

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

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
BAD BOY FURNITURE WAREHOUSE LIMITED
IN THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

**FACTUM
(Motion Returnable November 10, 2023)**

November 9, 2023

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FACTUM

PART I. OVERVIEW

1. On November 9, 2023 (the “**NOI Filing Date**”), Bad Boy Furniture Warehouse Limited (the “**Company**”) filed a Notice of Intention to Make a Proposal under subsection 50.4(1) of the *Bankruptcy and Insolvency Act* (“**BIA**”). KSV Restructuring Inc. (“**KSV**”) is the proposal trustee (the “**Proposal Trustee**”) in the proceedings (the “**NOI Proceedings**”).¹

2. This factum is filed in support of the Company’s motion for an Order, among other things:

- (a) expanding the BIA stay of proceedings by ordering the continuation of services and certain other protections to the Company;
- (b) approving the Administration Charge (as defined below) in the amount of \$250,000; and
- (c) approving the Director’s Charge (as defined below) in the amount of \$790,000.

3. Capitalized terms used and not otherwise defined herein have the meanings ascribed to them in the First Report of the Proposal Trustee dated November 9, 2023 (the “**First Report**”).

¹ First Report at para 1.1 [CL p [E47;E12](#)].

PART II. FACTS

A. The Company and its Business

4. The Company was incorporated under the laws of Ontario on July 17, 1990. The Company is wholly-owned by Lastman Furniture Inc., which is wholly-owned by Blayne Lastman, the Company's President, Chief Executive Officer and sole director.²

5. The Company sells furniture, appliances and electronics through 12 retail stores across Ontario and through an e-commerce platform. The Company also sells appliances to real estate developers and property managers (the "**Builder Business**").³

6. The Company's head office and main warehouse is located at 3550 Sideline 24, Pickering, Ontario. The Company's flagship store is located at 1119 Kennedy Road, Scarborough, Ontario. A list of the Company's retail store locations is attached as Appendix "B" to the First Report.⁴

7. The Company presently has approximately 275 employees, including head office, warehouse and store employees. The Company's workforce is not unionized and the Company does not offer a pension plan to its non-director employees.⁵

8. The Company's principal secured creditor is Laurentian Bank of Canada ("**LBC**"), which provides the Company with an operating line facility that is margined against accounts receivable and inventory (the "**Operating Facility**"). The outstanding obligations under the Operating

² First Report at paras 2(1) and 2(3) [CL p [E49:E14](#)].

³ First Report at para 2(1) [CL p [E49:E14](#)].

⁴ First Report at para 2(2) [CL p [E49:E14](#)].

⁵ First Report at para 2(4) [CL p [E49:E14](#)].

Facility are approximately \$4.4 million, before application of cash on hand in Company bank accounts.

9. LBC has a security interest over all of the Company's assets and property pursuant to a general security agreement dated December 21, 2012. LBC registered a security interest against the Company under the *Personal Property Security Act* (Ontario) (the "**Ontario PPSA**") on December 5, 2012.⁶

10. As described in the First Report, certain other parties have made registrations under the Ontario PPSA in respect of certain motor vehicles, inventory and equipment (as defined in the First Report, the "**Additional Registered Encumbrances**").⁷

B. Financial Challenges

11. The Company is significantly in arrears to many of its vendors, including substantially all appliance vendors. The Company is also in arrears to most of its furniture suppliers. The Company is presently having significant challenges sourcing inventory, which is affecting its retail business and its Builder Business. Certain developers in the Builder Business have purported to terminate their contracts with the Company.

12. In the ordinary course of business, the Company takes deposits from customers at the time of sale for the future delivery of merchandise. Customer deposits received by the Company are deposited into the Company's bank account and then applied in reduction of the Operating Facility. The Company's records reflect that it has received customer deposits totalling approximately

⁶ First Report at paras 2.2(1) to 2.2(4) [CL p [E50:E15](#) to [E51:E16](#)].

⁷ First Report at para 2.2(4) [CL p [E51:E16](#)].

\$4.5 million. It is the Company's intention to advise its retail customers who paid deposits and have not yet received their order to contact their credit card company to attempt to obtain a refund of their deposits. Where possible, the Company, in consultation with the Proposal Trustee, also intends to work with customers to complete orders if the cost of the merchandise is less than the balance owing, or if other arrangements can be made with the customer.⁸

C. The NOI Proceedings

13. The Company commenced the NOI Proceedings on November 9, 2023 in order to obtain the benefit of a stay of proceedings under the BIA and to provide stability while the Company reviews and advances its restructuring options.

