

2024

Hfx No. 538745

SUPREME COURT OF NOVA SCOTIA

BETWEEN:

IN THE MATTER OF THE *COMPANIES CREDITORS ARRANGEMENT ACT*, RSC 1985, C C-36, AS AMENDED (THE “**CCAA**”)

AND IN THE MATTER OF AN APPLICATION OF BLUE LOBSTER CAPITAL LIMITED, 3284906 NOVA SCOTIA LIMITED, 3343533 NOVA SCOTIA LIMITED AND 4318682 NOVA SCOTIA LIMITED (COLLECTIVELY, THE “**APPLICANTS**”)

AFFIDAVIT OF ALINA STOICA
(Sworn June 25, 2025)

I, Alina Stoica, of the City of Toronto, in the province of Ontario, **MAKE OATH AND SAY:**

1. I am a law clerk with the law firm of Reconstruct LLP, counsel to KSV Restructuring Inc. in its capacity as court-appointed monitor of the Applicants (in such capacity, the “**Monitor**”) and as such, I have knowledge of the following matters deposed to in this Affidavit.
2. Attached as **Exhibit “A”** is an email from Mr. Wayne Miles of O’Keefe Sullivan LLP, counsel to the Applicants, dated June 24, 2025.
3. Attached as **Exhibit “B”** is an email from Mr. Darren O’Keefe of O’Keefe Sullivan, counsel to the Applicants, dated June 24, 2025.
4. Attached as **Exhibit “C”** is a letter from Ms. Sharon Kour of Reconstruct LLP, counsel to the Monitor, dated June 25, 2025.

SWORN BEFORE ME at the City of)
Toronto, in the Province of Ontario, on)
25th day of June 2025.)

DocuSigned by:
Levi Rivers
BA31FCEA83114AC

A Commissioner for taking Affidavits.
Levi Rivers, a Commissioner, etc, Province
of Ontario, for Reconstruct LLP, Barristers
& Solicitors.
Expires: Aug 22, 2025

Signed by:
Alina Stoica
121A421EEB2349C...

ALINA STOICA

THIS IS **EXHIBIT "A"** REFERRED TO IN THE
AFFIDAVIT OF ALINA STOICA SWORN BEFORE ME,
THIS 25TH DAY OF JUNE, 2025

DocuSigned by:

Levi Rivers

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A COMMISSIONER FOR TAKING AFFIDAVITS

From: [Wayne Myles](#)
To: [Bobby Kofman](#); [Sharon Kour](#)
Cc: [Darren O'Keefe](#); [Alex Rice](#); [Mathew Harris](#); [Megan Taylor](#); [Essber Essber](#)
Subject: TIME SENSITIVE Blue Lobster Group CCAA Applicants
Date: Tuesday, June 24, 2025 6:45:47 AM

Good morning all.

I am writing further to the meeting Darren O'Keefe and I had with the Monitor's Counsel Sharen Kour last evening.

During that call, we discussed a number of issues arising for the Monitor from the Applicants' Court filing yesterday, including in respect of the amount required to pay out secured and unsecured creditors, process considerations and certainty as to availability and use of funds held by and under the control of Cox & Palmer partner Gavin MacDonald.

In the circumstances, and given the Monitor's ongoing mandate and obligations to support the Applicants throughout the CCAA processes, the Applicants are requesting an urgent meeting today, involving Mr. Kofman and his counsel plus Alex Rice and his financial advisor Mat Harris plus Applicants' legal counsel. The agenda is to endeavor to reach consensus on amounts necessary to achieve required payouts (other than where deferred payment arrangements are available to the Applicants), confirming more certainty on funds being available irrevocably if the requested Order is granted, and on how final amounts owing will be determined and paid out.

Accordingly, we request that the Monitor and its counsel confirm availability for today as soon as possible.

