

**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 NORTH AMERICAN FUR PRODUCERS INC., NAFA PROPERTIES INC.,  
3306319 NOVA SCOTIA LIMITED, NORTH AMERICAN FUR AUCTIONS  
INC., NAFA PROPERTIES (US) INC., NAFA PROPERTIES STOUGHTON LLC,  
NORTH AMERICAN FUR AUCTIONS (US) INC., NAFPRO LLC (WISCONSIN  
LLC), NAFA EUROPE CO-OPERATIEF UA, NAFA EUROPE B.V., DAIKOKU  
SP.Z OO and NAFA POLSKA SP. Z OO

(the "Applicants")

**MOTION RECORD OF THE APPLICANTS**

**Re: Stay Extension, Adjusting of Administration Charge and  
Sealing of Confidential Appendices – Returnable May 1, 2020)**

**Date:** April 29, 2020

**BLANEY MCMURTRY LLP**  
Barristers & Solicitors  
2 Queen Street East, Suite 1500  
Toronto ON, M5C 3G5

**David T. Ullmann** (LSO # 42357I)  
Tel: (416) 596-4289  
Fax: (416) 594-2437  
Email: [DUllmann@blaney.com](mailto:DUllmann@blaney.com)

Counsel for the Applicants

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(the "Applicants")

**SERVICE LIST**

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| TO: | <p><b>BLANEY MCMURTRY LLP</b><br/>Barristers &amp; Solicitors<br/>2 Queen Street East, Suite 1500<br/>Toronto ON M5C 3G5</p> <p><b>David T. Ullmann</b><br/>Tel: 416-596-4289<br/>Fax: 416-594-2437<br/>Email: <a href="mailto:DUllmann@blaney.com">DUllmann@blaney.com</a></p> <p>Lawyers for the Applicants</p> |
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|          |  |
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| AND TO:  | <p><b>MILLER THOMSON LLP</b><br/>Barristers and Solicitors<br/>40 King Street West, Suite 5800<br/>Toronto, Ontario M5H 3S1</p> <p><b>Kyla Mahar</b><br/>Tel: 416-597-4303<br/>Fax: 416-595-8695<br/>Email: <a href="mailto:kmahar@millერთhompson.com">kmahar@millერთhompson.com</a></p> <p><b>Asim Iqbal</b><br/>Tel: 416-597-6008<br/>Fax: 416-595-8695<br/>Email: <a href="mailto:aiqbal@millერთhompson.com">aiqbal@millერთhompson.com</a></p> <p>Lawyers for the Monitor</p>   |
| AND TO : | <p><b>DELOITTE RESTRUCTURING INC.</b><br/>Bay Adelaide Centre, East Tower<br/>Suite 200, 22 Adelaide Street West<br/>Toronto, Ontario M5H 0A9</p> <p><b>Phil Reynolds</b><br/>Tel: 416-956-9200<br/>Fax: 416-601-6151<br/>Email: <a href="mailto:philreynolds@deloitte.ca">philreynolds@deloitte.ca</a></p> <p><b>Todd Ambachtsheer</b><br/>Tel: 416-607-0781<br/>Fax: 416-601-6151<br/>Email: <a href="mailto:tambachtsheer@deloitte.ca">tambachtsheer@deloitte.ca</a></p> <p><b>Jorden Sleeth</b><br/>Tel: 416-775-8858<br/>Fax: 416-601-6151<br/>Email: <a href="mailto:jsleeth@deloitte.ca">jsleeth@deloitte.ca</a></p> <p>The Monitor</p> |

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| AND TO: | <p><b>THORNTON GROUT FINNIGAN LLP</b><br/>Barristers &amp; Solicitors<br/>Suite 3200, 100 Wellington Street West<br/>Toronto, Ontario M5K 1K7</p> <p><b>Leanne M. Williams</b><br/>Tel: 416-304-0060<br/>Fax: 416-304-1313<br/>Email: <a href="mailto:lwilliams@tgf.ca">lwilliams@tgf.ca</a></p> <p><b>Puya Fesharaki</b><br/>Tel: 416-304-7979<br/>Fax: 416-304-1313<br/>Email: <a href="mailto:pfesharaki@tgf.ca">pfesharaki@tgf.ca</a></p> <p>Lawyers for the Business Development Bank of Canada</p>  |
| AND TO: | <p><b>BLAKE, CASSELS &amp; GRAYDON LLP</b><br/>Barristers &amp; Solicitors<br/>199 Bay Street<br/>Suite 4000, Commerce Court West<br/>Toronto, Ontario M5L 1A9</p> <p><b>Milly Chow</b><br/>Tel: 416-863-2594<br/>Fax: 416-863-2653<br/>Email: <a href="mailto:milly.chow@blakes.com">milly.chow@blakes.com</a></p> <p><b>Chris Burr</b><br/>Tel: 416-863-2400<br/>Fax: 416-863-2653<br/>Email: <a href="mailto:chris.burr@blakes.com">chris.burr@blakes.com</a></p> <p><b>Aryo Shalviri</b><br/>Tel: 416-863-2962<br/>Fax: 416-863-2653<br/>Email: <a href="mailto:aryo.shalviri@blakes.com">aryo.shalviri@blakes.com</a></p> <p>Lawyers for Canadian Imperial Bank of Canada (CIBC)</p> |

