

**ONTARIO
SUPERIOR COURT OF JUSTICE**

COMMERCIAL LIST

**IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT* ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF C INTERNATIONAL INC., C
INTERNATIONAL INCOME FUND, CII TRUST AND THE
COMPANIES LISTED IN SCHEDULE "A"**

Applicants

**MOTION RECORD
(Returnable December 5, 2013)**

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TAB 1

**ONTARIO
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**IN THE MATTER OF THE *COMPANIES' CREDITORS*
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Applicants

**NOTICE OF MOTION
(Returnable December 5, 2013)**

The Applicants will bring a motion before a Judge of the Commercial List on Thursday, December 5, 2013, at 10:00 a.m. or as soon after that time as the matter may be heard at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

1. **THE APPLICANTS MAKE A MOTION FOR AN ORDER** substantially in the form attached at Tab 2 of the Motion Record, *inter alia*:
 - (a) abridging the time for and validating the service of this Notice of Motion and the Motion Record and dispensing with further service thereof;
 - (b) extending the Stay Period (as defined in the Initial Order granted by this Honourable Court in these proceedings on June 25, 2012 (the "**Initial Order**")) to June 6, 2014;
 - (c) approving the activities of FTI Consulting Canada Inc. ("**FTI**") in its capacity as the Court-appointed monitor of the Applicants (in such capacity, the "**Monitor**") and the Monitor's and its counsel's fees and disbursements;
 - (d) approving the fees of FTI in its capacity as receiver (in such capacity, the "**Receiver**") of the bank account of C International Inc. ("**CII**"); and

- (e) such further and other relief as counsel may request and this Honourable Court deems just.

2. THE GROUNDS FOR THE MOTION ARE:

Background

- (a) Unless otherwise indicated or defined herein, capitalized terms have the meaning given to them in the Monitor's Tenth Report dated October 25, 2013 (the "**Tenth Report**") or in the Initial Order;
- (b) On June 25, 2012, this Honourable Court granted the Initial Order, *inter alia*: (i) granting a stay of proceedings under the CCAA against the Applicants and C International Limited Partnership, formerly Cinram International Limited Partnership (together with the Applicants, the "**CCAA Parties**"), and the subsidiaries of the CCAA Parties that are also party to agreements to which the CCAA Parties are parties; (ii) appointing FTI as the Monitor of the CCAA Parties in these CCAA proceedings; and (iii) appointing CRW International ULC, formerly Cinram International ULC ("**CRW**"), as the foreign representative of the CCAA Parties;
- (c) The stay of proceedings pursuant to the Initial Order was granted to July 25, 2012, and has been subsequently extended by Orders of this Honourable Court to December 6, 2013;
- (d) On July 12, 2012, this Honourable Court made an order (the "**Approval and Vesting Order**"), *inter alia*: (i) approving the sale of substantially all of the property and assets used in connection with the business carried on by C International Income Fund, formerly Cinram International Income Fund, and its direct and indirect subsidiaries (collectively, the "**Company**") in North America contemplated by the asset purchase agreement between CII and Cinram Group, Inc., formerly Cinram Acquisition, Inc. (the "**Purchaser**"), dated June 22, 2012 (the "**Asset Purchase Agreement**", and the transactions contemplated thereunder, the "**Asset Sale Transaction**"); and (ii) approving the sale of the shares of

Cooperatie Cinram Netherlands UA pursuant to the share purchase offer dated June 22, 2012 (the “**Share Purchase Offer**”) provided by the Purchaser to CII and 1362806 Ontario Limited on the terms of the form of share purchase agreement appended to the Share Purchase Offer (the transaction contemplated thereunder, the “**Share Sale Transaction**”);

- (e) On July 25, 2012, CRW, in its capacity as the foreign representative for CII and each of the Applicants that are U.S. entities (collectively, the “**U.S. Debtors**”), obtained an order under chapter 15 of title 11 of the United States Code, as amended from time to time (the “**Bankruptcy Code**”), from the United States Bankruptcy Court for the District of Delaware (the “**U.S. Court**”), *inter alia*, recognizing on a final basis these CCAA proceedings as the “foreign main proceedings” of the CCAA Parties and recognizing on a final basis the Initial Order;
- (f) On July 25, 2012, CRW, in its capacity as foreign representative for the U.S. Debtors, obtained an order under chapter 15 of the Bankruptcy Code from the U.S. Court, *inter alia*, recognizing the Approval and Vesting Order, authorizing the assumption and assignment of certain executory contracts and unexpired leases, and granting certain related relief;
- (g) The Asset Sale Transaction closed on August 31, 2012 and the Share Sale Transaction closed on February 4, 2013;
- (h) On October 19, 2012, this Honourable Court made an order, *inter alia*, appointing FTI as Receiver of the bank account of CII to allow former employees of CII access to payments under the *Wage Earner Protection Program Act* (Canada);
- (i) On April 10, 2013, this Honourable Court made an order (the “**Equipment Sale Approval and Vesting Order**”), *inter alia*, approving the sale of the Equipment (as defined in the Equipment Sale Approval and Vesting Order) by Cinram Wireless LLC (“**Wireless**”) to Motorola Mobility LLC, representing a sale of substantially all of the assets of Wireless (the “**Wireless Sale Transaction**”);

