

COURT FILE NUMBER 2301 - 08305
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE COMPANIES'
CREDITORS ARRANGEMENT ACT, RSC
1985, c C-36, as amended

AND IN THE MATTER OF THE
COMPROMISE OF ARRANGEMENT OF
WALLACE & CAREY INC., LOUDON BROS.
LIMITED, and CAREY MANAGEMENT INC.

APPLICANTS WALLACE & CAREY INC, LOUDON BROS
LIMITED, and CAREY MANAGEMENT INC.

DOCUMENT **ASSIGNMENT, APPROVAL AND VESTING
ORDER – OAKVILLE**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY
FILING THIS DOCUMENT CASSELS BROCK & BLACKWELL LLP
Suite 3810, Bankers Hall West
888 3rd Street SW
Calgary, Alberta T2P 5C5 Canada

Attention: Jeff Oliver / Jane Dietrich
Telephone: 403-351-2920
Email: joliver@cassels.com / jdietrich@cassels.com



DATE ON WHICH ORDER WAS PRONOUNCED: May 29, 2024

LOCATION WHERE ORDER WAS PRONOUNCED: Calgary, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Justice R. A. Neufeld

UPON THE APPLICATION by Wallace & Carey Inc. ("**W&C**"), Loudon Bros. Limited ("**Loudon**"), and Carey Management Inc. ("**CMI**", collectively with W&C and Loudon, the "**Applicants**") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an order (this "**Order**"), *inter alia*: (i) approving the real property lease assignment transaction (the "**Lease Transaction**") substantially in the form contemplated in an Assignment of Lease, Assignee's covenant and Landlord Consent (the "**Lease Assignment Agreement**") among DIR Properties (GP) Inc. (the "**Landlord**"), W&C, CMI, and 7-Eleven Canada, Inc. ("**7-Eleven**") and appended to the Affidavit of Angeline Gagnon, sworn May 29, 2024 (the "**Gagnon Affidavit**"), pursuant to which the interests and obligations of W&C under the

Lease (as defined in the Lease Assignment Agreement) are being assigned and assumed by 7-Eleven; and (ii) approving the sale transaction (the “**Equipment Transaction**” and together with the Lease Transaction, the “**Transactions**”) contemplated by an equipment purchase agreement (the “**Equipment Purchase Agreement**” and together with the Lease Assignment Agreement, the “**Agreements**”) between W&C, CMI, Loudon and 7-Eleven dated May 28, 2024 and appended to the Gagnon Affidavit and vesting in 7-Eleven W&C, CMI and Loudon’s right, title and interest in and to the assets described in the Equipment Purchase Agreement (the “**Purchased Assets**”);

AND UPON HAVING READ the Application, the Gagnon Affidavit, the Affidavit of Service of Marica Ceko sworn May 22, 2024, and the Tenth Report of KSV Restructuring Inc. in its capacity as Court-appointed monitor of the Applicants (the “**Monitor**”) dated May 23, 2024, each filed;

AND UPON HEARING the submissions of counsel for the Applicants and the Monitor and such other parties present;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE AND DEFINITIONS

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, no other person is required to have been served with notice of this application and time for service of this application is abridged to that actually given.
2. Any capitalized term used and not defined herein shall have the meaning ascribed thereto in the Amended and Restated Initial Order in these proceedings dated June 30, 2023 (the “**Initial Order**”).

APPROVAL OF LEASE ASSIGNMENT AND SALE OF ASSETS

3. The Transactions are hereby approved, and the execution and delivery of the Agreements by the Applicants (as applicable) is hereby authorized and approved, with such minor amendments as the Applicants (as applicable) and 7-Eleven may agree to with the consent of the Monitor. The Applicants and the Monitor are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transactions and for the conveyance of the Lease and Purchased Assets to 7-Eleven pursuant to the Agreements and the Monitor shall be authorized to take such additional steps in furtherance of its responsibilities under the Agreements.
4. Upon delivery of a Monitor’s Certificate to 7-Eleven (the date of such Monitor’s Lease Assignment Certificate being the “**Lease Assignment Date**”), substantially in the form attached as Schedule “A” hereto (the “**Monitor’s Lease Assignment Certificate**”):

