

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 KSV RESTRUCTURING INC., in its capacity
as Court-appointed Monitor of Wallace & Carey
Inc., Loudon Bros Limited and Carey
Management Inc.

DOCUMENT **APPLICATION – APPROVAL OF FEES AND CONDUCT, ETC.**

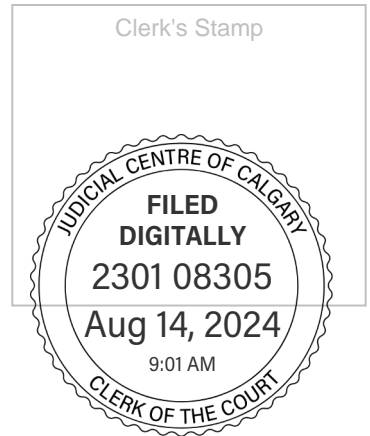
ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION
OF PARTY
FILING THIS
DOCUMENT

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File No.: 54670-3



NOTICE TO THE RESPONDENTS: see Service List attached hereto as Schedule "A"

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the master/judge.

To do so, you must be in Court when the application is heard as show below:

Date: Thursday, August 22, 2024
Time: 2:00 PM
Where: Calgary (via WebEx)
Before Whom: The Honourable Mr. Justice C.D. Simard

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1. KSV Restructuring Inc. (“**KSV**”) in its capacity as in its capacity as Court-appointed Monitor (in such capacity, the “**Monitor**”) of Wallace & Carey Inc. (“**W&C**”), Loudon Bros Limited (“**Loudon Bros**”), and Carey Management Inc. (“**CMI**”, and together with W&C and Loudon Bros, the “**Companies**”), seeks:
 - (a) an order substantially in the form attached hereto as Schedule “B”:
 - (i) if necessary, abridging the time for service of this Application and the supporting twelfth report of the Monitor, dated August 13, 2024 (the “**Twelfth Report**”) and declaring service to be good and sufficient;
 - (ii) approving the Recommended Distributions (a defined below) in respect of Incremental Post-Filing Tobacco Tax Exposure (as defined below), as particularized in the Twelfth Report;
 - (iii) granting a Court-ordered charge in favour of the 7-Eleven (as defined below) (the “**TSA Charge**”) over certain present and future property of W&C (the “**Post-Transaction Property**”), as particularized in the Twelfth Report;
 - (iv) approving and ratifying the actions, conduct and activities of the Monitor as outlined in the Twelfth Report and in all of its other reports filed in the within proceedings; and
 - (v) approving and ratifying the professional fees and disbursements of the Monitor and its legal counsel, Cassels Brock & Blackwell LLP (“**Cassels**”), for the period of January 1, 2024 to July 31, 2024 as set out in the Twelfth Report, without the necessity of a formal passing of accounts; and
 - (b) such further and other relief as this Honourable Court deems appropriate.

Ground for making this Application:

Background

2. On June 22, 2023, the Companies obtained protection from their creditors under the *Companies’ Creditors Arrangement Act*, RSC 1985, c. C-36 (the “**CCAA**”), pursuant to an Initial Order of the Court of King’s Bench of Alberta (the “**Court**”) (the “**Initial Order**”). The Amended and Restated Initial Order (the “**ARIO**”) was pronounced on June 30, 2023.
3. Pursuant to an order issued by the Court on August 23, 2023, the Companies carried out a sale and investment solicitation process that resulted in a transaction (the “**Transaction**”) between the Companies and 7-Eleven Canada, Inc. (“**7-Eleven**”) that was approved by the Court on November 17, 2023 pursuant to an approval and vesting order (the “**Transaction Approval and Vesting Order**”) and other orders (together with the Transaction Approval and Vesting Order, the “**Transaction Orders**”).
4. Pursuant to the Transaction Orders, the Court, among other things:

