

COURT FILE NUMBER 2301-08305

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

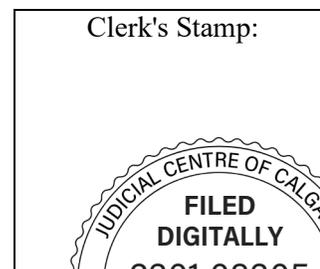
IN THE MATTER OF THE COMPANIES' CREDITORS  
ARRANGEMENT ACT, RSC 1985, c. C-36, as amended

AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT  
OF WALLACE & CAREY INC., LOUDON BROS LIMITED and CAREY  
MANAGEMENT INC.

APPLICANT DIGIFLEX INFORMATION SYSTEMS INC.

DOCUMENT **AFFIDAVIT**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT  
**Burnet, Duckworth & Palmer LLP**  
2400, 525 – 8 Avenue SW  
Calgary, Alberta T2P 1G1  
**Lawyer: Chelsea Nimmo**  
Phone Number: (403) 260-0102  
Fax Number: (403) 260-0332  
Email Address: cnimmo@bdplaw.com  
File No. 79894-1



**AFFIDAVIT OF JENNIFER ALLEN**

Affirmed on February 2, 2026

I, Jennifer Allen of Calgary, Alberta, AFFIRM AND SAY THAT:

I am a Legal Assistant at Burnet, Duckworth, and Palmer LLP (**BD&P**), counsel on record for Digiflex Information Systems Inc. (**Digiflex**), and have personal knowledge of the matters deposed to herein:

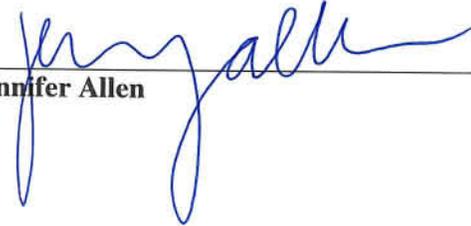
1. Attached as **Exhibit "A"** to this Affidavit is a letter from BD&P to Cassels, Brock & Blackwell LLP (**Cassels**), counsel for the Monitor, dated November 20, 2025. Cassels never responded to this letter.
2. Attached as **Exhibit "B"** to this Affidavit is a letter from DLA Piper (Canada) LLP (**DLA Piper**), counsel for 7-Eleven Canada Inc. and 7-Eleven Distribution Canada Corp., to BD&P, dated November 26, 2025.

3. Attached as **Exhibit "C"** to this Affidavit is email correspondence from DLA Piper to BD&P dated December 19, 2025, as well as an attached letter.
4. Attached as **Exhibit "D"** to this Affidavit is email correspondence between DLA Piper and BD&P, between the dates of December 19, 2025, and January 7, 2026. DLA did not provide a response to counsel for BD&P's January 7, 2026, email, and there has been no further correspondence on this issue since.
5. Attached as **Exhibit "E"** to this Affidavit is email correspondence between Cassels and BD&P between the dates of January 8, 2026, and January 12, 2026, regarding a renewal of the maintenance agreements of the Digiflex Software Licenses for read-only access. Cassels never provided a response to Digiflex's inquiry.
6. Attached as **Exhibit "F"** to this Affidavit is email correspondence between Cassels and BD&P between the dates of December 29, 2025, and January 28, 2026, regarding the proposed draft order associated with the Reasons from Justice Marion dated December 15, 2025.
7. Attached as **Exhibit "G"** to this Affidavit is email correspondence from BD&P to Cassels, dated January 16, 2026, as well as an attached letter.
8. Attached as **Exhibit "H"** to this Affidavit is a letter from BD&P to Cassels, dated January 28, 2026, regarding the February 5, 2026, Application.
9. Attached as **Exhibit "I"** to this Affidavit is email correspondence between Cassels and BD&P dated January 28, 2026, regarding Digiflex's proposal to send the Monitor Written Interrogatories.
10. Attached as **Exhibit "J"** to this Affidavit is a letter from Cassels to BD&P dated January 29, 2026, in response to BD&P's letter dated January 28, 2026.
11. Attached as **Exhibit "K"** to this Affidavit is email correspondence between Cassels and BD&P dated January 30, 2026, in response to the Cassels letter attached at Exhibit "J".
12. Attached as **Exhibit "L"** to this Affidavit is email correspondence between BD&P and Cassels regarding the termination of Digiflex's access to the copy of the Digiflex Software.

- 13. Attached as **Exhibit "M"** to this Affidavit is a copy of Digiflex's Statement of Claim against 7-Eleven Inc., 7-Eleven Canada Inc., and 7-Eleven Distribution Canada Corp. in the Federal Court of Canada (Court File No. T-4454-25).

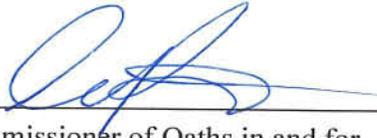
AFFIRMED BEFORE ME at the City of Calgary, )  
 in the Province of Alberta, this 2<sup>nd</sup> day of February )  
 2026. )  
 )  
 )  
 )  
 )

  
 \_\_\_\_\_  
 A Commissioner for Oaths in and for the Province  
 of Alberta.

  
 \_\_\_\_\_  
**Jennifer Allen**

**AISIA ANNE ROBERTS**  
 A Commissioner For Oaths  
 In and for the Province of Alberta  
 My Commission Expires September 20, 2028

This is Exhibit "A", referred to in the Affidavit  
of Jennifer Allen, affirmed before me on the  
2nd day of February, 2026.



---

A Commissioner of Oaths in and for  
the Province of Alberta

**AISIA ANNE ROBERTS**  
A Commissioner For Oaths  
In and for the Province of Alberta  
My Commission Expires September 20, 2028

Reply to: Chelsea Nimmo  
Direct Phone: (403) 260-0102  
Direct Fax: (403) 260-0332  
cnimmo@bdplaw.com

Assistant: Jenny Allen  
Direct Phone: (403) 260-0395  
Our File: 79894-1

**Via Email ([joliver@cassels.com](mailto:joliver@cassels.com))**

November 20, 2025

Cassels Brock & Blackwell LLP  
Suite 3700, Bankers Hall West  
888 3<sup>rd</sup> Street SW  
Calgary, AB T2P 5C5

**Attention: Jeffrey Oliver**

Dear Mr. Oliver

Re: In the matter of the Compromise or Arrangement of Wallace & Carey Inc., Loudon Bros Limited and Carey Management Inc. (collectively, the "Companies")  
Court File Number 2301-08305 (the "CCAA Proceeding")  
**Request to Vary the Maintenance Agreements Immediately**

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We are writing to you in your capacity as counsel to the Court-appointed monitor with enhanced powers of the Companies. We understand that the Companies no longer have any directors or officers, and that all communications related to business with the Companies are to be sent to KSV Restructuring Inc. (**KSV**). If this is not the case, please let us know.

As you know, we are counsel to Digiflex Information Systems Inc. (**Digiflex**). We are writing to request the Monitor's consent to allow Digiflex to vary the terms of the Maintenance Agreements (defined below) that it has with Wallace & Carey (**W&C**) immediately.

## **BACKGROUND**

### **Maintenance Agreements**

As you also know, W&C had several software license agreements with Digiflex in relation to Digiflex's ERP copyrighted software. A list of the licenses that Digiflex had with W&C is attached as **Schedule "A"**, referred to herein as the **W&C Software Licenses**.

As explained in the Affidavit of Mohamad Mardukhi sworn November 14, 2025,<sup>1</sup> each of the W&C Software Licenses is affiliated with a Maintenance Agreement, which relates to, among other things, software upgrades and enhancements, operating system compatibility, as well as a 24/7 support line for the software.<sup>2</sup> The

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<sup>1</sup> Affidavit of Mohamad Mardukhi sworn November 14, 2025 (**Mardukhi Affidavit**).

<sup>2</sup> Mardukhi Affidavit at para 21.

14771834.2

Maintenance Agreements are not perpetual, but rather renew each year on terms to be signed upon between Digiflex and the client, unless either party gives 30 days written notice of termination. This is set out in clause 2 of the Maintenance Agreements:

**2. AGREEMENT.** Upon the terms and subject to the conditions herein set forth, Digiflex agrees to provide to Customer and Customer agrees to accept the Maintenance Services. The term of this Maintenance Agreement shall begin upon installation of ProCLASS into a production environment. However that this Maintenance Agreement will be automatically renewed for successive one year terms upon terms to be agreed upon by the parties at the time of renewal unless notice of termination in writing is given by either party to the other at least thirty (30) days prior to the expiration of the term hereof or any renewal in which case this Maintenance Agreement shall terminate at the end of such term or renewal.

Schedule "A" below sets out the current active Maintenance Agreements, and when they are set to expire.

### **Motivation for the variation of terms**

This letter was motivated by admissions in the public record, as advised by both KSV and 7-Eleven, that the wind-down of W&C is complete.<sup>3</sup> We understand that this has been the case for quite some time – for at least three months, but more likely close to a year.

To that end, we understand that W&C no longer requires Digiflex's full scope of services under the Maintenance Agreements as it is no longer operating a distribution business.

We understand that your position has previously been that Digiflex was still required to provide services to W&C, so that W&C could maintain its obligations to 7-Eleven Canada, Inc. under the Transition Services Agreement dated November 21, 2023 (the TSA). However, given the Monitor's and 7-Eleven's position on the public record that W&C is no longer operating a distribution business, we trust that you will agree that s. 21 does not requires W&C to provide any further services to 7-Eleven Canada, Inc. Section 21(a)(ii) of the TSA states:

### **21. General Limitations:**

- (a) Nothing contained in this TSA shall require the Debtors to provide (or cause the provision of) any services: [...] (ii) that are in support of any business or operations **other than the Business as conducted immediately prior to the date hereof;**

On November 20, 2023 (the date immediately prior to the date the TSA was signed), W&C was still a distribution company. Today, W&C is no longer a distribution company, and the Monitor has been given enhanced powers, in part, on the basis of 7-Eleven's counsels admissions to the Court that "the business of the CCAA Entities has been transferred to SEC".<sup>4</sup> We also understand that 7-Eleven's counsel (Edmond Lamek) advised KSV that

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<sup>3</sup> W&C no longer had any business to manage by, at least, August 18, 2025, pursuant to the Application by 7-Eleven Canada Inc. and 7-Eleven Distribution Canada Corporation, [dated August 18, 2025 at para 8.](#)

<sup>4</sup> Application by 7-Eleven Canada Inc. and 7-Eleven Distribution Canada Corporation, [dated August 18, 2025 at para 8.](#)  
14771834.2

W&C is not required for the continuation of SEDCC.<sup>5</sup> Therefore, according to your logic that the TSA is relevant to Digiflex's services, since W&C no longer has any obligations to provide any further services to 7-Eleven Canada Inc., Digiflex, in turn, no longer has any obligations to provide any further services to W&C. We understand that this has been the case for quite some time.

### **REQUEST TO VARY THE TERMS OF THE MAINTENANCE AGREEMENTS**

Further to paragraph 18 of the ARIO, we are writing to request the Monitor's written consent to vary the terms of the Maintenance Agreements.

Given that W&C is no longer operating a distribution business, W&C no longer requires any further upgrades, enhancements, the 24/7 support line, or other functionalities which are required when operating the ERP software for a distribution business. We trust that this will not cause any harm to W&C given that it is no longer operational.

However, to the extent W&C requires access to its database for the purposes of potential audits and reporting, Digiflex can provide that to W&C by varying the terms of the Maintenance Agreements. Under the revised terms, W&C will have:

- unrestricted read-only access to all the archive databases;
- up to 2 concurrent update users for each production database to be able to enter adjusting transactions; and
- support as required.

We trust that this variation is satisfactory in light of the representations on the public record about the status of W&C and section 21(a)(ii) of the TSA.

\*\*\*

If we have the Monitor's consent, we would be happy to provide you with a draft Order for your review and execution.

We trust that the Monitor, who has obligations of good faith to everyone in the CCAA Proceeding – including Digiflex<sup>6</sup> – will accept Digiflex's position as reasonable and appropriate, as required for remedies in the CCAA Proceeding.

The Monitor should also be aware that not relieving Digiflex of its current onerous service obligations is problematic and contrary to the common law rule that you cannot assign personal service contracts.<sup>7</sup>

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<sup>5</sup> Email from former counsel for the Companies (Miller Thomson LLP) dated July 3, 2025 to KSV dated July 3, 2025, attached as [Exhibit "H" to the Affidavit No. 8 of Patrick Carey sworn on August 15, 2025](#).

<sup>6</sup> CCAA, s. 25; BIA, s. 13.5; Code of Ethics for Trustees in Bankruptcy, section 39.

<sup>7</sup> *Goska J Nowak Professional Corp v Robinson*, 2016 ABCA 240 at para 19.  
14771834.2

To the extent the Monitor does not agree to the variation of the Maintenance Agreements, please let us know the reason why.

To the extent that we do not have the Monitor's consent, please be advised that Digiflex will proceed to terminate the services under the Maintenance Agreements immediately **after confirmation from Justice Marion on November 27, 2025 that the Stay in relation to W&C and Loudon Bros can be lifted such that it no longer operates in respect of Digiflex. We will also confirm with Justice Marion that the terminations are not in breach of the Consent Order dated December 17, 2024.** We will also be asking for increased costs.

Digiflex reserves all rights.

We would be pleased to discuss any of the above with you or KSV at any time.

Yours truly,

BURNET, DUCKWORTH & PALMER LLP



Chelsea Nimmo  
Counsel

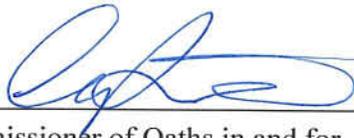
CMN/ja  
Enclosure

cc: Bruna Kalinoski, Burnet, Duckworth & Palmer, [bkalinoski@bdplaw.com](mailto:bkalinoski@bdplaw.com), Adam Grotzky, Burnet, Duckworth & Palmer, [agrotzky@bdplaw.com](mailto:agrotzky@bdplaw.com)

**Schedule "A"**

<b>Item</b>	<b>License</b>	<b>Maintenance Agreement Expiry</b>
1	ProCLASS/LAZER/NEXUS Software License Agreement between DigiFlex and W&C executed on March 9, 2000	February 15, 2026
2	CLASS Software License Agreement between DigiFlex and W&C executed by DigiFlex on June 27, 2003 and W&C on August 12, 2003	February 15, 2026
3	ProCLASSB1 Business Intelligence Suite Software License Agreement between DigiFlex and W&C entered into on or about April 23, 2012	Expired

This is Exhibit "B", referred to in the Affidavit of  
Jennifer Allen, affirmed before me on the 2nd  
day of February, 2026.



---

A Commissioner of Oaths in and for  
the Province of Alberta

**AISIA ANNE ROBERTS**  
A Commissioner For Oaths  
In and for the Province of Alberta  
My Commission Expires September 20, 20<sup>28</sup>



**DLA Piper (Canada) LLP**  
Suite 6000, 1 First Canadian Place  
PO Box 367, 100 King St W  
Toronto ON M5X 1E2  
www.dlapiper.com

Edmond Lamek  
edmond.lamek@dlapiper.com  
**T** +1 416.365.3444  
**F** 416.365.7886

November 26, 2025

**DELIVERED BY EMAIL**

**Cassels Brock & Blackwell LLP**  
**Suite 3810, Bankers Hall West**  
**888 3rd Street SW**  
**Calgary, Alberta**  
**T2P 5C5**

**Attention: Jeffrey Oliver**

**Re: Wallace & Carey Inc. (“W&C”) Burnett Duckworth & Palmer letter of November 20, 2025**

We write further to Burnett Duckworth & Palmer’s (“BDP”) letter to Cassels dated November 20, 2025 which you have forwarded to us, wherein BDP, on behalf of its client, Digiflex Information Systems Inc. (“Digiflex”), requested that KSV Restructuring Inc. in its capacity as CCAA monitor (the “Monitor”) of W&C agrees to a “variation” of the terms of the Digiflex Maintenance Agreements with W&C, which, in summary, include:

- (i) the cessation by Digiflex of upgrades, enhancements, the 24/7 support line, or other functionalities required when operating the ERP software for a distribution business; and
- (ii) W&C having access to its databases for the purposes of potential audits and reporting, by way of (a) unrestricted read only access to all the archive databases; (b) up to two concurrent update users for each production database to be able to enter adjusting transactions, and (c) support as required. (collectively, the “Variations”)

7-Eleven Canada, Inc. and 7-Eleven Distribution Canada Corp. (“Seven Eleven”) has reviewed the terms of Digiflex’s request and the terms of the proposed Variations, and is of the view that many of the proposed Variations have little or nothing to do with the provision (or cessation) of maintenance services by Digiflex under the Maintenance Agreements, and appear to be attempts by Digiflex to restrict and interfere with W&C’s access to the computers, systems, servers and databases that utilize the licensed ProClass/LAZER/NEXUS and CLASS ERP software, and the software itself, to carry out W&C’s transition services obligations to Seven Eleven in accordance with the Court approved Transition Services Agreement. They are therefore unacceptable to Seven Eleven.

Seven Eleven is however is prepared to engage in discussions to determine if a commercially reasonable and mutually acceptable alternative arrangement can be reached with Digiflex relating to these matters following tomorrow’s application.



Thank you for your assistance.

**DLA Piper (Canada) LLP**

Per:

A handwritten signature in blue ink, appearing to read 'EL', with a long horizontal flourish extending to the right.

Edmond Lamek

CC: Josh Buchanan, 7-Eleven, Inc.  
Courtney Chouinard, 7-Eleven, Inc.  
Justin Mooney, DLA Piper (Canada) LLP  
Carole Hunter, DLA Piper (Canada) LLP

This is Exhibit "C", referred to in the Affidavit  
of Jennifer Allen, affirmed before me on the  
2nd day of February, 2026.



---

A Commissioner for Oaths in and for  
the Province of Alberta

**AISIA ANNE ROBERTS**  
A Commissioner For Oaths  
in and for the Province of Alberta  
My Commission Expires September 20, 2028

**From:** [Lamek, Edmond](#)  
**To:** [Chelsea Nimmo](#)  
**Cc:** [Hunter, Carole](#); [Punniamoorthy, Sangeetha](#); [Mooney, Justin](#); [Chouinard, Courtney](#); [Buchanan, Joshua Graham \(Josh\)](#); [Oliver, Jeffrey](#); [Jason Knight](#); [Bobby Kofman \(bkofman@ksvadvisory.com\)](#)  
**Subject:** [EXT] 7-Eleven, Wallace & Carey and Digiflex  
**Date:** Friday, December 19, 2025 3:57:05 PM  
**Attachments:** [L - BDP December 19 2025.pdf](#)

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Hi Chelsea –

Please see attached correspondence.

Please note that it is NOT being sent on a without prejudice basis.

Thanks, Edmond.

**Edmond Lamek**

Partner

T [+1 416.365.3444](tel:+14163653444)

E [edmond.lamek@ca.dlapiper.com](mailto:edmond.lamek@ca.dlapiper.com)



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**T** +1 416.365.3444  
**F** 416.365.7886

December 19, 2025

**DELIVERED BY EMAIL**

**Burnet, Duckworth & Palmer LLP**  
**Suite 2400, 525-8th Ave SW**  
**Calgary, Alberta**  
**T2P 1G1**

**Attention: Chelsea Nimmo**

**Re: Wallace & Carey Inc. - Reasons for Decision of Justice Marion dated December 15, 2025**

We write further to paragraphs 134-138 of the Reasons for Decision of the Honourable Justice M.A. Marion dated December 15, 2025 (the "**Reasons**").

As set out in the Reasons, Seven Eleven Distribution Canada Corp. ("**SEDCC**") has an interest in having future read-only access to the historical Wallace & Carey Inc. ("**W&C**") ERP databases for the purposes of potential CRA audits and go forward financial reporting generally. In that regard, as set out in the Reasons, Justice Marion adjourned the W&C CCAA Section 11.3 assignment motion in order to see if a commercial arrangement can be reached between SEDCC and Digiflex Information Systems Inc. ("**Digiflex**") to facilitate SEDCC's ongoing access to the Digiflex Software for SEDCC's records retention and auditing purposes going forward.

