

**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

B E T W E E N:

THE VANCOR GROUP INC.

Applicant

and

2744364 ONTARIO LIMITED o/a TRUE NORTH CANNABIS CO., 2668905
ONTARIO INC. o/a BAMBOO BLAZE, AND 2767888 ONTARIO INC.

Respondents (Debtors)

FACTUM OF THE APPLICANT

January 24, 2025

MILLER THOMSON LLP

Scotia Plaza
40 King Street West, Suite 5800
P.O. Box 1011
Toronto ON M5H 3S1

Larry Ellis LSO# 49313K

Email: lellis@millerthomson.com
Tel: 416.595.8639

David Ward LSO#: 33541W

dward@millerthomson.com
Tel: 416.595.8625

Patrick Corney LSO# 65462N

pcorney@millerthomson.com
Tel: 416.595.8555

Lawyers for the Applicant, The Vancor Group
Inc.

TO: SERVICE LIST

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

B E T W E E N:

THE VANCOR GROUP INC.

Applicant

- and -

2744364 ONTARIO LIMITED (d/b/a True North Cannabis Co.), 2744364 ONTARIO LIMITED
(d/b/a Bamboo Blaze), AND 2767888 ONTARIO INC.

Respondents (Debtors)

SERVICE LIST
(as of January 24, 2025)

NAME	METHOD OF DELIVERY	ROLE/INTEREST
MILLER THOMSON LLP 40 King Street West, Suite 5800 Toronto, ON M5H 3S1 Larry Ellis lellis@millerthomson.com Tel: 416.595.8639 David Ward dward@millerthomson.com Tel: 416.595.8625 Patrick Corney pcorney@millerthomson.com Tel: 416.595.8555	Email	Counsel to the Applicant

DELOITTE RESTRUCTURING INC. 8 Adelaide Street West Toronto, ON M5H 0A9 Todd Ambachtsheer tambachtsheer@deloitte.ca Tel: 416.607.0781	Email	Monitor
BLANEY MCMURTRY LLP 2 Queen Street East, Suite 1500 Toronto, Ontario M5C 3G5 David T. Ullmann dullmann@blaney.com 416.596.4289 Alexandra Teodorescu ateodorescu@blaney.com 416.596.4279 Anisha Samat asamat@blaney.com 416.593.3924	Email	Counsel to the Monitor
Shawn Dym sdym@yorkplains.com	Email	Proposed Chief Restructuring Officer
Alena Hapanovich 960 King Street East, 7 Cambridge, ON, N3H 3P3 alonagap@me.com	Email	
Corry Van Iersel 84 Brewster Place Cambridge, ON, N3C 3T9 Corry@vancorgroup.com	Email	

<p>BORDEN LADNER GERVAIS LLP Bay Adelaide Centre, East Tower, 22 Adelaide St W #3400 Toronto, ON M5H 4E3</p> <p>Jasmine Lothian JLothian@blg.com Tel: 416.367.6452</p> <p>Kevin Lambie KLambie@blg.com Tel: 416.367.7290</p>	<p>Email</p>	<p>Counsel for the Respondents (Debtors)</p>
<p>MPG LAW PROFESSIONAL CORPORATION 25 Mill Street North, PO Box 770 Waterdown, ON L0R 2H0</p> <p>Mathew Glowacki mglowacki@mpglaw.ca Tel: 905.512.4711</p>	<p>Email</p>	<p>Litigation counsel to Kenneth Schaller</p>
<p>THORNTON GROUT FINNIGAN LLP 100 Wellington Street West Suite 3200 Toronto-Dominion Centre Toronto ON M5K 1K7</p> <p>D.J. Miller djmiller@tgf.ca Tel: 416.304.0559</p>	<p>Email</p>	<p>Counsel to Firm Capital Mortgage Fund Inc.</p>
<p>PERLEY-ROBERTSON, HILL & MCDUGALL LLP/s.r.l. 340 Albert St #1400 Ottawa, ON K1R 7Y6</p> <p>Joel Turgeon jturgeon@perlaw.ca Tel: 613-566-2224</p>		<p>CCAA Counsel for Garas Family Holdings Inc.</p>

SMITH VALERIOTE LAW FIRM LLP Barristers and Solicitors 245 Hanlon Creek Boulevard, Unit 102 Guelph, ON N1C 0A1 Trenton Johnson tjohnson@svlaw.com Ben Grant bgrant@svlaw.ca Tel : 519.837.2100	Email	Litigation counsel for Garas Family Holdings Inc.
LANDLORDS		
METAL TREE INC. 32 Seguin Street Parry Sound, ON P2A 1B1	Courier	
SPORTSWORLD SHOPPING CENTRE INC. 4396 King Street East Kitchener, ON N2P 2G4	Courier	
TANDIA FINANCIAL CREDIT UNION LTD. 352 Queen Street East, Unit 4 Acton, ON L7J 1R2	Courier	
2375144 ONTARIO CORPORATION 1076 Cedar Street, Unit 3, Oshawa, ON L1J 3R9	Courier	
879011 ONTARIO LIMITED 715 Wellington Street West, Guelph, ON N1H 8L8	Courier	
726494 ONTARIO INC. 110 Broadway Street Tillsonburg, ON N1H 8L8	Courier	
THOMAS SCHMIDT 31 Ontario Street, Units 2 & 3 Grand Bend, ON N0M 1T0	Courier	
TORBILL HOLDINGS LTD. 43 Main Street Brighton, ON K0K 1H0	Courier	
1815513 ONTARIO INC. 170 McNaughton Avenue West Unit 9, Chatham, ON N7L 1R4	Courier	
MARVIN HERTZMAN HOLDINGS INC. 951 Gordon Street, Unit 8B Guelph, ON N1G 4S1	Courier	

