

2024

Hfx No. 538745

**SUPREME COURT OF NOVA SCOTIA**

**IN THE MATTER OF** the *Companies' Creditors Arrangement Act*, R.S.C., 1985,  
c. C- 36, as amended (the "**CCAA**")

**AND IN THE MATTER OF** an application by Blue Lobster Capital Limited,  
3284906 Nova Scotia Limited, 3343533 Nova Scotia Limited and 4318682 Nova  
Scotia Limited (collectively, the "**Applicants**")

**BRIEF OF LAW OF THE MONITOR**

March 13, 2026

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**TO: THE SERVICE LIST**

To the Honourable Associate Chief Justice Jamieson, KSV Restructuring Inc. (“**KSV**”) in its capacity as Court-appointed monitor (the “**Monitor**”) of the Applicants, submits:

### **PART I – OVERVIEW**<sup>1</sup>

1. This brief is filed by the Monitor in support of its motion seeking an Order, among other things:
  - (a) approving the Beck Settlement and authorizing the Monitor to pay the Beck Settlement Amount, in full;
  - (b) authorizing the Monitor to repay the Corkum Mortgage, in full, from the proceeds of the Coast Transaction;
  - (c) extending the Stay until and including June 30, 2026; and
  - (d) approving the Eighth Report of the Monitor dated March 12, 2026 (the “**Eighth Report**”) and the Monitor’s activities described therein.

### **PART II – FACTS**

2. The facts relevant to this motion are more fully set out in the Eighth Report.

#### **Overview**

3. The Applicants are private companies incorporated under the laws of Nova Scotia.<sup>2</sup>

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<sup>1</sup> Capitalized terms used herein and not otherwise defined have the meanings ascribed to them in the Eighth Report of the Monitor dated March 12, 2026 [“**Eighth Report**”].

<sup>2</sup> Eighth Report at 2.1.

4. Prior to these proceedings, the primary business of the Operating Companies was the manufacturing and sale of alcoholic beverages.<sup>3</sup> BLCL is primarily a real estate investment company.<sup>4</sup>

5. Pursuant to the Initial Order granted December 13, 2024 (as amended by the Amended and Restated Initial Order granted December 20, 2024), the Applicants were granted protection under the CCAA and KSV was appointed as Monitor of the Applicants.<sup>5</sup>

6. The Stay was subsequently extended by Orders of this Court, including by the Ancillary Order granted January 27, 2026, which extended the stay period until and including April 30, 2026.<sup>6</sup>

### **Beck Settlement**

7. Beck was a supplier of flavour extracts to Spirit Co for its Blue Lobster Vodka Soda.<sup>7</sup>

8. Pursuant to the Floor Stock Agreement, Beck agreed to supply an agreed quantity of flavour extracts at an agreed price, and Spirit Co agreed to pay Beck in accordance with the terms set out in the Floor Stock Agreement.<sup>8</sup>

9. On October 26, 2021, Beck filed the Beck Litigation Claim. Spirit Co filed the Spirit Co Counterclaim against Beck alleging lost sales resulting from the late delivery of flavour compounds required for production.<sup>9</sup>

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<sup>3</sup> Eighth Report at 2.2.

<sup>4</sup> Eighth Report at 2.3.

<sup>5</sup> Eighth Report at 1.2.

<sup>6</sup> Eighth Report at 1.5.

<sup>7</sup> Eighth Report at 4.1.1.

<sup>8</sup> Eighth Report at 4.1.2.

<sup>9</sup> Eighth Report at 4.1.3.

