

Clerk's Stamp:

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  
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Attention: James W. Reid / Pavin Takhar

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File No. 0221652.0006

**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 29, 2023</u>
Time	<u>2:00 p.m.</u>
Where	<u>Calgary Courts Centre (via WEBEX)</u>
Before Whom	<u>The Honourable Justice M. H. Hollins</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 an order (the "**Order**") substantially in the form attached hereto as **Schedule "A"**, including, without limitation:
  - (a) abridging the time for service of the Application and the supporting material, if necessary, and deeming service thereof to be good and sufficient;
  - (b) extending the stay period (the "**Stay Period**") up to and including February 29, 2024, or such other date as this Court may consider appropriate;
  - (c) approving the actions, conduct and activities of KSV Restructuring Inc. (the "**Monitor**"), as described in the Seventh Report of the Monitor, dated November 22, 2023 (the "**Seventh Report**"), and all reports issued by the Monitor in these proceedings, including its pre-filing Report (collectively, the "**Monitor's Reports**");
  - (d) approving the professional fees and disbursements of the Monitor, and those of its legal counsel, as set forth in the Seventh Report, the Fee Affidavit of Robert Kofman, to be sworn November 22, 2023, and the Fee Affidavit of Danielle Marechal, to be sworn November 22, 2023; and
  - (e) granting such further and other relief as counsel may advise and this Honourable Court deems just and appropriate.
2. Capitalized terms used but not otherwise defined shall have the meanings given to such terms in Affidavit No. 2 of Patrick Carey, sworn November 21, 2023.

**Grounds for making this application:**

*Background*

3. On June 22, 2023, the Applicants obtained protection from their creditors under the CCAA pursuant to an Initial Order of this Court (the "**Initial Order**"). The Initial Order was amended and restated on June 30, 2023 (the "**ARIO**").

4. On August 23, 2023, the Court granted an order (the “**SISP Order**”), among other things, approving the Applicants engagement of Alvarez & Marsal Canada Securities ULC (the “**Financial Advisor**”) as financial advisor, and authorizing the Applicants, with the assistance of the Financial Advisor and the oversight of the Monitor, to conduct a sale investment and solicitation process.
5. Further, on August 23, 2023, the Court granted an extension of the stay of proceedings up to and including November 30, 2023.
6. On November 17, 2023, the Court granted an approval and vesting order, and related relief in an ancillary receivership proceeding, approving a transaction with 7-Eleven Canada, Inc., as purchaser (the “**Transaction**”).
7. The Transaction contemplates that Wallace & Carey will continue to provide services to the Purchaser pursuant to a transition services agreement.

***Extension of Stay Period***

8. The current Stay Period in the CCAA proceedings expires on November 30, 2023.
9. The Applicants are seeking an extension of the Stay Period up to and including February 29, 2024. The requested extension of the Stay Period is necessary and appropriate in the circumstances to, among other things:
  - (a) continue litigation with A&M Enterprise Ltd. dba “Freshslice Pizza” (“**Freshslice**”), including responding to a threatened application for leave to appeal the Order granted November 9, 2023 by the Honourable Justice Sidnell (the “**Freshslice Order**”);
  - (b) enforce on the Freshslice Order in the Province of British Columbia;
  - (c) pursue outstanding accounts receivables;
  - (d) work with the Monitor to realize upon and monetize remaining assets that were not purchased as part of the Transaction; and
  - (e) provide services to the Purchaser pursuant to the TSA.

10. The Applicants have been acting and continue to act in good faith and with due diligence. Since the Stay Period was last extended by this Honourable Court, on August 23, 2023, the Applicants have been working diligently to, among other things:
  - (a) carrying on business in the ordinary course;
  - (b) conduct the SISP with the assistance of the Financial Advisor;
  - (c) work with the Monitor and the Purchaser to negotiate the terms of the Transaction and the Sale Agreement, including the TSA;
  - (d) work with vendors and suppliers to source goods and services;
  - (e) transition customers other than the Purchaser to other logistic service providers;
  - (f) report to its secured lenders and key stakeholders;
  - (g) manage ongoing discussions and negotiations with provincial tobacco tax authorities;
  - (h) prepare financial models and reporting with the assistance of the Monitor;
  - (i) obtain the Freshslice Order;
  - (j) pursue and collect accounts receivables;
  - (k) close the Transaction; and
  - (l) wind-down the operations of Loudon Bros, including realizing on its real property.
11. Pursuant to the terms of the TSA, and 7-Eleven's obligation to fund thereunder, the Applicants are expected to have sufficient funds to continue their operations and activities through to February 29, 2024.
12. It is just, convenient, necessary, and in the best interest of the Applicants and their stakeholders that the Applicants be afforded the protection provided by the CCAA and an extension of the Stay Period.
13. The Monitor supports the extension of the Stay Period as sought by the Applicants.
14. Such further and other grounds as counsel may advise and this Honourable Court may permit.

***Approval of Monitor's Activities and Fees***

15. The Monitor seeks ratification and approval of its actions, conduct and activities as detailed in the Monitor's Reports filed with the Court.
16. The Monitor's professional fees and disbursements, and those of its counsel, as set out in the Seventh Report for the period commencing before the CCAA proceedings to October 31, 2023 and November 6, 2023, respectively, are reasonable and appropriate.