SECURED CREDITORS		
METAL TREE INC. 65 Treanor Crescent Georgetown, Ontario L7G 5J1 ddudek@sympatico.ca	Courier and email	Lender to 2767888 Ontario Inc.
SEAVALE INCORPORATED 87 Marsh Drive North Bay, Ontario, P1B 8G3 nickyg@sympatico.ca	Courier and email	Lender to 2767888 Ontario Inc.
FIRM CAPITAL MORTGAGE FUND INC. 163 Cartwright Avenue Toronto, Ontario M6A 1V5 mwarner@firmcapital.com	Courier and email	Lender to 2767888 Ontario Inc.
GARAS, NASHAAT 124 Silver Maple Crescent Cambridge, ON, N1R5S6 GARAS FAMILY HOLDINGS INC. 124 Silver Maple Crescent Cambridge, ON, N1R5S6 MANAL GARAS PHARMACY PROFESSIONAL CORPORATION 124 Silver Maple Crescent Cambridge, ON, N1R5S6 higginsmark@nexicom.net	Courier and email	Lender to 2767888 Ontario Inc.
MUSKOKA REAL ESTATE SERVICES INC. 810 Bay Street Gravenhurst, ON P1P 1G7	Courier	Lender to 2767888 Ontario Inc.
M.HIGGINS & ASSOCIATES INC. 17 Queen Street Campbellford, Ontario K0L 1L0 higginsmark@nexicom.net	Courier and email	Lender to 2767888 Ontario Inc.
818876 ONTARIO LTD. 69-1235 Radom St Pickering, Ontario, L1W 1J3	Courier	Lender to 2767888 Ontario Inc.

ANASTADSIADIS VENIZELOS 279 Springbank Drive London, Ontario, N6J 1G3 victor_anast@hotmail.com	Courier and email	Lender to 2767888 Ontario Inc.
BANK OF MONTREAL 101-20 Erb St W, Marsland Center Waterloo, Ontario N2L 1T2 Adam Mitchell-Li Adam.MitchellLi@bmo.com	Courier and Email	Lender to 2767888 Ontario Inc.
GOVERNMENTAL AGENCIES		
CANADA REVENUE AGENCY c/o Department of Justice Ontario Regional Office 120 Adelaide Street West, Suite 400 Toronto, ON M5H 1T1 AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca Fozia Chaudary Fozia.Chaudary@justice.gc.ca Kevin Dias Kevin.Dias@justice.gc.ca	Email	Governmental Agency
OFFICE OF THE SUPERINTENDENT OF BANKRUPTCY CANADA 151 Yonge Street, 4th Floor Toronto, ON M5C 2W7 osbservice-bsfservice@ised-isde.gc.ca	Email	Governmental Agency
HEALTH CANADA Controlled Substances and Cannabis Branch 150 Tunney's Pasture Driveway Ottawa, ON K1A 0K9 Licensing and Security Division Emails: licensing-cannabis-licenses@hc-sc.gc.ca collections-recouvrement@hc-sc.gc.ca	Email	Governmental Agency

Ministry of Finance (Ontario) Legal Services Branch 777 Bay Street, 11th Floor Toronto, ON M5G 2C8 Email: insolvency.unit@ontario.ca	Email	
ALCOHOL AND GAMING COMISSION OF ONTARIO 90 Sheppard Avenue East Suite 200-300 Toronto, ON M2N 0A4 Nick Fera Email: nick.fera@agco.ca Sandra Lucas Email: sandra.lucas@agco.ca Ashley An Email: ashley.an@agco.ca	Email	

EMAIL SERVICE LIST

Corry@vancorgroup.com; hdahrouj@tncc.ca; lellis@millerthomson.com;
pcorney@millerthomson.com; dward@millerthomson.com; tambachtsheer@deloitte.ca;
dullmann@blaney.com; ateodorescu@blaney.com; asamat@blaney.com;
sdym@yorkplains.com; alonagap@me.com; JLothian@blg.com; KLambie@blg.com;
mglowacki@mpglaw.ca; djmiller@tgf.ca; jturgeon@perlaw.ca; tjohnson@svlaw.com;
bgrant@svlaw.ca; ddudek@sympatico.ca; nickyg@sympatico.ca; mwarner@firmcapital.com;
higginsmark@nexicom.net; victor_anast@hotmail.com; AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca;
Fozia.Chaudary@justice.gc.ca; Kevin.Dias@justice.gc.ca; osbservice-bsfservice@ised-isde.gc.ca;
licensing-cannabis-licenses@hc-sc.gc.ca; collections-recouvrement@hc-sc.gc.ca;
insolvency.unit@ontario.ca; nick.fera@agco.ca;
sandra.lucas@agco.ca; ashley.an@agco.ca; Adam.MitchellLi@bmo.com;

TABLE OF CONTENTS

PART I – INTRODUCTION	3
PART II - SUMMARY OF FACTS	4
PART III - STATEMENT OF ISSUES	4
PART IV – LAW & ARGUMENT.....	5
A. Vancor may bring the within application.....	5
B. Debtors are companies to which the CCAA applies	6
C. Deloitte should be appointed as Monitor	9
D. Stay of Proceedings should be granted	9
E. Administration Charge should be approved	10
F. DIP Term Sheet and DIP Lender’s Charge Should be Approved	13
G. Payment of pre-filing and post-filing obligations to the OCS with approval of the Monitor	17
H. Appointment of the CRO should be approved.....	17
I. CRO Engagement Letter Should be Sealed.....	19
PART V - ORDER REQUESTED	21
SCHEDULE “A”	23
SCHEDULE “B”	24

FACTUM OF THE APPLICANT

PART I – INTRODUCTION

1. This factum is filed on behalf of The Vancor Group Inc. (“**Vancor**”) in support of its application for an initial order pursuant to the *Companies’ Creditors Arrangement Act*, RSC 1985, c-C 36, as amended (the “**CCAA**”) in respect of 2744364 Ontario Limited, operating as True North Cannabis Co.(“**TNCC**”), 2668905 Ontario Inc., operating as Bamboo Blaze, and 2767888 Ontario Inc. (together, the “**Debtors**”).
2. Vancor is the largest creditor of the Debtors, having provided debt financing in excess of \$23 million in principal over four years on an unsecured basis.
3. A proceeding under the CCAA is necessary and urgently required for three main reasons: (a) the Debtors are facing the maturity of significant secured debt on May 1, 2025, which obligations they cannot currently refinance and are unable to repay; (b) Vancor’s debt is currently due and payable with no available means of repayment, despite Vancor’s accommodations, including the provision of a forbearance opportunity to secure financing through an out-of-court process; and (c) projected cash flows demonstrate that the Debtors cannot meet early ordinary course commitments such as significant payroll obligations due at the end of the month.
4. The authorities and protections of the CCAA afford a court-supervised environment for the Debtors to stabilize operations, entertain discussions with stakeholders, explore restructuring options, and make important strategic decisions, all the while preserving value for stakeholders.
5. A court-appointed Monitor and Chief Restructuring Officer will help to oversee the process, ensuring professional management and impartiality. These measures, alongside interim

financing, will allow the Debtors to maintain going concern operations and turn attention to pursuing a sale and investment solicitation process for which court approval will be sought.