Cheers;
Wayne

Wayne Myles, KC, FIIC

Counsel, Lawyer | O'Keefe & Sullivan
P 709 685 0889

E wmyles@okeefesullivan.com

Delivery & Mail: 80 Elizabeth Ave., 2nd Floor, St. John's, NL A1A 1W7

THIS IS **EXHIBIT "B"** REFERRED TO IN THE
AFFIDAVIT OF ALINA STOICA SWORN BEFORE ME,
THIS 25TH DAY OF JUNE, 2025

DocuSigned by:

Leni Rivers

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A COMMISSIONER FOR TAKING AFFIDAVITS

From: [Darren O'Keefe](#)
To: [Bobby Kofman](#)
Cc: [Mitch Vininsky](#); [Tony Trifunovic](#); [Sharon Kour](#); [Wayne Myles](#); [Megan Taylor](#)
Subject: Re: Blue Lobster Capital Ltd. et. al.
Date: Tuesday, June 24, 2025 10:52:34 AM
Attachments: [image001.png](#)

Mr. Kour, Mr. Kofman:

I'm writing to follow up on our call yesterday. We reiterate our view that it is incumbent upon the Monitor to work with the Company to the extent required to assist it with this restructuring. The Motion we filed to exit the CCAA process is not a "Bid", "Proposal" a "Plan" or a competing "Transaction", it is a return to solvency and a resolution of the Company's liquidity crisis that everyone (including the Monitor) identified as being the cause of the insolvency. To that end, we would like to address what we understand are the Monitors concerns.

The objections we have heard in response to our clients present application can be summarized as follows:

1. Its too late to redeem the Company given the SISF is concluded and a Transaction selected. This is an issue that the Court can determine and we are prepared to argue that point.
2. There is concern around the conditions of release of the funds held by the Escrow Agent. Our client is willing to work with the Monitor to assuage this concern. One solution, for example, would be providing evidence of an irrevocable direction from the Lender to have the Escrow Agent pay the Loan proceeds to the Monitor for disbursement upon issuance of the Order. **Our client is open to the Monitors feedback on this and exactly what he would like to see.**
3. Concerns whether the money is "real". The money is in the Cox & Palmer trust account. **This is confirmed.**
4. That the application to exit the CCAA is an inferior transaction to the Transactions proposed. Again, the application is not a "Transaction" and based on the Monitor's report, is not inferior. Our clients exit will see all unassumed secured debts paid in full, and all unsecured debts paid in full. The Transactions do not do that. **In order to ensure that we have the same numbers as the Monitor, and to give all parties the necessary comfort on this issue, we have asked for the Monitors cooperation and a phone call today our client and its advisors to review the 17**

June 2025 payout statement. To be clear, based on our current proceeds, even if we accept the Monitor's numbers there are enough funds available to pay out all unassumed debts.

5. Lack of a "Claims Process". We are struggling to understand which creditors would potentially benefit from a claims process, unless this concern is with respect to ensuring we have up to date numbers from all known creditors. If that is the case, **our client is open to incorporating a claims process in its order, to be run by the Monitor and concluded within the 30 day stay period that we have sought to conclude the "Remaining Activities".**

Finally, we would ask that the Monitor and its counsel confirm for the Companies their **current WIP** so that we can factor that into our payout. This is required before close of business today.

We reserve the right to enter this letter on the record to demonstrate our clients willingness to work with the Monitor to address any concerns it has with our clients application prior to the hearing on Thursday, other than the legal question identified in 1. above which will be up to the Court to determine at the eventual hearing. We hope that will not be necessary and again, would ask for cooperation in this matter.

Thank you,

Darren D. O'Keefe
Partner, Lawyer | O'Keefe & Sullivan
P 709 800 6536 | **C** 709 699 3002
E dokeefe@okeefesullivan.com

This email (including any attachments) is confidential and may contain solicitor client or other privileged information. It is intended only for the use of the addressee(s). If you have received this email in error, please notify the sender immediately, and delete all versions of this email and any attachments.

