



**Second Report of
KSV Restructuring Inc.
as CCAA Monitor of
BioSteel Sports Nutrition Inc.**

November 14, 2023

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Court File No.:CV-23-00706033-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDEDAND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF BIOSTEEL SPORTS NUTRITION INC.

SECOND REPORT OF KSV RESTRUCTURING INC.

NOVEMBER 14, 2023

1.0 Introduction

1. Pursuant to an order (the "Initial Order") issued by the Ontario Superior Court of Justice (Commercial List) (the "Court") on September 14, 2023 (the "Filing Date"), BioSteel Sports Nutrition Inc. (the "Applicant" or "BioSteel Canada") was granted protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"). The Initial Order, among other things, provided for a ten-day stay of proceedings in favour of the Applicant (the "Stay of Proceedings") and appointed KSV Restructuring Inc. ("KSV") as the monitor of the Applicant (in such capacity, the "Monitor"). In its capacity as the proposed Monitor, KSV filed a pre-filing Report dated September 14, 2023 in connection with the Applicant's motion for the Initial Order (the "Pre-Filing Report"). A copy of the Pre-Filing Report, without appendices, is attached hereto at Appendix "A".
2. BioSteel Canada, operating on an integrated basis with BioSteel Sports Nutrition USA LLC ("BioSteel US") and BioSteel Manufacturing LLC ("BioSteel Manufacturing"), is a sports nutrition and hydration company focused on high-quality ingredients with a strong presence in the professional sports market. BioSteel Manufacturing, BioSteel US and BioSteel Canada are referred to herein as "BioSteel". As described below, BioSteel Manufacturing and BioSteel US are not currently applicants in these proceedings, but BioSteel Canada now seeks to add both parties to these proceedings as "Applicants" (in such capacity, the "Additional Applicants", and together with BioSteel Canada, the "Applicants") and to extend the protections afforded to BioSteel Canada under the ARIO (as defined below) to the Additional Applicants as well.

3. At a comeback hearing on September 21, 2023 (the “Comeback Hearing”), the Court granted:
 - a) an order, among other things, approving the SISP to be conducted by the Applicant, with the assistance of the Financial Advisor and under the oversight of the Monitor (the “SISP Approval Order”); and
 - b) an Amended and Restated Initial Order (the “ARIO”), among other things:
 - extending the Stay of Proceedings to and including November 17, 2023; and
 - approving the retention of Greenhill & Co. Canada Ltd. (“Greenhill”) as the “Financial Advisor”, *nunc pro tunc*, pursuant to an agreement dated August 24, 2023 between the Applicant and the Financial Advisor (the “Greenhill Engagement Letter”) and granting a charge on the Property in favour of the Financial Advisor to the maximum amount of US\$2.5 million to secure the payment of the transaction fee (the “Transaction Fee”) payable under the Greenhill Engagement Letter (the “Transaction Fee Charge” and together with the Administration Charge and the Directors’ Charge, collectively, the “Charges”).
4. The Monitor filed a Report dated September 19, 2023 in connection with the comeback hearing (the “First Report”). A copy of the First Report, without appendices, is attached hereto at Appendix “B”.
5. On September 17, 2023, the Applicant filed a petition for recognition of this CCAA proceeding pursuant to chapter 15 of title 11 of the *United States Bankruptcy Code* (the “Bankruptcy Code”) with the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the “US Bankruptcy Court”). On October 11, 2023, the US Bankruptcy Court entered an order recognizing the CCAA proceeding as a foreign main proceeding under chapter 15 of the Bankruptcy Code.
6. Capitalized terms used herein but not otherwise defined have the meanings ascribed in the affidavit of Sarah Eskandari, General Counsel of BioSteel, sworn on November 10, 2023 (the “Third Eskandari Affidavit”).

1.1 Purposes of this Report

1. The purposes of this report (the “Second Report”) are to:
 - a) provide background information regarding the Applicant and these proceedings;
 - b) summarize the results of the SISP;
 - c) summarize the terms of a transaction (the “BioSteel Canada Transaction”) between BioSteel Canada and DC Holdings Ltd. d/b/a Coachwood Group of Companies (“DC”), for the sale of, among other things, certain inventory, intellectual property and related assets, pursuant to an Asset Purchase Agreement dated November 9, 2023 (the “BioSteel Canada Purchase Agreement”);

- d) summarize the terms of a transaction (the “Manufacturing Transaction”, and together with the “BioSteel Canada Transaction, the “Transactions”) between BioSteel Manufacturing and Gregory Packaging Inc. (“GPI”), for the sale of substantially all of the assets of BioSteel Manufacturing, including equipment and inventory, pursuant to an Asset Purchase Agreement dated November 9, 2023 (the “Manufacturing Purchase Agreement”, and together with the BioSteel Canada Purchase Agreement, the “Purchase Agreements”);
- e) provide the Monitor's views on adding BioSteel Manufacturing and BioSteel US as Additional Applicants in the CCAA proceedings;
- f) report on the cash flow forecast for the period from November 13, 2023 to January 31, 2024 prepared by the Applicants with the assistance of the Monitor (the “Cash Flow Forecast”);
- g) set out the Monitor’s basis for its support of the Applicants’ request that the stay of proceedings be extended from November 17, 2023 to January 31, 2024;
- h) report on certain correspondence among the Applicants, the Monitor and Flow Beverages Corp. (“Flow”);
- i) discuss BioSteel Canada’s loyalty program (the “Loyalty Program”) and the reasons the Monitor supports discontinuing the Loyalty Program; and
- j) recommend the Court issue the following Orders:
 - i. an approval and vesting Order in respect of the BioSteel Canada Transaction (the “BioSteel Canada AVO”), among other things:
 - approving the BioSteel Canada Transaction; and
 - following the Monitor’s delivery of the Monitor’s certificate substantially in the form attached as Schedule “A” to the proposed BioSteel Canada AVO, transferring and vesting all of BioSteel Canada's right, title and interest in and to the BioSteel Canada Purchased Assets (the Purchased Assets as set out in the BioSteel Canada Purchase Agreement) free and clear of and from any and all claims, liabilities, liens, and encumbrances;
 - ii. an approval and vesting Order in respect of the BioSteel Manufacturing Transaction (the “Manufacturing AVO”), among other things:
 - approving the BioSteel Manufacturing Transaction;
 - following the Monitor’s delivery of the Monitor’s certificate substantially in the form attached as Schedule “A” to the proposed Manufacturing AVO (the “Manufacturing Certificate”), transferring and vesting all of BioSteel Manufacturing's right, title and interest in and to the Manufacturing Purchase Assets (the Purchased Assets as set out in the Manufacturing Purchase Agreement) free and clear of and from any and all claims, liabilities, liens, and encumbrances; and

- upon delivery of the Manufacturing Certificate, assigning all rights and obligations of BioSteel Manufacturing in respect of the industrial operating space located in Verona, Virginia; and
- iii. an Order (the “Ancillary Relief Order”), among other things:
- adding BioSteel Manufacturing and BioSteel US as Applicants in these proceedings with such rights, protections, and obligations as are afforded to BioSteel Canada in these proceedings, and extending the Charges to the Property (each as defined in the ARIO) of BioSteel Manufacturing and BioSteel US;
 - appointing BioSteel Canada as foreign representative in respect of the Additional Applicants for the purposes of having the CCAA proceedings recognized, enforced and approved in the United States;
 - authorizing continued intercompany transactions amongst the Applicants;
 - terminating the Loyalty Program;
 - authorizing the payment of the Transaction Fee on a pro rata basis by BioSteel Canada and BioSteel Manufacturing based on the purchase prices in the Transactions;
 - temporarily sealing the Confidential Appendices to this Report (collectively, the “Confidential Appendix”), which appends (i) a confidential summary of the bids received pursuant to the SISP; (ii) unredacted copies of the BioSteel Canada Purchase Agreement and the Manufacturing Purchase Agreement, including all schedules thereto; and (iii) unredacted copies of the Back-Up Bids (as defined in the SISP); and
 - extending the Stay of Proceedings to January 31, 2024.

1.2 Restrictions

1. In preparing this Second Report, the Monitor has relied upon the Applicants' audited and unaudited financial information, books and records and discussions with the Applicants' management, their legal counsel (Cassels Brock & Blackwell LLP) and Financial Advisor.
2. The Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the financial information relied on to prepare this Second Report in a manner that complies with Canadian Auditing Standards (“CAS”) pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Monitor 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 Second Report is based upon the Applicants' assumptions regarding future events; actual results achieved may vary from this information and these variations may be material. The Monitor 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 Second Report are in Canadian dollars.

2.0 Background

2.1 Overview

1. The Affidavit of Sarah Eskandari sworn September 13, 2023 in support of the CCAA application (the "First Eskandari Affidavit"), and the Pre-Filing Report both provide background information with respect to the Applicant's business and operations, including the reasons for the commencement of these CCAA proceedings. Accordingly, that information is not repeated in this Second Report.
2. BioSteel produced consumer products, including ready-to-drink sports drinks ("RTDs"), hydration mixes and supplements, which were available at retailers across Canada, the United States and online. At the commencement of the CCAA proceedings, each of BioSteel Canada, BioSteel US, and BioSteel Manufacturing placed its respective business into hibernation in order to limit operating costs during the SISP. Limited staff has remained at the expense of Canopy Growth Corporation ("Canopy") and its affiliate during this time to allow the BioSteel entities to maintain limited operations and to facilitate the SISP.
3. Canopy owns approximately 90.4% of the shares of BioSteel Canada. As of the Filing Date, Canopy and an affiliate have made secured loans of approximately \$366 million, excluding interest and costs, to BioSteel Canada. As discussed below, the Additional Applicants are guarantors on a separate credit facility under which Canopy and an affiliate are the borrowers and approximately US\$430 million in principal was outstanding as of November 1, 2023.
4. Court materials, notices and other information relating to these proceedings, including the Eskandari Affidavits and the Reports of the Monitor, are available on the Monitor's website at the following link: www.ksvadvisory.com/experience/case/biosteel.

3.0 SISP¹

3.1 Marketing Process

1. The Applicant, with the assistance of Greenhill and under the supervision of the Monitor, has carried out the SISP in accordance with the SISP Approval Order. A summary of the SISP is as follows:
 - a) following the issuance of the SISP Approval Order, the Applicant and Greenhill launched the SISP on September 21, 2023 by distributing an interest solicitation letter detailing the acquisition opportunity (the “Teaser”) to potential purchasers and investors;
 - b) the Teaser was sent to 78 potentially interested parties, of which 20 parties had shown interest in BioSteel prior to the commencement of the SISP. Interested parties were comprised of Canadian and US operators, financial groups and other strategic parties, including certain parties that contacted the Monitor directly following the commencement of these CCAA proceedings. In compiling the list of potentially interested parties, Greenhill sought input from the Applicant, the Applicant’s counsel and the Monitor;
 - c) attached to the Teaser was a form of non-disclosure agreement (“NDA”) and the SISP Approval Order. Parties that executed the NDA were provided the opportunity to access an online data room managed by Greenhill;
 - d) interested parties that executed an NDA were provided with a confidential information memorandum and access to a virtual data room;
 - e) the virtual data room contained certain historical and projected financial information and certain other relevant diligence information, including operational metrics, personnel information and material contracts and agreements. An electronic copy of a template form of asset purchase agreement was also made available in the data room;
 - f) the SISP provided that a “Qualified Bid” must provide for, among other things, cash consideration sufficient to pay, at a minimum: (i) any obligations in connection with the Charges (as defined in the ARIO) and any obligations in priority thereto; and (ii) \$2 million to fund a wind-up of these CCAA proceedings and any further proceedings or wind-up costs;
 - g) Qualified Bids were also to be accompanied by payment of a deposit in the amount of 10% of the proposed purchase price, payable by wire transfer to the Monitor, in trust; and
 - h) pursuant to the SISP, the deadline for interested parties to submit a Qualified Bid was 5:00 p.m. (Eastern Time) on October 16, 2023 (the “Bid Deadline”).

¹ Capitalized terms in this section have the meaning provided to them in the SISP or SISP Approval Order unless otherwise defined herein.

3.2 SISP Results

1. Based on information provided by Greenhill, a summary of the results of the SISP is as follows:
 - a) 41 parties executed the NDA (including parties that had previously executed an NDA in respect of the pre-filing sale process) and all parties that engaged further in the SISP received the confidential information memorandum;
 - b) 32 parties accessed the data room in the SISP;
 - c) 11 parties submitted due diligence questions;
 - d) 4 parties conducted tours of the manufacturing facility located in Verona, Virginia;
 - e) 8 parties submitted bids prior to the Bid Deadline;
 - f) 6 of the bids received were Qualified Bids; and
 - g) of the 6 Qualified Bids, 2 were for all or substantially all of the BioSteel business or its assets, and 4 were for select assets.
2. Greenhill's summary of the offers received pursuant the SISP (the "Offer Summary") is included at Confidential Appendix "1".
3. To allow for additional negotiations in the interest of maximizing value, the Applicant, in consultation with Greenhill and the Monitor, informed all Qualified Bidders that the deadline to select a successful bid under the terms of the SISP was revised first from October 23, 2023 to October 30, 2023, subsequently to October 31, 2023 at 5:00pm and ultimately to October 31, 2023 at 11:59 pm. Further, in connection with the extension of the deadline to select a Successful Bid, the Applicant also notified bidders of the following milestone date amendments:

Milestone	Prior Deadline	Revised Deadline
Deadline to Select Successful Bid (if any)	October 23, 2023	October 31, 2023
Approval and Vesting Order hearing	November 3, 2023	November 16, 2023
Outside Date for Closing of Successful Bid	November 15, 2023	November 30, 2023

4. During the extension period, Greenhill, with the assistance of the Applicant, its counsel and the Monitor, worked with the Qualified Bidders to attempt to clarify and/or improve the Qualified Bids, and certain revised Qualified Bids were submitted. Nearly 2 weeks after the Bid Deadline, an additional bid was received that did not comply with the Qualified Bid terms and was not competitive from a financial perspective.
5. On October 31, 2023, Greenhill advised each of DC and GPI that it had been selected as a Successful Bidder in respect of its Qualified Bid under the terms of the SISP. The Qualified Bids from DC and GPI were non-overlapping.
6. Greenhill also advised 2 other Qualified Bidders that they had been selected as a "Back-up Bidder" in accordance with the SISP. A copy of the purchase agreements in respect of the Back-Up Bids is attached at Confidential Appendix "2".

