

**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**

**MOTION RECORD  
(Returnable November 10, 2023)**

November 9, 2023

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2	First Report of KSV Restructuring Inc. as Proposal Trustee dated November 9, 2023
3	Proposed Order

**ONTARIO  
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**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
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IN THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

**NOTICE OF MOTION  
(Returnable November 10, 2023)**

Bad Boy Furniture Warehouse Limited (the “**Company**”) will make a motion before Justice Penny of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on November 10, 2023, or as soon thereafter as the motion can be heard, via Zoom videoconference.

**PROPOSED METHOD OF HEARING:** The motion is to be heard orally by videoconference.

**THE MOTION IS FOR:**

1. An Order, in substantially the form attached at Tab 3 of the Motion Record dated November 9, 2023 (the “**Motion Record**”), among other things:
  - (a) expanding the stay of proceedings under the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3 (the “**BIA**”) by ordering the continuation of services and certain other protections in respect of the Company; and
  - (b) approving the Administration Charge and the Director’s Charge (each as defined below); and
2. Such further and other relief as this Court deems just.

**THE GROUNDS FOR THE MOTION** are as follows:

3. On November 9, 2023, the Company filed a Notice of Intention to Make a Proposal under subsection 50.4(1) of the BIA.

4. KSV Restructuring Inc. is the proposal trustee (the “**Proposal Trustee**”) in the proceedings (the “**NOI Proceedings**”). Capitalized terms used and not defined in this notice of motion have the meanings given to them in the First Report of the Proposal Trustee dated November 9, 2023 (the “**First Report**”).

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**”).

6. The Company is incorporated under the Ontario *Business Corporations Act*. The Company’s head office and main warehouse is located in Pickering, Ontario and its flagship store is located in Scarborough, Ontario. At present, the Company has approximately 275 employees, none of which are unionized.

7. 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**”). LBC has a security interest over all of the Company’s assets and property pursuant to a general security agreement registered under the Ontario *Personal Property Security Act* (the “**Ontario PPSA**”). The outstanding obligations under the Operating Facility are approximately \$4.4 million, before application of cash on hand in Company bank accounts.

8. Over the last few weeks, the Company, through the Proposal Trustee, reached out to LBC to advise them of the deteriorating financial situation faced by the Company, and on the request of LBC, undertook to provide financial and other information to LBC.

9. Certain other parties have made registrations against the Company under the Ontario PPSA in respect of certain motor vehicles, inventory and equipment (the “**Additional Registered Encumbrances**”), as more fully set out in the First Report.

10. The Company is significantly in arrears to many of its vendors. As a result, the Company is having significant challenges sourcing inventory, which is affecting its retail business and its Builder Business. Certain developers in the Builder Business have in recent days purported to terminate their contracts with the Company.

11. On November 8, 2023, LBC issued a notice of default and demand in respect of the obligations under the Operating Facility and a notice of intention to enforce security pursuant to subsection 244(1) of the BIA.

12. 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.

13. 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 liquidator.

**Expansion of the Stay of Proceedings**

14. The Company is seeking an expansion of the statutory stay of proceedings under subsection 69(1) of the BIA to ensure it can continue to operate its business in the ordinary course while it advances its restructuring efforts. The broader stay sought by the Company is consistent with the provisions customarily granted in proceedings under the *Companies' Creditors Arrangement Act*.

15. The proposed Order prohibits any person from discontinuing or terminating any contract, lease or other agreement with the Company, provided that no person shall be required to extend credit to the Company.

16. The enhanced stay provisions are necessary to preserve the value of the business and to enable the Company to purchase the goods and services it requires in order to generate revenue during the NOI Proceedings.

17. 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. This relief is necessary to ensure, *inter alia*, that merchant card service providers, customers and other parties continue to pay for goods and services supplied by the Company during the NOI Proceedings.

18. The Proposal Trustee supports the expansion of the stay of proceedings in order to stabilize the Company's business operations while it considers its restructuring and other options.

**Administration Charge and Director's Charge**

19. The Company is seeking two Court-ordered charges on its present and future assets and property, including all proceeds thereof (the "**Property**"), as follows:

- (a) a charge (the "**Administration Charge**") securing payments of 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; and
- (b) a charge in favour of the director and officers of the Company (the "**Director's Charge**") to secure obligations that they may incur as director and officers of the Company during the NOI Proceedings, in the maximum amount of \$790,000.