14. The Company is considering a liquidation sale in certain or all of its stores so that it can wind-down the inefficient portions of its business in an orderly manner. The Company expects to bring a motion in the near term seeking approval of the terms of such liquidation sale and the retention of a third-party liquidator.⁹

PART III. ISSUES AND THE LAW

15. The following issues are before the Court:

- (a) Should the Court expand the BIA statutory stay of proceedings by ordering the continuation of services and certain other protections to the Company; and
- (b) Should the Court grant the Administration Charge and Director's Charge?

⁸ First Report at paras 2.2(6) and 2.2(7) [CL p [E52:E17](#)].

⁹ First Report at paras 1(1) and 1(2) [CL p [E47:E12](#)].

B. The Expanded Stay of Proceedings is Appropriate

16. The Company is seeking an expansion of the statutory stay of proceedings under subsection 69(1) of the BIA¹⁰ to ensure it can continue to operate its business in the ordinary course while it reviews and advances its restructuring options.¹¹ The broader stay sought by the Company is consistent with the provisions customarily granted to debtors in proceedings under the *Companies' Creditors Arrangement Act* ("CCAA").

17. The proposed Order prohibits any person from discontinuing, terminating or ceasing to perform any contract, agreement, lease, license, purchase order or other arrangement, whether written or oral, in favour of or held by the Company, provided that no person shall be required to extend any credit to the Company or be prohibited from requiring immediate payment for goods or services provided after the NOI Filing Date.

18. While this type of relief has typically been granted in the context of CCAA and receivership proceedings, it has also been granted in the context of NOI proceedings, such as *Sanderson*,¹² *Nilex*,¹³ and *Scotch & Soda*.¹⁴ This is consistent with the Supreme Court of Canada's decision in *Century Services* that highlighted the importance of harmonization between Canada's primary insolvency statutes, the CCAA and BIA.¹⁵

¹⁰ [BIA, subsection 69\(1\)](#).

¹¹ First Report at paras 1(1) and 1(2) [CL p [E47;E12](#)].

¹² [Sanderson-Harold Company Limited, c.o.b. as Paris Kitchens \(8 June 2022\), Toronto 31-2835198 \(ONSC \(Bank & Ins Div\)\)](#) at paras 3 and 4 [*Sanderson-Harold*].

¹³ [Nilex Inc. \(8 November 2022\) Edmonton, 24-2878531 \(ABKB\)](#) at paras 3 and 4.

¹⁴ [Scotch & Soda Canada Inc \(16 May 2023\), Toronto BK-23-02941767-0031 \(ONSC\) at paras 8-12](#) [*Scotch & Soda*].

¹⁵ [Century Services Inc v Canada \(Attorney General\), 2010 SCC 60](#) at para [24](#).

19. Section 183 of the BIA invests this Court with such jurisdiction at law and in equity as will enable it to exercise original, auxiliary and ancillary jurisdiction in bankruptcy and in other proceedings authorized by the BIA.¹⁶ As the Quebec Court of Appeal recently noted in *AG (Canada) v. Richter*, “the existence of a Superior Court’s inherent jurisdiction – including, specifically, the exercise of its jurisdiction under the BIA – is recognized in s. 183 of the BIA...” and “in matters of insolvency, courts have held that, as pragmatic problem solvers, they could exercise their inherent jurisdiction to effect a remedy or fill a statutory gap.”¹⁷

20. The Quebec Court of Appeal went on to note:

I would point out that inherent jurisdiction attaches to the Superior Court, such that the same inherent jurisdiction exists whether the CCAA or the BIA is applied. Historically, inherent jurisdiction has been exercised more often upon application of the CCAA, presumably because its skeletal nature makes for more gaps than is the case for the BIA, which offers a detailed rules-based regime. That being said, when a gap is identified upon applying the BIA, the inherent jurisdiction allows the gap to be filled when and as appropriate.¹⁸

21. This Court therefore has the authority pursuant to its inherent jurisdiction to expand the BIA stay of proceedings in furtherance of the restructuring objectives underlying the BIA proposal provisions.

22. The proposed enhanced stay provisions are intended to enable the Company to preserve the value of the business and provide stability while the Company advances its restructuring options. The provisions are necessary to ensure that the Company can operate in the normal course without disruption during the NOI Proceedings. It is critical that the Company continue to generate

¹⁶ [BIA, subsection 183\(1\)](#).

