



COURT FILE NUMBER **2301 – 08305**

COURT **COURT OF KING’S BENCH OF ALBERTA**

JUDICIAL CENTRE **CALGARY**

APPLICANTS **IN THE MATTER OF THE COMPANIES’ CREDITORS**
ARRANGEMENT ACT, RSC 1985, c. C-36, as amended
2301 08305
Aug 13, 2025
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CLERK OF THE COURT

DOCUMENT **SEVENTEENTH REPORT OF THE MONITOR**
AUGUST 13, 2025

ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION OF
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1.0 Introduction

1. Pursuant to an order (the “**Initial Order**”) granted by the Court of King’s Bench of Alberta (the “**Court**”) on June 22, 2023 (the “**Filing Date**”), Wallace & Carey Inc. (“**Wallace & Carey**”), Loudon Bros Limited (“**Loudon Bros**”, and together with Wallace & Carey, the “**Logistics Companies**”), and Carey Management Inc. (“**CMI**”, and together with the Logistics Companies, the “**Applicants**”) were granted protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), and KSV Restructuring Inc. (“**KSV**”) was appointed monitor of the Applicants (the “**Monitor**”).
2. On June 30, 2023, the Court granted an Amended and Restated Initial Order (the “**ARIO**”).
3. Pursuant to an order granted by the Court on August 23, 2023, the Applicants carried out a sale and investment solicitation process (the “**SISP**”) that resulted in a transaction (the “**SEC Transaction**”) between the Applicants and 7-Eleven Canada, Inc. (“**SEC**”) that was approved by the Court on November 17, 2023 pursuant to an approval and vesting order (the “**SEC Transaction Approval and Vesting Order**”) and other orders (together with the SEC Transaction Approval and Vesting Order, the “**SEC Transaction Orders**”). A detailed discussion of the SEC Transaction is provided in the Monitor’s Sixth Report to Court dated November 8, 2023 (the “**Sixth Report**”). A copy of the Sixth Report (without appendices) is attached as **Appendix “A”**.
4. Pursuant to the SEC Transaction Orders, the Court, among other things:
 - a) approved a transition services agreement (the “**TSA**”) among CMI, Wallace & Carey, the Monitor, and SEC¹; and
 - b) appointed KSV as receiver (in such capacity, the “**Receiver**”) of certain subsidiaries of CMI, being 772921 Alberta Inc., Ridge Meadows Properties Ltd., and Spruce It Up Land Corp. (collectively, the “**Receivership Companies**”).

¹ On August 22, 2024, the Court issued an order, among other things, granting a Court-ordered charge in favour of SEC (the “**TSA Charge**”) over the Post-Transaction Property.

5. On February 21, 2025, the Court issued:
 - a) an approval and vesting order approving the sale of certain additional assets of Wallace & Carey to 7-Eleven Distribution Canada Corporation (a subsidiary of SEC) (“**SEDCC**”), including accounts receivable, inventory, and certain equipment, furniture, and fixtures located at warehouses in Saskatchewan and Manitoba (the “**SEDCC Transaction**”); and
 - b) an order (the “**Initial Stay Extension and Release Order**”), among other things: (i) extending the stay of proceedings (the “**Stay**”) under the ARIO to and including August 20, 2025; and (ii) approving certain releases in favour of Patrick Carey, in his capacity as the present director of the Applicants.
6. As a result of the SEDCC Transaction and SEC Transaction, SEC, through SEDCC, is carrying on the majority of the business formerly carried on by Wallace & Carey. The Monitor is now focused on, *inter alia*, distributing the proceeds of sale generated through the sale of assets of subsidiaries owned by CMI (where KSV is acting as Receiver) that were not sold to SEC or SEDCC.
7. KSV is filing this seventeenth report (the “**Report**”) as Monitor of the Applicants.

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide background information concerning the Applicants and these CCAA proceedings (the “**CCAA Proceedings**”);
 - b) report on the Applicants’ updated cash flow forecast for the period of August 4, 2025 to February 15, 2026 (the “**Cash Flow Forecast**”);
 - c) discuss the rationale for extending the Stay to September 30, 2025, at which time it is the intention that relief will be sought to further extend the Stay to February 15, 2026;
 - d) discuss the rationale for enhancing the Monitor’s powers;
 - e) provide the Court with an update on the Monitor’s activities since the Monitor’s Sixteenth Report to Court dated April 17, 2025 (the “**Sixteenth Report**”); and

- f) provide the Monitor's recommendations in respect of:
 - i. SEC and SEDCC's application for an order (the "**Enhanced Powers Order**") enhancing the Monitor's powers, as described herein;
 - ii. the Applicants' application for an order (the "**Stay Extension and Release Order**"), among other things:
 - 1) extending the Stay up to September 30, 2025;
 - 2) approving a second amendment to the TSA (the "**Second TSA Amendment**") among CMI, Wallace & Carey, the Monitor, and SEC; and
 - 3) approving certain releases in favour of Mr. Carey with respect to the BC Claims (as defined below); and
 - iii. the Monitor's application for an order, among other things:
 - 1) approving this Report and the Monitor's Supplement to the Thirteenth Report to Court dated November 22, 2024 (the "**Thirteenth Report Supplement**"), Fourteenth Report to Court dated December 13, 2024 (the "**Fourteenth Report**"), Fifteenth Report to Court dated February 13, 2025 (the "**Fifteenth Report**", and together with the Thirteenth Report Supplement, Fourteenth Report, Fifteenth Report, and Sixteenth Report, the "**Previous Reports**"), and the Sixteenth Report, and the Monitor's activities, as detailed therein. The Previous Reports, without appendices, are collectively attached as **Appendix "B"**; and
 - 2) approving the fees and expenses of the Monitor and its counsel, Cassels Brock & Blackwell LLP ("**Cassels**"), as detailed herein.

1.2 Scope and Terms of Reference

1. In preparing this Report, the Monitor has relied upon the Applicants' unaudited financial information, books and records, and discussions with SEC, SEDCC, and the Applicants' management and legal counsel.

2. The Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the financial information relied on to prepare this Report in a manner that complies with Canadian Auditing Standards (“**CAS**”) pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under the CAS in respect of such information. Any party wishing to place reliance on the financial information should perform its own diligence.
3. An examination of any forward-looking financial information discussed herein has not been performed in accordance with the Chartered Professional Accountants of Canada Handbook. Forward-looking financial forecasts and information are based on various assumptions. Actual results achieved may vary materially from the forecasted results. The Monitor expresses no opinion or other form of assurance on whether the Applicants’ businesses will perform in accordance with their financial forecasts and projections.

1.3 Currency

1. All references to currency in this Report are in Canadian dollars.

1.4 Court Materials

1. The affidavits of Patrick Carey, Eric Rolheiser, the President and Chief Executive Officer of Wallace & Carey as of the Filing Date, and Brian Birnie, the Senior Vice President of Finance & Corporate Development of Wallace & Carey as of the Filing Date, provide additional background information regarding the Applicants, their businesses, and the CCAA Proceedings. These affidavits, as well as information concerning these CCAA Proceedings, including all application materials and the reports filed by the Monitor, can be found at: <https://www.ksvadvisory.com/experience/case/wallace-and-carey>.

2.0 Applicants’ Background

1. CMI is an Alberta corporation and the sole shareholder of Wallace & Carey, which is the sole shareholder of Loudon Bros. In addition to the Logistics Companies, CMI has ownership interests in nine subsidiaries, none of which are subject to the CCAA Proceedings. These include the Receivership Companies, where KSV was appointed Receiver pursuant to an order granted by the Court on November 17, 2023. CMI’s corporate organizational chart is provided in **Appendix “C”**.

2. Wallace & Carey is an Alberta corporation that is extra-provincially registered to conduct business in most provinces and territories in Canada. Prior to the Filing Date, Wallace & Carey serviced more than 7,000 customers across the country and had grown to become one of Canada's largest independent wholesale distribution and logistics companies. The Applicants' largest customer, by far, was SEC.
3. Loudon Bros, located in Thunder Bay, Ontario, is an Ontario corporation that is wholly owned by Wallace & Carey, which, until late 2023, operated as Wallace & Carey's Northwestern Ontario branch. As part of the downsizing of their businesses during these proceedings, the Applicants discontinued the Loudon Bros business and realized upon all of its assets.
4. Prior to the CCAA Proceedings, the Applicants' senior secured lender was Canadian Imperial Bank of Commerce ("**CIBC**"). In addition, the Receivership Companies granted first-ranking mortgages against certain real property and a second-ranking general security interest to secure amounts owing to Canadian Western Bank ("**CWB**"). CWB was also a secured creditor of the Applicants. As at the date of this Report, all amounts owing to CIBC and CWB have been repaid.
5. The Sixth Report provided a waterfall of distributions among the beneficiaries of the charges created in the CCAA Proceedings pursuant to the ARIO and the Ancillary Order².
6. Each Court-ordered charge created pursuant to the ARIO and the Ancillary Order has been fully satisfied and released, except for the Tobacco Tax Charge (as defined in the ARIO) in the amount of \$26 million, which was granted in favour of certain provinces and territories (the "**Provinces and Territories**") in respect of Wallace & Carey's unpaid tobacco taxes as of the Filing Date. The Monitor has made distributions totaling \$12.41 million to the Provinces and Territories in respect of amounts owing under the Tobacco Tax Charge since the closing of the SEC Transaction.

² This Order was issued by the Court on August 23, 2023 and created the Transaction Fee Charge, which was payable to Alvarez & Marsal Canada Securities ULC, the financial advisor retained by the Applicants to carry out the SISP.

3.0 Enhanced Powers of the Monitor

1. As noted above, Patrick Carey is currently the sole director of each of the Applicants. The Monitor understood that Mr. Carey was aligned with the understanding that his management role with the Applicants would terminate at the end of the present stay extension period and that the Monitor would be granted certain additional powers to facilitate the completion of the CCAA Proceedings. Accordingly, SEC proposed that the Monitor's authority under the ARIO would be enhanced to enable it to undertake all administrative, operational, regulatory, litigation, and other matters affecting the Applicants going forward. As a result of the TSA Charge and the TSA, SEC remains a significant stakeholder in these CCAA Proceedings.
2. On the eve of filing this application, the Monitor learned that Mr. Carey was not prepared to agree to certain relief being sought by SEC and SEDCC with respect to CMI. Accordingly, the relief being sought at the return of this application is limited to enhancing the Monitor's authority to sign the Second TSA Amendment if the Applicants refuse to do so, extending the Stay until September 30, 2025, and approving the Previous Report and the fees and disbursements of the Monitor and Cassels, as detailed herein. In the event that the Applicants do not seek an extension of the Stay, the Monitor intends to do so, if authorized by the Court. At the application scheduled for August 26, 2025, the Monitor intends to address the balance of the relief contemplated in Section 1(f)(ii), including the release sought by Mr. Carey.
3. It is common in CCAA proceedings for a Monitor to have its powers enhanced following completion of a transaction and where management of the debtor company is no longer available to do so. In such circumstances, it is also commonplace to provide additional protections in favour of the Monitor, including with respect to potential employee liabilities. The powers, responsibilities and protections contemplated by the draft Enhanced Powers Order are similar to those in the Alberta model receivership order.
4. The following summarizes the additional powers that are contemplated to be granted to the Monitor:
 - a) deal with all administrative matters, including controlling the Applicants' bank accounts;
 - b) administer the Property (as defined in the ARIO) and operations of the Applicants, including control of any receipts and disbursements;

- c) cause the Applicants to exercise their rights and observe their obligations under the ARIO and all other Orders of the Court in the CCAA Proceedings;
 - d) cause the Applicants to execute such agreements or amendments to agreements, and to carry out the Applicants' obligations thereunder; and
 - e) cause the Applicants to perform such other functions or duties as the Monitor considers necessary or desirable to facilitate or assist the administration of the CCAA Proceedings and the operations of the Applicants' businesses.
5. The Monitor is of the view that providing it with the authority, powers, and protections set out in the draft Enhanced Powers Order will facilitate the efficient and successful conclusion of these CCAA Proceedings for the benefit of stakeholders. However, in light of the position taken by Mr. Carey regarding the relief sought by SEC and SEDCC, until the Court can consider whether to grant the enhanced powers relief sought by SEC and SEDCC at the August 26, 2025 hearing, the Monitor respectfully recommends that the Court grant it the authority to execute the Second TSA Amendment if the Applicants are not prepared to do so.

4.0 TSA

1. Pursuant to the terms of the SEC Transaction Approval and Vesting Order and the TSA, Wallace & Carey was required to continue active business operations for the benefit of SEC under CCAA protection. The purpose of the TSA was for the Applicants to continue to provide certain services to SEC, while SEC considered if and how to operate the Wallace & Carey business. As provided in the TSA, and subject to the terms and conditions of the TSA, from and after 12:01 a.m. on November 19, 2023 (the "**Effective Closing Time**"), SEC is responsible for funding substantially all post-Effective Closing Time costs of the Applicants' operations and is entitled to any revenue resulting therefrom.
2. The Applicants, at the cost of SEC, were to continue to employ certain warehouse, logistics, administrative, and managerial staff to operate the business and provide the services described in the TSA in order to facilitate the wind-down and the transition of the Applicants' business to SEC. Such services include the continued use of the enterprise resource planning software and related support services (the "**ERP Software**") provided by DigiFlex Information Systems Inc. ("**DigiFlex**") to the Applicants.

3. On December 17, 2024, following a dispute with DigiFlex over its continued provision of the ERP Software, the Monitor obtained a Court order, among other things, requiring DigiFlex to continue to provide such services until the later of:
 - a) the expiration of the stay under the ARIO, as may be extended by the Court; and
 - b) the expiration of the term of the TSA for the Western Business.

4.1 First TSA Amendment

1. Pursuant to the terms of the TSA, the TSA period is 15 months for the Wallace & Carey business in Alberta and British Columbia (the “**Western Business**”) and nine months for the Wallace & Carey business east of Alberta (the “**Eastern Business**”) from November 21, 2023 (the “**TSA Effective Date**”), subject in each case to two 90-day extensions, at the option of SEC. SEC exercised both 90-day extensions for the Eastern Business and the Western Business.
2. As discussed in the Fourteenth Report, in order to align the TSA expiration dates, on February 7, 2025, Wallace & Carey, CMI, SEC, and the Monitor entered into an amendment to the TSA (the “**First TSA Amendment**”), which resulted in the TSA periods for the Western Business and Eastern Business ending on August 20, 2025 (the “**TSA Term**”), unless the parties agree to a further extension.

4.2 Second TSA Amendment

1. In late-May 2025, representatives of SEC advised the Monitor that it would require continued use of the ERP Software past the TSA Term to complete the transition of the Applicants’ business to SEDCC. As a result, the Monitor, CMI, Wallace & Carey, and SEC agreed to the terms of the Second TSA Amendment, a copy of which is attached as **Appendix “D”**, which extends the TSA Term from August 20, 2025 to February 15, 2026, or such other date as may be agreed to by the parties.
2. The Monitor is of the view that the Second TSA Amendment is reasonable and appropriate in the circumstances to facilitate:
 - a) the orderly transition of the Applicants’ business to SEC and/or SEDCC; and
 - b) SEC’s continued payment of all post-Effective Closing Time costs of the Applicants’ business, pursuant to the terms of the TSA.

5.0 Releases

1. The Initial Stay Extension and Release Order provided that, effective August 20, 2025, Mr. Carey shall be released from any and all present and future claims, 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 based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place during the period of November 21, 2023 (i.e., the TSA Effective Date) to August 20, 2025 (the “**Period**”) in respect of any steps taken by Mr. Carey in accordance with the TSA and the CCAA Proceedings (collectively, the “**Released Claims**”).
2. The Released Claims did not include claims:
 - a) against Mr. Carey for fraud, gross negligence, or willful misconduct;
 - b) against the director and officer of each of the Applicants that is not permitted to be released pursuant to section 5.1(2) of the CCAA; or
 - c) by the Province of British Columbia (the “**BC Claims**”).
3. The Stay Extension and Release Order provides that Mr. Carey shall be released from any BC Claims existing during the Period in respect of any steps taken by Mr. Carey in accordance with the TSA and the CCAA Proceedings. In light of recent developments, the Monitor is considering whether the release sought by Mr. Carey is appropriate.

6.0 Cash Flow Forecast

1. The Applicants, in consultation with SEC and the Monitor, have prepared the Cash Flow Forecast for the period of August 4, 2025 to February 15, 2026 (the “**Forecast Period**”). The Cash Flow Forecast and the Applicants’ statutory report thereon pursuant to Section 10(2)(b) of the CCAA are attached as **Appendix “E”**³.

³ As the Applicants no longer have any employees, Management’s Report on Cash Flow was executed by the previous controller of Wallace & Carey, who has been temporarily seconded by SEDCC to Wallace & Carey to conclude the transition of the Applicants’ business to SEDCC and SEC

2. The Cash Flow Forecast reflects that the Applicants, with the financial support of SEC, are projected to have sufficient liquidity to operate during the Forecast Period. Pursuant to the TSA, SEC is required to fund the Applicants' operational costs (including taxes accruing during that period) incurred from and after the Effective Closing Time.
3. Based on the Monitor's review of the Cash Flow Forecast, the assumptions underlying the Cash Flow Forecast appear reasonable. The Cash Flow Forecast reflects the continued wind-down and transition of Wallace & Carey's operations to SEDCC and SEC. The Monitor's statutory report on the Cash Flow Forecast is attached as **Appendix "F"**.
4. To the Monitor's knowledge, SEC has funded all of the Applicants' operating costs since the Effective Closing Time. No creditor has contacted the Monitor since the Effective Closing Time to express concerns regarding payment delays or non-payment.

7.0 Stay Extension

1. The Stay currently expires on August 20, 2025. The Monitor understood that the Applicants were seeking an extension of the Stay until February 15, 2026. As outlined above, the Stay is now only being sought until September 30, 2025. If, at the August 26, 2025 hearing, the Applicants do not seek a further extension of the Stay to February 15, 2026, the Monitor intends to do so. In the meantime, the Monitor supports an extension of the Stay to September 30, 2025 for the following reasons:
 - a) given the Monitor's extensive oversight of Applicants' business and the wind-down and transition of its operations pursuant to the TSA, the Monitor is of the view that the good faith and due diligence requirement pursuant to the CCAA is satisfied;
 - b) an extension of the Stay is consistent with the SEC Transaction Approval Orders and is necessary for the Applicants to carry out their obligations under the SEC Transaction Approval Orders and the TSA;
 - c) SEC and SEDCC would be prejudiced if the Stay is not extended. Absent an extension of the Stay, the ERP Software may be terminated, which would disrupt SEC and SEDCC's businesses; and

- d) based on SEC's funding obligations to the Applicants pursuant to the TSA, the Applicants are projected to have sufficient liquidity to fund their operations and the costs of the CCAA Proceedings, as reflected in the Cash Flow Forecast. Accordingly, the Monitor does not believe that any creditor will be prejudiced if the extension is granted.

8.0 Monitor's Activities Since the Sixteenth Report

1. Since the Sixteenth Report, the Monitor has conducted the following activities:
 - a) communicating with the Applicants' management team and SEC's representatives regarding the Applicants' financial performance, the TSA, the Applicants' continued banking arrangements with CIBC, and the Applicants' banking arrangements with the Bank of Nova Scotia;
 - b) drafting a letter to the Provinces and Territories dated May 27, 2025 summarizing the allocation of the \$3.6 million second distribution (the "**Second Distribution**") available to the Provinces and Territories and engaging in discussions with certain of the Provinces and Territories regarding same;
 - c) paying the Second Distribution;
 - d) corresponding with the Canada Revenue Agency, the Applicants, SEC, and SEDCC regarding outstanding GST and T2 income tax returns for the Applicants;
 - e) monitoring the Applicants' receipts and disbursements;
 - f) responding to inquiries from creditors and customers of the Logistics Companies concerning the CCAA Proceedings, the SEDCC Transaction, and the SEC Transaction;
 - g) assisting the Applicants' counsel with the collection of a judgment in favour of Wallace & Carey against INS News for \$616,341, including obtaining a garnishment order in the Ontario Superior Court of Justice (Commercial List);
 - h) reviewing and commenting on the closing documents regarding the SIU GC Transaction and coordinating the closing of same;

- i) reviewing and commenting on SEC and SEDCC's materials and the Applicants' materials to be filed in support of the relief to be sought at this application;
- j) drafting this Report; and
- k) maintaining the Case Website.

9.0 Professional Fees

1. Pursuant to paragraph 31 of the ARIO, the Monitor and its counsel are to be paid their reasonable fees and disbursements at their standard rates and charges. Pursuant to paragraph 32 of the ARIO, the Monitor and its counsel shall pass their accounts from time to time.
2. The Court has approved the fees of the Monitor and Cassels up to October 31, 2024.
3. The Monitor seeks to have its fees and disbursements, including those of its legal counsel, approved by the Court. The Monitor and its counsel have maintained detailed records of their professional time and costs.
4. The Monitor's fees from November 1, 2024 to July 31, 2025, were \$176,946.25, plus disbursements of \$404.69, plus GST of \$8,867.57, for a total of \$186,218.51.
5. Cassels' fees, as legal counsel to the Monitor, from November 1, 2024 to July 31, 2025, were \$58,705.00, plus disbursements of \$576.73, plus GST of \$2,951.46, for a total of \$62,233.19.
6. A summary of the accounts rendered by the Monitor and its legal counsel is attached hereto as **Appendix "G"**. Detailed accounts are available for review by the Court upon request. The amount of the fees is based on the hourly rates of the professionals involved in this matter multiplied by actual time spent on this matter.
7. It is the Monitor's opinion that the fees and disbursements of the Monitor and Cassels accurately reflect the work performed by the Monitor and Cassels in connection with the administration of the CCAA Proceedings for the dates of their respective invoices. It is the Monitor's opinion that the fees and disbursements of Cassels are fair, reasonable and justified in the circumstances. The Monitor recommends approval of Cassels' accounts by this Court.

