



IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

IN THE MATTER OF NEXII BUILDING SOLUTIONS INC.,
NEXII CONSTRUCTION INC, NBS IP INC., NEXII HOLDINGS INC, 4540514 CANADA
INC., 1061660 B.C. LTD., 0592286 B.C. LTD, 0713447 B.C. LTD, AND 0597783 B.C. LTD

PETITIONERS

NOTICE OF APPLICATION

Name of Applicant: KSV Restructuring Inc. ("**KSV**"), in its capacity as the Court-appointed Monitor of the Petitioners (in such capacity, the "**Monitor**")

To: The Service List, a copy of which is attached hereto as Schedule "A"

TAKE NOTICE THAT an application will be made by the Monitor to the Honourable Justice Stephens, at the courthouse at 800 Smithe Street, Vancouver, British Columbia, on Tuesday, August 27, 2024, at 9:00 a.m. for the orders sought in Part 1 below.

The time estimate for this application is 1 hour.

This matter is not within the jurisdiction of an associate judge. Justice Stephens is seized of this matter.

PART I: ORDER SOUGHT

1. An order (the "**Distribution, Stay Extension and Fee Approval Order**") in substantially the form attached as Schedule "B", among other things:

- (a) abridging the time for service of this Notice of Application and supporting materials;
- (b) authorizing a distribution of the Remaining Proceeds (as defined therein) to the Senior Secured Lenders or such other persons as the Senior Secured Lenders may direct (the "**Distribution**");

- (c) extending the stay of proceedings in favor of the Petitioners until the earlier of:
 - (i) the date that the Monitor files the Termination Certificate (as that term is defined in the Ancillary Order of Justice Stephens dated June 28, 2024); and
 - (ii) September 30, 2024.
- (d) approving the conduct and activities of the Monitor as described in the Fourth Report of the Monitor dated August 22, 2024 (the “**Fourth Report**”); and
- (e) approving the fees and disbursements of the Monitor and counsel to the Monitor (including estimated fees until the completion of these CCAA Proceedings) as summarized in the Fourth Report.

2. The Monitor may also seek such further relief as counsel may advise and this Honourable Court may deem just.

PART II: FACTUAL BASIS

A. Overview

1. Capitalized terms used herein have the same meanings as in the First Report of the Monitor dated January 19, 2024 (the “**First Report**”), the Second Report of the Monitor dated April 19, 2024 (the “**Second Report**”), the Third Report of the Monitor dated June 24, 2024 (the “**Third Report**”) and the Fourth Report, unless otherwise defined.

2. All references to monetary amounts in this application are in Canadian dollars unless otherwise stated.

3. Background on the Petitioners and the circumstances that precipitated these CCAA Proceedings are set out in the previous Court materials filed in the within proceedings and are therefore not repeated herein.

1. Previous Orders Made after Application

4. On June 28, 2024, this Court granted two Orders:

- (a) an Order, among other things, approving an asset purchase agreement for the business and assets of Nexii Building Solutions Inc., Nexii Construction Inc., NBS IP Inc. and Nexii Holdings Inc. to Nexiican Holdings Inc. and Nexii, Inc., vesting in those purchasers all of the right, title and interest in those purchased assets other than certain permitted encumbrances (the “**Nexii Transaction**”); and
 - (b) an Order, among other things, approving the conduct and activities of the Monitor, approving the fees and disbursements of the Monitor and counsel to the Monitor, terminating the CCAA Proceedings upon the Monitor's filing of the Termination Certificate, releasing certain parties and discharging KSV as the Monitor of the Petitioners and terminating the Charges at the CCAA Termination Time and extending the stay of proceedings until the earlier of: (i) the CCAA Termination Time; and (ii) August 31, 2024;
- (collectively, the “**Nexii Sale Orders**”).

2. **Activities Since the Nexii Sale Orders**

5. Since the granting of the Nexii Sale Orders, the Monitor, counsel for the Monitor and management of the Petitioners have engaged in various activities for the benefit of the Petitioners and their stakeholders, including:

- (a) assisting the Petitioners in collecting accounts receivable outstanding and due by customers for work completed before the commencement of the CCAA Proceedings;
- (b) assisting the Petitioners to complete a project for a key customer who has provided incremental funding to complete such project (the “**Key Project**”);
- (c) reconciling all final trust account matters related to completion of the Key Project, and terminating all agreements negotiated and entered into during the CCAA Proceedings relating to the Key Project;
- (d) assisting the Petitioners with obtaining the US Recognition Order and closing the Nexii Transaction;

- (e) providing financial and operational updates in respect of the Petitioners to the Senior Secured Lenders and their counsel;
- (f) corresponding with the Petitioners' stakeholders and creditors and providing operational and other updates in connection with the CCAA Proceedings;
- (g) monitoring the US Recognition Proceedings;
- (h) monitoring the Petitioners' receipts and disbursements;
- (i) corresponding with creditors and other stakeholders regarding various matters on an as-needed basis; and
- (j) preparing the Fourth Report and court materials in respect of the Distribution, Stay Extension and Fee Approval Order.