¹⁷ [Attorney General of Canada c Richter Advisory Group Inc., 2023 QCCA 1295](#) at paras [57](#) and [58](#) [*Canada (AG) v. Richter*].

¹⁸ [Canada \(AG\) v. Richter](#) at para [60](#).

revenue during the NOI Proceedings in order to fund the proceedings and enhance the Company's prospects to present a viable proposal to its creditors. The Company's ability to generate revenue is dependent on its ability to obtain required goods and services from its vendors.

23. The proposed Order also prohibits any person from effectuating "pre-post set off" in order to withhold *post-filing* amounts payable to the Company on account of *pre-filing* obligations owing by the Company. In particular, it prohibits any merchant or credit card service provider (a "**Provider**") from setting off any monies that are in its possession as of the NOI Filing Date, or that come into its possession and control subsequent to the NOI Filing Date, against any amounts that are or may become owing by the Company to the Provider in respect of transactions effected prior to the NOI Filing Date, including in respect of customer chargebacks.

24. Such relief is necessary to ensure that merchant card service providers, customers and other parties continue to pay for goods and services supplied by the Company during the NOI Proceedings.¹⁹

25. The requested relief is consistent with the Supreme Court of Canada's decision in *Montreal v. Deloitte*, in which a majority of the Supreme Court determined that, in the CCAA context, "a supervising judge has the discretion to authorize pre-post compensation [set off] only in exceptional circumstances, given the high disruptive potential of this form of compensation."²⁰ In reaching that conclusion, the majority noted that "the status quo period could be rendered pointless if creditors were allowed to effect pre-post compensation without restraint", since the debtor's

¹⁹ First Report at paras 3(1) and 3(5) [CL p [E52:E17](#) and [E53:E18](#)].

²⁰ [Montreal \(City\) v Restructuration Deloitte Inc., 2021 SCC 53](#) at para [20](#) [*Monreal v Deloitte*].

inability to obtain revenue from the provision of post-filing services would be a major stumbling block in the restructuring process.²¹

26. The proposed Order preserves the right of any person to bring a motion before the Court seeking the exceptional remedy permitting them to exercise pre-post set off.

27. The Proposal Trustee is supportive of this relief and believes that expanding the scope of the stay of proceedings is appropriate as the continued operation of the Company is beneficial to the stakeholders as a whole, and will assist the Company to achieve its objectives in these proceedings.²²

C. The Administration Charge should be granted

28. The Company is seeking an administration charge (the “**Administration Charge**”) securing the fees and disbursements of counsel to the Company, the Proposal Trustee and counsel to the Proposal Trustee (collectively, the “**Administrative Professionals**”) in the maximum amount of \$250,000 against the Company’s present and future assets and property, including all proceeds thereof (the “**Property**”).

29. Section 64.2 of the BIA permits the Court to grant a charge over the property of a debtor to secure the fees and expenses of professionals involved in the restructuring:²³

64.2(1) Court may order security or charge to cover certain costs: On notice to the secured creditors who are likely to be affected by the security or charge, the court may make an order declaring that all or part of the property of a person in respect of whom a notice of intention is filed under section 50.4 or a proposal is

²¹ [Montreal v Deloitte](#) at paras [59](#) and [94](#).

²² First Report at para 3(5) [CL p [E53:E18](#)].

²³ [BIA, section 64.2](#).

filed under subsection 62(1) is subject to a security or charge, in an amount that the court considers appropriate, in respect of the fees and expenses of

(a) the trustee, including the fees and expenses of any financial, legal or other experts engaged by the trustee in the performance of the trustee's duties;

(b) any financial, legal or other experts engaged by the person for the purpose of proceedings under this Division;

[...]

64.2(2) Priority: The court may order that the security or charge rank in priority over the claim of any secured creditor of the person.

30. In *AG (Canada) v. Richter*, the Quebec Court of Appeal recently determined that a court has the authority to grant court-ordered charges ranking in priority to deemed trusts in favour of the Crown (in that case, arising pursuant to the *Income Tax Act*) under the express wording of the BIA and pursuant to its inherent jurisdiction.²⁴

31. Administration charges are commonly approved in BIA proposal proceedings, where, as in the present case, the participation of insolvency professionals is necessary to ensure a successful restructuring under the BIA²⁵ and protect them due to the limited liquidity at this time.²⁶

32. The Company submits that granting the Administration Charge to provide the Administrative Professionals with security for payment of their services is necessary as they have taken on, and continue to take on, a critical role in the NOI Proceedings.