4.0 Transactions²

4.1 BioSteel Canada Transaction

1. The BioSteel Canada Purchase Agreement contemplates a transaction whereby DC will purchase the intangible assets and intellectual property of BioSteel, and certain of the Applicant's finished goods.
2. The key terms and conditions of the BioSteel Canada Purchase Agreement are provided below, and the unredacted agreement is attached in Confidential Appendix "3".
 - **Purchased Assets:** the BioSteel Canada Purchased Assets include:
 - a) the Applicant's intangible assets and intellectual property;
 - b) the Applicant's formulas and recipes;
 - c) all inventory of BioSteel Canada, other than Excluded Inventory; and
 - d) certain specified fixed assets, furniture and fixtures.
 - **Purchase Price:** The Applicant is seeking to seal the purchase price (the "DC Purchase Price"). DC shall pay any applicable transfer taxes in addition to the DC Purchase Price.
 - **Deposit:** DC has paid a deposit representing 10% of the DC Purchase Price.
 - **Closing Date:** five business days after the satisfaction or waiver of all conditions, or such other date as may be agreed between the parties, provided that the Closing Date shall be no later than the Outside Date.
 - **Outside Date:** November 30, 2023, or such later date as BioSteel Canada, with the consent of the Monitor, and DC may agree to in writing, each acting reasonably.
 - **Excluded Assets:** Among other things:
 - a) all Excluded Inventory;
 - b) all pending and executory contracts or agreements to which BioSteel Canada is a party or by which BioSteel Canada is bound or in which BioSteel Canada has, or will at Closing have, any rights or by which any of its property or assets are or may be affected; and
 - c) all accounts receivable owing to BioSteel Canada as of the Closing Date.

² Capitalized terms in this section have the meaning provided to them in the BioSteel Canada Purchase Agreement or the Manufacturing Purchase Agreement unless otherwise defined herein.

- **Assumed Liabilities:** No liabilities will be assumed other than the costs and fees associated with recording the transfer and assignment of any registered Intellectual Property comprising a part of the BioSteel Canada Purchased Assets and all Liabilities from and after Closing in respect of any contracts underlying the intangible assets and intellectual property included in the Purchased Assets which the Purchaser elects to assume.
- **Excluded Liabilities:** All Liabilities associated with BioSteel Canada's operations of its business prior to Closing, including any cure costs.
- **Employee Matters:** All individuals employed in connection with BioSteel Canada's business are employed by Canopy or its affiliates. The BioSteel Canada Purchase Agreement does not provide for DC to assume any employees related to the BioSteel Canada business.
- **Representations and Warranties:** Consistent with the standard terms of an insolvency transaction, i.e. to be sold on an "as is, where is" basis, with limited representations and warranties.
- **Conditions to Closing:** The material conditions to closing are that the BioSteel Canada AVO and US Recognition Order shall have been obtained and shall be final.
- **Post-Closing Sales of Qualified and Unqualified Inventory**
 - i. For a period of 120 days following the Closing Date (the "Sale Period"), DC (on behalf of BioSteel Canada) shall have the exclusive right to sell any Excluded Inventory that has greater than 19 months' shelf life from the Closing Date and is not subject to encumbrance ("Qualified Inventory") through DC's distribution channels at a price reasonably agreed upon between BioSteel Canada and DC.
 - ii. DC will be entitled to a fee of the net sales of Qualified Inventory, payable on a monthly basis.
 - iii. BioSteel Canada shall be permitted to sell Excluded Inventory that is not Qualified Inventory ("Unqualified Inventory") to consumers located in Canada or to wholesalers for the purpose of resale within Canada.
 - iv. DC shall grant a non-exclusive, royalty-free license to BioSteel, or a subsequent trustee in bankruptcy, to use Purchased Intellectual Property for the purpose of marketing Unqualified Inventory for sale, such license for a term of 24 months after the Closing Date.
 - v. Prior to the end of the Sale Period, DC shall have the right to acquire the remaining Qualified Inventory at the applicable cost. If notice of intent to purchase is not received from DC prior to the end to the Sale Period, BioSteel Canada will have sole discretion to sell the remaining Qualified Inventory.

- **Termination:** The BioSteel Canada Purchase Agreement can be terminated by DC and/or the Applicant:
 - a) on mutual written agreement between BioSteel Canada (with the consent of the Monitor) and DC;
 - b) by BioSteel Canada (with the consent of the Monitor) or DC if Closing has not taken place by the Outside Date; or the BioSteel Canada AVO is not obtained on or before November 30, 2023 (subject to availability of the Court), provided that the failure to close or obtain the BioSteel Canada AVO is not caused by a breach of the agreement or by the party proposing to terminate the agreement;
 - c) if the conditions contained in the BioSteel Canada Purchase Agreement are not achieved; or
 - d) if there has been a material violation or breach by a party of any covenant, representation or warranty that would prevent the satisfaction of any closing condition in favour of the other party on the Closing Date and such violation or breach has not been waived or cured in accordance with the BioSteel Canada Purchase Agreement.

4.2 BioSteel Manufacturing Transaction

1. The Manufacturing Purchase Agreement contemplates a transaction whereby GPI will purchase substantially all of the assets of BioSteel Manufacturing.
2. The key terms and conditions of the Manufacturing Purchase Agreement are provided below and the unredacted agreement is attached in Confidential Appendix "4".
 - **Purchased Assets:** The Manufacturing Purchased Assets are substantially all of the assets of BioSteel Manufacturing, including:
 - a) BioSteel Manufacturing's property, plant and equipment and other fixed assets listed in certain exhibits to the Manufacturing Purchase Agreement;
 - b) all inventories, including spare parts at the operating facility in Verona, Virginia; and
 - c) all production reports and records, equipment logs, operating guides and manuals related to the property, plant, and equipment.
 - **Purchase Price:** The Applicants are seeking to seal the purchase price (the "GPI Purchase Price").

GPI shall pay any applicable transfer taxes associated with the acquisition of the Purchased Assets.
 - **Deposit:** GPI has paid a deposit equal to 10% of the cash component of the GPI Purchase Price.

- **Closing Date:** The parties shall use commercially reasonable efforts to close before the Outside Date.
- **Outside Date:** November 30, 2023, or such later date and time as GPI, with the consent of the Monitor and BioSteel Manufacturing may agree to in writing, each acting reasonably; provided, however, that if the motion for the BioSteel Recognition Order is not heard on an expedited basis, the Outside date will be extended to 10 Business Days after the ruling on such motion; provided further that in no event shall the Outside Date be extended beyond December 15, 2023.
- **Assumed Liabilities:** GPI will not assume any liabilities of BioSteel Manufacturing, except for the future liabilities and obligations associated with the lease in Verona, Virginia (the “Lease”), which shall be assigned by BioSteel Manufacturing to GP pursuant (i) to the terms of a lease assignment and landlord consent agreed to by the parties (the “Lease Assignment and Landlord Consent”), or (ii) an assignment Order (the “Assignment Order”).
- **Excluded Liabilities:** All liabilities of BioSteel Manufacturing and its affiliates, other than all liabilities of BioSteel Manufacturing in respect of the Lease.
- **Employee Matters:** All individuals employed in connection with BioSteel Manufacturing's business are employed by Canopy and its affiliates. BioSteel Manufacturing and its affiliates will provide GPI information with respect to such employees as may be reasonably required for GPI to assess whether an offer of employment will be extended. Following closing, GPI will have the right, but not the obligation, to extend employment offers to any such employees it wishes to employ.
- **Representations and Warranties:** Consistent with the standard terms of an insolvency transaction, i.e. to be sold on an “as is, where is” basis, with limited representations and warranties.
- **Conditions to Closing:** Material conditions to closing include, among other things:
 - i. BioSteel Manufacturing shall have been added as an Applicant in the CCAA proceedings;
 - ii. the Manufacturing AVO in the CCAA Proceedings and the BioSteel Recognition Order and the Bankruptcy Court Sale Order in the US Chapter 15 recognition proceedings shall have been obtained and shall be final; and
 - iii. if the fully executed Lease Assignment and Landlord Consent has not been delivered by the parties, the Court shall have issued the Assignment Order, which shall be final.
- **Termination:** The Manufacturing Purchase Agreement can be terminated by GPI and/or BioSteel Manufacturing:
 - a) on mutual agreement between BioSteel Manufacturing (with the consent of the Monitor) and GPI;

- b) by BioSteel Manufacturing with the consent of the Monitor, or by GPI upon written notice, if Closing has not taken place by the Closing Date or the Manufacturing AVO or the Bankruptcy Court Sale Order are not obtained by the Closing Date;
- c) if the conditions contained in the Manufacturing Purchase Agreement are not achieved;
- d) if all or substantially all of the Purchased Assets are lost or destroyed prior to the Closing Time; or
- e) if there has been a material violation or breach by a party of any covenant, representation or warranty that would prevent the satisfaction of any closing condition in favour of the other party on the Closing Date and such violation or breach has not been waived or cured in accordance with the Manufacturing Purchase Agreement.

4.3 Sealing of the Confidential Appendix

1. The Applicants seek to seal the Confidential Appendix. As discussed above, the Confidential Appendix contains: (i) the Offer Summary; (ii) unredacted copies of the Purchase Agreements; and (iii) unredacted copies of the Back-Up Bids. For the reasons that follow, among others, the Monitor agrees that sealing the Confidential Appendix is necessary and appropriate in the circumstances.
2. The Confidential Appendix contains detailed and competitively sensitive information regarding the bids received, including the proposed purchase prices and certain schedules. The disclosure of this information prior to closing could prejudice the Applicants' ability to maximize value for its stakeholders by hindering their ability to pursue alternate transactions.
3. The Monitor notes that participants in the SISP included former company insiders of the Applicant as well as participants in the beverage industry. Following discussions with the Financial Advisor and the Applicant, the Monitor is concerned that disclosure of the information contained in the Confidential Appendix could be used by these parties to attempt to frustrate the completion of one or both Transactions, to the detriment of the Applicant and its stakeholders. Therefore, the Monitor's view is that sealing the Confidential Appendix is necessary both to maintain the integrity of the SISP, as well as to promote the efficient and expedient closing of the Transactions.
4. Redacted copies of the Purchase Agreements were filed with the Applicants' motion materials, and summaries of the key terms of same are contained in the Applicants' motion materials and herein. The Applicants seek to seal the Confidential Appendix only until closing of the Transactions, which is appropriately limited in the circumstances.

4.4 Transaction Recommendations

1. The Monitor recommends that the Court issue an Order approving the Transactions for the following reasons:
 - a) in the Monitor's view, the SISP was commercially reasonable and conducted in accordance with the SISP Approval Order, including the timelines it established, which allowed the opportunity for the market to be broadly canvassed and provided an opportunity for parties to perform due diligence. This is evidenced by the Applicant having received 6 Qualifying Bids;
 - b) collectively, the Transactions provide for the greatest recovery available in the circumstances and are more beneficial to creditors than a sale or disposition in a bankruptcy based on the liquidation analysis prepared by Canopy's financial advisor, which has been reviewed by the Monitor;
 - c) the proposed assignment of Lease is necessary to complete the Manufacturing Transaction, and the Monitor has been provided evidence that GPI has the financial resources to perform its obligations under the Lease;
 - d) Canopy and its affiliate, BioSteel Canada's fulcrum secured creditors which will realize a substantial loss on their secured debt, are supportive of the Transactions;
 - e) Greenhill, which has extensive experience in M&A transactions and deep knowledge of BioSteel, is of the view that, collectively, the Transactions are the best outcome currently available to BioSteel and the consideration to be received, taken as a whole, is fair and reasonable given the facts and circumstances of Biosteel and this CCAA proceeding; and
 - f) the Monitor does not believe that further time spent marketing BioSteel's business and assets will result in a superior transaction. Moreover, BioSteel does not have the funding required to continue its business (and has already put its operations into hibernation), nor this CCAA proceeding, during any further marketing process.
2. The Ancillary Relief Order provides that the amounts owed to Greenhill for its Transaction Fees (up to US\$2.5 million calculated by subtracting the Monthly Advisory Fees paid as of the date of the Base Transaction Fee becomes payable), which are secured by the Transaction Fee Charge, shall be split pro rata between BioSteel Canada and BioSteel Manufacturing based on the Purchase Price listed in each applicable transaction. The Monitor is of the view that the Transaction Fees should be split proportionally in such a manner as the Financial Advisor had been retained to sell the BioSteel business which is held by several entities. The Monitor understands that Canopy and its affiliate are supportive of the proposed proportionate split. Pursuant to the Ancillary Relief Order, after the payment of the Transaction Fees referenced above, the Transaction Fee Charge shall be automatically released and terminated without any further action.

5.0 Other matters

5.1 Additional Applicants

1. Pursuant to the Ancillary Relief Order, BioSteel seeks to add BioSteel Manufacturing and BioSteel US each as an “Applicant” in this CCAA proceeding. The addition of the Additional Applicants will facilitate the BioSteel Manufacturing Transaction and the ultimate wind-up of the remaining BioSteel business.
2. As discussed in further detail in the Third Eskandari Affidavit, the Additional Applicants were both incorporated in Delaware and operate in the United States. The Additional Applicants are not subsidiaries of the Applicant, but they are entirely dependent upon the Applicant for their operations, management and business, and both operate on a fully integrated basis with the Applicant.
3. BioSteel US engaged in marketing and distribution of BioSteel-branded products to businesses in the United States, and fulfilled business customer purchase orders by way of a supply and distribution agreement between BioSteel Canada and BioSteel US pursuant to which the Applicant provides all order processing, shipping and billing services and BioSteel US acquires title immediately before the onward sale to its customer.
4. BioSteel Manufacturing historically produced RTDs for BioSteel Canada and manufactured and supplied products to Flow Beverages Inc. (discussed further below). BioSteel Manufacturing owns certain valuable manufacturing equipment and a lease for industrial space in Verona, Virginia.
5. The Monitor understands that, prior to the commencement of the CCAA proceeding, BioSteel Canada contracted for the manufacture of RTDs (both with BioSteel Manufacturing and through third parties), Hydration Mix (through third party CMOs) and other products and sold products both within Canada and online. In the United States, BioSteel products were distributed through BioSteel US on a business to business basis. Since the Filing Date, BioSteel Canada has not requested any production of product from BioSteel Manufacturing and has not paid for the supply of any goods. The Monitor understands that BioSteel Canada has paid certain limited obligations of BioSteel Manufacturing to maintain the value of its assets and to comply with applicable laws.
6. Prior to the commencement of the CCAA proceeding, the Monitor understands that each of the Additional Applicants deposited a retainer with counsel to BioSteel in Toronto, Ontario.
7. The Monitor agrees that the Additional Applicants’ centre of main interests is Canada. As noted in the Third Eskandari Affidavit, the Additional Applicants cannot function without critical support from BioSteel Canada; many of the Additional Applicants’ operational elements are carried out in Canada; each of the Additional Applicants has entered into contracts with the notice provisions requiring notice to be delivered in Ontario and counterparties regularly accepted instruction from parties located in Toronto, which indicates to creditors that the Additional Applicants are based in

Canada; and the boards of directors of the BioSteel entities are substantially similar and each include a Canadian board member.

