



February 13, 2024

**Supplement to the First Report of
KSV Restructuring Inc.
as CCAA Monitor of Balboa Inc.,
DSPLN Inc., Happy Gilmore Inc.,
Interlude Inc., Multiville Inc., The
Pink Flamingo Inc., Hometown
Housing Inc., The Mulligan Inc.,
Horses In The Back Inc., Neat Nests
Inc. and Joint Captain Real Estate
Inc.**

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COURT FILE NO.: CV-24-00713245-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**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 BALBOA INC., DSPLN INC., HAPPY
GILMORE INC., INTERLUDE INC., MULTIVILLE INC., THE
PINK FLAMINGO INC., HOMETOWN HOUSING INC., THE
MULLIGAN INC., HORSES IN THE BACK INC., NEAT NESTS
INC. AND JOINT CAPTAIN REAL ESTATE INC.**

**SUPPLEMENT TO THE FIRST REPORT OF KSV
RESTRUCTURING INC. AS MONITOR**

February 13, 2024

1.0 Introduction

1. This report (the “Supplemental Report”) supplements the Monitor’s first report to Court dated January 29, 2024 (the “First Report”). A copy of the First Report is attached as Appendix “A”, without attachments.
2. A portion of the relief sought by the Applicants at the Comeback Hearing on January 31, 2024 was adjourned to February 15, 2024. In an endorsement dated February 2, 2024 (the “Endorsement”), the Honourable Madam Justice Kimmel directed the Monitor to deliver “*a further report to provide any updates to the court that it deems appropriate and also to provide the details of any use of the DIP Facility in this intervening time*”. Copies of the Amended Initial Order dated January 31, 2024 (the “Amended Initial Order”) and the Endorsement are attached as Appendices “B” and “C”, respectively.
3. Capitalized terms used in this Supplemental Report have the meaning provided to them in the First Report, unless otherwise defined herein. This Supplemental Report is subject to the scope and terms of reference in the First Report.

1.1 Purposes of this Supplemental Report

1. The purposes of this Supplemental Report are to:
 - a) summarize material developments since the issuance of the First Report;

- b) set out the proposed revisions to the form of Amended and Restated Initial Order (“ARIO”) that was initially sought at the Comeback Hearing on January 31, 2024; and
- c) provide the Monitor’s recommendations regarding the relief sought by the Applicants.

2.0 Lender Representative Counsel

1. In accordance with the Endorsement, the Monitor arranged for a virtual meeting of the Applicants’ secured Lenders (the “Secured Lenders”) on February 5, 2024 (the “Secured Lender Meeting”). Approximately 160 participants comprised of Secured Lenders and/or their representatives attended the Secured Lender Meeting. Unsecured Lenders were not invited to the Secured Lender Meeting.
2. In accordance with the Endorsement, the Secured Lender Meeting was coordinated by the Monitor and was conducted on the basis that no Secured Lenders’ identity or contact details were available to other participants at the Secured Lender Meeting (other than the Monitor) unless the Secured Lender wished for their identity or contact details to be disclosed. While the Monitor has facilitated contact between certain Secured Lenders in situations in which such Secured Lenders have requested that the Monitor do so, the Monitor also continues to receive communications from other Secured Lenders (as well as unsecured Lenders) that do not want their identity and/or contact information to be publicly disclosed.
3. The Secured Lender Meeting included remarks on the CCAA process from representatives of Chaitons, in its capacity as Lender Representative Counsel, the Monitor and Sam Nash and Brent Marshall, legal counsel to certain Secured Lenders. The Monitor and Lender Representative Counsel fielded questions from Secured Lenders throughout the Secured Lender Meeting, which lasted approximately three hours.
4. Since the Secured Lender Meeting, Lender Representative Counsel has, among other things:
 - a) constituted a committee of six members in accordance with the provisions of the Initial Order (the “Committee”); and
 - b) negotiated with the Applicants certain amendments to the Initial Order, including that its representation be limited to the Applicants’ Secured Lenders (as discussed below).
5. The Initial Order contemplated that Lender Representative Counsel would represent the Applicants’ secured and unsecured Lenders. Since the granting of the Initial Order, the Lender Representative Counsel and the Monitor have received significant feedback from the Secured Lenders regarding the scope of Lender Representative Counsel’s representation, including at a virtual townhall meeting convened on January 29, 2024 and at the Secured Lender Meeting. Specifically, several Secured Lenders have repeatedly expressed (i) the need for Lender Representative Counsel to represent only the interests of Secured Lenders and (ii) the concern that Lender Representative Counsel’s current mandate to represent all Lenders could result in a conflict as these proceedings progress.

6. Following consideration of such feedback and having regard to the fact that Lion's Share Group Inc. ("Lion's Share") appears to be the holder of approximately 602 of the Applicants' 802 unsecured promissory notes, the Monitor understands that the Lender Representative Counsel has determined that the scope of its representation should be limited to the Applicants' Secured Lenders only. The Applicants intend to modify the scope of the Lender Representative Counsel's mandate accordingly pursuant to the proposed ARIO. Based on the feedback received by the Monitor and the composition of the Applicants' unsecured Lenders, the Monitor supports the proposed amendment to Lender Representative Counsel's mandate.
7. In order to provide notice to the affected unsecured Lenders:
 - a) on February 9, 2024, the Monitor and Lender Representative Counsel advised Claire Drage, the principal of The Windrose Group Inc. ("Windrose") and Chief Executive Officer of Lion's Share¹, that the proposed ARIO will carve out unsecured Lenders from the mandate of Lender Representative Counsel in these proceedings; and
 - b) on February 12, 2024, the Monitor sent by email and posted on its case website a notice (the "Lender Notice") to the distribution list of all Lenders to advise them of the decision by Lender Representative Counsel on the scope of its mandate and that this change would be reflected in the proposed ARIO. A copy of the Lender Notice is attached as Appendix "D".
8. Following sending the Lender Notice, the Monitor received responses from a number of unsecured Lenders expressing the view that the unsecured Lenders should have their own representative counsel. In addition, some unsecured Lenders were of the view that the costs of such separate counsel should be borne by the Applicants.
9. The Monitor understands that, at present, the Applicants, Lender Representative Counsel and the Committee intend to consider and discuss the potential appointment of representative counsel on behalf of unsecured Lenders, and the terms of any such future appointment. Such relief is not being sought in the ARIO. Additionally, the Monitor proposes to coordinate a meeting of the unsecured Lenders as soon as practicable following the February 15th court hearing in order for the unsecured Lenders to have a forum to directly communicate with each other and determine if they wish to pursue the appointment of their own representative counsel. Such meeting is expected to inform the aforementioned discussions between the Applicants, Lender Representative Counsel and the Committee.

3.0 DIP Facility

1. The Amended Initial Order authorized the Applicants to borrow up to \$4 million under the DIP Facility. On February 6, 2024, the DIP Lender funded the first advance request submitted by the Applicants in the amount of \$4 million (the "First Advance"). Pursuant to a Direction dated February 6, 2024 provided by the Applicants, the First Advance was funded by the DIP Lender into a trust account maintained by the Monitor, from which all disbursements have since been processed by the Monitor.

¹ Windrose sourced substantially all of the Applicants' original first mortgage loans and is a significant broker to certain of the Lenders and Lion's Share is a substantial holder of unsecured promissory notes.

2. An accounting of the uses of the First Advance under the DIP Facility is presented in the table below current to February 13, 2024.

Description	(\$000s)
DIP funding request	4,000
Interest reserve	(250)
Commitment and other fees	(243)
Funding advanced by DIP Lender	<u>3,507</u>
Disbursements	
Property tax arrears	(2,355)
Professional fees ²	(498)
Insurance	(183)
Other	(123)
Total Disbursements	<u>(3,159)</u>
Balance of DIP funds in Monitor's Trust Account	<u>348</u>

3. The Applicants continue to have a critical and immediate need for financing. Without access to the full amount of the DIP Facility (\$12 million), the Applicants will be unable to maintain their operations or pursue their restructuring objectives. Based on the foregoing, and for the reasons set out in the First Report, the Monitor continues to support this Honourable Court's approval of the DIP Facility and the corresponding DIP Lender's Charge and believes that both are necessary and appropriate in the circumstances, particularly with the granting of the proposed enhanced powers of the Monitor discussed below.