²⁴ [Canada \(AG\) v. Richter](#) at paras 46-47 and 61.

²⁵ [Mustang GP Ltd \(Re\)](#), 2015 ONSC 6562 at para 33 [*Mustang*]; See also, [Sanderson-Harold](#) at para 5; [Scotch & Soda](#) at paras 13-18.

²⁶ First Report at para 4.1(2) [CL p [E53:E18](#)].

33. The quantum of the Administration Charge was calculated in consultation with the Proposal Trustee and is reasonable and appropriate in circumstances. The Proposal Trustee is supportive of the Administration Charge.²⁷

34. The proposed Order provides that the Administration Charge and the Director's Charge (collectively, the "**Charges**") would rank in priority to all Encumbrances (as defined in the Order), other than the Additional Registered Encumbrances. The proposed Charges will prime the security interest of LBC, who has been given notice of this motion. The secured parties in respect of the Additional Registered Encumbrances have not received notice of this motion and accordingly the Charges will not prime the Additional Registered Encumbrances.

D. The Director's Charge should be granted

35. The Company is seeking a charge against the Property in favour of the director and officers of the Company (the "**Director's Charge**") in the maximum amount of \$790,000.

36. Section 64.1 of the BIA permits the Court to grant a charge in connection with the indemnification of a director or officer.²⁸

64.1(1) Security or charge relating to director's indemnification: On application by a person in respect of whom a notice of intention is filed under section 50.4 or a proposal is filed under subsection 62(1) and on notice to the secured creditors who are likely to be affected by the security or charge, a court may make an order declaring that all or part of the property of the person is subject to a security or charge — in an amount that the court considers appropriate — in favour of any director or officer of the person to indemnify the director or officer against obligations and liabilities that they may incur as a director or officer after the filing of the notice of intention or the proposal, as the case may be.

²⁷ First Report at para 4.1(2) [CL p [E53:E18](#)].

²⁸ [BIA, section 64.1](#).

[...]

64.1(2) Priority: The court may order that the security or charge rank in priority over the claim of any secured creditor of the person.

37. The purpose of the Director's Charge is to:

- (a) keep the director and officers in place during the restructuring by providing them with protection against liabilities they incur during the process, and in addition to avoid a potential destabilization of the business if they resigned;²⁹ and
- (b) enable a debtor company to benefit from an experienced director and senior management during the restructuring proceedings.³⁰

38. In *Colossus*, Justice Wilton-Siegel approved the request for a charge to indemnify directors and officers pursuant to section 64.1 of the BIA, and in so doing, highlighted the fact that the continued involvement of the remaining directors and officers was critical to the operations of the company during its proposal proceedings.³¹

39. It is proposed that the Director's Charge would only secure the Company's indemnity in favour of the director and officers for post-filing obligations. The Director's Charge is particularly important in this case as the Company does not in fact have a director and officer insurance policy.³²

²⁹ [Northstar Aerospace Inc. \(Re\)](#), 2013 ONSC 1780 at para 29 [*Northstar*]; [Canwest Global Communications Corp \(Re\)](#) (2009), 59 CBR (5th) 72, [2009] OJ No 4286 (QL) at para 48.

³⁰ [Northstar](#), at para 29.

³¹ [Colossus Minerals Inc \(Re\)](#), 2014 ONSC 514 at paras 16 and 20.

³² First Report at paras 4.2(2) and 4.2(4) [CL p [E54:E19](#)].

40. As set out in the First Report, the quantum of the Director's Charge was calculated based on potential exposure for certain obligations such as unpaid vacation, payroll and accrued vacation and sales taxes. A draft cash flow prepared by the Company reflects payment of the liabilities covered by the Director's Charge in the ordinary course, such that it is not projected that the Director's Charge will be called upon. The Company has worked with the Proposal Trustee to determine the quantum of the Director's Charge.³³

41. The Director's Charge is proposed to form a charge on the Property in priority to all Encumbrances other than the Administration Charge and the Additional Registered Encumbrances.

42. The Proposal Trustee is supportive of the granting and proposed quantum of the Director's Charge.³⁴ Based on the factors above, the Company submits that the Director's Charge should be approved.

