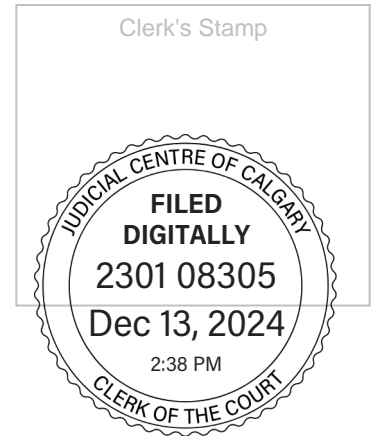


COURT FILE NUMBER 2301-08305
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
IN THE MATTER OF THE COMPANIES'
CREDITORS ARRANGEMENT ACT, RSC 1985, c
C-36, as amended
AND IN THE MATTER OF THE COMPROMISE
OR ARRANGEMENT OF WALLACE & CAREY
INC., LOUDON BROS LIMITED, and CAREY
MANAGEMENT INC.



APPLICANT KSV RESTRUCTURING INC., in its capacity as Court-appointed Monitor of
Wallace & Carey Inc., Loudon Bros Limited and Carey Management Inc.
RESPONDENT DIGIFLEX INFORMATION SYSTEMS INC. and MOHAMAD ZÄHED
MARDUKHI

DOCUMENT **APPLICATION**

ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION
OF PARTY
FILING THIS
DOCUMENT
Cassels Brock & Blackwell LLP
3810, Bankers Hall West
888 3 Street SW
Calgary, AB T2P 5C5
Attention: Jeffrey Oliver
P: 403.351.2921
E: joliver@cassels.com

File No.: 54670-3

NOTICE TO THE RESPONDENTS: see Service List attached hereto as Schedule "A"

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the judge.

To do so, you must be in Court when the application is heard as show below:

Date: December 17, 2024
Time: 11:00 AM
Where: Edmonton (via WebEx)
Before Whom: The Honourable Justice Neilson

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1. KSV Restructuring Inc. (“**KSV**”), in its capacity as Court-appointed Monitor (in such capacity, the “**Monitor**”) of Wallace & Carey Inc. (“**Wallace & Carey**”), Loudon Bros Limited (“**Loudon Bros**”), and Carey Management Inc. (“**CMI**”, and together with Wallace & Carey Inc. and Loudon Bros, the “**Companies**”), seeks:
 - (a) an order (the “**Order**”) substantially in the form attached hereto as Schedule “B”:
 - (i) if necessary, abridging the time for service of this Application and the supporting fourteenth report of the Monitor, dated December 13, 2024 (the “**Fourteenth Report**”) and declaring service to be good and sufficient;
 - (ii) declaring that DigiFlex Information Systems Inc.’s (“**DigiFlex**”) purported termination, price increases and all other amendments to the DigiFlex Agreements and any other agreement for services between DigiFlex and the Companies are in breach of paragraphs 18 and 19 of the Amended and Restated Initial Order pronounced June 30, 2023 (the “**ARIO**”) and of no force and effect;
 - (iii) requiring DigiFlex and Mohamad Zahed Mardukhi (“**Mardukhi**”), as sole director and voting shareholder of DigiFlex, to continue to provide the Companies with services and software on the terms and in the manner prescribed by the DigiFlex Agreements, and at an annual rate that shall not exceed \$290,093.70, representing 103.5% of the 2024 rates, unless otherwise agreed to by DigiFlex, the Companies and the Monitor in writing;
 - (iv) restraining DigiFlex, Mardukhi and any other parties on direction from DigiFlex or Mardukhi, from terminating or otherwise interfering with the services provided under the terms of the DigiFlex Agreements and the services provided thereunder; and
 - (v) ordering DigiFlex and Mardukhi to jointly and severally pay costs of this application on a solicitor and own client, full indemnity basis in the amount of \$35,000; and
 - (b) such further and other relief as this Honourable Court deems appropriate.

Grounds for making this Application:

Background

2. On June 22, 2023, this Honourable Court granted an Initial Order (the “**Initial Order**”) pursuant to the *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36 (the “**CCAA**”), among other things, declaring that the Companies were companies to which the CCAA applies, granting a stay of proceedings up to and including July 1, 2023, and appointing KSV as Monitor of the Companies.
3. The Initial Order was amended and restated pursuant to the ARIO on June 30, 2023.
4. Under an order granted by the Court on August 23, 2023, the Companies undertook a sale and investment solicitation process (the “**SISP**”) that resulted in a transaction (the “**Transaction**”) between the Companies and 7-Eleven Canada, Inc. (“**7-Eleven**”) that was approved by the Court

on November 17, 2023 pursuant to an approval and vesting order (the “**Transaction Approval and Vesting Order**”) and other orders (together with the Transaction Approval and Vesting Order, the “**Transaction Orders**”).

