

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MADAM)	THURSDAY, THE 28TH
)	
JUSTICE KIMMEL)	DAY OF SEPTEMBER, 2023

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 CHALICE BRANDS LTD.

APPROVAL AND VESTING ORDER

THIS MOTION, made by Chalice Brands Ltd. (the "**Applicant**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for an order: (i) approving the transaction (the "**Transaction**") contemplated by an asset purchase agreement (the "**Sale Agreement**") dated August 11, 2023, between the Applicant, Greenpoint Nevada Inc., Greenpoint Oregon, Inc., Greenpoint Equipment Leasing, LLC, CFA Retail LLC, SMS Ventures LLC and CF Bliss LLC, as vendors (together, the "**Vendor**"), and APCO LLC, as purchaser (the "**Purchaser**"), and attached as Exhibit "I" to the affidavit of Scott Secord sworn August 18, 2023 (the "**Secord Affidavit**"); (ii) vesting in and to the Purchaser, the Applicant's right, title and interest in and to the Purchased Assets (as defined below); and (iii) sealing a summary of the bids received by the Applicant by the bid deadline appended to the Third Report (as defined below) as Confidential Appendix "1" (the "**Confidential Appendix**"), was heard this day by videoconference via Zoom in Toronto, Ontario.

ON READING the materials filed, including the Notice of Motion, the Second Affidavit and the Exhibits thereto, the Third Report of KSV Restructuring Inc. (“**KSV**”), in its capacity as monitor of the Applicant (the “**Monitor**”), dated August 28, 2023 (the “**Third Report**”) and on hearing the submissions of counsel for the Vendor, counsel for the Monitor, counsel for the Purchaser and those other parties listed on the Counsel Slip, no one else appearing although duly served as appears from the Affidavit of Service of Fabian Suárez-Amaya sworn August 18, 2023 and the Affidavit of Service of Fabian Suárez-Amaya sworn August 29, 2023.

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

DEFINITIONS

2. **THIS COURT ORDERS** that capitalized terms used herein that are not otherwise defined shall have the meanings ascribed to them in the Second Affidavit, including terms in the Second Affidavit defined by way of cross reference.

SALE APPROVAL

3. **THIS COURT ORDERS** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Applicant is hereby authorized and approved, with such minor amendments as the Applicant and the Purchaser may deem necessary, with the consent of the Monitor and the Oregon Receiver. The Applicant is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

4. **THIS COURT ORDERS** that this Order shall constitute the only authorization required by the Applicant to proceed with the Transaction and that no shareholder or other approval shall be required in connection therewith.

5. **THIS COURT ORDERS** that upon the delivery of a Monitor’s certificate to the Vendor and the Purchaser substantially in the form attached as Schedule “A” hereto (the “**Monitor’s**”

Certificate”), all of the Applicant’s right, title and interest in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Amended and Restated Initial Order of the Honourable Justice Madam Kimmel dated June 1, 2023 made in this CCAA proceeding (the “**ARIO**”); and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system (all of which are collectively referred to as the “**Encumbrances**”) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

6. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Monitor’s Certificate all Claims and Encumbrances (including the Administration Charge (as defined in the ARIO)), shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

7. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor’s Certificate, forthwith after delivery thereof.

8. **THIS COURT ORDERS** that the Monitor may rely on written notice from the Vendor and the Purchaser regarding the satisfaction or waiver of conditions to Closing under the Sale Agreement and shall have no liability with respect to delivery of the Monitor’s Certificate.

9. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, the Applicant is authorized and permitted to disclose and transfer to the Purchaser personal information of

identifiable individuals (“**Personal Information**”), but only to the extent that such disclosure is necessary or desirable to implement the Transaction. The Purchaser shall maintain and protect the privacy of such Personal Information and shall be entitled to use the Personal Information provided to it that is related to the Transaction in a manner that is in all material respects identical to the prior use of such information by the Applicant.

10. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of this proceeding;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Applicant and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Applicant;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Applicant and shall not be void or voidable by creditors of the Applicant, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

CHANGE OF NAME AND STYLE OF CAUSE

11. **THIS COURT ORDERS** that (i) on or after the Closing Date, the Applicant is hereby permitted to execute and file articles of amendment or such other documents or instruments as may be required to change its legal name, and such articles, documents or other instruments shall be deemed to be duly authorized, valid and effective without any requirement to obtain shareholder consent; and (ii) upon the official change to the legal name of the Applicant that is to occur, the name of the Applicant in the within title of proceeding shall be deleted and replaced with the new legal name of the Applicant, and any document filed thereafter in this proceeding

(other than the Monitor's Certificate and the certificate to be filed by the Monitor in respect of the termination of this CCAA proceeding) shall be filed using such revised title of proceeding.

SEALING ORDER

12. **THIS COURT ORDERS** that the Confidential Appendix is hereby sealed and shall not form part of the public record until Closing, subject to further order of this Court sought on not less than seven (7) days' notice to the Applicant, the Purchaser and, provided it has not been discharged, the Monitor.

GENERAL

13. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, including but without limitation the Circuit Court of the State of Oregon, to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

14. **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that KSV is authorized and empowered to act as a representative in respect of the within proceeding for the purpose of having this proceeding recognized in a jurisdiction outside Canada.

15. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Toronto time on September 28, 2023.

Schedule A – Form of Monitor’s Certificate

Court File No. CV-23-00699872-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

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MONITOR'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Kimmel of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated May 23, 2023, Chalice Brands Ltd. (the "**Applicant**") 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 as the monitor (in such capacity, the "**Monitor**") of the Applicant. Capitalized terms used herein that are not otherwise defined shall have the meanings ascribed to them in the affidavit of Scott Secord sworn August 18, 2023, filed in this CCAA proceeding.

B. Pursuant to an Order of the Court dated September 28, 2023, the Court approved the asset purchase agreement dated as of August 11, 2023 (the "**Sale Agreement**") between the Applicant, Greenpoint Nevada Inc., Greenpoint Oregon, Inc., Greenpoint Equipment Leasing, LLC, CFA Retail LLC, SMS Ventures LLC and CF Bliss LLC, as vendors (together, the "**Vendor**"), and APCO LLC, as purchaser (the "**Purchaser**") and provided for the vesting in the Purchaser of the Applicant’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Vendor

and the Purchaser of a certificate confirming: (i) the payment by the Purchaser and the receipt by the Vendor of the Purchase Price pursuant to the Sale Agreement; (ii) that the Monitor has received confirmation in writing in accordance with the provisions of Section 12.5 of the Sale Agreement from the Vendor and the Purchaser that the conditions to Closing in the relevant party's favour have been satisfied or waived by the Vendor and the Purchaser, as applicable; and (iii) the Transaction has been completed to the satisfaction of the Monitor.

THE MONITOR CERTIFIES the following:

1. The Purchaser has paid and the Vendor has received the Purchase Price pursuant to the Sale Agreement.
2. The Monitor has received confirmation in writing in accordance with the provisions of Section 12.5 of the Sale Agreement from the Vendor and the Purchaser that the conditions to Closing in the relevant party's favour have been satisfied or waived by the Vendor and the Purchaser, as applicable.
3. The Transaction has been completed to the satisfaction of the Monitor.
4. This Certificate was delivered by the Monitor at _____ [TIME] on _____ [DATE].

**KSV RESTRUCTURING INC. solely in its
capacity as Monitor of the Applicant and not
in its personal capacity**

Per: _____

Name:

Title:

**ONTARIO
SUPERIOR COURT OF JUSTICE
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Proceeding commenced at Toronto

APPROVAL AND VESTING ORDER

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