Court File No. CL-26-00000261-0000

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

B E T W E E N:

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 PAYSTONE HOLDINGS INC., PAYSTONE INC., ATOM GROWTH INC., AND ATOM GROWTH (USA), INC.

Applicants

FACTUM OF THE MONITOR

July 9, 2026

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PART I - NATURE OF THE APPLICATION

1. In this motion, AlixPartners Restructuring, Inc. (formerly KSV Restructuring Inc.), in its capacity as court-appointed monitor (in such capacity, the "**Monitor**") of Paystone Holdings Inc., Paystone Inc. ("**Paystone**"), Atom Growth Inc., and Atom Growth (USA), Inc. (collectively the "**Applicants**" or "**Company**"), seeks the "**SISP Approval Order**," which will, among other things: (i) approve the terms of a proposed court-supervised sale and investment solicitation process to be conducted exclusively by the Monitor (the "**SISP**"); and (ii) grant the Monitor enhanced powers in order to, among other things, implement the SISP.

2. On June 5, 2026, the Applicants were granted protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**," and the within proceedings, the "**CCAA Proceedings**") pursuant to an initial order (as amended and restated on June 15, 2026, the "**Initial Order**") of the Ontario Superior Court of Justice (Commercial List) (the "**Court**"). As part of the Initial Order, AlixPartners Restructuring, Inc. (formerly KSV Restructuring Inc.) was appointed as Monitor.

3. On June 22, 2026, the Applicants sought approval of a sale transaction with 1001632600 Ontario Inc., an entity controlled by the principals of the Applicants, which was opposed by BDC Capital Inc. ("**BDC**"), the subordinate secured creditor of the Applicants. By way of an endorsement dated June 24, 2026 (the "**June 24 Endorsement**"), the Court declined to approve the proposed transaction and instead suggested that a sale process would likely need to be undertaken by the Monitor. Following the June 24 Endorsement, the Applicants and the Monitor have continued to engage with the Applicants' various stakeholders to, among other things,

develop, negotiate and finalize the terms of a sale process and debtor-in-possession ("**DIP**") loan facility.

4. The requested SISP Approval Order is fair and reasonable in the circumstances and should be approved. The proposed SISP would provide for a fair, open, and transparent process, and is designed to address the matters raised by the Court in the June 24 Endorsement. It is supported by Sandton Investments X (Luxembourg) S.à r.l. ("**Sandton**"), the Applicants' senior secured creditor, and required by the terms of the DIP facility (the "**DIP Facility**") proposed to be provided to the Applicants by Sandton (in such capacity, the "**DIP Lender**"). The SISP represents the best path forward for the Applicants and their stakeholders, as it will enable the Monitor to seek the best possible value for the Applicants' business and property.

PART II - SUMMARY OF FACTS

5. The facts are more fully set out in the Fourth Report of the Monitor.[1]

A. Background

(a) The Business of the Applicants

6. The Applicants' operations are focused on providing specialized products and services in three primary business lines: (i) payment solutions and payment processing; (ii) loyalty, gift card, and customer engagement programs; and (iii) marketing, reputation, and customer growth software. The Company has approximately 38,000 customers (the majority of which are small and medium sized businesses based in Canada), and its revenues are driven by recurring payment

[1] Fourth Report of the Monitor dated July 6, 2026 [Fourth Report]. Capitalized terms used and not otherwise defined herein shall have the meanings ascribed thereto in the Fourth Report.

processing fees charged to customers as part of its payment process business line, as well as recurring software subscription fees across its other business lines.[2]

7. The Company's business depends heavily on maintaining the confidence of its customers, payment processing partners, employees, and other commercial counterparties. In particular, the Company's business requires reliable service from banks that connect the Company to their credit card network, along with cloud service providers and other providers of proprietary software. The Company's customers in turn expect seamless operations and continuity of service, in order to maintain their own customer relationships and business operations. As a result, maintaining uninterrupted service to customers is key to preserving enterprise value.[3]

8. The CCAA Proceedings were initiated to create a stabilized environment and breathing space which will allow the Applicants to, among other things, continue operating in the ordinary course, and complete a going-concern transaction (or transactions) in an efficient manner, which will allow for the transfer of the Applicants' business with minimal disruption.[4]

(b) Secured Creditors

9. The Company's senior secured creditor was formerly a lending syndicate (the "**Syndicate**"), led by National Bank of Canada, as agent, that provided debt financing pursuant to credit facilities to the Company (the "**Senior Credit Facilities**").[5]

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2 Fourth Report at paras. 2.0.2, 2.1.1-2.1.2, 2.2.1.

