



SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

ENDORSEMENT

COURT FILE NO.: CV-22-00689857-00CL DATE: September 14, 2023

NO. ON LIST: 2

TITLE OF PROCEEDING: TRICHOME FINANCIAL CORP. et al v THE ATTORNEY GENERAL OF CANADA

BEFORE: JUSTICE OSBORNE

PARTICIPANT INFORMATION

For Applicants:

Name of Person Appearing	Name of Party	Contact Info
JOSHUA FOSTER SEAN ZWEIG	TRICHOME FINANCIAL CORP. et al	fosterj@bennettjones.com zweigs@bennettjones.com

For Applicants:

Name of Person Appearing	Name of Party	Contact Info
STEWART THOM	1000370759 Ontario Inc. ("Purchaser"), Trichome JWC Acquisition Corp. ("TJAC"), Trichome Retail Corp. ("TRC"), MYM Nutraceuticals Inc. ("MYM"), MYM International Brands Inc. ("MYMB") and Highland Grow Inc. ("Highland")(collectively, "Purchased Entities")	sthom@torkinmanes.com

For Others:

Name of Person Appearing	Name of Party	Contact Info
MURTAZA TALLAT	KSV, CCAA MONITOR	mtallat@ksvadvisory.com
MARK FREAKE JOHN SALMAS	DIP LENDER CORTLAND CREDIT CORP.	mark.freake@dentons.com
JEREMY BORNSTEIN	MONITOR	jbornstein@cassels.com

ENDORSEMENT

[1] The Applicants seek an order:

- a. terminating the CCAA proceedings and discharging the Monitor;
- b. approving the Fifth Report of the Monitor dated April 3, 2023, the Sixth Report of the Monitor dated September 11, 2023 together with the activities of the Monitor referred to in both Reports;
- c. approving the fees and disbursements of the Monitor and its counsel referred to in the Sixth Report, including the Fee Accrual;
- d. authorizing Trichome to make an assignment in bankruptcy pursuant to the BIA;
- e. authorizing and directing the Bankruptcy Reserve to the Trustee in the amount of \$12,000 plus HST;
- f. authorizing and directing the transfer by the Trustee of any available remainder from the Bankruptcy Reserve following the administration of the bankruptcy to Cortland;
- g. authorizing and directing the Cash Distribution to Cortland;
- h. releasing and discharging the Charges; and
- i. granting the Releases.

[2] Defined terms in this Endorsement have the meaning given to them in the motion materials and/or the Sixth Report.

[3] The Service List (including for greater certainty the Canada Revenue Agency, the Department of Justice, and the two employees who had at least initially not signed releases as further discussed below) have been served.

[4] The relief sought is unopposed, and is strongly supported by the Purchaser and Cortland as agent for and on behalf of the lenders who are parties to the DIP Agreement (the DIP Lender) who is the fulcrum creditor here and who will not fully recover. The relief sought is recommended by the Monitor.

[5] In the circumstances, I have not set out in this Endorsement all of the background to and context for this motion, which is fully described in the Affidavit of Michael Ruscetta sworn September 5, 2023 and the Sixth Report. In short, the SISF as previously approved, resulting in the reverse vesting order also previously approved, has been completed and it contemplates the business continuing as a going concern.

[6] Having closed the Transactions and conveyed the Business to the Purchaser, the Applicants now seek the proposed termination order and related relief to bring to completion the CCAA proceedings in an efficient and orderly manner and wind up the Applicants.

[7] In the circumstances, and given that the Transactions did not generate sufficient proceeds to pay out the DIP Lender, there will be no claims process.

[8] The proposed termination order authorizes an assignment in bankruptcy in part to permit former employees of Trichome to assert claims under *WEPPA*. The Bankruptcy Reserve assists in facilitating this.

[9] Cortland as DIP Lender has a court ordered super priority interest in the remaining cash on hand subordinate only to the Charges, with the result that the proposed Cash Distribution is appropriate.


[10] I referred above to the CRA and two employees since, as reflected in the Sixth Report, there was an indebtedness in respect of pre-filing excise tax remittances and unpaid HST owing to the CRA which will not be paid. In addition, two employees had initially not signed releases although Mr. Foster confirms today that one has subsequently done so. In any event, all of those parties are on notice of the relief sought today and none has appeared to oppose it nor indicated to the Applicant or the Monitor any intention to do so.

[11] The proposed releases are appropriate and carve out those claims contemplated in section 5.1(2) of the *CCAA* as well as claims of fraud, wilful misconduct or gross negligence. They are proportionate and I am satisfied that the released parties have contributed materially here. They are consistent in scope with the releases granted in other proceedings in this Court (see, for example, *Cannapiece*, *Green Relief* and *Harte Gold*).

[12] Counsel for the Purchaser, Mr. Thom, advises that there is a potential dispute between the Purchaser on the one hand and a customer on the other hand with respect to amounts owing to the Purchaser post-closing and whether that customer could set off as against that debt amounts paid to the Applicants pre-closing, notwithstanding the approval and vesting order of Conway, J. dated April 6, 2023.

[13] For that reason, the Purchaser requests, all other parties consent, and I agree that the termination of the CCAA proceedings shall be without prejudice to the rights of 1000370759 Ontario Inc., 2767888 Ontario Inc. Trichome JWC Acquisition Corp., Trichome Retail Corp., MYM Nutraceuticals Inc., MYM International Brands Inc. or Highland Grow Inc. to apply to the Court under the CCAA title of proceedings for advice and directions in connection with any matters relating to or concerning the interpretation of or the effect of the Approval and Vesting Order granted on April 6, 2023, in this proceeding. In the circumstances, that makes good practical sense. It may not be necessary as the parties are continuing to have commercial discussions.

[14] Order to go in the form signed by me today which is effective immediately and without the necessity of issuing and entering.

A handwritten signature in black ink, appearing to read "Conway, J.", is written in a cursive style.