- (j) On April 22, 2013, CRW, in its capacity as foreign representative for the U.S. Debtors, obtained an order under chapter 15 of the Bankruptcy Code from the U.S. Court, *inter alia*, recognizing the Equipment Sale Approval and Vesting Order;
- (k) Following the sale of its assets, Wireless vacated the leased Wireless facility and completed the wind down of its business in June 2013;
- (l) Remaining excluded assets of the CCAA Parties not sold pursuant to the Asset Sale Transaction, the Share Sale Transaction and the Wireless Sale Transaction include real estate properties located in Olyphant, Pennsylvania; Louisville, Kentucky; and Madrid, Spain;
- (m) All health and employee benefit plans for Wireless and other former CCAA Parties' employees, other than the Cinram 401k Thrift Plan (the "**401k Plan**"), were terminated effective June 30, 2013;
- (n) As of June 30, 2013, the 401k Plan was closed to further contributions and the Monitor, with the assistance of former management of the CCAA Parties, is working with the trustee of the 401k Plan to identify participants and arrange for distribution of the plan assets. Final distributions are expected before the end of 2013, at which time the 401k Plan will be terminated;

Proposed Stay Extension

- (o) The CCAA Parties have been and intend to continue fully cooperating with the Monitor with respect to the provision of required information;
- (p) Since the issuance of the Initial Order, the CCAA Parties have acted and continue to act in good faith and with due diligence in carrying out the terms of the Initial Order and subsequent Orders issued by the Court in these CCAA proceedings;
- (q) The CCAA Parties require an extension of the Stay Period to June 6, 2014 to continue to pursue their restructuring efforts, including the sale of the remaining excluded assets not sold pursuant to the Asset Sale Transaction, the Share Sale

Transaction and the Wireless Sale Transaction, for the benefit of their stakeholders and to complete the remaining distributions under the 401k Plan;

- (r) Creditors will not suffer any material prejudice if the Stay Period is extended;
- (s) The Applicants' motion is supported by the Pre-Petition First Lien Agent;
- (t) The Applicants consulted with the Monitor with respect to the relief sought on this motion and the Monitor will be filing the Monitor's Eleventh Report in connection with this motion;

Monitor's Activities and Fees and Receiver's Fees

- (u) The Monitor and its counsel and the Receiver have maintained records of their professional costs and time as detailed in the Affidavit of Paul Bishop sworn in connection with the Monitor's fees (the "**Bishop Affidavit**"), the Affidavit of David Byers sworn in connection with the fees of counsel to the Monitor (the "**Byers Affidavit**") and the Affidavit of Paul Bishop sworn in connection with the Receiver's fees (collectively with the Bishop Affidavit and the Byers Affidavit, the "**Fee Affidavits**");

General

- (v) The provisions of the CCAA and this Honourable Court's equitable and statutory jurisdiction thereunder;
- (w) Rules 2.03, 3.02, 16 and 37 of the Ontario *Rules of Civil Procedure*, R.R.O 1990, Rec. 194, as amended; and
- (x) Such further and other grounds as counsel may advise and this Honourable Court permit.

3. THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE MOTION:

- (a) the Monitor's Tenth Report and any appendices attached thereto, filed;
- (b) the Monitor's Eleventh Report and any appendices attached thereto, to be filed;
- (c) the Fee Affidavits; and
- (d) such further and other material as counsel may advise and this Honourable Court may permit.

Date: November 29, 2013

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Lawyers for the Applicants

TO: THE ATTACHED SERVICE LIST

SCHEDULE “A”

Additional Applicants

C International General Partner Inc., formerly Cinram International General Partner Inc.

CRW International ULC, formerly Cinram International ULC

1362806 Ontario Limited

CUSH Inc., formerly Cinram (U.S.) Holding's Inc.

CIHV Inc., formerly Cinram, Inc.