3 Fourth Report at paras. 2.1.3, 2.2.2-2.2.3.

4 Fourth Report at para. 1.0.3.

5 Fourth Report at para. 3.1.1.

10. On May 8, 2026, the Applicants, Sandton, the Syndicate, and certain other parties entered into a series of agreements (collectively, the "**Loan Purchase Transaction**"), pursuant to which, among other things, Sandton purchased the Syndicate's outstanding debt, thereby becoming the Applicants' senior secured creditor. The Loan Purchase Transaction closed on May 12, 2026, and as of June 30, 2026, approximately $92.2 million (inclusive of interest but excluding legal fees and other costs) was owing under the Senior Credit Facilities (the "**Senior Secured Obligations**").[6]

11. Pursuant to a letter of offer dated January 29, 2024, BDC advanced a loan to Paystone in the aggregate principal amount of $10,000,000 (the "**BDC Loan**"). The BDC Loan is subordinated to the amounts owing under the Senior Credit Facilities pursuant to a priority agreement dated February 29, 2024. As of June 30, 2026, approximately $12.9 million was owing under the BDC Loan (inclusive of accrued interest).[7]

12. In addition, the Company maintains certain bank and deposit accounts with The Bank of Nova Scotia ("**BNS**"), which plays a critical role in the Applicants' business as its primary billing provider. As a condition of its ongoing use of BNS banking services, Paystone pledged certain cash collateral to secure outstanding obligations owing to BNS related to customer chargeback or refund requests. The Company currently has $250,000 of restricted cash with BNS that is used to secure such obligations.[8]

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6 Fourth Report at para. 3.1.2-3.1.4.

7 Fourth Report at para. 3.2.1-3.2.2.

8 Fourth Report at para. 3.3.1.

B. The SISP

13. The proposed SISP is designed to solicit bids from interested parties for the sale of, or investment in, the Applicants' business, property and/or shares and/or an investment in, restructuring, recapitalization, refinancing or other form or reorganization of the Applicants and their business or any combination thereof. The Monitor has begun preparations for the SISP, with the objective of commencing the SISP as soon as possible following Court approval and receipt of all requested diligence documentation from the Applicants.[9]

14. Notice of the SISP, and any other relevant information the Monitor considers appropriate, will be published as soon as reasonably practicable following Court approval, and will include both a notice published on the Monitor's website and the issuing of a press release. The Monitor will further prepare NDAs, in consultation with the Applicants, which will be sent to any party that requests an NDA or is identified by the Monitor as a potential bidder. Interested parties ("**Potential Bidders**") that execute an NDA (and provide any supplemental information required by the Monitor) will be deemed to be a "Qualified Bidder," and will be provided with access to a data room.[10]

15. The deadline for the submission of "**Qualified Bids**" will be August 4, 2026 at 5:00 p.m. (ET). In order to be a Qualified Bid, a bid must, among other things: (i) be received by the deadline; (ii) constitute a binding offer to purchase all, substantially all, or a material portion of the Applicants' property or business, and/or make an investment in, restructure, recapitalize or refinance one or more Applicants or its or their business; and (iii) provide the required aggregate

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[9] Fourth Report at paras. 6.0.2, 6.0.6.

[10] Fourth Report at paras. 6.1.1-6.2.3.

consideration.[11] All secured creditors of the Applicants will have the ability to credit bid their secured debt against the assets so secured, so long as the credit bid pays out, in full and in cash, any prior ranking obligations in respect of those assets.[12]

16. Pursuant to the proposed SISP, the Monitor, in consultation with Sandton, will review and evaluate each Qualified Bid, and will, with the consent of Sandton, identify the highest or otherwise best bid as the "Successful Bid," and the next highest or otherwise second best bid as the "Back-Up Bid." If one or more Binding Offers is received in respect of the same assets or business, the Monitor may elect to proceed with an auction process, following which the Monitor will, with the consent of Sandton, select the Qualified Bid at the Auction that emerges as the Successful Bid; provided that, the consent of Sandton is not required under the SISP where Qualified Bid(s) acceptable to the Monitor will repay in full in cash all DIP Facility Obligations and Senior Secured Obligations.[13]

17. Should no Qualified Bid be received which provides for payment in full of all DIP Facility Obligations and Senior Secured Obligations, Sandton will have the right to seek Court approval of a credit bid transaction to acquire all or a material portion of the Applicants' business and property, in satisfaction of the DIP Facility Obligations and the Senior Secured Obligations.[14]

