



March 26, 2024

**Second 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.**

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

MARCH 26, 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. was appointed monitor of the Applicants (in such capacity, the "Monitor").
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, among other things:
 - a) granted a stay of proceedings until February 2, 2024 (the “Stay Period”) in respect of the Applicants, the Monitor, 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”) and three of the Applicants’ directors and officers, being Aruba Butt, Dylan Suitor and Ryan Molony (the “Additional Stay Parties”);
 - b) appointed Chaitons LLP (“Chaitons”) as representative counsel (the “Lender Representative Counsel”) to all of the Applicants’ secured creditors (the “Secured Lenders”) and unsecured promissory noteholders (the “Unsecured Lenders”) and approved a mechanism by which a committee of up to six parties would form a committee to instruct Lender Representative Counsel (the “Lender Representatives”); 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. On January 31, 2024, the Court granted an amended Initial Order which, among other things:
 - a) extended the Stay Period to February 16, 2024;
 - b) approved 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 granted a charge in favour of the DIP Lender in the maximum amount of \$4 million (plus interest, fees and expenses) to secure the Applicants’ obligations under the DIP Agreement and DIP Facility (the “DIP Lender’s Charge”);
 - c) increased the maximum amount of the Administration Charge from \$750,000 to \$1 million; and
 - d) authorized the Applicants to pay certain amounts owing to suppliers for goods and services supplied to the Applicants prior to the date of the Initial Order, subject to the consent of the Monitor.
6. Pursuant to an Amended and Restated Initial Order granted on February 15, 2024 (the “ARIO”), a copy of which is attached as Appendix “A”, the Court, among other things:
 - a) extended the Stay Period to March 28, 2024;
 - b) increased the maximum amount of the Administration Charge and the DIP Lender’s Charge to \$1.5 million and \$12 million, respectively;

- c) amended the scope of Lender Representative Counsel by removing the Unsecured Lenders such that the group of creditors represented by Lender Representative Counsel includes only the Secured Lenders; and
- d) directed and empowered the Monitor to (i) 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 Lender Representatives 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 (the “Investigation”), and (ii) report to the Lender Representatives and the Court on the findings of such investigation as the Monitor deems necessary and appropriate.

1.1 Purposes of this Report

1. The purposes of this report (“Report”) are to:
 - a) summarize developments in these proceedings since the granting of the ARIO, including the Applicants’ use of funds drawn on the DIP Facility;
 - b) discuss the rationale for the appointment of Mario Forte of Goldman Sloan Nash & Haber LLP (“GSNH”) as unsecured representative counsel (if appointed in such capacity, the “Unsecured Representative Counsel”) for all of the Applicants’ Unsecured Lenders other than The Lion’s Share Group Inc. (“Lion’s Share”)¹ and any other unsecured lenders directly or indirectly controlled by, or under common control or otherwise affiliated with Lion’s Share or its principal, Claire Drage;
 - c) provide an update on the status of the Investigation being performed by the Monitor pursuant to Paragraph 32(k) of the ARIO;
 - d) summarize the Applicants’ cash flow forecast (the “Cash Flow Forecast”) for the period March 25, 2024 to April 30, 2024 (the “Forecast Period”);
 - e) provide an overview of the Monitor’s activities since its appointment; and
 - f) provide the Monitor’s recommendations regarding the relief sought by the Applicants.

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 and its legal counsel.

¹ On March 16, 2024, Lion’s Share filed a notice of intention to make a proposal under the *Bankruptcy and Insolvency Act*. The Fuller Landau Group was appointed as proposal trustee.

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 disclosed ownership in 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. 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 disclosed 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. Through due diligence searches, the Monitor has recently discovered and made inquiries of the Applicants concerning four properties that may have been misidentified or are incremental to the Properties. The Applicants have responded to the Monitor’s inquiries concerning these properties and the Monitor will report further if and as required.
4. The Applicants’ principal stakeholders are their first and second mortgagees, which are owed approximately \$81.5 million and \$8.6 million, respectively. The Applicants have advised the Monitor that they believe that the amount owing to the Unsecured Lenders is significantly less than the amount initially provided by Ms. Drage, being approximately \$54.2 million. A claims process to be carried out over the course of these proceedings will ultimately determine the quantum of the Applicants’ secured and unsecured obligations.

5. The Affidavits of Robert Clark sworn January 23, 2024 (the “First Clark Affidavit”) and January 28, 2024 (the “Second Clark Affidavit”) and KSV’s Pre-Filing Report dated January 23, 2024 (the “Pre-Filing Report”), First Report to Court dated January 29, 2024 (the “First Report”) and the Supplement to the First Report dated February 13, 2024 (the “Supplemental Report”) each sets 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, the Second Clark Affidavit and the Monitor’s reports, which are available on the Monitor’s website at the following link: <https://www.ksvadvisory.com/experience/case/sid> (the “Case Website”).

3.0 Unsecured Lender Representative Counsel

1. The Initial Order appointed Chaitons as Lender Representative Counsel for both the Secured and Unsecured Lenders in these CCAA proceedings. As a result of, *inter alia*, potential conflict and other issues raised by certain Secured Lenders, the ARIO removed the Unsecured Lenders from the group represented by Chaitons.
2. Since the issuance of a notice sent to the Unsecured Lenders on February 12, 2024 and the ARIO, the Monitor has heard from a number of Unsecured Lenders expressing the view that separate legal representation for the Unsecured Lenders should be restored and that the costs of such separate counsel should be borne by the Applicants.
3. On February 26, 2024, the Monitor convened a virtual townhall with the Unsecured Lenders to discuss, among other things, the appointment of Unsecured Representative Counsel. On March 4, 2024, the Monitor convened another virtual townhall at which Mr. Forte of GSNH was introduced to the Unsecured Lenders as proposed Unsecured Representative Counsel. Since that time, the Monitor has communicated to stakeholders that GSNH’s appointment as Unsecured Representative Counsel would be sought at the next Court attendance in these proceedings.
4. The proposed Order excludes Ms. Drage, Windrose and Lion’s Share from representation by the Unsecured Representative Counsel. It is the Monitor’s understanding that they have retained their own counsel.
5. The Monitor is supportive of GSNH’s appointment as Unsecured Representative Counsel in these proceedings for the following reasons:
 - a) Unsecured Lenders had access to Court-appointed paid legal representation at the outset of these CCAA proceedings, but such representation ended when the mandate of Chaitons was amended such that they became counsel for the Secured Lenders only;
 - b) there are over 800 promissory notes and 300 Unsecured Lenders. The Monitor believes that the appointment of Unsecured Representative Counsel and the terms thereof are in the best interests of the Applicants and all of their stakeholders. It will provide an efficient way to streamline communications and dealings with the Unsecured Lender group, absent which significant cost and confusion may result if individual counsel were to represent some or all of the Unsecured Lenders, many of which would likely not have the benefit of experience acting in complex CCAA proceedings;

- c) the proposed terms of GSNH's mandate mirror those of Chaitons, meaning the Unsecured Lenders are effectively being granted the same Court-ordered legal representation as they were afforded under the Initial Order, including that the costs of Unsecured Representative Counsel are to be borne by the Applicants and covered by the Administration Charge;
- d) Mr. Forte of GSNH is highly qualified for this role. He has extensive experience acting as representative counsel in complex CCAA proceedings;
- e) the Monitor has only heard positive feedback about Mr. Forte and/or GSNH from Unsecured Lenders following the townhall meeting on March 4, 2024;
- f) the Monitor understands that the Applicants support, and that the Lender Representatives consent to, the appointment of Mr. Forte of GSNH as Unsecured Representative Counsel;
- g) each Unsecured Lender will have the ability to opt-out of the proposed representation; and
- h) approximately 602 of the promissory notes were issued to Lion's Share, of which Ms. Drage is the Chief Executive Officer. The remaining promissory notes were issued in favour of various individual lenders sourced by The Windrose Group Inc. ("Windrose"), a mortgage brokerage, through its principal broker, Ms. Drage. Given the potential conflicts resulting from claims made by certain Unsecured Lenders against Lion's Share, Windrose and/or Ms. Drage, the Monitor believes it is appropriate for these parties to be excluded from the group of Unsecured Lenders represented by Unsecured Representative Counsel. The Monitor has advised Ms. Drage of the proposed exclusion and understands that Lion's Share, Windrose and/or Ms. Drage are not opposed to the proposed relief in this regard.