6. Capitalized but undefined terms used herein have the meanings given to them in the Affidavit of Corry Van Iersel sworn January 23, 2025 (“**Van Iersel Affidavit**”).¹

7. All references to dollars are Canadian dollars, unless otherwise stated.

PART II - SUMMARY OF FACTS

8. The factual background to this application is described in the Van Iersel Affidavit.²

PART III - STATEMENT OF ISSUES

9. The principal issues to be determined by this honourable court are whether:

- (a) Vancor, as creditor, has standing to bring the within application;
- (b) the Debtors are debtor companies to which the CCAA applies;
- (c) Deloitte should be appointed as Monitor in these CCAA proceedings;
- (d) the Stay Period should be granted;
- (e) the Administration Charge should be granted;
- (f) the DIP Term Sheet and DIP Lender’s Charge should be approved;

¹ Affidavit of Corry Van Iersel sworn January 23, 2025 (“**Van Iersel Affidavit**”), Tab 2 to the Application Record of the Applicant dated January 23, 2025 (“**Application Record**”).

² Van Iersel Affidavit at Tab 2 of the Application Record.

- (g) the Debtors should be permitted to pay certain pre-filing obligations with the consent of the Monitor;
- (h) the CRO should be appointed and the CRO Engagement should be approved; and
- (i) the CRO Engagement should be sealed.

PART IV – LAW & ARGUMENT

A. Vancor may bring the within application

10. A CCAA proceeding is initiated by application. It is not required that the application be filed by the debtor company.³

11. It is well settled that a creditor may bring an application for an initial order under the CCAA in respect of a debtor company.

- (a) In *ATB Financial v Metcalfe & Mansfield Alternative Investments II Corp.*,⁴ creditors successfully sought and obtained an initial order under the CCAA. In granting the order, the Court held that the creditor-commenced application “complied with all the requirements of the CCAA”, and “is also consistent with the purpose and policy of the CCAA”.⁵
- (b) More recently, in *The Vancor Group Inc. v 1000370759 Ontario Inc.*, Justice Kimmel granted an initial order under the CCAA on the application

³ *Companies’ Creditors Arrangement Act, RSC 1985, c-C 36*, as amended (“CCAA”) at [s 9\(1\)](#).

⁴ *ATB Financial v Metcalfe & Mansfield Alternative Investments II Corp.*, 2008 CanLII 21724.

⁵ *ATB Financial v Metcalfe & Mansfield Alternative Investments II Corp.*, 2008 CanLII 21724 at [para 17](#).

of Vancor. In granting the order, the Court held that “...An applicant in a ‘creditor-driven’ CCAA application is not required to meet a higher bar than a debtor applicant would have to meet in a typical ‘debtor-driven’ proceeding.”⁶

12. As in *The Vancor Group Inc. v 1000370759 Ontario Inc.*, this application is precipitated by a unique set of circumstances. Namely, as described in the Van Iersel Affidavit, the imminent maturity of significant secured debt, and the repayment of material unsecured loans – now due – cannot be addressed by the Debtors because of management deadlock.⁷ Furthermore, the Debtors are experiencing a liquidity crisis and, as illustrated in the Cash Flow Forecast, immediately require interim financing.⁸

B. Debtors are companies to which the CCAA applies

13. This Court may grant CCAA protection to a “debtor company”, where the total amount of claims against the debtor or its affiliates exceeds five million dollars.⁹

14. The CCAA defines “debtor company” as, in relevant part, “...any company that (a) is bankrupt or insolvent...”.¹⁰

⁶ [*The Vancor Group Inc. v 1000370759 Ontario Inc.*](#), CV-24-00725021-00CL, Endorsement dated August 6, 2024, at para. 6.

⁷ Van Iersel Affidavit at paras 9-10 at Tab 2 of the Application Record.

⁸ Van Iersel Affidavit at para 12 at Tab 2 of the Application Record.

⁹ CCAA, [s 3\(1\)](#).

¹⁰ [s.2\(1\)\(a\)](#) CCAA.

15. The CCAA defines “company” as, in relevant part, “...any company, corporation or legal person incorporated by or under an Act of Parliament or of the legislature of a province, any incorporated company having assets or doing business in Canada, wherever incorporated...”.¹¹

16. The insolvency of a debtor is determined as at the time the debtor files its CCAA application.¹² While “insolvent” is not defined in the CCAA, courts have held that a company is insolvent under the CCAA if:¹³

- (i) the company meets the definition of “insolvent person” under the BIA, which includes a person “...who is for any reason unable to meet [its] obligations as they generally become due...”,¹⁴ or
- (ii) the company faces a looming liquidity crisis.¹⁵

17. Under the BIA, an “insolvent person” means,

... a person who is not bankrupt and who resides, carries on business or has property in Canada, and whose liability to creditors provable as claims under this Act amount to one thousand dollars, and

- (a) who is for any reason unable to meet his obligations as they generally become due,
- (b) who has ceased paying his current obligations in the ordinary course of business as they generally become due, or
- (c) the aggregate of whose property is not, at a fair valuation, sufficient, or if disposed of at a fairly conducted sale under legal

¹¹ [s.2\(1\)](#) CCAA.

¹² [Re Stelco Inc. \(2004\)](#), 48 CBR (4th) 299 (Ont Sup Ct J [Commercial List]) at [para 4](#).

¹³ [Re Stelco Inc. \(2004\)](#), 48 CBR (4th) 299 at [paras 21-22](#) and [26](#) (Ont Sup Ct J [Commercial List]).

¹⁴ [Bankruptcy and Insolvency Act](#), R.S.C. 1985, c. B-3, as amended (“BIA”) at [s 2](#).

¹⁵ [Re Stelco Inc. \(2004\)](#), 48 CBR (4th) 299 (Ont Sup Ct J [Commercial List]) at [para 40](#).

process, would not be sufficient to enable payment of all his obligations, due and accruing due.¹⁶

18. In *Stelco*, Justice Farley stated that a financially troubled corporation is facing a liquidity crisis and insolvent “...if it is reasonably expected to run out of liquidity within reasonable proximity of time as compared with the time reasonably required to implement a restructuring”.¹⁷

19. Each of the Debtors meets the definition of debtor company and exceeds the minimum debt threshold required for protection under the CCAA.¹⁸

(a) The Debtors are each incorporated under the laws of Ontario and do business in Ontario.¹⁹

(i) The Debtors’ liabilities exceed \$45,000,000 in aggregate.

