

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**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 HAKIM OPTICAL LABORATORY LIMITED,
LAWRENCE OPHTHALMIC LAB INC. AND HAKIM OPTICAL
WORLDWIDE LENSES INC.**

Applicants

**FACTUM OF THE APPLICANTS
(Returnable November 18, 2025)**

November 17, 2025

BENNETT JONES LLP
3400 One First Canadian Place
P.O. Box 130
Toronto, ON M5X 1A4

Sean Zweig (LSO# 57307I)
Email: zweigs@bennettjones.com

Jesse Mighton (LSO# 62291J)
Email: mightonj@bennettjones.com

Jamie Ernst (LSO# 88724A)
Email: ernstj@bennettjones.com

Linda Fraser-Richardson (LSO# 89718B)
Email: fraserrichardsonl@bennettjones.com

Tel: (416) 863-1200
Fax: (416) 863-1716

Lawyers for the Applicants

TO: THE SERVICE LIST

TABLE OF CONTENTS

PART I: OVERVIEW.....	1
PART II: FACTS.....	4
A. SISP Conduct and Results of the SISP.....	6
B. The A&R Purchase Agreement.....	7
C. The TSA and the Monitor's Enhanced Powers.....	8
D. The Termination of these CCAA Proceedings	9
PART III: ISSUES.....	10
PART IV: THE LAW & ANALYSIS.....	10
A. The A&R Purchase Agreement and the Transaction Should be Approved	10
B. The Contract Assignment Should be Approved	13
C. The Confidential Information Should be Sealed.....	16
D. The Releases in Favour of the Released Parties Should be Granted	17
E. The Monitor's Expanded Powers Should be Granted.....	19
F. These CCAA Proceedings Should be Terminated and the Monitor and the Administration Charge Should be Discharged.....	20
G. The Monitor's Fees, Activities and the Fifth Report Should be Approved	22
H. The Applicants Should be Authorized to Make Assignments in Bankruptcy on a Procedurally Consolidated Basis	23
I. The Stay Extension Should be Approved.....	24
PART V: RELIEF REQUESTED.....	25
SCHEDULE "A" LIST OF AUTHORITIES.....	A-1
SCHEDULE "B" STATUTES RELIED ON.....	B-1

PART I: OVERVIEW

1. Hakim Optical Laboratory Limited (“**HOLL**”), Lawrence Ophthalmic Lab Inc. (“**Lawrence Lab**”), and Hakim Optical Worldwide Lenses Inc. (also known as Hakim Optical Lenses Worldwide Inc. and Hakim Optical Worldwide Lenese Inc. [sic]) (collectively, the “**Applicants**” or the “**Company**”) are seeking an approval and vesting order (the “**AVO**”), under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), among other things:

- (a) approving the amended and restated specified asset purchase agreement (the “**A&R Purchase Agreement**”), among the Applicants, as vendors, Evelyn Aimis Holdings Inc. (“**Evelyn Aimis**”), an affiliate of the vendors, Chiaro Ottico Ltd. (“**Chiaro**”), 100141360 Ontario Inc. (“**StoreCo**”) and 1001410357 Ontario Inc. (“**LabCo**”, and collectively with Chiaro and StoreCo, the “**Purchasers**”, each related companies to the DIP Lender (as defined below)), as purchasers, and the transactions contemplated thereby (the “**Transaction**”), with such minor amendments as the Applicants, Evelyn Aimis and the Purchasers may deem necessary, with the consent of the Monitor (as defined below);
- (b) upon the delivery of a Monitor’s certificate to the Purchasers, in substantially the form attached as Schedule “A” to the AVO (the “**Monitor’s Certificate**”), vesting in StoreCo and LabCo all of the right, title and interest in and to the StoreCo Purchased Assets and the LabCo Purchased Assets (each as defined in the A&R Purchase Agreement) as applicable, free and clear of and from any Encumbrances other than the Permitted Encumbrances (each as defined in the AVO);
- (c) approving the assignment of all rights and obligations under the Assigned Contracts (as

defined below) to StoreCo;

- (d) releasing and discharging: (i) the Bid Protections Charge (as defined in the SISP Approval Order (as defined below)) effective immediately; and (ii) the DIP Lender's Charge (as defined in the Initial Order (as defined below)) effective as at the Closing Time (as defined in the A&R Purchase Agreement); and
- (e) sealing an unredacted copy of the A&R Purchase Agreement until further order of the Court.

2. In order to facilitate the performance of various post-closing tasks and obligations, the Applicants additionally seek an order (the "**CCAA Termination Order**") among other things:

- (a) extending the Stay Period (as defined below) until the earlier of: (i) May 29, 2026, and (ii) the CCAA Termination Time (as defined below) (the "**Stay Extension**");
- (b) terminating these CCAA proceedings (the "**CCAA Proceedings**") and discharging KSV Restructuring Inc. ("**KSV**") as monitor (in such capacity, the "**Monitor**") in the CCAA Proceedings, upon the Monitor's service of a certificate (the "**Termination Certificate**"), in substantially the form attached as Schedule "A" to the proposed CCAA Termination Order, on the Service List (such time being the "**CCAA Termination Time**");
- (c) approving the transition services agreement between the Applicants, the Monitor and the Purchasers (the "**TSA**"), with such minor amendments as the Applicants, the Monitor, and the Purchasers may deem necessary, and authorizing the Applicants and the Monitor to execute the TSA on closing;
- (d) releasing and discharging the Administration Charge (as defined in the Initial Order) effective as of the CCAA Termination Time;

- (e) granting certain releases (the “**Releases**”) in favour of the Released Parties (as defined in the CCAA Termination Order);
- (f) approving: (i) the Fifth Report of the Monitor (the “**Fifth Report**”) dated November 14, 2025, and the activities and conduct of the Monitor described therein; and (ii) the fees and disbursements of the Monitor and its legal counsel referred to in the Fifth Report and the fee affidavits sworn in support thereof (together, the “**Fee Affidavits**”), including the Fee Accrual (as defined in the Fifth Report);
- (g) in support of the Monitor’s proposed role under the TSA, expanding the Monitor’s powers effective upon the delivery of the Monitor’s Certificate, and granting certain additional customary protections in favour of the Monitor;
- (h) authorizing but not requiring: (i) any of the Applicants to make an assignment in bankruptcy pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), following the CCAA Termination Time, naming KSV as the licensed insolvency trustee of such Applicant (in such capacity, the “**Trustee**”); and (ii) the Monitor to execute and file such documents in the name of each of the Applicants, as applicable, and take all steps as may be necessary to assign such Applicant(s) into bankruptcy pursuant to the BIA; and
- (i) authorizing the Trustee to administer the bankruptcy estates as if such estates were in respect of a single bankrupt for the purposes of carrying out its duties and responsibilities as trustee under the BIA (the “**Bankruptcy Proceedings**”).

3. The Transaction is the result of the Monitor's and the Company's extensive efforts to solicit interest in the Applicants' business, in accordance with the sale and investment solicitation process (the "**SISP**"), pursuant to which the Stalking Horse Agreement (as defined below) served as the "**Stalking Horse Bid**," and represents the highest and best offer available for the Company as a going concern.

4. The proposed Transaction, if approved, maintains the Applicants' business as a going-concern, and will preserve the employment/contracts of hundreds of employees and independent contractors, and various landlord and supplier relationships with the Hakim Optical brand. The CCAA Termination Order will enable the implementation of the proposed Transaction and seamless transition of the business, and will facilitate an efficient wind down of these CCAA Proceedings and administration of anticipated subsequent bankruptcies.

5. The relief sought in the within motion is supported by the Monitor and 1001112855 Ontario Inc. ("**855 Ontario**"), the Applicants' senior secured lender and provider of the debtor-in-possession financing facility (the "**DIP Facility**") in these proceedings (in such capacity, the "**DIP Lender**"), as well as a pre-filing senior secured debt facility (the "**BF Credit Facility**").

PART II: FACTS

6. The facts underlying this motion are more fully set out in the Affidavit of Douglas Robertson sworn November 11, 2025 (the "**Robertson Affidavit**"), and the Fifth Report.¹ All capitalized terms used but not defined herein have the meanings ascribed to them in the Robertson Affidavit.

¹ Affidavit of Douglas Robertson sworn November 11, 2025 [Robertson Affidavit], Motion Record of the Applicants dated November 11, 2025 [Motion Record] at Tab 2. Fifth Report of the Monitor dated November 14, 2025 [Fifth Report].

7. Prior to filing for creditor protection, the Applicants were experiencing a dire liquidity crisis. The Applicants implemented a number of cost-reduction measures and sought a long-term solution for their financial challenges, including the Applicants' sole director, Sir Karim Hakimi ("**Sir Hakimi**"), conducting an informal sale and marketing process. These processes resulted in 855 Ontario refinancing the BF Credit Facility and providing additional interim financing for the period leading up to the CCAA Proceedings.²

8. Despite the Applicants' out of court restructuring efforts, enforcement actions were initiated against the Applicants and their property by certain stakeholders, ultimately leading HOLL and Lawrence Lab to file Notices of Intention to Make a Proposal pursuant to the BIA, on April 16, 2025, and April 22, 2025, respectively (the proceedings related thereto, the "**NOI Proceedings**").³ On May 15, 2025, the Court granted an initial order (as amended and restated from time to time, the "**Initial Order**") continuing the NOI Proceedings under the CCAA, along with additional related relief under the CCAA.⁴

9. On August 28, 2025, the Applicants sought and obtained an order (the "**SISP Approval Order**"), which, among other things: (a) authorized and approved the Applicants' execution of the stalking horse specified asset purchase agreement (the "**Stalking Horse Agreement**"), among the Applicants, Evelyn Aimis, and Chiaro, as the stalking horse bidder, dated August 21, 2025, and granted the Bid Protections Charge, in favour of Chiaro, as security for the payment of certain bid protections; and (b) approved the SISP in which the Stalking Horse Agreement served as the "stalking horse bid" and, authorized and directed the Applicants and the Monitor to implement the

² Robertson Affidavit, *ibid* at para 10, Motion Record at Tab 2.