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| AND TO: | <p><b>KPMG CORPORATE FINANCE</b><br/> 199 Bay Street<br/> Suite 4000, Commerce Court West<br/> Toronto, Ontario M5L 1A9</p> <p><b>Nick Brearton</b><br/> Tel: 416-777-3768<br/> Fax: 416-777-3364<br/> Email: <a href="mailto:nbrearton@kpmg.ca">nbrearton@kpmg.ca</a></p> <p><b>Katherine Forbes</b><br/> Tel: 416-777-8107<br/> Fax: 416-777-3364<br/> Email: <a href="mailto:katherineforbes@kpmg.ca">katherineforbes@kpmg.ca</a></p> <p>The Financial Advisor of the Company</p>  |
| AND TO: | <p><b>ALVAREZ &amp; MARSHAL</b><br/> Royal Bank Plaza, South Tower 200<br/> Bay Street, Suite 2900, P.O. Box 22<br/> Toronto, Ontario M5J 2J1</p> <p><b>Doug McIntosh</b><br/> Tel: 416-847-5150<br/> Fax: 416-847-5201<br/> Email: <a href="mailto:dmcintosh@alvarezandmarsal.com">dmcintosh@alvarezandmarsal.com</a></p> <p><b>Greg Karpel</b><br/> Tel: 416-847-5170<br/> Fax: 416-847-5201<br/> Email: <a href="mailto:gkarpel@alvarezandmarsal.com">gkarpel@alvarezandmarsal.com</a></p> <p>The Financial Advisor for CIBC</p> |
| AND TO: | <p><b>AIRD &amp; BERLIS LLP</b><br/> Brookfield Place, 181 Bay Street,<br/> Suite 1800<br/> Toronto, Ontario Canada M5J 2T9</p> <p><b>Sam Babe</b><br/> Tel: 416-865-7718<br/> Fax: 416-863-1515<br/> Email: <a href="mailto:sbabe@airdberlis.com">sbabe@airdberlis.com</a></p> <p>Lawyers for Waygar Capital Inc.</p>  |

|         |  |
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| AND TO: | <p><b>FOGLER, RUBINOFF LLP</b><br/> Lawyers<br/> 77 King Street West<br/> Suite 3000, PO Box 95<br/> TD Centre North Tower<br/> Toronto, ON M5K 1G8</p> <p><b>Artem Miakichev</b><br/> Tel: 416-365-3722<br/> Fax: 416-941-8852<br/> Email: <a href="mailto:amiakichev@foglers.com">amiakichev@foglers.com</a></p> <p><b>Maurice Fleming</b><br/> Tel: 416-941-8812<br/> Fax: 416-941-8852<br/> Email: <a href="mailto:mfleming@foglers.com">mfleming@foglers.com</a></p> <p>Counsel for W. Brown Farm</p> |
| AND TO: | <p><b>KOSKIE MINSKY LLP</b><br/> 20 Queen Street West<br/> Toronto, OM M5H 3R5</p> <p><b>Andrew J. Hatnay</b><br/> Tel: 416-595-2083<br/> Fax: 416-204-2872<br/> Email: <a href="mailto:ahatnay@kmlaw.ca">ahatnay@kmlaw.ca</a></p> <p><b>Demetrios Yiokaris</b><br/> Tel: 416-595-2130<br/> Fax: 416-204-2810<br/> Email: <a href="mailto:dyiokaris@kmlaw.ca">dyiokaris@kmlaw.ca</a></p> <p>Lawyers for the Employees</p>  |