20. The evidence before the Court is that (a) the Debtors are balance sheet insolvent, with each Debtor having negative shareholders’ equity and (b) the Debtors are facing a looming liquidity crisis because, absent a filing under the CCAA, they will not be able to refinance material secured debt coming due on May 1, 2025; nor will they be able to meet their obligations in the ordinary course.²⁰

21. Accordingly, the Debtors are “debtor companies” eligible for protection under the CCAA.

¹⁶ *Bankruptcy and Insolvency Act*, RSC 1985, c B-3.

¹⁷ *Re Stelco Inc. (2004)*, 48 CBR (4th) 299 (Ont Sup Ct J [Commercial List]) at para 26.

¹⁸ Van Iersel Affidavit at paras 17, 20 and 23, Tab 2 to the Application Record; Van Iersel Affidavit at paras 46-48, Tab 2 to the Application Record; Exhibits “B”, “C” and “D” to the Van Iersel Affidavit, Tab 2 to the Application Record.

¹⁹ Van Iersel Affidavit at paras 17, 20 and 23, Tab 2 to the Application Record.

²⁰ Van Iersel Affidavit at paras 77 and 125.

C. Deloitte should be appointed as Monitor

22. Pursuant to section 11.7 of the CCAA, a court is required to appoint a person to monitor the business and financial affairs of a debtor company at the time that an initial CCAA order is made.²¹

23. Section 11.7(2) of the CCAA also sets out certain requirements for, and restrictions on, who may act as a monitor, including that a monitor be a trustee within the meaning of subsection 2 of the BIA.²²

24. Deloitte is a trustee within the meaning of subsection 2(1) of the BIA and is not barred by any of the restrictions outlined in section 11.7(2) of the CCAA. Subject to Court approval, Deloitte has consented to act as Monitor of the Debtors in these proceedings.²³

25. In preparing for this filing, Deloitte has assisted in preparation of the 15-week Cash Flow Forecast. Accordingly, Deloitte has gained critical knowledge about the Debtors, their business operations, financial challenges and strategic initiatives.

D. Stay of Proceedings should be granted

26. Pursuant to section 11.02 of the CCAA, a court may grant a stay of proceedings in an initial application for a period of no more than ten days, provided that the court is satisfied that circumstances exist that make the order appropriate.²⁴

²¹ [s 11.7](#), CCAA.

²² [s 11.7\(2\)](#), CCAA.

²³ Monitor's Consent to Act, Appendix "A" to the Non-Confidential Pre-Filing Report of the Proposed Monitor dated January 23, 2025 ("Pre-Filing Report of the Monitor").

²⁴ [s 11.02](#), CCAA; [Re Lydian International Limited](#), 2019 ONSC 7473 ["Lydian"], at [para 22](#).

27. A stay of proceedings is appropriate where it provides a debtor with “breathing room” while the debtor seeks to restore solvency and emerge from the CCAA on a going concern basis.²⁵ Absent exceptional circumstances, the relief sought shall be limited to relief reasonably necessary for the ordinary course continued operations and, whenever possible, the *status quo* should be maintained during the initial 10-day period.²⁶

28. A stay of proceedings is appropriate in the circumstances of this case. Given the Debtors’ current financial position and liquidity crisis, a stay of proceedings will maintain the *status quo* and give the Debtors the breathing space required by the CRO and Monitor to stabilize operations, for the benefit of all of the stakeholders. It would be significantly detrimental to the Debtors’ business and ongoing operations if proceedings were commenced or continued, or rights and remedies were executed against them; therefore, without the Stay of Proceedings, the Debtors are unable to continue operations in the ordinary course of business.

29. The Cash Flow Forecast indicates that the Respondents will have sufficient funds to continue to operate during the Comeback Period.²⁷

E. Administration Charge should be approved

30. Vancor seeks a super-priority charge (“**Administration Charge**”) over the Debtors’ Property (as defined in the proposed Initial Order) in the maximum amount of \$350,000 in favour of the Monitor, counsel to the Monitor, the CRO, counsel to Vancor, and counsel to the Debtors (collectively, “**Professionals Group**”), to secure payment of their professional fees and

²⁵ *Target Canada Co.*, 2015 ONSC 303, at [para 8](#).

²⁶ [s. 11.01](#), CCAA; *Lydian*, at para 26.

²⁷ Van Iersel Affidavit at paras 49-50, Tab 2 to the Application Record.

disbursements, whether incurred before or after the date of the commencement of these CCAA proceedings.

31. At the Comeback Hearing, Vancor intends to increase the Administration Charge to an amount commensurate with the work anticipated to complete the proposed CCAA proceedings.

32. In accordance with section 11.52(1) of the CCAA, the Court has discretion to grant an administration charge.²⁸

33. Section 11.52(2) of the CCAA permits the court to order that the Administration Charge “rank in priority over the claim of any secured creditor of the company.”

34. In *Canada North Group*, the Supreme Court of Canada stated:

Super-priority charges in favour of the monitor, financiers and other professionals are required to derive the most value for the stakeholders. They are beneficial to all creditors, including those whose claims are protected by a deemed trust. The fact that they require super priority is just a part of “[t]he harsh reality . . . that lending is governed by the commercial imperatives of the lenders” (Indalex, at para. 59). It does not make commercial sense to act when there is a high level of risk involved. For a monitor and financiers to put themselves at risk to restructure and develop assets, only to later discover that a deemed trust supersedes all claims, smacks of unfairness.

(...)

It is therefore clear that, in general, courts supervising a CCAA reorganization have the authority to order super-priority charges to facilitate the restructuring process...²⁹

²⁸ [s 11.52](#), CCAA.

²⁹ [Canada v. Canada North Group Inc.](#), 2021 SCC 30, at para. 30 and 31.