4.0 The Investigation

1. Immediately following the granting of the ARIO, the Monitor commenced its Investigation. As at the date of this Report, the Monitor's activities in connection with the Investigation have included:
 - preparing and sending an information request to the Applicants, including for bank statements, credit card statements, general ledger and other accounting information;
 - corresponding with Cassels to design and plan an approach for the Investigation, particularly as it relates to the Applicants' use of lender advances prior to these proceedings and other pre-filing and related party transactions;
 - corresponding with Bank of Montreal and TD Bank to request bank statements and other supporting documentation, including canceled cheques and wire payment information;
 - reviewing and analyzing eleven general ledgers provided by the Applicants covering the period from March 2019 to December 2022 and preparing a summary of receipts and disbursements;

- reviewing and analyzing the Applicants' bank statements covering periods from July 2020 to December 2022 and performing a reconciliation of the general ledger information to bank statements;
 - reviewing and analyzing credit card statements for Interlude Inc. covering a period from January 2022 to February 2024 and performing a reconciliation of the transactions reflected on the credit card statements to the general ledgers;
 - summarizing the Applicants' bank statements to analyze certain of the Applicants' transactions, including related-party transactions;
 - summarizing the net disbursements from the Applicants' bank accounts to the Additional Stay Parties and other related parties;
 - reviewing property title searches, PINs and other real property information to identify and examine certain property transfers, including to related parties;
 - corresponding with several creditors regarding allegations of property transfers and misappropriation of assets;
 - working with Cassels to prepare letters to Bennett Jones dated March 8, 13 and 21, 2024 outlining the Monitor's preliminary questions and further information requests on certain payments and other transactions identified by the Monitor over the course of its Investigation; and
 - reviewing the responses received from Bennett Jones dated March 15, 20, 24 and 25 2024².
2. In the course of its investigation, including its review of property title searches, bank statements and/or credit card statements, the Monitor has identified, among other things, certain transactions, property transfers and payments (including business development expenses) involving the Additional Stay Parties that the Monitor believes requires further and deeper investigation. The Monitor, through Cassels, has made diligence requests and inquiries of the Applicants and the Additional Stay Parties in respect of the foregoing. The Applicants have been responsive to the requests made by the Monitor to date.
 3. At this time, the Monitor has not received a substantive response from the Additional Stay Parties in respect of issues it has identified. Letter correspondence was sent to the Additional Stay Parties dated February 28, 29 and March 8, 2024. On March 15, 2024, legal counsel to the Additional Stay Parties and Robert Clark sent a letter to Cassels, to which Cassels responded on March 18, 2024. Copies of these letters are provided in Appendix "C". The Additional Stay Parties have since committed to cooperate with the Monitor in the fulfillment of its Investigation mandate.
 4. As at the date of this Report, the Investigation is ongoing. The Monitor has not formed any conclusions at this time. The Monitor does not intend to respond to stakeholder inquiries on the Investigation at this time. The Monitor's overall findings will be summarized in a report to be filed with the Court once the Investigation is completed.

² The letters and exhibits provided by Bennett Jones were marked as confidential and, accordingly, are not appended to this Report. The Monitor's review of these responses is in process.

5.0 Cash Flow Forecast

1. The Applicants have prepared the Cash Flow Forecast with the assistance of 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. A comparison between the Applicant's actual cash flow for the eight-week period ended March 22, 2024 and the cash flow previously filed with the Court is reflected in the table below.

(unaudited; C\$000s)	Actual	Projected	Variance
Receipts			
Net rent collections	686	775	(88)
Miscellaneous receipts	8	-	8
Total Receipts	694	775	(81)
Disbursements			
Property taxes	(413)	(179)	(234)
Insurance	(391)	(120)	(271)
Repairs & Maintenance	(212)	(139)	(73)
Other	(104)	(66)	(38)
Utilities	-	(76)	76
Total Disbursements	(1,119)	(580)	(540)
Other Disbursements			
Property tax arrears	(2,355)	(2,200)	(155)
DIP Facility costs and interest	(494)	(490)	(4)
Professional fees	(536)	(2,000)	1,464
Pre-filing arrears ³	(121)	(1,180)	1,059
Renovations	(53)	(2,625)	2,572
Total Other Disbursements	(3,558)	(8,495)	4,937
Net Cash Flow	(3,984)	(8,300)	4,316
Opening Cash Balance	(10)	-	(10)
Net Cash Flow	(3,984)	(8,300)	4,316
DIP Funding	6,133	9,000	(2,867)
Closing Cash Balance	2,140	700	1,440

3. As reflected in the table above, the Applicants have drawn approximately \$6.1 million of the \$12 million available under the DIP Facility. The Applicants were projected to have drawn approximately \$9 million to-date. The favourable variances reflected above, including for renovations and professional fees, are largely expected to be timing differences. In respect of the delay in forecasted renovations, in accordance with the ARIO, the Monitor has been requesting and reviewing scope of work information, photos and other supporting documentation before providing its approval for the Applicants to incur renovation costs.

³ The ARIO requires the Monitor's prior written consent for the Applicants to pay any pre-filing obligations and sets out specific criteria the Monitor is to consider before authorizing any pre-filing payments. The Monitor has not authorized any such payment of arrears owing to related parties.

4. 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".

6.0 Stay Extension

1. The Stay Period currently expires on March 28, 2024. The Applicants are requesting an extension of the Stay Period until April 30, 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 ARIO) for the remainder of the Stay Period.
2. The Monitor has advised the Applicants that it will only support a stay extension until April 30, 2024 and that the Monitor and Secured Representative Counsel expect the Applicants to bring a motion to approve a sale and investment solicitation process ("SISP") and claims process as soon as possible and in any event prior to the end of the Stay Period. The Applicants and the Monitor agreed that such motion requires input from Unsecured Representative Counsel and, accordingly, could not be sought prior to this motion.
3. Based on the information available to the Monitor at this time, the Monitor supports the extension request for the following reasons:
 - a) the Applicants are acting in good faith and with due diligence to advance these CCAA proceedings;
 - b) the Applicants have been working with Bennett Jones to respond to the Monitor's preliminary information requests in the context of the Investigation;
 - c) the Investigation remains ongoing and the Monitor has not yet come to any conclusions;
 - d) an extension of the Stay Period will provide the Applicants time to work with the Monitor, Lender Representative Counsel and Unsecured Representative Counsel (if appointed) to develop and implement (if approved) the SISP. In this regard, the Monitor has assisted the Applicants to obtain proposals (or revised proposals) from a total of four firms to serve as a financial advisor for the principal purpose of executing a SISP under the oversight of the Monitor. The Applicants and the Monitor are speaking with those potential candidates and it is expected that a motion to approve a SISP will be brought as soon as possible and in any event prior to the proposed expiry of the Stay Period; and
 - e) the Applicants have advised that they intend to work with the Monitor, Lender Representative Counsel and Unsecured Representative Counsel to formulate and seek Court approval of a claims process prior to the expiry of the Stay Period.