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|---------|--|
|         | <p><b>BENNETT JONES LLP</b><br/> 3400 One First Canadian Place<br/> P.O. Box 130<br/> Toronto, ON M5X 1A4</p> <p><b>Sean Zweig</b><br/> Tel: 416-777-6254<br/> Fax: 416-863-1716<br/> Email: zweigs@bennettjones.com</p> <p><b>Joey Blinick</b><br/> Tel: 416-777-4828<br/> Fax: 416-863-1716<br/> Email: blinick@bennettjones.com</p> <p>Lawyers for the Applicants, Directors And Officers</p> |
| AND TO: | <p><b>COX &amp; PALMER</b><br/> 1 Germain Street, Suite 1500<br/> Saint John, NB E2L 4V1</p> <p><b>Josh JB. McElman</b><br/> Tel: 506-633-2708<br/> Fax: 506-632-8809<br/> Email: jmcelman@coxandpalmer.com</p> <p>Lawyers for Farm Credit Canada</p>  |
| AND TO: | <p><b>MINDEN GROSS LLP</b><br/> 145 King Street West, Suite 2200<br/> Toronto, ON M5H 4G2</p> <p><b>Timothy Dunn</b><br/> Tel: 416-369-4335<br/> Fax: 416-864-9223<br/> Email: tdunn@mindengross.com</p> <p>Lawyers for Meadowvale Land Limited and Rebecca's Gift Holdings Limited</p>  |

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| AND TO: | <p><b>DE ANGELIS LAW PROFESSIONAL CORPORATION</b><br/> 675 Cochrane Drive<br/> East Tower – Suite 304<br/> Markham, On L3R 0B8</p> <p><b>Vincent J. De Angelis</b><br/> Tel: 905 -752-0408<br/> Fax: 905- 752-0409<br/> Email: vince@deangelislaw.ca</p> <p>Lawyers for the Purchaser of the Carlingview Property</p>  |
| AND TO: | <p><b>DICKINSON WRIGHT</b><br/> Commerce Court West<br/> 199 Bay Street<br/> Suite 2200<br/> Toronto, ON, M5L 1G4</p> <p><b>Lisa S. Corne</b><br/> Tel: 416-646-4608<br/> Fax: 1-844-670-6009<br/> Email: lcorne@dickinsonwright.com</p> <p>Lawyers for VAG</p>  |
| AND TO: | <p><b>COUTTS CRANE</b><br/> 480 University Avenue<br/> Toronto ON M5G 1V2</p> <p><b>Robert O'Brien</b><br/> Tel: 416 - 977-0956 x 2232<br/> Fax: 416 - 977-5331<br/> Email: ro'brien@couttscrane.com</p> <p><b>MARY ANNE SHAW</b><br/> 308 - 1366 Yonge St<br/> Toronto ON M4T 3A7</p> <p><b>Mary Anne Shaw</b><br/> Tel: 416 – 968-0095<br/> Fax 416 – 968-0609<br/> Email: maryanne.shaw@sympatico.ca</p> <p>Lawyers for the Creditors, Canada Mink Breeders Association et al</p> |

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| AND TO: | <p><b>AUDAX LAW PC</b><br/> 3300 Bloor Street West,<br/> Suite 670 West Tower<br/> Toronto, Ontario<br/> M8X 2X2</p> <p><b>Frank Spizzirri</b><br/> Tel: 416.862.8329<br/> Fax: 416.862.8330<br/> Email: frank.spizzirri@audaxlaw.com</p> <p>Lawyers for Fur Commission USA</p>         |
| AND TO: | <p><b>PETKER CAMPBELL POSTNIKOFF</b><br/> 295 Weber Street North<br/> Waterloo, ON N2J 3H8</p> <p><b>Peter Campbell</b><br/> Tel: 519-886-1204<br/> Fax: 519-886-5674<br/> Email: info@petkerlaw.com</p> <p>Lawyers for CNH Industrial Capital Canada Ltd.</p>                          |
| AND TO: | <p><b>CORESTONE LAW</b><br/> Construction &amp; Property Law<br/> 117 Peter Street<br/> Suite 310<br/> Toronto, ON, M5V 0M3</p> <p><b>Harp Khukh</b><br/> Tel: 416-591-2222<br/> Fax: 416-591-2221<br/> Email: harp@corestone.ca</p> <p>Counsel for EXP Services Inc.</p>               |
| AND TO: | <p><b>CHAITONS LLP</b><br/> 5000 Yonge Street, 10th Floor<br/> Toronto, ON M2N 7E9</p> <p><b>Sanee Tanvir</b><br/> Tel: (416) 218-1128<br/> Fax: (416) 218-1853<br/> Email: stanvir@chaitons.com</p> <p>Lawyers for International Fur Trade Federation, IFF Americas and Fur Europe</p> |