20. The Administration Charge is proposed to rank in priority to all Encumbrances (as defined in the proposed Order) other than the Additional Registered Encumbrances.

21. The quantum of the Director's Charge was determined in consultation with the Proposal Trustee in relation to potential director and officer exposure with respect to wages, accrued vacation pay and sales taxes. The Director's Charge is proposed to rank in priority to all Encumbrances other than the Administration Charge and the Additional Registered Encumbrances.

22. The Administration Charge and the Director's Charge are appropriate in the circumstances and necessary to ensure the continued involvement of the Administrative Professionals and the Company's director and officers during the NOI Proceedings.

23. The Proposal Trustee supports the granting of the Administration Charge and the Director's Charge.

**Other Grounds**

24. Sections 50.4(1), 50.4(2)(b), 50.4(2)(c), 50.4(8), 64.1, 64.2 and 183 of the BIA.

25. Rules 1.04, 1.05, 2.03, 3.02, and 37.01 of the Rules of Civil Procedure, R.R.O. 1990, Reg. 194, as amended.

26. Such further and other grounds as counsel may advise and this Honourable Court may deem just.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the Motion:

27. The First Report of the Proposal Trustee; and

28. Such further and other materials as counsel may advise and this Honourable Court may permit.

November 9, 2023

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**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**

Estate / Court File No.: 31-3008133

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

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**NOTICE OF MOTION**  
**(Returnable November 10, 2023)**

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**First Report to Court of  
KSV Restructuring Inc.  
as Proposal Trustee of  
Bad Boy Warehouse Furniture Limited**

**November 9, 2023**

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Court File No.: \_\_\_\_\_

**ONTARIO****SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)****IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
BAD BOY FURNITURE WAREHOUSE LIMITED****OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO****FIRST REPORT OF KSV RESTRUCTURING INC.  
AS PROPOSAL TRUSTEE OF  
BAD BOY FURNITURE WAREHOUSE LIMITED****November 9, 2023****1.0 Introduction**

1. This report (“Report”) is filed by KSV Restructuring Inc. (“KSV”), in its capacity as proposal trustee (the “Proposal Trustee”) of Bad Boy Furniture Warehouse Limited (the “Company”) in connection with a Notice of Intention to Make a Proposal (the “NOI”) filed on November 9 2023 (the “Filing Date”) pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “BIA”). A copy of the certificate of filing issued by the Office of the Superintendent of Bankruptcy is provided in Appendix “A”.
2. The principal purpose of these proceedings (the “NOI Proceedings”) is to create a stabilized environment to allow the Company the opportunity to consider its restructuring options, while it sells its inventory in a contemplated liquidation sale and collects its accounts receivable owing from customers in its Builder Business (as defined below). The Company intends to seek approval of the sale terms and a consulting agreement with a liquidator at a future motion in the NOI Proceedings, which the Company and the Proposal Trustee expect to be served in the near term.

**1.1 Purposes of this Report**

1. The purposes of this Report are to:
  - a) provide background information about the Company;
  - b) discuss the rationale for the Company’s request for an order expanding the scope of the stay of proceedings in these proceedings as it relates to the terms of supply and service to the Company on a basis consistent with the provisions of the model Initial Order in a proceeding under the *Companies’ Creditors Arrangement Act* (Canada) (the “CCAA”);

- c) discuss the rationale for the Company seeking approval of the following Court-ordered charges and priority of those charges:
  - i. a charge in the amount of \$250,000 (the “Administration Charge”) for the fees and disbursements of the Proposal Trustee, the Proposal Trustee’s counsel, Osler, Hoskin & Harcourt LLP (“Osler”), and the Company’s counsel, Goodmans LLP (“Goodmans”, and together with the Proposal Trustee and Osler, the “Administrative Professionals”); and
  - ii. a charge in the amount of \$790,000 (the “D&O Charge”) for the indemnification of the Company’s director and officers against obligations and liabilities that they may incur after the commencement of these proceedings; and
- d) recommend that the Court grant the relief sought by the Company in the proposed Order, and the reasons therefore.