**Material or evidence to be relied on:**

17. Affidavit No. 2 of Patrick Carey sworn November 21, 2023, to be filed.
18. The Pre-Filing Report of KSV Restructuring Inc., the Proposed Monitor, dated June 22, 2023, filed.
19. The First Report of the Monitor dated June 28, 2023, filed.
20. The Second Report of the Monitor dated August 9, 2023, filed.
21. The Supplement to the Second Report of the Monitor dated August 11, 2023, filed.
22. The Third Report of the Monitor dated August 21, 2023, filed.
23. The Fourth Report of the Monitor dated September 19, 2023, filed.
24. The Supplement to the Fourth Report of the Monitor dated October 6, 2023, filed.
25. The Fifth Report of the Monitor dated October 30, 2023, filed.
26. The Sixth Report of the Monitor dated November 8, 2023, filed.
27. The First Supplement to the Sixth Report of the Monitor dated November 16, 2023, filed.
28. The Seventh Report of the Monitor dated November 22, 2023, to be filed.
29. The Fee Affidavit of Danielle Marechal, to be sworn November 22, 2023, to be filed.
30. The Fee Affidavit of Robert Kofman, to be sworn November 22, 2023, to be filed.
31. Bench Brief of the Applicants.

32. Such further and other materials as counsel may advise and this Honourable Court may permit.

**Applicable Rules:**

33. *Alberta Rules of Court*, Alta Reg 124/2010.
34. Such further and other Rules as counsel may advise and this Honourable Court may permit.

**Applicable Acts and regulations:**

35. *Companies' Creditors Arrangement Act*, RSC 1985, c. C-36.
36. *Judicature Act*, RSA 2000, c J-2.
37. 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:**

38. None.

**How the application is proposed to be heard or considered:**

39. Via Web-Ex, before the Presiding Commercial List 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  
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JUDICIAL CENTRE

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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

**ORDER**

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File No.: 0221652.0006

**DATE ON WHICH ORDER WAS PRONOUNCED:** November 29, 2023

**LOCATION WHERE ORDER WAS PRONOUNCED:** Calgary, Alberta

**NAME OF JUSTICE WHO MADE THIS ORDER:** The Honourable Justice M. H. Hollins

**UPON** the application of Wallace & Carey Inc., Loudon Bros Limited, and Carey Management Inc. (collectively, the "**Applicants**");

**AND UPON** having read the Application, Affidavit No. 2 of Patrick Carey sworn November 21, 2023, the Pre-Filing Report of KSV Restructuring Inc., the Proposed Monitor, dated June 22, 2023, the First Report of KSV Restructuring Inc. in its capacity as Monitor (the “**Monitor**”) dated June 28, 2023, the Second Report of the Monitor dated August 9, 2023, the Supplement to the Second Report of the Monitor dated August 11, 2023, the Third Report of the Monitor dated August 21, 2023, the Fourth Report of the Monitor dated September 19, 2023, the Supplement to the Fourth Report of the Monitor dated October 6, 2023, the Fifth Report of the Monitor dated October 30, 2023, the Sixth Report of the Monitor dated November 8, 2023, the First Supplement to the Sixth Report of the Monitor dated November 16, 2023 and the Seventh Report of the Monitor (the “**Seventh Report**”) dated November 22, 2023 (collectively, the “**Monitor’s Reports**”), the Fee Affidavit of Danielle Marechal, sworn November 22, 2023 (the “**Marechal Fee Affidavit**”); and the Fee Affidavit of Robert Kofman, sworn November 22, 2023 (the “**Kofman Fee Affidavit**”)

**AND UPON** hearing counsel for the Applicants, counsel for the Monitor, and counsel for any other interested parties;

**AND UPON** reviewing the Affidavit of Service of Marica Ceko sworn November 22, 2023;

**IT IS HEREBY ORDERED AND DECLARED THAT:**

**SERVICE**

1. The time for service of the notice of application for this order (the “**Order**”) is hereby abridged and this application is properly returnable today.

**DEFINITIONS**

2. Capitalized terms used in this Order and not otherwise defined herein shall have the meaning ascribed to them under the Amended and Restated Initial Order of this Court pronounced June 30, 2023 (the “**ARIO**”).

**EXTENSION OF STAY PERIOD**

3. The Stay Period is hereby extended from November 30, 2023 to and including February 29, 2024.

#### **APPROVAL OF MONITOR'S ACTIVITIES AND FEES**

4. The Monitor's actions, conduct and as disclosed by the Monitor's Reports are hereby ratified and approved
5. The Monitor's accounts for fees and disbursements, as set out in the Seventh Report and the Kofman Fee Affidavit, are hereby approved without the necessity of a formal passing of its accounts.
6. The accounts of the Monitor's legal counsel, Cassels Brock & Blackwell LLP, for its fees and disbursements as set out in the Seventh Report and the Marechal Fee Affidavit, are hereby approved without the necessity of a formal assessment of its accounts.
7. 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.
8. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier.

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Justice of the Court of King's Bench of Alberta