In that regard, I am instructed by SEDCC to make the following commercial offer to Digiflex.

SEDCC will pay to Digiflex a one time licensing fee in the amount of Cdn.\$200,000 inclusive of all applicable taxes (the "**SEDCC License Fee**") to acquire a perpetual royalty free license to continue to utilize all software currently licensed by Digiflex to Wallace & Carey Inc. on a read only basis, including, without limitation:

1. ProCLASS/LAZER/NEXUS Software License Agreement between Digiflex and W&C executed March 9, 2000;
2. CLASS Software License Agreement between Digiflex and W&C executed June 27 (Digiflex) and August 12 (W&C), 2003;
3. ProCLASSB1 Business Intelligence Suite Software License Agreement between Digiflex and W&C entered into on or about April 23, 2012 (according to Mohamad Mardukhi November 14, 2025 Affidavit ("MM Affidavit")) and signed by Digiflex August 19, 2013 (per copy in W&C files).

( the "**SEDCC Limited License**").

As a condition precedent to the entering into of the SEDCC Limited License and the payment of the SEDCC



License Fee, Digiflex and Mohamad Mardukhi shall file a Notice of Discontinuance with the Federal Court of Canada on a peremptory basis, terminating and withdrawing Federal Court action No. T-4435-25 (the "**Federal Court Action**") on a without costs, with prejudice, basis, and executing a full and final release in favour of SEDCC, 7-Eleven Canada, Inc. and 7-Eleven, Inc. (collectively, "**7-Eleven**") in respect of all matters claimed or claimable in the Federal Court Action, on terms acceptable to 7-Eleven in its sole discretion.

Given the timelines contemplated in paragraph 138 of the Reasons, this offer is open for acceptance until 5:00PM Mountain Time on December 23, 2025, following which time it shall be null and void, and deemed to have been withdrawn in its entirety.

We look forward to hearing from you.

**DLA Piper (Canada) LLP**

Per:

A handwritten signature in blue ink, appearing to read 'Edmond Lamek', written over a horizontal line.

Edmond Lamek

CC: Josh Buchanan, 7-Eleven, Inc.  
Courtney Chouinard, 7-Eleven, Inc.  
Justin Mooney, DLA Piper (Canada) LLP  
Carole Hunter, DLA Piper (Canada) LLP  
Sangeetha Punniyamoorthy, DLA Piper (Canada) LLP  
Jeffrey Oliver, Cassels LLP

This is Exhibit "D", referred to in the Affidavit  
of Jennifer Allen, affirmed before me on the  
2nd day of February, 2026.



---

A Commissioner of Oaths in and for  
the Province of Alberta

**AISIA ANNE ROBERTS**  
A Commissioner For Oaths  
In and for the Province of Alberta  
My Commission Expires September 20, 2028

**From:** [Chelsea Nimmo](#)  
**To:** [Lamek, Edmond](#)  
**Cc:** [Hunter, Carole](#); [Punniamoorthy, Sangeetha](#); [Mooney, Justin](#); [Chouinard, Courtney](#); [Buchanan, Joshua Graham \(Josh\)](#); [Oliver, Jeffrey](#); [Jason Knight](#); [Bobby Kofman \(bkofman@ksvadvisory.com\)](#); [Bruna Kalinoski](#); [Florence Hogg](#)  
**Subject:** RE: [EXTERNAL] RE: [EXT] 7-Eleven, Wallace & Carey and Digiflex  
**Date:** Wednesday, February 07, 2026 1:20:00 PM  
**Attachments:** [image001.png](#)

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Hi Edmond,

Thank you for your email. When I sent my email to you on December 23, I received out of offices from yourself and the rest of the chain, indicating that you would return to the office on February 5th. As you know, it was the Christmas holidays, and the week of the 29<sup>th</sup> I was dealing with a family emergency (an imminent death in my family).

As I stated in my email below, Digiflex is open to a settlement, however, not on the terms that 7-Eleven had proposed. For there to be a settlement, there needs to be a meeting of the minds, and there has never been a meeting of minds in how the software works. As I advised Sangeetha when we spoke on December 22<sup>nd</sup> related to the Federal Court case, it seems that many of the issues between Digiflex and 7-Eleven have arisen because 7-Eleven has never approached Digiflex to talk logistics about the software. Indeed, your December 19<sup>th</sup> letter suggests that 7-Eleven does not understand the Digiflex Software.

7-Eleven does not need access to the software if it wants access to historical data for audit purposes. Justice Marion appears to understand that given his statement at para 136 that "it is unclear, factually, whether an assignment of the License Agreements is actually necessary for records retention, audit or tax purposes once the underlying data is moved to SEC / SEDCC's systems". Further, it seems unlikely that the CRA would audit 7-Eleven regarding Wallace & Carey's data. However, if that were to happen, 7-Eleven has ways to prepare for such an audit:

1. **7-Eleven can extract the historical data from the software prior to February 15, 2026.** As explained by Mr. Mardukhi in his November 25<sup>th</sup> Affidavit, there is an "Extract Database Information" function in ProClass that can be used to extract data from the software (see paragraphs 26 – 29).
2. **Wallace & Carey / Loudon will have access to their historical data.** Should Wallace & Carey / Loudon (i.e., KSV) need access to Wallace & Carey's / Loudon's historical data post February 15, 2026, KSV can maintain the Wallace & Carey databases in "read-only" form so long as Digiflex continues to be paid for the regular W&C / Loudon maintenance fees. In the unlikely event the CRA audits 7-Eleven with respect to Wallace & Carey's data, 7-Eleven could then ask KSV to extract the information that the CRA is asking for.

If your client intends to ask the Monitor to resurrect its assignment application, your client will need to tender technical evidence explaining why the above two options are not satisfactory (indeed, Justice Marion notes he will need more evidence to decide the issue

given his preliminary instinct that an assignment is no longer necessary). I am not sure what evidence 7-Eleven will be able to lead to do so, given that Mr. Mardukhi would clearly understand the functionalities of the ProClass Software more than anyone at 7-Eleven would.

Your client has previous settlement offers from my client and should have understood that the \$200,000 offer would not be acceptable to my client. We would be happy to jump on a call with you to discuss a more appropriate settlement offer. Given the disagreements between our clients thus far, I believe it would be best if such a call included an IT person from 7-Eleven and Mr. Mardukhi to figure out what 7-Eleven actually wants and needs. If you agree that this would be helpful, we should schedule this call as soon as possible.

If you believe an additional hearing will be necessary, please run the dates by me as I have a vacation planned.

Many thanks,  
Chelsea

## Chelsea Nimmo

### Counsel

P: 403.260.0102

C: 403.620.1565

2400, 525 - 8th Avenue SW, Calgary, AB T2P 1G1

**bdplaw.com**



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---

**From:** Lamek, Edmond <edmond.lamek@ca.dlapiper.com>

**Sent:** Wednesday, January 07, 2026 10:27 AM

**To:** Chelsea Nimmo <cnimmo@bdplaw.com>

**Cc:** Hunter, Carole <carole.hunter@ca.dlapiper.com>; Punniyamoorthy, Sangeetha <sangeetha.punniyamoorthy@ca.dlapiper.com>; Mooney, Justin <justin.mooney@ca.dlapiper.com>; Chouinard, Courtney <courtney.chouinard@7-11.com>; Buchanan, Joshua Graham (Josh) <joshua.buchanan@7-11.com>; Oliver, Jeffrey <joliver@cassels.com>; Jason Knight <jknight@ksvadvisory.com>; Bobby Kofman (bkofman@ksvadvisory.com) <bkofman@ksvadvisory.com>

**Subject:** RE: [EXTERNAL] RE: [EXT] 7-Eleven, Wallace & Carey and Digiflex

Hi Chelsea –

I have not heard from you since your email below of December 23, over two weeks ago. Given Justice Marion's comments in paragraphs 137 and 138 of his Reasons, we assume

this non-engagement means that Digiflex is not interested in a commercial solution. Accordingly, we will be asking the Monitor to ask His Honour to schedule the return of the Section 11.3 assignment motion in the very near future and in any event, before February 15.

Thanks, Edmond.

**Edmond Lamek**

Partner

T [+1 416.365.3444](tel:+14163653444)

E [edmond.lamek@ca.dlapiper.com](mailto:edmond.lamek@ca.dlapiper.com)

---

**From:** Chelsea Nimmo <[cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com)>

**Sent:** Tuesday, December 23, 2025 6:09 PM

**To:** Lamek, Edmond <[edmond.lamek@ca.dlapiper.com](mailto:edmond.lamek@ca.dlapiper.com)>

**Cc:** Hunter, Carole <[carole.hunter@ca.dlapiper.com](mailto:carole.hunter@ca.dlapiper.com)>; Punniyamoorthy, Sangeetha <[sangeetha.punniyamoorthy@ca.dlapiper.com](mailto:sangeetha.punniyamoorthy@ca.dlapiper.com)>; Mooney, Justin <[justin.mooney@ca.dlapiper.com](mailto:justin.mooney@ca.dlapiper.com)>; Chouinard, Courtney <[courtney.chouinard@7-11.com](mailto:courtney.chouinard@7-11.com)>; Buchanan, Joshua Graham (Josh) <[joshua.buchanan@7-11.com](mailto:joshua.buchanan@7-11.com)>; Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>; Jason Knight <[jknight@ksvadvisory.com](mailto:jknight@ksvadvisory.com)>; Bobby Kofman ([bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com)) <[bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com)>

**Subject:** [EXTERNAL] RE: [EXT] 7-Eleven, Wallace & Carey and Digiflex

**DLA Piper (Canada) LLP ALERT:** This is an external email. Do not click links or open attachments unless you recognize the sender's email address and know the content is safe.

Dear Edmond,

Thank you for your letter. Digiflex does not accept. We can provide the rationale early next week, after Christmas. Digiflex would be open to a settlement; however, the terms that 7-Eleven has proposed are not acceptable. 7-Eleven has been profiting from Digiflex's software without a license for quite some time now. 7-Eleven's admission that all its Canadian retail profits are tied to the software is an acknowledgement that Digiflex is owed much more than \$200,000.

I will speak to you next week. Until then, I wish you a very happy holiday.

Best,  
Chelsea

**Chelsea Nimmo**

**Counsel**

P: 403.260.0102

C: 403.620.1565  
2400, 525 - 8th Avenue SW, Calgary, AB T2P 1G1  
**bdplaw.com**



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---

**From:** Lamek, Edmond <[edmond.lamek@ca.dlapiper.com](mailto:edmond.lamek@ca.dlapiper.com)>  
**Sent:** Friday, December 19, 2025 3:56 PM  
**To:** Chelsea Nimmo <[cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com)>  
**Cc:** Hunter, Carole <[carole.hunter@ca.dlapiper.com](mailto:carole.hunter@ca.dlapiper.com)>; Punniyamoorthy, Sangeetha <[sangeetha.punniyamoorthy@ca.dlapiper.com](mailto:sangeetha.punniyamoorthy@ca.dlapiper.com)>; Mooney, Justin <[justin.mooney@ca.dlapiper.com](mailto:justin.mooney@ca.dlapiper.com)>; Chouinard, Courtney <[courtney.chouinard@7-11.com](mailto:courtney.chouinard@7-11.com)>; Buchanan, Joshua Graham (Josh) <[joshua.buchanan@7-11.com](mailto:joshua.buchanan@7-11.com)>; Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>; Jason Knight <[jknight@ksvadvisory.com](mailto:jknight@ksvadvisory.com)>; Bobby Kofman ([bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com)) <[bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com)>  
**Subject:** [EXT] 7-Eleven, Wallace & Carey and Digiflex

Hi Chelsea –  
Please see attached correspondence.  
Please note that it is NOT being sent on a without prejudice basis.

Thanks, Edmond.

**Edmond Lamek**  
Partner

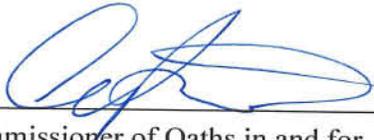
T [+1 416.365.3444](tel:+14163653444)  
E [edmond.lamek@ca.dlapiper.com](mailto:edmond.lamek@ca.dlapiper.com)



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This is Exhibit "E", referred to in the Affidavit of  
Jennifer Allen, affirmed before me on the 2nd  
day of February, 2026.



---

A Commissioner of Oaths in and for  
the Province of Alberta

**AISIA ANNE ROBERTS**  
A Commissioner For Oaths  
In and for the Province of Alberta  
My Commission Expires September 20, 2028

**From:** [Oliver, Jeffrey](#)  
**To:** [Chelsea Nimmo](#)  
**Cc:** [Bruna Kalinoski](#)  
**Subject:** [EXT] RE: Software Licenses with Wallace & Carey  
**Date:** Monday, January 12, 2026 4:50:16 PM  
**Attachments:** [image002.png](#)  
[image003.png](#)

---

Chelsea

I am waiting for confirmation of our request (if any) and hope to have it tomorrow.

Thanks



**JEFFREY OLIVER** (HE/HIM/HIS)

Partner

t: +1 403 351 2921

e: [joliver@cassels.com](mailto:joliver@cassels.com)

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Calgary, AB T2P 5C5 Canada  
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---

**From:** Chelsea Nimmo <[cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com)>  
**Sent:** Thursday, January 08, 2026 4:55 PM  
**To:** Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>  
**Cc:** Bruna Kalinoski <[bkalinowski@bdplaw.com](mailto:bkalinowski@bdplaw.com)>  
**Subject:** RE: Software Licenses with Wallace & Carey

**CAUTION:** External Email

And by January 12, 2025 – I mean January 12, 2026.

**Chelsea Nimmo**

**Counsel**

P: 403.260.0102

C: 403.620.1565

2400, 525 - 8th Avenue SW, Calgary, AB T2P 1G1

[bdplaw.com](http://bdplaw.com)



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---

**From:** Chelsea Nimmo  
**Sent:** Thursday, January 08, 2026 4:42 PM  
**To:** Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>  
**Cc:** Bruna Kalinoski <[bkalinoski@bdplaw.com](mailto:bkalinoski@bdplaw.com)>  
**Subject:** Software Licenses with Wallace & Carey

Hi Jeffrey,

I am writing regarding the software licenses that Wallace & Carey Inc. (**W&C**) has with Digiflex.

Digiflex understands that your client, KSV (as court-appointed monitor of W&C), may need access to the historical W&C ERP databases for the purposes of potential CRA audits and go forward financial reporting generally. As you know, the current maintenance agreement between W&C and Digiflex runs until February 15, 2026. Should KSV need access to W&C's historical data on a read only basis, post February 15, 2026, please let us know and we will send you an invoice for maintenance fees.

Please let me know by the end of day on January 12, 2025, so that we can prepare the necessary paperwork.

Many thanks,

Chelsea

**Chelsea Nimmo**

**Counsel**

P: 403.260.0102

C: 403.620.1565

2400, 525 - 8th Avenue SW, Calgary, AB T2P 1G1

[bdplaw.com](http://bdplaw.com)



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This is Exhibit "F", referred to in the Affidavit  
of Jennifer Allen, affirmed before me on the  
2nd day of February, 2026.



---

A Commissioner for Oaths in and for  
the Province of Alberta

**AISIA ANNE ROBERTS**  
A Commissioner For Oaths  
in and for the Province of Alberta  
My Commission Expires September 20, 2028

**From:** [Chelsea Nimmo](#)  
**To:** [Oliver, Jeffrey](#); [Wiest, Kamryn](#)  
**Cc:** [Bobby Kofman](#); [Jason Knight](#); [Lamek, Edmond](#); [carole.hunter@dlapiper.com](mailto:carole.hunter@dlapiper.com); [Florence Hogg](#)  
**Subject:** Re: [EXT] W&C/Digiflex - Order - In the matter of the Compromise or Arrangement of Wallace & Carey Inc., Loudon Bros Limited and Carey Management Inc. // Court File Number 2301-08305  
**Date:** Wednesday, January 28, 2026 11:04:12 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)

---

Thanks - I will try and get you the Application today.

(Good thing is cloudy in Mexico!)

Get [Outlook for iOS](#)

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**From:** Oliver, Jeffrey <joliver@cassels.com>  
**Sent:** Wednesday, January 28, 2026 12:59:38 PM  
**To:** Chelsea Nimmo <cnimmo@bdplaw.com>; Wiest, Kamryn <kwiest@cassels.com>  
**Cc:** Bobby Kofman <bkofman@ksvadvisory.com>; Jason Knight <jknight@ksvadvisory.com>; Lamek, Edmond <edmond.lamek@ca.dlapiper.com>; carole.hunter@dlapiper.com <carole.hunter@dlapiper.com>; Florence Hogg <fhogg@bdplaw.com>  
**Subject:** RE: [EXT] W&C/Digiflex - Order - In the matter of the Compromise or Arrangement of Wallace & Carey Inc., Loudon Bros Limited and Carey Management Inc. // Court File Number 2301-08305

Chelsea,

We will need to see your materials to consider the request so we have a clear understanding of the scope of what is being sought. We can get back to you once you have provided that.

Thanks



**JEFFREY OLIVER** (HE/HIM/HIS)

Partner  
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Calgary, AB T2P 5C5 Canada  
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---

**From:** Chelsea Nimmo <cnimmo@bdplaw.com>  
**Sent:** Wednesday, January 28, 2026 8:22 AM  
**To:** Oliver, Jeffrey <joliver@cassels.com>; Wiest, Kamryn <kwiest@cassels.com>  
**Cc:** Bobby Kofman <bkofman@ksvadvisory.com>; Jason Knight <jknight@ksvadvisory.com>; Lamek,

Edmond <edmond.lamek@ca.dlapiper.com>; carole.hunter@dlapiper.com; Florence Hogg <fhogg@bdplaw.com>

**Subject:** RE: [EXT] W&C/Digiflex - Order - In the matter of the Compromise or Arrangement of Wallace & Carey Inc., Loudon Bros Limited and Carey Management Inc. // Court File Number 2301-08305

**CAUTION:** External Email

Hi Jeffrey –

Can I advise Corbyn of this update? Do you consent to hearing the cross-application at the same time?

Many thanks,  
Chelsea

## Chelsea Nimmo

### Counsel

P: 403.260.0102

C: 403.620.1565

2400, 525 - 8th Avenue SW, Calgary, AB T2P 1G1

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**From:** Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>

**Sent:** Tuesday, January 27, 2026 12:58 PM

**To:** Chelsea Nimmo <[cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com)>; Wiest, Kamryn <[kwiest@cassels.com](mailto:kwiest@cassels.com)>

**Cc:** Bobby Kofman <[bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com)>; Jason Knight <[jknight@ksvadvisory.com](mailto:jknight@ksvadvisory.com)>; Lamek, Edmond <[edmond.lamek@ca.dlapiper.com](mailto:edmond.lamek@ca.dlapiper.com)>; [carole.hunter@dlapiper.com](mailto:carole.hunter@dlapiper.com); Florence Hogg <[fhogg@bdplaw.com](mailto:fhogg@bdplaw.com)>

**Subject:** RE: [EXT] W&C/Digiflex - Order - In the matter of the Compromise or Arrangement of Wallace & Carey Inc., Loudon Bros Limited and Carey Management Inc. // Court File Number 2301-08305

Ok thank you for the update.



**JEFFREY OLIVER** (HE/HIM/HIS)  
Partner  
t: +1 403 351 2921

| e: [joliver@cassels.com](mailto:joliver@cassels.com)

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---

**From:** Chelsea Nimmo <[cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com)>

**Sent:** Tuesday, January 27, 2026 12:04 PM

**To:** Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>; Wiest, Kamryn <[kwiest@cassels.com](mailto:kwiest@cassels.com)>

**Cc:** Bobby Kofman <[bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com)>; Jason Knight <[jknight@ksvadvisory.com](mailto:jknight@ksvadvisory.com)>; Lamek, Edmond <[edmond.lamek@ca.dlapiper.com](mailto:edmond.lamek@ca.dlapiper.com)>; [carole.hunter@dlapiper.com](mailto:carole.hunter@dlapiper.com); Florence Hogg <[fhogg@bdplaw.com](mailto:fhogg@bdplaw.com)>

**Subject:** RE: [EXT] W&C/Digiflex - Order - In the matter of the Compromise or Arrangement of Wallace & Carey Inc., Loudon Bros Limited and Carey Management Inc. // Court File Number 2301-08305

**CAUTION:** External Email

Hi Jeffrey –

Spoke too soon. My client would like to proceed on the termination issue on Feb 5<sup>th</sup>. We will likely file a cross-application seeking a termination and/or variance of the software licenses, and aim to provide our materials on Thursday.