10. Since the Filing Date, the Beck Litigation Claim has been subject to the Stay.<sup>10</sup>

11. Beck filed the Beck Claim in the amount of \$844,000 in the Claims Procedure against Spirit Co.<sup>11</sup>

12. The Monitor, through its counsel, engaged in discussions with Beck's counsel to negotiate a resolution of the Beck Claim. The key terms of the Beck Settlement are as follows:

- (a) **Beck Settlement Amount:** The Monitor will pay Beck an immediate lump sum payment of \$125,000.
- (b) **Mutual Releases:** The Monitor and Beck intend to enter into full and final mutual releases with respect to the Beck Claim, the Beck Litigation Claim and the Spirit Co Counterclaim.
- (c) **Without Cost Dismissal:** The Monitor will bring a motion for a without cost dismissal of the Beck Litigation Claim and the Spirit Co Counterclaim.
- (d) **No Entitlement to Further Distribution:** Beck has agreed that other than in respect of the Beck Settlement Amount, it shall not be entitled to any further distribution, payment or recovery under the Claims Procedure or otherwise in respect of its claims.<sup>12</sup>

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<sup>10</sup> Eighth Report at 4.1.4.

<sup>11</sup> Eighth Report at 4.2.1.

<sup>12</sup> Eighth Report at 4.2.2.

## **Corkum Mortgage**

13. Pursuant to a mortgage dated January 28, 2021, Corkum provided vendor-financing to Lost Bell in the principal amount of \$400,000 secured by the Corkum Mortgage, to facilitate Lost Bell's acquisition of the Dudley Property.<sup>13</sup>

14. The Dudley Property was sold to Coast pursuant to the Coast Transaction. The amount owing to Corkum under the Corkum Mortgage is approximately \$159,000, with interest accruing at a rate of 5% per annum.<sup>14</sup>

15. The Monitor intends to repay the Corkum Mortgage from the proceeds of the Coast Transaction, subject to Court approval.<sup>15</sup>

## **PART III – ISSUES**

16. The issues to be determined are whether this Court should:

- (a) approve the Beck Settlement and authorize the Monitor to pay the Beck Settlement Amount;
- (b) authorize the Monitor to repay the Corkum Mortgage, in full, from the proceeds of the Coast Transaction;
- (c) extend the stay of proceedings until and including June 30, 2026; and
- (d) approve the Eighth Report and the Monitor's activities described therein.

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<sup>13</sup> Eighth Report at 3.1.

<sup>14</sup> Eighth Report at 3.2.

<sup>15</sup> Eighth Report at 3.3.

## **PART IV – SUBMISSIONS**

### **A. Beck Settlement Should be Approved**

17. The Monitor seeks approval of the Beck Settlement.
18. Section 11 of the CCAA grants the Court broad discretionary power to make any order it considers appropriate, including the approval of settlements in CCAA proceedings.<sup>16</sup>
19. In determining whether to approve a settlement, Courts consider the following factors:
  - (a) whether the settlement is fair and reasonable;
  - (b) whether it provides substantial benefits to other stakeholders; and
  - (c) whether it is consistent with the purpose and spirit of the CCAA.<sup>17</sup>
20. The Beck Settlement meets these factors, as:
  - (a) **Fair and reasonable.** The Beck Settlement resolves the Beck Claim at 15% of the amount claimed in the Claims Procedure – a fraction of the full claim. This outcome is at least as favourable as what Spirit Co would likely achieve if the Beck Claim were determined by a Claims Officer.
  - (b) **Substantial benefits to other stakeholders.** The Beck Claim is the largest unsecured claim filed in the Claims Procedure. If proven at the full amount claimed, Beck would receive a disproportionate share of funds available for distribution to Spirit Co's unsecured creditors. If unresolved, the Beck Claim would proceed to a

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<sup>16</sup> CCAA, [s 11](#); see also *Re DCL Corporation*, [2025 ONSC 4976](#) at [para 14](#).

<sup>17</sup> *Labourers' Pension Fund of Central and Eastern Canada v Sino-Forest Corporation*, [2013 ONSC 1078](#), at [para 49](#).

Claims Officer under the Claims Procedure Order, resulting in significant professional fees and delay that would further erode the funds available for distribution in these proceedings.