## **1.2 Currency**

1. All currency references in this Report are to Canadian dollars.

## **1.3 Restrictions**

1. In preparing this Report, the Proposal Trustee has relied upon the Company’s unaudited financial information, the Company’s books and records and discussions with the Company’s representatives. The Proposal Trustee has not performed an audit or otherwise attempted to verify the accuracy or completeness of the financial information on which it relied in a manner that complies with Canadian Auditing Standards (“CAS”) pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Proposal Trustee expresses no opinion or other form of assurance contemplated under the CAS in respect of such information. Any party wishing to place reliance on the financial information should perform its own diligence.
2. The Proposal Trustee accepts no responsibility for any reliance placed by any third party on the Company’s financial information presented herein. Future oriented financial information relied upon in this Report is based upon the Company’s assumptions regarding future events; actual results achieved may vary from this information and these variations may be material.

## **1.4 Court Materials**

1. Court materials filed in these proceedings will be made available on the Proposal Trustee’s website at: <https://www.ksvadvisory.com/experience/case/bad-boy>.

## 1.5 KSV's Prior Mandate

1. KSV Advisory Inc. ("KSV Advisory"), an affiliate of KSV, was first engaged by the Company to provide non-restructuring advisory services pursuant to an engagement letter in March 2021 (the "Engagement Letter"). The initial engagement lasted a few months and KSV Advisory had no further material role with the Company until March 2023. KSV Advisory was re-engaged by the Company to provide it with consulting services pursuant to an engagement letter dated March 21, 2023 (the "March 21 Engagement Letter"). That mandate also lasted a couple of months. Thereafter, KSV Advisory provided periodic consulting services to the Company, with the services being more intensive recently. The March 21 Engagement Letter states that KSV Advisory's mandate would terminate if the Company commences an insolvency proceeding and KSV is appointed as the court officer in that proceeding, as at such point KSV's duties and obligations are as an officer of the court.

## 2.0 Background

1. The Company was incorporated under the laws of Ontario on July 17, 1990. 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"). Presently, retail sales (including an e-commerce component) account for approximately 65% to 70% of the business, and the Builder Business accounts for the balance.
2. 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 store locations, with addresses and landlord names, is provided in Appendix "B".
3. The Company is owned by Lastman Furniture Inc., which is wholly-owned by Blayne Lastman, the Company's President, Chief Executive Officer and sole Director.
4. The Company presently has approximately 275 employees, including head office, warehouse and store employees.
5. The Company's workforce is not unionized. The Company does not offer its employees a pension plan, except for a defined benefit individual pension plan for Mr. Lastman. This pension plan satisfies the definition of a multi-employer plan, other than the requirement that the entities be unrelated. The accumulated plan deficit as at September 30, 2022 was approximately \$490,000.

## 2.1 Financial Position

1. A summary of the Company's preliminary unaudited financial position as at September 30, 2023 is presented in the table below.

	(\$000s)
<b>Assets</b>	
Accounts receivable	5,411
Inventory	10,691
Receivable from parent company	1,476
Furniture, fixtures and equipment	2,274
Goodwill	3,305
Other assets	1,909
<b>Total assets</b>	<b>25,066</b>
<b>Liabilities &amp; Shareholders' Equity</b>	
Operating line	4,000
Accounts payable and accrued liabilities	15,392
Customer deposits	4,544
Leasehold improvements	2,473
Total liabilities	26,409
Shareholders' Equity	(1,343)
<b>Total liabilities and shareholders' equity</b>	<b>25,066</b>

## 2.2 Creditors

1. Laurentian Bank of Canada ("LBC") provides the Company with a secured operating line facility that is margined against accounts receivable and inventory. The Proposal Trustee understands that LBC has security over all of the Company's business and assets pursuant to a general security agreement.
2. Over the last few weeks, the Company, through the Proposal Trustee, reached out to LBC to advise them of the deteriorating financial situation faced by the Company, and on the request of LBC, undertook to provide financial and other information to LBC. On November 8, 2023, LBC issued a notice of default and demand (the "Demand Notice") in respect of the obligations under the operating line facility and a notice of intention to enforce security pursuant to section 244(1) of the BIA. Pursuant to the Demand Notice, the amount owing by the Company to LBC is approximately \$4.4 million<sup>1</sup>. Constructive discussions have continued, and information has been, and will continue to be, provided to LBC.
3. The Proposal Trustee's counsel had not yet provided an opinion on the validity and enforceability of LBC's security; however, the Proposal Trustee's counsel intends to review LBC's security forthwith and the Proposal Trustee will report on the results of the security review in its next report to Court if the opinion is available at that time.

