



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**

**- AND -**

**IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF BLUE LOBSTER  
CAPITAL LIMITED, 3284906 NOVA SCOTIA LIMITED, 3343533 NOVA SCOTIA LIMITED AND  
4318682 NOVA SCOTIA LIMITED**

**SUPPLEMENT TO THE FOURTH REPORT  
OF KSV RESTRUCTURING INC. AS MONITOR**

**June 23, 2025**

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## 1. Introduction

1. This report (the “**Supplemental Report**”) supplements the Fourth Report.
2. Unless otherwise defined herein, capitalized terms have the meanings provided to them in the Fourth Report.
3. This Supplemental Report is subject to the restrictions in the Fourth Report.
4. All currency references in this Supplemental Report are in Canadian dollars.

### 1.1 Purposes of this Report

1. The purposes of this Supplemental Report are to:
  - a) respond to comments made by Mr. Rice in his affidavit sworn June 23, 2025 (the “**Rice Affidavit**”);
  - b) provide a comparison of the value of the Transactions to the value of the proposal filed with the Court by Mr. Rice (the “**Rice Proposal**”) to (i) terminate the CCAA proceedings and (ii) pay creditors (with the objective of repaying them in full) from financing in the amount of \$8 million, an additional \$380,000 of capital which is apparently being wired imminently to an Escrow Agent<sup>1</sup>, and cash on hand of approximately \$203,000<sup>2</sup> (which is as of a point in time);
  - c) address the opposition of 4681814 Nova Scotia Limited (“**468 NSL**”) to the Transactions;
  - d) update the Court on the opinion (the “**Security Opinion**”) on RBC’s security provided by Lawson Creamer, the Monitor’s counsel for this purpose; and
  - e) repeat the Monitor’s recommendation that the Court grant the relief requested by the Monitor in the Fourth Report.

## 2. Response to Rice Affidavit

1. Mr. Rice acknowledges in the Rice Affidavit that:
  - a) the Applicants have been attempting to refinance their debt owing to RBC since prior to the commencement of the CCAA proceedings;
  - b) the Applicants were unable to refinance the RBC debt by the end of February 2025 and therefore the Applicants applied for the SISP Approval;

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<sup>1</sup> As defined in the Rice Affidavit. The Escrow Agent is Cox & Palmer.

<sup>2</sup> Cash balance is subject to change. This is not relevant to the offer comparison as the cash balance will be the same regardless of the outcome of the SISP.

- c) the Applicants have continued throughout the CCAA proceedings to attempt to refinance RBC and the Applicants' businesses;
  - d) at the Bid Deadline, Mr. Rice submitted a conditional offer, in the form of an outline of a potential plan of compromise and arrangement (the "**Rice CCAA Plan**"). (The Rice CCAA Plan is different from the Rice Proposal that is now before the Court); and
  - e) the Monitor advised Mr. Rice and his counsel that it was not prepared to accept the Rice CCAA Plan.
2. At paragraph 20 of his affidavit, Mr. Rice states that, *"On 08 June 2025, we confirmed available financing through a third-party private lender, 4723718 (sic) Nova Scotia Limited (the "**Lender**") sufficient to pay all known secured and unsecured creditors with uncontested claims in full. On 16 June 2025, it was confirmed that there were no further conditions for the advance of funds from the Lender other than an order being issued from the Honourable Supreme Court terminating the CCAA process."*
  3. The comment in the preceding paragraph is not consistent with a letter from Darren O'Keefe dated June 19, 2025 (the "**O'Keefe Letter**") and served on the service list. Mr. O'Keefe states *"While initially the CCAA Applicants intended to file a Plan of Arrangement, they are now expecting to be able to discharge the CCAA Proceedings in their entirety as noted above, and are in the advanced stages of formalizing arrangements with a well established investor [Emphasis added]. Once completed, the CCAA Applicants plan to fully pay all known secured and unsecured creditors...."* A copy of the O'Keefe Letter is provided in **Appendix "A"**.
  4. In any event, whether Mr. Rice only obtained financing in the last day or so<sup>3</sup>, or his financing was in place by June 8, 2025, as suggested in the O'Keefe Letter, the CCAA Plan submitted at the Bid Deadline was subject to financing and other conditions.
  5. Mr. Rice also states in the Rice Affidavit: *"that the Companies were repeatedly reassured by the Monitor that if they raised sufficient funds to repay their debt in its entirety, there would be no choice but to support an exit from the CCAA process."*
  6. To the Monitor's recollection, Mr. Rice is referring to a conversation with the Monitor's representative (Mr. Kofman) shortly after the launch of the SISP. Mr. Kofman advised Mr. Rice that if prior to the Bid Deadline, the Applicants were able to source financing on an unconditional basis sufficient to repay creditors in full, it would consider supporting a motion by the Companies to terminate the SISP. Contrary to Mr. Rice's suggestion in the Rice Affidavit, the Monitor's comment was not unequivocal, as the Monitor would need to consider the terms of any such proposal, as well as the circumstances of the CCAA proceedings at the time such an option was presented.
  7. Importantly, Mr. Rice does **not** take issue in the Rice Affidavit with the conduct of the SISP. There is no suggestion in the Rice Affidavit that the SISP was not properly or fairly conducted, or that the SISP was flawed in any manner.