5. Pursuant to the Transaction Orders, the Court, among other things:
 - (a) approved the sale of certain property, assets and undertakings of the Companies to 7-Eleven;
 - (b) approved a transition services agreement (the “**TSA**”) among CMI, Wallace & Carey, the Monitor and 7-Eleven, as more fully discussed in the sixth report of the Monitor dated November 8, 2023; and
 - (c) appointed KSV as receiver of all of the property, assets and undertakings of certain subsidiaries of CMI.
6. During these CCAA proceedings, Wallace & Carey has been responsible for carrying on the day-to-day business operations. The TSA, among other things, sets out the terms under which Wallace & Carey will continue to operate for the benefit of 7-Eleven under CCAA protection. The duration of the TSA is 15 months and nine months for the Western Business and the Eastern Business (both as defined in the TSA), respectively, from November 21, 2023 (i.e., the Effective Date of the TSA), subject in each case to two 90-day extensions that are available to 7-Eleven.
7. TSA period, 7-Eleven is responsible for funding substantially all of Wallace & Carey’s operations, including employee costs, real and personal property leases and other contracts, the fees and costs of the Monitor and its counsel, and certain fees of the Companies’ counsel.
8. Upon application by the Companies, the Court granted an order on November 25, 2024, among other things, extending the stay of proceedings in these CCAA proceedings to and including April 30, 2025 (the “**Stay Period**”).
9. Capitalized terms not otherwise defined in this Application shall have the meaning given to such terms in the Fourteenth Report.

The ARIQ

10. Under paragraph 19 of the ARIQ, suppliers are compelled to provide services to the Companies during the CCAA proceedings in accordance with the terms of existing agreements. Paragraph 19 reads (emphasis added):

19. During the Stay Period, **all persons having:**

- (a) statutory or regulatory mandates for the supply of goods and/or services; or
- (b) oral or written agreements or arrangements with the [Companies], including without limitation all supply arrangements pursuant to purchase orders and historical supply practices, **computer software**, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the Business or the [Companies],

are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by the [Companies] or exercising any other remedy provided under such agreements or arrangements. The [Companies] shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the **usual prices or charges for all such goods or services** received after the date of this Order are paid by the [Companies] in accordance with the payment practices of the [Companies], or such other practices as may be agreed upon by the supplier or service provider and each of the [Companies] and the Monitor, or as may be ordered by this Court.

11. Similarly, paragraph 18 of the ARIO reads (emphasis added):

18. During the Stay Period, **no person shall** accelerate, suspend, discontinue, **fail to honour**, alter, interfere with, repudiate, **terminate** or cease to perform **any right, renewal right, contract, agreement, licence or permit in favour of or held by the [Companies]**, except with the written consent of the [Companies] and the Monitor, or leave of this Court.

The DigiFlex Agreements

12. DigiFlex and Wallace & Carey have a long-standing business relationship spanning approximately 24 years whereby DigiFlex licenses software and provides helpdesk support to Wallace & Carey.

13. The Monitor is aware of the following agreements between DigiFlex and Wallace & Carey:

(a) Software License Agreement dated August 19, 2013 (the “**Software Agreement**”), which references a Maintenance Agreement attached thereto as Schedule “A” (the “**Maintenance Agreement**”); and

(b) Helpdesk Support Agreement, a copy of which the Monitor has not received and/or reviewed (the “**Support Agreement**”);

(collectively, the Software Agreement, Support Agreement and any other agreement for services between DigiFlex and the Companies shall be referred to as the “**DigiFlex Agreements**”).

14. To the best of the Monitor’s knowledge, Mardukhi is the controlling mind of DigiFlex and directs its operations.

15. The Software licensed to Wallace & Carey under the DigiFlex Agreements is integral to its operations, as the Software is utilized for all aspects of Wallace & Carey’s operations including distribution management, financial reporting, and business intelligence.

16. The key terms of the Software Agreement are, among others, the following:

(a) Wallace & Carey agreed to pay \$300,000 for an unlimited-use license-to-use agreement, which amount was paid by way of an initial payment of \$150,000 on April 23, 2012, with the remaining \$150,000 paid on the execution of the Software Agreement on August 19, 2013;

- (b) all rates specified in the Software Agreement (including the fees payable under the Maintenance Agreement) are fixed for the first 12-month period (starting in August 2013), after which DigiFlex may increase the price payable by Wallace & Carey upon providing at least 30 days advance written notice to Wallace & Carey. The percentage increase shall not exceed the Consumer Price Index for that period as published by Statistics Canada for the City of Calgary, or in the alternative, the province of Alberta or Canada;
 - (c) Wallace & Carey is also responsible for certain service fees on an hourly basis. Historically, hourly service fees are invoiced to and paid by Wallace & Carey as soon as the service request is completed by DigiFlex; and
 - (d) there is no set term or expiration date for the Software Agreement.
17. The key terms of the Maintenance Agreement are, among others, the following:
- (a) Wallace & Carey agreed to pay an annual maintenance services fee for three software packages in an amount of \$28,350 (\$9,450 per software package) for one year, to be paid in advance (the “**Maintenance Charge**”). Additional fees apply to install the software packages in multiple branches on additional server systems;
 - (b) the term of the Maintenance Agreement began on the date of software installation and automatically renews for successive one-year terms to be agreed upon by the parties at the time of renewal, unless the agreement is terminated. The Maintenance Agreement is terminated by either party serving written notice to the other at least 30 days prior to the expiration of the initial term or renewal, in which case the Maintenance Agreement terminates at the end of that term or renewal; and
 - (c) the Maintenance Charge is fixed for a 12-month period, after which DigiFlex may increase the price payable by Wallace & Carey upon providing at least 30 days advance written notice prior to the end of the then current term to Wallace & Carey. The percentage increase shall not exceed the Consumer Price Index for that period as published by Statistics Canada for the City of Calgary, or in the alternative, the province of Alberta or Canada. Historically, DigiFlex invoiced renewal fees for the Maintenance Agreement in February of each calendar year.

