

Court File No. CV-23-00696017-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)
JUSTICE CONWAY)
FRIDAY, THE 15TH
DAY OF DECEMBER, 2023

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF LOYALTYONE, CO.**

Applicant

**ORDER
(Monitor Authorization to Commence Proceedings)**

THIS MOTION, made by the Court-appointed Monitor, KSV Restructuring Inc. (in such capacity, the "**Monitor**") appointed pursuant to the Initial Order of this Court dated March 10, 2023, as amended and restated, and the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), and the Applicant for an order authorizing, directing and empowering the Monitor to commence certain proceedings was heard this day via videoconference.

ON READING the Amended Notice of Motion dated December 6, 2023 (the "**Notice of Motion**"), the affidavit of Cynthia Hageman affirmed November 9, 2023, the affidavit of Jeffrey Fair affirmed November 9, 2023, and the Fifth Report of the Monitor dated November 23, 2023 (the "**Fifth Report**"), and on hearing the submissions of counsel for the Monitor, the Applicant, the Ad Hoc Term Loan B Lenders, Bank of America, N.A., as Administrative Agent, Bread Financial Holdings, Inc. ("**Bread**") and those other parties present, no one appearing for any other person on the service list, although duly served as appears from the affidavit of service, filed:

DEFINITIONS

1. **THIS COURT ORDERS** that capitalized terms used herein and not otherwise defined have the meaning given to them in the Amended and Restated Initial Order of this Court dated March 20, 2023 (the "**ARIO**").

PROCEEDINGS

2. **THIS COURT ORDERS** that the Monitor is authorized and empowered pursuant to section 36.1 of the CCAA to commence and continue proceedings against Bread under section 96 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, as incorporated into the CCAA under section 36.1 of the CCAA, in respect of the provisions in the Tax Matters Agreement between Alliance Data Systems Corporation (now known as Bread) and Loyalty Ventures Inc. dated November 5, 2021, that purport to require the Applicant to pay to Bread an amount equivalent to the proceeds received (or to be received) in respect of certain disputed tax amounts, as further described in the Amended Notice of Motion and the Fifth Report (the “**Proceedings**”), *nunc pro tunc*.

3. **THIS COURT ORDERS** that all issues raised in the Amended Notice of Motion by the Monitor regarding the merits of the Proceedings may be raised in the course of those Proceedings. The granting of this Order permitting the Monitor to commence the Proceedings does not constitute a determination of any issue, or of any liability, that may be asserted in the Proceedings.

4. **THIS COURT ORDERS** that the Monitor is authorized to bring the Proceedings in this Court.

PROTECTIONS TO THE MONITOR

5. **THIS COURT ORDERS** that in relation to all matters connected with the Proceedings, the Monitor shall have all of the rights, powers and protections provided for pursuant to the ARIO, the Ancillary Relief Order dated May 12, 2023, this Order, the CCAA and otherwise at law.

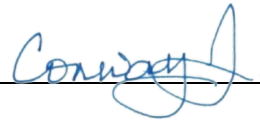
6. **THIS COURT ORDERS** that the foregoing does not preclude the Court from awarding legal costs associated with the Proceedings in favour of a party to the Proceedings and in the event that such costs are awarded against the Monitor, the Monitor shall have a claim for indemnity against the Property to satisfy any such costs award (“**Monitor’s Cost Indemnity Claim**”) and such indemnity claim shall be secured by the Administration Charge, as amended by this Order.

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7. **THIS COURT ORDERS** that the ARIO be and is hereby amended such that the maximum aggregate amount of the Administration Charge shall be equal to the sum of \$3,000,000 plus the amount of the Monitor's Cost Indemnity Claim.

GENERAL

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



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Proceeding commenced at Toronto

**ORDER
(Monitor Authorization to Commence Proceedings)**

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