

CITATION: Re B+H Architects Corp, 2026 ONSC 26
COURT FILE NO.: CL-25-753537-0000
DATE: 20260102

SUPERIOR COURT OF JUSTICE – ONTARIO [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 PROPOSED PLAN OF COMPROMISE OR
ARRANGEMENT WITH RESPECT TO B+H ARCHITECTS CORP.

BEFORE: Justice Jana Steele

COUNSEL: *Heather Meredith & Trevor Courtis*, for the applicant, B+H Architects Corp.

George Benchetrit, for the directors and officers of B+H Architects Corp.

Evan Cobb, for Surbana Jurong Holdings (Canada) Ltd.

Joseph Bellissimo & Joshua Gordon, for KSV Restructuring Inc.

Scott Fairley & Joan Kasozi, for Al Saadiyat Development & Investment Sol Proprietorship Company LLC

HEARD: December 30, 2025, and January 2, 2026

ENDORSEMENT

Overview

[1] The applicant, B+H Architects Corp. (“BHA”) seeks approval of a going concern sale transaction, reverse vesting order, and certain related relief. Following the December 30, 2025 appearance, I granted the Stay Extension and Ancillary Relief Order with reasons to follow. I adjourned the remaining relief sought to January 2, 2026 so that ResidualCo could be incorporated. Following the incorporation of 1570499 B.C. Ltd. (“ResidualCo”), and the hearing on January 2, 2026, I granted the balance of the relief.

[2] There was no opposition to the relief sought. However, Al Saadiyat Development & Investment Sol Proprietorship Company LLC (“SDIC”) reserves its rights to object to any foreign recognition sought of the Approval and Reverse Vesting Order, which shall only be sought on notice to SDIC.

Background

[3] BHA is an architecture and design firm. It is headquartered in Toronto. BHA is owned 49% by Surbana Jurong Holdings (Canada) Ltd. (“SJHC”) and 51% by David Stavros and Patrick Fejér, both of whom are licensed architects. Mr. Fejér is the Chief Executive Officer and Head of Design of BHA. Mr. Stavros and Mr. Fejér are the directors of BHA.

[4] BHA has historically relied on its sister corporation, B+H International Corporation (“BHI”), to deliver certain essential services, including administrative, financial, and accounting services. SJHC holds 100% of the shares of BHI.

[5] The Initial Order was granted on or about October 17, 2025, granting a stay of proceedings to October 27, 2025, and appointing KSV Restructuring (“KSV”) as the Monitor. At that time, BHA required additional financing. SJHC provided debtor-in-possession financing to BHA, which was approved in the Initial Order. Among other things, the Initial Order also approved an Administration Charge, a Director’s Charge, and the DIP Lender’s Charge.

[6] On or about October 27, 2025, the Court granted an amended and restated Initial Order, which further extended the stay period to December 17, 2025. Among other things, the ARIO also increased the amount that could be borrowed under the DIP facility and approved a key employee retention program and KERP Charge. The Court also granted an order approving the Stalking Horse agreement with SJHC (solely for the purpose of constituting the Stalking Horse bid under the SISP) and approving the proposed SISP.

[7] On or about December 16, 2025, the Court granted a further extension to the stay period to December 31, 2025.

[8] Prior to seeking relief under the CCAA, BHA experienced certain challenges that severely strained BHA’s liquidity. Among other things, BHA became subject to an arbitral award in excess of \$25 million in favour of SDIC following a confidential arbitration in Abu Dhabi (the “Arbitral Award”).

[9] BHA holds various professional liabilities insurance that is expected to cover certain outstanding litigation claims:

- a. A project specific insurance policy with Allianz in respect of a claim involving Plenary Health Milton LP;
- b. Professional liability insurance policy with Pro-Demnity, which is limited to coverage of Ontario projects; and
- c. Excess coverage with AON under a global program.

[10] SJHC is BHA’s primary secured creditor.

[11] BHA is current in its statutory remittances and on its payroll obligations.

[12] BHA also has unsecured creditor claims that have been asserted against it, including the Arbitral Award to SDIC, and certain contested contingent litigation claims. The contested litigation claims that involve Plenary Health Milton LP and Paula Christine Barnett are lower than the coverage limit of the applicable insurance policies; these claims remain contested and defended by the insurers. The Arbitral Award exceeds the coverage limits under the applicable insurance policy.

