

Court File No.: BK-24-00459813-0031
Estate File No.: 31-459813

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL
UNDER THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS
AMENDED, OF GO-FOR INDUSTRIES INC.**

FACTUM OF PROPOSAL TRUSTEE

May 30, 2024

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in its capacity as Proposal Trustee.*

TO: THE SERVICE LIST

PART I: OVERVIEW

1. On March 20, 2024, 14328710 Canada Inc. (f/k/a Go-For Industries Inc.) (“**Go-For**” or the “**Company**”) filed a notice of intention to make a proposal pursuant to Section 50.1(1) of the *Bankruptcy and Insolvency Act* c. B-3, as amended (the “**BIA**”) and KSV Restructuring Inc. (“**KSV**”) was appointed as the proposal trustee (in such capacity, the “**Proposal Trustee**”). The proceedings commenced therein are hereinafter referred to as the “**NOI Proceedings**”.

2. The Company operated an online platform through which it facilitated last-mile freight deliveries by matching customers with the Company’s pool of contracted delivery drivers in over 120 metropolitan areas across Canada, and certain markets in the United States.

3. The Company commenced the NOI Proceedings to access urgent financing necessary for it to operate until it completed a going-concern sale of its business. That sale was approved by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on April 3, 2024, and the Transaction (defined below) closed on May 24, 2024.

4. As a result of the completion of the Transaction, the Company does not intend to seek a further extension of the stay of proceedings and the Company will be deemed bankrupt on June 5, 2024.

5. In advance of the deemed bankruptcy, the Proposal Trustee seeks an order (the “**Draft Order**”), *inter alia*:

- (a) approving the third report of the Proposal Trustee dated May 28, 2024 (the “**Third Report**”) and the actions, conduct and activities of the Proposal Trustee, as set out therein;
- (b) approving the fees of the Proposal Trustee and Aird & Berlis LLP (“**A&B**”), including the fee accrual;
- (c) amending the title of the proceedings to reflect the Company’s name change in accordance with the APA and Sale Approval Order; and
- (d) releasing KSV, A&B and Bennett Jones LLP (“**Bennett Jones**”), the Company’s legal counsel, (collectively, the “**Released Parties**”) from any and all liability arising out of

the acts or omissions of the Released Parties during the NOI proceedings, save and except for any claims relating to the Released Parties' gross negligence or willful misconduct.

6. The Proposal Trustee submits that the Draft Order is particularly necessary and reasonable in light of the inappropriate and unwarranted conduct by two of the Company's three directors, who sought to interfere with the NOI proceedings and the closing of the Transaction, despite having authorized the Company to enter into and proceed with the NOI proceedings and the Transaction. The directors' conduct is described in greater detail below, and in the Third Report.

PART II: FACTS

A. Background

7. The facts with respect to this motion are briefly summarized below and more fully set out in the Third Report. Capitalized terms not defined herein shall have the meanings ascribed to them in the Third Report.

8. The Company is a privately held business which operated an online platform facilitating last-mile freight deliveries in over 120 metropolitan areas across Canada and certain markets in the United States.¹ The NOI Proceedings were commenced due to significant liquidity constraints as a result of, among other things, operating losses, the seasonality of its business, several litigation settlements that were entered into as well as aged accounts payable.²

9. As further detailed in the Proposal Trustee's prior reports to Court, the Company was the subject of a sale and investment solicitation process prior to the commencement of the NOI Proceedings (the "**SISP**"), during which a third-party corporate finance firm was engaged as an advisor (the "**Advisor**") and solicited offers for the Company's business and assets to over 470 potentially interested parties.³ The SISP resulted in only one executable going-concern bid from I2BF Global Ventures (an affiliate of the Purchaser under the APA).⁴

¹ Third Report of the Proposal Trustee dated May 28, 2024 [the "**Third Report**"], section 2.0 at [paras 2 and 3](#).

² Third Report, section 2.0 at [para 5](#).

³ First Report of the Proposal Trustee dated March 23, 2024 [the "**First Report**"], section 3.0 at [paras 1-2](#).

