Court File No. CL-26-00000261-0000

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

REPLY BRIEF OF SANDTON INVESTMENTS X (LUXEMBOURG) S.À R.L.
(July 10, 2026 Hearing)

July 9, 2026

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I. OVERVIEW

1. This Reply Brief is filed on behalf of Sandton Investments X (Luxembourg) S.à r.l. ("**Sandton**") with respect to the Monitor's motion for approval of the Court-supervised sale and investment solicitation process for the Applicants' business and property (the "**SISP**").[1]

2. Sandton is the senior secured creditor of the Applicants. As of June 30, 2026, the aggregate obligations owing to Sandton under the Senior Credit Facilities (the "**Senior Secured Obligations**") were approximately $92.2 million, inclusive of interest but excluding legal fees and other costs. The Senior Secured Obligations are secured against substantially all of the assets and property of the Applicants. The Monitor's counsel has confirmed the validity and enforceability of Sandton's security.[2]

3. BDC Capital Inc. ("**BDC**") is a subordinate secured creditor of Paystone that is owed approximately $12.7 million (the "**BDC Indebtedness**"). BDC and Sandton are parties to a priority agreement dated February 29, 2024 (as amended, the "**Priority Agreement**") pursuant to which BDC has subordinated and postponed its security to the payment in full of Senior Secured Obligations up to a maximum principal amount of $93.75 million. The Priority Agreement provides that all realization proceeds shall be applied and distributed to the payment in full of the Senior Secured Obligations, prior to any recovery to BDC.[3]

4. During these CCAA proceedings, BDC has tried a number of different arguments to assert that Sandton is entitled to recover something less than the $92.2 million that it is owed. BDC has cast aspersions because Sandton acquired the Senior Secured Obligations at a discount. BDC has questioned why Sandton originally supported approval of the Principals' Sale Transaction that would have resulted in a consensual reduction of the Senior Secured Obligations. Their latest argument is that, as a result of the application of the common law anti-deprivation rule, the

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[1] Capitalized terms used and not defined herein have the meanings given to them in the Fourth Report of the Monitor dated July 6, 2026 (the "**Fourth Report**") [E360].

[2] Fourth Report at section 3.1(4) [E369].

[3] Priority Agreement at sections 3.01 and 3.04 [A511–A512] and Second Amendment to Priority Agreement dated April 21, 2025 at section 2.1 [A545], attached as Exhibit "O" to the Affidavit of Adam Zalev sworn June 5, 2026 (the "**First Zalev Affidavit**").

quantum of the Senior Secured Obligations has already been reduced to approximately $60 million. BDC is throwing mud at the wall to see what sticks.

5. As described below, BDC's position is unfounded. The anti-deprivation rule is not triggered by the impugned provision in the Sandton Forbearance Agreement for the same reason that it was not triggered in the *HBC* decision cited in BDC's factum: Paystone did not have any entitlement to the Loan Repayment Discount when it filed for CCAA protection. The Loan Repayment Discount was only available at the maturity date, if Paystone satisfied the conditions precedent (which it didn't). Accordingly, the impugned provision did not operate to remove value from Paystone's estate and the anti-deprivation rule does not apply. There has never been any reduction of the Senior Secured Obligations. Sandton is owed $92.2 million, and interest continues to accrue.

6. Notably, Paystone – which as the debtor in these CCAA proceedings has every incentive to argue that the Senior Secured Obligations have been reduced – does not take a different position. The Monitor is also of the view that the contingent future principal discount is no longer available to Paystone.[4] BDC cannot credibly assert that "the quantum of the Senior Secured Debt is uncertain"[5] merely because BDC has decided to launch a new line of attack – for the first time in these proceedings – in a factum served one day before the hearing for approval of the SISP.

