

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

IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, RSC 1985, c C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF EXPRESS GOLD REFINING LTD.
(the "**Applicant**" or "**EGR**")

**FACTUM OF THE APPLICANT
(RE: TERMINATION ORDER)**

July 10, 2025

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TO: THE SERVICE LIST

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PART I – OVERVIEW

1. On October 15, 2020, Express Gold Refining Ltd (the “**Applicant**”) received protection under the *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the “**CCAA**”) pursuant to an initial order (as amended on October 20, and October 27, 2020, the “**Initial Order**”) granted by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”).
2. The Applicant sought protection under the CCAA to preserve the status quo of the Business while awaiting a decision from the Tax Court of Canada (the “**Tax Court**”).
3. Since the issuance of the Initial Order, the Applicant has devoted significant time and effort to engaging with the Canada Revenue Agency (the “**CRA**”) in an attempt to resolve the Tax Litigation. After years of litigation, the Applicant successfully reached a settlement with the CRA (the “**Global Settlement**”), which has since been implemented.
4. The Applicant now seeks the termination order (the “**Termination Order**”) substantially in the form appended to the Applicant’s motion record at tab 3, which, among other things:
 - (a) abridges the notice periods and service requirements pursuant to section 6 of the *Bankruptcy and Insolvency General Rules*;
 - (b) terminates the CCAA Proceeding and discharges the Monitor upon the Monitor filing with this Court the discharge certificate certifying that all matters to be attended to in connection with the CCAA Proceeding have been completed to the satisfaction of the Monitor (the “**CCAA Termination Time**”);
 - (c) approves Deloitte Restructuring Inc., in its capacity as monitor of the Applicant (in such capacity, the “**Monitor**”), Twenty Second Report dated June 13, 2025 and the Monitor’s Twenty-Third Report, to be filed (“**Twenty-Third Report**” and together with the Twenty-Third Report, the “**Reports**”);

- (d) approves the fees, costs and expenses of the Monitor, including those of its independent legal counsel Dentons LLP (collectively, the “**Professional Fees**”), as set out in the fee affidavits appended to the Twenty-Third Report (the “**Fee Affidavits**”);
 - (e) terminates the Charges (as defined herein) and the monitoring protocol upon the CCAA Termination Time;
 - (f) grants a release to the Monitor, its counsel, and each of their respective affiliates, and each of their respective current and former directors, officers, partners, employees and agents (collectively, the “**Released Parties**”) from any and all claims that any party may have or be entitled to assert against the Released Parties now or hereinafter in relation to the CCAA Proceeding (collectively, the “**Released Claims**”); and
 - (g) extends the Stay Period (as defined herein) up to and including the CCAA Termination Time.
5. For the reasons set forth herein, the Applicant respectfully submits that the relief requested is fair, reasonable, and appropriate for the Court to grant.

PART II – FACTS

6. The facts underlying this motion are more fully set out in the various affidavits filed by the Applicant within this CCAA Proceeding.

A. Background

7. The Applicant is in the business of refining, selling, buying, trading, investing and storing metals, including gold (the “**Business**”).¹

8. The Applicant was experiencing financial difficulties as a result of, among other things, CRA’s refusal to pay the Applicant’s net tax refunds, including input tax credits under the *Excise Tax Act*, since August 2018, and reassessments in excess of \$189,000,000 issued to the Applicant on July 28, 2020 for the period from June 1, 2016 to October 31, 2018 (the “**2020 Reassessments**”).²

9. At the time, the Applicant challenged the 2020 Reassessment (the “**Tax Litigation**”) in the Tax Court. While doing so, CRA initiated enforcement steps against the Applicant and its assets which had the legal effect of a judgement and rendered the Applicant insolvent.³

10. In order to preserve the *status quo* of the Business, the Applicant sought and obtained creditor protection pursuant to the CCAA (the “**CCAA Proceeding**”) to provide the Applicant with a platform to accelerate the resolution of the Tax Litigation.⁴

11. On October 15, 2020, the Court granted an Initial Order which, among other things:

- (a) granted a stay of proceedings (the “**Stay of Proceedings**”) and remedies taken or that might be taken in respect of the Applicants, the Monitor or the current directors or officers of the Applicants, or affecting the Applicants’ business or any of the Applicants’ current and future assets, licences, undertakings, and properties of every nature and kind whatsoever, and wherever situate including all proceeds

¹ Affidavit of Atef Salama, sworn July 8, 2025, Motion **Record**, at Tab 2 [“**Salama Affidavit**”] at [para 5](#).