I am confident that we can come to an agreement on some of the other smaller issues though and will revert back today or tomorrow with suggestions. Apologies but I have come to learn that general commercial litigators and insolvency lawyers think very differently about certain things, and also that it is very standard for Monitors to want protection from all suits. However, in the interests of full transparency, and in hopes that we can start to see eye-to-eye, in general, Digiflex has no desire to sue the Monitor, Cassels, or any of the Companies at this time (and hopes it never has to). However, I am overly cautious with the language used in the Draft Stay Order given the current Federal Court proceeding. That proceeding includes allegations of common design and will likely involve discovery of all of those entities. I am sure we can come to some form of agreement that will preserve all rights.

Thanks,  
Chelsea

**Chelsea Nimmo**

**Counsel**

P: 403.260.0102

C: 403.620.1565

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---

**From:** Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>

**Sent:** Tuesday, January 27, 2026 11:09 AM

**To:** Chelsea Nimmo <[cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com)>; Wiest, Kamryn <[kwiest@cassels.com](mailto:kwiest@cassels.com)>

**Cc:** Bobby Kofman <[bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com)>; Jason Knight <[jknight@ksvadvisory.com](mailto:jknight@ksvadvisory.com)>; Lamek, Edmond <[edmond.lamek@ca.dlapiper.com](mailto:edmond.lamek@ca.dlapiper.com)>; [carole.hunter@dlapiper.com](mailto:carole.hunter@dlapiper.com); Florence Hogg <[fhogg@bdplaw.com](mailto:fhogg@bdplaw.com)>

**Subject:** RE: [EXT] W&C/Digiflex - Order - In the matter of the Compromise or Arrangement of Wallace & Carey Inc., Loudon Bros Limited and Carey Management Inc. // Court File Number 2301-08305

Please let us know once you have instructions. Thanks



**JEFFREY OLIVER** (HE/HIM/HIS)

Partner

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---

**From:** Chelsea Nimmo <[cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com)>

**Sent:** Tuesday, January 27, 2026 10:42 AM

**To:** Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>; Wiest, Kamryn <[kwiest@cassels.com](mailto:kwiest@cassels.com)>

**Cc:** Bobby Kofman <[bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com)>; Jason Knight <[jknight@ksvadvisory.com](mailto:jknight@ksvadvisory.com)>; Lamek, Edmond <[edmond.lamek@ca.dlapiper.com](mailto:edmond.lamek@ca.dlapiper.com)>; [carole.hunter@dlapiper.com](mailto:carole.hunter@dlapiper.com); Florence Hogg <[fhogg@bdplaw.com](mailto:fhogg@bdplaw.com)>

**Subject:** RE: [EXT] W&C/Digiflex - Order - In the matter of the Compromise or Arrangement of Wallace & Carey Inc., Loudon Bros Limited and Carey Management Inc. // Court File Number 2301-08305

**CAUTION:** External Email

Thank you, Jeffrey for your response. I have read the Monitor's report (which came after I sent the email below), and I believe we can probably streamline some of the issues that we had with respect to the Draft Order now that I have more context. Again – I was never trying to be difficult, just trying to understand where everyone is coming from.

One area that we will not be able to streamline is your request for a never-ending use to use the Digiflex Software without maintenance fees. While the license was "perpetual", that does not mean "never ending" and that it can never be terminated or revoked.

In any event, I am seeking instructions on your proposal that we keep things status quo until we can be before Marion again at another time. Of course, in doing so, Digiflex is in no way acquiescing to any encroachment on its rights by any party, including Wallace & Carey and 7-11. I am concerned that we will not have sufficient time to address the termination issue in a half day sitting with the additional issues that you have raised. As you know I am also out of the country and appreciate you taking that into account. Kindly note that I do not yet have instructions so we may in fact be discussing the termination issue on February 5<sup>th</sup>.

Thanks  
Chelsea

## Chelsea Nimmo

### Counsel

P: 403.260.0102

C: 403.620.1565

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---

**From:** Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>

**Sent:** Tuesday, January 27, 2026 10:24 AM

**To:** Chelsea Nimmo <[cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com)>; Wiest, Kamryn <[kwiest@cassels.com](mailto:kwiest@cassels.com)>

**Cc:** Bobby Kofman <[bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com)>; Jason Knight <[jknight@ksvadvisory.com](mailto:jknight@ksvadvisory.com)>; Lamek, Edmond <[edmond.lamek@ca.dlapiper.com](mailto:edmond.lamek@ca.dlapiper.com)>; [carole.hunter@dlapiper.com](mailto:carole.hunter@dlapiper.com); Florence Hogg <[fhogg@bdplaw.com](mailto:fhogg@bdplaw.com)>

**Subject:** RE: [EXT] W&C/Digiflex - Order - In the matter of the Compromise or Arrangement of Wallace & Carey Inc., Loudon Bros Limited and Carey Management Inc. // Court File Number 2301-08305

Chelsea,

For many of these, you are transposing CCAA issues onto Digiflex. If this doesn't answer all of your questions, we would be pleased to hop onto a call. Brief answers are below in **bold**.

Thanks

Jeff



**JEFFREY OLIVER** (HE/HIM/HIS)

Partner

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e: [joliver@cassels.com](mailto:joliver@cassels.com)

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Calgary, AB T2P 5C5 Canada

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---

**From:** Chelsea Nimmo <[cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com)>

**Sent:** Monday, January 26, 2026 2:18 PM

**To:** Wiest, Kamryn <[kwiest@cassels.com](mailto:kwiest@cassels.com)>

**Cc:** Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>; Bobby Kofman <[bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com)>; Jason Knight <[jknight@ksvadvisory.com](mailto:jknight@ksvadvisory.com)>; Lamek, Edmond <[edmond.lamек@ca.dlapiper.com](mailto:edmond.lamек@ca.dlapiper.com)>; [carole.hunter@dlapiper.com](mailto:carole.hunter@dlapiper.com); Florence Hogg <[fhogg@bdplaw.com](mailto:fhogg@bdplaw.com)>

**Subject:** RE: [EXT] W&C/Digiflex - Order - In the matter of the Compromise or Arrangement of Wallace & Carey Inc., Loudon Bros Limited and Carey Management Inc. // Court File Number 2301-08305

**CAUTION:** External Email

Thanks, Kamryn.

I am a bit perplexed by the Monitor's requests for these directions given the stage of the CCAA proceeding. For example:

- In relation to a possible further stay extension, please provide more details on the required purpose of the extension. I understood that the latest stay extensions were only sought in relation to the transition with 7-Eleven (see [17<sup>th</sup> Monitor's Report, section 7](#)). As you know, from Justice Marion's decision, that transition cannot continue post February 15, 2026. With that out of the way, what is the basis for the further stay extension? **This has nothing to do with Digiflex, TSA or 7-Eleven. The Monitor is collecting receivables for the benefit of creditors of W&C, continuing the administration of the estate, and requires the CCAA stay to do so (see section 3 of the Monitor's 19<sup>th</sup> Report, that was served yesterday). This does not concern Digiflex. Justice Marion's reasons did not terminate the entire proceedings.**
- In relation to a stay in respect of CMI, the Monitor (and its counsel, and representatives), please advise why this stay is required? From my understanding, a

stay is granted in a CCAA proceeding to allow a debtor company to restructure / wind-down. The record to date shows that that process has been completed. Please enlighten. **CMI is within the CCAA proceedings, so it is the subject of an existing stay. The Amended and Restated Initial Order stays actions against the Monitor (see para 16). We are asking for the stay to be extended to counsel to the Monitor, given the circumstances and some of the allegations your client has made. It is relatively standard in CCAA proceedings.**

- In relation to your item 2 below, is this in respect of a hypothetical judgment against W&C / Loudon from a lawsuit brought by Digiflex? **Yes. More detail is provided in section 5 of the Monitor's 19<sup>th</sup> Report.**
  
- In relation to your item 3 below, as you know, Digiflex has advised that it is prepared to offer W&C / Loudon access to its historical information. It has made that offer more than once: first on November 20, 2025 when I sent the attached letter to Jeffrey, and then again on January 8, 2026, when I sent the attached email to Jeffrey. To date, I have not received a response to either inquiry. I am sure you can understand my frustration and confusion as to why only now, the Monitor believes that it needs to bring an urgent application to have access to historical W&C / Loudon data, when: (i) Digiflex has outstanding offers to W&C / Loudon on this very issue; and (ii) there is no evidence that the Monitor *needs* access to historical W&C / Loudon data *immediately* on February 16, 2026. Please advise:
  - The reason why the Monitor needs access to historical W&C / Loudon data immediately on February 16, 2026;
  
  - The reason why we have not heard from you in respect of the November 20<sup>th</sup> letter and/or the January 8<sup>th</sup> email;
    - Does the Monitor take issue with the proposed "read-only" format? If so, why?
    - Does the Monitor take issue with paying further maintenance fees? If so, on what basis does the Monitor believe it can have access to the software without paying maintenance fees?

**I recommend you read the entirety of the Monitor's 19<sup>th</sup> Report on these items. First, the stay of proceedings expires on February 15, 2026, so we need to return to Court prior to February 15 in any event. We are trying to minimize court appearances and their associated cost. Second, the Monitor will require access to the information to meet its statutory and court-ordered obligations, including any potential tax audit requirements and responding to questions from tax authorities whether as Monitor, or in a subsequent role, such as a bankruptcy trustee. We aren't interested in having**

**that access cut off or not available for any period of time. The Monitor does not intend to pay any further fees to your client as maintenance or help desk services are not necessary.**

Please also provide more information as to why the Monitor feels that these issues "must be clarified before the February 15 lifting date". There is no evidence that any of the above issues are urgent. As you know, I am out of the country on vacation. **1. We need the general CCAA stay to continue; 2. The issues with respect to the scope of the stay needs to be before the court before the stay is lifted on February 15 (the estate can't be exposed without these issues being resolved); 3. The Monitor can't be put into a position of not being able to comply with its statutory or court-ordered duties.**

I look forward to hearing from you.

Many thanks,  
Chelsea

## **Chelsea Nimmo**

### **Counsel**

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**From:** Wiest, Kamryn <[kwiest@cassels.com](mailto:kwiest@cassels.com)>

**Sent:** Friday, January 23, 2026 2:43 PM

**To:** Chelsea Nimmo <[cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com)>

**Cc:** Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>; Bobby Kofman <[bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com)>; Jason Knight <[jknight@ksvadvisory.com](mailto:jknight@ksvadvisory.com)>; Lamek, Edmond <[edmond.lamek@ca.dlapiper.com](mailto:edmond.lamek@ca.dlapiper.com)>; [carole.hunter@dlapiper.com](mailto:carole.hunter@dlapiper.com); Florence Hogg <[fhogg@bdplaw.com](mailto:fhogg@bdplaw.com)>

**Subject:** RE: [EXT] W&C/Digiflex - Order - In the matter of the Compromise or Arrangement of Wallace & Carey Inc., Loudon Bros Limited and Carey Management Inc. // Court File Number 2301-08305 [IMAN-LEGAL.FID4364182]

Hi Chelsea,

The Monitor intends to seek Justice Marion's advice and direction on three matters that

were either (i) unclear in the Reasons; or (ii) otherwise arose after the Reasons were released. In particular, the Monitor wants Justice Marion's guidance on the scope and effect of the lifting of the stay with respect to the following:

1. confirmation that the lifting of the stay is solely against W&C and Loudon, not CMI, the Monitor, or its counsel and representatives;
2. the consequence of a judgement against W&C and Loudon, if one is obtained, including clarification that a judgment does not disturb the priorities established by the ARIO and the [Ancillary Order granted by the Honourable Justice Hollins dated August 23, 2023](#), and that the Provinces and Territories retain priority payment of their Tobacco Tax Charge; and
3. whether W&C and Loudon can still use their perpetual license after the stay has been lifted, including to access and maintain a historical database for the Monitor's purposes of meeting its statutory and other obligations, noting that no further maintenance, support, or help desk services from DigiFlex would be required.

We currently have time booked for half-day on February 5<sup>th</sup> at 10AM before Justice Marion for the purposes of extending the stay relating to other matters in these CCAA proceedings and seeking his advice and direction on the above. If agreement can be reached on these points, a contested court application will not be necessary. In our view, however, these issues must be clarified before the February 15 lifting date, unless we can otherwise agree that DigiFlex will effectively continue to operate under the stay until these matters are addressed by Justice Marion.

We look forward to hearing from you.

Thank you,  
Kamryn



**KAMRYN WIEST** (SHE/HER/HERS)

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---

**From:** Chelsea Nimmo <[cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com)>

**Sent:** Friday, January 23, 2026 11:50 AM

**To:** Wiest, Kamryn <[kwiest@cassels.com](mailto:kwiest@cassels.com)>

**Cc:** Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>; Bobby Kofman <[bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com)>; Jason Knight <[jknight@ksvadvisory.com](mailto:jknight@ksvadvisory.com)>; Lamek, Edmond <[edmond.lamek@ca.dlapiper.com](mailto:edmond.lamek@ca.dlapiper.com)>; [carole.hunter@dlapiper.com](mailto:carole.hunter@dlapiper.com); Florence Hogg <[fhogg@bdplaw.com](mailto:fhogg@bdplaw.com)>

**Subject:** Re: [EXT] W&C/Digiflex - Order - In the matter of the Compromise or Arrangement of Wallace & Carey Inc., Loudon Bros Limited and Carey Management Inc. // Court File Number 2301-08305 [IMAN-LEGAL.FID4364182]

**CAUTION:** External Email

Hi Kamryn,

Sorry I missed your call. I'm in Mexico now and back February 2.

What is the issue that will need to be addressed? It would be helpful if I could understand to see if the parties could avoid another contested court application. I believe in all the correspondence that I have sent you I have indicated that Digiflex is open to have discussions, which Justice Marion has encouraged the parties to do.

Regarding the February 15th date, the parties will still be able to appear before Justice Marion after that date. If there are any issues of urgency please let me know, but from what the Monitor and 7-11 have advised Justice Marion there does not appear to be anything urgent outstanding at this time.

If you'd like to chat on the phone I can make myself available (preferably early next week when the weather looks a bit more cloudy!)

Many thanks,  
Chelsea

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---

**From:** Wiest, Kamryn <[kwiest@cassels.com](mailto:kwiest@cassels.com)>  
**Sent:** Friday, January 23, 2026 12:46:57 PM  
**To:** Chelsea Nimmo <[cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com)>  
**Cc:** Bruna Kalinoski <[bkalinowski@bdplaw.com](mailto:bkalinowski@bdplaw.com)>; Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>; Bobby Kofman <[bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com)>; Jason Knight <[jknight@ksvadvisory.com](mailto:jknight@ksvadvisory.com)>; Lamek, Edmond <[edmond.lamek@ca.dlapiper.com](mailto:edmond.lamek@ca.dlapiper.com)>; [carole.hunter@dlapiper.com](mailto:carole.hunter@dlapiper.com) <[carole.hunter@dlapiper.com](mailto:carole.hunter@dlapiper.com)>  
**Subject:** RE: [EXT] W&C/Digiflex - Order - In the matter of the Compromise or Arrangement of Wallace & Carey Inc., Loudon Bros Limited and Carey Management Inc. // Court File Number 2301-08305 [IMAN-LEGAL.FID4364182]

Good morning Chelsea,

I gave you a call this morning and left a voicemail. I wanted to let you know that a few

matters have been identified by the Monitor that we are currently considering in connection with the lifting of the Stay.

We understand that you have upcoming vacation plans and wanted to confirm your availability to determine whether arrangements can be made with Justice Marion that are workable for all parties. If appearing before Justice Marion is not feasible based on your availability, we will nonetheless need to proceed, as he has seized himself and these matters must be addressed in advance of February 15.

Given the time-sensitive nature of this matter, we would appreciate your response as soon as possible. Please feel free to contact me at any time today should you wish to discuss on the phone.

Thank you,  
Kamryn



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---

**From:** Chelsea Nimmo <[cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com)>

**Sent:** Monday, January 19, 2026 7:51 PM

**To:** Wiest, Kamryn <[kwiest@cassels.com](mailto:kwiest@cassels.com)>

**Cc:** Bruna Kalinoski <[bkalinoski@bdplaw.com](mailto:bkalinoski@bdplaw.com)>; Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>; Bobby Kofman <[bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com)>; Jason Knight <[jknight@ksvadvisory.com](mailto:jknight@ksvadvisory.com)>; Lamek, Edmond <[edmond.lamek@ca.dlapiper.com](mailto:edmond.lamek@ca.dlapiper.com)>; [carole.hunter@dlapiper.com](mailto:carole.hunter@dlapiper.com)

**Subject:** RE: [EXT] W&C/Digiflex - Order - In the matter of the Compromise or Arrangement of Wallace & Carey Inc., Loudon Bros Limited and Carey Management Inc. // Court File Number 2301-08305

**CAUTION:** External Email

Thanks for you, Kamryn. Unfortunately, I am struggling to understand the necessity of your new additions. For example, if your rationale is to be consistent with the ARIO, I would prefer to let the ARIO speak for itself and keep our Order reflective of the words that Justice Marion actually used.

Your additions raise other questions, such as your motivation for paragraph 5. The ARIO stay is limited to the "Monitor" only, not its "counsel, agents, employees or representatives" (as you propose in your draft). I really hope I don't have to sue Cassels Brock! Plus, at this stage, the Monitor is effectively the Applicants so you can appreciate why I am skeptical.

Given the history between the parties, you can also appreciate the hesitancy.

I am not trying to be difficult; I am just struggling with the rationale. If you'd like we can have a call tomorrow to discuss further.

Thanks,  
Chelsea

## Chelsea Nimmo

### Counsel

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**From:** Wiest, Kamryn <[kwiest@cassels.com](mailto:kwiest@cassels.com)>

**Sent:** Thursday, January 15, 2026 3:11 PM

**To:** Chelsea Nimmo <[cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com)>

**Cc:** Bruna Kalinoski <[bkalinowski@bdplaw.com](mailto:bkalinowski@bdplaw.com)>; Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>; Bobby Kofman <[bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com)>; Jason Knight <[jknight@ksvadvisory.com](mailto:jknight@ksvadvisory.com)>; Lamek, Edmond <[edmond.lamek@ca.dlapiper.com](mailto:edmond.lamek@ca.dlapiper.com)>; Hunter, Carole <[carole.hunter@ca.dlapiper.com](mailto:carole.hunter@ca.dlapiper.com)>

**Subject:** RE: [EXT] W&C/Digiflex - Order - In the matter of the Compromise or Arrangement of Wallace & Carey Inc., Loudon Bros Limited and Carey Management Inc. // Court File Number 2301-08305 [IMAN-LEGAL.FID4364182]

Hi Chelsea,

Thank you for your comments on the order. I have attached:

1. a clean proposed draft order, in word form;
2. a blackline showing the changes from the last form of order circulated to you; and
3. a blackline showing our changes from the version you provided to us.

You will see we have accepted most of your comments, but please see below notes regarding our substantive changes and reasons for the same:

- We have included language at paragraph 5 confirming that nothing in the Order or Reasons authorizes any claim against the Monitor or its counsel. The Reasons do not explicitly lift the Stay as it applies to the Monitor; rather, the decision expressly lifts the Stay only with respect to DigiFlex's rights and remedies as against W&C and Loudon (at

para 3 of the Reasons). Accordingly, the Stay remains in effect against the Monitor. This clarification in the Order is necessary to avoid any future ambiguity.