8. Pursuant to paragraph 10(c) of the TSA, SEC is responsible for the fees of the Monitor and its legal counsel with respect to work performed in connection with the TSA. The Monitor and its counsel have maintained records of fees incurred in connection with the TSA, and SEC has paid invoices issued by the Monitor and its counsel regarding same.

10.0 Conclusion

1. Based on the foregoing, the Monitor is of the view that the relief requested is reasonable and appropriate in the circumstances and respectfully requests that this Court issue the orders granting the relief requested by the Monitor and extending the Stay to September 30, 2025.

* * *

All of which is respectfully submitted,

A handwritten signature in blue ink that reads "KSV Restructuring Inc." in a cursive, flowing script.

KSV RESTRUCTURING INC.,
in its capacity as monitor of
Wallace & Carey Inc., Loudon Bros Limited, and Carey Management Inc.
and not in its personal capacity

APPENDIX A

[ATTACHED]

COURT FILE NUMBER

2301 – 08305

COURT

2301- _____
COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

APPLICANTS

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



LL

C110668

Nov 17, 2023
COM

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

CANADIAN IMPERIAL BANK OF COMMERCE v. 772921
ALBERTA INC.; SPRUCE IT UP LAND CORP. and RIDGE
MEADOWS PROPERTIES LTD.

DOCUMENT

SIXTH REPORT OF THE MONITOR AND
PRE-FILING REPORT OF THE PROPOSED RECEIVER
DATED NOVEMBER 8, 2023

ADDRESS FOR
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1.0 Introduction

1. Pursuant to an order (the “**Initial Order**”) issued by the Court of King’s Bench of Alberta (the “**Court**”) on June 22, 2023 (the “**Filing Date**”), Wallace & Carey Inc. (“**Wallace & Carey**”), Loudon Bros Limited (“**Loudon Bros**”, and together with Wallace & Carey, the “**Logistics Companies**”) and Carey Management Inc. (“**CMI**”, and together with the Logistics Companies, the “**Applicants**”) were granted protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), and KSV Restructuring Inc. (“**KSV**”) was appointed monitor of the Applicants (the “**Monitor**”).
2. KSV is filing this report (the “**Report**”) as Monitor of the Applicants and as proposed receiver and manager of the property, assets and undertaking of:
 - a) 772921 Alberta Inc. (“**772**”), which:
 - i. owns two warehouses¹, one in British Columbia (the “**772 Owned BC Property**”) and one in Alberta (the “**772 Owned Alberta Property**”) that are used by Wallace & Carey in its business (jointly, the 772 Owned BC Property and the 772 Owned Alberta Property, the “**772 Owned Real Property**”); and
 - ii. leases two warehouses², one in British Columbia and one in Alberta, that are also used by Wallace & Carey in its business (the “**772 Leased Real Property**”); and
 - b) Ridge Meadows Properties Inc. (“**Ridge Meadows**”) ³ and Spruce It Up Land Corp (“**SIU**”) ^{4,5} each of which is subject to security interests in favour of Canadian Western Bank (“**CWB**”) and Canadian Imperial Bank of Commerce (“**CIBC**” or the “**Lender**”). (Collectively, the 772 Owned Real Property, the 772 Leased Real Property and the properties owned by 772, Ridge Meadows and SIU are referred to as the “**Non-Applicant Real Property**”).)

¹ The municipal addresses of these properties are 1230 Industrial Road, Kelowna, British Columbia and 5415 and 5445 8th Street N.E., Calgary Alberta.

² Having municipal addresses of 8th Street N.E., Calgary, Alberta, and Unit 5B, 4386 Boban Drive Nanaimo, British Columbia.

³ Having a municipal address of 255256 Range Road 25, NW Calgary, Alberta.

⁴ Having a municipal address of 159 210 Avenue SW, Calgary, Alberta.

⁵ The shares of Ridge Meadows and SIU are subject to the CCAA Charges (as defined in Section 2.1 below). CMI is believed to own 100% of Ridge Meadows and 84.57% of SIU.

1.1 Purposes of this Report

1. The purposes of this Report are to:

- a) provide background information concerning the Applicants and these proceedings;
- b) discuss the Sale and Investment Solicitation Process (“**SISP**”) carried out by Alvarez & Marsal Canada Securities ULC (“**A&M**”), as the Applicants’ financial advisor (the “**Financial Advisor**”), under the supervision of the Monitor;
- c) discuss a transaction (the “**Transaction**”) between the Applicants and 7-Eleven Canada, Inc. (“**7-Eleven**” or the “**Purchaser**”) that is intended to maximize recoveries to stakeholders, which includes;
 - i. pursuant to an agreement of purchase and sale dated November 7, 2023 (the “**W&C APA**”):
 - the purchase of certain of the Applicants’ personal property, information technology and intellectual property assets used in the Wallace & Carey business in British Columbia and Alberta (the “**Western Business**”);
 - the purchase of 7-Eleven designated inventory; and
 - the payment of accounts receivable owing by 7-Eleven to Wallace & Carey;
 - ii. the entering into of a Transition Services Agreement (“**TSA**”) upon closing of the Transaction among Wallace & Carey, CMI, the Purchaser and the Monitor that contemplates:
 - the businesses of the Logistics Companies continuing to operate following closing of the Transaction for the benefit of the Purchaser while the Applicants remain under CCAA protection;
 - the Purchaser funding substantially all of the Applicants’ operational and professional costs from and after the closing of the Transaction, including the fees and costs of the Monitor and its counsel, Cassels, Brock & Blackwell LLP (“**Cassels**”);

- an option granted to the Purchaser to acquire certain additional assets (the “**Optional Purchased Assets**”) used by the Logistics Companies that are not being acquired by 7-Eleven on closing of the Transaction, including certain assets located in provinces east of Alberta (the “**Eastern Business**”); and
 - the retention of most of the employees of Wallace & Carey⁶ during, at least, the term of the TSA, and potentially thereafter, as further detailed below;
- iii. releases (the “**Releases**”) granted in favour of certain persons, including the Applicants’ director and officers, as contemplated by the form of Approval and Vesting Order (the “**CCAA AVO**”);
 - iv. the appointment of KSV as receiver and manager of the property, assets and undertaking of 772, Ridge Meadows and SIU (if so appointed, the “**Receiver**”), pursuant to a receivership application brought by CIBC as secured creditor of each of 772, SIU and Ridge Meadows;
 - v. a sale by the Receiver to the Purchaser immediately following its appointment of the real property owned by 772, as set out in an agreement of purchase and sale between the Purchaser and the Receiver (the “**Receivership APS**”);
 - vi. an assignment pursuant to the Receivership APS by the Receiver to the Purchaser of the leases for 772 Leased Real Property; and
 - vii. a marketing process for the Non-Applicant Real Properties owned by Ridge Meadows and SIU;
- d) recommend that the sale proceeds from the Transaction, as well as the proceeds from the Optional Purchased Assets, certain assets excluded from the transaction (the “**Excluded Assets**”) and the Non-Applicant Real Property (collectively, the “**Net Distributable Proceeds**”) be paid to stakeholders (including CIBC and CWB) in accordance with the priorities established by the ARIO and the Ancillary Order (each as defined below), and applicable law;

⁶ As of the date of this Report, all Loudon Bros. employees have been terminated.

- e) discuss the next steps in these proceedings; and
- f) provide the reasons in support of the Monitor's recommendation that the Court issue:
 - i. the CCAA AVO, among other things, approving the W&C APA, the TSA, the Releases and a distribution of the Net Distributable Proceeds of the assets subject to the CCAA Proceeding, as discussed herein;
 - ii. an order (the "**Receivership Order**") sought by CIBC appointing KSV as the Receiver and authorizing the Receiver to market the Non-Applicant Real Properties owned by Ridge Meadows and SIU through the retention of a real estate broker identified by the Receiver;
 - iii. an order (the "**Receivership AVO**") approving:
 - the Receivership APS, including the sale of the 772 Owned Real Property to the Purchaser, and the assignment of the 772 Leased Real Property to the Purchaser, in each case free and clear of encumbrances other than permitted encumbrances; and
 - authorizing a distribution of the Net Distributable Proceeds of the assets subject to the Receivership Proceeding, as discussed herein; and
 - iv. sealing **Confidential Appendix "1"** for the reasons provided in Section 7 of this Report until the earlier of the termination of these proceedings or Order of this Court.

1.2 Scope and Terms of Reference

1. In preparing this Report, the Monitor has relied upon the Applicants' unaudited financial information, books and records and discussions with the Applicants' management and legal counsel.
2. The Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the financial information relied on to prepare this Report in a manner that complies with Canadian Auditing Standards ("**CAS**") pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under the CAS in respect of such information. Any party wishing to place reliance on the financial information should perform its own diligence.

3. An examination of any forward-looking financial information discussed herein has not been performed in accordance with the Chartered Professional Accountants of Canada Handbook. Forward-looking financial forecasts and information are based upon various assumptions. Actual results achieved may vary materially from the forecasted results. The Monitor expresses no opinion or other form of assurance on whether the Applicants' businesses will perform in accordance with their financial forecasts and projections.

1.3 Currency

1. All references to currency in this Report are to Canadian dollars.

2.0 Applicants' Background

1. CMI is an Alberta corporation and the sole shareholder of Wallace & Carey, which is the sole shareholder of Loudon Bros. In addition to the Logistics Companies, CMI has ownership interests in nine subsidiaries, none of which are subject to the CCAA proceedings. These include 100% of the equity of 772 and Ridge Meadows, and 84.57% of the equity of SIU. CMI's corporate organizational chart is provided in **Appendix "A"**.
2. Wallace & Carey is an Alberta corporation that is extra-provincially registered to conduct business in most provinces and territories in Canada. Wallace & Carey operates from nine leased warehouses.
3. Loudon Bros, located in Thunder Bay, Ontario, is an Ontario corporation that is wholly owned by Wallace & Carey which until recently operated as its Northwestern Ontario branch. As part of their efforts to downsize their business during these proceedings, the Applicants decided to discontinue the Loudon Bros business. On November 3, 2023, the Court approved a sale of Loudon Bros' real property for gross proceeds of approximately \$1.4 million. The sale is scheduled to close on or before November 17, 2023, which will be the final significant step in the wind-down of the Loudon Bros business.
4. Wallace & Carey is continuing to carry on active business operations. 7-Eleven is by far the most significant customer of Wallace & Carey. It presently represents substantially all of Wallace & Carey's revenue.
5. As of the Filing Date, the Logistics Companies employed approximately 600 full-time and 50 part-time employees. Wallace & Carey presently has approximately 450 full-time employees. CMI has three employees, being Patrick Carey, the Chair, Daniel Elrod, the Chief Executive Officer, and an administrative employee.

6. CIBC provides CMI with a revolving asset-based loan (the "**CIBC Revolving Loan**") and term loan facility, which is guaranteed by the Logistics Companies and various other entities within the Carey corporate group, including 772, SIU and Ridge Meadows (the "**CIBC Facility**"). Pursuant to the terms of a Forbearance Agreement between the Applicants and CIBC dated June 22, 2023 (the "**Forbearance Agreement**"), all amounts owing to CIBC as of the Filing Date under the revolving portion of the CIBC Facility (being approximately \$38.54 million) have been repaid through accounts receivables collections, and all amounts advanced by CIBC since that time are secured by the Lender Priority Charge (as defined below).
7. Pursuant to the Forbearance Agreement, CIBC was also to be provided a mortgage on the Non-Applicant Real Property, which mortgage was to rank behind CWB's mortgage on the same real property. The agreed mortgages were executed on July 20, 2023 and registered on the Non-Applicant Real Property on September 12, 2023.
8. At this time, the Forbearance Agreement has terminated as a result of the occurrence of certain Terminating Events described therein; however, CIBC has continued to fund the business of the Applicants subject to the borrowing limits of the CIBC Credit Agreement (as defined in the Initial Order) primarily for the purpose of completing the Transaction. The Monitor also understands that certain amendments to the CIBC Credit Agreement concerning, *inter alia*, enhanced reporting required by CIBC are in the process of being documented.

2.1 CCAA Proceedings

1. Pursuant to the terms of the Initial Order, *inter alia*, the Court:
 - a) granted a stay of proceedings in favour of the Applicants and their directors and officers to and including July 1, 2023;
 - b) approved the Applicants' use of the centralized cash management system provided by CIBC to the Applicants;
 - c) granted charges on the Applicants' current and future assets, property and undertakings in the following amounts and priority:
 - i. first, a charge in the amount of \$250,000 in favour of the Applicants' legal counsel (Miller Thomson LLP), the Monitor and its counsel, Cassels, to secure the fees and disbursements of those firms (the "**Administration Charge**");

- ii. second, a charge in the amount of \$55 million plus interest, fees and expenses for all post-filing advances (the “**Lender Priority Charge**”) made by CIBC under the existing CIBC Credit Agreement as amended pursuant to the terms of the Forbearance Agreement;
 - iii. third, a charge in the amount of \$3.33 million in favour of the directors and officers of the Applicants (the “**D&O Charge**”);
 - iv. fourth, the Encumbrances existing as of the date of the Initial Order in favour of the Lender securing the pre-filing obligations owing under the CIBC Credit Agreement including, for greater certainty, obligations in connection with the BCAP Loan (the “**CIBC Pre-Filing Security**”); and
 - v. fifth, a charge in the amount of \$18 million in favour of provincial and territorial authorities for amounts required to be remitted by the Logistics Companies under the *Tobacco Tax Act*, RSA 2000, c. T-4 or under any other applicable provincial legislation or laws (the “**Tobacco Tax Charge**”, and collectively with the Lender Priority Charge, the Administration Charge and the D&O Charge, the “**CCAA Charges**”); and
- d) permitted the Logistics Companies to pay certain pre-filing tobacco tax obligations pursuant to the Tobacco Tax Payment Plans (as defined in the Initial Order), subject to the terms of the Forbearance Agreement and first obtaining the Monitor’s consent.
2. On June 30, 2023, the Applicants’ comeback application was heard and the Court granted:
- a) an amended and restated Initial Order (the “**ARIO**”) (provided in **Appendix “B”**) which, among other things:
 - i. extended the stay of proceedings to and including September 20, 2023;
 - ii. increased the maximum amount of the CCAA Charges, as follows:
 - Administration Charge to \$750,000;
 - D&O Charge to \$4 million; and
 - Tobacco Tax Charge to \$25 million; and

- b) an Order providing for the Applicants' continued access to certain fuel service cards, known as the Mobil Fleet Cards.
3. Pursuant to certain restructuring milestones in the Forbearance Agreement, the Applicants were required within 40 days of the Initial Order to deliver for acceptance by CIBC a pro forma business model and financial forecast for the restructured business of the Applicants following implementation of a proposed plan consistent with a plan term sheet (the "**Term Sheet Milestone**"). Pursuant to the terms of the first amendment to the Forbearance Agreement dated July 18, 2023, CIBC provided certain accommodations to the Applicants and the Applicants were required to, *inter alia*, retain a financial advisor for the purpose of the SISP. Subsequently, certain defaults arose under the Forbearance Agreement, as amended, including in respect of the Term Sheet Milestone, and on August 2, 2023, CIBC provided notice to the Applicants of the occurrence of certain Terminating Events (as defined in the Forbearance Agreement).
4. On August 9, 2023, the Monitor filed its second report to Court (the "**Second Report**") which, among other things:
- a) was drafted in the context of Section 23(1)(d)(i) of the CCAA, which requires the Monitor to file a report with the Court advising on the state of a company's business and financial affairs upon ascertaining a material adverse change (a "**MAC**") in the company's projected cash flow or financial circumstances;
 - b) discussed financial and other challenges being faced by the Applicants and the efforts being taken at the time by the Applicants, the Monitor, CIBC and 7-Eleven to address those challenges;
 - c) provided a comparison of the Applicants' cash flow forecast for the period June 18 to September 30, 2023 against actual results; and
 - d) advised that the Monitor would file a further report with the Court advising on the status of the Applicants' efforts to address the issues resulting from the MAC.

5. On August 11, 2023, the Monitor filed a supplement to the Second Report (the “**Second Report Supplement**”). The Second Report Supplement provided stakeholders with a copy of the Second Forbearance Amendment between, among others, CIBC and the Applicants. The Second Forbearance Amendment, among other things, provided the Applicants with enhanced availability of approximately \$10 million of credit under their existing financing arrangements with CIBC based on additional credit support provided by 7-Eleven to CIBC pursuant to a cash collateral agreement (the “**Cash Collateral Agreement**”). The Applicants advised that they expected that the additional capital would address their challenges and would lead to improved customer fill rates, and therefore financial performance. Copies of the Second Report and the Second Report Supplement are provided in **Appendices “C” and “D”**, respectively, without appendices.
6. On August 21, 2023, the Monitor prepared and filed its Third Report to Court (the “**Third Report**”) which provided, among other things, the Monitor’s recommendations that the Court issue:
- a) an order (the “**SISP Approval Order**”) among other things, approving the SISP and authorizing the Applicants, in consultation and co-operation with A&M, under the oversight of the Monitor, to conduct the SISP; and
 - b) an order (the “**Ancillary Order**”), among other things:
 - i. extending the stay of proceedings to and including November 30, 2023;
 - ii. approving the engagement of A&M as the Financial Advisor, pursuant to an agreement dated August 13, 2023 between the Applicants and A&M, and associated changes to the ARIO, including:
 - increasing the amount of the Administration Charge from \$750,000 to \$850,000 to include a work fee payable to A&M in connection with the SISP and its role as the Financial Advisor; and
 - granting a charge on the Applicants’ current and future assets, property and undertakings in favour of A&M to secure a fee payable to A&M upon completion of a qualifying transaction (the “**Transaction Fee**”), which is only subordinate to the Administration Charge.

7. On September 18, 2023, CIBC delivered to the Applicants a notice that certain additional Terminating Events had occurred and that CIBC was reserving all rights in respect of such, but provided that CIBC would continue to advance funding to the Applicants, subject to the borrowing limits of the CIBC Credit Agreement, unless and until two days following the delivery by CIBC of notice to the Applicants and the Monitor of CIBC's intention to discontinue funding.
8. On September 19, 2023, the Monitor filed its Fourth Report to Court (the "**Fourth Report**") which advised of a further MAC, as reflected by the Applicants' cash flow projection finalized on September 13, 2023. The MAC arose because the Applicants were not projected to have sufficient liquidity under the CIBC Revolving Loan to fund all forecasted disbursements in the ordinary course, unless the Logistics Companies deferred the payment of certain pre-filing and post-filing tobacco taxes (the "**Accrued Tobacco Taxes**") or made significant reductions to their inventory purchases (which was anticipated to impair the viability of the Logistics Business).
9. On October 7, 2023, the Monitor filed its Supplemental Report to the Fourth Report (the "**Fourth Report Supplement**"), which provided:
 - a) a summary of the dialogue among the Applicants, the Monitor and representatives of certain Provinces concerning the Accrued Tobacco Taxes and the payment by the Applicants of such taxes going-forward;
 - b) a further revised cash flow projection;
 - c) an update in respect of certain additional financial support provided by 7-Eleven;
 - d) an update concerning a third amendment to the Forbearance Agreement (the "**Third Amendment**"), which was expected to be finalized in the week following the filing of the Fourth Report Supplement and in respect of which the Monitor advised it would file a further supplemental report once finalized (the "**Second Supplement to the Fourth Report**");
 - e) an update concerning the SISP; and
 - f) the Monitor's recommendation that these proceedings continue so that the Applicants could complete the SISP, which was being advanced on an expedited basis given the Applicants' ongoing liquidity challenges.

10. Copies of the Fourth Report and the Fourth Report Supplement are provided in **Appendices “E” and “F”**, respectively, without appendices.
11. As of the date of this Report, a Third Amendment has not been finalized; however, CIBC has continued to make its revolving loan facility available to the Applicants, subject to the borrowing limits of the CIBC Credit Agreement and the reliance on certain additional financial support provided by 7-Eleven, so that the Applicants could fund their normal course business operations and complete the SISP, including the Transaction.
12. On October 30, 2023, the Monitor served its Fifth Report to Court, which recommended a sale of the Loudon Bros real property located in Thunder Bay, Ontario. The Court approved that transaction on November 3, 2023 and the sale is expected to close by no later than November 17, 2023.
13. The Court materials filed in these proceedings, including this Report, are available on the Monitor’s case website at www.ksvadvisory.com/experience/case/wallace-and-carey.