7. The proposed SISP to be conducted by the Monitor will provide an opportunity for all potential bidders to submit value-maximizing transaction proposals in respect of the Applicants' business and assets. Sandton is prepared to provide the funding that the Applicants require to conduct the SISP pursuant to the proposed DIP Facility, which is non-controlling and provides below-market economics. If the SISP does not identify a successful bid that repays in full in cash the DIP Obligations and Senior Secured Obligations, or provides such other recovery in respect thereof as is acceptable to Sandton, Sandton will have the right to bring forward a credit bid transaction to acquire the Applicants' business and property in satisfaction of the DIP Facility Obligations and the Senior Secured Obligations. The ability of a secured creditor to credit bid its

[4] Fourth Report at section 3.1(3) [E368].

[5] Factum of BDC Capital Inc. dated July 9, 2026 ["**BDC Factum**"] at para. 18 [F478].

secured debt is its protection against being forced to accept a restructuring transaction that does not repay in full its secured debt.

8. Importantly, the SISP leaves open the possibility that Sandton will agree to accept a recovery of something less than payment in full in cash. The SISP does not require that a "Qualified Bid" must repay the Senior Secured Obligations. Bidders are free to submit any bid that they believe will be acceptable to Sandton.

9. Sandton believes that the SISP, in the form proposed by the Monitor, is reasonable and appropriate. The proposed SISP is consistent with the terms of the Priority Agreement and BDC's agreement therein to be subordinated to the payment in full of the Senior Secured Obligations. The proposed SISP accords with the legal and commercial reality.

10. BDC seeks certain amendments to the proposed SISP. In particular, it seeks consultation rights for BDC and the removal of consent rights in favour of Sandton. Sandton does not oppose consultation rights for BDC. While Sandton believes that it is entirely appropriate for Sandton to have a consent right over the designation of a Successful Bid that does not repay in full the Senior Secured Obligations, Sandton is prepared to agree to the removal of that consent right in the spirit of facilitating the commencement of the SISP on a consensual and expedited basis.

11. Accordingly, Sandton will consent to the approval of the SISP with revisions to paragraphs 16, 17 and 28 in the form set out on Schedule "B" to this Reply Brief. These revisions are substantially similar to the revisions proposed by BDC, except that the consultation rights in paragraphs 16 and 17 have been simplified to provide that the Monitor will consult with Sandton and BDC regardless of the consideration offered in the Qualified Bids.[6]

12. Sandton is prepared to accept the revisions to the SISP in order to ensure the SISP is commenced without delay. To preserve the value and ordinary course operations of the Applicants' business, it is critical that the SISP is conducted, and a value-maximizing transaction is identified,

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[6] The revisions to paragraphs 16 and 17 proposed by BDC were one-sided: Sandton would lose its consultation right where a Qualified Bid would repay in full in cash all DIP Facility Obligations and Senior Secured Obligations, but BDC would not lose its consultation right where a Qualified Bid would repay in full in cash the BDC Indebtedness. The revisions proposed by Sandton provide that the Monitor will consult with Sandton and BDC regardless of the consideration offered in the Qualified Bids.

on an expedited basis. As the contemplated DIP Lender and the Applicants' senior secured creditor, Sandton has the most at stake in these CCAA proceedings.

13. For clarity, Sandton's position is that it is owed $92.2 million of Senior Secured Obligations, plus additional interest and expenses as they accrue. Sandton reserves all of its rights in respect of the Senior Secured Obligations, including the right to credit bid the Senior Secured Obligations and to withhold its consent to any transaction that does not repay in full in cash the Senior Secured Obligations.

14. Sandton agrees with BDC that the Court does not need to make a determination, at this stage, as to the quantum of the Senior Secured Obligations. If BDC wishes to challenge the quantum, it can do so in connection with a future Court hearing for approval of a successful bid or Sandton credit bid arising from the SISP.

II. THE SENIOR SECURED OBLIGATIONS ARE $92.2 MILLION

15. During the course of these CCAA proceedings, BDC has advanced a number of arguments in an attempt to call into question the quantum of the Senior Secured Obligations, including (a) the confidential price at which Sandton acquired the Senior Secured Obligations; (b) the consideration that would have been obtained by Sandton under the Principals' Sale Transaction; and (c) the nature of the Loan Repayment Discount in the Sandton Forbearance Agreement. Each of these arguments is briefly addressed in turn.