- We have added Loudon to the amendment of the DigiFlex Consent Order. We understand that Loudon was not originally included in the DigiFlex Consent Order. However, Justice Marion indicates at paragraph 128 of the Reasons that the orders in these proceedings should be amended as required. Given that the Loudon Maintenance Agreements are subject to the current Stay, which includes the continued provision of services under paragraph 19 of the ARIO, we believe adding Loudon provides clarity, consistency and does not add any obligation to them that does not already exist.
- We have added at paragraph 13 a provision stating that nothing in this Order shall be interpreted as limiting the Monitor's ability to seek advice, direction, or a declaration regarding the scope and application of the lifting of the Stay. This ensures the Monitor can obtain timely guidance on any disputes that may arise prior to or as a result of the lifting of the Stay, which would reduce uncertainty and promote consistency for all stakeholders. We believe this addition is reasonable and aligns with the Monitor's duties and powers pursuant to the ARIO, and in particular, paragraph 51 therein.

Regarding your email dated January 8, 2026, in which you inquired whether the Monitor will require access to the historical ERP database after February 15, 2026, we are currently reviewing some technical considerations and will provide an update as soon as possible.

Please let us know if you have any questions, concerns, or further comments.

We look forward to hearing from you.

Thank you,  
Kamryn



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**From:** Chelsea Nimmo <[cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com)>

**Sent:** Wednesday, January 07, 2026 1:09 PM

**To:** Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>; Wiest, Kamryn <[kwiest@cassels.com](mailto:kwiest@cassels.com)>

**Cc:** Bruna Kalinoski <[bkalinoski@bdplaw.com](mailto:bkalinoski@bdplaw.com)>

**Subject:** RE: [EXT] RE: W&C/Digiflex - Order - In the matter of the Compromise or Arrangement of Wallace & Carey Inc., Loudon Bros Limited and Carey Management Inc. // Court File Number 2301-08305

**CAUTION:** External Email

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Hi Jeffrey and Kamryn,

Please find attached: (1) a clean proposed draft order, in word form; and (2) a red-line showing the changes that I made, in PDF form.

Briefly, the changes I made are to:

- Reflect what evidence and who was before Justice Marion;
- Reference the Reasons
- Removed items that were not addressed in the Reasons [e.g., your proposed items 4(b) and 7]
  - With regards to your proposed item 7, Digiflex's application on the declarations it sought regarding 7-11 were not dismissed. Justice Marion decided that he could not decide them on the facts.
- Amended item 6 to more accurately reflect the language of the Digiflex Consent Order.
- Amended the wording to reflect the Reasons to avoid discrepancies and interpretation issues down the road.
- Added item 14 considering paragraphs 100 and 101 of the Reasons.

Happy to hear any concerns that you may have. Thank you for preparing the first draft.

Chelsea

## Chelsea Nimmo

### Counsel

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**From:** Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>

**Sent:** Tuesday, January 06, 2026 1:32 PM

**To:** Chelsea Nimmo <[cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com)>; Wiest, Kamryn <[kwiest@cassels.com](mailto:kwiest@cassels.com)>

**Cc:** Bruna Kalinoski <[bkalinoski@bdplaw.com](mailto:bkalinoski@bdplaw.com)>

**Subject:** RE: [EXT] RE: W&C/Digiflex - Order - In the matter of the Compromise or Arrangement of Wallace & Carey Inc., Loudon Bros Limited and Carey Management Inc. // Court File Number 2301-08305

Thank you. At this time, we don't believe the February 12<sup>th</sup> appearance will address Digiflex, although we may need to appear before Justice Marion to address Digiflex issues in any event prior to that. We will write once we know more.



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**From:** Chelsea Nimmo <[cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com)>

**Sent:** Tuesday, January 06, 2026 1:25 PM

**To:** Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>; Wiest, Kamryn <[kwiest@cassels.com](mailto:kwiest@cassels.com)>

**Cc:** Bruna Kalinoski <[bkalinoski@bdplaw.com](mailto:bkalinoski@bdplaw.com)>

**Subject:** RE: [EXT] RE: W&C/Digiflex - Order - In the matter of the Compromise or Arrangement of Wallace & Carey Inc., Loudon Bros Limited and Carey Management Inc. // Court File Number 2301-08305

**CAUTION:** External Email

Happy New Year, Jeffrey,

Thank you for your helpful explanation. I am fine to submit a draft Order if that is standard practice. I will provide my comments shortly, but you can expect my amendments to mirror the language of the Reasons.

Before I do, I understand that there is time booked on February 12<sup>th</sup> with Justice Feasby at 2 PM for a Stay Extension. Can you advise if the relief sought for that booking will be related to Digiflex? I will be away on vacation at the end of January and would like to ensure that I am not jammed on a response. I also would like to consider proposed overlap with the draft Order.

Many thanks,  
Chelsea

**Chelsea Nimmo**

**Counsel**

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**From:** Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>

**Sent:** Tuesday, January 06, 2026 1:05 PM

**To:** Chelsea Nimmo <[cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com)>; Wiest, Kamryn <[kwiest@cassels.com](mailto:kwiest@cassels.com)>

**Cc:** Bruna Kalinoski <[bkalinowski@bdplaw.com](mailto:bkalinowski@bdplaw.com)>

**Subject:** RE: [EXT] RE: W&C/Digiflex - Order - In the matter of the Compromise or Arrangement of Wallace & Carey Inc., Loudon Bros Limited and Carey Management Inc. // Court File Number 2301-08305

Chelsea,

The Order is necessary. I have never been involved in a CCAA where an order was not prepared at the outcome of a hearing, and I don't think it is correct to say the reasons are the order under AB Rules.

Further, the language from the reasons stating "The Monitor's counsel is directed to prepare the form of order with the proposed amendments to the orders in these proceedings **as required.**" means that if any prior orders in this proceeding need to be amended (or not) as a result of this current order, we are to deal with it in this order. As such, please provide your comments on the form of order we provided.

Thank you for your attention to this matter, and we look forward to your feedback.



**JEFFREY OLIVER** (HE/HIM/HIS)

Partner

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**From:** Chelsea Nimmo <[cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com)>

**Sent:** Monday, January 05, 2026 5:03 PM

**To:** Wiest, Kamryn <[kwiest@cassels.com](mailto:kwiest@cassels.com)>

**Cc:** Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>; Bruna Kalinoski <[bkalinowski@bdplaw.com](mailto:bkalinowski@bdplaw.com)>

**Subject:** RE: [EXT] RE: W&C/Digiflex - Order - In the matter of the Compromise or Arrangement of Wallace & Carey Inc., Loudon Bros Limited and Carey Management Inc. // Court File Number 2301-

08305

**CAUTION:** External Email

Hi Kamryn,

Thanks again for this. I have made a few edits and am seeking instructions. However, I question whether this Order is even necessary? It largely reiterates what was stated in the December 15<sup>th</sup> Reasons, which represents an Order in and of itself. At paragraph 128 of the Reasons, Justice Marion writes: "The Monitor's counsel is directed to prepare the form of order with the proposed amendments to the orders in these proceedings **as required.**" Based on this, I would think the Order should be limited to: (i) what orders should be amended in light of the Reasons, and; (ii) what are the proposed amendments to those orders. Even then, I don't even know if that is necessary, or if we can simply interpret the any order in light of the Reasons.

I do not think we need to reiterate any other orders made with respect to costs, service, etc. My concern is that we will create more work for ourselves down the line by arguing about any discrepancies between an Order and the Reasons. I would suggest we keep it simple. However, open of course, to hear yours and Jeffrey's perspective. Let me know if a call tomorrow would be best.

Thanks  
Chelsea

## Chelsea Nimmo

### Counsel

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**From:** Chelsea Nimmo

**Sent:** Monday, January 05, 2026 11:27 AM

**To:** Wiest, Kamryn <[kwiest@cassels.com](mailto:kwiest@cassels.com)>

**Cc:** Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>; Bruna Kalinoski <[bkalinoski@bdplaw.com](mailto:bkalinoski@bdplaw.com)>

**Subject:** RE: [EXT] RE: W&C/Digiflex - Order - In the matter of the Compromise or Arrangement of Wallace & Carey Inc., Loudon Bros Limited and Carey Management Inc. // Court File Number 2301-08305

Hi Kamryn,

Thank you for the follow up. I will review now.

Many thanks,  
Chelsea

## Chelsea Nimmo

### Counsel

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**From:** Wiest, Kamryn <[kwiest@cassels.com](mailto:kwiest@cassels.com)>

**Sent:** Monday, January 05, 2026 11:14 AM

**To:** Chelsea Nimmo <[cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com)>

**Cc:** Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>; Bruna Kalinoski <[bkalinoski@bdplaw.com](mailto:bkalinoski@bdplaw.com)>

**Subject:** [EXT] RE: W&C/Digiflex - Order - In the matter of the Compromise or Arrangement of Wallace & Carey Inc., Loudon Bros Limited and Carey Management Inc. // Court File Number 2301-08305 [IMAN-LEGAL.FID4715768]

Good morning Chelsea,

I am just following up on the below. Please let us know if you have any comments on the attached order.

Thank you,  
Kamryn



**KAMRYN WIEST** (SHE/HER/HERS)

Associate

t: +1 587 441 3066

e: [kwiest@cassels.com](mailto:kwiest@cassels.com)

Cassels Brock & Blackwell LLP | [cassels.com](http://cassels.com)

Suite 3700, Bankers Hall West, 888 3rd Street SW  
Calgary, AB T2P 5C5 Canada

**From:** Wiest, Kamryn

**Sent:** Monday, December 29, 2025 1:29 PM

**To:** Chelsea Nimmo <[cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com)>

**Subject:** FW: W&C/Digiflex - Order - In the matter of the Compromise or Arrangement of Wallace & Carey Inc., Loudon Bros Limited and Carey Management Inc. // Court File Number 2301-08305 [IMAN-LEGAL.FID4715768]

Hi Chelsea,

Please find attached draft Order pursuant to Justice Marion's December 15 decision for your review and comment.

Let us know if you have any questions and we'd be happy to discuss.

Thank you,

Kamryn



**KAMRYN WIEST** (SHE/HER/HERS)

Associate

t: +1 587 441 3066

e: [kwiest@cassels.com](mailto:kwiest@cassels.com)

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Calgary, AB T2P 5C5 Canada

---

**From:** Christina Norman <[Christina.Norman@albertacourts.ca](mailto:Christina.Norman@albertacourts.ca)>

**Sent:** Monday, December 15, 2025 3:35 PM

**To:** Jorgenson, Danica <[djorgenson@cassels.com](mailto:djorgenson@cassels.com)>; [cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com); Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>; Wiest, Kamryn <[kwiest@cassels.com](mailto:kwiest@cassels.com)>; [carole.hunter@dlapiper.com](mailto:carole.hunter@dlapiper.com); Lamek, Edmond <[edmond.lamek@ca.dlapiper.com](mailto:edmond.lamek@ca.dlapiper.com)>; [bkalinowski@bdplaw.com](mailto:bkalinowski@bdplaw.com)

**Cc:** CommercialCoordinator KBJCalgary <[CommercialCoordinator.KBJCalgary@albertacourts.ca](mailto:CommercialCoordinator.KBJCalgary@albertacourts.ca)>

**Subject:** In the matter of the Compromise or Arrangement of Wallace & Carey Inc., Loudon Bros Limited and Carey Management Inc. // Court File Number 2301-08305 [IMAN-LEGAL.FID4715768]

**Importance:** High

**CAUTION:** External Email

Dear counsel,

On behalf of Justice Marion please find attached his Reasons for Decision on the application heard November 27, 2025. Please confirm receipt by reply email at your earliest. Thank you.

---



**Christina Norman**

Judicial Assistant to:

Justice Johanna C. Price

Justice Ola P. Malik

Justice Nancy M. Carruthers

Justice Michael A. Marion

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This is Exhibit "G", referred to in the Affidavit  
of Jennifer Allen, affirmed before me on the  
2nd day of February, 2026.



---

A Commissioner of Oaths in and for  
the Province of Alberta

**AISIA ANNE ROBERTS**  
A Commissioner For Oaths  
In and for the Province of Alberta  
My Commission Expires September 20, 2028

**From:** [Chelsea Nimmo](#)  
**To:** [Oliver, Jeffrey](#)  
**Cc:** [Bruna Kalinoski](#); [Florence Hogg](#); [Wiest, Kamryn](#)  
**Subject:** Software Licenses with Wallace & Carey  
**Date:** Friday, January 16, 2026 9:32:44 PM  
**Attachments:** [image001.png](#)  
[Digiflex - Ltr to Cassels - January 16, 2026 \(14972560.4\).pdf](#)

---

Jeffrey,

Please see attached in relation to the Digiflex Software licenses with Wallace & Carey.

Have a good weekend,

Chelsea

**Chelsea Nimmo**

**Counsel**

P: 403.260.0102

C: 403.620.1565

2400, 525 - 8th Avenue SW, Calgary, AB T2P 1G1

**bdplaw.com**



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Reply to: Chelsea Nimmo  
Direct Phone: (403) 260-0102  
Direct Fax: (403) 260-0332  
cnimmo@bdplaw.com

Assistant: Jenny Allen  
Direct Phone: (403) 260-0395  
Our File: 79894-1

**Via E-Mail ([joliver@cassels.com](mailto:joliver@cassels.com))**

January 16, 2026

Wallace & Carey, Inc. c/o  
Cassels, Brock & Blackwell LLP  
3700, 888 - 3rd Street SW  
Calgary, AB T2P 5C5

**Attention: Jeffrey Oliver**

Dear Mr. Oliver:

**Re: In the matter of the Compromise or Arrangement of Wallace & Carey Inc., Loudon Bros Limited and Carey Management Inc.  
Court of King's Bench of Alberta Action No. 2301-08305**

---

We write to you in your capacity as counsel to KSV Restructuring Inc. (**KSV**), the Monitor in the above proceeding, who has enhanced powers over Wallace & Carey Inc. (**Wallace & Carey**) pursuant to the Court Order dated August 28, 2025, which gives KSV the power to execute or amend Wallace & Carey's agreements.

As you know, we are counsel to Digiflex Information Systems Inc. (**Digiflex**). We write regarding the software licenses that Digiflex has with Wallace & Carey in relation to Digiflex's ERP copyrighted software. A list of the licenses that Digiflex has with Wallace & Carey is attached as **Schedule "A"**, referred to herein as the **W&C Software Licenses**.

**(1) Termination of the Maintenance Agreements**

As you know, each of the W&C Software Licenses is affiliated with a Maintenance Agreement, which relates to, among other things, software upgrades and enhancements, operating system compatibility, as well as a 24/7 support line for the software. The Maintenance Agreements are not perpetual, but rather review each year on terms to be signed upon between Digiflex and the client, unless either party gives 30 days written notice of termination pursuant to clause 2 of the Maintenance Agreements.

**Please consider this letter Digiflex's notice of termination of the Maintenance Agreements affiliated with the W&C Software Licenses. The Maintenance Agreements will thus expire on February 15, 2026 at 11:59 PM.** As you know, this is also the time that the Stay in the above action will be lifted against Digiflex pursuant to Justice Marion's decision dated December 15, 2025 (2025 ABKB 750).

We note that on January 8, 2026, we asked you whether Wallace & Carey had any need to continue the Maintenance Agreements on a read-only basis for historical audit purposes and reporting and requested a response by January 12, 2026. To date, we have still not received a response. To the extent Wallace & Carey

decides it needs access on a read-only basis,<sup>1</sup> we would be happy to discuss a Maintenance Agreement at that time, but for now, consider the Maintenance Agreements terminated as of February 15, 2026 at 11:59 PM.

## **(2) Wallace & Carey's Infringement, Breach of the W&C Software Licenses and Activities with 7-Eleven**

As you know, Digiflex believes that Wallace & Carey has been assisting 7-Eleven Inc., 7-Eleven Canada Inc., and 7-Eleven Distribution Centre (collectively, **7-Eleven**) with the improper and unauthorized use of the Digiflex ERP software, which is a breach of the W&C Software Licenses and amounts to copyright infringement of the Digiflex ERP software. While Justice Marion permitted the Stay to continue to February 15, 2026, he acknowledged that the record before him demonstrated that Digiflex's allegations are not frivolous, and that they ought to be tried in an action, not in a summary application. Further, a stay of proceedings, in a CCAA proceeding, is not a defence to copyright infringement or breach of contract. Therefore, in no way does Justice Marion's decision excuse Wallace & Carey's (nor 7-Eleven's) past, current, or future unauthorized conduct.

However, we understand that KSV's position is that 7-Eleven has never used the Digiflex ERP software, that only Wallace & Carey has, and that Wallace & Carey needs continued active use of the Digiflex ERP software until February 15, 2026. As you know, we disagree and Digiflex's position is that this behaviour is unauthorized. However, we understand from your lack of response to my January 8, 2026 email that, after February 15, 2026, Wallace & Carey will no longer need access to the Digiflex ERP software in read-only option or otherwise.

**Therefore, we expect that as of February 16, 2026 at 12:00 AM, Wallace & Carey's unauthorized use of the Digiflex Software will stop, and in turn, Wallace & Carey will no longer be facilitating 7-Eleven's illegal access, in any form – directly or indirectly – to the Digiflex ERP software.**

**For clarity, Digiflex's position is that:**

- **To the extent Wallace & Carey is currently using the Digiflex software (which is not admitted but expressly denied), such use is in breach of the W&C Software Licenses and amounts to copyright infringement;**
- **To the extent 7-Eleven is currently using the Digiflex software, 7-Eleven is infringing Digiflex's copyrights, and W&C is facilitating and/or contributing to this infringement; and**
- **Neither the TSA, the Stay, the Consent Order, nor the Marion Decision can excuse Wallace & Carey and/or 7-Eleven's actions. Justice Marion explicitly preserved Digiflex's rights to prove this in a separate proceeding on a more fulsome record.<sup>2</sup> Stay's place proceedings against illegal behaviour on hold. They do not excuse illegal behaviour.**

**This letter is in no way an acknowledgement that any past or current use of the Digiflex software, by either Wallace & Carey and/or 7-Eleven, is permitted. Digiflex reserves all rights.**

---

<sup>1</sup> We acknowledge receipt of Kamryn Wiest's email dated January 15, 2026 at 3:11 PM.

<sup>2</sup> Marion's Decision at paras 101 and 126.

Yours truly,

BURNET, DUCKWORTH & PALMER LLP

A handwritten signature in black ink, appearing to read 'Chelsea Nimmo', with a large initial 'C' and a decorative flourish.

Chelsea Nimmo  
Counsel

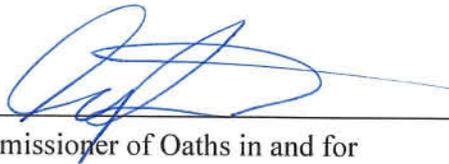
CMN/lm

cc: Bruna Kalinoski, Burnet, Duckworth & Palmer LLP, [bkalinowski@bdplaw.com](mailto:bkalinowski@bdplaw.com), Florence Hogg, Burnet, Duckworth & Palmer LLP, [fhogg@bdplaw.com](mailto:fhogg@bdplaw.com), Kamryn Wiest, Cassels, Brock & Blackwell LLP, [kwiest@cassels.com](mailto:kwiest@cassels.com)

**Schedule "A"**

<b>Item</b>	<b>License</b>	<b>Maintenance Agreement Expiry</b>
1	ProCLASS/LAZER/NEXUS Software License Agreement between DigiFlex and W&C executed on March 9, 2000	February 15, 2026
2	CLASS Software License Agreement between DigiFlex and W&C executed by DigiFlex on June 27, 2003 and W&C on August 12, 2003	February 15, 2026
3	ProCLASSB1 Business Intelligence Suite Software License Agreement between DigiFlex and W&C entered into on or about April 23, 2012	Expired

This is Exhibit "H", referred to in the Affidavit  
of Jennifer Allen, affirmed before me on the  
2nd day of February, 2026.