3.0 SISP

3.1 Background

1. The Applicants were required to commence the SISP due to their ongoing liquidity challenges and the absence of an executable restructuring plan.
2. As a result of negotiations among the Applicants, 7-Eleven, CIBC and the Monitor, the Applicants, 7-Eleven, and CIBC entered into the Cash Collateral Agreement on August 10, 2023, which resulted in an increase in the Applicants’ availability under the CIBC Facility. Pursuant to the Cash Collateral Agreement, the parties thereto agreed to the following key terms, among others:
 - a) 7-Eleven would provide \$9 million (the “**Cash Collateral**”) to be held by CIBC;
 - b) upon receipt by CIBC of the Cash Collateral, CIBC would promptly (i) increase the borrowing base under the CIBC Facility by an amount equal to the Cash Collateral, and (ii) increase the borrowing base under the CIBC Facility by not less than \$2 million;

- c) 7-Eleven agreed to execute and deliver to and in favour of CIBC a Limited Recourse Guarantee, therein guaranteeing the obligations of Wallace & Carey under the CIBC Credit Agreement, as well as a Cash Collateral Agreement granting to CIBC a security interest in the Cash Collateral (collectively, the “**7-Eleven Security Documents**”);
 - d) the Applicants would schedule a Court hearing to approve the SISP;
 - e) as consideration for 7-Eleven providing the Cash Collateral, the Applicants agreed (i) to pay 7-Eleven a fully earned fee equal to \$1 million; and (ii) 7-Eleven would be granted the 7-Eleven SISP Rights, including the right to be a stalking horse purchaser in the SISP, as discussed further in paragraph 3.2.3 below; and
 - f) on a monthly basis, the Applicants agreed to pay 7-Eleven interest at the rate of 10% per annum, less any amounts received from CIBC on account of the Cash Collateral, until same has been returned to 7-Eleven in full.
3. On August 10, 2023, the Cash Collateral Agreement, 7-Eleven Security Documents and Second Forbearance Amendment were executed and 7-Eleven funded the Cash Collateral amount. Accordingly, the Applicants were provided approximately \$10 million of additional liquidity under the CIBC Facility (which amounts are secured under the Lender Priority Charge) for general working capital purposes, including to purchase inventory intended to improve customer fill rates and to provide the Applicants the opportunity to advance the SISP.
4. Pursuant to the Cash Collateral Agreement, CIBC is not permitted to seek repayment of the amounts owing to it by the Applicants from the Cash Collateral until it has realized upon all of the tangible property of Wallace & Carey, CMI and the CMI subsidiaries over which CIBC holds security.
5. The guarantee by 7-Eleven was amended on or about October 6, 2023 to, among other things, increase the guarantee given by 7-Eleven to CIBC of the Applicants’ indebtedness from \$9 million to \$11.5 million. The guarantee by 7-Eleven was further amended on or about November 3, 2023 to among other things, increase the guarantee given by 7-Eleven to CIBC of the Applicants’ indebtedness from \$11.5 million to \$15 million.

3.2 SISP Overview⁷

1. Pursuant to the SISP, interested parties were provided the opportunity to submit offers to:
 - a) acquire all, substantially all or a portion of the Property or the Business;
 - b) make an investment in, restructure, reorganize or refinance the Business;
 - c) carry out any combination of a Sale Proposal and an Investment Proposal; or
 - d) form a partnership with the Applicants, or any of them, by way of joint-venture or otherwise.
2. The following table provides the key milestones and dates under the SISP Approval Order.

SISP Launch Date	August 30, 2023
Phase 1 Bid Deadline	October 5, 2023
Phase 2 Bid Deadline	November 2, 2023
Hearing of the Transaction Approval Application	Subject to the availability of the Court
Target Closing Date	On or before December 4, 2023

3. The SISP was designed as a two-stage process, with letters of intent to be submitted by the Phase 1 Bid Deadline and binding agreements to be submitted at the Phase 2 Bid Deadline.
4. Notwithstanding that 7-Eleven was granted the right to submit a stalking horse bid pursuant to the SISP, 7-Eleven did not exercise that right.

3.3 SISP Summary

1. A&M conducted a comprehensive process to solicit interest in the SISP, by contacting 190 parties, including 12 lending institutions, 141 private equity firms and 37 strategic parties, of which:

⁷ Defined terms in this Section of the Report have the meaning provided to them in the SISP Approval Order, unless otherwise defined herein.

- a) 47 parties executed a non-disclosure agreement (the “**NDA**”) and were granted access to an electronic data room, including 32 private equity firms, ten strategic parties and five lenders; and
 - b) four parties submitted non-binding expressions of interest/letters of intent (each an “**EOI**”), including one strategic party, two private equity firms and one lender.
- 2. A&M has provided the Monitor with a report concerning its conduct of the SISP and its recommendation of the Transaction. A copy of A&M’s report is provided in **Appendix “G”**.
 - 3. As a result of the Applicants’ significant liquidity challenges, which continued notwithstanding the Cash Collateral Agreement, the Applicants, A&M and the Monitor, with the consent of CIBC, believed it was necessary to expedite the SISP timelines.
 - 4. Accordingly, A&M encouraged the parties most interested in the transaction opportunity to provide EOIs at the earliest possible opportunity, which EOIs were to include, among other things, an overview of the proposed transaction structure, an indication of value, any outstanding due diligence and an estimated timeline to complete a transaction. A&M engaged with each party participating in the SISP at that time to facilitate their due diligence, including organizing meetings between certain interested parties and representatives of 7-Eleven.
 - 5. As noted, four parties submitted EOIs on or before October 5, 2023. Given the critical importance of the 7-Eleven relationship to the Wallace & Carey business, each of the parties that submitted an EOI required that a new service agreement be executed with 7-Eleven, with the exception of the prospective lender, which required an equity investment.
 - 6. During September 2023, 7-Eleven expressed concerns to the Monitor about the Applicants’ eroding financial and operational performance, lack of liquidity, the ability of the interested parties performing due diligence in the SISP to meet their service needs, and the amount of time that would be required to negotiate a new service agreement with one or more of these parties. 7-Eleven, however, also advised that it was not prepared at that time to exercise its right to submit a stalking horse bid nor to make a definitive offer for the Applicants’ business as its due diligence was not yet complete.

7. Following the Fourth Report (i.e., the second MAC report), discussions among A&M, the Monitor and 7-Eleven advanced rapidly concerning a transaction based on the structure detailed in this Report. On September 27, 2023, 7-Eleven sent an email to the Monitor outlining the terms of a proposed transaction. Those terms were incorporated into a draft term sheet between the Applicants and 7-Eleven that formed the basis of the Transaction documents. As the term sheet was non-binding, the parties' focus shifted to the definitive documents rather than finalizing the term sheet.

4.0 The Transaction⁸

1. The following are the primary Transaction documents:

- a) the W&C APA;
- b) the TSA; and
- c) the Receivership APS.

Each document is summarized below.

2. The W&C APA sets out the terms pursuant to which:

- a) the Applicants will sell to the Purchaser certain personal property forming part of the Western Business;
- b) the Purchaser will pay for 7-Eleven designated inventory; and
- c) the Purchaser will pay for all validated accounts receivable it owes to Wallace & Carey.

3. The W&C APA attaches a form of the TSA which is to be executed by the parties at closing of the Transaction. The TSA sets out the terms on which (i) the Purchaser will be provided an option following closing to purchase certain remaining assets used in the operation of the Western Business and the Eastern Business, including a lease for a warehouse used by Wallace & Carey in Oakville, Ontario that is believed to have considerable value; and (ii)

⁸ Unless otherwise defined in this Report, defined terms have the meanings provided to them in the Transaction Documents.

Wallace & Carey will continue to operate for the benefit of the Purchaser under CCAA protection, including:

- a) the duration of the TSA, being 15 months and nine months for the Western Business and the Eastern Business, respectively, subject in each case to two 90-day extensions that are available to the Purchaser; and
 - b) the Purchaser shall fund from and after closing, substantially all of the Applicants' 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 Applicants' counsel.
4. The execution of the TSA by the parties thereto is a critical part of the Transaction. The purpose of the TSA is for Wallace & Carey and CMI to maintain in good standing for the benefit of the Purchaser certain real and personal property leases and other contracts until the Purchaser can determine its long-term intentions for those leases and contracts.
 5. Pursuant to the TSA, the majority of Wallace & Carey's employees as of the Closing Date will continue to be employed until (and if) they are hired by one or more service providers identified by the Purchaser, which may include 7-Eleven, or until their services are no longer required, at which time their employment will be terminated and all wages and vacation pay owing to them will be paid. Additionally, the Purchaser has agreed to encourage any new service provider or providers with which they contract to hire Wallace & Carey's employees.
 6. The Receivership APS sets out the terms pursuant to which KSV, if appointed as Receiver of 772, is to sell and transfer to the Purchaser, respectively, the 772 Owned Real Property and 772's interest in the 772 Leased Real Property. These properties were marketed as part of the SISP. Pursuant to the terms of the Receivership APS, the Purchaser shall purchase the 772 Owned Real Property for the purchase price of \$14.92 million. The purchase price for the 772 Owned Real Property was determined through (i) an arm's length process conducted by a commercial real estate agent for the 772 Owned BC Property, in which the Purchaser's offer was the highest offer; and (ii) an estimate of value based on an appraisal sourced by the Applicants that was updated by the Monitor to reflect the current market value for the 772 Owned Alberta Property.

7. Other notable provisions of the Transaction include:

- a) from and after the Closing Date, the Lender will have no further obligation to fund the Applicants' operating costs;
- b) the key terms of the Transaction are consistent with the terms of a standard insolvency transaction, i.e., on an "as is, where is" basis, with limited representations and warranties from the Applicants or the Receiver, as the case may be;
- c) the closing of the W&C APA and the Receivership APS are conditional on the closing of each other;
- d) the CCAA AVO in respect of the W&C APA provides for the Releases (as discussed in Section 4.3 below);
- e) the CCAA AVO provides for an assignment of the Assigned Contracts listed on Schedule "B" to the W&C APA to the Purchaser provided that amounts required to be paid pursuant to section 11.3(4) of the CCAA have been paid by the Purchaser. The Monitor understands that the Applicants and the Purchaser are attempting to reach out to counterparties of the Assigned Contracts to obtain their consent to assignment. However, given the timing of the expected closing of this transaction, it is likely not possible to do so for all Assigned Contracts. In this respect, the Monitor notes that the Purchaser has agreed under the W&C APA to assume the obligations under the Assigned Contracts. Based on information provided to the Monitor by the Purchaser, the Monitor also understands that 7-Eleven will be able to perform the obligations under the Assigned Contracts and that it would be appropriate to assign the rights and obligations to the Purchaser;
- f) With respect to any real property lease assignments required under the Transaction, the Applicants' counsel has advised that each of the relevant landlords has indicated that it is prepared to consent to an assignment of the relevant lease. The Monitor understands that the Applicants' counsel intends to obtain these assignments in advance of closing; however, to the extent that the assignments are not provided prior to the hearing of the application, the Receivership AVO also provides for an assignment of the 772 Leased Real Property to the Purchaser;

- g) subject to Court approval, closing of the Transaction is contemplated to occur on November 20, 2023 (with an effective time of 12:01 a.m. on November 19, 2023) unless otherwise agreed by the parties and the Monitor. The Outside Date is November 30, 2023;
- h) the only material conditions precedent are Court approval of the Transaction pursuant to the CCAA AVO and the approval or non-objection of the Transaction by the Commissioner of Competition pursuant to the *Competition Act*, 1985, c. C-34, the latter of which is in process; and
- i) the Receiver also intends to market the Ridge Meadows and SIU real property for sale by retaining a real estate broker.

4.1 Estimated Transaction Value

1. The table below provides (i) an estimate of the value of the Transaction as of October 28, 2023 based on the Applicants' financial information available to the Monitor; and (ii) the indicative waterfall of distributions resulting therefrom pursuant to the ARIO and the Ancillary Order.

(\$000s) ⁹	Range	
Description	Low	High
W&C APA Transaction		
Accounts Receivable	10,000	12,600
Inventory	7,600	8,600
7-Eleven Inventory	27,100	27,100
Property, Plant & Equipment	4,000	5,000
Other Proceeds	6,200	8,000
Total proceeds from W&C APA Transaction	54,900	61,300
Receivership Transaction, net of CWB mortgage¹⁰	3,100	3,100
Loudon real property	1,300	1,300
Other	400	1,400
Total gross realizations	59,700	67,100

⁹ All amounts in the table have been rounded.

¹⁰ CWB's mortgage is expected to be repaid in full on closing from the sale of the 772 Owned Real Property.

Less:		
Holdbacks and adjustments ¹¹	(14,600)	(11,300)
Net proceeds of realization before the following	45,100	55,800
Lender Priority Charge	(31,800)	(31,800)
Surplus after Lender Priority Charge	13,300	24,000
D&O Charge ¹²	(4,000)	(4,000)
(Shortfall)/surplus after D&O Charge	9,300	20,000
CIBC Pre-Filing Security ¹³	(5,600)	(5,600)
(Shortfall)/surplus after CIBC debt	3,700	14,400
Tobacco Tax Charge	(24,800)	(24,800)
Shortfall on Tobacco Charge	(21,100)	(10,400)

4.2 Transaction Alternatives

1. For the following reasons, the Monitor is of the view that there is no viable better option to the Transaction:
 - a) A&M conducted the SISP in accordance with its terms, subject to encouraging parties to submit offers on an expedited basis;
 - b) the Transaction maximizes value for the Applicants' business and assets;
 - c) 7-Eleven has advised that it is not prepared to support any other transaction at this time. Given 7-Eleven's critical relationship to the Wallace & Carey business, its support is required for any going-concern solution;
 - d) absent the Transaction, the Applicants' business is likely to be liquidated; and
 - e) the value of the Transaction exceeds liquidation value for the Applicants' business and assets for the reasons listed below.

¹¹ Includes holdbacks for the Administration Charge, the Transaction Fee Charge, post-filing liabilities, vacation pay and various other amounts that are required to be paid.

¹² As discussed in paragraph 4.3.6 below, the Applicants' directors and officers are prepared to have this charge released if the Release contemplated by the Transaction is approved by the Court. This would make available \$4 million to stakeholders ranking subordinate to the D&O Charge.

¹³ Estimated, subject to adjustment for interest and expenses.

i. W&C APA transaction

- The purchase price of the personal property in the CCAA transaction exceeds the liquidation value of those assets based on valuations obtained by A&M. A&M and the Monitor engaged in extensive and protracted negotiation with 7-Eleven concerning the purchase price for these assets. The amount paid by 7-Eleven includes a premium above liquidation value reflecting their value-in-use for 7-Eleven.
- 7-Eleven has agreed to purchase, in most cases at cost, certain inventory that has been purchased on its behalf by Wallace & Carey. This represents a substantial portion of Wallace & Carey's inventory. Without this commitment from 7-Eleven, inventory realizations would be significantly impaired, and costs of realization would be materially higher. There would also be challenges conducting the liquidation of the inventory as the assistance of Wallace & Carey's employees would be required. This would require an expensive key employee retention plan given the large number of Wallace & Carey employees, which would further reduce recoveries.
- 7-Eleven has also agreed to pay in full its accounts receivable owing to Wallace & Carey. In a liquidation, Wallace & Carey may be unable to service 7-Eleven in the ordinary course, and there is a significant risk that 7-Eleven would setoff any damages against accounts receivable it owes to Wallace & Carey.
- The method for determining the purchase price for the Oakville lease, which is an Optional Purchased Asset that is believed to have considerable value, was established under the terms of the TSA. The Monitor believes that the methodology is fair and commercially reasonable and is consistent with how such value is commonly calculated.

ii. Receivership transaction

- The purchase price for each 772 Owned Real Property is based on either updated value estimates for those properties obtained by the Monitor earlier in these proceedings, and/or on offers received for these properties in these proceedings. The purchase price also excludes carrying costs (such as property taxes and utilities) that would otherwise be incurred while marketing the properties, and the realtor commissions payable are less than a typical transaction.¹⁴ The sale of the properties in the Transaction also eliminates the risk that these properties may sell for a lower price than the purchase price under the Transaction.

iii. Additionally, the Transaction:

- mitigates the risks and costs of a liquidation, including the challenges retaining employees to assist with the liquidation process and the related payroll and operating costs, which would total millions of dollars; and
- minimizes the fees and costs of the Monitor, its counsel and the Applicants' counsel carrying out a liquidation, which would also be very significant.

4.3 Releases

1. The CCAA AVO provides for the Releases, which include a broad release of all claims against (a) the current and former directors, officers, employees and their legal counsel; (b) legal counsel, agents and advisors of the Applicants and the Purchaser; (c) the Monitor and its legal counsel (collectively, the **"Released Parties"**).
2. The proposed Releases do not release: (i) any claim that is not permitted to be released pursuant to section 5.1(2) of the CCAA, or (ii) any fraud, gross negligence or willful misconduct on the part of any Released Parties.
3. The W&C APA provides that the closing of the Transaction will not be conditional upon the granting of the provisions of the CCAA AVO in a form that contains the Releases.

¹⁴ Typically, 5% of the selling price. In this case, commissions total approximately \$180k, or slightly more than 1%.

4. The Monitor notes that certain of the statutes under which the Accrued Tobacco Taxes are legislated contain provisions for director and/or officer liability that would be captured by the Releases contained in the CCAA AVO. The amounts are also secured by the Tobacco Tax Charge. Potential recoveries under the Tobacco Tax Charge are discussed herein and the Monitor understands that the applicable Provinces and Territories were served by the Applicants with their application materials on November 7, 2023 and will be served with this Report. The applicable Provinces and Territories have also been served with all materials filed in these proceedings, including the application materials containing the Initial Order, the ARIO and the Ancillary Order, each of which addresses the priority of the Tobacco Tax Charge and the other CCAA Charges.
5. In the Monitor's view, the Released Parties have provided substantial assistance (and will continue to do so) facilitating the proposed Transaction, which, if approved and closed, will ultimately see the value of the Applicants' business being maximized for the benefit of its stakeholders, including the beneficiaries of the Tobacco Tax Charge. In this regard, the Applicants' directors and officers have agreed, if requested, to continue in their role through this CCAA proceeding, which will provide the Purchaser with the benefit of their institutional knowledge of the Applicants' business and operations and will facilitate the orderly completion of these proceedings for the benefit of stakeholders.
6. Further, the Applicants' director and officers have agreed to have the D&O Charge released if the Release contemplated by the Transaction is approved by the Court. This would make the holdback of \$4 million otherwise contemplated to secure the D&O Charge unnecessary, meaning such funds would be available to stakeholders ranking subordinate to the D&O Charge. The release of this charge also negates the need for a claims process to determine any entitlement to such funds, resulting in significant associated cost savings.

5.0 Proposed Distributions

1. The ARIO and the Ancillary Order establish the following waterfall of distributions in the CCAA proceedings:
 - a) Administration Charge (\$850,000);

- b) Transaction Fee Charge (variable based on the value of the Transaction, but estimated to be approximately \$1 million);
 - c) the Lender Priority Charge (\$55 million);
 - d) D&O Charge (\$4 million);
 - e) the CIBC Pre-Filing Security (estimated to be \$5.5 million); and
 - f) Tobacco Tax Charge to \$25 million.
2. Pursuant to the Forbearance Agreement, CIBC was provided mortgages on the Non-Applicant Real Property ranking subordinate to CWB. As of the date of this Report, the amount owing to CWB is estimated to be approximately \$12 million. CWB is to be repaid, in full, from the sale of the Non-Applicant Real Property owned by 772.
 3. Subject to maintaining a holdback for the Administration Charge and other pre-closing costs that need to be funded from the Transaction proceeds, the Applicants are requesting an Order of the Court providing that the Net Distribution Proceeds are to be distributed to secured creditors in accordance with paragraph 1 and 2 above.
 4. In advance of these proceedings, and in order for the Monitor to recommend that the Court approve the Lender Priority Charge, the Monitor's counsel, Cassels, provided an opinion on the validity and enforceability of CIBC's security. Cassels' opinion provides that, subject to the customary assumptions and qualifications contained therein, the security granted to CIBC is valid and enforceable. Cassels has also provided the Monitor with an opinion confirming the validity and enforceability of CWB's security, subject to the customary assumptions and qualifications contained therein. A copy of the security opinions can be made available to the Court upon request.
 5. The Monitor is not aware of any secured creditors or any claim (including any deemed trust) that ranks or may rank in priority to the Lender Priority Charge or the CIBC Pre-Filing Security, other than the amounts secured under the Administration Charge, the Ancillary Order, and CWB in respect of the Non-Applicant Real Property (excluding the 772 Leased Real Property). Any equipment lessors with security interests in certain leased assets will either be assumed or paid by the Purchasers pursuant to the terms of the Transaction or their assets will be returned to the lessor.

6. The CCAA AVO provides that these distributions will be made free and clear of any claims and encumbrances. The Monitor notes that provincial legislation regarding tobacco taxes establishes a deemed trust in favour of tobacco tax authorities; however, that deemed trust is not operative pursuant to Section 37 of the CCAA. The Monitor notes that the applicable provinces will be served with this Report, as has been the case with all relevant materials filed in these proceedings.
7. Based on the foregoing, the Monitor recommends that the Court issue an order or orders:
 - a) authorizing the Monitor to make distributions to CWB to repay it in full from the proceeds of the sale of the 772 Owned Real Property; and
 - b) subject to the Monitor retaining sufficient reserves to satisfy, among other things, employee wages and vacation pay, the Administration Charge and the D&O Charge (subject to Court approval of the Release), authorizing the Applicant to make certain distributions, to the extent funds are available, including under the Transaction Fee Charge, the Lender Priority Charge and the CIBC Prefiling Security.

