

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

	X	
In re:	:	Chapter 15
	:	
CONTRACT PHARMACEUTICALS LIMITED, <i>et</i>	:	Case No. 24-10915 (___)
<i>al.</i> , ¹	:	Joint Administration Requested
Debtors in a Foreign Proceeding.	:	
	X	

**FOREIGN REPRESENTATIVE’S MOTION FOR PROVISIONAL RELIEF
PURSUANT TO SECTION 1519 OF THE BANKRUPTCY CODE**

Contract Pharmaceuticals Limited, in its capacity as the duly authorized foreign representative (“CPL” or in such capacity, the “Foreign Representative”), as defined by section 101(24) of title 11 of the United States Code (the “Bankruptcy Code”), of CPL, CPL Canada Holdco Limited, Contract Pharmaceuticals Limited Canada, Glasshouse Pharmaceuticals Limited Canada, and Glasshouse Pharmaceuticals LLC (collectively, the “Debtors”), in the Debtors’ insolvency proceedings commenced under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “CCAA”), pending before the Ontario Superior Court of Justice (Commercial List) (the “Canadian Court”), File No. CV-23-00711401-00CL (the “Canadian Proceedings”), respectfully moves this court, pursuant to section 1519 of title 11 of the United States Code (the “Bankruptcy Code”) for entry of an order, substantially in the form of the proposed order attached hereto as **Exhibit A** (the “Provisional Relief Order”), (i) granting provisional relief effective as of the Petition Date on an interim basis (a) enforcing the ARIO (as defined below) and (b) staying any collection and enforcement activity by creditors, lessors, and

¹ The Debtors in these Chapter 15 cases and the last four digits of their tax identification numbers are: Contract Pharmaceuticals Limited (9212), CPL Canada Holdco Limited (0001), Contract Pharmaceuticals Limited Canada (0003), Glasshouse Pharmaceuticals Limited Canada (0001), and Glasshouse Pharmaceuticals LLC (7890). The Debtors’ head office is located at 7600 Danbro Crescent, Mississauga, ON L5N 6L6.

any other parties against the Debtors and their assets in the United States pending this Court's consideration of the Recognition Order (defined herein) and (ii) granting such other and further relief as this Court deems just and proper (the "Motion"). In support of this Motion, the Foreign Representative relies upon (i) the *Foreign Representative's Verified Petition Under Chapter 15 for Recognition of the Canadian Proceedings and Request for Related Relief* (the "Verified Petition"),² and (ii) the *Declaration of Christopher Armstrong in Support of (A) Foreign Representative's Verified Petition under Chapter 15 for Recognition of the Canadian Proceedings and Request for Related Relief, (B) Foreign Representative's Motion for Provisional Relief Pursuant to Section 1519 of the Bankruptcy Code, and (C) Foreign Representative's Motion for Entry of an Order (I) Recognizing and Enforcing the RVO Order, (II) Approving the Sale Transaction Free and Clear of Liens, Claims, and Encumbrances, and (III) Granting Related Relief* ("Armstrong Declaration"), each of which was filed contemporaneously herewith and is incorporated herein by reference. In further support of the relief requested herein, the Foreign Representative respectfully represents as follows:

PRELIMINARY STATEMENT

1. The Foreign Representative has filed this Motion seeking a provisional stay in order to maintain the status quo until the Court can consider the Foreign Representative's request for recognition of the Canadian Proceedings as foreign main proceedings or, in the alternative, as foreign nonmain proceedings, and also consider the Foreign Representative's motion for recognition of the order recently granted by the Canadian Court approving the RVO Transaction (as defined below) that will see the Debtors' business continue as a going concern for the benefit

² Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Verified Petition.

of stakeholders. The requested relief is necessary to advance key objectives of Chapter 15: to protect and maximize the value of the Debtors' assets, and to ensure the equal treatment of similarly situated creditors. Without the relief requested, creditors in the United States could invoke self-help remedies to attempt to gain an unfair advantage at the expense of the Debtors' other creditors, including those that are subject to, and acting in full compliance with, the stay issued in the Canadian Proceedings. The Canadian Court has requested this Court's assistance in aid of the Canadian Proceedings, and protecting the Debtors and their assets from collection and enforcement actions will fulfill that request, which is exactly the type of cooperation that Chapter 15 is meant to foster. The provisional relief requested by the Debtors, which is generally afforded to debtors in chapter 15 recognition proceedings, is required to prevent individual creditors from acting to frustrate the purpose of the restructuring by disregarding the ARIO (defined below).

JURISDICTION AND VENUE

2. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. The Foreign Representative properly commenced these Chapter 15 cases pursuant to sections 1504 and 1509 of the Bankruptcy Code by filing petitions for recognition of the Canadian Proceedings under section 1515 of the Bankruptcy Code.

3. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), the Foreign Representative consents to the entry of a final order by the Court in connection with this Motion to the extent it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

4. Venue is proper before the Court pursuant to 28 U.S.C. § 1410.

5. The statutory predicates for the relief requested herein are sections 105(a), 1521(a)(7), and 1519 of the Bankruptcy Code.

BACKGROUND

6. On April 30, 2024 (the “Petition Date”), the Foreign Representative filed with this Court verified voluntary petitions for each of the Debtors under Chapter 15 of the Bankruptcy Code. Contemporaneously with the filing of this Motion, the Foreign Representative filed the Verified Petition.

