

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)	MONDAY, THE 30 TH
)	
JUSTICE CONWAY)	DAY OF OCTOBER, 2023

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF ALEAFIA HEALTH INC., EMBLEM
CORP., EMBLEM CANNABIS CORPORATION, EMBLEM
REALTY LTD., GROWWISE HEALTH LIMITED., CANABO
MEDICAL CORPORATION, ALEAFIA INC., ALEAFIA
FARMS INC., ALEAFIA BRANDS INC., ALEAFIA RETAIL
INC., 2672533 ONTARIO INC., and 2676063 ONTARIO INC.

(collectively, the “**Applicants**”)

**ORDER
(Ancillary Relief Order)**

THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C 1985, c. C-36, as amended (the “**CCAA**”) for an order, among other things: (i) extending the Stay Period (as defined in the Amended and Restated Initial Order made in these CCAA proceedings dated August 4, 2023) (the “**ARIO**”); (ii) approving Monitor’s Reports (as hereinafter defined) of KSV Restructuring Inc. (“**KSV**”), in its capacity as monitor of the Applicants (in such capacity, the “**Monitor**”) and the activities described therein; (iii) approving enhanced powers of the Monitor; (iv) authorizing the execution of the DIP Term Sheet Amendment (as defined below) and increasing the quantum of the DIP Lender’s Charge by \$1,400,000; (v) approving the key employee retention plan (the “**KERP**”); and (vi) approving the sealing of the Confidential Appendices to the Third Report of the Monitor dated October 25, 2023 (the “**Third Report**”), was heard by videoconference on October 27, 2023.

ON READING the Notice of Motion and the Motion Record, the affidavits of Patricia Symmes-Rizakos sworn July 24, 2023, July 26, 2023, and August 11, 2023, and the exhibits attached to each, the affidavit of Patricia Symmes-Rizakos sworn October 20, 2023 and the exhibits thereto (the “**Fourth Affidavit**”), the Third Report, and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, counsel to Red White & Bloom Brands Inc., and such other parties listed on the Participant Information Form, no one appearing for any other party although duly served as appears from the Affidavit of Service of Cristian Delfino, as filed,

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the ARIO, the SISP Order made in these CCAA proceedings dated August 22, 2023, or the Approval and Reverse Vesting Order made in these CCAA proceedings dated October 30, 2023 (the “**Approval and Reverse Vesting Order**”), as applicable.

STAY EXTENSION

3. **THIS COURT ORDERS** that the Stay Period (as defined in paragraph 14 of the ARIO) be and is hereby extended until and including November 30, 2023.

APPROVAL OF KEY EMPLOYEE RETENTION PLAN

4. **THIS COURT ORDERS** that the KERP described in the Fourth Affidavit and in the Third Report, the details of which are contained in the Confidential Appendices to the Third Report (the “**KERP**”), be and is hereby approved and the Applicants are authorized and directed to make payments in accordance with the terms thereof.
5. **THIS COURT ORDERS** that payments made by the Applicants pursuant to this Order in respect of the KERP do not and will not constitute preferences, fraudulent conveyances, transfers

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

SEALING

6. **THIS COURT ORDERS** that Confidential Appendices 1 and 2 to the Third Report be and are hereby sealed and shall not form part of the public record until the closing of the RWB Transactions and the Grimsby Transaction, respectively (terms as defined in the Third Report).

7. **THIS COURT ORDERS** that Confidential Appendix 3 to the Third Report be and is hereby sealed and shall not form part of the public record until further Order of this Court.