A. The Acquisition Cost of the Senior Secured Obligations is Irrelevant

16. On May 8, 2026, Sandton purchased all obligations owing to the Agent and the Syndicate under the Senior Credit Facilities (the "**Loan Purchase Transaction**"). BDC has stated that Sandton acquired the Senior Secured Obligations under the Loan Purchase Transaction for $41 million. However, it is trite law that the price at which a creditor acquires a claim against a debtor is irrelevant to its entitlement to assert the full amount of that claim against the debtor. It is not uncommon for lenders to have acquired the debt of a CCAA debtor at a discount to par.

17. Furthermore, BDC's argument relating to the purchase price under the Loan Purchase Transaction is improper as it relies on confidential information that should not have been disclosed.

Section 27 of the Loan Purchase Agreement states that each of the parties to the Loan Purchase Agreement shall keep the purchase price confidential and not disclose it to any other person.[7] It was for that reason that the Applicants redacted the purchase price in the Loan Purchase Agreement attached as Exhibit "H" to the First Zalev Affidavit.[8] Sandton and its representatives did not disclose the purchase price to BDC.

18. BDC ought to have been aware of the confidential nature of the purchase price based on a review of the First Zalev Affidavit and the version of the Loan Purchase Agreement attached thereto. BDC has nevertheless reported its understanding of the purchase price in its publicly-filed materials in these CCAA proceedings and took no steps to preserve confidentiality. BDC was not entitled to know the purchase price at first instance, and its subsequent efforts to assert the purchase price in an attempt to undermine Sandton's rights to assert the Senior Secured Obligations are improper.

B. The Principals' Sale Transaction Did Not Reduce the Senior Secured Obligations

19. Earlier in these CCAA proceedings, the Applicants sought approval of the Principals' Sale Transaction. Sandton supported approval of the Principals' Sale Transaction because the Principals' Sale Transaction was the only viable and implementable transaction identified in the Pre-Filing Process. Sandton never agreed that it would cap or limit its recovery to $60 million if the Principals' Sale Transaction was, for whatever reason, not implemented.

20. Ultimately, the Principals' Sale was not approved by the Court for the reasons set forth in the Court's June 24 Endorsement.[9] Sandton never entered into a new credit agreement – or any other agreement in connection with the Principals' Sale Transaction – that would limit its recovery on the Senior Secured Obligations. It cannot be the case that Sandton's right to recover the full amount of the Senior Secured Obligations has been diminished by virtue of a *closing condition* in favour of the proposed purchaser in a purchase agreement to which *Sandton is not even a party* and that was *not approved by the Court*.

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[7] Loan Purchase Agreement at section 27, attached as Exhibit "H" to the First Zalev Affidavit [A199].

[8] First Zalev Affidavit at para. 73 [A81].

[9] *Paystone Holdings Inc. (Re)*, 2026 ONSC 3693 [*Paystone*] at paras. 119 and 123.

21. Moreover, BDC's focus on the $60 million principal amount of the New Credit Agreement is a fundamental misunderstanding of the overall economic recovery that would have accrued to Sandton from the completion of the Principals' Sale Transaction.

22. If the Principals' Sale Transaction was implemented and the New Credit Agreement was entered into: (a) Sandton would have been entitled to receive *annual* interest payments of approximately $5.25 million until the maturity of the loan; and (b) Sandton would have received warrants to acquire 10% of the equity of the proposed purchaser, entitling Sandton to share in any future equity value of the business. All told, Sandton valued the consideration offered by the Principals' Sale Transaction at substantially more than $60 million.

23. In any event, the value offered by the Principals' Sale Transaction is irrelevant. The transaction was not approved by the Court and it was never implemented. The Monitor will now be conducting a SISP to market the Applicants' business and assets. All offers submitted through the SISP will be evaluated and considered in accordance with that process.

C. The Conditional Loan Repayment Discount

24. Concurrently with the completion of the Loan Purchase Transaction, Sandton, as agent and lender, entered into a forbearance agreement (the "**Sandton Forbearance Agreement**") with Paystone, as borrower, and the other obligors under the Senior Credit Facilities (collectively with the borrower, the "**Obligors**"). A copy of the Sandton Forbearance Agreement is attached as Exhibit "I" to the First Zalev Affidavit. Capitalized terms used and not defined in this Section C have the meanings given to them in the Sandton Forbearance Agreement.