6.0 Tobacco Tax Recoveries

1. A table comparing the amounts projected to be owed by the Applicants to the Provinces and Territories as of November 17, 2023¹⁵ to the amounts owing as of the date of the Filing Date is provided below.

(\$000s)	November 17 Projection	Filing Date	Change
British Columbia	3,638	4,281	(643)
Alberta ¹⁶	16,085	13,780	2,305
Saskatchewan	1,880	4,386	(2,506)
Manitoba	1,426	452	974
Ontario	639	1,342	(702)
Northwest Territories	279	340	(61)
Nunavut	-	344	(344)
Yukon	822	535	287
Total	24,769	25,459	(691)

¹⁵ The last business day before closing.

¹⁶ The Monitor understands that the Province of Alberta's records may reflect a lower amount owing as of the Filing Date. The Monitor believes this amount would be approximately \$7.3 million. This is because the Province of Alberta's records would be based on the tobacco tax obligation as of the end of May 2023 and not as of the Filing Date.

2. As is evidenced by the table above, on a net basis, the tobacco taxes projected to be owing by the Applicants as of November 17, 2023 approximate the tobacco taxes owing as of the date of the Initial Order. The table reflects that the amounts owing to certain Provinces and Territories are projected to decline while the amounts owing to others are projected to increase, with Alberta seeing the greatest increase. This is largely because as of the Filing Date, Alberta and the Applicants had agreed to a payment plan in respect of tobacco tax arrears owing at the time, which the Applicants were unable to maintain during the CCAA proceedings. As noted in the Fourth Report Supplement, on October 1, 2023, Alberta withdrew Wallace & Carey's status as a tax collector such that Wallace & Carey is required to pay tobacco taxes at the time of purchase versus at the time of sale, which was the case until that time.
3. Based on the analyses performed by the Monitor, as discussed in Section 4.2 above, the projected repayments to the Provinces and Territories resulting from the Transaction materially exceed the amounts that the Provinces and Territories would receive if the business and assets of the Applicants were liquidated.
4. During the TSA period, Wallace & Carey intends to continue to pay tobacco taxes in the ordinary course.

7.0 Sealing

1. The Applicants are also seeking a Sealing Order, sealing on the Court file the Confidential Appendix to this Report, which contains a summary of bids received during the SISP. The availability of this information to other parties may negatively impact any future sale process if the Transaction does not close, or with respect to other elements of the Applicants' business that may be sold in the future. In the Monitor's view, sealing this information until the earlier of the termination of these proceedings or further Order of this Court is necessary to maximize recoveries in these proceedings and to maintain the integrity and confidentiality of key information in the SISP. The salutary effects of sealing such information from the public record greatly outweigh any deleterious effects of doing so. The Monitor is of the view that the Sealing Order is appropriate in the circumstances, satisfies the test from *Sherman Estate v. Donovan* 2021 SCC 25, and that no stakeholders will be prejudiced if the information is sealed.

8.0 Recommendation

1. The Monitor recommends that the Court issue the CCAA AVO, the Receivership Order and the Receivership AVO for the following reasons:
 - a) A&M carried out the SISP in accordance with its terms;
 - b) A&M widely canvassed the market for potential purchasers. Any purchaser of the Wallace & Carey business would have required a new “service agreement” with 7-Eleven. Among other reasons, the Applicants’ declining liquidity did not provide 7-Eleven with sufficient time to negotiate a service agreement with a new distributor;
 - c) the value of the Transaction exceeds liquidation value. The Transaction has been extensively negotiated. The Monitor believes that the Transaction is, by far, the best outcome for the business and its stakeholders in the circumstances, and is intended to maximize value. The Monitor does not believe there is any viable transaction alternative available to the Applicants;
 - d) the Applicants have had a series of liquidity challenges throughout these proceedings, which liquidity challenges are continuing. Accordingly, it is imperative that a transaction be completed forthwith. Liquidation is a probability if the Transaction is not approved by the Court;
 - e) the Forbearance Agreement has been terminated. Absent completion of the Transaction, it is unlikely that CIBC will continue to fund the going concern operations of Wallace & Carey’s business;
 - f) The Monitor does not believe that the Provinces and Territories would have a superior outcome to the Transaction if it is not approved. Wallace & Carey intends to continue to remit to the Provinces and Territories all tobacco taxes accruing from the date of closing and following;
 - g) the transaction will see the Wallace & Carey business continue during the transition periods, at a minimum. The Purchaser has undertaken to encourage a future service provider (or providers) to offer employment to Wallace & Carey employees. The Purchaser is also considering long-term self-distribution, which would also provide employees with opportunities for long-term employment; and

- h) the continuation of the business will provide Wallace & Carey's vendors with an opportunity to continue their relationship with 7-Eleven, which is critically important to many of them.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.,
in its capacity as monitor of
Wallace & Carey Inc., Loudon Bros Limited, and Carey Management Inc.
and not in its personal capacity**

APPENDIX B

[ATTACHED]

C111206

COM
Nov 25, 2024



COURT FILE NUMBER	2301 – 08305
COURT	COURT OF KING’S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
APPLICANTS	IN THE MATTER OF THE <i>COMPANIES’ CREDITORS ARRANGEMENT ACT</i> , 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 SUPPLEMENT TO THE THIRTEENTH REPORT OF THE MONITOR
NOVEMBER 22, 2024

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	<u>MONITOR</u> KSV Restructuring Inc. Suite 1165, 324 – 8 th Avenue SW Calgary, Alberta T2P 2Z2
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1.0 Introduction

1. This report (the “**Supplemental Report**”) supplements the Thirteenth Report of the Monitor dated November 18, 2024 (the “**Thirteenth Report**”).
2. Defined terms in this Supplemental Report have the meanings provided to them in the Thirteenth Report, unless otherwise defined herein. This Supplemental Report is subject to the restrictions and qualifications in the Thirteenth Report.

1.1 Purposes of this Supplemental Report

1. The purposes of this Supplemental Report are to:
 - a) summarize the proposed sale (the “**Asset Transaction**”) of the Purchased Assets (as defined herein) owned by Wallace & Carey pursuant to a Bill of Sale and General Conveyance dated November 21, 2024, attached hereto as **Appendix “A”** (the “**Bill of Sale**”) between Wallace & Carey and 7-Eleven Distribution Canada Corp., a subsidiary of 7-Eleven (the “**Purchaser**”); and
 - b) recommend that the Court issue an approval and vesting order (the “**AVO**”), among other things: (i) approving the Bill of Sale and the Asset Transaction; and (ii) transferring and vesting all of Wallace & Carey’s right, title, and interest in and to the Purchased Assets in the Purchaser, free and clear of all liens, charges, security interests, and encumbrances, following the closing of the Asset Transaction.

2.0 Asset Transaction

1. Pursuant to the TSA:
 - a) Wallace & Carey and CMI granted 7-Eleven an exclusive and irrevocable option to acquire any or all of the Optional Purchased Assets¹ on terms to be agreed between 7-Eleven and the Monitor, each acting reasonably, and subject to the Court’s approval, if required (the “**Option**”);
 - b) 7-Eleven was provided the right to exercise the Option by providing CMI and Wallace & Carey with 10 days’ written notice detailing which Optional Purchased Asset(s) it would like to purchase (the “**Option Notice**”); and

¹ As defined in the TSA.

- c) upon receipt of the Option Notice, and upon 7-Eleven and the Monitor agreeing on a purchase price for certain of the Optional Purchased Asset(s), Wallace & Carey and CMI agreed to sell the corresponding Optional Purchased Asset(s) to 7-Eleven on an “as is, where is” basis, free and clear of all claims and encumbrances.
2. On October 28, 2024, 7-Eleven advised the Monitor that it had decided to exercise the Option to purchase certain of the Optional Purchased Assets (collectively, the “**Purchased Assets**”), listed below:

Type	Description	VIN
Truck	2013 Kenworth T680 T/A Day Cab Semi Truck	1XKADP9X2DR963327
Trailer	2007 Great Dane 53' T/A Van Trailer	1GRAA96257W703346
Trailer	2007 Great Dane 38' T/A Van Trailer	1GRAA96267W700312
Trailer	1983 Great Dane 38' T/A Van Trailer	1GRAA7626DB706988

3. The TSA does not have a methodology for determining the purchase price of the Purchased Assets. Accordingly, the Monitor and 7-Eleven agreed to use the methodology that was used to value: (i) certain fixed assets sold to 7-Eleven pursuant to the Transaction; and (ii) the fixed assets sold to 7-Eleven that were located at the facility leased by Wallace & Carey in Oakville, Ontario (the “**Oakville Assets Transaction**”). That methodology took the mid-point of the forced liquidation value (“**FLV**”) and orderly liquidation value (“**OLV**”) based on third-party appraisals obtained by the Monitor at the time of the transactions.
4. The FLV and OLV of the Purchased Assets was provided by McDougall Auctioneers Ltd. in an appraisal dated November 6, 2024, a copy of which is attached as **Appendix “B”**, as follows:
- a) FLV – \$22,000; and
- b) OLV – \$32,500.
5. As such, the purchase price for the Purchased Assets is \$27,250, plus applicable taxes, if any.

2.1 Bill of Sale

1. A summary of the Bill of Sale² is as follows:

- a) **Vendor:** Wallace & Carey;
- b) **Purchaser:** 7-Eleven Distribution Canada Corp.;
- c) **Purchase Price:** \$27,500, before any applicable taxes, if any;
- d) **Purchased Assets:** all of Wallace & Carey's right, title, and interest in the assets listed in Schedule "A" of the Bill of Sale;
- e) **Representation and Warranties:** consistent with the standard terms of an insolvency transaction, i.e. on an "as is, where is" basis with limited representations and warranties; and
- f) **Material Conditions:** none, other than the issuance of the AVO.

2.2 Approval of the Asset Transaction

1. The Monitor recommends the Court issue the proposed AVO for the Asset Transaction for the following reasons:
- a) the basis for determining the value of the Purchased Assets under the TSA was the product of good faith negotiations;
 - b) the Monitor considered the methodology for determining the value of the fixed assets sold in the Transaction and the Oakville Assets Transaction (i.e., using the mid-point of the FLV and OLV) to be fair and reasonable. It is appropriate to use that methodology for the purpose of establishing the value of the Purchased Assets;
 - c) 7-Eleven bargained for and was provided a right to acquire the Purchased Assets pursuant to the terms of the TSA;³

² Unless otherwise defined in this Supplemental Report, defined terms have the meanings provided to them in the Bill of Sale.

³ The Purchaser is a subsidiary of 7-Eleven.

- d) the Purchase Price is less than the thresholds in paragraph 12(a) of the ARIO and, accordingly, does not specifically require Court approval. 7-Eleven has requested that Wallace & Carey obtain the AVO so that it acquires the Purchased Assets free and clear of any encumbrances, including any Court approved charges;
- e) 7-Eleven has delivered the Option Notice pursuant to paragraph 5(c) of the TSA;
- f) any other sale process for the Purchased Assets will result in additional cost, which is not warranted given the nominal value of the Asset Transaction; and
- g) the Purchaser's offer is unconditional, other than the issuance of the AVO.

3.0 Conclusion

1. Based on the foregoing, the Monitor is of the view that the relief requested is reasonable and appropriate in the circumstances and respectfully requests that this Court issue the order granting the Applicants' requested relief.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.,
in its capacity as monitor of
Wallace & Carey Inc., Loudon Bros Limited, and Carey Management Inc.
and not in its personal capacity**



COURT FILE NUMBER	2301 – 08305
COURT	COURT OF KING’S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
	<div><div>IN THE MATTER OF THE COMPANIES’ CREDITORS ARRANGEMENT ACT, RSC 1985, c. C-36, as amended</div><div>AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF WALLACE & CAREY INC., LOUDON BROS LIMITED and CAREY MANAGEMENT INC.</div></div> <div><div>JUDICIAL CENTRE OF CALGARY</div><div>FILED DIGITALLY 2301 08305 Dec 13, 2024 2:38 PM CLERK OF THE COURT</div></div>
APPLICANT	KSV RESTRUCTURING INC., in its capacity as Court-appointed Monitor of Wallace & Carey Inc., Loudon Bros Limited and Carey Management Inc.
RESPONDENT	DIGIFLEX INFORMATION SYSTEMS INC. and MOHAMAD ZÄHED MARDUKHI
DOCUMENT	FOURTEENTH REPORT OF THE MONITOR DECEMBER 13, 2024
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	<div><div>MONITOR KSV Restructuring Inc. Suite 1165, 324 – 8th Avenue SW Calgary, Alberta T2P 2Z2</div><div>Attention: Bobby Kofman / Jason Knight Telephone: 416.932.6228 / 587.287.2605 Facsimile: 416.932.6266 Email: bkofman@ksvadvisory.com / jknight@ksvadvisory.com</div></div> <div><div>MONITOR’S COUNSEL Cassels Brock & Blackwell LLP Bankers Hall West Suite 3810, 888 – 3rd Street SW Calgary, Alberta T2P 5C5</div><div>Attention: Jeffrey Oliver Telephone: 403.351.2921 Facsimile: 403.648.1151 Email: joliver@cassels.com</div></div>

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1.0 Introduction

1. Pursuant to an order (the “**Initial Order**”) granted by the Court of King’s Bench of Alberta (the “**Court**”) on June 22, 2023 (the “**Filing Date**”), Wallace & Carey Inc. (“**Wallace & Carey**”), Loudon Bros Limited (“**Loudon Bros**”, and together with Wallace & Carey, the “**Logistics Companies**”), and Carey Management Inc. (“**CMI**”, and together with the Logistics Companies, the “**Companies**”) were granted protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), and KSV Restructuring Inc. (“**KSV**”) was appointed monitor (the “**Monitor**”) of the Companies (the “**CCAA Proceedings**”).
2. On June 30, 2023, the Court granted an Amended and Restated Initial Order (the “**ARIO**”).
3. Pursuant to an order granted by the Court on August 23, 2023, the Companies carried out a sale and investment solicitation process (the “**SISP**”) 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 undertakings to 7-Eleven, primarily fixed assets and real property;
 - b) approved a transition services agreement (the “**TSA**”) among CMI, Wallace & Carey, the Monitor, and 7-Eleven, as more fully discussed in the sixth report of the Monitor dated November 8, 2023, but, importantly, saw Wallace & Carey continue to carry out the normal course operations of the business during the TSA period, which is continuing; and
 - c) appointed KSV as receiver of all of the assets, undertakings, and properties of certain subsidiaries of CMI for the purpose of, among other things, selling certain real property owned by these entities to 7-Eleven.
5. A copy of the TSA is attached as **Appendix “A”**.

6. On November 25, 2024, upon an application by the Companies, the Court granted an order, among other things, extending the stay of proceedings in these CCAA Proceedings to and including April 30, 2025 (the “**Stay Period**”).
7. As noted, Wallace & Carey continues to carry on day-to-day business during these CCAA Proceedings, which is largely limited to servicing its largest customer, 7-Eleven. The TSA, among other things, sets out the terms under which Wallace & Carey will continue to operate under CCAA protection. The duration of the TSA is 15 months and nine months for the Western Business and the Eastern Business (both as defined in the TSA), respectively, from November 21, 2023 (i.e., the Effective Date of the TSA), subject in each case to two 90-day extensions that are available to 7-Eleven.
8. Pursuant to the TSA, 7-Eleven is responsible to fund substantially all of Wallace & Carey’s operational costs, including employee costs associated with approximately 450 employees, 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.
9. DigiFlex Information Systems Inc. (“**DigiFlex**”) is an Alberta corporation with a registered office in Calgary, Alberta. The sole director and voting shareholder of DigiFlex is Mr. Mohamad Zāhed Mardukhi (“**Mr. Mardukhi**”). DigiFlex provides software and support services on which Wallace & Carey is reliant to operate.
10. As discussed in further detail below, DigiFlex is seeking to either increase the price of its services to Wallace & Carey by 304%, such amount being far in excess of what is permitted by the applicable agreements between the parties, plus a new \$3.23 million fee not otherwise payable under those agreements, and has terminated such agreements effective January 1, 2025 in order to leverage such increased amounts. These actions are contrary to the ARIO and require the urgent intervention of this Honourable Court.
11. Court materials filed in these proceedings are available on the Monitor’s case website at www.ksvadvisory.com/experience/case/wallace-and-carey (the “**Case Website**”).
12. KSV is filing this fourteenth report (the “**Report**”) as Monitor of the Companies.

1.1 Purposes of this Report

1. The purpose of this Report is to provide information to the Court in support of the Monitor's application for an order, among other things:
 - a) declaring that DigiFlex's purported termination, price increases, and all other amendments to the DigiFlex Agreements (as defined below) and any other agreement for services between DigiFlex and the Companies are in breach of paragraphs 18 and 19 of the ARIO and of no force and effect;
 - b) requiring DigiFlex and Mr. Mardukhi, as sole director and voting shareholder of DigiFlex, to continue to provide Wallace & Carey with services and software on the terms and in the manner prescribed by the DigiFlex Agreements, and at an annual rate that shall not exceed \$290,093.70, representing 103.5% of the 2024 rates (the "**Allowable Rate Increase**"), unless otherwise agreed to by DigiFlex, Wallace & Carey and the Monitor in writing;
 - c) restraining DigiFlex and Mr. Mardukhi, or any other party on direction from DigiFlex or Mardukhi, from terminating or otherwise interfering with the terms of the DigiFlex Agreements and the services provided thereunder; and
 - d) ordering DigiFlex and Mr. Mardukhi to pay costs of the Monitor's application on a solicitor and own client, full indemnity basis in the amount of \$35,000.

1.2 Scope and Terms of Reference

1. In preparing this Report, the Monitor has relied upon the Companies' unaudited financial information, books and records, and discussions with 7-Eleven, 7-Eleven's counsel, the Companies' management, and the Companies' legal counsel.
2. The Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the financial information relied on to prepare this Report in a manner that complies with Canadian Auditing Standards ("**CAS**") pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under the CAS in respect of such information. Any party wishing to place reliance on the financial information should perform its own diligence.

3. An examination of any forward-looking financial information discussed herein has not been performed in accordance with the Chartered Professional Accountants of Canada Handbook. Forward-looking financial forecasts and information are based upon various assumptions. Actual results achieved may vary materially from the forecasted results. The Monitor expresses no opinion or other form of assurance on whether the Companies' businesses will perform in accordance with their financial forecasts and projections.

1.3 Currency

1. All references to currency in this Report are to Canadian dollars.

2.0 Companies' Background

1. CMI is an Alberta corporation and the sole shareholder of Wallace & Carey, which is the sole shareholder of Loudon Bros. In addition to the Logistics Companies, CMI has ownership interests in nine subsidiaries, none of which are subject to the CCAA Proceedings.
2. Wallace & Carey is an Alberta corporation that is extra-provincially registered to conduct business in most provinces and territories in Canada. Wallace & Carey operates as a distribution and logistics business that supplies and distributes products to customer locations from Ontario to British Columbia. Wallace & Carey's most significant customer, by far, is 7-Eleven.
3. Loudon Bros, located in Thunder Bay, Ontario, is an Ontario corporation that is wholly owned by Wallace & Carey, which, until late 2023, operated as Wallace & Carey's Northwestern Ontario branch. As part of the downsizing of their businesses during these proceedings, the Companies discontinued the Loudon Bros business and realized on all of its assets.
4. Pursuant to the terms of the Transaction Approval and Vesting Order and the TSA, Wallace & Carey continues to carry on active business operations. As provided in the TSA, and subject to the terms and conditions of the TSA, from and after 12:01 a.m. on November 19, 2023 (the "**Effective Closing Time**"), 7-Eleven is responsible for funding substantially all post-Effective Closing Time costs of Wallace & Carey's operations and is entitled to any profits or is responsible for any losses resulting therefrom.

3.0 The DigiFlex Agreements

1. DigiFlex and Wallace & Carey have a long-standing business relationship spanning approximately 24 years, whereby DigiFlex licenses to Wallace & Carey certain enterprise resource planning computer program software¹ (the “**Software**”) and provides it with helpdesk support in respect of the Software.
2. To the best of the Monitor’s knowledge, Mr. Mardukhi is the controlling mind of DigiFlex and directs its operations. Pursuant to an Alberta corporate profile report dated December 11, 2024 (the “**Corporate Profile**”), DigiFlex is not in good standing as its 2024 annual returns have not been completed. A copy of the Corporate Profile is attached as **Appendix “B”**.
3. The Monitor is aware of the following agreements between DigiFlex and Wallace & Carey:
 - a) Software License Agreement dated August 19, 2013 (the “**Software Agreement**”), which references a Maintenance Agreement attached thereto as Schedule “A” (the “**Maintenance Agreement**”); and
 - b) Helpdesk Support Agreement, a copy of which the Monitor has not received and/or reviewed (the “**Support Agreement**”);

(collectively, the Software Agreement, Support Agreement, and any other agreement for services between DigiFlex and the Companies shall be referred to as the “**DigiFlex Agreements**”).
4. Copies of the DigiFlex Agreements are attached as **Appendix “C”**.
5. As of the date of this Report, the Monitor and the Companies have not been able to locate an executed or dated copy of the Maintenance Agreement or a copy of the Support Agreement.