[13] SJHC provided the Stalking Horse bid, which, following two bidding phases, was selected as the successful bidder. The Transaction BHA seeks to have approved is pursuant to the agreement put forward as the Stalking Horse bid (which was enhanced in phase 2 of the bidding process). There was ultimately no other bidder, leaving the Stalking Horse agreement (enhanced) as the successful bid.

Analysis

Should the Transaction and Reverse Vesting Order be Approved?

[14] I am satisfied that the Transaction and Reverse Vesting Order should be approved.

[15] As noted above, the matter first came before me on December 30, 2025. At that time ResidualCo had not yet been incorporated because the director for ResidualCo had not yet been determined, in addition to holiday timing issues. The proposed Order defined ResidualCo as “a new corporation to be formed.”

[16] There have been circumstances where the court determined that it was appropriate to grant an order approving a transaction and reverse vesting order where the Residualco was not yet formed (see, for example, *Tacora Resources Inc. (Re)*, CV-23-00707394-00CL, Approval and Reverse Vesting Order, July 26, 2024). However, there were no circumstances in the instant case that, in my view, would warrant approving a transaction that will vest certain assets in and require the assumption of certain liabilities by an entity not yet in existence. The Residualco should, in all but exceptional circumstances, be in place before court approval for an RVO transaction is sought. Accordingly, I adjourned this relief until January 2, 2026 so that ResidualCo could be incorporated.

[17] In considering an RVO, despite the fact that an RVO is not strictly a sale of assets, Courts frequently reference section 36 of the CCAA, which permits court approval for the sale of a debtor’s assets outside of the ordinary course of business: *Just Energy Group Inc. et al v. Morgan Stanley Capital Group Inc. et al*, 2022 ONSC 6354, paras. 29-33. Section 36(3) of the CCAA sets out the factors for the court to consider, among other things:

- a. Whether the process leading to the proposed sale or disposition was reasonable in the circumstances;
- b. Whether the monitor approved the process leading to the proposed sale or disposition;

- c. Whether the monitor filed with the court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under a bankruptcy;
- d. The extent to which the creditors were consulted;
- e. The effects of the proposed sale or disposition on the creditors and other interested parties; and
- f. Whether the consideration to be received for the assets is reasonable and fair, taking into account their market value.

[18] The section 36 factors overlap considerably with the principles set out in *Royal Bank of Canada v. Soundair Corp.*, 1991 CanLII 2727, 4 O.R. (3d) 1 (ONCA):

- a. Whether the debtor company has made sufficient effort to obtain the best price and has not acted improvidently;
- b. Whether the debtor company has considered the interests of all parties;
- c. The efficacy and integrity of the offer process; and
- d. Whether there has been unfairness in the process.

[19] I am satisfied that the proposed Transaction is fair and reasonable in the circumstances and represents the best available option. Among other things:

- a. The Transaction is the result of a robust, transparent and fair canvassing of the market, which was carried out with the Monitor's oversight further to the Court-approved sale and investment solicitation process ("SISP");
- b. The Transaction is the only viable bid at the end of the SISP;
- c. The Transaction is supported by SJHC and BHI and no one opposes the proposed Transaction;
- d. BHA and the Monitor consulted key stakeholders throughout the process;
- e. The Transaction provides a going concern solution, which is a better outcome for stakeholders than a liquidation. Among other things, it will allow all employees to continue to be employed at closing and will allow BHA to continue;
- f. The consideration under the Transaction is higher than any other offer received in the SISP;
- g. The Monitor supports the approval of the Transaction;

h. As detailed below, the *Harte Gold* factors have been satisfied.

[20] Under section 36(4) of the CCAA, if a proposed sale or disposition is to a related person, the court is required to consider additional factors. The court must be satisfied that:

- a. Good faith efforts were made to sell or otherwise dispose of the assets to persons who are not related to the company; and
- b. The consideration to be received is superior to the consideration that would be received under any other offer made in accordance with the process leading to the proposed sale or disposition.

[21] As noted above, the Stalking Horse purchaser is SJHC, which is related to BHA. I am satisfied that good faith efforts were made to sell the business/assets to persons who were not related. A robust SISP was conducted, consisting of two phases of bidding. Commencing on or about October 21, 2025, the Monitor sent out more than 90 Teaser Letters and non-disclosure agreements to potential bidders. In addition, the Monitor published a notice of the SISP in Canadian Newswire, Canadian Architect Magazine, the Globe and Mail and Insolvency Insider. Eleven parties signed NDAs to participate in Phase 1 of the SISP.