DigiFlex’s purported termination, price increases and all other amendments to the DigiFlex Agreements are in breach of the ARIO

- 18. A detailed timeline of communications with DigiFlex leading to this Application is set out in the Fourteenth Report.
- 19. DigiFlex is seeking to materially increase the prices payable under the DigiFlex Agreements, terminate or otherwise amend the terms of the DigiFlex Agreements. This conduct is very clearly contrary to the terms of the ARIO.
- 20. Representatives from the offices of 7-Eleven, Wallace & Carey, the Monitor and Monitor’s counsel have made several attempts to discuss this matter with Mardukhi with the goal of reaching a resolution out of court, all of which have been unsuccessful.

21. As a result of the unsuccessful attempts to reach a resolution out of court, the Monitor proceeded to book emergency time on the Commercial List for the hearing of this Application (the “**Hearing**”).
22. On December 11, 2024, after Mardukhi was forwarded WebEx details for the Hearing, Mardukhi sent an email on behalf of DigiFlex to representatives of 7-Eleven which reads, in part: “Since you have decided to proceed with court action (see email below), this is our formal notice that we will stop our support, maintenance and helpdesk services on January 1st, 2025. This will be the case regardless of the court outcome.”
23. Mardukhi has been explicit that DigiFlex will be terminating the DigiFlex Agreements effective January 1, 2025, and that he will not comply with any Court order issued which would require continuation of the DigiFlex Agreements.
24. DigiFlex’s actions are clearly and manifestly contrary to the ARIO.
25. In accordance with the Transaction Orders, Wallace & Carey continues to carry on active business operations. DigiFlex remains contractually bound to provide services to Wallace & Carey pursuant to the DigiFlex Agreements and the ARIO, regardless of 7-Eleven’s obligations to Wallace & Carey under the TSA.

The Need for Urgent Relief

26. As set out in the Fourteenth Report, the services provided under the DigiFlex Agreements are integral to Wallace & Carey’s operations.
27. The Monitor is seeking urgent relief from the Court as DigiFlex’s conduct, if not addressed immediately, would have a profound and detrimental impact on Wallace & Carey’s entire supply chain. In the event Wallace & Carey’s access to the software or services provided under the DigiFlex Agreements is disrupted, service to hundreds of 7-Eleven Stores from Ontario to British Columbia, which make up the bulk of Wallace & Carey’s business, would be significantly and immediately impacted and it would be impossible for Wallace & Carey to continue to operate.
28. The Monitor respectfully requests that this Honourable Court grant the Order.

Material or evidence to be relied on:

29. Amended and Restated Initial Order pronounced by the Honourable Justice Burns on June 30, 2023.
30. Transaction Approval and Vesting Order pronounced by the Honourable Justice Burns on November 17, 2023.
31. Twelfth Report of the Monitor dated August 13, 2024, filed.
32. Sixth Affidavit of Pat Carey, sworn on November 19, 2024, filed.
33. The Fourteenth Report of the Monitor dated December 13, 2024, to be filed.
34. Bench Brief of the Monitor dated December 13, 2024, to be filed.

- 35. Affidavit of Service to be sworn and filed.
- 36. Such further and other materials as counsel may advise and this Honourable Court may permit.

Applicable rules:

- 37. The *Alberta Rules of Court*, including Rules 1.2, 1.3, 1.4, 6.1, 6.2, 6.3 and 6.47.
- 38. Such further and other rules as counsel may advise and this Honourable Court may permit.

Applicable Acts and regulations:

- 39. *Companies' Creditor Arrangement Act*, RSC 1985, c. C-36.
- 40. *Bankruptcy and Insolvency Act*, RSC 1985, c B-3.
- 41. Such further and other acts and regulations as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

- 42. None.

How the application is proposed to be heard or considered:

- 43. Remotely, via Webex.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and time shown at the beginning of this form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

Schedule "A"

PARTY	METHOD OF DELIVERY	ROLE / INTEREST
<p>WALLACE & CAREY INC. LOUDON BROS LIMITED, AND CAREY MANAGEMENT INC. 5445 8th St NE Calgary, AB T2K 5R9 Canada</p> <p>Pat Carey Tel: 403.295.7360 Email: careyp@careymgmt.com</p> <p>Brian M. Birnie Tel: 403.730.2290 Email: birnieb@wacI.com</p> <p>Eric Rolheiser Email: RolheiserE@wacI.com</p>	Email	Applicants
<p>MILLER THOMSON LLP 3000, 700 - 9th Avenue SW Calgary, Alberta, T2P 3V4, Canada</p> <p>James Reid Tel: 403.298.2418 Email: jwreid@millertomson.com</p> <p>Pavin Takhar Tel: 403.298.2432 Email: ptakhar@millertomson.com</p> <p>Larry Ellis Tel: 416.595.8639 Email: lellis@millertomson.com</p> <p>David Ward Tel: 416.595.8625 Email: dward@millertomson.com</p> <p>Sam Massie Tel: 416.595.8641 Email: smassie@millertomson.com</p>	Email	Counsel to the Applicants