---

A Commissioner of Oaths in and for  
the Province of Alberta

**AISIA ANNE ROBERTS**  
A Commissioner For Oaths  
In and for the Province of Alberta  
My Commission Expires September 20, 2028

Reply to: Chelsea Nimmo  
Direct Phone: (403) 260-0102  
Direct Fax: (403) 260-0332  
cnimmo@bdplaw.com

Assistant: Jenny Allen  
Direct Phone: (403) 260-0395  
Our File: 79894-1

**Via E-Mail ([joliver@cassels.com](mailto:joliver@cassels.com))**

January 28, 2026

Cassels, Brock & Blackwell LLP  
3700, 888 - 3rd Street SW  
Calgary, AB T2P 5C5

**Attention: Jeffrey Oliver**

Dear Mr. Oliver:

**Re: In the matter of the Compromise or Arrangement of Wallace & Carey Inc., Loudon Bros Limited and Carey Management Inc.  
Court of King's Bench of Alberta Action No. 2301-08305**

---

We write regarding a number of items with respect to your Application in the above noted matter, scheduled to be heard on February 5, 2026.

**(1) Termination of the W&C Software Licenses**

In your Application, you appear to take the position that because the W&C Software Licenses<sup>1</sup> are "perpetual" that they are "never ending", and therefore, KSV Restructuring Inc. (**KSV**), who has enhanced powers over Wallace & Carey Inc. (**Wallace & Carey**), has the right to continue to use the W&C Software Licenses, without maintenance, until the end of time. If this is the position that you are taking, it is a flawed interpretation of the W&C Software Licenses in more ways than one.

First, your argument assumes that the W&C Software Licenses are irrevocable and incapable of being terminated. This is incorrect. The W&C Software Licenses are capable of being terminated and are revocable. Although the W&C Software Licenses are "perpetual", that does not mean that they are "never ending", it simply means that they have an indefinite duration until the termination conditions arise. Nothing in the W&C Software Licenses indicates that they are irrevocable.

Second, your argument assumes that the Maintenance Agreements can be severed from the W&C Software Licenses as a whole. This is also incorrect. As the W&C Software Licenses indicate, the Maintenance Agreement is part and parcel of the W&C Software Licenses. Without paying for a maintenance agreement, Digiflex has the right to terminate the W&C Software Licenses.

---

<sup>1</sup> As defined at Schedule "A" of this Letter.

**For clarity, you have been on notice for more than two months that Digiflex intends to terminate the W&C Software Licenses effective immediately upon the lifting of the stay.<sup>2</sup> Further, and in any event, W&C's current and prior conduct has repudiated the W&C Software Licenses and DigiFlex accepts that repudiation such that the W&C Software Licenses will terminate immediately upon the lifting of the stay. In the event there is still any confusion, please consider this the final notice that as of February 16, 2026 at 12:00 AM, all of the W&C Software Licenses are terminated.**

Finally, as previously advised, in light of your Application, we will be bringing a Cross-Application to your Application wherein we will be asking Justice Marion for a declaration that the W&C Software Licenses are terminated as of February 16, 2026 at 12:00 AM. We will be seeking to hear our application on February 5, 2026 and will be advising the Commercial Coordinator of the same.

## **(2) Your requested relief regarding access to the Digiflex ERP Software**

Your Application is unclear as to whether you are asking the Court for unpaid read-only access, or unpaid active access.

For example, at paragraph 52(c) of your Application, you state: "the Monitor does not require any further maintenance, support or Help Desk Services from DigiFlex to obtain and maintain **read-only access** to the ERP Software". However, the relief you are seeking in your proposed Draft Order appears to be much broader than read-only access, in that you are seeking permission "to use the ERP Software and the Perpetual License on behalf of W&C and Loudon **for any purpose** related to the business and operations of W&C and Loudon including, **but not limited to**, maintaining and accessing a historical database for the Monitor's purposes of meeting its statutory and other obligations".

To the extent you are seeking read-only access, as we have previously advised on more than one occasion, Digiflex is prepared to renew the existing maintenance agreements with W&C and Loudon to give read-only access for as long as is required.

To the extent you are seeking active access, we are not prepared to enter into such an agreement with you at this time given that we have reason to believe that W&C's copy of the Digiflex Software is being used by 7-Eleven, as discussed further below. Further, we do not understand why an active license is needed given that: (1) W&C is no longer operating a distribution company; and (2) it can no longer assist 7-Eleven in developing its own logistics business as of February 16, 2026 at 12:00 AM.<sup>3</sup>

**Please confirm whether you are seeking: (1) read-only access; or (2) active access.**

---

<sup>2</sup> For example, in Digiflex's Brief filed November 17, 2025, at paragraph 52(e), Digiflex wrote: "Finally, given that Wallace & Carey is no longer operating, the stay in relation to Wallace & Carey ought to be lifted vis-à-vis Digiflex. This will permit Digiflex to terminate the W&C Software Licenses such that 7-Eleven will no longer be able to profit from the Digiflex ERP Software for free". Further, on January 16, 2026, we wrote to you, to put you on notice, that given we had not heard from you on whether you would be renewing the Maintenance Agreements to have read-only access to the databases, we were terminating the Maintenance Agreements.

<sup>3</sup> As per Justice Marion's Reasons at paragraphs 117, 120-124, 126-127.

**(3) Belief that there is incorrect information in the Nineteenth Report of the Monitor**

We wanted to put you on notice that we believe there is incorrect information in the Monitor's 19<sup>th</sup> Report that was served on Monday January 26, 2026. Specifically, the statement on page 10/23 that: "The Monitor understands that 7-Eleven has now completed the implementation of the Integration Software and that it no longer requires Wallace & Carey to provide the ERP Software to SEC to operate the Logistics Business."

This statement implies that Wallace & Carey's version of the ERP Software should no longer be in active mode or be used to run a distribution company. However, this is not what is shown on the Digiflex ERP Software. Digiflex can see that the ERP Software continues to be used by 7-Eleven, which is contrary to the above statement by the Monitor.

Given this discrepancy in information, we will be taking steps to understand the situation. We will be sending Notices to Question 7-Eleven Distribution Canada Corp. (**SEDCC**) IT employees Cliff Harrison and Heather Miller, under Rule 6.8 of the *Alberta Rules of the Court*. We will also be serving you with a Request for the Monitor to Answer Written Interrogatories. **We would appreciate it if you could provide answers to the Written Interrogatories by Monday, February 2, 2026.**

**(4) Your requested relief regarding the contents of the Draft Lifting Stay Order**

We believe that we can come to an agreement on much of the contents of the Draft Lifting Stay Order, now that we have had the benefit of the Nineteenth Report of the Monitor. Specifically, your requests to: (i) confirm that the lifting of the stay does not affect the Monitor or Carry Management Inc. (**CMI**); and (ii) include a provision that, to the extent Digiflex pursues litigation as against W&C and Loudon, and receives judgement in its favour, such a judgement will be subordinate to all existing priorities granted under orders in these CCAA proceedings.

As previously advised, at this time, Digiflex has no interest in pursuing litigation against the Monitor (or any of its representatives), W&C, Loudon or CMI, and thus, has no interest in wasting resources over these additions to the Draft Lifting Stay Order. However, Digiflex is not prepared to agree to language that would bar Digiflex from ever suing CMI or the Monitor (or any of its representatives) should the necessary supporting facts be discovered by Digiflex or establishing a priority claim against W&C and Loudon, should Digiflex discover it has grounds to do so and wishes to do so. Further, Digiflex is not prepared to agree to any relief that the Monitor may use to prevent Digiflex from terminating the W&C Software Licenses.

Further, as you know, Digiflex has brought a claim against 7-Eleven Inc., 7-Eleven Canada Inc. and SEDCC in the Federal Court of Canada. While W&C, Loudon, CMI and the Monitor are not parties to the action, these parties will have information that is relevant to the proceeding and third-party discovery may be required from them. Digiflex is not prepared to agree to any wording in the Draft Lifting Stay Order that could prevent Digiflex from doing so. Digiflex also seeks to reserve its rights to add them as parties should the need arise.

To that end, enclosed at Schedule "B" are proposed changes to the Draft Lifting Stay Order. Specifically, a revised version of your paragraph 5, and the addition of paragraph 10 which adds a caveat to your paragraphs 8 and 9. **Please advise whether these additions are satisfactory to your client. To the extent they are not, please propose language that you feel would satisfy both of our positions to avoid arguing on these issues at the February 5<sup>th</sup> hearing.**

Yours truly,

BURNET, DUCKWORTH & PALMER LLP



Chelsea Nimmo  
Counsel

CMN/lm

cc: Florence Hogg, Burnet, Duckworth & Palmer LLP, [fhogg@bdplaw.com](mailto:fhogg@bdplaw.com), Kamryn Wiest, Cassels, Brock & Blackwell LLP, [kwiest@cassels.com](mailto:kwiest@cassels.com),

**Schedule "A" – Software Licenses with Digiflex**

Item	License
1	Software License Agreement between Digiflex and Wallace & Carey executed on March 9, 2000 (ProCLASS/LAZER DMBS/NEXUS Software)
2	Software License Agreement between Digiflex and Wallace & Carey executed by Digiflex on June 27, 2003 and Wallace & Carey on August 12, 2003 (CLASS Financials Software)
3	Software License Agreement between Digiflex and Wallace & Carey executed on or about April 23, 2012 (ProCLASSBI Business Intelligence Suite)
4	Software License Agreement between Digiflex and Loudon Bros executed on or about February 18, 2013 (ProCLASS/CLASS Financials/LAZER DMBS Software), and addendums dated May 8, 2014 and June 6, 2014.

## Schedule "B" – Proposed Changes to the Draft Stay Lifting Order<sup>4</sup>

First - We propose the following revision to paragraph 5:

5. For greater certainty, nothing in this Order or Reasons ~~authorizes any claim, action, demand or proceedings against CMI, the Monitor, its counsel, agents, employees, or representatives.~~ lifts the restrictions set out in paragraphs 15, 16, 17, 18 and 19 of the ARIO (the "Stay Restrictions") as against CMI or the Monitor (including its counsel or representatives) vis-à-vis DigiFlex. However, nothing in this Order or Reasons prevents DigiFlex from applying to the Court, or from coming to an agreement with the Monitor, to lift the Stay Restrictions as against CMI or the Monitor (including its counsel or representatives) in the future. Further, the Monitor will not argue that DigiFlex is prevented from terminating the DigiFlex License Agreements in light of the Stay Restrictions in place against CMI and the Monitor.

Second - We propose an additional paragraph (paragraph 10) under "Enhancement and Priorities":

### ENHANCEMENT AND PRIORITIES

8. It is hereby declared that to the extent that DigiFlex pursues litigation as against W&C and/or Loudon, that any resulting judgment or claim in favour of DigiFlex shall be:

- (a) subordinate to all existing priorities granted under any order in these CCAA proceedings, including the ARIO and Ancillary Order; and
- (b) an unsecured claim.

9. DigiFlex shall be restricted and stayed from taking any enforcement steps under any judgment litigation as against W&C and/or Loudon until, and if, all priority claims pursuant to any order in these CCAA proceedings have been satisfied in full.

10. In the event that DigiFlex discovers it has a claim against W&C and/or Loudon that would give it priority over both secured and unsecured creditors, DigiFlex can apply for leave to this Court to seek to be relieved from paragraphs 8 and 9 of this Order.

---

<sup>4</sup> There is still disagreement with respect to your proposed paragraphs 10 and 11 of your proposed Draft Stay Lifting Order.

This is Exhibit "I", referred to in the Affidavit  
of Jennifer Allen, affirmed before me on the  
2nd day of February, 2026.



---

A Commissioner for Oaths in and for  
the Province of Alberta

**AISIA ANNE ROBERTS**  
A Commissioner For Oaths  
In and for the Province of Alberta  
My Commission Expires September 20, 2028

**From:** [Chelsea Nimmo](#)  
**To:** [Oliver, Jeffrey](#); [Jennifer Allen](#)  
**Cc:** [Florence Hogg](#); [Wiest, Kamryn](#); [Bobby Kofman](#); [Jason Knight](#); [Lamek, Edmond](#); [Hunter, Carole](#)  
**Subject:** RE: [EXT] RE: Correspondence - In the matter of the Compromise or Arrangement of Wallace & Carey Inc. Loudon Bros Limited and Carey Management Inc. (Court No. 2301-08305)  
**Date:** Wednesday, January 28, 2026 5:50:00 PM  
**Attachments:** [image003.png](#)  
[image004.png](#)  
[image005.png](#)

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Great thank you, Jeffrey.

In relation to the interrogatories, if you recall Justice Marion indicated that Monitor's often voluntarily answer them (paragraph copied below). I took this as a strong suggestion that I should ask the Monitor questions about its report for this application. I will still be serving them upon you. Should the Monitor not answer them, I will consider asking for an adverse inference.

Yours truly,

Chelsea

[80] Digiflex also did not seek further evidence from the Monitor. Court-appointed officers, such as monitors, are not typically subject to cross-examination except in exceptional or unusual circumstances: **Canadian Western Bank v Goshen Professional Care Inc**, [2025 SKKB 5](#) at paras [47-48](#). However, monitors often voluntarily answer interrogatories. See, for example: **Accel Canada Holdings Limited (Re)**, [2020 ABQB 116](#) at para [1](#); **Re Plan of Compromise or arrangement**, [2024 ONSC 5416](#) at para [3](#); **Pride Group Holdings Inc et al**, [2024 ONSC 5902](#) at para [3](#); **Re Blue Lobster Capital Limited et al**, [2025 NSSC 243](#) at 6. [80] Digiflex also did not seek further evidence from the Monitor. Court-appointed officers, such as monitors, are not typically subject to cross-examination except in exceptional or unusual circumstances: **Canadian Western Bank v Goshen Professional Care Inc**, [2025 SKKB 5](#) at paras [47-48](#). However, monitors often voluntarily answer interrogatories. See, for example: **Accel Canada Holdings Limited (Re)**, [2020 ABQB 116](#) at para [1](#); **Re Plan of Compromise or arrangement**, [2024 ONSC 5416](#) at para [3](#); **Pride Group Holdings Inc et al**, [2024 ONSC 5902](#) at para [3](#); **Re Blue Lobster Capital Limited et al**, [2025 NSSC 243](#) at 6.

**Chelsea Nimmo**

**Counsel**

P: 403.260.0102

C: 403.620.1565

2400, 525 - 8th Avenue SW, Calgary, AB T2P 1G1

**bdplaw.com**



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---

**From:** Oliver, Jeffrey <joliver@cassels.com>  
**Sent:** Wednesday, January 28, 2026 3:20 PM  
**To:** Jennifer Allen <jallen@bdplaw.com>  
**Cc:** Chelsea Nimmo <cnimmo@bdplaw.com>; Florence Hogg <fhogg@bdplaw.com>; Wiest, Kamryn <kwiest@cassels.com>; Bobby Kofman <bkofman@ksvadvisory.com>; Jason Knight <jknight@ksvadvisory.com>; Lamek, Edmond <edmond.lamek@ca.dlapiper.com>; Hunter, Carole <carole.hunter@ca.dlapiper.com>  
**Subject:** [EXT] RE: Correspondence - In the matter of the Compromise or Arrangement of Wallace & Carey Inc. Loudon Bros Limited and Carey Management Inc. (Court No. 2301-08305)

Chelsea,

We are speaking with our client tomorrow morning and anticipate responding to your letter shortly thereafter.

However, I wanted to save you the trouble of the interrogatories. As court officers, monitors are not compellable witnesses. They can only be examined (whether in writing or orally) in extremely unusual circumstances (which I have never seen in my career), and which are clearly not present here. We will therefore not be replying to any interrogatories.

With that said, as a court officer, we can seek to clarify the information you are seeking prior to the hearing, and will endeavour to do so. We can address the issue in our letter tomorrow.



**JEFFREY OLIVER** (HE/HIM/HIS)

Partner

t: +1 403 351 2921

e: [joliver@cassels.com](mailto:joliver@cassels.com)

**Cassels Brock & Blackwell LLP** | [cassels.com](http://cassels.com)  
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Calgary, AB T2P 5C5 Canada  
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---

**From:** Jennifer Allen <jallen@bdplaw.com>  
**Sent:** Wednesday, January 28, 2026 2:39 PM  
**To:** Oliver, Jeffrey <joliver@cassels.com>  
**Cc:** Chelsea Nimmo <cnimmo@bdplaw.com>; Florence Hogg <fhogg@bdplaw.com>; Wiest, Kamryn <kwiest@cassels.com>  
**Subject:** Correspondence - In the matter of the Compromise or Arrangement of Wallace & Carey Inc.

Loudon Bros Limited and Carey Management Inc. (Court No. 2301-08305)

**CAUTION:** External Email

Hi,

Please see attached correspondence sent on behalf of Ms. Nimmo.

Regards,

**Jenny Allen**

**Legal Assistant**

P: 403.260.0395

2400, 525 - 8th Avenue SW, Calgary, AB T2P 1G1

[bdplaw.com](http://bdplaw.com)



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---

This is Exhibit "J", referred to in the  
Affidavit of Jennifer Allen, affirmed before  
me on the 2nd day of February, 2026.



---

A Commissioner for Oaths in and for  
the Province of Alberta

**AISIA ANNE ROBERTS**  
A Commissioner For Oaths  
In and for the Province of Alberta  
My Commission Expires September 20, 2028

# Cassels

January 29, 2026

Via E-Mail (cnimmo@bdplaw.com)

Burnet, Duckworth & Palmer LLP  
2400, 525 - 8 Avenue SW  
Calgary, AB T2P 1G1

joliver@cassels.com  
tel: +1 403 351 2921  
file # 054670-03

Attention: Chelsea Nimmo

Dear Ms. Nimmo:

**Re: In the matter of the Compromise or Arrangement of Wallace & Carey Inc. ("W&C") Loudon Bros Limited ("Loudon") and Carey Management Inc. ("CMI" and collectively, the "Companies") | Court File Number 2301-08305**

We are counsel to KSV Restructuring Inc., in its capacity as Court-appointed monitor with enhanced powers (in such capacity, the "**Monitor**") of the Companies. Unless otherwise defined herein, all capitalized terms shall have the meaning ascribed to them in the Amended and Restated Initial Order granted by the Honourable Justice Burns on June 30, 2023 (the "**ARIO**").

We write in response to your letter dated January 28, 2026 regarding the Monitor's application scheduled to be heard on February 5, 2026. The Monitor wishes to address your questions and provide further information and clarity. Please note that we have received your cross-application, and we anticipate that we may have additional issues to raise once our review of your materials is complete.

## **Use of Perpetual License**

Justice Marion's reasons dated December 15, 2025 (the "**Reasons**"), at paragraphs 104–106, confirm that it remains unclear whether DigiFlex Information Systems Inc. ("**DigiFlex**") is entitled to terminate the DigiFlex License Agreements upon the lifting of the Stay. Under paragraph 5 of the DigiFlex License Agreements, DigiFlex may terminate only where "amounts are owing by Customer," and if another obligation has been breached, equitable relief, such as damages or an injunction can be sought.

At present:

1. No amounts are owing to DigiFlex under the DigiFlex License Agreements, as the license fee was entirely prepaid;
2. No amounts are owing under the Maintenance Agreements, which have been paid in full to February 15, 2026; and
3. W&C and Loudon have not, to the knowledge of the Monitor, breached any other obligations under the DigiFlex License Agreements, including DigiFlex's allegations that W&C gave SEC and SEDCC a copy of the ERP Software.

Accordingly, the Monitor is not aware of any basis for termination of such agreements. Any attempt by DigiFlex to terminate the DigiFlex License Agreements requires a further application to the Court, pursuant to paragraphs 18 and 19 of the ARIO and paragraph 126 of the Reasons. DigiFlex cannot cut-off the Monitor's access to the ERP Software after February 15, 2026 without first obtaining an order to do so from the Court.

Further, nothing in the DigiFlex License Agreements requires that maintenance services be continued as a condition of using the Perpetual License. While DigiFlex is entitled to compensation if its services are utilized, the Maintenance Agreement is not mandatory and can be terminated independently. In particular, paragraph 2 of the Maintenance Agreement states that following regarding the term of the Maintenance Agreement:

However that this Maintenance Agreement will be automatically renewed for successive one year terms upon terms to be agreed upon by the parties at the time of renewal unless notice of termination in writing is given by either party to the other at least thirty (30) days prior to the expiration of the term hereof or any renewal in which case this Maintenance Agreement shall terminate at the end of such term or renewal.

