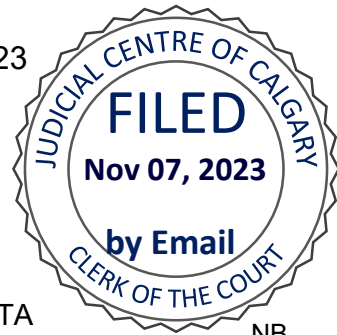


COM Nov 17, 2023

Clerk's Stamp:



NB
C110581

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

APPLICATION

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

MILLER THOMSON LLP
Barristers and Solicitors
3000, 700 – 9th Avenue SW
Calgary, AB, T2P 3V4

Attention: James W. Reid / Pavin Takhar
Phone: 403-298-2418 / 403-298-2432
Email: jwreid@millerthomson.com /
ptakhar@millerthomson.com

NOTICE TO RESPONDENT(S):

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

You have the right to state your side of this matter before the justice.

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

Date	<u>November 17, 2023</u>
Time	<u>11:00 a.m.</u>
Where	<u>Edmonton Law Courts</u>
Before Whom	<u>The Honourable Justice To Be Determined</u>

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. The Applicants, Wallace & Carey Inc. ("**Wallace & Carey**"), Loudon Bros. Limited ("**Loudon Bros**"), and Carey Management Inc. ("**CMI**", and together with Wallace & Carey and Loudon Bros, the "**Companies**" or the "**Applicants**"), pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c. C-36 (the "**CCAA**"), seek the following relief:
 - (a) An order (the "**Order**") substantially in the form attached hereto as **Schedule "A"**, including, without limitation:
 - (i) abridging the time for service of the Application and the supporting material, if necessary, and deeming service thereof to be good and sufficient;
 - (ii) authorizing and approving the transaction (the "**Transaction**") contemplated, by among other documents the asset purchase agreement (the "**Sale Agreement**") between the Applicants and 7-Eleven Canada, Inc. (the "**Purchaser**") dated November 7, 2023;
 - (iii) authorizing and directing the Applicants to take all steps and execute all such deeds, documents, and instruments as may be reasonably necessary to consummate the Transaction;
 - (iv) upon closing of the Transaction, vesting all of the Applicants' right, title, and interest in and to the property purchased pursuant to the Sale Agreement in the name of the Purchaser (the "**Purchased Assets**"), free and clear from all claims and encumbrances, except permitted encumbrances;
 - (v) approving the entering into by Wallace & Carey and CMI of a Transition Services Agreement (the "**TSA**") with the Purchaser and the Monitor upon closing of the Transaction, substantially in the form of the TSA attached to the Sale Agreement;
 - (vi) releasing all claims (the "**Releases**") against (i) the present and former directors, officers and employees of the Applicants; (ii) their respective legal counsel and advisors; (iii) the legal counsel and advisors of the Applicants and the Purchaser; and (iv) the Monitor and its legal counsel (the persons listed in (i), (ii), (iii) and (iv) being collectively, the "**Released Parties**") except in respect of claims for fraud, gross negligence, or willful misconduct, or any claims against the directors and officers of each of the

Applicants that is not permitted to be released pursuant to section 5.1(2) of the CCAA;

- (vii) assigning the Assigned Contracts (defined below) to the Purchaser without the necessity of obtaining consent from the requisite counterparty;
- (viii) authorizing the Monitor to make an interim distribution from the proceeds of the Transaction;
- (ix) temporarily sealing the confidential and commercially sensitive exhibit (the “**Confidential Exhibit**”) to the report of Alvarez & Marsal Canada Securities ULC (the “**Financial Advisor**”) which is to be appended to the Sixth Report of the Monitor until such time as these proceedings conclude or further order of the Court; and
- (x) such further and other relief as the Applicants may request and this Honourable Court may grant.