7. The Canadian Proceedings were commenced under the CCAA, pursuant to which the Canadian Court entered an order appointing KSV Restructuring Inc. as monitor for the Debtors and authorizing CPL to act as foreign representative of the Debtors to, among other things, commence these Chapter 15 cases (the “Initial Order”). Additionally, the Initial Order provides for a broad stay of proceedings in favor of the Debtors. In particular, for an initial ten-day period through and including December 22, 2023 (the “Stay Period”), “no proceeding or enforcement process in any court or tribunal (each, a “Proceeding”, and collectively, “Proceedings”) shall be commenced or continued against or in respect of the [Debtors] or the Monitor, or any of their respective employees, advisors (including counsel) or other representative acting in such capacities, or affecting the Business or the Property, except with the written consent of the [Debtors] and the Monitor, or with leave of this Court.” *See* Initial Order ¶ 12.

8. The Canadian Court held a hearing on December 22, 2023 (the “Comeback Hearing”) to consider the Debtors’ request for an extension of the Stay Period and entry of an amended and restated Initial Order. *Id.* ¶ 48. At the Comeback Hearing, the Canadian Court entered the *Amended and Restated Initial Order* (the “ARIO”), extending the Stay Period to and

including March 22, 2024 and granting other relief. *See* ARIO ¶ 16. Additionally, on December 22, 2023, the Canadian Court entered the SISP Approval Order, which authorized and directed the Debtors to undertake a refinancing, sale and investment solicitation process (a “SISP”) for the purpose of effectuating a transaction for the Debtors’ business to continue as a going concern. *See* SISP Approval Order ¶¶ 3, 7.

9. On March 21, 2024, the Canadian Court entered the Stay Extension Order, which further extended the Stay Period to and including April 12, 2024. On April 17, 2024, the Canadian Court granted a further Stay Extension Order, which extended the Stay Period to and including June 17, 2024.

10. Additional information about the Debtors’ businesses, the events leading up to the Petition Date, and the facts and circumstances surrounding the Debtors, the Canadian Proceedings, and the commencement of these Chapter 15 cases can be found in the Verified Petition, which is hereby incorporated by reference.

RELIEF REQUESTED

11. By this Motion, pursuant to sections 105, 1521(a)(7), and 1519 of the Bankruptcy Code, the Foreign Representative seeks entry of the Provisional Relief Order effective as of the Petition Date (i) on an interim basis, (a) enforcing the ARIO and (b) applying sections 362 and 365(e) of the Bankruptcy Code to stay any and all collection and enforcement activity or execution by creditors and any other parties against the Debtors or their assets in the United States, including, but not limited to, continuing any action or commencing any additional action involving the Debtors or their assets or the proceeds thereof, terminating any contracts or leases, enforcing any judicial, quasi-judicial, administrative or regulatory judgment, assessment or order or arbitration award against the Debtors or their assets, commencing or continuing any action to create, perfect

or enforce any lien, setoff or other claim against the Debtors or against any of their property and managing or exercising control over the Debtors' assets, and purporting to enforce any *ipso facto* clause present in an executory contract or unexpired lease pending this Court's consideration of an order granting recognition to the Canadian Proceedings as foreign main proceedings or, in the alternative, foreign nonmain proceedings and staying all actions in respect of the Debtors, their rights, and their properties pursuant to section 1521 of the Bankruptcy Code in these Chapter 15 cases (the "Recognition Order"); and (ii) granting such other and further relief as this Court deems just and proper.

BASIS FOR RELIEF

12. The Foreign Representative filed the Petitions in an effort to obtain recognition of the Canadian Proceedings as foreign main proceedings or, in the alternative, as foreign nonmain proceedings, under section 1517 of the Bankruptcy Code and to obtain certain relief related thereto from this Court in connection with the Chapter 15 cases. However, until the Court grants such relief, the Debtors' business and assets are vulnerable to collection and enforcement actions by creditors in the United States. As set forth in the Verified Petition, such actions threaten the "fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities," including the Debtors, and the "protection and maximization of the value of the debtor's assets" contemplated by sections 1501(a)(3) and (a)(4) of the Bankruptcy Code. The Foreign Representative's ultimate goal is to ensure an orderly administration of the Debtors' financial affairs under the auspices of the Canadian Court in the Canadian Proceedings, with the aid of this Court through these Chapter 15 cases. The Foreign Representative submits that entry of the Provisional Relief Order under section 1519 of the Bankruptcy Code is the most efficient and effective means of ensuring that result.

13. More specifically, and as described in detail in the Verified Petition, the key element of the restructuring centers around the sale of the Debtors' business as a going-concern pursuant to the terms of the *Approval and Reverse Vesting Order* (the "RVO") and the transaction with AIP Elixir Buyer Inc. approved thereby (the "RVO Transaction").

14. The provisional relief sought herein is therefore critical to ensure that any assets of the business located in the United States are preserved and the status quo maintained so that the RVO Transaction can be implemented without delay or complication.

15. Accordingly, the Foreign Representative respectfully requests that the Court enter the Provisional Relief Order, granting provisional injunctive relief pursuant to section 1519 of the Bankruptcy Code, until such time as the Court has the opportunity to consider the Verified Petition and the entry of the Recognition Order. Specifically, the Foreign Representative seeks imposition of 11 U.S.C. §§ 362 and 365(e) for the purpose of maintaining the status quo until the Court rules on the Verified Petition.

I. Provisional Relief Is Authorized Under Section 1519(a) of the Bankruptcy Code

16. Section 1519(a) of the Bankruptcy Code provides:

From the time of filing a petition for recognition until the court rules on the petition, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including -

- (1) staying execution against the debtor's assets;
- (2) entrusting the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy; and

(3) any relief referred to in paragraph (3), (4), or (7) of section 1521(a).

