

CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

**SUPERIOR COURT**  
(Commercial Division)

(Sitting as a court designated pursuant to the  
*Companies' Creditors Arrangement Act*, RSC  
1985, c. C-36)

No.: 500-11-063787-242

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**IN THE MATTER OF THE COMPROMISE  
OR ARRANGEMENT OF:**

**GOLI NUTRITION INC.,**

-and-

**GOLI NUTRITION INC.**

Debtors-Applicants

-and-

**STEVEN'S GLOBAL LOGISTICS INC.**

Defendant

-and-

**DELOITTE RESTRUCTURING INC.**

Monitor

**Application to Enforce the Stay of Proceedings**  
(Sections 11, 11.02 of the *Companies' Creditors Arrangement Act*,  
RSC 1985, c C-36)

**TO THE HONOURABLE JUSTICE MARTIN F. SHEEHAN OR ONE OF THE JUDGES OF THE  
SUPERIOR COURT, SITTING IN COMMERCIAL DIVISION, IN THE JUDICIAL DISTRICT OF  
MONTRÉAL, THE APPLICANTS RESPECTFULLY SUBMIT AS FOLLOWS:**

**I. INTRODUCTION**

1. By the present *Application to Enforce the Stay of Proceedings* (the "**Application**"), the Applicants seek *inter alia* an order from this Court compelling the release of certain goods (as more fully described below) by the Defendant, a storage- and transportation-service provider of the Applicants.

**II. PROCEDURAL BACKGROUND**

2. By an *Application for the Issuance of a First Day Initial Order, an Amended and Restated Initial Order and Other Relief, including the Approval of a Transaction and an Agency Agreement* dated March 15, 2024, a copy of which is filed herewith as **Exhibit S-1**, the Applicants sought *inter alia* the following relief:
  - a. a declaration that the Applicants are corporations to which the CCAA applies;
  - b. a stay of all proceedings and remedies taken or that might be taken in respect of the Applicants and their respective past, present or future directors and officers, or

any of their property, except as otherwise set forth in the Initial Order or as otherwise permitted by law, for an initial period of ten (10) days in accordance with the CCAA; and

- c. the appointment Deloitte Restructuring Inc. (“**Deloitte**” or the “**Monitor**”) as the monitor of the Applicants in these proceedings and granting the Monitor the powers sought by the present application.

3. On March 18, 2024, this Court issued a First-Day Initial Order (the “**FDIO**”), a copy of which is filed herewith as **Exhibit S-2**, that *inter alia*:

- a. declared the Applicants are debtors companies to which the CCAA applies;
- b. provided for the following stay of proceedings against the Applicants (collectively, the “**Stay of Proceedings**”):

10. **ORDERS** that until and including March 27, 2024 (the “Stay Period”), no proceeding or enforcement process in any court or tribunal (each, a “Proceeding”) shall be commenced or continued against or in respect of the Applicants, or affecting the Applicants’ business operations and activities (the “Business”) or the Property (as defined herein below), including as provided in paragraph 14 hereinbelow except with leave of this Court. Any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further order of this Court, the whole subject to subsection 11.1 CCAA.

[...]

14. **ORDERS** that during the Stay Period, and subject to, *inter alia*, subsection 11.1 CCAA, all rights and remedies of any individual, natural person, firm, corporation, partnership, limited liability company, trust, joint venture, association, organization, governmental body or agency, or any other entity (all of the foregoing, collectively being “Persons” and each being a “Person”) against or in respect of the Applicants, or affecting the Business, the Property or any part thereof, are hereby stayed and suspended except with leave of this Court.

[...]

16. **ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, resiliate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicants, except with the written consent of the Applicants and the Monitor, or with leave of this Court.

[...]

17. **ORDERS** that during the Stay Period and subject to paragraph 19 hereof and subsection 11.01 CCAA, all Persons having verbal or written agreements with the Applicants or statutory or regulatory mandates for the supply of goods or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, utility, or other goods or services made available to the Applicants, are hereby restrained until further order of this Court from discontinuing, altering, interfering with

or terminating the supply of such goods or services as may be required by the Applicants, and that the Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses, domain names or other services, provided in each case that the normal prices or charges for all such goods or services received after the date of the Order are paid by the Applicants, without having to provide any security deposit or any other security, in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and the Applicants, with the consent of the Monitor, or as may be ordered by this Court.