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<sup>1</sup> This is before application of cash on hand in a Company bank account.

4. Pursuant to a *Personal Property Security Act (Ontario)* search conducted on November 6, 2023, the Proposal Trustee understands that the following parties, in addition to LBC, have also registered security against the Company's assets (collectively, the "Additional Registered Encumbrances"):
  - a. Mercedes-Benz Financial and Mercedes-Benz Financial Services Canada Corporation, which has made five registrations secured against five respective motor vehicles;
  - b. Panasonic Canada Inc. that has a registration that predates the LCB registration but is limited to inventory bearing the trademarks "Panasonic", "National" or "Panafax". The Company has advised the Proposal Trustee that the book value of this inventory as of the date of this Report is less than \$50,000; and
  - c. Konica Minolta Business Solutions (Canada) Ltd., which has a registration against a photocopier.
5. A preliminary summary of the Company's unsecured creditors as of November 4, 2023 is provided in the table below.

Unsecured Creditors	(\$)
Whirlpool Canada LP	2,376,502
Solid Gold Warranty LTD <sup>2</sup>	1,810,463
Sofa by Fancy	1,353,734
Samsung Appliances	840,924
Electrolux Home Products	822,703
MC Commercial Inc.	621,921
Kwality Imports	475,362
LG Electronics Canada Inc.	404,410
Elements International	334,734
Edgewood Furniture Limited	334,175
RioCan Real Estate Investment Trust	317,382
Curtis International LTD	185,016
MC Commercial Inc. C/O T9901	176,437
Owen and Company Limited	144,114
MANW28AH USA Inc.	140,228
Other	3,454,356
<b>Total</b>	<b>13,792,460</b>

<sup>2</sup> This is a related company.



6. The Company is significantly in arrears to many of its vendors, including substantially all appliance vendors including Whirlpool Canada LP, Samsung Appliances and Electrolux Home Products, Inc. The Company is also in arrears to most of its furniture suppliers, including Sofa by Fancy, Elements International and Edgewood Furniture Limited. 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. In order to meet its contractual obligations to developers during these proceedings, the Company will require the ability to purchase inventory, as more fully detailed in Section 3 below.
7. In the ordinary course of business, the Company takes deposits from customers at the time of sale for the future delivery of merchandise. These monies are not held in trust by the Company and the Company does not represent to its customers that they will be. These amounts are paid to the Company and then applied against the LBC operating line. As of the date of this Report, the Company's records reflect that it has received customer deposits totalling approximately \$4.5 million<sup>3</sup>. It is the Company's intention to advise its retail customers who paid deposits and who have not yet received their orders 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 attempt to work with customers to complete orders if the cost of the merchandise is less than the balance owing. The Company will also consider if other arrangements can be made with the customer.

### 3.0 Stay of Proceedings

1. To provide the Company with the greatest opportunity to operate while it considers its restructuring options, the Company needs to operate without disruption during the NOI proceedings.
2. In order for the Company to deliver appliances to certain real estate development clients of the Builder Business and to minimize claims against accounts receivable owing by these developers to the Company, the Company requires the ability to purchase inventory. Accordingly, the Company is requesting that the Court issue an order requiring vendors to continue to supply to the Company, provided that such vendors are not required to provide additional credit to the Company. The Proposal Trustee is of the view that this will mitigate further disruption to the Builder Business, protect the Company's accounts receivable owing from the developers, while not placing any credit risk on the vendors. This will allow accounts receivable collections to be maximized for the benefit of the Company's creditors. The ability to source inventory on cash-on-delivery (or other negotiated terms) will also allow the Company to complete retail sales, including, in certain instances, sales to customers who paid deposits.

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<sup>3</sup> Estimated. These amounts are subject to change.