- (a) approved a sale of certain of the Companies' property, assets and undertaking to 7-Eleven;
 - (b) approved a transition services agreement (the "**TSA**") among CMI, W&C, the Monitor and 7-Eleven, as more fully discussed in the sixth report of the Monitor dated November 8, 2023 (the "**Monitor's Sixth Report**"); and
 - (c) appointed KSV as Receiver of all of the assets, undertakings, and properties of certain subsidiaries of CMI.
5. On January 30, 2024, the Monitor filed its eighth report with this Court (the "**Monitor's Eighth Report**") in support of the Monitor's application for an order, among other things:
- (a) authorizing the Monitor to make distributions totaling \$3,313,081, as further detailed in paragraph 1.0.5 of the Twelfth Report (the "**Recommended Distributions**"), in full satisfaction of the Incremental Post-Filing Tobacco Tax Exposure owing to British Columbia, Alberta, and the Yukon (collectively, the "**Entitled Tobacco Tax Authorities**"); and
 - (b) granting the TSA Charge over certain present and future property of W&C.
6. On February 7, 2024, after representatives of British Columbia and Alberta raised concerns about the TSA Charge and the amount of the Recommended Distributions, it was agreed that the portion of that application regarding the Recommended Distributions and TSA Charge would be adjourned.

Recommended Distributions

7. Pursuant to paragraph 26(c) of the Transaction Approval and Vesting Order, the Court authorized and directed the Monitor to pay, on a pro rata basis, an aggregate amount not to exceed \$4,000,000 to the Entitled Tobacco Tax Authorities for Incremental Post-Filing Tobacco Tax Exposure (as defined in paragraph 26(c) of the Transaction Approval and Vesting Order).
8. The Tobacco Tax Distributions, as set out in detail at paragraph 1.0.5 of the Twelfth Report, are intended to be made to the Entitled Tobacco Tax Authorities (as defined in the Twelfth Report) in full satisfaction of the applicable Incremental Post-Filing Tobacco Tax Exposure.
9. Since the adjournment of the relief described in the Monitor's Eighth Report, the Monitor and its counsel have engaged in discussions with representatives of British Columbia, Alberta and the Yukon in respect of the Recommended Distributions and the Monitor understands that those Provinces do not oppose the Recommended Distributions.
10. The Receiver respectfully requests that the Court approve the Recommended Distributions.

TSA Charge

11. The Monitor is seeking approval of the TSA Charge in favour of 7-Eleven, as more particularly described in paragraphs 4.0.1 to 4.0.5 of the Twelfth Report.
12. The TSA Charge is intended to address the hypothetical situation where the Companies' business and operations are discontinued or wound-down for any reason, 7-Eleven has satisfied all of its

obligations under the TSA, and there is a surplus of funds generated after the closing of the Transaction after such obligations have been satisfied.

13. The Monitor is of the view that the TSA Charge is appropriate and should be approved for the following reasons:
 - (a) the TSA Charge is consistent with the terms of the TSA;
 - (b) the TSA Charge addresses 7-Eleven's concerns and is consistent with the terms and purpose of the Transaction;
 - (c) 7-Eleven is the only source of funding for the Companies' post-filing operations;
 - (d) the Monitor does not believe that the TSA Charge in any way alters 7-Eleven's obligations under the TSA and does not create a charge on any of the Excluded Assets (as defined in the TSA); and
 - (e) the TSA Charge is not prejudicial to any creditor.
14. As a result of the foregoing, the Monitor respectfully requests that the Court approve the TSA Charge.

Activities of the Monitor

15. The Monitor has acted diligently since its appointment as Monitor.
16. The actions, conduct and activities of KSV in its capacity as Monitor are described in the ninth report of the Monitor dated February 15, 2024, the tenth report of the Monitor dated May 24, 2024, the eleventh report of the Monitor dated July 30, 2024 and Twelfth Report. The Monitor's actions and conduct are lawful, proper, and consistent with its powers under the ARIO and subsequent orders issued by the Court in these proceedings, including the Transaction Orders.

Approval of Professional Fees

17. The total fees and disbursements the Monitor for the period from January 1, 2024 to July 31, 2024 total \$516,691.65 inclusive of GST in the amount of \$24,532.37.
18. The total fees and disbursements of the Monitor's counsel (Cassels) for the period from January 1, 2024 to July 31, 2024 total \$144,381.50 inclusive of GST in the amount of \$6,866.73.
19. The Monitor is of the view that its fees and disbursements and those of its legal counsel are reasonable in the circumstances, and commensurate with the work performed by the parties, which was necessary and appropriate in the circumstances.