PARTY	METHOD OF DELIVERY	ROLE / INTEREST
<p>KSV RESTRUCTURING INC. 220 Bay Street, 13th Floor, PO Box 20, Toronto, Ontario, M5J 2W4</p> <p>Bobby Kofman Tel: 416.932.6228 Email: bkofman@ksvadvisory.com</p> <p>David Sieradzki Tel: 416.932.6030 Email: dsieradzki@ksvadvisory.com</p> <p>Jason Knight Tel: 403.589-3225 Email: jknight@ksvadvisory.com</p>	<p>Email</p>	<p>Monitor</p>
<p>CASSELS BROCK & BLACKWELL LLP Suite 3810, Bankers Hall West 888 3rd Street SW Calgary, AB T2P 5C5 Canada</p> <p>Jeffrey Oliver Tel: 403 351 2921 Email: joliver@cassels.com</p>	<p>Email</p>	<p>Counsel to the Monitor</p>
<p>CANADIAN IMPERIAL BANK OF COMMERCE Commerce Court West 199 Bay Street - 4th Floor Toronto, ON M5L 1A2 Canada Email: mailbox.x_sec_mail@cibc.com</p> <p>Geoff Golding Email: geoff.golding@cibc.com</p> <p>Steven Filippi Email: steven.filippi@cibc.com</p> <p>Anthony Tsuen Tel: 416.318.9667 Email: Anthony.Tsuen@cibc.com</p>	<p>Email</p>	<p>Secured Creditor PPR Registrant</p>

PARTY	METHOD OF DELIVERY	ROLE / INTEREST
<p>NORTON ROSE FULBRIGHT CANADA LLP 222 Bay Street, Suite 3000, P.O. Box 53 Toronto, ON, M5K 1E7 Canada</p> <p>David Amato Tel: 416.216.1861 Email: david.amato@nortonrosefulbright.com</p> <p>Evan Cobb Tel: 416.216.1929 Email: evan.cobb@nortonrosefulbright.com</p> <p>Matthew Lipka Tel: 416.216.3942 Email: matthew.lipka@nortonrosefulbright.com</p>	<p>Email</p>	<p>Counsel to Canadian Imperial Bank of Commerce</p>
<p>PRICEWATERHOUSECOOPERS INC. Suncor Energy Centre, East Tower 3100 - 111 5th Avenue SW Calgary AB T2P 5L3</p> <p>Jonathan Reimche Tel: 403.509.7359 Email: jonathan.p.reimche@ca.pwc.com</p>	<p>Email</p>	<p>Financial advisor to Canadian Imperial Bank of Commerce</p>
<p>MCCARTHY TÉTRAULT LLP 421 7th Avenue SW - Suite 4000 Calgary AB T2P 4K9 Canada</p> <p>Sean Collins Tel: 403.260.3531 Email: scollins@mccarthy.ca</p> <p>Pantelis Kyriakakis Tel: 403.260.3536 Email: pkiriakakis@mccarthy.ca</p>	<p>Email</p>	<p>Counsel to Canadian Western Bank</p>
<p>TORYS LLP 4600 Eighth Avenue Place 525 – 8th Avenue SW Calgary, AB T2P 1G1</p> <p>Kyle Kashuba Email: kkashuba@torys.com</p>	<p>Email</p>	<p>Counsel to the Bank of Nova Scotia</p>

GOVERNMENTAL AGENCIES		
<p>CANADA REVENUE AGENCY Surrey National Verification and Collection Centre 9755 King George Boulevard Surrey BC V3T 5E1</p> <p>Tel: 1.866.891.7403 Fax: 1.833.697.2389</p>	<p>Courier</p>	<p>Potential Interested Party</p>
<p>TAX AND REVENUE ADMINISTRATION Alberta Treasury Board and Finance 9811 109 Street Edmonton, Alberta T5K 2L5</p> <p>Tel: 780-427-3044 Email: tra.revenue@gov.ab.ca tbf.sco@gov.ab.ca</p> <p>Ulrich Drachenberg Email: Ulrich.Drachenberg@gov.ab.ca</p> <p>cc :</p> <p>Alberta Justice: Rachelle Sorgiovanni Rachelle.Sorgiovanni@gov.ab.ca</p> <p>Laura Pflughaupt Laura.Pflughaupt@gov.ab.ca</p>	<p>Email</p>	<p>Creditor</p>
<p>JUSTICE, HEALTH AND REVENUE (BC) Legal Services Branch, Ministry of Attorney General PO Box 9280 Stn Prov Govnt Victoria, BC, V8W 9J7</p> <p>Email: AGLSBRevTaxInsolvency@gov.bc.ca</p> <p>Aaron Welch Email: Aaron.Welch@gov.bc.ca Tel: 250-356-8589</p>	<p>Email</p>	<p>Creditor</p>
<p>SASKATCHEWAN MINISTRY OF FINANCE Revenue Operations Branch Collections and Enforcement PO Box 200 Regina, SK, S4P 2Z6, Canada</p> <p>Attn: Janine Vindevoghel Supervisor, Ministry of Finance Tel: 304.787.4601 Email: janine.vindevoghel@gov.sk.ca</p>	<p>Email</p>	<p>Creditor</p>