11 U.S.C. § 1519(a). Section 1519(a)(3) of the Bankruptcy Code authorizes the Court to grant, on a provisional basis, any relief available pursuant to section 1521(a)(7). Section 1521(a)(7) provides that the Court may grant a foreign representative any relief available to a trustee, subject to certain exceptions that are not applicable in this case. The automatic stay of section 362 of the Bankruptcy Code, and the prohibition of *ipso facto* clauses of section 365(e) of the Bankruptcy Code, are essential features of the Bankruptcy Code that clearly fall within this provision. In addition, section 105(a) of the Bankruptcy Code further allows the Court to “issue any order . . . necessary or appropriate to carry out the provisions of [title 11].” 11 U.S.C. § 105(a).

17. The provisional relief sought herein is of a type frequently granted in Chapter 15 cases. Bankruptcy courts in the United States have routinely imposed the section 362 stay or ordered similar relief to maintain the status quo pending recognition or disposition of foreign proceedings in ancillary cases under both chapter 15 and section 304 of the Bankruptcy Code, including in respect of recognition proceedings that relate to restructurings of corporations in Canadian courts. *See, e.g., In re Acerus Pharmaceuticals Corp.*, No. 23-10111 (Bankr. D. Del. Jan. 31, 2023); *In re Groupe Dynamite Inc.*, No. 20-12085 (Bankr. D. Del. Sept. 9, 2020) (order granting provisional relief, including application of sections 362); *In re CDS Holdings, Inc.*, No. 20-11719 (Bankr. D. Del. July 17, 2020) (granting provisional relief making section 362 of the Bankruptcy Code applicable on a limited basis); *In re The Aldo Grp., Inc.*, No. 20-11060 (Bankr. D. Del. May 8, 2020) (order granting provisional relief, including and application of sections 362 and 365(e)); *In re Essar Steel Algoma Inc.*, No. 15-12271 (Bankr. D. Del. Nov. 10, 2016); *In re Catalyst Paper Corp.*, No. 12-10221 (Bankr. D. Del. Jan. 19, 2012) (order granting provisional relief, including application of sections 362 and 365(e)); *In re Arctic Glacier Int’l Inc.*, No. 12-

10605 (Bankr. D. Del. Feb. 23, 2012) (order granting provisional relief, including recognition and enforcement of the ARIO entered in the Canadian Proceedings, and application of sections 362, 364(e), and 365(e)).

II. Provisional Relief is Warranted under the Standards of Section 1519

18. Relief under section 1519 of the Bankruptcy Code is governed by the standards applicable to injunctions. *See* 11 U.S.C. § 1519(e); *In re Innua Can. Ltd.*, 2009 WL 1025088, at *3 (Bankr. D.N.J. Mar. 25, 2009). The standard for the grant of a preliminary injunction requires the Court to balance the Foreign Representative's likelihood of success against the relative prejudice to the parties. *See HRP Creative Servs. Co., LLC v. FPI-MB Entm't, LLC*, 616 F. Supp. 2d 481, 489 n.14 (D. Del. 2009) (noting that the test for a preliminary injunction involves a balancing of the interests among the parties that will result from preservation of the status quo). In determining whether injunctive relief is appropriate, courts evaluate: (a) the likelihood of success on the merits; (b) the irreparable harm that will result if the injunction is denied; (c) whether granting preliminary relief will result in even greater harm to the nonmoving party; and (d) whether the public interest favors such relief. *Kos Pharm., Inc. v. Andrx Corp.*, 369 F.3d 700, 708 (3d Cir. 2004) (citation omitted); *see also In re Nortel Networks UK Ltd.*, 538 B.R. 699, 704–05 (Bankr. D. Del. 2015) (citing *U.S. v. Bell*, 414 F.3d 474, 478 n.2 (3d Cir. 2005)). “As a practical matter, if a plaintiff demonstrates both a likelihood of success on the merits and irreparable injury, it almost always will be the case that the public interest will favor the [movant].” *AT&T Co. v. Winback and Conserve Program, Inc.*, 42 F. 3d 1421, 1427 n.8 (3d Cir. 1994). Under this standard, the Foreign Representative submits that it is entitled to provisional injunctive relief pursuant to section 1519 of the Bankruptcy Code and, therefore, respectfully requests that the Court enter the Provisional Relief Order.

A. There is a Substantial Likelihood of Recognition of the Canadian Proceedings

19. The Foreign Representative submits there is a substantial likelihood this Court will grant recognition to the Canadian Proceedings. Chapter 15 of the Bankruptcy Code applies where assistance is sought in the United States by a foreign representative in connection with a foreign proceeding. *See* 11 U.S.C. § 1501(b)(1). Two of the objectives of Chapter 15 are the “fair and efficient administration of cross-border insolvencies that protects the interest of all creditors, and other interested entities, including the debtor,” and the “protection and maximization of the value of the debtor’s assets.” *Id.* § 1501(a)(3), (a)(4). These Chapter 15 cases have been commenced to obtain the assistance of this Court in the effective and economical administration of the Canadian Proceedings by, among other things, carrying out the terms of the ARIO, including the stay provided thereunder, and recognizing the RVO to aid in the implementation of the RVO Transaction.