² Salama Affidavit at [para 6](#).

³ Salama Affidavit at [para 7](#).

⁴ Salama Affidavit at [para 8](#).

(collectively, the “**Property**”) in favour of the Applicant up to and including December 15, 2020 (the “**Stay Period**”) with the exception of the Tax Litigation;

- (b) appointed Deloitte Restructuring Inc. as monitor of the Applicant (in such capacity, the “**Monitor**”);
- (c) granted the following charges (the “**Charges**”) over the Applicant’s Property:
 - (i) First- an “**Administration Charge**” to the maximum amount of \$300,000; and
 - (ii) Second – a Directors’ Charge to the maximum amount of \$100,000.⁵

12. Since the Initial Order, the Applicant has appeared before this Court to seek various extensions of the Stay of Proceedings to provide the Applicant with the breathing room to preserve the status quo of the Business while awaiting a decision from the Tax Court on the merits of its case in the Tax Litigation.⁶

B. Tax Litigation & Global Settlement

13. After extensive audits, followed by proceedings in the Tax Court, the Applicant has reached a consensus on the terms of the Global Settlement.⁷ The Global Settlement resolved all GST/HST matters – namely, for the following GST/HST reporting periods at issue:

- (a) June 1, 2016 to July 31, 2018, which were before the Tax Court (“**Tax Court Periods**”);
- (b) August 1, 2018 to October 31, 2018, which were in the CRA’s administrative

⁵ Salama Affidavit at [para 9](#).

⁶ Salama Affidavit at [para 10](#).

⁷ Salama Affidavit at [para 12](#).

appeals process ("**Objection Periods**"); and

- (c) November 1, 2018 to October 15, 2020 (i.e., the date of the Initial Order), which the CRA had proposed to reassess, but had not previously issued reassessments.⁸

14. The Tax Court appeals at issue in the Tax Litigation were resolved pursuant to a consent judgement executed by the Applicant and CRA dated March 28, 2025.⁹

15. In previously reassessing and proposing to reassess the Applicant for the above periods, the CRA identified approximately 70 refining customers of the Applicant ("**Impugned Suppliers**") that the CRA alleged failed to comply with their GST/HST obligations or that were otherwise actively participating in a nefarious scheme(s) to defraud the CRA of GST/HST revenue.¹⁰

16. In the course of addressing the Tax Litigation, the CRA made serious allegations against the Applicant including, among others:

- (a) the Applicant was involved in a 'carousel scheme', the sole purpose of which was to generate the false impression of entitlement to input tax credits ("**ITCs**");
- (b) certain Impugned Suppliers did not sell gold to the Applicant and instead issued Applicant's 'invoices of accommodation' to generate ITCs and support the false illusion of *bona fide* commercial activity;
- (c) approximately 2,794 kg of pure gold purportedly received by the Applicant was unaccounted for in respect of the Applicant's May 2017 and 2018 fiscal year ends and the Applicant purchased approximately 858 more kg of pure gold than it sent to refiners during the Tax Court Periods and Objection Periods; and

⁸ Salama Affidavit at [para 13](#).

⁹ Salama Affidavit at [para 14](#).

¹⁰ Salama Affidavit at [para 15](#).

- (d) the Applicant did not have sufficient cash on hand to complete physical cash transactions reflected in its books and records.¹¹

17. The Global Settlement resulted in the allowance of over \$99 million in previously denied ITCs to the Applicant for the Tax Court Periods. These ITCs consisted entirely of GST/HST amounts that the Applicant had already paid to the Impugned Suppliers, which the CRA had initially allowed and for which it had issued corresponding net tax refunds. As part of the Global Settlement, the CRA also allowed all ITCs claimed by the Applicant in relation to transactions with non-Impugned Suppliers for all three periods.¹²

18. The Global Settlement reflects that the allegations in paragraph 16 are false and reversed all gross negligence penalties previously assessed against the Applicant. This reflects the CRA's recognition that neither the Applicant nor its principal knowingly, or under circumstances amounting to gross negligence, made, participated in, assented to, or acquiesced in the making of any false statements or omissions in respect of its GST/HST returns or reporting, including the claiming of ITCs related to the Impugned Suppliers.¹³

C. Termination of the CCAA Proceeding

19. Since the granting of the Initial Order, the primary objective of this CCAA Proceeding has been to resolve the Tax Litigation. With the Applicant having now reached a Global Settlement with the CRA, the protections afforded by the CCAA are no longer necessary. Accordingly, the Applicant seeks to terminate the CCAA Proceeding.¹⁴

20. Throughout the CCAA Proceeding, the Applicant has continued to operate its Business in

¹¹ Salama Affidavit at [para 16-17](#).