4.0 Monitor's Enhanced Powers

1. Lender Representative Counsel and the Applicants have agreed that the ARIO should provide the Monitor with an expanded role in these proceedings. Specifically, the ARIO provides, among other things, that:
- a) the Applicants shall not make any payments or incur any liabilities, including drawing on the DIP Facility, without the prior written consent of the Monitor. The Monitor further understands that the Committee will be seeking consultative rights prior to certain payments being made; and
 - b) the Monitor shall be authorized (i) to conduct an investigation into the use of funds borrowed by the Applicants, pre-filing transactions conducted by the Applicants and/or their principals and affiliates, and such other matters as may be requested by the Committee and agreed by the Monitor, in each case, to the extent such investigation relates to the Property, the Business or such other matters as may be relevant to the proceedings herein as determined by the Monitor, and (ii) to report to the Committee and the Court on the findings of such investigation as the Monitor deems necessary and appropriate.

² Includes pre-filing and certain post-filing fees for the period ended January 31, 2024 of the Applicants' legal counsel, the Monitor and its legal counsel and Lender Representative Counsel.

2. The Applicants, with the support of Lender Representative Counsel, are seeking the expansion of the Monitor's role to address specific concerns raised by the Lenders. These provisions will provide increased transparency, including on the Applicants' uses of Lender advances prior to these proceedings, and will ensure that the Monitor approves of the use of the DIP Facility during these proceedings. The Monitor therefore believes that the Monitor's expanded powers are necessary and appropriate in the circumstances and will benefit all stakeholders.

5.0 Stay Extension

1. The Stay Period currently expires on February 16, 2024. The Applicants are requesting an extension of the Stay Period until March 28, 2024, as well as an extension of the benefit of the stay of proceedings to the Additional Stay Parties and the Additional Stay Parties' Property (each as defined in the Initial Order) for the remainder of the Stay Period.
2. The Monitor supports the extension request for the following reasons:
 - a) the Applicants are acting in good faith and with due diligence;
 - b) the Monitor does not believe that any creditor will be prejudiced if the extension is granted;
 - c) subject to approval of the Applicants' additional borrowings under the DIP Facility, an extension of the Stay Period will provide the Applicants time to collaborate with the Monitor, Lender Representative Counsel and the Committee to develop a plan to pursue a refinancing or restructuring transaction with the ultimate objective of formulating a consensual plan of compromise or arrangement;
 - d) the Applicants intend to formulate and seek Court approval of a claims process prior to the expiry of the Stay Period; and
 - e) as of the date of this Supplemental Report, the Monitor is not aware of any party opposed to the requested extension.

6.0 Financial Advisor

1. All of the relief related to the proposed retention of the Financial Advisor, including the creation of a Financial Advisor Charge, has been adjourned at this time.
2. The Applicants will be consulting with the Monitor and the Committee to assess the need for, and role of, the Financial Advisor in these proceedings. The Financial Advisor's engagement, if any, remains subject to Court approval.

7.0 Conclusion and Recommendation

1. Based on the foregoing and for the reasons set out in the First Report, the Monitor respectfully recommends that this Court grant the ARIO.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.
IN ITS CAPACITY AS MONITOR
OF BALBOA INC., DSPLN INC.,
HAPPY GILMORE INC., INTERLUDE INC.,
MULTIVILLE INC., THE PINK FLAMINGO INC.,
HOMETOWN HOUSING INC., THE MULLIGAN INC.,
HORSES IN THE BACK INC., NEAT NESTS INC.
AND JOINT CAPTAIN REAL ESTATE INC.
AND NOT IN ITS PERSONAL CAPACITY**

Appendix “A”



January 29, 2024

**First Report of
KSV Restructuring Inc.
as CCAA Monitor of Balboa Inc.,
DSPLN Inc., Happy Gilmore Inc.,
Interlude Inc., Multiville Inc., The
Pink Flamingo Inc., Hometown
Housing Inc., The Mulligan Inc.,
Horses In The Back Inc., Neat Nests
Inc. and Joint Captain Real Estate
Inc.**

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COURT FILE NO.: CV-24-00713245-00CL

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**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
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PINK FLAMINGO INC., HOMETOWN HOUSING INC., THE
MULLIGAN INC., HORSES IN THE BACK INC., NEAT NESTS
INC. AND JOINT CAPTAIN REAL ESTATE INC.**

**FIRST REPORT OF KSV RESTRUCTURING INC. AS
MONITOR**

January 29, 2024

1.0 Introduction

1. Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "Court") made on January 23, 2024 (the "Initial Order"), Balboa Inc., DSPLN Inc., Happy Gilmore Inc., Interlude Inc., Multiville Inc., The Pink Flamingo Inc., Hometown Housing Inc., The Mulligan Inc., Horses In The Back Inc., Neat Nests Inc. and Joint Captain Real Estate Inc. (collectively, the "Applicants" and each an "Applicant") were granted protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") and KSV Restructuring Inc. ("KSV") was appointed monitor of the Applicants (in such capacity, the "Monitor"). A copy of the Initial Order is attached as Appendix "A".
2. The Applicants together with certain non-Applicant related entities, including SIDRWC Inc. o/a SID Developments, SID Management Inc. and 2707793 Ontario Inc. o/a SID Renos, are part of a group of companies (collectively, the "Company") specializing in the acquisition, renovation and leasing of distressed residential real estate in undervalued markets throughout Ontario (the "Business").
3. The principal purpose of these CCAA proceedings is to create a stabilized environment to enable the Applicants to preserve and maximize value for their stakeholders and provide the stability and liquidity necessary to complete value accretive renovations to their portfolio of residential homes by securing debtor-in-possession ("DIP") financing, pursue a comprehensive refinancing or restructuring transaction and implement a consensual plan of compromise or arrangement while continuing operations in the ordinary course of business.

4. Pursuant to the terms of the Initial Order, the Court:
 - a) granted a stay of proceedings until February 2, 2024 (the “Stay Period”) in respect of the Applicants, the Monitor, the Applicants’ directors and officers, the Business and the Applicants’ current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (the “Applicants’ Property”);
 - b) appointed Chaitons LLP as representative counsel (the “Lender Representative Counsel”) to all of the Applicants’ secured creditors and unsecured promissory noteholders (collectively, the “Lenders” and each, a “Lender”); and
 - c) granted a charge (the “Administration Charge”) in the amount of \$750,000 on the Applicants’ Property to secure the fees and disbursements of the Monitor and its legal counsel, Cassels Brock & Blackwell LLP (“Cassels”), the Applicants’ legal counsel, Bennett Jones LLP (“Bennett Jones”), and Lender Representative Counsel.
5. The Court set January 31, 2024 as the date for the comeback motion in these proceedings (the “Comeback Hearing”). The Applicants are seeking an amended and restated Initial Order (the “ARIO”) at the Comeback Hearing, among other things:
 - a) extending the Stay Period to March 28, 2024;
 - b) approving the Applicants’ ability to borrow under a DIP credit facility (the “DIP Facility”) pursuant to a DIP Agreement dated January 26, 2024 (the “DIP Agreement”) between the Applicants and Harbour Mortgage Corp. (the “DIP Lender”) and granting a charge in favour of the DIP Lender in the maximum amount of \$12 million (plus interest, fees and expenses) to secure the Applicants’ obligations under the DIP Agreement and DIP Facility (the “DIP Lender’s Charge”);
 - c) approving the retention of Howards Capital Corp. (“HCC”) as financial advisor to the Applicants (the “Financial Advisor”) pursuant to a Financial Advisor Engagement Agreement dated January 24, 2024 (the “Financial Advisor Agreement”) between the Applicants and HCC, and granting the Financial Advisor Charge (as defined below) to secure the Completion Fee (as defined below) and the Applicants’ indemnification obligations under the Financial Advisor Agreement;
 - d) expanding the scope of the Administration Charge to include certain fees of the Financial Advisor up to \$150,000, which are not secured by the Financial Advisor Charge, and increasing the maximum amount of the Administration Charge from \$750,000 to \$1,500,000; and
 - e) authorizing the Applicants to pay certain amounts owing for goods and services supplied to the Applicants prior to the date of the Initial Order, subject to the consent of the Monitor.

1.1 Purposes of this Report

1. The purposes of this report (the “Report”) are to:
 - a) provide background information on the Applicants and these proceedings;
 - b) summarize the basis on which the Applicants are seeking the above-noted relief at the Comeback Hearing, including the proposed stay extension, approval of the DIP Facility and the Financial Advisor Agreement and the creation of the corresponding Court-ordered charges;
 - c) summarize the Applicants’ cash flow forecast (the “Cash Flow Forecast”) for the period January 27, 2024 to March 28, 2024 (the “Forecast Period”);
 - d) provide the Court with an update on the Applicants’ activities since the granting of the Initial Order;
 - e) provide the Court with an update on the Monitor’s activities since its appointment; and
 - f) provide the Monitor’s recommendations regarding the relief sought by the Applicants at the Comeback Hearing.