⁴ First Report, section 3.0 at [para 3](#).

B. Prior Court Orders

10. On March 25, 2024, the Court granted an order (the “**Initial Order**”), which, among other things:

- (a) authorized and empowered the Company to obtain and borrow under a credit facility in an amount not to exceed \$750,000⁵ (the “**Trinity DIP Facility**”) from Trinity Capital Inc. (“**Trinity**”), as lender (in such capacity, the “**Trinity DIP Lender**”), pursuant to an agreement dated March 20, 2024 (the “**Trinity DIP Term Sheet**”) in order to finance the Company’s working capital requirements and other general corporate purposes and capital expenditures, including providing financing for these NOI Proceedings;
- (b) authorized and empowered the Company to obtain and borrow under a credit facility in an amount not to exceed \$750,000 (the “**Avren DIP Facility**”, together with the Trinity DIP Facility, the “**DIP Facilities**”) from Avren FinServe, LLC (“**Avren**”), as lender (in such capacity, the “**Avren DIP Lender**”), pursuant to an agreement dated March 20, 2024 (the “**Avren DIP Term Sheet**”, together with the Trinity DIP Term Sheet, the “**DIP Term Sheets**” and each a “**DIP Term Sheet**”) in order to finance the Company’s working capital requirements and other general corporate purposes and capital expenditures, including providing financing for these NOI Proceedings;
- (c) granted the following priority charges (collectively, the “**Charges**”, each as defined below):
 - (i) First - the Administration Charge (to the maximum amount of CAD\$300,000);
 - (ii) Second - the Trinity DIP Lender’s Charge (to the maximum amount of \$750,000, plus interest, fees and expenses) and the Avren DIP Lender’s Charge (to the maximum amount of \$750,000, plus interest, fees and expenses) on a *pari passu* and *pro rata* basis;

⁵ Unless otherwise noted, all currency references in this Factum are to United States dollars.

- (iii) Third - the Directors' Charge (to the maximum amount of CAD\$625,000); and
 - (iv) Fourth - the Expense Reimbursement Charge (to the maximum amount of CAD\$70,000); and
 - (d) authorized the Company, with the consent of the Proposal Trustee and the DIP Lenders, and in accordance with the cashflows and DIP Facilities, to pay certain pre-filing arrears to vendors whose products and/or services are essential to the Company's ongoing operations and/or may also be critical to implementing the contemplated sale or other restructuring alternatives in these NOI Proceedings, up to an aggregate maximum amount of CAD\$125,000.
11. On April 3, 2024, the Court granted the following orders:
- (a) a sale approval order (the "**Sale Approval Order**"), approving the going-concern sale transaction (the "**Transaction**") contemplated by the asset purchase agreement (the "**APA**") between the Company, as vendor (in such capacity, the "**Seller**"), and 1000826405 Ontario Inc., as purchaser (the "**Purchaser**"), entered into as of March 20, 2024; and
 - (b) an ancillary order that:
 - (i) extended the time for the Company to file a proposal, and the corresponding stay of proceedings, until and including June 4, 2024 (the "**Stay Period**");
 - (ii) authorized the Company to enter into a factoring agreement dated March 28, 2024 between Avren and the Company;
 - (iii) approved the Factoring Transactions and the Factoring Charge in favour of Avren (as defined in the Ancillary Order); and
 - (iv) approved the second report of the Proposal Trustee dated March 31, 2024 (the "**Second Report**") and the actions, conduct and activities of the Proposal Trustee, as set out therein.