20. Section 1517(a) of the Bankruptcy Code, which governs the Foreign Representative’s request for entry of the Recognition Order, provides:

Subject to section 1506, after notice and a hearing, an order recognizing a foreign proceeding shall be entered if—

- (1) such foreign proceeding for which recognition is sought is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 1502;
- (2) the foreign representative applying for recognition is a person or body; and
- (3) the petition meets the requirements of section 1515.

11 U.S.C. § 1517(a). The Bankruptcy Code provides a clear and objective standard for determining the recognition of a foreign proceeding under section 1517 of the Bankruptcy Code.

As reflected in Chapter 15’s legislative history:

The decision to grant recognition is not dependent upon any findings about the nature of the foreign proceeding of the sort previously mandated by section 304(c) of the Bankruptcy Code. The requirements of this section [1517], which incorporates the definitions in section 1502 and sections 101(23) and (24), are all that must be fulfilled to attain recognition.

H.R. Rep 109-31, at 113 (2005), *reprinted in* 2005 U.S.C.C.A.N 88, 175. As further described in the Verified Petition, the Foreign Representative has satisfied the requirements of section 1517 of the Bankruptcy Code and is therefore “likely to succeed on the merits” of its request for entry of the Recognition Order.

i. *The Canadian Proceedings are “foreign proceedings”*

21. Section 101(23) of the Bankruptcy Code defines the term “foreign proceeding” as:

a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation.

11 U.S.C. § 101(23). The Canadian Proceedings fall squarely within this definition of a “foreign proceeding” since they encompass a comprehensive adjustment of the Debtors’ assets and liabilities subject to the control and supervision of the Canadian Court. Accordingly, each of the Chapter 15 cases involve a “foreign proceeding” within the meaning of section 101(23) of the Bankruptcy Code.

ii. *The Chapter 15 cases were commenced by a “foreign representative”*

22. Section 101(24) of the Bankruptcy Code defines a “foreign representative” as:

a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor’s assets or affairs or to act as a representative of such foreign proceeding.

11 U.S.C. § 101(24). Here, through the ARIO, the Foreign Representative has been authorized to act as a foreign representative for the Debtors in respect of the Canadian Proceedings. *See* ARIO ¶¶ 51–52 (authorizing the Foreign Representative to act as foreign representative and to file these Chapter 15 cases).

iii. *The Chapter 15 cases were properly commenced*

23. These Chapter 15 cases were commenced as required by sections 1504 and 1509 of the Bankruptcy Code by the filing of the Petitions under section 1515(a) of the Bankruptcy Code, accompanied by all documents and information required by sections 1515(b) and (c) of the Bankruptcy Code, including a copy of the Initial Order, the ARIO, and a statement identifying all foreign proceedings with respect to the Debtors that are known to the Foreign Representative. In addition, the Foreign Representative included with the Petitions a statement under Bankruptcy Rule 1007(a)(4) identifying all litigation known to be pending in the United States, and a list of all parties against whom provisional relief is sought.

iv. *The Canadian Proceedings are foreign main proceedings*

24. The Bankruptcy Code provides that a foreign proceeding for which Chapter 15 recognition is sought must be recognized as a “foreign main proceeding” if it is pending in the country where the debtor has the “center of its main interests” or “COMI.” 11 U.S.C. § 1517(b)(1). Section 1516(c) of the Bankruptcy Code provides that, in the absence of evidence to the contrary, the debtor’s registered office is presumed to be the center of the debtor’s main interests. *Id.* § 1516(c). Although the Bankruptcy Code is silent as to the type of contrary evidence necessary to overcome the presumption provided by section 1516(c) of the Bankruptcy Code, courts have recognized that the following factors are relevant to the “center of main interest” analysis: (i) the location of the debtor’s headquarters; (ii) the location of those who actually manage the debtor;

(iii) the location of the debtor's primary assets; (iv) the location of the majority of the debtor's creditors or of a majority of the creditors who would be affected by the case; and (v) the jurisdiction whose law would apply to most disputes. See *In re ABC Learning Ctrs. Ltd.*, Case No. 10-11711, 2010 WL 5439809, at *11 (Bankr. D. Del. Dec. 16, 2010) (citing *In re Bear Stearns*, 389 B.R. 325, 336 (S.D.N.Y. 2008)).

25. As further described in the Verified Petition, CPL Canada Holdco Limited ("CPL Holdco"), Contract Pharmaceuticals Limited Canada ("CPL Canada"), and Glasshouse Pharmaceuticals Limited Canada ("Glasshouse Canada") are incorporated under the *Business Corporations Act (Ontario)* and have their registered office in Ontario, Canada. Thus, the presumption provided by section 1516 dictates that those Debtors' "center of main interests" is Canada, such that the Canadian Proceedings qualify as "foreign main proceedings" under the Bankruptcy Code as to each of them. Moreover, although CPL and Glasshouse Pharmaceuticals LLC ("Glasshouse America") are organized under Delaware law, the Foreign Representative has demonstrated that the COMI of CPL and Glasshouse America also lies in Canada for the reasons set forth in the Verified Petition.

26. Specifically, applying the factors considered by courts in this jurisdiction, the section 1516(c) presumption in respect of CPL and Glasshouse America is rebutted. In particular, (i) CPL, the ultimate corporate parent of the group, functions only as the holding company of the group; (ii) all strategic decisions for all of the Debtors are made in Canada by the senior management of CPL Canada; (iii) all of the Debtors' employees are employed by CPL Canada and take direction from senior management at CPL Canada; (iv) all of the Debtors' assets are managed and located in Canada; (v) three of the Debtors' four prepetition lenders are in Canada and all four of the loans were entered into by either CPL Canada or Glasshouse Canada, as borrower; and

(vii) the Debtors' headquarters and their manufacturing and R&D facilities are located in Mississauga, Ontario (and they have no facilities in the U.S. or anywhere else). Moreover, each of the Debtors' principal corporate functions (including substantially all back-office, administrative, and human resource functions) are undertaken in Canada.