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| <p>AND TO:</p>                       | <p><b>DEPARTMENT OF JUSTICE</b><br/> Ontario Regional Office<br/> 130 King Street West<br/> Suite 3400, P.O. Box 36<br/> Toronto, Ontario M5x 1k6</p> <p><b>Diane Winters</b><br/> Tel: 416-973-3172<br/> Fax: 416-973-0810<br/> Email: diane.winters@justice.gc.ca</p> <p>Lawyers for the Minister of National Revenue</p> |
| <p>AND TO:</p>                       | <p><b>MINISTRY OF FINANCE</b><br/> Office of Legal Services<br/> 33 King Street West, 6th Floor<br/> Oshawa, ON L1H 8H5</p> <p><b>Kevin J. O'Hara</b><br/> Tel: 905-433-6934<br/> Fax: 905-436-4510<br/> Email: kevin.ohara@fin.gov.on.ca</p>   |
| <p>AND TO:<br/><br/>(By courier)</p> | <p><b>NATIONAL LEASING GROUP INC.</b><br/> 1525 Buffalo Place<br/> Winnipeg, Manitoba R3T 1L9</p>   |

# INDEX

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(the “**Applicants**”)

**I N D E X**

| <b>Tab</b> | <b>Document</b>                       |
|------------|---------------------------------------|
| 1          | Notice of Motion dated April 27, 2020 |
| 2          | Draft Order                           |

**TAB 1**

Court File No. CV-19-00630241-00CL

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SP.Z OO and NAFA POLSKA SP. Z OO

(the "Applicants")

**NOTICE OF MOTION**

**(Re: Stay Extension and Adjusting Allocation of Administration Charge - Returnable May  
1, 2020)**

The Applicants will make a motion for an Order seeking the relief set out herein to a Judge of the Ontario Superior Court of Justice (Commercial List), on Friday, May 1, 2020, at 10:00 a.m. or as soon after that time as the motion can be heard, by telephone conference or other electronic means at the courthouse located at 330 University Avenue, Toronto, Ontario.

**PROPOSED METHOD OF HEARING:** The motion is to be heard orally.

**THE MOTION IS FOR:**

1. An Order, substantially in the form attached at **Tab 2** hereto (the "Extension Order"):

- (a) if necessary, abridging the time for service of this Notice of Motion and the corresponding Motion Record and dispensing with service on any person other than those served;
  - (b) extending the stay of proceedings (“**Stay Period**”) from May 4, 2020 to and including July 31, 2020 (the “**Extension Period**”);
  - (c) adjusting the allocation of the priority of the Administration Charge to permit \$900,000 to rank in first priority, an adjustment of \$200,000; and
  - (d) sealing the Confidential Appendices “A”, “B” and “C” filed under seal with the Court in support of this motion; and
2. Such further and other relief as this Honourable Court may deem just.

**THE GROUNDS FOR THIS MOTION ARE:**

- (a) Capitalized terms not defined herein shall have the meanings ascribed to them in the Amended and Restated Initial Order of Justice McEwen dated October 31, 2019 (as amended and restated, the “**Initial Order**”);
- (b) All of the relief sought by the Applicants has been reviewed with the Agent and Business Development Bank of Canada (the “**BDC**”) prior to issuing this Notice of Motion and the Applicants are hopeful that the relief will be able to proceed on consent or an unopposed basis;

- (c) The Applicants are, collectively, in the business of farming, financing, preparing, grading and auctioning fur products, such as pelts and skins, for use in the garment industry;
- (d) On October 31, 2019, the Applicants commenced proceedings under the *Companies' Creditors Arrangement Act* (the "CCAA") pursuant to the Initial Order;
- (e) On November 28, 2019, (the "**November Motion**"), the Court granted the Applicants various orders including an Order extending the Applicants' Stay Period until January 31, 2020;
- (f) On January 31, 2020, the Applicants sought and were granted an Order extending the Stay Period in these proceedings to and until April 3, 2020;
- (g) On April 1, 2020, the Applicants sought a short stay extension of 30 days to allow it to more fully consider its operations during the period of the pandemic before returning to this court to seek a longer extension. The court granted that extension to May 4, 2020.
- (h) Since the date of the Initial Order, the Applicants, in close consultation with the Monitor have focused on stabilizing their business and operations as part of these CCAA proceedings and proceeding to, among other things, collect pelt advances and other proceeds to repay the DIP Facility and commence repaying the indebtedness owing to the Agent;