¹² Salama Affidavit at [para 23](#).

¹³ Salama Affidavit at [paras 22 and 24](#).

¹⁴ Salama Affidavit at [para 8](#).

the ordinary course, with no material changes or developments in its day-to-day operations.¹⁵ The Applicant has made arrangements to make payments owing to its professionals involved in the CCAA Proceeding and the Tax Litigation as well as to pay the Monitor and the Monitor's legal counsel.¹⁶

21. With respect to all suppliers who were not Impugned Suppliers and were otherwise affected by the CCAA Proceeding through no fault of their own, the Applicant intends to pay these suppliers in the ordinary course following the termination of the CCAA Proceeding, subject to the terms of any requirements to pay in which the Applicant is a recipient.¹⁷

22. Unfortunately, the CCAA Proceeding has had a significant impact on the Applicant's Business, including its reputation within the gold refining community. As a result, the Applicant may consider evaluating potential remedies against the Impugned Suppliers, whose conduct directly contributed to the harm and costs that the Applicant has incurred.¹⁸

PART III – ISSUES

23. The issues to be determined by this Court are whether the Court should:

- (a) authorize the termination of the CCAA Proceeding and the discharge of the Monitor as at the CCAA Termination Time;
- (b) approve the activities of the Monitor as outlined Reports, and the Professional Fees of the Monitor, and its counsel, including the estimate of the fees to be incurred through the completion of the CCAA Proceeding;

¹⁵ Salama Affidavit at [para 31](#).

¹⁶ Salama Affidavit at [para. 34](#).

¹⁷ Salama Affidavit at [para. 36](#).

¹⁸ Salama Affidavit at [para 32](#).

- (c) grant the releases in favour of the Released Parties; and
- (d) extend the Stay Period up to and including the CCAA Termination Time.

PART IV – LAW & ARGUMENT

A. The CCAA Proceeding Should be Terminated and the Monitor Should be Discharged

24. Section 11 of the CCAA vests this Court with broad discretion to make “any order that it considers appropriate in the circumstances.”¹⁹ The discretion conferred by section 11 of the CCAA is not boundless. Rather, it must be exercised in furtherance of CCAA’s remedial objective, having regard to whether:

- (a) the order sought is appropriate in the circumstances;
- (b) the debtor company is acting in good faith; and
- (c) the debtor company is acting with due diligence.²⁰

25. An order under section 11 of the CCAA will be appropriate where it “advances the policy objectives underlying the CCAA.” These objectives include maximizing creditor recovery and providing a “timely, efficient and impartial resolution of a debtor’s insolvency”.²¹

26. In furtherance of the remedial objectives of the CCAA, this Court has routinely granted orders on terms similar to those sought in the proposed Termination Order.²² Such orders have

¹⁹ *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36, as amended, [“CCAA”], [s. 11](#).

²⁰ 9354-9186 Quebec Inc. v Callidus Capital Corp., 2020 SCC 10 at [para 49](#).

²¹ *Ibid* at [paras 40](#) and [46](#).

²² *In the Matter of a Plan of Compromise or Arrangement of GolfTown Canada Holdings Inc. et al*, [Termination Order \(March 29, 2018\)](#), Toronto, CV-19-629552-00CL; *In the Matter of a Plan of Compromise or Arrangement of Old API Wind-Down Ltd.*, [Termination Order \(May 17, 2019\)](#), Toronto, CV-18-603053-00CL; *In the Matter of a Plan of Compromise or Arrangement of Harte Gold Corp.*, [Distribution and Termination Order \(February 15, 2022\)](#), Toronto, CV-21-00673304-00CL.; *In the Matter of a Plan of Compromise or Arrangement of Lighthouse Immersive Inc.*, and *Lighthouse Immersive USA Inc.*, [CCAA Termination Order \(December 8, 2023\)](#), Toronto, CV-23-00703509-00CL.

frequently included provisions that explicitly:

- (a) terminate the CCAA proceedings upon the issuance of the termination order;
- (b) discharge the monitor from all further duties, obligations and responsibilities, as monitor, while authorizing the monitor, notwithstanding its discharge, to address any matters that are ancillary or incidental to the CCAA proceedings; and
- (c) terminate, release and discharge any charges in connection with the CCAA proceeding.