³ Robertson Affidavit, *ibid* at para 11, Motion Record at Tab 2.

⁴ Robertson Affidavit, *ibid* at paras 11-14, Motion Record at Tab 2. Additional updates relating to the CCAA proceedings are provided in the Robertson Affidavit, the Fifth Report, and the previously filed materials in these proceedings, all of which are available on the Monitor's Website.

SISP pursuant to its terms.⁵

10. More recently, to allow the Applicants to finalize definitive documentation following the completion of the SISF, on November 4, 2025, the Applicants sought and obtained an order, which among other things: (a) extended the stay of proceedings granted under the Initial Order in favour of the Applicants until November 28, 2025 (the “**Stay Period**”); and (b) approved minor amendments to the Stalking Horse Agreement.⁶

A. SISF Conduct and Results of the SISF

11. The SISF provided for a Court-supervised process, overseen by the Monitor, to canvass the market for a value maximizing transaction(s) for the Applicants’ assets as a going concern.⁷

12. Shortly after the SISF Approval Order was granted, the Monitor, with the assistance of the Applicants, canvassed the market broadly, including by contacting 123 potential bidders comprising of strategic and financial parties identified by the Monitor and the Applicants and parties that expressed interest in acquiring the Applicants’ business and assets prior to the NOI Proceedings.⁸ Several of these parties had been previously contacted during the informal sale process conducted by Sir Hakimi prior to these CCAA Proceedings.⁹

13. Seven parties (collectively, the “**Interested Parties**”), including other North American and global optical retailers and US-based investment firms, executed non-disclosure agreements (each, an “**NDA**”), and were given access to a virtual data room prepared by the Monitor.¹⁰

⁵ Robertson Affidavit, *ibid* at para 15, Motion Record at Tab 2. SISF Approval Order dated August 28, 2025 [SISF Approval Order], Motion Record at Tab 2C.

⁶ Robertson Affidavit, *ibid* at para 17, Motion Record at Tab 2.

⁷ Robertson Affidavit, *ibid* at para 21, Motion Record at Tab 2. Fifth Report, *supra* note 1 s 3.1 at para 6.

⁸ Robertson Affidavit, *ibid* at paras 21-22, Motion Record at Tab. Fifth Report, *ibid*.

⁹ Robertson Affidavit, *ibid* at para 22, Motion Record at Tab.

¹⁰ Fifth Report, *supra* note 1 s 3.2 at para 1.

14. Despite initial demonstrations of interest by the Interested Parties, no bids other than the Stalking Horse Bid were received on or before the Qualified Bid Deadline.¹¹ Accordingly, that same day, the Monitor designated the Stalking Horse Bid as the Successful Bid under the SISP.¹²

B. The A&R Purchase Agreement¹³

15. On November 11, 2025, the Applicants, Evelyn Aimis and the Purchasers, in consultation with the Monitor and the DIP Lender, executed the A&R Purchase Agreement.¹⁴ The A&R Purchase Agreement, among other things, populates relevant schedules that were not completed at the time the Stalking Horse Agreement was approved by this Court. It also reflects the addition of LabCo and StoreCo as purchaser entities along with Chiaro, and the allocation of the specified purchased assets among them. The economic terms under the A&R Purchase Agreement remain otherwise unchanged and consistent with the previously approved Stalking Horse Agreement.¹⁵

16. The A&R Purchase Agreement contemplates, among other things, that:

- (a) the “**Purchase Price**” for the Purchased Assets is \$22,000,000, comprised of the sum of:
 - (i) the “**Credit Bid Assigned Amount**” (consisting of the amount outstanding under the DIP Facility, *plus* such portion of the obligations owing to 855 Ontario under the BF Credit Facility as is required to satisfy the Purchase Price (the “**BF Credit Bid Allocation Amount**”)), *plus*
 - (ii) a cash payment, not exceeding \$100,000, allocated towards the Priority Payables Amount;¹⁶

¹¹ Fifth Report, *ibid* s 3.2 at paras 2-3. “**Qualified Bid Deadline**” being October 3, 2025.

¹² Fifth Report, *ibid* s 3.2 at para 2. “**Successful Bid**” has the meaning ascribed to it in the SISP.

¹³ Capitalized terms used but not otherwise defined in this section have the meanings ascribed in the Redacted A&R Purchase Agreement dated November 11, 2025 [A&R Purchase Agreement], Motion Record at Tab 2F.

¹⁴ Robertson Affidavit, *ibid* at para 26, Motion Record at Tab 2. A&R Purchase Agreement, *ibid*, Motion Record at Tab 2F.

¹⁵ Robertson Affidavit, *ibid* at paras 28-29, Motion Record at Tab 2.

¹⁶ Robertson Affidavit, *ibid* at para 27, Motion Record at Tab 2. A&R Purchase Agreement, *supra* note 13, Motion Record at Tab 2F.

- (b) on closing, the Purchasers will acquire the real property leases for all, or substantially all, of the Applicants' approximately sixty-eight store locations (the "**Purchased Locations**") and certain other related assets, including the Company's inventory, accounts receivable and intellectual property (collectively, the "**Purchased Assets**"), on an "as is, where is" basis;¹⁷ and
- (c) subject to the satisfaction of any cure costs, the Applicants will assign to StoreCo all of their rights and obligations under the Assigned Leases,¹⁸ their current pension and benefit plans, and certain vehicle leases (collectively, the "**Assigned Contracts**").¹⁹

17. In accordance with the A&R Purchase Agreement, 855 Ontario, has assigned all of its rights and obligations under the DIP Facility and its entitlement to the BF Credit Bid Allocation Amount to Chiaro to facilitate the application of the Credit Bid Assigned Amount in satisfaction of the Purchase Price.²⁰

18. The Monitor's legal counsel has reviewed the assignment, and has provided an opinion that, subject to the standard assumptions and qualifications contained therein, Chiaro's security interests are valid and enforceable.²¹

C. The TSA and the Monitor's Enhanced Powers

19. In accordance with the A&R Purchase Agreement, the Purchasers have requested that the Applicants provide certain limited services to assist with the transition of certain assets for a period of six months following completion of the Transaction. Following closing, the Applicants will

¹⁷ Robertson Affidavit, *ibid*, Motion Record at Tab 2. See A&R Purchase Agreement for a detailed list of the Purchased Assets. "Purchased Locations" comprise locations owned by Evelyn Aimis, as well as locations owned by third-party landlords designated as such by the Purchasers in Schedule "B1" and Schedule "B2" of the A&R Purchase Agreement.

¹⁸ The "**Assigned Leases**" comprises of the leases and all related agreements that correspond to the store locations and vehicles listed under Schedule "D1" to the A&R Purchase Agreement.

¹⁹ Robertson Affidavit, *supra* note 1 at para 45, Motion Record at Tab 2.

²⁰ Robertson Affidavit, *ibid* at para 37, Motion Record at Tab 2.

²¹ Robertson Affidavit, *ibid* at para 38, Motion Record at Tab 2. Fifth Report, *supra* note 1 s 2.3 at para 2.

have no employees or material operations. The Monitor has agreed to fulfill the Applicants' obligations under the TSA, subject to the granting of the enhanced powers sought, in the CCAA Termination Order.²²

20. The proposed TSA is necessary in the circumstances as it provides the Purchasers with limited additional time to: (i) engage in negotiations and make final determinations with respect to certain Purchased Locations and contracts that may or may not form part of the going-concern business; and (ii) secure alternative banking arrangements and acquire new equipment (as required). It also allows the Applicants to close the Transaction expeditiously and stop incurring additional costs, including rent, payroll, and interest under the DIP Facility.²³

D. The Termination of these CCAA Proceedings

21. It is appropriate, following the closing of the Transaction, to bring these CCAA Proceedings to an end given that at such time the Applicants will have no material assets or an operating business, other than their limited operations in connection with the TSA.²⁴

22. The CCAA Termination Order provides that these CCAA Proceedings will be terminated upon the Monitor's service of the Termination Certificate on the Service List certifying that all matters to be attended to in connection with these CCAA Proceedings have been completed to the satisfaction of the Monitor. At such time, KSV will be released and discharged as Monitor and the Administration Charge will be terminated and discharged. The CCAA Termination Order, extends the Stay Period until the earlier of: (i) May 29, 2026, and (ii) the CCAA Termination Time.²⁵

²² Fifth Report *ibid* s 3.6. Robertson Affidavit, *ibid* at paras 67, 73, Motion Record at Tab 2. Supplement to the Fifth Report of the Monitor dated November 17, 2025, s 2.1.1 [Supplemental Report].

²³ Robertson Affidavit, *ibid* at paras 65-73, Motion Record at Tab 2. Supplemental Report, *ibid*.

²⁴ Robertson Affidavit, *ibid* at para 59, Motion Record at Tab 2.

²⁵ Robertson Affidavit, *ibid* at para 61, Motion Record at Tab 2.

PART III: ISSUES

23. The issues to be considered on this motion are whether this Court should grant:

- (a) the proposed form of the AVO, including the assignment of the Assigned Contracts pursuant to section 11.3 of the CCAA; and
- (b) the proposed form of the CCAA Termination Order, including the expanded Monitor powers and the Releases contemplated therein.