8. The Monitor agrees with BioSteel that the Additional Applicants are insolvent and do not have sufficient liquidity to meet their secured and unsecured trade payables and liabilities.
9. As set out in more detail in the Third Eskandari Affidavit, the Additional Applicants entered into a Guarantee Agreement through which the Additional Applicants guaranteed, jointly and severally and as primary obligors, the due and punctual payment and performance of the obligations of Canopy and its affiliate under the Canopy Credit Agreement. In connection therewith, the Additional Applicants are also "Pledgors" pursuant to a Canadian Pledge and Security Agreement and a US Pledge and Security Agreement, pursuant to which the Additional Applicants granted broad security interests in all right, title and interest in or to each Additional Applicant's undertakings, assets and properties now owned or at any time thereafter acquired by such Additional Applicant in which such Additional Applicant now has or at any time in the future may acquire any right, title or interest. As at November 1, 2023, approximately US\$430 million in principal was outstanding under the Canopy Credit Agreement. BioSteel US and BioSteel Manufacturing each also have various unsecured creditors.
10. On November 8, 2023, the administrative agent under the Canopy Credit Agreement and Canopy entered into a Limited Waiver Agreement that, among other things, waives any default that may arise as a result of the commencement of proceedings by BioSteel and preserves the rights of the administrative agent and senior secured lenders to enforce and collect on their claims as secured creditors against the Additional Applicants in these proceedings or to take actions in furtherance of same. The Limited Waiver Agreement allows the Additional Applicants to commence these proceedings, but preserves the rights of the administrative agent and senior secured lenders to enforce and collect on their claims as secured creditors and to receive all of the net proceeds received by the Additional Applicants in connection with the disposition of their respective assets pursuant to the Manufacturing Transaction.
11. After the closing of the Transactions, the Additional Applicants will be unable to continue operations. The Additional Applicants have no employees of their own, and Canopy has advised that it is unwilling to continue providing employee services other than as needed to facilitate these proceedings and the wind-down of BioSteel. Further, BioSteel Manufacturing does not have operating income since BioSteel Canada ceased placing orders for RTD production and Canopy gave notice of its intent to terminate most employees providing services to BioSteel – it will also have no operating assets after the closing of the Manufacturing Transaction. Finally, BioSteel US will have no go-forward operations and will need to wind down following closing of the BioSteel Canada Transaction.
12. Based on the above, the Monitor is of the view that adding the Additional Applicants is necessary and appropriate in the circumstances, and is not likely to prejudice any stakeholders.

5.2 Intercompany Transactions

1. To facilitate the needs of the business in the ordinary course, BioSteel Canada, BioSteel Manufacturing and BioSteel US have historically engaged in certain intercompany transactions. These fund movements are reconciled for the purposes of financial reporting and tax returns on an annual basis. The BioSteel bank accounts and the intercompany movement of funds in accordance with past practices between the BioSteel entities and Canopy constitute the cash management system of BioSteel, which BioSteel seeks approval of pursuant to the Ancillary Order. The Monitor believes the relief sought is appropriate and necessary in the circumstances. The Monitor intends to continue to review all intercompany transactions.

5.3 Flow Beverages Corp.

1. As set out in the Third Eskandari Affidavit, BioSteel Manufacturing manufactured and supplied projects to Flow Beverages Inc. ("Flow US"), a US affiliate of Flow, pursuant to a co-manufacturing agreement ("CMA"). The Monitor understands that BioSteel Manufacturing, Flow US, and Canopy also entered into an Asset Purchase Agreement as of November 8, 2022 (the "Flow APA") pursuant to which Flow was granted a right of first offer (the "ROFO") in respect of certain specified assets, and subject to certain specified exceptions, including in connection with a sale of all or substantially all of the assets of BioSteel Manufacturing.
2. Another affiliate of Flow submitted a Qualified Bid in the SISP. Subsequent to the Qualified Bid Deadline in the SISP, on November 1, 2023, Flow delivered a letter to BioSteel and the Financial Advisor in which Flow asserted that the ROFO had been triggered by the SISP, such that (i) BioSteel was obligated to issue a ROFO notice in accordance with the Flow APA, and (ii) BioSteel and the Financial Advisor were obligated to disclose the terms of all Qualified Bids submitted in the SISP.
3. Also on November 1, 2023, counsel to the Applicant responded to Flow's letter and advised, among other things, that (i) the SISP authorized the Applicant and the Financial Advisor to market substantially all of the equity and assets of the BioSteel Entities; (ii) the SISP had been conducted in accordance with its terms under the supervision of the Monitor; and (iii) in order to maintain the integrity of the SISP, no details of competing Qualified Bids would be provided to Flow.
4. On November 2, 2023, counsel to Flow delivered a letter to the Monitor and counsel to the Monitor requesting the Monitor's views on the Applicant's positions expressed in its November 1, 2023 letter and reiterating the request for certain information regarding the SISP.
5. On November 3, 2023, counsel to the Monitor responded to Flow's counsel, among other things, (i) confirming that maintaining the integrity of the SISP is of the utmost importance, (ii) confirming its support of the Applicant's position that the SISP authorized the Applicant to market substantially all of the BioSteel Entities' equity and assets, and the SISP did not contemplate providing any bidder with details of any other bidder's bids; and (iii) expressing the Monitor's view that, in any event, the ROFO was not triggered by the SISP or any transactions resulting therefrom given that there is a sale of all or substantially all of the assets of BioSteel Manufacturing. Each of the letters referred to in this Section 5.3 attached hereto at Appendix "C".

6. As of the date of this Report, the Monitor has not received any response to its November 3, 2023 letter.
7. The Monitor notes the following with respect to these matters:
 - a. counsel to Flow was added to the service list as of September 14, 2023 and was served with notice of the SISP Approval Order motion;
 - b. the SISP Approval Order was granted on an unopposed basis;
 - c. as set out above, the SISP authorizes the solicitation of transactions in respect of, among other things, “the equity or all or substantially all of the assets of [...] BioSteel Sports Nutrition USA LLC and BioSteel Manufacturing LLC”;
 - d. as set out above, the SISP was carried out in accordance with its terms by the Applicant and the Financial Advisor, under the supervision of the Monitor;
 - e. the SISP does not contemplate the possibility of BioSteel Manufacturing issuing a ROFO notice at the end of the SISP, and the Monitor believes such a result would negatively affect the integrity of the SISP; and
 - f. in any event, the BioSteel Manufacturing Transaction contemplates the sale of all or substantially all of the assets of BioSteel Manufacturing such that the ROFO is not applicable.

5.4 BioSteel Loyalty Program

1. The Applicant is seeking specific approval to discontinue its customer Loyalty Program. As set out in the Third Eskandari Affidavit, approximately 45,000 individuals are registered in the Loyalty Program, and since the commencement of these proceedings, all point redemptions related to products and merchandise have been disabled.
2. Neither of the SISP Transactions contemplate the continuation or assumption of the Loyalty Program, and accordingly, the Applicant and the Monitor believe it is appropriate to take steps to terminate it at this time.

6.0 Cash Flow Forecast

1. The Applicants, with the assistance of the Monitor, have prepared the Cash Flow Forecast for the period November 13, 2023 to January 31, 2024 (the “Forecast Period”). The Cash Flow Forecast has been prepared for all of the Applicants on consolidated basis. The Cash Flow Forecast and the Applicants’ statutory report on the cash flow pursuant to Section 10(2)(b) of the CCAA is attached as Appendix “D”.
2. The Cash Flow Forecast contemplates that the Transactions will close on or about November 30, 2023 and that remaining operations are wound down thereafter. Proceeds from the Transactions have been excluded from the Cash Flow Forecast. Even without the proceeds, the Cash Flow Forecast reflects that the Applicants will have sufficient liquidity through the Forecast Period.

3. Based on the Monitor’s review of the Cash Flow Forecast, the cash flow assumptions appear reasonable.
4. The Monitor’s statutory report on the Cash Flow Forecast is attached as Appendix “E”.

7.0 Stay Extension

1. The Stay of Proceedings is currently set to expire on November 17, 2023. The Applicants are requesting an extension of the Stay of Proceedings until January 31, 2024 to allow time for the Applicants to sell any remaining inventory, collect on accounts receivable, and conduct a wind-down of its remaining business. The extension of the Stay of Proceedings will also allow the Applicants time to prepare materials and return to Court to seek further relief, including the authority to make distributions of the net proceeds from the Transactions to the Applicants’ secured creditors.
2. The Monitor supports the request for an extension of the Stay of Proceedings for the following reasons:
 - a) the Applicant has been acting, and continues to act, in good faith and with due diligence;
 - b) the Monitor does not believe that any creditor will be prejudiced by the extension being sought;
 - c) it will provide the Applicant and BioSteel Manufacturing the time required to work with DC and GPI, and their respective legal counsel, to complete the Transactions;
 - d) as of the date of this Report, the Monitor is not aware of any party opposed to an extension; and
 - e) based on the Cash Flow Forecast, the Applicants are projected to have sufficient liquidity until January 31, 2024.

8.0 Conclusion and Recommendation

1. Based on the foregoing, the Monitor respectfully recommends that this Honourable Court make the orders granting the relief detailed in Section 1.1(1)(j) of this Report

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.,
IN ITS CAPACITY AS MONITOR OF
BIOSTEEL SPORTS NUTRITION INC.
AND IN ITS CAPACITY AS PROPOSED MONITOR
OF BIOSTEEL SPORTS NUTRITION USA LLC AND BIOSTEEL MANUFACTURING LLC
AND NOT IN ITS PERSONAL CAPACITY**

Appendix “A”



**Pre-Filing Report of
KSV Restructuring Inc.
as Proposed CCAA Monitor of
BioSteel Sports Nutrition Inc.**

September 14, 2023

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COURT FILE NO.: ●

**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 BIOSTEEL SPORTS NUTRITION INC.**

**PRE-FILING REPORT OF KSV RESTRUCTURING INC.
AS PROPOSED MONITOR**

September 14, 2023

1.0 Introduction

1. KSV Restructuring Inc. ("KSV") understands that BioSteel Sports Nutrition Inc. ("BioSteel Canada" or the "Applicant") intends to make an application to the Ontario Superior Court of Justice (Commercial List) (the "Court") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), for an initial order (the "Initial Order"), among other things, granting BioSteel Canada relief under the CCAA, and appointing KSV as monitor in these proceedings (in such capacity, the "Monitor").
2. BioSteel Canada, operating on an integrated basis with BioSteel Sports Nutrition USA LLC ("BioSteel US") and BioSteel Manufacturing LLC ("BioSteel Manufacturing"), both of which are not applicants in these proceedings, is a sports nutrition and hydration company focused on high-quality ingredients with a strong presence in the professional sports market. BioSteel Manufacturing and BioSteel US are jointly referred to as the "Non-Applicant Stay Parties" and, together with BioSteel Canada, "BioSteel". As described below, while the Non-Applicant Stay Parties are not applicants in these proceedings, it is requested that certain limited protections be extended to them.
3. The principal purpose of these CCAA proceedings is to create a stabilized environment to enable BioSteel Canada to temporarily hibernate its business while undertaking a court-supervised sale and investment solicitation process (the "SISP") for BioSteel's assets and business with the view of identifying and completing a sale transaction. No relief is being sought at the initial application in respect of the SISP.
4. If the Initial Order is granted, BioSteel Canada intends to return to Court within ten days (the "Comeback Motion") seeking approval of an Amended and Restated Initial Order and SISP Approval Order (each as defined and discussed below).

5. The Affidavit of Sarah S. Eskandari, General Counsel of the Applicant, sworn September 13, 2023 in support of the CCAA application (the “Eskandari Affidavit”), provides, among other things, background information concerning BioSteel and its business, as well as the reasons for the commencement of these CCAA proceedings.¹
6. If the Court grants the relief set out in the proposed Initial Order, the Court materials filed in these proceedings will be made available by KSV on its case website at www.ksvadvisory.com/experience/case/biosteel (the “Case Website”).
7. KSV is filing this report (the “Pre-Filing Report”) as proposed Monitor. If the Initial Order is granted, the Monitor will file a subsequent report in respect of the relief to be sought by the Applicant at the Comeback Motion, which report will also detail any matters that have arisen since the date of this Pre-Filing Report.

1.1 Purposes of this Pre-Filing Report

1. The purposes of this Pre-Filing Report are to:
 - a) provide KSV’s qualifications to act as Monitor;
 - b) provide certain background information about BioSteel Canada and its financial position;
 - c) report on the Applicant’s cash flow projection (the “Cash Flow Forecast”) for the Initial Forecast Period (as defined below);
 - d) discuss the rationale for the following aspects of the Initial Order:
 - i. a charge in the amount of US\$750,000 (the “Administration Charge”) on all of the Applicant’s current and future assets, property and undertaking (collectively, the “Property”) to secure the fees and disbursements of the Applicant’s legal counsel, the fees and disbursements of legal counsel to the Special Committee (as defined below), the fees and disbursements of the Monitor and its independent legal counsel, Bennett Jones LLP (“Bennett Jones”) and the monthly fees of the Financial Advisor (as defined below);
 - ii. a charge in the amount of US\$1,279,000 (the “Directors’ Charge” and together with the Administration Charge, the “Charges”) on the Property in favour of the Directors and Officers (as defined below);
 - iii. the proposed priority of the Charges in the Initial Order;
 - iv. a provision authorizing BioSteel Canada to pay certain pre-filing obligations to essential suppliers of BioSteel, subject to first obtaining the Monitor’s consent;

¹ Ms. Eskandari also serves as General Counsel for the Non-Applicant Stay Parties.

- v. extending the benefit of the stay of proceedings to the Non-Applicant Stay Parties and their respective Directors and Officers; and
 - vi. a provision authorizing BioSteel Canada to act as the foreign representative in respect of these CCAA proceedings for the purpose of having orders issued in these CCAA proceedings from time to time recognized and approved in a jurisdiction outside of Canada, and authorizing BioSteel Canada to apply for foreign recognition and approval of these CCAA proceedings, as necessary, in any jurisdiction outside of Canada, including the United States pursuant to chapter 15 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”); and
- e) provide the proposed Monitor's recommendation regarding the relief sought by BioSteel Canada in its CCAA application materials.