Material or evidence to be relied on:

20. Amended and Restated Initial pronounced by the Honourable Justice Burns on June 30, 2023

21. Transaction Approval and Vesting Order pronounced by the Honourable Justice Burns on November 17, 2023.
22. The Eighth Report of the Monitor, dated January 29, 2024, filed.
23. The Ninth Report of the Monitor dated February 15, 2024, filed.
24. The Tenth Report of the Monitor dated May 24, 2024, filed.
25. The Eleventh Report of the Monitor dated July 30, 2024, filed.
26. The Twelfth Report of the Monitor dated August 13, 2024, to be filed.
27. Affidavit of Service to be sworn and filed.
28. Such further and other materials as counsel may advise and this Honourable Court may permit.

Applicable rules:

29. The *Alberta Rules of Court*, including Rules 1.2, 1.3, 1.4, 6.1, 6.2, 6.3 and 6.47.
30. Such further and other rules as counsel may advise and this Honourable Court may permit.

Applicable Acts and regulations:

31. *Companies' Creditor Arrangement Act*, RSC 1985, c. C-36
32. *Bankruptcy and Insolvency Act*, RSC 1985, c B-3.
33. *Judicature Act*, RSA 2000, c J-2.
34. *Personal Property Security Act*, RSA 2000, c P-7.
35. *Business Corporations Act*, RSA 2000, c B-9
36. Such further and other acts and regulations as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

37. None.

How the application is proposed to be heard or considered:

38. Remotely, via Webex.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take

part in this application, you or your lawyer must attend in Court on the date and time shown at the beginning of this form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

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.

AND

COURT FILE NUMBER 2301-15147

COURT COURT OF KING'S BENCH OF ALBERTA
IN BANKRUPTCY AND INSOLVENCY

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.

IN THE MATTER OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, RSC 1985, C B-3, as amended

AND IN THE MATTER OF THE RECEIVERSHIP OF
772921 ALBERTA INC., SPRUCE IT UP LAND CORP.
and RIDGE MEADOWS PROPERTIES LTD.

DOCUMENT Service List
(Updated August 13, 2024)

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INTERESTED PARTIES		
ROGERS COMMUNICATIONS INC. c/o Parlee McLaws 2400, 150 – 6 Avenue SW Calgary, AB T2P 3Y7 Brent Mescall Email: bmescall@parlee.com -and- ROGERS COMMUNICATIONS INC. 2900 – 550 Burrard Street Vancouver, BC V6C 0A3 Attn: Legal Department	Email Courier	Caveator
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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 OF
ARRANGEMENT OF WALLACE & CAREY INC.,
LOUDON BROS. LIMITED, and CAREY
MANAGEMENT INC.

Clerk's Stamp

APPLICANTS WALLACE & CAREY INC, LOUDON BROS LIMITED,
and CAREY MANAGEMENT INC.

DOCUMENT **ORDER APPROVING CERTAIN DISBURSEMENTS,
MONITOR'S ACTIVITIES, PROFESSIONAL FEES,
ETC.**

ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION OF
PARTY FILING THIS
DOCUMENT
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Attention: Jeffrey Oliver / Jane Dietrich

File no. 54670-8

DATE ON WHICH ORDER WAS PRONOUNCED: August 22, 2024

LOCATION WHERE ORDER WAS PRONOUNCED: Calgary, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Justice C.D. Simard

UPON THE APPLICATION of KSV Restructuring Inc., in its capacity as the Court-appointed Monitor (in such capacity, the "**Monitor**") of Wallace & Carey Inc. ("**W&C**"), Loudon Bros Limited, and Carey Management Inc. (collectively, the "**Companies**") for an Order (among other things) approving the professional fees and disbursements of the Monitor and its counsel, approving the Monitor's activities, authorizing the Recommended Distribution (as defined in the Twelfth Report of the Monitor, dated August 13, 2024 (the "**Twelfth Report**")) and granting the TSA Charge (as defined below); **AND UPON** having reviewed the Amended and Restated Initial Order of this Court pronounced June 30, 2023 (the "**ARIO**"); the Transaction Approval and Vesting Order pronounced on November 17, 2023 (the "**Transaction Approval and Vesting Order**"); the Ninth Report of the Monitor dated February 15, 2024 (the "**Ninth**