ENHANCED POWERS OF THE MONITOR

8. **THIS COURT ORDERS** that, in addition to the powers and duties of the Monitor set out in the ARIO, any other Order of this Court granted in these CCAA proceedings, the CCAA and applicable law, and without altering in any way the limitations and obligations of the Applicants as a result of these CCAA proceedings, effective upon the Monitor's delivery of the Monitor's Closing Certificate pursuant to the Approval and Reverse Vesting Order, the Monitor be and is hereby authorized and empowered, but not required, to:

- (a) cause the Applicants to take any and all actions and steps, and execute all agreements, documents and writings, in the name of or on behalf of, the Applicants, in order to facilitate the performance of any of their obligations, including, without limitation, as contemplated by the Amended and Restated Stalking Horse Agreement or the agreement of purchase and sale for the Grimsby Property, (including any post-closing matters relating to either of the foregoing), or any Order of this Court in these CCAA proceedings
- (b) execute administrative filings as may be required in the name of or on behalf of the Applicants;
- (c) exercise any powers which may be properly exercised by any board of directors or any officers of the Applicants;

- (d) engage, retain, or terminate the services of, or cause the Applicants to engage, retain or terminate the services of, any officer, employee, consultant, agent, representative, advisor, or other persons or entities, all under the supervision and direction of the Monitor, as the Monitor, in its sole opinion, deems necessary or appropriate to assist with the exercise of its powers and duties, and on terms as agreed to by the Monitor;
- (e) cause the Applicants to perform such other functions or duties as the Monitor considers necessary or desirable in order to facilitate or assist the winding-down, dissolution or liquidation of the Applicants, the realization and/or sale of any of the Applicants' remaining assets and undertakings not transferred pursuant to or remaining with the Applicants following the Approval and Reverse Vesting Order or the Order (the "**Grimsby Approval Order**") of this Court approving the sale of the Grimsby Property (the "**Remaining Property**"), the distribution of any proceeds of the Remaining Property (the "**Proceeds**"), or any other related activities, including in connection with terminating these CCAA proceedings;
- (f) exercise any rights of the Applicants;
- (g) conduct, supervise and direct the continuation or commencement of any process or effort to recover any Property;
- (h) engage, deal, communicate, negotiate, agree and settle with any creditor or other stakeholder of the Applicants (including any governmental authority), in the name of or on behalf of the Applicants;
- (i) claim, or cause the Applicants to claim, any and all insurance refunds or tax refunds to which the Applicants are entitled in the name of or on behalf of the Applicants;
- (j) exercise any shareholder, partnership, joint venture or other rights of any of the Applicants;
- (k) access all books and records that are the property of the Applicants in the Applicants' possession or control;

- (l) file, or take such actions necessary for the preparation and filing of, in the name of or on behalf of the Applicants, (i) any tax returns, and (ii) the Applicants' employee-related remittances, T4 statements and records of employments for the Applicants' former employees, in either case, based solely upon the information in the Applicants' books and records and on the basis that the Monitor shall incur no liability or obligation to any person with respect to such returns, remittances, statements, records or other documents;
- (m) act as an authorized representative of the Applicants in respect of dealings with the Canada Revenue Agency ("CRA") or any other taxing authority, and the Monitor shall be hereby entitled to execute any appointment or authorization form on behalf of the Applicants that CRA or any other taxing authority may require in order to confirm the Monitor's appointment as an authorized representative for such purposes;
- (n) assign any of the Applicants, or cause any of the Applicants to be assigned, into bankruptcy, and KSV shall be hereby entitled but not obligated to act as trustee in bankruptcy of any Applicant or to engage a third party to act as trustee in bankruptcy of any Applicant;
- (o) pay from the Priority Payment Amount (as defined in the Amended and Restated Stalking Horse Agreement) and the CCAA Process Expense Amount (as defined in the Amended and Restated Stalking Horse Agreement), in the name of or on behalf of the Applicant or in its own name, as applicable, the amounts, fees, costs and expenses payable from the Priority Payment Amount and the CCAA Process Expense Amount pursuant to the Amended and Restated Stalking Horse Agreement;
- (p) apply to this Court for advice and directions or any further orders necessary or advisable to carry out its powers and obligations under this Order or any other Order granted by this Court, including for advice and directions with respect to any matter; and
- (q) take any steps reasonably incidental to the exercise by the Monitor of these powers or the performance of any statutory obligations.