1.2 Scope and Terms of Reference

1. In preparing this Pre-Filing Report, KSV has relied upon the Applicant's unaudited financial information, books and records, information available in the public domain and discussions with the Applicant's management and legal counsel.
2. KSV has not audited or otherwise attempted to verify the accuracy or completeness of the financial information relied on to prepare this Pre-Filing 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 set out herein 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 Pre-Filing Report is based upon the Applicant's 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 Pre-Filing Report are in Canadian dollars.

1.4 KSV's Qualifications to Act as Monitor

1. KSV is a licensed trustee within the meaning of subsection 2(1) of the *Bankruptcy and Insolvency Act* (Canada) (the “BIA”). KSV is not subject to any of the restrictions to act as monitor set out in Section 11.7(2) of the CCAA.
2. KSV has consented to act as monitor in these proceedings should the Initial Order be granted. A copy of KSV's consent to act as Monitor is attached hereto as Appendix “A”.

3. KSV has experience acting as CCAA monitor and other court-officer capacities in insolvency proceedings. KSV Advisory Inc. (“KSV Advisory”), an affiliate of KSV, was engaged by the Applicant on August 5, 2023 to assist with financial analysis and other strategic initiatives. During its engagement, KSV Advisory obtained an understanding of the Applicant’s business. This knowledge will assist KSV to fulfill its duties as Monitor if the Initial Order is granted.
4. Neither KSV nor any of its representatives or affiliates has at any time in the past two years been: (a) a director, officer or employee of the Applicant; (b) related to the Applicant, or to any director or officer of the Applicant; or (c) the auditor, accountant or legal counsel, or a partner or an employee of the auditor, accountant or legal counsel, of the Applicant.

2.0 Background

2.1 Corporate

1. The Eskandari Affidavit provides detailed background information with respect to BioSteel's business and operations. Accordingly, that information is only summarized in this Pre-Filing Report.
2. BioSteel Canada, formerly BioSteel Sports Supplements Inc., was incorporated in Ontario on August 26, 2009 under the *Ontario Business Corporations Act*, and later continued under the *Canada Business Corporations Act*. The Applicant is extra provincially registered in Alberta, the Northwest Territories and Ontario, and is also registered as a foreign profit corporation in the state of New Jersey.
3. BioSteel US and BioSteel Manufacturing operate with BioSteel Canada on an integrated basis to manufacture, market and distribute the BioSteel Products (as defined below). While the Non-Applicant Stay Parties are not subsidiaries of BioSteel Canada, they are significantly intertwined in BioSteel Canada's business. The Non-Applicant Stay Parties were created to support the expansion of BioSteel in the North American market. A copy of the group's simplified organizational chart is attached hereto as Appendix "B".
4. BioSteel US provides sales and marketing services to BioSteel Canada in the United States and is incorporated in Delaware. BioSteel Manufacturing serves as the production and manufacturing operation of certain of BioSteel Canada's RTDs (defined below). The company was incorporated in Delaware on October 8, 2019 and operates BioSteel's manufacturing operations located at a production facility in Verona, Virginia (the “Verona Facility”).

2.2 Acquisition by Canopy

1. In October 2019, the then-shareholders of BioSteel Canada and Canopy Growth Corporation (“Canopy”) entered into a share purchase agreement (the “SPA”) pursuant to which Canopy agreed to acquire approximately 72% of the issued and outstanding shares of BioSteel Canada. Subsequent to the completion of the SPA transaction, Canopy completed an incremental equity investment in the Applicant increasing its ownership percentage to 76.7%.

2. In connection with the SPA, Canopy, BioSteel Canada and the now minority shareholders of BioSteel Canada entered into a unanimous shareholders agreement to establish and govern their rights, obligations and relationship in connection with the equity interests of BioSteel Canada.
3. In October 2022, following certain other incremental equity purchases, Canopy exercised its option to purchase one-half of the minority shareholders' remaining shares in BioSteel Canada and all of the shares held by certain optionholders that were acquired pursuant to the exercise of stock options. As of December 2022, Canopy owns approximately 90.4% of the outstanding voting common shares of BioSteel Canada.

2.3 Business of the Applicant

1. BioSteel is a sports nutrition and hydration company in the business of manufacturing and selling ready to drink sports drinks (“RTDs”), hydration mixes and supplements with high quality ingredients for sale at retailers across Canada, the United States and online. The primary distribution channels include, among others, food retailers, convenience stores, gas stations and online platforms, including through its own website. BioSteel also has a strong presence in the professional sports market.
2. BioSteel’s products (collectively, the “BioSteel Products”) include:
 - a) RTDs – These products are bottled natural, sugar free, sports drinks, with more nutrients than other drinks offered on the market. The RTDs are packaged in eco-friendly Tetra Pak Prisma Aseptic cartons.
 - b) Hydration Mix - The powdered Hydration Mix is a market alternative to RTDs and is intended to be mixed with water before consumption. RTD and Hydration Mix come in numerous staple and limited-time flavours.
 - c) Other - BioSteel also sells numerous supplement products, including specialty nutrition and protein powders, as well as BioSteel-branded merchandise.
3. In addition to its significant investments in rights to “rinkside” advertisements, use of proprietary logos and social media participation, the Applicant also has agreements with professional sports teams such as the Toronto Blue Jays, athletic organizations such as the National Hockey League (the “NHL”), and endorsement arrangements with numerous individual professional athletes. These endorsement and sponsorship parties provide market exposure and awareness of Biosteel's products on sponsored social media accounts, marketing campaigns, in-game and in-arena branding during sports games, and the rights for certain of Biosteel's trademarks to appear in advertising campaigns and video games.
4. Biosteel's most notable and significant sponsorship agreement is with the NHL and the National Hockey League Players Association (the “NHLPA”). Both BioSteel Canada and BioSteel US have signed the sponsorship agreement with the NHL and NHLPA, as well as certain related agreements for the services of specific NHL players.

5. Between October 1, 2023 and March 31, 2024, the upcoming payments scheduled to come due under the various endorsement and sponsorship agreements is approximately \$12 million. The Applicant does not intend to use the services of these counterparties following the commencement of these CCAA proceedings and, as a result, does not intend to make any of these upcoming payments.

2.4 Employees

1. Prior to the Termination Event (as discussed and defined below), approximately 190 individuals worked at BioSteel (collectively, the “BioSteel Employees”). As of the date of this Pre-Filing Report, approximately 90 of the BioSteel Employees were providing services at the Verona Facility with the remaining BioSteel Employees working in sales, marketing or other corporate capacities.
2. All of the BioSteel Employees are employed by Canopy or Canopy Growth USA, LLC (“Canopy US”). As a result, Canopy or Canopy US, as applicable, is responsible for the remuneration of the BioSteel Employees as well as administering the relevant source deductions. Prior to the Termination Event, the aggregate monthly payroll for the BioSteel Employees was approximately \$1.7 million.
3. Pursuant to their respective Master Services Agreements, employee pay incurred by Canopy or Canopy US for the BioSteel Employees is passed down to the Applicant as an intercompany payable. Due to the Applicant’s liquidity issues, the obligations payable to Canopy or Canopy US for employee related costs have not been paid since March 2023. KSV understands that Canopy has continued to pay the employees and remit source deductions notwithstanding BioSteel Canada's failure to pay the charges when due.
4. The BioSteel Employees are not unionized and the Applicant does not maintain any registered pension plans.
5. Historically, the only person employed by BioSteel was BioSteel Canada's Co-founder. However, on August 18, 2023 the co-founder resigned all positions at the company, including as a director or officer, and the company waived any obligation for them to continue working as of that date.
6. The proposed Monitor understands that on September 14, 2023, Canopy and Canopy Growth US will be terminating (the “Termination Event”) 69 BioSteel Employees (the “Terminated Employees”). The proposed Monitor further understands that Canopy and Canopy Growth US have agreed to retain a limited number of BioSteel Employees to assist with certain necessary continuing services during the pendency of these proceedings (the “Retained Employees”).

2.5 Financial Performance

1. Despite the growth of its business, the Applicant's financial challenges have persisted. As a result, the Applicant incurred total losses of approximately \$191.1 million in its most recent fiscal year ending March 31, 2023, as summarized below:

52 weeks ended (\$000s)	March 31, 2023
Sales	24,274
Cost of sales	90,784
Gross profit	(66,509)
Gross profit %	(274%)
Ordinary expenses	114,044
Other expenses	10,553
Net loss	(191,106)

2. As discussed in greater detail in the Eskandari Affidavit, the Applicant continued to incur significant ongoing financial losses as it attempted to expand its market share within North America. The resulting liquidity crisis has been compounded by BioSteel's high production costs, which have historically resulted in negative gross margins on its RTD and Hydration Mix products.
3. A growing number of trade creditors and product endorsement partners are now placing the Applicant on credit hold and/or are demanding immediate payment of past-due obligations and/or threatening to terminate or sending termination notices for certain agreements. The Applicant does not have the liquidity available under its demand loan facilities to fund the arrears payments owing to these creditors and/or contract counterparties.
4. In addition, Canopy is no longer willing to fund BioSteel's operating costs and, absent filing for CCAA protection and support from Canopy, the Applicant will not have the liquidity required to fund its immediate operational needs.

2.6 Formation of the Special Committee

1. Canopy and BioSteel, in late 2022, undertook a broad marketing process to seek an additional investment in or the sale of BioSteel. The proposed Monitor understands that the process returned no bids for a going concern sale.
2. In the summer of 2023, a special committee of the Applicant's board was formed (the "Special Committee") to explore certain strategic alternatives for the Applicant, including a renewed focus on sale efforts. The Special Committee engaged the Financial Advisor to assist in develop a process to gauge and solicit interest in BioSteel. This process yielded interest, however, all indications of interest submitted were highly conditional with no corresponding offer to fund the BioSteel business during the diligence period.
3. In light of the foregoing, the proposed Monitor understands that the Special Committee has determined that seeking the benefit of Court protection will provide the best opportunity to maximize the value of BioSteel for all stakeholders.

2.7 Financial Position

1. The Applicant's unaudited, internal balance sheet as at the most recent fiscal year end of March 31, 2023 is provided below.

Description	Book Value (\$000s)
Cash	6,104
Accounts receivable	26,686
Inventory	63,778
Prepaid expenses and deposits	15,669
Property, plant and equipment	735
Other assets	124
Total Assets	113,096
Accounts payable	30,926
Accrued liabilities	29,173
Sales tax payable	417
Intercompany interest and trade payables	6,293
Due to Canopy	313,830
Lease liability	168
Other long-term liabilities	208
Total Liabilities	381,015
Equity	(267,918)
Total Liabilities & Equity	113,096

2. The following is a brief description of certain material line items on the Applicant's balance sheet:
 - a) Accounts receivable – Reflects amounts owed by third party customers located in North America. As at August 31, 2023, the Applicant had accounts receivable of approximately \$25.7 million, of which approximately \$22.7 million was aged less than 60 days.
 - b) Inventory – Inventory is primarily comprised of unprocessed raw materials used at the Verona Facility and finished inventory held at various warehousing and storage facilities pending its sale and distribution. As at August 31, 2023 inventory was approximately \$63.8 million.
 - c) Accounts payable – mainly consist of trade payables owing to suppliers. This amount has increased to approximately \$40.4 million as of September 11, 2023.
 - d) Due to Canopy – Reflects the balance of the demand loan facilities owed to Canopy. These facilities provided operating capital historically used to fund payroll (through the Master Service Agreement arrangements), manufacturing costs under the CMO agreements, sponsorship and endorsement payments, and other operations as BioSteel worked to expand within the North American market. This amount has increased to approximately \$366 million, before interest, as of September 11, 2023.

2.8 Secured Creditors

BioSteel Loan Agreement

1. The Applicant is funded primarily through a secured demand loan and credit facility (the “Secured Loan Facility”) with Canopy and 11065220 Canada Inc (“11065220”) as co-lender (together, the “Lenders”) pursuant to a loan agreement (as amended from time to time, the “BioSteel Loan Agreement”).
2. Pursuant to the terms of the BioSteel Loan Agreement, the Lenders established the Secured Loan Facility in favour of BioSteel Canada. The Secured Loan Facility is comprised of various revolving and non-revolving tranches which totaled a consolidated maximum credit of approximately \$389.5 million. The Applicant currently owes Canopy the principal amount of \$69,729,929.65, plus accrued and unpaid interest as at July 31, 2023 of \$5,122,161.77 and owes 11065220 the principal amount of US\$218,452,976.56, plus accrued and unpaid interest as at July 31, 2023 of US\$16,336,604.82.
3. The BioSteel Loan Agreement and the underlying indebtedness is secured by a tenth amended and restated general security agreement dated as of July 13, 2023 by and between the Lenders and BioSteel Canada (the “Security Agreement”). Pursuant to the Security Agreement, BioSteel Canada granted the Lenders a security interest in all right, title and interest in and to all of its real and personal or after acquired property.
4. Bennett Jones has reviewed the Lenders’ security in respect of the Secured Loan Facility and determined that, subject to customary assumptions and qualifications, the security creates a validly perfected security interest in favour of the Lenders in all right, title and interest in and to all of its real and personal or after acquired property of BioSteel Canada in Ontario. If appointed Monitor, KSV will obtain security opinions under the laws of any other applicable provinces as necessary and update the Court accordingly.
5. The Applicant has advised that it has no amounts owing to other secured or priority creditors. The only other registration that the proposed Monitor has been made aware of is a personal property security registration in favour of the Royal Bank of Canada in connection with a cash collateral account.
6. Given the significant amounts owing by BioSteel Canada to the Lenders and their first-ranking security over all of BioSteel Canada assets, the Lenders appear to be the only creditors with an economic interest in the Applicant.

3.0 Cash Flow Forecast

1. The Applicant has prepared a Cash Flow Forecast for the 10-day initial stay period (the “Initial Forecast Period”). The Cash Flow Forecast and the Applicant’s statutory report thereon pursuant to Section 10(2)(b) of the CCAA are attached hereto as Appendix “C”.
2. As of the filing date, the Applicant had a cash balance of approximately \$16.2 million.
3. The Cash Flow Forecast demonstrates that, subject to obtaining the relief sought as part of the originating application for the Initial Order, the Applicant is projected to have sufficient liquidity to fund its obligations until the Comeback Motion.

4. Based on KSV's review of the Cash Flow Forecast, the cash flow assumptions appear reasonable. The proposed Monitor's report on the Cash Flow Forecast is attached as Appendix "D".
5. The Applicant will file an updated cash flow forecast for an extended period prior to the Comeback Motion.