C. Closing of the Transaction

12. As noted above, the Court approved the APA and the Transaction on April 3, 2024. Since then, the Company and the Proposal Trustee have worked to satisfy the material conditions to closing, including filing a notification with the appropriate ministers under section 12 of the *Investment Canada Act* and completing a certain transaction with Toolbx Inc.⁶ The Company and the Proposal Trustee have also, with the goal of closing the Transaction, corresponded with their respective legal counsel, the board of directors of the Company (the “**Board**”), and other stakeholders, suppliers and interested parties.⁷

13. Upon confirmation of the satisfaction of all conditions precedent under the APA from the Purchaser and the Seller, the Transaction closed on May 24, 2024 and the Cash Consideration (as defined in the APA) was funded to the Proposal Trustee by the Company and the Purchaser.⁸ At the time of closing, the Company had borrowed a total of \$1.5 million under the DIP Term Sheets and received \$0.97 million under the Factoring Agreement.⁹

D. Correspondence with the Board

14. Leading up to and during the NOI Proceedings, the Proposal Trustee and Bennett Jones had numerous discussions and email correspondence with Messrs. Kashif Sweet and Peter Classen, representatives of 3Q Investment Partners (“**3Q**”) and the other member of the Board (together, the “**3Q Directors**”).¹⁰

15. As detailed in the Second Report, the Advisor invited 3Q to participate in the SISP. 3Q initially submitted a non-binding expression of interest, but ultimately advised it would not submit an offer by the bid deadline. The Board, including the 3Q Directors, thereafter signed a resolution approving the Transaction and authorizing the Company to take all steps to complete it.¹¹

⁶ Third Report, section 3.0 at [paras 2-3](#).

⁷ Third Report, [sections 4.0](#) and [5.0](#).

⁸ Third Report, section 3.0 at [para 4](#).

⁹ Third Report, section 3.0 at [para 5](#).

¹⁰ Third Report, section 6.1 at [para 1](#).

¹¹ Third Report, section 6.1 at [para 3](#).

16. As noted in the Second Report, absent DIP financing provided by Trinity and Avren, which were conditional upon the Company's pursuit of the Transaction, the Company would likely have been forced to wind-down and liquidate as it would not have been able to pay its contracted drivers or meet its payroll obligations which would likely have resulted in the termination of its customer contracts and significant erosion of enterprise value to the detriment of its creditors.¹²

17. The 3Q Directors raised several reservations regarding the Company commencing the NOI Proceedings and entering into the APA but failed to propose or identify viable alternatives, including with respect to funding the Company's operating losses. Although they expressed reservations by correspondence, and by attending and making submissions opposing the Sale Approval Order hearing, they failed to file materials with the Court objecting to the APA or any other steps taken by any of the Released Parties.¹³

18. Throughout the NOI proceedings, the Proposal Trustee and Bennett Jones consulted with the Board and kept the Board apprised of the status of the proceedings and the Transaction.¹⁴

19. On the morning of April 3, 2024, the same day that the Company sought Court approval of the Transaction, 3Q delivered a conditional asset purchase agreement term sheet (the "**3Q Term Sheet**") for the purchase of substantially all of the Company's business and assets. The 3Q Term Sheet was not binding and the purchase consideration was unclear. The Court dismissed the 3Q Term Sheet and approved the Transaction, despite the 3Q Directors attending the hearing to raise objections to the very Transaction they had previously approved (again, without filing materials).¹⁵

20. The Proposal Trustee has responded to objections raised by the 3Q Directors throughout these proceedings, including through letters provided to the 3Q Directors dated April 5, 2024 and May 23, 2024. These letters communicate, among other things, the Proposal Trustee's expectation that the Board adhere to its fiduciary duties and refrain from interfering with the Court-approved activities of the Company and the Proposal Trustee.¹⁶

¹² Third Report, section 6.1 at [para 4](#).

¹³ Third Report, section 6.1 at [paras 5](#) and [9](#).

¹⁴ Third Report, section 6.1 at [para 8](#).

¹⁵ Third Report, section 6.1 at [para 9](#).

¹⁶ Third Report, section 6.1 at [paras 10-12](#).

