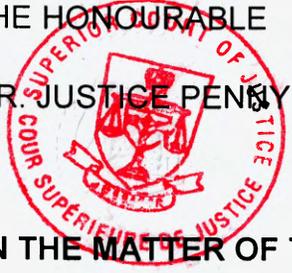


**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE) TUESDAY, THE 9TH
MR. JUSTICE PENNY) DAY OF OCTOBER, 2018



**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C.
1985, C. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
KRAUS BRANDS INC., KRAUS CANADA LTD., KRAUS CARPET INC.,
KRAUS PROPERTIES INC., KRAUS USA INC., and STRUDEX INC.**

Applicants

**AMENDED ORDER
(Distribution to Wells Fargo, Approval of Liquidation Agreement
and CCAA Stay Extension)**

THIS MOTION, made by the Applicants and the partnerships listed in Schedule "A" hereto (collectively, the "**Kraus Group**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended ("**CCAA**"), for an order, among other things, (i) authorizing and directing Deloitte Restructuring Inc. ("**Deloitte**"), in its capacity as court-appointed monitor of the Kraus Group ("**Monitor**"), to make a distribution to Wells Fargo Capital Finance Corporation Canada ("**Wells Fargo**"), in partial satisfaction of its secured claim against the Kraus Group; (ii) approving the asset marketing agreement ("**Asset Marketing Agreement**"), made between certain of the Applicants ("**Broadloom Vendors**") and Hilco Industrial Acquisitions Canada ULC ("**Agent**") and dated as of October 2, 2018 in the form attached as Exhibit B to the

Affidavit of Christopher Emmott, sworn October 2, 2018 ("**Third Emmott Affidavit**"); (iii) extending the Stay Period (as defined in paragraph 14 of the order of the Honourable Mr. Justice Penny, dated September 11, 2018 ("**Initial Order**")), as amended and restated by order dated September 18, 2018, to and including January 9, 2019 ("**Stay Extension**"); (iv) approving the First Report of the Monitor, dated September 17, 2018 ("**First Report**"), and the Second Report of the Monitor, dated October 4, 2018 ("**Second Report**") and the activities of the Monitor as set out therein; and (v) approving the Monitor's fees and disbursements and those of the Monitor's counsel, Miller Thomson LLP, as set out in the Second Report was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING, the notice of motion dated October 2, 2018, the Third Emmott Affidavit, the First Report, and the Second Report, and on hearing the submissions of counsel for the Kraus Group, counsel for the Monitor, and counsel for Wells Fargo and no one appearing for any other person on the service list, although properly served as appears from the affidavit of service, filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the notice of motion, the motion record, and the Second Report is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that any capitalized term used and not defined herein shall have the meaning ascribed thereto in the Asset Marketing Agreement.

APPROVAL OF ASSET MARKETING AGREEMENT

3. **THIS COURT ORDERS** that the Asset Marketing Agreement be and it is hereby authorized and approved and that the execution of the Asset Management Agreement by the Broadloom Vendors is hereby authorized and approved with such minor amendments as the Broadloom Vendors (with the consent of the Monitor) and the Agent may agree to in writing.

SALE

4. **THIS COURT ORDERS** that the Agent is authorized to market and sell the Assets, free and clear of all liens, claims, encumbrances, security interests, mortgages, charges, trusts, deemed trusts, executions, levies, financial, monetary or other claims, whether or not such claims have attached or been perfected, registered or filed and whether secured, unsecured, quantified or unquantified, contingent or otherwise, whatsoever and howsoever arising, and whether such claims arose or came into existence prior to the date of this Order or came into existence following the date of this Order (in each case, whether contractual, statutory, arising by operation of law, in equity or otherwise) (all of the foregoing, collectively "**Claims**"), including, without limitation the Administration Charge, the Directors' Charge, as such charges are defined in the Initial Order, and any other charges hereafter granted by this Court in these proceedings (collectively the "**CCAA Charges**"), and all Claims, charges, security interests or liens evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal or movable property registration system (all of such Claims, charges (including the CCAA Charges), security interests and liens collectively referred to herein as "**Encumbrances**"), which Encumbrances will attach instead to the Gross Proceeds

and any amounts due and payable by the Agent to the Broadloom Vendors under the Asset Management Agreement, in the same order and priority as they existed on October 9, 2018 (“**Sale Commencement Date**”).

5. **THIS COURT ORDERS** that subject to the terms of this Order and the Initial Order, or any greater restrictions in the Asset Marketing Agreement, the Agent shall have the right to enter and use the Location and all related Location services and all furniture, trade fixtures, and equipment located at the Location and other assets of the Broadloom Vendors as designated under the Asset Management Agreement for the purpose of conducting the sale, and for such purposes the Agent shall be entitled to the benefit of the Kraus Group’s stay of proceedings provided under the Initial Order, as such stay of proceedings may be extended by further Order of the Court.

