

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.

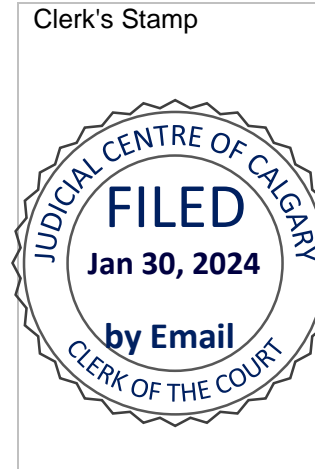
APPLICANTS WALLACE & CAREY INC, LOUDON BROS LIMITED, and CAREY
MANAGEMENT INC.

DOCUMENT **APPLICATION – APPROVE 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.: 54670-3



LL

C12232

Feb 7, 2024
COM

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 shown below:

Date: February 7, 2024
Time: 3:00 p.m.
Where: Calgary Courts Centre, Calgary, AB (via Webex)
Before Whom: The Honourable Madam Justice B.B. Johnston

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

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Remedy claimed or sought:

1. KSV Restructuring Inc. ("**KSV**"), 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 (the "**Application**") and the supporting Eighth Report of the Monitor, dated January 29, 2024 (the "**Eighth Report**") and declaring service to be good and sufficient;
 - (ii) approving the distributions (the "**Recommended Distributions**") in respect of Incremental Post-Filing Tobacco Tax Exposure (as defined below), as particularized in the Eighth Report;
 - (iii) granting a Court-ordered charge in favour of the Purchaser (as defined below) (the "**TSA Charge**") over certain present and future property of W&C (the "**Post-Transaction Property**"), as particularized in the Eighth Report;
 - (iv) approving and ratifying the actions, conduct and activities of the Monitor as outlined in the Eighth 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 November 1 to December 31, 2023 as set out in the Eighth Report, without the necessity of a formal passing of accounts;
 - (b) an order substantially in the form attached hereto as **Schedule "C"** (the "**Litigation Schedule Order**") providing for a litigation schedule between Dakin News Systems Inc., dba INS News ("**INS News**") and W&C with respect to the INS dispute (as defined below); and
 - (c) such further and other relief as may be sought by the Monitor and this Honourable Court may permit.
2. Capitalized terms not otherwise defined herein shall have the meaning given to them in the Eighth Report.

Grounds for making this application:

Background

3. 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 this Court (the "**Initial Order**"). The Amended and Restated Initial Order (the "**ARIO**") was pronounced on June 30, 2023.
4. 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. (the "**Purchaser**") 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**").
5. Pursuant to the Transaction Orders, the Court, among other things:
 - (a) approved a sale of certain of the Companies' property, assets and undertaking to the Purchaser; and
 - (b) approved a transition services agreement (the "**TSA**") among CMI, W&C and the Purchaser, as more fully discussed in the Sixth Report of the Monitor dated November 8, 2023 (the "**Sixth Report**").
6. Among other things, the TSA sets out the terms on which the Purchaser is responsible to fund, from and after closing, substantially all of the Companies' operational costs, including employee costs, real property and personal property leases and other contracts, as well as the fees and costs of the Monitor and its counsel, and certain fees of the Companies' counsel.
7. On November 29, 2023, upon an application by the Companies, the Court issued an order, among other things:
 - (a) extending the stay of proceedings in these CCAA proceedings to and including February 29, 2024;
 - (b) approving the Monitor's Reports (as defined in the Seventh Report) and the Monitor's activities as disclosed therein from the commencement of the CCAA proceedings, including its pre-filing activities; and

- (c) approving the fees and expenses of the Monitor and its counsel, Cassels, from the commencement of the CCAA proceedings to October 31 and November 6, 2023, respectively, including pre-filing fees and expenses.

Recommended Distributions

- 8. 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 Tobacco Tax Authorities for Incremental Post-Filing Tobacco Tax Exposure (as defined in paragraph 26(c) of the Transaction Approval and Vesting Order).
- 9. The Recommended Distributions, as set out in detail at paragraph 3.0.9 of the Eighth Report, are intended to be made to the Entitled Tobacco Tax Authorities (as defined in the Eighth Report) in full satisfaction of the applicable Incremental Post-Filing Tobacco Tax Exposure.
- 10. The Monitor respectfully requests that the Court approve the Recommended Distributions.

TSA Charge

- 11. The Monitor is seeking approval of the TSA Charge in favour of the Purchaser, as more particularly described in paragraphs 4.0.1 to 4.0.4 of the Eighth Report.
- 12. The TSA Charge is intended to address the hypothetical situation that the Companies' business and operations are discontinued or wound-down for any reason, the Purchaser has satisfied all of its obligations under the TSA, and that there is a surplus 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 the Purchaser's concerns and is consistent with the terms and purpose of the Transaction;
 - (c) the Purchaser 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 the Purchaser'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 approval of this Court of the TSA Charge.