This paragraph explicitly states that such expiration of the term will terminate the Maintenance Agreement, not that it also terminates the DigiFlex License Agreements.

The Maintenance Agreements will terminate on February 16, 2026 at 12:00 AM, coinciding with the conclusion of the DigiFlex Consent Order dated December 17, 2024 and in accordance with your letter dated January 16, 2026, which provided DigiFlex's thirty-day written notice of termination. As the DigiFlex License Agreements remain in effect, the Monitor is prepared to continue using the ERP Software for the purposes outlined below, without any maintenance or help desk support. Accordingly, any attempt to impose maintenance fees on the Monitor is expressly opposed.

## **Access Requirements**

Notwithstanding the above, the Monitor requires further information regarding the scope and limitations of the proposed "read-only" access. It is essential that such access does not impede the Monitor's ability to perform its statutory duties or obtain required information from the ERP Software. In particular, the Monitor requires access to historic data and the ability to generate reports on the same.

Please advise:

1. What specific functions and data are included within "read-only" access?
2. For the purpose of "read-only" access, what DigiFlex proposes would be the renewal terms of Maintenance Agreement?

If the "read-only" access satisfies the Monitor's purposes, then we propose adding the following clause to the draft Form of Order which should resolve the issue:

"Notwithstanding the Monitor's access, the Monitor shall not cause the Companies to carry on a distribution business utilizing the ERP Software."

## **Request for Written Interrogatories**

As previously communicated, cross-examination of the Monitor on its reports is permitted only in unusual circumstances, as stated by Justice Garson in *Pine Valley Mining Corp (Re)*, 2008 BCSC 446 at paragraph

12. If you believe such unusual circumstances exist, you must bring an application to the Court to question the Monitor.

Notwithstanding this, the Monitor clarifies that paragraph 2.1.9 of the Nineteenth Report was intended to state that, it was the Monitor's understanding that by the time of the upcoming Application, and in particular, on February 1, 2026, the integration software would be complete, and SEC would no longer require W&C to provide the ERP Software. The Monitor is prepared to clarify this on the record and confirms there was no intention to mislead. The Monitor is a court-appointed officer who is acting in good faith and in the best interest of the stakeholders.

If further clarification is required or other questions arise, please advise.

### **Other Relief Sought Concerning the Lifting Stay Order**

#### *Paragraph 5 - Scope of Stay against Monitor and its Counsel*

Paragraphs 15 and 16 of the ARIO provide that no proceeding or enforcement process may be commenced or continued against the Monitor without leave of the Court. DigiFlex's November 27, 2025 application sought to lift the Stay only as against W&C and Loudon, not as against the Monitor, its legal counsel, CMI, or their representatives. Accordingly, an independent application seeking the stay be lifted and leave be granted to commence any such litigation would be required.

Further, paragraph 30 of the ARIO confirms that the Monitor incurs no liability except in cases of gross negligence or wilful misconduct. Thus, any claim you would have against the Monitor or its counsel, would have to be one in relation to any gross negligence or wilful misconduct, which is expressly denied and not applicable here.

Accordingly at paragraph 5 of the draft form of Lifting Stay Order we propose the following language:

5. For greater certainty, nothing in this Order or Reasons:
  - a. lifts the restrictions set out in paragraphs 15, 16 17, 18 and 19 of the ARIO (the "**Stay Restrictions**") as against CMI or the Monitor (including its counsel or representatives); and
  - b. prevents DigiFlex from applying to the Court in the future to lift the Stay Restrictions as against CMI or the Monitor (including its counsel or representatives), subject to the limitations of liability for the Monitor pursuant to paragraph 30 of the ARIO.

Additionally, if DigiFlex requires discovery from the Companies or Monitor in its Federal Court litigation against SEC, the Monitor advises that creditors and stakeholders will suffer significant prejudice as a result through incurring costs of such production which will yield no benefit to the estate. Accordingly, please be advised that your client will need to pay for any such costs.

#### *Paragraph 10 - Enforcement of Priorities*

The Monitor does not accept the proposed addition of paragraph 10 set out in Schedule "B" to your letter for the following reasons:

1. it is unnecessary as we are not aware of, and cannot otherwise conceive of, any circumstances in which DigiFlex could assert a claim that would entitle it to priority; and

2. funds have already been distributed pursuant to various orders of the Court, and those distributions cannot be unwound to create or recognize any priority in favour of DigiFlex.

Pursuant to the foregoing, please find enclosed an updated form of Order incorporating the Monitor's revisions, together with a blackline against the version attached as Schedule "C" to our application.

We look forward to hearing from you. Please contact the undersigned should you have any questions.

Yours truly,

Cassels Brock & Blackwell LLP



Jeffrey Oliver  
Partner

JO//kw  
Enclosures

cc: KSV Restructuring Inc. c/o Bobby Kofman ([bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com)) and Jason Knight ([jknight@ksvadvisory.com](mailto:jknight@ksvadvisory.com))  
DLA Piper, counsel to 7-Eleven Canada c/o Carole Hunter ([carole.hunter@ca.dlapiper.com](mailto:carole.hunter@ca.dlapiper.com)) and Edmond Lamek ([edmond.lamek@ca.dlapiper.com](mailto:edmond.lamek@ca.dlapiper.com))

LEGAL\*70784545.3

This is Exhibit "K", referred to in the  
Affidavit of Jennifer Allen, affirmed before  
me on the 2nd day of February, 2026.



---

A Commissioner for Oaths in and for  
the Province of Alberta

**AISIA ANNE ROBERTS**  
A Commissioner For Oaths  
In and for the Province of Alberta  
My Commission Expires September 20, 2028

## Jennifer Allen

---

**From:** Chelsea Nimmo  
**Sent:** Friday, January 30, 2026 4:40 PM  
**To:** Oliver, Jeffrey  
**Cc:** Wiest, Kamryn; Florence Hogg; Bobby Kofman; Jason Knight; carole.hunter@dlapiper.com; Lamek, Edmond  
**Subject:** RE: [EXT] In the matter of the Compromise or Arrangement of Wallace & Carey Inc. ("W&C") Loudon Bros Limited and Carey Management Inc. / Court File Number 2301-08305

Yes. All generated reports can be emailed, printed, stored in text or PDF format.

## Chelsea Nimmo Counsel

P: 403.260.0102  
C: 403.620.1565  
2400, 525 - 8th Avenue SW, Calgary, AB T2P 1G1  
**bdplaw.com**



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---

**From:** Oliver, Jeffrey <joliver@cassels.com>  
**Sent:** Friday, January 30, 2026 4:26 PM  
**To:** Chelsea Nimmo <cnimmo@bdplaw.com>  
**Cc:** Wiest, Kamryn <kwiest@cassels.com>; Florence Hogg <fhogg@bdplaw.com>; Bobby Kofman <bkofman@ksvadvisory.com>; Jason Knight <jknight@ksvadvisory.com>; carole.hunter@dlapiper.com; Lamek, Edmond <edmond.lamek@ca.dlapiper.com>  
**Subject:** Re: [EXT] In the matter of the Compromise or Arrangement of Wallace & Carey Inc. ("W&C") Loudon Bros Limited and Carey Management Inc. / Court File Number 2301-08305

Thank you Chelsea. Will the Monitor be able to utilize the print functionality?



**JEFFREY OLIVER** (HE/HIM/HIS)  
Partner  
t: +1 403 351 2921  
e: [joliver@cassels.com](mailto:joliver@cassels.com)

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Calgary, AB T2P 5C5 Canada  
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---

**From:** Chelsea Nimmo <[cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com)>  
**Sent:** Friday, January 30, 2026 4:18:02 PM

**To:** Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>

**Cc:** Wiest, Kamryn <[kwiest@cassels.com](mailto:kwiest@cassels.com)>; Florence Hogg <[fhogg@bdplaw.com](mailto:fhogg@bdplaw.com)>; Bobby Kofman <[bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com)>; Jason Knight <[jknight@ksvadvisory.com](mailto:jknight@ksvadvisory.com)>; [carole.hunter@dlapiper.com](mailto:carole.hunter@dlapiper.com) <[carole.hunter@dlapiper.com](mailto:carole.hunter@dlapiper.com)>; Lamek, Edmond <[edmond.lamek@ca.dlapiper.com](mailto:edmond.lamek@ca.dlapiper.com)>

**Subject:** RE: [EXT] In the matter of the Compromise or Arrangement of Wallace & Carey Inc. ("W&C") Loudon Bros Limited and Carey Management Inc. / Court File Number 2301-08305

**CAUTION:** External Email

Jeffrey,

Thank you for your letter. I am responding to the "Access Requirements" questions that the Monitor has.

We understand from the Monitor's 19<sup>th</sup> Report and your letter, that the reason that the Monitor continues to require access to the Digiflex ERP Software is for historical data purposes for tax reporting and audits. This will not be an issue for the Monitor if the Digiflex ERP Software is in read-only mode, and in fact, I understand that this is the preferred format for keeping historical data for reporting and audits as it prevents the tampering of such data. This is standard practice for any ERP software. Mr. Mardukhi has advised me this has been Wallace & Carey's standard practice: to keep their previous data in read-only format. Mr. Mardukhi has also advised me that Wallace & Carey has been through audits in the past with the ERP Software in read-only format. Read-only format allows the user to prepare reports, including tax reports, make inquiries into historical data, search for past invoices, etc. Read-only format merely turns off functions that would be required to run an active distribution business (i.e., functionalities that allow the intake of new orders, etc.) Given that KSV will not be running Wallace & Carey as a distribution company, we trust that this will not be an issue.

Finally, in relation to your note that the Monitor believes that SEDCC will no longer require W&C to provide the Digiflex Software on February 1, 2026. As you will see in Mr. Mardukhi's affidavit, the data on the Designated Server still does not suggest that this is the case. However, after February 1, if this is the case, please let us know if we can turn the copy of the Digiflex ERP Software to read-only prior to February 15<sup>th</sup>.

I will get back to you on the ancillary items, such as the language of the lifting stay against the Monitor, and the priority claims, over the weekend, or early next week.

Have a good weekend,  
Chelsea

**Chelsea Nimmo**

**Counsel**

P: 403.260.0102

C: 403.620.1565

2400, 525 - 8th Avenue SW, Calgary, AB T2P 1G1

[bdplaw.com](http://bdplaw.com)



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---

**From:** Gagnon, Angeline <[agagnon@cassels.com](mailto:agagnon@cassels.com)>

**Sent:** Thursday, January 29, 2026 4:09 PM

**To:** Chelsea Nimmo <[cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com)>

**Cc:** Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>; Wiest, Kamryn <[kwiest@cassels.com](mailto:kwiest@cassels.com)>; [bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com);

[jknight@ksvadvisory.com](mailto:jknight@ksvadvisory.com); [carole.hunter@ca.dlapiper.com](mailto:carole.hunter@ca.dlapiper.com); [edmond.lamek@ca.dlapiper.com](mailto:edmond.lamek@ca.dlapiper.com)

**Subject:** [EXT] In the matter of the Compromise or Arrangement of Wallace & Carey Inc. ("W&C") Loudon Bros Limited and Carey Management Inc. / Court File Number 2301-08305 [IMAN-LEGAL.FID4364182]

Please see the attached correspondence sent on behalf of Jeffrey Oliver.

Thank you,



**ANGELINE GAGNON**

Legal Assistant

t: +1 587 441 7624

e: [agagnon@cassels.com](mailto:agagnon@cassels.com)

**Cassels Brock & Blackwell LLP** | [cassels.com](http://cassels.com)

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This is Exhibit "L", referred to in the  
Affidavit of Jennifer Allen, affirmed before  
me on the 2nd day of February, 2026.



---

A Commissioner for Oaths in and for  
the Province of Alberta

**AISIA ANNE ROBERTS**  
A Commissioner For Oaths  
in and for the Province of Alberta  
My Commission Expires September 20, 2028

## Jennifer Allen

---

**From:** Oliver, Jeffrey <joliver@cassels.com>  
**Sent:** Monday, February 02, 2026 1:56 PM  
**To:** Chelsea Nimmo; Wiest, Kamryn  
**Cc:** Florence Hogg  
**Subject:** RE: [EXT] In the matter of the Compromise or Arrangement of Wallace & Carey Inc. ("W&C") Loudon Bros Limited and Carey Management Inc. / Court File Number 2301-08305 [IMAN-LEGAL.FID4364182]

I wanted to clarify a few items Chelsea. On number 2, the default in CCAA proceedings are no costs are awarded. On top of it, it is extraordinary to seek costs from a court officer. Please reconsider your position. I remind you that the Monitor is in the middle of this between your client and 7-Eleven, and on top of that, the technical and issues between the parties are such that the Monitor responded as quickly as it could while the situation evolved.

On number 3, I want to clarify that the transition to SEC/SEDCC will be completed by 11:59 p.m. on February 15<sup>th</sup>, as we are advised by 7-Eleven.

I will get back to you on the balance but I wanted you to be aware of the above.



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---

**From:** Chelsea Nimmo <cnimmo@bdplaw.com>  
**Sent:** Monday, February 02, 2026 1:49 PM  
**To:** Oliver, Jeffrey <joliver@cassels.com>; Wiest, Kamryn <kwiest@cassels.com>  
**Cc:** Florence Hogg <fhogg@bdplaw.com>  
**Subject:** RE: [EXT] In the matter of the Compromise or Arrangement of Wallace & Carey Inc. ("W&C") Loudon Bros Limited and Carey Management Inc. / Court File Number 2301-08305

**CAUTION:** External Email

### WITH PREJUDICE

Hi Kamryn,

Thank you for your call this morning. I am hopeful that we can come to an agreement on both the Monitor's Advice and Direction Application as well as Digiflex's Termination Application on the following basis:

- 1. KSV will have read-only access to the W&C and Loudon ERP databases and continue to pay maintenance fees.** Digiflex is prepared to decrease the current maintenance fees by 50% a year, and a further 30% if you pay upfront for all 6 years:

- a. **Fees for W&C.** The last full-year charge for W&C maintenance was \$153,175.20. A 50% discount will make that \$76,587.60 per year, or additional discounted by 30% to be a total of \$321,667.92 for 6 years.
  - b. **For Loudon.** The last full-year charge for Loudon maintenance was \$17,625.00. A 50% discount will make that \$6,812.50 per year, or additional discounted by 30% to be a total of \$37,012.50 for 6 years.
  - c. Kindly note that these numbers do not consider inflation or the typical annual adjustments that are required.
  - d. Digiflex also requests that the Outstanding Amounts it is owed (as detailed in Mr. Mardukhi's evidence served Friday) be paid, with interest.
- 2. Costs on the Monitor's Assignment Application, the Termination Application, and the Advice and Direction Application.** The Assignment Application has not been resurrected and appears to be unnecessary. Further, both the Advice and Direction Application and the Termination Application appear to be issues that the parties could have addressed on a phone call, which I had offered numerous times. Instead, my client has been forced to spend additional legal fees this past week to respond to the Monitor's request for a very broad order to continue to use the software on any basis, without further payment. If you agree to this, we can include a statement in the Order that the Monitor will pay Digiflex its costs in respect of these three applications, with the parties first trying to resolve the quantum by way of agreement, and can seek Justice Marion's advice if they cannot agree within one month.
- 3. Date to start the read-only access.** Further to my note below, given that Digiflex's VPN has been disabled, we considered the W&C License Agreements to be terminated immediately as of the time the VPN was disabled, and that Digiflex is no longer required to continue to provide maintenance services to Wallace & Carey and/or Loudon pursuant to the Consent Order until February 15, 2026. With no access, Digiflex is not in a position to be able to provide such maintenance services to Wallace & Carey and/or Loudon. Further, considering the Monitor has advised that W&C has completed its transition to SEC / SEDCC, there is no further need for W&C's copy of the Digiflex ERP Software to be in active mode. Finally, we trust that Mr. Mardukhi's evidence served Friday has satisfied your client that all of the Monitor's requirements can be met in read-only mode. We therefore ask that Digiflex's VPN access be restored immediately so that we can turn the software to read-only mode. To the extent it is not restored immediately, please advise:
- a. Why the VPN access has been disabled?
  - b. Who disabled the VPN?
  - c. If you will not restore the VPN immediately, when will it be enabled?
  - d. If you will not restore the VPN immediately, why?
  - e. If read-only mode is not acceptable, please advise why?
  - f. Please confirm that the Designated Server is located at the offices of SEDCC, and that SEDCC / SEC is the company that has ultimate control of the copy of Digiflex's software at this time.
- 4. Stay Restrictions Against the Monitor, CMI and its Counsel.** We will agree to your revised section 5 in the draft order circulated by Cassels on Thursday at 4:10 PM.
- 5. Enforcement of Priorities.** I am looking into something on this point and will get back to you.
- 6. Addition on use of ERP software.** Thank you for proposing a condition that would limit the use of the software, to ensure that it will not be used to run a distribution company. We will likely revise your proposed addition slightly, and propose a few more ancillary protections for our client around the same.

We look forward to hearing from you as soon as possible on the above. Happy to jump on another call if that would be helpful.

Thanks,  
Chelsea

**Chelsea Nimmo**  
**Counsel**

P: 403.260.0102  
C: 403.620.1565  
2400, 525 - 8th Avenue SW, Calgary, AB T2P 1G1  
[bdplaw.com](http://bdplaw.com)



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**From:** Chelsea Nimmo  
**Sent:** Sunday, February 01, 2026 4:51 PM  
**To:** Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>  
**Cc:** Wiest, Kamryn <[kwiest@cassels.com](mailto:kwiest@cassels.com)>; Florence Hogg <[fhogg@bdplaw.com](mailto:fhogg@bdplaw.com)>  
**Subject:** RE: [EXT] In the matter of the Compromise or Arrangement of Wallace & Carey Inc. ("W&C") Loudon Bros Limited and Carey Management Inc. / Court File Number 2301-08305

Thank you for your response. We are sorry for your loss.

**Chelsea Nimmo**  
**Counsel**

P: 403.260.0102  
C: 403.620.1565  
2400, 525 - 8th Avenue SW, Calgary, AB T2P 1G1  
[bdplaw.com](http://bdplaw.com)



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---

**From:** Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>  
**Sent:** Sunday, February 01, 2026 4:49 PM  
**To:** Chelsea Nimmo <[cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com)>  
**Cc:** Wiest, Kamryn <[kwiest@cassels.com](mailto:kwiest@cassels.com)>; Florence Hogg <[fhogg@bdplaw.com](mailto:fhogg@bdplaw.com)>  
**Subject:** Re: [EXT] In the matter of the Compromise or Arrangement of Wallace & Carey Inc. ("W&C") Loudon Bros Limited and Carey Management Inc. / Court File Number 2301-08305

It is a Sunday and I am at a funeral so your client will need to wait until I have time to obtain instructions



**JEFFREY OLIVER** (HE/HIM/HIS)  
Partner  
t: +1 403 351 2921  
e: [joliver@cassels.com](mailto:joliver@cassels.com)

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Calgary, AB T2P 5C5 Canada  
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---

**From:** Chelsea Nimmo <[cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com)>

**Sent:** Sunday, February 1, 2026 4:20:02 PM

**To:** Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>

**Cc:** Wiest, Kamryn <[kwiest@cassels.com](mailto:kwiest@cassels.com)>; Florence Hogg <[fhogg@bdplaw.com](mailto:fhogg@bdplaw.com)>

**Subject:** FW: [EXT] In the matter of the Compromise or Arrangement of Wallace & Carey Inc. ("W&C") Loudon Bros Limited and Carey Management Inc. / Court File Number 2301-08305

**CAUTION:** External Email

Hi Jeffrey,

I hope you are having a good weekend.

Digiflex has informed me that it no longer has VPN access to the copy of the Digiflex Software that is installed on the server at the Wallace & Carey offices (the **Designated Server**), which we understand is now the SEDCC offices. We assume that this means that Wallace & Carey no longer wants to use the copy of the Digiflex Software, in any format: read-only or active, and that there is an agreement between the two parties that all of the W&C Software Licenses have been terminated.