[Emphasis added]

c. appointed Deloitte to act as Monitor within the context of these CCAA proceedings.

4. By an Amended Application for the Issuance of a First Day Initial Order, an Amended and Restated Initial Order and Other Relief, including the Approval of a Transaction and an Agency Agreement dated March 26, 2024 (the "**Amended Application**"), a copy of which is filed herewith as **Exhibit S-3**, the Applicants are seeking that this honourable Court issue, amongst other things, an initial order under the CCAA extending the Stay of Proceedings, including the relief mentioned above, to June 28, 2024. The hearing on the Amended Application is scheduled for March 27, 2024.

### III. RELATIONSHIP BETWEEN THE APPLICANTS AND THE DEFENDANT

5. The relationship between the Applicants and the Defendant is governed *inter alia* by a service agreement consisting of Warehouse Terms and Conditions and Terms and Conditions (both unsigned; collectively, the "**Services Agreement**") filed herewith as **Exhibit S-4 en liasse**.
6. The Defendant provides the Applicants with storage and transportation services in respect of the shipment of the Applicants' goods throughout the United States. In essence, the Defendant receives the Applicants' products, stores the same at their facilities, and then ships them to various locations as instructed by the Applicants.
7. At all material times, the Defendant has and continues to act as an agent for the Applicants for the purposes of storing and delivering the Applicants' goods.
8. On March 23, 2024, counsel for the Defendant reached out to counsel for the Monitor to discuss certain goods of the Applicants currently in the possession of the Defendant (the "**Withheld Goods**") and the terms upon which such product would continue to be shipped, as appears from communications filed herewith as **Exhibit S-5 en liasse**. An inventory of the Withheld Goods and the invoices related thereto is filed herewith as **Exhibit S-6**.
9. On March 25, 2024, counsel for the Defendant, Applicants, and Monitor held a call wherein the Defendant's counsel advised other counsel that the Withheld Goods would not be shipped until substantially all of an outstanding balance on previously shipped items of \$178,746.00 USD (the "**Pre-Petition Balance**") was paid to the Defendant and an amount of \$135,634.66 USD (an amount with respect to the invoices related to the Withheld Goods; the "**Post-Petition Balance**") was paid to the Defendant in respect of the Withheld Goods (Exhibit S-5 *en liasse*). A summary of the invoices respecting the Pre-Petition Balance are filed herewith as **Exhibit S-7**.

10. Despite negotiations between the parties attempting to resolve the dispute, the Defendant is refusing, neglecting, or omitting to release the Withheld Goods until payments of both the Pre-Petition Balance and Post-Petition Balance are made (collectively, the “**Seizure**”).
11. The Defendant justifies the Seizure by relying on Section 5 of the Warehouse Terms and Conditions and Section 15 of the Terms and Conditions, which provide for a general and continuing lien on any and all property of the Applicants coming into the Defendant’s actual or constructive possession as security for the Applicants’ obligations under the Service Agreement (Exhibit S-4 *en liasse*).
12. Notwithstanding the validity of the foregoing argument, however, it remains the case that, both under US and Quebec law, any right of retention in favour of the Defendant can only be exercised with respect to amounts due in connection with obligations incurred post-filing. The Pre-Petition Balance constitutes a pre-filing obligation that has no relationship whatsoever with the Withheld Goods. As such, the Applicants’ refusal, neglect, or omission to pay the Pre-Petition Balance cannot serve as a basis for the Seizure in respect of the Withheld Goods, which concern obligations incurred post-filing.