PART IV: THE LAW & ANALYSIS

A. The A&R Purchase Agreement and the Transaction Should be Approved

24. It is well recognized that this Court has jurisdiction under section 36 of the CCAA to approve a sale of all or substantially all of a CCAA debtor's assets outside the ordinary course of business, without the need for a plan of arrangement or other corporate authorization documents.²⁶ Pursuant to subsection 36(6) of the CCAA, any such sale may be authorized "free and clear of any security, charge or other restriction."²⁷

25. Subsection 36(3) of the CCAA requires the Court to consider the following non-exhaustive factors: (a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances; (b) whether the monitor approved the process leading to the proposed sale or disposition; (c) whether the monitor filed with the court a report stating that in its opinion the sale or disposition would be more beneficial to creditors than a sale or disposition under a bankruptcy; (d) the extent to which creditors were consulted; (e) the effects of the proposed sale or disposition

²⁶ *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended s 36 [CCAA]. *Nortel Networks Corporation (Re)*, 2009 CanLII 39492 at paras 35-40, 48. See also, *Brainhunter Inc.*, 2009 CanLII 67659 (ONSC) at paras 12-13; *Target Canada Co. (Re)*, 2015 ONSC 846 at para 3; *In the Matter of a Plan of Compromise or Arrangement of Balboa Inc. et al.*, (December 6, 2024), Toronto, CV-24-00713245-00CL (*Endorsement of the Honourable Justice Osborne*) (ONSC) at para 18 [*Balboa Endorsement*].

²⁷ CCAA, *ibid* s 36(6).

on creditors and other interested parties; and (f) whether the consideration to be received for the assets is reasonable and fair, taking into account their market value.²⁸

26. The sale approval factors articulated by the Ontario Court of Appeal in *Royal Bank of Canada v Soundair Corp* (“*Soundair*”) are frequently considered concurrently with the section 36(3) factors.²⁹ The *Soundair* factors include: (a) whether sufficient effort has been made to obtain the best price and that the debtor has not acted improvidently; (b) the efficacy and integrity of the process by which offers have been obtained; (c) whether the interests of all parties have been considered; and (d) whether there has been unfairness in the working out of the process.³⁰

27. Whether the process for achieving a sale transaction under the CCAA is fair and reasonable must be examined contextually, in light of the particular circumstances existing at the time.³¹ This inquiry does not require the court to examine in minute detail all of the circumstances leading up to the acceptance of a particular offer, or to hold the sales process to a standard of perfection.³²

28. The Applicants submit that the foregoing statutory provisions and considerations support the approval of the A&R Purchase Agreement and the Transaction for the following reasons:

(a) **Extensive Canvass of the Market.** Having regard to the Company’s pre-filing process and the SISP, the market has been broadly canvassed, and no better alternative transaction is available. The Transaction is the culmination of a court-approved Monitor-led sale process to canvass the market for potential transactions superior to the Stalking Horse Bid.³³ Seven Interested Parties executed NDAs, and were given access to the data room.³⁴

²⁸ [CCAA](#), *ibid* s 36(3).

²⁹ *Royal Bank v Soundair Corp*, [1991 46 OAC 321](#) at para 16 [*Soundair*]. [Balboa Endorsement](#), *supra* note 26 at para 19.

³⁰ [Soundair](#), *ibid*. *Nelson Education Limited (Re)*, [2015 ONSC 5557](#) at [paras 37-38](#); *Target Canada Co. (Re)*, [2015 ONSC 1487](#) at [para 17](#) *Canwest Global Communications Corp.*, [2010 ONSC 2870](#) at [para 13](#).

³¹ See *PCAS Patient Care Automation Services Inc. (Re)*, [2012 ONSC 3367](#) at [para 54](#), citing: *White Birch Paper Holding Co. (Re)*, [2010 OCCC 4915](#) at [para 49](#).

³² [Soundair](#), *supra* note 29 at paras 48-49. *Sanjel Corporation (Re)*, [2016 ABQB 257](#) at [para 80](#).

³³ Fifth Report, *supra* note 1 s 3.1.

³⁴ Fifth Report, *ibid* s 3.2 at para 1.

There is no indication of unfairness in the conduct of this process. Interested parties were provided with multiple opportunities to submit offers for the Applicants' business and assets, both prior to these proceedings and through the SISP.³⁵ The Monitor has advised that it is satisfied the market was adequately canvassed in accordance with the SISP.³⁶ 855 Ontario, the Applicants' senior secured creditor and DIP Lender, was consulted throughout the SISP, and is supportive of the Transaction.³⁷

- (b) **Highest and Best Purchase Price.** The consideration offered in the Transaction constitutes the highest and best price achieved following the completion of the Court-approved SISP, and therefore represents a fair value for the Applicants' business.³⁸
- (c) **Benefits to Creditors, Employees and other Stakeholders.** The Transaction provides significant benefits that would not be present in a bankruptcy or liquidation scenario, including: (a) preserving the majority of jobs in the Company's business on similar terms of compensation and group benefits, if applicable, currently in place; and (b) honouring the obligations under approximately fifty-nine leases with third-party landlords (many of which are small, independent property owners).³⁹
- (d) **Support of the Monitor.** The Monitor was actively involved in the development of the SISP, supported its approval, and conducted the process in accordance with its terms.⁴⁰ The Monitor supports the Transaction on the basis that the terms and conditions of the A&R Purchase Agreement are commercially reasonable and superior to a liquidation.⁴¹ The

³⁵ Fifth Report, *ibid* s 3.1 at para 6. Affidavit of Douglas Robertson sworn October 28, 2025 at paras 16-18, Motion Record at Tab 2E.

³⁶ Fifth Report, *ibid* s 3.5 at para 1(g).

³⁷ Robertson Affidavit, *supra* note 1 at paras 23, 35, 44, Motion Record at Tab 2.

³⁸ Fifth Report, *supra* note 1 s 3.5 at para 1(c). Robertson Affidavit, *ibid* at para 44, Motion Record at Tab 2.

³⁹ Robertson Affidavit, *ibid*, Motion Record at Tab 2. Fifth Report, *ibid* s 3.5 at para 1(d).

⁴⁰ Fifth Report, *ibid* s 3.5 at para 1(f).

⁴¹ Fifth Report, *ibid* s 3.5 at para 1.

liquidation value of the assets would be significantly below the contemplated Purchase Price, and in a liquidation scenario, no surplus funds would be available to creditors beyond 855 Ontario.⁴²

B. The Contract Assignment Should be Approved

29. Subsection 11.3(1) of the CCAA provides that on application by a debtor company, and on notice to every party to an agreement and the Court-appointed monitor, this Court may grant an order assigning the rights and obligations of the company to “any person who is specified by the court and agrees to the assignment,” with certain exceptions.⁴³

30. In deciding whether to grant such an order, this Court is to consider the factors set out in subsection 11.3(3) of the CCAA.⁴⁴ The section 11.3(3) factors are neither mandatory nor exhaustive. Rather, they inform the analysis pertaining to the assignment and are “to be considered” together with any other factors that may be relevant to the particular circumstances of the case.⁴⁵ The governing standard for the assignment analysis is reasonableness.⁴⁶ The contractual counterparty’s consent, or lack of consent, to the assignment is not relevant to the analysis.⁴⁷

31. The section 11.3(3) factors are set out below and applied to the circumstances of this case. They are as follows:

(a) **Whether the monitor approved the proposed assignment.** The Monitor has advised that it supports the proposed assignment of the Assigned Contracts to StoreCo;⁴⁸

⁴² Fifth Report, *ibid* s 3.5 at para 1(i).

⁴³ CCAA, *supra* note 26 s 11.3.

⁴⁴ CCAA, *ibid*, s 11.3(3).

⁴⁵ *In Re Hudson’s Bay Company*, 2025 ONSC 5998 at paras 23, 43 [*Re Hudson’s Bay*].

⁴⁶ *Ibid* at para 43.

⁴⁷ *Ibid* at paras 41, 43.

⁴⁸ Fifth Report, *supra* note 1 s 3.4. Robertson Affidavit, *supra* note 1 at para 52, Motion Record at Tab 2.

- (b) **Whether the person to whom the rights and obligations are to be assigned would be able to perform the obligations.** The assessment of the assignee's ability to perform the obligations under the contract may include both monetary and non-monetary consideration.⁴⁹ Furthermore, demonstrating the assignee's ability to perform does not require a guarantee that the contractual counterparty cannot, through the assignment process, obtain greater certainty of performance than it bargained for under the original contract.⁵⁰ In this case, the Purchasers have confirmed that they are willing and able to perform all of the monetary and non-monetary covenants and obligations under the Assigned Contracts.⁵¹ The Purchasers will be operating the Applicants' same business with the majority of the Company's current employees, including members of the current senior management team who have intimate knowledge of the Hakim Optical brand and the Applicants' landlords, customers, suppliers and other stakeholders;⁵² and
- (c) **Whether it would be appropriate to assign the rights and obligations to that person.** Appropriateness under the CCAA is assessed by inquiring whether the order will usefully further efforts to achieve the remedial purpose of the CCAA – "avoiding the social and economic losses resulting from liquidation of an insolvent company."⁵³ Consideration of the proposed assignment's appropriateness includes: (i) the interests of stakeholders; (ii) whether it furthers a going-concern or liquidation; and (iii) its significance to the overall restructuring.⁵⁴ Here, the proposed assignments are being sought in pursuit of a going concern transaction that preserves customer and supplier relationships and jobs for

⁴⁹ *Re Hudson's Bay*, *supra* note 45 at [para 43\(k\)](#)

⁵⁰ *Ibid.*, at [para 43\(k\)-\(l\)](#)

⁵¹ Robertson Affidavit, *supra* note 1 at para 51, Motion Record at Tab 2.