- (i) The business of the Applicants is an international business, with its main product, being interests in farmed mink pelts, being grown, harvested, processed and sold at locations around the world, mainly in Europe and North America;
- (j) As set out in the Applicants' motion to seek an extension in April (the "**March Motion Record**"), the Applicants had previously advised the Court that it would liquidate a material portion of its product this year through three venues:
  - (i) an auction of wild fur product to be sold at a joint auction conducted by a Canadian wild fur auction house Fur Harvesters Auctions Inc. ("**FHA**") and the Applicants from the Applicant's premises in Toronto;
  - (ii) several auctions, traditionally held in March, June and September by Saga Furs Inc. ("**Saga**") the second largest fur auction house in the world to be held in Helsinki, Finland, and
  - (iii) several auctions, traditionally held in February, May and July by Kopenhagen Fur a.m.b.a ("**KF**"), the largest fur auction house in the world, to be held in Kopenhagen, Denmark;
- (k) The business of the Applicants has been impacted by the worldwide pandemic related to the virus known as COVID-19;
- (l) Ontario is now operating in a declared state of emergency as a result of concerns related to COVID-19;

- (m) Among other issues, COVID-19 has resulted in severe travel restrictions and the total or partial closing of borders around the world, including in Canada and in the countries where pelts in which NAFA has an interest are to be auctioned;
- (n) As a result of the COVID-19 pandemic, the live auction to be conducted by FHA has been cancelled and will now likely not proceed until the late summer, the auction originally to be conducted by KF in February had been postponed to late April and the live auction originally to be conducted by Saga in early March was postponed to the beginning of April where it took place in an unprecedented manner online to allow for some furs to be sold;
- (o) While Saga has announced that the April Auction was a success given the new online auction format, Saga sold substantially less fur pelts than would have been the case at a traditional auction. In addition, it had difficulty selling North American pelts, which generally are known to require in person inspection by buyers in order to assess value;
- (p) To the extent goods secured to NAFA were sold in that auction, the proceeds will first be applied to advances made by SAGA to NAFA previously in accordance with the Saga Transaction and then to NAFA thereafter. NAFA was advised by Saga on April 27, 2020 that it will be provided with an estimate of proceeds payable to NAFA prior to May 1, 2020, however, based on discussions with Saga NAFA does not expect to receive material proceeds from this auction given the previous advances to NAFA and the limited sales of North American pelts;

- (q) As a result of the cancellation and delay of the various auctions NAFA is relying on to monetize the goods secured to it and other economic disruption caused by COVID-19, including the direction provided by the Province of Ontario to close all non-essential businesses, NAFA has not been able to meet the financial projections set out in the Third Report of the Monitor dated January 29, 2020 filed in support of the extension of the Stay Period to April 3, 2020;
- (r) The Applicants reviewed their economic situation with the Agent and BDC prior to the last hearing. In particular, the Applicants developed and forecast, with the assistance of the Monitor, an “Emergency Liquidity Plan”, a copy of which was provided to the Court in the March Motion Record, which is provided again herein as **Confidential Appendix “A”**;
- (s) The Monitor, with the assistance of the Applicants, has prepared a variance report which is provided herein as **Confidential Appendix “B”** for the period against the ELA to date that shows that the Applicants’ actual receipts have exceeded the ELA projections. As a result, the Company is ahead of where it projected it would have been had there been no receipts.
- (t) The Applicants, with the assistance of the Monitor have prepared a cash flow forecast to July 31, 2020, which is attached as **Confidential Appendix “C”** (the “**Cash Flow Forecast**”).
- (u) Unlike the ELA, which was prepared on the basis that the Applicants received virtually no receipts during the period, the Cash Flow Forecast projects certain

receipts, although given the current situation, the projection of receipts only accounts for receipts that the Applicants feel are reliable even in the crisis.

