.
4. The within proceedings originally commenced when three of the FOUR20 companies filed Notices of Intention to Make a Proposal under the BIA in April of 2024. The FOUR20 companies sought creditor protection as a result of several factors, including the fact that they had numerous uneconomic leased locations which were causing the FOUR20 business to be unprofitable. The uneconomic leased locations were a result of the highly regulated environment and competition in the cannabis industry since it first became legalized in 2018. Many cannabis retailers in Canada have been forced to proceed through a restructuring process in order to right-size their operations in recent years.
5. The other major factor driving the FOUR20 business restructuring was ongoing litigation (the "**Litigation**") between FOUR20 Parent and High Park Shops Inc. ("**High Park**") as a result of a

failed corporate arrangement in 2020. In the Litigation, FOUR20 sought damages of up to \$114 million as a result of the failed corporate arrangement, and High Park counterclaimed for repayment of a bridge loan which had been extended in anticipation of that corporate arrangement.

6. Earlier in 2024, High Park had obtained a summary judgment with respect to its counterclaim (the “**High Park Summary Judgment**”) and while 420 Parent was in the course of appealing that judgment (the “**420 Appeal**”), High Park issued a garnishee summons which could have destroyed operations of the FOUR20 business.
7. The 420 Appeal was eventually successful before Justice Feasby on October 8, 2024. High Park then sought to further appeal Justice Feasby’s decision to the Alberta Court of Appeal. On April 17, 2025, the Alberta Court of Appeal unanimously dismissed High Park’s appeal in oral reasons from the bench. As a result, the High Park Summary Judgment has been finally dismissed, and one of the major reasons driving 420’s insolvency proceeding no longer exists.
8. FOUR20’s creditor structure is unique, in that the existing secured creditors at the 420 Parent level do not also have direct security over the assets at the 420 OpCo level. As a result, following the completion of a Court-Approved Sales Investment and Solicitation Process (“**SISP**”) an opportunity presented itself to advance a Plan of Arrangement (the “**Plan**”) which deals with creditors at the 420 OpCo level, without effecting the secured position of creditors at the 420 Parent level, while preserving the Litigation and counterclaim until such time as all appeals have been exhausted or the matter has been finally determined.
9. On February 11, 2025, FOUR20 became party to a loan agreement pursuant to which they obtained funding for a plan of compromise or arrangement to FOUR20’s creditors (the “**Plan**”).
10. FOUR20 subsequently applied to this Court for an order allowing FOUR20 to hold a creditor meeting to vote on the Plan (the “**Creditor Meeting Application**”). At the time, the Plan included the following key terms (though these terms have since been amended, as further described at paragraph 23, *infra*):
 - (a) unsecured creditors of 420 OpCo and Green Rock (the “**OpCo Unsecured Creditors**”)(later amended to include unsecured creditors of 420 Parent) would constitute a class of Affected Creditors that would receive cash payment of 55 cents on the dollar and a top-up equivalent to the remaining 45 cents on the dollar through a choice of either shares in 420 Parent (the “**Parent Share Election**”) or future proceeds from the Litigation (the “**Litigation Proceeds Election**”);

- (b) Stoke Canada Finance Corp. (“**Stoke**”), the sole secured creditor at 420 OpCo, would constitute a class of Affected Creditors that would be paid in full in cash; and
 - (c) all other creditors would be deemed Unaffected.
- 11. Funds to provide the payouts contemplated by the Plan were acquired through a loan agreement executed with a third-party lender (the “**Lender**”).
- 12. High Park opposed FOUR20’s application and cross-applied for an order re-opening the SISP to allow High Park to submit a new bid and granting enhanced powers to the Monitor to allow the Monitor to conduct the SISP and select a successful bid without any input from FOUR20 (the “**High Park Application**”).
- 13. On March 27, 2025, the Honourable Justice Bourque granted the Creditors Meeting Order and dismissed the High Park Application (the “**March Hearing**”). In doing so, Justice Bourque found that re-opening the SISP best served High Park’s interests as it would allow High Park to acquire (and discontinue) the Litigation at as low a price as possible but was not necessarily in the best interests of other creditors and stakeholders. Ultimately, this Court declined to prevent a creditor meeting in favour of a contingent creditor who forced FOUR20 into insolvency proceedings through a summary judgment for repayment of a loan that is no longer enforceable and that is unlikely to become enforceable for some time, if ever.
- 14. As required under the Creditors Meeting Order, on March 31, 2025, the Monitor served on the Service List copies of the Notice to Affected Creditors, Creditors Meeting Order, a blank form of Affected Creditor Proxy, and the Convenience Election Notice (collectively, the “**Meeting Materials**”). Further in accordance with the Creditors Meeting Order, on April 3, 2025, the Monitor delivered physical copies of the Meeting Materials to each Affected Creditor.
- 15. On April 7, 2025, after negotiating additional funding from the Lender and in accordance with Section 3 of the Creditors Meeting Order, FOUR20 amended the Plan to, *inter alia*:
 - (a) treat unsecured creditors of all FOUR20 entities as Affected Creditors;
 - (b) offer increased cash payout of 70 cents on the dollar to all unsecured creditors; and
 - (c) provide further details on the Litigation Proceeds Election and the Parent Share Election.
- 16. On April 8, 2025, the Monitor served a supplement to the Third Report (the “**Supplemental Report**”), wherein the Monitor provided an updated analysis of the Plan based on the amendments outlined above. In the Supplemental Report, the Monitor continued to recommend

