



**Ninth Report of
KSV Restructuring Inc.
as CCAA Monitor of
LoyaltyOne, Co.**

March 14, 2025

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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 LOYALTYONE, CO.

NINTH REPORT OF KSV RESTRUCTURING INC.

MARCH 14, 2025

1.0 Introduction

1. Pursuant to an order (the “**Initial Order**”) issued by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on March 10, 2023, LoyaltyOne, Co. (the “**Applicant**”) was granted protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), and KSV Restructuring Inc. (“**KSV**”) was appointed monitor of the Applicant (in such capacity, the “**Monitor**”). The Initial Order also extended the CCAA stay and certain other relief to LoyaltyOne Travel Services Co./Cie Des Voyages LoyaltyOne, a non-applicant subsidiary of the Applicant (“**Travel Services**” and together with the Applicant, the “**LoyaltyOne Entities**”). At a comeback hearing on March 20, 2023, the Court issued an Amended and Restated Initial Order (the “**ARIO**”).
2. Also on March 10, 2023, the Applicant's ultimate parent company, Loyalty Ventures Inc. (“**LVI**”), and three affiliated entities¹ (collectively, the “**US Debtors**”), filed voluntary petitions to commence proceedings (the “**US Proceedings**”) under Chapter 11 of Title 11 of the United States Code (the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the Southern District of Texas (the “**US Court**”). The LoyaltyOne Entities are not debtors in the US Proceedings.
3. The principal purpose of this proceeding (this “**CCAA Proceeding**”) was to create a stabilized environment in which the Applicant could:
 - a) continue to operate in the ordinary course with the breathing space afforded by filing for protection under the CCAA, including to continue to operate the AIR MILES® Reward Program and to honour redemptions by the collectors of AIR MILES® reward miles in the normal course;

¹ The affiliated Chapter 11 debtor entities are LVI Sky Oak LLC, LVI Lux Holdings S.à r.l. and Rhombus Investments L.P.

- b) secure debtor-in-possession (“**DIP**”) financing from Bank of Montreal (“**BMO**” and, in such capacity, the “**DIP Lender**”) to fund the Applicant’s ongoing business and the restructuring proceedings pursuant to a US\$70 million DIP loan facility (the “**DIP Facility**”); and
 - c) identify and complete a going-concern sale transaction pursuant to a Court supervised sale and investment solicitation process (“**SISP**”). In this regard, the Applicant entered into an asset purchase agreement with BMO, the Applicant’s largest customer, which provided for a purchase price of US\$160 million, subject to certain adjustments, plus the assumption of certain liabilities, to be used as a “stalking horse” bid in the SISP (as amended, the “**Stalking Horse APA**”).
- 4. On March 17, 2023, in connection with the US Proceedings, the US Debtors filed a Combined Disclosure Statement and Joint Chapter 11 Plan of Reorganization pursuant to Chapter 11 of the Bankruptcy Code (as applicable, the “**Combined DS and Plan**” or the “**LVI Chapter 11 Plan**”). Among other things, the LVI Chapter 11 Plan provides for the establishment of a liquidating trust to pursue recoveries on behalf of the US Debtors’ stakeholders.
 - 5. On April 27, 2023, the Combined DS and Plan was approved and confirmed by the US Court. On May 1, 2023, the Court issued an order granting certain relief sought by the Applicant in connection with the LVI Chapter 11 Plan, which relief was a condition precedent to the LVI Chapter 11 Plan becoming effective. The LVI Chapter 11 Plan became effective on June 2, 2023.
 - 6. At a hearing on May 12, 2023, the Court issued:
 - a) an Approval and Vesting Order (the “**AVO**”), among other things:
 - approving the transaction with BMO contemplated by the Stalking Horse APA (the “**Transaction**”);
 - following the Monitor’s delivery of the Monitor’s certificate substantially in the form attached as Schedule “A” to the AVO (the “**Monitor’s Certificate**”), transferring and vesting all of the Applicant’s right, title and interest in and to all of the issued and outstanding shares in the capital of Travel Services to an affiliate of BMO, and all of the Applicant’s right, title and interest in and to the balance of the Purchased Assets (as defined in the Stalking Horse APA) in another BMO affiliate, in each case free and clear from any encumbrances, except for certain permitted encumbrances;
 - concurrent with or immediately following delivery of the Monitor’s Certificate, directing the Applicant to repay in full all obligations owing under the DIP Facility and discharging the corresponding DIP Lender’s Charge (as defined in the ARIQ);
 - concurrent with or immediately following delivery of the Monitor’s Certificate, directing the Applicant to pay in full certain transaction fees owing to PJT Partners LP, the Applicant’s financial advisor, and discharging the corresponding Financial Advisor Charge (as defined in the ARIQ);

