

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**IN THE MATTER OF THE BANKRUPTCY OF PROEX LOGISTICS INC., GURU LOGISTICS  
INC., 1542300 ONTARIO INC. AND 2221589 ONTARIO INC.**

**FACTUM OF THE TRUSTEE  
(MOTION FOR DIRECTIONS)**

November 15, 2024

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**TO: THE SERVICE LIST**

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## PART I - OVERVIEW

1. The Trustee seeks to bring this bankruptcy proceeding to an end as quickly and efficiently as possible. This motion under section 34 of the *Bankruptcy and Insolvency Act* is intended to advance that goal. The Trustee respectfully requests Orders:

- (a) substantively consolidating the estates of the three companies that comprise the “Trucking Business” of the bankrupt entities;
- (b) authorizing the Trustee to accept the claims by Paul Randhawa against the Trucking Business as: (i) an unsecured claim in the amount of \$117,693.40; and (ii) an equity claim in the amount of \$2,650,000;
- (c) authorizing the Trustee – following substantive consolidation and payment to creditors in full – to make distributions of any surplus to Paul and Rana Randhawa who, pursuant to the October Minutes, are the only and equal shareholders of the bankrupt entities, subject to the satisfaction of outstanding costs awards and other orders; and
- (d) approving the Trustee’s reports filed in this proceeding.

2. Approximately \$4 million is available for distribution to creditors, less any costs to be incurred in this bankruptcy and the related receivership. Creditors will only receive payment in full if the estates of the Trucking Business are substantively consolidated. Substantive consolidation will not prejudice any creditors (or anyone else).

3. The Inspectors have approved distributions to creditors and to Paul in respect of his unsecured and equity claims. No creditor or debtor has challenged the allowance of any claims

in this proceeding,<sup>1</sup> and the Trustee is administering the payment of third-party creditors of ASR and Guru (two of the Trucking Business entities) in accordance with the inspectors' resolutions.

4. In addition to the Orders sought by the Trustee, two issues remain for which the Trustee requires this Court's assistance:

- (a) first, the bankrupt entities' two shareholders, Paul and Rana, dispute allocation as between themselves; and
- (b) second, Rana Randhawa's former legal counsel, Lenczner Slaght LLP, seeks a solicitor's lien and a charging order over any funds to be distributed to either shareholder if any sums become payable to Rana Randhawa.

5. This motion was brought, in part, to resolve those two issues. Paul, Rana, and Lenczner were represented by experienced counsel at the scheduling attendance. Each has had ample opportunity to brief these issues in full prior to this hearing. Paul and Lenczner have taken advantage of that opportunity. Rana has not, despite the Trustee's (and the other parties') repeated efforts to engage with him.

## **PART II - FACTS**

### **A. Background**

6. The bankrupt entities, Proex Logistics Inc. ("ProEx"), Guru Logistics Inc. ("Guru"), 1542300 Ontario Inc. (operated as ASR Transportation) ("ASR"), and 2221589 Ontario Inc. ("222"), are part

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<sup>1</sup> As noted below, the Trustee understands that Lenczner intends to amend its notice of motion and will not challenge the acceptance of Paul's Equity Claim.

of a corporate group known as “RGC”, which stands for the “Randhawa Group of Companies.” RGC operated an intracontinental truckload services business and owned of a fleet of vehicles.<sup>2</sup>

7. Since 2018, Paul and Rana have disputed, among other things, the ownership, operation, and sale of RGC.<sup>3</sup> In October 2018, Paul and Rana, in their personal capacities and each on behalf of corporate respondents, entered into minutes of settlement (the “October Minutes”). The October Minutes: (i) confirmed that Paul and Rana each owned 50% of RGC (notwithstanding corporate formalities); and (ii) established a process to sell the Trucking Business, with the proceeds of sale to be divided equally between them.<sup>4</sup>

8. In September 2019, Paul and Rana entered into another settlement to address unequal benefits previously paid to them as shareholders (the “Unequal Benefits Settlement”). The Unequal Benefits Settlement set out that they would receive equal payments from RGC “provided that all liabilities as they generally come due of the RGC entities to third parties, such as all obligations to the Canada Revenue Agency and its provincial equivalent, are honoured on time.”<sup>5</sup>

9. In May 2021, in the context of ongoing litigation between Paul and Rana, the Honourable Justice Koehnen ordered the appointment of KSV Restructuring Inc. (“KSV”) as receiver (in such capacity, the “Receiver”) to conduct an investigation into RGC (the “Investigation Mandate”) and to carry out a sale of the trucking business (the “Sale Mandate”).<sup>6</sup>

10. Upon concluding its Investigation Mandate, the Receiver determined based on conclusive evidence that Rana had been transferring RGC’s assets, resources, personnel, and revenues to

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<sup>2</sup> Second Report of KSV Restructuring Inc. as Licensed Insolvency Trustee dated October 18, 2024 (“Trustee’s Second Report”) at 2.0.1, Appendix F (Grant Thornton Estimate Valuation Report of 1542300 Ontario Inc., ProEx Logistics Inc., and Guru Logistics Inc. dated May 2, 2022 (“Valuation Report”) at 6.01).

<sup>3</sup> Trustee’s Second Report at 2.0.2.

<sup>4</sup> Trustee’s Second Report at 2.0.3, Appendix C (Fifth Report of KSV Restructuring Inc. as Receiver and Manager of ProEx et al dated September 24, 2021 (“Receiver’s Fifth Report”), Appendix C).

<sup>5</sup> Trustee’s Second Report at 2.0.4, Appendix C (Receiver’s Fifth Report, Appendix D).

<sup>6</sup> Trustee’s Second Report at 2.0.5-2.0.6, Appendix C (Receiver’s Fifth Report, Appendix B).

another trucking company, Motion Transport Ltd. ("Motion Transport"), in breach of the October Minutes and with the aim of eroding RGC's value.<sup>7</sup> Thereafter, the Receiver commenced an action against Rana.<sup>8</sup> The claims in that action were later assigned to the Trustee.