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[11] See Fourth Report at para. 6.3.1 for a detailed summary of the requirements for a Qualified Bid. A Qualified Bid must provide sufficient aggregate consideration to pay in full in cash the sum of: (i) obligations subject to the Administration Charge (including any wind-down reserve amount advised by the Monitor prior to the Bid Deadline as necessary to conclude the CCAA Proceedings) and any other Court-ordered charge in the CCAA Proceedings (other than the DIP Lender's Charge); (ii) any other priority payables relevant to such Bid or other amounts required to be paid in priority under applicable law or any Order made in the CCAA Proceedings, in each case, as of the closing date of the proposed transaction; and (iii) all DIP Facility Obligations owing to the DIP Lender under the DIP Facility, or provide such other recovery in respect of the DIP Facility Obligations as the DIP Lender may agree to in its sole and absolute discretion.

[12] Fourth Report at para. 6.6.1.

[13] Fourth Report at paras. 6.5.2-6.5.4.

[14] Fourth Report at para. 6.6.2.

18. The Monitor will be exclusively responsible for conducting the SISP. In particular, all discussions regarding potential bids must be directed through the Monitor, and the Applicants' management and stakeholders may not be contacted regarding the SISP without the prior consent of the Monitor. Similarly, any discussions between a Qualified Bidder and a stakeholder must be initiated by the Monitor, and the Monitor must be provided with an opportunity to be present for the communications or meetings. Further, none of the Applicants, the CRO, the Monitor, or the DIP Lender may provide information to any officer, director, principal or employee, or other non-arms' length party in relation to, 1001632600 Ontario Inc (the "**Management Bidders**"), and the Management Bidders are forbidden from engaging in any substantive communications with any other Potential Bidder with respect to any matter relating to the SISP except with the prior written consent of the Monitor.[15]

PART III - THE ISSUES AND THE LAW

19. This Factum addresses the following issues:

(a) whether the SISP should be approved; and

(b) whether the Monitor should be granted certain enhanced powers to implement the SISP.

A. The SISP Should be Approved

20. It is well established that a CCAA court has the jurisdiction to approve a sale process in relation to a CCAA debtor's business and assets. The Court in *Nortel* identified four factors that should be considered in determining whether to authorize a sale process, including: (i) whether a sale transaction is warranted at the time; (ii) whether the sale will benefit the entire economic

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[15] Fourth Report at paras. 6.4.1-6.4.3.

community; (iii) whether any of the debtors' creditors have a *bona fide* reasons to object to the sale; and (iv) whether there is a better viable alternative.[16]

21. The Monitor submits that each of the *Nortel* criteria are satisfied in respect of the SISP:[17]

(a) **The SISP is Warranted at this Time:** A SISP leading to a sale transaction is warranted and necessary at this time. The Court (along with BDC and other stakeholders) has suggested that a court-approved sale process should be conducted in the CCAA Proceedings, and the proposed SISP provides an opportunity to identify a value-maximizing, going-concern transaction for the benefit of the Applicants' stakeholders through a Court-approved process conducted exclusively by the Monitor. The SISP is being proposed by the Monitor, and is supported by the Applicants and Sandton.[18]

(b) **A Successful SISP Will Benefit the Entire Economic Community**: The proposed SISP is a fair, open and transparent process specifically intended to address the matters raised by the Court in the June 24 Endorsement. The SISP serves the interest of the entire economic community by providing for an opportunity to preserve the Applicants' going concern operations (including the employment of the Applicants' employees), and by ensuring that the market will be thoroughly canvassed and the highest and best bid for the Applicants' business will be identified. The SISP contains auction provisions designed to maximize the sale

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16 *Nortel Networks Corp. (Re)* (2009), 2009 CanLII 39492 (ON SC) at paras. 48-49. Although the Nortel criteria were articulated prior to the 2009 amendments to the CCAA, the same criteria apply under the post-2009 CCAA: *Brainhunter Inc. (Re),* 2009 CanLII 72333 (ON SC) at paras. 15-17.