7.0 Overview of the Monitor's Activities

1. At the next motion in these proceedings, the Monitor will be seeking approval of this Report, the Pre-Filing Report, the First Report and the Supplemental Report, including the Monitor's activities described therein.
2. Since its appointment, the Monitor's activities have included, among other things:
 - corresponding regularly with the Applicants, Bennett Jones and Cassels regarding all aspects of this CCAA proceeding;
 - corresponding daily with the Applicants' creditors;
 - mailing and emailing the CCAA notice to the Applicants' creditors and filing Forms 1 and 2 with the Office of the Superintendent of Bankruptcy, as required under the CCAA and the Initial Order, as applicable;
 - arranging for notice of the CCAA proceeding to be published in the *Globe and Mail (National Edition)* on January 30, 2024, as required under the Initial Order;
 - posting the CCAA notice, list of creditors and other Court materials on the case website;
 - monitoring the Applicants' receipts and disbursements on a daily basis;
 - performing the Investigation, including the activities detailed in Section 4 of this Report;
 - preparing multiple statements of receipts and disbursements to reconcile and summarize all activity in the Applicants' bank accounts;
 - assisting the Applicants to prepare updated cash flow forecasts;
 - reviewing and commenting on multiple versions of the DIP Agreement between the Applicants and the DIP Lender;
 - corresponding with the Applicants and Bennett Jones regarding advance requests under the DIP Facility;
 - reviewing multiple critical payment requests submitted by the Applicants;
 - reviewing scope of work requests from the Applicants in respect of renovations to be completed during these proceedings;
 - reviewing weekly progress reports submitted by the Applicants regarding the status of renovations and discussing related issues with the Applicants;
 - corresponding with Chaitons in respect of the formation of a committee of Lender Representatives and attending weekly update meetings with the Lender Representatives and Chaitons;

- working with the Applicants, Chaitons and Bennett Jones to settle a form of non-disclosure agreement (“NDA”) between the Applicants and the Lender Representatives, which NDA remains outstanding as at the date of this Report;
- corresponding with GSNH regarding its potential appointment as Unsecured Representative Counsel to the Unsecured Lenders;
- attending and convening a meeting with the Unsecured Lenders and GSNH on February 26, 2024;
- corresponding with Co-operators Insurance Brokerage in respect of the Applicants’ insurance policies;
- corresponding with various cities and municipalities regarding the payment of property tax arrears;
- reviewing and commenting on all Court materials filed in these proceedings; and
- drafting the Pre-Filing Report, the First Report, the Supplemental Report and this Report.

8.0 Conclusion and Recommendation

1. Based on the foregoing, the Monitor respectfully recommends that this Court make the Order sought by the Applicants.

* * *

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”

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE) TUESDAY, THE 23RD
)
JUSTICE KIMMEL) DAY OF JANRUARY, 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")

INITIAL ORDER

THIS APPLICATION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day by judicial videoconference via Zoom.

ON READING the affidavit of Robert Clark sworn January 23, 2024 and the Exhibits thereto, and the Pre-Filing Report of KSV Restructuring Inc. ("**KSV**") as the proposed monitor dated January 23, 2024, and on being advised that the secured creditors who are likely to be affected by the charge created herein were given notice, and on hearing the submissions of counsel to the Applicants, counsel to KSV, the proposed Lender Representative Counsel (as defined below), and such other counsel that were present, and on reading the consent of KSV to act as the monitor (in such capacity, the "**Monitor**"),

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that each of the Applicants is a company to which the CCAA applies.

POSSESSION OF PROPERTY AND OPERATIONS

3. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their respective current and future assets, licences, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the "**Business**") and the Property. The Applicants are authorized and empowered to continue to retain and employ the employees, consultants, contractors, agents, experts, accountants, counsel and such other persons (collectively, "**Assistants**") currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

4. **THIS COURT ORDERS** that the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to, on, or after the date of this Order:

- (a) all outstanding and future wages, salaries, commissions, employee and pension benefits (including, without limitation, employee medical, dental, vision, insurance and similar benefit plans or arrangements), vacation pay and employee expenses payable prior to, on, or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements, and all other payroll and benefits processing and servicing expenses; and

- (b) the fees and disbursements of any Assistants retained or employed by any of the Applicants in respect of these proceedings, at their standard rates and charges.

5. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after the date of this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors' and officers' insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied or to be supplied to any of the Applicants on or following the date of this Order.

6. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, and (iii) income taxes;
- (b) all goods and services taxes, harmonized sales taxes or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by any of the Applicants in connection with the sale of goods and services by any of the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of

municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by any of the Applicants.

7. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicants are hereby directed, until further Order of this Court: (i) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of this date; (ii) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of the Property; and (iii) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

8. **THIS COURT ORDERS** that each of the Applicants shall, subject to such requirements as are imposed by the CCAA, have the right to:

- (a) dispose of redundant or non-material assets not exceeding \$50,000 in any one transaction or \$100,000 in the aggregate; and
- (b) pursue all avenues of refinancing, restructuring, selling or reorganizing its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing, restructuring, sale or reorganization,

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business.

NO PROCEEDINGS AGAINST THE APPLICANTS, THE BUSINESS OR THE PROPERTY

9. **THIS COURT ORDERS** that until and including February 2, 2024, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**", and collectively, "**Proceedings**") shall be commenced or continued against or in respect of any of the Applicants or the Monitor, or their respective

employees, advisors, counsel and other representatives acting in such capacities, or affecting the Business or the Property, except with the prior written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the Applicants, or their respective employees, advisors, counsel and other representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended pending further Order of this Court or the prior written consent of the Applicants and the Monitor.

10. **THIS COURT ORDERS** that during the Stay Period, no Proceeding shall be commenced or continued against or in respect of Aruba Butt, Dylan Suitor and/or Ryan Molony (collectively, the "**Additional Stay Parties**"), or against or in respect of any of the Additional Stay Parties' current or future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, and including all proceeds thereof (collectively, the "**Additional Stay Parties' Property**") with respect to any guarantee, contribution or indemnity obligation, liability or claim in respect of or that relates to any agreement involving any of the Applicants or the obligations, liabilities and claims of and against any of the Applicants (collectively, the "**Related Claims**"), except with the prior written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Additional Stay Parties or the Additional Stay Parties' Property in respect of the Related Claims are hereby stayed and suspended pending further Order of this Court or the prior written consent of the Applicants and the Monitor.

NO EXERCISE OF RIGHTS OR REMEDIES

11. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, organization, governmental unit, body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of any of the Applicants or the Monitor, or their respective employees, advisors and other representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended except with the prior written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall: (i) empower any Applicant to carry on any business which such Applicant is not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by

section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

12. **THIS COURT ORDERS** that during the Stay Period, no Person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, rescind, terminate or cease to perform any right, renewal right, contract, agreement, lease, sublease, licence, authorization or permit in favour of or held by any of the Applicants, except with the prior written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

13. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements or arrangements with any of the Applicants or statutory or regulatory mandates for the supply or license of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, cash management services, payroll and benefit services, accounting services, temporary labour and staffing services, warehouse and logistics services, security services, insurance, transportation services, maintenance services, construction services, utility or other services to the Business or any of the Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply or license of such goods or services as may be required by any of the Applicants or exercising any other remedy provided under the agreements or arrangements, and that each of the Applicants 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 applicable Applicant in accordance with the normal payment practices of the applicable Applicant or such other practices as may be agreed upon by the supplier or service provider and the applicable Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

14. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, 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 date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to any of the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

APPOINTMENT OF LENDER REPRESENTATIVE COUNSEL

15. **THIS COURT ORDERS** that Chaitons LLP (the "**Lender Representative Counsel**") is hereby appointed as representative counsel for all of the secured and unsecured lenders of the Applicants (collectively, the "**Lenders**"), including, without limitation, all of the Lenders that have RRSPs or other registered accounts administered by Olympia Trust Company, in these proceedings, any proceeding under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") or in any other proceeding respecting the insolvency of the Applicants that may be brought before this Court (collectively, the "**Insolvency Proceedings**"), for any issues affecting the Lenders in the Insolvency Proceedings, including, without limitation, with respect to the settlement or compromise of any rights, entitlements or claims of the Lenders.