11. At the commencement of the Sale Mandate, the Receiver discontinued RGC's business and operations because they were no longer viable.<sup>9</sup> The Receiver then developed and undertook a process to sell the Trucking Business following approval by this Court.<sup>10</sup>

12. In September 2021, the Court approved a claims process for RGC's creditors (the "CPO"). The claims process required every creditor to submit a claim in a manner similar to a bankruptcy claims process.<sup>11</sup> Pursuant to the CPO, more than 60 claims were filed with the Receiver.<sup>12</sup> Due to RGC's outdated tax records at the time of the CPO and the Receiver's intention to cooperate with the government, the CPO did not preclude claims by the federal or provincial governments regarding corporate or sales and use taxes.<sup>13</sup>

13. The Receiver received multiple requests from creditors urgently seeking distributions. However, without a comfort letter or clearance certificate from CRA, the Receiver was unable to make distributions to creditors or shareholders. Accordingly, the Receiver determined that the final matters in the receivership, including distributions to unsecured creditors, would be most efficiently completed in a bankruptcy.<sup>14</sup>

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<sup>7</sup> Trustee's Second Report at 2.1.1, Appendix C (Receiver's Fifth Report at 4.0).

<sup>8</sup> Trustee's Second Report at 1.0.13, 2.1.2, 2.2.7, Appendix C (Receiver's Fifth Report at 6.0).

<sup>9</sup> Trustee's Second Report at 2.2.1.

<sup>10</sup> Trustee's Second Report at 2.2.2-2.2.4.

<sup>11</sup> Trustee's Second Report at 3.0.1.

<sup>12</sup> Trustee's Second Report at 3.0.2.

<sup>13</sup> Trustee's Second Report at 3.0.4.

<sup>14</sup> Trustee's Second Report at 1.0.3.

## **B. The Bankruptcy Proceedings**

14. On October 23, 2023, the Honourable Justice Penny granted an Order authorizing the Receiver to assign the bankrupt entities into bankruptcy (the “Assignment Order”).<sup>15</sup> Pursuant to the Assignment Order, the Receiver filed assignments in respect of the bankrupt entities with the Office of the Superintendent of Bankruptcy, and KSV was appointed Trustee.<sup>16</sup> The Assignment Order provides for the procedural but not substantive consolidation of the estates.<sup>17</sup>

15. The bankrupt entities were assigned into bankruptcy on November 27, 2023. At the first meeting of creditors on December 18, 2023, KSV was confirmed as Trustee and the inspectors were appointed by the creditors present at the meeting.<sup>18</sup>

16. On February 14, 2024, the Court granted an order permitting the Trustee to use the proofs of claim filed in the receivership so that small businesses and individuals with claims would not have to incur the time and costs of refiling the same information.<sup>19</sup> Creditors were free to file new proofs of claim or to supplement their prior proofs of claim. Six creditors did so.<sup>20</sup> CRA has also received notice of these bankruptcy proceedings and filed proofs of claim.<sup>21</sup>

17. Approximately \$4 million in cash is now available for distribution to the creditors of the bankrupt entities, less costs to complete the administration of the bankruptcy and receivership proceedings as follows:<sup>22</sup>

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<sup>15</sup> Trustee’s Second Report, 1.0.2, Appendix A.

<sup>16</sup> Trustee’s Second Report at 1.0.2, 1.0.4, Appendix A.

<sup>17</sup> Trustee’s Second Report at 1.0.2.

<sup>18</sup> Trustee’s Second Report at 1.0.4.

<sup>19</sup> Trustee’s Second Report at 3.0.5-3.0.6.

<sup>20</sup> Trustee’s Second Report at 3.0.6.

<sup>21</sup> Trustee’s Second Report at 3.0.6.

<sup>22</sup> Trustee’s Second Report at 2.2.6.

<b>BANKRUPT ENTITY</b>	<b>CASH AMOUNT</b>
ASR	\$2,932,000
PROEX	\$52,000
GURU	\$528,000
222	\$518,000
<b>TOTAL</b>	<b>\$4,030,000</b>

18. Besides the cash balances, the only other potentially significant asset of the bankrupt entities consists of litigation claims against Rana.<sup>23</sup>

**C. Claims Asserted by Paul**

19. Paul filed a proof of claim on October 29, 2021, as amended on July 27, 2022. On December 15, 2023, Paul filed a supplement to the proof of claim in connection with the bankruptcy filings. Paul provided supplemental support for his claim. Supporting documents, including bank statements and uncashed cheques, are not included in the Trustee's Second Report for privacy reasons.<sup>24</sup> The Trustee has reviewed Paul's claim and has engaged in discussions with his counsel to request clarification and additional documentation.<sup>25</sup>

20. The Trustee is satisfied with the supporting documentation provided by Paul. Paul's claim asserts:

- (a) unpaid wages and business expenses (the "Unsecured Claim"); and
- (b) non-compliance with the October Minutes and an ownership interest in the Trucking Business or its proceeds.<sup>26</sup>

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<sup>23</sup> Trustee's Second Report at 2.2.7.

<sup>24</sup> Trustee's Second Report at 4.1.1.

<sup>25</sup> Trustee's Second Report at 4.1.2.

<sup>26</sup> Trustee's Second Report at 4.2.1, Appendix E. Certain amounts in the proof of claim relate to the post-bankruptcy filing date and are not included in this calculation.



21. Paul filed the Unsecured Claim against RGC in the amount of \$117,693.40. The amount consists of claims for Paul's payroll, his wife's payroll, subcontractor payments, advances to the business in respect of its expenses, and credit card interest.<sup>27</sup> The Trustee's has accepted the claim as a claim against ProEx, in the event that the estates are not substantively consolidated, In accordance with the BIA, the Trustee has not accepted these as priority claims given the relationships between the claimants and the bankruptcy entities.

22. Paul's claim also includes two components arising from his role as shareholder: (i) a claim for breach of the October Minutes (the "Wrongful Conduct Claim" or the "Equity Claim"); and (ii) a claim for 50% of the proceeds and any other amounts recovered by the debtors in his capacity as a shareholder (the "Ownership Claim").<sup>28</sup>

23. In the Wrongful Conduct Claim, Paul seeks damages for the difference between the proceeds from the sale of the Trucking Business he ultimately receives and the amount he would have received had the Trucking Business been sold in the manner prescribed by the October Minutes. Paul alleges that Rana and the RGC Entities under his control obstructed the timely sale of the Trucking Business in violation of the October Minutes. The Wrongful Conduct Claim alleges that, as the directing mind of RGC, and pursuant to the corporate identification doctrine, principles of attribution, agency, and vicarious liability, Rana's conduct is deemed to have been that of RGC.<sup>29</sup>

24. The Trustee proposes acceptance of the Wrongful Conduct Claim as an equity claim on the grounds that ASR, under Rana's direction, diverted assets to impede the sale of RGC and diminish the value of any assets ultimately sold.<sup>30</sup> All inspectors, with the exception of Paul's

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<sup>27</sup> Trustee's Second Report at 4.2.1.

