



ksv advisory inc.

Court Administration
NOV 27 2024
Halifax, N.S.

HFX No. 538745

SUPREME COURT OF NOVA SCOTIA

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 AND ARRANGEMENT OF BLUE LOBSTER
CAPITAL LIMITED, 3284906 NOVA SCOTIA LIMITED, 3343533 NOVA SCOTIA LIMITED AND
4318682 NOVA SCOTIA LIMITED

PRE-FILING REPORT OF KSV RESTRUCTURING INC.
AS PROPOSED MONITOR

November 27, 2024

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1.0 Introduction

1. KSV Restructuring Inc. (“**KSV**”) understands that Blue Lobster Capital Limited (“**Blue Lobster**”), 3284906 Nova Scotia Limited, 3343533 Nova Scotia Limited and 4318682 Nova Scotia Limited (collectively, the “**Companies**”) intend to make a motion to the Supreme Court of Nova Scotia (the “**Court**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) for an order (the “**Initial Order**”) granting the Companies protection under the CCAA and appointing KSV as monitor in these proceedings (the “**Monitor**”).
2. The Companies are indebted to Royal Bank of Canada (“**RBC**”) in the amount of approximately \$6.3 million. KSV understands that RBC has made an application for the appointment by the Court of a receiver and manager over the Companies.
3. Pursuant to the terms of the proposed Initial Order, the Companies are seeking, among other things, a stay of proceedings pending a further motion to be heard within ten days after the granting of the Initial Order (the “**Comeback Motion**”). No other relief is being sought by the Companies until the Comeback Motion.
4. KSV understands that at the Comeback Motion, the Companies intend to seek, among other things, the following relief:
 - a) an extension of the stay of proceedings; and
 - b) such other relief as necessary to preserve and protect the Companies’ businesses and assets and successfully conduct a sale and investment solicitation process (the “**SISP**”), which relief may include debtor-in-possession financing and court-order charges for the professionals involved in these proceedings and the directors and officers.
5. The Affidavit of Kevin Alexander Rice (the “**Rice Affidavit**”), the President of the Companies, affirmed November 27, 2024 provides, *inter alia*, background information concerning the Companies and their businesses, as well as the reasons that the Companies commenced these proceedings.
6. If the Court grants the relief set out in the proposed Initial Order, the Court materials filed in these proceedings will be made available by KSV on its case website at <https://www.ksvadvisory.com/experience/case/nsspirits>.
7. KSV is filing this report (the “**Pre-filing Report**”) as proposed Monitor. KSV was recently retained by the Companies. If the Initial Order is granted by the Court, the Monitor will file a report in respect of the relief sought by the Companies at the Comeback Motion and any material matters that have arisen since the date of this Pre-filing Report.

1.1 Purposes of this Report

1. The purposes of this Pre-filing Report are to:
 - a) provide KSV's qualifications to act as Monitor;
 - b) provide background information about the Companies;
 - c) comment on the cash flow forecast from November 25, 2024 to December 21, 2024 included in the Companies' motion materials (the "**Cash Flow Forecast**"); and
 - d) provide the proposed Monitor's recommendations regarding the relief sought by the Companies in their motion materials.

1.2 Restrictions

1. In preparing this Pre-Filing Report, KSV has relied upon certain of the Companies' unaudited financial information, financial forecasts, books and records, information available in the public domain and discussions with the Companies' management and advisors.
2. KSV has not audited or otherwise attempted to verify the accuracy or completeness of the financial information relied on to prepare this Pre-filing Report in a manner that complies with Canadian Auditing Standards ("**CAS**") pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, KSV expresses no opinion or other form of assurance contemplated under the CAS in respect of such information. Any party wishing to place reliance on the financial information should perform its own diligence.
3. An examination of the Cash Flow Forecast as outlined in the Chartered Professional Accountants of Canada Handbook has not been performed. Future oriented financial information relied upon in this Pre-Filing Report is based upon assumptions regarding future events; actual results achieved may vary from this information and these variations may be material. KSV expresses no opinion or other form of assurance on whether the Cash Flow Forecast will be achieved.
4. KSV's commentary in this Pre-filing Report on the Cash Flow Forecast is based on its preliminary review. If appointed Monitor, KSV, if necessary, will update the Cash Flow Forecast and file a revised version prior to the Comeback Motion.