21. Bennett Jones has also continuously responded to concerns raised by the 3Q Directors, including those raised via email from Mr. Classen on May 24, 2024, the day the Transaction was scheduled to close. In his email, Mr. Classen asserted that “[t]he closing package is inadequate, the unfulfillment of the Board’s legal review before closing is procedurally flawed, and the accelerated closing date is not in the best interest of the creditors and employees”.¹⁷

22. In its response to this recent email from Mr. Classen, Bennett Jones communicated, among other things, that all of the Company's employees had accepted offers of employment with the Purchaser on identical terms to their existing arrangements, the ICA Notice requirements had been met, the Court had approved the APA and the Transaction and no further approvals in respect of the APA were required for closing, which was scheduled to take place that same day.¹⁸

23. As indicated above, the Transaction closed as scheduled on May 24, 2024.¹⁹

24. The Board has not retained its own legal counsel prior to or during the NOI Proceedings, although the 3Q Directors have intermittently copied lawyers from a Canadian and a US law firm on their emails to Bennett Jones and the Proposal Trustee.²⁰

25. In light of the aforementioned conduct of the 3Q Directors, the Proposal Trustee seeks a release in favour of the Released Parties. The Proposal Trustee believes the proposed release is reasonable, appropriate and consistent with the releases typically provided to the professionals in BIA and/or CCAA proceedings.²¹

PART III: ISSUES

26. The issues to be considered on this Motion are whether the Court should:

- (a) approve the Third Report and the actions, conduct and activities of the Proposal Trustee, set out therein;
- (b) approve the fees of the Proposal Trustee and A&B, including the fee accrual; and

¹⁷ Third Report, section 6.1 at [para 13](#).

¹⁸ Third Report, section 6.1 at [para 13](#) and [Appendix “J”](#).

¹⁹ Third Report, section 1.0 at [para 9](#).

²⁰ Third Report, section 6.1 at [para 14](#).

²¹ Third Report, section 6.2 at [para 3](#).

- (c) grant the releases in favour of the Released Parties.

PART IV: LAW AND ANALYSIS

A. APPROVAL OF THE THIRD REPORT AND ACTIVITIES THEREIN

27. The Proposal Trustee respectfully submits that the Third Report and the activities of the Proposal Trustee detailed therein should be approved. The prior reports of the Proposal Trustee have already received approval from this Honourable Court.

28. This Court has routinely exercised its jurisdiction to approve a court-appointed officer's activities set out in its reports when a court-appointed officer meets the objective test of demonstrating that it has acted reasonably, prudently, and not arbitrarily. In *Target Canada*, the Court noted that the request for approval of a Monitor's reports under the *Companies' Creditors Arrangement Act* ("CCAA") is a routine practice.²² The Court further noted that there are good policy and practical reasons to grant the approval of a Monitor's reports and activities, including:

- (a) allowing the Monitor to bring its activities before the Court;
- (b) allowing an opportunity for stakeholders' concerns to be addressed;
- (c) enabling the Court to satisfy itself that the Monitor's activities have been conducted in prudent and diligent manners;
- (d) providing protection for the Monitor not otherwise provided by the CCAA; and
- (e) protecting creditors from delay that may be caused by re-litigation of steps or potential indemnity claims by the Monitor.²³

29. More recently, the principles set out in *Target Canada* were reaffirmed by Chief Justice Morawetz in *Laurentian University*.²⁴

30. In addition to proceedings under the CCAA, this Court has extended the applicability of the principles set out in *Target Canada* to receivership proceedings under the BIA²⁵ and has also

²² *Re Target Canada Co.*, [2015 ONSC 7574](#) [*Target Canada*] at [para 2](#).

²³ *Target Canada* at paras [2](#), [22-23](#).

²⁴ *Re Laurentian University of Sudbury*, [2022 ONSC 2927](#) at paras 13-14; *Target Canada Co.* at paras [2](#), [22-23](#).

²⁵ *Re Hanfeng Evergreen Inc.*, [2017 ONSC 7161](#) at [para 15](#).

considered such principles when approving the reports of trustees in NOI proceedings, as in the case here.²⁶

31. The activities of the Proposal Trustee as set out in the Third Report were consistent with its mandate, powers and duties under the BIA and carried out in accordance with the orders issued by the Court in the NOI Proceedings.²⁷ The Proposal Trustee has maintained open lines of communication with the Company's stakeholders and interested parties, including the 3Q Directors, and the Proposal Trustee and its legal counsel have acted in good faith and with due diligence.²⁸ Further, the form of approval order sought is consistent with the Court's comments in *Target Canada* that only the Proposal Trustee is entitled to rely upon or utilize in any way such approval.²⁹

B. APPROVAL OF THE PROPOSAL TRUSTEE'S AND ITS COUNSEL'S FEES

32. The Proposal Trustee respectfully requests that its fees and disbursements and those of its counsel as detailed in the Third Report and the fee affidavits attached thereto be approved in the circumstances.