<sup>28</sup> Trustee's Second Report at 4.3.1.

<sup>29</sup> Trustee's Second Report at 4.3.2, Exhibit E.

<sup>30</sup> Trustee's Second Report at 4.3.5, Exhibit C (Receiver's Fifth Report at 4.0).

counsel, who was excused from the meeting, voted in favour of accepting the claim and authorized a distribution.<sup>31</sup>

25. In evaluating the Wrongful Conduct Claim, the Trustee relied on the Receiver's findings in the Investigation Mandate. In particular, the Receiver found that Rana had actively engaged in the setup and operation of Motion Transport to the detriment of the efforts to sell the Trucking Business, including by:

- (a) misrepresenting or permitting an ASR employee to misrepresent that Motion Transport was a wholly owned subsidiary of ASR;
- (b) attempting to secure business for Motion Transport from several of RGC's customers, including Ford Motor Company, which was ASR's largest customer, and Ventra Plastics, which was ProEx's largest customer;
- (c) causing RGC to transfer 13 vehicles to Motion Transport, three of which were subsequently transferred to another company beneficially owned by Rana;
- (d) permitting ASR vehicles and fuel cards to be used for Motion Transport's business;  
and
- (e) providing material support to Motion Transport through his relatives in the form of labour and capital.<sup>32</sup>

26. The Receiver engaged Grant Thornton Ltd. ("Grant Thornton") to prepare an independent valuation of the Trucking Business. It indicates that, as of October 2018, the Trucking Business had a value of approximately \$5,300,000 (\$5,500,000 including ProEx). The figure used by the

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<sup>31</sup> Trustee's Second Report at 4.3.3.

<sup>32</sup> Trustee's Second Report at 4.3.4, Exhibit C (Receiver's Fifth Report at 4.0).

Trustee represents an amount higher than the low end, and slightly lower than the midpoint of Grant Thornton's valuation. Paul's 50% share had a value of approximately \$2,650,000, which he would have received had the Trucking Business been sold in October 2018.<sup>33</sup> As a result, in the Trustee's respectful view, the maximum allowable claim by Paul against the Trucking Business is \$2,650,000.<sup>34</sup>

27. Lenczner initially expressed opposition to the allowance of the Equity Claim on its cross-motion.<sup>35</sup> However, on November 13, 2024, Lenczner advised the service list that, pursuant to an agreement between Lenczner and Paul, it takes no position on the Trustee's proposed payment of the Equity Claim subject to responding to any position Rana might take. The agreement between Lenczner and Paul is subject to the conditions precedent (i) that Paul receive all funds in the bankrupt entities' estates following the payment of third-party creditors and satisfaction of the Trustee's fees and (ii) that no funds are distributed to any other party (besides Paul and his counsel in trust), including Rana.

28. Rana has not confirmed his position.<sup>36</sup>

### **PART III - ISSUES, LAW & ARGUMENT**

29. There are four questions that the Trustee respectfully requests this Court to answer, each of which the Trustee submits should be answered in the affirmative:

- (a) Should the Trucking Business be substantively consolidated?
- (b) Should the Trustee accept Paul's Unsecured Claim and Equity Claim?

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<sup>33</sup> Trustee's Second Report at 4.3.6, Exhibit F (Valuation Report).

<sup>34</sup> Trustee's Second Report at 4.3.7.

<sup>35</sup> Trustee's Second Report at 4.3.9.

<sup>36</sup> Trustee's Second Report at 4.3.8.

- (c) Should the Trustee – following substantive consolidation and payment to creditors in full – make distributions of any surplus to the RGC shareholders, subject to the satisfaction of outstanding costs awards and other orders?
- (d) Should the Trustee’s reports filed in this proceeding be approved?

**A. Substantive Consolidation: The Test is Met**

30. Creditors will not be paid in full absent substantive consolidation. The estates of the bankrupt entities should be substantively consolidated to enable full recovery by its creditors.

31. Courts have ordered substantive consolidation under section 183 of the BIA,<sup>37</sup> under which the Court is expressly vested with equitable jurisdiction.<sup>38</sup> The following three-part test for substantive consolidation was set out in *Redstone Investment Corporation*:

- (a) elements of consolidation exist within the group of companies;
- (b) the benefits of consolidation outweigh any potential prejudice to creditors; and
- (c) consolidation would be fair and reasonable in the circumstances.<sup>39</sup>

32. In this case, the test for substantive consolidation is met.

**i. Elements of Consolidation Exist**

33. To determine whether “elements of consolidation” are present, courts consider the following factors set out in *Northland Properties Ltd*: difficulty in segregating assets, presence of

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<sup>37</sup> BIA, s [183\(1\)](#); *Kitchener Frame Limited (Re)*, [2012 ONSC 234](#) at para [30](#) (“*Kitchener Frame*”); *Bacic v Millennium Educational & Research Charitable Foundation*, [2014 ONSC 5875](#) at para [110](#) (“*Bacic*”); Substantive consolidation was granted in the Honourable Justice Conway’s Order of October 28, 2022: *In the Matter of the Bankruptcy of Pleterski and AP Private Equity Ltd*, unreported, Toronto BK-22-00208581-OT-31 and BK-22-00208582-OT-31 (ONSC), Appendix A.

<sup>38</sup> BIA, s [183\(1\)\(a\)](#); *Ashely v Marlow Group Private Portfolio Management Inc*, [2006 CanLII 31307](#) (ONSC) at para [71](#).

<sup>39</sup> *Redstone Investment Corporation (Re)*, [2016 ONSC 4453](#) at para [78](#) (“*Redstone*”).

consolidated financial statements, profitability of consolidation at a single location, commingling of assets and business functions, unity of ownership interests, existence of intercorporate loan guarantees, and transfer of assets without the observance of corporate formalities.<sup>40</sup>

34. The absence of some factors is not determinative of whether consolidation is appropriate. Rather, “the court must weigh the various factors and apply the general principles outlined by the court in *Redstone*...”<sup>41</sup>

35. In the present case, the *Northland* factors are largely present:

- (a) RGC has historically operated on an interrelated basis, with staff providing services to each of the trucking companies and shared access to assets, notwithstanding the titling of the vehicles;<sup>42</sup>
- (b) in connection with the sale process, the Receiver obtained titles in the name of the applicable RGC entities according to the available books and records and generated financial statements and filed tax returns on the basis of the documents available; the individual historical financial statements were not complete given the disagreements between the shareholders;<sup>43</sup>
- (c) ASR had access to a corporate credit facility in its name, while the other members of the Trucking Business had no security over their assets in respect of the loan;<sup>44</sup>

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<sup>40</sup> *Northland Properties Ltd (Re)*, [1988 CanLII 2924](#) (BCSC), aff'd [1989 CanLII 2672](#) (CA), cited in *Redstone* at para [47](#).