16. **THIS COURT ORDERS** that the Lender Representative Counsel shall be entitled but not required to commence the process of identifying no more than six (6) Lenders to be nominated as Court-appointed representatives (collectively, the "**Lender Representatives**") as soon as practicable following the date hereof. The Lender Representatives, if and once appointed, shall represent the Lenders other than any Opt-Out Lender (as defined below), if any, in the Insolvency Proceedings and advise, and where appropriate instruct, the Lender Representative Counsel, including, without limitation, for the purpose of settling or compromising claims of the Lenders in the Insolvency Proceedings. The Lender Representative Counsel may rely upon the advice, information and instructions received from the Lender Representatives, if any, in carrying out its mandate without further communications or instructions from the Lenders, except as may be recommended by the Lender Representative Counsel or ordered by this Court.

17. **THIS COURT ORDERS** that, with the exception of any Opt-Out Lender, (i) the Lender Representative Counsel and the Lender Representatives, if any, shall represent all of the Lenders in the Insolvency Proceedings, and (ii) the Lenders shall be bound by the actions of the Lender Representative Counsel and the Lender Representatives, if any, in the Insolvency Proceedings.

18. **THIS COURT ORDERS** that, subject to confidentiality arrangements acceptable to the Applicants and the Monitor, the Applicants, The Windrose Group Inc. and Lift Capital Incorporated shall provide the following information to the Lender Representative Counsel (collectively, the "**Lender Information**"), in each case, without charge: (i) the names, last known address, last known email addresses (if any) and entitlements of all of the Lenders (excluding any Opt-Out Lender that has delivered an Opt-Out Notice (as defined below) prior to the delivery of the Information), in each case, to the extent in the possession or control of the Applicants, The Windrose Group Inc. and/or Lift Capital Incorporated, to be used solely for the purposes of the Insolvency Proceedings; and (ii) upon request of the Lender Representative Counsel, such documents and data as may be reasonably relevant to the issues affecting the Lenders in the Insolvency Proceedings, to the extent in the possession or control of the Applicants, The Windrose Group Inc. and/or Lift Capital Incorporated. In providing the Lender Information, these parties are not required to obtain the express consent of any Lender authorizing the disclosure of the Lender Information to the Lender Representative Counsel for the purposes of the Insolvency Proceedings, and further, in accordance with clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, each of these parties is authorized and permitted to disclose the Lender Information to the Lender Representative Counsel for the purposes of the Insolvency Proceedings, without the knowledge or consent of the Lenders.

19. **THIS COURT ORDERS** that notice of the appointment of Lender Representative Counsel shall be provided by: (i) the Lender Representative Counsel sending a letter to the Lenders at the addresses provided pursuant to paragraph 18 of this Order, advising of such appointment as soon as practicable following the date hereof; (ii) the inclusion of the details of such appointment in the CCAA Notice (as defined below); and (iii) the posting of notice of such appointment on the Monitor's Website (as defined below).

20. **THIS COURT ORDERS** that any Lender who does not wish to be represented by the Lender Representative Counsel and the Lender Representatives, if any, in the Insolvency Proceedings shall, within thirty (30) days of the date hereof, notify the Monitor and the Lender Representative Counsel in writing that such Lender is opting out of representation by the Lender Representative Counsel and the Lender Representatives, if any, by delivering to the Monitor and the Lender Representative Counsel an opt-out notice in the form attached as Schedule "A" hereto

(each, an "**Opt-Out Notice**"), and shall thereafter not be bound by the actions of the Lender Representative Counsel or the Lender Representatives, if any, and shall represent itself or themselves, as the case may be, or be represented by any counsel that such Lender may retain at its or their, as the case may be, sole expense (each such Lender that delivers an Opt-Out Notice in compliance with the terms of this paragraph, an "**Opt-Out Lender**"). The Monitor shall deliver copies of all Opt-Out Notices received to the Applicants as soon as reasonably practicable.

21. **THIS COURT ORDERS** that all reasonable and documented fees and disbursements as may have been incurred by the Lender Representative Counsel prior to the date of this Order or which shall be incurred by the Lender Representative Counsel shall be paid by the Applicants on a bi-weekly basis, forthwith upon the rendering of accounts to the Applicants. Any disagreement regarding such fees and disbursements may be remitted to this Court for determination.

22. **THIS COURT ORDERS** that no action or proceeding may be commenced against the Lender Representative Counsel or the Lender Representatives, if any, in such capacities and/or in respect of the performance of their duties under this Order, without leave of this Court on seven (7) days' notice to the Lender Representative Counsel or the Lender Representatives, as applicable, the Applicants and the Monitor.

23. **THIS COURT ORDERS** that the Lender Representative Counsel is authorized to take all steps and to do all acts necessary or desirable to carry out the terms of this Order, including dealing with any Court, regulatory body or government ministry, department or agency, and to take all such steps as are necessary or incidental thereto. The Lender Representative Counsel and the Lender Representatives, if any, shall have no liability as a result of their appointment or the fulfillment of their duties in carrying out the provisions of this Order save and except for any gross negligence or wilful misconduct on their part.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

24. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of any of the Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any

obligations of any of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

APPOINTMENT OF MONITOR

25. **THIS COURT ORDERS** that KSV is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by any of the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

26. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicants' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) advise the Applicants in their preparation of the Applicants' cash flow statements;
- (d) monitor all payments, obligations and transfers as between the Applicants;
- (e) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Business and financial affairs or to perform its duties arising under this Order;

- (f) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (g) perform such other duties as are required by this Order or by this Court from time to time.

27. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or the Property, or any part thereof.

28. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act* or the *Ontario Occupational Health and Safety Act*, and regulations thereunder (collectively, "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

29. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicants with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants is

confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

30. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Monitor under the CCAA or as an officer of this Court, neither the Monitor nor its employees, advisors and other representatives acting in such capacities shall incur any liability or obligation as a result of the Monitor's appointment or the carrying out by it of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded to the Monitor by the CCAA or any applicable legislation.

31. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants in these proceedings 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 date of this Order, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel to the Monitor and counsel to the Applicants in these proceedings on a bi-weekly basis or pursuant to such other arrangements agreed to between the Applicants and such parties and, in addition, the Monitor, and counsel to the Applicants are hereby authorized to maintain their respective retainers, if any, provided by the Applicants prior to the commencement of these proceedings, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

32. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

33. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, the Applicants' counsel and the Lender Representative Counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$750,000, unless permitted by further Order of this Court, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order. The Administration Charge shall have the priority set out in paragraph 35 hereof.

VALIDITY AND PRIORITY OF THE CHARGE CREATED BY THIS ORDER

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

35. **THIS COURT ORDERS** that the Administration Charge (as constituted and defined herein) shall constitute a charge on the Property and such Administration Charge 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; provided that the Administration Charge shall rank behind Encumbrances in favour of any Persons that have not been served with notice of the application for this Order. The Applicants and the beneficiaries of the Administration Charge shall be entitled to seek priority of the Administration Charge ahead of such Encumbrances on a subsequent motion including, without limitation, at the Comeback Hearing (as defined below), on notice to those Persons likely to be affected thereby.

36. **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, the Administration Charge, unless the Applicants also obtain the prior written consent of the Monitor and the beneficiaries of the Administration Charge, or further Order of this Court.

37. **THIS COURT ORDERS** that the Administration Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Administration Charge (collectively, the "**Chargees**") 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) the creation of the Administration Charge shall not 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 creation of the Administration Charge; and
- (c) the payments made by the Applicants pursuant to this Order 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.