Grounds for making this application:

CCAA Proceedings

2. Pursuant to the Order of the Honourable Justice G.A. Campbell of the Court of King’s Bench of Alberta (the “**Court**”) issued June 22, 2023 (as may be amended or amended and restated from time to time, the “**Initial Order**”), the Applicants were granted relief in these proceedings (the “**CCAA Proceedings**”) pursuant to the *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the “**CCAA**”), and KSV Restructuring Inc. was appointed as the Monitor of the Applicants (in such capacity, the “**Monitor**”).
3. On August 23, 2023, pursuant to the Order of the Honourable Justice M. H. Hollins, the Applicants obtained within the CCAA Proceedings an order of the Court approving, among other things, a sale and investment solicitation process (the “**SISP**”).
4. Additionally, the Court granted an ancillary order (the “**Ancillary Order**”), among other things, approving the engagement of Alvarez & Marsal Canada Securities ULC (the “**Financial Advisor**”) by the Applicants as financial advisor, and authorizing the Applicants, with the assistance of the Financial Advisor and oversight of the Monitor, to conduct the SISP.

Transaction Approval

5. The Applicants' assets have been actively marketed pursuant to the SISP.
6. The SISP was structured in two phases.

Phase 1

7. During Phase 1, 190 potential investors were contacted. The potential investors who executed a non-disclosure agreement received a confidential information memorandum and access to an electronic data room (the "**Interested Parties**").
8. The Interested Parties were further provided with a Phase 1 Process Letter with instructions on submitting an letter of intent ("**LOI**").
9. The Financial Advisor received five LOIs from the Interested Parties, including the Purchaser.
10. Pursuant to discussions between the Financial Advisor, the Monitor and the Purchaser, the Purchaser provided a proposal in respect of the Transaction (the "**Proposal**").
11. Given the Applicants liquidity challenges, it was determined that the Proposal was the best option for the Applicants with the highest chance of closing a transaction.

Phase 2

12. The Financial Advisor and Applicants worked with the Purchaser to complete due diligence.
13. The parties negotiated and executed the Sale Agreement.

Transaction

14. Capitalized terms used in this section and not otherwise defined have the meanings given to them in the Sale Agreement.
15. The key terms of the Transaction are:
 - (a) the purchase of the Purchased Assets are on an "as is, where is" basis;
 - (b) the Purchaser is responsible for payment of any applicable cure costs and the Purchase Price does not include any applicable transfer taxes;

- (c) KSV Restructuring Inc. is to be appointed as receiver over the assets, property and undertaking of 772921 Alberta Inc. to complete a related transaction for the sale of certain real property assets and the assignment of certain leasehold interests to the Purchaser that are used in the business of Wallace & Carey (the “**772 Transaction**”);
 - (d) the Purchaser is seeking an assignment of all Assigned Contracts;
 - (e) the parties will seek the Releases in favour of key contributors to the Transaction and these CCAA Proceedings;
 - (f) it is conditional on Court-approval; and
 - (g) the TSA will be executed and come into effect upon closing of the Transaction.
16. It is the view of the Monitor that:
- (a) the SISP was fair and carried out in good faith and with due diligence over a reasonable timeframe, such that sufficient efforts have been made to obtain the best price for the Purchased Assets and no party has acted improvidently;
 - (b) the price to be paid for the Purchased Assets is commercially reasonable and in the best interests of the Applicants and their stakeholders; and
 - (c) there has been no unfairness in the parties dealings with the Purchased Assets and the Purchaser.

Assignment of Contracts

- 17. The Purchased Assets include certain real property leases from Wallace & Carey, as tenant, to the Purchaser and a software license agreement (the “**Assigned Contracts**”).
- 18. The Applicants have sought the consent of the assignment from the counter-parties to the Assigned Contracts, and have received approval of the assignment from all landlords.
- 19. The Transaction requires the assignment of the Assigned Contracts, or an Order for the assignment.
- 20. On application, the Court may make an order assigning the rights and obligations of a CCAA debtor company under the agreement to any person who is specified by the Court and agrees to the assignment.

21. The Monitor approves of the assignment of the Assigned Contracts.
22. The Purchaser is able to perform the obligations of the Applicants under the Assigned Contracts and will satisfy any cure costs.
23. It is appropriate in the circumstances to order the assignment of the Assigned Contracts.