¹ The Software includes, among other things, the following applications: (i) ProCLASS Distribution Management System; (ii) Runtime Version LAZER DBMS; (iii) CLASS Accounts Receivable; (iv) CLASS Accounts Payable; (v) CLASS General Ledger; and (vi) CLASS Bank Reconciliation.

6. The Software licensed to Wallace & Carey under the DigiFlex Agreements is integral to its operations, as the Software is utilized for all aspects of Wallace & Carey's operations including distribution management, financial reporting and business intelligence. Without access to the Software, the Monitor understands that it would be impossible for Wallace & Carey to continue to operate.
7. The Monitor understands that the Software runs on servers located at Wallace & Carey's offices. If the DigiFlex Agreements are allowed to terminate effective January 1, 2025, Wallace & Carey will lose access to critical support and maintenance through DigiFlex.
8. The key terms of the Software Agreement are, among others, the following:
 - a) Wallace & Carey agreed to pay \$300,000 for an unlimited-use license-to-use agreement, which amount was paid by way of an initial payment of \$150,000 on April 23, 2012, with the remaining \$150,000 paid on the execution of the Software Agreement on August 19, 2013;
 - b) all rates specified in the Software Agreement (including the fees payable under the Maintenance Agreement) are fixed for the first 12-month period (starting in August, 2013), after which DigiFlex may increase the price payable by Wallace & Carey upon providing at least 30 days advance written notice to Wallace & Carey. The percentage increase shall not exceed the Consumer Price Index for that period as published by Statistics Canada for the City of Calgary, or in the alternative, the province of Alberta or Canada; and
 - c) in addition to the rates described in paragraph 8(b), Wallace & Carey is also responsible for certain service fees on an hourly basis. Historically, hourly service fees are invoiced to and paid by Wallace & Carey as soon as the service request is completed by DigiFlex.
9. There is no set term or expiration date for the Software Agreement.
10. The key terms of the Maintenance Agreement are, among others, the following:
 - a) Wallace & Carey agreed to pay an annual maintenance services fee for three software packages in an amount of \$28,350 (\$9,450 per software package) for one year, to be paid in advance (the "**Maintenance Charge**"). Additional fees apply to install the software packages in multiple branches on additional server systems;

- b) the term of the Maintenance Agreement began on the date of software installation and automatically renews for successive one-year terms to be agreed upon by the parties at the time of renewal, unless the agreement is terminated. The Maintenance Agreement is terminated by either party serving written notice to the other at least 30 days prior to the expiration of the initial term or renewal, in which case the Maintenance Agreement terminates at the end of that term or renewal; and
 - c) the Maintenance Charge is fixed for a 12-month period, after which DigiFlex may increase the price payable by Wallace & Carey upon providing at least 30 days advance written notice prior to the end of the then current term to Wallace & Carey. The percentage increase shall not exceed the Consumer Price Index for that period as published by Statistics Canada for the City of Calgary, or in the alternative, the province of Alberta or Canada. Historically, DigiFlex invoiced renewal fees for the Maintenance Agreement in February of each calendar year.
11. As 7-Eleven is responsible for funding the operational costs of Wallace & Carey until February 2025 (or potentially longer) under the terms of the TSA, 7-Eleven has been in direct communications with DigiFlex in relation to its services and the costs thereof since the Transaction closed on November 19, 2023.

4.0 Communications with DigiFlex

1. On October 7, 2024, Mr. Mardukhi was informed via email that 7-Eleven would be taking an assignment of the DigiFlex Agreements in accordance with the Transaction. 7-Eleven also requested that the existing agreements between DigiFlex and Wallace & Carey, under which the rates expire on January 31 and March 12, 2025 for the Support Agreement and Maintenance Agreement, respectively,² be renewed for a one-year term (the “**October 7 & 8 Email Exchange**”). A copy of the October 7 & 8 Email Exchange is attached as **Appendix “D”**.
2. On October 15, 2024, Mr. Mardukhi responded to 7-Eleven’s request to renew the existing agreements (the “**October 15 Email Exchange**”). Mr. Mardukhi offered to renew the Support Agreement for a one-year term for \$201,599.54 (\$192,000.00 plus applicable taxes) (the “**Support Agreement Renewal Invoice**”), but indicated that a new Maintenance Agreement with 7-Eleven may be required. A representative of 7-Eleven responded

² These dates are calculated based upon the dates of the invoices issued by DigiFlex for the 2024 pricing.

advising that: (i) 7-Eleven did not intend to buy a new licensing agreement; (ii) after seeking legal advice, 7-Eleven was of the opinion the DigiFlex Agreements would be in full force and effect on the current terms; and (iii) recommended that DigiFlex consult legal counsel. A copy of the October 15 Email Exchange is attached as **Appendix “E”**.

3. On November 12, 2024, DigiFlex sent to 7-Eleven Distribution Canada Corporation (“**SEDCC**”) (a new entity created with the intention of eventually assuming the distribution role currently performed by Wallace & Carey) a new Software License Agreement (the “**New License Agreement**”), which provided for the payment of \$3.23 million for an unlimited use license, and it affixed a Maintenance Agreement that required an annual payment of \$847,875 (\$807,000 plus applicable taxes). Following that email, on November 14, 2024, Mr. Mardukhi, on behalf of DigiFlex, sent an email to SEDCC (the “**November 14 Email**”) that included:
 - a) an invoice for license fees (the “**License Fee Invoice**”) totaling \$3,391,500 (\$3,230,000 plus applicable taxes) for the period of November 1, 2024 to October 31, 2025;
 - b) an invoice for one year of Software maintenance totaling \$847,875 (\$807,500 plus applicable taxes (the “**Maintenance Agreement Renewal Invoice**”);
 - c) an invoice for helpdesk support for the period November 1, 2024 to October 31, 2025 totaling \$201,560 (\$191,199 plus applicable taxes) (the “**Help Desk Invoice**”, and together with the License Fee Invoice and Maintenance Agreement Renewal Invoice, the “**Renewal Invoices**”); and
 - d) a notice that several service invoices (the “**Service Invoices**”) were overdue. 7-Eleven advised the Monitor that the Service Invoices discussed in the November 14 Email related to hourly support services provided by DigiFlex, and were promptly paid.

Copies of the November 14 Email, the New License Agreement, and the Renewal Invoices are attached as **Appendices “F”, “G”, and “H”**, respectively.

4. In addition to the \$3.23 million license fee that is not payable under the existing DigiFlex Agreements, the Renewal Invoices contained in the November 14 Email total approximately \$1,049,475, representing an increase of approximately 304%, which is well in excess of the Allowable Rate Increase provided for in the DigiFlex Agreements.

5. On November 25, 2024, Mr. Mardukhi responded to a service request from representatives of Wallace & Carey and informed Wallace & Carey that DigiFlex does not have a maintenance or licensing agreement with SEDCC and that the DigiFlex Agreements had not been in effect for some time (the “**November 25 Email**”). Mr. Mardukhi informed Wallace & Carey that SEDCC had been sent new agreements which had not been signed, nor had outstanding invoices been paid (which 7-Eleven understood was a reference to the Renewal Invoices). Mr. Mardukhi advised that DigiFlex could complete the work requested by Wallace & Carey, but it would only do so at the “new SEDCC hourly rate of \$250.00”. A copy of the November 25 Email is attached as **Appendix “I”**.
6. On December 3, 2024, Mr. Mardukhi informed 7-Eleven that due to 7-Eleven’s lack of response or acknowledgement of the New License Agreement and overdue invoices (i.e., the Renewal Invoices), he assumed DigiFlex’s services were no longer required (the “**First December 3 Email**”). Mr. Mardukhi requested that 7-Eleven inform Wallace & Carey of the change and requested that the software and documentation held by Wallace & Carey be destroyed according to the DigiFlex Agreements. A copy of the First December 3 Email is attached as **Appendix “J”**.
7. Shortly after receipt of the December 3 Initial Email, the Monitor attempted to phone Mr. Mardukhi but there was no answer. The Monitor left a voicemail to be returned (the “**December 3 Voicemail**”).
8. Mr. Mardukhi responded to the December 3 Voicemail via email on December 3, 2024 (the “**Second December 3 Email**”), insisting that he did not threaten to terminate the DigiFlex Agreements. Mr. Mardukhi asserted that some of the DigiFlex Agreements are non-transferrable, and since 7-Eleven is a different company than Wallace & Carey, it would require a new agreement with DigiFlex. Further, Mr. Mardukhi claimed that the DigiFlex Agreements should not have been in effect after the Transaction Approval and Vesting Order because “...Wallace & Carey became a division of 7-Eleven as of November 2023...”. Mr. Mardukhi again requested that 7-Eleven sign a new license agreement with DigiFlex. A copy of the Second December 3 Email is attached as **Appendix “K”**. It is clear from Mr. Mardukhi’s various email correspondence, that he does not seem to understand the structure of the Transaction and the purpose of the TSA, as he claims that Wallace & Carey is no longer operating.

9. After receipt of the Second December 3 Email, counsel for the Monitor sent a letter to Mr. Mardukhi on behalf of DigiFlex (the “**December 3 Letter**”), among other things:
- a) informing DigiFlex that the statement “...Wallace & Carey became a division of 7-Eleven as of November 2023...” is incorrect and that during the course of the CCAA Proceedings, Wallace & Carey has continued to operate in the ordinary course of business;
 - b) informing DigiFlex that its demand for a new agreement with 7-Eleven and threat to terminate the DigiFlex Agreements was prohibited according to the terms of the ARIO;
 - c) directing DigiFlex to contact the Monitor before 5:00 p.m. (MT) on December 6, 2024 (the “**Deadline**”) to discuss terms for renewal of the Software Agreement and correct the breach of the ARIO out of Court;
 - d) advising DigiFlex that if it did not respond to the Monitor’s Letter by the Deadline, the Companies, with the support of the Monitor, would bring a court application to compel DigiFlex’s cooperation; and
 - e) recommending that DigiFlex seek independent counsel.

A copy of the December 3 Letter is attached is attached as **Appendix “L”**.

10. On December 3, 2024, Mr. Mardukhi requested that the Monitor have its counsel review the Second December 3 Email. The Monitor’s counsel replied that, after reviewing the Second December 3 Email, the Monitor’s position remained unchanged (the “**December 3 Response Emails**”). Copies of the December 3 Response Emails are attached **Appendix “M”**.
11. On December 5, 2024, Mr. Mardukhi responded to the Monitor’s Letter (the “**December 5 Email**”) wherein he refused to engage legal counsel in the matter and offered two options:
- a) the first was 7-Eleven signing a new license agreement and paying “overdue” invoices; and
 - b) the second was to terminate support, maintenance, and helpdesk services on January 1, 2025. DigiFlex remarked it “would rather shut down its software than provide services under threats and intimidation.”

A copy of the December 5 Email and the response to the same is attached as **Appendix “N”**.

12. On December 9, 2024, by way of an email, DigiFlex informed Wallace & Carey that it would not provide maintenance or helpdesk services to Wallace & Carey after January 1, 2025. DigiFlex separately informed the Monitor it would not discuss the DigiFlex Agreements and claimed that 7-Eleven does not have a right to use DigiFlex’s software (the **“Initial December 9 Emails”**). Copies of the Initial December 9 Emails are attached as **Appendix “O”**.
13. Shortly after receipt of the December 9 Email, the Monitor again attempted to phone Mr. Mardukhi but there was no answer. The Monitor left a voicemail to be returned (the **“December 9 Voicemail”**).
14. Mr. Mardukhi responded to the December 9 Voicemail via email on December 9, 2024 (the **“Second December 9 Email”**), stating that: “a conversation between us will not help since our problem is not with you or your firm or with whatever is left of Wallace & Carey. Rather, our problem is with 7-Eleven that do not understand they have no legal right to use our software without first purchasing a software license, and signing our License and Maintenance Agreement that was passed on to them back in November”. A copy of the Second December 9 Email is attached as **Appendix “P”**.
15. On December 11, 2024, Mr. Mardukhi sent an email on behalf of DigiFlex (the **“December 11 Email”**) to representatives of 7-Eleven which reads as follows (emphasis added):

Good day,

Since you have decided to proceed with court action (see email below), **this is our formal notice that we will stop our support, maintenance and helpdesk services on January 1st, 2025. This will be the case regardless of the court outcome.**

We will then proceed with our own legal action to stop the use of our software without a license.

Even if you believe that our client is still Wallace & Carey and that our license agreement with them is still at play, you should be aware that point 5 of our license agreement states:

In the event that Digiflex breaches any of its obligations, or if Digiflex becomes insolvent, or files a petition in bankruptcy, then the Customer may, at its option terminate the License To Use granted hereunder upon written notice to Digiflex.

In the event of a termination of the License hereunder, the Package and all copies thereof shall forthwith be returned to Digiflex or, at Digiflex's option, destroyed or erased from electronic memories or other storage devices and thereafter Customer shall deliver to Digiflex a letter, from an officer of the Customer, certifying that all copies of the Software and any code or listings produced by the Software have been destroyed, returned or erased and that the Customer has discontinued use of the Package.

Regards,

Mohamad Zähed Mardukhi

16. A copy of the December 11 Email is attached as **Appendix “Q”**.
17. In response to the December 11 Email, counsel for the Monitor sent a letter to Mr. Mardukhi on December 12, 2024 (the “**December 12 Letter**”), among other things, advising that:
 - a) the December 11 Email was going to be provided to the Court; and
 - b) should Mr. Mardukhi undertake the actions referenced in the December 11 Email, the Monitor would, among other things, seek a contempt order and Mr. Mardukhi's imprisonment.

A copy of the December 12 Letter is attached as **Appendix “R”**.

18. Upon receipt of the December 12 Letter, Mr. Mardukhi, on behalf of DigiFlex, emailed representatives of 7-Eleven (the “**December 12 Response Email**”). In the December 12 Response Email, Mr. Mardukhi acknowledged receipt of the December 12 Letter and clearly understood of its contents. Mr. Mardukhi remarked to 7-Eleven “Hope you are still running a successful business when I get out of prison!”. A copy of the December 12 Response Email is attached as **Appendix “S”**.

5.0 Monitor's Recommendations

1. Pursuant to paragraph 19 of the ARIO, suppliers are compelled to provide services to the Companies during the CCAA Proceedings in accordance with the terms of existing agreements. Paragraph 19 of the ARIO reads (emphasis added):

19. During the Stay Period, **all persons having:**

(a) statutory or regulatory mandates for the supply of goods and/or services; or

(b) oral or written agreements or arrangements with the [Companies], including without limitation all supply arrangements pursuant to purchase orders and historical supply practices, **computer software**, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the Business or the [Companies],

are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by the [Companies] or exercising any other remedy provided under such agreements or arrangements. The [Companies] shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the **usual prices or charges for all such goods** or services received after the date of this Order are paid by the [Companies] in accordance with the payment practices of the [Companies], or such other practices as may be agreed upon by the supplier or service provider and each of the [Companies] and the Monitor, or as may be ordered by this Court.

2. Further, paragraph 18 of the ARIO reads (emphasis added):

18. During the Stay Period, **no person shall** accelerate, suspend, discontinue, **fail to honour**, alter, interfere with, repudiate, **terminate** or cease to perform **any right, renewal right, contract, agreement, licence or permit in favour of or held by the [Companies]**, except with the written consent of the [Companies] and the Monitor, or leave of this Court.

3. As discussed above, DigiFlex is seeking to increase the prices payable by Wallace & Carey under the DigiFlex Agreements, terminate, or otherwise amend the terms of the DigiFlex Agreements. This conduct is very clearly contrary to the terms of the ARIO.
4. Mr. Mardukhi has refused to engage with the Monitor to try to find a solution. He has also refused multiple suggestions to retain counsel, appears to fundamentally misunderstand the relationship among DigiFlex, 7-Eleven, and Wallace & Carey, despite this relationship having been explained to him on numerous occasions. Wallace & Carey is a separate legal entity from 7-Eleven and is subject to these CCAA Proceedings. Wallace & Carey and all parties that contract with it (including 7-Eleven and DigiFlex) do so subject to the terms of the ARIO and the Transaction Documents, including the TSA.
5. At this time, DigiFlex remains contractually bound to provide services to Wallace & Carey pursuant to the DigiFlex Agreements and the ARIO, regardless of 7-Eleven's role in funding that business.

6. Mr. Mardukhi has been explicit that DigiFlex will be terminating the DigiFlex Agreements effective January 1, 2025, and that he will not comply with any Court order issued which would require continuation of the DigiFlex Agreements.
7. The Monitor is seeking urgent relief from the Court as DigiFlex's conduct, if not addressed immediately, would have a profound and detrimental impact on Wallace & Carey's entire supply chain and its ability to operate. In the event Wallace & Carey's access to the Software or services provided under the DigiFlex Agreements is disrupted, service to hundreds of 7-Eleven stores from Ontario to British Columbia, which make up the bulk of Wallace & Carey's business, would be significantly and immediately impacted.
8. As noted in paragraphs 32 to 37 of the Brief of the Monitor filed in conjunction with this Report, other suppliers in this proceeding have refused to comply with the ARIO and have been judicially sanctioned with multiple cost awards. The Monitor is respectfully of the view that the conduct of Mr. Mardukhi and DigiFlex is sufficiently serious to warrant an award of costs on a solicitor and own client scale in the amount of \$35,000, in order to offset the costs directly incurred by the Monitor as a result of Mr. Madukhi's conduct.
9. In the event that Mr. Mardukhi does not comply with the ARIO in the future, or does not comply with any order of this Honourable Court arising out of the within application, the Monitor intends to return to Court on an emergency basis. Should such an appearance be required, the Monitor anticipates that it will seek an order of contempt as against Mr. Mardukhi and may request his imprisonment until such contempt is purged.

6.0 Conclusion

1. Based on the foregoing, the Monitor is of the view that the relief requested is reasonable and appropriate in the circumstances and respectfully requests that this Court issue the order granting the Monitor's requested relief.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.,
in its capacity as monitor of
Wallace & Carey Inc., Loudon Bros Limited, and Carey Management Inc.
and not in its personal capacity**



COURT FILE NUMBER **2301 – 08305**

COURT **COURT OF KING’S BENCH OF ALBERTA**

JUDICIAL CENTRE **CALGARY**

APPLICANTS **IN THE MATTER OF THE COMPANIES’ CREDITORS**
ARRANGEMENT ACT, RSC 1985, c. C-36, as amended
2301 08305
Feb 13, 2025
3:51 PM
FILED DIGITALLY
JUDICIAL CENTRE OF CALGARY
CLERK OF THE COURT

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

DOCUMENT **FIFTEENTH REPORT OF THE MONITOR**
FEBRUARY 13, 2025

ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION OF
PARTY FILING THIS
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1.0 Introduction

1. Pursuant to an order (the “**Initial Order**”) granted by the Court of King’s Bench of Alberta (the “**Court**”) on June 22, 2023 (the “**Filing Date**”), Wallace & Carey Inc. (“**Wallace & Carey**”), Loudon Bros Limited (“**Loudon Bros**”, and together with Wallace & Carey, the “**Logistics Companies**”), and Carey Management Inc. (“**CMI**”, and together with the Logistics Companies, the “**Applicants**”) were granted protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), and KSV Restructuring Inc. (“**KSV**”) was appointed monitor of the Applicants (the “**Monitor**”).
2. On June 30, 2023, the Court granted an Amended and Restated Initial Order (the “**ARIO**”).
3. Pursuant to an order granted by the Court on August 23, 2023, the Applicants carried out a sale and investment solicitation process (the “**SISP**”) that resulted in a transaction (the “**SEC Transaction**”) between the Applicants and 7-Eleven Canada, Inc. (“**SEC**”) that was approved by the Court on November 17, 2023 pursuant to an approval and vesting order (the “**SEC Transaction Approval and Vesting Order**”) and other orders (together with the SEC Transaction Approval and Vesting Order, the “**SEC Transaction Orders**”). A detailed discussion of the SEC Transaction is provided in the Monitor’s Sixth Report to Court dated November 8, 2023 (the “**Sixth Report**”). Copies of the Sixth Report (without appendices) and the SEC Transaction Approval and Vesting Order are attached as **Appendix “A”** and “**B**”, respectively.
4. Pursuant to the SEC Transaction Orders, the Court: (i) approved transactions that resulted in the sale of real property owned by 772921 Alberta Inc. (“**772**”) to SEC; (ii) approved a transition services agreement (the “**TSA**”) among CMI, Wallace & Carey, the Monitor, and SEC; and (iii) appointed KSV as receiver (in such capacity, the “**Receiver**”) of certain subsidiaries of CMI, being 772, Ridge Meadows Properties Ltd. (“**Ridge Meadows**”) and Spruce It Up Land Corp. (“**SIU**”, and together with 772 and Ridge Meadows, the “**Receivership Companies**”).
5. On August 22, 2024, the Court issued an order, among other things, granting a Court-ordered charge in favour of SEC (the “**TSA Charge**”) over the Post-Transaction Property (as defined below).
6. On November 25, 2024, the Court issued an order extending the stay of proceedings (the “**Stay**”) under the ARIO to and including April 30, 2025.