6. **THIS COURT ORDERS** that until the earlier of the date the Assets are removed from the Location or March 31, 2019, the Agent shall have the right to use the Kraus Group’s trademarks and logos relating to and used in connection with the Assets solely for the purpose of advertising and conducting the sale in accordance with the terms of the Asset Marketing Agreement and this Order.

7. **THIS COURT ORDERS** that upon delivery of a Monitor’s certificate to the Agent substantially in the form attached as Schedule “B” hereto (“**Monitor’s Certificate**”), and subject to payment in full by the Agent to the Broadloom Vendors of the Gross Proceeds and all other amounts due to the Broadloom Vendors under the Asset Marketing Agreement, all of the Kraus Group’s right, title, and interest in and to any Assets shall vest absolutely in the Agent, free and clear of and from any and all Claims,

including without limiting the generality of the foregoing, the Encumbrances, and such Encumbrances will instead attach to the Gross Proceeds, and all other amounts due and payable to the Broadloom Vendors under the Asset Marketing Agreement, in the same order and priority as they existed on the Sale Commencement Date. Nothing in this paragraph 7 shall discharge the obligations of the Agent pursuant to the Asset Marketing Agreement, or the rights or claims of the Broadloom Vendors in respect thereof including, without limitation, the obligations of the Agent to account for and remit the Gross Proceeds to the Broadloom Vendors.

8. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor's Certificate forthwith after delivery thereof.

AGENT LIABILITY

9. **THIS COURT ORDERS** that the Agent shall act solely as an agent to the Broadloom Vendors and that it shall not be liable for any claims against the Broadloom Vendors other than as expressly provided in the Asset Marketing Agreement (including the Agent's indemnity obligations thereunder). More specifically:

- (a) the Agent shall not be deemed to be an owner or in possession, care, control or management of the Location, of the assets located therein or associated therewith or of the Kraus Group's employees located at the Location or any other property of the Kraus Group;
- (b) the Agent shall not be deemed to be an employer, or a joint or successor employer or a related or common employer or payor within the meaning of any legislation governing employment or labour standards or pension benefits or health and safety or other statute, regulation or rule of law or

equity for any purpose whatsoever, and shall not incur any successorship liabilities whatsoever; and

- (c) the Kraus Group shall bear all responsibility for any liability whatsoever (including without limitation losses, costs, damages, fines or awards) relating to claims of customers, employees and any other persons arising from events occurring at the Location during and after the Term in connection with the sale, except in accordance with the Asset Marketing Agreement.

AGENT AN UNAFFECTED CREDITOR

10. **THIS COURT ORDERS** that the Asset Marketing Agreement shall not be repudiated, resiliated or disclaimed by the Broadloom Vendors nor shall the claims of the Agent pursuant to the Asset Marketing Agreement be comprised or arranged pursuant to any plan of arrangement or compromise among the Kraus Group and its creditors ("**Plan**"). The Agent shall be treated as an unaffected creditor in these proceedings and under any Plan.

11. **THE COURT ORDERS** that the Broadloom Vendors are hereby authorized and directed to remit, in accordance with the Asset Marketing Agreement, all amounts that become due to the Agent thereunder.

12. **THIS COURT ORDERS** that no Encumbrances shall attach to any amounts payable or to be credit or reimbursed to, or retained by, the Agent pursuant to the Asset Marketing Agreement including, without limitation, any amounts to be reimbursed by the Broadloom Vendors to the Agent pursuant to the Asset Marketing Agreement, and the Broadloom Vendors will pay such amounts to the Agent in accordance with the Asset Marketing Agreement, and at all times the Agent will retain such amounts, free and

clear of all Encumbrances, notwithstanding any enforcement or other process or Claims, all in accordance with the Asset Marketing Agreement.

CLIENT ACCOUNT

13. **THIS COURT ORDERS** that no individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) shall take any action, including any collection or enforcement steps, with respect to the Gross Proceeds and the Gross Proceeds deposited into the Client Account pursuant to the Asset Marketing Agreement.

14. **THIS COURT ORDERS** that the Gross Proceeds deposited in the Client Account by or on behalf of the Agent or Broadloom Vendors pursuant to the Asset Marketing Agreement shall be and be deemed to be held in trust for the Broadloom Vendors and the Agent, as the case may be and, except as otherwise provided in paragraphs 4 and 7 of this Order, no Person shall have any claim, ownership interest or other entitlement in or against such Gross Proceeds including, without limitation, by reason of any claims, disputes, rights of offset, set off, or claims for contribution or indemnity that it may have against or relating to the Kraus Group.