**(1) Destroy, Certify and Permit Digiflex to Confirm that the Software Has Been Deleted**

We therefore ask that your client, as representative of W&C, please:

1. Destroy and erase all copies of the Digiflex Software in W&C's possession, including the one installed on the Designated Server, and any other electronic memories or other storage devices that W&C has in its possession, or any copies that W&C has given or loaned to 7-Eleven Inc., 7-Eleven Canada Inc. or SEDCC during the transition;
2. Destroy all copies of any and all copies of Digiflex documents, including training manuals, in W&C's possession or any that W&C has given or loaned to 7-Eleven Inc., 7-Eleven Canada Inc. or SEDCC during the transition;
3. Certify that it has erased any and all copies of the Digiflex Software and Digiflex documents, and that it has confirmed with 7-Eleven Inc., 7-Eleven Canada Inc. and SEDCC that it has performed the same.

W&C is required to do the above **forthwith**, as per s. 5 of the W&C Software Licenses.

We would also ask for KSV's cooperation to facilitate Digiflex's access (or their representatives) to the Designated Server to confirm that the software is disabled. This can be done either remotely or physically. We are asking for KSV's assistance on this not as a representative of W&C, but as the Monitor of the CCAA Proceedings who has a duty to act in good faith towards all parties in the process, not just 7-Eleven. We understand that KSV previously felt that its contractual obligations under the TSA required it to offer more assistance to 7-Eleven Canada and/or SEDCC over Digiflex. However, with the transition now finished, Digiflex is calling on the Monitor for its assistance for Digiflex to protect its rights to control its intellectual property.

**(2) If Read-Only Access is Required, Please Restore VPN Access Immediately**

If KSV would still like access to the W&C Software on a read-only basis, it must immediately restore Digiflex's VPN access to the copy of the W&C Software on the Designated Server. This is a requirement as per s. 4B of the Maintenance Agreements. We remain open to a discussion about the renewal of the Maintenance Agreements to permit the Monitor legal access to the Digiflex Software on a read-only basis, after February 15, 2026.

**Please confirm that this will be put into action today.** We look forward to hearing from you.

Yours truly,  
Chelsea

**Chelsea Nimmo**

**Counsel**

P: 403.260.0102

C: 403.620.1565

2400, 525 - 8th Avenue SW, Calgary, AB T2P 1G1

[bdplaw.com](http://bdplaw.com)



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**From:** Chelsea Nimmo <[cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com)>

**Sent:** Friday, January 30, 2026 4:40 PM

**To:** Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>

**Cc:** Wiest, Kamryn <[kwiest@cassels.com](mailto:kwiest@cassels.com)>; Florence Hogg <[fhogg@bdplaw.com](mailto:fhogg@bdplaw.com)>; Bobby Kofman <[bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com)>; Jason Knight <[jknight@ksvadvisory.com](mailto:jknight@ksvadvisory.com)>; [carole.hunter@dlapiper.com](mailto:carole.hunter@dlapiper.com); Lamek, Edmond <[edmond.lamek@ca.dlapiper.com](mailto:edmond.lamek@ca.dlapiper.com)>

**Subject:** RE: [EXT] In the matter of the Compromise or Arrangement of Wallace & Carey Inc. ("W&C") Loudon Bros Limited and Carey Management Inc. / Court File Number 2301-08305

Yes. All generated reports can be emailed, printed, stored in text or PDF format.

**Chelsea Nimmo**

**Counsel**

P: 403.260.0102

C: 403.620.1565

2400, 525 - 8th Avenue SW, Calgary, AB T2P 1G1

[bdplaw.com](http://bdplaw.com)



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**From:** Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>

**Sent:** Friday, January 30, 2026 4:26 PM

**To:** Chelsea Nimmo <[cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com)>  
**Cc:** Wiest, Kamryn <[kwiest@cassels.com](mailto:kwiest@cassels.com)>; Florence Hogg <[fhogg@bdplaw.com](mailto:fhogg@bdplaw.com)>; Bobby Kofman <[bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com)>; Jason Knight <[jknight@ksvadvisory.com](mailto:jknight@ksvadvisory.com)>; [carole.hunter@dlapiper.com](mailto:carole.hunter@dlapiper.com); Lamek, Edmond <[edmond.lamek@ca.dlapiper.com](mailto:edmond.lamek@ca.dlapiper.com)>  
**Subject:** Re: [EXT] In the matter of the Compromise or Arrangement of Wallace & Carey Inc. ("W&C") Loudon Bros Limited and Carey Management Inc. / Court File Number 2301-08305

Thank you Chelsea. Will the Monitor be able to utilize the print functionality?

 **JEFFREY OLIVER** (HE/HIM/HIS)  
Partner  
t: +1 403 351 2921  
e: [joliver@cassels.com](mailto:joliver@cassels.com)

Cassels Brock & Blackwell LLP | [cassels.com](http://cassels.com)  
Suite 3700, Bankers Hall West, 888 3rd Street SW  
Calgary, AB T2P 5C5 Canada  
Services provided through a Professional Corporation.

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**From:** Chelsea Nimmo <[cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com)>  
**Sent:** Friday, January 30, 2026 4:18:02 PM  
**To:** Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>  
**Cc:** Wiest, Kamryn <[kwiest@cassels.com](mailto:kwiest@cassels.com)>; Florence Hogg <[fhogg@bdplaw.com](mailto:fhogg@bdplaw.com)>; Bobby Kofman <[bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com)>; Jason Knight <[jknight@ksvadvisory.com](mailto:jknight@ksvadvisory.com)>; [carole.hunter@dlapiper.com](mailto:carole.hunter@dlapiper.com) <[carole.hunter@dlapiper.com](mailto:carole.hunter@dlapiper.com)>; Lamek, Edmond <[edmond.lamek@ca.dlapiper.com](mailto:edmond.lamek@ca.dlapiper.com)>  
**Subject:** RE: [EXT] In the matter of the Compromise or Arrangement of Wallace & Carey Inc. ("W&C") Loudon Bros Limited and Carey Management Inc. / Court File Number 2301-08305

**CAUTION:** External Email

Jeffrey,

Thank you for your letter. I am responding to the "Access Requirements" questions that the Monitor has.

We understand from the Monitor's 19<sup>th</sup> Report and your letter, that the reason that the Monitor continues to require access to the Digiflex ERP Software is for historical data purposes for tax reporting and audits. This will not be an issue for the Monitor if the Digiflex ERP Software is in read-only mode, and in fact, I understand that this is the preferred format for keeping historical data for reporting and audits as it prevents the tampering of such data. This is standard practice for any ERP software. Mr. Mardukhi has advised me this has been Wallace & Carey's standard practice: to keep their previous data in read-only format. Mr. Mardukhi has also advised me that Wallace & Carey has been through audits in the past with the ERP Software in read-only format. Read-only format allows the user to prepare reports, including tax reports, make inquiries into historical data, search for past invoices, etc. Read-only format merely turns off functions that would be required to run an active distribution business (i.e., functionalities that allow the intake of new orders, etc.) Given that KSV will not be running Wallace & Carey as a distribution company, we trust that this will not be an issue.

Finally, in relation to your note that the Monitor believes that SEDCC will no longer require W&C to provide the Digiflex Software on February 1, 2026. As you will see in Mr. Mardukhi's affidavit, the data on the Designated Server still does not suggest that this is the case. However, after February 1, if this is the case, please let us know if we can turn the copy of the Digiflex ERP Software to read-only prior to February 15<sup>th</sup>.

I will get back to you on the ancillary items, such as the language of the lifting stay against the Monitor, and the priority claims, over the weekend, or early next week.

Have a good weekend,  
Chelsea

## Chelsea Nimmo

### Counsel

P: 403.260.0102

C: 403.620.1565

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[bdplaw.com](http://bdplaw.com)



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**From:** Gagnon, Angeline <[agagnon@cassels.com](mailto:agagnon@cassels.com)>

**Sent:** Thursday, January 29, 2026 4:09 PM

**To:** Chelsea Nimmo <[cnimmo@bdplaw.com](mailto:cnimmo@bdplaw.com)>

**Cc:** Oliver, Jeffrey <[joliver@cassels.com](mailto:joliver@cassels.com)>; Wiest, Kamryn <[kwiest@cassels.com](mailto:kwiest@cassels.com)>; [bkofman@ksvadvisory.com](mailto:bkofman@ksvadvisory.com);  
[jknight@ksvadvisory.com](mailto:jknight@ksvadvisory.com); [carole.hunter@ca.dlapiper.com](mailto:carole.hunter@ca.dlapiper.com); [edmond.lamek@ca.dlapiper.com](mailto:edmond.lamek@ca.dlapiper.com)

**Subject:** [EXT] In the matter of the Compromise or Arrangement of Wallace & Carey Inc. ("W&C") Loudon Bros Limited and Carey Management Inc. / Court File Number 2301-08305 [IMAN-LEGAL.FID4364182]

Please see the attached correspondence sent on behalf of Jeffrey Oliver.

Thank you,



### ANGELINE GAGNON

Legal Assistant

t: +1 587 441 7624

e: [agagnon@cassels.com](mailto:agagnon@cassels.com)

Cassels Brock & Blackwell LLP | [cassels.com](http://cassels.com)

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Calgary, AB T2P 5C5 Canada

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This is Exhibit "M", referred to in the  
Affidavit of Jennifer Allen, affirmed before  
me on the 2nd day of February, 2026.



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A Commissioner for Oaths in and for  
the Province of Alberta

**AISIA ANNE ROBERTS**  
A Commissioner For Oaths  
In and for the Province of Alberta  
My Commission Expires September 20, 2028



FEDERAL COURT

DIGIFLEX INFORMATION SYSTEMS INC. and  
MOHAMAD Z. MARDUKHI

Court File No. T-4453-25 ID 1

e-document		
F I L E D	FEDERAL COURT COUR FÉDÉRALE	D E P O S É
November 6, 2025		
Abbie Abe (MM)		
CAL	1	

Plaintiffs

- and -

7-ELEVEN INC., 7-ELEVEN CANADA INC. and  
7-ELEVEN DISTRIBUTION CANADA CORPORATION

Defendants

STATEMENT OF CLAIM

**TO THE DEFENDANTS:**

**A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU** by the Plaintiffs. The claim made against you is set out in the following pages.

**IF YOU WISH TO DEFEND THIS PROCEEDING**, you or a solicitor acting for you are required to prepare a statement of defence in Form 171B prescribed by the Federal Courts Rules, serve it on the plaintiffs' solicitor or, if the plaintiffs do not have a solicitor, serve it on the plaintiffs, and file it, with proof of service, at a local office of this Court:

**WITHIN 30 DAYS** after the day on which this statement of claim is served on you, if you are served in Canada or the United States; or

**WITHIN 60 DAYS** after the day on which this statement of claim is served on you, if you are served outside Canada and the United States.

**TEN ADDITIONAL DAYS** are provided for the filing and service of the statement of defence if you or a solicitor acting for you serves and files a notice of intention to respond in Form 204.1 prescribed by the *Federal Courts Rules*.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

**IF YOU FAIL TO DEFEND THIS PROCEEDING**, judgment may be given against you in your absence and without further notice to you.

Date: November 6, 2025

**ORIGINAL SIGNED BY**  
**ABBIE ABE**  
Issued by: **A SIGNÉ L'ORIGINAL**  
(Registry Officer)

**Courts Administration Service**  
**P.O.Box 10065, 3rd Floor**  
**701 West Georgia Street**  
**Vancouver, B.C. V7Y 1B6**

**TO: THE ADMINISTRATOR OF THE FEDERAL COURT**

**AND TO: 7-Eleven Inc.**  
3200 Hackberry Road  
Irving TX  
75063 United States

**AND TO: 7-Eleven Canada Inc.**  
3200 Hackberry Road  
Irving TX  
75063 United States

**AND TO: 7- Eleven Distribution Canada Corporation**  
Suite 2700 – 1133 Melville Street  
Vancouver, BC V6E 4E5

## CLAIM

1. The Plaintiffs, Digiflex Information Systems Inc. (**Digiflex**) and Mr. Mohamad Z. Mardukhi (**Mr. Mardukhi**), seek:

- (a) a declaration that the Defendants, 7-Eleven Inc., 7-Eleven Canada Inc. (**7-Eleven Canada**) and 7-Eleven Distribution Canada Corporation (**SEDCC**, collectively with 7-Eleven Inc. and 7-Eleven Canada, **7-Eleven**) have infringed, directly or indirectly, or induced the infringement of the Plaintiffs copyright in the Copyrighted Software (as defined below), contrary to sections 3 and 27(1) of the *Copyright Act*, R.S.C. 1985, c. C-42 (the *Act*);
- (b) an interim, interlocutory, and permanent injunction restraining 7-Eleven, its directors, officers, employees, servants, agents, licensees, successors, assigns, related or affiliated companies, or otherwise, and all those in privity with or under the control of 7-Eleven from, directly or indirectly, doing any of the acts described in paragraphs 1(a) above, or any other acts in relation to the Copyrighted Software that violates the *Act*;
- (c) an interlocutory and final Order requiring 7-Eleven to deliver to Digiflex or destroy under oath all infringing copies of the Copyrighted Software, in whatever form or media under 7-Eleven's direct or indirect control, including without limitation all executable files as well as all associated source and object code, and including whether or not all such copies are stored locally on servers or other systems owned or possessed by 7-Eleven or stored "in the cloud" on third party servers under 7-Eleven's direction or authorization, as all such copies are the Plaintiffs' property, pursuant to section 38(1) of the *Act*;
- (d) an order for an award of the Plaintiffs' damages in a sum of not less than the \$6,000,000 in unpaid license and maintenance fees, payable by 7-Eleven, for 7-Eleven's infringements of its Copyrighted Software, pursuant to sections 34 and 35 of the *Act*;
- (e) an order for an award of damages payable by 7-Eleven to Mr. Mardukhi in the amount of \$100,000 for infringement of Mr. Mardukhi's moral rights, pursuant to section 34(2) of the *Act*;
- (f) in addition to the damages claimed in paragraphs 1(d) and 1(e), an order for an accounting of 7-Eleven's profits from its infringements in a sum not less than \$100,000,000, payable by 7-Eleven to the Plaintiffs, pursuant to sections 34 and 35 of the *Act*;

- (g) an order for an award of punitive damages of \$2,000,000, payable by 7-Eleven to the Plaintiffs, given 7-Eleven's malicious, oppressive and high-handed actions described herein;
- (h) pre-judgement and post-judgment interest in accordance with the *Federal Courts Act*, RSC 1985, c F-7;
- (i) the Plaintiffs' costs of the Action on the highest indemnity scale, including all disbursements, taxes and interest; and
- (j) such further and other relief as the Plaintiffs may request and that this Honourable Court may consider just.

### **OVERVIEW**

2. The Plaintiffs bring this action to stop and remedy the exploitation of its enterprise resource planning software, which is copyright protected, for free.
3. The Defendants, 7-Eleven, have described the Plaintiffs' Copyrighted Software as "mission critical importance" to its business and has admitted that not having access to the Plaintiffs' Copyrighted Software would result in the "catastrophic disruption" of 7-Eleven's retail business across Canada. Nevertheless, it refuses to pay for a license to use the software.
4. 7-Eleven's excuse is that it does not need a license because it bought certain assets of the Plaintiffs' insolvent (and no longer existing) licensee. Yet, 7-Eleven never sought an assignment of the insolvent company's license, nor did it give notice to the Plaintiffs that it had stepped into the shoes of its former licensee. 7-Eleven's excuses have no merit.
5. As set out in more detail below, for the last two years, 7-Eleven has been infringing, directly or indirectly, the Plaintiffs' Copyrighted Software. With 7-Eleven's admission that the Copyrighted Software is the backbone of its Canadian retail business, an appropriate remedy for 7-Eleven's infringement is an accounting of all of 7-Eleven's profits from its Canadian retail business for the period that it has been using the Copyrighted Software without a license.

### **THE PARTIES**

6. The Plaintiff, Digiflex, is a corporation organized under the laws of the province of Alberta, with an address at 2611 Venables Street, Vancouver, British Columbia.

7. The Plaintiff, Mr. Mardukhi, is an individual who, at all relevant and material times, was resident in Canada. Mr. Mardukhi is Digiflex's Chief Executive Officer, sole shareholder and sole director.

8. The Defendant, 7-Eleven Inc., is a corporation organized under the laws of Texas, with a registered address at 3200 Hackberry Rd, Irving, Texas, USA.

9. The Defendant, 7-Eleven Canada, Inc. (**7-Eleven Canada**), is a corporation organized under the federal laws of Canada, with a registered address at 3200 Hackberry Rd, Irving, Texas, USA.

10. The Defendant, 7-Eleven Distribution Canada Corporation (**SEDCC**), is a corporation organized under the laws of the province of British Columbia, with a registered address at Suite 2700, 1133 Melville Street, Vancouver, British Columbia. SEDCC is an affiliate of 7-Eleven Canada. SEDCC was recently incorporated, on January 12, 2024, to operate 7-Eleven's new Canadian logistic business.

### **THE PLAINTIFFS' COPYRIGHT AND MORAL RIGHTS**

#### ***Digiflex and the Copyrighted Software***

11. The Plaintiffs develop and provide enterprise resource planning (**ERP**) software and associated support software programs for the grocery distribution and food service industries. ERP software is the backbone for modern businesses. It integrates and automates businesses' core processes, including financial and accounting systems, inventory management, sales, and other logistics, leading to enhanced efficiency and optimization.

12. As detailed further below, the Plaintiffs' software programs are subject to copyright protection. This includes ProCLASS, CLASS Financials and LAZER DMBS, which are collectively referred to herein as the **Copyrighted Software**.

13. Mr. Mardukhi is an author of the Copyrighted Software. Mr. Mardukhi began development of the Copyrighted Software in the mid-1980s for his former employer Canalta Data Services, which was subsequently acquired by Great Pacific Industries. In 1993, Great Pacific Industries assigned all rights in the Copyrighted Software to Mr. Mardukhi, who then subsequently assigned the rights to Digiflex.

14. As CEO and an employee of Digiflex, Mr. Mardukhi further refined, modified and expanded the functionality of the Copyrighted Software for Digiflex's benefit and, in 1999, Mr. Mardukhi ultimately registered the Copyrighted Software with the Canadian Intellectual Property Office (**CIPO**). Mr. Mardukhi

is listed as the registered owner of the Copyrighted Software with CIPO. Digiflex is also an owner of the Copyrighted Software pursuant to s. 13(3) of the *Act*.

15. As a result of the copyright protection in the Copyrighted Software and s. 27 of the *Act*, the Plaintiffs have the sole right to produce and reproduce the Copyrighted Software or any substantial part thereof pursuant to s. 3(1) of the *Act*.

*ProCLASS Distribution Management System*

16. Digiflex's ProCLASS Distribution Management System (referred to herein as **ProCLASS** or the **ProCLASS Software**) was the first integrated software system for distribution businesses that incorporated functionality for retail, wholesale, and foodservice distribution operations in a single system. ProCLASS has an exceptional track-record, running for 7 days a week, 24 hours a day, with no issues, for multiple years.

17. ProCLASS's source code, object code, updates and modifications thereto are the product of skill and judgment and subject to copyright protection as a literary work under the *Act*.

18. ProCLASS was registered as a literary work, computer software, with CIPO on January 19, 1999, under Copyright Registration No. 474852. This original copyright registration extends to ProCLASS software updates built on the source code, all of which have been authored by Mr. Mardukhi himself, or other Digiflex employees.

19. As an author of ProCLASS, Mr. Mardukhi has the moral right to the integrity of his work and the moral right to be associated with his work. At no time following the creation of ProCLASS has Mr. Mardukhi waived any of his moral rights in ProCLASS.