GOVERNMENTAL AGENCIES		
<p>MANITOBA FINANCE Winnipeg Office 101 - 401 York Avenue Winnipeg MB R3C 0P8</p> <p>Tel: 204.945.6444 Email: MBTax@gov.mb.ca</p>	Email	Creditor
<p>ONTARIO MINISTRY OF FINANCE 33 King Street West PO Box 625 Oshawa, Ontario L1H 8H9</p> <p>Steven Groeneveld, Counsel Oshawa Legal Services Branch Tel: 905.431.8380 Email: Steven.Groeneveld@ontario.ca</p> <p>Insolvency Unit Email: Insolvency.Unit@ontario.ca</p>	Email	Creditor
<p>GOVERNMENT OF THE NORTHWEST TERRITORIES Treasury Division, Department of Finance PO Box 1320 Yellowknife, NT X1A 2L9, Canada</p> <p>Tel: 867.767.9177 ext. 15273 Email: NWT_tax@gov.nt.ca</p>	Email	Creditor
<p>GOVERNMENT OF NUNAVUT Department Of Finance P.O. Box 1000 Station 200 Iqaluit, Nunavut X0A 0H0</p> <p>Tel: 1-800-316-3324 Email: Fin.financialservices@gov.nu.ca Email: tobaccotax@gov.nu.ca</p>	Email	Creditor
<p>GOVERNMENT OF YUKON Department of Finance Box 2703 Whitehorse, Yukon Y1A 2C6</p> <p>Tel: 867.667.5811 Email: fininfo@yukon.ca Email: yk.taxreturns@yukon.ca</p>	Email	Creditor

INTERESTED PARTIES		
<p>BLAKE, CASSELS & GRAYDON LLP 855 - 2 St. SW, Suite 3500, Calgary AB T2P 4J8</p> <p>Kelly J. Bourassa Tel: 403-260-9697 Email: kelly.bourassa@blakes.com</p> <p>Jessica MacKinnon Tel: 403-260-9657 Email: Jessica.MacKinnon@blakes.com</p>	<p>Email</p>	<p>Counsel to Nestlé Canada Inc.</p>
<p>BORDEN LADNER GERVAIS LLP 1900, 520 – 3 Avenue SW Calgary, AB T2P 0R3</p> <p>Josef Krüger Email: JKruger@blg.com</p> <p>Martin Abadi Email: MAbadi@blg.com</p> <p>Tiffany Bennett Email: tibennett@blg.com</p>	<p>Email</p>	<p>Counsel to Cineplex Entertainment Limited Partnership</p>
<p>COCA-COLA CANADA BOTTLING LTD. 335 King St East Toronto, Ontario M5A 1L1</p> <p>Indira Singh Email: indirasingh@cokecanada.com</p> <p>Michael Bowmile, Legal Counsel Email: mbowmile@cokecanada.com</p>	<p>Email</p>	<p>Creditor</p>
<p>DAYHU INVESTMENTS INC.</p> <p>Paul Tilbury c/o Gowling WLG (Canada) LLP 2200 – 550 Burrard Street Vancouver, BC V6C 2B5 Attention: Jeremy Sapers Email: ptilbury@dayhu.com</p> <p>Michelle Tang c/o Gowling WLG (Canada) LLP 2200 – 550 Burrard Street Vancouver, BC V6C 2B5 Attention: Jeremy Sapers Email: mtang@dayhu.com</p>	<p>Email</p>	<p>Plaintiff in BCSC Vancouver Registry Action No. S-224926</p>

INTERESTED PARTIES		
<p>GOWLING WLG (CANADA) LLP Suite 2300, Bentall 5, 550 Burrard Street Vancouver BC V6C 2B5 Canada</p> <p>Jeremy D. Sapers Tel: 604.443.7660 Email: jeremy.sapers@gowlingwlg.com</p> <p>Jonathan Ross Tel: 604.891.2778 Email: Jonathan.ross@gowlingwlg.com Attn: Jeremy Sapers</p>	Email	Counsel to Dayhu Investments Inc.
<p>DLA PIPER (CANADA) LLP Suite 1000, Livingston Place West 250 2nd St SW Calgary, AB T2P 0C1 Canada</p> <p>Carole J. Hunter Email: carole.hunter@dlapiper.com Tel: 1.403.698.8782</p> <p>Edmond Lamek Tel: 416.365.3444 Email: edmond.lamek@ca.dlapiper.com</p> <p>Justin Mooney Tel: 416.941.5405 Email: justin.mooney@ca.dlapiper.com</p>	Email	Counsel to 7-Eleven Canada Inc.
<p>DLA PIPER (CANADA) LLP Suite 6000, 1 First Canadian Place 100 King St W Toronto, ON M5X 1E2</p> <p>Danny Nunes danny.nunes@dlapiper.com</p>	Email	Counsel to Campbell Soup Company
<p>FASKEN MARTINEAU DUMOULIN LLP</p> <p>Daniel Richer Tel: 416.865.4445 Email: dricher@fasken.com</p>	Email	Counsel to Dole Foods of Canada Company

INTERESTED PARTIES		
<p>IMPERIAL TOBACCO COMPANY</p> <p>c/o Osler, Hoskin & Harcourt LLP 100 King Street West 1 First Canadian Place Suite 6200, P.O. Box 50 Toronto ON M5X 1B8</p> <p>Mark Wasserman MWasserman@osler.com</p> <p>Justin Kanji jkanji@osler.com</p>	<p>Email</p>	<p>Creditor</p>
<p>THE KRAFT HEINZ COMPANY</p> <p>95 Moatfield Drive North York, ON M3B 3L6</p> <p>Email: Seth.Klerer@kraftheinz.com</p>	<p>Email</p>	<p>Creditor</p>
<p>MAXX MARKETING LIMITED</p> <p>Unit E, 11/F Hop Hing Industrial Building, 702 Castle Peak Road, Kowloon Hong Kong</p> <p>Sophie Normandin Email: sophie.normandin@amer.allianz-trade.com</p>	<p>Email</p>	<p>Creditor</p>
<p>MARC KOPLOWITZ ASSOCIATES</p> <p>Suite 2900 390 Bay Street Toronto, Ontario, M5H 2Y2</p> <p>Marc Koplowitz Email: marc@koplaw.com</p>	<p>Email</p>	<p>Counsel to Concord Premium Meats Ltd.</p>
<p>MCCARTHY TÉTRAULT LLP</p> <p>Suite 2400 - 745 Thurlow Street Vancouver BC V6E 0C5 Canada</p> <p>Cassidy Bishop Tel: 403-260-3538 Email: cbishop@mccarthy.ca</p>	<p>Email</p>	<p>Counsel to Aurora Cannabis Inc. and Aurora Cannabis Enterprises Inc.</p>
<p>MCCARTHY TÉTRAULT LLP</p> <p>Suite 5300, TD Bank Tower Box 48, 66 Wellington Street West Toronto, ON M5K 1E6</p> <p>Sanee Tanvir Tel: 416-601-8181 Email: stanvir@mccarthy.ca</p>	<p>Email</p>	<p>Counsel to Pepsi Co.</p>