1.3 Currency

1. All currency references in this Pre-Filing Report are in Canadian dollars.

1.4 KSV's Qualifications to Act as Monitor

1. KSV is a licensed trustee within the meaning of subsection 2(1) of the *Bankruptcy and Insolvency Act* (Canada) (the "BIA"). KSV is not subject to any of the restrictions to act as monitor set out in Section 11.7(2) of the CCAA.
2. KSV has consented to act as monitor in these proceedings should the Initial Order be granted. A copy of KSV's consent to act as Monitor is attached as **Appendix "A"**.
3. KSV has experience acting as CCAA monitor and other court-officer capacities in insolvency proceedings across Canada, including in the alcoholic beverage sector. In that regard, KSV was appointed in the CCAA proceedings of Metro 360 General Partnership, which operates two food and beverage distribution businesses, including in the "ready-to-drink" ("RTDs") segment. KSV also has experience acting as CCAA monitor in proceedings in Atlantic Canada. KSV is presently the CCAA monitor of 3306133 Nova Scotia Limited (formerly known as The Halifax Herald Limited), 1003940 Nova Scotia Limited (formerly known as Saltwire Network Inc.).
4. Neither KSV nor any of its representatives or affiliates has at any time in the past two years been: (a) a director, officer or employee of any member of the Companies; (b) related to any member of the Companies, or to any director or officer of any member of the Companies; or (c) the auditor, accountant or legal counsel, or a partner or an employee of the auditor, accountant or legal counsel, of any member of the Companies.

2.0 Background

1. The Companies are private companies incorporated under the laws of Nova Scotia.
2. Blue Lobster is primarily a real estate investment company which owns several real properties in Nova Scotia. The primary business of the other Companies is the manufacture and sale of alcoholic beverages (including RTDs), including spirits, wine and cider. The Companies sell their beverages to the liquor boards in Ontario, Nova Scotia and Prince Edward Island as well as to restaurants and directly to consumers.
3. Based on the Companies' records, the Companies were indebted to RBC as of November 23, 2024 in the amount of approximately \$6.1 million, including approximately \$900,000 under an operating line of credit and \$5.2 million under a term loan facility.
4. The Companies' head office is located at 61 Provost Street, New Glasgow, Nova Scotia. The Companies' business employs 84 individuals, including 46 individuals employed by an affiliate of the Companies.
5. Additional background information about the Companies is provided in the Rice Affidavit¹.

¹ Capitalized terms not otherwise defined in this Pre-Filing Report have the meanings ascribed to them in the Rice Affidavit.

3.0 Cash Flow Forecast

1. A summary of the Cash Flow Forecast is provided below.

(unaudited; CAD; \$000s)	
Receipts	
Trade and direct sales	823
Other collections	55
	<u>878</u>
Disbursements	
Payroll and benefits	167
Restructuring fees	211
Raw materials and other trade vendors	249
Contingency	100
Other	178
	<u>905</u>
Net Cash Flow	<u>(27)</u>
Opening Cash Balance	87
Net Cash Flow	<u>(27)</u>
Ending Cash Balance	<u>60</u>

2. The Cash Flow Forecast reflects that the Companies are projected to have positive cash flow during the Cash Flow Forecast period. A summary of the major assumptions in the Cash Flow Forecast is as follows:
 - a) the Companies' sales and collections are consistent with historical results;
 - b) no headcount reductions are contemplated during the period; and
 - c) the Companies' business will be operated on a cash-on-delivery basis, or close to it, from the date of the Initial Order.
3. A copy of the Cash Flow Forecast and the statutory report required pursuant to Section 10(2)(b) of the CCAA and the report required by the proposed Monitor is included as **Appendix "B"**.
4. If appointed Monitor, KSV intends to file a revised cash flow forecast, if necessary, in its report to Court on the Comeback Motion.

4.0 SISP

1. The Companies intend to conduct a SISP and to seek approval of it at the Comeback Motion. KSV has been advised that the Companies are in discussions with various lenders to refinance the RBC debt. KSV understands that the Companies intend for this to be the primary focus of the initial phase of the SISP. KSV has been advised that the Companies intend to file the draft term sheets from the prospective lenders as appendices to the Rice Affidavit.

5.0 Creditor Notification

1. The proposed Initial Order requires the Monitor to:
 - a) publish without delay a notice in *The Chronicle Herald* newspaper containing the information prescribed under the CCAA; and
 - b) within five days of the granting of the Initial Order to:
 - i. make the Initial Order publicly available in the manner prescribed under the CCAA;
 - ii. send, in the prescribed manner, a notice to every known creditor who has a claim against the Companies of more than \$1,000 advising that the order is publicly available; and
 - iii. prepare a list, showing the names and addresses of those creditors, and the estimated amounts of those claims, and make it publicly available in the prescribed manner.
2. If appointed Monitor, KSV will also post the Initial Order and all motion materials on its case website.

6.0 Conclusion and Recommendation

1. Based on the foregoing, KSV respectfully recommends that this Honourable Court grant an initial order under the CCAA on the terms of the draft Initial Order set out in the Companies' motion materials.