27. In short, the principal corporate management and strategic functions of the Debtors are undertaken on a consolidated basis in Canada. The Debtors' operations are integrated and function in a coordinated way such that Glasshouse America and CPL would be unable to operate or function independently of the Canadian Debtors. Currently, while certain Medicare and Medicaid rebates are processed through Glasshouse America on account of historical transactions, Glasshouse America has no active business operations. In the foregoing circumstances, where there is a fully integrated corporate group, bankruptcy courts have found COMI to be in the jurisdiction of the group's COMI rather than that of a specific debtor's registered office, even if that registered office is in the United States. *See, e.g., In re OAS S.A.*, 533 B.R. at 101-03 (COMI of debtor incorporated in Austria was Brazil rather than Austria where, among other things, it "was part of, and inseparable from, the OAS Group located in Brazil"); *see also In re Spectra Premium Corp.*, No. 20-10614 (Bankr. D. Del. Mar. 11, 2020) (recognizing Canadian proceeding as foreign main with respect to one United States debtor and Canadian debtors); *In re Kraus Carpet Inc.*, Case No. 18-12057 (KG) (Bankr. D. Del. Oct. 1, 2018) (recognizing Canadian proceeding as foreign main proceeding with respect to one United States debtor and five Canadian debtors); *In re Catalyst Paper Corp.*, Case No. 12-10221 (PJW) (Bankr. D. Del. Mar. 5, 2012) (recognizing Canadian proceeding as foreign main proceeding with respect to eight United States debtors and nine Canadian debtors); *In re Angiotech Pharm.*, Case No. 11-10269 (KG) (Bankr. D. Del. Feb. 22, 2011) (recognizing Canadian proceeding as foreign main proceeding with respect to 14 United

States debtors and three Canadian debtors); *In re Fraser Papers, Inc.*, Case No. 09-12123 (KJC) (Bankr. D. Del. July 14, 2009) (recognizing Canadian proceeding as foreign main proceeding with respect to two Canadian debtors and four United States debtors).

v. *Alternatively, the Canadian Proceedings are “foreign nonmain proceedings”*

28. Although the Foreign Representative submits that, as set forth above, the Canadian Proceedings should be recognized as foreign main proceedings, the Court may conclude that CPL and/or Glasshouse America do not have their COMI in Canada. Nevertheless, the Foreign Representative believes that, at the very least, the Canadian Proceedings are foreign nonmain proceedings in respect of CPL and Glasshouse America.

29. The Bankruptcy Code provides that a foreign proceeding for which Chapter 15 recognition is sought must be recognized as a “foreign nonmain proceeding” if it is pending in the country where the debtor has an “establishment.” 11 U.S.C. § 1517(b)(2). Section 1502 defines “establishment” to mean “any place of operations where the debtor carries out a nontransitory economic activity.” *See id.* at § 1502(2). “Non-transitory” economic activity requires “a seat for local business activity” in the applicable country with a “local effect on the marketplace.” *See Beveridge v. Vidunas (In re O’Reilly)*, 598 B.R. 784, 806 (Bankr. W.D. Pa. 2019); *Mood Media*, 569 B.R. at 561-63 (Bankr. S.D.N.Y. 2017). As described above (and in greater detail in the Verified Petition), each of the Debtors has an “establishment” in Canada given the scope of their business connections to Canada; the Canadian Proceedings should, in the alternative, be recognized as “foreign nonmain proceedings.”

30. Further, should the Court recognize a Canadian Proceeding with respect to any of the Debtors as a foreign nonmain proceeding, the Foreign Representative has requested discretionary relief with respect to any such Debtor and its property located in the United States

pursuant to section 1521 of the Bankruptcy Code. Specifically, the Foreign Representative requests that any relief that is the subject of this Motion be extended pursuant to section 1521(a) of the Bankruptcy Code, including the continued application of the automatic stay with respect to any such Debtor and its property located in the United States. Moreover, the application of section 365(e) on an interim basis, preventing contract counterparties from terminating their prepetition contracts is entirely consistent with the injunctive relief afforded by the automatic stay under section 362.

III. The Debtors will Suffer Irreparable Harm Absent the Provisional Relief Requested

31. The Foreign Representative believes that application of provisional relief pursuant to sections 362 and 365(e) of the Bankruptcy Code in these Chapter 15 cases is critical to the prevention of irreparable damage to the Debtors and the restructuring efforts being advanced through the Canadian Proceedings. These Chapter 15 cases were commenced for the purpose of obtaining the assistance of the Court in respect of the Canadian Proceedings and to give effect in the United States to the ARIO and its protections and to the RVO. As set forth in the Verified Petition, unless the Provisional Relief Order is entered, the Debtors face the real possibility of immediate and irreparable harm from individual creditors' collection and enforcement actions pending this Court's entry of the Recognition Order, including actions that may negatively impact the recently approved RVO Transaction. If individual creditors are free to initiate piecemeal collection and enforcement actions (including through the termination of key contracts), the Debtors' efforts to ensure the successful implementation of the RVO Transaction will be jeopardized. Absent this Court's entry of the Provisional Relief Order, the Debtors may be forced to expend their limited resources in defense of attachment and other similar collection actions by individual creditors, thereby exposing the Debtors (and their creditors) to irreparable harm. This

type of decentralized administration of the Debtors' assets could be extremely prejudicial and could serve to hinder the Canadian Proceedings.