INTERESTED PARTIES		
<p>MCMILLAN LLP Brookfield Place, 181 Bay Street, Suite 4400 Toronto, Ontario M5J 2T3</p> <p>Guneev Bhinder Tel: 416.307.4067 Email: guneev.bhinder@mcmillan.ca</p>	Email	Counsel to Refresco Canada
<p>MINDEN GROSS LLP 145 King Street West, Suite 2200 Toronto, ON M5H 4G2</p> <p>Carol Liu Email: CLiu@mindengross.com</p> <p>Timothy Dunn Email: TDunn@mindengross.com</p> <p>Andre Vaillancourt Email: andre@itwal.com</p> <p>Ross Robertson Email: Ross@itwal.com</p>	Email	Counsel to ITWAL Limited
<p>NESTLÉ CANADA INC. 25 Sheppard Avenue West Toronto, ON M2N 6S8</p> <p>Sean Brandreth Tel: 437.253.1016 Email: sean.brandreth@ca.nestle.com</p>	Email	Creditor
<p>OSLER, HOSKIN & HARCOURT LLP Suite 2700, Brookfield Place 225 – 6th Avenue S.W. Calgary AB T2P 1N2</p> <p>Emily Paplawski epaplawski@osler.com</p> <p>Randal Van de Mosselaer rvandemosselaer@osler.com</p>	Email	Counsel to Pace Processing & Produce Development Ltd.
<p>BOND BAKERY BRANDS LIMITED 55 ST Clair Avenue W, Suite 408 Toronto, ON, M4V 1N5</p> <p>Cameron Loree Email: cloree@bondbb.com</p>	Email	Representative of Pace Processing & Produce Development Ltd.

INTERESTED PARTIES		
<p>PARLEE MCLAWS LLP 1700 Enbridge Centre 10175-101 Street NW Edmonton, Alberta T5J 0H3</p> <p>Steven A. Rohatyn Tel: 780.423.8177 Email: srohatyn@parlee.com</p> <p>Rayne Prins Email: rprins@parlee.com</p>	Email	Counsel to Inland PacLease
<p>STIKEMAN ELLIOTT LLP 4200 Bankers Hall West 888 – 3 Street SW Calgary, AB T2P 5C5</p> <p>Karen Fellowes, KC Email: kfellowes@stikeman.com</p>	Email	Counsel for Dot Food Canada Inc.
<p>WEAVER SIMMONS LLP 233 Brady Street, Suite 400 Sudbury, ON P3B 4H5</p> <p>Geoff Jeffery Email: gjeffery@weaversimmons.com fadeleye@weaversimmons.com</p>	Email	Counsel to Massey Wholesale Inc.

INTERESTED PARTIES		
WOJTIS LAW 1540 Cornwall Road, Suite 205 Oakville, ON L6J 7W5 Pawel Wojtis pawel@wojtislaw.com	Email	Counsel to Sergio DeSousa
SKYLINE COMMERCIAL ASSET MANAGEMENT INC. 1655 Russell Rd., Unit 2, Suite 200 Ottawa, Ontario, K1G 0N1 Email: szizek@SkylineGRP.ca aleliever@skylinegrp.ca	Email	
REGAL IDEAS Email: norm@regalideas.com	Email	
EDWARDS, KENNY & BRAY LLP 1900 1040 W Georgia St Vancouver, BC V6E 4H3 Fraser Hartley Email: fhartley@ekb.com	Email	Counsel to Regal Ideas
WILLOW HOLDINGS LTD Email: tprice@telusplanet.net	Email	
NOORT HOMES Vancouver Island Operations 2399 Cienar Dr. Nanaimo, BC. V9T 3L6 Email: jhendricks@noorthomes.com	Email	
Paul Bethke Email : bethkep@wac1.com	Email	