4.0 Court Ordered Charges

4.1 Administration Charge

1. The Applicant is seeking Court approval of an Administration Charge in an initial amount not to exceed US\$750,000 to secure the fees and expenses of the Monitor, its legal counsel, the Applicant's legal counsel, the Special Committee's legal counsel and the monthly fees payable to the Financial Advisor. Significant fees and costs have been incurred by these firms to-date in preparing for these CCAA proceedings and fees will continue to be incurred prior to the Comeback Motion.
2. The Administration Charge is a customary provision in an initial order in a CCAA proceeding; it is required to provide security to the professionals engaged to assist a debtor company and to protect them if the debtor is unable to pay professional fees and costs during the CCAA process.
3. The Applicant has worked with its legal counsel and KSV to estimate the proposed quantum of the Administration Charge.
4. KSV believes that the Administration Charge is reasonable and appropriate in the circumstances given the complexities of the Applicant's proceedings. The professionals require the benefit of the Administration Charge to protect them for their pre-filing fees related to preparing for these proceedings, as well as for their fees and costs that will be incurred during these proceedings. Without such protection, the professionals are unlikely to be prepared to continue to provide services in these proceedings.
5. At the Comeback Motion, KSV understands that the Applicant intends to apply for an increase in the maximum amount of the Administration Charge.

4.2 Directors' Charge

1. The Applicant is seeking Court approval of a Directors' Charge in an initial amount not to exceed US\$1,279,000. The amount of the Directors' Charge was estimated by the Applicant in consultation with the proposed Monitor, taking into consideration the potential exposure of the directors and officers for sales taxes (GST/PST/HST), vacation pay, employee wages, environmental liabilities and source deductions until the Comeback Motion.

2. KSV understands that the Applicant is current on their normal course GST/PST/HST and payroll obligations (including employee withholding taxes), however the Applicant is generally in a payable position on sales taxes and is expected to be so for the beginning of these proceedings. Accordingly, the amount of the Directors' Charge represents the sum of:
 - a) the provisional balance of sales taxes as at the date of the Initial Order (US\$157,000);
 - b) termination amounts potentially payable in certain provinces and states where liability may exist for the Terminated Employees and the Retained Employees (US\$403,000);
 - c) one payroll cycle for the Retained Employees (inclusive of source deductions) (US\$263,000);
 - d) the estimated amount of the Applicant's vacation pay owing to employees (US\$300,000); and
 - e) a provisional amount for any future occurring environmental obligations at the Verona Facility (US\$156,000).
3. The proposed Directors' Charge is being sought as security for the directors and officers of BioSteel (other than a director or officer who is or was at any point a shareholder or optionholder of the Applicant) (collectively, the "Directors and Officers") in connection with any obligations or liabilities that they incur as a director or officer of BioSteel after the commencement of these CCAA proceedings. While the BioSteel Employees are ultimately employed by Canopy and Canopy US, and therefore are the ultimate responsibility of those entities as the proposed Monitor understands, the Directors' Charge is necessary in the event that a party alleges that the obligations are a *de facto* obligations for BioSteel.
4. As outlined in the Eskandari Affidavit, the Applicant, through Canopy, maintains director's and officer's liability insurance up to an aggregate of US\$20 million. However, this coverage is subject to certain deductibles, exclusions and carve outs which create a degree of uncertainty. Accordingly, KSV believes the Directors' Charge is reasonable given that the expertise offered by the Directors and Officers of the Applicant is critical to the overall success of these proceedings. The Directors and Officers are not prepared to be personally liable for BioSteel's obligations, and accordingly, without the benefit of the Directors' Charge, the continued cooperation of the Directors and Officers would be at risk, which would impair the Applicant's ability to operate and participate in the SISF during these proceedings.
5. It is notable that the proposed Directors' Charge seeks to secure any obligations or liabilities that the directors and officer of the Non-Applicant Stay Parties incur as a director or officer of their respective entity after the commencement of these CCAA proceedings. The proposed Monitor understands the Lenders, who are the only party that could be prejudiced by this relief, are agreeable given in large part due to the integrated nature of BioSteel's business.

6. KSV understands that at the Comeback Motion, the Applicant intends to apply for an increase of the Directors' Charge up to their estimated maximum total exposure at any point in time in these proceedings.

4.3 Priority of Charges

1. Each of the Charges is proposed to rank in priority to all other encumbrances against the Property, other than any person who has not been served with notice of the application for the Initial Order. At the Comeback Motion, the Applicant intends to seek to have the Charges rank in priority to the encumbrances described above.
2. The Applicant proposes that the Charges have the following priority (amounts presented below are those proposed to be granted in the Initial Order – any increases to the amounts covered by the Charges will be addressed at the Comeback Motion):
 - a) first, the Administration Charge (US\$750,000); and
 - b) second, the Directors' Charge (US\$1,279,000).
3. The Monitor is of the view that the priority of the Charges is appropriate and in the interest of facilitating these proceedings.

5.0 Proposed Payment of Critical Vendor Obligations

1. On its application for the Initial Order, the Applicant is seeking a provision permitting it to make payments to certain critical vendors integral to the operation of the business in respect of obligations arising prior to the commencement of its CCAA proceedings. The Applicant is also seeking authorization to pay certain amounts for goods and services of the Non-Applicant Stay Parties as a result of the integrated nature of the BioSteel business.
2. The Applicant seeks authorization to pay these obligations subject to the consent of the Monitor, with the Monitor considering, among other factors, whether:
 - a) the supplier or service provider is considered critical to the business and whether the payment is required to ensure ongoing supply;
 - b) the proposed payment is expected to preserve, protect or enhance the value of the Applicant's property or business; and
 - c) the applicable supplier or service provider is otherwise required to continue to provide goods or services to the Applicant after the date of the Initial Order pursuant to the terms of the proposed Initial Order.
3. The proposed Monitor is familiar with provisions of orders under the CCAA permitting the debtor company to pay specific pre-filing obligations, where appropriate. In certain circumstances, such payments are required or appropriate to preserve the value of a debtor's business for the benefit of stakeholders.

4. KSV is supportive of the Applicant's request for the inclusion of a provision authorizing it to pay certain pre-filing obligations owing to critical vendors, including of the Non-Applicant Stay Parties. KSV will review each proposed payment in accordance with the foregoing criteria prior to providing (or not providing) the Monitor's required consent, with a view to ensuring that payments to suppliers/contractors in respect of pre-filing obligations are limited to those reasonably necessary in the circumstances.
5. The Applicant is also seeking authority to pay post-filing expenses of the Non-Applicant Stay Parties with the consent of the Monitor. The proposed Monitor supports that relief on the same basis as the pre-filing amounts.

6.0 Non-Applicant Stay of Proceedings

1. The proposed Initial Order contemplates that the Non-Applicant Stay Parties and their Directors and Officers be granted the benefits and protection of the stay of proceedings despite not being applicants in these CCAA proceedings.
2. Given the integrated nature of their operations, the insolvency of the Applicant puts the Non-Applicant Stay Parties in a highly vulnerable position. It would be detrimental to BioSteel Canada's ability to successfully restructure if proceedings were commenced or actions taken against any of the Non-Applicant Stay Parties.
3. A stay of proceedings for the Non-Applicant Stay Parties will help maintain the status quo in order to afford BioSteel Canada the best chance to maximize value for all stakeholders.
4. KSV understands that Biosteel operates as an integrated and intertwined North American business. As a result, the proposed stay in favour of the Non-Applicant Stay Parties is in the best interests of the Applicant and its stakeholders as it will permit the coordinated and orderly transition through these proceedings. If enforcement steps are taken against the Non-Applicant Stay Parties, it is expected to materially erode value and negatively impact the SISF to be sought at the Comeback Motion.
5. Accordingly, KSV believes that the relief sought in this regard is reasonable and in the best interests of the Applicant and its stakeholders.

7.0 Chapter 15 Proceedings

1. The Applicant seeks authorization under the proposed Initial Order to apply for foreign recognition and approval of the orders issued in these CCAA proceedings in the United States pursuant to the chapter 15 of title 11 of the United States Code (the "Chapter 15 Proceedings"). If granted, the Initial Order will authorize the Applicant to act as the foreign representative for the purpose of the Chapter 15 Proceedings. KSV has reviewed the cross-border nature of the BioSteel operations, including facts set out in the Eskandari Affidavit, and agrees that Canada is the centre of main interest for BioSteel Canada.

8.0 Creditor Notification

1. The proposed Initial Order requires the Monitor to:
 - a) publish without delay a notice in the national edition of *National Post* newspaper containing the information prescribed under the CCAA; and
 - b) within five days of the granting of the Initial Order:
 - i. make the Initial Order publicly available in the manner prescribed under the CCAA;
 - ii. send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1,000 advising that the order is publicly available; and
 - iii. 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 section 23(1)(a) of the CCAA and the regulations made thereunder.
2. If appointed Monitor, KSV will undertake these tasks, and will also post the Initial Order and all motion materials on the Case Website.

9.0 Comeback Motion

1. If the Initial Order is granted, the Applicant intends to return to Court within ten days to seek two orders at the Comeback Motion:
 - a) an Order (the “Amended and Restated Initial Order”), among other things: (i) extending the stay of proceedings; (ii) increasing the amount of the Administration Charge and the Directors’ Charge; (iii) approving an engagement letter between the Applicant and its financial advisor, Greenhill & Co. Canada Ltd. (the “Financial Advisor”), and (iv) granting the Financial Advisor a charge to provide certainty that it will be compensated for its services in respect of the SISP; and
 - b) an Order (the “SISP Approval Order”), among other things: (i) approving the SISP; and (ii) authorizing and directing the Applicant, the Financial Advisor and the Monitor to perform their obligations under the SISP.
2. If appointed as Monitor, KSV intends to file a report providing its views on the relief the Applicant is seeking at the Comeback Motion in advance of same.

10.0 Conclusion and Recommendation

1. Based on the foregoing, KSV respectfully recommends that this Court make the Initial Order granting the Applicant's CCAA application on the terms of the draft Initial Order set out in the Applicant's application record.

* * *

All of which is respectfully submitted,



**KSV RESTRUCTURING INC.
IN ITS CAPACITY AS PROPOSED MONITOR OF
BIOSTEEL SPORTS NUTRITION INC.
AND NOT IN ITS PERSONAL CAPACITY**

Appendix “B”



**First Report of
KSV Restructuring Inc.
as CCAA Monitor of
BioSteel Sports Nutrition Inc.**

September 19, 2023

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Court File No.:CV-23-00706033-00CL

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 BIOSTEEL SPORTS NUTRITION INC.

FIRST REPORT OF KSV RESTRUCTURING INC.

SEPTEMBER 19, 2023

1.0 Introduction

1. Pursuant to an order (the "Initial Order") issued by the Ontario Superior Court of Justice (Commercial List) (the "Court") on September 14, 2023 (the "Filing Date"), BioSteel Sports Nutrition Inc. (the "Applicant" or "BioSteel Canada") was 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 Applicant (in such capacity, the "Monitor").
2. Pursuant to the Initial Order, the Court, among other things:
 - a) granted a stay of proceedings (the "Stay of Proceedings") in favour of the Applicant and two of its non-applicant US affiliates, being BioSteel Sports Nutrition USA, LLC and BioSteel Manufacturing LLC (jointly, the "Non-Applicant Stay Parties" and together with the Applicant, "BioSteel") and certain of their respective current and former directors and officers (collectively, the "Directors and Officers") to and including September 24, 2023 (the "Initial Stay Period");
 - b) granted a charge:
 - i. in the amount of US\$750,000 on all of the Applicant's current and future assets, property and undertaking (collectively, the "Property") to secure the fees and disbursements of the Applicant's legal counsel, legal counsel to a special committee of the Applicant's board of directors (the "Special Committee"), the Monitor and its independent legal counsel, Bennett Jones LLP ("Bennett Jones"), and the monthly fees of the Applicant's financial advisor, Greenhill & Co. Canada Ltd. (in such capacity, the "Financial Advisor") (the "Administration Charge"); and
 - ii. up to the maximum amount of US\$1.279 million on the Property in favour of the Directors and Officers (the "Directors' Charge");

- c) authorized BioSteel Canada to pay certain pre-filing obligations to essential suppliers of BioSteel, subject to first obtaining the Monitor's consent; and
 - d) authorized BioSteel Canada to act as the foreign representative in respect of these CCAA proceedings for the purpose of having orders issued in these CCAA proceedings from time to time recognized in any jurisdiction outside of Canada, including the United States pursuant to chapter 15 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code").
3. On September 17, 2023, the Applicant commenced proceedings in the United States Bankruptcy Court for the Southern District of Texas (the "US Court") seeking recognition of this CCAA proceeding as a foreign main proceeding under Chapter 15 of title 11 of the Bankruptcy Code. On September 19, 2023, the US Court entered an order granting provisional relief in aid of this CCAA proceeding.
4. The principal purpose of this CCAA proceeding is to create a stabilized environment to enable BioSteel Canada to temporarily hibernate its business while executing a sale and investment solicitation process for BioSteel's assets and business (the "SISP").
5. The comeback hearing is scheduled to be heard on September 21, 2023 (the "Comeback Hearing"). At the Comeback Hearing, the Applicant is seeking the following orders:
 - a) an order, among other things, approving the SISP to be conducted by the Applicant, with the assistance of the Financial Advisor and under the oversight of the Monitor (the "SISP Approval Order"); and
 - b) an Amended and Restated Initial Order (the "ARIO"), among other things:
 - extending the Stay of Proceedings to and including November 17, 2023;
 - approving the retention of the Financial Advisor, *nunc pro tunc*, pursuant to an agreement dated August 24, 2023 between the Applicant and the Financial Advisor (the "Greenhill Engagement Letter") and granting a charge on the Property in favour of the Financial Advisor to the maximum amount of US\$2.5 million to secure the payment of the transaction fee payable under the Greenhill Engagement Letter (the "Transaction Fee Charge" and together with the Administration Charge and the Directors' Charge, collectively, the "Charges");
 - increasing the quantum of the Administration Charge to US\$1 million; and
 - increasing the quantum of the Directors' Charge to US\$2.198 million.

1.1 Purposes of this Report

1. The purposes of this report (the "First Report") are to:
 - a) summarize the relief being sought by the Applicant at the Comeback Hearing;

- b) provide the Court with an update on the Monitor's activities since the granting of the Initial Order; and
- c) provide the Monitor's recommendations regarding the relief being sought by the Applicant at the Comeback Hearing.

1.2 Restrictions

1. In preparing this First Report, the Monitor has relied upon the Applicant's unaudited financial information, books and records, information available in the public domain and discussions with the Applicant's management, legal counsel and Financial Advisor.
2. The Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the financial information relied on to prepare this First Report in a manner that complies with Canadian Auditing Standards ("CAS") pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Monitor 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 Applicant's cash flow forecast from September 30, 2023 to November 17, 2023 (the "Cash Flow Forecast")¹ as outlined in the Chartered Professional Accountants of Canada Handbook has not been performed. Future oriented financial information relied upon in this First Report is based upon the Applicant's assumptions regarding future events; actual results achieved may vary from this information and these variations may be material. The Monitor expresses no opinion or other form of assurance on whether the Cash Flow Forecast will be achieved.