17 See Fourth Report at para. 6.8.1 for a detailed summary of the Monitor's reasons for supporting the SISP.

18 Fourth Report at para. 6.8.1 (a)-(b), (k).

value in the event of multiple non-overlapping Qualified Bids; further, by providing Sandton with the right to credit bid its secured debt should a suitable sale transaction not materialize, the SISP leaves open another route to a successful transaction satisfactory to the Applicants' senior secured lender, to the benefit of stakeholders generally.[19]

(c) **The Applicants' Creditors do not have Any Reason to Object:** The Monitor does not believe that there is any *bona fide* reason for any creditors, or any other stakeholders, to object to the SISP. The SISP is commercially reasonable in the circumstances, will be conducted exclusively by the Monitor (who has significant experience in conducting processes of this nature), and was developed by the Monitor and designed specifically to address concerns raised by BDC and other stakeholders. The Monitor views the duration of the SISP as being sufficient to allow interested parties to perform diligence and submit offers, and the Monitor further retains the discretion to extend the SISP deadlines where, in the Monitor's reasonable business judgment, doing so would enhance the integrity or competitiveness of the SISP or otherwise maximize value. Finally, as discussed above, the terms of the SISP ensure that the Monitor retains control of communications related to the SISP, and prevents the Management Bidders from receiving information or engaging in substantive discussions with other Potential Bidders.[20]

[19] Fourth Report at para. 6.8.1 (c)-(d).

[20] Fourth Report at para. 6.8.1 (b), (e), (f), (i).

(d) **There is No Better Viable Alternative**: Following the June 24 Endorsement, no viable alternative to the SISP exists at this time. The approval of the SISP in the form proposed is required pursuant to the terms of the DIP Facility, without which the Applicants will be unable to continue operations. Further, conducting the SISP will further the purpose of the CCAA Proceedings, which is to create a stabilized environment which will enable the Applicants to, among other things, complete a going-concern transaction (or transactions), in an efficient manner to allow for the transfer of the Applicants' business with minimal disruption and loss of customers. Given the nature of the Company's business, which depends heavily on maintaining the confidence of its customers, payment processing partners, employees, and other contractual counterparties, the preservation of business continuity and operation stability is particularly important.[21]

22. Further, the Monitor views the rights provided to Sandton, the Applicants' senior secured creditor[22] and proposed DIP Lender, under the proposed SISP (including the right to credit bid, and the requirement to obtain Sandton's consent prior to selection of the Successful Bid and the Back-Up Bid, unless those bids will repay in full in cash all DIP Facility Obligations and Senior Secured Obligations) as reasonable and appropriate in the circumstances, and consistent with rights typically provided to DIP lenders and senior secured creditors in CCAA sales processes and the comments made by the Court in the June 24 Endorsement.[23] Courts have approved similar rights

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[21] Fourth Report at paras. 2.1.3, 2.2.4.

[22] As described in the Monitor's Supplement to the Second Report dated June 22, 2026, the security review conducted by the Monitor's Canadian and US legal counsel has confirmed that, subject to customary assumptions and limitations, the security documents securing the obligations under the Senior Secured Obligations owing under the Senior Credit Facilities constitute valid and enforceable security under the laws of the Province of Ontario and the State of New York, as applicable.

[23] Fourth Report at para. 6.8.1(l).

in the past, both with respect to the right to make credit bids,[24] and requiring the consent of a creditor in respect of a bid that does not pay out their debt in full.[25]

23. For the reasons set out above, the Monitor submits that the proposed SISP should be approved. Where a CCAA monitor makes recommendations regarding a sale process, arising from its commercial and business judgment, such recommendations are accorded significant deference by the courts. Courts have held that such expertise should not be lightly disregarded, including where the recommendations touch on the fairness, reasonableness, transparency, and efficiency of a sale process.[26]

B. The Monitor Should be Granted Enhanced Powers

24. The SISP Approval Order provides for certain enhanced powers for the Monitor, which will authorize the Monitor to implement the SISP, and to do all things reasonably necessary to perform its obligations under the SISP, including to: (i) engage, communicate, negotiate and/or agree with any party in connection with any Bid or the selection of any Successful Bid or Back-Up Bid, for and on behalf of the Applicants; and (ii) apply to the Court for any orders necessary or advisable in connection with the SISP (including any order approving a transaction).[27]

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[24] See, e.g., *2039882 Ontario Limited. (Re),* (February 6, 2024), Ont S.C.J. [Commercial List], Court File No. CV-24-00713069-00CL (SISP Approval Order), Schedule "A", at para. 13; *Crown Crest Capital Management Group. et al. (Re),* (June 2, 2025), Ont S.C.J. [Commercial List], Court File No. CV-23-00709183-00CL (SISP Approval and Other Relief), Schedule "A", at paras. 16, 23, 33.

[25] See, e.g., *Canacol Energy Ltd. et al. (Re),* (January 26, 2026), A.B.K.B., Court File No. 2501-18462 (Sales Process Approval and Other Relief Order), Schedule "A", at paras. 14, 19, 25; *Clearpier Acquisition Corp et al. (Re),* (April 10, 2025), Ont S.C.J. [Commercial List], Court File No. CV-25-0074088-00CL (Sale and Investment Solicitation Process Order), Schedule "A", at paras. 25, 34, 38; *Nexii Building Solutions Inc. et al. (Re),* (January 22, 2024), B.C.S.C, No. S24095 Vancouver Registry (Order Made After Application), Schedule "B", at para. 20.