1.2 Restrictions

1. In preparing this Report, the Monitor has relied upon the unaudited financial information of the Applicants, the Applicants’ books and records and discussions with representatives of the Applicants, including HCC and Bennett Jones.
2. KSV has not audited, or otherwise attempted to verify, the accuracy or completeness of the financial information relied on to prepare this Report in a manner that complies with Canadian Auditing Standards (“CAS”) pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, KSV 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.
3. An examination of the Cash Flow Forecast as outlined in the Chartered Professional Accountants of Canada Handbook has not been performed. Future oriented financial information relied upon in this Report is based upon the Applicants’ assumptions regarding future events; actual results achieved may vary from this information and these variations may be material. KSV expresses no opinion or other form of assurance on whether the Cash Flow Forecast will be achieved.

1.3 Currency

1. Unless otherwise noted, all currency references in this Report are in Canadian dollars.

2.0 Background

1. The Applicants are Canadian privately-held corporations that are the principal owners of the Company's rental units and the residential properties on which they are situated. The Applicants' corporate chart is attached as Appendix "B".
2. The Applicants own 405 residential properties (collectively, the "Properties" and each, a "Property") containing 631 rental units, of which 424 are tenanted, as well as a non-operating golf course. Renovated units achieve significantly higher rents than unrenovated units. The Applicants have not rented out the vacant units as they do not currently have the funding to renovate them. If the Applicants lease an unrenovated unit, it is subject to Provincial rent control legislation and tenants' rights to continue to occupy the units. The Properties are located in tertiary markets in Ontario, including Timmins, Sault Ste. Marie, Sudbury, Kirkland Lake, Capreol, Temiskaming Shores and Val Caron. A summary of the Properties owned by the Applicants is provided below.

Location	Number of Occupied Units	Number of Unoccupied Units	Total
Timmins	217	73	290
Sault Ste Marie	122	79	201
Sudbury	53	25	78
Other	32	30	62
Total	424	207	631

3. The Applicants' principal stakeholders are their first and second mortgagees and unsecured promissory noteholders (collectively, the "Investors"), which are owed approximately \$81.5 million, \$8.6 million and \$54.2 million, respectively.
4. The Affidavit of Robert Clark sworn January 23, 2024 (the "First Clark Affidavit") and KSV's Pre-Filing Report dated January 23, 2024 (the "Pre-Filing Report") each set out detailed information with respect to the Applicants' Business, property and creditor composition. The Monitor recommends that readers review the application materials filed in respect of the CCAA proceedings, including the First Clark Affidavit and the Pre-Filing Report, which are available on the Monitor's website at the following link: <https://www.ksvadvisory.com/experience/case/sid>. For ease of reference, a copy of the Pre-Filing Report (without appendices) is attached as Appendix "C".

3.0 Financial Advisor Agreement¹

3.1 HCC

1. HCC was initially retained by the Applicants in August 2023 to assist the Applicants with a comprehensive refinancing solution. HCC has extensive knowledge of the Applicants' Business, which it has gained over the past five months.

¹ Capitalized terms in this Section have the meaning provided to them in the Financial Advisor Agreement, unless otherwise defined herein.

2. The Applicants are seeking the Court's approval to retain HCC as its Financial Advisor in these proceedings. Among other things, the principal purposes of HCC's engagement as Financial Advisor are to:
 - a) act as a financial advisor to the Applicants under the terms of the Financial Advisor Agreement;
 - b) assist in developing financial data and presentations for stakeholders;
 - c) contribute to the development of the Applicants' long-term business plan and financial projections;
 - d) review and assess the Applicants' current financial situation, go-forward prospects and explore alternatives for improving its liquidity position;
 - e) provide strategic advice for restructuring or refinancing the Applicants' obligations and funded indebtedness;
 - f) assess the secured creditors' estimated security position and evaluate alternative capital structures;
 - g) oversee the management of assets and operations of the Applicants with a view of enhancing operations and profitability;
 - h) develop and implement strategic alternatives for the Applicants, subject to approval by the Monitor, the Applicants and, as applicable, the Court; and
 - i) work with creditors, potential purchasers, investors, the Monitor and other stakeholders regarding the Applicants obligations and these CCAA proceedings.
3. HCC has extensive advisory, turnaround and management experience. KSV has worked with HCC on multiple occasions in the context of formal insolvency proceedings. HCC's principal, Howard Steinberg, is formerly a senior executive of several financial institutions and has been involved in numerous restructurings in that capacity. Mr. Steinberg has led or co-led the acquisition, renovation, financing and sale of approximately 614 residential properties in the State of Florida.

3.2 Financial Advisor Agreement

1. A copy of the Financial Advisor Agreement is attached as Exhibit "E" to the Affidavit of Robert Clark sworn January 28, 2024 (the "Second Clark Affidavit"). The relevant financial terms of the Financial Advisor Agreement are as follows:
 - a) **Monthly Fee:** HCC is entitled to a fixed cash monthly fee of \$75,000 (the "Monthly Fee") payable monthly in advance.
 - b) **Completion Fee:** The following is a summary of the completion fee payable under the Financial Advisor Agreement (the "Completion Fee"):
 - i. in the event of a Sale Transaction, HCC is entitled to a fee equal to 1% of the Net Sales Proceeds, up to a maximum of \$1.5 million; or

- ii. in the event of a Refinancing of substantially all of the Applicants' indebtedness, HCC is entitled to a fee equal to 1% of the Net Refinanced Indebtedness, up to a maximum of \$1.5 million; or
 - iii. in the event of a Restructuring, HCC is entitled to a fee equal to 1% of the original indebtedness that is restructured, up to a maximum of \$1.5 million; or
 - iv. in the event of a combination of any of a Sale Transaction, Refinancing or Restructuring, HCC is entitled to 1% of the Net Sales Proceeds, 1% of the Net Refinanced Indebtedness and 1% of the original indebtedness that is restructured, up to an aggregate maximum amount of \$1.5 million.
2. The Monthly Fee and expenses are to be covered under the Administration Charge up to \$150,000. The Completion Fee and the Applicants' indemnification obligations under the Financial Advisor Agreement are to be secured by a charge on the Applicants' Property up to a maximum of \$1.5 million (the "Financial Advisor Charge").
3. The Monitor recommends that the Court approve the Financial Advisor Agreement for the following reasons:
 - a) HCC is qualified and has deep knowledge of the Applicants' Business;
 - b) HCC has worked with the Applicants, has relationships in the real estate sector that should provide restructuring or refinancing opportunities to the Applicants and the Monitor has experience working with HCC in the context of formal insolvency proceedings;
 - c) the Monitor understands that HCC's fees were subject to significant negotiation between the Financial Advisor and the Applicants; and
 - d) the Monitor is of the view that the variable based component of HCC's fee structure sufficiently incentivizes HCC to maximize value for the Applicants and their stakeholders under any prospective restructuring, sale and/or refinancing transaction completed in these proceedings.

4.0 Cash Flow Forecast

1. The Applicants have prepared the Cash Flow Forecast with the assistance of HCC and the Monitor. The Cash Flow Forecast and the Applicants' statutory report on the cash flow pursuant to Section 10(2)(b) of the CCAA is attached as Appendix "D".
2. The Cash Flow Forecast reflects that the Applicants require funding of approximately \$9 million, including approximately \$6.4 million in one-time costs consisting of renovations and property tax arrears. Following payment of the one-time disbursements and once all vacant units have been renovated and are occupied, the Applicants are projected to generate net cash flow of approximately \$400,000 on a monthly basis.

3. A summary of the Cash Flow Forecast is provided below.

(unaudited; \$000s)	Jan 27 – Mar 28
Rent receipts	1,062
Operating Disbursements	(959)
Net Cash Flow, before Other Disbursements	103
Other Disbursements	
Renovations	(3,000)
Property tax arrears	(2,200)
Deposits, contingency and other	(1,180)
Professional fees	(2,000)
DIP Facility costs and interest	(490)
Total Other Disbursements	(8,870)
Net Cash Flow	(8,767)
	-
Opening Cash Balance	
Net Cash Flow	(8,767)
DIP Advances	9,000
Closing Cash Balance	233

4. The Monitor notes the following regarding the Cash Flow Forecast:

- a) Rental income: represents normal course rents collected from tenants. It does not include rents from units to be renovated during the Forecast Period.
- b) Operating disbursements: represents normal course disbursements, including property taxes, utilities, property management fees and insurance.
- c) Renovations: represents the estimated cost to renovate the Applicants' vacant units. Substantially all of the Applicants' vacant units are unrenovated.
- d) Property tax arrears: the Applicants have advised that property tax arrears totaled approximately \$1.9 million as of December 31, 2023. The Cash Flow Forecast includes a contingency of \$300,000 for interest, penalties and additional property taxes that have accrued since December 31, 2023.
- e) Deposits, contingency and other: represents potential utility deposits and a contingency for expenses not otherwise captured in the projection, including pre-filing payments to critical vendors, which, as discussed below, require Monitor consent under the ARIO.
- f) Professional fees: represents estimated fees and disbursements of the Financial Advisor, Lender Representative Counsel, Bennett Jones, the Monitor and Cassels.