33. In reviewing fees and accounts, the Court ought to focus on a fair and reasonable assessment of what was accomplished and consider the overall value contributed by counsel, rather than a line by line review of each docket.³⁰ The Ontario Court of Appeal has, in the case of receivership proceedings, endorsed a non-exhaustive list of factors to be considered in determining whether the fees are fair and reasonable, including:

- (a) the nature, extent and value of the assets;
- (b) the complications and difficulties encountered;
- (c) the degree of assistance provided by the debtor;
- (d) the time spent;

²⁶ See for example *In the Matter of Organic Garage (Canada) Ltd., 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc., and 2581751 Ontario Inc.* (May 2, 2024) BK-24-03051650-0031 ([Endorsement](#)).

²⁷ Third Report, section 6.2 at [para 1](#).

²⁸ Third Report, [section 6.1](#).

²⁹ *Target Canada* at paras [7](#), [26](#).

³⁰ *Bank of Nova Scotia v Diemer*, [2014 ONSC 365](#) at [para 19](#) and *Bank of Nova Scotia v Diemer*, [2014 ONCA 851](#) at [para 45](#) [*Bank of Nova Scotia v Diemer*].

- (e) the receiver's knowledge, experience and skill;
- (f) the diligence and thoroughness displayed;
- (g) the responsibilities assumed;
- (h) the results of the receiver's efforts; and
- (i) the cost of comparable services when performed in a prudent and economical manner.³¹

34. The Proposal Trustee submits these factors apply equally to NOI proceedings and that the accounts of the Proposal Trustee and its legal counsel, A&B, meet each of the above-noted requirements. The scope of work, including managing the closing of the Transaction and the concerns of the 3Q Directors, render the costs incurred by the Trustee and its legal counsel reasonable. Such costs are commensurate with the services provided and the benefits provided to the Company and its stakeholders, including the Company's employees. Furthermore, the results of the Proposal Trustee's actions in closing the Transaction have aided in the avoidance of a forced liquidation of the Company, as the Company would have not had sufficient liquidity to maintain operations absent the Transaction.³²

35. Additionally, the Proposal Trustee is of the view that the hourly rates charged by A&B are consistent with the rates charged by law firms practising corporate insolvency and restructuring in the Toronto market, and that the overall fees charged by A&B were validly incurred and are reasonable and appropriate in the circumstances.³³

C. APPROVAL OF THE RELEASES IN FAVOUR OF THE RELEASED PARTIES

36. As discussed above and further detailed in the Third Report, the 3Q Directors have raised concerns with respect to the closing of the Transaction and have made certain non-specific allegations relating to the conduct of certain of the Released Parties. In light of these circumstances, and the fact that each of the Released Parties materially contributed to the restructuring, the Proposal Trustee

³¹ *Federal Business Development Bank v Belyea and Fowler*, [1983 CanLII 4086 \(NB CA\)](#) at para. 9; *Bank of Nova Scotia v Diemer* at [para 33](#).

³² Third Report, section 6.2 at [para 1](#).

³³ Third Report, section 7.0 at [para 5](#).

seeks the approval of certain releases in favour of the Released Parties, as contemplated in the Draft Order.

37. The releases contemplated in the Draft Order are narrow in nature in that they:
- (a) apply only to the actions and activities conducted by the Released Parties during these NOI Proceedings; and
 - (b) do not apply to any claims arising from gross negligence or willful misconduct.

i. Releases in favour of the Proposal Trustee and its Counsel

38. The Proposal Trustee and its counsel have acted reasonably, in good faith and with due diligence throughout the NOI Proceedings, and consistently with the orders issued by the Court. None of the Court's orders in these NOI Proceedings were appealed and thus are final orders.

