



SUPERIOR COURT OF JUSTICE

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-23-00711401-00CL

DATE: 12/22/2023

NO. ON LIST: 1

TITLE OF PROCEEDING: CONTRACT PHARMACEUTICALS LIMITED et al.

BEFORE: JUSTICE PENNY

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

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For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info

ENDORSEMENT OF JUSTICE PENNY:

[1] The applicants move for an amended and restated initial order extending the stay, expanding the quantum of certain charges to reflect the stay extension, establishing a key employee retention plan and related charge, the appointment of a financial advisor (and financial advisor’s charge), approval of a SISP process and other collateral relief.

[2] There is no opposition to the relief sought. The Monitor supports the applicants’ requests’. The secured creditors, including the DIP lender, are supportive as well.

[3] The stay extension is required to pursue the proposed restructuring plan. The extension to March 22, 2024 is justified of the evidence and will provide the applicants with adequate time to pursue the optimal solution without unduly prolonging the process.

[4] The increase in quantum of the administration charge, the D&O charge and the DIP lender charge are as contemplated in the initial application and are warranted by the evidence of the requirements and potential liabilities during the stay extension.

[5] The restructuring process being undertaken in this case requires that the business continued to operate in the ordinary course, to the extent possible. There are almost 300 employees. The retention of certain key employees is essential to the ongoing business operations and to a successful restructuring, including the SISP process. I have no doubt that the senior executives and managers will be called upon to perform considerably more than their ordinary-course roles over the next several months. In the absence of protection, there is a very real risk that key employees will seek other, potentially less risky in the long term, opportunities. The proposed amount of the KERP is reasonable.

[6] A sealing order of the KERP details is sought. There is, in my view, a clear expectation of privacy regarding compensation matters which, when combined with the need for stability and generally harmonious intra-company relations in the context of the pressures of a restructuring, meets the public interest test for a sealing order in this case. The KERP details shall be sealed until further order of the court.

[7] Sections 11 and 11.02 of the CCAA allow the court to stay rights of creditors, including rights to effect set-off, if the exercise of those rights could jeopardize the restructuring process. Completion of the SISP without disruption to the ordinary course business is the applicants’ priority. Any attempt by creditors to exercise pre/post set-off rights would be distracting, alter the status quo and projected cash flows and interfere with the SISP, to the detriment of the applicants and their stakeholders. Staying creditors’ rights to effect pre-filing

(versus post-filing) set-off without the consent of the applicants and the Monitor, subject to further order of this court, is therefore appropriate.

[8] The applicants seek approval of the engagement of a financial advisor and the granting of charge to secure the transaction fee that may become payable to the financial advisor in the event of a successful transaction. The proposed financial advisor did important work for the applicants prior to the commencement of these proceedings, assisting with the pre-filing refinancing and investment solicitation process and the subsequent search for DIP financing alternatives. The financial advisor is a specialized investment banker with specific experience and expertise in this industry. It is familiar with the applicants and their business. The financial adviser's knowledge and experience is critical to assist the debtors with a successful restructuring, be it refinancing, investment or sale. A significant portion of the financial advisor's compensation is the transaction fee, payable upon the completion of a successful refinancing, sale or other restructuring transaction. The Monitor has confirmed the transaction fee is consistent with success-based fees approved in other CCAA proceedings. The principal secured creditor, which is also the DIP lender, supports the financial advisor's appointment and the charge. In the circumstances, the approval of the financial advisor's engagement and the granting of the financial advisor charge to secure payment of the transaction fee is appropriate and is approved.

[9] The remedial nature of the CCAA confers broad powers to facilitate a restructuring, including the power to approve a SISP in relation to a CCAA debtor's business and assets. The court has considered, among other things: (i) whether a transaction is warranted at this time; (ii) whether the transaction would benefit the whole "economic community"; (iii) whether any of the debtors' creditors have a bona fide reason to object to a transaction; and (iv) whether there is a better viable alternative.

[10] A refinancing, sale or other restructuring transaction resulting in a continuation of the applicants on a going-concern basis represents the best available outcome for stakeholders. There is no other realistic option available at present given the applicant's liquidity position, debt obligations and other financial challenges. The SISP will benefit the economic community as a whole, as it is designed to identify the highest and best transaction to continue the business as a going-concern for the benefit of a broad variety of stakeholders, including creditors, customers, suppliers, and employees. The SISP has the support of the largest secured lender and the DIP lender.

[11] The SISP appears to be fair, transparent, and objective. It provides a comprehensive and fair process to obtain the best possible outcome and achieve a going concern solution for the benefit of all stakeholders, without unduly prolonging the process. The applicants are of the view that the proposed SISP will adequately canvass the market to maximize value for stakeholders in the circumstances, while simultaneously protecting against the burdens of an extended CCAA proceeding. The Monitor was involved in the development of the SISP and has expressed support for it.

[12] Orders to issue in the form signed by me this day.

A handwritten signature in blue ink, appearing to read "Penny J.", followed by a period.

Penny J.