7. KSV is filing this fifteenth report (the “**Report**”) as Monitor of the Applicants.

1.1 Purposes of this Report

1. The purposes of this Report are to:

- a) provide background information concerning the Applicants and these CCAA proceedings (the “**CCAA Proceedings**”);
- b) discuss a transaction (the “**Transaction**”) between the Applicants and 7-Eleven Distribution Canada Corp. (the “**Purchaser**”) ¹ pursuant to an asset purchase agreement dated February 7, 2025 (the “**APA**”);
- c) report on the Applicants’ updated cash flow forecast for the period of February 9 to August 23, 2025 (the “**Cash Flow Forecast**”);
- d) discuss the rationale for extending the Stay to and including August 20, 2025;
- e) provide the Court with an update on the Monitor’s activities since the Monitor’s Thirteenth Report to Court dated November 18, 2024 (the “**Thirteenth Report**”); and
- f) provide the Monitor’s recommendations in respect of the Applicants’ application for:
 - i. an approval and vesting order (the “**AVO**”), among other things:
 - 1) approving the APA and the Transaction; and
 - 2) upon closing of the Transaction, vesting title to the Purchased Property (as defined in the APA) in and to the Purchaser; and
 - ii. an order (the “**Stay Extension and Release Order**”), among other things:
 - 1) extending the Stay up to and including August 20, 2025; and
 - 2) approving certain releases in favour of Pat Carey, in his capacity as the present director of the Applicants (the “**Released Party**”).

¹ The Purchaser is a subsidiary of SEC.

1.2 Scope and Terms of Reference

1. In preparing this Report, the Monitor has relied upon the Applicants' unaudited financial information, books and records, and discussions with SEC, the Purchaser, and the Applicants' management and legal counsel.
2. The Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the financial information relied on to prepare this Report in a manner that complies with Canadian Auditing Standards ("**CAS**") pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under the CAS in respect of such information. Any party wishing to place reliance on the financial information should perform its own diligence.
3. An examination of any forward-looking financial information discussed herein has not been performed in accordance with the Chartered Professional Accountants of Canada Handbook. Forward-looking financial forecasts and information are based on various assumptions. Actual results achieved may vary materially from the forecasted results. The Monitor expresses no opinion or other form of assurance on whether the Applicants' businesses will perform in accordance with their financial forecasts and projections.

1.3 Currency

1. All references to currency in this Report are to Canadian dollars.

1.4 Court Materials

1. The affidavits of Patrick Carey, Eric Rolheiser, the previous President and Chief Executive Officer of Wallace & Carey, and Brian Birnie, the previous Senior Vice President of Finance & Corporate Development of Wallace & Carey provide additional background information regarding the Applicants, their businesses, and the CCAA Proceedings. The affidavit of Mr. Carey, sworn February 10, 2025 (the "**Seventh Carey Affidavit**"), provides, *inter alia*, the factual basis for the relief being sought by the Applicants on the applications for the AVO and the Stay Extension and Release Order.
2. Materials filed in these CCAA Proceedings, including the report to Court prepared by KSV as proposed Monitor dated June 22, 2023, and the subsequent reports filed by the Monitor are available at: <https://www.ksvadvisory.com/experience/case/wallace-and-carey>.

2.0 Applicants' Background

1. CMI is an Alberta corporation and the sole shareholder of Wallace & Carey, which is the sole shareholder of Loudon Bros. In addition to the Logistics Companies, CMI has ownership interests in nine subsidiaries, none of which are subject to the CCAA Proceedings. These include 100% of the equity of 772 and Ridge Meadows, and 84.57% of the equity of SIU. The Receivership Companies are now subject to receivership proceedings, with KSV as Receiver pursuant to an order granted by the Court on November 17, 2023 (the “**Receivership Order**”). CMI’s corporate organizational chart is provided in **Appendix “C”**.
2. Wallace & Carey is an Alberta corporation that is extra-provincially registered to conduct business in most provinces and territories in Canada. Prior to the Filing Date, Wallace & Carey was servicing more than 7,000 customers across the country and had grown to become one of Canada’s largest independent wholesale distribution and logistics companies. The Applicants’ largest customer, by far, was SEC, which relied on Wallace & Carey for the supply of all products to its stores throughout Canada.
3. Loudon Bros, located in Thunder Bay, Ontario, is an Ontario corporation that is wholly owned by Wallace & Carey, which, until late 2023, operated as Wallace & Carey’s Northwestern Ontario branch. As part of the downsizing of their businesses during these proceedings, the Applicants discontinued the Loudon Bros business and realized upon all of its assets.
4. Prior to the CCAA Proceedings, the Applicants’ senior secured lender was Canadian Imperial Bank of Commerce (“**CIBC**”), which provided a revolving asset-based loan and a term loan facility. In addition, the Receivership Companies granted first-ranking mortgages against certain real property and a second-ranking general security interest to secure amounts owing to Canadian Western Bank (“**CWB**”). As at the date of this Report, all amounts owing to CIBC and CWB have been repaid.

3.0 TSA

1. Pursuant to the terms of the SEC Transaction Approval and Vesting Order and the TSA, Wallace & Carey continues to carry on active business operations for the benefit of SEC under CCAA protection. The purpose of the TSA was for the Applicants to continue to provide certain services to SEC, while SEC considered if and how to operate the Wallace & Carey business. As provided in the TSA, and subject to the terms and conditions of the

TSA, from and after 12:01 a.m. on November 19, 2023 (the “**Effective Closing Time**”), SEC is responsible for funding substantially all post-Effective Closing Time costs of the Applicants’ operations and is entitled to any revenue resulting therefrom.

2. The Applicants, at the cost of SEC, were to continue to employ certain warehouse, logistics, administrative, and managerial staff to operate the business and provide the services described in the TSA.
3. In addition to the sale of certain assets (as detailed below), the Applicants during the TSA period have continued to wind down operations. As part of this process, the Monitor understands that substantially all remaining employees of the Applicants have now been hired by SEC or the Purchaser. To facilitate the wind-down and the transition of the Applicants’ business, some of the employees have been seconded by SEC or the Purchaser to Wallace & Carey.

3.1 TSA Amendment

1. Pursuant to the terms of the TSA, the TSA period is 15 months for the Wallace & Carey business in Alberta and British Columbia (the “**Western Business**”) and nine months for the Wallace & Carey business east of Alberta (the “**Eastern Business**”) from November 21, 2023 (the “**TSA Effective Date**”), subject in each case to two 90-day extensions, at the option of SEC.
2. SEC has exercised both 90-day extensions for the Eastern Business and accordingly, the TSA period for the Eastern Business was to expire on February 17, 2025.
3. On January 9, 2025, SEC exercised its first extension right for the Western Business. As a result, the TSA period for the Western Business expires on May 22, 2025, subject to one further 90-day extension. SEC has advised the Monitor that it intends to exercise the second option, which will extend the Western Business TSA period to August 20, 2025.
4. In order to align the TSA expiration dates, on February 7, 2025, Wallace & Carey, CMI, SEC, and the Monitor entered into an amendment to the TSA (the “**TSA Amendment**”). As a result of the TSA Amendment, the TSA periods for the Western Business and Eastern Business will end on August 20, 2025, unless the parties agree to a further extension.

5. The Monitor is of the view that the TSA Amendment was required in the circumstances to ensure that SEC continues to fund all post-Effective Closing Time costs of the Applicants' business, pursuant to the terms of the TSA.

3.2 Optional Purchased Assets

1. Pursuant to the TSA, Wallace & Carey and CMI retained certain leases (the "**Option WH Leases**") for the following premises, until SEC could determine if they wished to take an assignment of the leases:
 - a) 2226 South Service Road, Oakville, Ontario (the "**Oakville Warehouse**");
 - b) 603 Park Street, Regina, Saskatchewan and 8 - 3703 Millar Avenue, Saskatoon, Saskatchewan (the "**Saskatchewan Warehouses**"); and
 - c) units 1-6 Bentall Street, Winnipeg, Manitoba, and (the "**Manitoba Warehouse**").
2. Also pursuant to the TSA, Wallace & Carey and CMI granted SEC an exclusive and irrevocable option to acquire any or all of the Optional Purchased Assets² on terms to be agreed between SEC and the Monitor, each acting reasonably, and subject to the Court's approval, if required.
3. On May 29, 2024, the Court approved the following transactions with respect to the Oakville Warehouse:
 - a) the assignment of the Oakville Warehouse lease to SEC pursuant to the formula provided in paragraph 5(c) of the TSA³; and
 - b) the sale of all tools, signs, furniture, machinery, equipment, personal or moveable property, chattels, furnishings and fixtures, trade fixtures, and assigned contracts located at or related to the Oakville Warehouse (the "**Oakville Assets**"). As the TSA did not contain a formula or methodology to determine the purchase price of the Oakville Assets, the Monitor and SEC agreed to use the mid-point of the forced liquidation value ("**FLV**") and orderly liquidation value ("**OLV**") of the Oakville Assets,

² As defined in the TSA.

³ Pursuant to paragraph 5(c) of the TSA, the purchase price for the Oakville Warehouse lease shall be calculated as of the date that the Oakville Warehouse lease is assigned to SEC. It will be determined by taking 50% of the present value of the difference between the payments set out in the Oakville lease and market rent, as determined by Colliers International, using a discount rate equal to CIBC's prime rate as of the Effective Date.

which was the same methodology used to sell certain fixed assets to SEC pursuant to the SEC Transaction.

4. On November 25, 2024, the Court approved the sale of certain trucks and trailers (the “**Trucking Assets**”) owned by Wallace & Carey to SEC pursuant to the terms of the TSA. Similar to the Oakville Assets, the mid-point of the FLV and OLV was used to determine the purchase price of the Trucking Assets.
5. On January 20, 2025, SEC provided Wallace & Carey and the Monitor with notice under the terms of the TSA that it exercised its option to require Wallace & Carey to, with the consent of the relevant landlords, assign its interests in each of the Option WH Leases for the Saskatchewan Warehouses and Manitoba Warehouse to the Purchaser. SEC and the Purchaser are currently in the process of formalizing such assignments through assignment and assumption agreements with the relevant counterparties.

4.0 Transaction

1. As referenced above, in accordance with the TSA, SEC is responsible for funding substantially all post-Effective Closing Time costs of the Applicants’ operations, including but not limited to, the purchase of inventory by Wallace & Carey. Pursuant to the TSA Charge, SEC was granted a priority charge over the following present and future property of Wallace & Carey (collectively the “**Post-Transaction Property**”):
 - a) all accounts receivable generated after the TSA Effective Date;
 - b) all inventory acquired after the TSA Effective Date;
 - c) all vendor rebates generated in respect of inventory acquired after the TSA Effective Date; and
 - d) cash, cash equivalents, and monies on deposit in any account with a deposit-taking institution (whether in the name of Wallace & Carey, the Purchaser, the Monitor, or a third party) from any source after the TSA Effective Date.
2. As part of the continued transition of the Applicants’ business, the Transaction allows:
 - a) SEC and the Purchaser to purchase: (i) the inventory acquired after the TSA Effective Date; and (ii) the furniture, fixtures, and equipment located at the Saskatchewan Warehouses and Manitoba Warehouse; and

- b) the Purchaser to assume all liabilities owing by the Applicants to SEC in respect of the funds advanced by SEC to purchase the inventory acquired after the TSA Effective Date, resulting in the Applicants being released from such liabilities.

4.1 APA

- 1. The following is a summary of the APA. A copy of the APA is attached as Exhibit “A” to the Seventh Carey Affidavit. The key terms and conditions of the APA are provided below (capitalized terms used in this section and not otherwise defined herein have the meanings ascribed to them in the APA):

- a) **Vendors:** Wallace & Carey Inc., Loudon Bros. Limited, Carey Management Inc.
- b) **Purchaser:** 7- Eleven Distribution Canada Corp.
- c) **Purchased Property:**
 - i. all of the inventory used in the Business as of the Closing Effective Time for which the purchase price thereof was financed, directly or indirectly, by SEC pursuant to the TSA and for which the Vendors have legal and beneficial title (the “**Purchased Inventory**”); and
 - ii. all tools, signs, furniture, machinery, equipment, personal or moveable property, chattels, furnishings and fixtures including shelves, video cameras and equipment, security systems, inventory control systems, computer systems and servers and related appurtenances, telecommunications systems and related appurtenances, electric light fixtures, elevating devices and equipment, and which are now used or intended to be used, or which were previously used, in connection with the Vendors’ occupation and operations on the Saskatchewan Warehouses and Manitoba Warehouse (the “**Eastern FF&E**”).
- d) **Purchase Price:** the sum of
 - i. the balance sheet value of the Purchased Inventory as set forth in the most recent Wallace & Carey Financial Reporting Package prepared by the Financial Controller of Wallace & Carey on or prior to the Closing Date, which shall be produced in accordance with generally accepted accounting principles, and subject to such further adjustments as may be mutually agreed upon by the

Parties in writing, with approval of the Monitor (the “**Inventory Purchase Price**”)⁴; plus

- ii. the midpoint between the FLV and OLV of the Eastern FF&E, as determined by an appraisal conducted by a qualified third-party appraiser mutually agreed upon by the Parties (and approved by the Monitor), it being understood that such appraisal may be conducted without a physical inspection of such assets based on asset listings provided by the Parties in good faith, and subject to such further adjustments as may be mutually agreed upon by the Parties in writing, with approval of the Monitor (the “**Eastern FF&E Purchase Price**”).
- e) **Payment of Purchase Price:** the Purchase Price shall be satisfied by the Purchaser as follows:
- i. “**Inventory Purchase Price**” – by the Purchaser assuming the Assumed Liabilities owed by the Vendors to SEC in respect of the Purchased Inventory; and
 - ii. “**Eastern FF&E Purchase Price**” – such amount shall be satisfied, in whole or in part, through the payment by SEC of immediately available funds to the Monitor (on behalf of the Vendors), the assumption of certain liabilities of the Vendors (including liabilities related to destroying and disposing of certain unsaleable vape product owned by Wallace & Carey), or such other consideration as may be mutually agreed upon by the Parties, with the approval of the Monitor.
- f) **Assumed Liabilities:** all liabilities owing by the Vendors to SEC in respect of the funds advanced by SEC⁵ to purchase the Purchased Inventory.
- g) **Representation and Warranties:** the Transaction shall be on an “as is, where is” basis with no representations or warranties.

⁴ Per the Wallace & Carey Financial Reporting Package prepared by the Financial Controller of Wallace & Carey as at December 28, 2024, this amount was approximately \$39 million.

⁵ Per the Wallace & Carey Financial Reporting Package prepared by the Financial Controller of Wallace & Carey as at December 28, 2024, the balance outstanding from Wallace & Carey to SEC is approximately \$37 million. The Monitor understands that a majority of these funds were used to purchase the Purchased Inventory.

- h) **Closing Date:** March 17, 2025, unless otherwise agreed to by the Applicants, the Purchaser, and the Monitor.
- i) **Outside Date:** 11:59 p.m. (Calgary time) on June 30, 2025, or such other later date and times as the Applicants and the Purchaser may agree to in writing (with the prior written consent of the Monitor).
- j) **Conditions:** the Court shall have issued and entered the AVO.

4.2 Transaction Recommendation

1. The Monitor recommends the Court issue the proposed AVO approving the Transaction for the following reasons:
 - a) the TSA and the transactions contemplated therein were negotiated in the context of the SEC Transaction, which was subject to the SEC Transaction Approval and Vesting Order. The basis for determining the values of the Purchased Inventory and the Eastern FF&E, and each party's rights under the TSA regarding same, are the product of good faith negotiations in the context of the SEC Transaction;
 - b) the factors contained in section 36(3) of the CCAA were satisfied as part of the issuance of the SEC Transaction Approval and Vesting Order;
 - c) the Purchased Inventory is subject to the TSA Charge in favour of SEC, and the Purchaser, as part of the consideration for the Purchased Inventory, is assuming the Assumed Liabilities;
 - d) the Purchaser is a subsidiary of SEC;
 - e) using the mid-point of the OLV and FLV to determine the Eastern FF&E Purchase Price is reasonable in the circumstances and is the same methodology that was used to determine the values of Oakville Assets, the Trucking Assets, and the fixed assets acquired by SEC in the SEC Transaction; and
 - f) Wallace & Carey, CMI, SEC, the Purchaser, and the Monitor have agreed to the terms of the Transaction.

5.0 Releases

1. The Stay Extension Order provides that, on the expiration of the Stay of proceedings (i.e., August 20, 2025), the Released Party shall be released from any and all present and future claims, 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 based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place during the period of November 21, 2023 (i.e., the TSA Effective Date) to August 20, 2025 in respect of any steps taken by the Released Party in accordance with the TSA and the CCAA Proceedings (collectively, the **“Released Claims”**).
2. The proposed release does not release:
 - a) any claim against the Released Party for fraud, gross negligence, or willful misconduct; or
 - b) any claims against the director and officer of each of the Applicants that is not permitted to be released pursuant to section 5.1(2) of the CCAA.
3. In the Monitor’s view:
 - a) the Released Party has facilitated the ongoing operations of the Applicants’ business during the CCAA Proceedings and assisted in the administration of the TSA and the wind-down of the Applicants’ operations to the benefit of all stakeholders;
 - b) the releases are limited to the period after the TSA Effective Date to August 20, 2025⁶;
 - c) pursuant to the TSA, SEC is responsible for funding all post-Effective Closing Time costs of Wallace & Carey, including costs that could give rise to a liability for the Released Party, such as wages, source deductions, sales taxes, and tobacco taxes. It would not be reasonable in the circumstances for the Released Party to have assisted SEC and the Purchaser after the TSA Effective Date only to be liable for certain of the Applicants’ obligations in the event that SEC/the Purchaser did not pay for same pursuant to the terms of the TSA; and

⁶ Pursuant to the SEC Transaction Approval Order, the directors, employees, and officers of the Applications, including the Released Party, obtained releases related to all Released Claims (as defined in the SEC Transaction Approval Order) from the Filing Date to November 21, 2023 (i.e., the date the Monitor’s Closing Certificate was filed).

- d) the releases are consistent with releases granted in other recent CCAA proceedings.
- 4. Based on the foregoing, the Monitor is of the view that the releases in the proposed Stay Extension and Release Order are fair and reasonable in the circumstances.

6.0 Cash Flow Forecast

- 1. The Applicants, in consultation with SEC and the Monitor, have prepared the Cash Flow Forecast for the period of February 9 to August 23, 2025 (the “**Forecast Period**”). The Cash Flow Forecast and the Applicants’ statutory report thereon pursuant to Section 10(2)(b) of the CCAA are attached as **Appendix “D”**⁷.
- 2. The Cash Flow Forecast reflects that the Applicants, with the financial support of SEC, are projected to have sufficient liquidity to operate during the Forecast Period. Pursuant to the TSA, SEC is required to fund the Applicants’ operational costs (including taxes accruing during that period) incurred from and after the Effective Closing Time.
- 3. Based on the Monitor’s review of the Cash Flow Forecast, the assumptions underlying the Cash Flow Forecast appear reasonable. The Cash Flow Forecast reflects the wind-down and transition of Wallace & Carey’s operations to the Purchaser and SEC. The Monitor’s statutory report on the Cash Flow Forecast is attached as **Appendix “E”**.
- 4. To the Monitor’s knowledge, SEC has funded all of the Applicants’ operating costs since the Effective Closing Time. No creditor has contacted the Monitor since the Effective Closing Time to express concerns regarding payment delays or non-payment.

7.0 Stay Extension

- 1. The Stay currently expires on April 30, 2025. The Applicants are requesting an extension of the Stay until August 20, 2025. The Monitor supports an extension of the Stay for the following reasons, among others:
 - a) the Applicants are acting in good faith and with due diligence;

⁷ As the Applicants no longer have any employees, Management’s Report on Cash Flow was executed by the previous controller of Wallace & Carey, who has been temporarily seconded by the Purchaser to Wallace & Carey to conclude the transition of the Applicants’ business to the Purchaser and SEC.

- b) an extension of the Stay is consistent with the SEC Transaction Approval Orders and is necessary for the Applicants to carry out their obligations under the SEC Transaction Approval Orders and the TSA;
- c) the Stay will provide the Monitor, SEC, the Purchaser, Wallace & Carey, and CMI with time to conclude the Transaction and to continue the wind-down and transition of the Applicants' business pursuant to the TSA (which expires on August 20, 2025). After the Transaction closes, SEC will still require some continued assistance and time to integrate the Wallace & Carey business into the Purchaser's operations;
- d) SEC and the Purchaser would be prejudiced if the Stay is not extended. Absent an extension of the Stay, Wallace & Carey's operations may be terminated. Discontinuing Wallace & Carey's business would disrupt the Transaction and SEC's business;
- e) the Stay will allow the Applicants to realize on the remaining Excluded Assets⁸ including, but not limited to: (i) continuing Wallace & Carey's litigation with Dakin News Systems Inc. ("**INS News**"); (ii) collecting a \$36,000 cost award (the "**Cost Award**") from A&M Enterprises Ltd., Freshslice Holdings Ltd., and RF Franchising Inc. (collectively, "**Freshslice**"); (iii) collecting certain amounts owing from vendors as a result of transactions between the Filing Date and the Effective Closing Time; and (iv) realizing on CMI's equity interests;
- f) as of the date of this Report, neither the Applicants nor the Monitor are aware of any party opposed to the requested extension; and
- g) based on SEC's funding obligations to the Applicants pursuant to the TSA, the Applicants are projected to have sufficient liquidity to fund their operations and the costs of the CCAA Proceedings, as reflected in the Cash Flow Forecast. Accordingly, the Monitor does not believe that any creditor will be prejudiced if the extension is granted.