<sup>41</sup> *White Oak Commercial Finance, LLC v Nygård Holdings*, [2022 MBKB 48](#) at para [43](#) (“*White Oak*”), aff'd [2023 MBCA 73](#).

<sup>42</sup> Trustee’s Second Report at 6.0.1.

<sup>43</sup> Trustee’s Second Report at 6.0.1; *Bacic* at para [109](#).

<sup>44</sup> Trustee’s Second Report at 6.0.2.

- (d) an injunction was issued prior to the Receiver's appointment, which required ASR to continue funding Guru until a resolution was reached;<sup>45</sup>
- (e) RGC was historically insured on a consolidated basis;<sup>46</sup>
- (f) Grant Thornton's valuation report considered the fair market value of the Trucking Business on an "en bloc" basis,<sup>47</sup> and confirmed that ASR and ProEx operated from a common office rented from a third party after 222 sold its facility in 2015,<sup>48</sup> that Guru was an asset holding company formed to purchase and own trucks and trailers for ASR's and ProEx's operations,<sup>49</sup> and that the vehicles owned by Guru were maintained at the expense of ASR and ProEx;<sup>50</sup> and
- (g) the RGC entities have common shareholders by virtue of a settlement in which,<sup>51</sup> Paul and Rana acknowledged their equal ownership interests in ASR and ProEx (notwithstanding the corporate formalities),<sup>52</sup> and in respect of the Unequal Benefits Settlement the two agreed to receive equal benefits moving forward subject to the payment of third-party creditors.<sup>53</sup>

36. While each case turns on its own facts, the decision in *White Oak Commercial Finance, LLC v Nygård Holdings* may assist this Court in considering whether to order substantive consolidation of the bankrupt entities.

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<sup>45</sup> Trustee's Second Report at 6.0.2, Appendix C (Receiver's Fifth Report, Appendix E).

<sup>46</sup> Trustee's Second Report at 6.0.2.

<sup>47</sup> Trustee's Second Report, Appendix F (Valuation Report at 2.0).

<sup>48</sup> Trustee's Second Report, Appendix F (Valuation Report at 8.05(b), 10.04(b)).

<sup>49</sup> Trustee's Second Report, Appendix F (Valuation Report at 11.01).

<sup>50</sup> Trustee's Second Report, Appendix F (Valuation Report at 11.07).

<sup>51</sup> *Bacic* at para [111](#).

<sup>52</sup> Trustee's Second Report, Appendices C (Receiver's Fifth Report, Appendices C, D), F (Valuation Report at 7.02, 9.02).

<sup>53</sup> Trustee's Second Report at 6.0.3.

37. In *White Oak*, the court ordered consolidation on the basis that the debtors operated as a common enterprise.<sup>54</sup> Although the court in *White Oak* found that one of the debtor entities held title to assets that could be segregated from the assets of the other debtors, not all the debtor companies prepared consolidated financial statements, profitability was not consolidated at a single location, and there was little legal unity of ownership interests, the Court was nevertheless satisfied that the assets, although segregable in a legal sense, could not readily be segregated from the investments in those assets, which resulted from providing centralized services.<sup>55</sup> In the present case, the Trucking Business operated in a substantially similar fashion.

38. In *White Oak*, the Court's decision to consolidate was grounded in the fact that business functions were carried out by substantially the same directors and officers of all the debtors,<sup>56</sup> the debtors had intercompany agreements, including a lease agreement, for which the payment terms were not regularly complied with,<sup>57</sup> and certain of the debtors took a consolidated approach in the notice of intention proceedings and the affidavits filed on behalf of the debtors referred to a "group" of companies and a "group" of assets.<sup>58</sup>

39. The facts favouring substantive consolidation in *White Oak* coincide with the facts set out above regarding the "elements of consolidation" present in this case. RGC, and specifically the Trucking Business, clearly operated as a common enterprise.

**ii. Consolidation Will Benefit All Creditors**

40. The second part of the *Redstone* test requires this Court to weigh the benefits of consolidation against the relative prejudice to creditors that would result from consolidation. In

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<sup>54</sup> *White Oak* at para [41](#); see also paras [31-40](#) in which the court considers the *Redstone* or *Northland* factors.

<sup>55</sup> *White Oak* at paras [32-34](#), [37](#).

<sup>56</sup> *White Oak* at paras [36](#), [37](#).

<sup>57</sup> *White Oak* at para [39](#).

<sup>58</sup> *White Oak* at para [42](#).

*Redstone*, substantive consolidation would have resulted in higher recovery by some creditors at the expense of others.<sup>59</sup> That would not be the result here.

41. Rather, absent an Order for substantive consolidation, some creditors would receive a shortfall. In particular, ProEx's creditors would only recover approximately \$45,000 on claims totaling about \$251,000. On the other hand, consolidation would result in those creditors (and all others) receiving payment of their claims in full.<sup>60</sup> No third-party creditor of the bankrupt entities would be prejudiced if the claims are accepted as proposed by the Trustee. Instead, creditors would only benefit from substantive consolidation.<sup>61</sup>

***iii. Substantive Consolidation is Fair and Reasonable***

42. The third part of the *Redstone* test requires this Court to consider whether substantive consolidation is fair and reasonable in the circumstances. In this case, creditors would benefit from substantive consolidation because it would permit payment of their claims in full. If the claims are accepted as proposed by the Trustee, the only parties who could potentially be prejudiced are RGC's shareholders, Paul and Rana.

43. Paul does not oppose substantive consolidation, and both parties have previously indicated their intention to pay third party creditors in a timely manner as a condition to making further distributions to themselves and their families.<sup>62</sup> In any event, it would be unfair to creditors to allow shareholders to realize superior benefits in the context of a bankruptcy due to the technicalities of corporate structure where the business was run as a common enterprise.

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<sup>59</sup> *Redstone* at para [86](#).

<sup>60</sup> Trustee's Second Report at 7.0.4-7.0.5.

<sup>61</sup> Substantive consolidation has been ordered even where creditors forego recoveries: see *Kitchener Frame* at para [33](#).

<sup>62</sup> Trustee's Second Report at 6.0.4.