that the Affected Creditors vote in favour of the Plan as it was anticipated to provide for a greater recovery than that which would be realized in a liquidation scenario or in the original Plan.

Receipt of Proxy Votes by the Monitor

17. The creditor meeting was scheduled to be held on April 11, 2025, at 10:00am (the “**Creditors Meeting**”).
18. In accordance with the Creditors’ Meeting Order, all Affected Creditors were required to submit their proxy votes, indicating either a “yes” or “no” vote on the Plan, to the Monitor by 5:00 p.m. on April 9, 2025. At approximately 11:00 a.m. on that day, the Monitor received a proxy vote from McCarthys (an Affected Creditor) in support of the Plan (the “**McCarthy First Vote**”). However, later that same day at 3:00 p.m., the Monitor received a second proxy vote from High Park submitted on behalf of McCarthys, this time voting against the Plan (the “**McCarthy Second Vote**” and, together with the McCarthy First Vote, the “**McCarthy Votes**”).
19. Around the same time, at approximately 3:00 p.m. on April 9, 2025, the Monitor also received a “no” vote from another Affected Creditor, Meadowlands Development Corporation (“**Meadowlands**”), (the “**Meadowlands Vote**”). The proxy form accompanying the Meadowlands Vote disclosed that Meadowlands’ claim (the “**Meadowlands Claim**”) had been sold and assigned to High Park.

Adjournment of Creditor Meeting

20. Due to the irregularities surrounding the McCarthy Votes and the Meadowlands Vote, FOUR20 and the Monitor jointly agreed to adjourn the Creditors’ Meeting. A vote was held among all Affected Creditors, and they unanimously approved the adjournment. The meeting was rescheduled for May 9, 2025.
21. Since the adjournment, on April 17, 2025, the Alberta Court of Appeal heard High Park’s appeal of the Feasby Decision and issued a unanimous decision from bench dismissing the appeal. As such, no amount is currently due and owing to High Park with respect to the Litigation.

High Park has been acting with improper purpose

22. High Park’s acquisition of both the McCarthy Claim and the Meadowlands Claim was made for an improper and self-serving purpose. High Park is attempting to defeat the Plan, which has been recommended by the Monitor and is expected to yield a better return for creditors than liquidation, in order to force FOUR20 into a liquidation or further SISF so that High Park can acquire or

otherwise extinguish the Litigation, in which it is facing potential damages in excess of \$100 million.

23. All remaining Affected Creditors submitted proxy votes in favour of the Plan, indicating a shared belief that the Plan was in their best interest.
24. High Park's opposition to the Plan is not grounded in any genuine concern for creditor recovery. As previously noted by Justice Bourque in his decision from the March Hearing (the "**Justice Bourque Decision**"), High Park's intent in seeking to reopen the SISP was to acquire and discontinue the Litigation for as little as possible. High Park's "no" votes, submitted via the McCarthy and Meadowlands proxies, serve the same ulterior motive.
25. High Park's actions are fundamentally misaligned with the interests of the other creditors and stakeholders and demonstrate an improper purpose.

High Park's collateral attack on the Justice Bourque Decision

26. High Park's acquisition of the McCarthy and Meadowlands Claims, and its subsequent attempt to vote on the Plan, constitutes a direct collateral attack on the Justice Bourque Decision. In that decision, Justice Bourque explicitly determined that High Park is not an Affected Creditor and, as such, has no right to vote on the Plan. Justice Bourque expressly stated that if High Park were allowed to vote at the Creditors Meeting, the decision would be a foregone conclusion and would unduly prejudice all other creditors.
27. High Park's acquiring the McCarthy and Meadowlands Claims and submitting "no" voting proxies with respect to those claims, High Park is attempting to sidestep Justice Bourque's ruling. The use of the McCarthy and Meadowlands Claims to vote on the Plan reopens the very issue the Court has already determined, that being whether High Park is entitled to vote on the Plan, thereby rendering the prior ruling meaningless. This is a collateral attack that should not be countenanced by this Court.