PART IV. ORDER REQUESTED

43. For the reasons set out above, the Company requests that this Honourable Court grant the relief in the form of the proposed Order.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 9th day of November, 2023.

GOODMANS LLP

Goodmans LLP

³³ First Report at para 4.2(2) [CL p [E54:E19](#)].

³⁴ First Report at para 4.2(6) [CL p [E54:E19](#)].

SCHEDULE A
LIST OF AUTHORITIES

1. [*Sanderson-Harold Company Limited, c.o.b. as Paris Kitchens* \(8 June 2022\), Toronto 31-2835198 \(ONSC \(Bank & Ins Div\)\).](#)
2. [*Nilex Inc.* \(8 November 2022\) Edmonton, 24-2878531 \(ABKB\)](#)
3. [*Scotch & Soda Canada Inc* \(16 May 2023\), Toronto BK-23-02941767-0031 \(ONSC\).](#)
4. [*Century Services Inc. v Canada \(Attorney General\)*, 2010 SCC 60.](#)
5. [*Attorney General of Canada c. Richter Advisory Group Inc.*, 2023 QCCA 1295.](#)
6. [*Montreal \(City\) v Restructuration Deloitte Inc.*, 2021 SCC 53.](#)
7. [*Re Mustang GP Ltd, Re*, 2015 ONSC 6562.](#)
8. [*Northstar Aerospace Inc. \(Re\)*, 2013 ONSC 1780.](#)
9. [*Canwest Global Communications Corp \(Re\)* \(2009\), 59 CBR \(5th\) 72, \[2009\] OJ No 4286 \(QL\).](#)
10. [*Colossus Minerals Inc \(Re\)*, 2014 ONSC 514.](#)

SCHEDULE B
TEXT OF STATUTES, REGULATIONS & BY – LAWS

Bankruptcy and Insolvency Act, R.S.C., 1985, c. B-3

Notice of intention

50.4 (1) Before filing a copy of a proposal with a licensed trustee, an insolvent person may file a notice of intention, in the prescribed form, with the official receiver in the insolvent person's locality, stating

- (a) the insolvent person's intention to make a proposal,
- (b) the name and address of the licensed trustee who has consented, in writing, to act as the trustee under the proposal, and
- (c) the names of the creditors with claims amounting to two hundred and fifty dollars or more and the amounts of their claims as known or shown by the debtor's books,

and attaching thereto a copy of the consent referred to in paragraph (b).

Security or charge relating to director's indemnification

64.1 (1) On application by a person in respect of whom a notice of intention is filed under section 50.4 or a proposal is filed under subsection 62(1) and on notice to the secured creditors who are likely to be affected by the security or charge, a court may make an order declaring that all or part of the property of the person is subject to a security or charge — in an amount that the court considers appropriate — in favour of any director or officer of the person to indemnify the director or officer against obligations and liabilities that they may incur as a director or officer after the filing of the notice of intention or the proposal, as the case may be.

Priority

(2) The court may order that the security or charge rank in priority over the claim of any secured creditor of the person.

Restriction — indemnification insurance

(3) The court may not make the order if in its opinion the person could obtain adequate indemnification insurance for the director or officer at a reasonable cost.

Negligence, misconduct or fault

(4) The court shall make an order declaring that the security or charge does not apply in respect of a specific obligation or liability incurred by a director or officer if in its opinion the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct or, in Quebec, the director's or officer's gross or intentional fault.

Court may order security or charge to cover certain costs

64.2 (1) On notice to the secured creditors who are likely to be affected by the security or charge, the court may make an order declaring that all or part of the property of a person in respect of whom a notice of intention is filed under section 50.4 or a proposal is filed under subsection 62(1) is subject to a security or charge, in an amount that the court considers appropriate, in respect of the fees and expenses of

(a) the trustee, including the fees and expenses of any financial, legal or other experts engaged by the trustee in the performance of the trustee's duties;

(b) any financial, legal or other experts engaged by the person for the purpose of proceedings under this Division; and

(c) any financial, legal or other experts engaged by any other interested person if the court is satisfied that the security or charge is necessary for the effective participation of that person in proceedings under this Division.

Priority

(2) The court may order that the security or charge rank in priority over the claim of any secured creditor of the person.

Individual

(3) In the case of an individual,

(a) the court may not make the order unless the individual is carrying on a business; and

(b) only property acquired for or used in relation to the business may be subject to a security or charge.