DISTRIBUTION TO WELLS FARGO

15. **THIS COURT ORDERS** that the Monitor be and is hereby authorized and directed to forthwith distribute \$32,334,622 to Wells Fargo, together with such further amounts as may become available, in repayment of amounts owing by the Kraus Group to Wells Fargo relating to advances made under the credit agreement dated August 6,

2013 between Kraus Canada LP, Strudex LP, Kraus Carpet LP and Kraus USA Inc. and Wells Fargo ("**Wells Fargo Distribution**").

16. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any application for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) ("**BIA**") in respect of the Kraus Group or any part thereof and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Kraus Group or any part thereof;

the Wells Fargo Distribution shall be binding on any trustee in bankruptcy that may be appointed in respect of the Kraus Group and shall not be void or voidable by creditors of the Kraus Group, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation and shall, upon the receipt thereof by Wells Fargo, be free of all claims, liens, security interests, charges or encumbrances granted by or relating to the Kraus Group.

STAY EXTENSION

17. **THIS COURT ORDERS** that the Stay Period (as defined in paragraph 14 of the Initial Order) be and it is hereby extended until and including January 9, 2019.

APPROVAL OF MONITOR REPORTS

18. **THIS COURT ORDERS** that the First Report and the Second Report, and the activities of the Monitor referred to therein, be and they are hereby approved.

APPROVAL OF FEES

19. **THIS COURT ORDERS** that the fees and disbursements of the Monitor and its counsel, Miller Thomson LLP, as disclosed in the Second Report, be and they are hereby approved.

GENERAL

20. **THIS COURT HEREBY REQUESTS** the aid and recognition of any Court, tribunal, regulatory or administrative bodies have jurisdiction in Canada or in the United States of America, to give effects to this Order and to assist the Kraus Group, the Monitor, and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Kraus Group and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to Kraus Carpet Inc. in any foreign proceeding, or to assist the Kraus Group and the Monitor and their respective agents in carrying out the terms of this Order.



ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

OCT 25 2018

PER / PAR:



SCHEDULE "A"

Partnerships

Kraus Brands LP

Kraus Canada LP

Kraus Carpet LP

Kraus Properties LP

Strudex LP

Schedule "B"

Monitor's Certificate

Court File No.: CV-18-604759-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C.
1985, C. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
KRAUS BRANDS INC., KRAUS CANADA LTD., KRAUS CARPET INC.,
KRAUS PROPERTIES INC., KRAUS USA INC., and STRUDEX INC.**

Applicants

MONITOR'S CERTIFICATE

RECITALS

A. Capitalized terms not otherwise defined herein have the meanings ascribed to them in the asset marketing agreement ("**Asset Marketing Agreement**"), dated as of October 2, 2018, between certain of the Applicants ("**Broadloom Vendors**") and Hilco Industrial Acquisitions Canada ULC ("**Agent**"), in the form attached as Exhibit B to the Affidavit of Christopher Emmott, sworn October 2, 2018.

B. Pursuant to an Order of the Court dated October 9, 2018, the Court ordered that all of the Assets shall vest absolutely in the Agent, free and clear of and from any and all claims and encumbrances, upon the delivery by the Monitor to the Agent of a certificate certifying that (i) the sale has ended, and (ii) the Gross Proceeds and all other amounts due and payable to the Broadloom Vendors under the Asset Marketing Agreement have been paid in full to the Broadloom Vendors.

C. Deloitte Restructuring Inc., in its capacity as Court-appointed Monitor in the *Companies' Creditors Arrangement Act* proceedings of the Kraus Group certifies that it has been informed by the Agent and the Broadloom Vendors that:

1. The sale has ended; and
2. The Gross Proceeds and all other amounts due and payable to the Broadloom Vendors under the Asset Marketing Agreement have been paid in full to the Broadloom Vendors.

DATED as of this ___ day of ___, 201__.

DELOITTE RESTRUCTURING INC.,
solely in its capacity as Court-appointed
Monitor of the Kraus Group, and not in its
personal capacity

By: _____
Name:
Title:

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF KRAUS BRANDS INC., KRAUS CANADA LTD., KRAUS CARPET INC.,
KRAUS PROPERTIES INC., KRAUS USA INC., and STRUDEX INC.

Court File No.: CV-18-604759-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced in Toronto

AMENDED ORDER
**(Distribution to Wells Fargo, Approval of
Liquidation Agreement and Stay Extension)**

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