32. With respect to the potential for collection activity on a piecemeal basis, a number of courts have recognized the need for provisional relief to prevent individual creditors from taking extrajudicial advantage of the recognition process. *See Victrix S.S. Co., S.A. v. Salen Dry Cargo, A.B.*, 825 F.2d 709, 713-14 (2d Cir. 1987) (harm to an estate exists where the orderly determination of claims and the fair distribution of assets are disrupted); *In re Acerus Pharmaceuticals Corp.*, No. 23-10111 (Bankr. D. Del. Jan. 31, 2023); *In re Energy Coal S.P.A.* 582 B.R. 619, 626–27 (Bankr. D. Del. 2018) (stating that harm to an estate exists where orderly determination of claims and fair distribution of assets are disrupted); *In re Banco Nacional de Obras y Servicios Publicos, S.N.C.*, 91 B.R. 661, 664 (Bankr. S.D.N.Y. 1988) (stating that injunctive relief is necessary “to prevent individual American creditors from arrogating to themselves property belonging to the creditors as a group”); *In re Lines*, 81 B.R. 267, 270 (Bankr. S.D.N.Y. 1988) (stating that “the premature piecing out of property involved in a foreign liquidation proceeding constitutes irreparable injury”).

33. If all creditors are not enjoined, any assets of the Debtors located in the United States may be prematurely seized, or actions commenced. If creditors unilaterally pursue collection, enforcement efforts or application of setoff, or terminate contracts, it could diminish the value of the Debtors' assets and cause significant delay and disruption to the Debtors' restructuring process. The purpose of Chapter 15 is to prevent such harm. *See* 11 U.S.C. § 1501.

IV. Provisional Relief Is Warranted Under the Balance of Hardships Test

34. In contrast to the hardships described above, preservation of the status quo through the provisional relief requested will not significantly prejudice creditors. In fact, courts have

recognized that provisional maintenance of a stay “actually serve[s] to benefit the estate’s creditors by allowing for an orderly administration of the Foreign Debtor’s financial affairs.” *See In re Innua Canada, Ltd.*, No. 09-16362 (DHS), 2009 WL 1025088, at *2-*4 (Bankr. D.N.J. Mar. 25, 2009). Any creditor or potential creditor that objects to the relief requested herein will have an opportunity to be heard and may apply to this Court for relief if such creditor believes the terms of the Provisional Relief Order cause harm to such creditor. Moreover, the Foreign Representative will request that the hearing on the Verified Petition and request for entry of the Recognition Order be held in approximately twenty-three (23) days from the Petition Date, such that the relief granted in the Provisional Relief Order will only be in place for a limited time and will have a minimal impact on creditors as a whole if the Court were not to recognize the Canadian Proceedings. Individual creditors’ rights to initiate piecemeal collection and enforcement actions should therefore be afforded minimal weight in light of the Canadian Proceedings, the filing of the Verified Petition, and the Foreign Representative’s request for entry of the Recognition Order. By contrast, the Debtors will suffer significant injury from creditor collection efforts, including potential self-help remedies and key contract terminations, if the Court does not grant the relief sought by the Foreign Representative.

35. In addition, the Foreign Representative notes that, upon entry of the Recognition Order, section 1520 of the Bankruptcy Code automatically implements sections 362 (the automatic stay), 363 (sale of estate property), and 365(e) (*ipso facto* clauses) of the Bankruptcy Code. And as mentioned, even if the Recognition Order recognizes the Canadian Proceedings as foreign nonmain proceedings, the Foreign Representative has requested similar such relief under the discretionary provisions of section 1521 of the Bankruptcy Code. Section 1521(a)(5) of the Bankruptcy Code authorizes the Court to “entrust the administration or realization” of the Debtors’

US assets to the Foreign Representative, along with other relief. 11 U.S.C. § 1521(a)(5). Thus, in the event the Recognition Order is entered, the Foreign Representative will be entitled to much of the relief provided for by the Provisional Relief Order.

36. Finally, numerous bankruptcy courts in this District have granted relief similar to the relief requested in this Motion. *See, e.g., In re Acerus Pharmaceuticals Corp.*, No. 23-10111 (Bankr. D. Del. Jan. 31, 2023); *In re Groupe Dynamite Inc.*, No. 20-12085 (Bankr. D. Del. Sept. 9, 2020) (order granting provisional relief, including application of sections 362 and 365(e)); *In re CDS U.S. Holdings, Inc.*, No. 20-11719 (Bankr. D. Del. July 2, 2020) (same); *In re The Aldo Grp., Inc.*, No. 20-11060 (Bankr. D. Del. May 8, 2020) (same); *In re Earth Renew IP Holdings LLC*, Case No. 10-13363 (Bankr. D. Del. October 22, 2010); *In re Grant Forest Prods.*, Case No. 10-11132 (Bankr. D. Del. April 19, 2010); *In re Nortel Networks Corp.*, Case No. 0910164 (Bankr. D. Del. Jan. 14, 2009); *In re MAAX Corp.*, Case No. 08-11443 (Bankr. D. Del. July 14, 2008).

V. The Provisional Relief Requested is Consistent with Public Policy

37. Granting the relief requested in the Provisional Relief Order will help advance the purpose of Chapter 15 as set forth in section 1501 of the Bankruptcy Code.