Releases

24. The Applicants are seeking releases in favour of the Released Parties.
25. The Released Parties are instrumental in administering the SISP and are critical to the Sale Agreement, the Transaction, and the go forward transition of the business to the Purchaser under the TSA.
26. The Releases do not apply to claims of fraud, gross negligence or willful misconduct on the part of any Released Parties, and they are subject to the limitations under section 5.1(2) of the CCAA.
27. The Released Parties have acted in good faith and with due diligence.
28. The Monitor, the Purchaser, and Canadian Imperial Bank of Commerce, the Applicants' senior secured lender, are in support of the Releases.

Interim Distribution

29. The Initial Order, as amended, and the Ancillary Order provide certain priority charges.
30. The Monitor has had its independent counsel review the security of the secured creditors as against the property of the Applicants and it intends to make a distribution of the proceeds of sale from the Transaction in accordance with the priorities to such proceeds to satisfy priority claims.

Sealing Order

31. The Confidential Exhibit contains confidential and commercially sensitive information regarding the LOIs received in the SISP.
32. The information in the Confidential Exhibit should be sealed to avoid the tainting of any potential future sales process, which may be required if the Transaction does not close, or for the remaining assets of the Applicants' following the closing of the Transaction and completion of the transition period under the TSA.

33. The Confidential Exhibit would only remain sealed until the conclusion of these CCAA Proceedings.

Material or evidence to be relied on:

34. Affidavit No. 3 of Eric Rolheiser, sworn November 7, 2023, to be filed.
35. Sixth Report of the Monitor and Pre-filing Report of the Proposed Receiver dated November 7, 2023, to be filed.
36. Brief of Law, to be filed.
37. The pleadings and proceedings in the within action.
38. Such further and other materials as counsel may advise and this Honourable Court may permit.

Applicable Rules:

39. *Alberta Rules of Court*, Alta Reg 124/2010, including but not limited to rules 1.2-1.5, 6.3(1), 6.9(1)(b), 6.10, 6.47(e) and (f), and 11.27.
40. Such further and other Rules as counsel may advise and this Honourable Court may permit.

Applicable Acts and regulations:

41. *Companies' Creditor Arrangement Act*, RSC 1985, c. C-36.
42. *Alberta Rules of Court*, Alta Reg 124/2010.
43. Such further and other Acts as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

44. None.

How the application is proposed to be heard or considered:

45. On the Commercial List, in person and via WebEx before the Honourable Justice [●]

WARNING

You are named as a respondent because you have made or are expected to make an adverse claim in respect of this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant(s) and against all persons claiming under the applicant(s). You will be bound by any order the Court makes, or another order might be given or other proceedings taken which the applicant(s) is/are entitled to make without any further notice to you. If you want to take part in the application, you or your lawyer must attend in Court on the date and at the 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"
Proposed Form of the Order

COURT FILE NUMBER

2301 - 08305

Clerk's Stamp:

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

APPROVAL AND VESTING ORDER

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

MILLER THOMSON LLP
3000, 700 – 9th Avenue S.W.
Calgary, AB, Canada T2P 3V4

Telephone: 403.298.2418 / 403.298.2432

Fax: 403.262.0007

Email: jwreid@millertomson.com /
ptakhar@millertomson.com

File No.: 0221652.0006

DATE ON WHICH ORDER WAS PRONOUNCED: November 17, 2023

LOCATION WHERE ORDER WAS PRONOUNCED: Calgary, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Justice

UPON THE APPLICATION by Wallace & Carey Inc. ("**W&C**"), Loudon Bros. Limited ("**Loudon**"), and Carey Management Inc. ("**CMI**", collectively with W&C and Loudon, the "**Applicants**") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an order (this "**Order**"), *inter alia*, approving the transaction contemplated by the asset purchase agreement dated as of November 7, 2023 (the "**Sale Agreement**") among the Applicants and 7-Eleven Canada, Inc. (the "**Purchaser**") for the sale of certain undertakings, property and assets of the Applicants (the "**Transaction**"), a copy of the Agreement which is attached as Exhibit A to Affidavit No. 3 of Eric Rolheiser sworn November 7, 2023 (the "**Rolheiser Affidavit**").