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<sup>3</sup> The evidence is that the proceeds were only recently wired to the Escrow Agent and as of the time the Rice Affidavit was sworn, \$380,000 had not been received.

### 3. RBC's Position

1. As set out in a letter dated June 19, 2025 from RBC's counsel, Stewart McKelvey, RBC continues to support approval of the Transactions by the Court. The letter also provides additional context into Mr. Rice's extensive refinancing efforts. A copy of the letter from Stewart McKelvey is attached as **Appendix "B"**.
2. RBC's consent to the Transactions is noteworthy given that the Monitor received offers in the SISF that included both the BLCL Real Properties and the Operating Businesses (the "**Joint Bids**") that would have repaid in full its advances to the Applicants, but would have resulted in (i) lower recoveries for the unsecured creditors of the Operating Businesses; and (ii) the sale of the BLCL Real Properties at less than the values provided to the Monitor by realtors. Part of RBC's consideration process when considering whether to consent to the Transactions was to avoid a contested hearing where Mr. Rice objected to the sale of BLCL Real Properties, as set out in the Joint Bids, at less than fair market value.

### 4. Offer Comparison<sup>4</sup>

1. The Monitor has prepared a comparison of the Rice Proposal to the Transactions, which is attached as **Confidential Appendix "1"** to this Supplemental Report (the "**Offer Comparison**"). As reflected in the Offer Comparison, the Transactions provide a better recovery for unsecured creditors of the Operating Businesses than the Rice Proposal. This is because, *inter alia*, approximately \$1.38 million of the Rice Proposal proceeds are to be used to repay BLCL's debts, which are owing to RBC, CRA and its unsecured creditors, whereas the full amount of the proceeds from the Transactions are to be paid to creditors of the Operating Businesses.
2. As reflected in the Offer Comparison, notwithstanding the Rice Proposal states that all creditors will be paid in full, that is not the case.

### 5. Sealing

1. The Monitor is recommending that the Offer Comparison be sealed for the same reasons that it recommended the Confidential Information be sealed in the Fourth Report.

### 6. Security Opinion

1. The Monitor advised in the Fourth Report that it had retained Lawson Creamer to provide the Security Opinion, which it finalized following the filing of the Fourth Report with the Court. The Security Opinion confirms the validity and enforceability of RBC's security over the Applicants' business and assets, subject to the standard assumptions and qualifications therein. A copy of the Security Opinion can be provided to the Court upon its request.

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<sup>4</sup> This analysis is based on the creditor amounts provided in Exhibit "C" to the Rice Affidavit.

## 7. The 468 NSL Offer

1. 468 NSL, an unsuccessful bidder in the SISP, has written to the Court stating its objection to the Transactions alleging that its offer was higher than the selected Transactions and that it would repay creditors in full. 468 NSL also alleges that the SISP does not satisfy the principles set out in *Royal Bank of Canada v. Soundair Corporation*, [\[1991\] OJ No 1137](#) (ONCA) and section 36 of the CCAA.
2. As set out in the Offer Summary, which was attached as Confidential Appendix “1” to the Fourth Report, the bid of 468 NSL was inferior to the Transactions and would not have repaid creditors in full.
3. On the afternoon of June 23, 2025, counsel for 468 NSL sent an email to the service list advising, “*In light of the motion filed by the Company, 4681814 Nova Scotia Limited is no longer proceeding with any motion regarding the sale and investment solicitation process.*”