Unique to the Bankruptcy Code, Chapter 15 contains a statement of purpose: “[t]he purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency,” with the express objectives of cooperation between United States courts, trustees, examiners, debtors and debtors in possession and the courts and other competent authorities of foreign countries; greater legal certainty for trade and investment; fair and efficient administration of cross-border insolvencies that protects the interests of all creditors and other interested entities, including the debtor; the protection and maximization of the debtor’s assets; and the facilitation of the rescue of financially troubled businesses.

In re Bear Stearns High-Grade Structured Credit Strategies Master Fund, 374 BR 122, 126 (Bankr. S.D.N.Y. 2007) (internal citations omitted). Entry of the Provisional Relief Order will

assist with the orderly administration of the Canadian Proceedings. Fostering cooperation among the Canadian Court and this Court is precisely the goal that Chapter 15 is intended to promote. *See* 11 U.S.C. § 1501(a) (instructing that the purpose of Chapter 15 is to promote cooperation among courts to ensure the “fair and efficient administration of cross-border insolvencies”). Finally, by the Initial Order and ARIO, the Canadian Court has requested the assistance of this Court to effectuate its orders in the United States. *See* Initial Order ¶ 52; ARIO ¶ 61. Providing the requested assistance would achieve the objectives underlying Chapter 15. *See* 11 U.S.C. § 1525(a) (instructing that courts “shall cooperate to the maximum extent possible with a foreign court or a foreign representative” in accordance with section 1501).

NOTICE

38. Notice of this Motion has been provided to Office of the United States Trustee for the District of Delaware. The Foreign Representative respectfully submits that, in light of the nature of the relief requested, no other or further notice of the Motion need be given.

CONCLUSION

WHEREFORE, the Foreign Representative respectfully requests this Court (i) enter the Provisional Relief Order, substantially in the form attached hereto, pending the entry of the Recognition Order, and (ii) grant such other and further relief as this Court deems just and proper.

[Signature on following page]

Dated: April 30, 2024
Wilmington, Delaware

LANDIS RATH & COBB LLP

/s/ Joshua B. Brooks

Matthew B. McGuire (No. 4366)

Joshua B. Brooks (No. 6765)

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Counsel to the Foreign Representative

Exhibit A

Provisional Relief Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

	X	
In re:	:	Chapter 15
	:	
CONTRACT PHARMACEUTICALS LIMITED, <i>et</i>	:	Case No. 24-10915 (___)
<i>al.</i> , ¹	:	
Debtors in a Foreign Proceeding.	:	Jointly Administered
	:	
	X	

**ORDER GRANTING PROVISIONAL RELIEF
PURSUANT TO BANKRUPTCY CODE SECTION 1519**

Upon the motion (the “Motion”)² of Contract Pharmaceuticals Limited, in its capacity as the duly authorized foreign representative (“CPL” or in such capacity, the “Foreign Representative”), as defined by section 101(24) of title 11 of the United States Code (the “Bankruptcy Code”), of CPL, CPL Canada Holdco Limited, Contract Pharmaceuticals Limited Canada, Glasshouse Pharmaceuticals Limited Canada, and Glasshouse Pharmaceuticals LLC (collectively, the “Debtors”), in the Debtors’ insolvency proceedings commenced under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “CCAA”), pending before the Ontario Superior Court of Justice (Commercial List) (the “Canadian Court”), File No. CV-23-00711401-00CL (the “Canadian Proceedings”), through its United States counsel, Landis Rath & Cobb LLP, in this court, pursuant to section 1519 of the Bankruptcy Code for entry of a provisional order enforcing the ARIO and granting a stay against any collection or enforcement against the Debtors or the Debtors’ assets in the United States and otherwise applying section 362 and 365(e) of the Bankruptcy Code on an interim basis under section 1519 of the

¹ The Debtors in these Chapter 15 cases and the last four digits of their tax identification numbers are: Contract Pharmaceuticals Limited (9212), CPL Canada Holdco Limited (0001), Contract Pharmaceuticals Limited Canada (0003), Glasshouse Pharmaceuticals Limited Canada (0001), and Glasshouse Pharmaceuticals LLC (7890). The Debtors’ head office is located at 7600 Danbro Crescent, Mississauga, ON L5N 6L6.

² Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

Bankruptcy Code; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with sections 157 and 1334 of title 28 of the United States Code, sections 109 and 1501 of the Bankruptcy Code, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated as of February 29, 2012 (the “Amended Standing Order”); and consideration of the Motion and the relief requested therein being a core proceeding pursuant to section 157(b) of title 28 of the United States Code; and due and proper notice of the provisional relief sought in the Motion having been provided under the circumstances; and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Motion (the “Hearing”); and the appearances of all interested parties having been noted in the record of the Hearing; and upon (i) the *Foreign Representative’s Verified Petition Under Chapter 15 for Recognition of the Canadian Proceedings and Request for Related Relief* (the “Verified Petition”) and (ii) the *Declaration of Christopher Armstrong in Support of Foreign Representative’s (A) Verified Petition under Chapter 15 for Recognition of the Canadian Proceedings and Request for Related Relief, (B) Motion for Provisional Relief Pursuant to Section 1519 of the Bankruptcy Code, and (C) Motion for Entry of an Order (I) Recognizing and Enforcing the RVO Order, (II) Approving the Transaction Free and Clear of Liens, Claims, and Encumbrances, and (III) Granting Related Relief* (the “Armstrong Declaration” and together with the Verified Petition the “Chapter 15 Papers”), filed contemporaneously with the Motion, the record of the Hearing and all of the proceedings before the Court in these Chapter 15 cases; and the Court having found and determined that the provisional relief sought in the Motion is in the best interests of the Debtors, their creditors, and all parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation thereon and sufficient

cause appearing therefor,

THIS COURT HEREBY FINDS AND DETERMINES THAT:

A. The findings and conclusions set forth herein constitute this Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. This Court has jurisdiction to consider this matter pursuant to sections 157 and 1334 of title 28 of the United States Code and the Amended Standing Order.