35. In determining whether to grant an administration charge, the courts have considered several factors, including:

- (a) the size and complexity of the businesses being restructured;
- (b) the proposed role of the beneficiaries of the charge;
- (c) whether there is an unwarranted duplication of roles;
- (d) whether the quantum of the proposed charge appears to be fair and reasonable;
- (e) the position of the secured creditors likely to be affected by the charge; and
- (f) the position of the Monitor.³⁰

36. Vancor submits that it is appropriate for this Court to exercise its discretion to grant the Administration Charge.

37. Vancor's counsel, and the Monitor and its counsel, have been extensively involved in the preparation of this CCAA application. Going forward, if the proposed Initial Order is granted, it is expected that the larger Professionals Group will have extensive involvement in the CCAA proceedings and will play a critical role in this restructuring. Each member of the Professionals Group will perform distinct functions, and in any event, will ensure that there is no unnecessary duplication of roles among them.³¹

38. It is appropriate for this Court to exercise its discretion to grant the Administration Charge. The Professionals Group are essential to the implementation of this CCAA proceeding. The nature of the Applicants' business requires the expertise, knowledge and continuing participation of the

³⁰ *Canwest Publishing Inc., Re*, 2010 ONSC 222 at [para 54](#); see also, *Re Lydian International Limited*, 2019 ONSC 7473 at [para 46](#).

³¹ Van Iersel Affidavit at para 115, Tab 2 to the Application Record.

Professionals Group. It is unlikely that these advisors will participate in the CCAA proceedings without the Administration Charge. Furthermore, the Initial Stay Period component of the Administration Charge is limited to what is “reasonably necessary” for the Initial Stay Period, given the intensive demands on the advisors leading up to the filing, together with the likely further demands prior to the Comeback Hearing.

39. The proposed Administration Charge under the Initial Order has been sized to reflect the work performed to date by the Professionals Group, and the work expected to be performed by the Professionals Group through to the Comeback Hearing.³²

40. The Administration Charge will rank subordinate in priority to the Debtors’ largest secured creditor, Firm Capital. Firm Capital is also carved out of the Initial Order in respect of the Stay of Proceedings.

41. The proposed Monitor supports the granting and quantum of the proposed Administration Charge.³³

F. DIP Term Sheet and DIP Lender’s Charge Should be Approved

42. Vancor is seeking the Court’s approval of the DIP Term Sheet and the DIP Lender’s Charge in favour of the DIP Lender, to secure amounts advanced under the DIP Term Sheet during the Comeback Period.

³² Van Iersel Affidavit at para 116, Tab 2 to the Application Record; Pre-Filing Report of the Monitor at paras 23-25.

³³ Pre-Filing Report of the Monitor at para 26.

43. Section 11.2(1) of the CCAA allows this Court to approve the DIP Term Sheet and the DIP Lender's Charge in an amount that the Court considers appropriate having regard to the Debtors' Cash Flow Forecast.³⁴

The statutory factors illustrate that DIP Term Sheet and DIP Lender's Charge should be approved

44. Section 11.2(5) of the CCAA provides that a Court shall not grant an order for interim financing at the same time as granting an initial order under section 11.2(1) of the CCAA unless it is satisfied that the terms of the loan are limited to those terms that are reasonably necessary for the Debtors' continued operations in the ordinary course of business during the initial stay of proceedings.³⁵ What is considered "reasonably necessary" depends on the facts of each case.³⁶ Significant interim financing may be approved at the same time as an initial order if such funds are required to "keep the lights on" during the initial Stay Period.³⁷

45. The proposed quantum of the DIP Financing authorized under the proposed Initial Order is limited to the amount which Vancor and the Debtors, in consultation with the Monitor, have determined is necessary for the continued operations of the Debtors' business during the initial ten (10) day Stay of Proceedings.³⁸

³⁴ [s 11.2\(1\)](#), CCAA

³⁵ [s 11.2\(5\)](#), CCAA.

³⁶ [8440522 Canada Inc., Re](#), 2013 ONSC 6167 at [para 30](#).

³⁷ [Miniso](#) at paras 73-90; [Mountain Equipment Co-Operative, Re](#), 2020 BCSC 1586 at para 2; [Boreal Capital Partners et al., Re](#), 2021 ONSC 7802 at para 26 [*Boreal*].

³⁸ Van Iersel Affidavit at para 121, Tab 2 to the Application Record.

46. Vancor seeks the court's approval of the authorized borrowings under the DIP Term Sheet in the amount of \$900,000 to enable the Debtors to continue operations and to fund necessary expenditures as specified in the Cash Flow Forecast during the initial Stay Period.³⁹

47. In determining the appropriateness of the DIP Lender's Charge, a court must consider the factors listed at section 11.2(4) of the CCAA:⁴⁰

(4) In deciding whether to make an order, the court is to consider, among other things,

(a) the period during which the company is expected to be subject to proceedings under this Act;

(b) how the company's business and financial affairs are to be managed during the proceedings;

(c) whether the company's management has the confidence of its major creditors;

(d) whether the loan would enhance the prospects of a viable compromise or arrangement being made in respect of the company;

(e) the nature and value of the company's property;

(f) whether any creditor would be materially prejudiced as a result of the security or charge; and

(g) the monitor's report, if any.

48. These factors favour the requested relief being sought in this case.

49. The Debtors are insolvent and in a liquidity crisis.⁴¹

50. The Cash Flow Forecast indicates that, absent approval of the interim financing proposed to be made under the DIP Facility, the Debtors will not be able to meet their obligations as they

³⁹ Appendix "B" to the Pre-Filing Report of the Monitor.

⁴⁰ [s 11.2\(4\)](#), CCAA.

⁴¹ Van Iersel Affidavit at para 125, Tab 2 to the Application Record.

become due, including payroll. The Debtors' businesses are in jeopardy of running out of liquidity as identified in the Cash Flow Forecast.⁴²

51. The following additional factors support the approval of the DIP Term Sheet and the granting of the DIP Lender's Charge:

- (a) the availability of the DIP Financing is contingent on an order of this court approving same and the DIP Lender's Charge;
- (b) if the Initial Order is granted, Vancor intends to request an extension of the Stay of Proceedings at the Comeback Hearing;
- (c) the Debtors' business will be managed by the proposed CRO with the oversight of the Monitor;
- (d) no creditor should be materially prejudiced as a result of the DIP Financing and the DIP Lender's Charge, as the DIP Lender's Charge will rank subordinate to all existing Secured Creditors; and
- (e) the terms of the DIP Financing have been considered by the proposed Monitor and determined to be reasonable in the circumstances.⁴³

52. The Monitor supports the Debtors' request for approval of the DIP Facility and the DIP Lender's Charge.

⁴² Appendix "B" to the Pre-Filing Report of the Monitor; Pre-Filing Report of the Monitor at paras 18-20; Van Iersel Affidavit at para 14, Tab 2 to the Application Record.