IHC Corporation

CMFG LLC, formerly Cinram Manufacturing LLC

CDIST LLC, formerly Cinram Distribution LLC

Cinram Wireless LLC

CRSMI LLC, formerly Cinram Retail Services, LLC

One K Studios, LLC

SCHEDULE "B"

Service List

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SUPERIOR COURT OF JUSTICE
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Applicants

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AND TO:	GOWLING LAFLEUR HENDERSON LLP 1 First Canadian Place 100 King Street West, Suite 1600 Toronto, ON M5X 1G5 Fax: (416) 862-7661 Lawyers for US Industrial REIT II	David Cohen Tel: (416) 369-6667 E-mail: david.cohen@gowlings.com
AND TO	DEPARTMENT OF JUSTICE 130 King Street West, Suite 3400 Toronto, ON M5X 1K6 Fax: (416) 973-0810	Diane Winters Tel: (416) 973-3172 E-mail: diane.winters@justice.gc.ca

6094335

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

Court File No: CV12-9767-00CL

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
C INTERNATIONAL INC., C INTERNATIONAL INCOME FUND, CII TRUST AND
THE COMPANIES LISTED IN SCHEDULE "A"**

Applicants

ONTARIO
SUPERIOR COURT OF JUSTICE-
COMMERCIAL LIST

Proceeding commenced at Toronto

NOTICE OF MOTION

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Lawyers for the Applicants

TAB 2

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.) THURSDAY, THE 5TH
)
JUSTICE MORAWETZ) DAY OF DECEMBER, 2013

**IN THE MATTER OF THE COMPANIES’ CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE
OR ARRANGEMENT OF C INTERNATIONAL INC., C
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THE COMPANIES LISTED IN SCHEDULE “A”**

Applicants

ORDER

THIS MOTION, made by C International Inc., formerly Cinram International Inc. (“CII”), C International Income Fund, formerly Cinram International Income Fund, CII Trust and the companies listed in Schedule “A” hereto (collectively, the “Applicants”), pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “CCAA”) was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Tenth Report of FTI Consulting Canada Inc. (“FTI”) in its capacity as Court-appointed Monitor (in such capacity, the “Monitor”) dated October 25, 2013 (the “Monitor’s Tenth Report”), the Eleventh Report of the Monitor dated November ●, 2013 (the “Monitor’s Eleventh Report”), the Affidavit of Paul Bishop sworn November ●, 2013 in connection with the Monitor’s fees (the “Bishop Affidavit”), the Affidavit of David Byers sworn November ●, 2013 in connection with the fees of counsel to the Monitor (the “Byers Affidavit”), the Affidavit of Paul Bishop sworn November ●, 2013 (the “Receiver’s Fee Affidavit”) in connection with the fees of FTI in its capacity as the Court-appointed Receiver of the bank account of CII (in such capacity, the “Receiver”) and on hearing the submissions of

DRAFT: 1 - November 29, 2013 - 10:20 AM

counsel for the Applicants and C International Limited Partnership, formerly Cinram International Limited Partnership (together with the Applicants, the “**CCAA Parties**”), the Monitor, the Receiver, the Pre-Petition First Lien Agent (as defined in the Initial Order granted by this Honourable Court in these proceedings on June 25, 2012 (the “**Initial Order**”) and the Pre-Petition Second Lien Agent (as defined in the Initial Order) and no one appearing and making submissions for any other person served with the Motion Record, although properly served as appears from the affidavit of ● sworn ●, 2013, filed,

SERVICE

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

EXTENSION OF THE STAY PERIOD

2. THIS COURT ORDERS that the Stay Period (as defined in the Initial Order) be and is hereby extended to 11:59 p.m. on June 6, 2014.

APPROVAL OF THE MONITOR’S REPORTS, ACTIVITIES AND FEES

3. THIS COURT ORDERS that the Fifth Report dated December 17, 2012, the Sixth Report of the Monitor dated January 16, 2013, the Seventh Report of the Monitor dated February 5, 2013, the Eighth Report of the Monitor dated March 27, 2013, the Ninth Report of the Monitor dated June 20, 2013, the Monitor’s Tenth Report and the Monitor’s Eleventh Report and the activities described therein are hereby approved.

4. THIS COURT ORDERS that the fees and disbursements of the Monitor for the period October 1, 2012 to August 31, 2013 and its counsel, Stikeman Elliott LLP, for the period September 1, 2012 to October 31, 2013, all as particularized in the Bishop Affidavit and the Byers Affidavit are hereby approved.

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APPROVAL OF THE RECEIVER'S FEES

5. THIS COURT ORDERS that the fees and disbursements of the Receiver for the period October 19, 2012 to August 31, 2013, all as particularized in the Receiver's Fee Affidavit are hereby approved.

RECOGNITION

6. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, in the United States or in any other foreign jurisdiction, to give effect to this Order and to assist the CCAA Parties, the Monitor and their respective 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 CCAA Parties and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to CRW International ULC, formerly Cinram International ULC, in any foreign proceeding, or to assist the CCAA Parties and the Monitor and their respective agents in carrying out the terms of this Order.

7. THIS COURT ORDERS that each of the CCAA Parties and the Monitor 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 and any other Order issued in these proceedings.

SCHEDULE A

Additional Applicants

C International General Partner Inc., formerly Cinram International General Partner Inc.

CRW International ULC, formerly Cinram International ULC

1362806 Ontario Limited

CUSH Inc., formerly Cinram (U.S.) Holding's Inc.

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6264653

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
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Court File No. CV12-9767-00CL

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(Returnable December 5, 2013)**

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