39. This Court, when faced with disputes as to approval of a trustee's activities set out in a report to the Court, has taken a contextual approach. For example, in *Integro Building Systems Inc et al.*, in which a creditor disputed the trustee's activities, this Court considered the evidence presented by the opposing creditor in support of their objection and whether the objection stemmed from relief already granted in the proceedings.³⁴

40. In this case, there have been no filed materials objecting to the activities of the Proposal Trustee and its counsel. The Transaction, which has been the focal point of the 3Q Directors' concern, was carried out in accordance with prior orders of this Court.

41. In the Initial Order granted on March 25, 2024, this Court ordered that:

10. [I]n addition to the rights and protections afforded the Proposal Trustee under the BIA or as an officer of this Court, the Proposal Trustee shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order or any other Orders which may be made by this Court from time to time, save and except for any gross negligence or wilful misconduct on its part. Nothing in this

³⁴ *Integro Building Systems Inc et al.* (April 19, 2024) BK-23-00459641-0031 ([Endorsement](#)).

Order shall derogate from the protections afforded the Proposal Trustee by the BIA or any applicable legislation.

42. The Proposal Trustee carried out its duties in accordance with the requirements of the BIA and the orders of this Court. The Proposal Trustee respectfully submits that the releases follow logically from paragraph 10 of the Initial Order, will avoid unnecessary and costly re-litigation and will provide the impacted parties with certainty.

ii. Releases in favour of the Company's counsel

43. It is not uncommon for third parties, including counsel to certain stakeholders, to be released from claims arising from their conduct in insolvency and restructuring proceedings. This Court has confirmed that it has jurisdiction to render orders approving releases (including third-party releases) in the context of CCAA and BIA proceedings.

44. In the CCAA context, the Court must consider the following factors, though it is not necessary for each of these factors to apply in order for a release to be granted³⁵:

- (a) whether the parties to be released were necessary and essential to the restructuring of the debtor;
- (b) whether the claims to be released are rationally connected to the purpose of the restructuring and necessary for it;
- (c) whether the restructuring could succeed without the releases;
- (d) whether the parties being released contributed to the restructuring; and
- (e) whether the releases benefit the debtors as well as the creditors generally.³⁶

³⁵ *Re Green Relief Inc.*, [2020 ONSC 6837](#) at [para 28](#).

³⁶ *Metcalf & Mansfield Alternative Investments II Corp. (Ltd.)*, [2008 ONCA 587](#); *Re Lydian International Limited*, [2020 ONSC 4006](#) at [para 54](#).

45. This Court has routinely followed the principle that the CCAA and BIA should be interpreted harmoniously where possible³⁷ and has recognized that these considerations extend to proposal proceedings under the BIA.³⁸

46. It is common practice for releases in favour of debtor company counsel similar to those sought in the Draft Order to be included in orders approving the termination of CCAA proceedings, and doing so provides finality to the beneficiary of such releases while preserving the integrity of the restructuring process by preventing collateral attacks on the Court's orders.

47. The Company's counsel, Bennett Jones, acted in good faith and with due diligence in these NOI Proceedings, and has assisted the Company in implementing the Court's orders, including with respect to the Transaction. Bennett Jones has continuously assisted and advised the Company throughout the closing of the Transaction, which, as stated above, allowed for the avoidance of liquidation to the benefit of the Company and the creditors generally. Moreover, Bennett Jones has been integral in the Company's dealing vis-à-vis the 3Q Directors and has worked to effect the Transaction and the ongoing operations of the Company as efficiently as possible, and avoid unnecessary litigation.

48. Therefore, any potential litigation that could arise later in connection with the Transaction would effectively amount to a collateral attack on the final Orders of this Court.

49. In the circumstances, the Proposal Trustee recommends that a release be granted in favour of Bennett Jones in the form set out in the Draft Order.