AND UPON HAVING READ the Application, the Rolheiser Affidavit, the Affidavit of Service of ● sworn ●, and the Sixth Report of KSV Restructuring Inc. (the “**Monitor**”) in its capacity as Court-appointed Monitor and proposed receiver dated November ●, 2023 (the “**Sixth Report**”), which affixes the report of Alvarez & Marsal Canada Securities ULC (the “**Financial Advisor**”) appended thereto including the confidential exhibit (the “**Confidential Exhibit**”), each filed;

AND UPON HEARING the submissions of counsel for the Applicants, the Purchaser, the Monitor, Canadian Imperial Bank of Commerce, Canadian Western Bank, and such other parties present;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, no other person is required to have been served with notice of this application and time for service of this application is abridged to that actually given.

CAPITALIZED TERMS

2. Capitalized terms used but not otherwise defined in this Order shall have the meaning given to such terms in the Sale Agreement as the context may require.

APPROVAL OF TRANSACTION

3. The Sale Agreement and Transaction are hereby approved and execution of the Sale Agreement by the Applicants is hereby authorized and approved, with such amendments to the Sale Agreement as the Applicants and the Purchaser may agree to with the consent of the Monitor. The performance by the Applicants of their obligations under the Sale Agreement are hereby authorized and approved. The Applicants are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for completion of the Transaction and conveyance of the Purchased Assets to the Purchaser.

VESTING OF PROPERTY

4. Upon delivery of a Monitor’s certificate to the Purchaser (or its nominee) substantially in the form set out in **Schedule “A”** hereto (the “**Monitor’s Closing Certificate**”), all of Applicants’ right, title and interest in and to the Purchased Assets as such term is defined in the Sale

Agreement attached as **Schedule “B”** hereto shall vest absolutely in the name of the Purchaser (or its nominee), free and clear of and from any and all caveats, security interests, hypothecs, pledges, mortgages, liens, trusts or deemed trusts, reservations of ownership, royalties, options, rights of pre-emption, privileges, interests, assignments, actions, judgements, executions, levies, taxes, writs of enforcement, charges, or other claims, whether contractual, statutory, financial, monetary or otherwise, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, **“Claims”**) including, without limiting the generality of the foregoing:

- (a) any encumbrance or charges created by the Amended and Restated Initial Order dated June 30, 2023, or any other Order granted in these proceedings;
- (b) any charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Alberta) or any other personal property registry system;
- (c) any liens or claims of lien under the *Builders’ Lien Act* (Alberta); and
- (d) those Claims listed in **Schedule “C”** hereto (all of which are collectively referred to as the “Encumbrances”, which term shall not include the permitted encumbrances, caveats, interests, easements, and restrictive covenants listed in **Schedule “D”** (collectively, **“Permitted Encumbrances”**);

and for greater certainty, this Court orders that all Claims including Encumbrances other than Permitted Encumbrances, affecting or relating to the Purchased Assets are hereby expunged, discharged and terminated as against the Purchased Assets.

5. Upon delivery of the Monitor’s Closing Certificate, and upon filing of a certified copy of this Order, together with any applicable registration fees, all governmental authorities including those referred to below in this paragraph (collectively, **“Governmental Authorities”**) are hereby authorized, requested and directed to accept delivery of such Monitor’s Closing Certificate and certified copy of this Order as though they were originals and to register such transfers, interest authorizations, discharges and discharge statements of conveyance as may be required to convey to the Purchaser or its nominee clear title to the Purchased Assets subject only to Permitted Encumbrances. Without limiting the foregoing:

- (a) the Registrar of the Alberta Personal Property Registry (the **“PPR Registrar”**) shall and is hereby directed to forthwith cancel and discharge any registrations at the

Alberta Personal Property Registry (whether made before or after the date of this Order) claiming security interests (other than Permitted Encumbrances) in the estate or interest of the Applicants in any of the Purchased Assets which are of a kind prescribed by applicable regulations as serial-number goods.