## 8. Other Matters

1. Mr. Rice has not provided the Monitor or the Court with a copy of his financing term sheet. Mr. Rice has advised that the proceeds from the refinancing are being held in trust with the Escrow Agent. The Monitor is not aware whether, *inter alia*, (i) there are any conditions to the release of the financing from escrow; and (ii) the Applicants have immediate access to all funds being held in escrow. The Monitor is of the view that full disclosure should be made to it and/or the Court as to the terms of the refinancing.
2. The Monitor also notes that the Rice Proposal does not provide a process for determining claims and paying creditors. The Monitor is aware that there is ongoing litigation between certain of the Applicants and Beck Flavours. There could also be off-balance sheet obligations that are not reflected in the creditor listing resulting from, for example, vendor disputes, contractual claims, employee claims and litigation. The Rice Proposal does not articulate how claims will be determined and how disputes will be resolved. Having chosen to avail themselves of protection under the CCAA, the Applicants are precluding creditors from relying on the CCAA process to determine their claims.

## 9. Conclusion and Recommendation


1. Mr. Rice acknowledges he participated in the SISP. He submitted the Rice CCAA Plan at the Bid Deadline. Following acceptance of the Transactions by the Monitor, Mr. Rice submitted a further offer, the Rice Proposal, which provides less value to the creditors of the Operating Businesses than the Transactions.

2. There is no suggestion by Mr. Rice that the SISP was flawed or lacked integrity. Instead of supporting the Applicants to complete the SISP, Mr. Rice has taken steps to undermine its results. This is prejudicial to the Purchasers, each of which respected the terms of the SISP, invested considerable time and costs to prepare for transitions of the Operating Businesses and has a reasonable expectation that their respective transactions be approved. Mr. Rice does not suggest in the Rice Proposal that the Purchasers should be compensated for the time, effort and diligence for participating in the SISP. The Rice Proposal is also prejudicial to unsecured creditors, who stand to have an inferior result under the Rice Proposal.
3. The Monitor has also set-out additional substantive concerns regarding the Rice Proposal, including a lack of transparency around its financing and the uncertainty as to how claims are to be determined.
4. For these reasons, and the reasons provided in the Fourth Report, the Monitor continues to be of the view that the Court should approve the Transactions.

\* \* \*

All of which is respectfully submitted,

**KSV RESTRUCTURING INC., IN ITS CAPACITY AS MONITOR OF  
BLUE LOBSTER CAPITAL LIMITED, 3284906 NOVA SCOTIA LIMITED, 3343533 NOVA  
SCOTIA LIMITED AND 4318682 NOVA SCOTIA LIMITED  
AND NOT IN ITS PERSONAL OR CORPORATE CAPACITY**



**PER: BOBBY KOFMAN, PRESIDENT**

## **Appendix “A”**



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# O'KEEFE & SULLIVAN

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## BY COURIER AND EMAIL

Via Email - susan.snow@courts.ns.ca

The Honourable Justice Darlene Jamieson  
Supreme Court of Nova Scotia  
The Law Courts  
1815 Upper Water Street Halifax, Nova Scotia B3J 1S7

19 June 2025

**AND TO:     The Service List**

**In Re:           Blue Lobster Capital Ltd. et. al. (the “CCAA Applicants”)  
                  *Companies Creditors Arrangement Act, RSC, 1985 (the “CCAA”)*  
                  Hfx No. 538745**

We refer to our letter of 30 May 2025 where we requested a hearing date for alternative applications between the KSV Restructuring Inc. (the “**Monitor**”) and the Blue Lobster Group (the “**CCAA Applicants**”). While the CCAA Applicants had thought this matter could be resolved, it unfortunately did not conclude in the manner they had hoped.

The Monitor has now filed an application to approve a proposed sale of the CCAA Applicants’ undertaking and assets pursuant to the Sale, Investment and Solicitation Process (the “**SISP**”) that was concluded on 09 May 2025. The CCAA Applicants intend to file an application to have the CCAA proceedings terminated on the basis that they are no longer insolvent and have sufficient funds to pay out all secured and unsecured creditors in full.