- (v) The Applicants, the Monitor and Saga had a call on April 24, 2020 during which, Saga confirmed its current intention is to conduct a live auction in June 2020 as scheduled and to do whatever is possible to ensure a robust auction process in the event the live auction is limited by the continued COVID-19 pandemic. As a result, the Cash Flow Forecast does forecast receipts in July anticipated to be received as a result of the Saga June auction;
- (w) The Cash Flow Forecast demonstrates that the Applicants will have sufficient liquidity to operate, subject to certain restrictions and assumptions set out therein;
- (x) The Applicants have requested accommodations from the landlord of the Skyway head office/auction premises to further ease liquidity, which remain under review and could provide additional liquidity to further ease the cash concerns;
- (y) The Applicants have also discussed possible accommodations with the Agent and BDC should they become necessary, which are currently not forecast in the Cash Flow Forecast;
- (z) The Applicants have taken significant cash conserving measures, which include undertaking certain lay-offs, deferral of a portion of certain employees' salaries until the end of the Cash Flow Period with the agreement of the impacted employees, deferral of the payment of any KERP amounts to at least the end of the Cash Flow Period with the agreement of the impacted employees, and the deferred

payment of outstanding professional fees such that these amounts are paid 60 days in arrears;

- (aa) Given the delay of the FHA auction from May until the summer, NAFA engaged in further cutbacks and laid off an additional 10 employees. The remaining employees are the core group of NAFA executives and employees. They are engaged in:
- (i) conducting private treaty sales of the substantial goods still on hand at NAFA to produce revenue from goods which might otherwise have been sold at the FHA auction;
  - (ii) collecting the outstanding buyer receipts from the last NAFA auctions in September;
  - (iii) communicating with parties who owe money to NAFA in an attempt to obtain payment in respect of same;
  - (iv) resolving remaining disputes with the outstanding delivery of pelts for this year's auctions, whether pursuant to the SAGA Transaction as previously described to this Court, or otherwise;
  - (v) attending to the shipping and receiving of goods, which are subject to private treaties or storage arrangements;
  - (vi) assisting with HR matters relating to the laying-off or terminating employees, not only in Canada, but also in Poland;

- (vii) reviewing Government programs to determine whether NAFA is eligible for any relief during the COVID-19 pandemic;
  - (viii) liaising with real estate agents regarding the Applicants' real estate assets that are currently listed for sale and attending to questions related to same and, as and when possible, showing the properties;
  - (ix) attending to the shutdown of the Applicants' Daikoku operations in accordance with the advice of Polish counsel to minimize employee and other liabilities to NAFA;
  - (x) assisting with legal matters related to the CCAA process generally and answering stakeholder questions and concerns related to same, and
  - (xi) assisting with preparing proofs of loss and processing what may prove to be material insurance claims being filed by the Applicants related to the failure of certain farmers to make deliveries when due this year, including those in Latvia and Lithuania as previously reported to this Court;
- (bb) The Applicants have suspended finalizing and thereafter commencing its SISP program to avoid those costs until there is more stability in the market place and the Applicants can consider the state of the market for the items which would be for sale under the SISP;
- (cc) The Applicants currently owe professional fees of approximately US \$810,000 million not including April, 2020 work in progress, which are secured by the Administration Charge. This amount includes amounts owing to the counsel for

the Applicants (including amounts owing for Applicants' counsel in Lithuania, Latvia and Poland), the Monitor and its counsel and the Agent's counsel and financial advisor;

- (dd) The Administration Charge currently provides for a first ranking super priority charge in the amount of U.S.\$700,000 in priority to all other charges (now that the DIP is repaid), and a fourth ranking charge in the amount of U.S.\$800,000 behind the KERP Charge and the Syndicate Debt and the Syndicate Security;
- (ee) The Applicants are seeking to adjust the priority of the Administration Charge to allow for the amount of the first ranking super priority charge to be increased from U.S.\$700,000 to U.S.\$900,000;
- (ff) By adjusting the Administration Charge, certain pressure on the Applicants' liquidity can be eased until receipts are received by the Applicants to pay these professional fees;
- (gg) With a view to reducing ongoing professional fees, the Applicants, the Monitor and the Agent are in discussions regarding ways to streamline certain processes, which have proven expensive to date in these proceedings. Those steps include:
  - (i) seeking a 3 month extension of the Stay Period in this Motion to reduce the necessity to return to Court as often as has occurred in the past;
  - (ii) agreeing to streamline the process of collecting outstanding accounts, such that the collection of accounts can now be made with Monitor approval

subject to certain mutually agreed to thresholds being met, rather than requiring Agent approval; and