27. Having regard to the foregoing considerations, the Applicant submits that it is appropriate for this Court to terminate the CCAA Proceeding in the manner contemplated by the Termination Order²³ given that:

- (a) the Tax Litigation has been resolved pursuant to the Global Settlement;
- (b) since the granting of the Initial Order, the Applicant has, in consultation with the Monitor, have acted in good faith and with due diligence to, among other things, stabilize and continue their Business in the ordinary course and negotiate and resolve the Tax Litigation;
- (c) all matters requiring resolution within the ambit of the CCAA will have been completed by the CCAA Termination Time and no amounts are or will be owing in respect of any of the Charges; and
- (d) the Monitor supports the termination of the CCAA Proceeding on the terms set out in the proposed Termination Order.

²³ Salama Affidavit at [para 30](#).

28. Accordingly, the proposed Termination Order is appropriate in the circumstances and provides for an effective and appropriate process whereby the CCAA Proceedings can be terminated.

B. The Monitor's Activities in the Reports and the Professional Fees of the Monitor Should be Approved

(i) Monitor's Reports and Activities

29. In *Re Target Canada Co.*, Morawetz R.S.J. (as he then was) stated that a request to approve a monitor's report "is not unusual"²⁴ and that: there are good policy and practical reasons for the court to approve of Monitor's activities and providing a level of protection for Monitors during the CCAA Proceeding.

30. In this case, the Monitor's Reports, and the conduct and activities of the Monitor described therein should be approved. The Monitor has acted reasonably and carried out its activities in a manner consistent with the CCAA and in compliance with the Initial Order. No party has put evidence to the contrary.

(ii) Monitor's Professional Fees

31. The Initial Order provides, among other things, that:

- (a) the Monitor, counsel to the Monitor, and counsel to the Applicant shall be paid their reasonable fees and disbursements; and
- (b) the Monitor, counsel to the Monitor, and counsel to the Applicant are granted an Administration Charge as security for the payment of such fees and

²⁴ *Re Target Canada Co.*, 2015 ONSC 7574 at [para 2](#).

disbursements, which charge ranks in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise.

32. The Monitor is seeking approval of the Professional Fees, which will be described in the Fee Affidavits appended to the Monitor's Twenty-Third Report.

33. The Monitor requests that this Court approve the fees of the Monitor and its legal counsel.²⁵ As the Court of Appeal for Ontario held in *Bank of Nova Scotia v Diemer*, this Court does not undertake a line-by-line analysis of the invoices. Rather, the guiding principles on fee approvals of this nature is whether the fees are fair, reasonable, and proportionate given the value of the Applicants' assets and liabilities, as well as the complexity of the Applicants' Business and the restructuring proceeding.

34. The Monitor, with the assistance of its legal counsel, carried out extensive activities during the CCAA Proceeding, as detailed in the Monitor's Reports. The more significant responsibilities that the Monitor has assumed include: (a) directly engaging with CRA to reach a resolution on the Tax Litigation; (b) reviewed the Applicant's GST/HST filings; (c) monitored the Business; and (d) assisted the Applicant in preparing a revised cash flow forecast. The Monitor also assisted and, in many cases, dealt directly with suppliers, creditors, and other stakeholders to maintain normal course operations following the commencement of the CCAA Proceeding.

35. The time spent, and thus the fees and disbursements of the Monitor and its legal counsel resulting from their activities, are commensurate with the significant role and responsibilities and activities undertaken. The work has been undertaken with a view to advancing the interests of the Applicant and its stakeholders.

36. The Monitor and its legal counsel's Professional Fees and disbursements are comparable

²⁵ Salama Affidavit at [para 34](#).

to the rates charged by other professional firms of comparable size and expertise for the provision of similar services regarding significant and complex commercial restructuring matters.