#### **IV. INVALIDITY OF SEIZURE & CONCLUSIONS**

13. The Seizure is in blatant violation of s. 11.02(1) of the CCAA, the FDIO and the Stay of Proceedings therein. It also disregards the requirement that a creditor obtain a lifting of the Stay from this Court if it wishes to institute proceedings against Applicants or their property.
14. The Seizure also disregards the equal treatment of the Applicants’ stakeholders and threatens the preservation of the *status quo* during the present CCAA proceedings.
15. If this Application is not granted on an urgent basis, all of the Applicants’ stakeholders will suffer a significant, serious and irreparable prejudice, as the Seizure will affect sales and thus the maximization of the value of the Applicants’ estate to the benefit of all of the Applicants’ stakeholders. Furthermore, if the Withheld Goods are unable to be shipped in a timely manner, their ultimate retail sales value will diminish.
16. In addition to the foregoing, the Seizure seriously compromises the Applicants’ efforts to restructure under the CCAA. This is the purpose of the present CCAA proceedings and the entire reason for the Stay of Proceedings.
17. The Seizure is a proceeding commenced for an improper purpose – namely, to provide the Defendant with leverage and a preference over other unsecured creditors – to which the Defendant is not entitled at law.
18. Given the circumstances and the urgency related thereto, the Applicants hereby request that the order to be rendered on the present Application be executory notwithstanding appeal.
19. Furthermore, the Applicants reserve their right to claim damages against the Defendant in connection with the Seizure.
20. In light of the foregoing, the present Application is well-founded in fact and law.

**FOR THESE REASONS, MAY IT PLEASE THIS HONOURABLE COURT TO:**

**GRANT** the present *Application to Enforce the Stay of Proceedings* (the “**Application**”);

**ORDER** the Defendant, Steven’s Global Logistics Inc., to comply with the stay of proceedings under the *Companies’ Creditors Arrangement Act* (“**CCAA**”) and First-Day Initial Order (“**FDIO**”; Exhibit S-2);

**DECLARE** that the seizure by the Defendant of the seized goods (Exhibit S-6), wherever located, to have been carried out in breach of the section 11.02(1) CCAA and paragraphs 10, 14, and 16-17 of the FDIO (Exhibit S-2);

**ORDER** the Defendant to immediately release the goods seized (Exhibit S-6) within 12 hours of the payment of the amount of \$135,634.66 USD by the Applicants, Goli Nutrition Inc. and Goli Nutrition Inc., to the Defendant;

**RESERVE** the Applicants’ right to claim damages against the Defendant with respect to the facts alleged in the present Application;

**ORDER** the provisional execution of the judgement to be rendered on the present Application notwithstanding appeal;

**THE WHOLE** with costs against the Defendant.

MONTRÉAL, March 26, 2024

*Davies Ward Phillips & Vineberg LLP*

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Davies Ward Phillips & Vineberg LLP  
Counsel for the Debtors/Applicants, Goli Nutrition Inc.

**CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL**

**SUPERIOR COURT**  
(Commercial Division)

(Sitting as a court designated pursuant to the  
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-and-

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Debtors-Applicants

-and-

**STEVEN'S GLOBAL LOGISTICS INC.**

Defendant

-and-

**DELOITTE RESTRUCTURING INC.**

Monitor

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**LIST OF EXHIBITS**

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- Exhibit S-1** Copy of the Application for a First Day Initial Order and Other Relief
- Exhibit S-2** Copy of the draft First Initial Order
- Exhibit S-3** Copy of the Amended Application
- Exhibit S-4** Copy of the Service Agreement *en liasse*
- Exhibit S-5** Copy of the Communications Between the Parties
- Exhibit S-6** Copy of the List of Inventory
- Exhibit S-7** Copy of the Summary of Pre-Filing Invoices

Montréal, March 26, 2024

*Davies Ward Phillips & Vineberg LLP*

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**DAVIES WARD PHILLIPS & VINEBERG LLP**

Attorneys for the Debtors/Applicants, GOLI  
Nutrition Inc.

**PROVINCE OF QUÉBEC  
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**NOTICE OF PRESENTATION**

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**TAKE NOTICE** that the attached *Application to Enforce the Stay of Proceedings* will be presented before the Honourable Martin F. Sheehan of the Superior Court of Québec, sitting in the Commercial Division, in and for the judicial District of Montréal, at the Montréal Courthouse located at 1 Notre-Dame Street, in the City of Montreal, Province of Québec, on March 27, 2024 in room 16.11 and at 9:30 am.

**DO GOVERN YOURSELVES ACCORDINGLY.**

Montréal, March 26, 2024

*Davies Ward Phillips & Vineberg LLP*

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**DAVIES WARD PHILLIPS & VINEBERG LLP**

Attorneys for the Debtors/Applicants, GOLI  
Nutrition Inc.

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Monitor

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**APPLICATION TO ENFORCE THE STAY OF  
PROCEEDINGS**

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ORIGINAL

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