38. **THIS COURT ORDERS** that the Administration 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

39. **THIS COURT ORDERS** that the Monitor shall: (i) without delay, publish in the *Globe and Mail (National Edition)*, a notice containing the information prescribed under the CCAA (the "**CCAA Notice**"); and (ii) within ten (10) days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against any of the Applicants of more than \$1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with subsection 23(1)(a) of the CCAA and the regulations made thereunder, provided that the Monitor shall not make the claims, names and addresses of the individuals who are creditors publicly available.

40. **THIS COURT ORDERS** that The Guide Concerning Commercial List E-Service (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, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended (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/sid> (the "**Monitor's Website**").

41. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Guide or the CCAA and the regulations thereunder is not practicable, the Applicants, the Monitor, 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 true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile or other electronic transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown in the books and records of the Applicants and that any such service, distribution or notice shall be deemed to be received: (i) if sent by courier, on the next business day following the date of forwarding thereof; (ii) if delivered by personal delivery or facsimile or other electronic transmission, on the day so delivered; and (iii) if sent by ordinary mail, on the third business day after mailing.

42. **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

43. **THIS COURT ORDERS** that the comeback motion in these proceedings shall be heard on January 31, 2024 at 9:30 a.m. (Eastern Time) (the "**Comeback Hearing**").

GENERAL

44. **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 two (2) business days' notice to the service list in these proceedings and any other Persons 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 Administration Charge and priorities set forth in paragraph 35 hereof with respect to any fees, expenses and disbursements incurred, as applicable, until the date this Order may be amended, varied or stayed.

45. **THIS COURT ORDERS** that, notwithstanding paragraph 44 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.

46. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of any of the Applicants, the Business or the Property.

47. **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.

48. **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.

49. **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.

 Digitally signed by
Jessica Kimmel
Date: 2024.01.23
17:50:43 -05'00'

SCHEDULE "A"
FORM OF OPT-OUT NOTICE

To: Chaitons LLP, in its capacity as Court-appointed Lender Representative Counsel
5000 Yonge Street, 10th Floor
North York, ON M2N 7E9
Attention: George Benchetrit
Email: george@chaitons.com

KSV Restructuring Inc., in its capacity as Court-appointed Monitor
220 Bay Street, 13th Floor
Toronto, ON M5J 2W4
Attention: Christian Vit
Email: cvit@ksvadvisory.com

with a copy to:

Bennett Jones LLP
Applicants' Counsel
3400 One First Canadian Place
Toronto, ON M5X 1A4
Attention: Joshua Foster
Email: fosterj@bennettjones.com

with a copy to:

Cassels Brock & Blackwell LLP
Monitor's Counsel
Suite 3200, Bay Adelaide Centre – North Tower
40 Temperance Street
Toronto, ON M5H 0B4
Attention: Ryan Jacobs and Joseph Bellissimo
Email:
rjacobsj@cassels.com/jbellissimo@cassels.com

I, in my individual capacity or in my capacity as an authorized representative of the undersigned, as applicable (in either capacity, the "**Opt-Out Lender**"), hereby provide written notice that the Opt-Out Lender does not wish to be represented by Chaitons LLP, representative counsel (the "**Lender Representative Counsel**") for all of the secured and unsecured lenders 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 any proceeding respecting the insolvency of the Applicants (the "**Insolvency Proceedings**"). By opting out of this representation, the Opt-Out Lender hereby acknowledges and understands that if it wishes to take part in the Insolvency Proceedings, then it must do so as an independent party. Further, the Opt-Out Lender hereby acknowledges and understands that it is responsible for its own legal representation or for retaining its own legal counsel should it choose to do so, and that it would be personally liable for the costs of its own legal representation.

The Opt-Out Lender hereby acknowledges and understands that a copy of this Opt-Out Notice will be provided to the Applicants.

Witness

Signature of Opt-Out Lender or its
authorized representative

Name of individual or authorized
representative of the Opt-Out Lender:

Name of Opt-Out Lender
(if not a natural person):

Address:

Telephone:

**TO OPT OUT, THIS FORM MUST BE COMPLETED AND RECEIVED AT THE
ABOVE ADDRESS ON OR BEFORE FEBRUARY 22, 2024.**

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

INITIAL ORDER

BENNETT JONES LLP

3400 One First Canadian Place
P.O. Box 130
Toronto, Ontario M5X 1A4

Sean Zweig (LSO# 57307I)

Tel: (416) 777-6254

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Joshua Foster (LSO# 79447K)

Tel: (416) 777-7906

Email: fosterj@bennettjones.com

Thomas Gray (LSO# 82473H)

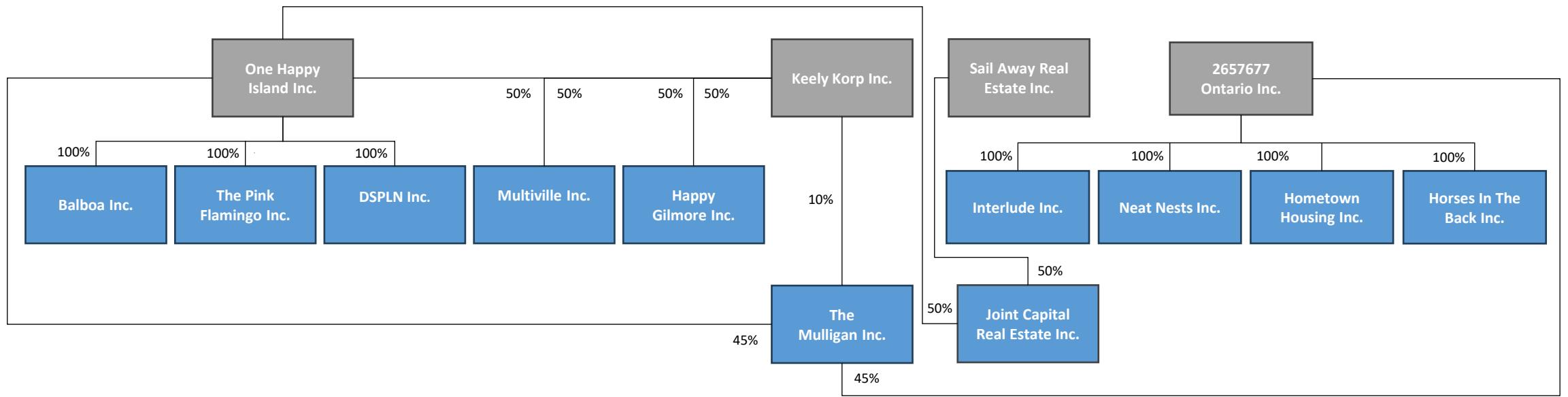
Tel: (416) 777-7924

Email: grayt@bennettjones.com

Lawyers for the Applicants

Appendix “B”

Non-Applicant
 Applicant



Appendix “C”



February 28, 2024

By Email - dylan@elevationrealty.ca

Dylan Suitor
1 King Street West, 10th Floor,
Hamilton, ON L8P 1A4

cpendrith@cassels.com
tel: +1 416 860 6765

Dear Mr. Suitor:

Re: 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. et al. (Court File No.: CV-24-00713245-00CL)

We are counsel to KSV Restructuring Inc. in its capacity as court-appointed monitor of the assets, business and financial affairs of the Applicants in the above-noted CCAA proceeding (the "**Monitor**"). As you are aware, the Monitor is directed and empowered to conduct an investigation, as set out in paragraph 32(k) of the Amended and Restated Initial Order of Justice Kimmel in this matter, dated February 15, 2024 (the "**ARIO**").

The Monitor has received information from several investors in the Applicants that concern the sale and/or transfer of real properties owned, directly or indirectly, by you. In particular, we note that the property located at 12 Inglewood Road in St. Catharines, Ontario was recently listed for sale.