- (iii) extending weekly reporting to the Agent to by-weekly;
- (hh) In addition to reducing professional fees, the Applicants are expecting the additional flexibility being agreed to by the Agent will allow the Applicants to complete more settlements which will allow for liquidity to come in faster, which is in the interest of all parties;
- (ii) The Applicants have acted in good faith and with due diligence under the supervision of the Monitor through the Stay Period;
- (jj) Additional time is required to continue the Applicants' restructuring efforts, including with respect to the sale of their pelts, the collection of their accounts receivables in Europe and North America and the sale of their real estate holdings in Canada, the United States and Poland;
- (kk) The Applicants require the continued stability provided by the stay of proceedings in order to pursue the proposed path forward;
- (ll) The Applicants have sufficient liquidity to fund these proceedings during the extension of the Stay Period;
- (mm) The Monitor has confirmed it supports the Applicants' extension of the Stay Period to and including July 31, 2020;

## Process in Light of COVID-19

- (nn) As a result of the changes to the Commercial List operations in light of COVID-19, the following procedures will be applied with respect of the hearing for the Applicants' motion:
- (i) Parties on the Service List who intend to oppose the Applicants' requested stay extension or other relief being sought on this motion shall provide written notice to counsel for the Applicants (dullmann@blaney.com), the Monitor (jsleeth@deloitte.ca; kmahar@millertomson.com) and the Commercial List Office (Toronto.commercialist@jus.gov.on.ca) by no later than 5:00 p.m. (Toronto time) on April 29, 2020 (an "**Objection Notice**");
  - (ii) If no party delivers an Objection Notice in accordance with the procedure and deadlines set out above, the Monitor shall advise the Court accordingly and request the motion be heard by telephone conference on the materials filed;
  - (iii) If a party delivers an Objection Notice, the Monitor shall advise the Court, and the Court will direct the parties with respect to the conduct of a hearing; and
  - (iv) In the event the court finds the objection to be material, and if the hearing cannot be heard on May 1, 2020 as a result of an Objection Notice, the Applicants will request that the Court issue a short stay extension to

maintain the status quo pending a final determination of the Applicants' stay extension request;

- (oo) the Monitor and Applicants will take such other procedural steps as may be directed by the Court and as set out in the procedures suggested by the Commercial List Users Committee at < <https://commercialist.com/pdf/changes-to-commercial-list-operations-in-light-of-covid-19.pdf>>;

### **Other Grounds**

- (pp) The provisions of the CCAA, including section 11 thereof, and the inherent and equitable jurisdiction of this Honourable Court;
- (qq) Rules 2.03, 3.02, 16, and 37 of the Ontario *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended;
- (rr) Section 106 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 as amended; and
- (ss) Such further and other grounds as counsel may advise and this Court may permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

- (a) the Affidavit of Doug Lawson affirmed January 28, 2020 and the exhibits attached thereto (previously filed);
- (b) the Third Report of the Monitor, (previously filed);
- (c) Confidential Appendices “A”, “B” and “C”; and
- (d) such further and other evidence as counsel may advise and this Honourable Court may permit.

**Date:** April 27, 2020

**BLANEY MCMURTRY LLP**  
Barristers & Solicitors  
2 Queen Street East, Suite 1500  
Toronto ON M5C 3G5

**David T. Ullmann** (LSO # 42357I)  
Tel: (416) 596-4289  
Fax: (416) 594-2437  
Email: [DUllmann@blaney.com](mailto:DUllmann@blaney.com)

Counsel for the Applicants

**TAB B**

Court File No. CV-19-00630241-00CL

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

|                    |   |                  |
|--------------------|---|------------------|
| THE HONOURABLE     | ) | FRIDAY, THE 1st  |
|                    | ) |                  |
| MR. JUSTICE McEWEN | ) | DAY OF MAY, 2020 |

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 NORTH AMERICAN FUR PRODUCERS INC.,  
NAFA PROPERTIES INC., 3306319 NOVA SCOTIA LIMITED, NORTH  
AMERICAN FUR AUCTIONS INC., NAFA PROPERTIES (US) INC.,  
NAFA PROPERTIES STOUGHTON LLC, NORTH AMERICAN FUR  
AUCTIONS (US) INC., NAFPRO LLC (WISCONSIN LLC), NAFA  
EUROPE CO-OPERATIEF UA, NAFA EUROPE B.V., DAIKOKU SP.Z  
OO and NAFA POLSKA SP. Z OO

(the “**Applicants**”)

**ORDER**

**(Re: Stay Extension, Adjusting of Administration Charge and Sealing of Confidential Appendices)**

**THIS MOTION**, made by the Applicants for an Order for the relief set out in the Notice of Motion of the Applicants dated April 28, 2020, was heard by teleconference due to the COVID-19 crisis.