B. Distribution

6. As detailed further in the Pre-Filing Report and the Third Report, the Petitioners are obligors under an amended and restated venture loan and security agreement with the Senior Secured Lenders dated August 27, 2021 (the "**Loan Agreement**"). The Petitioners and the Vendors granted security in favour of the Senior Secured Lenders for the amounts owing under the Loan Agreement. As of August 22, 2024, approximately USD \$67,800,000 was outstanding under the Loan Agreement.

7. The Nexii Transaction provided for: (i) an assumption of, among other things, \$2 million under the DIP Facility and \$20 million owing to the Senior Secured Lenders under the Loan Agreement; and (ii) cash consideration of \$500,000. At the time the Nexii Sale Orders were approved, the Monitor did not reasonably believe there would be remaining proceeds to be distributed to the Senior Secured Lenders following the satisfaction of all remaining payments required to be made prior to termination of these CCAA Proceedings. However, the Petitioners, with the assistance of the Monitor, have managed their cash flow more favourably than anticipated such that the Monitor estimates that there will be up to \$140,000 to distribute to the Senior Secured Lenders.

8. As previously disclosed to stakeholders and the Court in the Second Report, Bennett Jones has provided the Monitor with an opinion that, subject to the usual and customary assumptions and qualifications contained in such opinions, the Senior Secured Lenders have valid and enforceable security (subject to the Charges) against the assets of the Petitioners.

9. Accordingly, the Monitor is supportive of the Distribution to the Senior Secured Lenders.

C. Stay Extension

10. The Monitor seeks an extension of the Stay Period (as defined in the ARIO) until the earlier of: (i) the date the Monitor files the Termination Certificate, at which time these CCAA Proceedings will terminate; and (ii) September 30, 2024 (the “**Stay Extension**”).

11. The Monitor submits that the proposed Stay Extension is appropriate in the circumstances because, among other things:

- (a) no creditor will be materially prejudiced by the proposed extension of the Stay of Proceedings;
- (b) the Petitioners have been acting in good faith and with due diligence throughout the course of these CCAA Proceedings;
- (c) the Stay of Proceedings is supported by the Senior Secured Lenders, the only party with a remaining economic interest in the Petitioners;
- (d) as of the date of the Fourth Report, the Monitor is not aware of any party opposed to an extension of the Stay of Proceedings; and
- (e) the extension will allow sufficient time for the Monitor to complete the Distribution.

D. Activities and Fees of the Monitor

12. The Monitor has prepared four reports outlining the details of the work required of the Monitor during the CCAA Proceedings.

13. Pursuant to paragraphs 34 and 35 of the ARIO, the Court ordered and directed:

34. The Monitor, counsel to the Monitor and counsel to the Petitioners shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Petitioners as part of the cost of these proceedings. The Petitioners are hereby authorized and directed to pay the accounts of the Monitor, counsel to the Monitor and counsel to the Petitioners on a periodic basis.

35. The Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the British Columbia Supreme Court who may determine the manner in which such accounts are to be passed, including by hearing the matter on a summary basis or referring the matter to a Registrar of this Court.

14. The Ancillary Order of Justice Stephens dated June 28, 2024 approved a fee accrual of \$250,000 for the Monitor and Bennett Jones (the “**Initial Fee Accrual**”). The Initial Fee Accrual has been entirely consumed in connection with closing the Nexii Transaction and the various activities of the Monitor since the Nexii Sale Orders as described above.

15. The Monitor seeks approval of an incremental fee accrual for itself and Bennett Jones for any remaining fees incurred in connection with the Distribution, Stay Extension and Fee Approval Order and ancillary activities to wind up these CCAA Proceedings in the aggregate amount of \$50,000, plus disbursements and applicable excise taxes (the “**Incremental Fee Accrual**”).

16. The Monitor is of the view that the Incremental Fee Accrual sufficiently estimates the remaining fees to be incurred through to termination of the CCAA Proceedings and is reasonable in the circumstances.