25. The Sandton Forbearance Agreement amended, modified and supplemented the Senior Secured Credit Agreement in certain respects. Under the Sandton Forbearance Agreement, the parties agreed on revised economics (including a fixed 5.00% interest rate and the issuance of warrants), to conditionally waive certain existing defaults, and to extend the Maturity Date of the Senior Credit Facilities to May 8, 2028.

26. Pursuant to Section 7.6 of the Sandton Forbearance Agreement, the parties agreed that the Borrower would become entitled to a reduction in the principal amount of the Senior Secured

Obligations on the Maturity Date provided that the two conditions precedent specified in section 7.6 were satisfied. The full text of Section 7.6 is as follows:

> Provided that (i) no Waiver Termination Event described in Section 8.1(d), (e), (f), (g) or (h) has occurred and (ii) the Agent has not accelerated the Obligations following the occurrence of a Waiver Termination Event, the Borrower shall be granted a discount in the amount of $35,262,500.00 (the "**Loan Repayment Discount**") to the then Outstanding Principal Amount. The Loan Repayment Discount shall be applied as a reduction of the Outstanding Principal Amount outstanding on the Maturity Date or upon any earlier repayment in full of the Obligations (other than as a result of acceleration of the Obligations following an occurrence of a Waiver Termination Event). For greater certainty, any Waiver Termination Event that is cured without the applicable cure periods shall not disqualify the Borrower from receiving the Loan Repayment Discount.

27. In order to become entitled to the Loan Repayment Discount on the Maturity Date, the Borrower needed to satisfy both of the following conditions precedent:

(a) no "Waiver Termination Event" described in Section 8.1(d), (e), (f), (g) or (h) shall have occurred; and

(b) the Agent shall not have accelerated the obligations following a Waiver Termination Event.

28. The applicable Waiver Termination Events consisted of:

(a) the Borrower fails to make any payment to the Lenders required under the Sandton Forbearance Agreement when due (including failure to pay interest), which remains uncured for three (3) Business Days [section 8.1(d)];

(b) any creditor of the Obligors accelerates or purports to accelerate remedies in respect of debt in excess of $1 million [section 8.1(e)];

(c) any creditor of the Obligors commences involuntary insolvency proceeds in respect of the Obligors pursuant to the CCAA, BIA or other applicable legislation [section 8.1(f)];

(d) the Obligors become insolvent or commence insolvency proceedings pursuant to the CCAA, BIA or other applicable legislation [section 8.1(g)]; or

(e) any Obligor takes any action to wind up or dissolve without the prior consent of the Lenders [8.1(h)].

29. Waiver Termination Events have occurred as a result of: (a) the Applicants' commencing these CCAA proceedings on June 5, 2026; and (b) Paystone's failure to make a scheduled interest payment to Sandton due on July 7, 2026.

30. As a result of the occurrence of Waiver Termination Events, the conditions precedent to the Loan Repayment Discount are not, and cannot, be satisfied. The Loan Repayment Discount is not available to the Applicants pursuant to the terms of the Sandton Forbearance Agreement. The aggregate Senior Secured Obligations are $92.2 million and interest and fees continue to accrue thereon during these CCAA proceedings. Paystone – which is the counterparty to the Sandton Forbearance Agreement – does not take any different position.

D. <u>The Anti-Deprivation Rule Does Not Apply</u>

31. BDC has asserted the application of the anti-deprivation rule – for the first time in these CCAA proceedings – in its factum filed the day before the hearing for approval of the SISP.

32. BDC fundamentally mischaracterizes the nature of the Loan Repayment Discount. The Sandton Forbearance Agreement provides that Paystone *shall be granted* the Loan Repayment Discount at the Maturity Date *provided that*, at such time, it has satisfied the applicable conditions precedent. Paystone's entitlement to the Loan Repayment Discount at the Maturity Date was conditional on the satisfaction of those conditions. Paystone did not have any entitlement to the Loan Repayment Discount when it filed for CCAA protection since it had not met the conditions precedent thereto. Accordingly, the impugned provision did not operate to remove value from Paystone's estate and the anti-deprivation rule does not apply.