⁵² *Ibid.*, Motion Record at Tab 2.

⁵³ *Re Hudson's Bay*, *supra* note 45 at [paras 43, 103](#), citing *Century Services Inc. v. Canada (Attorney General)*, [2010 SCC 60](#) at [para 70](#) [*Century Services*].

⁵⁴ *Re Hudson's Bay*, *supra* note 45 at [paras 34, 43\(n\)](#). In the Matter of a Plan of Arrangement of UrtheCast Corp., [2021 BCSC 1819](#) at para [paras 22, 26](#).

employees.⁵⁵ The Purchasers have identified the Assigned Contracts and, in particular, the Assigned Leases, as material and fundamental, and have further advised that they would be unwilling to proceed with the Transaction without the inclusion of such relief.⁵⁶

32. Pursuant to subsection 11.3(4) of the CCAA, a court may not make an assignment order unless it is satisfied that all monetary defaults in relation to the agreements to be assigned, other than those arising by reason only of the debtor company's insolvency, the commencement of proceedings under the CCAA, or the debtor company's failure to perform a non-monetary obligation, will be remedied.⁵⁷ To satisfy this requirement, the proposed AVO expressly provides that each assignment is subject to, among other things, the payment of any amounts required to be paid under section 11.3 of the CCAA.

33. Notice of the Applicants' intention to seek an assignment order was provided in the materials filed for the November 4, 2025 motion, and all Assigned Contract counterparties were served with notice of that motion, and the present motion, as required by subsection 11.3(1) of the CCAA.⁵⁸ Since the filing of the Applicants' Motion Record for the within motion, counsel to the Applicants has, with the assistance of the Monitor, consulted with counsel to various landlords and the Purchasers, and certain amendments to the assignment provisions of the AVO have been incorporated. The Applicants are not aware of any other party expressing a concern with respect to the assignment provisions of the AVO.

34. Having regard to the foregoing, the Applicants submit that it is appropriate for this Court to assign the rights and obligations under the Assigned Contracts to StoreCo.

⁵⁵ Robertson Affidavit, *supra* note 1 at para 44, Motion Record at Tab 2.

⁵⁶ *Ibid* at para 51, Motion Record at Tab 2.

⁵⁷ CCAA, *supra* note 26 [s.11.3\(4\)](#).

⁵⁸ Robertson Affidavit, *supra* note 1 at paras 52-53, Motion Record at Tab 2. Affidavit of Douglas Robertson sworn October 28, 2025 at para 39, Motion Record at Tab 2E.

C. The Confidential Information Should be Sealed

35. A confidential appendix to the Fifth Report attaches a copy of the underacted Schedule “B2” of the A&R Purchase Agreement, which sets out the negotiated lease terms between Evelyn Aimis and the Purchasers for the Purchased Locations owned by Evelyn Aimis (collectively the “**Confidential Information**”).⁵⁹ Evelyn Aimis and the Purchasers have requested that the Confidential Information should not form part of the public record as they are concerned that its disclosure could materially prejudice their ability to negotiate future leases and transactions with third parties.⁶⁰ Accordingly, the Applicants are requesting that this Court seal the Confidential Information contained in Schedule “B2” to the A&R Purchase Agreement pending further order of this Court, pursuant to the *Courts of Justice Act (Ontario)* (the “**CJA**”).⁶¹

36. Subsection 137(2) of the CJA confers on the Court the jurisdiction to order that any document filed in a civil proceeding before it be treated as confidential, sealed and not form part of the public record.⁶² As determined by the Supreme Court, the Court has the discretion to grant a sealing order, where: (a) court openness poses a serious risk to an important public interest, including a commercial interest; (b) it is necessary to prevent this serious risk to the identified interest because reasonable alternative measures will not prevent this risk; and (c) as a matter of proportionality, the benefits of the order outweigh its negative effects.⁶³

37. This Court has previously sealed select portions of stalking horse agreements where the proposed redactions were minimal and proportionate, while achieving the “general commercial interest of preserving confidential information,” thereby satisfying the test for a sealing order.⁶⁴

⁵⁹ Robertson Affidavit, *supra* note 1 at para 54, Motion Record at Tab 2.

⁶⁰ Robertson Affidavit, *supra* note 1 at para 55, Motion Record at Tab 2.

⁶¹ *Courts of Justice Act*, [RSO 1990, c. C. 43, s 137\(2\)](#).

⁶² *Ibid.*, [s 137\(2\)](#).

⁶³ *Sherman Estate v Donovan*, [2021 SCC 25](#) at [para 38](#); *Sierra Club v Canada (Minister of Finance)*, [2002 SCC 41](#) at [para 53](#).

⁶⁴ *DCL Corporation (Re)*, [2023 ONSC 3686](#) at [paras 38-47](#). *In the Matter of a Plan of Compromise or Arrangement of Hakim Optical Laboratory Limited et al.*, (August 29, 2025), Toronto, CV-25-007433 83-00CL ([Endorsement of the Honourable Justice Dietrich](#)) (ONSC) at para 21.

38. Here, there are no reasonable alternatives to redacting the Confidential Information that would protect the general commercial interest of preserving confidential information. To mitigate any potential negative effects, the Applicants have publicly disclosed to the Service List all terms of the A&R Purchase Agreement and the Purchased Locations to allow stakeholders to understand their scope and provisions.⁶⁵ Accordingly, the Applicants submit that it is appropriate for the Court to seal the Confidential Information.⁶⁶ Finally, the Monitor supports the sealing relief.⁶⁷

D. The Releases in Favour of the Released Parties Should be Granted

39. The proposed CCAA Termination Order, provides for releases of all present and future liabilities and claims arising in connection with or relating to, among others: any transactions, offers, omissions, dealings, or other facts, matters, occurrences or things existing or taking place prior to the CCAA Termination Time, the CCAA Proceedings, the A&R Purchase Agreement, and the consummation of the Transaction. The Releases apply to among others, the current and former directors, officers and legal counsel of the Applicants, the Monitor and its legal counsel.

40. Courts have confirmed that the broad discretion inherent in section 11 of the CCAA to make any order considered “appropriate in the circumstances” vests this Court with jurisdiction to approve releases in favour of the directors and officers of debtor companies and third parties – in each case, absent a plan of compromise or arrangement.⁶⁸ Such discretion has previously been exercised by courts both when granting approval and vesting orders and terminating debtor companies’ CCAA proceedings.⁶⁹

⁶⁵ A&R Purchase Agreement, *supra* note 45, Motion Record at Tab 2F.

⁶⁶ Robertson Affidavit, *supra* note 1 at paras 56-57, Motion Record at Tab 2.

⁶⁷ Fifth Report, *supra* note 1 s 3.7. Robertson Affidavit, *ibid* at para 56, Motion Record at Tab 2.

⁶⁸ *CCAA*, *supra* note 26 [s 11](#). *In the Matter of a Plan of Compromise or Arrangement of Humble & Fume Inc. (Ontario) et al.*, (March 7, 2024), Toronto, CV-24-00712366-00CL ([Endorsement of the Honourable Justice Cavanagh](#)) (ONSC) at para 14-17. *In the Matter of a Plan of Compromise or Arrangement of Old MM GP Inc.* (August 22, 2024), Toronto, CV-23-00710259-00CL ([Endorsement of the Honourable Justice Steele](#)) (ONSC) at paras 15-18 [*Old MM Endorsement*].

⁶⁹ See, for example: *In the Matter of a Plan of Compromise or Arrangement of Old MM GP Inc.*, (August 22, 2024), Toronto, CV-23-00710259-00CL ([CCAA Termination and Distribution Order](#)) (ONSC) at para 28 [*Old MM Termination Order*]; *In the Matter of a Plan of Compromise*

41. When determining whether it is appropriate to grant such releases pursuant to section 11 of the CCAA, courts have drawn on the well-established factors for approving third party releases in the context of a plan of compromise or arrangement.⁷⁰ When modified to accommodate cases in which no plan of compromise or arrangement is proposed, these factors include: (a) whether the parties to be released from claims were necessary and essential to the restructuring of the debtor; (b) whether the claims to be released were rationally connected to the purpose of the restructuring and necessary for it; (c) whether the parties being released were contributing to the restructuring; and (d) whether the release benefitted the debtors as well as the creditors generally.⁷¹

42. This Court has held that no single factor is determinative and not all factors need apply.⁷² In the circumstances, the following factors, among other things, support the approval of the proposed Releases:

- (a) **The Released Parties made Significant Contributions to the Restructuring.** The Released Parties have made, and where applicable continue to make, significant contributions to the Company's restructuring efforts, including throughout the CCAA Proceedings, the implementation of the SISP, and the negotiation of the A&R Purchase Agreement, which will result in the continuation of the Applicants' operations through the Purchasers.⁷³

or Arrangement of LoyaltyOne, Co., (May 12, 2023), Toronto, CV-23-0069601 7-00CL ([Approval and Vesting Order](#)) (ONSC) at paras 21-22 [*LoyaltyOne AVO*]; *In the Matter of a Plan of Compromise or Arrangement of Trichome Financial Corp. et al.*, (September 14, 2023), Toronto, CV-22-00689857-00CL ([CCAA Termination Order](#)) (ONSC) at para 16 [*Trichome Termination and Distribution Order*].