17. In addition to the Incremental Fee Accrual, the Monitor is also seeking approval of its activities as described in its Fourth Report provided, however, that only KSV 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.

PART III: LEGAL BASIS

1. The Monitor relies on the following:

- (a) the CCAA;
- (b) Supreme Court Civil Rules of British Columbia;

- (c) the inherent jurisdiction of this Honourable Court; and
- (d) such further and other legal basis as counsel may advise and this Honourable Court may allow.

2. The remedial objective of the CCAA is to facilitate a restructuring of a debtor company, which may be achieved through a sale process for the company's business and assets. Section 11 of the CCAA grants this Court broad and flexible authority to make the orders necessary to achieve these objectives. The Monitor submits that all of the relief sought on this Application furthers the objectives of the CCAA and benefits the Petitioners and their stakeholders, including the Senior Secured Lenders.

CCAA, section 11.
Century Services Inc. v. Canada (Attorney General), 2010 SCC 60 at paras. 18-19 and 70.
North American Tungsten Corp. (Re), 2015 BCSC 1376 ("*North American Tungsten*") at paras. 25 and 27.

3. The Monitor proposes that this Honourable Court grant the Distribution, Stay Extension and Fee Approval Order on notice to the Service List.

A. The Distribution, Stay Extension and Fee Approval Order

1. Distribution to the Senior Secured Lenders

4. The Petitioners are indebted to the Senior Secured Lenders under the terms of the Loan Agreement amongst the Petitioners and the Lenders.

5. No creditor has claimed an interest over the assets of the Petitioners in priority to Senior Secured Lenders. The Monitor and the Petitioners would be entitled to deduct and withhold from any distribution such amounts as may be required to be deducted and withheld pursuant to any applicable tax legislation and remit those amounts to the appropriate governmental authority.

6. The Monitor requests Court approval to make a final distribution from the Proceeds to the Senior Secured Lenders in the amount of approximately \$140,000, which is to be distributed to the Senior Secured Lenders in partial satisfaction of the indebtedness owing to them by the Petitioners.

7. This Court has jurisdiction pursuant to section 11 of the of the CCAA to “make any order that it considers appropriate in the circumstances”. The Supreme Court of Canada in *9354-9186 Quebec Inc. v. Callidus Corp.* provided that section 11 signals Parliament’s endorsement of the “broad reading of [the] CCAA authority developed by the jurisprudence”. This discretion must be exercised in furtherance of the remedial objectives of the CCAA, including the baseline considerations of appropriateness, good faith and due diligence.

9354-9186 Quebec Inc. v. Callidus Corp., 2020 SCC 10 at paras. 67, 70.

8. The Monitor submits that approving a distribution to the Senior Secured Lenders in the circumstances would be in furtherance of the remedial objectives of the CCAA as the Petitioners relied on interim financing from the Senior Secured Lenders for the benefit of all its stakeholders in these CCAA Proceedings. No party has a higher-ranking security against the Assets of the Petitioners, no party has any other economic interest in the Assets of the Petitioners and no party has indicated to the Monitor that it opposes a final distribution.

2. Extension of Stay Period

9. The Ancillary Order provides for a stay of proceedings in respect of the Petitioners to the earlier of: (i) the date that the Monitor files the Termination Certificate; and (ii) August 31, 2024.

10. Pursuant to the CCAA section 11.02(2), the Court may extend this period for any period that the Court considers necessary provided that (a) the extension sought is appropriate in the circumstances; and (b) the Petitioners have acted and are acting in good faith and with due diligence. In determining whether it is appropriate to extend a stay of proceedings, courts consider whether doing so will advance the remedial purpose of the CCAA.

CCA section 11.02(2).
North American Tungsten, at paras. 25-29.

11. Since the Nexii Sale Orders extended the Stay of Proceedings to the earlier of either the CCAA Termination Time and August 30, 2024, the Monitor and the Petitioners have acted and continue to act and operate in good faith and with due diligence.

12. The Monitor submits that the proposed extension is necessary to allow the Monitor and/or the Petitioners to take steps to complete the Distribution and complete other ancillary wind-down activities with a view to terminating these CCAA Proceedings.

13. The proposed Stay Extension is intended to avoid the need for additional costly Court appearances in these CCAA Proceedings in order to allow the Petitioners to conclude these CCAA Proceedings in an efficient and cost-effective manner.