- (c) **Spirit and purpose of the CCAA:** The Beck Settlement facilitates the timely and efficient resolution of the Beck Claim to maximize recoveries for stakeholders. The Beck Settlement is consistent with the remedial purposes and objectives of the CCAA.<sup>18</sup> Approving the Beck Settlement advances these objectives by providing certainty, reducing costs and facilitating an expeditious distribution to Spirit Co's unsecured creditors.

## **B. Distributions Should be Authorized**

21. The Monitor seeks authorization to make distributions (collectively, the “**Distributions**” and each, a “**Distribution**”) to:

- (a) Beck in the amount of \$125,000 pursuant to the Beck Settlement; and
- (b) Corkum to repay the Corkum Mortgage, in full, which shall be paid from the net sale proceeds of the Coast Transaction.

22. Section 11 of the CCAA grants the Court broad discretionary powers to make any order it considers appropriate in the circumstances, including the power to authorize interim distributions.<sup>19</sup> In determining whether to authorize an interim distribution, Courts have considered

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<sup>18</sup> *Century Services Inc v Canada (Attorney General)*, [2010 SCC 60](#) at [para 70](#).

<sup>19</sup> CCAA, [s 11](#); **see also** *AbitibiBowater inc. (Arrangement relatif à)*, 2009 QCCS 6461 [“**Abitibi**”] at [para 71](#).

the validity and enforceability of the security, savings resulting from the making of a distribution, and liquidity after the distribution.<sup>20</sup>

23. The Monitor is of the view that the proposed Distributions should be authorized, as:

- (a) with respect to the proposed Distribution to Corkum:
  - (i) the Monitor has received a security opinion confirming the validity and enforceability of the Corkum Mortgage;
  - (ii) repaying the Corkum Mortgage in full will stop interest from continuing to accrue, resulting in immediate savings that preserve the funds available for distribution to other creditors; and
  - (iii) the Monitor is not aware of any party that has a claim to the proceeds from the sale of the Dudley Property that ranks in priority to the Corkum Mortgage, except for the Administration Charge under the ARIO, for which the Monitor is holding funds to satisfy any amounts that accrue thereunder;<sup>21</sup>
- (b) with respect to the proposed Distribution to Beck, the Monitor relies on the factors set out above in support of the Beck Settlement approval. In particular, the proposed Distribution will resolve the largest outstanding unsecured claim without the need for determination by a Claims Officer, thereby avoiding significant professional fees and delay that would otherwise erode the funds available for distribution to Spirit Co's other unsecured creditors.

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<sup>20</sup> *Abitibi* at [para 75](#).

<sup>21</sup> Eighth Report at 3.2.1.

**C. Stay Extension Should be Granted**

24. Pursuant to section 11.02(2) of the CCAA, the Court has jurisdiction to extend the stay of proceedings following the issuance of an initial order.<sup>22</sup> An extension may only be granted where the Court is satisfied that: (a) circumstances exist that make the order appropriate; and (b) the debtor has acted, and continues to act, in good faith and with due diligence.<sup>23</sup>

25. The Stay currently expires on April 30, 2026.

26. The Monitor recommends that the Stay be extended to and including June 30, 2026 for the following reasons:

- (a) the Monitor, which was granted enhanced authority pursuant to an order of the Court dated July 17, 2025, has acted in good faith and with due diligence in carrying out its enhanced powers in these proceedings;
- (b) the Stay will provide the Monitor the opportunity to make the Distributions;
- (c) the Stay will provide the Monitor with additional time to sell the remaining BLCL Real Properties and the Lost Bell Property;
- (d) the Stay will provide the Monitor additional time to negotiate a consensual resolution of the Outstanding Issues;
- (e) no stakeholder is prejudiced by the proposed extension of the Stay and there are sufficient funds on hand to fund these proceedings; and

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<sup>22</sup> CCAA, [s 11.02\(2\)](#).

<sup>23</sup> CCAA, [s 11.02\(3\)](#).

- (f) neither the Applicants nor the Monitor are aware of any party opposed to the proposed extension of the Stay.<sup>24</sup>

27. Accordingly, the Monitor believes the requested extension of the Stay to and including June 30, 2026 is necessary and appropriate in the circumstances.