1.3 Currency and Definitions

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

2.0 Background

1. BioSteel products, including ready-to-drink sports drinks ("RTDs"), hydration mixes and supplements, are available at retailers across Canada, the United States and online.
2. Canopy Growth Corporation ("Canopy") owns 90.4% of the outstanding voting common shares of BioSteel Canada. As of the Filing Date, Canopy and an affiliate, 11065220 Canada Inc. ("110"), have made secured loans of approximately \$366 million, excluding interest and costs, to BioSteel Canada.

¹ The cash flow forecast attached to the Report to Court of the Proposed Monitor dated September 14, 2023 (the "Pre-Filing Report") is for the period September 13, 2023 to September 29, 2023.

3. The Affidavit of Sarah Eskandari, General Counsel of the Applicant, sworn September 13, 2023 in support of the CCAA application (the “First Eskandari Affidavit”), and the Report to Court of the Proposed Monitor dated September 14, 2023 (the “Pre-Filing Report”) both provide background information with respect to the Applicant’s business and operations, including the reasons for the commencement of these CCAA proceedings. Accordingly, that information is not repeated in this First Report.
4. Court materials filed in these proceedings, including the First Eskandari Affidavit and the Pre-Filing Report, are available on the Monitor’s website at the following link: www.ksvadvisory.com/experience/case/biosteel (the “Case Website”).

3.0 SISP²

3.1 Prior Sale Processes

1. Prior to these proceedings, the Applicant, with the assistance of two different investment banking advisors, conducted two separate marketing processes.
2. Beginning at the end of 2022, the Applicant retained Goldman Sachs & Co. LLC to conduct a marketing process which contemplated an investment in or a sale of the BioSteel business as a going concern (the “Initial Sale Process”). Despite dialogue with 24 potential buyers, no party submitted a formal offer.
3. At the conclusion of the Initial Sale Process, and with the former management group having advised that it was considering a buy-out offer, the Special Committee engaged the Financial Advisor to conduct a second, refreshed marketing process (the “Refreshed Sale Process”). Under the Refreshed Sale Process, proposals were to be submitted by September 5, 2023, on which date six (6) preliminary non-binding proposals were received, all of which were subject to due diligence and other conditions, and would have required significant time to be completed. Additionally, none of the bids submitted contemplated funding BioSteel during the contemplated diligence periods. Based on the Special Committee’s review, with the assistance of its legal and financial advisors, BioSteel determined that seeking the benefit of Court protection would provide the best opportunity to maximize the value of BioSteel for stakeholders.
4. Although the Initial Sale Process and Refreshed Sale Process did not produce a viable firm bid, the Applicant was successful in generating significant interest in a transaction. The interest these prior sale processes have generated will assist with conducting the Court-supervised SISP described below.

3.2 SISP

1. The purpose of the SISP is to market BioSteel’s business and assets for sale. The SISP will enable the Applicant, with the assistance of the Financial Advisor, and under the oversight of the Monitor, to test the market and pursue the possibility of a transaction that delivers the most value for its stakeholders.
2. Subject to Court approval, the Applicant, with the assistance of the Financial Advisor and under the supervision of the Monitor, will carry out the SISP.

² Capitalized terms in this section have the meaning provided to them in the SISP unless otherwise defined herein.

3. The proposed SISP was developed by the Applicant in consultation with the Financial Advisor, the Applicant’s legal counsel, the Monitor and the Monitor’s legal counsel.
4. The key aspects of the proposed SISP are summarized below; however, interested parties are strongly encouraged to review the full terms of the SISP attached as Schedule “A” to the proposed SISP Approval Order.
5. A summary of the SISP timeline is as follows:

Milestone	Deadline ³
Court approval of SISP to be sought no later than	September 21, 2023
Latest date for Applicant to commence solicitation process	September 25, 2023
Qualified Bid Deadline	October 16, 2023
Deadline to Select Successful Bid (if any)	October 23, 2023
Approval and Vesting Order hearing ⁴	November 3, 2023
Outside Date for Closing of Successful Bid	November 15, 2023

6. Each milestone in the table above can be extended by the Applicant in consultation with the Monitor.

3.3 Solicitation of Interest

1. The Applicant and the Financial Advisor, under the oversight of the Monitor, will prepare marketing materials and solicit interest from parties potentially interested in pursuing a transaction (each, a “Potential Bidder”).
2. In particular, the Applicant and the Financial Advisor will, under the oversight of the Monitor:
 - a) prepare and disseminate marketing materials and a process letter to Potential Bidders identified by the Applicant and the Financial Advisor, including a form of non-disclosure agreement (an “NDA”);
 - b) provide Potential Bidders who have executed an NDA in a form acceptable to the Applicant with access to a virtual data room containing diligence information. It will not be necessary for Potential Bidders who have already executed an NDA with the Applicant to execute a further confidentiality agreement under this SISP, provided that such NDA is not expired and/or will not expire during the SISP; and
 - c) advise any parties wishing to submit a binding bid that such binding bid must comply with the requirements for a Qualified Bid (as described below), which includes being submitted by 5:00 p.m. (Eastern Time) on October 16, 2023, being the Qualified Bid Deadline.
3. The Qualified Bid Deadline may be extended by: (i) the Applicant in consultation with the Monitor; or (ii) further order of the Court.

³ To the extent any dates would fall on a non-business day, they shall be deemed to be the first business day thereafter.

⁴ The Court dates are subject to Court availability.

3.4 Qualified Bids

1. To be a “Qualified Bid”, a bid must, among other things, meet the following requirements:
 - a) provide the aggregate consideration payable in full on closing (the “Consideration Value”), along with a detailed sources schedule that identifies with specificity the composition of the Consideration Value and any assumed or included liabilities that could alter the Consideration Value;
 - b) the Consideration Value must provide for cash consideration sufficient to pay: (i) any obligations in connection with the Charges and any obligations in priority thereto; and (ii) \$2 million to fund a wind-up of these CCAA proceedings and any further proceedings or wind-up costs;
 - c) provide for a closing date of not later than November 15, 2023, with such date being the “Outside Date”;
 - d) include:
 - i. duly executed and binding definitive transaction documents, including a redline of the submitted transaction document against a template asset purchase agreement that will be made available in the virtual data room;
 - ii. the legal name and identity (including jurisdiction of existence) and contact information of the bidder, full disclosure of its direct and indirect principals, and the name(s) of its controlling equityholder(s);
 - iii. evidence of authorization and approval from the Qualified Bidders’ board of directors or equityholders, if applicable;
 - iv. disclosure of any connections or agreements with BioSteel or any of their affiliates; and
 - v. such other information reasonably requested by the Applicant or the Monitor;
 - e) include a letter stating that the bid is submitted in good faith, is binding and is irrevocable until closing of the Successful Bid;
 - f) confirm that the bid will serve as the next highest and best Qualified Bid (the “Back-Up Bid”) if it is not selected as the Successful Bid and if selected as the Back-Up Bid, it will remain irrevocable until the earlier of: (i) closing of the Successful Bid; or (ii) closing of the Back-Up Bid;
 - g) provide evidence of the bidder’s ability to finance the transaction prior to the Outside Date and satisfy the obligations under the transaction documents;
 - h) not include any request for a break fee, expense reimbursement or similar type of payment/bid protections;

- i) contain no conditions with respect to:
 - i. approval from the Qualified Bidder's board of directors or equityholders;
 - ii. the outcome of any unperformed due diligence by the bidder; or
 - iii. the Qualified Bidder obtaining financing;
- j) include acknowledgments and representations that the bidder:
 - i. has had an opportunity to conduct its due diligence and relied solely on its independent review;
 - ii. is not relying upon any written or oral statements, representations, promises, warranties, conditions or guaranties whatsoever, whether express or implied (by operation of law or otherwise), made by any person or party, including the Applicant, the Financial Advisor, the Monitor and their respective employees, officers, directors, agents, advisors and other representatives, regarding the proposed transaction(s), this SISP, or any information (or the completeness of any information) provided in connection therewith, except as expressly stated in the proposed transaction documents;
 - iii. is making its bid on an "as is, where is" basis;
 - iv. is bound by this SISP and the SISP Approval Order; and
 - v. is subject to the exclusive jurisdiction of the Court with respect to any disputes with the SISP or its bid;
- k) document any regulatory or other third-party approvals, and timing for same, the party anticipates would be required to complete the transaction;
- l) be accompanied by a cash deposit equal to at least 10% of the Consideration Value (the "Deposit"), which Deposit shall be paid to and held by the Monitor in an interest-bearing trust account, to be applied or returned in accordance with the SISP, as the case may be;
- m) include a statement that the bidder will bear its own costs and expenses (including legal and advisor fees) in connection with the proposed transaction, without request for reimbursement;
- n) The highest Qualified Bid may not necessarily be accepted by BioSteel Canada. BioSteel Canada, with the written consent of the Monitor and Canopy, reserves the right not to accept any Qualified Bid or to otherwise terminate the SISP; and

- o) In the event that: (a) no Qualified Bid is received by the Qualified Bid Deadline; (b) BioSteel Canada, in consultation with the Monitor, determines that no Qualified Bid should be accepted; (c) definitive agreement(s) with respect to the Successful Bid have not been finalized before the Definitive Agreement Deadline; or (d) the Qualified Bids, in aggregate, do not provide for the timely repayment of the secured loan and credit facility provided to the Applicant by Canopy and 110, in full in cash and Canopy does not consent to any Qualified Bid(s) being selected as the Successful Bid, the SISP shall terminate.

3.5 SISP Recommendation

1. The Monitor recommends that this Court issue the SISP Approval Order substantially in the form requested for the following reasons:
 - a) the SISP provides for a marketing of BioSteel's business by the Financial Advisor, which is a highly qualified financial advisory and investment banking firm with extensive experience in the mergers and acquisitions sector and knowledge of BioSteel's business by virtue of having conducted the Refreshed Sale Process;
 - b) the SISP provides an opportunity to complete a transaction that will benefit all stakeholders;
 - c) in the Monitor's view, while expedited, the duration of the SISP is sufficient to allow interested parties to perform the required diligence and submit Qualified Bids. The business of BioSteel was marketed broadly and extensively over the past year through the Initial Sale Process and then again in the Refreshed Sale Process occurring immediately prior to the filing. In addition, the commencement of a SISP was telegraphed to the market in the Applicant's CCAA materials since September 14, 2023, which effectively adds approximately one additional week to the SISP period. In this regard, the Monitor and the Applicant have already received several enquiries from prospective purchasers immediately following the initial application and have forwarded all such enquiries to the Financial Advisor. The Monitor also notes that the duration of the SISP reflects a balance between ensuring that sufficient time is available to attempt to identify a value-maximizing transaction and ensuring that there is cash available to fund these proceedings, noting that no DIP financing facility is contemplated. Further, the Monitor notes that the Qualified Bid Deadline can be extended by the Applicant, in consultation with the Monitor, based on the activity levels generated by the SISP and whether sufficient cash is available;
 - d) Canopy and its affiliate, as the Applicant's fulcrum secured creditors, have advised that they are unwilling to support an extended SISP. Canopy and its affiliate are the only creditors with an economic interest in this proceeding and they continue to pay the cost of BioSteel's remaining employees necessary to maintain the business during the pendency of the SISP;

- e) the number of potential purchasers for BioSteel's business is limited because of its specialized nature, and the vast majority of these potentially interested parties were engaged in the Initial Sale Process and/or the Refreshed Sale Process;
- f) the SISP provides bidders with flexibility in determining which assets would be included and excluded in a transaction; and
- g) as at the date of this First Report, the Monitor is not aware of any objections to the SISP.

4.0 Financial Advisor⁵

4.1 Greenhill

1. The Applicant is seeking the Court's approval to retain Greenhill as its financial advisor, *nunc pro tunc*, to assist in running the proposed SISP. The Financial Advisor will be responsible for marketing and selling BioSteel's business and assets pursuant to the proposed SISP, if approved. The Monitor will oversee the conduct of the SISP.
2. The Financial Advisor is a globally recognized investment bank and an experienced financial advisor headquartered in New York, although the Greenhill team responsible for the SISP is located in Toronto.
3. The Financial Advisor was initially retained by the Special Committee on behalf of the Applicant in August 2023 to assist with the Refreshed Sale Process. While the Refreshed Sale Process did not result in an unconditional bid, the Financial Advisor has demonstrated an ability to generate interest in BioSteel's business and assets. The Financial Advisor has extensive knowledge of BioSteel's business and assets, which it has gained since the since initiating the Refreshed Sale Process.
4. The Financial Advisor has prepared marketing materials in connection with its proposed mandate and is ready to launch the SISP process immediately, subject to Court approval. The Monitor has scheduled regular meetings with the Financial Advisor to oversee the SISP, including feedback from, and diligence being performed by, Potential Bidders.

4.2 Financial Advisor Agreement

1. A copy of the Greenhill Engagement Letter is attached as Exhibit "F" to the First Eskandari Affidavit. The relevant financial terms of the Greenhill Engagement Letter are as follows:
 - a) **Initial Fee:** The Financial Advisor is entitled to an initial advisory fee of US\$500,000, paid on execution of the Greenhill Engagement Letter. In connection with the significant work performed on the Refreshed Sale Process, this amount has already been paid;

⁵ Capitalized terms in this section have the meaning provided to them in the Financial Advisor Agreement, unless otherwise defined herein.