The Monitor must be kept apprised of all listings and sales and/or transfers of property owned, directly or indirectly, by you as well as each of the Applicants and the Additional Stay Parties (as defined in the ARIO). To that end, kindly provide us with a complete list of all such properties, details of all listings, listing agreements and any agreements of purchase and sale entered into or completed within the last 12 months. For each property where a sale or transfer is contemplated, including the Inglewood Road property referenced above, please provide details concerning the intended use of the transaction proceeds.

Please consider this a standing information request and provide any updates as applicable.

We appreciate your assistance and look forward to your prompt response.

Yours truly,

Cassels Brock & Blackwell LLP

A handwritten signature in black ink, appearing to read 'CP', is centered on a light gray rectangular background.

Colin Pendrith
Partner

cc: Sean Zweig, Joshua Foster and Thomas Gray (Bennett Jones)
cc: Ryan Jacobs, Shayne Kukulowicz, Joe Bellissimo and John M. Picone (Cassels)
cc: Noah Goldstein and David Sieradzki (KSV)
LEGAL*61966664.3



February 29, 2024

By Email: **aruba@siddevelopments.ca**
 ryan@siddevelopments.ca

cpendrith@cassels.com
tel: +1 416 860 6765

Aruba Butt
1233 Coric Avenue
Burlington, ON L7R 3S4

Ryan Molony
70 Waterford Crescent
Stoney Creek, ON L8E 4Z9

Dear Ms. Butt and Mr. Molony:

Re: 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. et al. (Court File No.: CV-24-00713245-00CL)

We are counsel to KSV Restructuring Inc. in its capacity as court-appointed monitor of the assets, business and financial affairs of the Applicants in the above-noted CCAA proceeding (the "**Monitor**"). As you are aware, the Monitor is directed and empowered to conduct an investigation, as set out in paragraph 32(k) of the Amended and Restated Initial Order of Justice Kimmel in this matter, dated February 15, 2024 (the "**ARIO**").

The Monitor must be kept apprised of all listings and sales and/or transfers of property owned, directly or indirectly, by you as well as each of the Applicant. To that end, kindly provide us with a complete list of all such properties, details of all listings, listing agreements and any agreements of purchase and sale entered into or completed within the last 12 months. For each property where a sale or transfer is contemplated, please provide details concerning the intended use of the transaction proceeds.

Please consider this a standing information request and provide any updates as applicable.

We appreciate your assistance and look forward to your prompt response.

Yours truly,

Cassels Brock & Blackwell LLP

A handwritten signature in black ink, appearing to read 'CP', is centered on a light gray rectangular background.

Colin Pendrith
Partner

cc: Sean Zweig, Joshua Foster and Thomas Gray (Bennett Jones)
cc: Ryan Jacobs, Shayne Kukulowicz, Joe Bellissimo and John M. Picone (Cassels)
cc: Noah Goldstein and David Sieradzki (KSV)
LEGAL*61978327.2

Cassels

March 8, 2024

By Email - dylan@elevationrealty.ca

Dylan Suitor
1 King Street West, 10th Floor,
Hamilton, ON L8P 1A4

cpendrith@cassels.com
tel: +1 416 860 6765

Dear Mr. Suitor:

Re: 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. et al. (Court File No.: CV-24-00713245-00CL)

We are writing further to our letter of February 28, 2024, for which we have yet to receive a response.

As the Court-appointed monitor (the "**Monitor**") in this matter, it is important to you respond to our client forthwith, particularly as the information requested in our February 28th letter is required for our client to conduct the investigation that it is directed and empowered by the Court to undertake.

We look forward to receiving the requested documents and information. We request that a written response be provided by March 15, 2024 given, among other things, that the Monitor requires this information to prepare for the next scheduled Court attendance in the Applicants' CCAA proceedings, which is presently scheduled for March 27, 2024.

Yours truly,

Cassels Brock & Blackwell LLP



Colin Pendrith
Partner

cc: Sean Zweig, Joshua Foster and Thomas Gray (Bennett Jones)
cc: Ryan Jacobs, Shayne Kukulowicz, Joe Bellissimo and John M. Picone (Cassels)
cc: Noah Goldstein and David Sieradzki (KSV)

LEGAL*62031069.6

Cassels

March 8, 2024

By Email: aruba@siddevelopments.ca
 ryan@siddevelopments.ca

cpendrith@cassels.com
tel: +1 416 860 6765

Aruba Butt
1233 Coric Avenue
Burlington, ON L7R 3S4

Ryan Molony
70 Waterford Crescent
Stoney Creek, ON L8E 4Z9

Dear Ms. Butt and Mr. Molony:

Re: 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. et al. (Court File No.: CV-24-00713245-00CL)

We are writing further to our letter of February 29, 2024, for which we have yet to receive a response.

As the Court-appointed monitor (the "**Monitor**") in this matter, it is important to you respond to our client forthwith, particularly as the information requested in our February 29th letter is required for our client to conduct the investigation that it is directed and empowered by the Court to undertake.

We look forward to receiving the requested documents and information. We request that a written response be provided by March 15, 2024 given, among other things, that the Monitor requires this information to prepare for the next scheduled Court attendance in the Applicants' CCAA proceedings, which is presently scheduled for March 27, 2024.

Yours truly,

Cassels Brock & Blackwell LLP

A handwritten signature in black ink, appearing to read 'CP', is centered on a light gray rectangular background.

Colin Pendrith
Partner

cc: Sean Zweig, Joshua Foster and Thomas Gray (Bennett Jones)
cc: Ryan Jacobs, Shayne Kukulowicz, Joe Bellissimo and John M. Picone (Cassels)
cc: Noah Goldstein and David Sieradzki (KSV)

LEGAL*62031125.4

March 15, 2024

SENT BY EMAIL

Cassels Brock & Blackwell LLP
Bay Adelaide Centre – North Tower
40 Temperance Street
Suite 3200
Toronto, ON M5H 0B4

Attention: Colin Pendrith

Dear Mr. Pendrith,

RE: 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. et al. (Court File No.: CV-24-00713245-00CL) (the "CCAA Proceeding")

We have been retained as counsel to Robert Clark, Aruba Butt, Ryan Molony, and Dylan Suitor in their respective capacities as directors, officers and management (collectively, the "**Management**") 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 "**CCAA Applicants**").

We write in response to your letters dated February 28 and 29, 2024 and the requests made of Management therein for disclosure of a complete list of properties owned by Management and the CCAA Applicants, details of all listings, listing agreements, and any agreements of purchase and sale entered into or completed within the last 12 months, as well as, in respect to each property where a sale or transfer is contemplated, the intended use of the transaction proceeds (collectively, the "**Information Request**").

We are reviewing the Information Request with Management, who have to date been completely occupied with the ongoing operation of the business and the compilation of information on behalf of the CCAA Applicants in response to the extensive information requests made by you to the CCAA Applicants on behalf of KSV Advisory Inc. in its capacity as Monitor (the "**Monitor**").

We understand an investigation is being carried out by the Monitor pursuant to the Amended and Restated Initial Order of the Honourable Justice Kimmel dated February 15, 2024 into:

- (a) the use of funds borrowed by the Applicants,
- (b) pre-filing transactions conducted by the Applicants and/or their principals and affiliates,
and



(c) such other matters as may be requested by the secured lenders 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.

We further understand a committee of secured lenders ("**Secured Lenders Committee**") has been constituted.

We would appreciate the following information from the Monitor to allow us to understand the current scope of the investigation:

1. Please advise the basis for the request(s) made of Management in their personal capacities for information involving the disclosure of personal information, personal assets, and personal business interests.
2. Please confirm the scope of the investigation currently being conducted by the Monitor, including:
 - (a) what questions the Monitor is seeking to answer through its investigation;
 - (b) what issues have been raised by the Secured Lenders Committee and what investigation has been requested by the Secured Lenders Committee;
 - (c) the names of the secured lenders participating in the Secured Lenders Committee; and
 - (d) what the protocol is for consultation with and solicitation of feedback from the Secured Lenders Committee and disclosure of matters discussed between the Monitor, the Secured Lenders Committee, and its counsel.