High Parks abuse of process and lack of disclosure of McCarthy Claim assignment

28. Following the submission of conflicting proxy votes from McCarthys, the Monitor initiated an investigation and discovered that High Park had acquired the McCarthy Claim in November 2024. This acquisition was not disclosed to any parties, including the Monitor, FOUR20, the other Affected Creditors, and Justice Bourque during the March Hearing.
29. This lack of disclosure caused significant prejudice to all stakeholders. Had FOUR20 been aware of the assignment, it could have taken a different approach over the past six months. FOUR20

dedicated substantial resources to engaging with McCarthys (the holder of the second largest Affected Claim) as if they were a legitimate creditor, working to ensure that any proposed Plan would serve the best interests of all Affected Creditors, despite McCarthys no longer holding a valid claim.

30. As a result of High Park's improper purpose, collateral attack on the Justice Bourque Decision, abuse of process, and lack of disclosure of its acquisition of the McCarthy Claim, High Park should be disqualified from voting on the Plan, whether in its own capacity, through an assigned claim, or through proxy.

Affidavit or other evidence to be used in support of this application:

31. The Affidavit of Scott Morrow, sworn April 17, 2025;
32. The Fourth report of the Monitor, to be filed, and all previous reports filed by the Monitor in these proceedings; and
33. Such further and other material as counsel may advise and this Honourable Court may permit.

Applicable Acts and regulations:

34. *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;
35. *Bankruptcy and Insolvency Act*, R.S.C. 1985, c B-3, as amended; and
36. Such further and other Acts and regulations as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

37. None.

How the application is proposed to be heard or considered:

38. Before the presiding Justice in Commercial Chambers via Webex.

WARNING

You are named as a respondent because you have made or are expected to make an adverse claim in respect of this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant(s) and against all persons claiming under the applicant(s). You

will be bound by any order the Court makes, or another order might be given or other proceedings taken which the applicant(s) is/are entitled to make without any further notice to you. If you want to take part in the application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

SCHEDULE "A"

Webex Details

Virtual Courtroom 01 has been assigned for the above noted matter:

Virtual Courtroom Link:

<https://albertacourts.webex.com/meet/virtual.courtroom01>

Instructions for Connecting to the Meeting

1. Click on the link above or open up Chrome or Firefox and cut and paste it into your browser address bar.
2. If you do not have the Cisco Webex application already installed on your device, the site will have a button to install it. Follow installation instructions. Enter your full name and email address when prompted
3. Click on the **Open Cisco Webex Meeting**.
4. You will see a preview screen. Click on **Join Meeting**.

Key considerations for those attending:

1. Please connect to the courtroom **15 minutes prior** to the start of the hearing.
2. Please ensure that your microphone is muted and remains muted for the duration of the proceeding, unless you are speaking. Ensure that you state your name each time you speak.
3. If bandwidth becomes an issue, some participants may be asked to turn off their video and participate by audio only.
4. **Note: Recording or rebroadcasting of the video is prohibited.**
5. **Note: It is highly recommended you use headphones with a microphone or a headset when using Webex. This prevents feedback.**

For more information relating to Webex protocols and procedures, please visit:

<https://www.albertacourts.ca/qb/court-operations-schedules/webex-remote-hearings-protocol>

You can also join the meeting via the "Cisco Webex Meetings" App on your smartphone/tablet or other smart device. You can download this via the App marketplace and join via the link provided above.

Thank you,

SCHEDULE "B"

Proposed form of Order

COURT FILE NUMBER 2401-17986
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY

IN THE MATTER OF *THE COMPANIES, CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, as amended

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420 DISPENSARIES LTD.

DOCUMENT **ORDER**

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File No.: 155857.1002

DATE ON WHICH ORDER WAS PRONOUNCED: April 28, 2025
NAME OF JUDGE WHO MADE THIS ORDER: The Honourable Justice Bourque
LOCATION OF HEARING: Calgary Courts Centre

UPON the application (the "**Application**") of 420 Investments Ltd. ("**420 Parent**"), 420 Premium Markets Ltd. ("**420 OpCo**"), Green Rock Cannabis (EC 1) Limited ("**Green Rock**"), and 420 Dispensaries Ltd. ("**420 Dispensaries**" and collectively, "**FOUR20**");

AND UPON reading the Application, the Affidavit of Scott Morrow, sworn April 17, 2025, the Forth Report dated [●], 2024 (the "**Monitor's Report**") of KSV Restructuring Inc. in its capacity as monitor of FOUR20 (the "**Monitor**");

AND UPON hearing from counsel for FOUR20, the Monitor, and such other parties present;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. The time for service of the notice of application for this order is hereby abridged and deemed good and sufficient and this application is properly returnable today.

DISALLOWING VOTING RIGHTS OF HIGH PARK SHOPS INC.

2. High Park Shops Inc. is disallowed from voting on the Plan of Arrangement proposed by FOUR20, whether in its own capacity, through any assigned claim, or by acting as a proxy for any other creditor.

COSTS

3. High Park is ordered to pay costs for this application on a solicitor-and-own-client basis.

MISCELLANEOUS

4. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.

Justice of the Court of King's Bench of Alberta