*CLASS Financials Software*

20. In association with ProCLASS, Digiflex's CLASS Financials software programs allow distribution and logistics companies to integrate their logistics and financial data. The CLASS Financials software comprises a suite of software programs, whose source code, object code, updates and modifications thereto are the product of skill and judgment and subject to copyright protection as a literary work under the *Act*. CLASS Financials software programs include:

- (a) "CLASS Accounts Receivable", registered with CIPO on January 19, 1999, under Copyright Registration No. 474853;

- (b) "CLASS Accounts Payable", registered with CIPO on January 19, 1999, under Copyright Registration No. 474854; and
- (c) "CLASS General Ledger", registered with CIPO on January 19, 1999, under Copyright Registration No. 474857.

(collectively, CLASS Accounts Receivable, CLASS Accounts Payable and CLASS General Ledger are referred to as the **CLASS Financials Software**).

21. As an author the CLASS Financials Software, Mr. Mardukhi has the moral right to the integrity of his works and the moral right to be associated with his works. At no time following the creation of the CLASS Financials Software has Mr. Mardukhi waived any of his moral rights in respect of the CLASS Financials Software.

#### *LAZER DBMS*

22. LAZER DBMS is a software program that serves as the database management system for the ProCLASS and CLASS Financials Software. LAZER DBMS's source code, object code, updates and modifications thereto are the product of skill and judgment and subject to copyright protection as a literary work under the *Act*.

23. LAZER DBMS was registered as a literary work, computer software, with CIPO on January 19, 1999, under Copyright Registration No. 474858. This original copyright registration extends to LAZER DBMS software updates built on the source code, all of which have been authored by Mr. Mardukhi.

24. As the author LAZER DBMS, Mr. Mardukhi has the moral right to the integrity of his work and the moral right to be associated with his work. At no time following the creation of LAZER DBMS has Mr. Mardukhi waived any of his moral rights in respect of LAZER DBMS.

#### *Digiflex licenses its Copyrighted Software*

25. For over 30 years, Digiflex has been licensing its Copyrighted Software to distribution companies throughout Canada, the United States and Malaysia. A customer wishing to use the Copyrighted Software must buy a "Software License" to use the software, payable via a single lump sum fee, which grants the customer a non-transferrable, non-exclusive, perpetual license to use the Copyrighted Software.

26. In addition, the customer must agree to an annual "Maintenance Agreement" under which Digiflex will provide ongoing support, software enhancements, upgrades, and a 24/7 support line. Digiflex's fee under the Maintenance Agreement varies each year.

27. Upon execution of a license agreement, Digiflex installs the Copyrighted Software onto licensee-owned servers. The Copyrighted Software is subsequently accessed from individual personal computers (PCs) of the licensee via emulation software.

28. The Copyrighted Software source code, database schemas and documentation all contain statements which provide notice that the software is subject to copyright protection and only provided under a license. The notice of copyright protection also states that the Copyrighted Software may only be used and copied in accordance with the terms of the license. The notice also indicates that the software may not be provided to other persons not subject to the license, and that no title or ownership of the software has been transferred.

*Digiflex's software license with Wallace & Carey*

29. One of Digiflex's long-term licensees was Wallace & Carey Inc. (W&C). W&C was a privately held distribution and logistics company that was extra-provincially registered to conduct business in most provinces and territories in Canada. For Northwestern Ontario, W&C operated through its wholly owned subsidiary Loudon Bros Limited (Loudon Bros).

30. From 2000 – 2023, W&C, together with Loudon Bros and its parent company Carey Management Inc. (CMI), supplied and distributed thousands of products to more than 7,000 customers across Canada. It was once one of Canada's largest independent wholesale distribution and logistic companies. As detailed further below, W&C's largest customer was 7-Eleven Canada.

31. Beginning in 2000, Digiflex licensed the Copyrighted Software to W&C through three Software Licenses:

- (a) a license to use the ProCLASS Software and LAZER DMBS executed March 9, 2000;
- (b) a license to use the CLASS Financials Software, executed on August 12, 2003; and
- (c) a license to use the ProCLASSBI Intelligence Suite, executed on April 23, 2012

(referred to collectively, herein as the **W&C Software Licenses**).

32. The W&C Software Licenses were non-transferable, non-exclusive, perpetual licenses to use the Copyrighted Software. The W&C Software Licenses included, among others, the following terms:

- (a) **Restricted use rights (section 4).** The W&C Software Licenses were restricted to W&C's "current" business, and did not apply to "[n]ew business acquisitions";
- (b) **Right to terminate (section 5).** The W&C Software Licenses permitted Digiflex to terminate the license if W&C breached any of its obligations thereunder;
- (c) **Requirement to return or destroy the software upon termination (section 5).** The W&C Software Licenses required W&C to return or destroy all copies of the software to Digiflex;
- (d) **An acknowledgement of copyright ownership (section 12).** W&C acknowledged that Digiflex owned all of the intellectual property associated with the software, including the copyrights; and
- (e) **Non-assignable (section 15).** Neither party was permitted to assign their rights under the licenses without written consent of the other.

33. W&C used the Copyrighted Software for over 23 years. With the Copyrighted Software as its backbone, W&C managed to grow from annual sales of \$200 million to over \$2 billion.

#### **THE DEFENDANTS' INFRINGING ACTS**

34. As detailed in the facts below, beginning on November 19, 2023 and continuing to today, 7-Eleven has, without authorization from the Plaintiffs, used, copied and reproduced unauthorized reproductions of the Copyrighted Software. 7-Eleven has also infringed Mr. Mardukhi's moral rights in the Copyrighted Software.

#### ***Wallace & Carey becomes insolvent and seeks protection under the Companies' Creditors Arrangement Act***

35. Beginning in the COVID-19 pandemic, W&C and Loudon Bros faced significant operational and financial challenges due to government shut-downs, inflation and driver and labour shortages. By 2023, W&C had incurred significant unsecured debt, and on June 22, 2023, the Court of King's Bench of Alberta granted protection to W&C, Loudon Bros and CMI (referred to collectively throughout as **W&C**, unless differentiated) under the *Companies' Creditors Arrangement Act*, RSC 1985, c. C-36 (the **CCAA**).

36. Pursuant to the CCAA, W&C was to carry on its business in a manner consistent with the preservation of its business. As is typical in CCAA proceedings, those having agreements with W&C, such as Digiflex, were prevented from terminating or interfering with such agreements.

*7-Eleven buys Wallace & Carey's assets but does not seek an assignment of the W&C Software Licenses*

37. In August 2023, W&C solicited offers for all or part of its business. In response, W&C received an offer from 7-Eleven Canada for the purchase of some of its assets, which was ultimately accepted. 7-Eleven Canada was W&C's largest customer, and it had approximately 540 7-Eleven stores throughout Canada that relied on W&C's logistic services. 7-Eleven used W&C to create its own in-house logistics and distribution company, SEDCC.

38. On November 19, 2023, 7-Eleven Canada and W&C closed an Asset Purchase Agreement (the **APA**). The APA transferred title of W&C's personal and tangible assets located in Alberta and British Columbia to 7-Eleven Canada. This included the transfer of ownership of W&C's information technology systems, including their servers and personal computers to 7-Eleven Canada.

39. The transaction also involved the assignment of a number of contracts from W&C to 7-Eleven Canada (the **Assigned Contracts**).

40. The W&C Software Licenses were not included in the definition of Assigned Contracts. In fact, neither Digiflex, nor any ERP software was referenced in the APA. Further, at no time during the closing of the APA was Digiflex notified about the transaction between 7-Eleven and W&C.

41. On February 7, 2025, W&C sold any remaining assets it had to SEDCC (the **SEDCC Transaction**). The W&C Software Licenses were also not contemplated in the SEDCC Transaction.

*The Transition Service Agreement*

42. As part of the APA, W&C and 7-Eleven Canada entered into a Transition Service Agreement (the **TSA**), which came into force on November 21, 2023. Under the TSA, 7-Eleven Canada was to be the only go-forward customer of W&C.

43. The term of the TSA was set to be 15 months for Alberta and British Columbia, and nine months for business east of Alberta. The TSA also gave 7-Eleven the option of two 90-day extensions.

44. The TSA does not reference Digiflex or the W&C Software Licenses.

*7-Eleven misleads Digiflex as to who is using the Copyrighted Software*

45. Approximately eight months after the close of the APA, on July 4, 2024, Digiflex received an email from W&C's IT Director asking Digiflex for a quote to set up a separate ERP system using the Copyrighted

Software for "a new distribution company" (which Digiflex subsequently learned was SEDCC) that would begin operating January 1, 2025. Digiflex advised that this was a major request and it would require substantial new license fees. On July 12, 2024, following another request for a quote for the new company, Digiflex provided quotes for license and maintenance fees based on \$100 million, \$600 million, and \$700 million annual sales.

46. On July 22, 2024, ten days after Digiflex provided the quote for the new company's ERP system, W&C's IT Director informed Digiflex that she was mistaken and that no new company ERP system would be required. Rather, W&C's name was simply to be changed to the new company name and the fiscal year would change to monthly reporting, effective January 1, 2025. In response, Digiflex advised that a new license would still be required as a new company would be using the software.

47. Digiflex also subsequently started to receive email correspondence from 7-Eleven employees. Such correspondence included inquiries from 7-Eleven related to the annual maintenance fee to support the Copyrighted Software. 7-Eleven, Inc.'s Director of Logistics initially instructed Digiflex to address the invoice for the annual maintenance fee to SEDCC. However, after Digiflex advised that SEDCC would not be entitled to any maintenance support without entering into a new software license, the same Director of Logistics advised that 7-Eleven was not using the Copyrighted Software, that only W&C was.

48. Digiflex advised 7-Eleven that it was not aware of the APA and that the change in ownership of W&C affected all of the W&C Software Licenses. On November 12, 2024, Digiflex sent 7-Eleven a software license agreement for its execution, an invoice for SEDCC's license fees, and an invoice for one-year of maintenance services for SEDCC. Digiflex asked that they be paid upon receipt.

49. To date, 7-Eleven has refused to execute the software license agreement, and to pay the license and maintenance fees, despite repeated requests from Digiflex. 7-Eleven continues to do so even though: (i) the Monitor has admitted that the W&C Licenses were not assigned to 7-Eleven as part of the CCAA process; and (ii) W&C is no longer operational. W&C no longer has any employees, directors or officers.

50. Rather than pay for a new license to use the Copyrighted Software, 7-Eleven claims that the TSA requires Digiflex to continue to provide services to 7-Eleven (which it does not) and has also sought relief in the Alberta Court of King's Bench by way of a mandatory injunction to force Digiflex to continue to permit 7-Eleven to use the Copyrighted Software. In response, the Alberta Court of King's Bench has granted Digiflex the right to bring an application to set aside the TSA and bring any further action against 7-Eleven.

*7-Eleven's actions amount to copyright infringement and moral rights infringement*

51. Beginning on November 19, 2023, and continuing to date, 7-Eleven has, without the authorization of Digiflex or Mr. Mardukhi, used, copied and reproduced unauthorized reproductions of the Copyrighted Software.

52. On November 19, 2023, title of W&C's servers with copies of the Copyrighted Software were transferred to 7-Eleven Canada pursuant to the APA. From the moment 7-Eleven Canada owned these servers, it was in possession of an unauthorized copy of the Copyrighted Software.

53. Further, on November 19, 2023, title of W&C's personal computers were transferred to 7-Eleven Canada pursuant to the APA. From the date 7-Eleven owned these personal computers, and continuing to date, 7-Eleven, through its employees, or representatives (including representatives at W&C), has been using unauthorized copies of the Copyrighted Software on these personal computers or computer systems associated with 7-Eleven's business in Canada for a commercial purpose.

54. At no time has 7-Eleven had a license to use, reproduce or make copies of the Copyrighted Software. Moreover, 7-Eleven cannot benefit from the W&C Software Licenses. 7-Eleven never sought an assignment of the W&C Software Licenses as part of the APA, and the TSA does not permit 7-Eleven's actions:

- (a) The TSA does not require W&C to provide services to 7-Eleven that fall outside the scope of what W&C's business was prior to entering the TSA, pursuant to s. 21(a)(ii). Prior to entering the TSA, W&C's business was to provide distribution and logistics services to thousands of customers, and to make profits for W&C. After the TSA, to the extent W&C continued to operate, it was operating as an in-house distribution centre for 7-Eleven;
- (b) The TSA does not require W&C to provide services to 7-Eleven which would violate any statute or contract to which W&C is subject, pursuant to s. 21(b)(i). W&C's use of the Copyrighted Software for 7-Eleven's benefit violates both the W&C Software Licenses and s. 3(1) of the *Act*.

55. Further, the CCAA regime does not permit a buyer (here, 7-Eleven) of an insolvent company's assets to profit from an invaluable IP license that the insolvent company (here, W&C) had with the IP licensor/owner (here, Digiflex) without giving the IP licensor/owner a voice in the matter. If a buyer wants to use the same technology as a debtor company, it has options to do so: either seek an assignment of the license (which would have given Digiflex the chance to speak up) or pay for a new license. 7-Eleven has

done neither. 7-Eleven's actions with respect to Digiflex and the Copyrighted Software do not fall within the purpose of the CCAA regime.

***7-Eleven's actions infringe on Mr. Mardukhi's moral rights***

56. Since the close of the 7-Eleven transaction on November 19, 2023, 7-Eleven has been infringing Mr. Mardukhi's moral rights in the Copyrighted Software while continuing to mock him. 7-Eleven's conduct and values do not equate with the type of conduct expected of a good corporate citizen. This is not the type of institution that Mr. Mardukhi envisioned using his Copyrighted Software, and such use prejudices Mr. Mardukhi's honour.

57. Even though 7-Eleven has admitted that its Canadian retail business is entirely dependent on the Copyrighted Software, 7-Eleven has shown no respect to Digiflex or Mr. Mardukhi. To the contrary, 7-Eleven has threatened Mr. Mardukhi with imprisonment and financial penalties, and has shamed him for requesting that 7-Eleven pay to use a software which keeps its business afloat. Further, 7-Eleven has framed Mr. Mardukhi and Digiflex as seeking a windfall from 7-Eleven by comparing the license fee that Digiflex is charging 7-Eleven in 2025, to the original license fee that Digiflex charged W&C in the early 2000s. This is a further affront to Mr. Mardukhi's honour.

58. Further, 7-Eleven has placed Mr. Mardukhi in a position where he himself must be available to provide 7-Eleven with immediate maintenance calls related to the Copyrighted Software. Mr. Mardukhi is essentially being held hostage by 7-Eleven: a customer who refuses to pay to use his Copyrighted Works.

***In the alternative, 7-Eleven induced, or acted in concert with Wallace & Carey to infringe the Copyrighted Software and Mr. Mardukhi's moral rights***

59. In the alternative, to the extent W&C was using the Copyrighted Software following the execution of the APA, which is not admitted but expressly denied, 7-Eleven is still liable to the Plaintiffs by either inducing W&C to infringe the Copyrighted Software, or by acting in concert with W&C with a common design to infringe the Copyrighted Software.

60. To the extent W&C was using the Copyrighted Software following the execution of the APA, which is not admitted but expressly denied, W&C's use of the Copyrighted Software fell outside of the permitted uses in the W&C Software Licenses. Under the W&C Software Licenses, W&C had no rights to permit third-party use, assign its rights, or use the Copyrighted Software for new business acquisitions.

61. 7-Eleven provided direction to W&C as to how the Copyrighted Software should be used following the execution of the APA to set up the new SEDCC distribution business. W&C's acts of copyright infringement would not have occurred without the direction and influence of 7-Eleven.

62. W&C's copyright infringing activities were orchestrated and coordinated by 7-Eleven. 7-Eleven acted in concert with W&C and in a common design to infringe the Copyrighted Software. The use of the Copyrighted Software outside the permitted uses of the W&C Software Licenses was pursuant to the APA and the TSA which were entered into between W&C and 7-Eleven Canada upon the direction of 7-Eleven Inc. 7-Eleven orchestrated and coordinated this common design for its own gain. While the Court approved the APA and the TSA, it did so without the knowledge of the Plaintiffs' allegations of copyright infringement (given that Digiflex had not been provided with any notice of the transaction), and without the knowledge of the effects that it would have on Mr. Mardukhi's moral rights.

### **REMEDIES**

63. Based on the foregoing, 7-Eleven has made, and continues to make, a profit, while the Plaintiffs have suffered, and will continue to suffer, damages, until 7-Eleven is restrained by this Honourable Court.

*The Plaintiffs are entitled to all of 7-Eleven's Canadian retail profits earned since November 19, 2023*

64. 7-Eleven has admitted that the Copyrighted Software is vital and central to its business. 7-Eleven Inc.'s Director of Logistics has stated that if 7-Eleven Inc. did not have access to the Copyrighted Software, SEDCC's logistics business would come to a "complete halt" and result in "catastrophic disruption of 7-Eleven Canada's retail business across Canada". In other words, 7-Eleven has admitted that, but for its use of the Copyrighted Software, 7-Eleven Canada would not have made, and could not make, any profits from its Canadian retail business.

65. The Plaintiffs are entitled to an accounting of all of 7-Eleven's profits from its Canadian retail business from the closing date of the APA (November 19, 2023) and continuing until the earliest date of either: (i) the date that 7-Eleven executes a software license with Digiflex to use the Copyrighted Software; or (ii) the date when Digiflex ceases to provide 7-Eleven with access to the Copyrighted Software.

66. The Plaintiffs claim all of 7-Eleven's Canadian retail profits wherever they may lie. 7-Eleven Inc., 7-Eleven Canada and SEDCC have acted in concert and have undertaken steps to transfer profits as between them, in an attempt to shield profits made by 7-Eleven Canada and SEDCC. 7-Eleven Inc. approved 7-Eleven Canada's and SEDCC's actions related to the unauthorized use of the Copyrighted Software.

***The Plaintiffs are entitled to damages in the form of lost license and maintenance fees***

67. In addition to an accounting of 7-Eleven's profits, the Plaintiffs are also entitled to the damages they have suffered due to 7-Eleven's infringing acts, pursuant to s. 34(1) and s. 35(1) of the *Act*. The Plaintiffs claim the payment of 7-Eleven's outstanding license fee and maintenance fees, with interest.

***The Plaintiffs are entitled to punitive damages***

68. 7-Eleven's infringing activities have been, and will continue to be, intentional, high-handed, and with knowledge of the Plaintiffs rights, all in the pursuit of higher profits.

69. 7-Eleven is, and was, at all material times aware, knew or was willfully blind to the fact that copyright subsisted in the Copyrighted Software and that the Plaintiffs have exclusive rights over the Copyrighted Software.

70. 7-Eleven knew, or should have known, that if 7-Eleven wanted to use the Copyrighted Software, an assignment of the W&C Software Licenses would be necessary. 7-Eleven instead carries on using the Copyrighted Software without a license, attempting to hide behind the CCAA process and a company that no longer exists. 7-Eleven's actions are disingenuous and do not advance the goals of the CCAA regime. The CCAA process is meant to protect large insolvent companies and their creditors. 7-Eleven is neither.

71. Further, 7-Eleven has exploited the power imbalance between itself and the Plaintiffs. 7-Eleven is a global multi-billion-dollar company and has used its extensive resources to exploit a small Canadian software company. 7-Eleven has lied to Mr. Mardukhi, refused to negotiate with him in good faith, and has threatened to put him in prison. These are unprecedented facts which warrant a significant sum of punitive damages.

***Mr. Mardukhi is entitled to remedies for the infringement of his moral rights***

72. Separate and apart from the remedies owed to the Plaintiffs as a result of 7-Eleven's infringement of the Copyrighted Software, Mr. Mardukhi is also entitled to an injunction, damages, accounts, delivery up, and other remedies, pursuant to s. 34(2) of the *Act*.

73. The Plaintiffs rely on sections 2, 3, 13(3), (4) and (6), 14.1, 27(1), 28.1, 28.2, 34, 35 and 38 of the *Act*.

74. This action is not proceeding as a simplified action.

75. The Plaintiffs propose that this matter be tried in Calgary, Canada.

DATED at Calgary, Alberta on November 6, 2025

Per:



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**Solicitors for the Plaintiff**

I HEREBY CERTIFY that the above document is a true copy of the original *issued out of* the Court on  
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Abbie Abe  
Date: 2025.11.06  
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