6. In order to effect the transfers and discharges described above, this Court directs each of the Governmental Authorities to take such steps as are necessary to give effect to the terms of this Order and the Sale Agreement. Presentment of this Order and the Monitor's Closing Certificate shall be the sole and sufficient authority for the Governmental Authorities to make and register transfers of title or interest and cancel and discharge registrations against any of the Purchased Assets of any Claims including Encumbrances but excluding Permitted Encumbrances.
7. No authorization, approval or other action by and no notice to or filing with any governmental authority or regulatory body exercising jurisdiction over the Purchased Assets is required for the due execution, delivery and performance by the Applicants of the Sale Agreement.
8. For the purposes of determining the nature and priority of Claims, net proceeds from sale of the Purchased Assets (to be held in an interest bearing trust account by the Monitor) shall stand in the place and stead of the Purchased Assets from and after delivery of the Monitor's Closing Certificate and all Claims including Encumbrances (but excluding Permitted Encumbrances) shall not attach to, encumber or otherwise form a charge, security interest, lien, or other Claim against the Purchased Assets and may be asserted against the net proceeds from sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale. Unless otherwise ordered (whether before or after the date of this Order), the Monitor shall not make any distributions to creditors of net proceeds from sale of the Purchased Assets without further order of this Court.
9. Except as expressly provided for in the Sale Agreement or by section 5 of the Alberta *Employment Standards Code* if and to the extent it applies, the Purchaser (or its nominee) shall not, by completion of the Transaction, have liability of any kind whatsoever in respect of any Claims against the Applicants.
10. Upon completion of the Transaction, the Applicants and all persons who claim by, through or under the Applicants in respect of the Purchased Assets, and all persons or entities having

any Claims of any kind whatsoever in respect of the Purchased Assets, save and except for persons entitled to the benefit of the Permitted Encumbrances, shall stand absolutely and forever barred, estopped and foreclosed from and permanently enjoined from pursuing, asserting or claiming any and all right, title, estate, interest, royalty, rental, equity of redemption or other Claim whatsoever in respect of or to the Purchased Assets, and to the extent that any such persons or entities remain in the possession or control of any of the Purchased Assets, or any artifacts, certificates, instruments or other indicia of title representing or evidencing any right, title, estate, or interest in and to the Purchased Assets, they shall forthwith deliver possession thereof to the Purchaser (or its nominee).

11. The Purchaser (or its nominee) shall be entitled to enter into and upon, hold and enjoy the Purchased Assets for its own use and benefit without any interference of or by the Applicants, or any person claiming by, through or against the Applicants.
12. Immediately upon closing of the Transaction, holders of Permitted Encumbrances shall have no claim whatsoever against the Applicants.
13. The Monitor is directed to file with the Court a copy of the Monitor's Closing Certificate forthwith after delivery thereof to the Applicants and Purchaser (or its nominee).
14. The Monitor may rely on written notice from the Applicants and the Purchaser or their respective counsel regarding the satisfaction of the Purchase Price and the fulfillment of the conditions to closing under the Sale Agreement and shall incur no liability with respect to the delivery of the Monitor's Closing Certificate.
15. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act* (Canada) and section 20(e) of the *Alberta Personal Information Protection Act*, the Applicants are authorized and permitted to disclose and transfer to the Purchaser (or its nominee) all human resources and payroll information in Applicants' records pertaining to the Applicants' past and current employees. The Purchaser (or its nominee) shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use (of such information) to which the Applicants were entitled.

APPROVAL OF TRANSITION SERVICES AGREEMENT

16. The TSA (as defined in the Sale Agreement) is hereby approved and execution of the TSA by the Applicants and the Monitor is hereby authorized and approved, with such

amendments to the TSA as the Applicants and the Purchaser may agree to with the consent of the Monitor. The performance by the Applicants of their obligations under the TSA are hereby authorized and approved. The Applicants are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for completion of the TSA.