* * *

All of which is respectfully submitted,

**KSV RESTRUCTURING INC., IN ITS CAPACITY AS PROPOSED MONITOR OF
BLUE LOBSTER CAPITAL LIMITED, 3284906 NOVA SCOTIA LIMITED, 3343533 NOVA
SCOTIA LIMITED AND 4318682 NOVA SCOTIA LIMITED
AND NOT IN ITS PERSONAL OR CORPORATE CAPACITY**



PER: BOBBY KOFMAN, PRESIDENT

Appendix "A"

**SUPREME COURT OF NOVA SCOTIA
IN BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF the *Companies Creditors Arrangement Act* R.S.C., 1985 c. C- 36 as Amended (the “**CCAA**”)

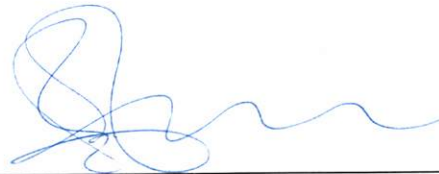
AND IN THE MATTER OF an application of Blue Lobster Capital Limited (“**Blue Lobster Capital**”), 3284906 Nova Scotia Limited (“**328NSL**”), 3343533 Nova Scotia Limited (“**334NSL**”) and 4318682 Nova Scotia Limited (“**431NSL**”), (the “**Applicants**”)

CONSENT

KSV RESTRUCTURING INC. hereby consents to act as the court-appointed monitor of the Applicants in connection with its proceedings pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c. C-36 subject to approval of the Court and and pursuant to the terms of an order substantially in the form filed.

DATED this 26th day of November, 2024

KSV RESTRUCTURING INC.



Name: **Bobby Kofman**
Title: **President**

Appendix "B"

		Week 1	Week 2	Week 3	Week 4	
		Forecast	Forecast	Forecast	Forecast	
Notes		2024-11-25	2024-12-02	2024-12-09	2024-12-15	
Week beginning		2024-11-29	2024-12-06	2024-12-13	2024-12-21	Total
Opening Cash Balance		86,556	209,909	194,205	190,019	86,556
Cash Inflows						
1	Trade Sales	206,153	128,579	287,595	73,565	695,891
2	Direct Sales	23,129	26,221	26,221	11,130	86,703
3	Shopify	10,150	10,150	10,150	10,150	40,600
4	Other Sales	18,268	9,394	791	26,537	54,990
Total Cash Inflows		257,700	174,344	324,757	121,382	878,183
Cash Outflows						
5	Salaries, wages, and benefits	-	64,838	-	64,838	129,676
	Payroll - CRA source remittances	8,098	-	9,500	15,325	32,923
	Equitable Life Benefits	-	-	4,000	-	4,000
	Professional Fees:	-	-	-	-	-
	Professional Fees - Legal Counsel	10,000	10,000	10,000	10,000	40,000
	Professional Fees - Monitor	12,000	12,000	12,000	12,000	48,000
	Professional Fees - Monitor Legal Counsel	10,000	10,000	10,000	10,000	40,000
	Professional Fees - Review Engagement	30,000	10,000	10,000	10,000	60,000
	Professional Fees - Accounting	11,000	4,000	4,000	4,000	23,000
	Rent	-	6,356	-	-	6,356
6	Schedule Loan Payment (RBC)	5,960	-	-	-	5,960
6	Equipment Lease Payment (RBC)	1,795	-	-	-	1,795
	Credit Card Due on 18th	-	4,000	63,148	60,852	128,000
	General Operating Expenses	9,938	12,400	8,529	4,877	35,744
	Contingency	25,000	25,000	25,000	25,000	100,000
	Inventory & Raw Materials Purchases	10,556	31,454	172,765	34,280	249,056
Total Cash Outflows		134,347	190,048	328,942	251,172	904,510
Cash surplus (deficit)		123,353 -	15,704 -	4,185 -	129,790 -	26,327
Cumulative cash surplus (deficit)		123,353	107,648	103,463 -	26,327 -	26,327
Ending Cash		209,909	194,205	190,019	60,230	60,230

Notes to Cash Flow Forecast

Purpose

This statement of projected cash flow (the "Forecast") has been prepared on a consolidated basis in respect of Blue Lobster Capital Limited, 3284906 Nova Scotia Limited, 3343533 Nova Scotia Limited and 4318682 Nova Scotia Limited in accordance with s. 23(1)(b) of the Companies Creditors' Arrangement Act ("CCAA") for the period November 25, 2024 to December 21, 2024 (the "Period").

Notes:

- Trade Sales refers to sales to liquor boards including NSLC, PEI, and LCBO. Payments up to Dec 4 are based on purchase orders fulfilled. Payment amounts after Dec 5 are based on average prior year December sales
- Direct Sales refers to sales to direct customers including restaurants. Payment are based on average prior year December sales; payment terms for 85% of sales are on receipt.
- Shopify Sales refers to sales made to direct customers through web or in store retail and are based on historical results
- Other Sales refers to sales to private liquor stores and misc other income.
- Payroll is based on the most recent actual results.
- Payments are scheduled for prior to November 28, 2024.