Report) ; the Tenth Report of the Monitor dated May 24, 2024 (the "**Tenth Report**"); The Eleventh Report of the Monitor dated July 30, 2024 (the "**Eleventh Report**"); the Twelfth Report; and the Affidavit of Service of Angeline Gagnon, sworn ●, 2024; **AND UPON** hearing counsel for the Monitor and any other interested parties appearing at the within application; **AND UPON** being satisfied that it is appropriate to do so;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Twelfth Report.

SERVICE

2. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, and time for service of this application is abridged to that actually given.

RECOMMENDED DISTRIBUTIONS

3. The Recommended Distributions as outlined in paragraph 1.0.5 of the Twelfth Report are hereby ratified and approved and the Monitor is authorized to make such Recommended Distributions.

TRANSITION SERVICES AGREEMENT CHARGE

4. As security for W&C's obligations under subsection 13(b) of the Transition Services Agreement (the "**TSA**") approved by the Court on November 17, 2023 and made effective November 21, 2023 (the "**Effective Date**"), 7-Eleven Canada, Inc. (the "**Purchaser**") shall be entitled to the benefit of and is hereby granted a charge (the "**TSA Charge**") over the following present and future Property of W&C (collectively the "**Post-Transaction Property**"): (i) all accounts receivable generated after the Effective Date, (ii) all inventory acquired after the Effective Date; (iii) all vendor rebates generated in respect of inventory acquired after the Effective Date; and (iv) cash, cash equivalents, and monies on deposit in any account with a deposit taking institution (whether in the name of W&C, the Purchaser, the Monitor or a third party, a "**Bank Account**") from any source after the Effective Date, provided however, that Post-Transaction Property shall not include any Excluded Assets, or proceeds of Excluded Assets (as defined in the TSA) on deposit in any Bank Account. Provided further that, notwithstanding any other order made to date in these proceedings, the Purchaser shall only be entitled to the benefit of the TSA Charge if the Purchaser has satisfied the Monitor that provision has been made to pay or satisfy all current and future financial and indemnity obligations required to be funded by the Purchaser under the terms of the TSA, including without limitation all Sales Taxes (as defined in the TSA) arising after the Effective Date, other amounts owing by W&C to His Majesty the King in right of Canada or any Province or

territory arising after the Effective Date, and any additional financial obligations incurred by W&C specifically at the request of the Purchaser.

5. The TSA Charge shall rank subordinate only to the Administration Charge as against the Post Transaction Property and in priority to all other Court ordered Charges set out in paragraph 43 of the ARIO, and shall benefit from paragraphs 44-48 of the ARIO in respect of the Post Transaction Property. Notwithstanding the foregoing, the TSA Charge shall not attach to the Cash Collateral, as defined in paragraph 5 of the August 8, 2024 Order of this Honourable Court in the within proceeding.

MONITOR'S ACTIVITIES AND PROFESSIONAL FEES

6. The Monitor's actions, conduct and as disclosed in the Ninth Report, the Tenth Report, the Eleventh Report and the Twelfth Report are hereby ratified and approved.
7. The Monitor's accounts for fees and disbursements, as set out in the Twelfth Report, are hereby approved without the necessity of a formal passing of its accounts.
8. The accounts of the Monitor's legal counsel, Cassels Brock & Blackwell LLP, for its fees and disbursements, as set out in the Twelfth Report, are hereby approved without the necessity of a formal assessment of its accounts.

SERVICE OF ORDER

9. Service of this Order shall be deemed good and sufficient by:
 - (a) serving the same on:
 - i. the persons listed on the service list created in these proceedings;
 - ii. any other person served with notice of the application for this Order; and
 - iii. any other parties attending or represented at the application for this Order; and
 - (b) posting a copy of this Order on the Monitor's website established in connection with these proceedings, for no less than six months from the date of this Order; and service on any other person is hereby dispensed with.

10. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier.

Justice of the Court of King's Bench of Alberta