⁷⁰ *In the Matter of a Plan of Compromise or Arrangement of Sandvine Corporation et al.*, [2025 ONSC 717](#) at [para 36](#) [*Sandvine Corporation*] citing *Re Lydian International Limited*, [2020 ONSC 4006](#) at [para 54](#) [*Lydian*]. *Tacora Resources Inc. (Re)*, [2024 ONSC 4436](#) at [paras 17-25](#) [*Tacora*].
⁷¹ *Lydian*, *ibid*; *Tacora*, *ibid* at [para 18](#); *Harte Gold Corp. (Re)*, [2022 ONSC 653](#) at [para 80](#) [*Harte Gold Corp*]; *CannaPiece Group Inc v Marzilli*, [2023 ONSC 3291](#) at [para 22](#).

⁷² *Harte Gold Corp.*, *ibid* at [para 80](#); *Lydian*, *ibid*.

⁷³ Robertson Affidavit, *supra* note 1 at paras 85-87, Motion Record at Tab 2.

- (b) **The Releases are Rationally Connected to the Restructuring Purpose and Benefit the Applicants and their Stakeholders.** The proposed Releases provide certainty and finality for the Released Parties following the closing of the Transaction and the eventual termination of the CCAA Proceedings.⁷⁴ The Releases benefit the Applicants' stakeholders, as they will allow the Released Parties to focus on closing the Transaction and transitioning the Applicants' business as a going concern.⁷⁵
- (c) **The Releases are fair, reasonable and not overly broad.** Similar releases were approved by this Court.⁷⁶ The Releases do not include any claim for fraud or willful misconduct or any claim that is not permitted to be released pursuant to section 5.1(2) of the CCAA.⁷⁷ The Service List was provided with service of the within motion to ensure that the Applicants' stakeholders are afforded an opportunity to consider the proposed Releases.
43. Finally, the Applicants are not aware of any party expressing any opposition to the inclusion or scope of Releases in the CCAA Termination Order. The Applicants submit that, having regard to the foregoing, it is appropriate that the proposed Releases be granted.

E. The Monitor's Expanded Powers Should be Granted

44. This Court has the authority to grant the Monitor expanded powers pursuant to the broad discretion conferred by section 11 of the CCAA, as well as section 23(1)(k).⁷⁸ Section 23(1) sets out a monitor's duties and functions, and subsection 23(1)(k) provides that the Monitor can "carry

⁷⁴ *Ibid* at para 88, Motion Record at Tab 2.

⁷⁵ *Ibid*, Motion Record at Tab 2.

⁷⁶ See, for example: *In the Matter of a Plan of Compromise or Arrangement of Earth Boring Co. Limited et al.*, (September 15, 2025), Toronto, CV-25-00741419-00CL ([Approval and Reverse Vesting Order](#)) (ONSC) at paras 27-32; *Old MM Termination Order*; *supra* note 69 at para 28; *LoyaltyOne AVO*, *supra* note 69 at paras 21-22; *Trichome Termination and Distribution Order*; *supra* note 69 at para 16; *In the Matter of a Plan of Compromise or Arrangement of STS Renewables Ltd., et al.*, (October 21, 2025), Toronto, CV-25-00743275-00CL ([Approval and Reverse Vesting Order](#)) (ONSC) at para 20; *In the Matter of a Plan of Compromise or Arrangement of BZAM Ltd.*, (May 15, 2025), Toronto, CV-24-00715773-00CL ([CCAA Termination Order](#)) (ONSC) at para 18 [*BZAM CCAA Termination Order*].

⁷⁷ Robertson Affidavit, *supra* note 1 at para 84, Motion Record at Tab 2.

⁷⁸ *CCAA*, *supra* note 26 [ss 11, 23\(1\)\(k\)](#).

out any other functions in relation to the [debtor] company that the court may direct.”⁷⁹ Courts have expanded monitor’s powers where the exercise of such powers are necessary and appropriate to advance the interests of a debtor company, implement transaction steps, or wind down CCAA proceedings.⁸⁰

45. Here, the Applicants seek to expand the current powers of the Monitor to, among other things, administer the Applicants’ obligations under the TSA.⁸¹ Such relief is necessary and appropriate given that: (a) following the completion of the Transaction, the Applicants will have no employees to assist with post-closing obligations; (b) KSV has the necessary knowledge and expertise to assist the Applicants with their post-closing obligations. It has a high degree of familiarity with the Applicants and their business as a result of its involvement as financial advisor of the Company prior to the NOI Proceedings, and its continued involvement as Monitor in the CCAA Proceedings; and (c) to date, the Monitor has exercised its powers fairly and impartially under the Court’s supervision and will continue to do so.⁸²

F. These CCAA Proceedings Should be Terminated and the Monitor and the Administration Charge Should be Discharged

46. The proposed CCAA Termination Order contemplates the termination of these CCAA Proceedings and the discharge of the Monitor, upon the Monitor’s service of the Termination Certificate on the Service List.

47. The broad discretion conferred to judges under section 11, “to make any order that it considers appropriate in the circumstances,” has been characterized as the “engine that drives” the

⁷⁹ CCAA, *ibid* s 23(1).

⁸⁰ *Sandvine Corporation*, *supra* note 70 at [paras 39-41](#); *DCL Corporation (Re)*, [2023 ONSC 4475](#) at [para 7](#); *In the Matter of a Plan of Compromise or Arrangement of Atlas Global Brands et. al. (Re)*, (October 29, 2024), Toronto, CV-24-00722386-00CL ([Endorsement of the Honourable Justice Steele](#)) at paras 37-39; *Just Energy Group Inc. et al v Morgan Stanley Capital Group Inc et al*, [2022 ONSC 6354](#) at paras 68-69; *Harte Gold Corp.*, *supra* note 71 at [paras 91-93](#). *In the Matter of a Plan of Compromise or Arrangement of Accuride Canada Inc.*, (January 27, 2025), Toronto, CV-24-00729147-00CL (([Order](#)) [Expansion of Monitor's Powers, WEPPA Declaration and Stay Extension](#)) (ONSC).

⁸¹ Robertson Affidavit, *supra* note 1 at para 75, Motion Record at Tab 2. Supplemental Report, *supra* note 22 s 2.1.

⁸² Robertson Affidavit, *ibid* at para 80, Motion Record at Tab 2. Fifth Report, *supra* note 1 s 1.0. Supplemental Report, *ibid* s 2.0.

CCAA’s flexible statutory scheme, allowing courts to make orders responsive to the circumstances of each case.⁸³ The exercise of this Court’s discretion under section 11 of the CCAA must “further the remedial objectives of the CCAA and be guided by the baseline considerations of appropriateness, good faith, and due diligence.”⁸⁴ An order under section 11 of the CCAA will be appropriate where it “advances the policy objectives underlying the CCAA,” including among others, providing for the timely, efficient and impartial resolution of an insolvency, ensuring the fair treatment of claims against debtor companies and maximizing creditor recovery.⁸⁵

48. In furtherance of the CCAA’s remedial objectives, courts have granted orders, similar to the proposed CCAA Termination Order, terminating debtor companies’ CCAA proceedings, discharging the Court-appointed monitor and court-ordered charges, and facilitating debtor companies’ assignments in bankruptcy under the BIA.⁸⁶

49. Having regard to the foregoing, the Applicants submit that it is appropriate for this Court to exercise its jurisdiction to terminate these CCAA Proceedings and the discharge of the Monitor and the Administration Charge, in accordance with the CCAA Termination Order given that, among other things: (a) with the completion of the Transaction (if approved), the principal purposes of these CCAA Proceedings – consummating a transaction for the benefit of the Applicants’ stakeholders – will have been achieved; (b) the Transaction will not result in any recovery for unsecured creditors, and the Applicants therefore do not propose to conduct a claims process or any other material activities following closing of the Transaction; and (c) as at the

⁸³ *CCAA*, *supra* note 26 [s 11](#), 9354-9186 *Québec inc v Callidus Capital Corp*, [2020 SCC 10](#) at [para 48](#) [*Callidus*]. *Stelco Inc. (Re)* [2005 CanLII 8671 \(ONCA\)](#) at [para 36](#).

⁸⁴ *Callidus*, *ibid* at [paras 49, 67, 70](#); *Century Services*, *supra* note 53 at [paras 59, 70](#); *Re ENTREC Corporation*, [2020 ABQB 751](#) at [para 3](#).

⁸⁵ *Callidus*, *ibid* at [paras 40, 42, 50](#); *Century Services*, *ibid* at [paras 15, 59, 70](#).

⁸⁶ See, for example: *Old MM Termination Order*, *supra* note 69 at [paras 19-27](#); *In the Matter of a Plan of Compromise or Arrangement of Aleafia Health Inc. et al.*, (March 1, 2024), Toronto, CV-23-00703350-00CL ([CCAA Termination Order](#)) (ONSC) at [paras 7-15](#) [*Aleafia Termination Order*]; *In the Matter of a Plan of Compromise or Arrangement of 1000704712 Ontario Inc. et al.* (January 30, 2024), Toronto, CV-23-00708635-00CL ([CCAA Termination and Distribution Order](#)) (ONSC) at [paras 10-24](#) [*Ignite Termination and Distribution Order*]; *BZAM CCAA Termination Order*, *supra* note 76 at [paras 9-17](#); *In the Matter of a Plan of Compromise or Arrangement of King Street Company Inc. et al.*, (March 29, 2021), Toronto, CV-20-00650945-00CL ([Termination Order](#)) (ONSC) [*King Street Termination Order*].

