

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE

)

TUESDAY, THE 2<sup>nd</sup>

MR. JUSTICE HAINEY

)

DAY OF JUNE, 2020

)

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 JAMES E. WAGNER CULTIVATION  
CORPORATION, JAMES E. WAGNER CULTIVATION LTD.,  
JWC 1 LTD., JWC 2 LTD., JWC SUPPLY LTD. AND  
GROWTHSTORM INC.

(each an "Applicant", and collectively, the "Applicants")



APPROVAL AND VESTING ORDER

**THIS MOTION**, made by James E. Wagner Cultivation Corporation, James E. Wagner Cultivation Ltd., JWC 1 Ltd., JWC 2 Ltd., JWC Supply Ltd. and GrowthStorm Inc. (collectively, the "**Vendors**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**Sale Agreement**") between the Vendors and Trichome Financial Corp. ("**Trichome**") dated March 31, 2020, as amended, and vesting in Trichome, or as it may direct, all of the Vendors' right, title and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**"), was heard this day via videoconference due to the COVID-19 pandemic.

**ON READING** the motion record of the Vendors and the Third Report of KSV Kofman Inc. in its capacity as Monitor (the "**Monitor**") and on hearing the submissions of counsel for the Vendors, the Monitor and the Purchaser, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Aiden Nelms sworn May 25, 2020:

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Vendors and Trichome is hereby authorized and approved, with such minor amendments as the Vendors and Trichome, with the approval of the Monitor, may agree upon. The Vendors and the Monitor are 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 (as defined in the Sale Agreement) to the Purchaser (as defined below).

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Monitor's certificate to Trichome JWC Acquisition Corp. (the "**Purchaser**") substantially in the form attached as Schedule A hereto (the "**Monitor's Certificate**"), all of the Vendors' 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 Order of the Honourable Justice Hainey dated April 1, 2020 as amended by Order of the Honourable Justice Hainey dated April 9, 2020 and May 11, 2020; 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.

3. **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 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.

4. **THIS COURT ORDERS** that notwithstanding section 2.2(c) of the Sale Agreement, the Vendors shall, prior to the delivery of the Monitor's Certificate, bring a further motion seeking an Assignment Order

(as such term is defined in the Sale Agreement) if the Purchaser requires an Assignment Order in order to complete the Transaction.

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

6. **THIS COURT ORDERS AND DIRECTS** the Vendors to pay in full all unpaid post filing electricity charges owing by the Vendors to Kitchener Wilmot Hydro up until the Closing Date (as defined in the Sale Agreement).

7. **THIS COURT ORDERS** that the Monitor may rely on written notice from the Vendors and the Purchaser regarding fulfillment of conditions to closing under the Sale Agreement and shall incur no liability with respect to the delivery of the Monitor's Certificate.

8. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Vendors and the Monitor are authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Vendors' records pertaining to the Vendors' past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Vendors.

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

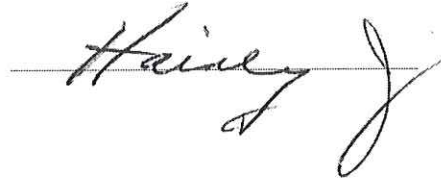
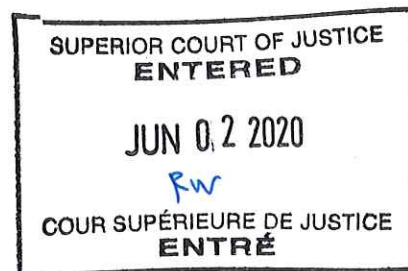
- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the "BIA") in respect of any Vendor and any bankruptcy order issued pursuant to any such applications or otherwise; and
- (c) any assignment in bankruptcy made in respect of any Vendor;

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 any Vendor and shall not be void or voidable by creditors of the Vendors, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA 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.

10. **THIS COURT ORDERS** that for a period of not less than two years from the Closing Date, the Purchaser shall provide the Monitor and any trustee in bankruptcy of any Vendor with access to the books and records of the Vendor in the possession of the Purchaser during normal business hours upon request, and shall not thereafter alter or destroy such books and records without providing the Monitor or any trustee in bankruptcy of any Vendor with 30 days prior written notice.

11. **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 to give effect to this Order and to assist the Vendors and the Monitor and their 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 Vendors and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Vendors and the Monitor and their agents in carrying out the terms of this Order.

A handwritten signature in cursive script, appearing to read "Hainey J.", written over a horizontal line.

Schedule A – Form of Monitor's Certificate

Court File No. CV-20-00639000-00CL

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IN THE MATTER OF THE *COMPANIES' CREDITORS  
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CORPORATION, JAMES E. WAGNER CULTIVATION LTD.,  
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MONITOR'S CERTIFICATE

RECITALS

- A. James E. Wagner Cultivation Corporation, James E. Wagner Cultivation Ltd., JWC 1 Ltd., JWC 2 Ltd., JWC Supply Ltd. and GrowthStorm Inc. (collectively, the "**Vendors**") commenced these proceedings under the *Companies' Creditors Arrangement Act* on April 1, 2020 (the "**CCAA Proceedings**");
- B. KSV Kofman Inc. was appointed as Monitor (the "**Monitor**") in the CCAA Proceedings;
- C. Pursuant to an Order of the Court dated June 2, 2020 (the "**Approval and Vesting Order**"), the Court approved the agreement of purchase and sale made as of March 31, 2020 (as amended, the "**Sale Agreement**") between the Vendors and Trichome Financial Corp. ("**Trichome**") and provided for the vesting in Trichome JWC Acquisition Corp. (the "**Purchaser**") of the Vendors' 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 Purchaser of a certificate confirming: (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in Article 7 of the Sale Agreement have been satisfied or waived by the Vendors and Trichome (as applicable); and (iii) the Transaction has been completed to the satisfaction of the Monitor.

D. Pursuant to the Approval and Vesting Order, the Monitor may rely on written notice from the Vendors and Trichome regarding fulfillment of conditions to closing under the Sale Agreement.

E. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

**THE MONITOR CERTIFIES** the following:

1. The Vendors and Trichome have each delivered written notice to the Monitor that all applicable conditions under the Sale Agreement have been satisfied and/or waived, as applicable;
2. The Monitor has received the Closing Cash Payment; and
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 Kofman Inc., solely in its capacity as  
Monitor of James E. Wagner Cultivation  
Corporation, James E. Wagner Cultivation  
Ltd., JWC 1 Ltd., JWC 2 Ltd., JWC Supply  
Ltd. and GrowthStorm Inc. , and not in its  
personal capacity**

Per: \_\_\_\_\_  
Name:  
Title:

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF JAMES E. WAGNER CULTIVATION CORPORATION, JAMES E. WAGNER CULTIVATION LTD., JWC 1 LTD., JWC 2 LTD., JWC SUPPLY LTD AND GROWTHSTORM INC.

Court File No. CV-20-00639000-00CL

**ONTARIO**

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

Proceedings commenced in Toronto

**APPROVAL AND VESTING ORDER**

**BENNETT JONES LLP**  
One First Canadian Place  
Suite 3400, P.O. Box 130  
Toronto, Ontario  
M5X 1A4  
**Sean Zweig** (LSO# 57307I)  
**Mike Shakra** (LSO# 64604K)  
**Aiden Nelms** (LSO# 74170S)

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

Lawyers for the Applicants