## **B. Paul's Claims Should Be Allowed**

### ***i. The Unsecured Claim***

44. The Trustee determined that Paul's Unsecured Claim in the amount of \$117,693.40, which is comprised of payroll, subcontractor payments, advances to the business in respect of its expenses and credit card interest,<sup>63</sup> is properly characterized as an unsecured claim. The Inspectors have approved payment of the Unsecured Claim in accordance with the BIA. The Trustee seeks an Order authorizing the Trustee to pay Paul's Unsecured Claim because of the history of litigation between the shareholders. Under section 135 of the BIA, Paul's Unsecured Claim is deemed allowed; the Trustee is not aware of any objection.

### ***ii. The Equity Claim***

45. Paul also claims for losses regarding his equity interests (*i.e.*, his shareholdings) in RGC in connection with his Wrongful Conduct Claim and Ownership Claim.<sup>64</sup> Paul's Equity Claim is properly characterized as an "equity claim" because the definition section 2(d) of the BIA captures claims for "a monetary loss resulting from the ownership [...] of an equity interest."<sup>65</sup>

46. Since the Equity Claim is founded upon losses that Paul suffered as a shareholder, classifying the claim as a debt would be inaccurate. The Court of Appeal for Ontario in *Sino-Forest Corporation* noted that shareholders' claims against the subject corporation, which were based upon losses resulting from misrepresentation and other torts, fell squarely within the definition of "equity claim" in the *Companies' Creditors Arrangement Act*.<sup>66</sup> In that case, the court upheld an

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<sup>63</sup> Trustee's Second Report at 4.2.1, 7.0.1.

<sup>64</sup> Trustee's Second Report at 4.3.

<sup>65</sup> BIA, s 2.

<sup>66</sup> *Sino-Forest Corporation (Re)*, [2012 ONCA 816](#) at para 42 ("*Sino-Forest*"); section 2 of the *Companies' Creditors Arrangement Act*, [RSC 1985, c C-36](#) ("CCAA") and section 2 of the BIA contain the same definition of "equity claim."

order that the shareholders' claims and any indemnification claim against the company arising from or related to those claims were equity claims.<sup>67</sup>

47. Similarly, the Receiver found through its Investigation Mandate that: (i) Rana defrauded the Trucking Business; (ii) Rana delayed the sale of the business (which was required under the October Minutes) to engage in that fraud; and (iii) had the business been sold as contemplated under the October Minutes, Paul would have received approximately \$2.65 million from that sale in accordance with his 50% ownership interest in the Trucking Business.<sup>68</sup> Claims resulting from those actions, including a breach of contract claim in respect of the October Minutes and the Unequal Benefits Settlement, each signed by the bankrupt entities, are therefore appropriately alleged as claims as against the bankrupt entities.<sup>69</sup>

48. The Trustee has also considered that equity claims are to be given an expansive interpretation, and that Rana has not objected to the intended distribution in connection with the Equity Claim.<sup>70</sup> On those bases, the Trustee and the inspectors have proposed acceptance of Paul's Equity Claim.<sup>71</sup> The Trustee is mindful of subsection 60(1.7) of the BIA and does not propose to satisfy this claim until all claims that are not equity claims are paid in full.<sup>72</sup>

49. In any event, in accordance with the BIA's goal of promoting efficiency, trustees enjoy a broad discretion to carry out their duties. The discretion extends to the evaluation of claims and applies in respect of the Trustee's characterization and proposed payment of the Equity Claim.<sup>73</sup>

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<sup>67</sup> *Sino-Forest* at paras [20](#), [62](#).

<sup>68</sup> Trustee's Second Report at 4.3.2-4.3.6 (see generally 4.3).

<sup>69</sup> Trustee's Second Report at 2.0.3, Appendix C (Receiver's Fifth Report, Exhibits C, D).

<sup>70</sup> *Sino-Forest* at para [44](#).

<sup>71</sup> Trustee's Second Report at 4.3.3.

<sup>72</sup> BIA, s [60\(1.7\)](#).

<sup>73</sup> *YG Limited Partnership (Re)*, [2022 ONSC 6138](#) at para [64](#).

If Rana (or any other party) were to oppose acceptance of the Equity Claim, the Trustee relies on the great deference regularly afforded to trustees in administering estates.<sup>74</sup>

50. Moreover, the inspectors have approved the distributions of Paul's claims, including the Equity Claim. Decisions of inspectors may only be overturned whether they fail to act in good faith for the benefit of the estates or make a decision that is not commercially reasonable.<sup>75</sup> There is no indication in the present case that the inspectors have acted out of turn.

### **C. Distributions Following Payment in Full to Creditors**

#### ***i. Payments Directly to Shareholders***

51. Section 144 of the BIA provides that, after all claims are paid in full with interest, the bankrupt is entitled to a return of the surplus.<sup>76</sup>

52. However, the Receiver was appointed because the shareholders and directors of RGC were unable to continue under normal corporate governance. RGC no longer carries on business. Based on the findings arising from the Investigation Mandate, Rana cannot be trusted with any of the bankrupt entities' dealings, whether internal or external. Accordingly, the bankrupt entities are in no position to distribute the surplus by way of a dividend or a reduction in stated capital. The Trustee believes that returning the remaining funds to the bankrupt entities for distribution is impractical and may lead to further litigation and additional, unnecessary costs in these bankruptcy proceedings.<sup>77</sup>

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<sup>74</sup> *Dubyk (Re)*, [2009 SKQB 426](#) at paras [19](#), [21](#); *Galaxy Sports Inc (Re)*, [2004 BCCA 284](#) at para [41](#).

<sup>75</sup> *Costello, Re*, [2001 CanLII 28284](#) (ONSC) at paras [12-16](#).

<sup>76</sup> BIA, s [144](#).