⁸ As defined in the SEC Transaction Approval and Vesting Order.

8.0 Monitor's Activities Since the Thirteenth Report

1. Since the Thirteenth Report⁹, the Monitor has conducted the following activities:
 - a) communicating on a near daily basis with the Applicants' management team and SEC's representatives regarding the Applicants' financial performance, the TSA, the Excluded Assets, the Applicants' continued banking arrangements with CIBC, and the Applicants' new banking arrangements with the Bank of Nova Scotia;
 - b) corresponding regularly with the Applicants' counsel, Miller Thomson LLP, SEC, the Purchaser, SEC's counsel, DLA Piper (Canada) LLP ("**DLA**"), and the Monitor's legal counsel, Cassels Brock & Blackwell LLP ("**Cassels**") regarding the Transaction and the APA;
 - c) preparing a supplement to the Thirteenth Report dated November 22, 2024 regarding the Applicants' application for an order approving the sale of the Trucking Assets;
 - d) working extensively with the Applicants to realize on the Excluded Assets;
 - e) monitoring the Applicants' receipts and disbursements on a near-daily basis;
 - f) reviewing Wallace & Carey's daily funding requests;
 - g) corresponding with certain of the provincial and territorial tobacco tax authorities in respect of their claims secured by the Tobacco Tax Charge (as defined in the ARIO);
 - h) reviewing information provided by and engaging in correspondence with the Province of Alberta regarding its calculation of its claim secured by the Tobacco Tax Charge;
 - i) responding to inquiries from creditors and customers of the Logistics Companies concerning the CCAA Proceedings generally and the SEC Transaction;
 - j) attending to various matters regarding the services provided by DigiFlex Information Systems Inc. ("**DigiFlex**") to Wallace & Carey, including:
 - i. reviewing various DigiFlex agreements with Wallace & Carey and email correspondence between SEC and DigiFlex regarding the services;

⁹ The Fourteenth Report of the Monitor, dated December 13, 2024, did not address the general activities of the Monitor.

- ii. engaging in extensive email correspondence with DigiFlex regarding the requirement to continue services during the CCAA Proceedings;
 - iii. working with Cassels to draft letters to DigiFlex dated December 3, 9, and 12, 2024;
 - iv. reviewing and commenting on the Court materials filed in connection with the Monitor's application for an order seeking various relief against DigiFlex heard on December 17, 2024 (the "**DigiFlex Application**");
 - v. preparing the Monitor's Fourteenth Report to Court dated December 13, 2024 in connection with the DigiFlex Application; and
 - vi. working with DLA, Cassels, and DigiFlex to finalize the Consent Order dated December 17, 2024;
- k) assisting the Applicants' counsel with:
- i. the collection of a judgment in favour of Wallace & Carey against INS News for \$616,341, including obtaining recognition of the judgment in Ontario (INS News' principal place of business);
 - ii. the collection of the Cost Award from Freshslice, including obtaining a garnishment order in the Supreme Court of British Columbia; and
 - iii. the litigation with Megabox Inc. ("**Megabox**") and 0903219 BC Ltd. dba Pizza Club ("**Pizza Club**") to collect \$392,967 and \$80,321 owing from Megabox and Pizza Club, respectively, for unfilled purchase orders paid by Wallace & Carey. On January 24, 2025, Wallace & Carey, Megabox, Pizza Club, and the Monitor agreed to settle the litigation (the "**Settlement**") and all payments in accordance with the Settlement have been paid to the Monitor;
- l) reviewing and commenting on the Applicants' materials to be filed in support of the relief to be sought at this application;
- m) drafting this Report; and
- n) maintaining the Case Website.

9.0 Conclusion

1. Based on the foregoing, the Monitor is of the view that the relief requested is reasonable and appropriate in the circumstances and respectfully requests that this Court issue the order granting the Applicants' requested relief.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.,
in its capacity as monitor of**

**Wallace & Carey Inc., Loudon Bros Limited, and Carey Management Inc.
and not in its personal capacity**



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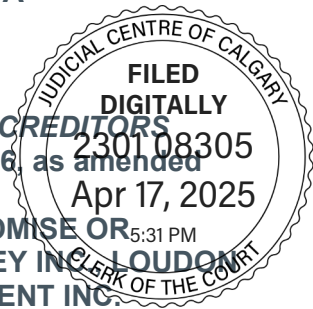
COURT **COURT OF KING’S BENCH OF ALBERTA**

JUDICIAL CENTRE **CALGARY**

APPLICANTS

**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 **SIXTEENTH REPORT OF THE MONITOR
APRIL 17, 2025**

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1.0 Introduction

1. Pursuant to an order (the “**Initial Order**”) granted by the Court of King’s Bench of Alberta (the “**Court**”) on June 22, 2023 (the “**Filing Date**”), Wallace & Carey Inc. (“**Wallace & Carey**”), Loudon Bros Limited (“**Loudon Bros**”, and together with Wallace & Carey, the “**Logistics Companies**”), and Carey Management Inc. (“**CMI**”, and together with the Logistics Companies, the “**Applicants**”) were granted protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), and KSV Restructuring Inc. (“**KSV**”) was appointed monitor of the Applicants (the “**Monitor**”).
2. On June 30, 2023, the Court granted an Amended and Restated Initial Order (the “**ARIO**”).
3. Pursuant to an order granted by the Court on August 23, 2023, the Applicants carried out a sale and investment solicitation process (the “**SISP**”) that resulted in a transaction (the “**SEC Transaction**”) between the Applicants and 7-Eleven Canada, Inc. (“**SEC**”) that was approved by the Court on November 17, 2023 pursuant to an approval and vesting order (the “**SEC Transaction Approval and Vesting Order**”) and other orders (together with the SEC Transaction Approval and Vesting Order, the “**SEC Transaction Orders**”). A detailed discussion of the SEC Transaction is provided in the Monitor’s Sixth Report to Court dated November 8, 2023 (the “**Sixth Report**”). A copy of the Sixth Report (without appendices) is attached as **Appendix “A”**.
4. On February 21, 2025, the Court issued an order approving the sale of certain additional assets of Wallace & Carey to 7-Eleven Distribution Canada Corporation (a subsidiary of SEC) (“**SEDCC**”), including accounts receivable, inventory, and certain equipment, furniture, and fixtures located at warehouses in Saskatchewan and Manitoba (the “**SEDCC Transaction**”).
5. As a result of the SEDCC Transaction and SEC Transaction, and subsequent related transactions, SEC, through SEDCC, is carrying on the majority of the business formerly carried on by Wallace & Carey. The Monitor is now focused on, *inter alia*, selling certain assets owned by the Applicants that were not sold to SEC or SEDCC, including the Shares (as defined below), which are the subject of this sixteenth report (the “**Report**”).

1.1 Purposes of this Report

1. The purposes of this Report are to:

- a) provide background information concerning the Applicants and these CCAA proceedings (the “**CCAA Proceedings**”);
- b) discuss the sale (the “**Share Transaction**”) by CMI of its 160,808 common shares (the “**Shares**”), representing a 22.503% equity interest in Spruce It Up Garden Centre Inc. (“**SIU GC**”), pursuant to a share purchase agreement dated April 14, 2025 (the “**SPA**”);
- c) provide the Court with an update on the Monitor’s activities since the Monitor’s Fifteenth Report to Court dated February 13, 2025 (the “**Fifteenth Report**”); and
- d) provide the Monitor’s recommendations that the Court issue:
 - i. an order (the “**Approval and Vesting Order**”):
 - 1) approving the SPA and the Share Transaction;
 - 2) authorizing and directing CMI and the Monitor to take all steps reasonably necessary to carry out the terms of the SPA; and
 - 3) vesting title to the Shares in and to SIU GC upon closing of the Share Transaction; and
 - ii. an order (the “**Sealing Order**”), among other things, sealing a confidential version of the SPA, attached as **Confidential Appendix “1”**, until further order of the Court¹.

1.2 Scope and Terms of Reference

1. In preparing this Report, the Monitor has relied upon the Applicants’ unaudited financial information, books and records, and discussions with the Applicants’ management and legal counsel.

¹ Pursuant to Article 5.2 of the SPA, SIU GC was to make the application for the Sealing Order. After finalizing the SPA, SIU GC and CMI agreed that CMI would bring the application for the Sealing Order to avoid having two separate applications.

2. The Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the financial information relied on to prepare this Report in a manner that complies with Canadian Auditing Standards (“**CAS**”) pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under the CAS in respect of such information. Any party wishing to place reliance on the financial information should perform its own diligence.

1.3 Currency

1. All references to currency in this Report are to Canadian dollars.

1.4 Court Materials

1. The affidavits of Patrick Carey, Eric Rolheiser, the President and Chief Executive Officer of Wallace & Carey as of the Filing Date, and Brian Birnie, the Senior Vice President of Finance & Corporate Development of Wallace & Carey as of the Filing Date, provide additional background information regarding the Applicants, their businesses, and the CCAA Proceedings. These affidavits, as well as information concerning these CCAA Proceedings, including all application materials and the reports filed by the Monitor, can be found at: <https://www.ksvadvisory.com/experience/case/wallace-and-carey>.

2.0 Applicants’ Background

1. CMI is an Alberta corporation and the sole shareholder of Wallace & Carey, which is the sole shareholder of Loudon Bros. In addition to the Logistics Companies, CMI has ownership interests in nine subsidiaries, none of which are subject to the CCAA Proceedings. These include, among others:
 - a) 100% of the equity of 772921 Alberta Inc. and Ridge Meadows Properties Ltd. and 84.57% of the equity of Spruce It Up Land Corp. (collectively, the “**Receivership Companies**”)²; and
 - b) the 22.503% equity interest in SIU GC.
2. CMI’s corporate organizational chart is provided in **Appendix “B”**.

² In connection with the SEC Transaction, KSV was appointed the Receiver of the Receivership Companies pursuant to an order of the Court dated November 17, 2023.

3. Wallace & Carey is an Alberta corporation that is extra-provincially registered to conduct business in most provinces and territories in Canada. Prior to the Filing Date, Wallace & Carey serviced more than 7,000 customers across the country and had grown to become one of Canada's largest independent wholesale distribution and logistics companies. The Applicants' largest customer, by far, was SEC.
4. Loudon Bros, located in Thunder Bay, Ontario, is an Ontario corporation that is wholly owned by Wallace & Carey, which, until late 2023, operated as Wallace & Carey's Northwestern Ontario branch. As part of the downsizing of their businesses during these proceedings, the Applicants discontinued the Loudon Bros business and realized upon all of its assets.
5. Prior to the CCAA Proceedings, the Applicants' senior secured lender was Canadian Imperial Bank of Commerce ("**CIBC**"). In addition, the Receivership Companies granted first-ranking mortgages against certain real property and a second-ranking general security interest to secure amounts owing to Canadian Western Bank ("**CWB**"). CWB was also a secured creditor of the Applicants. As at the date of this Report, all amounts owing to CIBC and CWB have been repaid.
6. The Sixth Report provided a waterfall of distributions among the beneficiaries of the charges created in the CCAA Proceedings pursuant to the ARIO and the Ancillary Order³.
7. Each Court-ordered charge created pursuant to the ARIO and the Ancillary Order has been fully satisfied and released, except for the Tobacco Tax Charge (as defined in the ARIO) in the amount of \$26 million, which was granted in favour of certain provinces and territories (the "**Provinces and Territories**") in respect of Wallace & Carey's unpaid tobacco taxes as of the Filing Date⁴.

³ This Order was issued by the Court on August 23, 2023 and created the Transaction Fee Charge, which was payable to Alvarez & Marsal Canada Securities ULC, the financial advisor retained by the Applicants to carry out the SISF.

⁴ The Monitor has made distributions totaling approximately \$8.77 million to the Provinces and Territories pursuant to orders granted by the Court on August 22 and November 25, 2024.

3.0 Share Transaction

1. SIU GC is an Alberta corporation incorporated pursuant to the *Business Corporations Act*, RSA 2000, c B-9 (the “**ABCA**”). As at the date of this Report, the shareholders of SIU GC are as follows:
 - a) Meryl Coombs – 54.996%;
 - b) Silvergrove Investments Inc. (“**Silvergrove**”) (a company solely owned by Meryl Coombs) – 22.501%; and
 - c) CMI – 22.503%.
2. Meryl Coombs and Patrick Carey are the directors of SIU GC. Patrick Carey is not arm’s length to the Share Transaction, as he is the former CEO of CMI and Wallace & Carey, the sole director of the Applicants, and a director of SIU GC.
3. Beginning in January 2024, the Monitor began requesting information from SIU GC to consider the value of the Shares and how to monetize them. Dentons Canada LLP, SIU GC’s legal counsel at the time, provided the Monitor with SIU GC’s internally prepared financial statements and its corporate minute books, including the articles of incorporation (the “**Articles of Incorporation**”). The Monitor was advised that SIU GC does not have a shareholders’ agreement. Based on the information provided to it, the Monitor prepared a valuation to determine the estimated value of the Shares.
4. On September 3, 2024, Silvergrove made an offer to CMI and the Monitor to purchase the Shares (the “**Initial Offer**”). As the Initial Offer was immaterial and substantially less than the Monitor’s valuation, the Monitor advised CMI that it was not prepared to support the sale to Silvergrove.
5. The Monitor considered whether it could conduct a sale process to sell the Shares, however, a sale process was not commenced for the following reasons:
 - a) the Articles of Incorporation require that SIU GC’s board of directors approve the transfer of any shares;

- b) the Shares represent a minority interest, with the balance being held by Meryl Coombs and Silvergrove, a company solely controlled by Meryl Coombs. Since Meryl Coombs has a controlling stake, this limits the ability of the owner of the Shares to influence management decisions, resulting in the Shares likely not being marketable to anyone other than the other shareholders;
 - c) the inability for the owner of the Shares to control the affairs of SIU GC for actions such as when and how to pay dividends or make investment decisions;
 - d) SIU GC does not have an executed shareholders' agreement in place and therefore the Shares do not have specific shareholder rights or provisions that provide access to liquidity, including buy-sell provisions that establish terms for purchasing and selling the Shares;
 - e) the inability to sell the Shares due to the lack of a liquid market for private shares, particularly for a minority interest; and
 - f) a sale process would result in professional costs without any certainty that a transaction could be completed.
6. Based on the above, the Monitor determined that a sale process was unlikely to result in an acceptable transaction. As SIU GC is profitable, the Monitor was of the view that it was more appropriate that CMI continue to hold its interest in SIU GC with a view to either negotiating in due course with SIU GC's other shareholders, participating in the profitability of the business and/or monetizing its interest in SIU GC in due course, upon a sale of, or transaction in respect of, SIU GC. In this regard, the Monitor continued to make information requests of SIU GC so that it could understand the performance of the business.
7. On February 24, 2025, SIU GC presented an offer for the Shares that, after negotiation with the Monitor, resulted in the SPA.

3.1 SPA⁵

1. The following is a summary of the SPA. A copy of the SPA, with the purchase price (and its related payment terms) redacted, is attached as **Appendix “C”**. An unredacted copy of the SPA is attached as **Confidential Appendix “1”**:
 - a) **Vendor:** Carey Management Inc.
 - b) **Purchaser:** Spruce It Up Garden Centre Inc.
 - c) **Purchased Property:** the Shares.
 - d) **Deposit:** SIU GC has paid a deposit pursuant to the SPA. The Deposit shall be applied as follows:
 - i. if Closing occurs, the Deposit shall be credited against the Closing Payment at Closing; and
 - ii. if Closing does not occur: (1) for any reason other than the breach by SIU GC of its obligations under the SPA, then the Deposit shall be returned to SIU GC; or (2) due to the breach by SIU GC of any of its obligations under this SPA, as determined by CMI acting reasonably, then CMI shall be entitled to retain the Deposit as a guarantee of performance and the Deposit shall be finally and absolutely forfeited to CMI.
 - e) **Payment of Purchase Price:** the Purchase Price shall be paid in the following manner:
 - i. 80% of the Purchase Price shall be payable by SIU GC to CMI on the Closing Date (the “**Closing Payment**”);
 - ii. 10% of the Purchase Price shall be satisfied by the issuance of a term, non-interest-bearing promissory note by SIU GC to and in favour of CMI, payable in accordance with its terms, six (6) months following the Closing Date (“**Promissory Note 1**”); and

⁵ Capitalized terms in this section have the meaning provided to them in the SPA unless otherwise defined herein.

- iii. 10% of the Purchase Price shall be satisfied by the issuance of a term, non-interest-bearing promissory note by SIU GC to and in favour of CMI, payable in accordance with its terms, twelve (12) months following the Closing Date (“**Promissory Note 2**” and together with Promissory Note 1, the “**Promissory Notes**”).
- f) **Vendor’s Rights:** SIU GC and CMI acknowledge and agree that, should Closing not occur due to the breach by SIU GC of any of its obligations under the SPA, CMI will suffer and incur harm that cannot be quantified or precisely calculated and is irreparable, for which CMI reserves all further rights, benefits, privileges and entitlements whether in law or equity or by statute and whether by way of specific performance, damages or otherwise.
- g) **Representation and Warranties:** consistent with the standard terms of an insolvency transaction, i.e. on an “as is, where is” basis with limited representations and warranties.
- h) **Closing Date:** 3 business days after the date of the Approval and Vesting Order.
- i) **Covenants:**
 - i. the Parties shall cooperate with each other and shall use their commercially reasonable efforts to cause the conditions precedent in Article 7 of the SPA to be satisfied and to facilitate and cause the consummation of the Share Transaction;
 - ii. CMI shall schedule with the Court, within 5 days from the execution and delivery of the SPA, an application seeking the Approval and Vesting Order; and
 - iii. SIU GC shall make an application for the Sealing Order⁶.
- j) **Conditions Precedent:**
 - i. all representations and warranties of SIU GC and CMI contained in the SPA are true at the Closing Time; and

⁶ CMI and SIU GC have agreed that CMI will make the application for the Sealing Order. See footnote 1.

- ii. the Court shall have issued and entered the Approval and Vesting Order.

3.2 Share Transaction Recommendation

1. The Monitor recommends that the Court issue the proposed Approval and Vesting Order approving the Share Transaction for the following reasons:
 - a) the value of the Shares under the SPA is the product of good faith negotiations, which were conducted by the Monitor, on behalf of CMI, and the Purchaser;
 - b) for the reasons provided in Section 3.0(6) above, the Monitor is of the view that conducting a sale process for same is unlikely to result in a completable transaction;
 - c) CMI is permitted under the ARIO to sell its assets up to the maximum amount of \$500,000 in any one transaction without Court approval. SIU GC required, however, that CMI obtain an approval and vesting order in respect of the Shares;
 - d) the Purchase Price pursuant to the SPA is approximately eight times greater than the Initial Offer;
 - e) the Purchase Price is commercially reasonable and is within a valuation range considered reasonable by the Monitor;
 - f) SIU GC's offer is unconditional, other than the issuance of the Approval and Vesting Order;
 - g) CMI, SIU GC, and the Monitor have agreed to the terms of the Share Transaction; and
 - h) the Monitor does not believe there are other viable options to monetize the Shares.

3.3 Sealing

1. At the request of SIU GC, CMI is seeking an order sealing the unredacted version of the SPA attached as **Confidential Appendix "1"**. SIU GC is of the view that the Purchase Price for the Shares should remain confidential as SIU GC is a private company not subject to the CCAA Proceedings. Further, pursuant to the Sealing Order, the Monitor is entitled to provide the amount of the Purchase Price to the Provinces and Territories (being the only stakeholders with a financial interest in the Share Transaction), provided they confirm in advance that they will keep the Purchase Price confidential.

2. The salutary effects of sealing such information from the public record outweigh the deleterious effects of doing so under the circumstances. The Monitor is not aware of any party that will be prejudiced if the information in **Confidential Appendix “1”** is sealed or any public interest that will be served if such details are disclosed in full. The Monitor is of the view that the Sealing Order is appropriate in the circumstances, satisfies the test from *Sherman Estate v. Donovan* 2021 SCC 25, and that no stakeholders will be prejudiced if the information is sealed.

4.0 Monitor’s Activities Since the Fifteenth Report

1. Since the Fifteenth Report, the Monitor has conducted the following activities:
 - a) communicating on a near-daily basis with the Applicants’ management team and SEC’s representatives regarding the Applicants’ financial performance, the TSA, the Applicants’ continued banking arrangements with CIBC, and the Applicants’ new banking arrangements with the Bank of Nova Scotia;
 - b) corresponding regularly with the Applicants’ counsel, Miller Thomson LLP, SEC, SEDCC, SEC and SEDCC’s counsel, DLA Piper (Canada) LLP, and Cassels Brock & Blackwell LLP, the Monitor’s counsel, regarding the SEDCC Transaction;
 - c) reviewing and commenting on the SEDCC Transaction closing documents and coordinating the closing of same;
 - d) drafting a letter to the Provinces and Territories dated February 26, 2025 summarizing the Monitor’s calculation of the tobacco tax balances owing to each of them and setting out their respective pro-rata share of a \$5.5 million interim distribution (the “**Interim Distribution**”), and engaging in discussions with certain of the Provinces and Territories regarding same;
 - e) paying the Interim Distribution;
 - f) corresponding with the Canada Revenue Agency, the Applicants, SEC, and SEDCC regarding outstanding GST and T2 income tax returns for the Applicants;
 - g) monitoring the Applicants’ receipts and disbursements on a near-daily basis;
 - h) reviewing Wallace & Carey’s daily funding requests;

- i) responding to inquiries from creditors and customers of the Logistics Companies concerning the CCAA Proceedings, the SEDCC Transaction, and the SEC Transaction;
- j) assisting the Applicants' counsel with the collection of:
 - i. a judgment in favour of Wallace & Carey against INS News for \$616,341, including obtaining a garnishment order in the Ontario Superior Court of Justice (Commercial List); and
 - ii. a cost award from A&M Enterprises Ltd., Freshslice Holdings Ltd., and RF Franchising Inc., including obtaining a garnishment order in the Supreme Court of British Columbia;
- k) reviewing and commenting on CMI's materials to be filed in support of the relief to be sought at this application;
- l) drafting this Report; and
- m) maintaining the Case Website.