CCAA Termination Time and subject to the granting of the proposed orders, all remaining matters to be attended to in connection with these CCAA Proceedings, including the completion of the Transaction and the TSA will have been completed.⁸⁷

G. The Monitor's Fees, Activities and the Fifth Report Should be Approved

50. This Court routinely approves the reports and activities of Court-appointed monitors in CCAA proceedings pursuant to its jurisdiction under section 11 of the CCAA.⁸⁸ The Applicants submit that it is appropriate for this Court to approve the Fifth Report and the activities described therein, given among other things, the customary limitations imposed upon reliance on such approval under the proposed CCAA Termination Order, and the Monitor's good faith performance of its activities in compliance with the CCAA and the orders of this Court.⁸⁹

51. The proposed CCAA Termination Order also approves the fees and disbursements of the Monitor and its legal counsel referred to in the Fifth Report and the Fee Affidavits, including the Fee Accrual. The Fee Accrual reflects the fees and disbursements of the Monitor and its legal counsel that have been and are anticipated to be incurred in connection with the completion of the Monitor's remaining duties in these CCAA Proceedings.⁹⁰

52. Pursuant to the Initial Order, the Monitor and its legal counsel are entitled to be paid their reasonable fees and disbursements at their standard rates.⁹¹ The Initial Order requires them to pass their accounts, and the Monitor now seeks approval to do so for itself and its counsel.⁹² CCAA courts have held that the overarching test on a motion to pass accounts is to consider the

⁸⁷ Robertson Affidavit, *ibid* at para 58, Motion Record at Tab 2.

⁸⁸ *CCAA*, *supra* note 26 [s 11](#); *Re Target Canada Co*, [2015 ONSC 7574](#) at [paras 1-2](#) [*Target*]; *Laurentian University of Sudbury*, [2022 ONSC 5850](#) at [para 17](#); *Laurentian University of Sudbury*, [2022 ONSC 2927](#) at para 13 [*Laurentian University*].

⁸⁹ Robertson Affidavit, *supra* note 1 at paras 93-95, Motion Record at Tab 2. Fifth Report, *supra* note 1 s 10.0 at paras 5-6.

⁹⁰ Robertson Affidavit, *ibid* at para 91, Motion Record at Tab 2. Fifth Report, *ibid* s 10.0 at paras 5-6.

⁹¹ Amended and Restated Initial Order dated June 27, 2025 at para 31, Motion Record at Tab 2B.

⁹² *Ibid* at para 32, Motion Record at Tab 2B.

“overriding principle of reasonableness”, with the predominant focus on the overall value contributed by the monitor and its counsel, as opposed to a docket-by-docket review.⁹³

53. The Monitor and its legal counsel have provided significant assistance and expertise to the Applicants and their stakeholders, including playing a critical role with implementing the SISP and achieving a going-concern outcome that will preserve the Applicants’ business and the jobs of the vast majority of the Applicants’ employees.⁹⁴ The Applicants believe that the fees and disbursements of the Monitor and its legal counsel, including the Fee Accrual set out in the Fifth Report, are fair, justified and reasonable in the circumstances.⁹⁵

H. The Applicants Should be Authorized to Make Assignments in Bankruptcy on a Procedurally Consolidated Basis

54. As noted above, the legislative purposes of the CCAA include the efficient resolution of an insolvency.⁹⁶ In furtherance of this purpose, this Court has previously exercised its discretion under section 11 of the CCAA to make any order considered “appropriate in the circumstances”, to authorize the assignment of debtor companies into bankruptcy pursuant to the BIA, including on a procedurally consolidated basis.⁹⁷ The procedural consolidation of bankruptcy estates is appropriate, where as in this case, it will avoid unnecessary duplication in their administration and such estates arise “out of the same transactions and occurrences”.⁹⁸

55. The Applicants submit that it is appropriate to authorize the assignments into bankruptcy pursuant to the BIA, including on a procedurally consolidated basis, given that:

⁹³ *Re Nortel Networks Corp.*, 2017 ONSC 673 at paras 13-14, 15; *Nortel Networks Inc.*, 2022 ONSC 6680 at paras 10-11; *Laurentian University*, *supra* note 88 at paras 9-10.

⁹⁴ Robertson Affidavit, *supra* note 1 at paras 87, 92, Motion Record at Tab 2. Fifth Report, *supra* note 1 s 6.0.

⁹⁵ Robertson Affidavit, *ibid*, Motion Record at Tab 2. Fifth Report, *ibid* s 10.0.

⁹⁶ CCAA, *supra* note 26 s 11; *Callidus*, *supra* note 83 at paras 40, 42 50; *Century Services*, *supra* note 53 at paras 15, 59, 70.

⁹⁷ CCAA, *ibid* s 11; *Old MM Endorsement*, *supra* note 68 at para 10. See, for example: *Aleafia Termination Order*, *supra* note 86 at para 13; *Old MM Termination Order*, *supra* note 69 at paras 25-28; *Ignite Termination and Distribution Order*, *ibid* at paras 17-23; *King Street Termination Order*, *supra* note 86 at paras 16-18; *BZAM CCAA Termination Order*, *supra* note 76 at paras 14-17.

⁹⁸ *Old MM Endorsement*, *ibid* at paras 10-11, citing *Re Ornge Global GP Inc.*, 2013 ONSC 4518 at para 14.

- (a) the Applicants continue to operate on a consolidated basis and are therefore intrinsically intertwined. Accordingly, the procedural consolidation of the Applicants' estates will secure the just, most expeditious and least expensive determination of the Bankruptcy Proceedings, consistent with the principles embodied in the *Bankruptcy and Insolvency General Rules* and *Rules of Civil Procedure (Ontario)*, by, among other things, streamlining creditor notices and meetings;⁹⁹
- (b) as the Transaction will result in the sale of substantially all of the Applicants' assets to the Purchasers and given the Purchase Price is less than the amount owing to 855 Ontario, no funds are anticipated to be available for distribution in the Bankruptcy Proceedings;¹⁰⁰ and
- (c) the Monitor believes that administering the Bankruptcy Proceedings on a procedurally consolidated basis is in the best interests of, and/or is not expected to prejudice, the Applicants' and their creditors.¹⁰¹

I. The Stay Extension Should be Approved

56. Pursuant to the proposed CCAA Termination Order, the Applicants are seeking to extend the Stay Period until the earlier of (i) May 29, 2026, and (ii) the CCAA Termination Time.

57. Subsection 11.02(2) of the CCAA authorizes this Court to grant an extension of the stay of proceedings for "any period the court considers necessary."¹⁰² To grant such an extension, this Court must be satisfied that circumstances exist that make the order appropriate and that the Applicants have acted, and are acting, in good faith and with due diligence.¹⁰³ The jurisdiction of

⁹⁹ Affidavit of Douglas Robertson sworn May 8, 2025 at para 24, Motion Record at Tab 2A. Robertson Affidavit, *supra* note 1 at paras 93-95, Motion Record at Tab 2. Fifth Report, *supra* note 1 s 2.2 See also, *Re Electro Sonic Inc.*, 2014 ONSC 942 at para 4, citing: *Bankruptcy and Insolvency General Rules*, [CRC, c 368 s 3](#); *Rules of Civil Procedure*, [RRO 1990, Reg 194 Rule 1.04\(1\)](#).

¹⁰⁰ Fifth Report, *ibid* s 9.0 at para 5.

¹⁰¹ Fifth Report, *ibid* s 9.0 at para 6.

¹⁰² CCAA, *supra* note 26 s 11.02(2). *Nordstrom Canada Retail, Inc.*, 2023 ONSC 1631 at para 7 [*Nordstrom*].

¹⁰³ CCAA, *ibid* ss 11.02(2)-(3); *Nordstrom*, *ibid*.

courts to stay proceedings under section 11.02 “should be construed broadly to accomplish the legislative purposes of the CCAA.”¹⁰⁴ These purposes include, among others, enabling the continuation of the debtors’ business and facilitating a value maximizing restructuring.¹⁰⁵

58. Here, the Applicants have acted in good faith and with due diligence throughout the CCAA Proceedings and are forecast to have sufficient liquidity to fund their operations and these proceedings through the requested Stay Extension through the TSA.¹⁰⁶ In addition it is both necessary and in the best interests of the Applicants and their stakeholders that the Stay Period be extended to enable the Applicants to continue their ordinary course operations while completing the Transaction, which will preserve their operations for the benefit of their stakeholders.¹⁰⁷ The proposed Stay Extension will also support a seamless transition of the business through the term of the TSA.¹⁰⁸ Finally, the Monitor and the DIP Lender each support the relief, and the Monitor does not believe that any stakeholder will be materially prejudiced by the granting of the Stay Extension.¹⁰⁹

PART V: RELIEF REQUESTED

59. The Applicants submit that the relief sought on the within motion is appropriate in the circumstances and respectfully request that the proposed form of the AVO and the CCAA Termination Order be granted.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 17th DAY OF NOVEMBER, 2025.

Bennett Jones LLP
BENNETT JONES LLP

¹⁰⁴ *Canwest Global Communications Corp.*, [2011 ONSC 2215](#) at [paras 24-25](#) [*Canwest*].

¹⁰⁵ *Canwest*, *ibid* at [para 24](#). *Century Services*, *supra* note 53 at [para 15](#). *Target Canada Co. (Re)*, [2015 ONSC 303](#) at [para 8](#). *Timminco Limited (Re)*, [2012 ONSC 2515](#) at [para 15](#) [*Timminco*].

¹⁰⁶ Robertson Affidavit, *supra* note 1 at paras 62-65, Motion Record at Tab 2. Fifth Report, *supra* note 1 s 7.0.

¹⁰⁷ Robertson Affidavit, *ibid*, Motion Record at Tab 2. Fifth Report, *ibid* ss 7.0, 9.0.