5. Based on the Monitor's review of the Cash Flow Forecast, the underlying assumptions appear reasonable. The Monitor's statutory report on the Cash Flow Forecast is attached as Appendix "E".

- The Cash Flow Forecast was used in the Applicants' negotiations of the DIP Facility with the DIP Lender. In order to provide the Applicants with the liquidity required to fund operations during these CCAA proceedings, the Applicants, as discussed below, are seeking Court approval of the DIP Facility and the corresponding DIP Lender's Charge.

5.0 DIP Facility²

5.1 Background

- As discussed in the Pre-Filing Report, KSV was engaged by the Applicants in December 2023. Prior to soliciting DIP term sheets, the Monitor considered other options for the Properties, including a liquidation of the units and a controlled sale process. The Monitor is of the view that a sale of the Properties will result in depressed recoveries for Investors and/or will take several years to complete as a result of current depressed market conditions in the various communities in which the Properties are located, as well as the significant number of Properties owned by the Applicants within relatively small markets.
- The table below is a summary of data reported by the Canadian Real Estate Association (the "CERA Report"). A copy of the CERA Report is attached as Appendix "F".

	Timmins, ON (December 2023)	Sault Ste. Marie, ON (September 2023)	Sudbury, ON (December 2023)
Units Sold	39	125	101
Active Listings	285	425	407
Months of Inventory ³	7.3	3.4	4.0

- As reflected above, the Applicants own 199, 152 and 47 units in Timmins, Sault Ste. Marie and Sudbury, respectively.
- If the Properties were immediately liquidated, the supply of units available for sale in these communities would increase by approximately 36%, including by approximately 70% in Timmins. As a result, there would likely be a significant reduction in sale prices, resulting in losses for Investors and other home sellers in these communities. In addition, there would likely be a "first mover advantage" such that Investors which listed their Properties first would get a higher realization than Investors that listed their Properties afterwards.
- The Monitor also considered a controlled sale process. In that respect, if the Properties were listed 15% at a time, it would take 49, 23 and 27 months to complete a sale process for the Applicants' Properties owned in Timmins, Sault Ste. Marie and Sudbury, respectively.

² Terms not defined in this Section have the meaning provided to them in the DIP Agreement.

³ Represents the number of months it would take for all active listings to be sold.

6. In addition to the above:
 - a) every renovated Property is tenanted. Tenanted properties are marketed largely to investors, reducing the pool of buyers and extending the expected sale time; and
 - b) every vacant Property requires renovations. If vacant Properties are sold as is, sale prices will be discounted and Lenders may only recover a fraction of their investment.

5.2 Refinancing

1. As set out in the Second Clark Affidavit, to reduce the Applicants' significant interest expense and improve their free cash flow, the Company began exploring refinancing and sale opportunities in early 2022. The Monitor understands that the Applicants remain in negotiations with at least one party regarding a potential refinancing. The Monitor understands these efforts have been unsuccessful so far as a result of, among other things, the lack of cash flow generated by the Properties. In that respect, the DIP Facility provides immediate capital to renovate 98 properties, which is expected to result in additional annual operating cash flow of approximately \$5 million, which will make a refinancing of the whole portfolio significantly more viable.

5.3 DIP Facility

1. In order to raise sufficient funds to complete the Applicants' intended renovations and fund the costs of these proceedings, KSV approached two lenders to provide DIP proposals and assisted the Applicants in negotiating the DIP Agreement with the DIP Lender.
2. The significant terms of the DIP Agreement are summarized below. A copy of the DIP Agreement is attached as Appendix "G".
 - a) Borrowers: The Applicants;
 - b) DIP Lender: Harbour Mortgage Corp;
 - c) Loan Amount: up to a maximum principal amount of \$12 million;
 - d) Maturity Date: the earlier of: (i) October 31, 2024, as such date may be extended by the Applicants, if approved by the Monitor, and the DIP Lender in writing; (ii) any Event of Default that has not been cured; and (iii) the effective date of any CCAA plan of arrangement.
 - e) Interest rate: the greater of (i) 12% per annum and (ii) Royal Bank prime rate plus 4.80%;
 - f) Loan Fee:
 - i. a non-refundable commitment fee in the amount of \$240,000, which is to be deducted from the initial advance;

- ii. if the loan is extended by the DIP Lender at its sole discretion for a period not to exceed six months, an extension fee of \$120,000 will be payable in full on the Repayment Date; and
- iii. all reasonable legal fees and disbursements of legal counsel incurred by the DIP Lender in connection with the DIP Facility;
- g) DIP Lender's Expenses: the Applicants are to pay all reasonable costs and expenses incurred by the DIP Lender in connection with the CCAA proceedings;
- h) DIP Lender's Charge: the obligations of the Applicants under the DIP Agreement and DIP Facility are to be secured by the DIP Lender's Charge;
- i) Events of Default: the following is a summary of the material Events of Default:
 - i. the issuance of an order terminating the CCAA proceedings or lifting the stay in the CCAA proceedings;
 - ii. the issuance of an order granting an encumbrance of equal or superior status to that of the DIP Lender's Charge, other than the priority payables, the Administration Charge and any Permitted Encumbrance, including those payments which rank ahead of the DIP Lender's Charge;
 - iii. the Applicants fail to perform or comply with any term or condition set out in the DIP Agreement; and
 - iv. a sale of all or substantially all of the Applicants' assets that does not provide for the payment in full of the obligations owing under the DIP Facility; and
- j) Reporting: the Applicants' reporting obligations include the provision of monthly "rolling" cash flow projections, confirmation that property taxes are current and monthly meetings to discuss recent developments in the CCAA proceedings.

5.4 Recommendation

1. The Monitor considered the following factors when reviewing the reasonableness of the DIP Facility, as well as the factors set out in Section 11.2 of the CCAA:
 - a) the Monitor believes that the terms and conditions of the DIP Facility are commercially reasonable;
 - b) the Applicants have a critical and immediate need for financing. Without access to the DIP Facility, the Applicants will be unable to maintain their operations or pursue their restructuring objectives. The DIP Facility will provide the Applicants with funding to renovate 98 Properties, comprising 206 vacant units, in order to enhance the value of those Properties;
 - c) the Monitor believes that approval of the DIP Facility is in the best interests of the Applicants' stakeholders and will advance the restructuring process;

- d) the Monitor compared the terms of the DIP Facility to other DIP facilities approved by Canadian courts in CCAA proceedings commenced in 2022 and 2023. The comparison is attached as Appendix “H”. Based on the Monitor’s review and analysis, the cost of the proposed DIP Facility is lower than similar facilities of this size approved by the Court and other Canadian courts in CCAA and other restructuring proceedings; and
- e) for reasons set out in Section 5.1 of this Report, the Monitor believes that through controlled sales, Lenders will not generate recoveries for years. The DIP Facility will allow the Applicants to refinance or restructure, which is a superior result to a multi-year liquidation.

6.0 Lender Representative Counsel

1. The Pre-Filing Report summarizes the basis on which it was necessary for Lender Representative Counsel to be appointed at the outset of these proceedings. It also referenced a townhall meeting that was to be convened by Lender Representative Counsel on January 29, 2024 (the “Lender Townhall Meeting”).
2. On January 24, 2024, Lender Representative Counsel sent a notice of its appointment and the Lender Townhall Meeting to the Lenders for which it was provided email contact information by the Applicants and The Windrose Group Inc. pursuant to the Initial Order. A copy of the notice sent to the Lenders is attached as Appendix “I”.
3. The Monitor and approximately 190 participants attended the Lender Townhall Meeting, which was convened virtually. The Monitor’s presentation to the Lenders included, among other things, explaining: (a) the role of the Monitor; (b) the relief being sought at the Comeback Hearing (including the Court-ordered charges); (c) objectives of the CCAA proceedings; (d) intended use of the DIP Facility; and (e) expectation of value accretion to the affected Properties.
4. Based on the Monitor’s discussions with Lender representatives since its appointment and its attendance at the Lender Townhall Meeting:
 - a) the Lenders are in the process of forming a steering committee of up to six members in accordance with the provisions of the Initial Order; and
 - b) the Monitor is not aware of any Lender opposition to any of the relief being sought by the Applicants at the Comeback Hearing.

7.0 Stay Extension

1. The Stay Period currently expires on February 2, 2024. The Applicants are requesting an extension to the Stay Period until March 28, 2024, as well as an extension of the benefit of the stay of proceedings to the Additional Stay Parties and the Additional Stay Parties’ Property (each as defined in the Initial Order).