C. This is a core proceeding pursuant to section 157(b)(2)(P) of title 28 of the United States Code.

D. Venue for this proceeding is proper before this Court pursuant to section 1410 of title 28 of the United States Code.

E. Service of the Motion was due, proper, and sufficient under the circumstances and no other notice is required.

F. On April 30, 2024, these Chapter 15 cases were commenced by the Foreign Representative's filing of a voluntary Chapter 15 Petition for Recognition of a Foreign Proceeding for each Debtor contemporaneously with the filing of the Verified Petition. Attached to the Verified Petition was the Initial Order and ARIO in the Canadian Proceedings appointing the Foreign Representative and granting additional relief.

G. The Foreign Representative has demonstrated a substantial likelihood of success on the merits that (a) each of the Canadian Proceedings is a "foreign main proceeding" as that term is defined in section 1502(4) of the Bankruptcy Code, (b) the Foreign Representative is a "foreign

representative” as that term is defined in section 101(24) of the Bankruptcy Code, (c) all statutory elements for recognition of the Canadian Proceedings are satisfied in accordance with section 1517 of the Bankruptcy Code, and (d) upon recognition of the Canadian Proceedings as foreign main proceedings, section 362 of the Bankruptcy Code will automatically apply in these Chapter 15 cases pursuant to section 1520(a)(1) of the Bankruptcy Code.

H. The Foreign Representative has demonstrated that (a) the commencement or continuation of any proceeding or action in the United States against the Debtors and their business and all of their assets should be stayed pursuant to sections 105(a), 1519, and 1521 of the Bankruptcy Code, which protections, in each case, shall be coextensive with the provisions of sections 362 and 365(e) of the Bankruptcy Code, to permit the fair and efficient administration of the Canadian Proceedings for the benefit of all stakeholders and (b) the relief requested in the Motion will neither cause an undue hardship nor create any hardship to parties in interest that is not outweighed by the benefits of the relief granted herein.

I. The Foreign Representative has demonstrated that application of the automatic stay on a provisional basis is crucial to prevent irreparable harm to the Debtors and/or their assets resulting from potential collection, enforcement efforts, or other actions of creditors prior to the disposition of the Petitions for recognition.

J. The Foreign Representative has demonstrated that no injury will result to any party that is greater than the harm to the Debtors’ assets and property in the absence of the relief requested in the Motion.

K. The interests of the public and public policy of United States will be served by entry of this Order.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. The Motion is granted as set forth herein.
2. While this Order is in effect, the Foreign Representative, the Debtors, and the Debtors' assets are entitled to the full protections and rights pursuant to section 1519(a)(1) of the Bankruptcy Code, which protections shall be coextensive with the provisions of sections 362 and 365(e) of the Bankruptcy Code, and this Order shall operate to stay, without limitation, any collection, enforcement efforts, or other actions of creditors, lessors, and any other parties against the Debtors and their property in the United States.
3. All entities (as that term is defined in section 101(15) of the Bankruptcy Code), other than the Foreign Representative and its authorized representatives and agents, are hereby enjoined from, without limitation:
 - (a) executing against any of the Debtors' assets;
 - (b) commencing or continuing, including the issuance or employment of process, of a judicial, administrative, arbitral, or other action or proceeding, against the Debtors that was or could have been commenced before the commencement of these Chapter 15 cases or to recover a claim, including without limitation any and all unpaid judgments, settlements, or otherwise against the Debtors in the United States that arose before the commencement of these Chapter 15 cases;
 - (c) taking or continuing any act to create, perfect, or enforce a lien or other security interest against the Debtors or against any of their assets;
 - (d) taking or continuing any act to set-off any debt owing to the Debtors against any claim against the Debtors that arose before the commencement of these Chapter 15 cases;
 - (e) taking or continuing any act to collect, assess or recover a claim against the Debtors that arose before the commencement of these Chapter 15 cases;
 - (f) transferring, relinquishing, or disposing of any assets of the Debtors to any entity (as that term is defined in section 101(15) of the Bankruptcy Code) other than the Foreign Representative;
 - (g) enforcing, commencing, or continuing an individual action or proceeding concerning the Debtors' assets, rights, obligations, or liabilities; and

- (h) consistent with and pursuant to section 365 of the Bankruptcy Code, terminating any agreements, leases, contracts, or understandings, or otherwise enforcing rights, accelerating obligations, or exercising remedies of any kind in respect thereof.

4. Pursuant to Rule 65(b) of the Federal Rules of Civil Procedure (the “Federal Rules”), made applicable to these proceedings pursuant to Bankruptcy Rule 7065, no notice to any person is required prior to entry and issuance of this Order. Pursuant to Bankruptcy Rule 7065, the provisions of Federal Rule 65(c) are hereby waived, to the extent applicable.

5. Notwithstanding any applicability of any Bankruptcy Rules, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

6. The Foreign Representative is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

7. This Court shall retain exclusive jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

Dated: _____, 2024
Wilmington, Delaware

United States Bankruptcy Judge