PROTECTIONS OF THE MONITOR

9. **THIS COURT ORDERS** that, without limiting and subject to the provisions of the ARIO, the Grimsby Approval Order and the Approval and Reverse Vesting Order, the Applicants shall remain in possession and control of the Remaining Property and the Proceeds, and the Monitor shall not take, or be deemed to have taken, possession or control of the Remaining Property or the Proceeds, or any parts thereof.

10. **THIS COURT ORDERS** that nothing in this Order, and nothing done by the Monitor in carrying out its duties hereunder, shall result in, or be deemed to result in, the Monitor being an employer, successor employer, responsible person, operator, officer, director, employee, receiver, trustee (unless assignments in bankruptcy are filed as contemplated by paragraph 7(n) hereof), assignee, liquidator, administrator, legal representative, receiver-manager or agent of the Applicants or the Remaining Property, in each case, within the meaning of any statute, regulation or rule of law, or equity, for any purpose whatsoever, that any distributions or payments by the Applicants made with the approval, assistance or by the Monitor on behalf of the Applicants will be deemed to have been made by the Applicants.

11. **THIS COURT ORDERS** that without limiting paragraph 9 hereof, the Monitor shall not, as a result of this Order, or anything done pursuant to its powers pursuant to this Order, be deemed to occupy or to take control, care, charge, possession or management of any of the Remaining Property (a) pursuant to any provision of any federal, provincial or other law respecting, among other things, the manufacturing, possession, processing and distribution of cannabis or cannabis products including, without limitation, under the Cannabis Legislation, and (b) that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the Environmental Legislation; provided however, if the Monitor is nevertheless found to be in possession of any Remaining Property, then the Monitor shall be deemed to be a person who has been lawfully appointed to take, or has lawfully taken, possession or control of such Remaining Property for the purposes of section 14.06(1.1)(c) of the BIA and shall be entitled to

the benefits and protections in relation to the Applicants and such Remaining Property as provided by section 14.06(2) of the BIA to a “trustee” in relation to an insolvent person and its property.

12. **THIS COURT ORDERS** that (a) without limiting the provisions of the ARIO, all employees and consultants of any of the Applicants as at the delivery of the Monitor’s Closing Certificate pursuant to the Approval and Reverse Vesting Order shall remain employees or consultants of the applicable Applicants until such time as the Applicants at the direction of the Monitor, may terminate the employment of such employees or other contractual or consulting arrangements; (b) the Monitor shall not be liable for any employee-related liabilities of the Applicants, including any successor employer liabilities as provided for in Section 11.8(1) of the CCAA; and (c) nothing in this Order shall, in and of itself, cause the Monitor to be liable for any employee related liabilities of the Applicants, including wages, severance pay, termination pay, vacation pay, and pension, retirement or benefit obligations, or amounts, in each case whether arising under statute, contract, collective bargaining agreement, common law or otherwise.

13. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Monitor under the CCAA, as an officer of this Court or otherwise at law, the Monitor and its legal counsel shall continue to have the benefit of all of the indemnities, charges, protections and priorities as set out in the ARIO and any other Order of this Court and all such indemnities, charges, protections and priorities shall apply and extend to the Monitor in the fulfillment of its duties, carrying out the provisions of this Order and exercising any powers granted to it hereunder. Nothing in this Order shall derogate from the powers of the Monitor as provided in the CCAA, the ARIO and the other Orders of this Court in the CCAA proceedings. Without limiting the generality of the foregoing, in exercising any powers granted to it hereunder: (a) the Monitor shall not be deemed to have taken or maintained possession or control of the Remaining Property, the Proceeds or any part of either of the foregoing; (b) the Monitor shall be entitled to rely on the Applicants’ books and records without independent investigation; and (c) the Monitor shall incur no liability or obligation as a result of exercising any powers granted to it hereunder, save and except for any gross negligence or wilful misconduct on its part, and the Monitor shall not have any liability with respect to any losses, claims, damages or liabilities, of any nature or kind, to any person from and after the date of this Order, save and except to the extent such losses, claims, damages or liabilities result from the gross negligence or wilful misconduct on its part.