- (a) all of the rights and obligations of W&C under the Lease shall be assigned, conveyed, transferred and assumed by 7-Eleven pursuant to section 11.3 of the CCAA and such assignment is valid and binding upon the landlord under the Lease (the “**Landlord**”) notwithstanding any restriction or prohibition, if any, contained in the Lease relating to the assignment thereof, including but not limited to, provisions, if any, requiring the consent of or notice for any period in advance of the assignment of the Lease to any party; and
- (b) the Landlord is prohibited from exercising any rights or remedies under the Lease, and shall be forever barred, enjoined and estopped from taking such action, by reason solely of:
 - (i) any defaults arising from the insolvency of W&C or any of its affiliates;
 - (ii) the commencement of these CCAA proceedings;
 - (iii) any defaults and/or recapture rights which arise upon the assignment of the Lease to a third party; or
 - (iv) W&C having breached a non-monetary obligation under the Lease unless: (i) such non-monetary breach arises or continues after the Lease Assignment Date; (ii) such non-monetary breach is capable of being cured by 7-Eleven; and (iii) 7-Eleven has failed to remedy the non-monetary breach after having received notice of such breach pursuant to the terms of the Lease,

and the Landlord is hereby deemed to waive any defaults relating thereto. For greater certainty, and without limiting the foregoing, the Landlord may not rely on a notice of default sent prior to the Lease Assignment Date to terminate the Lease or exercise any remedy as against 7-Eleven as assignee.

5. Except as set forth in paragraph 4(a) or (b) or as may be otherwise agreed to by 7-Eleven and the Landlord with respect to the Lease, nothing herein shall affect the rights and remedies of the Landlord against 7-Eleven that may arise under or in respect of a Lease from an after the effective date of the Lease Transaction.

6. Upon delivery of a Monitor’s Certificate to 7-Eleven, substantially in the form attached as Schedule “B” hereto (the “**Monitor’s Transaction Certificate**” and together with the “**Monitor’s Lease Assignment Certificate**”, the “**Monitor’s Certificates**”):

- (a) all of the Applicants’ right, title and interest in and to the Purchased Assets shall vest absolutely in 7-Eleven free and clear of and from any and all caveats, security interests,

hypothecs, pledges, mortgages, liens, trusts or deemed trusts, reservations of ownership, royalties, options, rights of pre-emption, privileges, interests, assignments, actions, judgements, executions, levies, taxes, writs of enforcement, charges, or other claims, whether contractual, statutory, financial, monetary or otherwise, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, "**Claims**") including, without limiting the generality of the foregoing:

- (i) any encumbrances or charges created by the Initial Order; and
- (ii) any charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Alberta), *Personal Property Security Act* (Ontario) or any other personal property registry system;

(all of which, as set out in the foregoing paragraphs 4(b)(i) and 4(b)(ii), are collectively referred to as the "**Encumbrances**") and for greater certainty, this Court orders that all Claims including Encumbrances, affecting or relating to the Purchased Assets are hereby expunged, discharged and terminated as against the Purchased Assets, provided that the Claims and the Encumbrances referred to herein shall not include permitted encumbrances specifically identified in the Equipment Purchase Agreement (the "**Permitted Encumbrances**").

7. The Lease may not be assigned under the Lease Assignment Agreement unless all amounts owing in respect of monetary defaults under the Lease, other than those arising by reason only of W&C's insolvency, the commencement of these CCAA proceedings, or W&C's failure to perform a non-monetary obligation, are paid on the Lease Assignment Date, or such later date as may be agreed to by the Landlord in writing.

8. Upon delivery of the Monitor's Transaction Certificate, and upon filing of a certified copy of this Order, together with any applicable registration fees, all governmental authorities including those referred to below in this paragraph (collectively, "**Governmental Authorities**") are hereby authorized, requested and directed to accept delivery of such Monitor's Transaction Certificate and certified copy of this Order as though they were originals and to register such transfers, interest authorizations, discharges and discharge statements of conveyance as may be required to convey to 7-Eleven clear title to the Purchased Assets subject only to Permitted Encumbrances.