RELEASES

17. Effective upon the filing of the Monitor's Closing Certificate: (i) the present and former directors, officers and employees of the Applicants; (ii) their respective legal counsel and advisors; (iii) the legal counsel and advisors of the Applicants and the Purchaser; and (iv) the Monitor and its legal counsel (the persons listed in (i), (ii), (iii) and (iv) being collectively, the "**Released Parties**") shall be deemed to be forever irrevocably released and discharged from any and all present and future claims (including, without limitations, claims for contribution or indemnity), liabilities, indebtedness, demands, actions, causes of action, counterclaims, suits, damages, judgments, executions, recoupments, debts, sums of money, expenses, accounts, liens, taxes, recoveries, and obligations of any nature or kind whatsoever (whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, matured or unmatured or due or not yet due, in law or equity and whether based in statute or otherwise) based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place prior to the issuance of the Monitor's Closing Certificate (collectively, the "**Released Claims**"), which Released Claims are hereby fully, finally, irrevocably and forever waived, discharged, released, cancelled and barred as against the Released Parties, provided that nothing in this paragraph 17 shall waive, discharge, release, cancel or bar any claim against any of the Released Parties for fraud, gross negligence, or willful misconduct, or any claims against the directors and officers of each of the Applicants that is not permitted to be released pursuant to section 5.1(2) of the CCAA.

THE MONITOR

18. Without in any way limiting the Monitor's powers set out in the Amended and Restated Initial Order, any other Order of this Court in these CCAA proceedings, or under the CCAA or applicable law, the Monitor is hereby authorized to undertake and perform such activities and obligations as are contemplated to be undertaken or performed by the Monitor pursuant to this Order and the Sale Agreement or any ancillary document related thereto, and shall incur no liability in connection therewith, save and except for any gross negligence or willful

misconduct on its part. Nothing in this Order shall affect, vary, derogate from, limit or otherwise amend any of the protections in favour of the Monitor at law or pursuant to the CCAA, the Amended and Restated Initial Order or any other Order granted in these CCAA proceedings.

19. The Monitor may rely on written notice from the Applicants and the Purchaser or their respective counsel regarding the satisfaction of the Purchase Price and the fulfillment of the conditions to closing under the Sale Agreement and shall incur no liability with respect to the delivery of the Monitor's Closing Certificate.

ASSIGNMENT OF ASSIGNED CONTRACTS

20. Upon delivery by the Monitor to the Applicants and the Purchaser of the Monitor's Closing Certificate and payment of all amounts required pursuant to section 11.3(4) of the CCAA, all of the rights and obligations of the Applicants under and to the Assigned Contracts (as defined in the Sale Agreement) (the "**Assigned Contracts**"), shall be assigned, conveyed and transferred to, and assumed by, the Purchaser pursuant to this Order. For certainty, the Purchaser is assuming all obligations and liabilities of the Applicants under the Assigned Contracts.
21. The assignment of the Assigned Contracts is declared to be valid and binding upon all of the counterparties to the Assigned Contracts notwithstanding any restriction, condition or prohibition contained to the Assigned Contracts relating to the assignment thereof, including any provision requiring the consent of any party to the assignment.
22. The assignment and transfer of the Assigned Contracts shall be subject to the provisions of this Order.
23. No counterparty under any Assigned Contract, nor any other person, upon the assignment and transfer to, and assumption by, the Purchaser of the Assigned Contracts hereunder shall make or pursue any demand, claim, action or suit or exercise any right or remedy under any Assigned Contract against the Purchaser relating to:
 - (a) the Applicants having sought or obtained relief under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended (the "**BIA**");
 - (b) the insolvency of the Applicants; or

- (c) any failure by the Applicants to perform a non-monetary obligation under the Assigned Contract,

and all such counterparties and persons shall be forever barred and estopped from taking such action. For greater certainty, nothing herein shall limit or exempt the Purchaser in respect of obligations accruing, arising or continuing after the Closing Date (as defined in the Sale Agreement) under the Assigned Contracts other than in respect of items (a)-(b) above.