THIS IS **EXHIBIT "C"** REFERRED TO IN THE
AFFIDAVIT OF ALINA STOICA SWORN BEFORE ME,
THIS 25TH DAY OF JUNE, 2025

DocuSigned by:

Levi Rivers

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A COMMISSIONER FOR TAKING AFFIDAVITS



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W: reconllp.com

June 25, 2025

SENT BY ELECTRONIC MAIL

O'KEEFE & SULLIVAN

80 Elizabeth Avenue
Suite 202
St. John's, NL A1A1W7

ATTENTION: DARREN O'KEEFE (dokeefe@okeefesullivan.com)

Dear Mr. O'Keefe,

Re: In the Matter of the CCAA Proceedings of Blue Lobster Capital Limited, 3284906 Nova Scotia Limited, 3343533 Nova Scotia Limited and 4318682 Nova Scotia Limited (the "Applicants")

We write in response to your email dated June 24, 2025 and the email from Wayne Myles of the same date.

The correspondence seems to suggest that the Monitor has not assisted the Applicants with this restructuring, which is unwarranted where the Monitor, and these CCAA proceedings generally, provided the Applicants with time to refinance, as was the Applicants' original intention.

From the commencement of the SISF to the Bid Deadline in the SISF, Mr. Rice never sought the Monitor's assistance with his refinancing efforts. Mr. Rice's affidavit sworn June 23, 2025 speaks to his extensive efforts to refinance the Applicants' debt, including amounts owing to Royal Bank of Canada, the Applicants' most significant secured creditor. The Monitor's Fourth Report and its Supplement to the Fourth Report also address Mr. Rice's refinancing efforts. That discussion does not need to be repeated here.

The Monitor advised while the SISF was underway that it could support a refinancing transaction before the end of the SISF that would pay out all creditors in full. Following the Bid Deadline, the Monitor also attempted to seek a resolution as to the BLCL Real Properties that would provide Mr. Rice the opportunity to preserve those properties. Mr. Rice did not sign the memorandum of understanding that was drafted in that respect.

Monitor's Responses to Queries

The Monitor does not concur that it is now obligated to work with the Applicants to support Mr. Rice's proposed motion where it has already accepted offers for the Operating Businesses and recommended that the Court approve those transactions. The Monitor believes that would



undermine the integrity of the Court-approved SISF. We have been clear throughout that this is the Monitor's position.

Nevertheless, feedback has been requested of the Monitor and the Monitor's responses are provided below. These responses are not being provided to negotiate Mr. Rice's proposal and should not be taken as support by the Monitor of that proposal. For the reasons provided in the Fourth Report, the Supplement to the Fourth Report and in this letter, the Monitor's recommendation remains that the Court should approve the Transactions.

There is concern around the conditions of release of the funds held by the Escrow Agent. Our client is willing to work with the Monitor to assuage this concern. One solution, for example, would be providing evidence of an irrevocable direction from the Lender to have the Escrow Agent pay the Loan proceeds to the Monitor for disbursement upon issuance of the Order. Our client is open to the Monitors feedback on this and exactly what he would like to see.

It is commonplace for a monitor to be given evidence of the terms of financing so that it can assess transaction risk and any terms that may jeopardize ultimate payment. Statements by the debtor and the escrow agent that funds are available are insufficient.

There are other concerns with Mr. Rice's proposal. For example, he has not provided evidence that he has the working capital to fund the Applicants' businesses going forward. It appears that all or substantially all of the financing is to be used to repay legacy obligations and transaction costs, including professional fees.

Concerns whether the money is "real". The money is in the Cox & Palmer trust account.

The Monitor's concerns are noted above. The CCAA process is a public process and is intended to be transparent. The concealment of the identity of the lender and terms of the loan are sources of concern.

That the application to exit the CCAA is an inferior transaction to the Transactions proposed. Again, the application is not a "Transaction" and based on the Monitor's report, is not inferior. Our clients exit will see all unassumed secured debts paid in full, and all unsecured debts paid in full. The Transactions do not do that. In order to ensure that we have the same numbers as the Monitor, and to give all parties the necessary comfort on this issue, we have asked for the Monitors cooperation and a phone call today our client and its advisors to review the 17 June 2025 payout statement. To be clear, based on our current proceeds, even if we accept the Monitor's numbers there are enough funds available to pay out all unassumed debts.