**ON READING** the Notice of Motion of the Applicants and the related confidential appendices, and upon hearing the submissions of counsel for the Applicants, counsel to the Monitor, counsel to the Canadian Imperial Bank of Commerce, as agent (in such capacity, the “**Agent**”) for the lenders party to the Fourth and Restated Credit Agreement dated as of

September 27, 2019 (as may be amended or amended and restated, the “**Credit Agreement**”) from time to time (the “**Lenders**”), and counsel for Business Development Bank of Canada (“**BDC**”) no one appearing for any other person on the Service List, although properly served as appears on the Affidavit of Service of [**Ariyana Botejue**], sworn April [29], 2020, filed:

### **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record herein 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 terms not otherwise defined in this Order shall have the meaning set out in the Initial Order of the Honourable Justice McEwen, dated October 31, 2019 (as amended and restated) (the “**Initial Order**”).

### **EXTENSION OF THE STAY PERIOD**

3. **THIS COURT ORDERS** that the Stay Period is hereby extended from May 4, 2020 to and including July 31, 2020.
4. **THIS COURT ORDERS** that the first ranking priority amount of the Administration Charge is hereby increased to \$900,000 from \$700,000.

**SETTLEMENT PROCEEDS**

5. **THIS COURT ORDERS** that any proceeds received by the Applicants in connection with any settlements, compromises or other accommodation arrangements entered into by them with any third-parties, including, for greater certainty, settlements, compromises or other accommodation arrangements relating to any outstanding KIT loans or other receivables owing to NAFA shall only be used by the Applicants (i) in accordance with cash flow forecasts that have been approved in writing by the Agent, (ii) with the prior written consent of the Monitor, and (iii) the Agent or further order of the Court.

**SEALING OF CONFIDENTIAL EXHIBITS**

6. **THIS COURT ORDERS** that Confidential Appendices “A”, “B” and “C” described in the Notice of Motion shall be and are hereby sealed, kept confidential and shall not form part of the public record pending further Order of this Court.

**INTERNATIONAL RECOGNITION**

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Monitor and the Applicants and their 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 Monitor, as an officer of this Court, and the Applicants as may be necessary or desirable to give effect to this Order or to assist the Monitor and the Applicants and their agents in carrying out the terms of this Order.

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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 NORTH AMERICAN FUR PRODUCERS INC., NAFA PROPERTIES INC., 3306319 NOVA SCOTIA LIMITED, NORTH AMERICAN FUR AUCTIONS INC., NAFA PROPERTIES (US) INC., NAFA PROPERTIES STOUGHTON LLC, NORTH AMERICAN FUR AUCTIONS (US) INC., NAFPRO LLC (WISCONSIN LLC), NAFA EUROPE CO-OPERATIEF UA, NAFA EUROPE B.V., DAIKOKU SP.Z OO and NAFA POLSKA SP. Z OO (the "**Applicants**")

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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**  
Proceeding commenced at Toronto

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**ORDER**  
**Re: Stay Extension, Adjusting of Administration Charge**  
**and Sealing of Confidential Appendices - Returnable May**  
**1, 2020)**

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**BLANEY MCMURTRY LLP**  
Barristers & Solicitors  
2 Queen Street East, Suite 1500  
Toronto ON M5C 3G5

**David T. Ullmann** (LSO # 42357I)  
Tel: (416) 596-4289  
Fax: (416) 594-2437  
Email: [DUllmann@blaney.com](mailto:DUllmann@blaney.com)

Counsel for the Applicants

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AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF NORTH AMERICAN FUR PRODUCERS INC., NAFA PROPERTIES INC., 3306319 NOVA SCOTIA LIMITED, NORTH AMERICAN FUR AUCTIONS INC., NAFA PROPERTIES (US) INC., NAFA PROPERTIES STOUGHTON LLC, NORTH AMERICAN FUR AUCTIONS (US) INC., NAFFRO LLC (WISCONSIN LLC), NAFA EUROPE CO-OPERATIEF UA, NAFA EUROPE B.V., DAIKOKU SP.Z OO and NAFA POLSKA SP. Z OO (the "**Applicants**")

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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**  
Proceeding commenced at Toronto

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**MOTION RECORD OF THE APPLICANTS**

**Re: Stay Extension, Adjusting of Administration Charge  
and Sealing of Confidential Appendices - Returnable May  
1, 2020)**

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Toronto ON M5C 3G5

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Tel: (416) 596-4289  
Fax: (416) 594-2437  
Email: [DUllmann@blaney.com](mailto:DUllmann@blaney.com)

Counsel for the Applicants