INTERIM DISTRIBUTION

- 24. Following delivery of the Monitors' Closing Certificate, the Monitor, is hereby authorized, on behalf of the Applicants to hold back from the distributions authorized in paragraph 24 hereof, (i) an amount as the Monitor determines is necessary to satisfy any outstanding and anticipated professional fees and disbursements of the Applicants, the Monitor, the Monitors' counsel and any outstanding Work Fees of A&M (the "**Admin Holdback**"); (ii) an amount of \$4,000,000 to satisfy any potential claims as against the D&O Charge (the "**D&O Holdback**"); and (iii) an amount as the Monitor determines is necessary to satisfy the following post-filing incurred but unpaid amounts: employee wages and benefits, employee vacation pay, sales taxes, and trade payables, accrued, and an amount sufficient to fund operational losses of the Applicants prior to closing (collectively, the "**Operational Holdback**", together with the Admin Holdback and the D&O Holdback the "**Holdback**"). Provided further, following the creation of the Holdback, the Administration Charge shall attach only to the Holdback and the D&O Charge shall attach only to the D&O Charge Holdback.
- 25. Following delivery of the Monitor's Closing Certificate, the Applicants, by way of the Monitor, are hereby authorized and directed, subject to the creation of the Holdback and receipt by the Applicants (or the Monitor on behalf of the Applicants) of sufficient funds, to:
 - (a) pay the amount of \$• to A&M in full and final satisfaction of all amounts secured by the Transaction Fee Charge, and following payment of such amount, the Transaction Fee Charge shall be and is hereby terminated;
 - (b) pay, in one or more payments, an amount necessary to satisfy all amounts secured by the Lender Priority Charge to CIBC;
 - (c) pay, in one or more payments an amount necessary to satisfy all pre-filing obligations owing under the CIBC Credit Agreement (as defined in the Sixth

Report), including for greater certainty, obligations in connection with the BCAP Loan (as defined in the Sixth Report); and

The foregoing distributions shall be made free and clear of all Claims, including for greater certainty any deemed trust claims. For greater certainty, any amounts distributed to CIBC by KSV Restructuring Inc. in its capacity of Receiver of 772921 Alberta Inc., Spruce It Up Land Corp. and Ridge Meadows Properties Ltd. shall be taken into account in calculating the amounts owed to CIBC in respect of the above distributions.

SEALING AND CONFIDENTIALITY

26. The Confidential Exhibit shall be sealed on the Court file, kept confidential, and not form part of the public record, notwithstanding Division 4 of Part 6 of the Alberta Rules of Court.
27. The Confidential Exhibit contains confidential and commercially sensitive information, which if made publicly available could be used to the detriment of the parties and these proceedings, and shall be sealed on the Court file, not form part of the public record, and not be available for public inspection until the Monitor files a certificate with this Court confirming the conclusion of these proceedings, or further order by this Court.
28. The Clerk of the Court shall file the Confidential Exhibit in a sealed envelope attached to a notice that sets out the style of cause of these proceedings and states that:

THIS ENVELOPE CONTAINS CONFIDENTIAL MATERIALS
FILED IN THE COURT OF KING'S BENCH FILE NO.: 2301 -
08305. THE CONFIDENTIAL MATERIALS ARE SEALED
PURSUANT TO THE SEALING ORDER GRANTED BY THE
HONOURABLE JUSTICE • ON NOVEMBER 17, 2023, AND
ARE NOT TO BE PLACED ON THE PUBLIC RECORD OR
MADE PUBLICALLY ACCESSIBLE, UNTIL THE FILING OF A
CERTIFICATE SIGNIFYING THE CONCLUSION OF THESE
PROCEEDINGS, OR FURTHER ORDER OF THE COURT.

29. Any person, entity or party affected by the sealing of the Confidential Exhibit may apply to have the Sealing Order vacated, substituted, modified or varied, with such application to be brought on at least seven days' notice to the Companies and any other interested party.