3. Approval of Activities and the Incremental Fee Accrual

(a) Approval of the Monitor's Activities

14. The Fourth Report outlines the specific activities taken by the Monitor for which the Monitor is now seeking approval by this Honourable Court.

15. Approval of the Monitor's activities is appropriate in these circumstances because such approval will:

- (a) allow the Monitor, the Petitioners, and other stakeholders to move forward confidently with the final steps in these CCAA Proceedings;
- (b) bring the Monitor's activities in issue before the Court, providing an opportunity for the concerns of the Court, the Petitioners, and/or other stakeholders to be addressed, and any problems to be rectified in a timely way;
- (c) provides certainty and finality in these CCAA Proceedings and activities undertaken by the Monitor, while providing an opportunity for the Petitioners and the stakeholders to raise specific objections and concerns;
- (d) enables the Court, tasked with supervising these CCAA Proceedings, to satisfy itself that the Monitor's court-mandated activities have been conducted in a prudent and diligent manner;
- (e) provides appropriate protection for the Monitor, not otherwise provided by statute; and

- (f) protects the Petitioners and their creditors from delay that would be caused by:
 - (i) re-litigation of steps taken to-date; and
 - (ii) potential indemnity claims by the Monitor.

Target Canada Co. (Re), 2015 ONSC 7574 at paras 12 and 23.

(b) Approval of the Incremental Fee Accrual

16. In assessing whether the fees of insolvency professionals and their counsel ought to be approved, the Court considers whether those fees and disbursements are properly made or incurred and are fair and reasonable.

17. The Court considers a number of factors in assessing whether the fees of a receiver are reasonable, including:

- (a) the value of the assets;
- (b) complications and difficulties encountered;
- (c) degree of assistance provided;
- (d) time spent;
- (e) knowledge, experience and skill;
- (f) diligence and thoroughness;
- (g) responsibilities assumed;
- (h) results; and
- (i) cost of comparable services.

Redcorp Ventures Ltd. (Re), 2016 BCSC 188 at para 23.

18. Courts have held that the appropriate focus on application to approve monitor's fees in proceedings under the CCAA is no different than that in a receivership or bankruptcy.

Winalta Inc. (Re), 2011 ABQB 399 at para 30.

19. It is not necessary to go through the dockets, hours, the explanations or disbursements, line by line, in order to determine whether the appropriate fees are reasonable. Nor is the Court to second-guess the amount of time spent by a receiver unless it is clearly excessive or overreaching.

Bank of Nova Scotia v. Diemer, 2014 ONSC 365 at para 19.

20. Similar factors are considered on the assessment of the fees and disbursements of legal counsel in proceedings under the CCAA. These include:

- (a) the time expended;
- (b) the complexity of the proceedings;
- (c) the degree of responsibility assumed by the court-officer and the lawyers;
- (d) the amount of money involved, including reference to the debt, amount of proceeds after realization, payments to the creditors;
- (e) the degree of skill of the lawyers involved;
- (f) the results achieved;
- (g) the ability of the client to pay; and
- (h) the client's expectations as to the fee.

Redcorp Ventures Ltd. (Re), 2016 BCSC 188 at para 33.

21. The Monitor and its counsel's activities during the relevant period included:

- (a) assisting the Petitioners in collecting accounts receivable outstanding and due by customers for work completed before the commencement of the CCAA Proceedings;
- (b) assisting the Petitioners to complete a project for a key customer who provided incremental funding to complete the Key Project;

- (c) reconciling all final trust account matters related to completion of the Key Project, and terminating all agreements negotiated and entered into during the CCAA Proceedings relating to the Key Project;
- (d) assisting the Petitioners with obtaining the US Recognition Order and closing the Nexii Transaction;
- (e) providing financial and operational updates in respect of the Petitioners to the Senior Secured Lenders and their counsel;
- (f) corresponding with the Petitioners' stakeholders and creditors and providing operational and other updates in connection with the CCAA Proceedings;
- (g) monitoring the US Recognition Proceedings;
- (h) monitoring the Petitioners' receipts and disbursements;
- (i) corresponding with creditors and other stakeholders regarding various matters on an as-needed basis; and
- (j) preparing the Fourth Report and court materials in respect of the Distribution, Stay Extension and Fee Approval Order.

22. The Monitor submits that Incremental Fee Accrual is fair and reasonable in the circumstances and sufficiently estimates the remaining fees to be incurred through termination of these CCAA Proceedings.