⁴³ Pre-Filing Report of the Monitor at para 20.

G. Payment of pre-filing and post-filing obligations to the OCS with approval of the Monitor

53. The Initial Order authorizes the Debtors to pay, with the consent of the proposed Monitor, any pre-filing amounts owing to the Ontario Cannabis Store.

54. CCAA courts have consistently granted orders permitting debtors to pay pre-filing amounts to suppliers, with the monitor's consent, in circumstance where a supply interruption would adversely impact the restructuring process.⁴⁴

55. As required by law, the Ontario Cannabis Store is TNCC's sole supplier of cannabis inventory.⁴⁵ As such, TNCC's relationship with the OCS is critical to its business. Any interruption in supply from the OCS would have a material adverse impact on TNCC's business.⁴⁶

56. Vancor is accordingly seeking permission for the Debtors to make pre-filing payments to the OSC, in accordance with the Cash Flow Forecast, to maintain their operations and to avoid hindering their restructuring efforts. No payments of pre-filing amounts will be made without the consent of the proposed Monitor.

H. Appointment of the CRO should be approved

57. Vancor seeks the appointment of Shawn Dym ("CRO") as Chief Restructuring Officer of the debtors pursuant to the terms and conditions set out in the CRO Engagement contained at Confidential Appendix "A" to the Pre-Filing Report.

⁴⁴ [*Cinram International Inc. \(Re\)*](#), 2012 ONSC 3767 at para 23 & 43; [*Cline Mining Corp. Re*](#), 2014 ONSC 6998 at para 38; [*Target Canada Co*](#), 2015 ONSC 303 at para. 64-65; see also [*JTI Macdonald Corp., Re*](#), 2019 ONSC 1625 at paras 24-25.

⁴⁵ Van Iersel Affidavit at para 125, Tab 2 to the Application Record.

⁴⁶ Van Iersel Affidavit at para 165, Tab 2 to the Application Record.

58. The CRO Engagement provides that for the initial 10-day stay period, the CRO's role is proposed to be limited to review and reporting functions. Following the issuance of an amended and restated Initial Order, the CRO Engagement contemplates an expansion of the CRO's role to management-related functions.⁴⁷

59. This court has the jurisdiction to approve the engagement of a CRO pursuant to section 11 of the CCAA.⁴⁸ Courts frequently appoint a chief restructuring officer in order to provide expertise to assist the debtors in achieving the objectives of the CCAA to assist the debtor's management in dealing with a crisis situation.⁴⁹

60. The proposed CRO has extensive restructuring advisory experience and experience in the cannabis industry. Mr. Dym holds a Masters of Business Administration from Harvard Business School, has previously acted as a CRO in the context of a CCAA proceeding, and has over ten years of experience in the cannabis sector. Mr. Dym therefore uniquely positioned to guide the Debtors through the restructuring process, subject to this court's approval.⁵⁰

61. The CRO will provide the Debtors with the stable and independent management necessary to preserve the Debtors' going concern value during the CCAA proceedings. Due to the Debtors' current management disputes, Vancor believes that the appointment of a CRO is reasonable and necessary, and will create the greatest chance for an uncontentious restructuring process.

62. The proposed CRO has consented to act in these proceedings.

⁴⁷ Appendix "D" to the Pre-Filing Report of the Monitor; Pre-Filing Report of the Monitor at paras 27-31.

⁴⁸ [s 11](#), CCAA.

⁴⁹ [Pascan Aviation Inc., Re](#), 2015 QCCS 4227 at paras 57 to 58; [Pride Group Holdings Inc., Re](#), 2024 ONSC 1830, paras 44-45.

⁵⁰ Van Iersel Affidavit at paras 101-102, Tab 2 to the Application Record.

63. The proposed Monitor supports the appointment of the proposed CRO.⁵¹

64. The CRO Engagement provides the CRO with certain protections from liability in the execution of his duties. Similar to court-appointed monitors, the appointment of a CRO is often accompanied by certain protections from liability.⁵²

65. Providing certain protections in the Initial Order will ensure that the CRO can assist with the management and supervision of the Debtors' day-to-day business and overall restructuring efforts.

I. CRO Engagement Letter Should be Sealed

66. The proposed Initial Order provides that Confidential Appendix "A" to the Pre-Filing Report, consisting of an unredacted copy of the CRO Engagement, be sealed and not form part of the public record until further Order of the Court.

67. Pursuant to section 137(2) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, the court has the jurisdiction and the discretion to order that any document filed in a civil proceeding be treated as "confidential, sealed and not form part of the public record".⁵³

68. The Supreme Court of Canada set out the applicable test for a sealing order in *Sierra Club of Canada v. Canada (Minister of Finance)*, as subsequently restated in *Sherman Estate v. Donovan*, whereby the SCC held that a person asking the court to exercise its discretion in a way that limits presumptive court openness must establish that: (i) court openness poses a serious risk to an important public interest; (ii) the order sought is necessary to prevent this serious risk to the

⁵¹ Pre-Filing Report of the Monitor at para 30.

⁵² *ICR Commercial Real Estate (Regina) Ltd. v Bricore Land Group, Ltd.*, 2007 SKQB 121 at [para 19](#).

⁵³ [s 137\(2\)](#), *Courts of Justice Act*, R.S.O. 1990, c. C.43.

identified interest because reasonable alternative measures will not prevent this risk; and (iii) as a matter of proportionality, the benefits of the order outweigh its negative effects.⁵⁴

69. In this case, the redactions to the CRO Engagement are limited in scope and only relate to the CRO's compensation, which is exclusively a monthly fee, not his intended mandate and authorities. The CRO is an individual. Individuals have the reasonable expectation that their personal financial information will be kept confidential and not form part of the public record.