MISCELLANEOUS MATTERS

30. Notwithstanding:

- (a) the pendency of these proceedings and any declaration of insolvency made herein;
- (b) the pendency of any applications for a bankruptcy order now or hereafter issued pursuant to the BIA, in respect of the Applicants, and any bankruptcy order issued pursuant to any such applications;
- (c) any assignment in bankruptcy made in respect of any of the Applicants; and
- (d) the provisions of any federal or provincial statute:

the vesting of the Purchased Assets in the Purchaser (or its nominee) pursuant to this Order and the interim distribution (set out at paragraphs 24 and 25) shall be binding on any trustee in bankruptcy that may be appointed in respect of the Applicants and shall not be void or voidable by creditors of the Applicants, nor shall it constitute nor be deemed to be a transfer at undervalue, settlement, fraudulent preference, assignment, fraudulent conveyance, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

31. The Applicants, the Monitor, the Purchaser (or its nominee) and any other interested party, shall be at liberty to apply for further advice, assistance and direction as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.

32. This Honourable Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any of its provinces or territories or in any foreign jurisdiction, to act in aid of and to be complimentary to this Court in carrying out the terms of this Order, to give effect to this Order and to assist the Applicants, the Monitor and their agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such order and to provide such assistance to the Monitor, as an officer of the Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.

33. 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;
 - (iv) the Purchaser or the Purchaser's solicitors; and
- (b) Posting a copy of this Order on the Monitor's website at:
<https://www.ksvadvisory.com/experience/case/wallace-and-carey>

and service on any other person is hereby dispensed with.

34. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.

SCHEDULE "A"
FORM OF MONITOR'S CLOSING CERTIFICATE

COURT FILE NUMBER	2301 - 8305
COURT	COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
	IN THE MATTER OF THE <i>COMPANIES'</i> <i>CREDITORS ARRANGEMENT ACT</i> , 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	MONITOR'S CLOSING CERTIFICATE

Clerk's Stamp

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS
DOCUMENT

RECITALS

Pursuant to an Order of the Honourable Justice ● of the Court of King's Bench of Alberta, Judicial District of Calgary (the "**Court**") dated ●, KSV Restructuring Inc. was appointed as the monitor (the "**Monitor**") of the undertakings, property and assets of Wallace & Carey Inc. ("**W&C**"), Loudon Bros Limited ("**Loudon**"), and Carey Management Inc. ("**CMI**", collectively with W&C and Loudon the "**Applicants**").

Pursuant to an Order of the Court dated ●, the Court approved the asset purchase agreement made as of November 7, 2023 (the "**Sale Agreement**") between the Applicants and 7-Eleven Canada, Inc. (the "**Purchaser**"), and approved in form and substance by the Monitor, and provided for the vesting in the Purchaser of the Applicants' right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in Article 7 of the Sale Agreement have been satisfied or waived by the Monitor and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Monitor.

Unless otherwise indicated herein, capitalized terms have the meanings set out in the Sale Agreement.

THE MONITOR CERTIFIES the following:

The Purchaser (or its nominee) has paid and the Monitor has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;

The conditions to Closing as set out in Article 7 of the Sale Agreement have been satisfied or waived by the Applicants and the Purchaser (or its nominee); and

The Transaction has been completed to the satisfaction of the Monitor.

This Certificate was delivered by the Monitor at **[Time]** on **[Date]**.

KSV Restructuring Inc., in its capacity as Monitor of the undertakings, property and assets of the Applicants and not in its personal capacity.

Per; _____
Name:
Title:

SCHEDULE "B"
ASSET PURCHASE AGREEMENT

**SCHEDULE "C"
ENCUMBRANCES
TO BE COMPLETED**

Debtors	Secured Parties	Original Registration No.	Date of Registration (MM/DD/YYYY)	Expiry Date (MM/DD/YYYY)	Type of Registration	Collateral Description

SCHEDULE "D"
PERMITTED ENCUMBRANCES

Nil.