2. The Monitor supports the extension request for the following reasons:
 - a) the Applicants are acting in good faith and with due diligence;
 - b) the Monitor does not believe that any creditor will be prejudiced if the extension is granted;
 - c) subject to approval of the DIP Facility, an extension will provide the Applicants time to complete value accretive renovations to their portfolio of residential homes, pursue a comprehensive refinancing or restructuring transaction and formulate a consensual plan of compromise or arrangement;
 - d) the Applicants intend to formulate and seek Court approval of a claims process during the extension period;
 - e) as of the date of this Report, neither the Applicants nor the Monitor is aware of any party opposed to the requested extension; and
 - f) subject to the Court approving the proposed DIP Lender's Charge, the Applicants are projected to have sufficient liquidity to fund their operations during the proposed Stay Period, as reflected in the Cash Flow Forecast.

8.0 Court Ordered Charges

8.1 Administration Charge Increase

1. The Initial Order granted an Administration Charge in an amount not to exceed \$750,000 to secure the fees and disbursements of the Monitor, Cassels, Bennett Jones and Lender Representative Counsel to the Comeback Hearing, including the pre-filing fees incurred in preparing for the Applicants' CCAA application.
2. The Applicants are seeking to increase the Administration Charge to \$1.5 million to secure the fees and disbursements of the Financial Advisor (up to \$150,000 and only for monthly fees and disbursements incurred), Lender Representative Counsel, the Monitor, Cassels and Bennett Jones (collectively, the "Administration Professionals"). The Monitor is of the view that the increased Administration Charge is required and reasonable in the circumstances given the complexities of the Applicants' CCAA proceedings and the services to be provided by the Administration Professionals, each of whom is required to further the restructuring efforts of the Applicants.
3. The Cash Flow Forecast has been prepared on the basis of monthly payments being made to the Administration Professionals, and accordingly, there should be no exposure to the Administration Professionals with the proposed increased Administration Charge.

8.2 DIP Lender's Charge

1. The Applicants are seeking a charge in favour of the DIP Lender to secure all advances under the DIP Facility. The Monitor is of the view that the DIP Lender's Charge is required as: (i) the Applicants are in immediate need of liquidity; (ii) the terms of the DIP Facility are reasonable for the reasons set out in Section 5.4 of this Report; and (iii) the DIP Lender is not prepared to provide financing without the benefit of the DIP Lender's Charge, nor would any prospective lender in the circumstances.

8.3 Financial Advisor Charge

1. The Applicants are seeking a charge of up to \$1.5 million in favour of the Financial Advisor to secure any amounts owing in relation to the Financial Advisor's Completion Fee.
2. KSV believes that the Financial Advisor Charge is reasonable and appropriate in the circumstances given that the Completion Fee, if earned, would result in an outcome that is beneficial for the Applicants and all of their stakeholders.

8.4 Priority of Charges

1. The Applicants propose the Court-ordered charges have the following priority among them:
 - a) first, the Administration Charge (to a maximum of \$1.5 million);
 - b) second, the DIP Lender's Charge (to a maximum of \$12 million plus interest and costs); and
 - c) third, the Financial Advisor Charge (to a maximum of \$1.5 million).
2. As noted in the Second Clark Affidavit, to the extent necessary, an allocation of the Court-ordered charges as among the Applicants' Property may be addressed at a later time in these CCAA proceedings, including in connection with any plan of compromise or arrangement or distribution for which Court approval is sought. In all likelihood, direct expenses will be allocated to the particular Property for which the funding was expended, and general expenses will be allocated equitably among the Properties. On an overall basis, the allocation among the Applicants' Properties is not expected to result in material prejudice to any individual Lender given the number of Properties (406) and Lenders subject to these proceedings.

9.0 Other Relief

9.1 Additional Stay Parties

1. The Monitor's views with respect to the appropriateness of extending the stay of proceedings to the Additional Stay Parties and the Additional Stay Parties' Property is set out in Section 7.0 of this Report and Section 5.1 of the Pre-Filing Report. The Monitor notes that, in respect of the stay of proceedings being extended to the Additional Stay Parties, the ARIO provides that, to the extent any prescription, time or limitation period relating to any proceeding against or in respect of the Additional Stay Parties or the Additional Stay Parties' Property in respect of the Related Claims (as defined in the ARIO) is stayed pursuant to the ARIO and may expire, the term of such prescription, time or limitation period shall be deemed extended by a period equal to the Stay Period.
2. The Monitor believes this "tolling" arrangement is appropriate so that there is no prejudice to the parties that commenced Related Claims prior to these proceedings.

9.2 Proposed Payment of Certain Pre-Filing Obligations

1. The Applicants are seeking authorization to make payments to certain suppliers integral to the continued operation of the Business in respect of obligations arising prior to the commencement of these CCAA proceedings. As the Properties are located in tertiary markets in Ontario, there are a limited number of tradesmen or suppliers in these regions that can support the ongoing operation of the Business, including for renovations and other repairs and maintenance. The business of these suppliers may be significantly impaired if certain pre-filing obligations are not promptly paid. In addition, it is a condition of the DIP Facility that property tax arrears be paid current.
2. The Monitor is familiar with provisions of orders under the CCAA permitting the debtor company to pay specific pre-filing obligations, where appropriate. In the Monitor's view, such payments should be a limited exception to the general rule prohibiting payment of pre-filing obligations. However, it is also recognized that in certain exceptional circumstances, such payments to specific suppliers are required. The Monitor is aware of the Applicants' reliance on certain suppliers to sustain operations, including the completion of value accretive renovations to their portfolio of residential homes. The Monitor's consent is required prior to the payment of any pre-filing obligation.
3. The Monitor is supportive of the Applicants' request for the inclusion of a provision authorizing them to pay certain pre-filing obligations. The Monitor will review each proposed payment in accordance with the criteria specified in the ARIO prior to providing (or not providing) the Monitor's required consent.

10.0 Update on the Applicants' Activities since the Initial Order

1. The Applicants' activities since the granting of the Initial Order have included:
 - a) operating the Business in the ordinary course;
 - b) negotiating the DIP Agreement with the DIP Lender and its counsel;
 - c) negotiating the Financial Advisor Agreement with HCC and its counsel;
 - d) communicating with certain of the Lenders, Lender Representative Counsel and representatives of The Windrose Group Inc. (a significant broker to certain of the Lenders), and Lift Capital Incorporated (the source of substantially all of the Applicants' second mortgage loans);
 - e) providing Lender Representative Counsel with creditor listings and other information in accordance with the Initial Order;
 - f) corresponding with the Monitor and HCC to, *inter alia*, implement communication strategies with stakeholders;
 - g) communicating with suppliers and contractors to secure goods and services during these proceedings and to address payment terms;
 - h) considering cost-saving initiatives;
 - i) corresponding regularly with representatives of the Monitor regarding these proceedings;
 - j) communicating with tenants regarding these CCAA proceedings;
 - k) reporting daily receipts and disbursements to the Monitor; and
 - l) implementing a communication plan to stakeholders, including certain Lenders, suppliers and tenants, which was developed with the assistance of the Monitor.

11.0 Monitor's Activities since the Initial Order

1. The Monitor's activities since the granting of the Initial Order have included:
 - a) corresponding regularly with the Applicants regarding various matters in these CCAA proceedings;
 - b) working with the Applicants to prepare and implement a stakeholder communication strategy;
 - c) preparing a statutory CCAA notice and arranging for the mailing of the notice to the Applicants' creditors;
 - d) attending a townhall meeting with the Lenders convened on January 29, 2024;
 - e) filing Form 1 and Form 2 with the Office of Superintendent of Bankruptcy;

- f) making arrangements to have the CCAA notice published in *The Globe and Mail* (National Edition) in accordance with the Initial Order;
- g) monitoring the Applicants' receipts and disbursements;
- h) corresponding with Cassels, Bennett Jones and Lender Representative Counsel regarding various matters in these proceedings;
- i) assisting the Applicants in preparing the Cash Flow Forecast and reviewing the underlying assumptions; and
- j) assisting the Applicants in negotiating the DIP Agreement and the Financial Advisor Engagement Agreement.