The Monitor does not understand the comment that “*based on the Monitor’s report, [the Rice application] is not inferior*”. The Monitor’s reports state the opposite and we do not understand how Mr. Rice comes to that conclusion.

As stated in the Supplemental Report, the Offer Comparison was based on the Applicants’ numbers. Appended to this letter is a schedule compiled by the Monitor showing the distribution to creditors based on the Applicants’ numbers in the Rice affidavit. Based on those values, which the Monitor has not had the opportunity to verify, the waterfall shows unsecured creditors are not repaid in full with the amount of funding available. We note also that RBC’s counsel advised the Monitor yesterday that the amount of its debt is understated by “at least \$276,000”.

Requests have been made of the Monitor to state definitively what amount is needed to repay creditors. It is not clear what information is being requested from the Monitor since the amount of funding needed to repay creditors in full is simply the sum of all claims, which was reflected in the Applicants’ materials, is readily available to the Applicants from their accounting team, and is also in the schedule attached. In any event, as is the case in any CCAA proceeding, until a claims process is conducted, the Monitor cannot determine the full extent of claims against the Applicants.

The Monitor also notes the Applicants’ intention to pay only “uncontested claims”. The Applicants’ motion materials do not specify how a claim will be determined to be contested or uncontested, or who will make that determination. The Monitor’s concern is that the intention to pay only “uncontested claims” suggests that creditors with otherwise valid claims in the CCAA proceeding would be disqualified from payment if such claims were to be contested by Mr. Rice or others associated with his transaction. The Monitor further notes that there is ongoing litigation between the Applicants and Beck Flavors, which, according to Mr. Rice’s affidavit, is owed \$486,000. Mr. Rice does not include the amount owing to Beck Flavors in the amount that he “needs to pay”, as stated in his affidavit.

Lack of a "Claims Process". We are struggling to understand which creditors would potentially benefit from a claims process, unless this concern is with respect to ensuring we have up to date numbers from all known creditors. If that is the case, our client is open to incorporating a claims process in its order, to be run by the Monitor and concluded within the 30 day stay period that we have sought to conclude the "Remaining Activities".

The Monitor is of the view that a claims process is appropriate. If the Court disagrees with the Monitor, then, of course, there will not be a need for one.

RECON

R E C O N S T R U C T L L P

Monitor and Monitor counsel's WIP.

The Monitor will provide an invoice at month-end. The Monitor's fees, and ours, are current through the end of May.

Yours truly,

RECONSTRUCT LLP

A handwritten signature in black ink, appearing to read 'Sharon Kour', with a stylized flourish at the end.

Sharon Kour

e.c. Bobby Kofman, Mitch Vininsky, Tony Trifunovic

Blue Ocean Group

Waterfall Analysis - Rice Proposal

\$000s, unaudited

Waterfall

Transaction and other proceeds

Proceeds	8,380
Professional retainers	100
Total proceeds	8,480
RBC debt owing from BLCL	(978)
Other BLCL secured debt	(101)
CRA	(240)
BLCL pre-filing debt	(26)
BLCL post-filing debt	(35)
Net proceeds for OpCos	7,100
RBC debt owing from OpCos	(4,872)
Other secured claims	(366)
RBC debt differential	(276)
CRA priority claim (source deductions)	(95)
Professional costs	?
Purchaser compensation	?
Total available for distribution	1,491

Unsecured claims

CRA	637
Pre-filing unsecured claims	1,600
Post-filing unsecured claims	210
Total unsecured claims	2,447
Estimated distribution	61%

Notes:

1. The amounts in this analysis are based on the Rice Affidavit and have not been independently verified by the Monitor.
2. RBC has advised that the debt amounts referenced in the Rice Affidavit are understated by approximately \$276K.