3. During these proceedings, the Company will also require the continued use of its merchant credit card services, which are handled by First Data Canada Ltd. (“First Data”). If customers seek returns of their deposits, there is a risk that First Data will attempt to setoff any monies generated from post-filing transactions against deposits that are refunded to the Company’s customers. This would impair the Company’s ability to operate and effectively provide First Data with a security interest that ranks in priority to LBC. First Data is not a secured creditor of the Company. Accordingly, the Order sought by the Company prevents First Data from setting off any monies in its possession as of the Filing Date, or subsequent to the Filing Date, against any amounts it pays to the Company’s customers in respect of refunds of pre-filing sales.
4. The orderly operation of the business will be facilitated by incorporating into the requested Order the enhanced stay provisions from the model Initial Order issued in a CCAA proceeding as they relate to requiring suppliers and service providers to continue to provide goods and services without disruption, provided they are not required to do so on credit. The stay of proceedings under the Initial Order in a CCAA proceeding is significantly broader than the statutory stay of proceedings in proposal/NOI processes under the BIA. KSV was the proposal trustee in a number of cases where the debtor sought and obtained such relief, including The Sanderson-Harold Company Limited (cob as Paris Kitchens), Scotch & Soda Canada Inc./Scotch & Soda Retail Canada Inc. and Nilex Inc., among several others.
5. Expanding the scope of the stay of proceedings is in the spirit of stabilizing the Company’s operations and allowing it the greatest opportunity to preserve normal course operations during the NOI Proceedings while it considers its restructuring and other options. Any supply disruptions will impair the Company’s ability to continue to operate in the normal course and the prospect of identifying going-concern solutions. Accordingly, the Proposal Trustee believes that expanding the scope of the stay of proceedings is appropriate as the continued operation of the Company will assist it to achieve its objectives in these proceedings.

## **4.0 Court-Ordered Charges**

### **4.1 Administration Charge**

1. The Company is seeking Court approval of the “Administration Charge” for the fees and disbursements of the Administrative Professionals, including their unpaid fees and costs preparing for these proceedings.
2. The Proposal Trustee supports the Administration Charge for the following reasons:
  - a. it is a standard feature of Canadian restructuring proceedings;
  - b. it is required to protect the Administrative Professionals retained in these proceedings for their fees and costs given the Company’s limited liquidity at this time;
  - c. none of the Administrative Professionals has received a material retainer; and
  - d. the Administrative Professionals in these proceedings require the protections resulting from the Administration Charge in order to continue in their respective roles.

3. The proposed Order provides that the Administration Charge will constitute a charge on all present and future assets and property of the Company, including all proceeds thereof (the "Property") that ranks in priority to all Encumbrances (as defined in the proposed Order) other than the Additional Registered Encumbrances.

## **4.2 Director's Charge**

1. The Company is also seeking Court approval of the D&O Charge for the indemnification of its director and officers against obligations and liabilities that they may incur as a director or officer of the Company after the commencement of these NOI Proceedings (primarily payroll and sales taxes), except with respect to any obligation or liability incurred as a result of the director or officer's gross negligence or wilful misconduct.
2. The Proposal Trustee understands that the Company is current on all pre-filing obligations for which the director may be personally liable, including payroll obligations and sales taxes, subject to any stub periods for which taxes or payroll amounts are not yet due. The Company contemplates that all such amounts will continue to be paid in the ordinary course. The proposed D&O Charge provides protection for the director and officers if the Company fails to, or is unable to, pay certain obligations arising after the Filing Date which may give rise to liability for the director and officers.
3. In these proceedings, the main risk of the director's and officers' exposure is unpaid payroll, accrued vacation pay and sales taxes. Payroll presently totals approximately \$250,000 per pay period (every two weeks), accrued vacation pay presently totals approximately \$440,000 and monthly sales tax obligations are estimated to total approximately \$100,000. The D&O Charge is intended to cover these obligations.
4. The Company does not have a director and officer insurance policy.
5. The D&O Charge is proposed to rank in priority to all Encumbrances other than the Administration Charge and the Additional Registered Encumbrances.
6. The Proposal Trustee is of the view that the D&O Charge is reasonable in the circumstances and that the continued involvement of the director and officers is beneficial to the Company, their stakeholders, and these proceedings. The continued involvement of these individuals will assist to reduce professional costs and to enhance recoveries.

## **4.3 Priority of Court Ordered Charges**

1. The proposed priority of the Court ordered charges is as follows:
  - a) Administration Charge; and
  - b) D&O Charge.

## 5.0 Next Steps

1. The Company is considering a liquidation sale in certain or all of its stores so that it can wind-down on an orderly basis the inefficient portions of its business. 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 liquidator.

## 6.0 Conclusion and Recommendation

1. Based on the foregoing, the Proposal Trustee respectfully recommends that this Honourable Court make an order granting the relief being sought by the Company.