37. Accordingly, it is respectfully submitted that a consideration of the factors articulated by the courts support the conclusion that the remuneration of the Monitor and its legal counsel are fair and reasonable and their fees and disbursements should be approved.

C. The Releases Should be Granted

38. The proposed Termination Order provides for a release in favour of the Released Parties from any and all liability that the Released Parties may have in relation to the CCAA Proceeding.

39. CCAA Courts have, on multiple occasions, approved releases in the absence of a plan, both on consent and in contested matters. These releases have been in favour of, among other parties, directors, officers, monitors, counsel, employees, shareholders, and advisors.²⁶

40. In *Harte Gold*, Justice Penny, citing Morawetz C.J.'s decision in *Lydian*, evaluated the requested release with reference to the non-exhaustive factors listed below. While *Lydian* involved a Plan of Arrangement, the factors applied equally in a non-Plan scenario, as this was the case in *Harte Gold*, which involved an approval and reverse vesting order. Accordingly, the factors to be considered by this Court when determining whether to grant the requested releases are:

- (a) whether the claims to be released are rationally connected to the purpose of the plan;

²⁶ *Green Relief, Re*, 2020 ONSC 6837 [**"Green Relief"**] at [para 76](#); *Nelson Education Limited (Re)*, 2015 ONSC 5557 at [para 49](#); *Golf Town Canada Holdings Inc. (Re)*, [CCAA Termination Order \(March 29, 2018\)](#), Toronto, CV-1611527-00CL; *Green Growth Brands Inc. et al. (Re)*, [Order Terminating CCAA Proceedings \(May 19, 2021\)](#), Toronto, Court File No. CV-20-00641220-00CL; *TGF Acquisition Parent Ltd., Wind-Down Order (June 22, 2021)*, Toronto, CV21-00657098-00CL; *Superette Inc., Re*, [CCAA Termination Order, \(January 30, 2023\)](#), Toronto, CV-22-0068624500CL.

- (b) whether the plan can succeed without the releases;
- (c) whether the parties being released contributed to the plan;
- (d) whether the releases benefit the debtors as well as the creditors generally;
- (e) whether the creditors voting on the plan have knowledge of the nature and the effect of the releases; and
- (f) whether the releases are fair, reasonable and not overly-broad.²⁷

41. Justice Penny noted that, as in most discretionary exercises, it is not necessary for each of the above factors to apply in order for a release to be granted.²⁸

42. In this case, the Applicant submits that the releases in favour of the Released Parties satisfy the *Lydian* factors:

- (a) **The claims to be released are rationally connected to the purpose of the restructuring.** The release will reduce the number of claims made against the Released Parties. As a result, the Released Parties will have fewer indemnification claims against the Administration Charge. Since one of the key goals of a CCAA proceeding is to maximize recovery for creditors, a release that contributes to this goal is reasonably connected to the purpose of the Applicant's restructuring.
- (b) **The releases are fair, reasonable and not overly broad.** The releases are sufficiently narrow in scope as the Released Claims do not include any liability or claim arising out of any gross negligence or wilful misconduct. The proposed form

²⁷ *Harte Gold Corp. (Re)*, 2022 ONSC 653 [*"Harte Gold"*] at [paras 80-86](#); *Lydian International Limited (Re)*, 2020 ONSC 4006 [*"Lydian"*] at [para 54](#). See also *Green Relief, supra*, at [paras 50-57](#), where Justice Koehnen also cited Morawetz C.J.'s decision in *Lydian*.

²⁸ *Harte Gold, supra* at [para 80](#).

of the Termination Order provides that the releases would be effective as of the CCAA Termination Time.

- (c) **The creditors have knowledge of the nature and effect of the releases.** The creditors on the service list were served with materials relating to this motion. As of the date of this factum, the Applicant has received no objection to the releases.

43. The Monitor is of the view that the releases being sought are fair and reasonable in the circumstances and supports the releases sought by the Applicant.

D. The Stay Period Should be Extended until the CCAA Termination Time

44. The Stay Period currently expires on July 14, 2025. The proposed Termination Order extends the Stay Period up to and including the CCAA Termination Time.