**SUPREME COURT OF NOVA SCOTIA
IN BANKRUPTCY AND INSOLVENCY**

**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 BLUE LOBSTER CAPITAL LIMITED,
3284906 NOVA SCOTIA LIMITED, 3343533 NOVA SCOTIA
LIMITED AND 4318682 NOVA SCOTIA LIMITED**

MANAGEMENT'S REPORT ON CASH FLOW STATEMENT
(paragraph 10(2)(b) of the CCAA)

The management of Blue Lobster Capital Limited, 3284906 Nova Scotia Limited, 3343533 Nova Scotia Limited and 4318682 Nova Scotia Limited (collectively, the "**Applicants**") has developed the assumptions and prepared the attached consolidated statement of projected cash flow as of the 26th day November, 2024, for the period November 25, 2024 to December 21, 2024 (the "**Cash Flow Forecast**"). All such assumptions are disclosed in the notes to the Cash Flow Forecast.

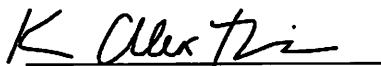
The hypothetical assumptions are suitably supported and consistent with the purpose of the Cash Flow Forecast as described in the Cash Flow Forecast, and the probable assumptions are suitably supported and consistent with the plans of the Applicants and provide a reasonable basis for the Cash Flow Forecast.

Since the Cash Flow Forecast is based on assumptions regarding future events, actual results will vary from the information presented and the variations may be material.

The Cash Flow Forecast has been prepared solely for the purpose outlined in the Cash Flow Forecast using a set of probable assumptions set out therein. Consequently, readers are cautioned that the Cash Flow Forecast may not be appropriate for other purposes.

Dated at Halifax, NS this 26th day of November, 2024.

**BLUE LOBSTER CAPITAL LIMITED, 3284906 NOVA SCOTIA LIMITED, 3343533 NOVA
SCOTIA LIMITED AND 4318682 NOVA SCOTIA LIMITED**



Per: Alex Rice

**SUPREME COURT OF NOVA SCOTIA
IN BANKRUPTCY AND INSOLVENCY**

**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 BLUE LOBSTER CAPITAL LIMITED,
3284906 NOVA SCOTIA LIMITED, 3343533 NOVA SCOTIA
LIMITED AND 4318682 NOVA SCOTIA LIMITED**

**PROPOSED MONITOR'S REPORT ON CASH FLOW STATEMENT
(paragraph 23(1)(b) of the CCAA)**

The attached consolidated statement of projected cash-flow of Blue Lobster Capital Limited, 3284906 Nova Scotia Limited, 3343533 Nova Scotia Limited and 4318682 Nova Scotia Limited (collectively, the "**Applicants**") as of the 26th day November, 2024, consisting of a weekly projected cash flow statement for the period November 25, 2024 to December 21, 2024 (the "**Cash Flow Forecast**") has been prepared by the management of the Applicants for the purpose described in the Cash Flow Forecast, using probable and hypothetical assumptions set out in the notes to the Cash Flow.

Our review consisted of inquiries, analytical procedures and discussions related to information supplied by the management of the Applicants. We have reviewed the support provided by management for the probable and hypothetical assumptions and the preparation and presentation of the Cash Flow Forecast.

Based on our review, nothing has come to our attention that causes us to believe that, in all material respects:

- a) the hypothetical assumptions are not consistent with the purpose of the Cash Flow Forecast;
- b) as at the date of this report, the probable assumptions developed by management are not suitably supported and consistent with the plans of the Applicants or do not provide a reasonable basis for the Cash Flow Forecast, given the hypothetical assumptions;
or
- c) the Cash Flow Forecast does not reflect the probable and hypothetical assumptions.

Since the Cash Flow Forecast is based on assumptions regarding future events, actual results will vary from the information presented, and the variations may be material. Accordingly, we express no assurance as to whether the Cash Flow Forecast will be achieved. We express no opinion or other form of assurance with respect to the accuracy of any financial information presented in this report, or relied upon in preparing this report.

The Cash Flow Forecast has been prepared solely for the purpose described in the Cash Flow Forecast and readers are cautioned that it may not be appropriate for other purposes.

Dated at Toronto, ON this 26th day of November, 2024.

KSV Restructuring Inc.

KSV RESTRUCTURING INC.,

solely in its capacity as proposed monitor of

Blue Lobster Capital Limited, 3284906 Nova Scotia Limited,

3343533 Nova Scotia Limited and 4318682 Nova Scotia Limited