70. CRO engagement letters have commonly been sealed by this Court, including in recent CCAA proceedings, to keep confidential fees and payable to individuals working as chief restructuring officers.⁵⁵

71. In *The Vancor Group Inc. v. 1000370759 Ontario Inc.*, Justice Kimmel granted an effectively identical sealing order in very similar circumstances:

The requested sealing order is in respect of only the monthly compensation that will be paid to Mr. Dym. As is often the case (for example, when KERPs are approved), the court grants sealing orders to protect personal information about compensation of key management and employees, which is the role that the CRO is expected to eventually assume. As an individual, he has a reasonable expectation that his personal information about his financial compensation will be kept confidential and not form part of the public record. He has agreed that the sealing of this information can end upon the earlier of the conclusion of these CCAA proceedings or any further court order and that change was made to the proposed form of Initial Order.⁵⁶

⁵⁴ *Sierra Club of Canada v. Canada (Minister of Finance)*, 2002 SCC 41 at para 53; *Sherman Estate v Donovan*, 2021 SCC 25 at paras 37-38.

⁵⁵ Endorsement of Chief Justice Morawetz in *Re Pride Group Holdings*, 2024 ONSC 1830 at paras 56-59.

⁵⁶ *The Vancor Group Inc. v 1000370759 Ontario Inc.*, CV-24-00725021-00CL, Endorsement dated August 6, 2024, at para 23.

72. Given the nature of the redacted information, no suitable alternatives to the sealing order exist in these circumstances. Moreover, sealing the unredacted CRO Engagement Letter will not materially prejudice any stakeholder. This is because the court will understand the total compensation to Mr. Dym and ensure that it is reasonable. Additionally, the benefits of protecting Mr. Dym's expectation of privacy outweigh any potential harm caused by disclosing his financing information. Accordingly, Vancor respectfully submits that the sealing order should be granted.

PART V - ORDER REQUESTED

73. Vancor respectfully requests that this honourable court grant the Initial Order and provide the Debtors protection under the CCAA.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 24th day of January, 2025.



Larry Ellis/Patrick Corney/David Ward
MILLER THOMSON LLP
Lawyers for Vancor Group Inc.

MILLER THOMSON LLP
Scotia Plaza
40 King Street West, Suite 5800
P.O. Box 1011
Toronto ON M5H 3S1

Larry Ellis LSO# 49313K
Email: lellis@millerthomson.com
Tel: 416.595.8639

David Ward LSO# 33541W
Email: dward@millerthomson.com
Tel: 416.595.8625

Patrick Corney LSO# 65462N

pcorney@millerthomson.com

Tel: 416.595.8555

Lawyers for the Applicant, The Vancor Group
Inc.

SCHEDULE “A”

LIST OF AUTHORITIES

1. [*ATB Financial et al. v. Apollo Trust et al.*](#), 2008 CanLII 21724.
2. [*Boreal Capital Partners et al., Re*](#), 2021 ONSC 7802.
3. [*Canada v. Canada North Group Inc.*](#), 2021 SCC 30.
4. [*Canwest Publishing Inc., Re*](#), 2010 ONSC 222.
5. [*Cinram International Inc. \(Re\)*](#), 2012 ONSC 3767.
6. [*Cline Mining Corporation \(Re\)*](#), 2014 ONSC 6998.
7. [*ICR Commercial Real Estate \(Regina\) Ltd. v Bricore Land Group, Ltd.*](#), 2007 SKQB 121.
8. [*JTI Macdonald Corp., Re*](#), 2019 ONSC 1625.
9. [*Miniso International Hong Kong Limited v Migu Investments Inc.*](#), 2019 BCSC 1234.
10. [*Mountain Equipment Co-Operative, Re*](#), 2020 BCSC 1586.
11. [*Pascan Aviation Inc., Re*](#), 2015 QCCS 4227.
12. [*Pride Group Holdings Inc., Re*](#), 2024 ONSC 1830.
13. [*Re Lydian International Limited*](#), 2019 ONSC 7473.
14. [*Re Stelco Inc. \(2004\)*](#), 48 CBR (4th) 299 (Ont Sup Ct J [Commercial List]).
15. [*Sherman Estate v Donovan*](#), 2021 SCC 25.
16. [*Sierra Club of Canada v. Canada \(Minister of Finance\)*](#), 2002 SCC 41.
17. [*Target Canada Co.*](#), 2015 ONSC 303.
18. [*The Vancor Group Inc. v 1000370759 Ontario Inc.*](#), CV-24-00725021-00CL, Endorsement dated August 6, 2024.
19. [*8440522 Canada Inc., Re*](#), 2013 ONSC 6167.

SCHEDULE “B”

TEXT OF STATUTES, REGULATIONS & BY – LAWS

Companies’ Creditors Arrangement Act, R.S.C., 1985, c. C-36

Definitions

2(1) In this Act,

debtor company means any company that

(a) is bankrupt or insolvent,

(b) has committed an act of bankruptcy within the meaning of the *Bankruptcy and Insolvency Act* or is deemed insolvent within the meaning of the *Winding-up and Restructuring Act*, whether or not proceedings in respect of the company have been taken under either of those Acts,

(c) has made an authorized assignment or against which a bankruptcy order has been made under the *Bankruptcy and Insolvency Act*, or

(d) is in the course of being wound up under the *Winding-up and Restructuring Act* because the company is insolvent;

Application

3 (1) This Act applies in respect of a debtor company or affiliated debtor companies if the total of claims against the debtor company or affiliated debtor companies, determined in accordance with section 20, is more than \$5,000,000 or any other amount that is prescribed.

Jurisdiction of court to receive applications

9 (1) Any application under this Act may be made to the court that has jurisdiction in the province within which the head office or chief place of business of the company in Canada is situated, or, if the company has no place of business in Canada, in any province within which any assets of the company are situated.

Relief reasonably necessary

11.001 An order made under section 11 at the same time as an order made under subsection 11.02(1) or during the period referred to in an order made under that subsection with respect to an initial application shall be limited to relief that is reasonably necessary for the continued operations of the debtor company in the ordinary course of business during that period.

Stays, etc. — initial application

11.02 (1) A court may, on an initial application in respect of a debtor company, make an order on any terms that it may impose, effective for the period that the court considers necessary, which period may not be more than 10 days,

- (a) staying, until otherwise ordered by the court, all proceedings taken or that might be taken in respect of the company under the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act*;
- (b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and
- (c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

Stays, etc. — other than initial application

(2) A court may, on an application in respect of a debtor company other than an initial application, make an order, on any terms that it may impose,

- (a) staying, until otherwise ordered by the court, for any period that the court considers necessary, all proceedings taken or that might be taken in respect of the company under an Act referred to in paragraph (1)(a);
- (b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and
- (c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

Burden of proof on application

(3) The court shall not make the order unless

- (a) Vancor satisfies the court that circumstances exist that make the order appropriate; and
- (b) in the case of an order under subsection (2), Vancor also satisfies the court that Vancor has acted, and is acting, in good faith and with due diligence.