\* \* \*

All of which is respectfully submitted,

*KSV Restructuring Inc.*

**KSV RESTRUCTURING INC.  
IN ITS CAPACITY AS PROPOSAL TRUSTEE OF  
BAD BOY FURNITURE WAREHOUSE LIMITED  
AND NOT IN ITS PERSONAL CAPACITY**

## **Appendix “A”**



Industry Canada  
Office of the Superintendent  
of Bankruptcy Canada

Industrie Canada  
Bureau du surintendant  
des faillites Canada

District of Ontario  
Division No. 09 - Toronto  
Court No. 31-3008133  
Estate No. 31-3008133

In the Matter of the Notice of Intention to make a proposal of:

**Bad Boy Furniture Warehouse Limited**

Insolvent Person

**KSV RESTRUCTURING INC.**

Licensed Insolvency Trustee

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Date of the Notice of Intention:

November 09, 2023

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CERTIFICATE OF FILING OF A NOTICE OF INTENTION TO MAKE A PROPOSAL  
Subsection 50.4 (1)

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that the aforementioned insolvent person filed a Notice of Intention to Make a Proposal under subsection 50.4 (1) of the Bankruptcy and Insolvency Act;

Pursuant to subsection 69. (1) of the Act, all proceedings against the aforementioned insolvent person are stayed as of the date of filing of the Notice of Intention.

Date: November 09, 2023, 14:52

E-File/Dépôt Electronique

Official Receiver

151 Yonge Street, 4th Floor, Toronto, Ontario, Canada, M5C2W7, (877)376-9902

**Canada**

## **Appendix “B”**

**Bad Boy Warehouse Furniture Limited**  
**List of Store Locations and Landlords**

<b>Location</b>	<b>Address</b>	<b>Landlord</b>
Pickering (Head Office/Warehouse)	3550 Sideline 24, Pickering, ON L0H 1J0	SBB Industrial (Seaton) Limited Partnership
Scarborough	1119 Kennedy Road, Scarborough, ON M1P 2K8	N. Turk Investments Limited
Mississauga	1970 Dundas Street East, Mississauga, ON L4X2W7	RioCan Holdings (GTA Marketplace) Inc.
North York	1255 Finch Avenue West, North York, ON, M3J 2G4	Centura Real Estate Corp.
Whitby	1615 Dundas Street East, Whitby, ON L1N 2L1	First Capital Asset Management ULC
Barrie	42 Caplan Avenue, Barrie, ON, L4N 0M5	Barrie-View Farms Limited
London	1040 Wharncliffe Road South, London, ON N6L 1H2	Westwood Power Centre Inc.
Kitchener	1138 Victoria Street North, Kitchener, ON N2B 3C9	Ontario Land Holdings Inc.
Burlington	3305 Fairview St., Burlington, ON L7N 3N9	RioCan Management Inc.
Brampton	499 Main Street South, Brampton, ON L6Y 1N7	RioCan Management Inc.
Ancaster	60 Martindale Crescent, Unit 4, Ancaster, ON L9K 1J9	60 Martindale Crescent (Hamilton) Limited
Kingston	636 Gardiners Rd, Kingston Unit #12, Kingston, ON K7M 3X9	RioCan Management Inc.
Ottawa	1695 Merivale Road, Ottawa, ON K2G 3K2	Claridge Homes Merivale Inc.



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

THE HONOURABLE )  
JUSTICE PENNY )  
FRIDAY, THE 10<sup>TH</sup>  
DAY OF NOVEMBER, 2023

**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**

**ORDER**

**THIS MOTION**, made by Bad Boy Furniture Warehouse Limited (the “**Company**”) for an order, *inter alia*: (a) extending the stay of proceedings under the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3 (the “**BIA**”) by ordering the continuation of services and certain other protections in respect of the Company; (b) approving the Administration Charge (as defined and described below); (c) approving the Director’s Charge (as defined and described below); and (d) granting certain other relief was heard this day virtually via videoconference.

**ON READING** the Company’s Notices of Motion, the First Report of KSV Restructuring Inc., in its capacity as proposal trustee of the Company (the “**Proposal Trustee**”), dated November 9, 2023 (the “**First Report**”), filed, on being advised that the Company filed a notice of intention to make a proposal pursuant to section 50.4(1) of the BIA on November 9, 2023 (the “**NOI Filing Date**”), and on hearing the submissions of respective counsel for the Company, the Proposal Trustee and such other counsel as were present as shown on the Participant Information Form, no one else appearing although duly served:

## **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service of the Company's Notice of Motion and First Report are hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that any capitalized term used and not defined herein shall have the meaning ascribed thereto in the First Report.

## **NO INTERFERENCE WITH RIGHTS**

3. **THIS COURT ORDERS** that until the expiry of the date by which the Company must file a proposal pursuant to section 50.4(1) of the BIA (including as such date may be extended pursuant to section 50.4(9) of the BIA, the "**Proposal Outside Date**"), no individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence, permit, lease, purchase order or other arrangement, whether written or oral (each, an "**Agreement**"), in favour of or held by the Company, except with the written consent of the Company and the Proposal Trustee, or leave of this Court.

## **CONTINUATION OF SERVICES**

4. **THIS COURT ORDERS** that until the expiry of the Proposal Outside Date, all Persons having an Agreement with the Company or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, merchant and credit card processing services, insurance, transportation services, utility or other services to the Company, are hereby restrained until further order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Company, and that the Company shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Company in accordance with normal payment practices of the Company or such other practices as

may be agreed upon by the supplier or service provider and the Company and the Proposal Trustee, or as may be ordered by this Court.

5. **THIS COURT ORDERS** that no Person shall be entitled to set off any amounts that are or may become due from the Company to such Person in respect of obligations relating to the period prior to the NOI Filing Date, against any amounts that are or may become due from such Person to the Company in respect of obligations arising on or after the NOI Filing Date, in each case without the consent of the Company and the Proposal Trustee, or as may be ordered by this Court. For greater certainty and without limiting the generality of the foregoing, no merchant or credit card service provider (a “**Provider**”) shall be entitled to set off any monies that are in its possession or control as of the NOI Filing Date, or that come into its possession and control subsequent to the NOI Filing Date, against any amounts that may be owing to the Provider, or may become owing to the Provider, in respect of transactions prior to the NOI Filing Date, including in respect of any customer chargebacks relating to sales by the Company prior to the NOI Filing Date.

6. **THIS COURT ORDERS** that until a real property lease is disclaimed or resiliated in accordance with the BIA, the Company shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the applicable landlord (each, a “**Landlord**”) under the lease or as otherwise may be negotiated between the Company and the Landlord from time to time (“**Rent**”) twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments following the date of this Order, any Rent relating to the period commencing from and including the NOI Filing Date shall also be paid.

7. **THIS COURT ORDERS** that no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the NOI Filing Date, nor shall any Person be under any obligation on or after the NOI Filing Date to advance or re-advance any monies or otherwise extend any credit to the Company.

## **SALE OF NON-MATERIAL ASSETS**

8. **THIS COURT ORDERS** that the Company shall have the right to sell, dispose of, transfer or assign redundant or non-material assets not exceeding \$150,000 in any one transaction or \$300,000 in the aggregate, without further order of the Court, to permit the Company to proceed with an orderly restructuring of the Company's business.

## **ADMINISTRATION CHARGE**

9. **THIS COURT ORDERS** that the Proposal Trustee, counsel to the Proposal Trustee, and counsel to the Company (collectively, the "**Administrative Professionals**") shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to the NOI Filing Date, by the Company as part of the costs of these proceedings. The Company is hereby authorized and directed to pay the accounts of the Administrative Professionals on a bi-weekly basis, or as they may otherwise agree, and is hereby authorized to pay or to have paid retainers to the Administrative Professionals as security for the payment of their respective fees and disbursements outstanding from time to time.

10. **THIS COURT ORDERS** that the Administrative Professionals shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on all of the Company's present and future assets, undertakings and property of every nature and kind whatsoever and wherever situate, including all proceeds thereof (collectively, the "**Property**"), which charge shall not exceed an aggregate amount of \$250,000, as security for payment of their respective professional fees and disbursements incurred at their standard rates and charges, both before and after the making of this Order, in respect of this proceeding. The Administration Charge shall have the priority set out in paragraphs 14 and 16 hereof.

## **INDEMNIFICATIONS AND CHARGE**

11. **THIS COURT ORDERS** that the Company shall indemnify its directors and officers against obligations and liabilities that they may incur as a director or officer of the Company after the NOI Filing Date, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

12. **THIS COURT ORDERS** that the directors and officers of the Company shall be entitled to the benefit of and are hereby granted a charge (the “**Director’s Charge**”) on the Property, which charge shall not exceed an aggregate amount of \$790,000, as security for the indemnity provided in paragraph 11 of this Order. The Director’s Charge shall have the priority set out in paragraphs 14 and 16 herein.

13. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Director’s Charge; and (b) the Company’s directors and officers shall only be entitled to the benefit of the Director’s Charge to the extent that they do not have coverage under any directors and officers insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 11 of this Order.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

14. **THIS COURT ORDERS** that the priorities of the Administration Charge and the Director’s Charge (collectively, the “**Charges**”), as among them, with respect to the Property shall be as follows:

First – Administration Charge

Second – Director’s Charge

15. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

16. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts (including any statutory, deemed or constructive trust), liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person, including claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) (the “**Ontario PPSA**”) or any other personal, movable or real property registration system, provided that the Charges shall rank subordinate to the Encumbrances evidenced by the

Ontario PPSA registrations listed on Schedule “A” to this Order (collectively, the “**Priority PPSA Registrations**”).

17. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Company shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Company also obtains the prior written consent of the Proposal Trustee and the beneficiaries of the Charges (collectively, the “**Chargees**”), or further Order of this Court.

18. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) or receivership order(s) issued pursuant to the BIA or otherwise, or any bankruptcy order or receivership order subsequently made; (c) the provisions of any federal or provincial statutes; or (d) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any Agreement which binds the Company, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by the Company of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and
- (c) the payments made by the Company pursuant to this Order, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

19. **THIS COURT ORDERS** that any Charge created by this Order over a lease of real property in Canada shall only be an Encumbrance in the Company’s interest in such real property lease.

## **SERVICE OF DOCUMENTS**

20. **THIS COURT ORDERS** that the E-Service Guide of the Commercial List (the “**Guide**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended (the “**Rules of Civil Procedure**”), this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Guide with the following URL: <https://www.ksvadvisory.com/experience/case/bad-boy>.

21. **THIS COURT ORDERS** that the Company, the Proposal Trustee and their respective counsel are at liberty to serve or distribute this Order, and other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding copies thereof by electronic message to the Company’s creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

22. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Guide is not practicable, the Company and the Proposal Trustee and their respective counsel and agents are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding copies thereof by prepaid ordinary mail, courier, personal delivery, e-mail or facsimile transmission to the Company’s creditors or other interested parties at their respective addresses (including e-mail addresses) as last shown on the records of the Company and that any such service or distribution shall be deemed to be received on the earlier of (a) the date of transmission thereof, if sent by electronic message on or prior to 5:00 p.m. Eastern Time; (b) the next business day following the date of forwarding or transmission thereof, if sent by courier, personal delivery, facsimile transmission or electronic

message sent after 5:00 p.m. Eastern; or (c) on the third business day following the date of forwarding thereof, if sent by ordinary mail.

**GENERAL**

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

24. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, agency or regulatory or administrative bodies, having jurisdiction in Canada, the United States of America or any other jurisdiction, to give effect to this Order and to assist the Company, the Proposal Trustee and their respective agents in carrying out the terms of this Order. All courts, tribunals, agencies and regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Company and to the Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Proposal Trustee in any foreign proceeding, or to assist the Company and the Proposal Trustee and their respective agents in carrying out the terms of this Order.

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

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**SCHEDULE “A”**  
**PRIORITY PPSA REGISTRATIONS**

1. Registration No. 20061220 1453 1530 in favour of Panasonic Canada Inc.
2. Registration No. 20200720 1008 1532 3556 in favour of Mercedes-Benz Financial.
3. Registration No. 20210415 1228 1532 4094 in favour of Mercedes-Benz Financial.
4. Registration No. 20220624 1336 4085 3823 in favour of Mercedes-Benz Financial.
5. Registration No. 20220824 1657 1532 3588 in favour of Mercedes-Benz Financial.
6. Registration No. 20220928 1308 5064 5980 in favour of Konica Business Solution (Canada) Ltd.
7. Registration No. 20221229 1538 1532 0001 in favour of Mercedes-Benz Financial.

**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**

Estate / Court File No. 31-3008133

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

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**ORDER**

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Limited

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

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**MOTION RECORD**  
**(Returnable November 10, 2023)**

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