- b) **Monthly Fee:** The Financial Advisor is entitled to a fixed cash monthly fee of US\$150,000 (the “Monthly Fee”) payable monthly from the effective date of the Greenhill Engagement Letter.
 - c) **Transaction Fee:** In the event of a Restructuring or an M&A Transaction, the Financial Advisor will earn a fee equal to US\$3 million (the “Transaction Fee”), provided however that the payment of the Initial Fee and any of the Monthly Fees paid shall be credited against any Transaction Fee, subject to certain conditions.
 - d) **M&A Incentive Fee:** In the event a transaction is consummated with a transaction value that exceeds US\$200 million, the Financial Advisor shall be compensated as the difference between the Transaction Fee and certain formulas set out in Schedule B of the Greenhill Engagement Letter (the “M&A Fee”).
- 2. Pursuant to the terms of the Greenhill Engagement Letter, the implementation and completion of the SISP would result in the Transaction Fee being earned and payable, subject to the crediting described herein.
 - 3. The Financial Advisor’s Monthly Fee is secured by the Administration Charge, whereas any Transaction Fee or M&A Fee (together, the “Additional Fees”) are not. The ARIO sought by the Applicant at the Comeback Hearing proposes to increase the quantum of the Administration Charge to the maximum amount of US\$1 million to provide additional security for the Monthly Fee and proposes a Transaction Fee Charge of US\$2.5 million (representing the Transaction Fee less the Initial Fee already paid) to secure the Transaction Fee (which charge, is proposed to rank subordinate to the Administration Charge and the Directors’ Charge).
 - 4. The Monitor recommends that the Court approve the Greenhill Engagement Letter and grant the Transaction Fee Charge for the following reasons:
 - a) the Financial Advisor is highly qualified and has extensive knowledge of BioSteel's business as a result of its prior mandate;
 - b) in the Monitor’s view, the Monthly Fee of US\$150,000 is reasonable and consistent with the market, and the Transaction Fee payable to the Financial Advisor of US\$3 million is commercially reasonable;
 - c) given its prior mandate, the Financial Advisor is ready to launch the SISP immediately, which will help reduce the costs and timeline associated with the SISP and the CCAA proceeding;
 - d) Canopy and its affiliate – the Applicant's fulcrum creditors and the only creditors with an economic interest in the Applicant – support the retention of Greenhill pursuant to the Greenhill Engagement Letter; and
 - e) in the Monitor’s view, it is appropriate for the Financial Advisor to have the benefit of a Court-approved charge to secure both its Monthly Fee and the Transaction Fee.

5.0 Cash Flow Forecast

1. A copy of the Cash Flow Forecast prepared by the Applicant, and reviewed and discussed with the Monitor, along with Management's Report on Cash Flow is attached as Appendix "A". The Cash Flow Forecast is extended from the forecast appended to the Pre-Filing Report and covers the period from September 30, 2023 to November 17, 2023 (the "Forecast Period"). The Cash Flow Forecast contemplates that the Applicant is able to fund its business through the Forecast Period without the need for debtor-in-possession ("DIP") financing. A copy of the Monitor's Report on Cash Flow is attached as Appendix "B".
2. A summary of the Cash Flow Forecast⁶ for the Forecast Period is below.

(unaudited; \$000s)		
	Note	Total
Receipts	A	6,700
Disbursements		
Payroll	B	-
Professional fees	C	(13,947)
Other operating expenses	D	(9,164)
Contingency		(400)
Subtotal		(23,511)
Net Cash Flow		(16,811)
Opening Cash Balance		17,425
Net Cash Flow		(16,811)
Ending Cash Balance		614

3. The Monitor notes the following regarding the Cash Flow Forecast:
 - A. *Receipts*: represents the collection of pre-filing accounts receivable. Excludes any receipts related to the sale of inventory post-filing.
 - B. *Payroll*: BioSteel employees are employed and paid by Canopy, and accordingly, payroll obligations are not included in the projection. While BioSteel is obligated to pay Canopy for such amounts, no reimbursements are contemplated during the Forecast Period.
 - C. *Professional fees*: represents professional fees of the Monitor, the Monitor's legal counsel, BioSteel's Canadian and US legal counsel, counsel to the Special Committee, and the Financial Advisor.
 - D. *Other operating expenses*: includes payments for inventory warehousing, rent, utilities, security, sundry items, director and officer runoff liability insurance and HST remittances.

⁶ The Cash Flow Forecast represents a combination of the forecast attached to the Pre-Filing Report and the First Report. The notes to the Cash Flow Forecast provide the underlying assumptions, including a description of each line item.

6.0 Stay Extension and Related Relief

1. Pursuant to the Initial Order, the Court granted the Initial Stay Period to and including September 24, 2023. The Applicant is requesting an extension of the Stay of Proceedings to November 17, 2023, to align the expiry of the Stay of Proceedings with the timeline of the SISP.
2. The Monitor supports the request for an extension of the Stay of Proceedings and believes that it is appropriate in the circumstances for the following reasons:
 - a) the Applicant is acting in good faith and with due diligence;
 - b) the proposed extension will allow the Applicant time to conduct the SISP;
 - c) the Monitor does not believe that any creditor will be materially prejudiced by the proposed extension of the Stay of Proceedings;
 - d) Canopy supports the extension of the Stay of Proceedings;
 - e) as of the date of this First Report, the Monitor is not aware of any party opposed to an extension of the Stay of Proceedings; and
 - f) the Cash Flow Forecast reflects that the Applicant is projected to have sufficient liquidity to fund its operations and the costs of these CCAA proceedings.
3. The Applicant is also requesting a provision be included in the ARIO which restricts setoff of pre-filing obligations against post-filing obligations without the consent of the Applicant and the Monitor, or further order of the Court.
4. The Monitor believes the proposed setoff provision in the ARIO is appropriate in the circumstances to provide clarity to suppliers, customers and other stakeholders regarding their rights of setoff in these CCAA proceedings, with a view to ensuring that BioSteel can continue to sell inventory and that no setoff rights will be exercised in a manner that may disrupt the business or the SISP. In addition, the Cash Flow Forecast does not contemplate any setoff of pre-filing obligations owing by the Applicant, and accordingly, if any such set off were to occur, the Applicant may require additional funding.

7.0 Court Ordered Charges

7.1 Proposed Charges and Priority of the Charges

1. As detailed below, the Applicant is seeking increases to the quantum of the Administration Charge and the Directors' Charge and also seeking approval of the Transaction Fee Charge.
2. Each of the Charges previously granted in this CCAA proceeding rank in priority to all other encumbrances against the Property, other than any Person that was not served with notice of the application for the Initial Order. At the Comeback Hearing, the Applicant is seeking to have all of the Charges rank in priority to any encumbrances in respect of the Property.

- If the Court grants the ARIO and approves the Transaction Fee Charge and the proposed increases to the other Charges, the priority and amount of the Charges as among them would be as follows:

Priority	Charge	Current (US\$)	Proposed (US\$)
First	Administration Charge	750,000	1,000,000
Second	Directors' Charge	1,279,000	2,198,000
Third	Transaction Fee Charge	-	2,500,000

7.2 Administration Charge Increase

- The Initial Order granted an Administration Charge in an amount not to exceed US\$750,000 to secure the fees and disbursements of the Monitor, Bennett Jones, Cassels, Akin Gump Strauss Hauer & Feld LLP (the Applicant's US legal counsel), Chaitons LLP (legal counsel to the Special Committee) and the Financial Advisor (excluding any Transaction Fees) from the date of the Initial Order to the Comeback Hearing.
- The Applicant is seeking to increase the Administration Charge to US\$1 million. The Monitor is of the view that the increased Administration Charge is required and reasonable in the circumstances given the complexities of the Applicant's CCAA proceedings and the services to be provided by the professionals, each of whom is necessary to further the restructuring efforts of the Applicant.
- The Cash Flow Forecast has been prepared on the basis of weekly payments of professional fees, and accordingly, there should be no exposure to the professionals with the proposed increased Administration Charge.

7.3 Directors' Charge Increase

- The Initial Order approved a Directors' Charge in the amount of US\$1.279 million to secure the indemnity in favour of the Directors and Officers in the Initial Order based on potential exposure for the Directors and Officers during the initial 10-day stay period. The Applicant is now seeking to increase the Directors' Charge to US\$2.198 million.
- As provided in the table below, the amount of the Directors' Charge was estimated by the Applicant in consultation with the Monitor, taking into consideration the current vacation pay liability plus the estimated maximum amount at any point in time of the Directors' and Officers' exposure for unpaid payroll, environmental reclamation obligations and sales taxes, all in accordance with applicable provincial or state legislation, as the case may be.

(unaudited)	Amount (US\$000s)
Payroll, including source deductions	525
Termination pay	403
Vacation pay	300
Environmental obligations	156
Unremitted HST	789
US sales tax	25
Total Directors' Charge	2,198

3. The Monitor has reviewed the backup provided by the Applicant in respect of the potential obligations to be covered by the Directors' Charge and is of the view that the proposed increase to the Directors' Charge is reasonable in the circumstances as the continued involvement of the Directors and Officers is beneficial to the Applicant and these proceedings. The basis of these obligations, including the calculation of the Directors' Charge, was described in the Pre-Filing Report.
4. The Monitor is not aware of any objection to the proposed increases to the Administration Charge or the Directors' Charge as of the date of this First Report.

8.0 Monitor's Activities since the Filing Date

1. Since the Filing Date, the Monitor has, among other things:
 - a) corresponded regularly with the Applicant's legal counsel, Financial Advisor and management team and its own legal counsel regarding all aspects of these CCAA proceedings, including developing the terms of the SISP;
 - b) worked with the Applicant and its advisors to develop and execute a stakeholder communication strategy;
 - c) monitored the Applicant's proceeding under chapter 15 of the Bankruptcy Code;
 - d) attended calls with representatives of the Applicant and the Special Committee regarding the commencement of these CCAA proceedings and the SISP;
 - e) mailed the CCAA notice to the Applicant's known creditors and filed Forms 1 and 2 with the Office of Superintendent of Bankruptcy, as required under the CCAA and the Initial Order, as applicable;
 - f) posted the CCAA notice, list of creditors and other Court materials on the Case Website;
 - g) arranged for notice of these CCAA proceedings to be published in the *National Post* as required under the Initial Order;
 - h) monitored the Applicant's receipts and disbursements and worked with management to develop a daily cash management monitoring process;
 - i) reviewed the Cash Flow Forecast and the components of the Directors' Charge;
 - j) reviewed and commented on the Applicant's materials filed in support of the relief to be sought at the Comeback Hearing;
 - k) responded to service list addition requests; and
 - l) drafted this First Report.

9.0 Conclusion and Recommendation

1. Based on the foregoing, the Monitor respectfully recommends that this Honourable Court grant the relief sought by the Applicant at the Comeback Hearing.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.,
IN ITS CAPACITY AS MONITOR OF
BIOSTEEL SPORTS NUTRITION INC.
AND NOT IN ITS PERSONAL CAPACITY**

Appendix “C”



STRICLY CONFIDENTIAL

BY E-MAIL

November 1, 2023

BioSteel Manufacturing LLC
c/o Canopy Growth Corporation
1 Hershey Drive
Smith Falls, Ontario
K7A 0A8
Att: Samuel H. Carsley, Director
sam.carsley@canopygrowth.com

Usman Masood
Managing Director
Greenhill & Co. Canada Ltd.
79 Wellington Street West, Suite 3403
Toronto, ON, Canada | M5K 1K7
usman.masood@greenhill.com

Re: Right of First Offer under Purchase Agreement dated November 8, 2022, between BioSteel Manufacturing LLC, Canopy Growth Corporation and Flow Beverages Inc.

Dear Usman and Samuel:

We write in furtherance to Flow Beverage Corp.'s ("**Flow**") letter to you dated October 20, 2023, in which we informed you of a certain right of first offer (the "**ROFO**") granted by BioSteel Manufacturing LLC ("**BioSteel LLC**") in favour of Flow Beverages Inc. ("**Flow US**") under the Asset Purchase Agreement dated November 8, 2022, between BioSteel LLC and Flow US (the "**APA**"). Capitalized terms used herein which are not otherwise defined shall have the meaning ascribed to them, as the case may be, either in the order (the "**SISP Approval Order**") of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated September 21, 2023, approving among other things, a sale and investment solicitation process (the "**SISP**"), in BioSteel Sports Nutrition Inc.'s ("**BioSteel Canada**") proceedings under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c.C-36, as amended, or in the APA.

As you are aware, Flow submitted a Qualified Bid (the "**Flow Qualified Bid**") pursuant to the SISP through its affiliate, Flow Water Inc., in conjunction with Cizzle Brands Inc. You have advised that the Flow Qualified Bid was not selected as the Successful Bid. However, in doing so, and making its determination to sell the BioSteel LLC "Subject Assets", BioSteel LLC has failed to deliver to Flow U.S. the required First Offer Notice setting out the material terms and conditions including price of the Successful Bid for

the Subject Assets, required by BioSteel LLC section 6.4. of the APA, which provision remains in full force and effect.


Please immediately deliver to FLOW U.S. the prescribed First Offer Notice, thereby starting the 30-day period during which Flow U.S. shall have the exclusive right to purchase the Subject Assets on the same terms and conditions set out in the Successful Bid.

Should BioSteel LLC refuse or fail to submit Flow US with the First Offer Notice **by 5:00 p.m. (ET) today**, Flow US **intends to enforce forthwith** all of its rights, recourse and remedies before the Court and United States' courts to enforce the ROFO, including in the context of the CCAA SISF, and all rights and remedies including injunctive relief, both existing under the APA and under applicable law to ensure its ROFO rights under Section 6.4 of the APA are respected and enforced in accordance with its terms, without prejudice to Flow US' other rights, remedies and defences, now existing under the APA or otherwise under applicable law or hereafter arising, all of which are hereby expressly reserved.

Should you wish to discuss the matters noted above, please do not hesitate to contact me directly via email (nicholas@flowhydration.com), with a copy to Trent MacDonald, Chief Financial Officer (trent.macdonald@flowhydration.com) and Mathieu Socqué, General Counsel and Corporate Secretary (mathieu.socque@flowhydration.com).

Best regards,

FLOW BEVERAGE CORP.

DocuSigned by:

CF6217DA1A4B4E2...

Nicholas Reichenbach
Chief Executive Officer

CC: Jonathan Sherman jsherman@cassels.com
Mickey Lungu mlungu@cassels.com
Noah Goldstein ngoldstein@ksvadvisory.com
Sean Zweig zweigs@bennettjones.com
Judy Hong judy.hong@canopygrowth.com
Denis Rozin denis.rozin@canopygrowth.com
Edmond Lamek edmond.lamek@dlapiper.com

Cassels

November 1, 2023

By Email

Flow Beverage Corp.
155 Industrial Pkwy S., Units 7-10
Aurora, Ontario L4G 3V5

skukulowicz@cassels.com
tel: +1 416-860-6463

Attention: Nicholas Reichenbach
nicholas@flowhydration.com

Dear Mr. Reichenbach:

Re: Asset Purchase Agreement dated November 8, 2022 between BioSteel Manufacturing LLC, Canopy Growth Corporation and Flow Beverages Inc.

And Re: In the Matter of a Plan of Compromise or Arrangement of BioSteel Sports Nutrition Inc.; Court File No. CV-23-00706033-00CL

We are in receipt of your letter dated November 1, 2023. Capitalized terms used in this letter and not otherwise defined have the meanings set out in your letter.

As we have advised you in writing on several prior occasions, including in our letter to you on September 15, 2023, the ROFO is simply not applicable or engaged.