PART IV: MATERIAL TO BE RELIED ON

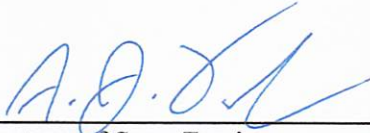
1. The First Report of the Monitor filed January 19, 2024;
2. The Second Report of the Monitor filed April 19, 2024;
3. The Third Report of the Monitor filed June 24, 2024;
4. The Fourth Report of the Monitor to be filed; and

5. Such further and other materials as counsel may advise and this Honourable Court may allow.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed application response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
 - (i) (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Dated: August 22, 2024


For: Signature of Sean Zweig
Lawyer for the Monitor

THIS NOTICE OF APPLICATION is filed by Bennett Jones LLP, whose office address and address for service is 3400 One First Canadian Place, P.O. Box 130, Toronto, ON, M5X 1A4; Telephone: 416-863-1200; Facsimile: 416-863-1716 (Reference: 074735.00048)

To be completed by the court only:

Order made

- in the terms requested in paragraphs _____ of Part 1 of this notice of application
- with the following variations and additional terms:

Dated: _____

Signature of Judge Associate Judge

APPENDIX

THIS APPLICATION INVOLVES THE FOLLOWING:

- discovery: comply with demand for documents
- discovery: production of additional documents
- other matters concerning document discovery
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial
- case plan orders: amend
- case plan orders: other
- experts
- OTHER

- A-1 -

**SCHEDULE "A"
SERVICE LIST**

(attached)

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, as amended

AND

IN THE MATTER OF NEXII BUILDING SOLUTIONS INC.,
NEXII CONSTRUCTION INC., NBS IP INC., AND NEXII HOLDINGS INC.
PETITIONERS

Service List (February 2, 2024)	
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Government Entities

**CANADA REVENUE AGENCY
SURREY NATIONAL VERIFICATION AND
COLLECTION CENTRE**

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Enforcement**

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Janine Vindevoghel
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Email: janine.vindevoghel@gov.sk.ca

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<p>101118806 SASKATCHEWAN LTD. O/A ATHABASCA HEATED STORAGE 125-361 Main St. N Moose Jaw, SK S6H 0W2</p> <p>Email: goldkey.acct@sasktel.net brent.goldkey@gmail.com michaeljk@gmail.com</p>	

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SCHEDULE "B"
DRAFT ORDER – DISTRIBUTION, STAY EXTENSION
AND FEE APPROVAL ORDER

(attached)

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, RSC 1985, c C-36, as amended

and

IN THE MATTER OF NEXII BUILDING SOLUTIONS INC.,
NEXII CONSTRUCTION INC, NBS IP INC. and NEXII HOLDINGS INC., 4540514
CANADA INC., 1061660 B.C. LTD., 0592286 B.C. LTD, 0713447 B.C. LTD, AND 0597783
B.C. LTD

PETITIONERS

DISTRIBUTION, STAY EXTENSION AND
FEE APPROVAL ORDER

BEFORE THE HONOURABLE)
JUSTICE STEPHENS) AUGUST 27, 2024
)
)
)
)
)

ON THE APPLICATION of KSV Restructuring Inc., in its capacity as the Court-appointed Monitor (in such capacity the "Monitor"), coming on for hearing at Vancouver, British Columbia, on the 27th day of August, 2024; AND ON HEARING from counsel of the Monitor, Sean Zweig and Andrew Froh and those other counsel listed on **Schedule "A"** hereto, and no one else appearing although duly served; AND UPON READING, the material filed, including the Fourth Report of the Monitor dated August 22, 2024 (the "**Fourth Report**"); AND PURSUANT TO the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), the *British Columbia Supreme Court Civil Rules*, and the inherent jurisdiction of this Court;

THIS COURT ORDERS AND DECLARES THAT:

1. Capitalized terms used in this Order and not otherwise defined herein shall have the meaning ascribed to them in the: (i) Initial Order of Justice Stephens made on January 11, 2024 (the “**Initial Order**”), as amended by the Order of Justice Stephens dated January 22, 2024 (the “**Amended and Restated Initial Order**”); or (ii) the First Report (as defined in the Amended and Restated Initial Order), the Second Report of the Monitor dated April 19, 2024 (the “**Second Report**”), the Third Report of the Monitor dated June 24, 2024 (the “**Third Report**”) and the Fourth Report, as the case may be.
2. The time for service of this Notice of Application and supporting materials is hereby abridged such that the Notice of Application is properly returnable today.