<sup>77</sup> Trustee's Second Report at 5.0.1. Given the state of the bankrupt entities and the relationship between the shareholders, it would be impracticable to return any surplus to the bankrupt entities to distribute to the shareholders by way of a reduction in stated capital or dividends. This Court has authorized a trustee to make distributions of a surplus to shareholders, deeming such distributions as dividends and a reduction in stated capital in compliance with the *Business Corporations Act*, RSO 1990, c B.16. See the Order of the Honourable Justice Conway dated March 1,

53. The most (and likely the only) fair and efficient manner by which to proceed is under BIA subsection 34(1).<sup>78</sup> Subsection 34(1) of the BIA is broad, stating that “[a] trustee may apply to the court for directions in relation to any matter affecting the administration of the estate of a bankrupt and the court shall give in writing such directions, if any, as to it appear proper in the circumstances.”<sup>79</sup> Subsection 34(1) has been used as a channel for authorizing distributions to shareholders in the event of a surplus.<sup>80</sup>

54. Following the payment of creditor claims, the Trustee proposes to return the remaining funds directly to the shareholders, subject to any orders of this Court regarding the allocation of such funds. If the Wrongful Conduct Claim is accepted in full and paid from the consolidated entities, the only remaining funds will be held by 222. On the other hand, if the Wrongful Conduct Claim is not accepted, all remaining funds will need to be distributed to the shareholders.<sup>81</sup>

55. The Trustee seeks authorization to make such shareholder distributions, net of applicable withholdings to the shareholders identified in the settlement agreements. Regardless of the amount remaining, the parties have raised the following issues that may alter the allocation of distributions to the shareholders:

- (a) Rana has outstanding costs awards in favour of Paul, the largest being \$525,000 (not including interest and costs of enforcement) issued by an arbitrator and subsequently enforced by the order of Justice McEwen dated February 28, 2022;<sup>82</sup>

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2018 in *Re Danier Leather Inc.*, unreported, Toronto 31-2084381 (ONSC), online: [ksvadvisory.com](http://ksvadvisory.com) (“*Danier* (unreported), 2018 Order”).

<sup>78</sup> BIA, s [34\(1\)](#).

<sup>79</sup> BIA, s [34\(1\)](#).

<sup>80</sup> See *Danier* (unreported), 2018 Order: online: [ksvadvisory.com](http://ksvadvisory.com).

<sup>81</sup> Trustee’s Second Report at 5.0.3.

<sup>82</sup> Trustee’s Second Report at 5.0.5(a), Appendix G.

- (b) the endorsement of Justice Steele dated March 12, 2023 provides that Rana is to pay the costs of the Investigation Mandate for both Paul and the Receiver.<sup>83</sup> Pursuant to the endorsement, Paul and Rana were to settle the amount of Paul's costs or return to the Court for further assistance. Costs incurred by KSV and its counsel in the receivership billed as of the date of the Second Report were approximately \$1.7 million. The Trustee is of the view that the costs should be allocated approximately 60% (\$1,032,538.85) to the Investigation Mandate and approximately 40% (\$667,058.00) to the Sale Mandate; and
- (c) on May 12, 2023, Lenczner issued a statement of claim against Rana seeking \$253,897.20 plus interest for unpaid legal fees and has brought a motion in this proceedings seeking a solicitor's lien and charging order over any funds to be distributed to either Rana or to Paul in connection with a distribution on account of Paul's Equity Claim,<sup>84</sup> but Lenczner and Paul have recently come to an agreement with respect to the funds Paul intends to recover from the bankrupt estates, such agreement being contingent upon the condition that Rana receives no funds from the estates.

56. While the Trustee has tried to reduce litigation costs and work with the parties to narrow the issues to minimize the judicial resources required for this matter, the issues described above require the Court's direction.<sup>85</sup>

57. The Trustee is of the view that Paul is entitled to payment of the outstanding costs awards from the funds available after payment of creditor claims.<sup>86</sup> Rana has been permitted to continue

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<sup>83</sup> Trustee's Second Report at 5.0.5(b), Appendix H.

<sup>84</sup> Trustee's Second Report at 5.0.5(c), Appendix I.

<sup>85</sup> Trustee's Second Report at 5.0.8.

<sup>86</sup> Trustee's Second Report at 5.0.5(a), Appendix G.

to file pleadings and participate in the receivership and bankruptcy proceedings, even though certain of the awards have been outstanding for several years (and remain so). The Trustee supports the allocation of such amounts to Paul in satisfaction of the outstanding costs awards.<sup>87</sup>

58. The Trustee is of the view that Rana must comply with Justice Steele's endorsement of March 12, 2023 at this juncture.<sup>88</sup> Paul is entitled to be reimbursed for the costs of the Investigation Mandate, which the Trustee has allocated fairly.<sup>89</sup>

59. Lenczner claims for \$253,897.20 plus interest for unpaid legal fees. If the agreement between Paul and Lenczner fails, the Trustee urges the Court to examine very closely any allegation that Rana or his counsel assisted with the recovery of assets in the receivership proceedings.<sup>90</sup>

60. Ultimately, the BIA and the CCAA "recognize the need to determine claims as quickly as possible to allow for a timely distribution to creditors, as creditors will suffer more prejudice if there is delay in receipt of whatever recovery they can expect from the estate."<sup>91</sup> Any objections by Rana or Lenczner are not directly relevant to the Trustee's primary objectives, which include ensuring payment to creditors while minimizing costs.<sup>92</sup> Their qualms should not come at the expense of delaying distributions and the full administration of the estates.<sup>93</sup>

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<sup>87</sup> Trustee's Second Report at 5.0.6.

<sup>88</sup> Trustee's Second Report at 5.0.5(b), Appendix H.

<sup>89</sup> Trustee's Second Report at 5.0.5(b).

<sup>90</sup> Trustee's Second Report at 5.0.7.

<sup>91</sup> *Walter Energy Canada Holdings, Inc (Re)*, [2017 BCSC 709](#) at para [16](#); See also *San Juan Resources Inc (Re)*, [2009 ABKB 55](#) at para [30](#).

<sup>92</sup> If Lenczner ultimately takes a position on this motion, it is unclear what standing it has to object to the Wrongful Conduct Claim as it is neither a creditor nor one of the bankrupt entities. Section [135\(5\)](#) of the BIA provides that "[t]he court may expunge or reduce a proof of claim or a proof of security on the application of a creditor or of the debtor if the trustee declines to interfere in the matter." While Lenczner moves under section [37](#) of the BIA, it is (at best) a creditor of a shareholder seeking to overturn a decision of the inspectors. It is also not a person "aggrieved" by an act or decision of the Trustee. See *David Brook (Re)*, [2016 ONSC 6277](#) at paras [13-15](#): "But the words 'person aggrieved' do not mean a person who is disappointed of a benefit which he might have received if some other order had been made."

<sup>93</sup> See for example *Sangha (Re)*, [2018 BCSC 137](#) at paras [27-29](#) and *Derks (Trustee of) v Derks*, [2013 ABCA 195](#) paras [4-5](#), [31-33](#).

**D. The Trustee Reports and Activities should Be Approved**

61. The Trustee's activities were reasonable and necessary for the orderly administration of the bankrupt entities' estates. Its activities to date are described in the following reports, which have been filed in this proceeding: (i) Preliminary Report of the Trustee dated December 18, 2023; (ii) the First Report of the Trustee dated February 7, 2024; and (iii) the Second Report of the Trustee dated October 18, 2024.

62. The activities of the Trustee were necessary, consistent with the Trustee's duties and powers authorized by the Orders of this Court and the BIA and undertaken with efficiency and reasonableness in the interests of stakeholders, generally. Accordingly, the Trustee respectfully submits that the reports and the activities described therein should be approved.

**PART IV - ORDER REQUESTED**

63. The Trustee respectfully requests that this Honourable Court grant the Orders set out in the Draft Order uploaded to Case Center with this Factum.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED** this 15th day of November 2024.

*Cassels Brock & Blackwell LLP*

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**CASSELS BROCK & BLACKWELL LLP**

**SCHEDULE “A”**  
**LIST OF AUTHORITIES**

**Caselaw**

1. *Ashely v Marlow Group Private Portfolio Management Inc*, [2006 CanLII 31307 \(ONSC\)](#)
2. *Bacic v Millennium Educational & Research Charitable Foundation*, [2014 ONSC 5875](#)
3. *Costello, Re*, [2001 CanLII 28284](#)
4. *David Brook (Re)*, [2016 ONSC 6277](#)
5. *Derks (Trustee of) v Derks*, [2013 ABCA 195](#)
6. *Dubyk (Re)*, [2009 SKQB 426](#)
7. *Galaxy Sports Inc (Re)*, [2004 BCCA 284](#)
8. *Kitchener Frame Limited (Re)*, [2012 ONSC 234](#)
9. *Northland Properties Ltd (Re)*, [1988 CanLII 2924 \(BCSC\)](#)
10. *Redstone Investment Corporation (Re)*, [2016 ONSC 4453](#)
11. *Sangha (Re)*, [2018 BCSC 137](#)
12. *San Juan Resources Inc (Re)*, [2009 ABKB 55](#)
13. *Sino-Forest Corporation (Re)*, [2012 ONCA 816](#)
14. *Walter Energy Canada Holdings, Inc (Re)*, [2017 BCSC 709](#)
15. *White Oak Commercial Finance, LLC v Nygård Holdings*, [2022 MBKB 48](#)
16. *YG Limited Partnership (Re)*, [2022 ONSC 6138](#)

**Orders**

17. *In the Matter of the Bankruptcy of Pleterski and AP Private Equity Ltd*, 28 October 2022, unreported, Toronto BK-22-00208581-OT-31 and BK-22-00208582-OT-31 (ONSC)
18. *Re Danier Leather Inc*, 1 March 2018, unreported, Toronto 31-2084381 (ONSC): [ksvadvisory.com](http://ksvadvisory.com)



## SCHEDULE "B"

### TEXT OF STATUTES, REGULATIONS, & BY-LAWS

#### ***Bankruptcy and Insolvency Act, [RSC 1985, c B-3](#)***

##### **Definitions**

[2](#) Equity claim means a claim that is in respect of an equity interest, including a claim for, among others,

- (a) a dividend or similar payment,
- (b) a return of capital,
- (c) a redemption or retraction obligation,
- (d) a monetary loss resulting from the ownership, purchase or sale of an equity interest or from the rescission, or in Quebec, the annulment, of a purchase or sale of an equity interest, or
- (e) contribution or indemnity in respect of a claim referred to in any of paragraphs (a) to (d)...

##### **Trustee may apply to court for directions**

[34\(1\)](#) A trustee may apply to the court for directions in relation to any matter affecting the administration of the estate of a bankrupt and the court shall give in writing such directions, if any, as to it appear proper in the circumstances.

##### **Appeal to court against trustee**

[37](#) Where the bankrupt or any of the creditors or any other person is aggrieved by any act or decision of the trustee, he may apply to the court and the court may confirm, reverse or modify the act or decision complained of and make such order in the premises as it thinks just.

##### **Payment – equity claims**

[60\(1.7\)](#) No proposal that provides for the payment of an equity claim is to be approved by the court unless the proposal provides that all claims that are not equity claims are to be paid in full before the equity claim is to be paid.

##### **Precedence of bankruptcy orders and assignments**

[70\(1\)](#) Every bankruptcy order and every assignment made under this Act takes precedence over all judicial or other attachments, garnishments, certificates having the effect of judgments, judgments, certificates of judgment, legal hypothecs of judgment creditors, executions or other process against the property of a bankrupt, except those that have been completely executed by payment to the creditor or the creditor's representative, and except the rights of a secured creditor.

##### **Expunge or reduce a proof**

[135\(5\)](#) The court may expunge or reduce a proof of claim or a proof of security on the application of a creditor or of the debtor if the trustee declines to interfere in the matter.

### **Payments as funds available**

[136\(2\)](#) Subject to the retention of such sums as may be necessary for the costs of administration or otherwise, payment in accordance with subsection (1) shall be made as soon as funds are available for the purpose.

### **Right of bankrupt to surplus**

[144](#) The bankrupt, or the legal personal representative or heirs of a deceased bankrupt, is entitled to any surplus remaining after payment in full of the bankrupt's creditors with interest as provided by this Act and of the costs, charges and expenses of the bankruptcy proceedings.

### **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;

[...]

### ***Companies' Creditors Arrangement Act, [RSC 1985, c C-36](#)***

#### **Definitions**

[2](#) Equity claim means a claim that is in respect of an equity interest, including a claim for, among others,

(a) a dividend or similar payment,

(b) a return of capital,

(c) a redemption or retraction obligation,

(d) a monetary loss resulting from the ownership, purchase or sale of an equity interest or from the rescission, or in Quebec, the annulment, of a purchase or sale of an equity interest, or

(e) contribution or indemnity in respect of a claim referred to in any of paragraphs (a) to (d)...

**APPENDIX "A"**

Court File No./Estate No.: BK-22-00208581-OT-31

Court File No./Estate No.: BK-22-00208582-OT-31

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(IN BANKRUPTCY AND INSOLVENCY)**

THE HONOURABLE  
JUSTICE CONWAY

)  
)  
)

FRIDAY, THE 28TH  
DAY OF OCTOBER, 2022

**IN THE MATTER OF THE BANKRUPTCY OF**  
**AP PRIVATE EQUITY LIMITED, of the Town of Whitby,**  
**in the Province of Ontario**

**AND IN THE MATTER OF THE BANKRUPTCY OF**  
**AIDEN PLETERSKI, of the Town of Whitby,**  
**in the Province of Ontario**

**OMNIBUS ORDER**

**THIS MOTION**, made by Grant Thornton Limited in its capacity as the trustee (in such capacity, the “**Trustee**”) of the estates of each of the bankrupts, AP Private Equity Limited (“**AP**”) and Aiden Pleterski (“**Pleterski**” and collectively, the “**Bankrupts**”), was heard this day by judicial videoconference via Zoom in Toronto, Ontario.