**C. Approval of the Eighth Report and Monitor's Activities**

28. The Monitor seeks approval of the Eighth Report and the activities of the Monitor referred to therein. There are good policy and practical reasons for court approval of a Monitor's report and activities, including that such approval:

- (a) allows the Monitor to move forward with next steps in the CCAA proceedings;
- (b) brings the Monitor's activities before the Court;
- (c) allows an opportunity for the concerns of the stakeholders to be addressed, and any problems to be rectified;
- (d) enables the Court to satisfy itself that the Monitor's activities have been conducted in prudent and diligent manners;
- (e) provides protection for the Monitor not otherwise provided by the CCAA; and
- (f) protects the creditors from the delay and distribution that would be caused by (i) re-litigation of steps taken to date, and (ii) potential indemnity claims by the Monitor.<sup>25</sup>

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<sup>24</sup> Eighth Report at 7.1.

<sup>25</sup> *Re Target Canada Co*, [2015 ONSC 7574](#) at [para 22](#).

29. Since the filing of the Seventh Report dated January 22, 2026, the Monitor has taken the following steps, among others, to advance these proceedings:

- (a) dealt with post-closing matters relating to the Transactions;
- (b) advanced the sale process for the remaining BLCL Real Properties and the Lost Bell Property, and corresponded with the Realtors regarding same;
- (c) prepared an analysis of net sale proceeds available to the Operating Companies' unsecured creditors, provided same to Mr. Rice's counsel, attended meetings with Mr. Rice's counsel and attempted to resolve the Outstanding Issues;
- (d) through its legal counsel, advanced discussions with Beck's legal counsel to try to resolve the Beck Claim;
- (e) entered into the Beck Settlement subject to Court approval;
- (f) with its legal counsel, engaged with Mr. Rice's counsel to advance a potential resolution of the Outstanding Issues; and
- (g) prepared the Eighth Report and reviewed all motion material filed in connection with this motion.<sup>26</sup>

30. The Monitor has acted in good faith pursuant to the Monitor's duties and powers set out in the CCAA and the Orders made in these proceedings.

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<sup>26</sup> Eighth Report at 8.1.

**PART IV – RELIEF REQUESTED**

31. For the reasons set out above, the Monitor requests the Court grant the Distribution and Ancillary Relief Order.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED** this 13<sup>th</sup> day of March, 2026.



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## LIST OF AUTHORITIES

1. *Re DCL Corporation*, [2025 ONSC 4976](#).
2. *Labourers' Pension Fund of Central and Eastern Canada v Sino-Forest Corporation*, [2013 ONSC 1078](#).
3. *Re Target Canada Co*, [2015 ONSC 7574](#).
4. *Century Services Inc v Canada (Attorney General)*, [2010 SCC 60](#).
5. *AbitibiBowater inc. (Arrangement relatif à)*, [2009 QCCS 6461](#).

**Companies' Creditors Arrangement Act, RSC 1985, c C-36**

**General power of court**

**11** Despite anything in the [Bankruptcy and Insolvency Act](#) or the [Winding-up and Restructuring Act](#), if an application is made under this Act in respect of a debtor company, the court, on the application of any person interested in the matter, may, subject to the restrictions set out in this Act, on notice to any other person or without notice as it may see fit, make any order that it considers appropriate in the circumstances.

**Stays, etc. — other than initial application**

**11.02 (2)** A court may, on an application in respect of a debtor company other than an initial application, make an order, on any terms that it may impose,

- (a) staying, until otherwise ordered by the court, for any period that the court considers necessary, all proceedings taken or that might be taken in respect of the company under an Act referred to in paragraph (1)(a);
- (b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and
- (c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

**Burden of proof on application**

**11.02 (3)** The court shall not make the order unless

- (a) the applicant satisfies the court that circumstances exist that make the order appropriate; and
- (b) in the case of an order under subsection (2), the applicant also satisfies the court that the applicant has acted, and is acting, in good faith and with due diligence.