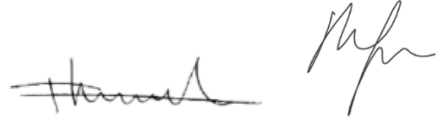
PART V: ORDER SOUGHT

50. For the above reasons, the Proposal Trustee requests that this Court grant the relief sought herein.

³⁷ *Century Services Inc. v. Canada (Attorney General)*, [2010 SCC 60](#), [2010] 3 S.C.R. 379, at [para 24](#); *Re Indalex Ltd.*, [2013 SCC 6](#) (CanLII), [2013] 1 S.C.R. 271 at [paras 50-51](#); *Danier Leather Inc. (Re)*, [2016 ONSC 1044](#) at [para 24](#).

³⁸ *Kitchener Frame Limited (Re)*, [2012 ONSC 234](#) at [paras 69-73](#), [78](#).

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 30th day of May 2024.

Handwritten signatures of Kyle Plunkett and Miranda Spence.

Kyle Plunkett and Miranda Spence

AIRD & BERLIS LLP

Counsel for KSV Restructuring Inc., in its
capacity as Proposal Trustee

SCHEDULE "A"

LIST OF AUTHORITIES

1. *Bank of Nova Scotia v Diemer*, [2014 ONCA 851](#)
2. *Bank of Nova Scotia v Diemer*, [2014 ONSC 365](#)
3. *Century Services Inc. v. Canada (Attorney General)*, [2010 SCC 60](#), [2010] 3 S.C.R. 379
4. *Danier Leather Inc. (Re)*, [2016 ONSC 1044](#)
5. *Federal Business Development Bank v Belyea and Fowler*, [1983 CanLII 4086 \(NB CA\)](#)
6. *In the Matter of Organic Garage (Canada) Ltd.*, 2412383 Ontario Inc., 2347018 Ontario Inc., 2507158 Ontario Inc., and 2581751 Ontario Inc. (May 2, 2024) BK-24-03051650-0031 ([Endorsement](#))
7. *Integro Building Systems Inc et al.* (April 19, 2024) BK-23-00459641-0031 ([Endorsement](#))
8. *Kitchener Frame Limited (Re)*, [2012 ONSC 234](#)
9. *Metcalfe & Mansfield Alternative Investments II Corp. (Ltd.)*, [2008 ONCA 587](#)
10. *Re Green Relief Inc.*, [2020 ONSC 6837](#)
11. *Re Hanfeng Evergreen Inc.*, [2017 ONSC 7161](#)
12. *Re Indalex Ltd.*, [2013 SCC 6](#)
13. *Re Laurentian University of Sudbury*, [2022 ONSC 2927](#)
14. *Re Lydian International Limited*, [2020 ONSC 4006](#)
15. *Re Target Canada Co.*, [2015 ONSC 7574](#)

SCHEDULE "B"

RELEVANT STATUTES

Bankruptcy and Insolvency Act, RSC 1985, c B-3

Courts vested with jurisdiction

183 (1) The following courts are invested with such jurisdiction at law and in equity as will enable them to exercise original, auxiliary and ancillary jurisdiction in bankruptcy and in other proceedings authorized by this Act during their respective terms, as they are now, or may be hereafter, held, and in vacation and in chambers:

- (a) in the Province of Ontario, the Superior Court of Justice;
- (b) [Repealed, 2001, c. 4, s. 33]
- (c) in the Provinces of Nova Scotia and British Columbia, the Supreme Court;
- (d) in the Provinces of New Brunswick and Alberta, the Court of Queen's Bench;
- (e) in the Province of Prince Edward Island, the Supreme Court of the Province;
- (f) in the Provinces of Manitoba and Saskatchewan, the Court of Queen's Bench;
- (g) in the Province of Newfoundland and Labrador, the Trial Division of the Supreme Court; and
- (h) in Yukon, the Supreme Court of Yukon, in the Northwest Territories, the Supreme Court of the Northwest Territories, and in Nunavut, the Nunavut Court of Justice.

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(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT TORONTO

FACTUM OF THE PROPOSAL TRUSTEE

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