Restriction

(4) Orders doing anything referred to in subsection (1) or (2) may only be made under this section

Interim Financing

11.2 (1) On application by a debtor company and on notice to the secured creditors who are likely to be affected by the security or charge, a court may make an order declaring that all or part of the company's property is subject to a security or charge — in an amount that the court considers appropriate — in favour of a person specified in the order who agrees to lend to the company an amount approved by the court as being required by the company, having regard to its cash-flow statement. The security or charge may not secure an obligation that exists before the order is made.

Priority — secured creditors

(2) The court may order that the security or charge rank in priority over the claim of any secured creditor of the company.

Priority — other orders

(3) The court may order that the security or charge rank in priority over any security or charge arising from a previous order made under subsection (1) only with the consent of the person in whose favour the previous order was made.

Factors to be considered

(4) In deciding whether to make an order, the court is to consider, among other things,

- (a) the period during which the company is expected to be subject to proceedings under this Act;
- (b) how the company's business and financial affairs are to be managed during the proceedings;
- (c) whether the company's management has the confidence of its major creditors;
- (d) whether the loan would enhance the prospects of a viable compromise or arrangement being made in respect of the company;
- (e) the nature and value of the company's property;
- (f) whether any creditor would be materially prejudiced as a result of the security or charge; and
- (g) the monitor's report referred to in paragraph 23(1)(b), if any.

Additional factor — initial application

(5) When an application is made under subsection (1) at the same time as an initial application referred to in subsection 11.02(1) or during the period referred to in an order made under that subsection, no order shall be made under subsection (1) unless the court is also satisfied that the terms of the loan are limited to what is reasonably necessary for the continued operations of the debtor company in the ordinary course of business during that period.

Critical supplier

11.4 (1) On application by a debtor company and on notice to the secured creditors who are likely to be affected by the security or charge, the court may make an order declaring a person to be a critical supplier to the company if the court is satisfied that the person is a supplier of goods or services to the company and that the goods or services that are supplied are critical to the company's continued operation.

Obligation to supply

If the court declares a person to be a critical supplier, the court may make an order requiring the person to supply any goods or services specified by the court to the company on any terms and conditions that are consistent with the supply relationship or that the court considers appropriate.

Security or charge in favour of critical supplier

(3) If the court makes an order under subsection (2), the court shall, in the order, declare that all or part of the property of the company is subject to a security or charge in favour of the person declared to be a critical supplier, in an amount equal to the value of the goods or services supplied under the terms of the order.

Priority

(4) The court may order that the security or charge rank in priority over the claim of any secured creditor of the company.

Court may order security or charge to cover certain costs

11.52 (1) On notice to the secured creditors who are likely to be affected by the security or charge, the court may make an order declaring that all or part of the property of a debtor company is subject to a security or charge — in an amount that the court considers appropriate — in respect of the fees and expenses of

- (a) the monitor, including the fees and expenses of any financial, legal or other experts engaged by the monitor in the performance of the monitor's duties;
- (b) any financial, legal or other experts engaged by the company for the purpose of proceedings under this Act; and
- (c) any financial, legal or other experts engaged by any other interested person if the court is satisfied that the security or charge is necessary for their effective participation in proceedings under this Act.

Priority

(2) The court may order that the security or charge rank in priority over the claim of any secured creditor of the company.

Court to appoint monitor

11.7 (1) When an order is made on the initial application in respect of a debtor company, the court shall at the same time appoint a person to monitor the business and financial affairs of the company. The person so appointed must be a trustee, within the meaning of subsection 2(1) of the *Bankruptcy and Insolvency Act*.

Restrictions on who may be monitor

(2) Except with the permission of the court and on any conditions that the court may impose, no trustee may be appointed as monitor in relation to a company

- (a) if the trustee is or, at any time during the two preceding years, was
 - (i) a director, an officer or an employee of the company,
 - (ii) related to the company or to any director or officer of the company, or
 - (iii) the auditor, accountant or legal counsel, or a partner or an employee of the auditor, accountant or legal counsel, of the company; or
- (b) if the trustee is
 - (i) the trustee under a trust indenture issued by the company or any person related to the company, or the holder of a power of attorney under an act constituting a hypothec within the meaning of the *Civil Code of Quebec* that is granted by the company or any person related to the company, or
 - (ii) related to the trustee, or the holder of a power of attorney, referred to in subparagraph (i).

Court may replace monitor

(3) On application by a creditor of the company, the court may, if it considers it appropriate in the circumstances, replace the monitor by appointing another trustee, within the meaning of subsection 2(1) of the *Bankruptcy and Insolvency Act*, to monitor the business and financial affairs of the company.

Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended

Interpretation

Definitions

2 In this Act...

insolvent person means a person who is not bankrupt and who resides, carries on business or has property in Canada, whose liabilities to creditors provable as claims under this Act amount to one thousand dollars, and

- (a) who is for any reason unable to meet his obligations as they generally become due,
- (b) who has ceased paying his current obligations in the ordinary course of business as they generally become due, or
- (c) the aggregate of whose property is not, at a fair valuation, sufficient, or, if disposed of at a fairly conducted sale under legal process, would not be sufficient to enable payment of all his obligations, due and accruing due;

...

trustee or ***licensed trustee*** means a person who is licensed or appointed under this Act.

Courts of Justice Act, R.S.O. 1990, c. C.43

Sealing documents

137(2) A court may order that any document filed in a civil proceeding before it be treated as confidential, sealed and not form part of the public record.

THE VANCOR GROUP INC.
Applicant

and

2744364 ONTARIO LIMITED, *ET AL*
Respondents (Debtors)

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding Commenced at Toronto

**FACTUM OF THE APPLICANT
(Application Returnable January 24, 2025)**

Larry Ellis LSO# 49313K

Email: lellis@millerthomson.com

Tel: 416.595.8639

David S. Ward LSO# 33541W

Email: dward@millerthomson.com

Tel: 416.595.8625

Patrick Corney LSO# 65462N

Email: pcorney@millerthomson.com

Tel: 416.595.8555

Lawyers for the Applicant, The Vancor Group Inc.