INTERESTED PARTIES		
<p>AGROPUR COOPERATIVE 4600, Armand-Frappier Saint-Hubert, QC J3Z 1G5</p> <p>Felix St-Germain Email: Felix.St-Germain@agropur.com</p> <p>Email: avislegal-legalnotice@agropur.com</p>	Email	Creditor
<p>DLA Piper (Canada) LLP 2700, 10220 – 103 Avenue NW Edmonton, AB T5J 0K4</p> <p>Jerritt Pawlyk Email: jerritt.pawlyk@dlapiper.com</p>	Email	Counsel to Waste Management Canada Corporation
<p>G.N. JOHNSTON EQUIPMENT CO. LTD. 5990 Averbury Road Mississauga ON L5R 3R2 Canada</p> <p>Dan Malmberg Email: dan.malmberg@johnstonequipment.com</p> <p>Elton Nesturi Email: Elton.Nesturi@johnstonequipment.com</p>	Email	PPR Registrant
<p>HORNOI LEASING LTD. 762 McDonald Street Regina, SK S4N7M7 Canada</p> <p>Email: natasha@hornoileasing.com</p>	Email	PPR Registrant
<p>INLAND PACLEASE 2482 Douglas Road Burnaby, BC V5C 6C9 Canada</p> <p>Erich Schmidt Email: eschmidt@inland-group.com</p>	Email	PPR Registrant
<p>MAXIM TRANSPORTATION SERVICES INC. 1860 Brookside Blvd. Winnipeg, MB R3C 2E6 Canada</p> <p>Jordan Harvey Email: jharvey@maximtruckandtrailer.com</p>	Email	PPR Registrant
<p>MERIDIAN ONECAP CREDIT CORP. Suite 1500, 4710 Kingsway Burnaby, BC V5H 4M2 Canada</p> <p>Email: absecparties@avssystems.ca</p>	Email.	PPR Registrant

INTERESTED PARTIES		
<p>PARMALAT CANADA INC./ LACTALIS CANADA 405 The West Mall, Suite 1000 Toronto ON M9C 5J1 Canada</p> <p>Denis Mongeon Email: Denis.MONGEON@ca.lactalis.com</p> <p>Tony Cugliari Email: Tony.CUGLIARI@ca.lactalis.com</p> <p>Jatinder Chera Email: Jatinder.CHERA@ca.lactalis.com</p>	Email	PPR Registrant
<p>PENSKE TRUCK LEASING CANADA INC. RT 10 Green Hills, PO BOX 791 Reading, PA 19603 USA</p> <p>Email: penske.customersupport@penske.com</p>	Email	PPR Registrant
<p>RYDER TRUCK RENTAL CANADA LTD. 700 Creditstone Road Concord, ON L4K5A5 Canada</p> <p>Chris L. Fairey Email: cfairey@ryder.com</p>	Email	PPR Registrant
<p>TIP FLEET SERVICES CANADA LTD. 1880 Britannia RD E Mississauga, ON L4W 1J3 Canada</p> <p>Email: absecparties@avssystems.ca</p>	Email	PPR Registrant
<p>TRAILCON LEASING INC. 15 Spar Drive Brampton, ON, L6S 6E1 Canada</p> <p>Email: ar@trailcon.com</p>	Email	PPR Registrant

INTERESTED PARTIES		
<p>INGENUITY LLP 366 Adelaide Street East, Suite 500 Toronto ON M5A 3X9 Main: 416-977-6724 Fax: 1-866-290-2454</p> <p>Craig M. Johnston Tel: 416-977-6724 x119 Email: craig@ingenuitylegal.com</p> <p>Drew K. Allen Tel: 416-977-6724 x112 Email: drew@ingenuitylegal.com</p>	<p>Email</p>	<p>Counsel to Trailcon Leasing Inc.</p>
<p>A&M Enterprise Ltd. dba 'Freshslice Pizza'</p> <p>Attention: Vincent Li and Tom Horler</p> <p>Email: Vincent@freshslice.com tom.horler@freshslice.com</p>	<p>Email</p>	<p>PPR Registrant</p>
<p>TRAILER WIZARDS LTD. 1880 Britannia RD. East Mississauga, ON L4W 1J3 Canada</p> <p>Email: absecparties@avssystem.com</p>	<p>Email</p>	<p>PPR Registrant</p>
<p>WELLS FARGO EQUIPMENT FINANCE COMPANY 900-1290 CENTRAL PARKWAY W. Mississauga, ON, Canada L5C4R3</p> <p>Email: info@securefact.com</p> <p>Nyna Bishop Email: Nyna.C.Bishop@financialservicing.net</p>	<p>Email</p>	<p>PPR Registrant</p>
<p>KERRY, INC. c/o Dickinson Wright LLP 199 Bay Street Suite 2200 Toronto, ON M5L 1G4</p> <p>Attention: John D. Leslie Dan Poliwoda</p> <p>Email: jleslie@dickinsonwright.com dpoliwoda@dickinsonwright.com</p>	<p>Email</p>	<p>Interested Party</p>

INTERESTED PARTIES		
<p>PEPSI CO. c/o McCarthy Tetrault 5300, 66 Wellington Street West Toronto, ON M5K 1E6</p> <p>Attn: Saneea Tanvir Email: stanvir@mccarthy.ca</p>	Email	Interested Party
<p>ITWAL LIMITED 440 Railside Dr Brampton, ON L7A 1L1</p> <p>Attention: Andre Vaillancourt Ross Robertson</p> <p>Email: andre@itwal.com ross@itwal.com</p>	Email	Interested Party
<p>Skyblue Water Inc. 100 Paquin Rd Winnipeg, MB R2J 3V4</p> <p>George Groumoutis Email: george@skybluewaterinc.com</p>	Email	Creditor
<p>TEMPLE LIFESTYLE INC. 932-9600 rue Meilleur Montreal, QC H2N2E3</p> <p>Christopher Magnone Email : chris@buddhabrands.com</p>	Email	Interested Party
<p>INS MARKET 701 – 130 Queens Quay East, Toronto, ON, M5A 0P6</p> <p>Paul Gibson E-mail: pgibson@internationalnews.ca</p>	E-mail	Interested Party
<p>MEGABOX AND PIZZA CLUB 238-1538 Cliveden Ave Delta, BC V3M 6J8</p> <p>Varun Goyal E-mail: info@megaboxinc.com</p>	E-mail	Interested Party
PPR Registrants	PPR Registrants	PPR Registrants