11.0 Conclusion and Recommendation

1. Based on the foregoing, the Monitor respectfully recommends that this Court grant the ARIO.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.
IN ITS CAPACITY AS MONITOR
OF BALBOA INC., DSPLN INC.,
HAPPY GILMORE INC., INTERLUDE INC.,
MULTIVILLE INC., THE PINK FLAMINGO INC.,
HOMETOWN HOUSING INC., THE MULLIGAN INC.,
HORSES IN THE BACK INC., NEAT NESTS INC.
AND JOINT CAPTAIN REAL ESTATE INC.
AND NOT IN ITS PERSONAL CAPACITY**

Appendix “B”

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE) WEDNESDAY, THE 31ST
)
JUSTICE KIMMEL) DAY OF JANUARY, 2024
)

**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 BALBOA INC., DSPLN INC., HAPPY
GILMORE INC., INTERLUDE INC., MULTIVILLE INC.,
THE PINK FLAMINGO INC., HOMETOWN HOUSING
INC., THE MULLIGAN INC., HORSES IN THE BACK INC.,
NEAT NESTS INC. AND JOINT CAPTAIN REAL ESTATE
INC. (collectively the "Applicants", and each an "Applicant")**

AMENDED INITIAL ORDER
(Amending Initial Order Dated January 23, 2024)

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 Amended and Restated Initial Order was heard this day by judicial videoconference via Zoom.

ON READING the affidavits of Robert Clark sworn January 23, 2024 and the Exhibits thereto, and January 28, 2024 and the Exhibits thereto (the "**Clark Affidavit**"), the Pre-Filing Report of KSV Restructuring Inc. ("**KSV**") as the proposed monitor dated January 23, 2024, and the First Report of KSV as the Court-appointed monitor of the Applicants (in such capacity, the "**Monitor**") dated January 29, 2024, the affidavit of Patty Vanminnen sworn January 30, 2024 and the Exhibits thereto, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel to the Applicants, counsel to the Monitor, the Lender Representative Counsel, counsel to the DIP Lender (as defined below), counsel to Howards Capital Corp., and such other counsel that were present and who are identified on the counsel slip, no else appearing although duly

served as appears from the affidavits of service of Joshua Foster, filed, and on reading the consent of KSV to act as the Monitor,

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 Application 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 shall have the meaning ascribed to them in the Clark Affidavit or the Initial Order (as defined below), as applicable.

3. **THIS COURT ORDERS** that, for the avoidance of doubt, references in this Order to the "date of this Order", the "date hereof" or similar phrases refer to the date the Initial Order of this Court was granted in these proceedings, being January 23, 2024 (the "**Initial Order**"). The Initial Order shall remain in full force and effect except to the extent modified or supplemented herein.

4. **THIS COURT ORDERS** that the provisions of paragraphs 5, 7 and 8 of the Initial Order are modified so as to now be subject to the terms of the DIP Agreement and the Definitive Documents (each as defined below).

5. **THIS COURT ORDERS** that, subject to the terms of the DIP Agreement and the Definitive Documents, the Applicants shall be entitled but not required to pay the following further expenses whether incurred prior to, on, or after the date of this Order with the consent and concurrence of the Monitor that they are necessary to address urgent needs of the Applicants that cannot await the outcome of the Comeback Hearing (as defined below), amounts owing for goods and services actually supplied to the Applicants prior to the date of this Order, with the Monitor considering, among other factors, whether (i) the supplier or service provider is essential to the Business and ongoing operations of the Applicants and the payment is required to ensure ongoing supply, (ii) making such payment will preserve, protect or enhance the value of the Property or the Business, (iii) making such payment is required to address environmental or regulatory concerns, and (iv) the supplier or service provider is required to continue to provide

goods or services to the Applicants after the date of this Order, including pursuant to the terms of this Order.

NO PROCEEDINGS AGAINST THE APPLICANTS, THE BUSINESS OR THE PROPERTY

6. **THIS COURT ORDERS** that the Stay Period is extended until and including February 16, 2024 or such later date as this Court may order.

7. **THIS COURT ORDERS** that, to the extent any prescription, time or limitation period relating to any Proceeding against or in respect of the Additional Stay Parties or the Additional Stay Parties' Property in respect of the Related Claims that is stayed pursuant to this Order may expire, the term of such prescription, time or limitation period shall hereby be deemed to be extended by a period equal to the Stay Period.

NO PRE-FILING VERSUS POST-FILING SET-OFF

8. **THIS COURT ORDERS** that no Person shall be entitled to set off any amounts that (i) are or may become due to any of the Applicants in respect of obligations arising prior to the date hereof with any amounts that are or may become due from any of the Applicants in respect of obligations arising on or after the date of this Order, or (ii) are or may become due from any of the Applicants in respect of obligations arising prior to the date hereof with any amounts that are or may become due to any of the Applicants in respect of obligations arising on or after the date of this Order, in each case without the prior written consent of the applicable Applicant and the Monitor or further Order of this Court.

MONITOR'S ADDITIONAL POWERS

9. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA and those provided for in the Initial Order, is hereby directed and empowered to:

- (a) liaise and consult with the Applicants and the Lender Representative Counsel and individual Lenders, to the extent required, with respect to all matters relating to

the Property, the Business, the restructuring of the Business, and such other matters as may be relevant to these proceedings;

- (b) assist the Applicants, to the extent required by the Applicants, in their dissemination, to the DIP Lender and its counsel of financial and other information as agreed to between the Applicants and the DIP Lender, which may be used in these proceedings including reporting on a basis as agreed with the DIP Lender; and
- (c) advise the Applicants in their preparation of the Applicants' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis as agreed with the DIP Lender.

10. **THIS COURT ORDERS** that the Administration Charge provided for in the Initial Order is increased to a maximum aggregate amount of \$1,000,000.

DIP FINANCING

11. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow under a credit facility from Harbour Mortgage Corp. (the "**DIP Lender**") in order to finance the Applicants' working capital requirements and other general corporate purposes and capital expenditures, provided that the borrowings under such credit facility shall not exceed \$4,000,000, plus interest, fees and expenses, unless permitted by further Order of this Court.

12. **THIS COURT ORDERS** that such credit facility shall be on the terms and subject to the conditions set forth in the DIP agreement between the Applicants and the DIP Lender dated as of January 26, 2024 and attached to the Clark Affidavit as Exhibit "F" (as may be amended from time to time, the "**DIP Agreement**").

13. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the DIP Agreement 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 their indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Agreement and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

14. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Lender's Charge**") on the Property, which DIP Lender's Charge shall not exceed the amount of \$4,000,000, plus interest, fees and expenses, unless permitted by further Order of this Court, or secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs 17 and 19 hereof.

15. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the DIP Agreement, the Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon seven (7) days' notice to the Applicants and the Monitor, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the DIP Agreement, Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under the DIP Agreement, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants; and

- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

16. **THIS COURT ORDERS AND DECLARES** that, unless agreed to by the DIP Lender, the DIP Lender shall be treated as unaffected in any plan of compromise or arrangement filed by any of the Applicants under the CCAA, or any proposal filed by any of the Applicants under the BIA, with respect to any advances made under the DIP Agreement and the Definitive Documents.

VALIDITY AND PRIORITY OF THE CHARGES CREATED BY THIS ORDER

17. **THIS COURT ORDERS** that the priorities of the Administration Charge and the DIP Lender's Charge (together, the "**Charges**"), as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$1,000,000); and

Second – DIP Lender's Charge (to the maximum amount of \$4,000,000, plus interest, fees and expenses).

18. **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.

19. **THIS COURT ORDERS** that each of the Charges (as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person notwithstanding the order of perfection or attachment.

20. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any of the Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants

also obtain the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the Charges, or further Order of this Court.

21. **THIS COURT ORDERS** that the Charges and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") and/or the DIP Lender thereunder shall not otherwise be limited or impaired in any way by: (i) the pendency of these proceedings and the declarations of insolvency made herein; (ii) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (iii) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (iv) the provisions of any federal or provincial statutes; or (v) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds any of the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Agreement or the Definitive Documents shall create or be deemed to constitute a breach by any of the Applicants of any Agreement to which any Applicant 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 Applicants entering into the DIP Agreement, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicants pursuant to this Order, the DIP Agreement or the Definitive Documents, and the granting of the Administration Charge, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

22. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a charge in the applicable Applicant's interest in such real property lease.

SERVICE AND NOTICE

23. **THIS COURT ORDERS** that the Applicants, the Monitor and each of their respective counsel and agents are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices or other correspondence, by forwarding true copies thereof by electronic message (including by e-mail) to the Applicants' creditors or other interested parties and their advisors, as applicable. For greater certainty, any such service or distribution shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of subsection 3(c) of the *Electronic Commerce Protection Regulations* (SOR/2013-221).

COMEBACK HEARING

24. **THIS COURT ORDERS** that the balance of the relief sought by the comeback motion in these proceedings is adjourned to, and shall be heard on, February 15, 2024 at 11:00 a.m. (Eastern Time) (the "**Comeback Hearing**").

GENERAL

25. **THIS COURT ORDERS** that any interested party (including the Applicants) may apply to this Court to amend or vary this Order at the Comeback Hearing on not less than four (4) business days' notice to the service list in these proceedings and any other party or parties likely to be affected by the Order sought; provided, however, that the Chargees shall be entitled to rely on this Order as granted and on the Charges and priorities set forth in paragraphs 17 and 19 hereof with respect to any fees, expenses and disbursements incurred, as applicable, until the date this Order may be amended, varied or stayed.

26. **THIS COURT ORDERS** that, notwithstanding paragraph 25 of this Order, each of the Applicants, the Monitor or the Lender Representative Counsel 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 powers and duties hereunder or in the interpretation of this Order.

27. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, 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.

28. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and are 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.

29. **THIS COURT ORDERS** that the Initial Order is hereby amended and supplemented pursuant to this Order, and 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.

 Digitally signed by
Jessica Kimmel
Date: 2024.02.02
13:52:10 -05'00'

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BALBOA INC., DSPLN INC., HAPPY GILMORE INC., INTERLUDE INC., MULTIVILLE INC., THE PINK FLAMINGO INC., HOMETOWN HOUSING INC., THE MULLIGAN INC., HORSES IN THE BACK INC., NEAT NESTS INC. AND JOINT CAPTAIN REAL ESTATE INC.

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

AMENDED INITIAL ORDER

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Lawyers for the Applicants

Appendix “C”



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL SLIP/ENDORSEMENT

COURT FILE NO.: CV-24-00713245-00CL HEARING DATE: January 31, 2024

TITLE OF PROCEEDING: IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BALBOA INC., DSPLN INC., HAPPY GILMORE INC., INTERLUDE INC., MULTIVILLE INC., THE PINK FLAMINGO INC., HOMETOWN HOUSING INC., THE MULLIGAN INC., HORSES IN THE BACK INC., NEAT NESTS INC., AND JOINT CAPTAIN REAL ESTATE INC. NO. ON LIST: _____

BEFORE JUSTICE: KIMMEL

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

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For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
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ENDORSEMENT OF JUSTICE KIMMEL:

1. The court granted an initial order under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") on January 23, 2024 (the "Initial Order") in respect of Balboa Inc., DSPLN Inc., Happy Gilmore Inc., Interlude Inc., Multiville Inc., The Pink Flamingo Inc., Hometown Housing Inc., The Mulligan Inc., Horses In The Back Inc., Neat Nests Inc., and Joint Captain Real Estate Inc. (collectively, the "Applicants"). The reasons for the granting of the relief in the Initial Order are set out in the court's endorsement of January 23, 2024 (the "First Endorsement").
2. Capitalized terms not otherwise defined in this endorsement shall have the meanings ascribed to them in the First Endorsement.
3. The Applicants now seek an extension and expansion of the relief provided under the Initial Order to facilitate and advance these CCAA proceedings by their motion returnable January 31, 2024 (the "Come-Back Motion"), including:
 - a. extending the Initial Stay Period to and including March 28, 2024;
 - b. authorizing but not requiring the Applicants to pay, with the consent of the Monitor (as defined below), certain amounts owing for goods and services actually supplied to the Applicants prior to the date of the Initial Order;
 - c. approving the retention of Howards Capital Corp. ("HCC") as financial advisor to the Applicants (the "Financial Advisor") pursuant to a Financial Advisor Engagement Agreement dated January 24, 2024 (the "Financial Advisor Engagement Agreement"), between the Applicants and HCC, and granting the Financial Advisor Charge to secure the Completion Fee (each as defined below)

and the Applicants' indemnification obligations under the Financial Advisor Engagement Agreement;

- d. approving the Applicants' ability to borrow under a debtor-in-possession credit facility (the "DIP Facility") pursuant to a DIP Agreement dated January 26, 2024 (the "DIP Agreement"), between the Applicants and Harbour Mortgage Corp. (the "DIP Lender"), and granting the DIP Lender's Charge (as defined below) to secure all of the Applicants' obligations under the DIP Agreement and the DIP Facility; and
 - e. expanding the scope of the Administration Charge (as defined below) to include certain fees of the Financial Advisor which are not secured by the Financial Advisor Charge, and increasing the maximum amount of the Administration Charge from \$750,000 to \$1,500,000.
4. The Applicants continue to believe that these CCAA proceedings present the only viable means to preserve and maximize the value of the Business for the benefit of the Applicants' stakeholders. They seek the relief in the ARIO to afford themselves the breathing space needed to pursue a comprehensive refinancing or restructuring and implement a consensual plan of arrangement, if one can be achieved.
 5. Two of the secured Lenders represented by Mr. Nash, supported by other secured lenders represented by Mr. Marshall and Ms. Taylor (collectively, the "Concerned Secured Lenders"), seek an adjournment of this motion for two primary purposes:
 - a. To further investigate the Applicants' assertion, in paragraph 43 of their factum and elsewhere, that: "the Applicants operate as an integrated company ... " and that they meet the criteria set out in section 3 of the CCAA;
 - b. To further consider whether there is a commonality of interests such that it is appropriate for all Lenders, both secured and unsecured, to be included in the same class of creditors and represented by the same Lenders' Representative Counsel, having regard to s. 22(2) of the CCAA, and to ascertain whether the secured lenders' rights to enforce their security, including to sell the mortgaged properties, is at odds with the interests of unsecured creditors whose interests might be better protected by the mortgaged properties not being sold. To this end, there is a desire to hold a meeting among just the secured Lenders.
 6. The court made the following observations in the First Endorsement with respect to the appointment of Lenders' Representative Counsel:
 - a. [at para. 40] The only hesitation that I had was about whether the appointment of Lender Representative Counsel is needed and warranted at this Initial Order stage and whether it was fair to appoint the Representative Counsel that had been proposed by the Applicants without affording the Lenders to choose their own counsel. However, having heard and further considered the submissions of counsel for the Applicants, the proposed Lender Representative Counsel and the proposed Monitor, I am satisfied that an appointment is appropriate at this early stage, specifically to assist in the transmission of information and preliminary advice to the Lenders in advance of the come-back hearing which the proposed Lenders Representative Counsel will take on the responsibility for doing, including at a virtual town hall meeting (without the Applicants) that they plan to hold early next week.
 - b. [at para. 43] I take further comfort in the fact that any Lenders that do not wish to be represented may opt-out in accordance with the Initial Order. They also have full come-back rights in respect of this appointment so it is not set in stone.
 7. Part of the relief sought on the Come-Back Motion was for the approval of a \$12 Million DIP Facility that, if approved, will have a super priority over the secured Lenders' mortgage security. The Concerned Secured Lenders asked that the Come-Back Motion be adjourned and that the decision regarding the DIP Facility ranking ahead of their mortgage security be deferred until after they have had a chance to further pursue their investigation and consideration of the above matters. Mr. Nash requested a four week adjournment initially and later indicated he was asking for three weeks.
 8. The adjournment request was contested. Concerns were raised about the ability of the Applicants to continue to carry on business even during a brief adjournment period.

9. The court heard fulsome submissions from counsel for all interested parties who appeared, after which it was determined that a brief adjournment of the Come-Back Motion would be granted to February 15, 2024. The court determined that certain limited relief and terms of the brief adjournment were necessary and appropriate to preserve the *status quo* and ensure that the intended benefits of these CCAA proceedings are not lost while the Concerned Secured Lenders are given some time to further investigate and consider their positions. The limited relief and terms of adjournment are as follows:
- a. The Stay Period under the Initial Order is extended to February 16, 2024.
 - b. On the basis of the Monitor's submissions that there is an urgent need for funding between now and February 16, 2024, the court approved a reduced interim DIP Facility and corresponding DIP Charge of up to a maximum of \$4 million.
 - c. The DIP Financing shall be used only to satisfy: (i) the conditions of the DIP Lender to the advance of funds (including with respect to the payment of outstanding property tax arrears and an interest reserve), (ii) urgent payments of necessity that arise and must be addressed in this intervening time frame; and (iii) professional fees for services rendered that are the subject of the Administrative Charge.
 - d. The court's authorization for payment of pre-filing indebtedness to essential suppliers is similarly restricted to payments required to address urgent items of necessity that arise and must be addressed in this intervening time frame.
 - e. While the DIP Charge applies to all property of the Applicants, the Applicants have represented, and the Monitor has confirmed, that they are not and will not seek substantive consolidation and that their intention is for the DIP Facility be allocated proportionally and charged against the specific Property of the Applicants that it was used for, to the extent possible.
 - f. The following wording has been provided by the parties for inclusion in this endorsement to reflect this intention:

To the extent possible, the Monitor shall track the costs of these proceedings, including the utilization of the proceeds of the DIP Facility and the incurrence of the costs and liabilities subject to any of the Charges in respect of each of the Applicants and their respective Property, and will provide a recommendation to the Court with respect to the allocation of such amounts among the applicable Properties, which proposed allocation is to be subject to approval by this Court on notice to the Service List in these proceedings. The rights of any interested parties to make arguments as to the appropriate allocation of such amounts among the applicable Properties are hereby reserved, provided that, in all cases, such allocation must provide for the payment in full of all amounts and obligations secured by the Charges.

- g. If the Concerned Secured Lenders still have unanswered questions about the proposed DIP Facility and how the proposed priority of the DIP Charge will work in practice, they may put those questions to the Monitor and the Applicants in writing by 5 p.m. on February 2, 2024 and those questions shall be responded to in writing by 5 p.m. Sunday February 4, 2024.¹

¹ The "affiliates" issue that was raised by the Concerned Secured Lenders (previously addressed in paragraph 43 of the Applicants' factum relied upon for the Initial Order, and considered in paragraph 19 of the court's First Endorsement) was addressed by the submissions about the satisfaction of the requirements of s. 3(2) of the CCAA and the assurances that substantive consolidation is not being sought. The concerns about the rights of secured vs. unsecured Lenders appear to be property specific not company specific.

- h. On the basis of the Monitor's submissions that some of the DIP Facility may need to be used to fund outstanding professional fees that were the subject of the Administrative Charge (that was previously granted with the expectation that there would be a DIP Facility put in place after the initial Stay Period to be used to start paying professionals who have performed services in connection with these CCAA proceedings, as reflected in, for example, paragraphs 48 and 49 of the First endorsement), and that those fees may, by February 16, 2024, exceed the current Administrative Charge, the court approved an increase in the Administrative Charge from \$750,000 to \$1 million.
- i. Having regard to the court's observations and directions, in the intervening period the following shall occur:
 - i. The Monitor shall coordinate with the Concerned Secured Lenders to arrange a meeting of secured Lenders based on an agenda to be prepared by Mr. Nash and Mr. Marshall and their clients, which shall include, without limitation, proposed ground rules for communications among and between secured Lenders and any confidentiality considerations going forward and the question of whether secured lenders wish to appoint separate representative counsel at this time. The Monitor will be in charge of the list of invitees and all communications with secured Lenders about the meeting in advance of the meeting. If need be, Chaitons LLP (appointed as Lenders' Representative Counsel under the Initial Order) shall provide the Monitor with the current contact list for the secured Lenders. All who receive an invitation to that meeting shall be told that if they attend they shall have the right to ask that their names not be publicly disclosed without their permission;
 - ii. The secured Lenders are asked to keep in mind when they consider their immediate position that, as interested parties, the draft order sought on the Come-Back Motion provides that they will still have the ability to come back to seek a variation to the proposed ARIO (if granted) at a later point in time even if they decide that it is not presently necessary for them to seek an order for the appointment of their own representative counsel at this time (for example, if their interests diverge from those of unsecured Lenders when it comes time to vote on a plan);
 - iii. The meeting of secured Lenders shall take place by no later than next Monday Feb. 5, 2024. The Monitor shall attend this meeting;
 - iv. If, following that meeting, any secured Lenders wish to move now to seek to appoint their own separate representative counsel, they shall serve their motion record for such relief by no later than Friday February 9, 2024. To be clear, the court has not pre-determined that this relief will be granted, if requested. The adjournment is simply to afford the secured Lenders the opportunity to consider their position and make the request if they deem it to be advisable;
 - v. If any of the secured Lenders wish to oppose the Come-Back Motion and proposed ARIO on any ground, then they shall file their responding motion record(s) by Friday February 9, 2024, including their responding factum(s).
 - vi. Since the main objection to the Clarke affidavit(s) filed by the Applicants was that it appears to be on information and belief and is not the "best evidence", that shall be addressed in their factum(s) by way of argument;
 - vii. The Applicants' responding/reply motion record(s) and factum(s) shall be delivered by February 12, 2024 (ideally these will be consolidated into a single motion record and factum addressing all that has been raised by the objecting parties);
 - viii. The Monitor shall deliver a further report to provide any updates to the court that it deems appropriate and also to provide the details of any use of the DIP Facility in this intervening time; and

- ix. All materials for the Come-Back Motion and any other motions returnable on February 15, 2024 shall be uploaded onto CaseLines by the February 13, 2024.
 - j. The court's orders and directions provided in this endorsement and the interim Order dated January 31, 2024 are without prejudice to any further motion that may be brought or opposition that may be raised at the Comeback Hearing.
10. The remaining issues that have been raised for the court's consideration on the Come-Back Motion, such as whether:
- a. to further extend the Initial Stay Period;
 - b. the Applicants should be authorized (beyond urgent matters) to make pre-filing payments with the consent of the Monitor;
 - c. HCC should be appointed as Financial Advisor;
 - d. the Administration Charge should be further increased, and the Financial Advisor Charge should be granted; and
 - e. the full amount of the DIP Facility should be approved and the DIP Lender's Charge should be granted,

will be determined at the hearing of the Come-Back Motion on February 15, 2024, together with any other issues raised by motion or opposition through the delivery of materials provided in the terms of adjournment (above).

Order

- 11. For the foregoing reasons, I will sign an interim order dated January 31, 2024 to implement the relief granted in the context of the adjournment of the Come-Back Motion, limited only matters that require amendments or supplements to the Initial Order during the brief adjournment period.
- 12. The balance of the relief sought on the Come-Back Motion is adjourned to February 15 2024 commencing at 11:00 a.m. for two hours.



KIMMEL J.
February 2, 2024

Appendix “D”

From: Balboa <Balboa@ksvadvisory.com>

Sent: Monday, February 12, 2024 4:14 PM

Cc: George Benchetrit <George@chaitons.com>; Nisan Thurairatnam <NThurairatnam@ksvadvisory.com>; Christian Vit <cvit@ksvadvisory.com>; David Sieradzki <dsieradzki@ksvadvisory.com>; Noah Goldstein <ngoldstein@ksvadvisory.com>; Jacobs, Ryan <rjacobs@cassels.com>; jbellissimo@cassels.com

Subject: Balboa Inc. et al. - Notice to Lenders

Pursuant to an Initial Order granted on January 23, 2024 by the Ontario Superior Court of Justice (Commercial List) (the "Court"), KSV Restructuring Inc. was appointed as monitor (the "Monitor") of Balboa Inc., DSPLN Inc., Happy Gilmore Inc., Interlude Inc., Multiville Inc., The Pink Flamingo Inc., Hometown Housing Inc., the Mulligan Inc., Horses In The Back Inc., Neat Nests Inc. and Joint Captain Real Estate Inc. (collectively, the "Applicants") in connection with the Applicants' proceedings commenced under the *Companies' Creditors Arrangement Act* ("CCAA").

The Initial Order also appointed Chaitons LLP as representative counsel (the "Lender Representative Counsel") to the Applicants' secured and unsecured lenders.

Since the granting of the Initial Order, the Lender Representative Counsel and the Monitor have received significant feedback from the Applicants' secured lenders regarding the scope of Lender Representative Counsel's representation, including at a virtual townhall meeting convened on January 29, 2024 and at a virtual meeting of the Applicants' secured lenders held on February 5, 2024 in accordance with the Endorsement of the Honourable Madam Justice Kimmel issued on February 2, 2024. Following consideration of such feedback, the Lender Representative Counsel has determined that the scope of its representation should be limited to the Applicants' secured lenders only. Based on, among other things, that feedback and following discussions with the Lender Representative Counsel, the Applicants and the Monitor support that decision.

Accordingly, the Applicants intend to request that the Court make that change at the next court hearing in the CCAA proceedings, which is scheduled for February 15, 2024 at 11:00 am EST. **Please be advised that, should the Court grant the relief being sought, the Applicants' unsecured lenders will no longer have Court-appointed legal representation. Each of the Applicants' unsecured lenders will nonetheless continue to be permitted to participate in the CCAA proceedings and may retain its own legal representation should it choose to do so at such unsecured lender's cost.**

Court materials filed in, and additional information regarding, the Applicants' CCAA proceedings are available on the Monitor's website at: <https://www.ksvadvisory.com/experience/case/SID>.

KSV RESTRUCTURING INC.
IN ITS CAPACITY AS CCAA MONITOR OF
BALBOA INC., DSPLN INC., HAPPY GILMORE INC.,
INTERLUDE INC., MULTIVILLE INC., THE PINK FLAMINGO INC.,
HOMETOWN HOUSING INC., THE MULLIGAN INC.
HORSES IN THE BACK INC., NEAT NESTS INC. AND JOINT
CAPTAIN REAL ESTATE AND NOT IN ITS PERSONAL CAPACITY

EMAIL: balboa@ksvadvisory.com

CASE WEBSITE: <https://www.ksvadvisory.com/experience/case/SID>