[22] At the Phase 1 deadline, only one bid had been received. After considering the bid and the SISP criteria, BHA and the Monitor determined that the process should continue to Phase 2. The Monitor prepared a liquidation analysis, which was made available in the data room, to ensure that any successful bid would exceed the anticipated liquidation value for BHA.

[23] Following Phase 2, there were no other offers received for the business, making the enhanced Stalking Horse bid the superior bid.

[24] In determining whether to approve an RVO, the court will take into account additional considerations. Justice Penny in *Harte Gold*, 2022 ONSC 653, at para. 38 set out the following questions that should be considered before an RVO is granted:

- a. Why is the RVO necessary in this case?
- b. Does the RVO structure produce an economic result at least as favourable as any other viable alternative?
- c. Is any stakeholder worse off under the RVO structure than they would have been under any viable alternative? and
- d. Does the consideration being paid for the debtor's business reflect the importance and value of the licenses and permits (or other intangible assets) being preserved under the RVO structure?

[25] RVOs may be appropriate in circumstances where there are assets that are difficult to transfer to the purchaser through a typical asset sale. RVOs have been used in circumstances

where debtors operate in a highly regulated environment, where they have permits or licenses in their name, or where debtors are parties to critical agreements that are difficult to assign: *Arrangement relative à Elna Medical Group inc./Group medical Elna inc.*, 2025 QCCS 3880, at para. 36.

[26] As an architecture and design company, the core of BHA's business is its portfolio of client contracts and relationships, not typical "hard" assets. The RVO structure is necessary in the instant case to preserve the going concern value of the BHA business. The RVO is needed to preserve client contracts, including contracts that were obtained by BHA through a public procurement process. As noted by BHA, approximately 25% of its client contracts are with public entities and were obtained following a public procurement process. If BHA or the purchaser were to seek to assign these contracts, a new procurement process would likely be triggered, requiring the purchaser to complete again for the business, and resulting in delay. The RVO structure allows these key client contracts to remain with the entity that was selected in the procurement process.

[27] The RVO structure is also necessary to preserve nearly \$37 million of tax losses.

[28] The proposed RVO is at least as favourable as any other viable alternative, no stakeholder is worse off under the RVO structure, and the consideration that is being paid reflects the importance and value of the RVO structure. The only alternative to the proposed Transaction and RVO in this case is a liquidation. The SISP that was run included two phases. The other bid that was received in Phase 1 contemplated an RVO structure. At the Phase 2 deadline, there were no bids, leaving the Stalking Horse RVO bid (which was enhanced following the liquidation analysis of BHA completed by the Monitor) as the successful bidder. The Monitor is satisfied that no creditor will be worse off when compared to the likely median outcome in a liquidation.

Should the Releases be approved?

[29] The proposed Order seeks releases (the "Releases") in favour of:

- a. The current directors, officers, employees, legal counsel and advisors of BHA, the Purchaser (in such capacity and as DIP lender), BHI and/or ResidualCo;
- b. The Monitor and its legal counsel, and their respective current and former directors, officers, partners, employees, legal counsel and advisors.

[30] The Releases release matters related to (i) BHA's business, operations, property, and affairs, and the administration/management of BHA and these proceedings; or (ii) the Stalking Horse agreement, any agreement or transaction involving BHA arising in connection with the foregoing, and/or the consummation of the Transaction. However, they do not seek to release (i) claims that are not permitted to be released under s. 5.1(2) of the CCAA, (ii) any claim with respect to an act or omission that is determined to have constituted fraud or wilful misconduct, or (iii) any obligations of the Released Parties in connection with the Stalking Horse agreement.

[31] In determining whether to grant third party releases, the court considers the factors set out in *Lydian International Limited (Re)*, 2020 ONSC 4006:

- a. Whether the parties to be released were necessary to the restructuring of the debtor;
- b. Whether the claims to be released are rationally connected to the purpose of the restructuring and necessary for it;
- c. Whether the restructuring could succeed without the releases;
- d. Whether the parties being released contributed to the restructuring; and
- e. Whether the releases benefit the debtors as well as the creditors generally.

[32] The court may also consider whether releases in a proposed transaction are “proportional in scope and consistent with releases granted in similar CCAA proceedings:” *Just Energy Group Inc. et. al. v. Morgan Stanley Capital Group Inc. et. al.*, 2022 ONSC 6354, at para. 67.