INTERESTED PARTIES		
FIRST TRUCK CENTRE VANCOUVER INC. 18688 - 96TH Avenue Surrey, BC V4N 3P9 Canada Marcy Risberg Email: marcy.risberg@firsttruck.ca	Email	PPR Registrant
DigiFlex Information Systems Inc. 2611 Venables Street Vancouver, BC V5K 2R4 Mohamad Zahed Mardukhi Email: mardukhi@digiflex.ca	Email	Respondent

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.



APPLICANT KSV RESTRUCTURING INC., in its capacity as Court-appointed Monitor of Wallace & Carey Inc., Loudon Bros Limited and Carey Management Inc.

RESPONDENT DIGIFLEX INFORMATION SYSTEMS INC. and MOHAMAD ZÄHED MARDUKHI

DOCUMENT **ORDER**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
Cassels Brock & Blackwell LLP
Bankers Hall West
3810, 888 3rd St SW
Calgary, AB T2P 5C5
E: joliver@cassels.com
P: 403 351 2920

Attention: Jeffrey Oliver

File no. 54670-3

DATE ON WHICH ORDER WAS PRONOUNCED: December 17, 2024

LOCATION WHERE ORDER WAS PRONOUNCED: Edmonton, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Justice Neilson

UPON THE APPLICATION of KSV Restructuring Inc., in its capacity as the Court-appointed Monitor (in such capacity, the "**Monitor**") of Wallace & Carey Inc. ("**Wallace & Carey**"), Loudon Bros Limited, and Carey Management Inc. (collectively, the "**Companies**") for an Order (among other things): (i) declaring that DigiFlex Information Systems Inc.'s ("**DigiFlex**") purported termination, price increases and all other amendments to the DigiFlex Agreements (as defined in the Fourteenth Report of the Monitor, dated December 13, 2024 (the "**Fourteenth Report**")) and any other agreement for services between DigiFlex and the Companies are in breach of paragraphs 18 and 19 of the Amended and Restated Initial Order of this Court pronounced June 30, 2023 (the "**ARIO**") and of no force and effect; (ii) requiring DigiFlex and

Mohamad Zahed Mardukhi (“**Mardukhi**”), as sole director and voting shareholder of DigiFlex, continue to provide the Companies with services and software on the terms and in the manner prescribed by the DigiFlex Agreements, and at an annual rate that shall not exceed \$290,093.70, representing 103.5% of the 2024 rates, unless otherwise agreed to by DigiFlex, the Companies and the Monitor in writing; and (iii) restraining DigiFlex and Mardukhi, or any other parties on direction from DigiFlex or Mardukhi, from terminating or otherwise interfering with the services provided under the terms of the DigiFlex Agreements and the services provided thereunder;

AND UPON having reviewed the ARIO; the Fourteenth Report; and the Affidavit of Service of Angeline Gagnon, sworn December [●], 2024; **AND UPON** hearing counsel for the Monitor, counsel for the Companies, 7-Eleven Canada Inc. (“**7-Eleven**”) and any other interested parties appearing at the within application; **AND UPON** being satisfied that it is appropriate to do so;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Fourteenth Report.

SERVICE

2. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, and time for service of this application is abridged to that actually given.

DIGIFLEX AGREEMENTS NOT TERMINATED

3. DigiFlex’s purported termination, price increases and all other amendments to the DigiFlex Agreements and any other agreement for services between DigiFlex and the Companies are in breach of paragraphs 18 and 19 of the ARIO and of no force and effect.
4. Unless agreed to in writing by DigiFlex, the Companies and the Monitor, DigiFlex shall continue to provide services to the Companies in the manner prescribed in the DigiFlex Agreements, and at a rate that shall not exceed the aggregate total of \$290,093.70 (being 103.5% of the 2024 rates). Any party may apply for leave to amend the terms of supply upon application to this Court on at least 10 days prior notice.
5. Without limitation to paragraphs 18 and 19 of the ARIO, which remain in full force and effect, during the Stay Period:
 - (a) DigiFlex, Mardukhi and any other parties upon their direction are restrained from discontinuing, altering, interfering with, suspending or terminating the supply of such

goods or services as may be required by the Companies or exercising any other remedy provided under the DigiFlex Agreements or at law. The Companies shall be entitled to the continued use of the software and services provided by DigiFlex pursuant to the terms of the DigiFlex Agreements.

- (b) DigiFlex, Mardukhi and any party upon their direction shall not accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, license or permit in favour of or held by the Companies, except with the written consent of the Companies and the Monitor, or leave of this Court.

COSTS

- 6. The Monitor shall be awarded costs of its application on a solicitor and own client full indemnity basis from DigiFlex and Mardukhi jointly and severally in the amount of \$35,000.

SERVICE OF ORDER

- 7. 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; and
 - iii. any other parties attending or represented at the application for this Order; and
 - (b) posting a copy of this Order on the Monitor's website established in connection with these proceedings, for no less than six months from the date of this Order;and service on any other person is hereby dispensed with.
- 8. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier.

Justice of the Court of King's Bench of Alberta