[26] *AbitibiBowater (Re),* 2010 QCCS 1742 at paras. 70-72. See also *0989705 B.C. Ltd. (Re),* 2026 BCSC 761 at para. 173; *Sanjel Corp. (Re),* 2016 ABQB 257 at para. 57.

[27] Fourth Report at para. 6.7.1.

25. The proposed enhanced powers are appropriate in the circumstances, and are necessary in order for the Monitor to conduct the SISP, as urged by the Court in the June 24 Endorsement. The CCAA authorizes granting of enhanced powers, which provides the Court with broad discretion in respect of the Monitor's functions. Section 23(1)(k) provides that the Monitor can "carry out any other functions in relation to the [debtor] company that the court may direct," while section 11 further authorizes the Court to make any order that is necessary and appropriate in the circumstances.[28] In keeping with this authority, courts have enhanced a monitor's powers where it is needed, including in order to supervise and conduct a sale process.[29]

PART IV - NATURE OF THE ORDER SOUGHT

26. The Monitor therefore requests that the Court grant the SISP Approval Order substantially in the form set out in the Motion Record of the Monitor dated July 6, 2026.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 9th day of July, 2026:

OSLER, HOSKIN & HARCOURT LLP per Tiffany Sun
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Lawyers for the Monitor

TO: THE SERVICE LIST

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28 See *PricewaterhouseCoopers Inc. v. Canada Fluorspar (NL) Inc.*, 2023 NLSC 88, at paras. 84-85, in which the court held that these sections provided the jurisdiction to enhance the Monitors powers.

29 See, e.g., *Nortel Networks Corp. (Re),* 2017 ONSC 673 at para. 6.

SCHEDULE "A": LIST OF AUTHORITIES

1. *0989705 B.C. Ltd. (Re),* 2026 BCSC 761

2. *2039882 Ontario Limited. (Re),* (February 6, 2024), Ont S.C.J. [Commercial List], Court File No. CV-24-00713069-00CL (SISP Approval Order)

3. *AbitibiBowater (Re),* 2010 QCCS 1742

4. *Brainhunter Inc. (Re),* 2009 CanLII 72333 (ON SC)

5. *Canacol Energy Ltd. et al. (Re),* (January 26, 2026), A.B.K.B., Court File No. 2501-18462 (Sales Process Approval and Other Relief Order)

6. *Clearpier Acquisition Corp et al. (Re),* (April 10, 2025), Ont S.C.J. [Commercial List], Court File No. CV-25-0074088-00CL (Sale and Investment Solicitation Process Order)

7. *Crown Crest Capital Management Group. et al. (Re),* (June 2, 2025), Ont S.C.J. [Commercial List], Court File No. CV-23-00709183-00CL (SISP Approval and Other Relief)

8. *Nexii Building Solutions Inc. et al. (Re),* (January 22, 2024), B.C.S.C, No. S24095 Vancouver Registry (Order Made After Application)

9. *Nortel Networks Corp. (Re)*, 2009 CanLII 39492 (ON SC)

10. *Nortel Networks Corp. (Re),* 2017 ONSC 673

11. *PricewaterhouseCoopers Inc. v. Canada Fluorspar (NL) Inc*., 2023 NLSC 88

12. *Sanjel Corp. (Re),* 2016 ABQB 257

I certify that I am satisfied as to the authenticity of every authority.

Date July 9, 2026

Signature
Tiffany Sun

SCHEDULE “B”
TEXT OF STATUTES, REGULATIONS & BY-LAWS

COMPANIES’ CREDITORS ARRANGEMENT ACT

R.S.C., 1985, c. C-36, as amended

General power of court

11 Despite anything in the Bankruptcy and Insolvency Act or the Winding-up and Restructuring Act, if an application is made under this Act in respect of a debtor company, the court, on the application of any person interested in the matter, may, subject to the restrictions set out in this Act, on notice to any other person or without notice as it may see fit, make any order that it considers appropriate in the circumstances.

[…]

Duties and Functions

23 (1) The monitor shall

[…]

(k) carry out any other functions in relation to the company that the court may direct.

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

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AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYSTONE HOLDINGS INC., PAYSTONE INC., ATOM GROWTH INC., and ATOM GROWTH (USA), INC.

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PROCEEDING COMMENCED AT TORONTO

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