We note that Management has been advised that the Company will be seeking court approval to fund their legal representation in the CCAA Proceeding, especially since personal disclosure is being sought from them.

We anticipate being able to advise on the Information Request after counsel's engagement and funding are approved.

We appreciate the Monitor lending insight into the steps taken to date in the CCAA Proceeding and will endeavour to provide our clients' position on the Information Request once we can properly consider the scope of the requested disclosure.



Yours truly,

RECONSTRUCT LLP

A handwritten signature in black ink, appearing to be "SK" followed by a flourish.

Sharon Kour
SK/sj

ec: Sean Zweig, Joshua Foster and Thomas Gray (Bennett Jones)
Ryan Jacobs, Shayne Kukulowicz, Joe Bellissimo and John M. Picone (Cassels)
Noah Goldstein and David Sieradzki (KSV)
Andrew Kent and Caitlin Fell (RECON)

Cassels

March 18, 2024

By Email

cpendrith@cassels.com

tel: +1 416 860 6765

Reconstruct LLP
Royal Bank Plaza, South Tower
200 Bay Street, Suite 2305, P.O. Box 120
Toronto, ON M5J 2J3

Attn: Sharon A. Kour

Dear Ms. Kour:

Re: 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. et al. (Court File No.: CV-24-00713245-00CL)

As you are aware, we are counsel to the Court-appointed monitor in the above-noted proceeding (the "**Monitor**").

We respond to your letter sent after the close of business on March 15, 2024. In particular, we address:

1. Your questions concerning the Monitor's investigation; and
2. Your clients' obligation to respond to the Monitor's inquiries.

1. The Investigation

The Monitor is directed and empowered to conduct an investigation, as set out in paragraph 32(k) of the Amended and Restated Initial Order of Justice Kimmel in this matter, dated February 15, 2024 (the "**ARIO**"). That paragraph is set out below for ease of reference:

32. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

...

- (k) (i) 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 Lender Representatives 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) report to the Lender Representatives and the Court on the findings of such investigation as the Monitor deems necessary and appropriate;

As provided for in paragraph 31 of the ARIO, your clients have an obligation to “*co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor’s functions*”. Accordingly, your clients have a Court-ordered obligation to co-operate fully with the Monitor’s investigation. This obligation is not conditioned on payment of their legal fees.

Your clients must have instructed Bennett Jones, counsel for the Applicants, to include these provisions in the ARIO. Regardless, your clients were aware of and did not oppose the inclusion of these paragraphs in the ARIO. In the circumstances, there is no basis for your clients to question the Monitor’s authority to carry out its Court-ordered investigation.

The questions set out in your letter to the Monitor seek information that, if disclosed at this time, would compromise the integrity of and interfere with the investigation that the Monitor is actively conducting. Accordingly, it would be improper and prejudicial for the Monitor, at this time, to provide the details requested or otherwise discuss the scope and basis of its investigation with parties who are, by court order, subjects of the investigation.

We trust that this addresses your questions concerning the Monitor’s investigation.

2. *The Monitor’s Unanswered Inquiries*

On behalf of the Monitor, we made inquiries of Mr. Suitor in our letter of February 28, and of Mr. Molony and Ms. Butt in our letter of February 29. We did not receive any response to our letters and accordingly, we followed up in our letters of March 8.

It has now been 19 days (in the case of Mr. Suitor) and 18 days (in the case of Mr. Molony and Ms. Butt) since our initial inquiries were made. That is more than sufficient time to answer our preliminary questions.

We therefore request your clients’ full co-operation in providing a substantive response to our inquiries by no later than March 21, 2024, a date that is three full weeks from our initial request letters.

We note that, in our initial request letters, we made inquiries about properties owned directly or indirectly by the Applicants and the Additional Stay Parties being transferred or listed for sale. It has since been made public in an online article published on March 15, 2024 in the Sootoday.com, a copy of which is attached as Exhibit “A”, that Zack Files Real Estate, an entity that is linked to the Applicants and your clients, recently listed at least four properties for sale in Sault St. Marie

(308 Korah Road, 859 Trunk Road, 40 Hynes Street and 134-134A Gore Street) at list prices totalling approximately \$6 million.

The Monitor has significant concerns about assets that may have been acquired with funds borrowed by the Applicants being dissipated, and therefore requires (i) an explanation of the linkages between Zack Files Real Estate and both the Applicants and your clients; (ii) an explanation, together with supporting documentation, of the source of the funding that Zack Files Real Estate used to acquire these properties; and (iii) the intended use of proceeds of the proposed sales.

For greater clarity, we require the same information concerning any other properties owned, directly or indirectly, by your clients or the Applicants.

It is integral that the Monitor receive a timely response from your clients. Their obligation to respond is in no way tied to the funding of your firm's legal fees being approved by the Court. Rather, there is an unqualified Court-ordered obligation to fully co-operate.

We remind you that the Additional Stay Parties have received the benefit of the stay and have an ongoing obligation to act in good faith and with due diligence as part of these proceedings.

We look forward to your response by no later than March 21, 2024 in order for the Monitor to prepare for the next scheduled Court attendance in these proceedings.

Yours truly,

Cassels Brock & Blackwell LLP



Colin Pendrith
Partner

cc: Andrew Kent and Caitlin Fell (Reconstruct)
cc: Sean Zweig, Joshua Foster and Thomas Gray (Bennett Jones)
cc: Ryan Jacobs, Shayne R. Kukulowicz, and John M. Picone (Cassels)
cc: Noah Goldstein and David Sieradzki (KSV)

Out-of-town company selling off Sault properties, including Gore Street eyesore



[James Hopkin](#)

Mar 15, 2024 2:59 PM



1 / 4 134-134A Gore Street is selling for \$1.1 million. The former home of the Neighbourhood Resource Centre is being sold by Zack Files Real Estate less than three years after it was initially purchased. | James Hopkin/SooToday

[Listen to this article](#)

00:04:29

A corporation linked to the insolvent out-of-town landlords who amassed a \$144-million debt load after buying up hundreds of northern Ontario houses is now scrambling to sell off properties here in Sault Ste. Marie.

Zack Files Real Estate — named after the sci-fi television series starring SID Developments founder Robert 'Robby' Clark — recently placed four properties on the real estate market at a combined price tag of \$5.98 million:

- 308 Korah Road (\$950,000)
- 859 Trunk Road (\$1.3 million)
- 40 Hynes Street (\$2.63 million)
- 134-134A Gore Street (\$1.1 million)

As previously reported by *SooToday*, 134 Gore Street was overrun by squatters and without running water for weeks during the summer of 2022 due to people entering the building and stripping it of its copper piping.

The mixed-use building that once housed the now-defunct Neighbourhood Resource Centre is over 8,000 square feet and consists of three retail units and eight one-bedroom apartments, according to an online [real estate listing](#). The agent brokering the sale of all four properties declined to speak when contacted by *SooToday*.

Zack Files Real Estate initially [purchased a total of seven properties locally](#) in 2021. Records indicate that all of the properties were purchased simultaneously at a combined price tag of \$2.65 million.

Aruba Butt — the chief information officer for SID Developments, and who is believed to be Clark's partner — signed for the purchase of the buildings as a director of Zack Files Real Estate.



The real estate fire sale in Sault Ste. Marie comes just weeks after the landlords behind 11 insolvent corporations — including Butt, along with Ryan Molony and Dylan Suitor — [filed for protection from creditors in the Ontario Superior Court of Justice](#), claiming they owe more than \$144 million in unpaid loans and have less than \$100,000 in the bank.