¹⁰⁸ Robertson Affidavit, *ibid*, Motion Record at Tab 2. Fifth Report, *ibid* s 7.0. Supplemental Report, *supra* note 22 ss 2.1-2.1.1

¹⁰⁹ Robertson Affidavit, *ibid*, Motion Record at Tab 2. Fifth Report, *ibid* ss 7.0, 9.0.

SCHEDULE "A"
LIST OF AUTHORITIES

Cases Cited

1. 9354-9186 *Québec inc. v Callidus Capital Corp*, [2020 SCC 10](#).
2. *Brainhunter Inc.*, [2009 CanLII 67659 \(ONSC\)](#).
3. *CannaPiece Group Inc v Marzilli*, [2023 ONSC 3291](#).
4. *Canwest Global Communications Corp.*, [2010 ONSC 2870](#).
5. *Canwest Global Communications Corp.*, [2011 ONSC 2215](#).
6. *Century Services Inc v Canada (Attorney General)*, [2010 SCC 60](#).
7. *DCL Corporation (Re)*, [2023 ONSC 3686](#).
8. *DCL Corporation (Re)*, [2023 ONSC 4475](#).
9. *Harte Gold Corp. (Re)*, [2022 ONSC 653](#).
10. *In Re Hudson's Bay Company*, [2025 ONSC 5998](#).
11. *In the Matter of a Plan of Arrangement of UrtheCast Corp.*, [2021 BCSC 1819](#).
12. *In the Matter of a Plan of Compromise or Arrangement of Sandvine Corporation et al.*, [2025 ONSC 717](#).
13. *Just Energy Group Inc. et al v Morgan Stanley Capital Group Inc et al*, [2022 ONSC 6354](#).
14. *Laurentian University of Sudbury*, [2022 ONSC 2927](#).
15. *Laurentian University of Sudbury*, [2022 ONSC 5850](#).
16. *Lydian International Limited*, [2020 ONSC 4006](#).
17. *Nelson Education Limited (Re)*, [2015 ONSC 5557](#).
18. *Nordstrom Canada Retail, Inc.*, [2023 ONSC 1631](#).
19. *Nortel Networks Corporation (Re)*, [2009 CanLII 39492 \(ON SC\)](#).
20. *Nortel Networks Inc*, [2022 ONSC 6680](#).
21. *PCAS Patient Care Automation Services Inc. (Re)*, [2012 ONSC 3367](#).
22. *Re Electro Sonic Inc*, [2014 ONSC 942](#).
23. *Re ENTREC Corporation*, [2020 ABQB 751](#).
24. *Re Nortel Networks Corp*, [2017 ONSC 673](#).
25. *Re Ornge Global GP Inc.*, [2013 ONSC 4518](#).
26. *Re Target Canada Co*, [2015 ONSC 7574](#).
27. *Royal Bank v Soundair Corp*, [1991 46 OAC 321](#).

28. *Sanjel Corporation (Re)*, [2016 ABQB 257](#).
29. *Sherman Estate v Donovan*, [2021 SCC 25](#).
30. *Sierra Club v Canada (Minister of Finance)*, [2002 SCC 41](#).
31. *Stelco Inc. (Re)* [2005 CanLII 8671 \(ONCA\)](#).
32. *Tacora Resources Inc. (Re)*, [2024 ONSC 4436](#).
33. *Target Canada Co. (Re)*, [2015 ONSC 1487](#).
34. *Target Canada Co. (Re)*, [2015 ONSC 846](#).
35. *Timminco Limited (Re)*, [2012 ONSC 2515](#).
36. *White Birch Paper Holding Co. (Re)*, [2010 QCCS 4915](#).

Endorsements Cited

37. *In the Matter of a Plan of Compromise or Arrangement of 1000704712 Ontario Inc. et al.*, (January 30, 2024), Toronto, CV-23-00708635-00CL ([CCAA Termination and Distribution Order](#)) (ONSC).
38. *In the Matter of a Plan of Compromise or Arrangement of Accuride Canada Inc.*, (January 27, 2025), Toronto, CV-24-00729147-00CL ([\(Order\) Expansion of Monitor's Powers, WEPPA Declaration and Stay Extension](#)) (ONSC).
39. *In the Matter of a Plan of Compromise or Arrangement of Aleafia Health Inc. et al.*, (March 1, 2024), Toronto, CV-23-00703350-00CL ([CCAA Termination Order](#)) (ONSC).
40. *In the Matter of a Plan of Compromise or Arrangement of Atlas Global Brands et. al. (Re)*, (October 29, 2024), Toronto, CV-24-00722386-00CL ([Endorsement of the Honourable Justice Steele](#)).
41. *In the Matter of a Plan of Compromise or Arrangement of Balboa Inc. et al.*, (December 6, 2024), Toronto, CV-24-00713245-00CL ([Endorsement of the Honourable Justice Osborne](#)) (ONSC).
42. *In the Matter of a Plan of Compromise or Arrangement of BZAM Ltd.*, (May 15, 2025), Toronto, CV-24-00715773-00CL ([CCAA Termination Order](#)) (ONSC).
43. *In the Matter of a Plan of Compromise or Arrangement of Earth Boring Co. Limited et al.*, (September 15, 2025), Toronto, CV-25-00741419-00CL ([Approval and Reverse Vesting Order](#)) (ONSC).

44. *In the Matter of a Plan of Compromise or Arrangement of Hakim Optical Laboratory Limited et al.*, (August 29, 2025), Toronto, CV-25-00743383-00CL ([Endorsement of the Honourable Justice Dietrich](#)) (ONSC).
45. *In the Matter of a Plan of Compromise or Arrangement of Humble & Fume Inc. (Ontario) et al.*, (March 7, 2024), Toronto, CV-24-00712366-00CL ([Endorsement of the Honourable Justice Cavanagh](#)).
46. *In the Matter of a Plan of Compromise or Arrangement of King Street Company Inc. et al.*, (March 29, 2021), Toronto, CV-20-00650945-00CL ([Termination Order](#)) (ONSC).
47. *In the Matter of a Plan of Compromise or Arrangement of LoyaltyOne, Co.*, (May 12, 2023), Toronto, CV-23-00696017-00CL ([Approval and Vesting Order](#)) (ONSC).
48. *In the Matter of a Plan of Compromise or Arrangement of Old MM GP Inc.* (August 22, 2024), Toronto, CV-23-00710259-00CL ([Endorsement of the Honourable Justice Steele](#)) (ONSC).
49. *In the Matter of a Plan of Compromise or Arrangement of Old MM GP Inc.*, (August 22, 2024), Toronto, CV-23-00710259-00CL ([CCAA Termination and Distribution Order](#)) (ONSC).
50. *In the Matter of a Plan of Compromise or Arrangement of STS Renewables Ltd., et al.*, (October 21, 2025), Toronto, CV-25-00743275-00CL ([Approval and Reverse Vesting Order](#)) (ONSC).
51. *In the Matter of a Plan of Compromise or Arrangement of Trichome Financial Corp. et al.*, (September 14, 2023), Toronto, CV-22-00689857-00CL ([CCAA Termination Order](#)) (ONSC).

I certify that I am satisfied as to the authenticity of every authority.

Dated: November 17, 2025

Linda Fraser-Richardson

LINDA FRASER-RICHARDSON

SCHEDULE "B"
STATUTES RELIED ON

Bankruptcy and Insolvency General Rules, C.R.C., c. 368

Rule 3

In cases not provided for in the Act or these Rules, the courts shall apply, within their respective jurisdictions, their ordinary procedure to the extent that that procedure is not inconsistent with the Act or these Rules.

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

Section 5

Compromise with secured creditors

Where a compromise or an arrangement is proposed between a debtor company and its secured creditors or any class of them, the court may, on the application in a summary way of the company or of any such creditor or of the trustee in bankruptcy or liquidator of the company, order a meeting of the creditors or class of creditors, and, if the court so determines, of the shareholders of the company, to be summoned in such manner as the court directs.

Claims against directors — compromise

5.1 (1) A compromise or arrangement made in respect of a debtor company may include in its terms provision for the compromise of claims against directors of the company that arose before the commencement of proceedings under this Act and that relate to the obligations of the company where the directors are by law liable in their capacity as directors for the payment of such obligations.

Exception

(2) A provision for the compromise of claims against directors may not include claims that

- (a) relate to contractual rights of one or more creditors; or
- (b) are based on allegations of misrepresentations made by directors to creditors or of wrongful or oppressive conduct by directors.

Powers of court

(3) The court may declare that a claim against directors shall not be compromised if it is satisfied that the compromise would not be fair and reasonable in the circumstances.

Resignation or removal of directors

(4) Where all of the directors have resigned or have been removed by the shareholders without replacement, any person who manages or supervises the management of the business and affairs of the debtor company shall be deemed to be a director for the purposes of this section.

Section 11

General power of court

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.

Section 11.001

Relief reasonably necessary

An order made under section 11 at the same time as an order made under subsection 11.02(1) or during the period referred to in an order made under that subsection with respect to an initial application shall be limited to relief that is reasonably necessary for the continued operations of the debtor company in the ordinary course of business during that period.

Section 11.02

Stays, etc. — initial application

(1) A court may, on an initial application in respect of a debtor company, make an order on any terms that it may impose, effective for the period that the court considers necessary, which period may not be more than 10 days,

(a) staying, until otherwise ordered by the court, all proceedings taken or that might be taken in respect of the company under the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act*;

(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.

Stays, etc. — other than initial application

(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

(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.

Restriction

(4) Orders doing anything referred to in subsection (1) or (2) may only be made under this section.