33. BDC cites the decision of Justice Osborne (as he then was) in *HBC* in support of its argument. In fact, the *HBC* decision strongly supports Sandton's position. In *HBC*, the Court determined that the anti-deprivation rule did <u>not</u> apply to render void the impugned provisions in certain real property leases. The facts in this case are very similar to the salient facts in *HBC*; the anti-deprivation rule does not apply in this case for the same reasons it did not apply in *HBC*.

34. In *HBC*, the debtor and its landlord had agreed in advance of the CCAA filing to terminate HBC's original leases (which contained valuable renewal options and restrictive covenants) and replace them with new leases. The new leases included a conditional "reinstatement of original lease" provision: if the debtor operated in good standing until November 13, 2028 without default or insolvency, it could revert to the original lease terms.[10] After the debtor became insolvent and filed for CCAA protection, it sought court approval of a transaction to assign the new leases to a purchaser. In connection with that motion, the debtor sought a declaration that these conditional reinstatement provisions were *ipso facto* clauses that violated the common law anti-deprivation rule and s. 34 of the CCAA.

35. The Court rejected this argument. Justice Osborne held that the anti-deprivation rule is an "effects-based test" that renders void provisions which, upon insolvency, "remove value from the estate" that would otherwise have been available to creditors.[11] However, the rule is "triggered only when *existing rights* are taken away because of an insolvency."[12] The Court distinguished between conditions precedent (which specify an event that must occur *before* a right is acquired) and conditions subsequent (which operate *after the fact* to alter or terminate an existing right).[13] Because the reversion right was subject to conditions precedent that had not yet been fulfilled, the debtor had no existing right to revert to the original leases: "There is no contractual right that exists today to revert to the Original Leases, let alone one that provides that such existing rights are terminated because of an insolvency or an insolvency filing".[14]

36. The *HBC* decision therefore stands for the proposition that conditions precedent that must be satisfied before gaining rights, including a requirement that the debtor remain solvent, do not offend the anti-deprivation rule or s. 34 of the CCAA. The rule applies only where existing value is taken away from a debtor because of insolvency; it does not apply where the debtor never acquired the right in the first place because the conditions precedent were never satisfied.

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[10] *In Re Hudson's Bay Company*, 2025 ONSC 5998 [*HBC*] at para. 154.

[11] *Ibid.* at para. 156, citing *Chandos Construction v. Deloitte Restructuring Inc.*, 2020 SCC 25 at para. 31.

[12] *Ibid.* at para. 167.

[13] *Ibid.* at para. 168.

[14] *Ibid.* at para. 184.

37. To overcome this challenge, BDC baldly asserts that "Sandton already granted the discount of $35,262,500 to the Applicants on execution of the Forbearance Agreement" and that "the discount *accrued* on execution of the Forbearance Agreement *before* the commencement of these proceedings."[15] A plain reading of section 7.6 of the Sandton Forbearance Agreement does not support that conclusion.

38. Section 7.6 says that, if certain conditions precedent are met, "the Borrower shall be granted" the Loan Repayment Discount. The use of the "shall be granted" language is instructive. The provision does not say that the Loan Repayment Discount is "hereby granted". It says that the Loan Repayment Discount "shall be granted" at a future date (the Maturity Date) if the conditions precedent are satisfied. The first words of the section – "Provided that" – demonstrate entitlement to the Loan Repayment was conditional. Paystone was only entitled to receive the Loan Repayment Discount on the Maturity Date *provided that* it had satisfied the conditions precedent listed in section 7.6.

39. Simply put, Paystone did not have a crystallized right to the Loan Repayment Discount on the CCAA filing date. Accordingly, the Sandton Forbearance Agreement does not operate to "remove value from the estate" and the anti-deprivation rule is not engaged.