Stay of proceedings – notice of intention

69 (1) Subject to subsections (2) and (3) and sections 69.4, 69.5 and 69.6, on the filing of a notice of intention under section 50.4 by an insolvent person,

(a) no creditor has any remedy against the insolvent person or the insolvent person's property, or shall commence or continue any action, execution or other proceedings, for the recovery of a claim provable in bankruptcy,

(b) no provision of a security agreement between the insolvent person and a secured creditor that provides, in substance, that on

(i) the insolvent person's insolvency,

(ii) the default by the insolvent person of an obligation under the security agreement, or

(iii) the filing by the insolvent person of a notice of intention under section 50.4, the insolvent person ceases to have such rights to use or deal with assets secured under the agreement as he would otherwise have, has any force or effect,

(c) Her Majesty in right of Canada may not exercise Her rights under

(i) subsection 224(1.2) of the Income Tax Act, or

(ii) any provision of the Canada Pension Plan or of the Employment Insurance Act that

(A) refers to subsection 224(1.2) of the Income Tax Act, and

(B) provides for the collection of a contribution, as defined in the Canada Pension Plan, an employee's premium or employer's premium, as defined in the Employment Insurance Act, or a premium under Part VII.1 of that Act, and of any related interest, penalties or other amounts,

in respect of the insolvent person where the insolvent person is a tax debtor under that subsection or provision, and

(d) Her Majesty in right of a province may not exercise her rights under any provision of provincial legislation in respect of the insolvent person where the insolvent person is a debtor under the provincial legislation and the provision has a similar purpose to subsection 224(1.2) of the Income Tax Act, or refers to that subsection, to the extent that it provides for the collection of a sum, and of any related interest, penalties or other amounts, where the sum

(i) has been withheld or deducted by a person from a payment to another person and is in respect of a tax similar in nature to the income tax imposed on individuals under the Income Tax Act, or

(ii) is of the same nature as a contribution under the Canada Pension Plan if the province is a province providing a comprehensive pension plan as defined in subsection 3(1) of the Canada Pension Plan and the provincial legislation establishes a provincial pension plan as defined in that subsection,

until the filing of a proposal under subsection 62(1) in respect of the insolvent person or the bankruptcy of the insolvent person.

Courts vested with jurisdiction

183 (1) The following courts are invested with such jurisdiction at law and in equity as will enable them to exercise original, auxiliary and ancillary jurisdiction in bankruptcy and in other proceedings authorized by this Act during their respective terms, as they are now, or may be hereafter, held, and in vacation and in chambers:

(a) in the Province of Ontario, the Superior Court of Justice;...

Courts of Justice Act, R.S.O. 1990, c C.43, Rules of Civil Procedure, R.R.O. 1990, Reg 194

RULE 1 CITATION, APPLICATION AND INTERPRETATION

General Principle

1.04 (1) These rules shall be liberally construed to secure the just, most expeditious and least expensive determination of every civil proceeding on its merits. R.R.O. 1990, Reg. 194, r. 1.04 (1).

Orders on Terms

1.05 When making an order under these rules the court may impose such terms and give such directions as are just. R.R.O. 1990, Reg. 194, r. 1.05.

RULE 2 NON-COMPLIANCE WITH THE RULES

Court May Dispense with Compliance

2.03 The court may, only where and as necessary in the interest of justice, dispense with compliance with any rule at any time. R.R.O. 1990, Reg. 194, r. 2.03.

RULE 3 TIME

Extension or Abridgment

General Powers of Court

3.02 (1) Subject to subrule (3), the court may by order extend or abridge any time prescribed by these rules or an order, on such terms as are just. R.R.O. 1990, Reg. 194, r. 3.02 (1).

(2) A motion for an order extending time may be made before or after the expiration of the time prescribed. R.R.O. 1990, Reg. 194, r. 3.02 (2).

RULE 37 MOTIONS — JURISDICTION AND PROCEDURE

Notice of Motion

37.01 A motion shall be made by a notice of motion (Form 37A) unless the nature of the motion or the circumstances make a notice of motion unnecessary. R.R.O. 1990, Reg. 194, r. 37.01.

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF BAD BOY
FURNITURE WAREHOUSE LIMITED IN THE CITY OF TORONTO, IN THE PROVINCE OF
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Estate / Court File No.: 31-3008133

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

FACTUM
(Returnable November 10, 2023)

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