DISTRIBUTION

3. The Monitor and/or any of the Petitioners are hereby authorized to distribute the remaining proceeds received from the Nexii Transaction up to and including USD \$67,800,000 (the “**Remaining Proceeds**”) to the Senior Secured Lenders or such other person(s) as the Senior Secured Lenders may direct (the “**Distribution**”).
4. The Monitor and/or any of the Petitioners are hereby authorized to take all necessary steps and actions to effect the Distribution in accordance with the provisions of this Order, and shall not incur any liability as a result of making the Distribution.
5. Notwithstanding:
 - (a) the pendency of these CCAA proceedings;
 - (b) any application for a bankruptcy or receivership order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (the “**BIA**”) or other applicable legislation in respect of the Petitioners and any bankruptcy or receivership order issued pursuant to any such applications; and
 - (c) any assignment in bankruptcy made in respect of the Petitioners;
 - (d) and any provisions of any federal or provincial legislation,

the Distribution shall be made free and clear of all Encumbrances (including the Charges) and shall be binding on any trustee in bankruptcy or receiver that may be appointed in respect of the Petitioners and shall not be void or voidable nor deemed to be a preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

6. The Monitor and/or any of the Petitioners shall be entitled to deduct and withhold from any Distribution such amounts as may be required to be deducted or withheld with respect to such Distribution under any applicable tax legislation and to remit such amounts to the appropriate governmental authority or other person entitled thereto. To the extent that amounts are so withheld or deducted and remitted to the appropriate governmental authority or other person, such withheld or deducted amounts shall be treated for all purposes as having been paid pursuant to this Order to such person as the remainder of the Distribution in respect of which such withholding or deduction was made.
7. Any payments, distributions and disbursements made under this Order shall not constitute a “distribution” by any person and the Monitor shall not constitute a “legal representative” or “representative” for the purposes of section 159 of the *Income Tax Act* (Canada), section 270 of the *Excise Tax Act* (Canada), section 23 of the *Canada Pension Plan Act* (Canada), section 86 of the *Employment Insurance Act* (Canada), and section 97.39 of the *Customs Act* (Canada), or any other similar federal, provincial or territorial tax legislation (collectively, the “**Tax Statutes**”), and the Monitor, in making any such distributions, disbursements or payments, as applicable, is merely a disbursing agent under this Order, and is not exercising any discretion in making such distributions, disbursements or payments under this Order and no person is “distributing”, nor shall be considered to “distribute” nor have “distributed”, such funds for the purpose of the Tax Statutes. Further, the Monitor shall not incur any liability under the Tax Statutes in respect of its making any payments, distributions or disbursements ordered or permitted under this Order, and are hereby forever released and discharged from any claims against it, him or her under or pursuant to the Tax Statutes or otherwise at law, arising in respect of any such payments, distributions or disbursements made under this Order and any claims of this nature are hereby forever barred.

STAY EXTENSION

8. The Stay Period granted in paragraph 16 of the Amended and Restated Initial Order, as extended pursuant to paragraph 17 of the Ancillary Order of Justice Stephens dated June 28, 2024, is hereby extended to the earlier of: (a) the CCAA Termination Time; and (b) September 30, 2024.

APPROVAL OF ACTIVITIES AND FEES

9. The activities of the Monitor as described in the Fourth Report are hereby approved; provided however that only KSV Restructuring Inc. 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.
10. The Monitor's and Bennett Jones' estimated aggregate future fees and disbursements up CAD \$50,000 to the CCAA Termination Time, as outlined in the Fourth Report, are hereby approved.

GENERAL

11. The Petitioners or the Monitor may apply to the Court as necessary to seek further orders and directions to give effect to this Order.
12. Endorsement of this Order by counsel appearing, other than counsel for the Monitor, is hereby dispensed with.
13. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal and regulatory or administrative bodies, having jurisdiction in Canada or in the United States of America, including the United States Bankruptcy Court overseeing the Petitioners' proceedings under Chapter 15 of the Bankruptcy Code in Case No. 24-10026-JKS, or in any other foreign jurisdiction, to give effect to this Order and to assist the Petitioners, the Monitor, and their respective agents in carrying out the terms of this Order. All courts, tribunals and regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Petitioners 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 Petitioners and the Monitor and their respective agents in carrying out the terms of this Order.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

Signature of
 Party Lawyer for KSV
Restructuring Inc.

Bennett Jones LLP
(Sean Zweig)

BY THE COURT

REGISTRAR

Schedule "A"

List of Counsel

NAME	PARTY
Sean Zweig and Andrew Froh	The Monitor, KSV Restructuring Inc.