III. BDC AGREED TO BE SUBORDINATED TO $93.75 MILLION OF SENIOR SECURED OBLIGATIONS

40. BDC's attempt to limit Sandton's recovery on the Senior Secured Obligations is an improper attempt to circumvent the terms of the Priority Agreement to which BDC is a party. Capitalized terms used in this Section III and not otherwise defined in this Reply Brief have the meanings given to them in the Priority Agreement, a copy of which is attached as Exhibit "O" to the First Zalev Affidavit.

41. Under the terms of the Priority Agreement, BDC agreed, *inter alia*:

(a) to subordinate and postpone all of its right, title and interest in and to the BDC Security to the extent of the Senior Indebtedness; and

[15] BDC Factum at para. 22 [F479].

(b) that Realization Proceeds derived from the Collateral (other than the Life Insurance) shall be applied and distributed in repayment of the Senior Indebtedness prior to the repayment of the BDC Indebtedness.[16]

42. In the original version of the Priority Agreement from February 29, 2024, "Senior Indebtedness" is defined as follows:

> "**Senior Indebtedness**" means all existing and future indebtedness, liabilities and obligations of the Companies or any of them to the Senior Creditors incurred pursuant to the Senior Credit Agreement up to a maximum principal amount of $75,250,000, plus any related hedging or swap agreements and cash management obligations or other indebtedness incurred in connection therewith, and including any guarantees in respect thereof.

43. The maximum principal amount of the Senior Indebtedness was increased to $91 million pursuant to a first amendment dated March 31, 2025, and subsequently to $93,750,000 pursuant to a second amendment dated April 21, 2025. Both amendments were executed by BDC.

44. Accordingly, BDC has agreed to subordinate the BDC Indebtedness to the payment in full of the Senior Secured Obligations in the maximum principal amount of $93.75 million. Sandton acquired the Senior Secured Obligations on the basis that the full amount would rank in priority to the BDC Indebtedness.

45. BDC is, in effect, asking this Court to release BDC from its bargain and re-write the terms of the Priority Agreement to leave open the possibility that BDC can recover on the BDC Indebtedness prior to the repayment in full of the Senior Secured Obligations.

46. This Court dealt with a similar argument from a subordinate creditor in *The One*. A subordinate creditor (the "Coco Parties") had entered into various priority agreements with the debtor's senior lenders (the "Senior Secured Lenders") under which the Coco Parties had subordinated their indebtedness and security to the payment in full of the Senior Secured Lenders. While noting that the Coco Parties were affected stakeholders entitled to be heard on their objections, Justice Osborne (as he then was) stated that "those objections must be informed by,

[16] Priority Agreement at sections 3.01 and 3.04, attached as Exhibit "O" to the First Zalev Affidavit [A511–A512].

and considered in the context of, contractual obligations to which the Coco Parties (as sophisticated and well advised commercial parties) consented and agreed."[17] Justice Osborne continued:

> [113] Even absent the contractual obligations, however, and while a subordinate lender, such as Coco International here, is certainly entitled to be heard, generally, the position of the senior lender, and particularly a party such as the Senior Secured Lenders here who are the fulcrum creditors will be accorded more weight. Unless and until the Senior Indebtedness has been repaid in full (and that is far from certain here), the Subordinate Lender has no economic stake in this proceeding.
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> …
>
> [115] It is even more ironic that the Coco Parties object to the Minimum Bid Threshold at 80% of that [Senior Secured Indebtedness], when in fact they are "out of the money" and not contractually entitled to recover anything on their own indebtedness unless and until the Senior Secured Lenders recover fully 100% of their own indebtedness.[18]

47. The same facts and analysis apply in this case. BDC has contractually subordinated the BDC Indebtedness to the payment in full of the Senior Secured Obligations. Unless and until the Senior Secured Obligations are repaid in full, BDC has no economic stake in these CCAA proceedings. The position of Sandton, as the fulcrum creditor, should be accorded more weight.