45. Section 11.02(2) provides this Court with the authority to grant an extension of the stay of proceedings for any period “it considers necessary”.²⁹ To do so, this Court must be satisfied that circumstances exist that make the order appropriate and that the Applicants have acted, and are acting, in good faith and with due diligence.³⁰ A stay of proceedings is appropriate to provide a debtor with breathing room while it seeks to emerge from the CCAA.³¹

46. The Applicants have acted and continue to act in good faith and with due diligence in respect of all matters relating to these CCAA Proceedings. The extension of the Stay Period to the CCAA Termination Time will provide the Applicant and the Monitor with the breathing room to complete any necessary remaining steps. Further, the proposed extension will obviate the need for a further attendance before the Court.

²⁹ CCAA, [s. 11.02\(2\)](#).

³⁰ CCAA, [s. 11.02\(3\)](#).

³¹ *Ted Leroy Trucking [Century Services] Ltd (Re)*, 2010 SCC 60 at [para 14](#).

47. The Monitor supports the proposed extension of the Stay of Proceedings and does not believe it will materially prejudice any of the Applicant's stakeholders.

PART V – RELIEF REQUESTED

48. Based on the foregoing, the Applicant requests that the Termination Order, substantially in the form appended as tab 3 to the Applicant's motion record, be granted.

PURSUANT TO RULE 4.06(2.1), THE UNDERSIGNED certifies that they are satisfied as to the authenticity of every authority cited in this factum.



SIMRAN JOSHI (LSO#89775A)

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 10th DAY OF JULY, 2025

/s/ Reconstruct

RECONSTRUCT LLP

SCHEDULE "A"

List of Authorities

1.	<i>9354-9186 Quebec Inc. v Callidus Capital Corp.</i> , 2020 SCC 10
2.	<i>In the Matter of a Plan of Compromise or Arrangement of GolfTown Canada Holdings Inc. et al</i> , Termination Order (March 29, 2018) , Toronto, CV-19-629552-00CL
3.	<i>In the Matter of a Plan of Compromise or Arrangement of Old API Wind-Down Ltd.</i> , Termination Order (May 17, 2019) , Toronto, CV-18-603053-00CL
4.	<i>In the Matter of a Plan of Compromise or Arrangement of Harte Gold Corp.</i> , Distribution and Termination Order (February 15, 2022) , Toronto, CV-21-00673304-00CL
5.	<i>In the Matter of a Plan of Compromise or Arrangement of Lighthouse Immersive Inc., and Lighthouse Immersive USA Inc.</i> , CCAA Termination Order (December 8, 2023) , Toronto, CV-23-00703509-00CL
6.	<i>Re Target Canada Co.</i> , 2015 ONSC 7574
7.	<i>Green Relief, Re</i> , 2020 ONSC 6837
8.	<i>Nelson Education Limited (Re)</i> , 2015 ONSC 5557
9.	<i>Golf Town Canada Holdings Inc. (Re)</i> , CCAA Termination Order (March 29, 2018) , Toronto, CV-1611527-00CL
10.	<i>Green Growth Brands Inc. et al. (Re)</i> , Order Terminating CCAA Proceedings (May 19, 2021) , Toronto, Court File No. CV-20-00641220-00CL
11.	<i>TGF Acquisition Parent Ltd.</i> , Wind-Down Order (June 22, 2021) , Toronto, CV21-00657098-00C
12.	<i>Superette Inc., Re</i> , CCAA Termination Order, (January 30, 2023) , Toronto, CV-22-0068624500CL
13.	<i>Harte Gold Corp. (Re)</i> , 2022 ONSC 653
14.	<i>Lydian International Limited (Re)</i> , 2020 ONSC 4006
15.	<i>Ted Leroy Trucking [Century Services] Ltd (Re)</i> , 2010 SCC 60

SCHEDULE "B"**Statutory Authorities****Companies' Creditors Arrangement Act, RSC 1985, c C-36****General power of court**

11 Despite anything in the [*Bankruptcy and Insolvency Act*](#) or the [*Winding-up and Restructuring Act*](#), if an application is made under this Act in respect of a debtor company, the court, on the application of any person interested in the matter, may, subject to the restrictions set out in this Act, on notice to any other person or without notice as it may see fit, make any order that it considers appropriate in the circumstances.

Stays, etc. — other than initial application

11.02(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

11.02(3) The court shall not make the order unless

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

IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, RSC 1985, c C-36, AS AMENDED

Court File No. CV-20-00649558-00CL

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