- b) an Assignment Order, which, among other things, following delivery of the Monitor's Certificate, assigned all of the Applicant's rights and obligations in respect of certain contracts to BMO; and
 - c) an Ancillary Relief Order that, among other things:
 - following delivery of the Monitor's Certificate, all of the then existing directors and officers of the Applicant (other than certain officers of the Applicant who remained employed by the Applicant upon closing) were deemed to resign and the Monitor was authorized and empowered to exercise any powers which may be properly exercised by a board of directors or any officers of the Applicant;
 - removed Travel Services from the purview of the CCAA Proceeding (in light of the sale of its shares pursuant to the Transaction); and
 - extended the stay of proceedings to July 14, 2023.
7. The Transaction closed on June 1, 2023.
8. On July 5, 2023, the Court issued a Stay Extension and Distribution Order (the "**Stay Extension and Distribution Order**") that, among other things, (i) approved the distribution of a portion of the proceeds from the Transaction and other cash held by the Applicant (or held by the Monitor on behalf of the Applicant) to the Applicant's secured creditors, and (ii) extended the stay of proceedings to June 28, 2024.
9. Since the closing of the Transaction, the focus of these proceedings has been to realize on the Applicant's remaining assets (i.e. those that were excluded from the Transaction), including advancing the Tax Appeal (as defined in the Eighth Report of the Monitor dated September 16, 2024), and addressing certain disputes with Bread Financial Holdings, Inc. ("**Bread**") regarding the TMA (as defined below).
10. On June 13, 2024, the Court issued a Stay Extension Order, which, among other things, extended the stay of proceedings from June 28, 2024, until and including June 12, 2025. The Stay Extension Order requires the Monitor to report to the Court and the Applicant's stakeholders (i) no less frequently than every six months; and (ii) following a disposition of the Tax Appeal.
11. All Court materials filed in this proceeding, including the Monitor's reports, are available on the Monitor's website at the following link: <https://www.ksvadvisory.com/experience/case/loyaltyone>.
12. All US Court materials filed in the US Proceedings are available at the following link: <https://cases.ra.kroll.com/LVI/Home-Index>.

1.1 Purposes of this Report

1. The purpose of this report (the "**Ninth Report**") is to provide an update to the Court and stakeholders in accordance with the Stay Extension Order dated June 13, 2024, in respect of the following matters:

- a) the Monitor's activities, on behalf of the Applicant, to facilitate claims for severance and termination pay by certain of the Applicant's former employees under the *Wage Earner Protection Program Act*, S.C. 2005, c. 47 s. 1, as amended ("**WEPPA**");
- b) a payment made by the Monitor to BMO in the amount of \$429,834 in respect of a security deposit (the "**Security Deposit**") paid by the Applicant to Régie des alcools, des courses et des jeux ("**RACJ**") in May 2023, the rights in respect of which were acquired by BMO pursuant to the Transaction;
- c) provide an update on the status of the outstanding disputes with Bread in relation to the TMA; and
- d) provide an update on the settlement of the Tax Appeal and the status of the reassessment of the Applicant's 2013 tax return (the "**2013 Reassessment**") by the Canada Revenue Agency (the "**CRA**").

1.2 Restrictions

1. The Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the financial information relied on to prepare this Ninth Report in a manner that complies with Canadian Auditing Standards ("**CAS**") pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under the CAS in respect of such information. Any party wishing to place reliance on the financial information should perform its own diligence.
2. Future oriented financial information relied upon in this Ninth Report is based upon assumptions regarding future events; actual results achieved may vary from this information and these variations may be material. The Monitor expresses no opinion or other form of assurance on whether these results will be achieved.

1.3 Currency

1. Unless otherwise noted, all currency references in this Ninth Report are in Canadian dollars.

2.0 WEPPA

1. The Monitor understands that a total of 27 employees were either: (i) not offered employment with BMO pursuant to the Transaction and were subsequently terminated by the Applicant; or (ii) on long-term disability prior to the CCAA Proceedings, not offered employment with BMO pursuant to the Transaction, and were subsequently terminated by the Applicant. All terminated employees received their full wages and accrued vacation pay but were not paid severance or termination pay.
2. In June 2024, the Monitor, on the Applicant's behalf, sought a declaration confirming that the Applicant met the eligibility criteria for WEPPA. This declaration would enable the Monitor, on behalf of the Applicant, to facilitate claims for severance and termination pay by eligible former employees of the Applicant under WEPPA. In its Stay Extension Order dated June 13, 2024, this Court declared that the Applicant met the criteria prescribed by the WEPPA regulations.

3. Since that time, the Monitor has identified all former employees potentially eligible for WEPPA payments and has been assisting them in submitting claims to Service Canada. To date, the Monitor has successfully facilitated claims for twelve former employees, who have since received WEPPA payments. However, claims for the remaining former employees have not yet been processed as these former employees had been on long-term disability for several years, and the Applicant no longer maintained payroll records for them. As a result, the Monitor has reached out to various disability insurers to attempt to obtain the necessary information to complete their claims. This information has not yet been obtained to date. The Monitor continues to follow up regularly with the disability insurers. At this time, the Monitor is uncertain as to whether the required records exist, and accordingly, it cannot provide any assurance that the outstanding information required to file the remaining WEPPA claims will be obtained.