IV. THE PROVISIONS OF THE SISP ARE REASONABLE

48. Sandton believes that the terms of the SISP proposed by the Monitor are reasonable and appropriate in the circumstances. The SISP will provide an opportunity for all potential bidders to submit transaction proposals in respect of the Applicants' business and assets and to identify a value-maximizing transaction.

49. The SISP is premised on the economic realities of this case, as the Court described in the June 24 Endorsement: "BDC's debt is subordinate to the first secured debt. This means that, on the face of the debt documents, the debtor needs to realize at least $92 million-plus before there can be any recovery for BDC on its $12 million claim."[19] Nevertheless, the SISP allows a bidder to submit a bid that does not pay in full in cash the Senior Secured Obligations if the bidder believes that Sandton will accept such a bid.

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[17] *KEB Hana Bank v. Mizrahi Commercial (The One) LP, et al.*, 2024 ONSC 3739 [*The One*] at paras. 105–111.

[18] *Ibid.* at paras. 113 and 115.

[19] *Paystone, supra* note 9 at para. 50.

50. If the SISP does not identify a transaction that will repay in full in cash the DIP Obligations and the Senior Secured Obligations, Sandton will have the option to either: (a) support a bid that provides Sandton with a recovery other than payment in full in cash; or (b) credit bid the Senior Secured Obligations to acquire the Applicants' business and assets.

51. This form of SISP – in which a senior secured creditor is provided an opportunity to credit bid if the best transaction arising from the SISP does not repay in full the secured debt – is routinely approved by this Court in the context of CCAA and other insolvency proceedings.

52. In fact, the proposed SISP provides more flexibility to bidders than is typical in similar circumstances. In *The One*, Justice Osborne approved a SISP, over the objections of a subordinate creditor, that included a "Minimum Bid Threshold" equal to 80% of the debtor's senior secured debt. In approving the SISP with the Minimum Bid Threshold, Justice Osborne noted that "courts regularly approve SISPs with a term stipulating, for example, that any qualified bid must satisfy the indebtedness of a creditor with first ranking security. In effect, that is simply a minimum bid equal to 100% of the indebtedness of the fulcrum creditor."[20]

53. While the proposed SISP requires that any Qualified Bid must repay priority payables secured by Court-ordered charges, it otherwise does not contain any minimum bid level. As in *The One* and many other cases, Sandton could have insisted that any Qualified Bid must be sufficient to repay all (or some specified portion) of the Senior Secured Obligations. The fact that Sandton has not insisted on that is a material concession. The proposed SISP provides flexibility for any bidder to propose a transaction that it believes provides appropriate value and will be acceptable to Sandton.

54. If BDC is correct in its repeated assertion that a post-filing sale process is likely to lead to a transaction that provides value for creditors beyond the Senior Secured Obligations, the SISP will identify that transaction. If there is no such transaction, then the SISP will have made clear that Sandton is the fulcrum secured creditor with the only remaining economic interest in the Applicants. Ultimately, the outcome of the SISP will determine where value breaks.

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[20] *The One, supra* note 17 at para. 92.

55. BDC's preferred bidder, Shopley, has submitted an LOI that provides for overall consideration of $115 million, including a cash component to pay out secured and unsecured creditors.[21] If BDC truly believes that Shopley will submit a binding offer on that basis, then it is not clear why BDC is positioning to reduce the quantum of the Senior Secured Obligations. If BDC is right on the expected results of the SISP, then both Sandton and BDC will be paid in full.

56. Sandton does not object to BDC having consultation rights during the SISP in the form set out in Schedule "B" to this Reply Brief. Sandton is also prepared – for the sake of avoiding a contested hearing that further delays the commencement of the SISP – to forgo a consent right over the selection of a Successful Bid. If the SISP does not identify a viable transaction that repays in full in cash the Senior Secured Obligations or provide such other recovery as is acceptable to Sandton, Sandton will credit bid the Senior Secured Obligations as permitted under the SISP and acquire the Applicants' business and assets.

V. CONCLUSION

57. Sandton is prepared to advance up to $2.6 million of new financing under the DIP Facility, and to subordinate that new money to a $5 million BNS Charge, provided that the SISP is in a form acceptable to Sandton.