Section 11.3

Assignment of agreements

(1) On application by a debtor company and on notice to every party to an agreement and the monitor, the court may make an order assigning the rights and obligations of the company under the agreement to any person who is specified by the court and agrees to the assignment.

Exceptions

(2) Subsection (1) does not apply in respect of rights and obligations that are not assignable by reason of their nature or that arise under

(a) an agreement entered into on or after the day on which proceedings commence under this Act;

(b) an eligible financial contract; or

- (c) a collective agreement.

Factors to be considered

- (3) In deciding whether to make the order, the court is to consider, among other things,
 - (a) whether the monitor approved the proposed assignment;
 - (b) whether the person to whom the rights and obligations are to be assigned would be able to perform the obligations; and
 - (c) whether it would be appropriate to assign the rights and obligations to that person.

Restriction

- (4) The court may not make the order unless it is satisfied that all monetary defaults in relation to the agreement — other than those arising by reason only of the company's insolvency, the commencement of proceedings under this Act or the company's failure to perform a non-monetary obligation — will be remedied on or before the day fixed by the court.

Section 23

Duties and functions

- (1) The monitor shall
 - (a) except as otherwise ordered by the court, when an order is made on the initial application in respect of a debtor company,
 - (i) publish, without delay after the order is made, once a week for two consecutive weeks, or as otherwise directed by the court, in one or more newspapers in Canada specified by the court, a notice containing the prescribed information, and
 - (ii) within five days after the day on which the order is made,
 - (A) make the order publicly available in the prescribed manner,
 - (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the company of more than \$1,000 advising them that the order is publicly available, and
 - (C) prepare a list, showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner;

(b) review the company's cash-flow statement as to its reasonableness and file a report with the court on the monitor's findings;

(c) make, or cause to be made, any appraisal or investigation the monitor considers necessary to determine with reasonable accuracy the state of the company's business and financial affairs and the cause of its financial difficulties or insolvency and file a report with the court on the monitor's findings;

(d) file a report with the court on the state of the company's business and financial affairs — containing the prescribed information, if any —

(i) without delay after ascertaining a material adverse change in the company's projected cash-flow or financial circumstances,

(ii) not later than 45 days, or any longer period that the court may specify, after the day on which each of the company's fiscal quarters ends, and

(iii) at any other time that the court may order;

(d.1) file a report with the court on the state of the company's business and financial affairs — containing the monitor's opinion as to the reasonableness of a decision, if any, to include in a compromise or arrangement a provision that sections 38 and 95 to 101 of the Bankruptcy and Insolvency Act do not apply in respect of the compromise or arrangement and containing the prescribed information, if any — at least seven days before the day on which the meeting of creditors referred to in section 4 or 5 is to be held;

(e) advise the company's creditors of the filing of the report referred to in any of paragraphs (b) to (d.1);

(f) file with the Superintendent of Bankruptcy, in the prescribed manner and at the prescribed time, a copy of the documents specified in the regulations;

(f.1) for the purpose of defraying the expenses of the Superintendent of Bankruptcy incurred in performing his or her functions under this Act, pay the prescribed levy at the prescribed time to the Superintendent for deposit with the Receiver General;

(g) attend court proceedings held under this Act that relate to the company, and meetings of the company's creditors, if the monitor considers that his or her attendance is necessary for the fulfilment of his or her duties or functions;

(h) if the monitor is of the opinion that it would be more beneficial to the company's creditors if proceedings in respect of the company were taken under the Bankruptcy and Insolvency Act, so advise the court without delay after coming to that opinion;

(i) advise the court on the reasonableness and fairness of any compromise or arrangement that is proposed between the company and its creditors;

(j) make the prescribed documents publicly available in the prescribed manner and at the prescribed time and provide the company's creditors with information as to how they may access those documents; and

(k) carry out any other functions in relation to the company that the court may direct.

Monitor not liable

(2) If the monitor acts in good faith and takes reasonable care in preparing the report referred to in any of paragraphs (1)(b) to (d.1), the monitor is not liable for loss or damage to any person resulting from that person's reliance on the report.

Section 24

Right of access

For the purposes of monitoring the company's business and financial affairs, the monitor shall have access to the company's property, including the premises, books, records, data, including data in electronic form, and other financial documents of the company, to the extent that is necessary to adequately assess the company's business and financial affairs.

Section 25

Obligation to act honestly and in good faith

In exercising any of his or her powers or in performing any of his or her duties and functions, the monitor must act honestly and in good faith and comply with the Code of Ethics referred to in section 13.5 of the Bankruptcy and Insolvency Act.

Section 36

Restriction on disposition of business assets

(1) A debtor company in respect of which an order has been made under this Act may not sell or otherwise dispose of assets outside the ordinary course of business unless authorized to do so by a court. Despite any requirement for shareholder approval, including one under federal or provincial law, the court may authorize the sale or disposition even if shareholder approval was not obtained.

Notice to creditors

(2) A company that applies to the court for an authorization is to give notice of the application to the secured creditors who are likely to be affected by the proposed sale or disposition.

Factors to be considered

(3) In deciding whether to grant the authorization, the court is to consider, among other things,

- (a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances;
- (b) whether the monitor approved the process leading to the proposed sale or disposition;
- (c) whether the monitor filed with the court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under a bankruptcy;
- (d) the extent to which the creditors were consulted;
- (e) the effects of the proposed sale or disposition on the creditors and other interested parties; and
- (f) whether the consideration to be received for the assets is reasonable and fair, taking into account their market value.

Additional factors — related persons

(4) If the proposed sale or disposition is to a person who is related to the company, the court may, after considering the factors referred to in subsection (3), grant the authorization only if it is satisfied that

- (a) good faith efforts were made to sell or otherwise dispose of the assets to persons who are not related to the company; and
- (b) the consideration to be received is superior to the consideration that would be received under any other offer made in accordance with the process leading to the proposed sale or disposition.

Related persons

(5) For the purpose of subsection (4), a person who is related to the company includes

- (a) a director or officer of the company;
- (b) a person who has or has had, directly or indirectly, control in fact of the company; and
- (c) a person who is related to a person described in paragraph (a) or (b).

Assets may be disposed of free and clear

(6) The court may authorize a sale or disposition free and clear of any security, charge or other restriction and, if it does, it shall also order that other assets of the company or the proceeds of the sale or disposition be subject to a security, charge or other restriction in favour of the creditor whose security, charge or other restriction is to be affected by the order.

Restriction — employers

(7) The court may grant the authorization only if the court is satisfied that the company can and will make the payments that would have been required under paragraphs 6(5)(a) and (6)(a) if the court had sanctioned the compromise or arrangement.

Restriction — intellectual property

(8) If, on the day on which an order is made under this Act in respect of the company, the company is a party to an agreement that grants to another party a right to use intellectual property that is included in a sale or disposition authorized under subsection (6), that sale or disposition does not affect that other party's right to use the intellectual property — including the other party's right to enforce an exclusive use — during the term of the agreement, including any period for which the other party extends the agreement as of right, as long as the other party continues to perform its obligations under the agreement in relation to the use of the intellectual property.

Courts of Justice Act, R.O 1990, c. C.43

Section 137

Documents public

(1) On payment of the prescribed fee, a person is entitled to see any document filed in a civil proceeding in a court, unless an Act or an order of the court provides otherwise.

Sealing documents

(2) A court may order that any document filed in a civil proceeding before it be treated as confidential, sealed and not form part of the public record.

Court lists public

(3) On payment of the prescribed fee, a person is entitled to see any list maintained by a court of civil proceedings commenced or judgments entered.

Copies

(4) On payment of the prescribed fee, a person is entitled to a copy of any document the person is entitled to see.

Rules of Civil Procedure, R.R.O. 1990, Reg. 194

Rule 1.04

Interpretation

General Principle

(1) These rules shall be liberally construed to secure the just, most expeditious and least expensive determination of every civil proceeding on its merits. R.R.O. 1990, Reg. 194, r. 1.04 (1).

Proportionality

(1.1) In applying these rules, the court shall make orders and give directions that are proportionate to the importance and complexity of the issues, and to the amount involved, in the proceeding.

Matters Not Provided For

(2) Where matters are not provided for in these rules, the practice shall be determined by analogy to them.

(3) Revoked: O. Reg. 231/13, s. 2.

“Party and Party” Costs

(4) If a statute, regulation or other document refers to party and party costs, these rules apply as if the reference were to partial indemnity costs.

“Solicitor and Client” Costs

(5) If a statute, regulation or other document refers to solicitor and client costs, these rules apply as if the reference were to substantial indemnity costs.

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 HAKIM OPTICAL LABORATORY LIMITED,
LAWRENCE OPHTHALMIC LAB INC. AND HAKIM OPTICAL WORLDWIDE LENSES INC.**

Court File No. CV-25-00743383-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceeding commenced in Toronto

FACTUM OF THE APPLICANTS
(Returnable November 18, 2025)

BENNETT JONES LLP
One First Canadian Place
Suite 3400, P.O. Box 130
Toronto, Ontario M5X 1A4

Sean Zweig (LSO# 57307I)
Tel: (416) 777-6254
Email: zweigs@bennettjones.com

Jesse Mighton (LSO# 62291J)
Tel: (416) 777-6255
Email: mightonj@bennettjones.com

Jamie Ernst (LSO# 88724A)
Tel: (416) 777-6124
Email: ernstj@bennettjones.com

Linda Fraser-Richardson (LSO# 89718B)
Tel: (416) 777-7869
Email: fraserrichardsonl@bennettjones.com

Lawyers for the Applicants