14. **THIS COURT ORDERS** that the powers and authority granted to the Monitor by virtue of this Order shall, if exercised in any case, be paramount to the power and authority of the Applicants with respect to such matters and, in the event of a conflict between the terms of this Order and those of the ARIO or any other Order of this Court, the provisions of this Order shall govern.

COOPERATION WITH THE MONITOR

15. **THIS COURT ORDERS** that the Applicants and their respective advisors and their current and former officers, directors, employees, agents and representatives shall co-operate with the Monitor in the exercise of its powers pursuant to this Order or any other Order of this Court in these CCAA proceedings, and shall provide the Monitor and the Applicants with such assistance as the Monitor or the Applicants may request from time to time to enable the Monitor to carry out and discharge its powers as set out in this Order or any other Order of this Court in these CCAA proceedings; provided, however, that in the case of the Applicants' former employees that are, at the time of any such requests for assistance or information by the Applicants or the Monitor, current employees of the Purchaser, subject to further order of the Court, such co-operation and requests will be limited to reasonable requests for information or assistance that will not reasonably be expected to materially interfere with the day-to-day duties or activities of such employee for the Purchaser, shall not cause or potentially cause liability to the Purchaser (including in respect of any indemnification of or responsibility for the employees in question) and shall be at the Applicants' sole expense

APPROVAL OF MONITOR'S REPORTS AND ACTIVITIES

16. **THIS COURT ORDERS** that the Pre-Filing Report of the Proposed Monitor dated July 24, 2023, the First Report of the Monitor dated August 1, 2023, the Second Report of the Monitor dated August 17, 2023, and the Third Report (collectively, the "**Monitor's Reports**"), and the actions, conduct and activities of the Monitor referred to therein, be and are hereby approved; provided, however, that only KSV, in its capacity as Monitor and in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

DIP AMENDMENT

17. **THIS COURT ORDERS** that the execution by the Applicants of an amendment to the DIP Term Sheet (the “**DIP Term Sheet Amendment**”), a copy of which is attached as Appendix “F” to the Third Report, is hereby authorized and approved, and the Applicants are hereby authorized and empowered to borrow up to an additional \$1,400,000 pursuant to and under the terms of the DIP Term Sheet Amendment.

18. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to execute and deliver such Definitive Documents (as defined in the ARIO), as are contemplated by the DIP Term Sheet Amendment or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

19. **THIS COURT ORDERS** that the priority granted in paragraph 38 of the ARIO of Mr. Justice Penny dated August 4, 2023, shall apply to the DIP Term Sheet Amendment and the DIP Lender’s Charge and all amounts advanced to the Applicants pursuant to the DIP Term Sheet Amendment. The total DIP Lender’s Charge shall not exceed \$8,000,000.

GENERAL

20. **THIS COURT ORDERS** that each of the Applicants or the Monitor may, from time to time, apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of their respective powers and duties under this Order or in the interpretation of this Order.

21. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

22. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States, Germany or in Australia, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative

bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

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

24. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order without the need for entry or filing.



IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36*, AS AMENDED, AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF ALEAFIA HEALTH INC., EMBLEM CORP., EMBLEM CANNABIS CORPORATION, EMBLEM REALTY LTD., GROWWISE HEALTH LIMITED., CANABO MEDICAL CORPORATION, ALEAFIA INC., ALEAFIA FARMS INC., ALEAFIA BRANDS INC., ALEAFIA RETAIL INC., 2672533 ONTARIO INC., and 2676063 ONTARIO INC.

Applicants

Court File No. CV-23-00703350-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

ORDER
(Ancillary Relief Order)

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