INS News Litigation Schedule

15. W&C is owed approximately \$747,878.69 from INS News pursuant to a supply relationship between the parties. INS News has neglected or refused to pay such amount to W&C (the “INS Dispute”). Details regarding the INS Dispute are set out in paragraphs 5.0.1 to 5.0.3 of the Eighth Report.
16. Pursuant to a written request from counsel to the Companies, the Monitor is seeking approval of the Litigation Schedule Order to mandate a timeline for resolution of the INS Dispute.
17. The Monitor respectfully requests that this Court grant the Litigation Schedule Order on the basis that, among other things:
 - (a) the amount of money owing to W&C is significant; and
 - (b) efforts to obtain payment from INS to date have not been successful.

Activities of the Monitor

18. The Monitor’s actions, conduct and activities are described in the Eighth Report.
19. 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.

Professional Fees and Disbursements

20. The Monitor is also seeking the approval of the following professional fees for the period of November 1, 2023 to December 31, 2023:
 - (a) the Monitor’s fees and disbursements in the amount of \$335,709.25 including GST; and
 - (b) the fees and disbursements of counsel to the Monitor, Cassels, in the amount of \$169,951.79 including GST.
21. The Monitor is of the view that its fees 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:

22. The Pre-Filing Report of KSV in its capacity as the Proposed Monitor, dated June 22, 2023, filed.
23. The First Report of the Monitor, dated June 28, 2023, filed.
24. The Second Report of the Monitor dated August 9, 2023, filed.
25. The Supplement to the Second Report of the Monitor, dated August 11, 2023, filed.
26. The Third Report of the Monitor, dated August 21, 2023, filed.
27. The Fourth Report of the Monitor, dated September 19, 2023, filed.
28. The Supplement to the Fourth Report of the Monitor, dated October 6, 2023, filed.
29. The Fifth Report of the Monitor, dated October 30, 2023, filed.
30. The Sixth Report of the Monitor, dated November 8, 2023, filed.
31. The First Supplement to the Sixth Report of the Monitor, dated November 16, 2023, filed.
32. The Seventh Report of the Monitor, dated November 22, 2023, filed.
33. The Fee Affidavit of Jane Dietrich, sworn January 29, 2024, to be filed.
34. The Second Fee Affidavit of Robert Kofman, sworn January 29, 2024, to be filed.
35. The Eighth Report of the Monitor, dated January 29, 2024, to be filed.
36. The Affidavit of Service, to be sworn and filed.
37. Such further and other materials as counsel may advise and this Honourable court may permit.

Applicable rules:

38. *Alberta Rules of Court*, including Rules 1.2–1.4, 6.1–6.3 and 6.47.
39. Such further and other Rules as counsel may advise and this Honourable Court may permit.

Applicable Acts and regulations:

40. *Judicature Act*, RSA 2000, c J-2.

41. *Bankruptcy and Insolvency Act*, RSC 1985, c B-3.
42. *Personal Property Security Act*, RSA 2000, c P-7.
43. *Business Corporations Act*, RSA 2000, c B-9.
44. 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:

45. None.

How the application is proposed to be heard or considered:

46. On the Commercial List, 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.

SCHEDULE "A"
SERVICE LIST

ELITE 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.

DOCUMENT

Service List

(Updated November 16, 2023)

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<p>RYDER TRUCK RENTAL CANADA LTD. 700 Creditstone Road Concord, ON L4K5A5 Canada</p> <p>Chris L. Fairey Email: cfairey@ryder.com</p>	Email	PPR Registrant
<p>TIP FLEET SERVICES CANADA LTD. 1880 Britannia RD E Mississauga, ON L4W 1J3 Canada</p> <p>Email: absecparties@avssystems.ca</p>	Email	PPR Registrant
<p>TRAILCON LEASING INC. 15 Spar Drive Brampton, ON, L6S 6E1 Canada</p> <p>Email: ar@trailcon.com</p>	Email	PPR Registrant
<p>A&M Enterprise Ltd. dba 'Freshslice Pizza'</p> <p>Attention: Vincent Li and Tom Horler</p> <p>Email: Vincent@freshslice.com tom.horler@freshslice.com</p>	Email	PPR Registrant
<p>TRAILER WIZARDS LTD. 1880 Britannia RD. East Mississauga, ON L4W 1J3 Canada</p> <p>Email: absecparties@avssystems.ca</p>	Email	PPR Registrant

INTERESTED PARTIES		
<p>WELLS FARGO EQUIPMENT FINANCE COMPANY 900-1290 CENTRAL PARKWAY W. Mississauga, ON, Canada L5C4R3</p> <p>Email: info@securefact.com</p>	Email	PPR Registrant
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INTERESTED PARTIES		
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SCHEDULE "B"

Schedule "B"

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.