Seven of those now-insolvent corporations [collectively own 201 rental properties in the Sault](#), 79 of which sit vacant. Although Zack Files Real Estate was not included in the recent insolvency proceedings, it is closely linked, along with the others, to Burlington-based SID Developments, SID Management and SID Renos — all of which list Clark as president and CEO.

Together, the SID companies and the 11 insolvent corporations are referred to in court documents as a group of companies “specializing in the acquisition, renovation and leasing of distressed residential real estate in undervalued markets throughout Ontario.”

The SID family of companies was founded by Clark, a former child actor known for his starring role on *The Zack Files*, a Canadian sci-fi television series that aired on YTV from 2000 to 2002, according to the IDMB website.

Together, the group of insolvent SID-affiliated corporations own more than 600 rental properties in housing markets across the province with lower average costs of living, including Timmins, Sudbury and the Sault — making it “one of the largest holders of residential real estate in Ontario,” wrote Ontario Superior Court Justice Jessica Kimmel during insolvency proceedings.

In a sponsored article that appeared in USA Today back in 2021, Clark claimed SID's property portfolio consists of more than \$150 million in holdings across Ontario. Not even three years later, the corporations that scooped up hundreds of properties throughout the province on behalf of SID have plunged into debt nearly equal in value.

As first reported by *SooToday*, the insolvent corporations recently paid out more than \$600,000 in outstanding property tax arrears to the City of Sault Ste. Marie after they were [granted a \\$12-million line of credit by the courts](#) in order to restructure its operations. Local contractors, on the other hand, [have not been as fortunate](#).

The group of SID-affiliated corporations is operating under court-ordered creditor protection until March 28 as part of an effort to restructure.

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Appendix “D”

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.

Projected Cash Flow Statement

For the Period Ending April 30, 2024

(Unaudited; \$CAD in 000's)

	Note	Week Ending						Total
		29-Mar-24	5-Apr-24	12-Apr-24	19-Apr-24	26-Apr-24	30-Apr-24	
<i>Receipts</i>								
Net rent collections	2	-	-	-	-	475	-	475
Total Receipts		-	-	-	-	475	-	475
<i>Disbursements</i>								
Property taxes		-	(40)	-	-	-	(5)	(45)
Repairs & Maintenance		(20)	(20)	(20)	(15)	(15)	(15)	(105)
Utilities		(25)	(25)	-	-	(25)	(25)	(100)
Insurance		(13)	(14)	-	(37)	-	(12)	(76)
Other	3	(10)	(10)	(10)	(10)	(10)	(10)	(60)
Total Disbursements		(68)	(109)	(30)	(62)	(50)	(67)	(386)
<i>Other Disbursements</i>								
Property tax arrears		(34)	-	-	-	-	-	(34)
Renovations	4	(50)	(85)	(100)	(125)	(150)	(200)	(710)
Pre-filing arrears	5	(60)	-	(75)	-	(75)	-	(210)
Professional fees	6	(924)	-	-	-	(750)	-	(1,674)
DIP Facility costs		-	-	-	-	(1)	-	(1)
Total Other Disbursements		(1,068)	(85)	(175)	(125)	(976)	(200)	(2,629)
Net Cash Flow		(1,137)	(194)	(205)	(187)	(551)	(267)	(2,540)
Opening Cash Balance		2,140	1,003	810	605	417	367	2,140
Net Cash Flow		(1,137)	(194)	(205)	(187)	(551)	(267)	(2,540)
DIP Funding	7	-	-	-	-	500	-	500
Closing Cash Balance		1,003	810	605	417	367	100	100
DIP Facility balance		6,133	6,133	6,133	6,133	6,633	6,633	6,633

Projected Statement of Cash Flows

For the Period Ending April 30, 2024

(Unaudited; \$CAD)

Purpose and General Assumptions

1. The purpose of the projection is to present a cash flow forecast 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. (the "Applicants") for the period March 23, 2024 to April 30, 2024 (the "Period") in respect of the proceedings under the Companies' Creditors Arrangement Act ("CCAA").

The cash flow projection has been prepared based on hypothetical and most probable assumptions.

Hypothetical

2. Represents rents collected from tenants, net of property management fees payable to SID Management in the normal course.

Most Probable

3. Represents miscellaneous expenses, capital expenditures and tenant concessions for repairs.
4. Represents renovation costs for the Applicants' vacant units, which are subject to the Monitor's prior approval.
5. Represents a contingency for expenses not otherwise captured in the projection, including potential payments to critical vendors.
6. Represents accrued and projected fees and disbursements of the Applicants' legal counsel, Secured and Unsecured Lender Representative Counsel, the Monitor and its legal counsel and the DIP Lender's legal counsel.
7. Represents funding to be advanced under the DIP Facility.

**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.**

MANAGEMENT'S REPORT ON CASH FLOW STATEMENT
(paragraph 10(2)(b) of the CCAA)

The management 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") have developed the assumptions and prepared the attached statement of projected cash flow as of the 25th day March, 2024 for the period March 23, 2024 to April 30, 2024 ("Cash Flow"). All such assumptions are disclosed in the notes to the Cash Flow.

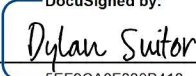
The hypothetical assumptions are reasonable and consistent with the purpose of the Cash Flow as described in Note 1 to the Cash Flow, and the probable assumptions are suitably supported and consistent with the plans of the Applicants and provide a reasonable basis for the Cash Flow.

Since the Cash Flow is based on assumptions regarding future events, actual results will vary from the information presented and the variations may be material.

The Cash Flow has been prepared solely for the purpose outlined in Note 1 using a set of hypothetical and probable assumptions set out therein. Consequently, readers are cautioned that the Cash Flow may not be appropriate for other purposes.

Dated at Toronto, Ontario this 25th day of March, 2024.

**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.**

DocuSigned by:

5EF9CA0F830B418...

Dylan Suitor, Director

DocuSigned by:
Aruba Butt
6F00F87C9F414G8...

Aruba Butt, Director

DocuSigned by:
[Signature]
49ECD94604294AD...

Ryan Molony, Director

Appendix “E”

**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.**

MONITOR'S REPORT ON CASH FLOW STATEMENT

(paragraph 23(1)(b) of the CCAA)

The attached statement of projected cash-flow 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") as of the 25th day March, 2024, consisting of a weekly projected cash flow statement for the period March 23, 2024 to April 30, 2024 ("Cash Flow") has been prepared by the management of the Applicants for the purpose described in Note 1, using probable and hypothetical assumptions set out in the notes to the Cash Flow.

Our review consisted of inquiries, analytical procedures and discussions related to information supplied by the management and employees of the Applicants. Since hypothetical assumptions need not be supported, our procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Cash Flow. We have also reviewed the support provided by management for the probable assumptions and the preparation and presentation of the Cash Flow.

Based on our review, nothing has come to our attention that causes us to believe that, in all material respects:

- a) the hypothetical assumptions are not consistent with the purpose of the Cash Flow;
- b) as at the date of this report, the probable assumptions developed by management are not suitably supported and consistent with the plans of the Applicants or do not provide a reasonable basis for the Cash Flow, given the hypothetical assumptions; or
- c) the Cash Flow does not reflect the probable and hypothetical assumptions.

Since the Cash Flow is based on assumptions regarding future events, actual results will vary from the information presented even if the hypothetical assumptions occur, and the variations may be material. Accordingly, we express no assurance as to whether the Cash Flow will be achieved. We express no opinion or other form of assurance with respect to the accuracy of any financial information presented in this report, or relied upon in preparing this report.

The Cash Flow has been prepared solely for the purpose described in Note 1 and readers are cautioned that it may not be appropriate for other purposes.

Dated at Toronto this 25th day of March, 2024.

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**