5.0 Conclusion

1. Based on the foregoing, the Monitor is of the view that the relief requested is reasonable and appropriate in the circumstances and respectfully requests that this Court issue the order granting CMI's requested relief.

* * *

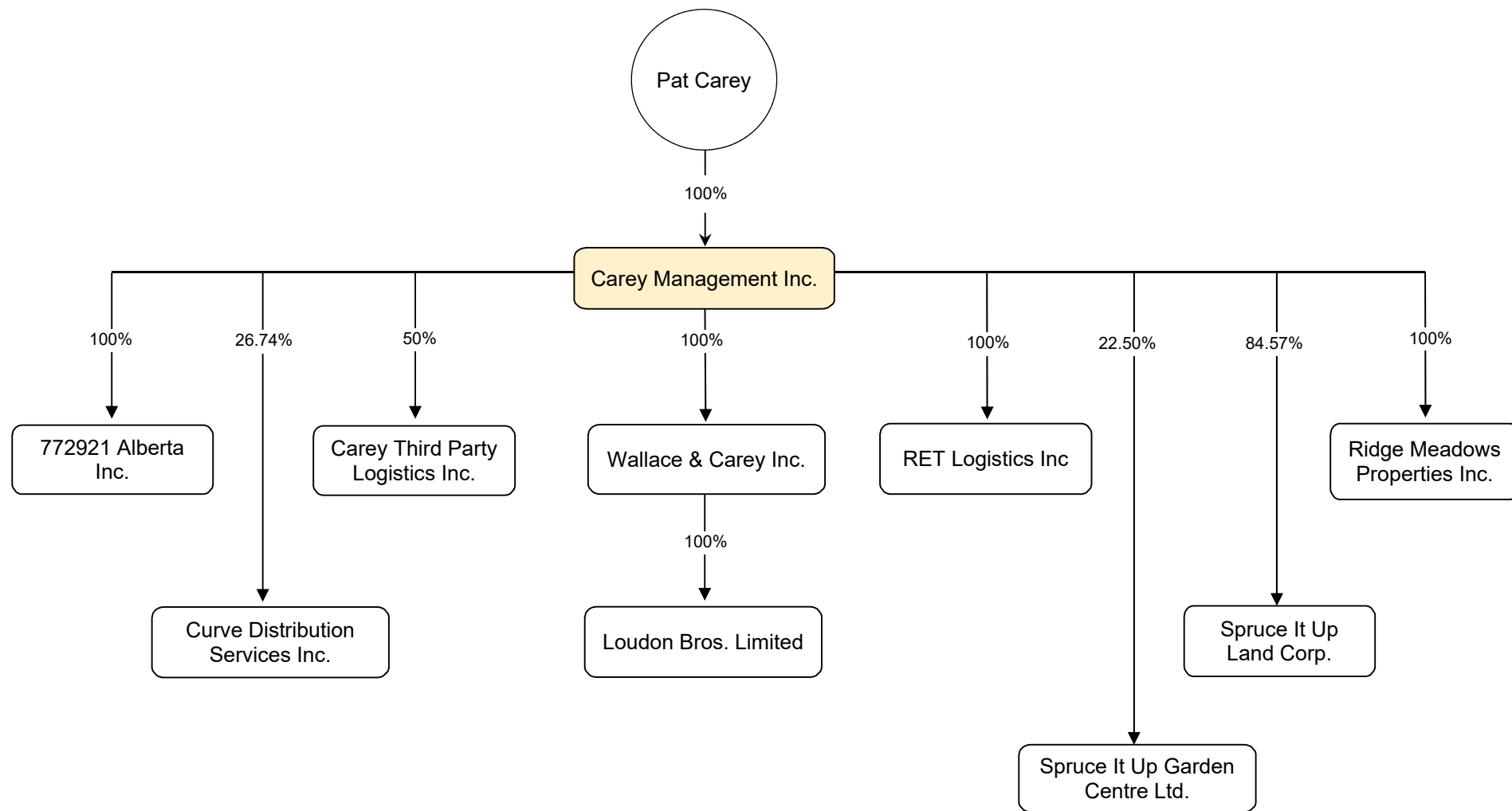
All of which is respectfully submitted,

KSV Restructuring Inc.

KSV RESTRUCTURING INC.,
in its capacity as monitor of
Wallace & Carey Inc., Loudon Bros Limited, and Carey Management Inc.
and not in its personal capacity

APPENDIX C

[ATTACHED]



APPENDIX D

[ATTACHED]

SECOND AMENDMENT TO TRANSITION SERVICES AGREEMENT

This Amendment to Transition Services Agreement (this “**Amendment**”), dated as of August __, 2025 (the “**Second Amendment Effective Date**”), is entered into among Wallace & Carey Inc. (“**W&C**”), Carey Management Inc. (“**CMI**” and together with W&C, the “**Debtors**”), 7-Eleven Canada, Inc. (“**SEC**”), and KSV Restructuring Inc., in its capacity as CCAA Monitor of the Debtors (collectively the “**Parties**”, and each, a “**Party**”).

RECITALS:

- A. The Parties entered into that certain Transition Services Agreement dated effective as of November 21, 2023 (the “**Initial TSA**”);
- B. Pursuant to subsection 18(a) of the Initial TSA and that certain letter dated on or about July 9, 2024, SEC exercised its right to extend the term of the Transition Services Agreement with respect to the Eastern Business for a period of 90 days, until November 19, 2024;
- C. Pursuant to subsection 18(a) of the Initial TSA and that certain letter dated on or about October 15, 2024, SEC exercised its right to further extend the term of the Initial TSA with respect to the Eastern Business for a period of 90 days, until February 17, 2025;
- D. Pursuant to subsection 18(a) of the Initial TSA and that certain letter dated on or about January 9, 2025, SEC exercised its right to further extend the term of the Initial TSA with respect to the Western Business for a period of 90 days, until May 22, 2025;
- E. Pursuant to an Amendment to Transition Services Agreement dated as of February 7, 2025 (the “**First TSA Amendment**”) the Parties amended the Initial TSA to, *inter alia*, provide for a single 15 month term (as amended, the “**Transition Services Agreement**”).
- F. Pursuant to subsection 18(a) of the Transition Services Agreement and that certain letter dated on or about March 18, 2025, SEC exercised its right to further extend the term of the Transition Services Agreement for a period of 90 days, until August 20, 2025;
- G. The Parties desire to amend the Transition Services Agreement on the terms and subject to the conditions set forth herein to adjust the term of the Transition Services Agreement; and
- H. Pursuant to Section 36 of the Transition Services Agreement, the amendments contemplated by the Parties must be contained in a written agreement signed by each Party.

NOW, THEREFORE, in consideration of the premises set forth above and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

- 1. Definitions. Capitalized terms used and not defined in this Amendment have the respective meanings assigned to them in the Transition Services Agreement.
- 2. Amendments to the Transition Services Agreement. As of the Second Amendment Effective Date, the Transition Services Agreement is hereby amended or modified as follows:
 - (a) Subsection 18.(a) of the Transition Services Agreement is hereby deleted and replaced in its entirety with the following language:

“(a) The term (the “**Term**”) of this TSA will commence on the Effective Date and will terminate on February 15, 2026, or on such other date as may be agreed to by the parties in writing prior to February 15, 2026.”

3. Limited Effect. Except as expressly provided in this Amendment, all of the terms and provisions of the Transition Services Agreement are and will remain in full force and effect and are hereby ratified and confirmed by the Parties. Without limiting the generality of the foregoing, the amendments contained herein will not be construed as an amendment to or waiver of any other provision of the Transition Services Agreement or as a waiver of or consent to any further or future action on the part of either Party that would require the waiver or consent of the other Party. On and after the Amendment Effective Date, each reference in the Transition Services Agreement to "this Agreement," "the Agreement," "hereunder," "hereof," "herein," or words of like import, and each reference to the Transition Services Agreement in any other agreements, documents, or instruments executed and delivered pursuant to, or in connection with, the Transition Services Agreement, will mean and be a reference to the Transition Services Agreement as amended by this Amendment.

4. Miscellaneous.

(a) Governing Law. This Amendment is governed by and construed in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein.

(b) Successors and Assigns. This Amendment is binding upon and shall enure to the benefit of the Parties hereto and their respective successors and assigns.

(c) Counterparts. This Amendment may be executed in counterparts, each of which is deemed an original, but all of which together constitutes one and the same agreement. Delivery of an executed counterpart of this Amendment by electronic means (including by DocuSign) shall be effective as delivery of an original executed counterpart of this Amendment.

(d) Entire Agreement. This Amendment constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the date first written above.

WALLACE & CAREY INC.

Per _____

Name:

Title:

CAREY MANAGEMENT INC.

Per _____

Name:

Title:

7-ELEVEN CANADA, INC.

Per _____

Name: Raghu Mahadevan

Title: Authorized Signatory

**KSV RESTRUCTING INC., in its capacity
as CCAA Monitor of the Debtors and not in
its personal or corporate capacity**

Per _____

Name:

Title:

APPENDIX E

[ATTACHED]

(Unaudited; \$CAD Thousands)

		Week ending																													
	Note	Aug 10	Aug 17	Aug 24	Aug 31	Sep 07	Sep 14	Sep 21	Sep 28	Oct 05	Oct 12	Oct 19	Oct 26	Nov 02	Nov 09	Nov 16	Nov 23	Nov 30	Dec 07	Dec 14	Dec 21	Dec 28	Jan 04	Jan 11	Jan 18	Jan 25	Feb 01	Feb 08	Feb 15	Total	
RECEIPTS																															
Collections from sales	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Total receipts		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
DISBURSEMENTS																															
Operating disbursements	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Remittance of tobacco taxes & GST	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Post-transaction payables	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Total operating disbursements		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Other (disbursements) / income																															
Professional fees	5	-	-	(50)	-	-	-	(25)	-	-	-	(25)	-	-	-	(25)	-	-	-	-	(25)	-	-	-	(25)	-	-	-	(25)	(200)	
Payment of excess cash to SEC	6	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(1,076)	(1,076)	
Total other disbursements		-	-	(50)	-	-	-	(25)	-	-	-	(25)	-	-	-	(25)	-	-	-	-	(25)	-	-	-	(25)	-	-	-	(1,101)	(1,276)	
Total disbursements		-	-	(50)	-	-	-	(25)	-	-	-	(25)	-	-	-	(25)	-	-	-	-	(25)	-	-	-	(25)	-	-	-	(1,101)	(1,276)	
Net cash flow		-	-	(50)	-	-	-	(25)	-	-	-	(25)	-	-	-	(25)	-	-	-	-	(25)	-	-	-	(25)	-	-	-	(1,101)	(1,276)	
Opening cash		1,276	1,276	1,276	1,226	1,226	1,226	1,226	1,201	1,201	1,201	1,201	1,176	1,176	1,176	1,176	1,151	1,151	1,151	1,151	1,151	1,126	1,126	1,126	1,126	1,101	1,101	1,101	1,101	1,276	
Net cash flow		-	-	(50)	-	-	-	(25)	-	-	-	(25)	-	-	-	(25)	-	-	-	-	(25)	-	-	-	(25)	-	-	-	(1,101)	(1,276)	
Ending cash		1,276	1,276	1,226	1,226	1,226	1,226	1,201	1,201	1,201	1,201	1,176	1,176	1,176	1,176	1,151	1,151	1,151	1,151	1,151	1,126	1,126	1,126	1,126	1,101	1,101	1,101	1,101	-	-	

Purpose and General Assumptions

1. The purpose of the projection is to present a cash flow forecast (the "Cash Flow Forecast") of Carey Management Inc., Wallace & Carey Inc., and Loudon Bros Limited (collectively, the "Applicants") from August 4, 2025 to February 15, 2026 (the "Period") in connection with the Transition Services Agreement dated November 20, 2023 (as amended, the "TSA") and the asset purchase agreement made as of February 7, 2025 (the "APA"), between the Applicants, as vendor, and 7-Eleven Distribution Canada Corp. ("SEDCC"), as purchaser (the "SEDCC Transaction"). The Cash Flow Forecast has been prepared based on hypothetical and most probable assumptions provided by the Applicants, with input from 7-Eleven Canada, Inc. ("SEC") and SEDCC. The Cash Flow Forecast does not include the cash held in the Monitor's trust account, representing proceeds from the SEC Transaction and the Excluded Assets.

Since the closing of the SEDCC Transaction on March 17, 2025 (the "SEDCC Closing Date"), substantially all operations of Wallace & Carey have been transitioned to SEDCC.

Hypothetical

5. Forecasted payment of the fees of the Monitor, its counsel, and the Applicants' counsel in connection with the TSA.

Most Probable

2. No receipts or operating disbursements are forecasted as substantially all of Wallace & Carey's operations have been transitioned to SEDCC.
3. Tobacco taxes and GST accrued after the SEDCC Closing Date have been paid by SEDCC.
4. All outstanding accounts payable incurred during the TSA period up to the SEDCC Closing Date have been paid. Amounts accrued after the SEDCC Closing Date are being paid by SEDCC directly.
6. Represents the distribution of the estimated excess cash to SEC after the payment of obligations incurred during the TSA period.

COURT OF KING'S BENCH OF ALBERTA

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 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.**

MANAGEMENT'S REPORT ON CASH FLOW STATEMENT
(paragraph 10(2)(b) of the CCAA)

The management of Wallace & Carey Inc. ("**Wallace & Carey**"), Loudon Bros Limited ("**Loudon Bros**"), and Carey Management Inc. ("**CMI**" together with Wallace & Carey and Loudon Bros, the "**Applicants**")¹, with input from 7-Eleven Canada Inc. ("**SEC**") and 7-Eleven Distribution Canada Corp. ("**SEDCC**"), have developed the assumptions and prepared the attached statement of projected cash flow as of the 8th day of August, 2025 for the period August 4, 2025 to February 15, 2026 (the "**Cash Flow**"). All such assumptions are disclosed in the notes to the Cash Flow.

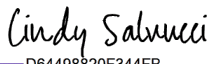
The hypothetical assumptions are reasonable and consistent with the purpose of the Cash Flow as described in Note 1 to the Cash Flow, and the probable assumptions are suitably supported and consistent with the plans of the Applicants and provide a reasonable basis for the Cash Flow.

Since the Cash Flow is based on assumptions regarding future events, actual results will vary from the information presented and the variations may be material.

The Cash Flow has been prepared solely for the purpose outlined in Note 1 using a set of hypothetical and probable assumptions set out therein. Consequently, readers are cautioned that the Cash Flow may not be appropriate for other purposes.

Dated at Calgary, Alberta this 8th day of August, 2025.

WALLACE & CAREY INC., LOUDON BROS LIMITED, AND CAREY MANAGEMENT INC.

Signed by:

D64498820E344EB

Per: Cindy Salvucci
Financial Controller

¹ As the Applicants no longer have any employees, Management's Report on Cash Flow was executed by the previous financial controller of Wallace & Carey, who has been temporarily seconded by SEDCC to Wallace & Carey to conclude the transition of the Applicants' business to SEDCC and SEC.

APPENDIX F

[ATTACHED]

COURT OF KING'S BENCH OF ALBERTA

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 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.**

MONITOR'S REPORT ON CASH FLOW STATEMENT
(paragraph 23(1)(b) of the CCAA)

The attached statement of projected cash-flow of Wallace & Carey Inc. ("**Wallace & Carey**"), Loudon Bros Limited ("**Loudon Bros**"), and Carey Management Inc. ("**CMI**", and together with Wallace & Carey and Loudon Bros, the "**Applicants**"), as of the 8th day of August, 2025, consisting of a weekly projected cash flow statement for the period August 4, 2025 to February 15, 2026 (the "**Cash Flow**") has been prepared by the management of the Applicants¹ ("**Management**"), with input from 7-Eleven Canada Inc. ("**SEC**") and 7-Eleven Distribution Canada Corp. ("**SEDCC**"), for the purpose described in Note 1, using the probable and hypothetical assumptions set out in the notes to the Cash Flow.

Our review consisted of inquiries, analytical procedures, and discussions related to information supplied by the Management and employees of the Applicants. Since hypothetical assumptions need not be supported, our procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Cash Flow. We have also reviewed the support provided by Management for the probable assumptions and the preparation and presentation of the Cash Flow.

Based on our review, nothing has come to our attention that causes us to believe that, in all material respects:

- a) the hypothetical assumptions are not consistent with the purpose of the Cash Flow;
- b) as at the date of this report, the probable assumptions developed by Management are not suitably supported and consistent with the plans of the Applicants or do not provide a reasonable basis for the Cash Flow, given the hypothetical assumptions; or
- c) the Cash Flow does not reflect the probable and hypothetical assumptions.

Since the Cash Flow is based on assumptions regarding future events, actual results will vary from the information presented even if the hypothetical assumptions occur, and the variations may be material. Accordingly, we express no assurance as to whether the Cash Flow will be achieved. We express no opinion or other form of assurance with respect to the accuracy of any financial information presented in this report or relied upon in preparing this report.

¹ As the Applicants no longer have any employees, "Management" refers to the previous controller of Wallace & Carey, who has been temporarily seconded by SEDCC to Wallace & Carey to conclude the transition of the Applicants' business to SEDCC and SEC.

The Cash Flow has been prepared solely for the purpose described in Note 1 of the Cash Flow and readers are cautioned that it may not be appropriate for other purposes.

Dated at Calgary, Alberta this 8th day of August, 2025.

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.
IN ITS CAPACITY AS CCAA MONITOR OF
WALLACE & CAREY INC., LOUDON BROS LIMITED, AND CAREY MANAGEMENT INC.
AND NOT IN ITS PERSONAL CAPACITY**

APPENDIX G

[ATTACHED]

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT PROCEEDINGS OF
WALLACE & CAREY INC., LOUDON BROS LIMITED and CAREY MANAGEMENT INC.**

**SUMMARY OF PROFESSIONAL FEES
FOR THE PERIOD OF NOVEMBER 1, 2024 TO JULY 31, 2025**

	Invoice	Fees	Costs	Subtotal	GST	Total
Monitor's Fees						
November 1, 2024 to November 30, 2024	4082	\$ 38,133.00	\$ -	\$ 38,133.00	\$ 1,906.65	\$ 40,039.65
December 1, 2024 to December 31, 2024	4146	10,422.25	11.65	10,433.90	521.70	10,955.60
January 1, 2025 to January 31, 2025	4212	17,827.75	190.00	18,017.75	900.89	18,918.64
February 1, 2025 to February 28, 2025	4268	28,729.75	-	28,729.75	1,436.49	30,166.24
March 1, 2025 to March 31, 2025	4341	11,814.00	32.75	11,846.75	592.34	12,439.09
April 1, 2025 to April 30, 2025	4391	30,553.00	54.53	30,607.53	1,530.38	32,137.91
May 1, 2025 to May 31, 2025	4467	17,622.50	21.23	17,643.73	882.19	18,525.92
June 1, 2025 to June 30, 2025	4555	11,037.00	94.53	11,131.53	556.58	11,688.11
July 1, 2025 to July 31, 2025	4571	10,807.00	-	10,807.00	540.35	11,347.35
Total Monitor's Fees		176,946.25	404.69	177,350.94	8,867.57	186,218.51
Monitor's Legal Counsel Fees						
November 1, 2024 to November 30, 2024	2261392	19,173.50	-	19,173.50	958.68	20,132.18
December 1, 2024 to December 31, 2024	2265753	3,366.00	-	3,366.00	168.30	3,534.30
January 1, 2025 to January 31, 2025	2269329	9,088.50	371.44	9,459.94	466.05	9,925.99
February 1, 2025 to February 28, 2025	2272845	2,070.00	-	2,070.00	103.50	2,173.50
March 1, 2025 to March 31, 2025	2277238	4,851.00	-	4,851.00	242.55	5,093.55
April 1, 2025 to April 30, 2025	2280293	13,075.50	29.00	13,104.50	653.78	13,758.28
May 1, 2025 to May 31, 2025	2283846	3,215.00	113.29	3,328.29	163.15	3,491.44
June 1, 2025 to June 30, 2025	2288633	2,245.50	63.00	2,308.50	114.45	2,422.95
July 1, 2025 to July 31, 2025	2291088	1,620.00	-	1,620.00	81.00	1,701.00
Total Monitor's Legal Counsel Fees		58,705.00	576.73	59,281.73	2,951.46	62,233.19
Total Professional Fees		\$ 235,651.25	\$ 981.42	\$ 236,632.67	\$ 11,819.03	\$ 248,451.70