Alternative approaches and possible related applications and respective positions of the Monitor and the CCAA Applicants have been under discussion since 09 May 2025. While initially the CCAA Applicants intended to file a Plan of Arrangement, they are now expecting to be able to discharge the CCAA Proceedings in their entirety as noted above, and are in the advanced stages of formalizing arrangements with a well established investor. Once completed, the CCAA Applicants plan to fully pay all known secured and unsecured creditors. Given the SISP is concluded, the Monitor and the CCAA Applicants have differing views on the relief or alternative outcomes available in this situation. As such, a full hearing of both applications will be necessary.

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In our discussions with the Monitor and its counsel, we have agreed to have both applications placed before the Court and heard at the same time. Our intention is to place our respective positions before the Court and seek the Court's ruling on the most appropriate path forward for all stakeholders.

In our discussions with the Monitor and its counsel immediately prior to their application being filed on 17 June 2025 we indicated our application would be filed this week, with supplemental materials to follow. If it pleases the Court, that is still our intention.

On the basis of the foregoing, we respectfully request that the appearance on 26 June 2025 be used as a scheduling appearance to set a date for the hearing of our respective applications.

We thank you for your assistance in this matter and remain at the Court's disposal.

Regards,

A handwritten signature in black ink, appearing to read 'D. O'Keefe', with a stylized flourish extending from the end.

**DARREN D. O'KEEFE**  
dokeefe@okeefesullivan.com

## **Appendix “B”**

File Reference: SM069259.00020

Maurice Chiasson, K.C.  
Direct Dial: 902.420.3300  
[mchiasson@stewartmckelvey.com](mailto:mchiasson@stewartmckelvey.com)

June 19, 2025

**Via Electronic Mail**

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Counsel:

**Re: Companies' Creditors Arrangement Act Proceedings for the Blue Lobster Group of Companies**

As you know, we are counsel for Royal Bank of Canada in the above-noted proceedings. We have received a copy of Mr. O'Keefe's letter of June 17, 2025 to Ms. Kour.

That letter includes a request by the Blue Lobster Group of Companies for additional information in relation to the bids received for various assets of the debtor companies and the court-appointed Monitor's motion for approval of the sale of various assets of the debtor companies in accordance with such bids. That motion is scheduled for hearing on June 26, 2025. The letter makes a further request for additional time for the debtor companies to review the requested information which would seemingly push the approval date beyond June 26.

Simply stated, the Bank does not support any further delay in these proceedings. The Monitor has conducted a Sales and Investment Solicitation Process (SISP) in accordance with an Order of this Court and bids have been received. One of the principals of the debtor companies, Mr. Rice, was given the opportunity to participate in the SISP and did, in fact, submit a proposal. That proposal was not accepted.

The Bank has been kept fully informed by the Monitor as to the progress of the SISP and the bids submitted. The Bank believes the process has been fulsome and been conducted openly and with transparency. Bidders have come forward in good faith. In other words, the "market has spoken". It is time for this process to come to its logical conclusion and for Court approval to be sought.

It is not clear to the Bank what purpose would be served by any further delays as suggested by the debtor companies. Presumably, the ostensible reason is to allow Mr. Rice to make a further

[4153-7041-9037](tel:4153-7041-9037)

June 19, 2025

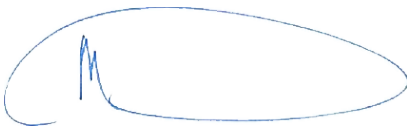
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proposal of some sort. As noted in the materials filed with these proceedings, Mr. Rice has been engaged in refinancing efforts at least since March 2024 with no success. It is that lack of success that led to these proceedings. There is no reasonable basis to believe that any additional time would lead to a different result.

It is essential that the SISP process conclude as intended. The Bank is concerned that any further delays might create significant uncertainty for the bidders that have participated in good faith in the SISP. That is not acceptable to the Bank.

We trust the Bank's position is clear on this point. We remain available for any discussion that may prove useful.

Yours truly,

A handwritten signature in blue ink, consisting of a stylized 'M' followed by a large, loopy flourish that extends to the right.

Maurice Chiasson, K.C.

MPC/wmi