9. In order to effect the transfers and discharges described above, this Court directs each of the Governmental Authorities to take such steps as are necessary to give effect to the terms of this Order and the Agreements. Presentment of this Order and the Monitor's Transaction Certificate shall be the sole and sufficient authority for the Governmental Authorities to make and register transfers of title or interest and

cancel and discharge registrations against any of the Purchased Assets of any Claims including Encumbrances but excluding Permitted Encumbrances.

10. No authorization, approval or other action by and no notice to or filing with any governmental authority or regulatory body exercising jurisdiction over the Purchased Assets is required for the due execution, delivery and performance by the Applicants of the Agreements.

11. For the purposes of determining the nature and priority of Claims, net proceeds from the sale of the Purchased Assets (to be held in a trust account by the Monitor) shall stand in the place and stead of the Purchased Assets from and after the delivery of the Monitor's Transaction Certificate and all Claims including Encumbrances (but excluding Permitted Encumbrances) shall not attach to, encumber or otherwise form a charge, security interest, lien, or other Claim against the Purchased Assets and may be asserted against the net proceeds from sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale. Unless otherwise ordered (whether before or after the date of this Order), the Monitor shall not make any distributions to creditors of net proceeds from sale of the Purchased Assets without further order of this Court.

12. Upon completion of the Equipment Transaction, the Applicants and all persons who claim by, through or under the Applicants in respect of the Purchased Assets, and all persons or entities having any Claims of any kind whatsoever in respect of the Purchased Assets, save and except for persons entitled to the benefit of the Permitted Encumbrances, shall stand absolutely and forever barred, estopped and foreclosed from and permanently enjoined from pursuing, asserting or claiming any and all right, title, estate, interest, royalty, rental, equity of redemption or other Claim whatsoever in respect of or to the Purchased Assets, and to the extent that any such persons or entities remain in the possession or control of any of the Purchased Assets, or any artifacts, certificates, instruments or other indicia of title representing or evidencing any right, title, estate, or interest in and to the Purchased Assets, they shall forthwith deliver possession thereof to 7-Eleven.

13. 7-Eleven shall be entitled to enter into and upon, hold and enjoy the Purchased Assets for its own use and benefit without any interference of or by the Applicants, or any person claiming by, through or against the Applicants.

14. Upon delivery of a Monitor's Lease Assignment Certificate, 7-Eleven shall be entitled to all of the rights and benefits and subject to all of the obligations as tenant pursuant to the terms of the Lease and registrations thereof and may enter into and upon and hold and enjoy such premises contemplated by the Lease and, if applicable, any renewals thereof, for its own use and benefit, all in accordance with and subject to the terms of the Lease.

15. The Monitor is directed to file with the Court a copy of the Monitor's Certificates forthwith after delivery thereof to 7-Eleven.

16. The Applicants, 7-Eleven, the Monitor and any other interested party, shall be at liberty to apply for further advice, assistance and direction as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transactions.

17. This Order shall have full force and effect in all provinces and territories in Canada.

18. This Order and all of its provisions are effective as of the date of this Order without the need for entry or filing.

19. Service of this Order shall be deemed good and sufficient by:

(a) Serving the same on:

- (i) the persons listed on the service list created in these proceedings;
- (ii) any other person served with notice of the application for this Order;
- (iii) any other parties attending or represented at the application for this Order;
- (iv) the 7-Eleven or 7-Eleven's solicitors; and

(b) Posting a copy of this Order on the Monitor's website at:

<https://www.ksvadvisory.com/experience/case/wallace-and-carey>

and service on any other person is hereby dispensed with.

20. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.



Justice of the Court of King's Bench of Alberta

SCHEDULE "A"
FORM OF MONITOR'S LEASE ASSIGNMENT CERTIFICATE

COURT FILE NUMBER 2301 - 08305

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
RSC 1985, c C-36, as amended

AND IN THE MATTER OF THE COMPROMISE OF ARRANGEMENT OF
WALLACE & CAREY INC., LOUDON BROS. LIMITED, and CAREY
MANAGEMENT INC.

APPLICANTS WALLACE & CAREY INC, LOUDON BROS LIMITED, and CAREY
MANAGEMENT INC.