**ON READING** the Notice of Motion dated October 21, 2022 and the Second Report of the Trustee dated October 21, 2022 (the “**Second Report**”) and on hearing the submissions of counsel for the Trustee and such other counsel as were present, having been served as appears from the affidavit of service of Puya Fesharaki sworn October 26, 2022:

**SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record of the Trustee is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

## **DEFINED TERMS**

2. **THIS COURT ORDERS** that capitalized terms used in this Order shall have the meanings ascribed to them in the Second Report.

## **APPROVAL AND AUTHORIZATION**

3. **THIS COURT ORDERS** that the Second Report and the Trustee's activities set out therein be and are hereby approved, provided, however, that only the Trustee, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

## **CONSOLIDATION OF THE ESTATES**

4. **THIS COURT ORDERS** that the bankruptcy proceedings of AP (Court File No./Estate No.: BK-22-00208581-OT-31) and Pleterski (Court File No./Estate No.: BK-22-00208582-OT-31) (the "**Proceedings**") are hereby procedurally and substantively consolidated.

5. **THIS COURT AUTHORIZES AND DIRECTS** the Trustee to administer the Proceedings hereafter on a consolidated basis for the purpose of carrying out its duties and other responsibilities pursuant to the *Bankruptcy and Insolvency Act*.

6. **THIS COURT ORDERS** that a single court file number (Court File No./Estate No.: BK-22-00208582-OT-31) shall apply to the Proceedings and the following title of proceeding shall apply hereafter to the Proceedings:

**“IN THE MATTER OF THE BANKRUPTCY OF  
AIDEN PLETERSKI and AP PRIVATE EQUITY LIMITED,  
of the Town of Whitby, in the Province of Ontario”**

7. **THIS COURT ORDERS** that a copy of this Order shall forthwith be filed by the Trustee in the separate court files for each of the Proceedings. Thereafter, any documents filed in the Proceedings shall only be required to be filed in Court File No./Estate No.: BK-22-00208582-OT-31.

## **RELIEF RELATING TO MAREVA PROCEEDINGS**

8. **THIS COURT ORDERS AND DIRECTS** Walker Law Professional Corporation to forthwith deliver to the Trustee copies of any and all transcripts relating to any examinations conducted in the Mareva Proceedings, together with any exhibits referred to therein and any undertakings provided in respect thereof (collectively, the “**Mareva Examination Documents**”).

9. **THIS COURT ORDERS** that, upon receipt of the Mareva Examination Documents, the Trustee is directed to pay legal costs totaling \$97,132.37 to the Mareva Plaintiffs, with \$35,606.16 of this amount to be payable directly to Walker Law Professional Corporation and the remaining \$61,526.21 to be payable directly to Sacha Amar Dario Singh.

## **PAYMENT TO PETITIONING CREDITORS**

10. **THIS COURT ORDERS AND DIRECTS** the Trustee to pay \$63,534.98 to the Petitioning Creditors in respect of their legal costs incurred in these Proceedings.

## **ORDERS TO DELIVER UP INFORMATION**

11. **THIS COURT ORDERS AND DIRECTS** the following parties to deliver to the Trustee any and all documents in their possession and control relating to the vehicles listed below, including but not limited to, any credit application or documentation evidencing the source and method of payment in respect of same:

- (a) Porsche Centre North Toronto in respect of the Porsche 718 Boxter bearing VIN# WP0CB2A8XJS229265;
- (b) Audi Durham in respect of the Audi e-tron bearing VIN# WA13AAGE4MB034139; and
- (c) Audi Durham in respect of the Audi S5 bearing VIN# WAUB4CF54NA011048; and
- (d) each of Porsche Centre North Toronto and Audi Durham in respect of any other vehicle that Pleterski purchased, leased or made any payments towards.

12. **THIS COURT ORDERS AND DIRECTS** Paul Motor Company to deliver to the Trustee any and all documents in Paul Motor Company's possession and control relating to the Lamborghini Aventador SVJ bearing VIN# ZHWCM6ZD1KLA08758, including but not limited to, any credit application, buyout value and mileage relating to the vehicle.

13. **THIS COURT ORDERS AND DIRECTS** NewRoads National Leasing to provide to the Trustee the contact particulars for the buyer of the Bentley Bentayga bearing VIN# SJAAC2ZV4HC016039. The Trustee shall keep such information disclosed by NewRoads National Leasing confidential and shall not publicly disclose such information.

#### **SALE OF DRAGAN BMW**

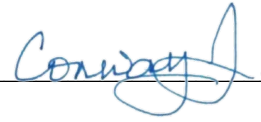
14. **THIS COURT AUTHORIZES AND DIRECTS** the Trustee to sell the BMW M8 bearing VIN# WBSDZ0C02LCD42132 and directs that the sale proceeds in respect thereof shall be for the benefit of the creditors of the Bankrupts.

#### **EFFECT, RECOGNITION AND ASSISTANCE OF OTHER COURTS**

15. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, or abroad, including the Ministry of Transportation Ontario, to give effect to this Order and to assist the Trustee and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Trustee and its agents in carrying out the terms of this Order.

16. **THIS COURT ORDERS** that the Trustee be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

17. **THIS COURT ORDERS** that this Order is effective from today's date and is enforceable without the need for entry or filing.

A handwritten signature in blue ink, appearing to read "Conway J.", is written over a horizontal line.

IN THE MATTER OF THE BANKRUPTCY OF AP PRIVATE EQUITY LIMITED, of the Town of Whitby, in the Province of Ontario

AND IN THE MATTER OF THE BANKRUPTCY OF AIDEN PLETERSKI, of the Town of Whitby, in the Province of Ontario

Court File No./Estate No.: BK-22-00208581-OT-31

Court File No./Estate No.: BK-22-00208582-OT-31

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**(IN BANKRUPTCY AND INSOLVENCY)**

Proceedings commenced at Toronto, Ontario

**OMNIBUS ORDER**

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100 Wellington Street West – Suite 3200  
TD West Tower, Toronto-Dominion Centre  
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Lawyers for Grant Thornton Limited, in its capacity  
as trustee in bankruptcy of the estates of AP Private  
Equity Limited and Aiden Pleterski



**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

**FACTUM OF THE TRUSTEE  
(MOTION FOR DIRECTIONS)**

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Lawyers for KSV Restructuring Inc.  
in its capacity as Trustee