As you know, BioSteel obtained Court approval to conduct a SISP. As part of that sales process, BioSteel was expressly authorized to solicit bids for, among other things, all or substantially all of the assets of BioSteel Manufacturing LLC ("**BioSteel LLC**"). By your letter you acknowledge that the ROFO does *not* apply to a transaction for all or substantially all of the assets or securities of BioSteel LLC. The SISP does not contain any requirements for BioSteel to provide Flow with the terms of bids received or a 'right of first offer' before a "Successful Bid" in respect of BioSteel LLC's assets is selected. You did not oppose the SISP at the motion to seek the SISP Approval Order and you submitted a bid in the SISP for all or substantially all of the assets of BioSteel LLC. By your participation in the SISP, you have acquiesced to the SISP and all of its provisions.

BioSteel, under the supervision of the Monitor, conducted a fair and transparent SISP. At the conclusion of the SISP (last night), you were advised that your bid was not successful but was instead designated as a "Back Up Bid". We understand this may be disappointing to you. However, continuing to threaten enforcement of the ROFO in these circumstances where it is not

applicable is an obvious attempt to undermine the results of the SISP. This will not be countenanced.

The SISP is a competitive process. To ensure the integrity of that process we will not be providing to you any information in connection with any of the other bids received (other than such information as will be publicly disclosed in court materials).

Finally, we remind you that pursuant to the Amended and Restated Initial Order granted on September 21, 2023, all persons are prohibited from enforcing any rights or remedies against the BioSteel Entities or affecting the business or property of BioSteel LLC. You will be held accountable before the Court for any actions you take to try to further undermine or interfere with the consummation of any transactions in respect of the SISP, or any other actions taken in violation of the court-imposed stay of proceedings including with respect to the ROFO.

The Monitor and its counsel, who are charged with overseeing the SISP, are copied on this letter. We trust that you will govern yourself accordingly.

Yours truly,

Cassels Brock & Blackwell LLP



Shayne Kukulowicz

cc: Ryan Jacobs, Natalie Levine and Jeremy Bornstein, Cassels Brock & Blackwell LLP, counsel for BioSteel Client
Noah Goldstein and Ross Graham, KSV Restructuring Inc., in its capacity as Monitor
Sean Zweig and Jesse Mighton, Bennett Jones LLP, counsel to the Monitor
Edmond Lamek, DLA Piper (Canada) LLP, counsel to Flow
Trent MacDonald and Mathieu Socque, Flow



DLA Piper (Canada) LLP
Suite 6000, 1 First Canadian Place
PO Box 367, 100 King St W
Toronto ON M5X 1E2
www.dlapiper.com

Edmond Lamek
edmond.lamek@dlapiper.com
T +1 416.365.3444
F 416.365.7886

November 2, 2023

DELIVERED BY EMAIL

Bennett Jones LLP
100 King Street West, Suite 3400
First Canadian Place
Toronto, ON
Canada
M5X 1A4

Attention: Sean Zewig

And

KSV Restructuring Inc.
220 Bay Street, 13th Floor
PO Box 20
Toronto, Ontario
M5J 2W4

Attention: Noah Goldstein

Dear Gentlemen:

Re: BioSteel Manufacturing LLC (“BioSteel Manufacturing”)

We are writing to you in your capacity as Court appointed monitor (“**Monitor**”) and Monitor’s counsel in the *Companies’ Creditors Arrangement Act* proceedings (the “**CCA Proceedings**”) in respect of BioSteel Sports Nutrition Inc. (the “**Applicant**”). As you are aware, DLA Piper Canada LLP represents Flow Beverages Inc. (“**Flow U.S.**”), and its related entities.

You have been copied on various correspondence between Flow and Cassels Brock & Blackwell LLP (“**Cassels**”), counsel to the Applicant, relating to the contractual right of first offer (“**ROFO**”) granted to Flow U.S. by Biosteel Manufacturing pursuant to section 6.4 of the Asset Purchase Agreement dated November 8, 2022 between Flow U.S. as vendor, BioSteel Manufacturing as purchaser and Canopy Growth Corporation (“**Canopy**”) as guarantor (the “**Verona APA**”), in the context of the SISF process in the CCAA Proceedings.



We refer in particular to the Cassels letter of November 1, 2023 in response to Flow's letter of even date. In that letter Cassels advised that they will not be providing Flow with any materials other than information as will be publicly disclosed in Court materials. Cassels repeated its position that the ROFO is not engaged by the proposed SISP sale transaction for the assets of BioSteel Manufacturing ("**BM SISP Transaction**").

Flow is simply trying to assess the veracity of Cassels' statement that the ROFO is not triggered by the proposed BM SISP Transaction. While Cassels may be entirely correct, Flow has an obligation to its shareholders and other stakeholders to satisfy itself that the ROFO does or does not get engaged by the proposed BM SISP Transaction. However, given Cassels' refusal to provide the relevant information, Flow is presently unable to do so. As you can imagine, this puts Flow in an untenable position. Flow has no interest in pursuing a ROFO right that it plainly does not have. However, without the necessary information Flow is unable to make that determination.

In that regard, in order for Flow to assess its position regarding the ROFO, we would ask the Monitor as Court officer to please provide DLA Piper Canada LLP with a copy of the purchase agreement in respect of the BM SISP Transaction, or extracts or schedules thereto, with such redactions as the Monitor feels are appropriate to maintain the utmost integrity of the SISP process, leaving only enough information regarding the Purchased Assets being purchased or assumed, and the Excluded Assets of Biosteel Manufacturing, if any, not being purchased, together with a copy of the most recent balance sheet of BioSteel Manufacturing, for Flow U.S. to determine for itself if the BM SISP Transaction falls within the ROFR exception in respect of "any sale, transfer or disposition of all or substantially all of Biosteel Manufacturing's assets or securities" set out in the Verona APA.

We thank you in advance for your assistance in resolving this matter and avoiding possibly unnecessary distractions to the SISP and the Successful Bid transactions.

Sincerely,
DLA Piper (Canada) LLP

Per:

A handwritten signature in blue ink, appearing to read 'Edmond Lamek', written over a horizontal line.

Edmond Lamek

EL

Cc:

Mathieu Socque, Nicholas Reichenbach, Trent MacDonald, Flow Beverages Inc.
Shayne Kukulowicz, Cassels Brock & Blackwell LLP



Bennett Jones

Bennett Jones LLP

3400 One First Canadian Place, PO Box 130

Toronto, Ontario, Canada M5X 1A4

Tel: 416.863.1200 Fax: 416.863.1716

Sean H. Zweig
Partner
Direct Line: 416.777.6254
e-mail: zweigs@bennettjones.com

November 3, 2023

Via E-mail

DLA Piper (Canada) LLP
Suite 6000, 1 First Canadian Place
P.O. Box 367, 100 King Street West
Toronto, Ontario
M5X 1E2

Attention: Edmond Lamek

Dear Sirs:

Re: BioSteel Manufacturing LLC ("BioSteel Manufacturing")

We are in receipt of your letter dated November 2, 2023. For convenience, we have used the same capitalized terms as in your letter.

Your letter acknowledges that maintaining the utmost integrity of the SISP process is critically important. The Monitor agrees.

In that regard, the Monitor reiterates certain of the comments made in the letter from Cassels dated November 1, 2023. The SISP – which authorizes BioSteel to solicit bids for, among other things, all or substantially all of the assets of BioSteel Manufacturing – was Court-approved on notice to your client without any objections. The SISP does not contemplate the Applicant or the Monitor providing your client with the "Successful Bidder's" purchase agreement (or any terms thereof) prior to being selected, nor does it contemplate your client having the opportunity to submit a further bid under the ROFO or otherwise after the Successful Bidder is selected. The Monitor also notes that your client participated fully in the SISP.

Your letter also asks the Monitor to provide you with a redacted copy of the purchase agreement in respect of the BM SISP Transaction, or extracts or schedules thereto. The Monitor does not believe it has the authority to do so without the Applicant's consent or direction from the Court. But in any event, the Monitor supports maintaining the integrity of the SISP process and therefore is not supportive of any such information being provided to you or your client, particularly given your client has been designated as a "Back-up Bidder".

November 3, 2023


Page 2

Notwithstanding the Monitor's refusal to provide the requested information, the Monitor would like to be as helpful as possible in addressing your client's concerns. Accordingly, the Monitor, along with Bennett Jones as its counsel, has reviewed the Verona APA, the BM SISP Transaction, and various financial information of BioSteel Manufacturing, and can confirm the Monitor's view that the BM Transaction is in fact a "sale, transfer or disposition of all or substantially all of BioSteel Manufacturing's assets or securities" in the context of the ROFO under the Verona APA.

The Monitor appreciates your client's desire to avoid unnecessary distractions to the SISP, and trusts that the foregoing resolves Flow's concerns.

Yours truly,

BENNETT JONES LLP

DocuSigned by:

65B6BE2E814144E...
Sean H. Zweig

c: Noah Goldstein and Ross Graham (KSV Restructuring Inc.)
Ryan Jacobs and Shayne Kukulowicz (Cassels Brock & Blackwell LLP)
Jesse Mighton (Bennett Jones LLP)

Appendix “D”

BioSteel Sports Nutrition Inc.
Projected Statement of Cash Flows
For the Period Ending January 31, 2024
(Unaudited; C\$000s)

	Note	17-Nov-23	24-Nov-23	01-Dec-23	08-Dec-23	15-Dec-23	22-Dec-23	29-Dec-23	05-Jan-24	12-Jan-24	19-Jan-24	26-Jan-24	31-Jan-23	Total
	1, 2													
Receipts														
Collection of Accounts Receivable	3	543	543	3,812	543	543	170	170	170	170	-	-	-	6,665
Total Receipts		543	543	3,812	543	543	170	170	170	170	-	-	-	6,665
Disbursements														
Payroll	4	-	-	-	-	-	-	-	-	-	-	-	-	-
Rent	5	-	-	19	-	-	-	-	19	-	-	-	-	38
Other operating expenses	6	416	416	615	121	121	121	121	209	71	71	71	921	3,276
Contingency		50	50	50	50	50	50	50	50	50	50	50	50	600
Total Operating disbursements		466	466	684	171	171	171	171	278	121	121	121	971	3,914
Net Cash Flow before the Undermoted		77	77	3,129	372	372	(1)	(1)	(108)	49	(121)	(121)	(971)	2,751
Professional Fees	7	1,050	1,050	5,150	1,000	1,000	1,000	1,000	150	150	150	150	150	12,000
Net Cash Flow		(973)	(973)	(2,021)	(628)	(628)	(1,001)	(1,001)	(258)	(101)	(271)	(271)	(1,121)	(9,249)
Opening Cash balance	8	24,754	23,781	22,808	20,787	20,159	19,531	18,530	17,529	17,270	17,169	16,898	16,627	24,754
Net Cash Flow		(973)	(973)	(2,021)	(628)	(628)	(1,001)	(1,001)	(258)	(101)	(271)	(271)	(1,121)	(9,249)
Closing cash balance		23,781	22,808	20,787	20,159	19,531	18,530	17,529	17,270	17,169	16,898	16,627	15,505	15,505

The above financial projections are based on management's assumptions detailed in Appendix "1-1"
The note references correspond to the assumption numbers shown in Appendix "1-1"

Notes to Projected Statement of Cash Flows

For the Period Ending January 31, 2024

(Unaudited; C\$000s)

Purpose and General Assumptions

1. The purpose of the projection is to present a forecast of the cash flow of BioSteel Sports Nutrition Inc., BioSteel Sports Nutrition USA LLC, and BioSteel Manufacturing LLC (collectively, "BioSteel" or the "Companies") for the period November 13, 2023 to January 31, 2024 (the "Period").
2. The projection assumes the Transactions will close on November 30, 2023. The projection excludes the proceeds from the Transactions as the Companies intend to obtain an order sealing the purchase prices until the Transactions close.

Hypothetical

3. Represents projected collections of accounts receivables.

Most Probable

4. BioSteel's personnel are employed by Canopy Growth Corporation ("Canopy") and, accordingly, payroll obligations are not included in the projection.
5. Assumes rent of the Lease is taken over fully by GPI after the Closing Date.
6. Other expenses include payments for sundry, utilities, rent, inventory warehousing and HST remittance.
7. Represents professional fees of the Monitor, the Monitor's legal counsel, BioSteel's Canadian and US legal counsel, counsel to the Special Committee, counsel to the lenders to Canopy and the Applicant's Financial Advisor.
8. Opening cash reflects actual cash balances as of November 10, 2023.

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 BIOSTEEL SPORTS NUTRITION INC.

MANAGEMENT'S REPORT ON CASH FLOW STATEMENT
(paragraph 23(1)(b) of the CCAA)

The management of BioSteel Sports Nutrition Inc., BioSteel Sports Nutrition USA LLC and BioSteel Manufacturing LLC (collectively, "BioSteel") has developed the assumptions and prepared the attached consolidated statement of projected cash flow as of the 13th day of November, 2023 for the period November 13, 2023 to January 31, 2024 ("Cash Flow Forecast"). All such assumptions are disclosed in the notes to the Cash Flow Forecast.

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

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

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

Dated at Rochester, NY this 13th day of November, 2023.

**BIOSTEEL SPORTS NUTRITION INC., BIOSTEEL SPORTS NUTRITION USA LLC, AND
BIOSTEEL MANUFACTURING LLC**



Per: Tom Stewart

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 BIOSTEEL SPORTS NUTRITION INC.

MONITOR'S REPORT ON CASH FLOW STATEMENT
(paragraph 23(1)(b) of the CCAA)

The attached consolidated statement of projected cash-flow of BioSteel Sports Nutrition Inc., BioSteel Sports Nutrition USA LLC, and BioSteel Manufacturing LLC (collectively, "BioSteel") as of the 13th day November, 2023, consisting of a weekly projected cash flow statement for the period November 13, 2023 to January 31, 2024 (the "Cash Flow Forecast") has been prepared by the management of BioSteel 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 of BioSteel. We have reviewed the support provided by management for the probable and hypothetical assumptions and the preparation and presentation of the Cash Flow Forecast.

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

Since the Cash Flow Forecast is based on assumptions regarding future events, actual results will vary from the information presented, and the variations may be material. Accordingly, we express no assurance as to whether the Cash Flow Forecast 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 Forecast 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, ON this 13th day of November, 2023.

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.,
solely in its capacity as Court-appointed
monitor of BioSteel Sports Nutrition Inc.
and not in its personal capacity**

Confidential Appendix

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 BIOSTEEL SPORTS NUTRITION INC.

Court File No. CV-23-00706033-00CL

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

PROCEEDING COMMENCED AT
TORONTO

SECOND REPORT OF THE MONITOR

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