



**Seventh Report of
KSV Restructuring Inc.
as CCAA Monitor of
James E. Wagner Cultivation
Corporation, James E. Wagner
Cultivation Ltd., JWC 1 Ltd., JWC 2
Ltd., JWC Supply Ltd. and
GrowthStorm Inc.**

January 24, 2022

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COURT FILE NO.: CV-20-00639000-00CL

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

**SEVENTH REPORT OF KSV RESTRUCTURING INC. AS
MONITOR**

JANUARY 24, 2022

1.0 Introduction

1. Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "Court") made on April 1, 2020 (the "Initial Order"), James E. Wagner Cultivation Corporation ("JWC"), James E. Wagner Cultivation Ltd., JWC 1 Ltd., JWC 2 Ltd., JWC Supply Ltd. and GrowthStorm Inc. (collectively, the "Companies") were granted protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") and KSV Kofman Inc. was appointed monitor (the "Monitor"). Effective August 30, 2020, KSV Kofman Inc. changed its name to KSV Restructuring Inc. ("KSV").
2. Trichome Financial Corporation ("TFC") was the Companies' senior ranking creditor and the debtor-in-possession lender in the CCAA proceedings. Pursuant to an order issued on June 2, 2020, the Court approved a transaction (the "Transaction") between the Companies and TFC for the sale of substantially all of the Companies' assets pursuant to an Asset Purchase Agreement dated March 31, 2020 between the Companies and TFC, as amended (the "APA"). In accordance with the APA, TFC directed that title to the assets be vested in Trichome JWC Acquisition Corp. (the "Purchaser").
3. On July 30, 2020, the Court issued an order, *inter alia*, (i) authorizing the Monitor and/or the Companies to file assignments in bankruptcy on behalf of the Companies (collectively, the "Assignments"); and (ii) terminating, upon the filing of a discharge certificate (the "Discharge Certificate"), the CCAA proceedings and discharging KSV in its capacity as the Monitor of the Companies (the "July 30th Order"). Attached as Appendix "A" is a copy of the July 30th Order.

4. The Transaction closed on August 28, 2020. Following the closing, the Board of Directors of the Companies resigned, the Companies discontinued their operations and substantially all of the Companies' employees became employees of the Purchaser. Pursuant to an order of the Court issued on August 31, 2020, the Monitor was granted enhanced powers, including authority over the business and operations of the Companies.
5. Since completion of the Transaction, the Monitor has been required to address several sundry business issues, including collecting approximately \$173,000 in harmonized sales tax ("HST") refunds (the "Refunds") owing from Canada Revenue Agency ("CRA"). Prior to releasing the Refunds, CRA advised the Monitor that it needed to conduct payroll and HST audits, which took longer than expected to complete due to, *inter alia*, the COVID-19 pandemic. The Refunds were received from CRA in December 2021 and all issues in the CCAA proceedings have now been completed.
6. The Companies are comprised of six different legal entities, each of which will be filed into bankruptcy by the Monitor. The Companies effectively operated as one integrated business. Of the entities, most of the activity was conducted in JWC, and the balance carried on no or nominal business activity.
7. The Monitor intends to file the Assignments immediately after it files the Discharge Certificate terminating the CCAA proceedings.
8. All of the business and assets of the Companies were subject to TFC's security interest through a credit bid. As a result, there will be no funds available for distribution to creditors in the bankruptcies.
9. In order to reduce the costs of the bankruptcy process and to facilitate the orderly administration of the bankruptcy estates, the Monitor is seeking an order from the Court to procedurally consolidate the bankruptcies. This will allow for, among other things, one newspaper notice, one mailing to all creditors of the Companies and one creditors' meeting.
10. The Monitor is of the view that procedurally consolidating the bankruptcies is in the interest of efficiency and cost savings. Accordingly, the Monitor recommends that the Court issue an order procedurally consolidating the Companies' bankruptcies.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.
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**

Appendix “A”



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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.)	THURSDAY, THE 30 th
)	
JUSTICE KOEHNEN)	DAY OF JULY, 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.

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

CCAA TERMINATION ORDER

THIS MOTION made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an order (the "**CCAA Termination Order**"), among other things: (a) terminating the proceedings (the "**CCAA Proceedings**") of the Applicants under the *Companies' Creditors Arrangement Act* (the "**CCAA**"); (b) approving all of KSV Kofman Inc.'s (in such capacity, the "**Monitor**") reports issued over the course of these proceedings (the "**Reports**") and the activities of the Monitor described therein; (c) approving the fees and disbursements of the Monitor and its counsel; (d) discharging KSV Kofman Inc. ("**KSV**") as the Monitor; and (e) authorizing and directing the Applicants and/or the Monitor to file assignments in bankruptcy pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**"), was heard this day via videoconference due to the COVID-19 pandemic.

ON READING the Fifth Report of the Monitor dated July 24, 2020 (the "**Fifth Report**") and on hearing the submissions of counsel for the Applicants, the Monitor, and the DIP Lender, no one appearing for any other party although duly served as appears from the affidavit of service of Aiden Nelms sworn.

DISCHARGE OF THE MONITOR

1. **THIS COURT ORDERS** that upon the Monitor filing a certificate substantially in the form attached at Schedule "A" (the "**Discharge Certificate**") certifying that all matters to be attended to in connection with the CCAA Proceedings have been completed to the satisfaction of the Monitor, KSV shall be discharged as Monitor effective immediately and shall have no further duties, obligations, or responsibilities as Monitor (the "**CCAA Termination Time**").