3.0 Payment of RACJ Refund to BMO

1. In December 2024, the Monitor was contacted by BMO requesting the payment of certain funds received by the Applicant from RACJ in November 2023, in accordance with the terms of the Stalking Horse APA. RACJ is a regulatory agency in Quebec responsible for, among other things, overseeing public contests.
2. In May 2023, the Applicant, in the ordinary course of business, provided the Security Deposit of \$429,834 to RACJ via wire transfer in connection with the AIR MILES “Carousel of Dreams” promotion. Following closing of the Transaction, on November 22, 2023, the Monitor received and deposited a cheque from RACJ for the amount of the Security Deposit, which the Monitor understood to be a tax refund from the Government of Quebec. However, the Monitor has since confirmed with RACJ that the payment was, in fact, a refund of the Security Deposit.
3. BMO subsequently requested that the refunded Security Deposit be transferred to BMO as a purchased asset under the Stalking Horse APA. Upon review and consultation with counsel to the Applicant and the Monitor and RACJ, the Monitor confirmed that the refund represented the return of the original Security Deposit related to the AIR MILES “Carousel of Dreams” promotion and, as such, constituted a purchased asset acquired by BMO under the Transaction.
4. On January 21, 2025, the Monitor advised the Credit Agreement Lenders’ counsel of its intention to deliver the refund of the Security Deposit to BMO. No objections were raised. Accordingly, on January 27, 2025, the Monitor wired \$429,834 to BMO.

4.0 Update on TMA Motions

1. The Applicant, the Monitor and Bread have filed motions (the “**TMA Motions**”) relating to the Tax Matters Agreement between Alliance Data Systems Corporation (now known as Bread) and Loyalty Ventures Inc. dated November 5, 2021 (“**TMA**”). The TMA Motions have been the subject of prior Monitor reports, and accordingly, are not detailed in this Ninth Report.
2. A hearing on the TMA Motions proceeded before the Court on June 13 and 14, 2024. On July 10, 2024, this Court made an endorsement in respect of the TMA Motions (the “**TMA Motions Endorsement**”), in which the Court, among other things:

- a. determined that the Applicant is a party to the TMA and that a disclaimer of the TMA was not permitted; and
 - b. did not grant Bread's request for a constructive trust or propriety claim over the proceeds (if any) received by the Applicant in connection with the Tax Appeal and found that it was premature to address Bread's request for an order directing the Applicant to comply with the TMA.
3. On July 31, 2024, the Applicant and the Monitor filed a motion for leave to appeal certain aspects of the order to be made pursuant to the TMA Motions Endorsement to the Ontario Court of Appeal. On March 7, 2025, the Ontario Court of Appeal dismissed the Applicant's and the Monitor's motion for leave to appeal.
4. Counsel to each of the Applicant, the Monitor and Bread have been discussing next steps regarding resolution of the outstanding relief sought in the TMA Motions, including in light of the status of the 2013 Reassessment (as described in Section 5, below). In addition, as directed by the Court, the parties have made submissions to the Court regarding the propriety and timing of costs, if awarded, on the TMA Motions. The parties are currently working toward a possible settlement of the TMA Motions and other litigation pending between parties in Canada and the United States and the Monitor will provide a progress update to the Court once the parties have agreed on a process.

5.0 Status of the 2013 Reassessment

1. As detailed in the Eight Report of the Monitor dated September 16, 2024, the Applicant and His Majesty the King entered into a settlement of the Applicant's tax appeal relating to its 2013 tax assessment. The settlement was approved by this Court in its Settlement Authorization Order dated September 26, 2024.
2. The settlement contemplates the prompt issuance of the 2013 Reassessment by the Minister of National Revenue. The Monitor and the Applicant's counsel have followed up with the CRA regarding the status of the 2013 Reassessment and corresponding refund from time to time. On March 3, 2025, the CRA advised the 2013 Reassessment would be issued on March 5, 2025. As of the date of this Ninth Report, the 2013 Reassessment has not yet been received by the Monitor.
3. The Applicant's counsel has kept counsel to Bread and counsel to the Credit Agreement Lenders and trustee updated regarding the status of the 2013 Reassessment.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.
IN ITS CAPACITY AS MONITOR OF
LOYALTYONE, CO.
AND NOT IN ITS PERSONAL CAPACITY**

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

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF LOYALTYONE, CO.
(the “Applicant”)

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

**NINTH REPORT OF THE MONITOR
(MARCH 14, 2025)**

Goodmans LLP
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7

Brendan O’Neill LSO#: 43331J
boneill@goodmans.ca

Christopher Armstrong LSO#: 55148B
carmstrong@goodmans.ca

Andrew Harmes LSO#: 73221A
aharmes@goodmans.ca

Lawyers for the Monitor, KSV Restructuring Inc.