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

Clerk's Stamp

DOCUMENT

ORDER

ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION OF
PARTY FILING THIS
DOCUMENT

Cassels Brock & Blackwell LLP
Suite 3810, Bankers Hall West
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Calgary, AB T2P 5C5

Telephone: 403.351.2921/416.860.5223
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Email: joliver@cassels.com / jdietrich@cassels.com

Attention: Jeffrey Oliver/Jane Dietrich

File No.: 54670-3

DATE ON WHICH ORDER WAS PRONOUNCED: February 7, 2024

LOCATION WHERE ORDER WAS PRONOUNCED: Calgary, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Justice B.B. Johnston

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 Eighth Report of the Monitor, dated January 29, 2024 (the "**Eighth 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 Eighth Report; the Fee Affidavit of Jane Dietrich, sworn January 29,

2024 (the “**Dietrich Fee Affidavit**”); the Second Fee Affidavit of Robert Kofman, sworn January 29, 2024 (the “**Kofman Fee Affidavit**”); and the Affidavit of Service of [●], 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 Eighth 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 3.0.9 of the Eighth Report are hereby ratified and approved and the Monitor is authorized to make such Recommended Distributions in a manner consistent with paragraph 26(c) of the Transaction Approval and Vesting Order.

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 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 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.

MONITOR'S ACTIVITIES AND PROFESSIONAL FEES

6. The Monitor's actions, conduct and as disclosed in the Eighth Report are hereby ratified and approved.
7. The Monitor's accounts for fees and disbursements, as set out in the Eighth Report and the Kofman Fee Affidavit, 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 Eighth Report and the Dietrich Fee Affidavit, 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;
 - 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

SCHEDULE "C"

Schedule "C"

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.

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

DOCUMENT **SCHEDULING ORDER**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

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Fax: 403.262.0007

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ptakhar@millერთhompson.com

File No.: 0221652.0006

DATE ON WHICH ORDER WAS PRONOUNCED: February 7, 2024

LOCATION WHERE ORDER WAS PRONOUNCED: Calgary

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Justice B.B. Johnston

UPON THE APPLICATION of Wallace & Carey Inc. ("**Wallace & Carey**") to establish a litigation schedule for the hearing of a dispute between Wallace & Carey and Dakin News Systems Inc. ("**INS News**" and together with Wallace & Carey, collectively, the "**Parties**") for payment of certain alleged accounts receivable owing by INS News to Wallace & Carey (the "**Application**");

AND UPON hearing that the Parties have agreed to the following litigation schedule and that the terms are acceptable to KSV Restructuring Inc., in its capacity as Court-appointed monitor of, among others, Wallace & Carey (the "**Monitor**");

IT IS HEREBY ORDERED AND DECLARED THAT:

1. The following litigation schedule shall apply:

- a. Wallace & Carey shall file and serve the Application, any evidence, and any brief of law that it intends to rely on at the hearing of the Application on or before March 18, 2024;
 - b. Questioning, if any, of Wallace & Carey witness(es) shall take place on or before March 22, 2024;
 - c. INS News shall provide any evidence, and any brief of law that it intends to rely on at the hearing of the Application on or before March 25, 2024;
 - d. Questioning, if any, of INS News' witness(es) shall take place on or before March 29, 2024;
 - e. The Monitor shall file and serve its report with respect to the Application, if any, on or before April 4, 2024;
 - f. Response materials of the Parties, if any, shall be filed and served on or before April 8, 2024; and
 - g. The Application shall be heard on April 16, 2024, commencing at 2:00 p.m.
2. The litigation schedule set out in paragraph 1 above may be mutually amended or modified by the Parties in writing, with the concurrence of the Monitor, without any further order of the Court.
 3. There shall be no costs for this appearance.

Justice of the Court of King's Bench of Alberta

Consented to this ____ day of January, 2024:

MILLER THOMSON LLP

THE DAVIS GROUP

James W. Reid
Counsel for the Applicants, Wallace & Carey Inc.,
Loudon Brothers Limited, and Carey Management
Inc.

Paul J. Gibson
Counsel for Darkin News Systems Inc.

CASSELS BROCK & BLACKWELL LLP

Jeffrey Oliver
Counsel for the Monitor, KSV Restructuring Inc.