[33] I am satisfied that the requested Releases should be approved:

- a. The proposed Releases are limited and do not release any claim that is not permitted under section 5.1(2)¹ of the CCAA. The proposed Releases also exclude fraud or wilful misconduct.
- b. The Released Parties have contributed significantly to the CCAA proceedings. Among other things, they have assisted with (i) ensuring the stability of the business during the proceedings, (ii) continued work on ongoing projects, (iii) developed and conducted the SISP, and/or (iv) negotiated the Transaction. The DIP Lender contributed by providing the funding necessary for BHA to continue its operations during these proceedings. BHI has continued to provide services to BHA through the proceedings, including financial services.
- c. The contributions of the Released Parties resulted in the completion of the SISP and negotiations of the Transaction, which as noted above, includes the continued employment of the majority of the BHA employees.
- d. The Monitor and SJHC support the Releases.

Should the Stay Extension be granted?

[34] Following the appearance on December 30, 2025, I granted the stay extension to February 13, 2026, with reasons to follow.

¹ 5.1(2) of the CCAA: A provision for the compromise of claims against directors may not include claims that (a) relate to contractual rights of one or more creditors; or (b) are based on allegations of misrepresentations made by directors to creditors or of wrongful or oppressive conduct by directors.

[35] Under s. 11.02(2) of the CCAA, the court has discretion to grant or extend a stay of proceedings, “for any period that the court considers necessary.” Section 11.02(3) of the CCAA provides that for the court to exercise its discretion to extend the stay of proceedings, the court must be satisfied that: (a) circumstances exist that make the order appropriate; and (b) the debtor company satisfies the Court that it has acted and is acting in good faith and with due diligence.

[36] In determining whether to extend a stay period, the court will consider, among other things, whether the company has sufficient cash resources for the extension period and whether the Monitor supports the requested extension: *Canwest Global Communications Corp. (Re)*, 2009 CanLII 63369 (ON SC), at para. 43.

[37] The extension of the stay period is necessary to provide BHA with time to finalize the Transaction and terminate the CCAA proceedings post-closing of the Transaction, among other things. The Monitor supports the extension of the stay period. The Monitor’s Third Report states that BHA is acting in good faith and with due diligence, which I accept. Further, based on the Updated Cash Flow Forecast prepared by BHA, with the assistance of the Monitor, there is adequate liquidity to fund the remaining activities during the extended period.

Should the Sealing Order be granted?

[38] I also granted the requested sealing order following the December 30, 2025 appearance with reasons to follow.

[39] BHA seeks the sealing of the confidential summary of the Phase 1 Bids and liquidation analysis attached to the Monitor’s Third Report, as well as Confidential Exhibit 1 to Mr. Fejér’s affidavit, which contains confidential details regarding insurance coverage.

[40] I am satisfied that the sealing order that is sought satisfies the test set out in *Sherman Estate v. Donovan*, 2021 SCC 25, at para. 38.

[41] The confidential documents attached to the Monitor’s Third Report contain commercially sensitive information. The confidential summary of the Phase 1 Bids sets out the price and purchase terms offered by the other bidder. The Liquidation Analysis sets out the liquidation value of the business. It is appropriate to seal these documents to prevent any negative impact to realization efforts in the event that the Transaction does not close. The Confidential Exhibit to Mr. Fejér’s affidavit contains a summary of the approximate remaining coverage amounts pursuant to the Arbitration Insurance, which is commercially sensitive information.

[42] No stakeholder will be materially prejudiced by the requested sealing order, which applies to only a limited amount of information.

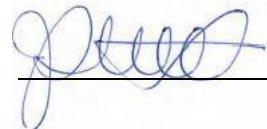
Approval of activities and fees

[43] The Stay Extension and Approval Order granted on December 30, 2025 also approved the Monitor’s Reports and activities, and the professional fees of the Monitor and its counsel.

[44] The principles regarding the approval of the activities of a monitor, and its reports, are well established: *Target Canada Co. Re*, 2015 ONSC 7574 at paras. 2 and 12. The activities undertaken by the Monitor as set out in the reports are consistent with its mandate pursuant to the CCAA and the Initial Order and ARIO.

[45] I am also satisfied that the fees and disbursements of the Monitor and its counsel are fair, reasonable and justified in the circumstances. Fee affidavits have been filed.

[46] Approval and Reverse Vesting Order attached.



Justice Jana Steele

Date: January 2, 2026