58. Sandton believes that the proposed SISP is reasonable and appropriate in the circumstances and structured in a manner that will enable the Monitor to identify the best available transaction for the Applicants' business and assets. Accordingly, Sandton supports approval of the SISP in the form sought by the Monitor and will consent to the revisions shown on Schedule "B" hereto.

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

Goodmans LLP

GOODMANS LLP

[21] Factum of BDC Capital Inc. dated June 22, 2026 at para. 52 [F456]; *Paystone, supra* note 9 at para. 117.

SCHEDULE “A”

LIST OF AUTHORITIES

1) *Paystone Holdings Inc. (Re)*, 2026 ONSC 3693

2) *In Re Hudson’s Bay Company*, 2025 ONSC 5998

3) *Chandos Construction v. Deloitte Restructuring Inc.,* 2020 SCC 25

4) *KEB Hana Bank v. Mizrahi Commercial (The One) LP, et al.*, 2024 ONSC 3739

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

Date: July 9, 2026

Signature
Gurratan Gill

SCHEDULE "B"

16. The Monitor will, in consultation with Sandton and BDC Capital Inc. ("**BDC**"), review and evaluate each Qualified Bid and will, ~~with the consent of Sandton (unless Qualified Bid(s) acceptable to the Monitor will repay in full in cash all DIP Facility Obligations and Senior Secured Obligations (as defined below))~~in consultation with Sandton and BDC, (a) identify the highest or otherwise best bid (the "**Successful Bid**", and the Qualified Bidder making such Successful Bid, the "**Successful Bidder**"); and (b) identify the next highest or otherwise second best bid (the "**Back-Up Bid**", and the Qualified Bidder making such Back-Up Bid, the "**Back-Up Bidder**"), in each case, subject to paragraph 0 below. Any Successful Bid and Back-Up Bid will be subject to approval by the Court. For certainty, the Monitor may identify one or more Successful Bids, Successful Bidders, Back-Up Bids, or Back-Up Bidders for non-overlapping Qualified Bids, and bring one or more Approval Motions (as defined below) and seek one or more Approval Orders in connection therewith, and in such circumstances, the SISP shall be interpreted as referring to multiple Successful Bids, Successful Bidders, Back-Up Bids, Back-Up Bidders, Approval Motions and Approval Orders, as applicable. Notwithstanding the foregoing, the preferred transaction structure is an *en bloc* transaction involving all or substantially all of the Applicants' Property and/or Business.

17. In the event there is more than one Qualified Bid, the Monitor may elect to proceed with an auction process to determine the Successful Bid ("**Auction**"). Any such Auction will be conducted in accordance with procedures to be determined by the Monitor, in consultation with Sandton and BDC, and notified to the applicable Qualified Bidders no less than 24 hours prior to the commencement of the Auction. Any such Auction will commence at a time to be designated by the Monitor, and such Auction may, in the discretion of the Monitor, be held virtually via videoconference, teleconference or such other reasonable means as the Monitor deems appropriate. The Monitor will, ~~with the consent of Sandton (unless Qualified Bid(s) acceptable to the Monitor will repay in full in cash all DIP Facility Obligations and Senior Secured Obligations)~~in consultation with Sandton and BDC, select the Qualified Bid at the Auction that emerges as the Successful Bid.

28. If no Qualified Bid is received in the SISP that provides for the payment in full in cash of all DIP Facility Obligations and Senior Secured Obligations, or such other recovery in respect of the DIP Facility Obligations and Senior Secured Obligations as Sandton may agree to in its sole and absolute discretion, Sandton shall have the right~~, in lieu of the Monitor designating a Successful Bid in the SISP,~~ to bring forward for Court approval 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. For greater certainty, Sandton shall not be required to submit a Binding Offer or Deposit in the SISP in order to exercise its right to credit bid the DIP Facility Obligations and/or Senior Secured Obligations.

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

Court File No: CL-26-00000261-0000

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.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceeding Commenced at Toronto, Ontario

REPLY BRIEF OF SANDTON INVESTMENTS X (LUXEMBOURG) S.À R.L.

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