2. **THIS COURT ORDERS** that, notwithstanding any provision of this Order and the termination of the CCAA Proceedings, nothing herein shall affect, vary, derogate from, limit or amend any of the protections in favour of the Monitor or the CRO (as defined in the Initial Order) at law or pursuant to the CCAA, the Initial Order dated April 1, 2020 (as amended and restated, the "**Initial Order**") or any other Order of this Court in the CCAA Proceedings, all of which are expressly continued and confirmed.

APPROVAL OF THE REPORTS AND ACTIVITIES

3. **THIS COURT ORDERS** that the Reports and the activities of the Monitor referred to therein be and are hereby approved; provided, however, that only the Monitor, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

4. **THIS COURT ORDERS** that the fees and disbursements of the Monitor and its counsel as set out in the affidavits of Robert Kofman sworn July 24, 2020 and Robin B. Schwill sworn July 23, 2020, and a fee accrual in the amount of \$175,000 plus HST and disbursements for the period between July 1, 2020 and August 31, 2020, be and are hereby approved.

TERMINATION OF CCAA PROCEEDINGS AND STAY PERIOD

5. **THIS COURT ORDERS** that upon the CCAA Termination Time, the CCAA Proceedings and the Stay Period are hereby terminated without any other act or formality.

6. **THIS COURT ORDERS** that each of the Administration Charge, the DIP Lender's Charge, and the Directors' Charge (each as defined in the Initial Order) shall be and are hereby terminated, released and discharged at the CCAA Termination Time, provided that nothing herein releases or discharges the claims of the DIP Lender (as defined in the Initial Order) against any party that has assumed the obligations of the Applicants under the DIP Loan (as defined in the Initial Order).

7. **THIS COURT ORDERS** that, notwithstanding the discharge of KSV as Monitor and the termination of the CCAA Proceedings, KSV shall have the authority from and after the CCAA Termination Time to complete any matters that may be incidental to the termination of the CCAA Proceedings. In completing any such incidental matters, KSV shall continue to have the benefit of the provisions of all Orders made in the CCAA Proceedings and all protections under the CCAA, including all approvals, protections and stays of proceedings in favour of KSV in its capacity as the Monitor, and nothing in this Order shall affect, vary, derogate from or amend any of the protections in favour of the Monitor pursuant to any Order issued in the CCAA Proceedings.

RELEASES

8. **THIS COURT ORDERS** that upon the CCAA Termination Time, the Monitor, counsel to the Monitor, and each of their respective affiliates and officers, directors, partners, employees and agents (collectively, the "**Released Parties**") are hereby released and discharged from any and all claims that any person may have or be entitled to assert against the Released Parties, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the CCAA Termination Time in any way relating to, arising out of, or in respect of, the CCAA Proceedings or with respect to their respective conduct in the CCAA Proceedings (collectively, the "**Released Claims**"), and any such Released Claims are hereby released, stayed, extinguished and forever barred, and the Released Parties shall have no liability in respect thereof, provided that the Released Claims shall not include any claim or

liability arising out of any gross negligence or wilful misconduct on the part of the applicable Released Party.

9. **THIS COURT ORDERS** that no action or other proceeding shall be commenced against any of the Released Parties in any way arising from or related to the CCAA Proceedings, except with prior leave of this Court on at least seven (7) days' prior written notice to the applicable Released Parties.

ASSIGNMENTS INTO BANKRUPTCY


10. **THIS COURT ORDERS** that from and after the CCAA Termination Time each of the Applicants' and/or the Monitor is authorized to file an assignment in bankruptcy pursuant to the BIA in the City of Toronto, Province of Ontario naming KSV as the trustee in bankruptcy, and in that regard to sign such documents in the names of the Applicants and take all such steps as are necessary to make the assignments in bankruptcy and commence proceedings under the BIA (the "**BIA Proceedings**"). For greater certainty, no resolutions or other authorizations from the directors, officers or shareholders of the Applicants will be required to commence the BIA Proceedings.

EFFECT RECOGNITION AND ASSISTANCE

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 Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

12. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

13. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Toronto time on the date of this Order.

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ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

JUL 31 2020

PER / PAR:



SCHEDULE "A"

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

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

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

MONITOR'S DISCHARGE CERTIFICATE

RECITALS

1. Pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated April 1, 2020, KSV Kofman Inc. was appointed as the Monitor (the "**Monitor**") of the Applicants.
2. Pursuant to an Order of the Court dated July 30, 2020 (the "**CCAA Termination Order**"), KSV was to be discharged as Monitor of the Applicants to be effective upon the filing by the Monitor with the Court of a certificate confirming that all matters to be attended to in connection with the CCAA Proceedings have been completed to the satisfaction of the Monitor.
3. Capitalized terms not otherwise defined herein have the meanings set out in the CCAA Termination Order.

THE MONITOR CERTIFIES the following:

1. All matters to be attended to in connection with the CCAA Proceedings have been completed to the satisfaction of the Monitor.

2. This Certificate was filed by the Monitor with the Court on the [●] day of [month], 2020 at [time].

KSV KOFMAN INC., solely in its capacity
as the Monitor of the Applicants and not in
its personal or corporate capacity

Per: _____

Name: [●]

Title: Managing Director

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

CCAA TERMINATION 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