DOCUMENT **MONITOR'S LEASE ASSIGNMENT CERTIFICATE**

ADDRESS FOR SERVICE CASSELS BROCK & BLACKWELL LLP
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OF Calgary, Alberta T2P 5C5 Canada
PARTY FILING THIS Attention: Jeff Oliver / Jane Dietrich
DOCUMENT Telephone: 403-351-2920
 Email: joliver@cassels.com / jdietrich@cassels.com

RECITALS

A. All undefined terms in this Monitor's Lease Assignment Certificate have the meanings ascribed to them in the Order of the Court of King's Bench of Alberta (the "**Court**") dated May ●, 2024 (the "**Assignment, Approval and Vesting Order**").

B. Pursuant to the Assignment, Approval and Vesting Order, the Court approved (among other things) the Lease Assignment Agreement and provided for the assignment of the Lease to 7-Eleven, which assignment of the Lease is effective upon the delivery by the Monitor to 7-Eleven of a certificate confirming (i) the conditions to assignment as set out in the Lease Assignment Agreement have been satisfied or waived by 7-Eleven and W&C, as applicable; and (ii) the assignment has been completed to the satisfaction of the Monitor.

THE MONITOR CERTIFIES the following:

1. 7-Eleven has paid and the Monitor on behalf of W&C has received the Assignment Consideration (as defined in the Lease Assignment Agreement) payable pursuant to the Lease Assignment Agreement;

3. The Monitor has received written notice from 7-Eleven and W&C that the conditions to assignment as set out in the Lease Assignment Agreement have been satisfied or waived by the parties; and

3. The transaction under the Lease Assignment Agreement has been completed to the satisfaction of the Monitor.

This Monitor's Certificate was delivered by the Monitor at _____ [TIME] on [DATE].

KSV Restructuring Inc., in its capacity as Monitor of Wallace & Carey Inc., Loudon Brothers Limited, Carey Management Inc., and not in its personal or corporate capacity

By: _____
Name:
Title:

SCHEDULE "B"
FORM OF MONITOR'S TRANSACTION CERTIFICATE

COURT FILE NUMBER 2301 - 08305

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
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WALLACE & CAREY INC., LOUDON BROS. LIMITED, and CAREY
MANAGEMENT INC.

APPLICANTS WALLACE & CAREY INC, LOUDON BROS LIMITED, and CAREY
MANAGEMENT INC.

DOCUMENT **MONITOR'S TRANSACTION CERTIFICATE**

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AND Suite 3810, Bankers Hall West
CONTACT INFORMATION 888 3rd Street SW
OF Calgary, Alberta T2P 5C5 Canada
PARTY FILING THIS Attention: Jeff Oliver / Jane Dietrich
DOCUMENT Telephone: 403-351-2920
 Email: joliver@cassels.com / jdietrich@cassels.com

RECITALS

A. All undefined terms in this Monitor's Transaction Certificate have the meanings ascribed to them in the Order of the Court of King's Bench of Alberta (the "**Court**") dated May ●, 2024 (the "**Assignment, Approval and Vesting Order**").

B. Pursuant to the Assignment, Approval and Vesting Order, the Court approved the Equipment Purchase Agreement and provided for the vesting in 7-Eleven of the Applicants' right, title and interest in and to the Purchased Assets described in the Equipment Purchase Agreement, which vesting of the Purchased Assets in the Purchaser is effective upon the delivery by the Monitor to 7-Eleven of a certificate confirming (i) the conditions to closing as set out in the Equipment Purchase Agreement has been satisfied or waived by 7-Eleven and W&C, as applicable; and (ii) the transaction under the Equipment Purchase Agreement has been completed to the satisfaction of the Monitor.

THE MONITOR CERTIFIES the following:

1. 7-Eleven has paid and the Monitor on behalf of the Applicants has received the Purchase Price (as defined in the Equipment Purchase Agreement) payable pursuant to the Equipment Purchase Agreement;
2. The Monitor has received written notice from 7-Eleven and the Applicants that the conditions to closing as set out in the Equipment Purchase Agreement have been satisfied or waived by the parties; and
3. The transaction under the Equipment Purchase Agreement has been completed to the satisfaction of the Monitor.

This Monitor's Certificate was delivered by the Monitor at _____ [TIME] on [DATE].

KSV Restructuring Inc., in its capacity as Monitor of Wallace & Carey Inc., Loudon Brothers Limited, Carey Management Inc., and not in its personal or corporate capacity

By: _____
Name:
Title: